

Community Land Trust Definitions

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**Balanced
Supply
of Housing**

Academic / Community Partnership

Land Acknowledgment: The Balanced Supply of Housing at the University of British Columbia is on the traditional, ancestral and unceded territories of the xʷməθkʷəy̕əm (Musqueam) People, and we would also like to acknowledge that Metro Vancouver is on the unceded territory of the Coast Salish Peoples, including the territories of the xʷməθkʷəy̕əm (Musqueam), Skwxwú7mesh (Squamish), Stó:lō and Səl̓ílwətaʔ/Selilwitulh (Tsleil-Waututh) Nations. The Canadian Network of Community Land Trust recognizes that the organization and its members are working on the traditional territories of First Nations, Inuit, and Métis people across Canada and actively work with community land trusts to facilitate the return of land to Indigenous communities.

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Introduction

Community land trusts (CLTs) are a form of land stewardship that is rapidly growing across Canada. Typically, CLTs are community-run organizations, that own, develop, and manage land and buildings to benefit the local area (Davis et al., 2020). Initially seen in parts of the United States and Europe during the 1960s, this unique approach to land stewardship has garnered significant interest as an effective alternative to maintain long-term property affordability and foster community building. While CLTs are not always focused on providing housing, they are an effective way for communities to increase the availability of affordable homes. Emphasizing democratic governance and community cohesion, CLTs often focus on social missions and support low- and moderate-income earners (ibid, 2020). As of mid-2024, approximately 40 CLTs have been established in Canada, however, each varies slightly in its organizational structure and legal form (Trana, M., et al. 2023). This paper examines the legal definitions of CLTs worldwide to inform the possible development of a legal definition for CLTs in Canada and how a legal definition might impact their work at the community level.

Although the Canadian CLT movement is burgeoning, there is a lack of specific legislation in Canada to identify and regulate these entities. Governed by a complex web of property law, corporate law, tax law, municipal law, and more, CLTs face an obscure legislative framework with no clear guidance on how CLTs can be established and operated. A legal definition for CLTs would identify which organizations are eligible CLTs and enable access to benefits like clear paths to funding and financing, clarity on handling land, and taxation exemptions. While some members of the CLT community seek benefits accessed through a legal definition, others express concern about potential limitations imposed by such legislation, highlighting the need for further discussions within the CLT community to determine whether legislation is needed and if so, to develop legislation that meets diverse CLTs' needs and aligns with collective values.

This research aims to support the CLT community to better understand the legislative landscape, beginning with a description of the existing framework for CLTs in Canada and internationally. This work, complemented by interviews with CLT members, is intended to provide a foundation for a community-led discussion about the possible variations of a Canadian legal definition for CLTs, as well as to outline the advantages and disadvantages of these frameworks.



CLT Basics

CLTs in Canada have a wide variety of financial and organizational structures, missions, and governance models. Having emerged as a solution to issues of affordability, community needs, and access to land, CLT organizational structures range from grassroots and neighbourhood-based groups to city- or province-wide organizations. CLTs' responsiveness to local needs evidences their differences and fosters innovation: some focus on affordable and/or supportive housing, while others concentrate on home ownership. Some missions have formed around the need for community and cultural spaces, while others include access to community gardens or agricultural land. Still others focus on the preservation of neighbourhood character through commercial spaces (Trana, M., et al. 2023).

The difference between sector-led and grassroots CLTs must also be acknowledged. Larger sector-led CLTs are less community-driven; grassroots CLTs tend to be activist organizers and take more radical political positions. This variation makes coming up with a legal definition a difficult task. Grassroots CLTs may resist a legal framework that limits their ability to advocate for social change or reject the idea of defining CLTs in legal terms entirely.

How CLTs Manage Property to Ensure Perpetual Affordability

CLTs may acquire land through donations from private individuals, corporations, other charities, non-profit organizations, various government bodies, or they may purchase property. No matter the way land is acquired, CLTs then 'hold' the land, retaining ownership perpetually or permanently. This approach removes the land from the speculative cycle of property buying and selling, ensuring that community residents and users of the land have perpetual access to affordable property (Meehan, 2014). By retaining ownership through this model, CLTs can lease property to community residents at affordable rates, preventing renovictions or property development that displaces community members from their housing, commercial, or agricultural spaces (Greenstein et al., 2007; Martin et al., 2020).

Community Stewardship and CLTs

A key goal of the majority of CLTs is to steward inclusive communities. Providing affordable access to property for community members is one way that CLTs achieve this. Additionally, CLTs may participate in other initiatives to support community development (CNCLT). Though sometimes mistakenly perceived primarily as housing providers, CLTs also lease property to commercial organizations or designate property for various community uses like community gardens, greenspaces, or cultural amenities, as mentioned earlier. By ensuring perpetually affordable access to land, CLTs uphold their mission of community stewardship.

Democratic Governance and Community Membership

CLTs are usually organized as types of non-profit corporations, featuring a board that directs CLT operations and members who may have voting rights to elect part or all of the board. In a CLT, the members are primarily community members, whether defined geographically or otherwise, including those who live in or occupy CLT property. Most CLTs have different classes of members, for example, 'community members' who live or work in the CLT area, resident or 'user members', who are tenants or users of the CLT-owned spaces, and 'supporter members', who may be organizations or experts in housing, community development, or CLTs (these 'supporter members' may or may not have voting

rights). The board is typically comprised of a mix of these categories, elected by the membership. Many CLTs employ a tripartite board model, drawing board members from the three groups defined above: CLT residents, community members, and public representatives which ensures balanced representation and decision-making. The board votes on issues related to CLT management and operations, ensuring these decisions are made democratically.

