

SENATE No. 2344

The Commonwealth of Massachusetts

In the One Hundred and Ninetieth General Court
(2017-2018)

SENATE, Thursday, March 15, 2018

The committee on Ways and Means to whom was referred the Senate Bill relative to manufactured housing communities (Senate, No. 743),-- reports, recommending that the same ought to pass with an amendment substituting a new draft with the same title (Senate, No. 2344).

For the committee,
Karen E. Spilka

The Commonwealth of Massachusetts

**In the One Hundred and Ninetieth General Court
(2017-2018)**

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 is hereby amended by striking out section
2 108, as appearing in the 2016 Official Edition, and inserting in place thereof the following
3 section:-

4 Section 108. There shall be a manufactured housing commission consisting of 5
5 members: 3 members shall be appointed by the governor, 1 of whom shall be a resident of a
6 manufactured housing community, 1 of whom shall be an owner of a manufactured housing
7 community and 1 of whom shall be an attorney authorized to practice law in the commonwealth
8 with experience in legal issues regarding manufactured housing, landlord-tenant law or real
9 estate law and shall not be a resident or owner of a manufactured housing community; 1 member
10 shall be appointed by the attorney general and shall be an attorney authorized to practice law in
11 the commonwealth with experience in legal issues regarding manufactured housing, landlord-
12 tenant law or real estate law and shall not be a resident or owner of a manufactured housing
13 community; and 1 member shall be appointed by the director of housing and community
14 development and shall be an attorney authorized to practice law in the commonwealth with

15 experience in legal issues regarding manufactured housing, landlord-tenant law or real estate law
16 and shall not be a resident or owner of a manufactured housing community. The governor shall
17 not appoint more than 2 members from the same political party. In the event that the governor,
18 attorney general or director of housing and community development cannot appoint an attorney
19 with the required experience, the governor, the attorney general or the director of housing and
20 community development may appoint an attorney with experience in mediation or alternative
21 dispute resolution programs. The governor shall appoint 2 alternate members, 1 of whom shall be
22 a resident of a manufactured housing community and 1 of whom shall be an owner of a
23 manufactured housing community. The alternate member who is a resident of a manufactured
24 housing community shall not reside in the same community as the member of the commission
25 who is a resident of a manufactured housing community and the alternate member who is an
26 owner of a manufactured housing community shall not have an ownership interest in the same
27 manufactured housing community as the member of the commission who is an owner of a
28 manufactured housing community. Each member shall serve a term of 2 years and may be
29 reappointed by the appointing authority upon expiration of the member's term.

30 A member or alternate member of the commission may be removed by their appointing
31 authority for neglect of duty, misconduct, malfeasance or misfeasance after being given written
32 notice and a sufficient opportunity to be heard.

33 The commission shall annually file with the department of housing and community
34 development and the attorney general a written report for the preceding fiscal year. The report
35 shall include an accounting of activities conducted and funds received and expended from the
36 Manufactured Housing Trust Fund pursuant to section 2ZZZZ of chapter 29. The department of
37 housing and community development shall make the annual report available online.

38 SECTION 2. Chapter 29 of the General Laws is hereby amended by inserting after
39 section 2YYYY the following section:-

40 Section 2ZZZZ. There shall be a Manufactured Housing Trust Fund. The fund shall be
41 administered by the secretary of administration and finance and licensing revenues collected
42 pursuant to section 32B½ of chapter 140 and fees collected pursuant to subsection (c) of section
43 32T of said chapter 140 shall be deposited into the fund along with any interest earned by the
44 fund. Fund assets shall be expended, without further appropriation, to support the manufactured
45 housing dispute resolution program established in said section 32T of said chapter 140 and may
46 be used for compensation of manufactured housing commission members, as determined by the
47 secretary of administration and finance, based on time actually expended on dispute resolution
48 pursuant to the program described in said section 32T of said chapter 140 and to support funding
49 of court appointed receiverships of manufactured housing communities.

50 SECTION 3. Section 32B of chapter 140 of the General Laws, as appearing in the 2016
51 Official Edition, is hereby amended by inserting after the third sentence the following sentence:-
52 The fee imposed for each original or renewal license for a manufactured housing community
53 shall be for each lot in the community, occupied or vacant, and shall not be passed on, directly or
54 indirectly, through a rent increase or otherwise to a tenant, resident or occupant of the
55 community.

