

HOUSE No. 3421

By Mr. Turkington of Falmouth, petition of Eric Turkington and others relative to establishing a disaster and emergency aid fund for Massachusetts artists. Tourism, Arts and Cultural Development.

The Commonwealth of Massachusetts

PETITION OF:

Eric Turkington
Denis E. Guyer
Sarah K. Peake
Peter V. Kocot

Todd M. Smola
Christine E. Canavan
John A. Hart, Jr.

In the Year Two Thousand and Seven.

AN ACT ESTABLISHING A DISASTER AND EMERGENCY AID FUND FOR MASSACHUSETTS ARTISTS.

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. As used in this section, the following words shall,
2 unless the context otherwise requires, have the following mean-
3 ings:—
4 “Massachusetts Artist” a person who makes “original and creative
5 work” and resides in the Commonwealth of Massachusetts. A
6 Massachusetts Artist shall be deemed to be residing in the Common-
7 wealth of Massachusetts if (a) domiciled in the state, or (b) main-
8 taining a permanent place of abode in state and in the state for an
9 aggregate of more than one-hundred-eighty-three days of the taxable
10 year.
11 “Original and Creative Work” a work that falls into any or all of
12 the following categories:—
13 1) a book or other writing; 2
14 2) a play or the performance of said play;
15 3) a musical composition or the performance of said composition;
16 4) “traditional and fine crafts”;
17 5) the creation of a film or the acting within said film;
18 6) the creation of a dance or the performance of said dance;

19 7) a work of “Fine Art” as defined by Chapter 104A, Section 1 of
20 the General Laws. “Original and creative work” shall not include
21 any piece or performance created or executed for industry-oriented
22 or related production.

23 “Traditional and fine crafts” a work that is a handcrafted or hand-
24 made functional or non-functional object that is unique or is of a
25 limited production and is not mass-produced in large quantities by a
26 factory. Traditional and fine crafts are further defined as an original
27 work made substantially by hand, wherein the skill and technique of
28 manipulation the material is primary to the artistic process and falls
29 into any one or more of the following categories:— jewelry, furni-
30 ture, glass-based work, carving work, ceramic and clay work, wood
31 based objects, metal based objects, Indigenous and Aboriginal art,
32 folk art, decorative art, functional and non functional leather based
33 work, handcrafted lamps, handmade paper based work, handmade
34 baskets, textile-based and fiber-based work such as but not limited to
35 handmade or handcrafted weavings, clothing, accessories, rugs,
36 quilts, embroidery based work, knit based objects, or any or any
37 combination of the aforementioned materials.

38 “Fine art” a painting, photograph, sculpture, functional sculpture,
39 hologram, wearable art, drawing, fiber-based work, ceramic-based
40 work, metal work, conceptual-based art, glass-based work, an instal-
41 lation, a work that is created or displayed using computer, digital
42 devices and/or new technology such as but not limited to digital
43 prints, digital photographs, CD Roms, DVDs, cyberart, a
44 web/internet-based art work, a performance-based art work and the
45 results of the performance such as but not limited to film, video,
46 DVDs, CD Roms, a sound work, an electronic-based work, a work
47 of graphic art, including an etching, lithograph, off set print, silk
48 screen/screen print, or work of graphic art of like nature, a work of
49 calligraphy, an artist’s book, or a work in mixed media including
50 collage, assemblage or any combination of the aforementioned art
51 media.

52 “Disaster” a naturally occurring catastrophic event such as:— but
53 not limited to:— a hurricane, flood, fire, earthquake, or a man-made
54 or caused event such as but not limited to a fire, explosion, terrorist
55 attack or war-related catastrophe.

