HOUSE DOCKET, NO. 2682 FILED ON: 1/18/2013

HOUSE . . . . . No. 1116

The Commonwealth of Massachusetts

PRESENTED BY:

Patricia A. Haddad

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the passage of the accompanying:

An Act relative to manufactured housing communities.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
Attorney General Martha Coakley	
Patricia A. Haddad	*5th Bristol*
Marc R. Pacheco	*First Plymouth and Bristol*
Gailanne M. Cariddi	*1st Berkshire*
John J. Binienda	*17th Worcester*
Thomas J. Calter	*12th Plymouth*
James R. Miceli	*19th Middlesex*

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By Mrs. Haddad of Somerset, a petition (accompanied by bill, House, No. 1116) of Attorney General Martha Coakley and others relative to manufactured housing communities. Housing.

The Commonwealth of Massachusetts

An Act relative to manufactured housing communities.

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. Chapter 6 of the General Laws, as appearing in the 2008 Official Edition, is hereby amended by striking out section 108 and inserting in place thereof the following section:-

Section 108. There shall be a manufactured housing commission, hereinafter referred to as the "commission". The commission shall consist of five members, not more than three of whom shall be of the same political party, and two alternate members. The governor shall appoint three members: one of whom shall be a resident of a manufactured housing community; one of whom shall be an owner of a manufactured housing community; and one of whom shall be an attorney authorized to practice law in the commonwealth with experience in legal issues regarding manufactured housing, landlord-tenant law, or real estate law, and who shall not be a resident or owner of a manufactured housing community. The governor shall appoint two alternate members, one of whom shall be a resident of a manufactured housing community; and one of whom shall be an owner of a manufactured housing community. The alternate resident-member shall not reside in the same community as the resident-member of the commission and the alternate owner-member shall not have an ownership interest in the same community as the owner-member of the commission. The attorney general and director of the department of housing and community development shall each appoint one member who shall be an attorney authorized to practice law in the commonwealth with experience in legal issues regarding manufactured housing, landlord-tenant law, or real estate law, and who shall not be a resident or owner of a manufactured housing community. In the event that the governor, attorney general or director cannot appoint an attorney with said experience, the governor, the attorney general, or the director may appoint an attorney with experience in mediation or alternative dispute resolution programs. Each member shall serve a term of 2 years and may be reappointed upon expiration of his term.

Any member or alternate member of the commission may be removed by the governor for

27 neglect of duty, misconduct, malfeasance or misfeasance after being given a written statement of
28 the charges against him and sufficient opportunity to be heard thereon.
29
30 SECTION 2. Chapter 29 of the General Laws, as so appearing, is hereby amended by inserting
31 after section 2BBBB the following new section:-
32
33 Section 2CCCC. There shall be established and set up on the books of the commonwealth a
34 separate fund to be known as the Manufactured Housing Trust Fund, hereinafter referred to as
35 the "fund". The fund shall be administered by the secretary of the executive office for
36 administration and finance, and shall be credited with licensing revenues collected in accordance
37 with section 32B1/2 of chapter 140 and fees collected in accordance with paragraph (c) of
38 section 30T of chapter 140 and any interest thereon. Amounts credited to the fund shall be
39 expended, without further appropriation, to support the manufactured housing dispute resolution
40 program described in section 32T of said chapter 140, including, but not limited to,
41 compensation of commission members, as determined by the secretary of the executive office for
42 administration and finance, based on time actually expended on dispute resolution under the
43 program described in section 32T of chapter 140, and to support funding of court appointed
44 receiverships of manufactured housing communities.
45
46 SECTION 3. Section 32A of chapter 140, as so appearing, is hereby amended by striking out
47 the words "under the following section" and inserting in place thereof the following:- the
48 following two sections.
49
50 SECTION 4. Said Chapter 140, as so appearing, is hereby amended by striking out section 32B
51 and inserting in place thereof the following two new sections:-
52
53 Section 32B. The board of health of any city or town, in each instance after a hearing,
54 reasonable notice of which shall have been published once in a newspaper published in such city
55 or town, may grant, and may suspend or revoke, licenses for recreational camps, overnight
56 camps or cabins, or motels located within such city or town, which license, unless previously
57 suspended or revoked, shall expire on December thirty-first in the year of issue, but may be
58 renewed annually upon application without such notice and hearing. Unless otherwise
59 established in a town by town meeting action and in a city by city council action, and in a town
60 with no town meeting by town council action, by adoption of appropriate by-laws and ordinances
61 to set such fees, the fee for each original or renewal license shall be ten dollars, but in no event
62 shall any such fee be greater than fifty dollars. Such board of health shall at once notify the
63 department of environmental protection of the granting or renewal of such a license, and said
64 department shall have jurisdiction to inspect the premises so licensed to determine that the
65 sources of water supply and the works for the disposition of the sewage of such premises are
66 sanitary. If upon inspection of such premises said department finds the sources of water supply to