Incorporating as Legal Entities and “Non-Profit” Designation

CLTs must form a legal entity to carry out activities like acquiring and holding land. Despite what the title suggests, CLTs are not often actually “trusts”, though they conceptually resemble one¹. Across most of Canada, CLTs typically incorporate as non-profit corporations under federal or provincial statutes (see Table 1). Non-profit status grants the CLT the “powers of natural persons”, enabling them to buy, sell, lease, or mortgage land and perform other necessary functions. Each province has its own legislation allowing individuals to incorporate non-profits, with terminology varying from province to province; for instance, non-profit corporations are called “societies” in British Columbia and Nova Scotia. In Quebec, several CLTs have been formed as a specific type of trust called the social utility trust or “fiducie d’utilité sociale”, under the province’s Civil Code (Community Housing Transformation Centre, 2022; Vaudry et al., 2004). While it is possible for CLTs throughout the rest of Canada to form as legal trusts, more research is needed to determine the potential benefits of doing so. Cooperatives are another type of corporate entity that CLTs can adopt, formed under provincial legislation like non-profit corporations but with distinct legislative structures and requirements.

Additionally, Canada’s Not-for-profit Corporations Act (Government of Canada, 2009) provides a federal option for CLTs to form as a non-profit corporation with varying formation procedures, reporting requirements, and other legal rules across provincial and federal jurisdictions. The key differences between incorporating under provincial or federal statutes are the reporting requirements and actions upon dissolution. Non-profits that have incorporated federally (under the Canada Not-for-Profit Corporations Act) are subject to more onerous financial reporting requirements than those imposed under provincial/territorial legislation. In addition, federally incorporated non-profits must, upon dissolution, transfer their assets to a qualified donee (for example, a registered charity), while under provincial/territorial legislation, non-profits have the option to transfer their assets to any public benefit corporation (which includes non-profits that do not have charitable status).

Review Table 1 for a list and linked resources to specific provincial non-profit corporation legislation across Canada.

1. A legal trust is a specific type of legal property relationship where ownership is split between those with a legal title (trustees) and those with a beneficial title (beneficiaries). Trustees have obligations to manage the property for the benefit of the beneficiaries.

Table 1: Non-profit corporation legislation across Canada

Jurisdiction	Statute
British Columbia	<i>Societies Act, SBC 2015, c 18</i>
Alberta	<i>Societies Act, RSA 2000, c S-14</i>
Saskatchewan	<i>Non-profit Corporations Act, 2022, SS 2022, c 25</i>
Manitoba	<i>The Corporations Act, CCSM c C225</i>
Ontario	<i>Not-for-Profit Corporations Act, 2010, SO 2010, c 15</i>
Quebec	<i>Companies Act, CQLR c C-38</i>
New Brunswick	<i>Companies Act, RSNB 1973, c C-13</i>
Nova Scotia	<i>Societies Act, RSNS 1989, c 435</i>
Prince Edward Island	<i>Companies Act, RSPEI 1988, c C-14</i>
Newfoundland and Labrador	<i>Corporations Act, RSNL 1990, c C-36</i>
Yukon Territories	<i>Societies Act, RSY 2002, c 206</i>
Northwest Territories	<i>Societies Act, RSNWT 1988, c S-11</i>
Nunavut	<i>Societies Act, RSNWT (Nu) 1988, c S-11</i>
Federal	<i>Canada Not-for-Profit Corporations Act, SC 2009, c 23</i>

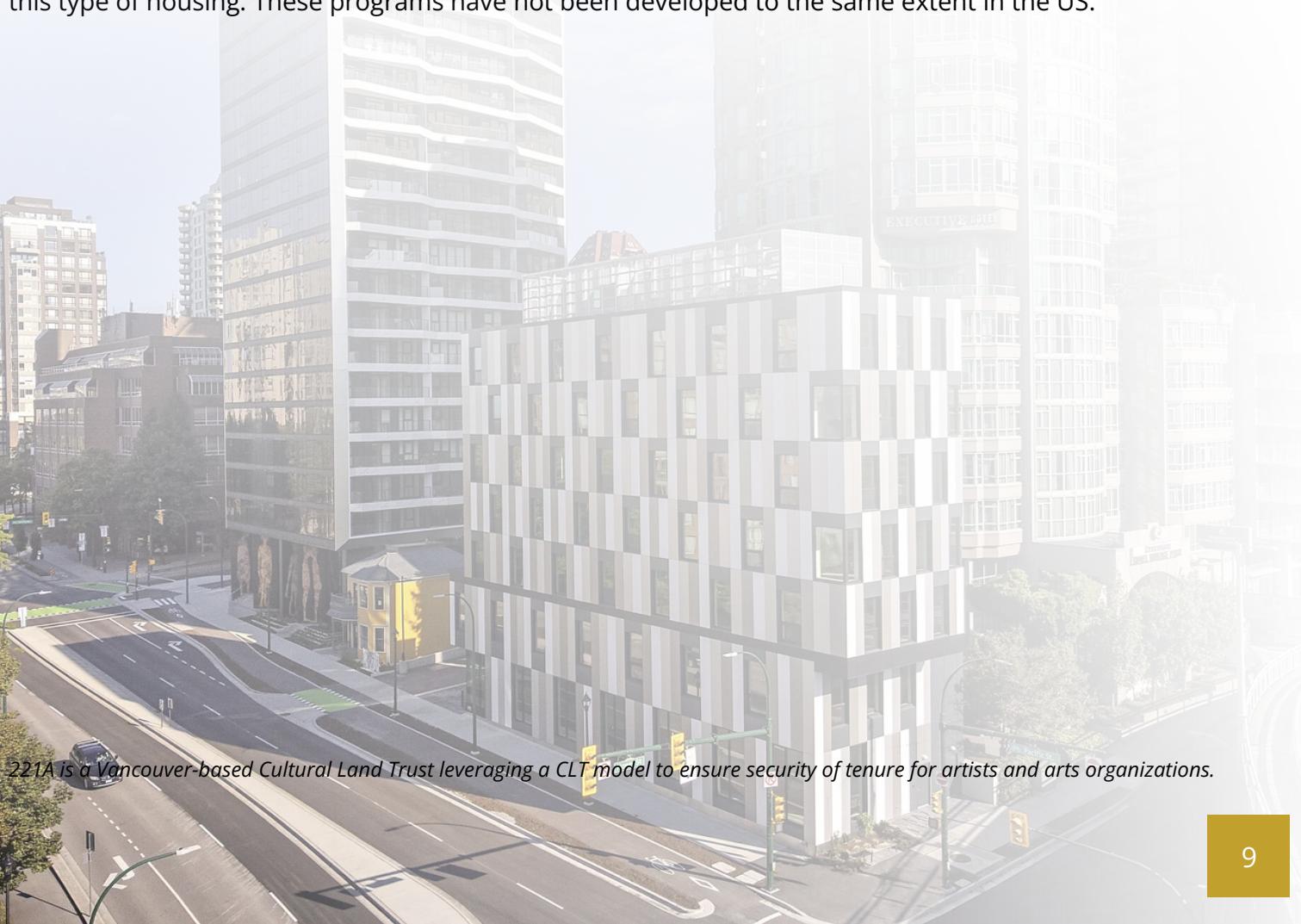
Regardless of whether they form under non-profit corporate legislation or choose another model like a trust, virtually all Canadian CLTs are “non-profit” entities, meaning they do not distribute profits to their members. Any surplus profit is reinvested into the CLT’s operations to further its mission. Additionally, some Canadian CLTs are also considered charities under the Income Tax Act, which allows them to issue tax receipts for donations.

