



Land Conservation in Coastal Alabama

OPTIONS FOR LANDOWNERS





Photo Credit: Isaac Martin

Land Conservation in Coastal Alabama

Coastal Alabama has many beautiful natural areas that local families have enjoyed for generations: beaches and bays, rivers and creeks, as well as farmland and forests.

Protecting these natural areas provides numerous benefits for local residents including safe drinking water and outdoor recreation. These natural assets are also the backbone of our tourism-based economy. But for many local landowners, the most important benefit of all is protecting the land they love for the people they love.

This booklet is for landowners who want to learn more about the options available for conserving their natural lands, including:

- Donating a conservation easement
- Donating or selling land for less than fair market value
- Selling the land to a land trust or government agency

Land trusts can help landowners find the right solution, one that fits the needs of their family and financial situation, while conserving land in the most appropriate way.

What Is a land trust?

A land trust is a nonprofit organization that works with willing landowners to conserve land. Land trusts conserve land through holding conservation easements, accepting donated land, and purchasing land. In Coastal Alabama, land trust staff and board members build relationships with landowners and help them accomplish their goals.

Land trusts across the country have been successful in protecting more than 47 million acres, an area larger than the state of Missouri. These organizations protect and manage land in perpetuity – forever. There are over 1,000 land trusts throughout the country.

LAND CONSERVATION OPTIONS

Conservation Easements

A conservation easement can make a critical difference in a family's ability to pass land from one generation to the next. This flexible tool conserves land while allowing a landowner to keep the land in the family.

A conservation easement is a legal agreement in the form of a perpetual deed restriction between a landowner and a qualified conservation organization (such as a land trust) or government agency that permanently limits a property's uses in order to protect its conservation values. A conservation easement offers several advantages:

- It leaves the property in the ownership of the landowner, who may continue to live on it, sell it or pass it on to heirs. Under a conservation easement, the property owner must manage the land according to the agreement or deed restriction.
- It may significantly lower estate taxes – sometimes making the difference between heirs being able to keep land in the family and their needing to sell it. In addition, an easement may provide the landowner with income tax benefits and, in many cases, property tax benefits.
- It is flexible and can be written to meet the particular needs of the landowner while conserving the property's natural, historic, scenic and/or cultural resources.
- It is permanent, remaining in force when the land changes hands. A land trust or government agency ensures that the restrictions are followed.

How Conservation Easements Work

Landowners have many rights associated with their land including rights to harvest timber, build structures, grow crops and so on (subject to zoning and other restrictions). When landowners donate or sell a conservation easement to a land trust or government agency, they permanently give up some of those rights.

For example, a landowner might give up the right to build additional residences, while retaining the right to grow crops. Future owners will also be bound by the easement's terms.

Conservation easements are developed collaboratively by the landowner and the land trust or government agency that will hold the easement. The easement is a detailed legal agreement that outlines the restrictions on the landowner's uses of the property and the responsibilities of the landowner and the entity that holds the easement. The parties will work together to maintain the terms of the easement. The holder of the easement will notify the landowner of any violations to the easement, and the landowner will be responsible for addressing any issues.

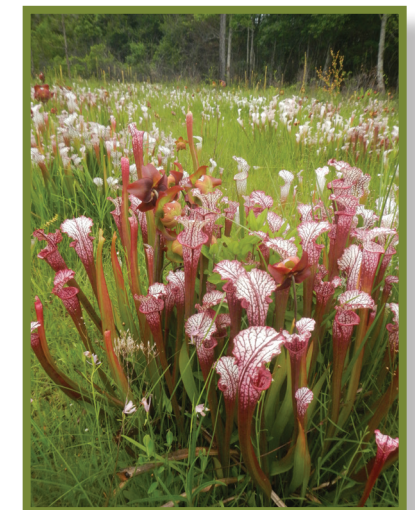


Photo Credit: Yael Girard

Qualifying for a Federal Income Tax Deduction

The donation of a conservation easement that meets certain requirements of the tax code may qualify as a tax-deductible gift. These requirements include a provision that the easement must be donated in perpetuity; term easements, which are put in place for a set number of years, do not qualify. The easement must be donated to a qualified charitable organization, such as a land trust or government agency, that has the resources to enforce the easement. And it must be donated exclusively for conservation purposes, defined in the Internal Revenue Service 170 tax code as accomplishing at least one of the following:

- The preservation of land areas for outdoor recreation by, or the education of, the general public
- The protection of relatively natural habitat for fish, wildlife or plants or similar ecosystems
- The preservation of open space (including farmland and forestland), where such preservation will yield a significant public benefit and is either (1) for the scenic enjoyment of the general public or (2) pursuant to a clearly delineated federal, state or local governmental conservation policy
- The preservation of a historically important land area or certified historic structure

In essence, the income tax deduction is reserved for the preservation of conservation resources that truly provide significant public benefit. However, an easement does not have to cover all of the property, preclude all use or development, or allow public access in order to qualify for a charitable deduction.

