

SENATE No. 1992

The Commonwealth of Massachusetts

—
In the Year Two Thousand Fourteen
—

SENATE, Thursday, January 30, 2014

The committee on Housing to whom was referred the petitions (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; and (House, No. 1116) of Attorney General Martha Coakley and others relative to manufactured housing communities,- reports the accompanying bill (Senate, No. 1992).

For the committee,
James B. Eldridge

SENATE No. 1992

The Commonwealth of Massachusetts

In the Year Two Thousand Fourteen

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,
2 is hereby amended by striking out section 108 and inserting in place thereof the following
3 section:-

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

15 the alternate owner-member shall not have an ownership interest in the same community as the
16 owner-member of the commission. The attorney general and director of the department of
17 housing and community development shall each appoint one member who shall be an attorney
18 authorized to practice law in the commonwealth with experience in legal issues regarding
19 manufactured housing, landlord-tenant law, or real estate law, and who shall not be a resident or
20 owner of a manufactured housing community. In the event that the governor, attorney general or
21 director cannot appoint an attorney with said experience, the governor, the attorney general, or
22 the director may appoint an attorney with experience in mediation or alternative dispute
23 resolution programs. Each member shall serve a term of 2 years and may be reappointed upon
24 expiration of his term.

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

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

30 Section 2CCCC. There shall be established and set up on the books of the commonwealth
31 a separate fund to be known as the Manufactured Housing Trust Fund, hereinafter referred to as
32 the "fund". The fund shall be administered by the secretary of the executive office for
33 administration and finance, and shall be credited with licensing revenues collected in accordance
34 with section 32B1/2 of chapter 140 and fees collected in accordance with paragraph (c) of
35 section 30T of chapter 140 and any interest thereon. Amounts credited to the fund shall be
36 expended, without further appropriation, to support the manufactured housing dispute resolution

37 program described in section 32T of said chapter 140, including, but not limited to,
38 compensation of commission members, as determined by the secretary of the executive office for
39 administration and finance, based on time actually expended on dispute resolution under the
40 program described in section 32T of chapter 140, and to support funding of court appointed
41 receiverships of manufactured housing communities.

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

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

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

59 sources of water supply and the works for the disposition of the sewage of such premises are
60 sanitary. If upon inspection of such premises said department finds the sources of water supply to
61 be polluted or the works for the disposition of the sewage to be unsanitary, or both of such
62 conditions, said department shall forthwith notify such board of health and such licensee to that
63 effect by registered mail and said board shall forthwith prohibit the use of any water supply
64 found by said department to be polluted. Unless such licensee shall, within thirty days following
65 the giving of such notice, correct the conditions at such premises to the satisfaction of both said
66 department and such board the license so granted shall be suspended or revoked by such board.
67 Any license so suspended may be reinstated by such board when the conditions at such premises,
68 as to sources of water supply and works for the disposition of sewage, are satisfactory to said
69 department and such board. The board of health of a city or town may adopt, and from time to
70 time alter or amend, rules and regulations to enforce this section in such city or town.

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

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

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

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

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

85 (iv) for manufactured housing communities that employ an on-site sewage
86 disposal system or series of systems with a total design flow of less than 10,000 gallons per day
87 instead of being connected to a municipal sanitary sewer system, a written certification from a
88 system inspector approved by the department of environmental protection pursuant to 310
89 C.M.R. 15.340 that the on-site sewage disposal system or series of systems has been inspected in
90 accordance with and is in compliance with the requirements of 310 C.M.R. 15.302 and 15.303
91 within the previous five years; provided, however, that if the system inspector certifies to the
92 local board of health that the on-site sewage disposal system or series of systems has been
93 pumped out at least once every three years since the prior certification by a septage hauler
94 licensed pursuant to 310 C.M.R. 15.500, the written certification of compliance required
95 hereunder need only demonstrate that the on-site sewage disposal system or series of systems has
96 been inspected in accordance with and is in compliance with the requirements of 310 C.M.R.
97 15.302 and 15.303 within the previous seven years; and provided further, that if no such
98 inspection that complies with the requirements of 310 C.M.R. 15.302 and 15.303 has occurred
99 within the previous five years, or the previous seven years if the system has been pumped out by
100 a septage hauler at least once every three years since the prior certification, no license or license
101 renewal shall be issued unless and until such inspection is conducted and said certification of
102 compliance with the requirements of 310 C.M.R. 15.302 and 15.303 has been submitted to the

