

# HOUSE . . . . . No. 3742

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## The Commonwealth of Massachusetts

PRESENTED BY:

*Sarah K. Peake and Daniel A. Wolf*

*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 year-round market rate rental housing trust fund in the town of  
Provincetown.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
<i>Sarah K. Peake</i>	<i>4th Barnstable</i>	<i>8/19/2015</i>
<i>Daniel A. Wolf</i>	<i>Cape and Islands</i>	<i>8/20/2015</i>

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By Representative Peake of Provincetown and Senator Wolf, a joint petition (accompanied by bill, House, No. 3742) of Sarah K. Peake and Daniel A. Wolf (by vote of the town) that the town of Provincetown be authorized to establish a year-round rental housing trust. Municipalities and Regional Government. [Local Approval Received.]

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## The Commonwealth of Massachusetts

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In the One Hundred and Eighty-Ninth General Court  
(2015-2016)  
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An Act establishing a year-round market rate rental housing trust fund in the town of Provincetown.

*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. The general court finds that:

2           (a) There exists within the town of Provincetown a severe shortage of year-round market  
3 rate rental units to serve the needs of the residents of the town. The shortage in year-round  
4 market rate rental units has resulted in significant economic displacement and financial hardship  
5 to the residents of the town and has resulted in the relocation of many residents to other towns on  
6 and off of Cape Cod. The shortage of year-round market rate rental units constitutes an  
7 economic liability, substantially impairs or arrests the sound growth of the town and retards its  
8 economic well-being.

9           (b) The establishment of a municipal trust with a board of trustees and trust fund is  
10 necessary to address this element of the severe housing crisis within the town. The creation of  
11 such a trust will help to eliminate the shortage of year-round market rate rental units and is

necessary to retain existing industries, businesses and residents and to attract new industries, businesses and residents, and to promote the sound economic growth of the town.

(c) The shortage of year-round market rate rental housing is beyond remedy and control solely by the incentive and regulatory programs established by the town and is not being dealt with effectively by operations of private enterprise.

(d) Establishment of a year-round market rate rental housing trust, a board of trustees, and a trust fund is necessary to remedy the severe year-round market rate rental housing crisis in the town. The exercise of powers by the board of trustees and any assistance which may be given by the town, or any other public body in connection therewith, are public uses and purposes for which public money may be expended.

(e) It is the purpose of the trust created by this act to aid the town of Provincetown, in the speedy and orderly development of year-round market rate rental housing for the residents of Provincetown and to thereby stimulate economic development.

SECTION 2. There is hereby created a municipal trust to be known as the Provincetown year-round market rate rental housing trust, in this act called the trust. The trust is established for the purpose of creating and preserving year-round rental units in the town, including but not limited to market rate units, for the benefit of residents of the town.

SECTION 3. (a) The trust shall be managed by a board of trustees consisting of five members, appointed by the board of selectmen as follows:

(1) The board of selectmen shall designate one of its members to serve on the board of trustees;

(2) The board of selectmen shall appoint at least one member of the public at large, preferably a resident that lives in year-round market rate rental housing in the town to serve on the board of trustees; and

(3) The board of selectmen shall consider a broad range of expertise including education and experience in real estate development and financing in appointing the remaining three members for the board of trustees.

(b) Each of the five members shall be sworn to the faithful performance of his or her official duties as a member of the board of trustees. A majority of the five members shall constitute a quorum for the transaction of any business. The board of trustees shall elect from among its members a chairman, vice-chairman, clerk and other officers as it finds necessary and determine their duties.

(c) The original members of the board of trustees shall be appointed within 60 days following the effective date of this act. Of the members of the board of trustees first appointed, one shall be appointed to serve for a term of one year, two for a term of two years and two for a term of three years. The initial appointments may be adjusted to coincide with the regular appointment cycle of the town. All terms thereafter shall be for three years. In the event of a vacancy on the board of trustees, a successor member shall be appointed to complete the unexpired term.

(d) Any member of the board of trustees may be removed by the board of selectmen for cause after reasonable notice and a public hearing by the board of selectmen, unless the notice and hearing are in writing expressly waived by the member subject to removal.

(e) The members of the board of trustees shall not receive compensation for the performance of their duties hereunder, but each member shall be reimbursed by the trust for expenses actually incurred in the performance of his or her duties. Every such reimbursement shall be open to public inspection from and after the requisition thereof.

SECTION 4. (a) There shall be established a trust fund to be known as the year-round market rate rental housing trust fund. Said fund shall be separate and apart from the town of Provincetown general fund.

(b) The town treasurer shall be the custodian of the trust fund.

(c) The trust fund shall receive and hold all gifts and grants made to the trust as well as any moneys appropriated by the town to the trust. The trust fund shall also receive all revenues from the sale or lease of trust property and any rental income generated from properties under the custody of the trust.

(d) Any monies in the trust fund shall be available for expenditure by the trust for the purposes set forth in this act without the need for further appropriation by town meeting.

(e) By a two-thirds vote, the town is authorized to borrow money in aid of the trust, to be used by the trust for any purpose consistent with this act and for which the town is authorized to borrow.

(f) Any funds previously appropriated by the town for the creation of year-round rental housing prior to the effective date of this act, shall, by operation of law, be automatically transferred into the trust fund.