56 SECTION 4. Said chapter 140 is hereby further amended by inserting after said section
57 32B the following section:-

58 Section 32B½ . The fee for each original or renewal license for a manufactured housing
59 community pursuant to section 32B shall be deposited as follows: (i) 80 per cent of the fee shall

60 be deposited into the Manufactured Housing Trust Fund established in section 2ZZZZ of chapter
61 29; and (ii) 20 per cent of the fee shall be deposited into the general fund of the municipality in
62 which the manufactured housing community is located pursuant to section 53 of chapter 44.

63 SECTION 5. Paragraph (3) of section 32L of said chapter 140, as appearing in the 2016
64 Official Edition, is hereby amended by striking out the second sentence and inserting in place
65 thereof the following sentence:- A manufactured housing community owner shall not impose
66 conditions of rental or occupancy which restrict the resident's choice of seller of fuel,
67 furnishings, goods, services or accessories connected with the rental or occupancy of a
68 manufactured home lot; provided, however, that the seller or resident shall comply with the
69 applicable laws, rules and regulations of the manufactured housing community approved by the
70 attorney general or otherwise in effect pursuant to paragraph (5), including rules imposing
71 reasonable insurance requirements.

72 SECTION 6. Said section 32L of said chapter 140, as so appearing, is hereby further
73 amended by striking out paragraph (5) and inserting in place thereof the following paragraph:-

74 (5) If a manufactured housing community owner promulgates, deletes or amends a rule
75 governing the rental or occupancy of a manufactured home site in a manufactured housing
76 community, a new copy of those rules shall be sent by certified mail, return receipt requested, to
77 the attorney general and the director of housing and community development not less than 90
78 days before the proposed effective date of the promulgated, deleted or amended rules. The
79 director of housing and community development shall have 45 days to review the rules for
80 compliance with applicable housing laws. Upon completion of that review, the director shall
81 forward a conclusion to the attorney general, who shall have the remainder of the 90-day period

82 to approve or disapprove the rules, unless the attorney general determines that an extension of
83 the rules review period is warranted. If the attorney general determines that an extension of the
84 rules review period is warranted, the attorney general shall send written notification of the
85 extension to the owner of the manufactured housing community; provided, however, that the
86 extension shall be for not more than 90 days after the expiration of the original 90 days.

87 A copy of the manufactured housing community's rules shall be furnished to each
88 resident in the community, along with a copy of the certified mail receipts signed by a
89 representative of the attorney general, not less than 60 days before the proposed effective date of
90 the promulgated, deleted or amended rules. If the attorney general does not take action before the
91 expiration of the 90-day rules review period or any extension of that period, the manufactured
92 housing community's rules shall be deemed approved. Nothing in this section shall preclude a
93 private party from challenging a manufactured housing community's rules or portions of those
94 rules in a court of competent jurisdiction before or after their approval or disapproval.

95 SECTION 7. Said section 32L of said chapter 140, as so appearing, is hereby further
96 amended by striking out, in lines 67 and 68, the words "thirty-two A to thirty-two S" and
97 inserting in place thereof the following words:- 32A to 32T.

98 SECTION 8. Said section 32L of said chapter 140, as so appearing, is hereby further
99 amended by striking out, in lines 100 and 101, the words "director of housing and community
100 development or the director's designee" and inserting in place thereof the following words:- the
101 manufactured housing commission.

102 SECTION 9. Section 32P of said chapter 140, as so appearing, is hereby amended by
103 striking out, in lines 27 to 33, inclusive, the words "either a copy of the approvals thereof by the

104 attorney general and said director or a certificate signed by the owner stating that neither the
105 attorney general nor said director has taken action with respect thereto within the period set forth
106 in paragraph (5) of section thirty-two L of chapter one hundred and forty. This notification must
107 be furnished to you at least thirty” and inserting in place thereof the following words:- a copy of
108 the approvals of such rules by the attorney general or a certificate signed by the owner stating
109 that the attorney general has not taken action with respect to such rules within the period set forth
110 in paragraph (5) of section 32L. This notification shall be furnished to you not less than 60.

111 SECTION 10. Section 32Q of said chapter 140, as so appearing, is hereby amended by
112 striking out, in lines 3 and 4, the words “built in conformance to the National Manufactured
113 Home Construction and Safety Standards”.

114 SECTION 11. Section 32R of said chapter 140, as so appearing, is hereby amended by
115 striking out, in lines 32 and 33 and in line 40, the words “at least fifty-one percent” and inserting
116 in place thereof, in each instance, the following words:- more than 50 per cent.