103 board of health. The applicant shall submit to the board of health along with the required
104 certification a completed department of environmental protection Title 5 inspection form;

105 (v) for manufactured housing communities that employ an on-site sewage
106 disposal system or series of systems with a total design flow of 10,000 to 15,000 gallons per day
107 instead of being connected to a municipal sanitary sewer system, and are large systems as
108 defined by 310 CMR 15.304, and are otherwise not required to obtain a groundwater discharge
109 permit and a privately owned wastewater treatment facility or treatment works pursuant to 310
110 C.M.R. 15.304 or any other applicable provision of Massachusetts law, a written certification
111 from a system inspector approved by the department of environmental protection pursuant to 310
112 C.M.R. 15.340 that the on-site sewage disposal system or series of systems has been inspected in
113 accordance with and is in compliance with the requirements of 310 C.M.R. 15.302, 15.303, and
114 15.304 within the previous five years; and provided, however, that if no such inspection that
115 complies with the requirements of 310 C.M.R. 15.302, 15.303, and 15.304 has occurred within
116 the previous five years, no application or renewal shall be issued unless and until such inspection
117 is conducted and said certification of compliance with the requirements of 310 C.M.R. 15.302,
118 15.303, and 15.304 has been submitted to the board of health. The applicant shall submit to the
119 board of health along with the required certification a completed department of environmental
120 protection Title 5 inspection form;

121 (vi) for manufactured housing communities that employ an on-site sewage
122 disposal system and which require a groundwater discharge permit and a privately owned
123 wastewater treatment facility or treatment works pursuant to 314 C.M.R. 5.00 et seq., a written
124 certification from a wastewater treatment plant operator approved pursuant to 257 C.M.R. 2.00 et
125 seq. that the privately owned wastewater treatment facility or treatment works has been

126 inspected, operated and maintained in accordance with the requirements of 314 C.M.R. 5.00 et
127 seq. and the facilities Groundwater Discharge Permit;

128 (vii) if a public water system as defined by 310 C.M.R. 22.02, a statement from a
129 Department of Environmental Protection approved primary certified operator who has received a
130 certificate of competency issued by the Board of Certification of Operators of Drinking Water
131 Supply Facilities in accordance with 236 C.M.R. 2.00 through 5.00, and currently maintains a
132 valid license, that the public water system is in compliance with the requirements of 310 C.M.R.
133 22.00 et seq ., or if a consecutive public water system as defined in 310 C.M.R. 22.02 but not
134 subjected to the requirements of 310 C.M.R. 22.00 as excepted under 310 C.M.R. 22.03(3), a
135 statement from a certified operator who has received a certificate of competency issued by the
136 Board of Certification of Operators of Drinking Water Supply Facilities in accordance with 236
137 C.M.R. through 5.00 and currently maintains a valid license, that the consecutive public water
138 system is in compliance with the requirements of 310 .C.M.R. 22.00 et seq. An applicant may
139 present a statement from the certified operator that is not more than one year old when first
140 required to include said statement with the application for license pursuant to this section; and
141 ; and

142 (viii) for manufactured housing communities that are connected to a municipal
143 sanitary sewer system, a written certification from a Massachusetts registered professional
144 engineer with background in civil, sanitary and environmental engineering and experience in the
145 installation, operation and maintenance of sewage collection systems that the sewage collection
146 system at the premises has been inspected within the previous two years and is in compliance
147 with all applicable federal, state and local statutes, regulations and bylaws. For the purposes of

148 this paragraph, an inspection need not include an evaluation of infiltration and inflow, unless
149 there is observable sanitary sewer overflow or other reasonable evidence that infiltration or
150 inflow exists.

