

HB404 ENGROSSED



1 HB404
2 QN6PN14-2
3 By Representative Rafferty (N & P)
4 RFD: County and Municipal Government
5 First Read: 05-Feb-26



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A BILL
TO BE ENTITLED
AN ACT

Relating to counties and municipalities; to authorize Class 1 municipalities to establish and regulate a nonprofit community land trust for the purpose of creating affordable housing alternatives; to provide for qualifications and appointment of members of the board of directors; to authorize an annual audit of the trust by the Department of Examiners of Public Accounts; to require the community land trust to publish eligibility selection criteria; to allow a community land trust to acquire and lease real property to qualified low-income and moderate-income lessees through 99-year ground leases; to require all leases to include an option for the trust or organizing municipality to buy back the property interest; to authorize ad valorem property tax exemptions for certain community land trust property; and to establish standards for ad valorem assessment.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. This chapter shall be known and may be cited as the Alabama Community Land Trust Act of 2026.

Section 2. This chapter applies only to Class 1 municipalities.



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29 Section 3. When used in this chapter, the following
30 words have the following meanings:

31 (1) AFFORDABLE HOUSING. Any residential dwelling unit
32 that is part of a project subject to a legally enforceable
33 restriction limiting occupancy between one and four family
34 housing units or to households comprising at least 40 percent
35 of the units in a multifamily project, either based on an
36 income threshold or rent and housing cost limitation. For
37 purposes of this definition, a unit need not be restricted in
38 perpetuity. Any unit subject to a qualifying restriction for
39 any portion of its compliance or regulatory period shall
40 constitute affordable housing during that period and a ground
41 lease may have a term longer than such period. These
42 restrictions are applicable under any of the following
43 programs or through lease or land use covenants that are
44 substantially similar:

45 a. Low Income Housing Tax Credits (LIHTC) Units. Any
46 unit qualifying for low income housing tax credits under 26
47 U.S.C. § 42, including units qualifying under the income
48 averaging election, regardless of the applicable income limit
49 or any other percentage of area median income designated for
50 the unit under the averaging set-aside requirements under that
51 section.

52 b. Project-Based Section 8 Units. Any unit covered by a
53 Housing Assistance Payments (HAP) contract under 42 U.S.C. §
54 1437f, including Housing Choice Vouchers, project-based rental
55 assistance (PBRA) or project-based vouchers (PBV).

56 c. Other Federally Assisted Units. Any unit receiving



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57 rental assistance, financing, or use restrictions under any
58 federal affordable housing program, including, but not limited
59 to, HOME Investment Partnerships authorized under 42 U.S.C.
60 Chapter 130, USDA Rural Development Section 515 or 538
61 programs authorized under 42 U.S.C. § 1485, HUD Section 202 or
62 811 programs authorized under 12 U.S.C. § 1701q and 42 U.S.C.
63 § 8013, and public housing under the United States Housing Act
64 of 1937, 42 U.S.C. §§ 1437 et seq.

65 d. State and Local Program Units. Any unit subject to a
66 deed restriction, regulatory agreement, or other legally
67 enforceable instrument imposed by or in connection with a
68 state, county, or municipal affordable housing program,
69 inclusionary zoning requirement, or housing finance agency
70 financing.

71 e. Other Income or Rent-Restricted Units. Any unit
72 subject to an income restriction at or below 120 percent of
73 area median income (AMI) or a rent restriction requiring that
74 gross rent, including utilities, not exceed an affordable
75 level as determined by reference to AMI, HUD-published fair
76 market rents, or an equivalent benchmark established by a
77 governmental or quasi-governmental authority, provided that if
78 relying upon this restriction, at least 90 percent of the
79 units in the project must be subject to this restriction.

80 (2) BOARD OF DIRECTORS. The governing body of a
81 community land trust elected and formed in accordance with the
82 bylaws of such entity, subject to the requirements of this
83 act.

84 (3) COMMUNITY LAND TRUST. An entity that:



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85 a. Provides affordable housing to low-income and
86 moderate-income families through ground leases; and

87 b. Is organized by a Class 1 municipality.

88 (4) GROUND LEASE. A lease between a community land
89 trust and a tenant of real property owned by a community land
90 trust that is designed to ensure that the property remains
91 affordable housing.