The Size of the Income Tax Deduction

For income tax purposes, the value of a conservation easement is the difference between the value of the land with the easement and its value without the easement. This value is determined by a qualified appraisal of the conservation easement performed by a certified general appraiser. For example, a property that is worth \$500,000 on the open market could be subdivided to build several homes.

Instead of selling for \$500,000, the landowner donates an easement on the property to the local land trust. The easement precludes further development. The fair market value of the land with the easement's restrictions in place is \$200,000. The value of the donation is considered to be \$300,000 ($\$500,000 - \$200,000 = \$300,000$). There are limitations on how much a taxpayer can deduct.

Land Donation

If a landowner donates land to a charitable organization or government agency, the landowner may claim an income tax deduction equal to the land's current fair market value as documented by a certified appraiser. There are limitations regarding the amount of the deduction in the tax code.

For more information on Internal Revenue Service rules on tax benefits for land conservation, consult a lawyer and review the IRS 170 tax code.

For donations of conservation easements, and certain donations of land, an enhanced federal charitable deduction is allowed provided that certain requirements are met. Donating the land will also remove its value from the estate, reducing future estate taxes. Property taxes may be lowered in some areas, depending on the type of property.

Donating land is often especially attractive to landowners:

- Whose land has significant conservation values and who do not have heirs or whose heirs cannot or will not protect it
- Who own property (such as a vacation retreat) that they no longer use
- Who own highly appreciated property, the sale of which would result in large capital gains taxes
- Who have substantial real estate holdings and wish to reduce estate tax burdens
- Who would like to be relieved of the responsibility of managing and caring for land that they otherwise treasure

Donating land for conservation is truly one of the finest legacies a person can leave to future generations. Communities across the country are enjoying nature preserves, recreation areas, scenic vistas and other open spaces today because of the foresight and generosity of landowners who have made gifts of their land.

Donating a Remainder Interest

A landowner can donate land but continue to live on it by donating a remainder interest in the property and retaining a reserved life estate. The property is donated during the landowner's lifetime, but the rights are reserved for him or her and other named persons to continue to live on and use the property during their lifetimes (called a reserved life estate). When the landowner or those who have been designated no longer live on the land, the land trust takes ownership.

Sale of Land for Fair Market Value

Selling the land at fair market value to a land trust may seem an obvious way to conserve it. But land trusts usually have very limited funds for land purchases – as nonprofits, they can rarely afford to pay the same prices that a developer would offer. They are also restricted to paying no more than fair market value. Land trusts generally reserve fair market value purchases, when they can make them at all, for highly significant parcels under imminent threat of development.

A fair market value sale is often not as advantageous for the landowner as it might seem. Capital gains taxes on the property's appreciated value, along with selling costs, such as the realtor's commission, can substantially reduce the profits from a fair market sale, particularly for landowners in higher tax brackets who are disposing of highly appreciated property.

Bargain Sale

One alternative to a fair market value sale is a bargain sale, in which the land is sold at less than its fair market value. A bargain sale combines the income-producing benefit of a sale

with the tax-reducing benefit of a donation. It can also avoid the expenses of a sale on the open market. The difference between the land's appraised fair market value and its sale price is considered a charitable donation to the land trust and can be claimed as an income tax deduction.

How a Bargain Sale Affects Federal Income Tax

Tax law treats a bargain sale as being in part a taxable sale and in part a charitable donation, provided that the parties to the transaction clearly state their intent that it be treated as a partial charitable contribution. The sale may be subject to capital gains tax; the charitable donation may result in an income tax deduction.

In this example, a couple purchased a farm in 1950 for \$20,000 (the basis). When they decided to sell the farm, it's fair market value had increased to \$500,000. They sold the farm to a land trust for \$200,000. The charitable donation was considered to be the difference between the fair market value of the land and the sale price (\$500,000 – \$200,000 = \$300,000).

Substantiating the Value of Gifts

In order to take a tax deduction for gifts worth more than \$5,000, including land or conservation easements, the landowner must obtain a qualified appraisal by a qualified appraiser (cash and publicly traded securities are exceptions). The tax code outlines specific information that must be included in an appraisal.

How a Land Trust Can Help You

Land trusts can help in a number of ways:

- They help landowners accomplish their goals by identifying the best conservation options for their situation.
- They provide referrals to attorneys, appraisers, accountants, biologists, foresters and land planners familiar with conservation strategies.
- They serve as recipients of conservation easements and lands that they promise to conserve forever.
- In addition, most land trusts are public charities as defined by the federal tax code, and donations of land, qualified conservation easements, or cash and securities to them are tax deductible.

