

SENATE No. 1705

The Commonwealth of Massachusetts

PRESENTED BY:

John 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 adoption of the accompanying bill:

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

PETITION OF:

NAME:

DISTRICT/ADDRESS:

John Hart, Jr.

Stanley C. Rosenberg

Hampshire, Franklin and Worcester

SENATE No. 1705

By Mr. Hart, petition (accompanied by bill, Senate, No. 1705) of Rosenberg and Hart for legislation to establish a disaster and emergency aid fund for Massachusetts artists [Joint Committee on Tourism, Arts and Cultural Development].

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE SENATE, NO. 1869 OF 2009-2010.]

The Commonwealth of Massachusetts

In the Year Two Thousand Eleven

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
4 the Commonwealth of Massachusetts. A Massachusetts Artist shall be deemed to be residing in
5 the 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.

8 “Original and Creative Work:” a work that falls into any or all of the following
9 categories: 1) a book or other writing; 2) a play or the performance of said play; 3) a musical
10 composition or the performance of said composition; 4) “traditional and fine crafts”; 5) the

creation of a film or the acting within said film; 6) the creation of a dance or the performance of said dance; 7) a work of “Fine Art” as defined by Chapter 104A, Section 1 of the General Laws.

“Original and creative work” shall not include any piece or performance created or executed for industry-oriented or related production.

“Traditional and fine crafts:” a work that is a handcrafted or handmade functional or non-functional object that is unique or is of a limited production and is not mass-produced in large quantities by a factory. Traditional and fine crafts are further defined as an original work made substantially by hand, wherein the skill and technique of manipulation the material is primary to the artistic process and falls into any one or more of the following categories: jewelry, furniture, glass-based work, carving work, ceramic and clay work, wood based objects, metal based objects, Indigenous and Aboriginal art, folk art, decorative art, functional and non functional leather based work, handcrafted lamps, handmade paper based work, handmade baskets, textile-based and fiber-based work such as but not limited to handmade or handcrafted weavings, clothing, accessories, rugs, quilts, embroidery based work, knit based objects, or any or any combination of the aforementioned materials.

“Fine art:” a painting, photograph, sculpture, functional sculpture, hologram, wearable art, drawing, fiber-based work, ceramic-based work, metal work, conceptual-based art, glass-based work, an installation, a work that is created or displayed using computer, digital devices and/or new technology such as but not limited to digital prints,ts, digital photographs, CD Roms, DVDs, cyberart, a web/internet-based art work, a performance-based art work and the results of the performance such as but not limited to film, video, DVDs, CD Roms, a sound work, an electronic-based work, a work of graphic art, including an etching, lithograph, off set print, silk

screen/screen print, or work of graphic art of like nature, a work of calligraphy, an artist's book, or a work in mixed media including collage, assemblage or any combination of the aforementioned art media.

“Disaster:” a naturally occurring catastrophic event such as – but not limited to – a hurricane, flood, fire, earthquake, or a man-made or caused event such as but not limited to a fire, explosion, terrorist attack or war-related catastrophe.

“Emergency:” a major accident such as but not limit to a car crash, bike, a fall, an animal attack; or any other type of major accident causing the loss of wages or a job; a health care emergency; an unexpected loss of employment, an unexpected loss of housing; an unexpected loss of studio or practice space; unexpected loss of childcare or eldercare; an act of violence perpetrated against a Massachusetts Artist causing them to forgo earning their income; a temporary sickness of a physical or psychological nature; a temporary disability; the theft of a Massachusetts Artist's work, equipment, instrument(s), or materials; the inability of a Massachusetts Artist to afford health insurance; or any other situation that will cause unanticipated financial hardship and threaten their livelihood and artistic practice.

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

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

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

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

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

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

dedicated to the General Fund of the Commonwealth in accordance with Section 9 of Chapter 200a of the General Laws.

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

SECTION 4. All applicants to receive monies from said fund would be required to meet the definition of “Massachusetts Artist” as defined in Section 1. Any additional criteria regarding qualification for funds and amounts dispersed are to be established by the State Treasurer or his designee. The State Treasurer or his designee may work with nonprofit arts organizations, state offices or agencies, or with State Legislative Committees including – but not limited to – the Joint Committee on Tourism, Arts, and Cultural Development to establish a process and criteria for distributing funds to Massachusetts Artists. The State Treasurer may at his discretion form a three-member commission to provide approval for fund dispersal and to oversee the administrative functions of said fund.