92 (5) LIMITED EQUITY PRICE. A price for the sale of any
93 improvement located on community land trust-owned land which
94 is determined by means of a resale-restricted formula.

95 (6) LOW-INCOME FAMILY. A family household with an
96 aggregate income at or below 80 percent of the metro
97 statistical area median income adjusted for family size, as
98 determined by the Department of Housing and Urban Development
99 (HUD).

100 (7) MODERATE-INCOME FAMILY. A family household with an
101 aggregate income at or below 120 percent of metro statistical
102 area income adjusted for family size, as determined by HUD.

103 (8) ORGANIZING MUNICIPALITY. The Class 1 municipality
104 creating the community land trust pursuant to this chapter.

105 (9) PREEMPTIVE PURCHASE OPTION. The right of a
106 community land trust or the organizing municipality to
107 purchase the improvements constructed on the community land
108 trust-owned real property pursuant to a ground lease prior to
109 any other party.

110 (10) PROCEED-SHARING PROVISIONS. The resale formula
111 provisions in the ground lease which establish the maximum
112 resale price and determine the allocation of sale proceeds



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113 between the seller and the preservation of affordability for
114 future buyers.

115 (11) PUBLIC RECORDS. Shall have the same meaning set
116 forth in Section 41-13-1, Code of Alabama 1975, as if the
117 community land trust was a subdivision of government and the
118 community land trust's transactions constituted public
119 business. Public records shall include any document that
120 reflects the community land trust ownership, acquisition or
121 leasing of real property, contracts with and records of
122 vendors, and correspondence with any person or entity.

123 (12) QUALIFYING LESSEE. An individual or family that
124 meets the criteria of low-income family or moderate-income
125 family, as defined in this section, on the effective date of
126 the lease.

127 (13) REAL PROPERTY. Both land and improvements,
128 including a leasehold interest in real property.

129 (14) RESALE-RESTRICTED FORMULA. A formula designed to
130 keep community land trust-owned real property affordable, or
131 the requirements included as part of the program which
132 determined the property as affordable housing.

133 (15) SPECIFIED INTEREST. The leasehold interest in the
134 real property and associated structural improvements as
135 distinct from the fee simple interest in the land retained by
136 the community land trust.

137 Section 4. The governing body of a Class 1 municipality
138 within the State of Alabama may create, by ordinance, one or
139 more community land trusts to operate within its jurisdiction.
140 A community land trust shall be organized as an Alabama



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141 nonprofit corporation.

142 Section 5. (a) The purpose of a community land trust is
143 to:

144 (1) Promote long-term affordable housing for low-income
145 and moderate-income families;

146 (2) Promote productive use of land through ground
147 leases; and

148 (3) Promote investment in affordable housing for
149 long-term community benefit.

150 (b) The bylaws of a community land trust shall provide
151 all of the following:

152 (1) The organization is membership-based.

153 (2) Corporate membership is open to the general public.

154 (3) Membership meetings are open to the general public,
155 including nonmembers.

156 (c) The board of directors shall consist of seven
157 directors serving four-year terms. No director shall be a
158 municipal, county, or state elected official and no immediate
159 family member or member of the official's household shall be a
160 director. If an existing director or other individual becomes
161 an elected official, thereby disqualifying that individual or
162 another from serving as a director, that existing director
163 shall promptly tender his or her resignation.

164 (1) Three directors shall be appointed by the governing
165 body of the organizing municipality and shall have expertise
166 and experience in careers or activities involving real estate,
167 property management, finance, real estate law, transit
168 planning, residential contracting, banking, architecture, or



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169 city planning.

170 (2) Three directors shall be appointed by the mayor of
171 the organizing municipality. One director shall be a
172 professional in the finance or banking industry with
173 experience in affordable and low-income housing, lending,
174 finance, or tax credits for residential and commercial
175 properties. One director shall be a registered architect,
176 landscape architect, or city planner with experience in long-
177 range planning and neighborhood/community master planning. One
178 director shall be a specialist in housing-related activities
179 with experience in developing affordable housing for
180 low-income and moderate-income families.

181 (3) One director who meets the requirements of
182 subdivision (1) of this section shall be appointed by the
183 Board of Directors of the Alabama Housing Finance Authority.
184 The appointed director may be a member of that board.

