

Chapter 1 : About Us | HardPoint Conservation Partners, LP

The Florida Department of Environmental Protection's Division of State Lands is Florida's lead agency for environmental management and stewardship, serving as staff to the Board of Trustees of the Internal Improvement Trust Fund (Governor and Cabinet).

Introduction Options for Conveying Property Landowners who want to continue to live on or otherwise enjoy using their property may wish to convey their property, upon their deaths, to a conservation organization. Their motive may be the general support of the organization, with expectation that the organization will sell the property and use the proceeds to fund its conservation work. Or the owners may want the organization to conserve the property. For either situation, the conservation organization and owners have options to discuss that will allow the owners to continue owning the property until their deaths. The owners can include in their will a gift of the property, in whole or in part, to the organization. This shows a good intention but, for the conservation organization, provides no assurance that the gift will occur. Wills may be changed at any time for any reason right up to the moment of death. There is also the possibility that family members or others anticipating an inheritance may contest the will after death. Purchase option exercisable upon death. The owners can grant the conservation organization the right to purchase the land from the estate within a period of time after their deaths. The purchase price can be set at any amount agreed to by the parties. The owners can, in the present, transfer a future interest in the property to the conservation organization. Until then, the owners retain exclusive possession of the property and all ownership rights. In contrast with a gift by will, there is no uncertainty that this gift will be received. Also, unlike a gift by will, a gift of future ownership potentially offers substantial federal income tax benefits to the owners in the year of the gift if the property is their personal residence or a farm. Dividing Ownership Into Present and Future Interests The ownership of real estate can be divided into a present interest sometimes called a life estate and a future interest sometimes called a remainder interest. A landowner effectuates this division by delivering a deed for the property to the receiving organization that includes a clause reserving to the landowner a life estate in the property for the remainder of their lives. Just as when one deeds a house or other real estate to another, the transfer of this future interest is not revocable. Upon delivery of the deed, the grantors continue owning the present interest in the property for their lifetimes and are called life tenants or present owners. The grantee holds a future property interest automatically beginning upon the death of the last to die of the present owners. The holder of the future interest is sometimes called the remainderman and is usually referred to in this guide as the future owner. This division of ownership into present and future interests has for centuries been recognized as valid under the law. Benefits of a Gift of Future Interest For Owners Continued Use and Enjoyment The present owners continue to enjoy all ownership rights of the property during their lives. They can live on it or earn income from it, until all of the present owners are deceased. Immediate Tax Benefits The donation or partial donation of a personal residence or a farm to a charity subject to a reserved life estate can provide the donor a federal income tax deduction in the year of the gift and for up to five years thereafter. Estate Planning The conveyance of a future interest takes it wholly out of the estate. Neither the executor nor the beneficiaries of the estate will have any rights or responsibilities with respect to the property. Some owners may find this attractive so as to avoid disagreements among family members. Another benefit is that the value of estate property as a whole is lowered for both estate and inheritance tax purposes. Also, the estate is relieved of the burden of paying property taxes and other carrying costs. Once the life estate expires, the charity may unless otherwise spelled out in the deed of conveyance or a donation agreement sell the property and use the proceeds to advance its various programs. Conservation organizations may do this the same as any other charity. The conservation organization has time to plan and prepare for future ownership, which is absolutely certain to occur. Testamentary gifts are less certain—wills can be changed and contested. Downsides of a Gift of Future Interest Although owners may value the right to enjoy their land for the rest of their lives, a life estate interest is difficult, if not impossible, to sell or mortgage. Actuarial tables can estimate life expectancy but the present owners can die at any time and, when they do, the life estate interest simply disappears. Once

reserved, a life estate can be transferred to others for example, parents to children but the estate still will terminate on the deaths of the parents. Likewise, the conservation organization, as future owner, must take into consideration that the burdens of ownership will fall to the organization immediately upon the death of the owners, which can happen at any time without warning. Both the grantors and the grantee will want to ensure that the agreement: Establishes the responsibilities of the present owners and future owner during the term of the life estate. Typically these would include paying taxes, insuring the property, repairing structures in the event of damage and generally maintaining the premises. Identifies remedies if the present owner or future owner fails to conform to the agreement. These and other issues are addressed in greater detail in the next section. But if the organization wants assurance that the property will be kept in accordance with certain standards, those standards must be set forth in a legally enforceable life estate agreement with the present owner. The concerns of the future owner during a life estate are similar to those of a landlord during a tenancy—taxes, insurance, repair and maintenance, and other issues discussed below. Taxes The document establishing on the public records the future interest subject to a reserved present interest is a deed of the property from grantor to grantee reserving a life estate in the grantors. The tax records will show the grantee for example, a conservation organization as legal owner. Notices from taxing authorities assessment, non-payment, etc. If taxes are not paid on a timely basis and a tax sale ensues, all ownership interests in the property both present and future will be extinguished. No legal duty absent contract Case law developed over centuries has established the rule that absent a contract between the parties neither the present owners nor the future owner have any obligation to each other to pay property taxes. If the future owner ignores the tax bill and the present owner upon learning of the delinquency pays the taxes plus penalty and interest, the law does not recognize a right to reimbursement absent a contract between the parties. Likewise, if present owner ordinarily pays the taxes but, for some reason, fails to timely pay, the future owner is not entitled to reimbursement of advances or, if a tax sale ensues, the loss of its future interest absent a contract. A contract between the parties allocating responsibility for payment of taxes is of prime importance as is a system for assuring that payment is timely made. Notice If the present owners are to pay taxes, they will want bills forwarded to them promptly and may want the authority to appeal assessments. Payment The owner who is not responsible for payment of taxes under the life estate agreement will want assurance from the paying owner that taxes payments have been timely made. A typical lease arrangement is for the paying party to produce to the other party receipts evidencing payment not later than the date such taxes last became due without penalty or interest. Insuring and Repairing Casualty Damage Under the law absent a contract , neither the owner of the present interest nor the owner of the future interest owes any duty to the other to maintain, repair, or rebuild improvements on the property for the benefit of the other. Thus, if the property contains improvements, the agreement between the present and future owners must address these issues. Insurance Who if anyone is responsible for carrying policies of insurance on the property? Is there any obligation on the part of either of the owners to reimburse the other for all or a portion of the premiums? For example, an elderly life tenant may view capital repairs and improvements with a useful life of 30 years or more as benefiting the future interest far more than his present interest. A reasonable resolution may be for the owners to share the cost of insurance. In any event, both owners have an insurable interest in the improvements and should both be named as insureds. Repair and restoration The owner identified as loss payee on the policy of casualty insurance is ordinarily the party tasked by agreement with repairing the casualty damage. As mentioned above, the age and health of the present owner are factors that may bear on decisions to allocate rights to control, and responsibilities to repair and restore. Some present owners will want to control repair and restoration during their lifetimes and expect insurance proceeds to be available to them. Others may not be willing or able to carry out these tasks and, if so, the future owner may have an economic interest in restoring improvements and having access to insurance proceeds for that purpose. Before accepting a future interest, the future owner should perform the same due diligence inspections that a reasonably prudent purchaser would perform. If the property is not in the same condition and in compliance with applicable laws as of the end of the term of the life estate, the life estate agreement should provide an obligation surviving the death of the present owner and binding upon his estate to remedy the non-compliance. If the intent is to conserve the

