

# **Funding Mechanisms for Land** **Acquisition**

**Prepared for the N.C. Waterfront Access Study  
Committee**

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## **Overview**

One management tool local governments may use to preserve their working waterfronts is to acquire land dedicated to a specific purpose. The prime two methods of land acquisition are to own the land in fee simple and to hold an easement over land owned by another. Funding mechanisms for this land acquisition vary depending on the use to which the local government wants to put the property, whether commercial or recreational. Broadly, there are five categories of funding sources for local governments to explore when considering the purchase of land:

- Direct budget allocations
- Trust funds & direct grant programs
- Bond issues
- Nonprofit or private partnerships
- Other revenue streams

This paper will briefly examine the advantages and disadvantages of the two forms of land acquisition, purchase in fee simple and granting of easements. Then, it will discuss the five funding categories listed above, discussing paths other states have chosen to acquire land for purposes like preservation of working waterfronts. When applicable, information about existing North Carolina programs and funding proposals will also be included.

## **Methods of Land Acquisition:** **Purchase of Land in Fee Simple**

The most fundamental form of property ownership in the United States is ownership of land in fee simple. Webster's Real Estate Law in North Carolina describes this form of property ownership:

“The estate of fee simple is the entire and absolute property in land. It is the most extensive estate or interest that can be owned in land and has a potentially infinite duration. A fee simple estate gives the owner unconditional powers to dispose of the entire property during the owner's life, and will pass by descent to the owner's heirs or legal representatives upon his or her death.”

James A. Webster, Jr., Webster's Real Estate Law in North Carolina § 4-1 (5<sup>th</sup> ed. 2004).

Because ownership in fee simple confers absolute property rights on the owner, local governments view this form of property ownership as the most flexible. In this situation, no other entities hold an interest in the property, so a government landowner may change the land use as needed. Additionally, sale of land in fee simple often proves to be a less complex transaction than other forms of property interests such as easements, both at the acquisition stage and the sale stage.

Local governments contemplating an increased willingness to allow development must realize that such a decision will inevitably lead to high up-front costs for acquiring land in fee simple as the property gains value from the increased development.<sup>1</sup> The National Oceanic and Atmospheric Administration points to particular challenges with using land acquisition programs to minimize impacts to developed property:

“While land acquisition programs can be effective, they can be more challenging to implement due to the high cost of shorefront property. It is difficult for waterfront properties to be competitive within a state's existing land acquisition programs given the much cheaper cost of inland property.”

National Oceanic and Atmospheric Administration, Ocean & Coastal Resource Management: Land Acquisition, [http://coastalmanagement.noaa.gov/initiatives/shoreline\\_ppr\\_acquisition.html](http://coastalmanagement.noaa.gov/initiatives/shoreline_ppr_acquisition.html) (last visited Feb. 8, 2007). Another disadvantage posed to governments investing in ownership of land in fee simple is the removal of that property from the government tax base.

Tools that encourage private ownership of land in fee simple, such as property tax incentives, are beyond the scope of this paper.

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<sup>1</sup> WILLIAM FULTON ET AL., THE SHAPE OF METROPOLITAN GROWTH: HOW POLICY TOOLS AFFECT GROWTH PATTERNS IN SEATTLE AND ORLANDO 23 (BROOKINGS INSTITUTE, APRIL 2006).

**Methods of Land Acquisition:**  
**Easements**

Another form of land acquisition local governments may employ is purchase of easements. An easement is a right to use or enjoy the land of another for a special purpose not inconsistent with a general property interest in the owner. The Restatement of Property lists six identifying characteristics of an easement:

“(1) It is an interest in land which is in the possession of another; (2) It is a limited use or enjoyment; (3) It is an interest which can be protected against interference by third persons; (4) The possessor of the land cannot terminate the interest at will; (5) It is not a natural right; and (6) It is capable of being created by conveyance.”