67 be polluted or the works for the disposition of the sewage to be unsanitary, or both of such
68 conditions, said department shall forthwith notify such board of health and such licensee to that
69 effect by registered mail and said board shall forthwith prohibit the use of any water supply
70 found by said department to be polluted. Unless such licensee shall, within thirty days following
71 the giving of such notice, correct the conditions at such premises to the satisfaction of both said
72 department and such board the license so granted shall be suspended or revoked by such board.
73 Any license so suspended may be reinstated by such board when the conditions at such premises,
74 as to sources of water supply and works for the disposition of sewage, are satisfactory to said
75 department and such board. The board of health of a city or town may adopt, and from time to
76 time alter or amend, rules and regulations to enforce this section in such city or town.
77
78 Section 32B1/2. (a) The board of health of any city or town, in each instance after a hearing,
79 reasonable notice of which shall have been published once in a newspaper published in such city
80 or town, may grant, and may suspend or revoke, licenses for manufactured housing communities
81 located within such city or town, which license, unless previously suspended or revoked, shall
82 expire on December thirty-first in the year of issue, but may be renewed annually upon
83 application without such notice and hearing.
84
85 (b) All applications, including renewal applications, for manufactured housing communities
86 submitted to the board of health of any city or town, shall include:
87
88 (i) a true and complete copy of the rules and regulations then in effect and approved by the
89 attorney general for the manufactured housing community to be licensed;
90 (ii) a certification from the attorney general that said rules and regulations have been
91 approved pursuant to paragraph (5) of section thirty-two L;
92 (iii) an acknowledgement signed by the applicant that said applicant is aware of the dispute
93 resolution program created under section thirty-two;
94 (iv) for manufactured housing communities that employ an on-site sewage disposal system or
95 series of systems with a total design flow of less than 10,000 gallons per day instead of being
96 connected to a municipal sanitary sewer system, a written certification from a system inspector
97 approved by the department of environmental protection pursuant to 310 C.M.R. 15.340 that the
98 on-site sewage disposal system or series of systems has been inspected in accordance with the
99 requirements of 310 C.M.R. 15.301 and 15.302 within the previous five years and is in
100 compliance with all applicable federal, state and local statutes, regulations and bylaws; provided,
101 however, that if the system inspector certifies to the local board of health that the on-site sewage
102 disposal system or series of systems has been pumped out at least once every three years since
103 the prior certification by a septage hauler licensed pursuant to 310 C.M.R. 15.500, the written
104 certification of compliance required hereunder need only demonstrate that the on-site sewage
105 disposal system or series of systems has been inspected in accordance with the requirements of
106 310 C.M.R. 15.301 and 15.302 within the previous seven years; and provided further, that if no

such inspection that complies with the requirements of 310 C.M.R. 15.301 and 15.302 has occurred within the previous five years, or the previous seven years if the system has been pumped out by a septage hauler at least once every three years since the prior certification, no license or license renewal shall be issued unless and until such inspection is conducted and said certification of compliance with all applicable federal, state and local statutes, regulations and bylaws has been submitted to the board of health. The applicant shall submit to the board of health along with the required certification a completed department of environmental protection Title 5 inspection form;

(v) for manufactured housing communities that employ an on-site sewage disposal system or series of systems with a total design flow of 10,000 to 15,000 gallons per day instead of being connected to a municipal sanitary sewer system, a written certification from a system inspector approved by the department of environmental protection pursuant to 310 C.M.R. 15.340 that the on-site sewage disposal system or series of systems has been inspected in accordance with the requirements of 310 C.M.R. 15.301 and 15.302 within the previous five years and is in compliance with all applicable federal, state and local statutes, regulations and bylaws; and provided, however, that if no such inspection that complies with the requirements of 310 C.M.R. 15.301 and 15.302 has occurred within the previous five years, no application or renewal shall be issued unless and until such inspection is conducted and said certification of compliance with all applicable federal, state and local statutes, regulations and bylaws has been submitted to the board of health. The applicant shall submit to the board of health along with the required certification a completed department of environmental protection Title 5 inspection form;

