

# YOUR LAND, YOUR GEORGIA

PLANNING FOR YOUR LEGACY

*A Getting Started Guide to Farm Transfer Planning*



American Farmland Trust • Athens Land Trust • Fort Valley State University Extension  
• Georgia Agricultural Land Trust • Georgia Conservancy • Madison-Morgan  
Conservancy • Nature's Candy Farms • The Conservation Fund • USDA's Georgia  
Natural Resource Conservation Service • University of Georgia Extension



## Introduction: Your Farm and the Bigger Picture

Agriculture is one of Georgia's major economic engines, contributing thousands of jobs and billions of dollars to the state's economy annually. But it is not only important economically. Farming shapes the history, culture, identity, and aesthetic of our state.

In American Farmland Trust's (AFT) "Farms Under Threat: The State of the States" report released in 2020, Georgia ranked No.5 in the nation for the amount of agricultural land converted to real estate development, with over half a million acres developed or compromised between 2001 and 2016.

In AFT's most recent report, "Farms Under Threat 2040: Choosing an Abundant Future," Georgia rose to No.4 in projected farmland conversion by 2040, just behind Texas, North Carolina, and Tennessee.

Further, 4 in 10 farmers in Georgia are over 65. While Georgia ranks second in the nation in percentage of producers who are considered beginning farmers. Farms are most vulnerable to conversion when farmers look to retire and see few options other than selling their land to whomever will pay the most. Too often, this results in subdivision and conversion of the land to some higher intensity use.

Georgia is at a critical moment and farmers across the state are missing out. There are tools to ensure that farmers can meet retirement goals AND further their farm legacy by keeping the land in farming and protecting it for future generations of farmers.

If you have a farm or farm operation, this Guide is for you. It will be particularly useful if you are considering transitioning off the farm and/or out of the farm business and want to understand the options available. It will cover:

- The basics of building a farm transfer plan.
- Conservation options for your land.
- Georgia resources and service providers for next steps.

**Follow along with the accompanying “My Farmland Plan” worksheet found [here](#) or at the bottom of the guide.**

## Steps to Building a Farm Transfer Plan

We often delay or defer getting professional advice on our estate because we see it as too costly or are intimidated to take the first step. So, we may opt to do nothing, assuming our estate will go to our family. But this approach can lead to the state deciding how to distribute your assets, which is often costly and may result in negative consequences for your heirs and the land. Building and executing an estate plan or will is critical to ensuring your farm legacy.

The estate planning process can be broken down into the steps below. Taking time on your own to review these steps will minimize your costs with professional advisors. As you go through this Guide, take notes on your answers.

1. Establish your values, vision, and goals.
2. Determine your current and future needs.
3. Gather information about your farm.
4. Identify the stakeholders.
5. Identify your tools and strategies.
6. Consider conservation options.
7. Select service providers.
8. Finalize your plan—build your team and sign documents.

**Disclaimer:** This guide does not provide legal advice or establish an attorney-client relationship between the reader and the author. Always consult an attorney regarding your specific situation.

# 1. Establish Your Values, Vision, and Goals for Your Farm

*Before digging into the financial and logistical details of transferring your farm, it is important to take time to develop your vision and understand your values. A good farm transfer plan includes a decision-making process that protects your land's agricultural productivity and natural resources while maintaining family and community relationships. **Values** reflect the beliefs that guide our actions and lives. **Vision statements** describe where you want to be and what you want to achieve in the future. Use the questions below to begin this process.*

- What do you want to see happen to your farm?
- What do you want your farm legacy to be?
- Do you want your farm to stay in the family? Does your family wish to keep it?
- Have you identified a successor?
- Do you want to give your farm and the rest of your estate to one person or divide it between multiple people?
- What expectations do you have for how the land will be used or managed into the future?
- How will you mitigate the risks to the land and legacy posed by potential death, disability, disaster, disagreements, or divorce?







