



# Funding Managed Retreat in Barnstable County

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Due to its coastal nature, Barnstable County is vulnerable to climate change hazards such as sea level rise, coastal flooding, erosion, and storm surges.<sup>1</sup> If Barnstable County does not adapt to climate change, it risks losses of up to \$30 billion worth of damaged properties and inundated land,<sup>2</sup> as well as the disruption of its community and environment.<sup>3</sup> To avoid these costs, Barnstable County is exploring a managed retreat strategy to move the most vulnerable structures and infrastructure to safer areas. Managed retreat is a proactive adaptation measure in response to climate change that involves moving people, infrastructure, and developments away from areas vulnerable to climate change risks.<sup>4</sup> Successful managed retreat requires extensive funding, planning, and coordination, but it can be cost-effective over the long-term, create a more resilient coastline, and protect residents from future injuries and property damage.<sup>5</sup>

This paper will explore funding sources that Barnstable County could use to implement a managed retreat program. It will primarily consider funding from property transfer fees and property taxes, including the Community Preservation Act funds, the Barnstable County deed excise tax revenues, and land banks. It will briefly discuss bonds, grants, and loans, which can be used to supplement a comprehensive managed retreat strategy.

## 1 Funding options

Managed retreat is a long-term, costly climate change adaptation strategy, and local governments may struggle to acquire the funding necessary to implement the program.<sup>6</sup> Because there are no dedicated funds for managed retreat programs in Massachusetts, local governments may need to consider a holistic approach to funding.<sup>7</sup> Ideally, Barnstable County would implement managed retreat through a dedicated funding source, but it is more likely that a combination of taxes, fees,

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<sup>1</sup> Rob Thieler, U.S. Geological Survey, Sea-level Rise on Cape Cod: How Vulnerable Are We?, <https://perma.cc/62BC-NDX8>.

<sup>2</sup> E. Research Grp., Inc. & Synapse Energy Econs., Inc., Economic Impacts of Climate Change on Cape Cod Executive Summary 3 (2021).

<sup>3</sup> *Id.* at 4-6.

<sup>4</sup> See Georgetown Climate Ctr., Managed Retreat Toolkit Introduction, <https://perma.cc/GY2J-3SC9>; Anne Siders, Ctr. for Climate Change Law, Columbia Law School, Managed Coastal Retreat 1 (2013).

<sup>5</sup> *Id.* at 2.

<sup>6</sup> See Katharine J. Mach et al., Managed retreat through voluntary buyouts of flood-prone properties, 5 Science Advances 1, 1 (2019); Ashley Connor, Evading disaster through managed retreat, Ctr. for Climate & Energy Solutions (June 9, 2021), <https://perma.cc/7KX8-8RS7>.

<sup>7</sup> Georgetown Climate Ctr., Economic: Funding, <https://perma.cc/YGL5-F2GR>.



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bonds, grants, and loans will be required to adequately fund a managed retreat strategy.<sup>8</sup> This section explores the major funding options Barnstable County can consider.

## 1.1 Community Preservation Act Funds

Barnstable County municipalities could apply revenue earned through the Community Preservation Act (CPA) to a managed retreat strategy. Each of the Barnstable County municipalities have adopted a local real property tax surcharge between 1% and 3% under the CPA.<sup>9</sup> The tax surcharge generates funding for a local Community Preservation Fund, which is annually supplemented by state CPA Trust Fund distributions.<sup>10</sup> The CPA Trust Fund is distributed to local Community Preservation Funds by a formula-based percentage of the local revenue raised.<sup>11</sup> Community Preservation Funds are used to acquire land for three purposes: preserve open space, develop affordable housing, and protect historic resources.<sup>12</sup> A municipality must annually spend at least 10% of its funds on open space, 10% on affordable housing, and 10% on historic resources, but may spend the remaining 70% on any combination of the uses.<sup>13</sup> Since the program's inception, Barnstable County municipalities have successfully generated over \$265 million from the local tax real property surcharge and received over \$108 million from the state CPA Trust Fund for these purposes.<sup>14</sup>

Municipalities can apply the CPA's funding for preservation of open space use to achieve managed retreat goals. Managed retreat often requires acquiring properties vulnerable to climate change hazards and converting them to open space, which is within the CPA purpose. Because municipalities have discretion as to how they apply 70% of their CPA funds, Barnstable County's municipalities could apply a large portion of their CPA funds to acquiring land for open space in coastal areas vulnerable to climate change. The CPA is a sustainable and well-funded option to implement a managed retreat strategy, but the money generated and received may vary by year depending on fluctuations in real property values and the adequacy of the state fund, which may make it difficult to plan long-term projects.<sup>15</sup> There will likely also be a disparity between the state funding granted to larger and smaller towns, as larger towns with more properties will likely generate (and thus receive from the CPA Trust Fund) more money than smaller towns. However, funds are guaranteed in some amount for each municipality, which ensures the municipalities have some money to apply to managed retreat each year. Overall, Barnstable County municipalities could support the acquisition of properties for managed retreat with CPA funds; however, the value of CPA funds vary by year, which makes planning long-term projects difficult.