56 “Emergency” a major accident such as but not limit to a car crash,
57 bike, a fall, an animal attack; or any other type of major accident

58 causing the loss of wages or a job; a health care emergency; an
59 unexpected loss of employment, an unexpected loss of housing; an
60 unexpected loss of studio or practice space; unexpected loss of child-
61 care or eldercare; an act of violence perpetrated against a Massachu-
62 setts Artist causing them to forgo earning their income; a temporary
63 sickness of a physical or psychological nature; a temporary dis-
64 ability; the theft of a Massachusetts Artist's work, equipment, instru-
65 ment(s), or materials; the inability of a Massachusetts Artist to
66 afford health insurance; or any other situation that will cause unan-
67 ticipated financial hardship and threaten their livelihood and artistic
68 practice.

1 SECTION 2. (a) There shall be established and set up on the
2 books of the Commonwealth a separate fund to be known as the
3 Massachusetts Artists Disaster and Emergency Aid Fund, hereinafter
4 "the fund," for the purposes of ensuring the safety and vitality of
5 artists residing in the Commonwealth. Any such amounts expended
6 will be dispersed to Massachusetts Artists who have endured an
7 emergency or disaster as defined in Section 1.

8 (b) The fund shall be held in trust by the State Treasurer exclu-
9 sively for the purposes established herein. The fund shall be admin-
10 istered by the State Treasurer, who will serve as treasurer and
11 custodian of the fund and shall have the custody of its monies and
12 securities.

13 (c) The State Treasurer may invest any monies held for the credit
14 of the fund instruments permitted under Sections 38, 38A, 38C and
15 49 of Chapter 29 of the General Laws.

1 SECTION 3. (a) As custodian of the fund, the State Treasurer
2 may accept monetary donations to the fund from individuals,
3 museums, organizations, associations, nonprofits, businesses,
4 estates, foundations or other entities.

5 (b) Section 6 (c) of Chapter 353 of the Acts of 2006 is hereby
6 amended by inserting after the phrase "The consignee shall keep on
7 file a record of attempts to contact the consignor," the following sen-
8 tence:—

9 "The consignee may sell or auction any forfeited artwork in a
10 manner the consignee considers appropriate for the purpose of

11 donating the proceeds of said transaction to the Disaster and Emer-
12 gency Aid Fund for Massachusetts Artists.”

13 (c) Notwithstanding any general or special law to the contrary, the
14 State Treasurer may auction “creative and individual works” col-
15 lected and held by the Abandoned Property Division of the Com-
16 monwealth to raise revenues for said fund. Any transfer from sale
17 proceeds into the newly created Artist Trust Fund is subject to subse-
18 quent AP claim. Such property will be auctioned in conjunction with
19 tangible property not classified as “creative and individual works”
20 possessed by the Abandoned Property Division of the Common-
21 wealth. At the discretion of the State Treasurer, proceeds from auc-
22 tioned items classified as “creative and individual works” as defined
23 in Section 1 alternately may be deposited in the General Fund of the
24 Commonwealth. The proceeds from auctioned items not classified as
25 “creative and individual works” will be dedicated to the General
26 Fund of the Commonwealth in accordance with Section 9 of Chapter
27 200a of the General Laws.

28 (d) All monies obtained by the State Treasurer on behalf of the
29 fund for the purposes established herein will be received either
30 through donation or auction, and any amounts obtained and subject
31 to dispersal from said fund will not be the result of Legislative
32 appropriation.

1 SECTION 4. All applicants to receive monies from said fund
2 would be required to meet the definition of “Massachusetts Artist”
3 as defined in Section 1. Any additional criteria regarding qualifica-
4 tion for funds and amounts dispersed are to be established by the
5 State Treasurer or his designee. The State Treasurer or his designee
6 may work with nonprofit arts organizations, state offices or agencies,
7 or with State Legislative Committees including – but not limited to –
8 the Joint Committee on Tourism, Arts, and Cultural Development to
9 establish a process and criteria for distributing funds to Massachu-
10 setts Artists. The State Treasurer may at his discretion form a three-
11 member commission to provide approval for fund dispersal and to
12 oversee the administrative functions of said fund.