SENATE DOCKET, NO. 1255 FILED ON: 1/19/2023

SENATE . . . . . No. 530

The Commonwealth of Massachusetts

PRESENTED BY:

Liz Miranda

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 to preserve space for the creative economy.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	
Liz Miranda	*Second Suffolk*	
Vanna Howard	*17th Middlesex*	*2/21/2023*
Jacob R. Oliveira	*Hampden, Hampshire and Worcester*	*2/21/2023*
Rebecca L. Rausch	*Norfolk, Worcester and Middlesex*	*7/11/2023*
Patrick M. O'Connor	*First Plymouth and Norfolk*	*10/12/2023*

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SENATE . . . . . No. 530

By Ms. Miranda, a petition (accompanied by bill, Senate, No. 530) of Liz Miranda, Vanna Howard and Jacob R. Oliveira for legislation to preserve space for the creative economy. Environment and Natural Resources.

The Commonwealth of Massachusetts

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

An Act to preserve space for the creative economy.

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

An act to preserve space for the creative economy

SECTION 1. Section 31 of Chapter 184 of the General Laws is hereby amended by adding at the end thereof the following:

"A Creative space restriction means a right, either in perpetuity or for a specified number of years, whether or not stated in the form of a restriction, easement, covenant or condition in any deed, mortgage, will, agreement, or other instrument executed by or on behalf of the owner of the land appropriate to a) limiting the use of all or part of land or structure to occupancy by persons for the creation, practice, presentation, exhibition of art, creative expression or culture or to occupancy by persons or families for live/work artist studio housing. Such restriction may include provisions to restrict the resale price of all or part of the property in order to assure its affordability by future low or moderate income artists, creative workers, culture bearers, and artisans of fine, applied, traditional or popular arts."

SECTION 2. Chapter 44 is hereby amended by adding the following new Section:-

Section 1.

Definitions

"Creative space" - space where the primary use is the creation and practice of art, culture and creative expression and the primary users are artists, creative workers or artisans in the fine, applied or popular arts, where "creation" encompasses all activities required to generate artistic products including but not limited to sketching, design, prototyping, writing, rehearsing, composing, recording, etc., and "practice" encompasses all activities related to developing, expanding, and maintaining skills and competencies that enable the creation of arts, culture and creative expression.

"Presentation space" - space where the primary use is showcasing, presentation and exhibition of art, culture and creative expression by artists, creative workers, and artisans in the fine, applied or popular arts, and community members.

Section 2.

Municipal Creative Space Preservation Trust Fund

Section XX. (a) Notwithstanding section XX or any other general or special law to the contrary, a city or town that accepts this section may establish a trust to be known as the Municipal Creative Space Trust Fund, in this section called the trust. The purpose of the trust is to provide for the creation and preservation of creative space and presentation space in municipalities.

(b) There shall be a board of trustees, in this section called the board, which shall include no less than 5 trustees, including the chief executive officer, as defined by section 7 of chapter 4, of the city or town, but where the chief executive officer is a multi-member body, that body shall designate a minimum of 1 of its members to serve on the board; provided, that, if said city or town has formed a Local or Regional Cultural Council, as defined in Section 58 of Chapter 10 of the general laws, said chief executive officer shall appoint to the board a minimum of 1 member from said cultural council; provided further, that, if said city or town has a municipal board, committee or commission dedicated to local arts and culture, said chief executive officer shall appoint to the board a minimum of 1 member from said body.. Trustees shall be appointed in a city by the mayor or by the city manager in a Plan D or Plan E municipality, subject in either case, to confirmation by the city council, and in a town by the board of selectmen, shall serve for a term not to exceed 2 years, and are designated as public agents for purposes of the constitution of the commonwealth. Nothing in this subsection shall prevent a board of selectmen from appointing the town manager or town administrator as a member or chair of the board, with or without the power to vote.

(c) The powers of the board, all of which shall be carried on in furtherance of the purposes set forth in this act, shall include the following powers, but a city or town may, by ordinance or by-law, omit or modify any of these powers and may grant to the board additional powers consistent with this section:—

(1) 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, 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;

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

(3) 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;

(4) to execute, acknowledge and deliver deeds, assignments, transfers, pledges, leases, covenants, contracts, promissory notes, releases, grant agreements 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;

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

(6) 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;

(7) 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;

(8) 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;

(9) 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;

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

(11) 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;

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

(13) 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;

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

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

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

(d) Notwithstanding any general or special law to the contrary, all moneys paid to the trust in accordance with any zoning ordinance or 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 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.

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

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

(g) 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.

(h) The books and records of the trust shall be audited annually by an independent auditor in accordance with accepted accounting practices. Said independent auditor shall submit an annual report to the Massachusetts cultural council.

(i) The trust is a governmental body for purposes of sections 23A, 23B and 23C of chapter 39.

(j) 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.