

# SENATE NO. 2015

## **AN ACT** ESTABLISHING THE MASSACHUSETTS CULTURAL TRUST FUND

*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 it is in the interest of the commonwealth to promote the  
2 prosperity and general welfare of all citizens by enhancing the vitality of our cities, towns and  
3 neighborhoods; that art, history, and humanities contribute immeasurably to the quality of life, the  
4 economy, tourism industry and education; that cultural organizations throughout the  
5 commonwealth play an invaluable role in ensuring that the benefits of the art, history, and  
6 humanities are extended to the people and communities of the commonwealth; that these vital  
7 cultural organizations have been undercapitalized and have been subject to inconsistent funding as  
8 a result of fluctuating economic conditions; and that the establishment of a permanent, interest  
9 generating fund as an additional source of revenue for nonprofit art, history, and humanities  
10 organizations, specifically for the building of endowments, the improvement of institutional and  
11 financial stability, and investment in arts related economic development projects is essential to  
12 quality of life in the commonwealth.

13 SECTION 2. Chapter 10 of the General Laws is hereby amended by inserting after section 52, as  
14 appearing in the 2004 Official Edition, the following section:-

15 Section 52A. (a) There is hereby established upon the books of the commonwealth a  
16 separate trust fund to be known as the Massachusetts Cultural Trust Fund, the purpose of which shall  
17 be to finance, when fully vested, the operations of the Massachusetts cultural council, established in  
18 section 52, and the activities and programs of organizations, profit or non profit, public or private,  
19 within the commonwealth and concerned with the arts, history, humanities, interpretive sciences.

20 Said fund shall be considered "fully vested" when the treasurer certifies to the comptroller, the fiscal  
21 affairs division, the house and senate committees on ways and means, the joint committee on tourism  
22 arts and cultural development and the joint committee on economic development and emerging  
23 technologies that the fund has accrued \$1,000,000,000 of principal. Said fund shall

24 (b) In conjunction with the preparation of the commonwealth's comprehensive annual financial report,  
25 the comptroller shall prepare and issue an annual report detailing the revenues and expenditures of the  
26 fund.

27 (c) The fund shall be managed by the state treasurer. All transactions affecting the fund including,  
28 but not limited to, all amounts credited to and all expenditures, transfers or allocations made from  
29 the fund, shall be recorded by subsidiary on the Massachusetts management accounting and  
30 reporting system.

31 (d) The trust fund shall be classified by the comptroller as a non-budgeted fund of the  
32 commonwealth. Amounts credited to the fund, including both principal and earnings, shall not be  
33 subject to the calculation of the consolidated net surplus pursuant to sections 2H and 5C of chapter  
34 29.

35 (e) Earnings and interest credited to said fund shall be expended, when the fund is fully vested, by the  
36 Massachusetts Cultural Council, in accordance with the provisions of the strategic plan for the creative  
37 economy, pursuant to the provisions of paragraph (i), to supplant and supersede the appropriations of

38 the Massachusetts Cultural Council in the preceding fiscal year.

39 (f) The council shall administer the expenditure of the income, earnings and interest in the  
40 Massachusetts Cultural Trust Fund, when fully vested, to (i) finance the operations and grant-making  
41 programs of the council and (ii) finance the facilities, activities and programs of Massachusetts-based  
42 organizations in the creative economy industries, both for-profit and non-profit, concerned with the  
43 arts, humanities, interpretive sciences, community arts and local arts and (iii) support and leverage  
44 investment in the creative economy, including but not limited to grants, loans, and equity investments  
45 in galleries and museums, arts and cultural-based commercial enterprises, centers of excellence in the  
46 arts, organizations and educational institutions, and real estate developments that include both  
47 affordable and market rate housing or studio space for artists, including but not limited to mill  
48 rehabilitation, and so-called second-story investments, artist live-work space, and the development of  
49 gallery streets.

50 (g) No more than 20 per cent of the moneys transferred to the fund each year shall be deposited  
51 within the Massachusetts Development Finance Agency, created pursuant to chapter 23G. The  
52 funds shall be invested by the Massachusetts Development Finance Agency in projects that further  
53 the arts including, but not limited to, galleries and museums, arts and cultural-based companies,  
54 organizations and educational institutions, and real estate developments that include housing or  
55 studio space for artists. The monies may be used to make equity investments or loans. Net earnings  
56 on funds so invested shall be remitted to the Massachusetts Cultural Trust Fund to be reinvested or  
57 distributed to the Massachusetts cultural council. The Massachusetts Development Finance Agency  
58 shall be allowed to charge related expenses to the fund including staff time and overhead and out of  
59 pocket expenses. Funds managed by the Massachusetts Development Finance Agency shall be used  
60 to further the mission of the Massachusetts Cultural Trust Fund and as opposed to maximizing

61 financial returns.