The Key Difference Between the Canadian and United States CLT Model

The CLT movement originated in the United States, where a particular model, often called the ‘classic US CLT’ model, developed. In this model, a CLT acquires and retains ownership of the land, but it sells the improvements (i.e. buildings or other structures) on the land to community members. This element of homeownership is fundamental to US CLTs (Temkin et al., 2013). The community members lease the land beneath the improvement, usually in long-term leases (e.g. 99-year leases). A ground lease is a contract between the CLT and the owner of the improvement, placing restrictions on how the owner of the improvement can dispose of the property (Kirby, 2011). For instance, CLTs often retain a pre-emptive right to repurchase the improvement before the owner can sell it to anybody else. If the CLT does not repurchase the improvement, there are typically restrictions on the sale price, usually determined by a formula. These restrictions aim to ensure that the CLT retains an interest in the property and that it remains perpetually affordable (Gray, 2008). By retaining ownership of the land underneath the improvement, the CLT prevents it from being bought and sold, thereby maintaining its affordability.

In Canada, CLTs are more likely to hold long-term leases than have freehold title. This has led to the wide-spread misconception that separating the ownership of land and improvements is unfeasible, however, the classic US CLT model is equally viable in Canada. Typically, land and improvements are bundled together under respective provincial property law systems, however, they can be unbundled. A ground lease does not in and of itself divide ownership between land and buildings. Common law (which is practiced across Canada, except for in Quebec) divides ownership in time, meaning that during the lease period, the lessee (e.g., CLT) temporarily holds rights to the land and anything built on it. Within this system it is possible for a lessee to confer ownership of the building on to a tenant or member (i.e., separating the ownership of land and improvements). Contracts between the landlord (i.e., CLT) and tenant, can give the tenants certain property rights during the term of the contract. Furthermore, contracts can also be used to place certain restrictions on resale and profits, functioning in a similar way to the classic US CLT model.

Where there are differences between the classic US Model and Canada is in the financing available to tenants. The classic US CLT model often focuses on affordable home ownership. Freehold title allows many US CLTs to lease their land to eligible community members (often at a significant discount), and this allows community members to access financing available to individuals to build and maintain their homes. The focus of this model is often on creating opportunities for low-density single-family housing. However, Canadian CLTs are often working to build multi-family housing and maximize opportunities for affordable rental or co-operative housing - models that make individual financing untenable. Luckily Canada has a growing range of federal and provincial funding programs to facilitate the development of this type of housing. These programs have not been developed to the same extent in the US.



221A is a Vancouver-based Cultural Land Trust leveraging a CLT model to ensure security of tenure for artists and arts organizations.

The Legal Context of Canadian CLTs

Overview of Canadian Law and Policy Directly Mentioning CLTs

In Canada, no laws specifically refer to CLTs. However, “community land trust” is defined in specific policies of the Canada Revenue Agency (CRA) and the Canada Mortgage and Housing Corporation (CMHC) for the purpose of defining eligibility for charitable status or funding programs respectively. These policy definitions, however, are not the same, nor are they officially binding. For example, when assessing the charitable status of a CLT, fitting the CRA’s definition of a CLT is not determinative of whether the CLT receives charitable status. Similarly, the CMHC might still decide to fund an organization under a CLT program, even if it does not fully meet the CMHC definition of a CLT, and that decision is also irrespective of the CRA definition.

Table 2: Canadian Definitions and Key Points

CMHC Definition	CRA Definition
Community land trusts (CLTs) can be defined as non-profit corporations created to acquire and hold land for the benefit of a community and provide secure, affordable access to land and housing for community residents. They can be sector-led or community-led (CMHC, 1995).	A community land trust is set up to ensure that land will continue to be available for the benefit of a community. Generally, community land trusts operate by developing properties and leasing them to eligible beneficiaries. For example, an organization that creates a community land trust to provide housing for individuals who are experiencing poverty or who have a disability may be eligible for registration as relieving poverty or conditions associated with disability (CRA, 2012).
Key points of this definition <ul style="list-style-type: none">Defines CLTs as non-profit corporationsCLT activities include acquiring and holding landCLTs’ purpose is to provide affordable land and housing accessNotes sector-led vs. community-led distinction, though not well-differentiated. Community-led CLTs typically refer to community-led grassroots CLTs with a focus on several property types. Sector-led CLTs are often developed within a particular sector, like housing.	Key points of this definition <ul style="list-style-type: none">Doesn’t specify the legal entity of CLTs (i.e. corporation or trust)CLT activities include property development and leasingCLTs’ purpose is to ensure community’s access to landFocus on eligible beneficiaries, like those experiencing poverty or who have a disability. This is to help the CRA determine whether the CLT is engaging in activities that are charitable in nature when assessing whether the CLT can be registered as a charity.

