

HOUSE No. 02117

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 bill:

An Act relative to manufactured housing communities.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
<i>Patricia A. Haddad</i>	<i>5th Bristol</i>
<i>John J. Binienda</i>	<i>17th Worcester</i>
<i>Shaunna O'Connell</i>	<i>3rd Bristol</i>
<i>Christine E. Canavan</i>	<i>10th Plymouth</i>
<i>Stephen R. Canessa</i>	<i>12th Bristol</i>
<i>Susan Williams Gifford</i>	<i>2nd Plymouth</i>

HOUSE No. 02117

By Ms. Haddad of Somerset, a petition (accompanied by bill, House, No. 2117) of Gifford and others relative to manufactured housing communities Joint Committee on Housing.

The Commonwealth of Massachusetts

In the Year Two Thousand Eleven

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:

1 SECTION 1. Chapter 6 of the General Laws, as appearing in the 2008 Official Edition, is hereby
2 amended by striking out section 108 and inserting in place thereof the following section:-

3 Section 108. There shall be a manufactured housing commission, hereinafter referred to
4 as the “commission”. The commission shall consist of five members, not more than three of
5 whom shall be of the same political party. The governor shall appoint three members, one of
6 whom shall be a resident of a manufactured housing community; one of whom shall be an owner
7 of a manufactured housing community; and one of whom shall be an attorney authorized to
8 practice law in the commonwealth with experience in legal issues regarding manufactured
9 housing, landlord-tenant law, or real estate law, and who shall not be a resident or owner of a
10 manufactured housing community. The attorney general and director of the department of
11 housing and community development shall each appoint one member who shall be an attorney
12 authorized to practice law in the commonwealth with experience in legal issues regarding

13 manufactured housing, landlord-tenant law, or real estate law, and who shall not be a resident or
14 owner of a manufactured housing community. In the event that the governor, attorney general or
15 director cannot appoint an attorney with said experience, the attorney general may appoint an
16 attorney with experience in mediation or alternative dispute resolution programs. Each member
17 shall serve a term of 2 years and may be reappointed upon expiration of his term.

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

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

23 Section 2CCCC. There shall be established and set up on the books of the commonwealth
24 a separate fund to be known as the Manufactured Housing Trust Fund, hereinafter referred to as
25 the fund. The fund shall be administered by the secretary of the executive office for
26 administration and finance, and shall be credited with licensing revenues collected in accordance
27 with section 32B1/2 of chapter 140 and any interest thereon. Amounts credited to the fund shall
28 be expended, without further appropriation, to support the manufactured housing dispute
29 resolution program described in section 32T of said chapter 140, including, but not limited to,
30 compensation of commission members as determined by the secretary of the executive office for
31 administration and finance based on time actually worked on dispute resolution, and to support
32 funding of court appointed receiverships of manufactured housing communities.

33 SECTION 3. Section 32A of chapter 140, as so appearing, is hereby amended by striking out the
34 words “under the following section” and inserting in place thereof the following:- the following
35 two sections.

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

38 Section 32B. The board of health of any city or town, in each instance after a hearing,
39 reasonable notice of which shall have been published once in a newspaper published in such city
40 or town, may grant, and may suspend or revoke, licenses for recreational camps, overnight
41 camps or cabins, or motels located within such city or town, which license, unless previously
42 suspended or revoked, shall expire on December thirty-first in the year of issue, but may be
43 renewed annually upon application without such notice and hearing. Unless otherwise
44 established in a town by town meeting action and in a city by city council action, and in a town
45 with no town meeting by town council action, by adoption of appropriate by-laws and ordinances
46 to set such fees, the fee for each original or renewal license shall be ten dollars, but in no event
47 shall any such fee be greater than fifty dollars. Such board of health shall at once notify the
48 department of environmental protection of the granting or renewal of such a license, and said
49 department shall have jurisdiction to inspect the premises so licensed to determine that the
50 sources of water supply and the works for the disposition of the sewage of such premises are
51 sanitary. If upon inspection of such premises said department finds the sources of water supply to
52 be polluted or the works for the disposition of the sewage to be unsanitary, or both of such
53 conditions, said department shall forthwith notify such board of health and such licensee to that
54 effect by registered mail and said board shall forthwith prohibit the use of any water supply
55 found by said department to be polluted. Unless such licensee shall, within thirty days following

56 the giving of such notice, correct the conditions at such premises to the satisfaction of both said
57 department and such board the license so granted shall be suspended or revoked by such board.
58 Any license so suspended may be reinstated by such board when the conditions at such premises,
59 as to sources of water supply and works for the disposition of sewage, are satisfactory to said
60 department and such board. The board of health of a city or town may adopt, and from time to
61 time alter or amend, rules and regulations to enforce this section in such city or town.

