HOUSE DOCKET, NO. 1530 FILED ON: 1/18/2023

HOUSE . . . . . No. 1366

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 Chatham.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
Sarah K. Peake	*4th Barnstable*	*1/18/2023*
Julian Cyr	*Cape and Islands*	*6/20/2023*

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HOUSE . . . . . No. 1366

By Representative Peake of Provincetown, a petition (accompanied by bill, House, No. 1366) of Sarah K. Peake (by vote of the town) that the town of Chatham be authorized to establish a housing trust fund in said town. Housing. [Local Approval Received.]

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE HOUSE, NO. *4059* OF 2021-2022.]

The Commonwealth of Massachusetts

In the One Hundred and Ninety-Third General Court
(2023-2024)

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

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

SECTION 1. There shall be a municipal trust to be known as the Chatham Housing Trust. The purpose of the trust is to provide for the creation and preservation of both affordable and attainable housing in Chatham for the benefit of year-round residents of the town. For purposes of this act, “affordable housing” is defined as housing developments that meet the needs of households with incomes up to 100 per cent area median household income as most recently determined by the United States Department of Housing and Urban Development, adjusted for household size and “attainable housing” is defined as housing developments that meet the needs of households with incomes up 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.

SECTION 2. (a) The trust shall be managed by a 7-member board of trustees appointed by the select board which board of trustees, upon appointment, shall take the place of, and assume the statutory powers and duties of, the Chatham Affordable Housing Trust board of trustees created and appointed pursuant to the provisions of Section 55C of Chapter 44 of the General Laws. In selecting members of the board of trustees, the select board shall:

(i) designate 2 of its members to serve on the board of trustees;

(ii) appoint 1 member of the Chatham Community Housing Partnership to serve on the board of trustees; and

(iii) appoint the remaining 4 members to the board of trustees from the community at large, considering a broad range of expertise, including education and experience in real estate development and financing.

(b) Members of the board of trustees shall be sworn to the faithful performance of their official duties. A majority of the 7 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 such other officers as it shall deem necessary, and shall determine their respective duties.

(c) The original members of the board of trustees shall be appointed within 60 days following the effective date of this act. The term of each appointment shall be established by the select board or pursuant to a bylaw adopted hereunder. 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 select board for cause after reasonable notice and a public hearing by the select board unless such notice and hearing are expressly waived in writing by the member subject to removal.

(e) The members of the board of trustees shall not receive compensation for the performance of their duties, but each member shall be reimbursed by the trust for expenses incurred in the performance of the member's duties.

SECTION 3. (a) There shall be established a trust fund to be known as the Housing Trust Fund. The fund shall be separate and apart from the General Fund and the Affordable Housing Trust Fund of the town of Chatham.

(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 fund as well as money 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 in the 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 chapter 44, 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 and expended for affordable housing purposes authorized by section 55C of chapter 44 of the General Laws.

SECTION 4. (a) The trust, by and through its board of trustees, may:

(i) 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, including but not limited to money, grants of funds or other property tendered to the trust in connection with any ordinance or by-law or any general or special law or any other source, including money from chapter 44B; provided, however, that any such money received from chapter 44B shall be used exclusively for community housing, as defined in said chapter 44B or any special law relating thereto, and shall remain subject to all the rules, regulations and limitations of that chapter when expended by the trust, and such funds shall be accounted for separately by the trust; and provided further, that at the end of each fiscal year, the trust shall ensure that all expenditures of funds received from said chapter 44B are reported to the community preservation committee of the town for inclusion in the community preservation initiatives report, form CP–3, to the department of revenue;

(ii) purchase and retain real or personal property, including, but not limited to, investments that yield a high rate of income or no income;

(iii) sell, lease, exchange, transfer or convey personal, mixed or real property at public auction or by private contract for such consideration and on such terms, and to make such

contracts and enter into such undertakings relative to trust property as the board deems advisable notwithstanding the length of any such lease or contract;

(iv) 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 a transaction in which the board engages for the accomplishment of the purposes of the trust;

(v) employ advisors and agents, such as accountants, appraisers, design and housing development professionals, and lawyers, as the board deems necessary;

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

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

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

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

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

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

(xii) make distributions or divisions of principal in kind;

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

(xiv) manage or improve real property and abandon any property which the board determines is not worth retaining;

(xv) hold all or part of the trust property uninvested for

such purposes and for such time as the board may deem

appropriate; and

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

(b) Notwithstanding any general or special law to the contrary, all moneys paid to the trust in accordance with any zoning by-law, exaction fee, or private contributions shall be paid directly into the trust and need not be appropriated or accepted and approved into the trust. General revenues appropriated into the trust become trust property and may be expended without further appropriation. All money remaining in the trust at the end of a fiscal year, whether or not

expended by the board within 1 year of the date the money was appropriated into the trust, shall remain trust property.

(c) The trust is a public employer, and the members of the board are municipal employees for the purposes of chapter 258 of the General Laws.

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

(e) The trust is exempt from chapters 59 and 62 of the General Laws, and from any other General Law concerning payment of taxes based upon or measured by property or income imposed by the commonwealth or a political subdivision of the Commonwealth.

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

(g) The trust is a public body for the purposes of sections 18 to 25, inclusive, of chapter 30A of the General Laws.

(h) The trust is a board of the town for the purposes of chapters 30B and section 15A of chapter 40 of the General Laws; provided, however, that agreements and conveyances between the trust and agencies, boards, commissions, authorities, departments, and public instrumentalities of the town shall be exempt from said chapter 30B.

(i) The trust may procure insurance against loss in connection with its properties and other assets and operations in such amount and from such insurers as it deems desirable.

(j) The trust may act and do things necessary or convenient to carry out the powers expressly granted in this act or in any by-law consistent with this act enacted by the town.

(k) The board of trustees shall be considered a town board subject to the charter and by-laws of the town except as may be otherwise expressly provided in this act.

(l) The board of trustees may, further, exercise all of the 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.

SECTION 5. 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 6. 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 Chatham;

(ii) municipal employees;

(iii) employees of local businesses; and

(iv) households with children attending schools in the town of Chatham who comply with the attainable housing income eligibility limit of 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".

SECTION 6A. 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 Chatham;

(ii) municipal employees;

(iii) employees of local businesses; and

(iv) households with children attending schools in the town of Chatham 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 7. This act, being necessary for the welfare of the Commonwealth and the Town of Chatham and its inhabitants, shall be liberally construed to effect its purpose.

SECTION 8. This act shall take effect upon its passage.