SENATE DOCKET, NO. 304 FILED ON: 1/15/2013

SENATE . . . . . No. 610

The Commonwealth of Massachusetts

PRESENTED BY:

Marc R. Pacheco

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	*One Ashburton Place*
Marc R. Pacheco	*First Plymouth and Bristol*
Patricia A. Haddad	*5th Bristol*
Benjamin B. Downing	*Berkshire, Hampshire, Franklin and Hampden*
Gailanne M. Cariddi	*1st Berkshire*
Thomas J. Calter	*12th Plymouth*

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SENATE . . . . . No. 610

By Mr. Pacheco, a petition (accompanied by bill, Senate, No. 610) of Attorney General Martha Coakley, Marc R. Pacheco, Patricia A. Haddad, Benjamin B. Downing and other members of the General Court for legislation relative to manufactured housing communities. Housing.

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE
SENATE
, NO. *614* OF 2011-2012.]

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

19 owner of a manufactured housing community. In the event that the governor, attorney general or
20 director cannot appoint an attorney with said experience, the governor, the attorney general, or
21 the director may appoint an attorney with experience in mediation or alternative dispute
22 resolution programs. Each member shall serve a term of 2 years and may be reappointed upon
23 expiration of his term.

24 Any member or alternate member of the commission may be removed by the governor
25 for neglect of duty, misconduct, malfeasance or misfeasance after being given a written
26 statement of the charges against him and sufficient opportunity to be heard thereon.

27 SECTION 2. Chapter 29 of the General Laws, as so appearing, is hereby amended by
28 inserting after section 2BBBB the following new section:-

29 Section 2CCCC. There shall be established and set up on the books of the commonwealth
30 a separate fund to be known as the Manufactured Housing Trust Fund, hereinafter referred to as
31 the "fund". The fund shall be administered by the secretary of the executive office for
32 administration and finance, and shall be credited with licensing revenues collected in accordance
33 with section 32B1/2 of chapter 140 and fees collected in accordance with paragraph (c) of
34 section 30T of chapter 140 and any interest thereon. Amounts credited to the fund shall be
35 expended, without further appropriation, to support the manufactured housing dispute resolution
36 program described in section 32T of said chapter 140, including, but not limited to,
37 compensation of commission members, as determined by the secretary of the executive office for
38 administration and finance, based on time actually expended on dispute resolution under the
39 program described in section 32T of chapter 140, and to support funding of court appointed
40 receiverships of manufactured housing communities.

41 SECTION 3. Section 32A of chapter 140, as so appearing, is hereby amended by striking
42 out the words "under the following section" and inserting in place thereof the following:- the
43 following two sections.

44 SECTION 4. Said Chapter 140, as so appearing, is hereby amended by striking out
45 section 32B and inserting in place thereof the following two new sections:-

46 Section 32B. The board of health of any city or town, in each instance after a hearing,
47 reasonable notice of which shall have been published once in a newspaper published in such city
48 or town, may grant, and may suspend or revoke, licenses for recreational camps, overnight
49 camps or cabins, or motels located within such city or town, which license, unless previously
50 suspended or revoked, shall expire on December thirty-first in the year of issue, but may be
51 renewed annually upon application without such notice and hearing. Unless otherwise
52 established in a town by town meeting action and in a city by city council action, and in a town
53 with no town meeting by town council action, by adoption of appropriate by-laws and ordinances
54 to set such fees, the fee for each original or renewal license shall be ten dollars, but in no event
55 shall any such fee be greater than fifty dollars. Such board of health shall at once notify the

department of environmental protection of the granting or renewal of such a license, and said department shall have jurisdiction to inspect the premises so licensed to determine that the sources of water supply and the works for the disposition of the sewage of such premises are sanitary. If upon inspection of such premises said department finds the sources of water supply to be polluted or the works for the disposition of the sewage to be unsanitary, or both of such conditions, said department shall forthwith notify such board of health and such licensee to that effect by registered mail and said board shall forthwith prohibit the use of any water supply found by said department to be polluted. Unless such licensee shall, within thirty days following the giving of such notice, correct the conditions at such premises to the satisfaction of both said department and such board the license so granted shall be suspended or revoked by such board. Any license so suspended may be reinstated by such board when the conditions at such premises, as to sources of water supply and works for the disposition of sewage, are satisfactory to said department and such board. The board of health of a city or town may adopt, and from time to time alter or amend, rules and regulations to enforce this section in such city or town.