These two definitions illustrate how differently federal government agencies see CLTs today. While neither is binding, they do demonstrate the differences in perception of CLTs’ by officialdom while raising the question of whether they are satisfactory to the Canadian CLT community.

Overview of Federal and Provincial Laws in Canada that Apply to CLTs

As discussed, no laws specifically mention CLTs, but there are laws at both the federal and provincial level that govern CLTs. At the federal level, the Income Tax Act enables CLTs to claim non-profit or charitable status, exempting them from paying income tax and, in the case of charitable status, enabling them to issue receipts for certain gifts, which can encourage charitable giving. Additionally, there are federal statutes that provide for national affordable housing programs (e.g. the Canada Mortgage and Housing Corporation), which are key funding sources for CLTs.

Most relevant statutes for CLTs are at the provincial level since property law is predominantly governed provincially. Key activities of the CLT, such as buying, selling, and leasing land, and registering interests in land, are governed by provincial statutes that vary from province to province. Furthermore, municipal governments can fund or lend to CLTs or enter partnerships with them through statutes granted through the province. Municipal legislation also grants municipalities the ability to enact bylaws, which affect CLT operations.

Ultimately, most CLTs choose to incorporate as non-profits or cooperatives. Each province has its own statutes enabling incorporation as non-profits (sometimes called “societies”) or cooperatives. Additionally, there is a federal Not-for-profit Corporations Act under which some CLTs incorporate. Each CLT incorporates under a single piece of legislation and must comply with reporting and other requirements based on that legislation. Since there are subtle differences between various municipal, provincial and federal legislation, CLTs may choose legal structures based on the beneficial features (e.g. the statute allows the CLT to use a desired organizational structure or has less burdensome reporting requirements).

A Legal Definition for CLTs

A legal definition for CLTs would appear in a federal or provincial statute and list elements that determine whether an organization can legally be considered a CLT. It could clarify eligibility for programs or benefits, grant CLTs certain powers, guide tax assessments, and, in some cases, restrict CLT activities. In other words, the definition would determine whether laws directed at CLTs would apply to an organization, based on whether it meets all the criteria outlined in a CLT definition.

While CLT-specific laws do not yet exist, developing a community-led definition for CLTs could be an important first step. It could serve as a sense-making exercise within the CLT community and act as a starting point for new advocacy to encourage the government to create CLT-specific programs in the future.



CLT Legislation Around the World

With increasing popularity, community land trusts are emerging worldwide (Basile et al., 2020; Moore et al., 2012; Thompson, 2020). Examining how other jurisdictions legislate these entities can help CLT advocates identify potentially useful laws for the Canadian context and garner insight into the pros and cons of establishing a clear legal framework. This

analysis reviews all available legislation on CLTs in the United States (federal and state), England, New Zealand, Australia, Brazil, and Peru to (1) examine how other countries define CLTs and (2) to determine the types of CLT laws enacted in other countries.

The United States, with its many CLTs and extensive legislation at both state and federal levels, offers valuable insight, despite the many legal differences with Canada. With similar legal systems to Canada's, England, Australia, and New Zealand are useful sources of legislation. While England has laws that refer to CLTs, they are less comprehensive; New Zealand and Australia currently lack specific CLT laws despite the increase in CLTs (Crabtree et al. 2013). Lastly, Peru has a law that recognizes the utility of CLTs in the administration of housing projects (Barboza, 2023), while Brazil similarly recognizes CLTs as an urban planning tool for developing affordable housing, defining CLTs by their collective land ownership and the sale of improvements to community residents, much like the classic US CLT model. The following pages delve into the US and English contexts, as they are the two primary sources of legislative examples available today.

CLT Legislation in the United States

The United States, which boasts the largest body of CLT laws, can provide substantial guidance for Canada. Funding access and assistance are common provisions across US federal and state CLT laws, which would be greatly informative to the development of Canadian CLTs. Some US state laws establish mechanisms to support CLTs like research and funding assistance (Kirby, 2011), while others offer property taxation assessment laws and property tax exemptions, demonstrating some of the possibilities for the Canadian context.

Legislation applying to CLTs in the United States dates back to 1992, when federal legislation was passed granting CLTs access to funding through the "HOME" program (U.S. Department of Housing and Urban Development, 1993). This program serves as a major federal funding source for community housing development organizations. US federal legislation provides a descriptive definition for CLTs, comprising four key elements. The legislation:

1. establishes CLTs as non-profit organizations
2. addresses property management practices
3. outlines guidance on how community membership is defined
4. establishes the CLT governance model.

Many features of the classic US CLT model, like sale of improvements, ground leases, and pre-emptive rights of repurchase, are included in these elements.

Additionally, the US federal definition stipulates that CLTs should ensure property remains affordable to low- and moderate-income families. The US federal definition also focuses on the role of community membership in CLT governance, typically structured as a tripartite governance model discussed previously (Davis, 2010; Kirby, 2011).