property for all time, placing a conservation easement on the property prior to donating a future interest is likely to have better outcomes for the donating owners and conservation organization than simply placing restrictions in the life estate agreement.

Liability; Indemnity Under the legal rules governing present and future interests, absent a contract, neither the present owner nor the future owner has any duty to the other to keep the property in good, or a reasonably safe, condition during the life estate. Nevertheless, someone claiming loss or injury relating to the condition of the property during the life estate is likely to name the person identified as owner in the public records the future owner identified as grantee in the deed as responsible for the damage or harm. For that reason, the future owner has an interest in seeing that the present owners carry liability insurance and that the life estate agreement includes an indemnity from the present owners so that the future owner does not have to defend claims for which it has no responsibility or liability. Likewise, if during the life tenancy, the future owner has rights to enter the property for repair, programmatic use or other purposes, then the present owners may similarly want to address liability insurance and indemnity to protect themselves from claims arising from the negligence of the conservation organization.

Condemnation If the property is condemned in whole or in part during the life estate, both owners may pursue their claims for compensation of the taking of their respective interests in the property. The life estate agreement can require the parties to cooperate with each other to obtain the full fair market value of the property taken and allocate the proceeds in accordance with a mutually agreeable formula.

The Transaction Title as of Conveyance Date Prior to acceptance of a future interest, the future owner will want to obtain a commitment to insure its title to the property. The life estate will be shown as an exception to the title. If any mortgages or other liens are outstanding as of the date of the deed conveying the future ownership interest, the future owner must consider that its future interest is at risk should the present owners fail to satisfy the obligations. Arrangements to assure prompt payment so as not to jeopardize either the present or future interest should be addressed in the life estate agreement. Absent a contract, the present owner has no obligation to satisfy liens so as to preserve the future interest.

Realty Transfer Tax Realty transfer tax is due upon recordation of the deed conveying the future interest and reserving the present interest. However, in Pennsylvania, a transfer to a conservancy recognized as a charitable organization under c 3 of the IRC is exempt from this tax. One of these exceptions is familiar to conservation organizations—a qualified conservation contribution commonly referred to as a conservation easement. A charitable contribution of a remainder interest in open space land not actively used for agricultural purposes is not deductible. Value of Contribution The value of the charitable contribution of a remainder interest in a personal residence or farm is equal to the net present value of the charitable remainder interest. Any unused portion can be carried forward for up to five years.

Property Subject to Mortgage Transfer of a remainder interest in a property subject to a mortgage is treated as a bargain-sale for tax purposes and gain or loss may be recognized upon the transfer in accordance with applicable provisions of the Internal Revenue Code. The recognition of gain may result in adverse tax consequences to the donor, a discussion of which is outside the scope of this discussion. Donors should seek the advice of a knowledgeable tax professional.

Reservation for Life of Owner and Non-Owner Sometimes an owner wants to reserve a life estate not only to himself for his life but to another for his or her life as well. Reserving a life estate for the benefit of a non-owner is a gift that may have potential gift and estate tax ramifications that should be discussed with tax and estate planning professionals.

No Restrictions for Benefit of Owner To qualify for tax deductibility, the gift of the remainder interest must be unfettered and unconditional. For example, the life estate agreement cannot require the remainderman to join in a sale of the property if desired by the life tenant. Under Revenue Ruling , a contribution was disallowed even though the remainderman was entitled, under the life estate agreement, to share proportionately in the proceeds of sale. For example, the permanent departure of the present owners from the property or a violation of certain terms of the life estate agreement might be used as triggers for a more immediate change in ownership.

Subsequent Liens After the division of ownership into a present interest and future interest, the future interest is not affected by a subsequent mortgage or other lien upon the present interest so long as the future owner does not join in, subordinate to, or otherwise agree to recognize the rights of mortgage holder in the property after the termination of the life estate. Likewise, a mortgage or other lien on the future interest has no effect on the present interest. Coupling a Conservation

Easement with a Reserved Life Estate If the intent is to conserve the property for all time in other words, both the present and future owners agree that the conservation values of the property should be protected not only during the term of the life estate but also thereafter , it likely makes sense to couple the use of a reserved life estate with a conservation easement.

Chapter 2 : Home - Partnership for Conservation

Section (h) of the Internal Revenue Code has helped preserve millions of acres of land for almost 40 years. With an enhanced conservation easement incentive in , the tax incentive is working as intended - and P4C supports common-sense improvements to continue to empower private conservation for more Americans.