Section 32B1/2. (a) The board of health of any city or town, in each instance after a hearing, reasonable notice of which shall have been published once in a newspaper published in such city or town, may grant, and may suspend or revoke, licenses for manufactured housing communities located within such city or town, which license, unless previously suspended or revoked, shall expire on December thirty-first in the year of issue, but may be renewed annually upon application without such notice and hearing.

(b) All applications, including renewal applications, for manufactured housing communities submitted to the board of health of any city or town, shall include:

(i) a true and complete copy of the rules and regulations then in effect and approved by the attorney general for the manufactured housing community to be licensed;

(ii) a certification from the attorney general that said rules and regulations have been approved pursuant to paragraph (5) of section thirty-two L;

(iii) an acknowledgement signed by the applicant that said applicant is aware of the dispute resolution program created under section thirty-two;

(iv) for manufactured housing communities that employ an on-site sewage disposal system or series of systems with a total design flow of less than 10,000 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; provided, however, that if the system inspector certifies to the local board of health that the on-site sewage disposal system or series of systems has been pumped out at least once every

93 three years since the prior certification by a septage hauler licensed pursuant to 310 C.M.R.
94 15.500, the written certification of compliance required hereunder need only demonstrate that the
95 on-site sewage disposal system or series of systems has been inspected in accordance with the
96 requirements of 310 C.M.R. 15.301 and 15.302 within the previous seven years; and provided
97 further, that if no such inspection that complies with the requirements of 310 C.M.R. 15.301 and
98 15.302 has occurred within the previous five years, or the previous seven years if the system has
99 been pumped out by a septage hauler at least once every three years since the prior certification,
100 no license or license renewal shall be issued unless and until such inspection is conducted and
101 said certification of compliance with all applicable federal, state and local statutes, regulations
102 and bylaws has been submitted to the board of health. The applicant shall submit to the board of
103 health along with the required certification a completed department of environmental protection
104 Title 5 inspection form;

105 (v) for manufactured housing communities that employ an on-site sewage disposal
106 system or series of systems with a total design flow of 10,000 to 15,000 gallons per day instead
107 of being connected to a municipal sanitary sewer system, a written certification from a system
108 inspector approved by the department of environmental protection pursuant to 310 C.M.R.
109 15.340 that the on-site sewage disposal system or series of systems has been inspected in
110 accordance with the requirements of 310 C.M.R. 15.301 and 15.302 within the previous five
111 years and is in compliance with all applicable federal, state and local statutes, regulations and
112 bylaws; and provided, however, that if no such inspection that complies with the requirements of
113 310 C.M.R. 15.301 and 15.302 has occurred within the previous five years, no application or
114 renewal shall be issued unless and until such inspection is conducted and said certification of
115 compliance with all applicable federal, state and local statutes, regulations and bylaws has been
116 submitted to the board of health. The applicant shall submit to the board of health along with the
117 required certification a completed department of environmental protection Title 5 inspection
118 form;

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

127 (vii) a statement from a certified operator who has received a certificate of competency
128 issued by the Board of Certification of Operators of Drinking Water Supply Facilities in
129 accordance with 236 C.M.R. 2.00 through 5.00 and currently maintains a valid license, that the
130 public water system, as that term is defined in 310 C.M.R. 22.02 and used throughout 310
131 C.M.R. 22.00 et seq., is in compliance with all applicable federal, state and local statutes,

132 regulations and bylaws. An applicant may present a statement from the certified operator that is
133 not more than one year old when first required to include said statement with the application for
134 license pursuant to this section; and

135 (viii) for manufactured housing communities that are connected to a municipal sanitary
136 sewer system, a written certification from a Massachusetts registered professional engineer with
137 background in civil, sanitary and environmental engineering and experience in the installation,
138 operation and maintenance of sewage collection systems that the sewage collection system at the
139 premises has been inspected within the previous two years and is in compliance with all
140 applicable federal, state and local statutes, regulations and bylaws. The applicant shall submit to
141 the board of health along with the required certification a completed department of
142 environmental protection Title 5 inspection form.

