

SENATE No. 1869

The Commonwealth of Massachusetts

PRESENTED BY:

John A. Hart, Jr.

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the passage of the accompanying bill:

An Act establishing a disaster and emergency aid fund for Massachusetts artists.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
John A. Hart, Jr.	First Suffolk
John D. Keenan	7th Essex
William Lantigua	16th Essex
Jennifer M. Callahan	18th Worcester
Brian P. Wallace	4th Suffolk
Ann-Margaret Ferrante	5th Essex
Kathi-Anne Reinstein	16th Suffolk

The Commonwealth of Massachusetts

In the Year Two Thousand and Nine

AN ACT ESTABLISHING A DISASTER AND EMERGENCY AID FUND FOR MASSACHUSETTS ARTISTS.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 **SECTION 1.** As used in this section, the following words shall, unless the context
2 otherwise requires, have the following meanings:–

3 “Massachusetts Artist:” a person who makes “original and creative work” and resides in the
4 Commonwealth of Massachusetts. A Massachusetts Artist shall be deemed to be residing in the
5 Commonwealth of Massachusetts if (a) domiciled in the state, or (b) maintaining a permanent
6 place of abode in state and in the state for an aggregate of more than one-hundred-eighty-three
7 days of the taxable year. “Original and Creative Work:” a work that falls into any or all of the
8 following categories: 1) a book or other writing; 2) a play or the performance of said play; 3) a
9 musical composition or the performance of said composition; 4) “traditional and fine crafts”; 5)
10 the creation of a film or the acting within said film; 6) the creation of a dance or the performance
11 of said dance; 7) a work of “Fine Art” as defined by Chapter 104A, Section 1 of the General
12 Laws. “Original and creative work” shall not include any piece or performance created or
13 executed for industry-oriented or related production. “Traditional and fine crafts:” a work that is

14 a handcrafted or handmade functional or non-functional object that is unique or is of a limited
15 production and is not mass-produced in large quantities by a factory. Traditional and fine crafts
16 are further defined as an original work made substantially by hand, wherein the skill and
17 technique of manipulation the material is primary to the artistic process and falls into any one or
18 more of the following categories: jewelry, furniture, glass-based work, carving work, ceramic
19 and clay work, wood based objects, metal based objects, Indigenous and Aboriginal art, folk art,
20 decorative art, functional and non functional leather based work, handcrafted lamps, handmade
21 paper based work, handmade baskets, textile-based and fiber-based work such as but not limited
22 to handmade or handcrafted weavings, clothing, accessories, rugs, quilts, embroidery based
23 work, knit based objects, or any or any combination of the aforementioned materials. “Fine
24 art:” a painting, photograph, sculpture, functional sculpture, hologram, wearable art, drawing,
25 fiber-based work, ceramic-based work, metal work, conceptual-based art, glass-based work, an
26 installation, a work that is created or displayed using computer, digital devices and/or new
27 technology such as but not limited to digital prints,ts, digital photographs, CD Roms, DVDs,
28 cyberart, a web/internet-based art work, a performance-based art work and the results of the
29 performance such as but not limited to film, video, DVDs, CD Roms, a sound work, an
30 electronic-based work, a work of graphic art, including an etching, lithograph, off set print, silk
31 screen/screen print, or work of graphic art of like nature, a work of calligraphy, an artist’s book,
32 or a work in mixed media including collage, assemblage or any combination of the
33 aforementioned art media. “Disaster:” a naturally occurring catastrophic event such as – but not
34 limited to – a hurricane, flood, fire, earthquake, or a man-made or caused event such as but not
35 limited to a fire, explosion, terrorist attack or war-related catastrophe. “Emergency:” a major
36 accident such as but not limit to a car crash, bike, a fall, an animal attack; or any other type of

37 major accident causing the loss of wages or a job; a health care emergency; an unexpected loss
38 of employment, an unexpected loss of housing; an unexpected loss of studio or practice space;
39 unexpected loss of childcare or eldercare; an act of violence perpetrated against a Massachusetts
40 Artist causing them to forgo earning their income; a temporary sickness of a physical or
41 psychological nature; a temporary disability; the theft of a Massachusetts Artist's work,
42 equipment, instrument(s), or materials; the inability of a Massachusetts Artist to afford health
43 insurance; or any other situation that will cause unanticipated financial hardship and threaten
44 their livelihood and artistic practice.

45 **SECTION 2.** (a) There shall be established and set up on the books of the
46 Commonwealth a separate fund to be known as the Massachusetts Artists Disaster and
47 Emergency Aid Fund, hereinafter "the fund," for the purposes of ensuring the safety and vitality
48 of artists residing in the Commonwealth. Any such amounts expended will be dispersed to
49 Massachusetts Artists who have endured an emergency or disaster as defined in Section 1.

50 (b) The fund shall be held in trust by the State Treasurer exclusively for the purposes established
51 herein. The fund shall be administered by the State Treasurer, who will serve as treasurer and
52 custodian of the fund and shall have the custody of its monies and securities.

53 (c) The State Treasurer may invest any monies held for the credit of the fund instruments
54 permitted under Sections 38, 38A, 38C and 49 of Chapter 29 of the General Laws.

55 **Section 3.** (a) As custodian of the fund, the State Treasurer may accept monetary
56 donations to the fund from individuals, museums, organizations, associations, nonprofits,
57 businesses, estates, foundations or other entities.

58 (b) Section 6 (c) of Chapter 353 of the Acts of 2006 is hereby amended by inserting after the
59 phrase “The consignee shall keep on file a record of attempts to contact the consignor,” the
60 following sentence: “The consignee may sell or auction any forfeited artwork in a manner the
61 consignee considers appropriate for the purpose of donating the proceeds of said transaction to
62 the Disaster and Emergency Aid Fund for Massachusetts Artists.”

63 (c) Notwithstanding any general or special law to the contrary, the State Treasurer may auction
64 “creative and individual works” collected and held by the Abandoned Property Division of the
65 Commonwealth to raise revenues for said fund. Any transfer from sale proceeds into the newly
66 created Artist Trust Fund is subject to subsequent AP claim. Such property will be auctioned in
67 conjunction with tangible property not classified as “creative and individual works” possessed by
68 the Abandoned Property Division of the Commonwealth. At the discretion of the State Treasurer,
69 proceeds from auctioned items classified as “creative and individual works” as defined in
70 Section 1 alternately may be deposited in the General Fund of the Commonwealth. The proceeds
71 from auctioned items not classified as “creative and individual works” will be dedicated to the
72 General Fund of the Commonwealth in accordance with Section 9 of Chapter 200a of the
73 General Laws.

74 (d) All monies obtained by the State Treasurer on behalf of the fund for the purposes established
75 herein will be received either through donation or auction, and any amounts obtained and subject
76 to dispersal from said fund will not be the result of Legislative appropriation.

77 **Section 4.** All applicants to receive monies from said fund would be required to meet the
78 definition of “Massachusetts Artist” as defined in Section 1. Any additional criteria regarding
79 qualification for funds and amounts dispersed are to be established by the State Treasurer or his

80 designee. The State Treasurer or his designee may work with nonprofit arts organizations, state
81 offices or agencies, or with State Legislative Committees including – but not limited to – the
82 Joint Committee on Tourism,ism, Arts, and Cultural Development to establish a process and
83 criteria for distributing funds to Massachusetts Artists. The State Treasurer may at his discretion
84 form a three-member commission to provide approval for fund dispersal and to oversee the
85 administrative functions of said fund.