Restatement of Property § 450 (1944). An easement, then, is structured so the landowner sells or donates an interest in the property. In return, the “receiving” party has the right to use the land for a specific, agreed-upon use – the terms of the easement. Examples of uses for easements include the right to ingress and egress from land into waters, the right to lay public infrastructure such as utility lines, the right to use littoral or riparian boundary lands for conservation purposes such as hiking trails or recreational purposes such as boat launches, or the right to sustain a specific commercial use of the land such as agricultural uses.

Sometimes, a landowner holds reservations about granting an easement across private property for the use of the public. The objection typically manifests as an unwillingness to assume liability for the actions of members of the public while using the owner’s property for recreational purposes. However, N.C. Gen. Stat. § 38A-4, the “liability waiver” statute, protects landowners who open their land to others for (1) recreational or educational purposes (2) without charging a fee. The statutory protections extend to landowners holding lands whether subject to an easement or not. The pertinent part of the statute states that the landowner “owes the person the same duty of care that he owes a trespasser ... and the owner shall inform direct invitees of artificial or unusual hazards of which the owner has actual knowledge.”<sup>2</sup>

North Carolina courts interpret this provision to mean that a landowner has the following duties: (1) the duty to exercise reasonable care in the maintenance of the premises for the protection of lawful visitors; (2) the duty to refrain from willful or wanton infliction of injury; and (3) the duty to inform of artificial or unusual hazards of which the owner has actual knowledge.<sup>3</sup> These conditions impose relatively little liability on property owners, thereby encouraging private landowners to help meet the need for public access.<sup>4</sup> Other states, such as Florida, have similar statutory protections.<sup>5</sup> Still, Florida’s statute may provide even stronger protection for landowners than North Carolina’s statute because it specifically states that a

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<sup>2</sup> N.C. Gen. Stat. § 38A-4 (2006).

<sup>3</sup> Clontz v. St. Mark’s Evangelical Lutheran Church, 157 N.C. App. 325, 329 (2003).

<sup>4</sup> BRENDA APPLEDDORN ET. AL., REGULATORY INCENTIVES AND CRITERIA TO PRESERVE RECREATIONAL AND WORKING WATERFRONTS: LIABILITY WAIVERS 1 (WATERFRONTS FLORIDA PARTNERSHIP PROGRAM, 2006).

<sup>5</sup> Fla. Stat. § 375.251 (2006).

landowner opening land to the public for recreational uses is not liable for acts done to others by *third persons* on that land (emphasis added). Therefore, if a person is using the easement pursuant to the agreed-upon terms and another party (not the landowner) harms that person, the landowner will incur no liability. North Carolina's liability waiver statute offers landowners no such protection.

Easements provide certain advantages to local governments over the alternative of purchase in fee simple. With an easement, the land subject to the easement remains in the tax base, even if the easement terms reduce the value of the land. Easements also are a less expensive way of acquiring land use rights than purchase of land in fee simple, and the transaction avoids the appearance of a governmental taking. Additionally, the land subject to an easement remains dedicated to a specific use for a specific period of time, and maintenance responsibilities for the land may be divided between the donor and the donee.

However, easements also have important disadvantages to the purchase of land in fee simple. With an easement, the local government has no flexibility in the land use, unlike if the land were owned in fee simple. The lower property taxes on the land caused by the restrictions of the easement also limit future tax revenue prospects. Finally, finding landowners willing to subject their land to the terms of an easement may prove difficult.

Conservation easements are a specialized way for parties to permanently dedicate land for a conservation purpose while allowing the lands to remain in private control subject to the terms of the easement. The S.C. Department of Revenue defines a conservation easement as:

“A restriction of the use of the property in the form of a recorded deed restriction, with the right to enforce that deed restriction being given to a tax-exempt charitable organization or a governmental entity.”

S.C. Dept. of Revenue, *Local, State and Federal Tax Incentives for Conservation Easements 1* (2005).