62

63 Section 32B1/2. The board of health of any city or town, in each instance after a hearing,
64 reasonable notice of which shall have been published once in a newspaper published in such city
65 or town, may grant, and may suspend or revoke, licenses for manufactured housing communities
66 located within such city or town, which license, unless previously suspended or revoked, shall
67 expire on December thirty-first in the year of issue, but may be renewed annually upon
68 application without such notice and hearing. All applications shall include: a true and complete
69 copy of the rules and regulations then in effect and approved by the attorney general for the
70 manufactured housing community to be licensed; a certification from the attorney general that
71 the rules and regulations have been approved pursuant to paragraph (5) of section thirty-two L;
72 and a certification by an entity approved by the department of environmental protection stating
73 that the sources of water supply and the works for the disposition of the sewage of such premises
74 have been inspected and are sanitary and properly functioning.

75 Unless otherwise established in a town by town meeting action and in a city by city
76 council action, and in a town with no town meeting by town council action, by adoption of
77 appropriate by-laws and ordinances to set such fees, the fee for each original or renewal license

78 for a manufactured housing community shall be ten dollars for each lot in the community,
79 whether occupied or vacant, of which eighty percent shall be deposited into the Manufactured
80 Housing Fund established in section 2CCCC of chapter twenty-nine. The remaining twenty
81 percent of the licensing fees shall be deposited into the general fund of the municipality pursuant
82 to section fifty three of chapter forty four. Such board of health shall at once notify the
83 department of environmental protection of the granting or renewal of such a license for a
84 manufactured housing community, and said department shall have jurisdiction to inspect the
85 premises so licensed to determine that the sources of water supply and the works for the
86 disposition of the sewage of such premises are sanitary. If upon inspection of any manufactured
87 housing community the department finds the sources of water supply to be polluted or the works
88 for the disposition of the sewage to be unsanitary, or both of such conditions, said department
89 shall forthwith notify such board of health and such licensee to that effect by registered mail and
90 said board shall forthwith prohibit the use of any water supply found by said department to be
91 polluted. Unless such licensee shall, within thirty days following the giving of such notice,
92 correct the conditions at such premises to the satisfaction of both said department and such
93 board, the license so granted shall be suspended or revoked by such board. Any license so
94 suspended or revoked may be reinstated by such board when the conditions at such premises, as
95 to sources of water supply and works for the disposition of sewage, are satisfactory to said
96 department and such board. The board of health of a city or town may adopt, and from time to
97 time alter or amend, rules and regulations to enforce this section in such city or town.

98 No licensing or inspection fees incurred under this section shall be passed on, directly or
99 indirectly, through a rent increase or otherwise, to any tenant, resident or occupant of the
100 community.

101 All license applications shall include an acknowledgement signed by the licensee that
102 said licensee is aware of the dispute resolution program created under section thirty-two T of this
103 chapter.

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

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

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

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

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

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

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

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

136 (5) If any manufactured housing community owner promulgates, adds, deletes or amends any
137 rule governing the rental or occupancy of a manufactured home site in a manufactured housing
138 community, a new copy of all such rules shall be sent by certified mail, return receipt requested,
139 to the attorney general and the director of housing and community development at least ninety
140 days prior to the proposed effective date of such promulgation, addition, deletion or amendment.
141 The director shall have forty-five days to review the rules for compliance with applicable
142 housing law. Upon completing said review, the director shall forward his conclusion to the
143 attorney general, who shall have the remainder of said ninety day period to approve or