## 1.2 Barnstable County Deed Excise Tax Revenues

Barnstable County could use its newly unappropriated deed excise tax revenues for managed retreat purposes. The deed excise tax is the primary source of revenue in Barnstable County; in 2021, it is

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<sup>8</sup> *See id.*

<sup>9</sup> Cmty. Pres. Coal., CPA State Map, <https://perma.cc/LBA2-FUTH>.

<sup>10</sup> MASS. GEN. LAWS ch. 44B, § 3(b1/2); Cmty. Pres. Coal., Where Does CPA Funding Come From?, <https://perma.cc/RS3S-QZ8Y>.

<sup>11</sup> Cmty. Pres. Coal., What is the CPA Trust Fund?, <https://perma.cc/K65Y-S4YC>.

<sup>12</sup> MASS. GEN. LAWS ch. 44B, § 6.

<sup>13</sup> *Id.*

<sup>14</sup> Cmty. Pres. Coal., Information on Individual CPA Communities, <https://perma.cc/3MU7-MVS4>.

<sup>15</sup> Cmty. Pres. Coal., What is the CPA Trust Fund?, <https://perma.cc/K65Y-S4YC>.

expected to comprise 51% of county revenue.<sup>16</sup> In early 2021, a new law shifted the responsibility to pay pensions for the County Sheriff's Office from Barnstable County to the state.<sup>17</sup> In 2021, the sheriff pension costs were valued at approximately \$1.7 million,<sup>18</sup> so shifting the liability to the state will save Barnstable County from a significant expense. Currently, Barnstable County is using the deed excise tax revenues for Covid-19 relief efforts.<sup>19</sup>

After the pandemic, Barnstable County could devote all or part of the revenues to a managed retreat program. Using the deed excise tax revenue as a funding source would be a sustainable, significant investment in the managed retreat strategy. If Barnstable County used all or a portion of the deed excise tax revenue for managed retreat, it could be a significant and reliable funding source for long-term managed retreat projects.

### 1.3 Land Bank

Barnstable County could also re-establish a land bank or encourage its municipalities to establish land banks that would acquire land for managed retreat purposes. Local governments in Massachusetts have used land banks to preserve open spaces, protect the environment, and create recreational areas for residents. Today, the Nantucket Land Bank and the Martha's Vineyard Land Bank protect land on their islands; the Cape Cod Land Bank ran for two decades and protected land across Cape Cod.

The Nantucket Land Bank and the Martha's Vineyard Land Bank were created in the 1980s to acquire and hold coastal, wetland, forest, recreational, and other lands in natural or open condition.<sup>20</sup> Both land banks are funded by a 2% fee on the purchase price of real property transfers.<sup>21</sup> The Martha's Vineyard Land Bank focuses on acquiring land beyond the suburban ring around town centers because it tends to be worth more and so does not decrease the availability of affordable housing.<sup>22</sup> Nantucket has protected nearly half of the island through its land bank, while Martha's Vineyard has protected 7% of its land area.<sup>23</sup>

The Cape Cod Land Bank, which ran from 1998 to 2020, was funded through a 3% surcharge on local real estate property taxes of the Cape Cod municipalities that opted into the program.<sup>24</sup> Similar to the other land banks, the revenue was used for broad open space, environmental, and recreational purposes,<sup>25</sup> but was limited to acquiring undeveloped land.<sup>26</sup> A 2004 amendment to the CPA allowed

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<sup>16</sup> Barnstable Cty., Budget Presentation FY2021 4 <https://perma.cc/TW57-MJQZ>.

<sup>17</sup> MASS. GEN. LAWS ch. 64D, § 11A.

<sup>18</sup> Barnstable Cty., Fiscal Year 2021 Proposed Budget 89, <https://perma.cc/X8FH-SHVJ>; Grady Culhane, Sheriff's Office Pension Liability Shifted to State Budget, CapeCod.com (Jan. 16, 2021), <https://perma.cc/GH86-KDMW>.