The primary benefit to landowners granting a conservation easement comes in the form of tax benefits, both federal and state. To qualify for these tax benefits, though, landowners must adhere to strict limitations on the transaction itself as well as the tax benefits realized. This paper will not explore the limitations except in a generalized way; conservation easement transactions are complicated and require the assistance of counsel to execute.

Generally, the landowner granting an easement must continue the current use of the land that will become subject to an easement.<sup>6</sup> In 2006, Congress passed the most sweeping reforms to the conservation easement program in twenty-six years, in the Pension Protection Act of 2006. For the next two years, the Act allows significantly greater tax credits for individuals donating conservation easements. To qualify for federal tax benefits, the I.R.S. requires the land subject to an easement to be dedicated exclusively to a specific purpose, such as protection of habitat,

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<sup>6</sup> S.C. DEPT. OF REVENUE, *LOCAL, STATE AND FEDERAL TAX INCENTIVES FOR CONSERVATION EASEMENTS 1* (2005).

open space, scenic view, substantial and regular recreational use, or historic preservation.<sup>7</sup> The donating landowner may be an individual or corporation, but the donee (“receiving” party) must meet the standards of a “qualified organization,” which includes governmental units so long as that governmental unit is an integral part of the government structure with the commitment and resources to enforce restrictions in conservation easements<sup>8</sup> and certain nonprofit groups such as land trusts.

North Carolina also offers conservation easement tax benefit programs to supplement the federal tax benefits described above. The Conservation Tax Credit Program was established in 1983, and to date has provided tax benefits that resulted in creating 138,000 acres of conservation easements worth over \$505 million.<sup>9</sup> However, the state department administering this tax credit, N.C. Dept. of Environment and Natural Resources, warns that if increases in the maximum tax credit allowed are not undertaken by the N.C. General Assembly, the value of the tax credit will decrease and result in less interest in conservation easements.<sup>10</sup> The Conservation Easement Program was established in 1997 and is administered as part of the Conservation Tax Credit Program. This program exists to manage the State’s holdings of easements and to provide technical support for structuring conservation easement transactions. It does not, however, provide funding for the purchase of land.<sup>11</sup> A related state program, the Conservation Grant Fund, was established in 1997 to educate landowners about the benefits of conservation easements. Yet the program idles because the N.C. General Assembly has never funded it.

Conservation easements provide significant advantages to local governments holding the rights to those easements. The primary benefit is that the local government acquires land at no cost. Additionally, the federal and tax benefits provided to donors of conservation easements assures that these donations remain attractive for donating parties as well. The income tax benefits described above work to lower property values of the landowner, thus potentially lowering gift, estate, and property taxes as well as income taxes.

However, the complexity of a conservation easement transaction may outweigh the benefits a governmental entity receives. Landowners willing to enter into this transaction are scarce, and the transactional costs and legal assistance necessary to execute the conservation easement agreement may stop many donations. In addition, a conservation easement dedicates the land to a particular use permanently. Amendment or revocation of such an easement is difficult, and resale to another party may also prove difficult because the buyer must also be a “qualified recipient” subject to I.R.S. rules. Finally, a local government acquiring such an easement also assumes the entire burden of oversight, a task some will be unwilling to take on.

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<sup>7</sup> Treas. Reg. § 1.170A-14(d) (2006).

<sup>8</sup> S.C. DEPT. OF REVENUE, *supra*, note 6, at 37.

<sup>9</sup> N.C. DEPT. OF ENVIRONMENT AND NATURAL RESOURCES, CONSERVATION EASEMENT PROGRAM ANNUAL REPORT 2 (2005).

<sup>10</sup> *Id.*

<sup>11</sup> N.C. Gen. Stat. § 113A-230 (2006).

