

HOUSE No. 5301

The Commonwealth of Massachusetts

PRESENTED BY:

Sarah K. Peake

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 housing trust fund in the town of Eastham.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
<i>Sarah K. Peake</i>	<i>4th Barnstable</i>	<i>9/12/2022</i>
<i>Julian Cyr</i>	<i>Cape and Islands</i>	<i>9/19/2022</i>

HOUSE No. 5301

By Ms. Peake of Provincetown, a petition (accompanied by bill, House, No. 5301) of Sarah K. Peake and Julian Cyr (by vote of the town) for legislation to establish a housing trust fund in the town of Eastham. Municipalities and Regional Government. [Local Approval Received.]

The Commonwealth of Massachusetts

In the One Hundred and Ninety-Second General Court
(2021-2022)

An Act establishing a housing trust fund in the town of Eastham.

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: There shall be a municipal trust to be known as the Eastham Housing Trust.
2 The purpose of this trust is to provide for the creation and preservation of both affordable and
3 attainable housing in Eastham for the benefit of year-round residents of the town. For the
4 purposes of this act, “affordable housing” is defined as housing that meets the needs of
5 households with incomes less than or equal to 100 per cent area median income as most recently
6 determined by the United States Department of Housing and Urban Development, adjusted for
7 household size. For the purposes of this act, “attainable housing” is defined as housing that meets
8 the needs of households with incomes less than or equal to 200 per cent of the area median
9 household income, as most recently determined by the United States Department of Housing and
10 Urban Development, adjusted for household size.

11 SECTION 2: (a) The trust shall be managed by a five (5) member Board of Trustees to be
12 appointed by the Board of Selectmen for staggered terms not to exceed two (2) years, of whom at

least one member shall be a Board of Selectmen member. Trustees shall have the full range of powers and duties specified in G.L. c44 §55 C, including the following:

i. to accept and receive property, whether real or personal, by gift, grant, devise, or transfer from any person, firm, corporation or other public or private entity, including without limitation grants of funds or other property tendered to the trust in connection with provisions of any zoning ordinance or by-law or any other ordinance or by-law;

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

iii. 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 of Trustees deems advisable notwithstanding the length of any such lease or contract;

iv. 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 of Trustees engages for the accomplishment of the purposes of the trust;

v. to employ advisors and agents, such as accountants, appraisers and lawyers as the Board of Trustees deems necessary;

vi. to pay reasonable compensation and expenses to all advisors and agents and to apportion such compensation between income and principal as the Board of Trustees deems advisable;

vii. 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;

viii. 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;

ix. 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 of Trustees 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;

x. to carry property for accounting purposes other than acquisition date values;

xi. to borrow money on such terms and conditions and from such sources as the Board of Trustees deems advisable, to mortgage and pledge trust assets as collateral;

xii. to make distributions or divisions of principal in kind;

xiii. to compromise, 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;

xiv. to manage or improve real property; and to abandon any property which the Board of Trustees determined not to be worth retaining;

xv. to hold all or part of the trust property uninvested for such purposes and for such time as the Board of Trustees may deem appropriate; and

xvi. to extend the time for payment of any obligation to the trust.

xvii. The books and records of the trust may be audited in any fiscal year, in accordance with generally accepted accounting practices, as deemed appropriate by the Board of Selectmen.

xviii. The trust shall report to the Board of Selectmen at least once per fiscal year. Said report shall include but is not limited to, financial transaction, property acquisitions and policy decision.

xix. Any powers and duties vested in municipal affordable housing trust boards of trustees by section 55C of chapter 44 of the General Laws, as amended from time to time.

(b) Further, the trust:

i. is a public employer, and the members of the board are municipal employees for the purposes of G.L. c258.

ii. shall be deemed a municipal agency and the trustees shall be deemed as special municipal employees, for the purposes of G.L. c268A.

73 iii. is exempt from G.L. c59 and c62, and from any other General Law concerning
74 payment of taxes based upon or measured by property or income imposed by the commonwealth
75 or a political subdivision of the Commonwealth.

76 iv. is a public body for the purposes of G.L. c30A §18 to 25.

77 v. is a board of the town for the purposes of G.L. c30B and c40 §15A; provided,
78 however, that agreements and conveyances between the trust and agencies, boards, commissions,
79 authorities, departments, and public instrumentalities of the town shall be exempt from said
80 chapter 30B.

81 vi. shall be considered a town board subject to the charter and by-laws of the town
82 except as may be otherwise expressly provided in this act.

83 SECTION 3:

84 (a) There shall be established a trust fund to be known as the Housing Trust Fund. The
85 fund shall be separate and apart from the General Fund and the Affordable Housing Trust Fund
86 of the town of Eastham.

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

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

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

(e) By a 2/3 vote, the town may borrow money in aid of the trust, in accordance with G.L. c44, to be used by the trust for any capital related purpose consistent with this act and for which the town is authorized to borrow.

(f) Funds appropriated or dedicated by the town to the Affordable Housing Trust Fund for the creation of affordable housing prior to the effective date of this act shall remain in in the Affordable Housing Trust Fund, which shall be maintained by the Town as a separate account. The Housing Trust Fund is hereby authorized to expend funds in the Affordable Housing Trust Fund for affordable housing purposes authorized by G.L. c44 §55 C.

SECTION 4: 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 5:

(a) Attainable housing units created by the trust or financed in whole, or in part, with trust funds shall, to the maximum extent allowed by law, be offered to:

(I) current year-round residents of the Town of Eastham;

(II) municipal employees;

(III) employees of local businesses; and

(IV) households with children attending schools in the town of Eastham who comply with the attainable housing income eligibility limit of less than or equal to 200 per cent of the area median household income as most recently determined by the United State Department of Housing and Urban Development, adjusted for household size. The trust may enact regulations establishing additional preference criteria based on income eligibility and/or alternative or additional definitions for "attainable housing".

(b) Affordable housing units created by the trust or financed in whole, or in part, with Affordable Housing Trust funds shall, to the maximum extent allowed by law, be offered to:

(I) current year-round residents of the Town of Eastham;

(II) municipal employees;

(III) employees of local businesses; and

(IV) households with children attending schools in the town of Eastham who comply with the affordable housing income eligibility limit of 100 per cent of the area median household income as most recently determined by the United State Department of Housing and Urban Development, adjusted for household size. The trust may enact regulations establishing additional preference criteria based on income eligibility and/or alternative or additional definitions for "affordable housing."

SECTION 6: Upon the effective date of this Act, the Eastham Affordable Housing Trust, which was created pursuant to section 55C of chapter 44 of the General Laws, shall cease to exist, and all powers and duties of said trust transferred to the Eastham Housing Trust created by this Act. The members of the Eastham Affordable Housing Trust in office on the effective date

133 of this Act shall, by operation of law, become the members of the Eastham Housing Trust and
134 shall continue to serve in such capacity until the expiration of their then current respective terms
135 on the Affordable Housing Trust.