<sup>19</sup> *Id.*

<sup>20</sup> *See* 1983 MASS. ACTS ch. 669 § 5.; 1985 MASS. ACTS ch. 736 § 5.

<sup>21</sup> *See* 1983 MASS. ACTS ch. 669 § 10.; 1985 MASS. ACTS ch. 736 § 10.

<sup>22</sup> Martha's Vineyard Land Bank Comm'n, Affordable Housing, <https://perma.cc/S8WW-RM59>.

<sup>23</sup> Nantucket Land Bank, Preserving and Protecting Nantucket's Open Spaces, <https://perma.cc/3E35-4QZ5>; Martha's Vineyard Land Bank Comm'n, Martha's Vineyard Land Bank Home Page, <https://perma.cc/FFQ2-7222>.

<sup>24</sup> Paul Frisman, Land Banking Conn. Off. of Legis. Res. (Oct. 1, 2004), <https://perma.cc/P2NB-3PEV>.

<sup>25</sup> *Id.*

<sup>26</sup> The Compact of Cape Cod Conservation Trusts, Inc., Golden Age of the Land Bank, <https://perma.cc/M56H-ZD5H>.

municipalities to opt out of the Cape Cod Land Bank for the CPA, and all but two Barnstable County municipalities opted out of the Cape Cod Land Bank.<sup>27</sup>

Barnstable County can consider re-establishing a regional land bank or encourage its municipalities to establish land banks. The land banks could be designed with broad preservation goals, like Nantucket and Martha's Vineyard, or for managed retreat specifically. Even with a broad conservation goal, the land banks could likely accomplish managed retreat goals if they decided to pursue them. However, if Barnstable County or its municipalities decided to fund a land bank through a property transfer fee or surcharge on real estate property taxes, they would have to get public support for the new fee or surcharge, which may be difficult, especially because the municipalities already support conservation through the CPA. Even if there is public support for a land bank, the state government would need to authorize any new land bank through legislation, which could be a potentially lengthy process. However, once established, a land bank would be well-funded and support long-term managed retreat goals.

## 1.4 Grants, Loans, Bonds

If Barnstable County cannot obtain a substantial and dedicated funding source, then it may need to supplement its managed retreat with grants, loans, or bonds or execute a managed retreat strategy through piecemeal projects funded by these sources. Massachusetts and the federal government offer various grants and loans that can be used to support managed retreat, and Barnstable County municipalities can issue bonds under the CPA. There is also proposed state legislation that would create new grants and loans that Barnstable County could use for managed retreat.

### 1.4.1 Available Grants, Loans, and Bonds

There are multiple opportunities for Barnstable County or its municipalities to obtain funding for managed retreat through grants, loans, or bonds. Unlike funding obtained through real property taxes or real property transaction fees, loans and grants are often smaller funding opportunities.<sup>28</sup> Barnstable County or its municipalities would be required to reapply for grants and loans over the years of implementing a managed retreat program. Bonds are often used to cover large infrastructure projects, so they could be appropriate for managed retreat projects, too.<sup>29</sup> However, like loans, bonds must be paid back over time.

Some of the grant opportunities that Barnstable County or its municipalities could use include grants under the Municipal Vulnerability Preparedness program,<sup>30</sup> Coastal Resilience Grant Program,<sup>31</sup> Federal Emergency Management Agency Building Resilient Infrastructure and Communities,<sup>32</sup> and others.<sup>33</sup> Currently, the CPA allows municipalities to issue bonds “in anticipation of revenues to be

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<sup>27</sup> Paul Frisman, Land Banking Conn. Off. of Legis. Res. (Oct. 1, 2004), <https://perma.cc/P2NB-3PEV>.

<sup>28</sup> See, e.g., Mass. Exec. Office of Energy & Env'tl. Affairs, MVP Action Grant Funded Project Descriptions, <https://perma.cc/9QB9-GXR7> (only five grants over \$1 million have been awarded in the past four years).

<sup>29</sup> See Nick Lioudis, The Basics of Municipal Bonds, Investopedia (July 30, 2021) <https://perma.cc/Y97F-3RTH>.

<sup>30</sup> See generally Mun. Vulnerability Preparedness, Municipal Vulnerability Preparedness Program, <https://perma.cc/MY4Y-T32B> (offering planning grants and action grants for climate resiliency).

<sup>31</sup> Mass.gov, Coastal Resilience Grant Program, <https://perma.cc/4M7Y-V5QT>.