## 2. Determine Your Needs

*While many farmers want to see their land stay in farming, they often feel that they have few options other than selling to a real estate developer as they need to maximize proceeds to pay for retirement. Take the time now to consider your current situation and future needs so that when it comes time to transfer your farm, you can balance your financial needs with your vision for your family and farm's future.*

Assess your financial situation:

- ✓ Determine what assets of the farm and farm business will be transferred and their value.
- ✓ Meet with a financial advisor.
- ✓ Develop a balance sheet and inventory your debts and assets: [Sample Balance Sheet—FIC \(farmlandinfo.org\).](#)
- ✓ Obtain a credit report. See resource for free credit report: [AnnualCreditReport.com.](#)

Draft a budget for future needs:

- ✓ Consider all categories of expenses, such as housing, food, healthcare, etc. See financial planning for retirement workbook: [extension.purdue.edu/extmedia/cfs/cfs-685-w.pdf.](#) See tips for saving for retirement: [secure.caes.uga.edu/extension/publications/files/pdf/C%201112-2\\_1.PDF.](#)
- ✓ Document all sources of income in retirement, including anticipated income from the sale/transfer of the farm.

### 3. Gather Information About Your Farm

*A farmer's land is often one of their biggest assets. Use the following questions to take inventory of your farm resources to help with identifying options for the future.*

- How big is your farm? What is the quality of the land?
- What personnel management capacity and labor exist?
- Who owns the land? Is it owned by an individual, jointly, or by another business entity?
- What are the natural resources? These can include water availability, water quality, soil quality, pastureland, crop land, timber, wildlife habitat, wetlands, etc.
- What on-farm buildings and infrastructure, including housing exist? Who owns these assets?
- What local and community infrastructure exists? This can include things like processing, labor, repair services, zoning policies, development pressure, farmers markets.

### 4. Identify Who Should Be at the Table

*Consider everyone who is involved or has a stake in the future of the farm. This will include everyone from spouses and business partners as well as any members of the farm community who will be impacted by the future of your farm. What is their vision for the future of the farm? Engaging these stakeholders early in the process will enable everyone to share goals and priorities.*

- Business partners
- Lessees
- Spouses
- Children
- Other immediate family
- Extended family
- Employees

## 5. Choose Your Tools and Strategies

*Farms are transferred by sale, inheritance, gift, or lease. The tools to accomplish these types of transfer can be broken down into the following categories: business tools, succession tools, and estate planning tools.*

### BUSINESS TOOLS

#### BUSINESS ENTITIES

Placing land and farm operating assets into business entities (LLC, LLP, LLLP, etc.) is an important option for limiting liability. They can also be useful tools to transfer management, ownership, control, and income of the farm business as well as separate ownership of the land and business assets if appropriate. See the chart below to compare some of the common types of business entities.

COMPARE TYPES OF BUSINESS ENTITIES				
	Sole Proprietorship	Partnership	Corporation and Cooperative	Limited Liability Company
Ownership	Individual	2 or more	1 or more shareholders	1 or more members
Liability	Unlimited	Unlimited	Limited	Limited or unlimited
Continuity of Life	Ends at owner's death	Dissolves upon partner death or withdrawal, unless continued by other partners	Perpetual	Operating agreement determines continuity
Federal Taxation	Individual taxed	Pass-through entity (each partner taxed individually)	"C" corporation and shareholders taxed; "S" pass-through entity, shareholders taxed	Pass-through entity (members taxed individually)
Costs	N/A	Legal fees service for drafting partnership agreement	Initial and annual filings and fees, legal fees for drafting limited partnership agreement	Initial and annual filings and fees, legal fees for structuring entity



### OPERATING AGREEMENTS

These spell out how the business is managed, how decisions are made, and how profits are shared.

### BUY-SELL AGREEMENTS

These can help ensure an equitable and orderly transfer of the farm assets, including important issues like valuation and payment or financing terms.

### SUCCESSION TOOLS

Succession tools help you prepare for life off the farm or out of the farm business.

