

**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 in the town of Provincetown.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
<i>Sarah K. Peake</i>	<i>4th Barnstable</i>
<i>Daniel A. Wolf</i>	<i>Cape and Islands</i>

**HOUSE . . . . . No. 3742**

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.]

The Commonwealth of Massachusetts

In the One Hundred and Eighty-Ninth General Court  
(2015-2016)

An Act establishing a year-round market rate rental housing trust 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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

130 (v) The trust is a governmental body for purposes of sections 18 through 26 of chapter  
131 30A of the General Laws.

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

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



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

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

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

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

152 SECTION 8. Year-round market rate rental units shall be rented giving the maximum  
153 preference allowed by law to: (1) current residents of the town of Provincetown; (2) municipal  
154 employees; (3) employees of local businesses; and (4) households with children attending  
155 Provincetown schools. If there are more eligible applicants than available year-round market  
156 rate rental units, the trust shall utilize a lottery system to select tenants. The trust may enact  
157 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.