117 SECTION 12. Section 32S of said chapter 140, as so appearing, is hereby amended by
118 striking out, in line 4, the words “thirty-two A to thirty-two S” and inserting in place thereof the
119 following words:- 32A to 32T.

120 SECTION 13. Said chapter 140 is hereby further amended by inserting after section 32S
121 the following section:-

122 Section 32T. (a) There shall be a manufactured housing dispute resolution program to
123 assist manufactured housing communities with resolving disputes. A resident, owner or operator
124 of a manufactured housing community may file a complaint with the attorney general alleging a
125 violation of sections 32A to 32S, inclusive, regulations promulgated by the attorney general

126 pursuant to said sections 32A to 32S, inclusive, or manufactured housing community rules
127 approved pursuant to paragraph (5) of section 32L. Complaints filed pursuant to this section shall
128 be in writing and shall include an acknowledgement signed by the party making the complaint
129 that the party is aware of the dispute resolution program created by this section.

130 (b) The attorney general shall review all complaints filed pursuant to this section. The
131 attorney general may take action upon such complaints or refer the complaints to the
132 manufactured housing commission for resolution.

133 (c) Upon receipt of a complaint from the attorney general, the commission shall assign 1
134 of its members to conduct a mediation between the parties involved in the dispute; provided,
135 however, that commissioners or alternate commissioners appointed pursuant to section 108 of
136 chapter 6 as residents or owners of a manufactured housing community shall not serve as
137 mediators. The mediator may gather information that the mediator deems necessary to determine
138 whether a violation has occurred. After reviewing information from the parties involved in the
139 dispute, the mediator shall provide recommendations for the resolution of the dispute. If the
140 parties accept the mediator's proposal, or subsequently negotiate a settlement, the mediator shall
141 notify both parties in writing of the terms agreed to by the parties involved in the dispute. If the
142 parties fail to agree to a resolution of the dispute during the mediation process, 1 or both parties
143 may request that the commission hear and issue a decision on the dispute pursuant to subsection

144 (d). The request shall be made in writing not later than 30 days after the close of the mediation.
145 All requests for a hearing shall include a fee of \$25 paid by the party requesting a hearing,
146 subject to adjustment pursuant to section 3B of chapter 7, which the commission shall deposit
147 into the Manufactured Housing Trust Fund established by section 2ZZZZ of chapter 29.

148 (d) A hearing held pursuant to subsection (c) shall be conducted by 3 members of the
149 manufactured housing commission. One of the 3 members shall be the member who is the
150 resident of a manufactured housing community and 1 shall be the member who is the owner of a
151 manufactured housing community. Commission members appointed by the governor pursuant to
152 section 108 of chapter 6 as either owners or residents, and that own or reside in the manufactured
153 housing community that is the subject of the complaint, shall be prohibited from participating in
154 hearings involving that manufactured housing community. When a commission member is so
155 excluded from hearing a complaint, the corresponding alternate member of the commission shall
156 replace the affected member and hear the complaint. The third member who hears the complaint
157 shall not be the member who conducted the mediation of the complaint. Not later than 45 days
158 after the hearing, the commission shall issue a written decision as to whether a violation has
159 occurred and shall order appropriate action, if any, to be taken by the owner, resident, operator or
160 any of the parties.

161 (e) Costs incurred under this section including, but not limited to, costs to file or defend a
162 complaint or any money that a party is ordered to pay, shall not be passed on, directly or
163 indirectly, through a rent increase or otherwise, to a tenant, resident or occupant of the
164 community.

165 (f) All manufactured housing commission hearings and judicial review of commission
166 decisions under this section shall be conducted pursuant to chapter 30A.

167 (g) The attorney general, upon request of the manufactured housing commission or a
168 party to the commission hearing or upon its own initiative, may bring an action in a court of
169 competent jurisdiction to enforce a decision issued by the commission pursuant to subsection (d).

170 (h) The manufactured housing commission shall issue written rules and procedures to
171 carry out its duties under this section.

172 SECTION 14. A member of the manufactured housing commission serving on the
173 effective date of this act shall serve out the remainder of the member's term on the manufactured
174 housing commission. Upon expiration of the term, the member shall be eligible for
175 reappointment to the manufactured housing commission provided that the member meets the
176 qualifications in section 108 of chapter 6 of the General Laws.