- Plan for retirement: consider retirement calculators to understand when you can retire and how much you can afford to spend.
- Prepare for health care options: options include Medicare, Medicaid, health care proxy, power of attorney, advance directive for healthcare, and long-term care insurance.
- Plan gifts: these can be tax free and protect assets.

### HEIRS' PROPERTY

Executing a will is one of the best ways to ensure your assets are successfully passed down, yet it is estimated that most farmers do not have one in place. Dying without a will or another form of estate plan can result in something known as “heirs’ property” where the heirs own all the property together and may not have clear title or documented ownership to the land. If you would like to learn more, or believe that this might apply to your family-owned land, refer to the **Farmland Access Legal Toolkit’s guide for Georgia:** [farmlandaccess.org/wp-content/uploads/2022/11/heirs-property-legal-issues-georgia.pdf](https://farmlandaccess.org/wp-content/uploads/2022/11/heirs-property-legal-issues-georgia.pdf).

And visit The Federation of Southern Cooperatives page for more information and resources: [federation.coop](https://federation.coop).





## ESTATE PLANNING TOOLS

Estate planning tools are the options for how you will legally pass on your assets after you die.

- **Wills** are legal documents that must be signed by the person making the will AND two disinterested witnesses to be properly executed. Drafting and executing a will with an estate attorney is a simple way to ensure that your farm transfers according to your wishes.
- **Transfers on Death** are a way to name a beneficiary that automatically receives your assets at your death. This form, also known as TOD, can avoid probate. Examples of TOD's include joint ownership of land with survivorship rights, joint bank accounts and most retirement accounts and annuities.
- **Trusts** A trust is a legal entity that separates the management of property from the enjoyment of property. It establishes trustees, who manage the assets in the trust, and beneficiaries who will receive the property when the trust is dissolved. Trusts can avoid probate costs and protect assets from beneficiaries. \*Note: An ownership or family trust provides no form of conservation protection. See section 6 for more information on conservation land trusts.
- **Life Insurance** is a contract that pays a cash benefit to the named beneficiary at death. These do not take the place of a will but can support other farm transfer options because they provide cash at death to help with purchase arrangements or to satisfy nonfarm heirs financial expectations.

## 6. Conservation Options

*A conservation easement is a legal agreement between a landowner and a land trust or government agency that permanently restricts the type and amount of development that may take place on the property to protect its conservation value, while the landowner maintains title and management of the land. This ensures that the land will remain intact and preserved in perpetuity. Each conservation easement is unique, based on the property's conservation values and the landowner's wishes. Agricultural easements are intended to maintain farm business viability including elements of infrastructure, residence, and management activities.*

*Agricultural easements can also serve as strong financial tools for farm families as you plan to transfer the farm to the next generation. They may help fund retirement, decrease tax burden, provide equity for many heirs, and increase the affordability for a new farmer. Below are three types of agricultural easements and their benefits.*

### A. DONATED AGRICULTURAL CONSERVATION EASEMENT

A donated agricultural conservation easement is where no direct cash compensation is provided but a farm is permanently protected. The conservation value of the land may be considered a donation if gifted to an approved 501(c)3 conservation organization or public entity. Donated easements may provide federal, state, and estate tax savings if they meet criteria established by the Internal Revenue Service and other agencies. Easement restrictions are deeded and remain with the property forever. A landowner can work with a land trust or public entity to protect their land during their lifetime so that whoever takes ownership after them is subject to the same restrictions.