**Funding Sources for Land Acquisition:**  
**Introduction**

The type of funding source a local governmental unit will use to purchase land depends on the anticipated use of the land. When conceiving of waterfront access, the two broad categories of land use are commercial and recreational uses. Many times, these two categories blend together, such as a marina operating as a business but providing space to dock recreational boats as its service. In addition to separating funding sources by land use, it is also helpful to separate funding sources into federal, state, and local funding streams. Within the five categories of funding – direct budget allocations, trust funds and direct grant programs, bond issues, nonprofit or private partnerships, and other revenue streams – this paper will identify funding sources from all three levels of government and for both land uses.

## **Funding Sources for Land Acquisition:** **Direct Budget Allocations**

Direct budget allocations represent the simplest method of paying for waterfront access, whether for commercial or recreational purposes. Because the federal government funding streams are diffused into trust funds and grant programs, direct budget allocations usually result from state or local dedications of funding. Examples of direct budget allocations for waterfront access purposes appropriated by Florida and California state governments are described below.

Florida's waterfront access and preservation program is the statewide Waterfront Florida Partnership Program. Begun in 1997, the purpose of this program is to help participating communities redevelop their waterfront districts. As part of this overall goal, the program seeks to ensure retention of viable traditional waterfront economies.<sup>12</sup> The program, modeled on the national Main Street program, offers technical assistance, advice, and grant opportunities for participating communities. Every two years, the state chooses three communities to benefit from the expertise available in the program. Funded through several state and federal funding streams, the Waterfront Florida Partnership Program then funnels those funds directly into planning assistance. State-level technical expertise such as that provided by the Waterfront Florida Partnership Program may enhance local governments' ability to acquire land in the most efficient way for their community.

California also runs a program targeted at sustaining working waterfronts called the Urban Waterfront Restoration Program. The purpose of this program is to provide direct capital and technical assistance to "protect, restore and expand coastal-dependent recreational, commercial and industrial facilities and to expand opportunities for public access and use of urban waterfronts in conjunction with new development."<sup>13</sup> Run through the California State Coastal Conservancy's Waterfronts Program, this program receives funding through state general obligation bonds. One use of the funds is to purchase land in fee simple or to purchase easements. Additionally, the technical assistance provided to local governmental units assists in planning for preservation of working waterfronts and can serve as a liaison between government and nonprofits.<sup>14</sup>

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<sup>12</sup> FLORIDA DEPT. OF COMM. AFFAIRS, GUIDING THE WAY TO WATERFRONT REVITALIZATION: A BEST MANAGEMENT PRACTICES SERIES 12 (2007).

<sup>13</sup> RESOURCES AGENCY OF CALIFORNIA, PRESERVING CALIFORNIA'S NATURAL HERITAGE: STATE FUNDING PROGRAMS 5 (1998).

<sup>14</sup> California Coastal Conservancy, Conservancy Programs: Urban Waterfronts, [www.coastalconservancy.ca.gov/Programs/programs.htm](http://www.coastalconservancy.ca.gov/Programs/programs.htm).

## **Funding Sources for Land Acquisition:** **Trust Funds and Other Direct Grant Programs**

Trust funds are similar to direct budget allocations in that the legislative body that creates the trust fund must fund it through direct appropriations. However, trust funds operate more like direct grant programs. To receive funding, an entity (usually a local governmental unit) must apply to the trust fund, meet specified criteria, and receive approval from the trust fund board. Trust funds and similar direct grant programs that provide funding for waterfront access exist at all three levels of government.

The federal government has several trust funds that local governments may tap to fund certain waterfront access projects. The National Trust for Historic Preservation runs the Main Street program, with state affiliates implementing the program locally. The program exists to help communities revitalize downtowns, with a focus on bringing together business leaders, promoting downtowns as community centers, enhancing the visual quality of the downtown, and strengthening the economic assets of downtown business districts.<sup>15</sup> In North Carolina, communities may apply to become Main Street communities. As a result, funds from the National Trust flow to communities in the form of program guidance, technical assistance, training and networking.<sup>16</sup> Indirectly, this form of assistance allows communities to develop a broad economic plan that may include land acquisition for waterfront access.