US Federal Definition

Table 3: US Federal Definition and Key Elements

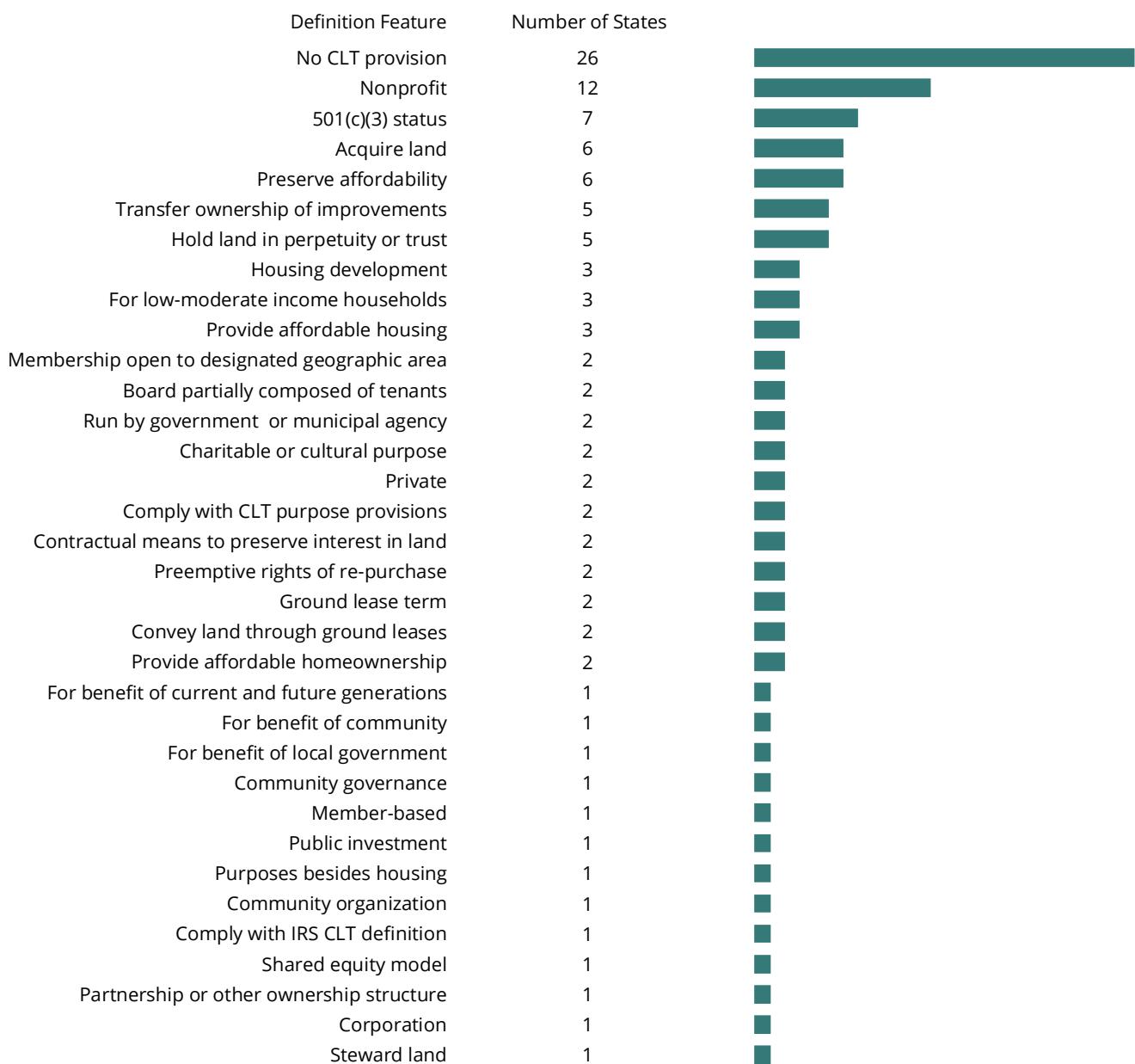
A 'community land trust' means a community housing development organization:

Definition	Element
1. that is not sponsored by a for-profit organization;	Non-profit status
2. that is established to carry out the activities under paragraph (3); 3. that: a) acquires parcels of land, held in perpetuity, primarily for conveyance under long-term ground leases; b) transfers ownership of any structural improvements located on such leased parcels to the lessees; and c) retains a preemptive option to purchase any such structural improvement at a price determined by formula that is designed to ensure that the improvement remains affordable to low and moderate-income families in perpetuity;	Handling of property in manner reflective of classic US CLT model
4. whose corporate membership that is open to any adult resident of a particular geographic area specified in the bylaws of the organization; and	Community membership of CLTs
5. whose board of directors— a) includes a majority of members who are elected by the corporate membership; and b) is composed of equal numbers of (i) lessees pursuant to paragraph (3)(B), (ii) corporate members who are not lessees, and (iii) any other category of persons described in the bylaws of the organization.	Tri-partite board composition

Most CLT legislation in the US operates at the state level. Like Canada, the US has a federal system, with property law generally falling under state jurisdiction, while federal law governs access to specific funding programs, similar to Canada's CMHC. Almost all states have at least one CLT, with 24 states having passed some form of legislation pertaining to CLTs. Of these, 15 states have a clear CLT definition and related legislation. In states lacking a defined CLT framework, it remains unclear both how program eligibility is determined and how laws mentioning CLTs are applied. In this case, state agencies may reference the federal definition for guidance on how to implement their laws and programs, or, as many of them do, develop their own definition that controls the application of law or eligibility for state programs.