### B. PURCHASED AGRICULTURAL CONSERVATION EASEMENT

A purchased agricultural conservation easement provides direct cash compensation to landowners. The funding for this purchase can come from federal, state, or local entities, a private donation, or a combination of these groups. In some cases, a landowner may be paid a portion of the easement value and donate the remaining

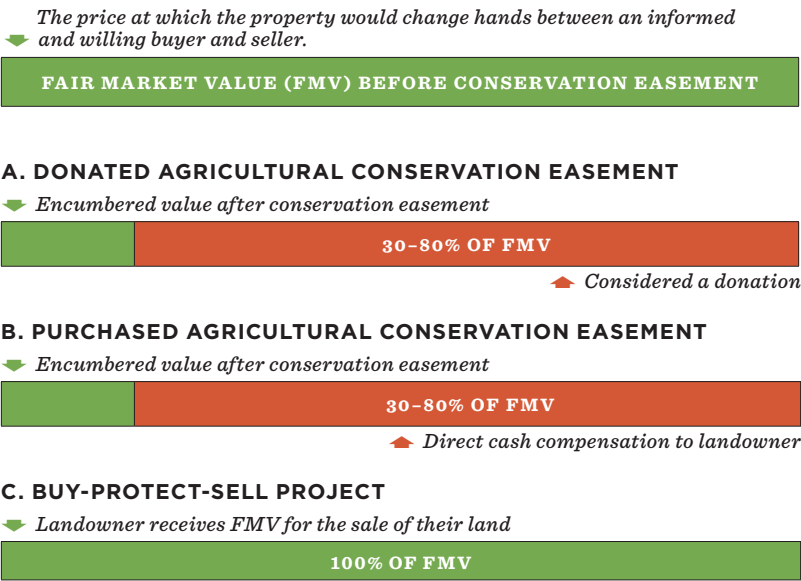
value. This can provide needed income for a farm business to use to facilitate a transition, reinvest in the farm, or for retirement income while ensuring the farm’s legacy for generations.

C. BUY-PROTECT-SELL PROGRAM

Buy-Protect-Sell transactions are where a philanthropic organization or government agency buys a farm at market value, protects the land with a permanent easement, and then sells the farm to a next generation farmer at the decreased price. This model ensures that the exiting landowner gets full value for their land, that it is protected forever, and that a new farmer has more affordable access to the land. This can be a useful strategy when there is no ready successor to take over a farm operation.

EASEMENT TYPE COMPARISON AND VALUATION

The chart below displays how different easements allow landowners to capture value from the land while maintaining it as agricultural land and protecting it from development.



Example Scenario of an Agricultural Conservation Easement:  
A farmland owner has 200 acres with a fair market value (the price at which the land would change hands between a willing and

*informed buyer and seller prior to an easement) appraisal of \$5,000/acre. The “conservation easement value” is appraised at \$3,000/acre or \$600,000 for the 200 acres. At the close of the easement, the landowner may consider the \$600,000 a donation, be paid the value by an entity, or some combination of the two.*

## 7. Select Service Providers

*Georgia has a strong presence of farm, conservation, legal, and tax professionals and programs ready to help you realize your farm transfer goals. Consider some of the resources below to take the next step in your farm transfer planning.*

**Farmland Information Center** is a clearinghouse for resources for farmland protection stewardship and transfer: [farmlandinfo.org](http://farmlandinfo.org)

**Conservation Land Trusts that protect farmland in Georgia:** [farmlandinfo.org/farmland-protection-directory/?state=georgia](http://farmlandinfo.org/farmland-protection-directory/?state=georgia)

**USDA Natural Resource Conservation Service.** To learn more about purchased agricultural easement programs in Georgia and land eligibility: [nrcs.usda.gov/programs-initiatives/acep-agricultural-conservation-easement-program](http://nrcs.usda.gov/programs-initiatives/acep-agricultural-conservation-easement-program)

**GaFarmLink** is a land linking platform that helps connect farmland seekers and owners for short, long-term, or permanent tenure options: [gafarmlink.org](http://gafarmlink.org)

**Working Farms Fund** is a buy-protect-sell program of The Conservation Fund that allows landowners to sell their land at market value and ensure that it stays in agriculture forever and goes to a next generation farmer: [workingfarmsfund.org](http://workingfarmsfund.org)

**University of Georgia Cooperative Extension** local offices are a key resource for agricultural services and a connector to farm transfer planning tools: [extension.uga.edu/county-offices.html](http://extension.uga.edu/county-offices.html)

