



EASEMENT EXCHANGE PROGRAM QUESTIONS AND ANSWERS

What is the California Land Conservation (Williamson) Act?

The California Land Conservation Act, better known as the Williamson Act, has been the state's premier agricultural land protection program since its enactment in 1965.

The Act creates an arrangement whereby private landowners' contract with counties and cities to voluntarily restrict land to agricultural and open-space uses. The initial rolling term contract (i.e. unless either party files a "notice of nonrenewal," the contract is automatically renewed each year for an additional year) is 10 years. Since 1998 another option within the Williamson Act Program is the rescission process to cancel a Williamson Act contract and simultaneously dedicate a permanent agricultural conservation easement on other land.

What is an easement exchange?

Williamson Act easement exchange legislation became effective January 1, 1998. The easement exchange process offers the advantage of keeping cancellation fees working in the local area to preserve agricultural land, instead of paying the fees to the State General Fund. It provides a voluntary rescission process for local entities and landowners to cancel a Williamson Act (WA) contract and simultaneously dedicate a permanent agricultural conservation easement on other land. A board or council must make specified findings in order to cancel a contract. The appraised value of the easement land must be equal to or greater than the cancellation fee required to cancel the contract. In addition, the easement land must be of equal size or larger than the Williamson Act contracted land. Williamson Act easement exchanges must meet criteria established under the California Farmland Conservancy Program (CFCP), the Department's agricultural land conservation easement program.

Easement exchange provisions are found in Government Code sections 51256, 51256(1) and 51256(2).

How is a Williamson Act easement exchange proposal initiated and approved?

The process is entirely voluntary for all parties: the owner of the Williamson Act contracted land, the owner of the land to be encumbered by the conservation easement, the organization that holds, monitors, and enforces the easement, and the city or county. The landowner must submit a petition for a Williamson Act easement exchange proposal to the local governing city or county.

Upon making the required findings and determining that the eligibility criteria has been met and evaluating the easement pursuant to the selection criteria, the city or county may approve the proposal. The proposal is then submitted to the Department of Conservation for review and final decision. If the Department approves the proposal, the city or county may enter into an agreement with the landowner to rescind the Williamson Act contract and simultaneously place the other land under an agricultural conservation easement.

What is an “agricultural conservation easement”?

An “agricultural conservation easement” is a less than fee simple interest in land. It includes the right to prevent forever the development or improvement of the land, as specified in Public Resources Code (PRC) Section 10211 and Civil Code Section 815.1 for any purpose other than agricultural production. The easement is granted by the landowner to the local government or a qualified nonprofit organization that has conservation of agricultural land as one of its primary purposes. The land restricted by the easement remains in private ownership. Aside from the separation of specified development rights, the landowner retains all other rights to the land, including the right to deny public access and to manage the land for agricultural uses.

What type of Williamson Act contracted land is eligible to participate in a Williamson Act easement exchange proposal?

Contracted lands on the urban edge of cities and other developed areas are eligible. One of the findings required to cancel the contract stipulates that terminating the Williamson Act contract “will not result in discontinuous patterns of urban development” (Government Code Section 51256(a)). If the development proposed is not urban in nature, such as mining for mineral extraction, then contracted lands not contiguous to urban areas may be eligible for a Williamson Act easement exchange agreement.

Where can agricultural conservation easements be established?

The eligibility and selection criteria for determining easement location are defined in PRC sections 10251 and 10252. The easement land should be of sufficient size to support commercial agriculture and to make a beneficial contribution to the conservation of agricultural land in the area. The applicable city or county's general plan must demonstrate a long-term commitment to the preservation of agricultural land. Also, without conservation, the land would likely be converted to non- agricultural use in the foreseeable future.

What is the term of an agricultural conservation easement?

An agricultural conservation easement is granted in perpetuity [as the equivalent of a covenant running with the land]. (PRC Section 10211 and Civil Code Section

815.2 (b)). A conservation easement is an enforceable restriction under Article 13, section 8 of the California constitution that severely limits the ability of the state to terminate the contracts and easements.

How is the agricultural easement agreement enforced?

The easement titleholder, normally a local agricultural land trust or conservancy, or a city or county, is responsible for ensuring that the terms of the easement agreement are upheld. Typically, a representative of the easement titleholder visits the easement property at least once a year to verify that no uses have occurred that are specifically prohibited by the easement agreement.

At the time the easement is established, a map or aerial photograph of the property is filed with the easement titleholder to document the buildings, roads and other improvements. This baseline information is then used annually to compare approved uses with current uses in order to verify compliance with the terms of the easement agreement. If the land's lease or ownership changes, the easement holder assures that the new lessor or owner knows the terms of the easement and that the property is being monitored.

What assistance is available for using the Williamson Act easement dedication provisions?

Applicants should consult with the Department of Conservation (DOC) early to investigate whether the Williamson Act easement exchange proposal can meet statutory requirements. A pre-application form should be completed by the landowner and submitted to the applicable local government and DOC for review. During consultations, the Department cannot predict or guarantee the outcome of an easement exchange proposal. Assistance and information is available at:

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