143 (c) Unless otherwise established in a town by town meeting action and in a city by city
144 council action, and in a town with no town meeting by town council action, by adoption of

145 appropriate by-laws and ordinances to set such fees, the fee for each original or renewal
146 license for a manufactured housing community shall be ten dollars for each lot in the community,
147 whether occupied or vacant, of which eighty percent shall be deposited into the Manufactured
148 Housing Fund established in section 2CCCC of chapter twenty-nine, and twenty percent of the
149 licensing fees shall be deposited into the general fund of the municipality pursuant to section
150 fifty three of chapter forty four. Such board of health shall at once notify the department of
151 environmental protection of the granting or renewal of such a license for a manufactured housing
152 community, and said department shall have jurisdiction to inspect the premises so licensed to
153 determine that the sources of public water supply and the works for the disposition of the sewage
154 of such premises are sanitary and in compliance with all applicable federal, state and local
155 statutes, regulations and bylaws. If upon inspection of any manufactured housing community the
156 department finds the sources of public water supply to be polluted or otherwise not in
157 compliance with all applicable federal, state and local statutes, regulations and bylaws, or finds
158 the works for the disposition of the sewage to be unsanitary or otherwise not in compliance with
159 all applicable federal, state and local statutes, regulations and bylaws, or finds both systems are
160 not in compliance with said statutes, regulations, and bylaws, said department shall forthwith
161 notify such board of health and such licensee to that effect by registered mail and said board of
162 health shall forthwith prohibit the use of any public water supply found by said department to be
163 polluted. Unless such licensee shall, within thirty days following the giving of such notice,
164 correct the conditions at such premises to the satisfaction of both said department and such board
165 of health, the license so granted shall be suspended or revoked by such board of health. Any
166 license so suspended or revoked may be reinstated by such board of health when the conditions
167 at such premises, as to sources of public water supply and works for the disposition of sewage,
168 are satisfactory to said department and such board of health. The board of health of a city or
169 town may adopt, and from time to time alter or amend, rules and regulations to enforce this
170 section in such city or town.

171 (d) No licensing or inspection fees incurred under this section shall be passed on, directly
172 or indirectly, through a rent increase or otherwise, to any tenant, resident or occupant of the
173 community.

174 SECTION 5. Said chapter 140 of the General Laws, as so appearing, is hereby amended
175 by striking out section 32C and inserting in place thereof the following section:-

176 Section 32C. Every board of health shall, from time to time, examine all camps, motels,
177 and cabins licensed by it under authority of sections thirty-two B and manufactured housing
178 communities licensed under thirty-two B1/2, and if, upon such examination, such camp, motel,
179 cabin or manufactured housing community is found to be in an unsanitary condition, said board
180 of health may, after notice and a hearing, suspend or revoke such license.

181 SECTION 6. Said chapter 140 of the General Laws, as so appearing, is hereby amended
182 by striking out section 32D and inserting in place thereof the following section:-

183 Section 32D. Whoever conducts, controls, manages or operates any camp, motel, or
184 cabin licensed under section thirty-two B or a manufactured housing community licensed under
185 section thirty-two B1/2 shall post, in a conspicuous place near the entrance to every such camp,
186 motel, cabin or manufactured housing community or in a conspicuous place at the office of the
187 manager on the site, a copy of the rules and regulations adopted thereunder, as most recently
188 altered or amended.

189 SECTION 7. Section 32E of said chapter 140, as so appearing, is hereby amended, by
190 striking out the words “section thirty-two B”, in line 7, and inserting in place thereof the
191 following words:- section thirty-two B1/2.

192 SECTION 8. Sections 32F, 32G and 32H of said chapter 140, as so appearing, are
193 hereby amended by striking out the words “section thirty-two B”, each time it appears, and
194 inserting in place thereof, in each instance, the following words:- section thirty-two B1/2.