Pollution is driving Climate Change. Franklin proposed the Federal government be enumerated a power to tax and build highways and canals. James Madison recommended it be raised to a power for the Federal government to form corporations to do useful tasks. It sets the enumerated nature of the Constitution in place declaring a single mandate for the Federal government to "provide" for the defense of liberty and restricting it to only "promote" welfare. All other clauses in the Constitution are subordinate to this enumerated nature and Federal mission: The Articles of Confederation had proven incompetent at defending the nation. We ratified the Constitution with a clear understanding that our consent to be government can only be changed by Article 5 Amendment. We ratified the Constitution with clear understand of the need for diverse state economies as explained in Federalist 9 and We the People retained sovereignty over the "general welfare". Liberty is the source of the general welfare two primary aspect intertwine: There are few minorities as tiny and disruptive as commerical innovators. Wisdom from the Many. The aggregated self-interest of all of us, with each of us acting in our own self-interest is wiser than the wisest of us at choosing between choices. That the Powers of Government may be reassumed by the People, whensoever it shall become necessary to their Happiness; that every Power, Jurisdiction and right, which is not by the said Constitution clearly delegated to the Congress of the United States, or the departments of the Government thereof, remains to the People of the several States, or to their respective State Governments to whom they may have granted the same; And that those Clauses in the said Constitution, which declare, that Congress shall not have or exercise certain Powers, do not imply that Congress is entitled to any Powers not given by the said Constitution; but such Clauses are to be construed either as exceptions to certain specified Powers, or as inserted merely for greater Caution. First, That it be explicitly declared that all Powers not expressly delegated by the aforesaid Constitution are reserved to the several States to be by them exercised. Fifthly, That Congress erect no Company of Merchants with exclusive advantages of commerce. People of Virginia declare and make known that the powers granted under the Constitution being derived from the People of the United States may be resumed by them whensoever the same shall be perverted to their injury or oppression and that every power not granted thereby remains with them and at their will Bill of Rights Recommendations: Second, That all power is naturally vested in and consequently derived from the people; that Magistrates, therefore, are their trustees and agents and at all times amenable to them. Fourth, That no man or set of Men are entitled to exclusive or seperate public emoluments or privileges from the community, but in Consideration of public services; which not being descendible, neither ought the offices of Magistrate, Legislator or Judge, or any other public office to be hereditary. Seventh, That no commercial treaty shall be ratified without the concurrence of two thirds of the whole number of the members of the Senate; and no Treaty ceding, contracting, restraining or suspending the territorial rights or claims of the United States, or any of them or their, or any of their rights or claims to fishing in the American seas, or navigating the American rivers shall be but in cases of the most urgent and extreme necessity, nor shall any such treaty be ratified without the concurrence of three fourths of the whole number of the members of both houses respectively. Eighth, That no navigation law, or law regulating Commerce shall be passed without the consent of two thirds of the Members present in both houses. Seventeenth, That those clauses which declare that Congress shall not exercise certain powers be not interpreted in any manner whatsoever to extend the powers of Congress. But that they may be construed either as making exceptions to the specified powers where this shall be the case, or otherwise as inserted merely for greater caution. Bill of Rights The Bill of Rights incorporated the understand of what the people ratified in the states. The enumerated nature of the Constitution is restated in Amendments 9 and The enumeration in the Constitution, of certain rights, shall not be construed to deny or disparage others retained by the people. The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to

the States respectively, or to the people. There is no enumerated power for Federal intrusion into commerce beyond suppressing the paths to war. There is strict prohibitions against the Federal "natural monopolies" in communications, power, and transportation infrastructures. Restoring Liberty Recognizing the Federal communications monopoly as unconstitutional in restore liberty, returned that segment of commerce to the sovereignty of the people. The near century of rotary telephones under Federal monopoly was swept aside. Liberty was restored for innovators to offer choices. Liberty was restored for people to choose between those choices in free markets. Millions of jobs were created delivering better services at lower costs. Federal monopoly protected the rotary telephone from competition. American still have the gas mileage the the Model-T 25 mpg because the Federal transportation monopoly blocks innovation. I am constrained by the insuperable difficulty I feel in reconciling the bill with the Constitution of the United States to return it with that objection to the House of Representatives. The legislative powers vested in Congress are specified and enumerated in the eighth section of the first article of the Constitution, and it does not appear that the power proposed to be exercised by the bill is among the enumerated powers. I am of opinion that Congress do not possess this power; that the States individually can not grant it, for although they may assent to the appropriation of money within their limits for such purposes, they can grant no power of jurisdiction or sovereignty by special compacts with the United States. This power can be granted only by an amendment to the Constitution and in the mode prescribed by it. If the power exist, it must be either because it has been specifically granted to the United States or that it is incidental to some power which has been specifically granted. If we examine the specific grants of power we do not find it among them, nor is it incidental to any power which has been specifically granted. It has never been contended that the power was specifically granted. It is claimed only as being incidental to some one or more of the powers which are specifically granted. First, from the right to establish post-offices and post-roads; second, from the right to declare war; third, to regulate commerce; fourth, to pay the debts and provide for the common defense and general welfare; fifth, from the power to make all laws necessary and proper for carrying into execution all the powers vested by the Constitution in the Government of the United States or in any department or officer thereof; sixth and lastly, from the power to dispose of and make all needful rules and regulations respecting the territory and other property of the United States. According to my judgment it can not be derived from either of those powers, nor from all of them united, and in consequence it does not exist. In the first view the question of power is an open one, and can be decided without the embarrassments attending the other, arising from the practice of the Government. Although frequently and strenuously attempted, the power to this extent has never been exercised by the Government in a single instance. It does not, in my opinion, possess it; and no bill, therefore, which admits it can receive my official sanction. And so the power to regulate commerce among the several States no more invests Congress with jurisdiction over the water courses of the States than the first branch of the grant does over the water courses of foreign powers, which would be an absurdity. Twenty thousand dollars are proposed to be appropriated toward improving the harbor of Richmond, in the State of Virginia. It is to be apprehended that by entering upon such a career at this moment confidence at home and abroad in the wisdom and prudence of the Government would be so far impaired as to make it difficult, without an immediate resort to heavy taxation, to maintain the public credit and to preserve the honor of the nation and the glory of our arms in prosecuting the existing war to a successful conclusion. Had this bill become a law, it is easy to foresee that largely increased demands upon the Treasury would have been made at each succeeding session of Congress for the improvements of numerous other harbors, bays, inlets, and rivers of equal importance with those embraced by its provisions. Many millions would probably have been added to the necessary amount of the war debt, the annual interest on which must also have been borrowed, and finally a permanent national debt been fastened on the country and entailed on posterity. The experience of several of the States, as well as that of the United States, during the period that Congress exercised the power of appropriating the public money for internal improvements is full of eloquent warnings. It seems impossible, in the nature of the subject, as connected with local representation, that the several objects presented for improvement shall be weighed according to their respective merits and appropriations confined to those whose importance would justify a tax on the whole community to effect their accomplishment. In some of the States

