

HB404 ENROLLED



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



HB404 Enrolled

1 Enrolled, An Act,

2

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

18 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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

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

23 Section 3. When used in this chapter, the following
24 words have the following meanings:

25 (1) AFFORDABLE HOUSING. Any residential dwelling unit
26 that is part of a project subject to a legally enforceable
27 restriction limiting occupancy between one and four family
28 housing units or to households comprising at least 40 percent



HB404 Enrolled

29 of the units in a multifamily project, either based on an
30 income threshold or rent and housing cost limitation. For
31 purposes of this definition, a unit need not be restricted in
32 perpetuity. Any unit subject to a qualifying restriction for
33 any portion of its compliance or regulatory period shall
34 constitute affordable housing during that period and a ground
35 lease may have a term longer than such period. These
36 restrictions are applicable under any of the following
37 programs or through lease or land use covenants that are
38 substantially similar:

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

46 b. Project-Based Section 8 Units. Any unit covered by a
47 Housing Assistance Payments (HAP) contract under 42 U.S.C. §
48 1437f, including Housing Choice Vouchers, project-based rental
49 assistance (PBRA) or project-based vouchers (PBV).

50 c. Other Federally Assisted Units. Any unit receiving
51 rental assistance, financing, or use restrictions under any
52 federal affordable housing program, including, but not limited
53 to, HOME Investment Partnerships authorized under 42 U.S.C.
54 Chapter 130, USDA Rural Development Section 515 or 538
55 programs authorized under 42 U.S.C. § 1485, HUD Section 202 or
56 811 programs authorized under 12 U.S.C. § 1701q and 42 U.S.C.



HB404 Enrolled

57 § 8013, and public housing under the United States Housing Act
58 of 1937, 42 U.S.C. §§ 1437 et seq.

59 d. State and Local Program Units. Any unit subject to a
60 deed restriction, regulatory agreement, or other legally
61 enforceable instrument imposed by or in connection with a
62 state, county, or municipal affordable housing program,
63 inclusionary zoning requirement, or housing finance agency
64 financing.

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

74 (2) BOARD OF DIRECTORS. The governing body of a
75 community land trust elected and formed in accordance with the
76 bylaws of such entity, subject to the requirements of this
77 act.

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

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

81 b. Is organized by a Class 1 municipality.

82 (4) GROUND LEASE. A lease between a community land
83 trust and a tenant of real property owned by a community land
84 trust that is designed to ensure that the property remains



HB404 Enrolled

85 affordable housing.

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

89 (6) LOW-INCOME FAMILY. A family household with an
90 aggregate income at or below 80 percent of the metro
91 statistical area median income adjusted for family size, as
92 determined by the Department of Housing and Urban Development
93 (HUD).

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

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

99 (9) PREEMPTIVE PURCHASE OPTION. The right of a
100 community land trust or the organizing municipality to
101 purchase the improvements constructed on the community land
102 trust-owned real property pursuant to a ground lease prior to
103 any other party.

104 (10) PROCEED-SHARING PROVISIONS. The resale formula
105 provisions in the ground lease which establish the maximum
106 resale price and determine the allocation of sale proceeds
107 between the seller and the preservation of affordability for
108 future buyers.

109 (11) PUBLIC RECORDS. Shall have the same meaning set
110 forth in Section 41-13-1, Code of Alabama 1975, as if the
111 community land trust was a subdivision of government and the
112 community land trust's transactions constituted public



HB404 Enrolled

113 business. Public records shall include any document that
114 reflects the community land trust ownership, acquisition or
115 leasing of real property, contracts with and records of
116 vendors, and correspondence with any person or entity.

117 (12) QUALIFYING LESSEE. An individual or family that
118 meets the criteria of low-income family or moderate-income
119 family, as defined in this section, on the effective date of
120 the lease.

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

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

127 (15) SPECIFIED INTEREST. The leasehold interest in the
128 real property and associated structural improvements as
129 distinct from the fee simple interest in the land retained by
130 the community land trust.

131 Section 4. The governing body of a Class 1 municipality
132 within the State of Alabama may create, by ordinance, one or
133 more community land trusts to operate within its jurisdiction.
134 A community land trust shall be organized as an Alabama
135 nonprofit corporation.

136 Section 5. (a) The purpose of a community land trust is
137 to:

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

140 (2) Promote productive use of land through ground



HB404 Enrolled

141 leases; and

142 (3) Promote investment in affordable housing for
143 long-term community benefit.

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

146 (1) The organization is membership-based.

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

148 (3) Membership meetings are open to the general public,
149 including nonmembers.