195 SECTION 9. Section 32L of said chapter 140, as so appearing, is hereby amended by
196 striking out the second sentence in paragraph (3) and inserting in place thereof the following
197 sentence:- A manufactured housing community owner shall not impose any conditions of rental
198 or occupancy which restrict the resident in his choice of a seller of fuel, furnishings, goods,
199 services or accessories connected with the rental or occupancy of a manufactured home lot,
200 provided, however, that such seller is in compliance with applicable law and rules and
201 regulations of the manufactured housing community approved by the attorney general or
202 otherwise then in effect pursuant to paragraph (5) of section thirty-two L of chapter one hundred
203 and forty, including rules imposing reasonable insurance requirements.

204 SECTION 10. Said section 32L of said chapter 140, as so appearing, is hereby further
205 amended by striking out paragraph (5) and inserting in place thereof the following paragraph:-

206 (5) If any manufactured housing community owner promulgates, adds, deletes or amends
207 any rule governing the rental or occupancy of a manufactured home site in a manufactured
208 housing community, a new copy of all such rules shall be sent by certified mail, return receipt
209 requested, to the attorney general and the director of housing and community development at
210 least ninety days prior to the proposed effective date of such promulgation, addition, deletion or
211 amendment. The director shall have forty-five days to review the rules for compliance with
212 applicable housing law. Upon completing said review, the director shall forward his conclusion
213 to the attorney general, who shall have the remainder of said ninety day period to approve or
214 disapprove the rules, unless the attorney general determines that an extension of the rules review
215 period is warranted. If the attorney general makes such a determination, the attorney general
216 shall send written notification of such extension to the owner of the manufactured housing
217 community, and such extension shall not exceed ninety days. A copy of such rules shall be
218 furnished to each manufactured housing community resident in such community along with a
219 copy of the certified mail receipts signed by a representative of the attorney general. Such copies
220 shall be furnished by the manufactured housing community licensee to said residents at least
221 sixty days prior to the proposed effective date of such promulgations, addition, deletion or
222 amendment. If the attorney general does not take action prior to the expiration of the ninety day
223 period or the expiration of any extension of the rules review period, such rules shall be deemed
224 approved. Nothing in this section shall preclude a private party from challenging such rules or
225 portions thereof in a court of competent jurisdiction prior to or after such disapproval.

226 SECTION 11. Said section 32L of said chapter 140, as so appearing, is hereby further
227 amended by striking out, in paragraph (7), the words “thirty-two S” and inserting in place thereof
228 the following:- thirty-two T.

229 SECTION 12. Said section 32L of said chapter 140, as so appearing, is hereby further
230 amended in paragraph (7A), by striking out the words “director of housing and community
231 development or the director’s designee”, in line 96, and inserting in place thereof the following:-
232 the manufactured housing commission.

233 SECTION 13. Section 32P of said chapter 140, as so appearing, is hereby amended by
234 striking out lines 21 through 34 and inserting in place thereof the following:-

235 The rules set forth below govern the terms of your lease or occupancy with this
236 manufactured housing community. If these rules are changed in any way, the addition, deletion
237 or amendment must be delivered to you, along with a copy of the certified mail receipts
238 indicating that such change has been submitted to the attorney general and the director of
239 housing and community development and a copy of the approvals thereof by the attorney general
240 or a certificate signed by the owner stating that the attorney general has not taken any action with
241 respect thereto within the period set forth in paragraph (5) of section thirty-two L of chapter one
242 hundred and forty . This notification must be furnished to you at least sixty days before the

243 change goes into effect. The law requires all of these rules and regulations to be fair and
244 reasonable or said rules and regulations cannot be enforced.

245 SECTION 14. Section 32R of said chapter 140, as so appearing, is hereby amended in
246 paragraph (c) by striking out the words "at least fifty-one percent" each time it appears, and
247 inserting in place thereof, in each instance, the following words:- more than fifty percent.

