

Chapter 305  
of the Acts of 2016

THE COMMONWEALTH OF MASSACHUSETTS

*In the One Hundred and Eighty-Ninth General Court*

AN ACT ESTABLISHING A YEAR-ROUND MARKET RATE RENTAL HOUSING TRUST FUND 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:*

SECTION 1. There shall be a municipal trust to be known as the Provincetown Year-round Market Rate Rental Housing Trust. The trust is established to create and preserve year-round rental units in the town of Provincetown including, but not limited to, market rate units, for the benefit of residents of the town.

SECTION 2. (a) The trust shall be managed by a 5 member board of trustees. In selecting members of the board of trustees, the board of selectmen shall:

(i) designate 1 of its members to serve on the board of trustees;

(ii) appoint at least 1 member of the public at large, preferably a resident who lives in year-round market rate rental housing in the town, to serve on the board of trustees; and

(iii) consider a broad range of expertise, including education and experience in real estate development and financing, in appointing the remaining 3 members to the board of trustees.

(b) Members of the board of trustees shall be sworn to the faithful performance of their official duties. A majority of the 5 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 other officers as it finds necessary and determine their duties.

(c) The original members of the board of trustees shall be appointed within 60 days following the effective date of this act. Of the members of the board of trustees first appointed, 1 member shall be appointed to serve for a term of 1 year, 2 members for a term of 2 years and 2 members for a term of 3 years. The initial appointments may be adjusted to coincide with the regular appointment cycle of the town. All terms thereafter shall be for 3 years. 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 board of selectmen for cause after reasonable notice and a public hearing by the board of selectmen, unless the 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. Documentation related to such reimbursement shall be open to public inspection from and after the requisition thereof.

SECTION 3. (a) There shall be a trust fund to be known as the Year-round Market Rate Rental Housing Trust Fund. The fund shall be separate and apart from the General Fund of the town of Provincetown.

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

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 or any other source;

(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 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;

(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 and lawyers, as the board deems necessary;

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

(vii) apportion receipts and charges between incomes 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) 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 public 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.

(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. The members of the board of trustees shall be considered municipal employees for the purposes of the General Laws.

SECTION 5. A year-round market rate rental housing project shall not be undertaken by the trust until a public hearing relating to the project has been held by the board of trustees after due notice. Further, after due notice, the board of trustees shall hold at least 1 public hearing annually to receive comments about its management and operations. Due notice of public hearings shall be given by the trust to the general public through a legal notice in 2 newspapers having a general circulation in the town published not later than 2 weeks prior to the hearing date.

SECTION 6. 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 7. Year-round market rate rental units shall be rented giving the maximum preference allowed by law to: (i) current residents of the town of Provincetown; (ii) municipal employees; (iii) employees of local businesses; and (iv) households with children attending schools in the town of Provincetown. If there are more eligible applicants than available year-round market rate rental units, the trust shall utilize a lottery system to select tenants. The trust may enact regulations establishing additional preference criteria based on income eligibility. For the purposes of this act, the term "market rate" shall mean rental housing that is not restricted to occupancy by low or moderate income households, as those terms are defined in section 38D

of chapter 121B of the General Laws; provided, however, that market rate housing may be available for occupancy by households without regard to income and may also include housing subject to maximum income limits to be occupied by households with gross income greater than 80 per cent but not more than 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 alternative or additional definitions for "market rate".

SECTION 8. This act, being necessary for the welfare of the commonwealth and the town of Provincetown and its inhabitants, shall be liberally construed to effect its purpose.

SECTION 9. This act shall take effect upon its passage.

House of Representatives, October 24, 2016.

Passed to be enacted,

*Paul Donato* Speaker.

In Senate, October 24, 2016.

Passed to be enacted,

*Joseph P. ...* President

November 3, 2016.

Approved,

at 3 o'clock and 05 minutes, P. M.

*Charles D. Baker*

Governor.