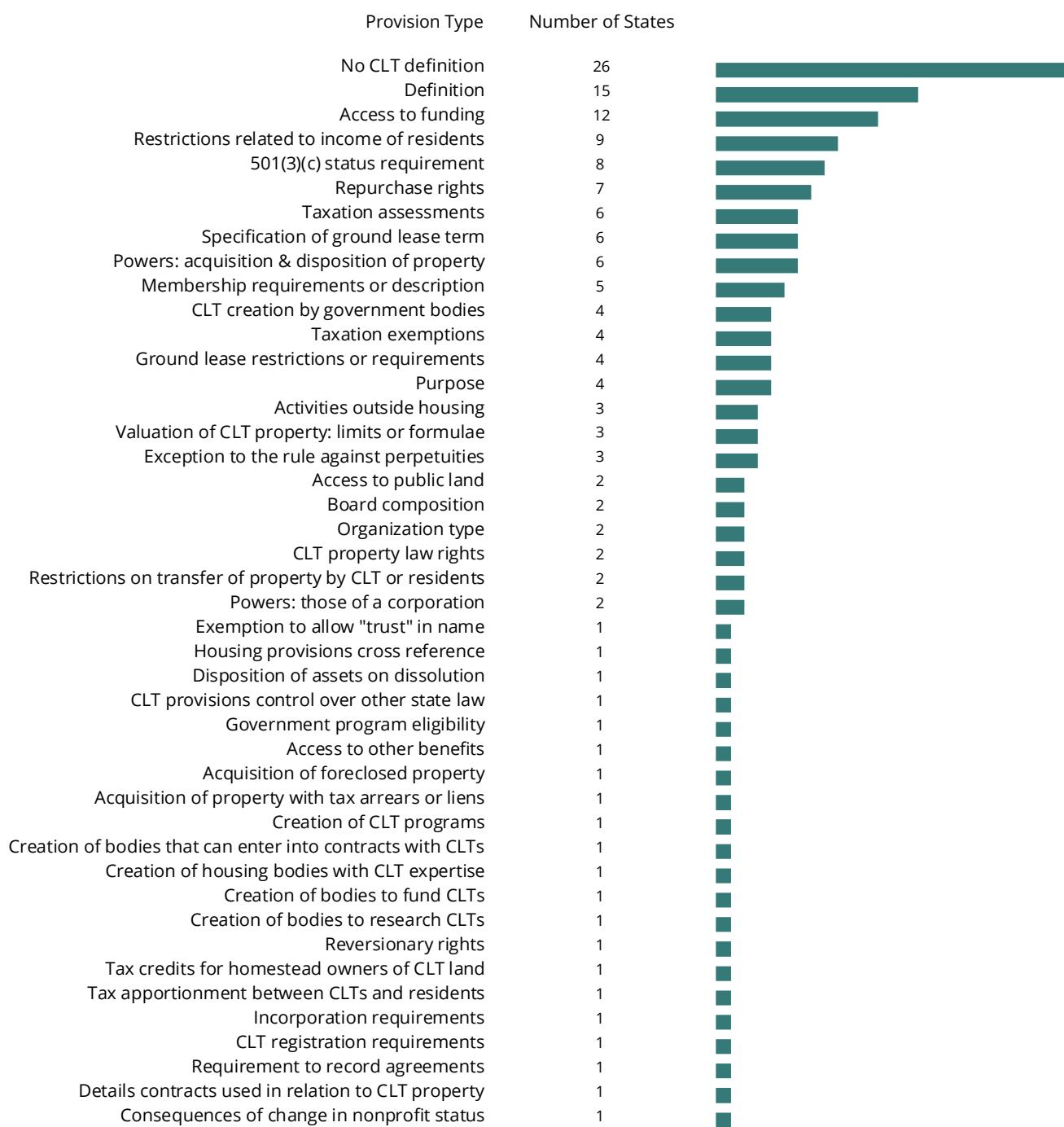
Regarding the elements of state definitions, we found that most states consider CLTs non-profit entities that acquire and hold land for the community's benefit, ensuring perpetual property affordability, particularly for low-to-moderate-income families or individuals. Figure 1 illustrates the different elements that appeared across state legal definitions of CLTs. While some of the aspects, like non-profit status and fundamental activities like acquiring and holding land, are common across multiple definitions, other features only appear in one state's definition. Consequently, although some elements are shared, virtually every state presents a distinct CLT definition, and there is no one element that is consistent across all 15 states.

Figure 1: Elements of CLT definitions across states by frequency



Similarly to the state definitions, there is a wide variance in the nature of enacted CLT legislation at the state level. Figure 2 illustrates the various types of CLT legal provisions present in different state laws, sorted by frequency. In addition to definition provisions, access to funding, income restrictions for residents, requirements to maintain charitable status², provisions related to the classic US CLT model, and taxation regulations emerged as the most prevalent types of CLT laws across states. Some provisions also establish bodies tasked with researching or assisting CLTs.

Figure 2: Types of CLT provisions across states by frequency



2. US Internal Revenue Service (IRS) 501(c)(3)

Some states also impose legal restrictions on CLT operations, often aimed at ensuring compliance with program requirements to qualify for benefits. These restrictions may be outlined in either "stand alone" legislation, which encompasses governance of various aspects of CLT operations, or in provisions embedded within laws pertaining to other subjects (e.g. a CLT-specific provision within property or taxation law).

Canada's federal system, akin to the United States, suggests a likely divide between federal and provincial laws governing CLTs. In Canada, the federal government would have difficulties imposing consistent CLT legislation across the country, due to the nature of property law which is under provincial jurisdiction. Having a patchwork of laws across the country can limit the extent to which advice for CLTs is helpful in different provinces. To address this, CLTs and their supporters across the country could develop consistent law proposals and then petition their provincial governments to adopt these laws.