185 (4) The board of directors shall reflect the diversity
186 of the community served by the community land trust to the
187 extent practicable. No board member shall be an employee or
188 independent contractor of the community land trust or have any
189 immediate family member or household member who is an employee
190 or independent contractor of the community land trust, except
191 that the executive director shall be an ex officio member of
192 the board of directors. A director may be removed by the
193 appointing authority in the same manner as the original
194 appointment. The board of directors shall adopt, review
195 annually, and revise if necessary, a conflict of interest
196 policy binding upon the board and staff of the community land



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197 trust.

198 (d) (1) The board of directors may establish, through
199 resolutions or bylaws, provisions for director compensation,
200 including salary, per diem, and travel expenses.

201 (2) The board of directors may employ staff through
202 resolutions adopted by the board. Employees of the community
203 land trust shall not be subject to the Merit System Act. The
204 community land trust shall not employ an elected municipal,
205 county, or state official or any immediate family member or
206 member of an official's household as an employee or
207 independent contractor.

208 (3) Meetings of the board of directors, including
209 quorum requirements and participation by electronic means,
210 shall be governed by Sections 10A-3-2.11 and 10A-3-2.13, Code
211 of Alabama 1975.

212 (4) Directors shall be immune from civil liability for
213 reasonable acts or omissions made within the scope of their
214 official duties, except for acts or omissions involving
215 willful misconduct, negligence, or fraud.

216 (5) The community land trust shall not: (i) engage in
217 political activity, lobbying, political consultation, or
218 public advocacy relating to the operation, financing, or
219 organization of the community land trust; or (ii) employ any
220 person or engage any vendor to engage in any material part in
221 political activity, lobbying, political consultation, or
222 public advocacy relating to the operation, financing, or
223 organization of the community land trust.

224 (6) The community land trust shall be audited annually



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225 by the Department of Examiners of Public Accounts, with the
226 cost paid by either the sponsoring municipality or the
227 community land trust. The audits shall be made publicly
228 available on the sponsoring municipality's website and
229 promptly provided to the public upon request.

230 Section 6. (a) Subject to the restrictions of this act,
231 a community land trust shall have all the powers permitted to
232 a nonprofit corporation under Chapter 3 of Title 10A, Code of
233 Alabama 1975.

234 (b) Notwithstanding subsection (a), the powers and
235 purposes of the community land trust include, but are not
236 limited to:

237 (1) Acquiring real property with the intention that the
238 property will be used for residential purposes;

239 (2) Leasing affordable housing;

240 (3) Constructing or providing for the construction of
241 improvements to real property to constitute affordable
242 housing;

243 (4) Entering into ground leases with qualified lessees
244 and any other agreements or real property transactions related
245 to the purposes of the community land trust;

246 (5) Engaging in other activities related to the sale,
247 leasing, management, maintenance, and preservation of
248 properties owned by the community land trust. This includes
249 mortgaging the trust's interest in real property, or entering
250 into or subordinating its rights to third parties through land
251 use restrictive covenants or similar instruments concerning
252 affordable housing;



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253 (6) Accepting funding from the organizing municipality
254 and any other source authorized under Chapter 3, Title 10A,
255 Code of Alabama 1975;

256 (7) Subordinating the community land trust's interest
257 in ground leases to parties financing affordable housing on
258 the related property, by entering into lease addendum with or
259 agreements with financing parties, agreeing not to terminate a
260 ground lease except as mutually agreed with such parties;

261 (8) Performing any other act or exercising any other
262 power that is consistent with or incidental to this act, or
263 the operation or administration of the community land trust.

264 (9) Provide pre-purchase counseling and homeownership
265 education to prospective tenants and qualifying owners related
266 to the community land trust's housing programs, in accordance
267 with HUD-approved housing counseling standards;

268 (10) Conduct outreach, distribute public information,
269 and facilitate communications about the community land trust's
270 housing programs, eligibility criteria, and application
271 procedures;

272 (11) Work with and provide technical support to
273 lenders, nonprofit organizations, and other housing entities
274 to promote the community land trust's affordable housing
275 goals.