The Importance of Legal and Financial Advice

A land trust can provide an array of information and assistance, but there are a number of things it cannot do. A land trust cannot provide legal or financial advice or guarantee that a particular conservation plan is best for landowners' personal and financial circumstances. It cannot state unequivocally that a particular conservation easement will qualify for a tax deduction or say how much the deduction will be. Landowners must get their own independent advice from knowledgeable attorneys and financial advisors, and, of course, they are responsible for the final decision.

LAND CONSERVATION OPTIONS

Land Conservation Option	Description	Results	Income Tax Deduction?*	Estate Tax Reduction?*
Conservation easement	Legal agreement between a landowner and a land trust or government agency permanently limiting a property's uses.	Land's conservation values conserved by organization. Owner continues to own, use and live on land.	Yes	Yes
Outright land donation	Land is donated to land trust or agency.	Land trust owns and conserves land. [†]	Yes	Yes
Donation of land by will	Land is donated to land trust or agency at death.	Land trust owns and conserves land. [†]	No	Yes
Donation of remainder interest in land with reserved life estate	Land is donated to land trust, but owner (or others designated) continues to live there, usually until death.	Land trust owns and conserves land. [†]	Yes	Yes
Bargain sale of land ^{††}	Land is sold to land trust or agency for a price below fair market value.	Land trust owns and conserves land. [†]	Yes	Yes
Mutual covenants	A group of landowners agree to restrictions on their land use. May not involve a conservation group.	Can be nullified by subsequent agreement of owners.	No	No

* In most cases. The amounts of income tax and estate tax reduction depend on a number of factors.

† For property best kept in private ownership, the land trust may place a conservation easement on the property to conserve it and sell it to an appropriate buyer. For non conservation property donated to generate income for the land trust, the land trust will sell the property. Cash from the sale in either case will be used to support the land trust's conservation programs.

†† Remainder interest only generates a charitable deduction if the property is a farm or personal residence; it does not apply to other real property.

RESOURCES FOR COASTAL ALABAMA LANDOWNERS

Alabama Cooperative Extension Service. Information for landowners about stewardship and management, from small residential properties to large agricultural operations. Online information and one-on-one technical assistance are available. <http://www.aces.edu>

The Alabama Smart Yards Guidebook. This guidebook provides tips and advice for homeowners on caring for their residential properties, including plant selection, watering and pesticide guidelines, and increasing habitats for birds, butterflies and other beneficial wildlife. <http://www.aces.edu/pubs/docs/A/ANR-1359/index2.tmpl>

Federal Enhanced Tax Incentive. The federal government allows for some financial incentives for landowners who donate conservation easements on their property. The enhanced easement incentive has three elements:

- a 50 percent deduction for donating a conservation easement
- a 100 percent income deduction for qualifying farmers and ranchers
- a 15-year carry-forward period for a donor to take tax deductions for voluntary conservation agreements.

<http://s3.amazonaws.com/landtrustalliance.org/ConservationEasementTaxIncentiveBrochure2016.pdf>



Photo Credit: Dauphin Island Birders

Forever Wild Land Trust. The State of Alabama has a land acquisition program which purchases land for public recreation and the protection of natural resources. Individuals can nominate particular tracts of land for purchase; after a review process, the Forever Wild Land Trust Board of Trustees may then make an offer to buy that tract at the appraised fair market value. For each tract the Board acquires 15 percent of the appraised value is also deposited into the program's stewardship account to cover future land management needs. <http://www.alabamaforeverwild.com/forever-wild-program-overview>

Shoreline Protection Alternatives. This resource contains examples of different shoreline protection strategies with guidance on which strategies work best in different conditions. Property owners are encouraged to consider several factors in choosing the best option for their situation, including shoreline type, amount of erosion and wave action. <http://masgc.org/assets/uploads/publications/363/07-026.pdf>

LAND TRUSTS AND LAND CONSERVATION IN COASTAL ALABAMA

The Alabama Forest Resources Center

The Alabama Forest Resources Center is a statewide land trust that works with forest landowners to help them protect their working forests and wildlife habitat from development pressures. AFRC holds 56,000 acres of conservation easements. Landowners who are searching for ways to protect their working forests and wildlife habitat for themselves and for their heirs, while continuing to use the land for their individual benefit, are encouraged to contact AFRC.

