

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

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:

1 An act to preserve space for the creative economy

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

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

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

14 Section 1.

15 Definitions

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

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

26 Section 2.

27 Municipal Creative Space Preservation Trust Fund

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

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

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

52 (1) to accept and receive real property, personal property or money, by gift, grant,
53 contribution, devise or transfer from any person, firm, corporation or other public or private
54 entity, including but not limited to money, grants of funds or other property tendered to the trust
55 in connection with any ordinance or by-law or any general or special law or any other source;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

94 (d) Notwithstanding any general or special law to the contrary, all moneys paid to the
95 trust in accordance with any zoning ordinance or by-law, exaction fee, or private contributions
96 shall be paid directly into the trust and need not be appropriated or accepted and approved into
97 the trust. General revenues appropriated into the trust become trust property and to be expended

98 these funds need not be further appropriated. All moneys remaining in the trust at the end of any
99 fiscal year, whether or not expended by the board within 1 year of the date they were
100 appropriated into the trust, remain trust property.

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

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

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

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

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

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