Both state and federal laws in the US grant CLTs the authority to manage property and impose restrictions where land ownership and improvements are separate, with the former held by the CLT and the latter by community residents. Presently, such laws might not be as applicable in Canada due to the difficulty in achieving this legal separation of ownership. CLTs and their supporters may consider advocating for changes in provincial property law systems to permit separate ownership of land and improvements. The advantages of the US system include potential benefits for community members, such as a superior interest in owned improvements compared to leased ones; for instance, an owner cannot be evicted in the way a leaseholder can, since owners can never be evicted (though they could lose their home through mortgage default). It may also be easier for owners to obtain financing to acquire property ownership compared to obtaining financing for the acquisition of a leasehold interest. Under Canada's predominantly leasehold model for CLTs, the CLT retains ownership of both land and improvements, allowing for greater control over the property (Bunce et al., 2016). The question of whether to advocate for the ability to sell improvements separately thus requires greater consultation with CLTs to determine whether the current inability of community members to own improvements is an advantage or a disadvantage.

In the US, some states have chosen to exempt CLTs from certain property laws that would otherwise interfere with CLTs' activities. CLT-specific property laws can cause confusion about the applicability of other property laws to CLTs. To solve this issue, one state had a law indicating that provisions of the CLT law prevailed over other laws. This type of provision clarifies how conflicts between different laws should be resolved, which may be useful if CLT-specific property law provisions are enacted in Canada. Depending on the conditions, Canadian CLTs may require exemptions from certain property laws, similar to how some US states operate, that interfere with their function.

CLT Legislation in England

An English CLT definition was established in 2008 when it first appeared in the *Housing and Regeneration Act 2008*. Between 2008 and 2023, CLTs were listed as a specific type of organization eligible to be a social housing provider. This definition has two components: the definition outlines the community benefits of CLTs and establishes membership and community control of CLTs. However, in 2023, CLTs were removed from the statute. Under the new law, CLTs can still function as social housing providers by virtue of being registered charities or societies. Additionally, CLTs are mentioned in two other statutes, giving CLTs minor benefits related to the ability to charge ground lease fees and social housing rents without restrictions that apply to other entities. The definition, which controls access to these benefits, says that CLTs are corporate bodies with the purposes of furthering social, economic, and environmental interests of a community and are controlled by individual members who live and work within a specified area.

Ireland also has legislation that mentions CLTs, giving local governments the power to enter into agreements with CLTs. However, Irish law lacks a specific definition for CLTs.

England CLT definition (2008 definition)

Table 4: English Definition and Key Elements

A Community Land Trust is a corporate body which

Definition	Element
<p>1. is established for the express purpose of furthering the social, economic and environmental interests of a local community by acquiring and managing land and other assets in order -</p> <ul style="list-style-type: none">• to provide a benefit to the local community• to ensure that the assets are not sold or developed except in a manner which the trust's members think benefits the local community	Community benefit
<p>2. is established under arrangements which are expressly designed to ensure that:</p> <ul style="list-style-type: none">• any profits from its activities will be used to benefit the local community (otherwise than by being paid directly to members)• individuals who live or work in the specified area have the opportunity to become members of the trust (whether or not others can also become members)• the members of a trust control it.	Community benefit; Community membership of CLT and control of CLT by community membership

In England, the descriptive legal definition for CLTs focuses on community stewardship and governance. Such a definition captures the spirit of CLTs in ways that many of the US definitions do not. However, compared to the US, the legislated benefits for CLTs in England are far fewer: there are only two minor exemptions to laws, that while helpful for CLT function, do not award the same funding, assistance, and tax exemptions that US CLTs benefit from. Nevertheless, England's CLT legislation does show that targeted exemptions to certain laws can provide benefits to CLTs. A future avenue of research might identify what specific laws impede the functioning of Canadian CLTs, so that advocates could target specific CLT exemptions.

Definition Possibilities

This study of laws from the US and England reveals some more creative ways to define a CLT. For instance, a CLT definition may note that CLTs acquire and hold land for the benefit of the community, lease property, and/or participate in community stewardship, but other definitions focus more on a CLT's purpose or goals, which are more aspirational. For example, England's definition notes an "express purpose of furthering the social, economic, and environmental interests of a local community." In outlining CLT definitions and provisions from various global perspectives, Canada can glean insights into structuring Canadian CLT legislation. Legislation tailored to Canadian CLTs, along with definitions dictating access to associated benefits, might be advantageous for Canadian CLTs, and such legislation could offer more direct access to funding, operational support, tax exemptions, and greater legislative clarity. Simultaneously, the international examples also support looser self-definition rather than legislation, so the Canadian CLT community will need to decide which direction to take.



False Creek South Neighbourhood Association was established to represent the multitude of co-operative housing units along False Creek.

A Legal Definition in Canada: Generating Dialogue Among CLTs

The aim of this research was to facilitate dialogue amongst CLT community members to formulate a community-led definition for Canadian CLTs. Although CLTs are rooted in democratic governance and community membership (Williams, 2018; Bunce, 2018; CMHC, 2005), the interpretation of these principles can vary among different CLTs, despite the shared democratic model. The Canadian CLT community is deeply grounded in grassroots organizing and is still developing.

An initial discussion, which took place in February 2024, involved several leading voices from the CLT community from across Canada. At that roundtable, most CLT community members acknowledged the importance of legislative predictability and agreed that CLT legislation may be useful in acquiring funding and other benefits for CLTs. At the same time, some CLT community members have expressed hesitation about the process of developing a legal definition for CLTs, especially considering the organizational diversity of established CLTs nationwide. The reality is, coming to a legal definition that encompasses all CLTs could prove challenging.

One possible solution that emerged during this discussion was the suggestion of a CLT “charter”, a comprehensive document outlining the values and operational standards for CLT organizations. The charter, being a community-led document, would not hold legal binding, but could help Canadian CLTs achieve a clearer understanding of the sector. Once clarified, CLTs could leverage this charter to advocate for CLT-specific programs and laws addressing the current challenges in Canada.

Ultimately, it is crucial that CLTs themselves drive advocacy for a legal CLT definition and legislation to ensure that legal developments occur in a manner that benefit CLTs’ interests. Until some consensus is reached, the lack of clear action indicates that broader discussion will be needed to identify a definition suitable for advocating CLT laws.