248 SECTION 15. Section 32S of said chapter 140, as so appearing, is hereby amended by
249 striking out the words "thirty-two S", in line 4, and inserting in place thereof the following:-
250 thirty-two T.

251 SECTION 16. Said Chapter 140, as so appearing, is hereby further amended by adding
252 after section 32S the following new section:-

253 Section 32T. (a) There shall be a manufactured housing dispute resolution program to
254 assist the manufactured housing community with resolving disputes. A resident, owner or
255 operator of a manufactured housing community may file a complaint with the attorney general
256 alleging a violation of sections 32A to 32S, inclusive, of chapter 140, regulations promulgated by
257 the attorney general pursuant to said sections, or community rules approved pursuant to
258 paragraph (5) of section thirty-two L of said chapter 140. All complaints filed under this section
259 shall be in writing and include an acknowledgement signed by the party making the complaint
260 that said party is aware of the dispute resolution program created under this section.

261 (b) The attorney general shall review all complaints filed under this section, and may take
262 action upon them or refer them to the manufactured housing commission for resolution.

263 (c) Upon receipt of a complaint from the attorney general, the commission shall assign
264 one of its members to conduct a mediation between the parties involved in the dispute, provided
265 however that commissioners or alternate commissioners appointed under section 108 of chapter
266 6 as residents or owners of a manufactured housing community shall not serve as mediators.
267 The mediator may gather information he deems necessary to determine whether a violation has
268 occurred. After reviewing information from the parties involved in the dispute, the mediator
269 shall then provide recommendations for the resolution of the dispute. If the parties accept the
270 mediator's proposal, or subsequently negotiate a settlement, the mediator shall notify both parties
271 in writing of the terms agreed to by the parties involved in the dispute. If the parties fail to agree
272 to a resolution of the dispute during the mediation process, one or both parties may request that
273 the commission hear and issue a decision on the dispute under the process described in paragraph
274 (d) of this section. Said request shall be made in writing within thirty days of the close of the
275 mediation. All requests for a hearing shall include a fee of twenty-five dollars paid by the party
276 requesting a hearing, subject to adjustment pursuant to section 3B of chapter 7, which the
277 commission shall deposit into the manufactured housing fund established in section 2CCCC of
278 chapter 29.

279 (d) A hearing as described in subsection (c) shall be conducted by three members of the
280 commission; one of whom shall be the member who is the resident of a manufactured housing
281 community; and one of whom shall be the member who is the owner of a manufactured housing
282 community. Commission members appointed by the governor pursuant to section 108 of chapter
283 6 as either owners or residents, and that own or reside in the manufactured housing community
284 that is the subject of the complaint, shall be prohibited from participating in hearings involving
285 that manufactured housing community. When a commission member is so excluded from
286 hearing a complaint, the corresponding alternate-member of the commission shall replace the
287 affected member and hear the complaint. The third member who hears the complaint shall not
288 be the member who conducted the mediation of the complaint, and shall be chosen on an
289 alternating basis from the two remaining commission members who are eligible to hear the
290 complaint. Within forty-five days after the hearing, the commission shall issue a written decision
291 as to whether a violation has occurred, and shall order appropriate action, if any, to be taken by
292 the owner, resident, operator, and/or any of the parties.

293 (e) No costs incurred under section 32T, including but not limited to costs to file or
294 defend a complaint, or monies a party is ordered to pay, shall be passed on, directly or indirectly,
295 through a rent increase or otherwise, to any tenant, resident or occupant of the community.

296 (f) All commission hearings and judicial review of commission decisions under this
297 section shall be conducted pursuant to chapter thirty A.

298 (g) The attorney general, on request of the commission or his own initiative, or any party
299 to the commission hearing, may bring an action in a court of competent jurisdiction to enforce a
300 decision issued by the commission under paragraph (d) of this section.

301 (h) The commission shall develop written rules and procedures to carry out its duties
302 under this section.

303 SECTION 17. Section 32Q of chapter 140 of the General Laws, as appearing in the 2010
304 Official Edition, is hereby amended by striking out in lines 2-4 the following: words “, built in
305 conformance to the National Manufactured Home Construction and Safety Standards”.