

**For more information about these and other programs on protecting cultural resources in Florida, please contact:**

**FLORIDA DEPARTMENT OF STATE**

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**For more information on National Register status and benefits, please contact:**

**FLORIDA DEPARTMENT OF STATE**

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**If you are interested in having an easement placed on your land, you should consult an attorney. An attorney can advise you of your easement options, your rights and responsibilities, and how to make appropriate decisions regarding the ownership and value of your property.**



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## *Conservation Easements: Protecting Florida's Archaeological Sites*



*The Foshalee Plantation, located on the Florida-Georgia state line north of Tallahassee, is protected by conservation easement.*

**FLORIDA DEPARTMENT OF STATE  
Division of Historical Resources  
Katherine Harris, Secretary of State**



*Above: Rendering of Benjamin Chaires' plantation mansion, Verdura, built in 1832. It was located southeast of Tallahassee, Florida. Below: Archaeological remains of Verdura. A few classically styled pillars are still standing.*

## *Florida's Archaeological Heritage*

Florida is home to some of the oldest and most important archaeological sites in the nation. From 12,000 year-old Native American sites to the earliest European sites of exploration and settlement and beyond, our archaeological heritage is rich indeed. While many of the most significant sites are in public ownership, such as parks and preserves, the large majority of archaeological remains are on private land. If you own land with an archaeological site, you can play an active role in its preservation by placing a conservation easement on your property. A conservation easement offers property owners flexibility while protecting some of Florida's history. Additionally, it can afford property owners tax benefits.



# Conservation Easements: Protecting Florida's Archaeological Sites

## What is a conservation easement?

Broadly applied, a conservation easement is a legal agreement a property owner makes with a nonprofit or government organization to control development of his property. This organization becomes the easement holder or “grantee,” which monitors the property for activities that would be contrary to the conditions of the easement. Both the grantee and the landowner formulate the provisions of the easement, so that both the private ownership rights and the historic value of the property are protected. If the terms of the easement are violated, the easement holder may bring an action in civil court. Depending on the resources they protect, conservation easements are known by several different names. Historic preservation easements and open space or scenic easements are commonly used to protect archaeological sites.

## Why place a conservation easement on your archaeological site?

Conservation easements are uniquely tailored to meet the needs of the individual property owner. An owner can decide how he wishes to protect his property and what to exclude from protective covenants of the easement. He may also wish to allow limited public access, such as site tours, provided they do not endanger the protected area of the property.

An easement can benefit a community by preserving archaeological sites that serve as links to the past. Protection of these sites in perpetuity can provide educational and interpretive benefits to your community. Easements can be utilized to create a buffer

zone between an urban center and an historic archaeological site, such as a Civil War battlefield, preserving the historic setting. It can also protect a prehistoric Indian burial mound and surrounding village area. The preservation of even a handful of historic and cultural properties in a community can affirm its sense of pride and heritage.

## What are the tax incentives for conveying an easement?

Owners who place their property under a protective easement can receive tax benefits through lowered property taxes or through federal income tax deduction. An easement lowers a property's fair market value because it restricts a property's development potential. This change in value usually results in a decrease in property taxes owed on the property.

A property owner may also qualify to deduct the gift of an easement from his federal income tax, if the property is protected in *perpetuity* and is donated for *conservation purposes* only. If a property meets the evaluation of significance criteria for the National Register of Historic Places, the IRS recognizes these easements as historic preservation easements.

If archaeological sites cannot satisfy the National Register criteria, it is common to protect them under open space or scenic easements, which also provide income tax deductions because of the broad definition that the IRS code applies to such resources. For example, construction of a road would have a negative impact on the integrity of an open space located within a pasture. Placing the pasture under an open space easement also protects archaeological sites.



*Above:* Artistic impression of a Timucuan village located along the St. John's River, Florida, ca. 1450. The artist modeled this scene after research findings from Thursby Mound and Hontoon Island, two neighboring archaeological sites. *Left:* Turn of the century photograph of Thursby shell mound.

## Further Reading

***The Conservation Easement Handbook: Managing Land Conservation and Historic Preservation Easement Programs.***

Janet Diehl and Thomas S. Barrett. Alexandria, VA: Land Trust Exchange and Trust for Public Land, 1988.

***The Conservation Stewardship Guide: Designing, Monitoring, and Enforcing Easements.*** Brenda Lind. Washington, D.C.: Land Trust Alliance and Trust for New Hampshire Lands, 1991.

***Historic Preservation Easements: A Historic Preservation Tool with Federal Tax Benefits.*** U.S. Department of the Interior, National Park Service, 1997.

***Preserving Family Lands: A Landowner's Introduction to Tax Issues and Other Considerations.*** Stephen J. Small. Boston, MA: Landowner Planning Center, 1992.

The IRS code also offers income tax reductions if the conservation purposes of the easement are pursuant to local government policy. This can apply to archaeological sites if local government, at any level, clearly delineates the protection of this resource. Florida law provides for the protection of archaeological sites. Section 704.06, Florida Statutes, includes retaining archaeological or cultural significance as part of its definition of a conservation easement. Lastly, public accessibility or interpretation, which may include visual access, visitation or publication, for example, is necessary to receive income tax deductions on historic preservation or open space and scenic easements.