276 (c) In conducting its activities, the community land
277 trust shall use good faith efforts to:

278 (1) Use competitive, transparent processes to offer for
279 lease real property or improvements on real property; and

280 (2) No later than May 1 of each year, publish a report



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281 that includes: (i) activities for that year; (ii) the status
282 of any real property owned by the trust during the year; (iii)
283 details of contracts worth fifty thousand dollars (\$50,000) or
284 more related to real property interests; (iv) sources of
285 funding for the trust; (v) a list of employees, board members,
286 and independent contractors along with their compensation; and
287 (vi) any other material matters requested by the Alabama
288 Housing Finance Authority. This report shall be posted on the
289 sponsoring municipality's website and sent to the Alabama
290 Housing Finance Authority.

291 (d) The community land trust shall promptly post
292 selection criteria, scoring methods, and eligibility
293 requirements when using competitive processes for affordable
294 housing eligibility. When merit-based decisions are not
295 suitable or when there is over-subscription due to high
296 demand, the trust will adopt lottery or wait-list processes as
297 appropriate, ensuring they prohibit discrimination and
298 favoritism. Sole-source awards, or other noncompetitive
299 contracts or grants awarded to a single developer, contractor,
300 or entity should be avoided, and if used, must be documented,
301 justified in writing, and approved by the board of directors.

302 Section 7. (a) A community land trust may lease real
303 property only for the primary purpose of affordable housing.

304 (b) For multifamily projects or individual housing
305 units on a tract of real property owned by the community land
306 trust, multiple tracts that are contiguous, located close
307 together in a geographic area, or within the same platted
308 subdivision are considered a single tract.



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309 (c) An individual or family tenant who is qualified to
310 live in affordable housing at the effective time of the lease
311 may renew the lease without redetermining the tenant's
312 qualifying status. When a qualifying lessee is an entity
313 rather than an individual or family, the real property subject
314 to the ground lease shall be occupied by individuals or
315 families who meet the income requirements of the applicable
316 affordable housing program, as defined in Section 3(1).

317 Section 8. (a) Each ground lease shall grant the
318 community land trust and the organizing municipality the right
319 to purchase all improvements to the real property, subject to
320 any rights held by or granted to a mortgagee or other holder
321 of an interest in the real property, including under land use
322 restrictive covenants or other restrictive agreements.

323 (b) (1) The community land trust shall have 90 days to
324 exercise its purchase option from the date when notice of the
325 event that triggers the purchase option is received.

326 (2) If the community land trust fails to exercise its
327 option within those 90 days or declines the option subject to
328 any superior rights, the organizing municipality shall have an
329 additional 90 days to exercise the purchase option from the
330 date when notice is received that the community land trust has
331 not performed or declined its purchase option.

332 (3) The community land trust shall act in an
333 expeditious manner in all matters related to negotiating
334 purchase agreements under this subsection.

335 (c) (1) Subject to any superior rights, the community
336 land trust may assign its purchase option to a third party



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337 that agrees to operate the improvements as affordable housing
338 regardless of any other criteria established in the ground
339 lease for the transfer of an interest in residential real
340 property. Any sale pursuant to the assignment must be
341 completed in the same time frame applicable to the community
342 land trust.

343 (2) Subject to any superior rights, the organizing
344 municipality may assign its purchase option to a qualifying
345 owner regardless of any additional criteria established in the
346 ground lease for the transfer of an interest in residential
347 real property. Any sale pursuant to the assignment must be
348 completed in the same time frame applicable to the organizing
349 municipality.

350 (3) The community land trust shall act in an
351 expeditious manner in all matters related to the assignment of
352 its purchase agreements under this subsection.

353 (d)(1) Subject to any superior rights, including the
354 payment in full of any mortgages, the failure of a community
355 land trust to exercise the preemptive purchase option does not
356 prohibit the community land trust from exercising any other
357 right established in the ground lease, including the right to
358 share in the proceeds of the first sale to a purchaser
359 following the failure of the community land trust to exercise
360 its right to repurchase.

361 (2) If the community land trust and organizing
362 municipality both fail to exercise or decline their purchase
363 option within the specified time period, the qualifying owner
364 shall be allowed to sell the improvements to any buyer at a



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365 negotiated price, provided that a sale does not violate any
366 other restriction, mortgage, or interest affecting the real
367 property.

368 (3) Only the initial arm's-length, third-party
369 transaction of the specified interest in real property,
370 occurring after the community land trust and organizing
371 municipality either fail to exercise or decline their purchase
372 option, is subject to the purchase option and pro-rata sharing
373 provisions of the ground lease.