151 (c) If a manufactured housing community is unable to provide certification to a board of
152 health pursuant to paragraphs (iv) through (viii) of subsection (b) due to substandard, degraded,
153 or otherwise non-functional water, sewage disposal, or sewer infrastructure and facilities, the
154 board of health may, at its discretion, issue a conditional license for a term of up to one year if it
155 reasonably determines that (i) the lack of compliance with said paragraphs presents no
156 immediate threat to the health, safety, or welfare of the manufactured housing community
157 residents, and (ii) the applicant has taken or plans to take substantial steps to make repairs and
158 improvements to bring the system or systems into compliance to meet the certification
159 requirements enumerated in said paragraphs during the conditional licensure period, provided
160 that the manufactured housing community owner presents to the board of health a work plan and
161 satisfactory proof of a financing plan for the necessary repairs and improvements. A board of
162 health may, at its discretion, at the conclusion of the one year conditional licensure period,
163 extend the conditional license for a term of up to one additional year, provided that a board of
164 health may not issue a conditional license for a total of more than two years. The board of health
165 may rescind any conditional license if it determines that the operator of the community has not
166 complied in full with the terms of its work and financing plans. Nothing in this subsection shall
167 be construed as requiring a board of health to issue a conditional license.

168 (d) Unless otherwise established in a town by town meeting action and in a city by city
169 council action, and in a town with no town meeting by town council action, by adoption of
170 appropriate by-laws and ordinances to set such fees, the fee for each original or renewal license

171 for a manufactured housing community shall be ten dollars for each lot in the community,
172 whether occupied or vacant, of which eighty percent shall be deposited into the Manufactured
173 Housing Fund established in section 2CCCC of chapter twenty-nine, and twenty percent of the
174 licensing fees shall be deposited into the general fund of the municipality pursuant to section
175 fifty three of chapter forty four. Such board of health shall at once notify the department of
176 environmental protection of the granting or renewal of such a license for a manufactured housing
177 community, and said department shall have jurisdiction to inspect the premises so licensed to
178 determine that the sources of public water supply and the works for the disposition of the sewage
179 of such premises are sanitary and in compliance with all applicable state statutes and department
180 regulations. If upon inspection of any manufactured housing community the department finds
181 the sources of public water supply to be polluted or otherwise not in compliance with all
182 applicable state statutes and regulations, or finds the works for the disposition of the sewage to
183 be unsanitary or otherwise not in compliance with all applicable state statutes and regulations, or
184 finds both systems are not in compliance with said statutes and regulations, said department shall
185 forthwith notify such board of health and such licensee to that effect by registered mail and said
186 board of health shall forthwith prohibit the use of any public water supply found by said
187 department to be polluted. Unless such licensee shall, within thirty days following the giving of
188 such notice, correct the conditions at such premises to the satisfaction of both said department
189 and such board of health, the license so granted shall be suspended or revoked by such board of
190 health. Any license so suspended or revoked may be reinstated by such board of health when the
191 conditions at such premises, as to sources of public water supply and works for the disposition of
192 sewage, are satisfactory to said department and such board of health. The board of health of a

193 city or town may adopt, and from time to time alter or amend, rules and regulations to enforce
194 this section in such city or town.

195 (e) No licensing or inspection fees incurred under this section shall be passed on, directly
196 or indirectly, through a rent increase or otherwise, to any tenant, resident or occupant of the
197 community. Any improvements or repairs that address substandard, degraded, or otherwise
198 non-functional water or sewer infrastructure and facilities discovered or observed during
199 inspections conducted pursuant to paragraphs (iv) through (viii) of subsection (b) shall not be
200 construed as licensing or inspection fees, and may be passed onto residents as capital
201 improvement costs where the applicable provisions of 940 C.M.R. 10.00 et seq. pertaining to
202 said costs are otherwise met.

