

HOUSE No. 3407

By Mr. Keenan of Salem, petition of John D. Keenan and others for legislation to establish local tourism trust funds. Tourism, Arts and Cultural Development.

The Commonwealth of Massachusetts

PETITION OF:

John D. Keenan	John P. Fresolo
Pamela P. Resor	Christine E. Canavan
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Anthony J. Verga	

In the Year Two Thousand and Seven.

AN ACT ESTABLISHING LOCAL TOURISM TRUST FUNDS.

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. Chapter 44 of the General Laws is hereby amended
- 2 by inserting after section 55C the following section:—
- 3 Section 55D. (a) Notwithstanding Section 53 or any other general
- 4 or special law to the contrary, a city or town that accepts this section
- 5 may establish a trust to be known as the Local Tourism Trust Fund,
- 6 in this section called the trust. The purpose of the trust is to provide
- 7 for programs and projects that enhances the beautification, recre-
- 8 ational resources, promotional and marketing activities, events, serv-
- 9 ices, and public improvements which are of clear mutual interest to
- 10 the residents and visitors of said municipality, and which strengthen
- 11 said municipality as an attractive center for tourism and related pur-
- 12 poses of the visitor industry. For the purposes of this section, accep-
- 13 tance shall be in a town by vote of an annual town meeting, and in
- 14 any other municipality in accordance with Section 4 of Chapter 4.
- 15 (b) There shall be a board of trustees, in this section called the
- 16 board, which shall include no less than 5 trustees, including the chief
- 17 executive officer, as defined by Section 7 of Chapter 4, of the city or
- 18 town. Trustees shall be appointed in a city by the mayor or by the
- 19 city manager in a Plan D or Plan E municipality, subject in either

20 case, to confirmation by the city council, and in a town by the board
21 of selectmen, shall serve for a term not to exceed 2 years, and are
22 designated as public agents for purposes of the constitution of the
23 Commonwealth.

24 (c) The powers of the board, all of which shall be carried on in
25 furtherance of the purposes set forth in this act, may include, but not
26 be limited to, the following:—

27 (1) to accept and receive property, whether real or personal, by
28 gift, grant, devise, or transfer from any person, firm, corporation or
29 other public or private entity, including without limitation grants of
30 funds or other property tendered to the trust in connection with pro-
31 visions of any zoning ordinance or by-law or any other ordinance or
32 by-law;

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

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

42 (4) to execute, acknowledge and deliver deeds, assignments,
43 transfers, pledges, leases, covenants, contracts, promissory notes,
44 releases and other instruments sealed or unsealed, necessary, proper
45 or incident to any transaction in which the board engages for the
46 accomplishment of the purposes of the trust;

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

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

52 (7) to apportion receipts and charges between incomes and prin-
53 cipal as the board deems advisable, to amortize premiums and estab-
54 lish sinking funds for such purpose, and to create reserves for
55 depreciation depletion or otherwise;

56 (8) to participate in any reorganization, recapitalization, merger or
57 similar transactions; and to give proxies or powers of attorney with
58 or without power of substitution to vote any securities or certificates

59 of interest; and to consent to any contract, lease, mortgage, purchase
60 or sale of property, by or between any corporation and any other cor-
61 poration or person;

62 (9) to deposit any security with any protective reorganization
63 committee, and to delegate to such committee such powers and
64 authority with relation thereto as the board may deem proper and to
65 pay, out of trust property, such portion of expenses and compensa-
66 tion of such committee as the board may deem necessary and appro-
67 priate;

68 (10) to carry property for accounting purposes other than acquisi-
69 tion date values;

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

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

74 (13) to comprise, attribute, defend, enforce, release, settle or oth-
75 erwise adjust claims in favor or against the trust, including claims
76 for taxes, and to accept any property, either in total or partial satis-
77 faction of any indebtedness or other obligation, and subject to the
78 provisions of this act, to continue to hold the same for such period of
79 time as the board may deem appropriate;

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

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

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

85 (d) Notwithstanding any general or special law to the contrary, all
86 moneys paid to the trust in accordance with any zoning ordinance or
87 by-law, exaction fee, or private contributions shall be paid directly
88 into the trust and need not be appropriated or accepted and approved
89 into the trust. General revenues appropriated into the trust become
90 trust property and to be expended these funds need not be further
91 appropriated. All moneys remaining in the trust at the end of any
92 fiscal year, whether or not expended by the board within 1 year of
93 the date they were appropriated into the trust, remain trust property.

94 (e) The trust is a public employer and the members of the board
95 are public employees for purposes of Chapter 268A.

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

98 (g) The trust is exempt from Chapters 59 and 62, and from any
99 other provisions concerning payment of taxes based upon or mea-
100 sured by property or income imposed by the Commonwealth or any
101 political subdivision thereof.

102 (h) The books and records of the trust shall be audited annually by
103 an independent auditor in accordance with accepted accounting prac-
104 tices.

105 (i) The trust is a governmental body for purposes of Sections 23A,
106 23B and 23C of Chapter 39.

107 (j) The trust is a board of the city or town for purposes of Chapter
108 30B and Section 15A of Chapter 40; but agreements and con-
109 veyances between the trust and agencies, boards, commissions,
110 authorities, departments and public instrumentalities of the city or
111 town shall be exempt from said Chapter 30B.

1 SECTION 2. Section 5 of Chapter 44B of the General Laws is
2 hereby amended by adding the following paragraph:—

3 A city or town may appropriate money in any year from the Com-
4 munity Preservation Fund to a local tourism trust fund.

1 SECTION 3. This act shall take effect immediately.