systems of internal improvements have been projected, consisting of roads and canals, many of which, taken separately, were not of sufficient public importance to justify a tax on the entire population of the State to effect their construction, and yet by a combination of local interests, operating on a majority of the legislature, the whole have been authorized and the States plunged into heavy debts. To an extent so ruinous has this system of legislation been carried in some portions of the Union that the people have found it necessary to their own safety and prosperity to forbid their legislatures, by constitutional restrictions, to contract public debts for such purposes without their immediate consent. If the abuse of power has been so fatal in the States, where the systems of taxation are direct and the representatives responsible at short periods to small masses of constituents, how much greater danger of abuse is to be apprehended in the General Government, whose revenues are raised by indirect taxation and whose functionaries are responsible to the people in larger masses and for longer terms. We have seen in our States that the interests of individuals or neighborhoods, combining against the general interest, have involved their governments in debts and bankruptcy; and when the system prevailed in the General Government, and was checked by President Jackson, it had begun to be considered the highest merit in a member of Congress to be able to procure appropriations of public money to be expended within his district or State, whatever might be the object. We should be blind to the experience of the past if we did not see abundant evidences that if this system of expenditure is to be indulged in combinations of individual and local interests will be found strong enough to control legislation, absorb the revenues of the country, and plunge the Government into a hopeless indebtedness. Such a system is subject, moreover, to be perverted to the accomplishment of the worst of political purposes. During the few years it was in full operation, and which immediately preceded the veto of President Jackson of the Maysville road bill, instances were numerous of public men seeking to gain popular favor by holding out to the people interested in particular localities the promise of large disbursements of public money. Numerous reconnoissances and surveys were made during that period for roads and canals through many parts of the Union, and the people in the vicinity of each were led to believe that their property would be enhanced in value and they themselves be enriched by the large expenditures which they were promised by the advocates of the system should be made from the Federal Treasury in their neighborhood. Whole sections of the country were thus sought to be influenced, and the system was fast becoming one not only of profuse and wasteful expenditure, but a potent political engine. Speculation, disguised under the cloak of public good, will call on Congress to deepen shallow inlets, that it may build up new cities on their shores, or to make streams navigable which nature has closed by bars and rapids, that it may sell at a profit its lands upon their banks. To enrich neighborhoods by spending within them the moneys of the nation will be the aim and boast of those who prize their local interests above the good of the nation, and millions upon millions will be abstracted by tariffs and taxes from the earnings of the whole people to foster speculation and subserve the objects of private ambition. Such a system could not be administered with any approach to equality among the several States and sections of the Union. There is no equality among them in the objects of expenditure, and if the funds were distributed according to the merits of those objects some would be enriched at the expense of their neighbors. But a greater practical evil would be found in the art and industry by which appropriations would be sought and obtained. The most artful and industrious would be the most successful. The true interests of the country would be lost sight of in an annual scramble for the contents of the Treasury, and the Member of Congress who could procure the largest appropriations to be expended in his district would claim the reward of victory from his enriched constituents. The necessary consequence would be sectional discontents and heartburnings, increased taxation, and a national debt never to be extinguished. In view of these portentous consequences, I can not but think that this course of legislation should be arrested, even were there nothing to forbid it in the fundamental laws of our Union. This conclusion is fortified by the fact that the Constitution itself indicates a process by which harbors and rivers within the States may be improved--a process not susceptible of the abuses necessarily to flow from the assumption of the power to improve them by the General Government, just in its operation, and actually practiced upon, without complaint or interruption, during more than thirty years from the organization of the present Government. But an immense field for expending the public money and increasing the power and patronage of this Government was left open in the concession of even a limited

power of Congress to improve harbors and rivers--a field which millions will not fertilize to the satisfaction of those local and speculating interests by which these projects are in general gotten up. There can not be a just and equal distribution of public burdens and benefits under such a system, nor can the States be relieved from the danger of fatal encroachment, nor the United States from the equal danger of consolidation, otherwise than by an arrest of the system and a return to the doctrines and practices which prevailed during the first thirty years of the Government. A proposition was made in the Convention to provide for the appointment of a "Secretary of Domestic Affairs," and make it his duty, among other things, "to attend to the opening of roads and navigation and the facilitating communications through the United States. On a subsequent occasion a proposition was made to confer on Congress the power to "provide for the cutting of canals when deemed necessary," which was rejected by the strong majority of eight States to three. Among the reasons given for the rejection of this proposition, it was urged that "the expense in such cases will fall on the United States and the benefits accrue to the places where the canals may be cut. Madison for the proposed enlargement of the power was that it would "secure an easy communication between the States, which the free intercourse now to be opened seemed to call for. The political obstacles being removed, a removal of the natural ones, as far as possible, ought to follow. When it is considered that some of the members of the Convention, who afterwards participated in the organization and administration of the Government, advocated and practiced upon a very liberal construction of the Constitution, grasping at many high powers as implied in its various provisions, not one of them, it is believed, at that day claimed the power to make roads and canals, or improve rivers and harbors, or appropriate money for that purpose. Among our early statesmen of the strict-construction class the opinion was universal, when the subject was first broached, that Congress did not possess the power, although some of them thought it desirable. President Jefferson, in his message to Congress in , recommended an amendment of the Constitution, with a view to apply an anticipated surplus in the Treasury "to the great purposes of the public education, roads, rivers, canals, and such other objects of public improvement as it may be thought proper to add to the constitutional enumeration of Federal powers. I suppose an amendment to the Constitution, by consent of the States, necessary, because the objects now recommended are not among those enumerated in the Constitution, and to which it permits the public moneys to be applied. In he repeated, in his published letters, the opinion that no such power has been conferred upon Congress. In relation to the regulation of commerce, the language of the grant in the Constitution is: Congress shall have power to regulate commerce with foreign nations, and among the several States, and with the Indian tribes. That to "regulate commerce" does not mean to make a road, or dig a canal, or clear out a river, or deepen a harbor would seem to be obvious to the common understanding. To "regulate" admits or affirms the preexistence of the thing to be regulated. In this case it presupposes the existence of commerce, and, of course, the means by which and the channels through which commerce is carried on. It confers no creative power; it only assumes control over that which may have been brought into existence through other agencies, such as State legislation and the industry and enterprise of individuals. If the definition of the word "regulate" is to include the provision of means to carry on commerce, then have Congress not only power to deepen harbors, clear out rivers, dig canals, and make roads, but also to build ships, railroad cars, and other vehicles, all of which are necessary to commerce. There is no middle ground. President Pierce on December 30, , "An act making appropriations for the repair, preservation, and completion of certain public works heretofore commenced under the authority of law" In view of all this, it is not easy to estimate the disastrous consequences which must have resulted from such extended local improvements being undertaken by the General Government. State legislation upon this subject would have been suspended and private enterprise paralyzed, while applications for appropriations would have perverted the legislation of Congress, exhausted the National Treasury, and left the people burdened with a heavy public debt, beyond the capacity of generations to discharge. At the same time, it would be a misuse of these powers and a violation of the Constitution to undertake to build upon them a great system of internal improvements. There is always a Tyranny of the Majority willing to tax their children to get things they want today.