Every year, Congress appropriates monies to states in the form of Community Development Block Grants (CDBG). Use of these funds varies from state to state. In North Carolina, the Division of Community Assistance oversees distribution of the state's share of CDBG funds. One category of need that the program recognizes is for economic development. The funds target the creation and retention of jobs, taking into account the number of jobs created and the level of community distress.<sup>17</sup> Local governments receiving funding from this source must apply for a grant and provide a 25% local match (unless the county is classified as a Tier I county).<sup>18</sup> A N.C. local government's plan for preservation of waterfront access and job creation may qualify for CDBG funds that would be applied toward land acquisition. Maine provides a good example of a state that dedicates CDBG funds specifically for purposes that support public access to state waterways, such as boat landings and piers.<sup>19</sup> Such a project in North Carolina may qualify for CDBG funds under the economic development allocation.

The National Oceanic and Atmospheric Administration (NOAA) runs two grant programs in which states apply for and receive funds for waterfront access. Both programs are overseen by the Office of Ocean and Coastal Resource Management through its Coastal Zone Management Program. One goal of both programs is to increase public access to state shores

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<sup>15</sup> N.C. Dept. of Comm. Assistance, Main Street Four-Point Approach, [www.ncdca.org/mainst/mainstd.asp](http://www.ncdca.org/mainst/mainstd.asp).

<sup>16</sup> N.C. Dept. of Comm. Assistance, Main Street Center Services, [www.ncdca.org/mainst/mainste.asp](http://www.ncdca.org/mainst/mainste.asp).

<sup>17</sup> N.C. Dept. of Comm. Assistance, CDBG Program: Economic Development, [www.ncdca.org/cdbg/EconDevelopment.asp](http://www.ncdca.org/cdbg/EconDevelopment.asp).

<sup>18</sup> Id.

<sup>19</sup> Maine State Planning Office, Working Waterfronts Initiative, [www.state.me.us/spo/mcp/wwi/resources.php#financing\\_opportunities](http://www.state.me.us/spo/mcp/wwi/resources.php#financing_opportunities).

and waterfronts.<sup>20</sup> The first of the Office's programs, the Coastal and Estuarine Land Conservation program, targets coastal and estuarine lands considered to be important for their ecological, conservation, recreational, historical or aesthetic values. Grants received from this program go directly to land acquisition. Properties are held by an eligible public entity, and lands are primarily preserved in their natural state.<sup>21</sup> Up to \$3 million may be granted for each project, and the applying entity must provide a 100% match for the funds. For the past five years, federal funds available for this program have ranged from \$15.8 million - \$50.6 million.<sup>22</sup>

The second of the NOAA grant programs is called the National and Estuarine Research Reserve System. This program provides grants for research and educational activities on lands sheltered from development. Engaging in partnership with states, this grant program funds planning, grant assistance, and educational programs regarding marine and estuarine systems.<sup>23</sup> In North Carolina, the Department of Environment and Natural Resources (DENR) serves as the state partner. Within DENR, one employee coordinates the program, managing the four coastal sites that have been preserved through the assistance of the program's grants.

Finally, the federal Environmental Protection Agency (EPA) offers small grants through its Sustainable Development Challenge Grants program. These seed grants, which range from \$50,000-\$250,000, reward applicants for integrating environmental protection with sustainable development and revitalization.<sup>24</sup> Monies from these competitive grants may assist local governments in executing waterfront access projects that combine economic development with preservation of the waterfront environment.