(vi) for manufactured housing communities that employ an on-site sewage disposal system or series of systems with a total design flow of greater than 15,000 gallons per day and which require a groundwater discharge permit and a privately owned wastewater treatment facility or treatment works pursuant to 314 C.M.R. 5.00 et seq., a written certification from a wastewater treatment plant operator approved pursuant to 257 C.M.R. 2.00 et seq. that the privately owned wastewater treatment facility or treatment works has been inspected, operated and maintained in accordance with the requirements of 314 C.M.R. 5.00 et seq. and is in compliance with all applicable federal, state and local statutes, regulations and bylaws;

(vii) a statement from a certified operator who has received a certificate of competency issued by the Board of Certification of Operators of Drinking Water Supply Facilities in accordance with 236 C.M.R. 2.00 through 5.00 and currently maintains a valid license, that the public water system, as that term is defined in 310 C.M.R. 22.02 and used throughout 310 C.M.R. 22.00 et seq., is in compliance with all applicable federal, state and local statutes, regulations and bylaws. An applicant may present a statement from the certified operator that is not more than one year old when first required to include said statement with the application for license pursuant to this section; and

(viii) for manufactured housing communities that are connected to a municipal sanitary sewer system, a written certification from a Massachusetts registered professional engineer with background in civil, sanitary and environmental engineering and experience in the installation,

147 operation and maintenance of sewage collection systems that the sewage collection system at the
148 premises has been inspected within the previous two years and is in compliance with all
149 applicable federal, state and local statutes, regulations and bylaws. The applicant shall submit to
150 the board of health along with the required certification a completed department of
151 environmental protection Title 5 inspection form.
152
153 (c) Unless otherwise established in a town by town meeting action and in a city by city council
154 action, and in a town with no town meeting by town council action, by adoption of
155 appropriate by-laws and ordinances to set such fees, the fee for each original or renewal license
156 for a manufactured housing community shall be ten dollars for each lot in the community,
157 whether occupied or vacant, of which eighty percent shall be deposited into the Manufactured
158 Housing Fund established in section 2CCCC of chapter twenty-nine, and twenty percent of the
159 licensing fees shall be deposited into the general fund of the municipality pursuant to section
160 fifty three of chapter forty four. Such board of health shall at once notify the department of
161 environmental protection of the granting or renewal of such a license for a manufactured housing
162 community, and said department shall have jurisdiction to inspect the premises so licensed to
163 determine that the sources of public water supply and the works for the disposition of the sewage
164 of such premises are sanitary and in compliance with all applicable federal, state and local
165 statutes, regulations and bylaws. If upon inspection of any manufactured housing community the
166 department finds the sources of public water supply to be polluted or otherwise not in
167 compliance with all applicable federal, state and local statutes, regulations and bylaws, or finds
168 the works for the disposition of the sewage to be unsanitary or otherwise not in compliance with
169 all applicable federal, state and local statutes, regulations and bylaws, or finds both systems are
170 not in compliance with said statutes, regulations, and bylaws, said department shall forthwith
171 notify such board of health and such licensee to that effect by registered mail and said board of
172 health shall forthwith prohibit the use of any public water supply found by said department to be
173 polluted. Unless such licensee shall, within thirty days following the giving of such notice,
174 correct the conditions at such premises to the satisfaction of both said department and such board
175 of health, the license so granted shall be suspended or revoked by such board of health. Any
176 license so suspended or revoked may be reinstated by such board of health when the conditions
177 at such premises, as to sources of public water supply and works for the disposition of sewage,
178 are satisfactory to said department and such board of health. The board of health of a city or
179 town may adopt, and from time to time alter or amend, rules and regulations to enforce this
180 section in such city or town.
181
182 (d) No licensing or inspection fees incurred under this section shall be passed on, directly or
183 indirectly, through a rent increase or otherwise, to any tenant, resident or occupant of the
184 community.
185
186 SECTION 5. Said chapter 140 of the General Laws, as so appearing, is hereby amended by