**Fort Valley State University Cooperative Extension** local offices provide educational programs and resources for farmers and the rural disadvantaged: [fvsu.edu/about-fort-valley-state-university/academics/college-of-agriculture-family-sciences-and-technology/outreachextension](http://fvsu.edu/about-fort-valley-state-university/academics/college-of-agriculture-family-sciences-and-technology/outreachextension)





THE CONSERVATION FUND

**Georgia Farm Bureau** is an independent voluntary organization that represents farmers and ranchers on the local, state, and national levels: [gfb.org](http://gfb.org)

**Georgia Department of Agriculture** works to protect and promote agriculture and consumer interests and encourages the growth of local farming communities through the Georgia Grown program: [agr.georgia.gov](http://agr.georgia.gov)

**The Farm Credit System** is a nationwide network of borrower-owned lending institutions. They also provide financial and farm transfer planning service. Farm Credit lender finder: [farmcredit.com/locations?zip=](http://farmcredit.com/locations?zip=)

**American Society of Farm Managers and Rural Appraisers:** Find a land expert in your area: [asfmra.org/directory/find-experts2](http://asfmra.org/directory/find-experts2)

**AFT's Farm Legacy Program** works with farm owners to ensure that land remains in farming for future generations: [farmland.org/project/farm-legacy](http://farmland.org/project/farm-legacy)

## 8. Finalize Your Plan—Build Your Team and Sign Documents

*For your vision of the farm's future to be realized, you will need to fully execute your plan. This includes building a team of legal, financial, and conservation advisors and signing documents.*

*Consider the next steps below:*

- Call professionals and service providers in your area to learn more and get connected.
- Talk to your identified stakeholders.
- Assemble a team of professionals to work with you. See strategies to find a qualified attorney, including questions to ask: [extension.iastate.edu/agdm/wholefarm/html/c4-61.html](https://extension.iastate.edu/agdm/wholefarm/html/c4-61.html).
- Set a timeline for completing your plan.



American Farmland Trust (AFT) works to save the land that sustains us by protecting farmland, promoting sound farming practices, and keeping farmers on the land. Founded in 1980, our research and advocacy have led to major advancements in both federal and state policy, ranging from enactment of the Farmland Protection Policy Act of 1981 to creation of multiple state-based farmland protection programs and a federal easement program that has invested more than \$2 billion to date in saving farmland. AFT also created the first national curriculum for beginning farmers about accessing land, *Farmland for the Next Generation: Land Access Training*.

For more information about AFT, visit us at [farmland.org](http://farmland.org).

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STEVE ALLEN/ALAMY





# MY FARMLAND PLAN

## YOUR LAND, YOUR GEORGIA

PLANNING FOR YOUR LEGACY

### WORKSHEET

**INSTRUCTIONS:** Use this worksheet as you go through the *Your Land, Your Georgia: Planning for Your Legacy Guide* to begin planning for your farm transfer. Use it to make notes, ask questions, brainstorm ideas, and draft a timeline for execution.

#### 1. Establish Your Values, Vision, and Goals for Your Farm

As you go through the questions in this section, write down your top values and goals for the farm.

#### 2. Determine Your Needs

What do you already know about your financial situation and retirement needs? What documents and information do you need to gather?

### **3. Gather Information About Your Farm**

As you go through the questions, make note of your answers below.

### **4. Identify Who Should be at the Table**

List below who all will be included in your plans and decisions for the farm.

### **5. Choose Your Tools and Strategies**

Make notes below on which tools might best suite your situation.

*Business Tools:*

*Succession Tools:*

*Estate Planning Tools:*

## **6. Conservation Options**

Can conservation play a useful role in your farm transfer planning? What next steps will you take to learn more?

## **7. Select Service Providers**

What professionals and service providers do you already have and who do you need to contact?

## **8. Finalize Your Plan**

Draft a timeline of next steps and set a date for completion.