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

158 (1) Three directors shall be appointed by the governing
159 body of the organizing municipality and shall have expertise
160 and experience in careers or activities involving real estate,
161 property management, finance, real estate law, transit
162 planning, residential contracting, banking, architecture, or
163 city planning.

164 (2) Three directors shall be appointed by the mayor of
165 the organizing municipality. One director shall be a
166 professional in the finance or banking industry with
167 experience in affordable and low-income housing, lending,
168 finance, or tax credits for residential and commercial



HB404 Enrolled

169 properties. One director shall be a registered architect,
170 landscape architect, or city planner with experience in long-
171 range planning and neighborhood/community master planning. One
172 director shall be a specialist in housing-related activities
173 with experience in developing affordable housing for
174 low-income and moderate-income families.

175 (3) One director who meets the requirements of
176 subdivision (1) of this section shall be appointed by the
177 Board of Directors of the Alabama Housing Finance Authority.
178 The appointed director may be a member of that board.

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

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

195 (2) The board of directors may employ staff through
196 resolutions adopted by the board. Employees of the community



HB404 Enrolled

197 land trust shall not be subject to the Merit System Act. The
198 community land trust shall not employ an elected municipal,
199 county, or state official or any immediate family member or
200 member of an official's household as an employee or
201 independent contractor.

202 (3) Meetings of the board of directors, including
203 quorum requirements and participation by electronic means,
204 shall be governed by Sections 10A-3-2.11 and 10A-3-2.13, Code
205 of Alabama 1975.

206 (4) Directors shall be immune from civil liability for
207 reasonable acts or omissions made within the scope of their
208 official duties, except for acts or omissions involving
209 willful misconduct, negligence, or fraud.

210 (5) The community land trust shall not: (i) engage in
211 political activity, lobbying, political consultation, or
212 public advocacy relating to the operation, financing, or
213 organization of the community land trust; or (ii) employ any
214 person or engage any vendor to engage in any material part in
215 political activity, lobbying, political consultation, or
216 public advocacy relating to the operation, financing, or
217 organization of the community land trust.

218 (6) The community land trust shall be audited annually
219 by the Department of Examiners of Public Accounts, with the
220 cost paid by either the sponsoring municipality or the
221 community land trust. The audits shall be made publicly
222 available on the sponsoring municipality's website and
223 promptly provided to the public upon request.

224 Section 6. (a) Subject to the restrictions of this act,



HB404 Enrolled

225 a community land trust shall have all the powers permitted to
226 a nonprofit corporation under Chapter 3 of Title 10A, Code of
227 Alabama 1975.

228 (b) Notwithstanding subsection (a), the powers and
229 purposes of the community land trust include, but are not
230 limited to:

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

233 (2) Leasing affordable housing;

234 (3) Constructing or providing for the construction of
235 improvements to real property to constitute affordable
236 housing;

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

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

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

250 (7) Subordinating the community land trust's interest
251 in ground leases to parties financing affordable housing on
252 the related property, by entering into lease addendum with or



HB404 Enrolled

253 agreements with financing parties, agreeing not to terminate a
254 ground lease except as mutually agreed with such parties;

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

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

262 (10) Conduct outreach, distribute public information,
263 and facilitate communications about the community land trust's
264 housing programs, eligibility criteria, and application
265 procedures;

266 (11) Work with and provide technical support to
267 lenders, nonprofit organizations, and other housing entities
268 to promote the community land trust's affordable housing
269 goals.

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

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

274 (2) No later than May 1 of each year, publish a report
275 that includes: (i) activities for that year; (ii) the status
276 of any real property owned by the trust during the year; (iii)
277 details of contracts worth fifty thousand dollars (\$50,000) or
278 more related to real property interests; (iv) sources of
279 funding for the trust; (v) a list of employees, board members,
280 and independent contractors along with their compensation; and



HB404 Enrolled

281 (vi) any other material matters requested by the Alabama
282 Housing Finance Authority. This report shall be posted on the
283 sponsoring municipality's website and sent to the Alabama
284 Housing Finance Authority.

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

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

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

303 (c) An individual or family tenant who is qualified to
304 live in affordable housing at the effective time of the lease
305 may renew the lease without redetermining the tenant's
306 qualifying status. When a qualifying lessee is an entity
307 rather than an individual or family, the real property subject
308 to the ground lease shall be occupied by individuals or



HB404 Enrolled

309 families who meet the income requirements of the applicable
310 affordable housing program, as defined in Section 3(1).

311 Section 8. (a) Each ground lease shall grant the
312 community land trust and the organizing municipality the right
313 to purchase all improvements to the real property, subject to
314 any rights held by or granted to a mortgagee or other holder
315 of an interest in the real property, including under land use
316 restrictive covenants or other restrictive agreements.