Chapter 3 : Statutes & Constitution :View Statutes : Online Sunshine

Whilst the power over internal improvements, it is believed, was "reserved to the States respectively," the framers of the Constitution were not unmindful that it might be proper for the State legislatures to possess the power to impose tonnage duties for the improvement of rivers and harbors within their limits.

Description The Conservation Action Coordinator is responsible for developing and implementing initiatives that connect individuals, communities and businesses with direct conservation efforts to foster behavior change, cultural shifts, and measurable sustainability improvements that benefit aquatic ecosystems and wildlife. The coordinator delivers industry and consumer education programs, builds strategic partnerships to advance conservation action goals, serves as a conservation expert for internal and external audiences, and supports the conservation goals of other departments and stakeholders. Create and deliver high-quality conservation action programs and initiatives. Coordinate all program logistics, execution and program evaluation. Supervise and coach part-time program staff and volunteers who support conservation action programs. Track and report on performance metrics and ensure all partner deliverables are met. Work closely with other departments, especially Public Relations, Learning, Marketing, Corporate Relations and Conservation Research to develop strong programs that are well-integrated throughout the aquarium. Identify and cultivate additional opportunities for both onsite and offsite engagement. Must be willing and able to work irregular hours including nights and weekends on occasion. External Engagement and Partnership Building Work with director to develop partnership and external engagement strategies. Represent Shedd in various conservation, sustainability and seafood-related communities including, but not limited to, the Conservation Alliance for Seafood Solutions, Next Bites, the Association for Zoos and Aquariums, etc. Pursue new and nurture existing partnerships to advance the goals of conservation action programs through grassroots community engagement, corporate partnerships, industry outreach, etc. Grow internal relationships and collaborations to support cross-departmental programmatic integration. Content Expertise Build expertise on the sustainable seafood movement, Great Lakes conservation issues, local aquaculture, plastic pollution, general sustainable practices and other related topics. Research emerging conservation issues, propose conservation action strategies, and actively share pertinent information with others through formal and informal platforms. Serve as Shedd spokesperson for media and other public appearances as assigned. Collaborate with aquarium-wide teams to ensure conservation engagement is integrated across programs, exhibits, projects and initiatives. Demonstrate a commitment to professional and personal growth by initiating dialogue with colleagues, engaging in self-directed learning and focusing on professional development goals. Fulfill other duties as required. Minimum of 3 years of experience with program coordination, public outreach and presentation delivery. Strong understanding of conservation issues, environmental sustainability, conservation psychology and other relevant topics. Poised, articulate professional with a sense of humor, a positive attitude and charisma. Driven, highly organized self-starter. Confident, outgoing, and enjoys socializing with diverse audiences. Appreciation for and strong attention to detail. Excellent communication skills, including writing and public speaking. Ability to effectively communicate environmental issues to the general public and special audiences. Demonstrated ability to supervise staff and volunteers effectively. Demonstrated interest in and personal commitment to addressing conservation and sustainability challenges and awareness of current local, national and international issues. Demonstrated ability to handle large workload in a fast-paced, high energy department. Demonstrated experience with financial and grants management. Demonstrated experience with program evaluation and data management. Experience working with the following audiences – teens, volunteers, adult professionals, families and diverse communities.

Chapter 4 : Conservation easement - Wikipedia

BOARD OF TRUSTEES OF THE INTERNAL IMPROVEMENT TRUST FUND Fish and Wildlife Conservation Commission, Florida Department of State, and the Volusia County.