Conclusions

CLTs offer an innovative and effective approach to ensuring perpetual property affordability and fostering the development of thriving communities. However, CLTs face numerous barriers in acquiring land, receiving funding, accessing assistance, securing financing, and accessing other resources necessary for their operations. While the adoption of CLT-specific legislation may alleviate some of these barriers, it must center the perspectives of the CLTs themselves to ensure that any legislation meets CLT needs and maintains the CLT ethos of grassroots organizing and community stewardship.

This research provides a brief overview of how CLTs are legislated in Canada and in other jurisdictions. Equipped with clear models from around the globe, Canadian CLTs can decide whether or not to advocate for legislation based on a clear understanding of best practices and core needs. Future research could identify specific statutes that impede CLT operations, enabling the drafting of exemptions and serving as focal points for advocacy efforts.

The task of drafting CLT-specific provisions that grant access to funding and other resources must consider the Canadian legislative context. Moreover, defining what constitutes a Canadian legal definition for CLTs is an ongoing process shaped by self-identification within the Canadian CLT community.

Ideally, given a strong understanding of Canadian legislative context and global CLT legislation, CLTs and their advocates can decide on the best way to collaborate with the government to alleviate existing barriers, which could support the further expansion of the sector across Canada.



Glossary

501(c)(3) status refers to a specific designation given by the Internal Revenue Service in the United States, that is similar to being designated as a charity in Canada. In the US, 501(c)(3) status exempts organizations from paying income tax and provides exemptions to some of other types of taxes.

charity means an organization that has been given status as a charity under Canada's Income Tax Act. Charities are exempt from paying income tax and have special abilities, like being able to issue tax receipts for donations they receive, which can encourage

classic US CLT model refers to CLTs that retain ownership of land but sell improvements to community members. In this model, long-term affordability is maintained through clauses in a ground lease that restricts the price at which the improvement's owner can sell the property and give the CLT the right to be first in line to repurchase the property.

cooperative is a specific type of corporation that operates by cooperative principles, meaning that it is owned and operated by its members. Cooperatives may or may not be non-profit organizations.

corporate refers to anything having to do with corporations.

corporation is a type of legal entity that is formed according to provincial or federal statute. Corporations are considered legal persons who can buy and sell land and engage in the same transactions that a natural person can. A corporation is typically managed by a board of directors who are voted in by members or shareholders.

exemption refers to a type of legal rule that causes another legal rule to not be applied to a specific type of entity or within a particular circumstance. For instance, an income tax exemption is a rule within income tax legislation that specifies that a certain type of entity, like a non-profit or charity, does not have to pay income tax in particular circumstances.

ground lease refers to a lease specifically for land located underneath an improvement.

improvement means a building or other structure that is located on land.

incorporation refers to the legal process for forming a corporation.

jurisdiction refers to the legal power to make decisions or laws. For instance, a country has jurisdiction or power to make laws within a specific geographic area. In Canada, the provincial and federal governments have different jurisdictions in that one level of government makes laws pertaining to specific subjects, while the other makes laws relating to different subjects (though sometimes jurisdictions overlap).

land refers to the property interest in a specific area. In Canada, land also encompasses improvements located on the land. In the United States, land is sometimes considered separately from the improvements that are located on the land.

leases refer both to a type of property relationship, in which one party owns land and allows another party to occupy the land, usually for rent, and also refers to a contract that may govern that type of relationship.

leasehold interest refers to the legal interest that is held by someone who is leasing a property from someone else.

legal definition refers to a legal rule that determines whether an entity meets criteria to be considered as the defined entity for the purpose of a statute or regulation.

non-profit corporation is a particular type of corporation that does not distribute its profits to members or shareholders. Instead, any surplus funds go to furthering the non-profit purpose of the corporation.

power means a legal entitlement to do something.

pre-emptive or repurchase rights refer to rights held by the CLT when an owner of an improvement on CLT property decides to sell the improvement. The CLT retains a right to be the first in line to purchase the property, in order to ensure that CLT property remains perpetual affordability.

property can refer to land or improvements, including land and improvements bundled together. Property can also refer to types of property that are not land and improvements, like physical objects that are owned.

regulations are a type of legislation that sets out rules that specify details of how a particular law is applied.

soft law refers to government policies that are non-binding. Soft law is developed and used by government actors, but they are not legally obligated to follow the policies in all circumstances.

statutes are written laws made by Parliament or the provincial Legislatures that create new laws or modify existing laws.

taxation assessment refers to a process that is set out in laws for how property taxes are calculated. Sometimes, specific types of entities have different taxation assessment rules that apply that will raise or lower the amount of property tax they will pay.

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Legislation

United States

United States Code, 42 USCA § 1472(a)(3)(A), 42 USCA § 12773

State Codes of Maryland, Illinois, Virginia, North Carolina, South Carolina, Minnesota, California, Connecticut, Texas, Florida, Colorado, Wyoming, Montana, Washington, Iowa, Utah, Nevada, Vermont, Georgia, North Dakota, South Dakota, Hawaii, and New York and the District of Columbia Code

United Kingdom

[Housing and Regeneration Act 2008, c. 17](#)

[Social Housing \(Regulation\) Act 2023, c. 36](#)

[Social Housing Rents \(Exceptions and Miscellaneous Provisions\) Regulations 2016, 2016 No. 390, s. 2](#)

[Welfare Reform and Work Act 2016, c. 7, s. 23 and 24\(5\)](#)

[Affordable Housing Act 2021, s. 6](#)

South America

Peru: *Ley de Desarrollo Urbano Sostenible* ("Sustainable Urban Development Law")

Brazil: [São João de Meriti Master Plan](#)





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