62 (h) The Massachusetts Cultural Trust Fund shall be credited with (1) all amounts transferred  
63 pursuant to subparagraph (1) of section 5C of chapter 29; (2) any appropriation, grant, gift or other  
64 contribution explicitly made to the trust fund; (3) income derived from the investment of amounts  
65 credited to the trust fund.

66 (i) The Massachusetts Cultural Council shall, on annual basis, not later than December 1, publish a  
67 strategic plan on the cultural economy recommending to the Massachusetts General Court the most  
68 effective and prudent uses of the income, earnings and interest available in said trust fund for the  
69 financing of the operations of the Massachusetts Cultural Council and the financing of the facilities,  
70 activities and programs of organizations, both for-profit and non-profit, within the Commonwealth  
71 concerned with the arts, humanities, interpretive sciences, community arts and local arts.

72 (j) Said strategic plan shall outline the role of state agencies as they support the creative economy  
73 industries, including a projection of any future costs for the Massachusetts Cultural Council,  
74 annualization, and savings resulting from any financing recommendations. Said financing  
75 recommendations shall not be predicated upon unexpended amounts from the current fiscal year being  
76 automatically made available for re-appropriation for the same purpose in the subsequent fiscal year,  
77 but nothing contained herein shall preclude the council from making a recommendation to re-  
78 appropriate any unexpended amounts for the same or any other purpose authorized by this chapter.

79 (k) Said strategic plan shall give priority to the funding of annualization for programs and services  
80 obligated in prior fiscal years before recommending financing for the expansion of services or the  
81 provision of new services.

82 (l) Said strategic plan shall evaluate the performance and effectiveness of all programs funded by the  
83 income, earnings, and interest of said trust fund. The Massachusetts Cultural shall undertake a sunset

84 review, so-called, of any such program or service that does not achieve performance expectations.

85 Said commission shall monitor the extent to which funding from the trust complements or expands

86 upon previously implemented arts and culture programs and services in the Commonwealth.

87 (m) The comptroller shall promptly certify to the fiscal affairs division, the house and senate

88 committees on ways and means, the joint committee on tourism, arts, and cultural development and

89 the joint committee on economic development and emerging technologies the amount and date when

90 any payments are made or credited to the fund.

91 (n) Not later than October 31 of each year, the comptroller shall certify to the treasurer, the fiscal

92 affairs division, the house and senate committees on ways and means, the joint committee on

93 tourism, arts and cultural development and the joint committee on economic development and

94 emerging technologies the balance in the Massachusetts Cultural Trust Fund and the total return

95 generated by the principal of the trust fund during the prior 12 month period ending on June 30.

96 SECTION 3. Chapter 29 of the General Laws is hereby amended by striking out section 5C, as so

97 appearing, and inserting in place thereof the following section:-

98 Section 5C. The comptroller shall annually, on or before October 31, certify to the commissioner of

99 administration the amount of the consolidated net surplus in the budgetary funds at the close of the

100 preceding fiscal year. The amounts so certified shall be disposed as follows:

101 (1) an amount equal to \$100,000,000 shall be transferred to the Massachusetts Cultural Trust Fund on

102 an annual basis until the state treasurer certifies to the comptroller, the fiscal affairs divisions the house

103 and senate committees on ways and means, the joint committee on tourism arts and cultural

104 development and the joint committee on economic development and emerging technologies that the

105 fund has accrued \$1,000,000,000 in principal.

106 (2) an amount equal to 1/2 of 1 per cent of the total revenue from taxes in the preceding fiscal year  
107 shall be available to be used as revenue for the current fiscal year and 1/2 of 1 per cent of the total  
108 revenue from taxes in the preceding fiscal year shall be transferred to the Stabilization Fund;

109 (3) any remaining amount of the consolidated net surplus after amounts made available in clauses (1)  
110 and (2) shall be transferred to the Stabilization Fund; and

111 (4) transfers specified in this section shall be made from the undesignated fund balances in the  
112 budgetary funds proportionally from said undesignated fund balances; but, the transfer shall not cause  
113 a deficit in any of those funds.