Agricultural history of the United States In the 17th century, Pilgrims , Puritans , and Quakers fleeing religious persecution in Europe brought with them plowshares , guns , and domesticated animals like cows and pigs. These immigrants and other European colonists initially farmed subsistence crops like corn , wheat , rye , and oats as well as rendering potash and maple syrup for trade. Early American farmers were not self-sufficient; they relied upon other farmers, specialized craftsman, and merchants to provide tools, process their harvests, and bring them to market. American artisans developed a more relaxed less regulated version of the Old World apprenticeship system for educating and employing the next generation. Despite the fact that mercantilist , export-heavy economy impaired the emergence of a robust self-sustaining economy, craftsman and merchants developed a growing interdependence on each other for their trades. Silver working[edit] Colonial Virginia provided a potential market of rich plantations. At least 19 silversmiths worked in Williamsburg between and The best-known were James Eddy “ and his brother-in-law William Wadill, also an engraver. Most planters, however, purchased English-made silver. The most prosperous were merchant-artisans, with a business outlook and high status. Most craftsmen were laboring artisans who either operated small shops or, more often, did piecework for the merchant artisans. The small market meant there was no steady or well-paid employment; many lived in constant debt. Silver and other metal mines were scarcer in North America than in Europe, and colonial craftsmen had no consistent source of materials with which to work. The purity of these sources was not regulated, nor was there an organized supply chain through which to obtain silver. As demand for silver increased and large-scale manufacturing techniques emerged, silver products became much more standardized. For special-order objects that would likely only be made once, silversmiths generally used lost-wax casting , in which a sculpted object was carved out of wax, an investment casting was made, and the wax was melted away. The molds produced in this manner could only be used once, which made them inconvenient for standard objects like handles and buckles. Permanent mold casting , an industrial casting technique focused on high-volume production, allowed smiths to reuse molds to make exact replicas of the most commonly used items they sold. In creating these molds and developing standardized manufacturing processes, silversmiths could begin delegating some work to apprentices and journeymen. These changes, in tandem with new techniques and requirements defined by changing social standards, led to the introduction of new manufacturing techniques in Colonial America that preceded and anticipated the industrial revolution. Late in the colonial era a few silversmiths expanded operations with manufacturing techniques and changing business practices They hired assistants, subcontracted out piecework and standardized output. The coexistence of the craft and industrial production styles prior to the industrial revolution is an example of proto-industrialization. Factories and mills[edit] In the mids, Oliver Evans invented an automated flour mill that included a grain elevator and hopper boy. By the turn of the century, Evans also developed one of the first high-pressure steam engines and began establishing a network of machine workshops to manufacture and repair these popular inventions. In , the widow of Nathanael Greene recruited Eli Whitney to develop a machine to separate the seeds of short fibered cotton from the fibers. The resulting cotton gin could be made with basic carpentry skills but reduced the necessary labor by a factor of 50 and generated huge profits for cotton growers in the South. Between and , new industrial tools that rapidly increased the quality and efficiency of manufacturing emerged. Simeon North suggested using division of labor to increase the speed with which a complete pistol could be manufactured which led to the development of a milling machine in In , Thomas Blanchard created a lathe that could reliably cut irregular shapes, like those needed for arms manufacture. By , Captain John H. Hall had developed a system using machine tools , division of labor, and an unskilled workforce to produce a breech-loading rifle “a process that came to be known as " Armory practice " in the U. The textile industry , which had previously relied upon labor-intensive production methods, was also rife with potential for mechanization. In the late 18th century, the English textile

industry had adopted the spinning jenny , water frame , and spinning mule which greatly improved the efficiency and quality of textile manufacture, but were closely guarded by the British government which forbade their export or the emigration of those who were familiar with the technology. The Beverly Cotton Manufactory was the first cotton mill in the United States, but it relied on horse power. Samuel Slater , an apprentice in one of the largest textile factories in England, immigrated to the United States in upon learning that American states were paying bounties to British expatriates with a knowledge of textile machinery. At nearly the same time as the canal was completed, Francis Cabot Lowell and a consortium of businessmen set up the clothing mills in Waltham, Massachusetts making use of water power from the Charles River with the concept of housing together production of feedstocks complete consumer processes so raw materials entered, and dyed fabrics or clothing left. For a few decades, it seemed that every lock along the canal had mills and water wheels. In , Boston Manufacturing Company built a major expansion in East Chelmsford, which was soon incorporated as Lowell, Massachusetts " " which came to dominate the cloth production and clothing industry for decades. Slater went on to build several more cotton and wool mills throughout New England , but when faced with a labor shortage, resorted to building housing, shops, and churches for the workers and their families adjacent to his factories. Lowell looms were managed by specialized employees, many of the employed were unmarried young women " Lowell Mill Girls " , and owned by a corporation. The corporation also looked out for the health and well being of the young women, including their spiritual health, and the hundreds of women employed by it culturally established the pattern of a young woman going off to work a few years and saving monies before returning home to school and marriage. It created an independent breed of women uncommon in most of the world. Turnpikes and canals[edit] A lock on the Erie Canal. USA canals circa Highways in the USA circa Even as the country grew even larger with the admission of Kentucky , Tennessee , and Ohio by , the only means of transportation between these landlocked western states and their coastal neighbors was by foot, pack animal, or ship. Recognizing the success of Roman roads in unifying that empire, political and business leaders in the United States began to construct roads and canals to connect the disparate parts of the nation. Nevertheless, the road became a primary overland conduit through Appalachian Mountains and was the gateway for thousands of antebellum westward-bound settlers. Numerous canal companies had also been chartered; but of all the canals projected, only three had been completed when the War of began: It remained for New York to usher in a new era in internal communication by authorizing in the construction of the Erie Canal. This bold bid for Western trade alarmed the merchants of Philadelphia, particularly as the completion of the national road threatened to divert much of their traffic to Baltimore. In , the legislature of Pennsylvania grappled with the problem by projecting a series of canals which were to connect its great seaport with Pittsburgh on the west and with Lake Erie and the upper Susquehanna on the north. Like the turnpikes, the early canals were constructed, owned, and operated by private joint-stock companies but later gave way to larger projects funded by the states. The Erie Canal , proposed by Governor of New York De Witt Clinton , was the first canal project undertaken as a public good to be financed at the public risk through the issuance of bonds. The success of the Erie Canal spawned a boom of other canal-building around the country: But the only contribution of the national government to internal improvements during the Jeffersonian era was an appropriation in of two percent of the net proceeds of the sales of public lands in Ohio for the construction of a national road, with the consent of the states through which it should pass. Because this appropriation was to be met by the moneys paid by the National Bank to the government, the bill was commonly referred to as the "Bonus Bill". But on the day before he left office, President Madison vetoed the bill because it was unconstitutional. The policy of internal improvements by federal aid was thus wrecked on the constitutional scruples of the last of the Virginia dynasty. Having less regard for consistency, the House of Representatives recorded its conviction, by close votes, that Congress could appropriate money to construct roads and canals, but had not the power to construct them. In , a bill to authorize the collection of tolls on the Cumberland Road had been vetoed by the President. In an elaborate essay, Monroe set forth his views on the constitutional aspects of a policy of internal improvements. Congress might appropriate money, he admitted, but it might not undertake the actual construction of national works nor assume jurisdiction over them. For the moment, the drift toward a larger participation of the national