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

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

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

212 Section 32D. Whoever conducts, controls, manages or operates any camp, motel, or
213 cabin licensed under section thirty-two B or a manufactured housing community licensed under
214 section thirty-two B1/2 shall post, in a conspicuous place near the entrance to every such camp,

215 motel, cabin or manufactured housing community or in a conspicuous place at the office of the
216 manager on the site, a copy of the rules and regulations adopted thereunder, as most recently
217 altered or amended.

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

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

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

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

235 (5) If any manufactured housing community owner promulgates, adds, deletes or amends
236 any rule governing the rental or occupancy of a manufactured home site in a manufactured

237 housing community, a new copy of all such rules shall be sent by certified mail, return receipt
238 requested, to the attorney general and the director of housing and community development at
239 least ninety days prior to the proposed effective date of such promulgation, addition, deletion or
240 amendment. The director shall have forty-five days to review the rules for compliance with
241 applicable housing law. Upon completing said review, the director shall forward his conclusion
242 to the attorney general, who shall have the remainder of said ninety day period to approve or
243 disapprove the rules, unless the attorney general determines that an extension of the rules review
244 period is warranted. If the attorney general makes such a determination, the attorney general
245 shall send written notification of such extension to the owner of the manufactured housing
246 community, and such extension shall not exceed ninety days. A copy of such rules shall be
247 furnished to each manufactured housing community resident in such community along with a
248 copy of the certified mail receipts signed by a representative of the attorney general. Such copies
249 shall be furnished by the manufactured housing community licensee to said residents at least
250 sixty days prior to the proposed effective date of such promulgations, addition, deletion or
251 amendment. If the attorney general does not take action prior to the expiration of the ninety day
252 period or the expiration of any extension of the rules review period, such rules shall be deemed
253 approved. Nothing in this section shall preclude a private party from challenging such rules or
254 portions thereof in a court of competent jurisdiction prior to or after such disapproval.

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

258 SECTION 12. Said section 32L of said chapter 140, as so appearing, is hereby further
259 amended in paragraph (7A), by striking out the words “director of housing and community

260 development or the director’s designee”, in line 96, and inserting in place thereof the following:-
261 the manufactured housing commission.

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

264 The rules set forth below govern the terms of your lease or occupancy with this
265 manufactured housing community. If these rules are changed in any way, the addition, deletion
266 or amendment must be delivered to you, along with a copy of the certified mail receipts
267 indicating that such change has been submitted to the attorney general and the director of
268 housing and community development and a copy of the approvals thereof by the attorney general
269 or a certificate signed by the owner stating that the attorney general has not taken any action with
270 respect thereto within the period set forth in paragraph (5) of section thirty-two L of chapter one
271 hundred and forty . This notification must be furnished to you at least sixty days before the
272 change goes into effect. The law requires all of these rules and regulations to be fair and
273 reasonable or said rules and regulations cannot be enforced.

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

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

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

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

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

292 (c) Upon receipt of a complaint from the attorney general, the commission shall assign
293 one of its members to conduct a mediation between the parties involved in the dispute, provided
294 however that commissioners or alternate commissioners appointed under section 108 of chapter
295 6 as residents or owners of a manufactured housing community shall not serve as mediators.
296 The mediator may gather information he deems necessary to determine whether a violation has
297 occurred. After reviewing information from the parties involved in the dispute, the mediator
298 shall then provide recommendations for the resolution of the dispute. If the parties accept the
299 mediator's proposal, or subsequently negotiate a settlement, the mediator shall notify both parties
300 in writing of the terms agreed to by the parties involved in the dispute. If the parties fail to agree
301 to a resolution of the dispute during the mediation process, one or both parties may request that
302 the commission hear and issue a decision on the dispute under the process described in paragraph
303 (d) of this section. Said request shall be made in writing within thirty days of the close of the
304 mediation. All requests for a hearing shall include a fee of twenty-five dollars paid by the party

305 requesting a hearing, subject to adjustment pursuant to section 3B of chapter 7, which the
306 commission shall deposit into the manufactured housing fund established in section 2CCCC of
307 chapter 29.

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

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

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

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

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