<sup>32</sup> Fed. Emergency Mgmt. Agency, Building Resilient Infrastructure and Communities, <https://perma.cc/V4U8-8QDU>.

<sup>33</sup> Georgetown Climate Ctr., Economic: Funding, <https://perma.cc/YGL5-F2GR>.

raised through the local CPA surcharge.”<sup>34</sup> The U.S. Environmental Protection Agency issues Clean Water State Revolving Fund loans for specific types of projects, such as land acquisition to restore estuaries or to stormwater recapture.<sup>35</sup> These may not be sustainable or large enough to fully support a long-term, multi-faceted managed retreat, but they may be useful to implement elements of a managed retreat strategy.

### 1.4.2 Grants, Loans, and Bonds in Proposed Legislation

Some legislation that could provide valuable funding for local managed retreat efforts has been proposed, but not passed. Although not currently law, Barnstable County should be aware of these and similar proposals, which may create viable funding options in future years.

#### 1.4.2.1 Global Warming Solutions Trust Fund

Massachusetts has explored the possibility of increasing the deed excise tax and allocating the additional revenue to climate change adaptation and resiliency solutions.<sup>36</sup> Two bills proposed increasing the deed excise tax by 50% or 100% and depositing portions of the revenue in a Global Warming Solutions Trust Fund and an affordable housing fund.<sup>37</sup> The proposed Global Warming Solutions Trust Fund could issue grants or loans for climate change adaptation, vulnerability assessments, planning, and development of a “climate-smart land use framework.”<sup>38</sup> If there were an increase in the deeds excise tax and the creation of a Global Warming Solutions Trust Fund, Barnstable County municipalities would be able to apply for loans and grants to supplement a managed retreat program. Loans and grants are time-limited and require periodic reapplication, but they could be helpful to supplement managed retreat costs.

#### 1.4.2.2 Green Resiliency Fund and GreenWorks

A bill to establish a Green Resiliency Fund and a GreenWorks program was introduced in the House in 2019.<sup>39</sup> The GreenWorks program would award grants for land acquisitions, construction, and improvements of “publicly-owned infrastructure that improve climate adaptation and resiliency, mitigate the impacts of climate change . . . [and] “implement nature-based solutions . . . to the built or natural environment . . . .”<sup>40</sup> Ten percent of the grant funding would be reserved for towns with populations under 7,000 residents.<sup>41</sup> The Green Resiliency Fund would provide matching loans for climate adaptation and resiliency plans awarded grant funding under GreenWorks.<sup>42</sup> Even if it passed, the loans and grants would likely be insufficient to support a large-scale managed retreat program. Barnstable County municipalities would be required to periodically apply for new grants or

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<sup>34</sup> MASS. GEN. LAWS ch. 44B, § 11.

<sup>35</sup> Env’tl. Prot. Agency, Clean Water State Revolving Fund, <https://perma.cc/B44S-FJ5H>.

<sup>36</sup> Mass. Ass’n. of Cmty. Dev. Corps., Double the Deeds Excise Tax to Raise Funds to Address the Affordable Housing and Climate Crises, <https://perma.cc/6YDQ-Y4DX>.

<sup>37</sup> S. 10, 2019 Leg., 191st Gen. Court. (Mass. 2019) (increasing tax by 50% and depositing one-third of revenue in trust fund); H. 2890, 2021 Leg., 192nd Gen. Court (Mass. 2021) (doubling the tax and splitting it between climate change resiliency and affordable housing).

<sup>38</sup> S. 10 pmbl., 2019 Leg., 191st Gen. Court (Mass. 2019).

<sup>39</sup> H. 3997 § 2, 2019 Leg., 191st Gen. Court (Mass. 2019).

<sup>40</sup> *Id.* § 3.

<sup>41</sup> *Id.*

<sup>42</sup> *Id.* § 2A.

loans, so planning out an extended program would be difficult. However, the loans or grants could be useful in executing parts of a managed retreat strategy.

## 2 Conclusion

If Barnstable County wants to implement a managed retreat strategy to protect its communities, it likely needs a dedicated funding source. Some of Barnstable County's strongest options may be to use CPA funds to acquire land vulnerable to climate change, apply the county deed excise revenues to managed retreat, or adopt a land bank. There are implementation difficulties with each of these programs, and it may be difficult to convince local governments to devote these financial resources to managed retreat as opposed to other community needs. If Barnstable County cannot obtain enough managed retreat funding through these options, it could also use grants, loans, and bonds to supplement the funding of managed retreat activities. Managed retreat is an expensive but likely worthwhile process, and Barnstable County can start by considering these funding options.