SECTION 5. The trust, by and through its board of trustees, is hereby authorized:

(a) to accept and receive real property, personal property or money, by gift, grant, contribution, devise or transfer from any person, firm, corporation or other public or private entity, or any other source;

(b) to purchase and retain real or personal property, including without restriction investments that yield a high rate of income or no income;

(c) to sell, lease, exchange, transfer or convey any personal, mixed, or real property at public auction or by private contract for such consideration and on such terms as to credit or otherwise, and to make such contracts and enter into such undertaking relative to trust property as the board deems advisable notwithstanding the length of any such lease or contract;

(d) to execute, acknowledge and deliver deeds, assignments, transfers, pledges, leases, covenants, contracts, promissory notes, releases and other instruments sealed or unsealed, necessary, proper or incident to any transaction in which the board engages for the accomplishment of the purposes of the trust;

(e) to employ advisors and agents, such as accountants, appraisers and lawyers as the board deems necessary;

(f) to pay reasonable compensation and expenses to all advisors and agents and to apportion such compensation between income and principal as the board deems advisable;

(g) to apportion receipts and charges between incomes and principal as the board deems advisable, to amortize premiums and establish sinking funds for such purpose, and to create reserves for depreciation depletion or otherwise;

(h) to participate in any reorganization, recapitalization, merger or similar transactions; and to give proxies or powers of attorney with or without power of substitution to vote any securities or certificates of interest; and to consent to any contract, lease, mortgage, purchase or sale of property, by or between any corporation and any other corporation or person;

(i) to deposit any security with any protective reorganization committee, and to delegate to such committee such powers and authority with relation thereto as the board may deem proper and to pay, out of trust property, such portion of expenses and compensation of such committee as the board may deem necessary and appropriate;

(j) to carry property for accounting purposes other than acquisition date values;

(k) to borrow money on such terms and conditions and from such sources as the board deems advisable, to mortgage and pledge trust assets as collateral;

(l) to make distributions or divisions of principal in kind;

(m) to comprise, attribute, defend, enforce, release, settle or otherwise adjust claims in favor or against the trust, including claims for taxes, and to accept any property, either in total or partial satisfaction of any indebtedness or other obligation, and subject to the provisions of this act, to continue to hold the same for such period of time as the board may deem appropriate;

(n) to manage or improve real property; and to abandon any property which the board determined not to be worth retaining;

(o) to hold all or part of the trust property uninvested for such purposes and for such time as the board may deem appropriate; and

(p) to extend the time for payment of any obligation to the trust.

(q) General revenues appropriated into the trust become trust property and to be expended these funds need not be further appropriated. All moneys remaining in the trust at the end of any fiscal year, whether or not expended by the board within 1 year of the date they were appropriated into the trust, remain trust property.

(r) The trust is a public employer and the members of the board are public employees for purposes of chapter 258.

(s) The trust shall be deemed a municipal agency and the trustees special municipal employees, for purposes of chapter 268A.

(t) The trust is exempt from chapters 59 and 62, and from any other provisions concerning payment of taxes based upon or measured by property or income imposed by the commonwealth or any political subdivision thereof.

(u) The books and records of the trust shall be audited annually by an independent auditor in accordance with accepted accounting practices.

(v) The trust is a governmental body for purposes of sections 18 through 26 of chapter 30A of the General Laws.

(w) The trust is a board of the city or town for purposes of chapter 30B and section 15A of chapter 40; but agreements and conveyances between the trust and agencies, boards, commissions, authorities, departments and public instrumentalities of the city or town shall be exempt from said chapter 30B.

(x) Procure insurance against any loss in connection with its properties and other assets and operations in such amount and from such insurers as it deems desirable; and

(y) Do all acts and things necessary or convenient to carry out the powers expressly granted in this act.

(z) The board of trustees shall be considered a town board subject to the charter and bylaws of the town except as may be otherwise expressly provided herein. The members of the board of trustees shall be considered municipal employees for all purposes of the General Laws.

SECTION 6. No year-round market rate rental housing project shall be undertaken until a public hearing relating to the project has been held by the board of trustees after due notice. Further, after due notice, the board of trustees shall hold at least one public hearing annually to receive comments about its management and operations. Due notice of public hearings shall be given by the trust to the general public through a legal notice in two newspapers having a general circulation in the town published no later than two weeks prior to the hearing date.

SECTION 7. The financial records of the trust shall be subject to control and oversight by the town's finance department and subject to yearly audits by the accounting firm employed by the town for the purposes of the regular town audit.

SECTION 8. Year-round market rate rental units shall be rented giving the maximum preference allowed by law to: (1) current residents of the town of Provincetown; (2) municipal employees; (3) employees of local businesses; and (4) households with children attending Provincetown schools. If there are more eligible applicants than available year-round market rate rental units, the trust shall utilize a lottery system to select tenants. The trust may enact regulations establishing additional preference criteria based on income eligibility.

158           SECTION 9. This act, being necessary for the welfare of the commonwealth and the  
159 town of Provincetown and its inhabitants, shall be liberally construed to effect the purpose  
160 thereof.

161           SECTION 10. This act shall take effect upon passage.