Currently, North Carolina has four statewide trust funds available for various conservation purposes. Funding levels in 2006 are as follows:

- Parks and Recreation Trust Fund: \$45 million
- Natural Heritage Trust Fund: \$19 million
- Clean Water Management Trust Fund: \$100 million
- Farmland Preservation Trust Fund: \$0<sup>25</sup>

State appropriations to the Parks and Recreation Trust Fund may go toward projects that increase water access such as boat docks and trails as well as land and facilities supporting recreational access to state waters. The Natural Heritage Trust Fund funds both natural and historic areas, including land acquisition for designated natural heritage sites. The Clean Water Management Trust Fund spends a significant portion of its funding for land acquisition, usually for projects

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<sup>20</sup> Ocean and Coastal Resource Management, National Oceanic and Atmospheric Administration, Public Access: In Depth, [www.coastalmanagement.noaa.gov/issues/pa\\_indepth.html#4](http://www.coastalmanagement.noaa.gov/issues/pa_indepth.html#4).

<sup>21</sup> Ocean and Coastal Resource Management, National Oceanic and Atmospheric Administration, The Coastal and Estuarine Land Conservation Program, [www.coastalmanagement.noaa.gov/land/welcome.html](http://www.coastalmanagement.noaa.gov/land/welcome.html).

<sup>22</sup> Id.

<sup>23</sup> Ocean and Coastal Resource Management, National Oceanic and Atmospheric Administration, The National Estuarine Research Reserve System, [www.coastalmanagement.noaa.gov/programs/nerr.html](http://www.coastalmanagement.noaa.gov/programs/nerr.html).

<sup>24</sup> U.S. Environmental Protection Agency, Federal Register Environmental Documents, Sustainable Development Challenge Grant Program, [www.epa.gov/EPA-GENERAL/1996/July/Day-01/pr-23483DIR/pr-23483.html](http://www.epa.gov/EPA-GENERAL/1996/July/Day-01/pr-23483DIR/pr-23483.html).

<sup>25</sup> Land for Tomorrow, Recommendations for Land Conservation, Water Quality Protection, Historic Preservation, and Job Creation Programs in North Carolina 4 (2006).

that incorporate protection of water sources.<sup>26</sup> Increases to these trust funds, as advocated by the Land for Tomorrow proposal being offered to the legislature this year, will result in increased funding opportunities for local governments to acquire land for specific recreational and commercial waterfront access. Additionally, local governments interested in waterfront access may petition the legislature to stress waterfront access as a criterion in applications for these trust fund monies.

Two other N.C. programs that enhance waterfront access are both housed in DENR: the Coastal Reserve Program and the Public Beach & Waterfront Access Program. Each provides funds for specific water access projects such as boat ramps and docks, public beach access, and facilities to support access. Locating new funding sources for each of these programs would boost the ability of each to assist local governments in providing public access to state waters.

While North Carolina does not have a trust fund or grant program specifically designed to provide funding for waterfront access, as the need for funding for such access grows, the State may look toward establishment of such program. Alternatively, the State may choose to expand the criteria of the existing trust funds listed above to more easily include projects targeting waterfront access or expand existing programs within DENR and the Division of Coastal Management.

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<sup>26</sup> Id. at 9-11.

**Funding Mechanisms for Land Acquisition:**  
**Bond Issues**

Bond issues provide a stable source of income for states interested in investing in capital projects. Land acquisition certainly falls within this category, making bond issues an attractive method of financing purchase of land in fee simple or easements. The N.C. General Assembly must approve all statewide bond issues and the Governor must sign it into law. States that have issued bonds for land acquisition purposes include Florida, Maryland, Colorado and New Jersey. In addition, local governments may issue bonds to pay for local projects such as land acquisition. In Beaufort County, S.C., voters approved a \$40 million bond to pay for preservation of working waterfronts. A portion of the bond money went toward purchase of land. In North Carolina, local governments have the authority to issue their own bonds.

## **Funding Mechanisms for Land Acquisition:** **Nonprofit or Private Partnerships**

Local governments may find it beneficial to partner with nonprofit or private entities to achieve land acquisition goals. Private foundations often have missions that include preservation of land and water as open space or for recreational purposes and will dedicate foundation funds to applicants seeking the grants. National nonprofits offering such funds include American Greenways, the Doris Duke Foundation, Pew Charitable Trust and the Rockefeller Family Trust.