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

320 (2) If the community land trust fails to exercise its
321 option within those 90 days or declines the option subject to
322 any superior rights, the organizing municipality shall have an
323 additional 90 days to exercise the purchase option from the
324 date when notice is received that the community land trust has
325 not performed or declined its purchase option.

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

329 (c) (1) Subject to any superior rights, the community
330 land trust may assign its purchase option to a third party
331 that agrees to operate the improvements as affordable housing
332 regardless of any other criteria established in the ground
333 lease for the transfer of an interest in residential real
334 property. Any sale pursuant to the assignment must be
335 completed in the same time frame applicable to the community
336 land trust.



HB404 Enrolled

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

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

347 (d) (1) Subject to any superior rights, including the
348 payment in full of any mortgages, the failure of a community
349 land trust to exercise the preemptive purchase option does not
350 prohibit the community land trust from exercising any other
351 right established in the ground lease, including the right to
352 share in the proceeds of the first sale to a purchaser
353 following the failure of the community land trust to exercise
354 its right to repurchase.

355 (2) If the community land trust and organizing
356 municipality both fail to exercise or decline their purchase
357 option within the specified time period, the qualifying owner
358 shall be allowed to sell the improvements to any buyer at a
359 negotiated price, provided that a sale does not violate any
360 other restriction, mortgage, or interest affecting the real
361 property.

362 (3) Only the initial arm's-length, third-party
363 transaction of the specified interest in real property,
364 occurring after the community land trust and organizing



HB404 Enrolled

365 municipality either fail to exercise or decline their purchase
366 option, is subject to the purchase option and pro-rata sharing
367 provisions of the ground lease.

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

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

382 (6) The community land trust, or its successor in
383 interest, shall not have the right to eject a mortgagee, its
384 purchaser at foreclosure, or a leaseholder by an assignment in
385 lieu of foreclosure, or the subsequent purchaser for any
386 reason other than failure to pay regularly scheduled rent
387 payments, not including any fees or other amounts resulting
388 from a default in payments.

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

392 (b) A ground lease shall include, but is not limited



HB404 Enrolled

393 to, the following provisions:

394 (1) The term and, if applicable, renewability of the
395 ground lease.

396 (2) The resale-restricted formula.

397 (3) A community land trust's preemptive purchase option
398 right.

399 (4) An organizing municipality's preemptive purchase
400 option right.

401 (5) Any term that, if violated, becomes grounds for
402 cancelling the ground lease, subject to any superior rights of
403 a mortgagee or other holder of an interest in the real
404 property, and in accordance with the provisions of Section
405 8(d).

406 (6) Occupancy requirements consistent with the basis
407 used to determine whether the specified interest is affordable
408 housing.

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

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

413 Section 10. (a) For real property acquired for
414 residential purposes, owned by a community land trust, and not
415 subject to a ground lease, the real property shall be exempted
416 from all ad valorem taxation for a period of three years if
417 the community land trust intends the real property to be used
418 as affordable housing, and the community land trust is either:

419 (1) Conducting or causing the construction on the real
420 property, including, but not limited to, construction of a new



HB404 Enrolled

421 residential property, rehabilitation of an existing property,
422 and related tasks; or

423 (2) Attempting to transfer or lease the real property
424 or specified interest in accordance with Section 5 of this
425 act.

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

430 Section 11. (a) A nonprofit organization that loses its
431 nonprofit corporation status may no longer operate as a
432 community land trust.

433 (b) After losing its nonprofit corporation status, the
434 organization must transfer, within 120 days and without
435 financial compensation other than incidental associated costs,
436 its interest in any ground leases, in order of priority, to
437 either:

438 (1) The organizing municipality; or

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

443 (c) If the entity or organization that gives up or
444 loses its nonprofit corporation status fails to begin the
445 transfer of its interest in any ground leases or deeds of
446 conveyance within 120 days as provided in subsection (b), all
447 interests shall be transferred to the organizing municipality
448 effective immediately by operation of law and shall be



HB404 Enrolled

449 reflected by the organizing municipality by recording notices
450 of transfer in the real property records where the leases are
451 recorded.

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

454 Section 13. This act shall become effective on October
455 1, 2026.



HB404 Enrolled

456
457
458
459
460
461
462
463
464
465
466
467
468
469
470
471
472
473
474
475
476
477
478
479
480
481
482
483
484
485
486
487
488

Speaker of the House of Representatives

President and Presiding Officer of the Senate

House of Representatives

I hereby certify that the within Act originated in and was passed by the House 31-Mar-26.

John Treadwell
Clerk

Senate

07-Apr-26

Passed