government in internal improvements was stayed. Two years later, Congress authorized the President to institute surveys for such roads and canals as he believed to be needed for commerce and military defense. No one pleaded more eloquently for a larger conception of the functions of the national government than Henry Clay. He called the attention of his hearers to provisions made for coast surveys and lighthouses on the Atlantic seaboard and deplored the neglect of the interior of the country. Of the other presidential candidates, Jackson voted in the Senate for the general survey bill; and Adams left no doubt in the public mind that he did not reflect the narrow views of his section on this issue. Crawford felt the constitutional scruples which were everywhere being voiced in the South, and followed the old expedient of advocating a constitutional amendment to sanction national internal improvements. President Jefferson had recommended many of these in for Congress to consider for creation of necessary amendments to the Constitution. Adams seemed oblivious to the limitations of the Constitution. In March , the general assembly declared that all the principles of the earlier resolutions applied "with full force against the powers assumed by Congress" in passing acts to protect manufacturers and to further internal improvements. That the administration would meet with opposition in Congress was a foregone conclusion. Despite the new efficiencies introduced by the turnpikes and canals, travel along these routes was still time-consuming and expensive. The idea of integrating a steam boiler and propulsion system can be first attributed to John Fitch and James Rumsey who both filed for patents or state monopolies on steamboats in the late s. However, these first steamboats were complicated, heavy, and expensive. It would be almost 20 years until Robert R. Livingston contracted a civil engineer named Robert Fulton to develop an economical steamboat. By , steamboat services had been established on all the Atlantic tidal rivers and Chesapeake Bay. The shallow-bottomed boats were also ideally suited navigating the Mississippi and Ohio Rivers and the number of boats on these rivers increased from 17 boats to boats between and Livingston and Fulton had obtained monopoly rights to operate a steamboat service within the state of New York, but Thomas Gibbons, who operated a competing New Jersey ferry service, was enjoined from entering New York waters under the terms of the monopoly. In , the Supreme Court ruled in *Gibbons v. Ogden* that Congress could regulate commerce and transportation under the Commerce Clause which compelled the state of New York to allow steamboat services from other states. Because the physics and metallurgy of boilers were poorly understood, steamboats were prone to boiler explosions that killed hundreds of people between the s and s.

Babcock Ranch Preserve Management Plan Lee County and Charlotte County, Florida Owned By: State of Florida Board of Trustees of the Internal Improvement Trust Fund.

This is in response to your request for an opinion on the following question: You state in your letter that: For example, you cited former s. You also cited former ss. In any event, as stated in your letter, before July 1, , all the proceeds of the sale or lease of lands to which the Board of Trustees held title were deposited in the Land Acquisition Trust Fund pursuant to ss. However, in the Legislature amended s. I find no statute nor has one been brought to my attention that provides that the proceeds from the sale or lease of Murphy Act lands or other state lands shall be deposited in the general revenue fund. Subsection 2 provides that the Board of Trustees of the Internal Improvement Trust Fund is vested and charged with the administration, management, control, supervision, conservation and protection of these lands and their products, and for such purposes "laws relating to lands of the board of trustees shall be applicable. The proceeds from the disposal of such lands shall be placed in the Conservation and Recreation Lands Trust Fund. Thus, it appears that s. I have found no provisions of existing law that require that the proceeds of the sale of the lands in question be paid into the Land Acquisition Trust Fund. The lands, water areas and water storage areas described in and provided for in Ch. It would thus appear that ss. The scope of these sections is not precisely the same. While all three dictate the disposition of the proceeds of certain state lands, ss. On the other hand, s. See definitions of "disposal," "dispose," "disposed," and "dispose of" in 27 C. Thus it appears that the Legislature enacted s. It is a well-established principle of Florida law that when two statutes have been enacted covering the same subject the most recent may control [see, e. However, it is equally well-established that when one statute covers an entire subject and a later statute embraces only a particular part of the same subject, they should be construed together, and the statute relating to the particular part of a general subject operates as an exception to or qualification of the general terms of the more comprehensive statute only to the extent of the repugnancy. See also *American Bakeries Co. Haines City, So.* See also *Roger Dean Enterprises, Inc. Department of Revenue, So.* And see *Villery v. Florida Parole and Probation Commission, So.* *Goodyear Tire and Rubber Company, So.* It should also be noted that this office cannot bring about or effect the implied modification or repeal of any law, or alter or add to the wording of any statute. Such things can only be done by a court, and until a court determines otherwise this office must construe these three statutes as valid and having a field of operation. Applying the rules of construction discussed above to the instant issue, s. Therefore, in my opinion the proceeds of the sale of Murphy Act lands, and other state lands title to which is vested in the Board of Trustees of the Internal Improvement Trust Fund other than the lands described in and provided for in Ch. Proceeds of the sale of any Murphy Act lands not disposed of pursuant to s. Proceeds from the sale or disposition of certain lands or water storage areas pursuant to s.

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non-conservation lands shall be reviewed by the Department of Environmental Protection's (DEP) Division of State Lands (DSL) for recommendation as to whether such lands should be retained in public ownership or disposed of by the Board of Trustees.

If land is covenanted and used for an outdoor recreational purpose, the normal use and maintenance of the land for that purpose, consistent with the covenant, shall not be restricted. Upon obtaining approval for reconveyance or release, the reconveyance or release shall be made to the owner upon payment of the deferred tax liability. Any payment of the deferred tax liability shall be payable to the county tax collector within 90 days of the date of approval by the board or charitable corporation or trust of the reconveyance or release. The collector shall distribute the payment to each governmental unit in the proportion that its millage bears to the total millage levied on the parcel for the years in which such conveyance or covenant was in effect. The conveyance from the governing board of a public agency or the Board of Trustees of the Internal Improvement Trust Fund to the owner of the fee shall be made only after a determination by the board that such conveyance would not adversely affect the interest of the public. These regulations and procedures must provide in part that the board may not convey a development right to the owner of the fee without first holding a public hearing and unless notice of the proposed conveyance and the time and place at which the public hearing is to be held is published once a week for at least 2 weeks in some newspaper of general circulation in the county involved prior to the hearing. The limitation on rights to the use of land may involve or pertain to any of the activities enumerated in s. The application must identify the property for which assessment under this section is claimed. The initial application for assessment for any property must include a copy of the instrument by which the development right is conveyed or which establishes a covenant that establishes the conservation purposes for which the land is used. The Department of Revenue shall prescribe the forms upon which the application is made. The failure to file an application on or before March 1 of any year constitutes a waiver of assessment under this section for that year. However, an applicant who is qualified to receive an assessment under this section but fails to file an application by March 1 may file an application for the assessment and may file, pursuant to s. The petition must be filed at any time during the taxable year on or before the 25th day following the mailing of the notice by the property appraiser pursuant to s. Upon reviewing the petition, if the person is qualified to receive the assessment and demonstrates particular extenuating circumstances judged by the property appraiser or the value adjustment board to warrant granting the assessment, the property appraiser or the value adjustment board may grant the assessment. The owner of land that was assessed under this section in the previous year and whose ownership or use has not changed may reapply on a short form as provided by the department. A county may, at the request of the property appraiser and by a majority vote of its governing body, waive the requirement that an annual application or statement be made for assessment of property within the county. Such waiver may be revoked by a majority vote of the governing body of the county. If any property owner fails to notify the property appraiser and the property appraiser determines that for any year within the preceding 10 years the land was not eligible for assessment under this section, the owner of the land is subject to taxes avoided as a result of such failure plus 15 percent interest per annum and a penalty of 50 percent of the taxes avoided. The property appraiser making such determination shall record in the public records of the county a notice of tax lien against any property owned by that person or entity in the county, and such property must be identified in the notice of tax lien. The property is subject to a lien in the amount of the unpaid taxes and penalties. The lien when filed shall attach to any property identified in the notice of tax lien which is owned by the person or entity and which was improperly assessed. If such person or entity no longer owns property in that county but owns property in some other county or counties of this state, the property appraiser shall record a notice of tax lien in such other county or counties, identifying the property owned by such person or entity.