144 disapprove the rules, unless the attorney general determines that an extension of the rules review
145 period is warranted. If the attorney general makes such a determination, the attorney general
146 shall send written notification of such extension to the owner of the manufactured housing
147 community, and such extension shall not exceed ninety days. A copy of such rules shall be
148 furnished to each manufactured housing community resident in such community along with a
149 copy of the certified mail receipts signed by a representative of the attorney general. Such copies
150 shall be furnished by the manufactured housing community licensee to said residents at least
151 sixty days prior to the proposed effective date of such promulgations, addition, deletion or
152 amendment. If the attorney general does not take action prior to the expiration of the ninety day
153 period or the expiration of any extension of the rules review period, such rules shall be deemed
154 approved. Nothing in this section shall preclude a private party from challenging such rules or
155 portions thereof in a court of competent jurisdiction prior to or after such disapproval.

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

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

163 SECTION 13. Section 32P of said chapter 140, as so appearing, is hereby amended by striking
164 out lines 21 through 34 and inserting in place thereof the following:- The rules set forth below
165 govern the terms of your lease or occupancy with this manufactured housing community. If these

166 rules are changed in any way, the addition, deletion or amendment must be delivered to you,
167 along with a copy of the certified mail receipts indicating that such change has been submitted to
168 the attorney general and the director of housing and community development and a copy of the
169 approvals thereof by the attorney general or a certificate signed by the owner stating that the
170 attorney general has not taken any action with respect thereto within the period set forth in
171 paragraph (5) of section thirty-two L of chapter one hundred and forty . This notification must be
172 furnished to you at least sixty days before the change goes into effect. The law requires all of
173 these rules and regulations to be fair and reasonable or said rules and regulations cannot be
174 enforced.

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

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

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

182 Section 32T. (a) There shall be a manufactured housing dispute resolution program to assist the
183 manufactured housing community with resolving disputes. A resident, owner or operator of a
184 manufactured housing community may file a complaint with the attorney general alleging a
185 violation of sections 32A to 32S, inclusive, of chapter 140, regulations promulgated by the
186 attorney general pursuant to said sections, or community rules approved pursuant to paragraph
187 (5) of section thirty-two L of said chapter 140. All complaints filed under this section shall be in

188 writing and include an acknowledgement signed by the party making the complaint that said
189 party is aware of the dispute resolution program created under this section.

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

192 (c) Upon receipt of a complaint from the attorney general, the commission shall assign one of its
193 members to conduct a mediation between the parties involved in the dispute. All members of the
194 commission may serve as mediators except members who are residents or owners of a
195 manufactured housing community. The mediator may gather information he deems necessary to
196 determine whether a violation has occurred. After hearing from the parties involved in the
197 dispute, the mediator shall then provide recommendations for the resolution of the dispute. If the
198 parties accept the mediator's proposal, or subsequently negotiate a settlement, the mediator shall
199 notify both parties in writing of the terms agreed to by the parties involved in the dispute. If the
200 parties fail to agree to a resolution of the dispute during the mediation process, one or both
201 parties may request that the commission hear and decide the dispute. Said request shall be made
202 in writing within thirty days of the close of the mediation. All requests for a hearing shall
203 include a fee of twenty-five dollars paid by the party requesting a hearing, subject to adjustment
204 pursuant to section 3B of chapter 7, which the commission shall deposit into the manufactured
205 housing fund established in section 2CCCC of chapter 29.

206 (d) The hearing shall be conducted by three members of the commission; 1 of whom shall be the
207 member who is the resident of a manufactured housing community; and 1 of whom shall be the
208 member who is the owner of a manufactured housing community. The third member who hears
209 the complaint shall not be the member who conducted the mediation of the complaint, and shall

210 be chosen on an alternating basis from the two remaining commission members who are eligible
211 to hear the complaint. Within forty five days after the hearing, the commission shall issue a
212 written decision as to whether a violation has occurred, and shall order appropriate relief if any
213 against the owner, the resident, the operator or any of the parties.

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

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

219 (g) The attorney general, on request of the commission or his own initiative, or any party to the
220 commission hearing, may bring an action in a court of competent jurisdiction to enforce the
221 decision.

222 (h) The commission may promulgate regulations to carry out its duties under this section.