8 St. Joseph Street, Mobile, AL 36602
CL: 251-680-0782 | PH: 251-433-2372
www.alfrc.org

Alabama Coastal Heritage Trust

This land trust protects fragile coastal lands on Fort Morgan and Dauphin Island by working with willing sellers to purchase land. Coastal heritage protects the area's most threatened and endangered species such as nesting sea turtles, the Alabama beach mouse and migratory birds. The properties are then conveyed to agencies like the Alabama Department of Conservation and Natural Resources and the U.S. Fish and Wildlife Service Bon Secour National Wildlife Refuge. These lands are protected in perpetuity, allowing access to the public for recreational and scenic enjoyment. Coastal Heritage also supports other organizations in their efforts to raise awareness of and restore Alabama's coastal resources.

1911 Government Street, Mobile, AL 36606
PH: 251-478-8880
EM: alabamacoastalheritagetrust@gmail.com
www.alabamacoastalheritagetrust.org

Coastal Land Trust

CLT works to protect the Mobile-Tensaw Delta in South Alabama. Working with agencies, political leadership and other private entities, CLT protects land and water within the Mobile-Tensaw Delta, along with the associated tributaries and adjacent uplands. The Coastal Land Trust seeks to preserve all types of natural systems; establish nature preserves or other protected areas; promote the conservation and proper use of the area's natural resources; promote the study of nature, preservation and conservation.

Dauphin Island Bird Sanctuaries

Dauphin Island Bird Sanctuaries is dedicated to preserving natural areas on Dauphin Island for the many species of migratory birds that depend on the island. Their objectives are to:

- 1) Maintain a network of quality stopover habitats.
- 2) Work with government and other agencies to ensure a balance between human land uses and conservation.
- 3) Educate landowners about practices that strengthen the island's unique ecosystem.
- 4) Promote the economic value of ecotourism by attracting more birders to Dauphin Island.

P.O. Box 1295, Dauphin Island, AL 36528
www.dauphinisland.org/audubon-bird-sanctuary/

Pelican Coast Conservancy

The mission of the Pelican Coast Conservancy is to provide 21st-century solutions and sound scientific applications for conservation of critical natural resources throughout the Gulf Coast region. They work with landowners across coastal Alabama to help them realize their conservation goals.

403 Conti Street, Mobile, AL 36601

PH: 251-222-8959

www.pelicancoastconservancy.org

The Conservation Fund – Alabama

The Conservation Fund is a national organization that operates in coastal Alabama. Gulf Coast staff members work with local landowners to protect land and water resources with high conservation value. The Conservation Fund has resources that allow it to partner with conservationists, government agencies, community leaders and land trusts to swiftly protect properties for wildlife, recreation and/or historic significance.

812 Park Ave., Suite D, Mandeville, LA 70448

PH: 985-674-3332

www.conservationfund.org/where-we-work/alabama

The Nature Conservancy – Alabama

The mission of The Nature Conservancy is to conserve the lands and waters on which all life depends. They use the best available science, a creative spirit and a non-confrontational approach to craft innovative solutions to complex conservation problems at scales that matter and in ways that will endure. The Nature Conservancy respects the needs, values and traditions of local communities and cultures.

118 N. Royal Street, Suite 500
Mobile, AL 36602 | **PH:** 251-433-1150

www.nature.org/ourinitiatives/regions/northamerica/unitedstates/alabama/index.htm

The Trust for Public Land – Alabama

The Trust for Public Land works to protect the places people care about and to create close-to-home parks. Their goal is to insure that every child has easy access to a safe place to play in nature. They also conserve working farms, ranches and forests; lands of historical and cultural importance; rivers, streams, coasts and watersheds; and other special places where people can experience nature close at hand.

P.O. Box 16667, Jackson, MS 30236

PH: 601-213-8077

www.tpl.org/state/alabama

Weeks Bay Foundation

This nationally accredited land trust strives to protect the edges of Alabama – wetlands where the state's coastline meets the waters of the Mobile and Weeks Bays. The WBF supports the Weeks Bay National Estuarine Research Reserve in its efforts to conserve the pristine coastal area of Baldwin County, Alabama. The Foundation, with over 550 members, supports the Reserve through donations of land and education programs, water quality monitoring efforts and volunteer programs. The WBF has protected over 7,000 acres of coastline within Baldwin County through a combination of conservation easements, land donations and purchases.

11401 U.S. Hwy. 98, Fairhope, AL 36532

PH: 251-990-5004

www.weeksbay.org



PARTNERSHIP FOR Gulf Coast LAND CONSERVATION

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Photo Credits: *Boat on Water:* Mary Smith | *Pelican:* Dauphin Island Birders | *Black Bear:* Fontaine Howard | *Volunteers:* Yael Girard | *Audubon Sanctuary:* Dauphin Island Birders



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LAND CONSERVATION

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