Should the proceeds from the sale or lease of Murphy Act lands and other state lands be deposited in the Internal Improvement Trust Fund, the Conservation and Recreation Lands Trust Fund or into General Revenue?

The value of the easement donation, as determined by a qualified appraiser, equals the difference between the fair market value of the property before and after the easement takes effect. To qualify for this income tax deduction, the easement must be: As a result of legislation signed by President George W. Bush on August 17, 2001. Any amount of the donation remaining after the first year could be carried forward for fifteen additional years allowing a maximum of sixteen years within which the deduction may be utilized, or until the amount of the deduction has been used up, whichever comes first. With the passage of the Farm Bill in the summer of 2002, these expanded federal income tax incentives were extended such that they also apply to all conservation easements donated in and then this provision was extended again to apply to donations in and Income tax credits states [edit] Land conservation advocates have long tried to enact additional tax incentives for landowners to donate easements, above the federal charitable deduction and state tax deduction in states that conform to federal tax process. There has been discussion of creating a federal income tax credit for easement donors since around 1990. However, no federal tax credit has been enacted. States, however, have moved ahead to grant credits that can be used to pay state income tax to donors of qualified conservation easements. In 1997, North Carolina became the first state to establish such a program. In 1998, four state legislatures enacted state tax credit programs Virginia, Delaware, Colorado, and Connecticut, in that order. South Carolina and California followed in 1999. Several other states have followed since. For landowners with little income subject to state taxation, a tax credit is a hollow reward for reducing the value of real property by donating a conservation easement. This is appealing to buyers because the credit is sold at a discount from face value. Virginia followed by enacting transferability in 2000. HB 1000 was enacted, effective retroactively to January 1, 2000. Other states have followed since. In the states where credit for conservation land donations is transferable, free markets have arisen. Brokers assist landowners with excess credit to contact buyers, and the brokers often handle payments and paperwork to protect the principals, and to ensure that transfers are fully reported to the state tax authorities. The federal and state tax treatment of profits from sale and use of transferable tax credit have been the subject of extensive discussion and the issuance of several guidance documents by the Internal Revenue Service. The other state tax credit programs are smaller in dollar measurement, but are very significant in the area and the conservation values that they cause to be protected. The concept of state tax credit action in the absence of a federal tax credit that Philip Tabas and The Nature Conservancy promoted in the 1990s has borne remarkable fruit, and continues to expand today. Estate tax reductions and exclusions[edit] For landowners who will leave sizable estates upon their death, the most important financial impact of a conservation easement may be a significant reduction in estate taxes. Estate taxes often make it difficult for heirs to keep land intact and in the family because of high estate tax rates and high development value of land. It may be necessary to subdivide or sell land for development in order to pay these taxes which may not be the desire of the landowner or their heirs. A conservation easement can often provide significant help with this problem in three important ways: Reduction in value of the estate. As a result, taxes will be lower because heirs will not be required to pay taxes on the extinguished development rights. In other words, heirs will only have to pay estate taxes on preserved farmland values, and not full development values. Section c of the tax code provides further estate tax incentives for properties subject to a donated conservation easement. This exclusion is in addition to the reduction in land value attributable to the easement itself as described above. In Pennsylvania, conservation restrictions on land included in the estate can reduce the inheritance tax owed. Conservation easements may result in a significant reduction in the sale price of the land because a builder can no longer develop it. In fact, this difference in value is the basis for the granting of the original tax incentives. Currently, the NCED manages this issue by snapping boundary polygons to a standard parcel layer which may differ from the original data provided by a landowner. Purchase of conservation easements[edit] Many conservation easements are purchased with funds from federal, state, and local governments, nonprofit

organizations, or private donors. In these cases, landowners are paid directly for the purchase of the conservation easement. Under ACEP, the Natural Resources Conservation Service helps tribes, state and local governments, and land trusts protect agriculture from development and other non-agricultural uses. To maximize the benefits, the program targets land that has both a high chance of restoration success and a history of low crop yields or crop failure. The Farm Bill also funds the purchase of conservation easements for forestland. Landowners are required to prepare a multiple resource management plan as part of the conservation easement acquisition. Commonly used funding sources include real estate transfer tax, legislative bonds, and lottery proceeds. King County in Washington and the states of Maryland, Massachusetts, and Connecticut quickly followed suit. As of , the PACE program operates in 23 states, including 19 statewide and more than 45 local programs. As of , the PACE program operates in 32 states through both state and local programs.

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The American Recovery and Reinvestment Act provides tax incentives for individuals to invest in energy-efficient products. Residential Energy Property Credit (Section): ARRA increased the energy tax credit for homeowners who make energy efficient improvements to their existing homes.

Chapter 9 : Advisory Legal Opinion - Sale or lease of Murphy Act lands

NRCS's natural resources conservation programs help people reduce soil erosion, enhance water supplies, improve water quality, increase wildlife habitat, and reduce damages caused by floods and other natural disasters.