Often, local governmental entities will negotiate with a nonprofit land trust to preserve land for recreational uses. These land trusts may actually receive funding from private foundations as well as other government sources like trust funds. In addition to brokering land preservation deals, land trusts may also assume active management of preserved lands or research tasks associated with open space. While no two land trusts have the same mission, many buy land in fee simple or receive donations of land in fee simple.<sup>27</sup>

Private partnerships may also benefit local communities trying to preserve waterfront access. In other states, private neighborhood or special interest groups collaborate to acquire land that will ensure continued access to the water. In Maine, for example, lobstermen in the town of Bath formed a fishing cooperative to purchase land.<sup>28</sup> North Carolina has a similar example of a fishing cooperative on Ocracoke Island. Also, private interests may contribute to waterfront access programs as a condition of development. In Connecticut, for example, state law requires public access to accompany every approved waterfront-dependent development.<sup>29</sup> Public access varies from project to project and may take the form of a waterfront walkway, fishing pier, viewing platform, or parking space and public access easement to walk to the shore.<sup>30</sup>

In North Carolina, the historic preservation nonprofit Preservation North Carolina (PNC) exists as a nonprofit-private partnership. The model used by this group involves PNC purchasing historic properties from private landowners. PNC will then make any improvements needed for the property to retain its historic character, place restrictive covenants on the property to ensure it remains historic property into perpetuity, and finally sell the property back into the private market. This model preserves the land use as a historic land use but keeps the property in private hands, generating tax revenue for local governments. Perhaps a similar model could help local governments interested in preserving waterfront access.

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<sup>27</sup> Land Trust Alliance, Frequently Asked Questions: Land Trusts, [www.lta.org/faq/index.shtml](http://www.lta.org/faq/index.shtml).

<sup>28</sup> Elizabeth Sheehan and Hugh Cowperthwaite, Preserving Commercial Fishing Access: A Study of Working Waterfronts in 25 Maine Communities 5 (2002).

<sup>29</sup> National Oceanic and Atmospheric Administration, Ocean & Coastal Resource Management, Public Access: Case Studies, [www.coastalmanagement.noaa.gov/issues/pa\\_casestudies.html](http://www.coastalmanagement.noaa.gov/issues/pa_casestudies.html).

<sup>30</sup> Id.

**Funding Mechanisms for Land Acquisition:**  
**Other Revenue Streams**

Local governments across the country have found a myriad of other funding streams which they may apply toward preserving waterfront access. These dedicated funding streams often provide the necessary funds for operating costs incurred once waterfront access is secured. Special fees that may be collected include permit fees, impact fees, environmental penalty fees, special district assessments, park entrance fees, and submerged land fees.<sup>31</sup> A more steady income stream may result from a tax stream dedicated to waterfront access purposes. Taxes employed in other states include property, real estate transfer, cigarette, mineral extraction, sales, and documentary stamp taxes.<sup>32</sup>

In addition, revenue from licenses may provide a small funding stream for a local government to dedicate to this purpose. In North Carolina, for example, commercial fishing license fees generate \$2 million annually. All proceeds go toward statutorily enumerated purposes already, although a local government may petition the legislature for a change. Still, with high land costs and only \$2 million available annually, the benefits from this funding stream may not prove to be worth the effort needed to change the law.

Finally, states such as Maine have successfully used state brownfields program funds to preserve waterfront access for both commercial and recreational purposes.<sup>33</sup> Local governments in North Carolina may find this to be a suitable funding source for certain projects as well.

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<sup>31</sup> Mike McQueen and Edward McMahon, *Land Conservation Financing* 22-25 (2003).

<sup>32</sup> *Id.*

<sup>33</sup> *Supra*, note 28.