187 striking out section 32C and inserting in place thereof the following section:-
188
189 Section 32C. Every board of health shall, from time to time, examine all camps, motels, and
190 cabins licensed by it under authority of sections thirty-two B and manufactured housing
191 communities licensed under thirty-two B1/2, and if, upon such examination, such camp, motel,
192 cabin or manufactured housing community is found to be in an unsanitary condition, said board
193 of health may, after notice and a hearing, suspend or revoke such license.
194
195 SECTION 6. Said chapter 140 of the General Laws, as so appearing, is hereby amended by
196 striking out section 32D and inserting in place thereof the following section:-
197
198 Section 32D. Whoever conducts, controls, manages or operates any camp, motel, or cabin
199 licensed under section thirty-two B or a manufactured housing community licensed under section
200 thirty-two B1/2 shall post, in a conspicuous place near the entrance to every such camp, motel,
201 cabin or manufactured housing community or in a conspicuous place at the office of the manager
202 on the site, a copy of the rules and regulations adopted thereunder, as most recently altered or
203 amended.
204
205 SECTION 7. Section 32E of said chapter 140, as so appearing, is hereby amended, by striking
206 out the words “section thirty-two B”, in line 7, and inserting in place thereof the following
207 words:- section thirty-two B1/2.
208
209 SECTION 8. Sections 32F, 32G and 32H of said chapter 140, as so appearing, are hereby
210 amended by striking out the words “section thirty-two B”, each time it appears, and inserting in
211 place thereof, in each instance, the following words:- section thirty-two B1/2.
212
213 SECTION 9. Section 32L of said chapter 140, as so appearing, is hereby amended by striking
214 out the second sentence in paragraph (3) and inserting in place thereof the following sentence:- A
215 manufactured housing community owner shall not impose any conditions of rental or occupancy
216 which restrict the resident in his choice of a seller of fuel, furnishings, goods, services or
217 accessories connected with the rental or occupancy of a manufactured home lot, provided,
218 however, that such seller is in compliance with applicable law and rules and regulations of the
219 manufactured housing community approved by the attorney general or otherwise then in effect
220 pursuant to paragraph (5) of section thirty-two L of chapter one hundred and forty, including
221 rules imposing reasonable insurance requirements.
222
223 SECTION 10. Said section 32L of said chapter 140, as so appearing, is hereby further
224 amended by striking out paragraph (5) and inserting in place thereof the following paragraph:-
225
226 (5) If any manufactured housing community owner promulgates, adds, deletes or amends any

227 rule governing the rental or occupancy of a manufactured home site in a manufactured housing
228 community, a new copy of all such rules shall be sent by certified mail, return receipt requested,
229 to the attorney general and the director of housing and community development at least ninety
230 days prior to the proposed effective date of such promulgation, addition, deletion or amendment.
231 The director shall have forty-five days to review the rules for compliance with applicable
232 housing law. Upon completing said review, the director shall forward his conclusion to the
233 attorney general, who shall have the remainder of said ninety day period to approve or
234 disapprove the rules, unless the attorney general determines that an extension of the rules review
235 period is warranted. If the attorney general makes such a determination, the attorney general
236 shall send written notification of such extension to the owner of the manufactured housing
237 community, and such extension shall not exceed ninety days. A copy of such rules shall be
238 furnished to each manufactured housing community resident in such community along with a
239 copy of the certified mail receipts signed by a representative of the attorney general. Such copies
240 shall be furnished by the manufactured housing community licensee to said residents at least
241 sixty days prior to the proposed effective date of such promulgations, addition, deletion or
242 amendment. If the attorney general does not take action prior to the expiration of the ninety day
243 period or the expiration of any extension of the rules review period, such rules shall be deemed
244 approved. Nothing in this section shall preclude a private party from challenging such rules or
245 portions thereof in a court of competent jurisdiction prior to or after such disapproval.
246
247 SECTION 11. Said section 32L of said chapter 140, as so appearing, is hereby further
248 amended by striking out, in paragraph (7), the words “thirty-two S” and inserting in place thereof
249 the following:- thirty-two T.
250
251 SECTION 12. Said section 32L of said chapter 140, as so appearing, is hereby further
252 amended in paragraph (7A), by striking out the words “director of housing and community
253 development or the director’s designee”, in line 96, and inserting in place thereof the following:-
254 the manufactured housing commission.
255
256 SECTION 13. Section 32P of said chapter 140, as so appearing, is hereby amended by striking
257 out lines 21 through 34 and inserting in place thereof the following:-
258 The rules set forth below govern the terms of your lease or occupancy with this manufactured
259 housing community. If these rules are changed in any way, the addition, deletion or amendment
260 must be delivered to you, along with a copy of the certified mail receipts indicating that such
261 change has been submitted to the attorney general and the director of housing and community
262 development and a copy of the approvals thereof by the attorney general or a certificate signed
263 by the owner stating that the attorney general has not taken any action with respect thereto within
264 the period set forth in paragraph (5) of section thirty-two L of chapter one hundred and forty .
265 This notification must be furnished to you at least sixty days before the change goes into effect.
266 The law requires all of these rules and regulations to be fair and reasonable or said rules and

