

## What is a Land Trust?

### Land Trusts

A land trust is a private, nonprofit organization that actively works to conserve land by undertaking or assisting with direct land transactions—primarily the purchase or acceptance of donations of land or conservation easements. Land trusts vary greatly in scope and scale, but all of them share the common mission of working cooperatively with landowners to protect and conserve land for its natural, recreational, scenic, historic, or productive value.

Some land trusts focus on distinct areas, such as a single town, county or region, and support grassroots efforts to conserve lands important to local communities. Others operate throughout an entire state or even several states. As thousands of acres of open space are lost to development annually, the public is turning more and more frequently to land trusts, which are filling a national need to protect and steward open lands in perpetuity. Land trusts are also sometimes called conservancies, foundations and associations.

The country's first land trusts were established in Massachusetts during the 1850s for the purpose of protecting small parcels of land for public use. They were often known as “village improvement societies.” One hundred years later in 1950, there were 53 land trusts operating in 26 states. Since that time, the increase in numbers of land trusts and the acres they have protected has been dramatic.

Today, there are more than 1,500 local and regional land trusts across the nation protecting more than nine million acres of farmland, wetlands, ranches, forests, watersheds, river corridors, and other land types, as well as several national land trusts that have protected millions more acres. There are also a growing number of land trusts outside the U.S. in countries such as Canada, Costa Rica and Australia.

### What Conservation Tools Do Land Trusts Use?

Land trusts use a variety of tools to help landowners protect their land. The most commonly used protection methods are purchasing or accepting donations of conservation easements and land.

### Conservation Easements

A conservation easement (or “conservation restriction”) is a voluntary legal agreement between a landowner and a land trust (or government entity) that permanently restricts certain aspects of land use in order to protect the conservation values of the property. Landowners may either donate or sell a conservation easement. When a landowner places a conservation easement on his or her land, he or she maintains ownership and use of the property and can sell it or pass it on to heirs. The land is subject to certain restrictions agreed upon by the landowner and the land trust. For example, a landowner might agree to limit development on his or her property to one residence of a particular size.

Future landowners are bound by these restrictions as well, and the land trust is responsible for monitoring the property and upholding the terms of the easement. Conservation easements have become one of the most commonly used land conservation tools in the

country. Currently, local and regional land trusts hold more than 17,000 conservation easements, protecting more than five million acres of land.

### Benefits of Conservation Easements

In addition to the satisfaction landowners get from knowing their land is protected in perpetuity, there are also three potential tax advantages to granting a conservation easement: an income tax deduction; an estate tax benefit; and, possibly, a reduction in property taxes. A conservation easement donation that meets certain federal tax code regulations—that is, one that is perpetual, is given to a qualified conservation organization and is given “exclusively for conservation purposes”—can qualify as a tax-deductible charitable gift. (See Internal Revenue Code Section 170(h)(1)). By removing or decreasing a property’s development potential, a conservation easement may also result in the reduction of property taxes in some states and estate tax benefits for the landowner and his or her heirs. (Landowners should consult a tax attorney or refer to the publications listed below for more information on the potential tax benefits of donating a conservation easement.)

### Land Donations

Land can be given to a land trust as an outright donation, or it can be donated to a land trust in a number of other ways, such as through a remainder interest or a bequest (more properly called a “devise”). Most land is donated to land trusts for its important conservation values and is protected in perpetuity; however, commercial and residential property can also be donated to a land trust with the understanding that it will be sold to support the organization’s conservation work.

### Outright Donation

A donation of land to a land trust can be an effective conservation strategy for one who does not wish to pass land on to heirs; owns highly appreciated property; no longer uses the land they own; wishes to reduce estate tax burdens; or are no longer willing or able to manage and care for the land. By donating land to a land trust, an owner may realize substantial income and estate tax benefits while avoiding capital gains taxes that may have resulted from the sale of the property.

### Remainder Interest

A gift of a remainder interest (also known as a reserved life estate) is granted when a landowner donates land to a trust during his or her lifetime, but reserves the right for him or herself, and any other named party, to continue to live on the land until their death(s) or voluntary release of the interest. Donors of remainder interests may be eligible for income tax deductions.

### Land Donation by Will or by Devise

A landowner can continue to own and manage his or her land during his or her lifetime, but still ensure its ultimate protection after death by donating land to a land trust through his or her will. This is called a gift by devise. If a landowner is interested in donating an easement or land through his or her will, he or she should discuss his or her plans with the recipient organization to ensure that the organization is willing and able to accept the gift.

### Land Sales

A landowner may want to protect his or her land permanently but be unable or unwilling to relinquish that land without receiving financial compensation. In this case, the landowner may choose to sell his or her land to a land trust. The property may be sold at fair market value or at a price below fair market value, which is referred to as a bargain sale.

These are some of the more common conservation tools used by land trusts. There are many other strategies employed, as well. For more information on land protection tools please see: *Conservation Options: A Landowner's Guide (2003)*; *Preserving Family Lands I (1992)*; *Preserving Family Lands II (1997)*; *Preserving Family Lands III (2002)*; and various brochures and other resources available through the Land Trust Alliance at [www.LTA.org](http://www.LTA.org).

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