374 (4) A second or later purchaser who acquires the
375 specified interest in an arm's-length, third-party transaction
376 at fair market value receives title free of any rights
377 established in the ground lease or deed of conveyance that
378 would otherwise be enforceable by the community land trust.

379 (5) Notwithstanding subdivision (4), if real property
380 is subject to a ground lease at the time a subsequent
381 purchaser acquires the specified interest after the community
382 land trust and organizing municipality have not exercised
383 their preemptive purchase options, the purchaser shall remain
384 obligated concerning any applicable ground lease payment for
385 the remaining lease term unless otherwise agreed to by the
386 subsequent purchaser and the community land trust or their
387 respective successors in interest.

388 (6) The community land trust, or its successor in
389 interest, shall not have the right to eject a mortgagee, its
390 purchaser at foreclosure, or a leaseholder by an assignment in
391 lieu of foreclosure, or the subsequent purchaser for any
392 reason other than failure to pay regularly scheduled rent



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393 payments, not including any fees or other amounts resulting
394 from a default in payments.

395 Section 9. (a) A ground lease shall have a maximum term
396 of 99 years and may be renewed under conditions set forth in
397 the ground lease.

398 (b) A ground lease shall include, but is not limited
399 to, the following provisions:

400 (1) The term and, if applicable, renewability of the
401 ground lease.

402 (2) The resale-restricted formula.

403 (3) A community land trust's preemptive purchase option
404 right.

405 (4) An organizing municipality's preemptive purchase
406 option right.

407 (5) Any term that, if violated, becomes grounds for
408 cancelling the ground lease, subject to any superior rights of
409 a mortgagee or other holder of an interest in the real
410 property, and in accordance with the provisions of Section
411 8(d).

412 (6) Occupancy requirements consistent with the basis
413 used to determine whether the specified interest is affordable
414 housing.

415 (7) The amount of the ground lease fee and the
416 conditions under which the fee may be increased.

417 (c) A community land trust shall record any ground
418 lease in its entirety.

419 Section 10. (a) For real property acquired for
420 residential purposes, owned by a community land trust, and not



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421 subject to a ground lease, the real property shall be exempted
422 from all ad valorem taxation for a period of three years if
423 the community land trust intends the real property to be used
424 as affordable housing, and the community land trust is either:

425 (1) Conducting or causing the construction on the real
426 property, including, but not limited to, construction of a new
427 residential property, rehabilitation of an existing property,
428 and related tasks; or

429 (2) Attempting to transfer or lease the real property
430 or specified interest in accordance with Section 5 of this
431 act.

432 (b) Real property subject to a ground lease used as
433 affordable housing included in any leasehold interest shall be
434 exempt from 20 percent of all property taxes for 20 years, as
435 long as it remains affordable housing.

436 Section 11. (a) A nonprofit organization that loses its
437 nonprofit corporation status may no longer operate as a
438 community land trust.

439 (b) After losing its nonprofit corporation status, the
440 organization must transfer, within 120 days and without
441 financial compensation other than incidental associated costs,
442 its interest in any ground leases, in order of priority, to
443 either:

444 (1) The organizing municipality; or

445 (2) A municipal entity or a nonprofit affordable
446 housing organization designated by the organizing municipality
447 that shares the purposes of the community land trust and has
448 received a determination under 26 U.S.C. § 501(c)(3).



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449 (c) If the entity or organization that gives up or
450 loses its nonprofit corporation status fails to begin the
451 transfer of its interest in any ground leases or deeds of
452 conveyance within 120 days as provided in subsection (b), all
453 interests shall be transferred to the organizing municipality
454 effective immediately by operation of law and shall be
455 reflected by the organizing municipality by recording notices
456 of transfer in the real property records where the leases are
457 recorded.

458 Section 12. The provisions of this act shall control
459 where inconsistent with the provisions of another law.

460 Section 13. This act shall become effective on October
461 1, 2026.



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House of Representatives

465 Read for the first time and referred05-Feb-26
466 to the House of Representatives
467 committee on County and Municipal
468 Government
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470 Read for the second time and placed19-Mar-26
471 on the calendar:
472 1 amendment
473
474 Read for the third time and passed31-Mar-26
475 as amended
476 Yeas 78
477 Nays 0
478 Abs 22
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John Treadwell
Clerk