267 regulations cannot be enforced.
268
269 SECTION 14. Section 32R of said chapter 140, as so appearing, is hereby amended in
270 paragraph (c) by striking out the words “at least fifty-one percent” each time it appears, and
271 inserting in place thereof, in each instance, the following words:- more than fifty percent.
272
273 SECTION 15. Section 32S of said chapter 140, as so appearing, is hereby amended by striking
274 out the words “thirty-two S”, in line 4, and inserting in place thereof the following:- thirty-two T.
275
276 SECTION 16. Said Chapter 140, as so appearing, is hereby further amended by adding after
277 section 32S the following new section:-
278
279 Section 32T. (a) There shall be a manufactured housing dispute resolution program to assist
280 the manufactured housing community with resolving disputes. A resident, owner or operator of
281 a manufactured housing community may file a complaint with the attorney general alleging a
282 violation of sections 32A to 32S, inclusive, of chapter 140, regulations promulgated by the
283 attorney general pursuant to said sections, or community rules approved pursuant to paragraph
284 (5) of section thirty-two L of said chapter 140. All complaints filed under this section shall be in
285 writing and include an acknowledgement signed by the party making the complaint that said
286 party is aware of the dispute resolution program created under this section.
287
288 (b) The attorney general shall review all complaints filed under this section, and may take
289 action upon them or refer them to the manufactured housing commission for resolution.
290
291 (c) Upon receipt of a complaint from the attorney general, the commission shall assign one of
292 its members to conduct a mediation between the parties involved in the dispute, provided
293 however that commissioners or alternate commissioners appointed under section 108 of chapter
294 6 as residents or owners of a manufactured housing community shall not serve as mediators.
295 The mediator may gather information he deems necessary to determine whether a violation has
296 occurred. After reviewing information from the parties involved in the dispute, the mediator
297 shall then provide recommendations for the resolution of the dispute. If the parties accept the
298 mediator’s proposal, or subsequently negotiate a settlement, the mediator shall notify both parties
299 in writing of the terms agreed to by the parties involved in the dispute. If the parties fail to agree
300 to a resolution of the dispute during the mediation process, one or both parties may request that
301 the commission hear and issue a decision on the dispute under the process described in paragraph
302 (d) of this section. Said request shall be made in writing within thirty days of the close of the
303 mediation. All requests for a hearing shall include a fee of twenty-five dollars paid by the party
304 requesting a hearing, subject to adjustment pursuant to section 3B of chapter 7, which the
305 commission shall deposit into the manufactured housing fund established in section 2CCCC of
306 chapter 29.

307
308 (d) A hearing as described in subsection (c) shall be conducted by three members of the
309 commission; one of whom shall be the member who is the resident of a manufactured housing
310 community; and one of whom shall be the member who is the owner of a manufactured housing
311 community. Commission members appointed by the governor pursuant to section 108 of chapter
312 6 as either owners or residents, and that own or reside in the manufactured housing community
313 that is the subject of the complaint, shall be prohibited from participating in hearings involving
314 that manufactured housing community. When a commission member is so excluded from
315 hearing a complaint, the corresponding alternate-member of the commission shall replace the
316 affected member and hear the complaint. The third member who hears the complaint shall not
317 be the member who conducted the mediation of the complaint, and shall be chosen on an
318 alternating basis from the two remaining commission members who are eligible to hear the
319 complaint. Within forty-five days after the hearing, the commission shall issue a written decision
320 as to whether a violation has occurred, and shall order appropriate action, if any, to be taken by
321 the owner, resident, operator, and/or any of the parties.
322
323 (e) No costs incurred under section 32T, including but not limited to costs to file or defend a
324 complaint, or monies a party is ordered to pay, shall be passed on, directly or indirectly, through
325 a rent increase or otherwise, to any tenant, resident or occupant of the community.
326
327 (f) All commission hearings and judicial review of commission decisions under this section
328 shall be conducted pursuant to chapter thirty A.
329
330 (g) The attorney general, on request of the commission or his own initiative, or any party to
331 the commission hearing, may bring an action in a court of competent jurisdiction to enforce a
332 decision issued by the commission under paragraph (d) of this section.
333
334 (h) The commission shall develop written rules and procedures to carry out its duties under
335 this section.
336
337 SECTION 17. Section 32Q of chapter 140 of the General Laws, as appearing in the 2010
338 Official Edition, is hereby amended by striking out in lines 2-4 the following: words “, built in
339 conformance to the National Manufactured Home Construction and Safety Standards”
340