

HOUSE No. 1104

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 adoption 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>Gailanne M. Cariddi</i>	<i>1st Berkshire</i>
<i>Marc R. Pacheco</i>	<i>First Plymouth and Bristol</i>

HOUSE No. 1104

By Mrs. Haddad of Somerset, a petition (accompanied by bill, House, No. 1104) of Patricia A. Haddad, Gailanne M. Cariddi and Marc R. Pacheco relative to manufactured housing communities. Housing.

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE HOUSE, NO. 1116 OF 2013-2014.]

The Commonwealth of Massachusetts

**In the One Hundred and Eighty-Ninth General Court
(2015-2016)**

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
2 hereby 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, and two alternate members. The governor shall
6 appoint three members: one of whom shall be a resident of a manufactured housing community;
7 one of whom shall be an owner of a manufactured housing community; and one of whom shall
8 be an attorney authorized to practice law in the commonwealth with experience in legal issues
9 regarding manufactured housing, landlord-tenant law, or real estate law, and who shall not be a
10 resident or owner of a manufactured housing community. The governor shall appoint two

11 alternate members, one of whom shall be a resident of a manufactured housing community; and
12 one of whom shall be an owner of a manufactured housing community. The alternate resident-
13 member shall not reside in the same community as the resident-member of the commission and
14 the alternate owner-member shall not have an ownership interest in the same community as the
15 owner-member of the commission. The attorney general and director of the department of
16 housing and community development shall each appoint one member who shall be an attorney
17 authorized to practice law in the commonwealth with experience in legal issues regarding
18 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
56 department of environmental protection of the granting or renewal of such a license, and said
57 department shall have jurisdiction to inspect the premises so licensed to determine that the
58 sources of water supply and the works for the disposition of the sewage of such premises are
59 sanitary. If upon inspection of such premises said department finds the sources of water supply to
60 be polluted or the works for the disposition of the sewage to be unsanitary, or both of such
61 conditions, said department shall forthwith notify such board of health and such licensee to that
62 effect by registered mail and said board shall forthwith prohibit the use of any water supply
63 found by said department to be polluted. Unless such licensee shall, within thirty days following
64 the giving of such notice, correct the conditions at such premises to the satisfaction of both said
65 department and such board the license so granted shall be suspended or revoked by such board.
66 Any license so suspended may be reinstated by such board when the conditions at such premises,
67 as to sources of water supply and works for the disposition of sewage, are satisfactory to said
68 department and such board. The board of health of a city or town may adopt, and from time to
69 time alter or amend, rules and regulations to enforce this section in such city or town.

70

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 approved
80 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 been
82 approved pursuant to paragraph (5) of section thirty-two L;

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

85 (iv) for manufactured housing communities that employ an on-site sewage disposal
86 system or series of systems with a total design flow of less than 10,000 gallons per day instead of
87 being connected to a municipal sanitary sewer system, a written certification from a system
88 inspector approved by the department of environmental protection pursuant to 310 C.M.R.
89 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 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, and are large systems as defined by
108 310 CMR 15.304, and are otherwise not required to obtain a groundwater discharge permit and a
109 privately owned wastewater treatment facility or treatment works pursuant to 310 C.M.R. 15.304
110 or any other applicable provision of Massachusetts law, a written certification from a system
111 inspector approved by the department of environmental protection pursuant to 310 C.M.R.
112 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 disposal
122 system and which require a groundwater discharge permit and a privately owned wastewater
123 treatment facility or treatment works pursuant to 314 C.M.R. 5.00 et seq., a written certification
124 from a wastewater treatment plant operator approved pursuant to 257 C.M.R. 2.00 et seq. that the
125 privately owned wastewater treatment facility or treatment works has been inspected, operated
126 and maintained in accordance with the requirements of 314 C.M.R. 5.00 et seq. and the facilities
127 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 sanitary
143 sewer system, a written certification from a Massachusetts registered professional engineer with
144 background in civil, sanitary and environmental engineering and experience in the installation,
145 operation and maintenance of sewage collection systems that the sewage collection system at the
146 premises has been inspected within the previous two years and is in compliance with all
147 applicable federal, state and local statutes, regulations and bylaws. For the purposes of this
148 paragraph, an inspection need not include an evaluation of infiltration and inflow, unless there is
149 observable sanitary sewer overflow or other reasonable evidence that infiltration or inflow
150 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

169 (d) Unless otherwise established in a town by town meeting action and in a city by city
170 council action, and in a town with no town meeting by town council action, by adoption of
171 appropriate by-laws and ordinances to set such fees, the fee for each original or renewal
172 license for a manufactured housing community shall be ten dollars for each lot in the community,
173 whether occupied or vacant, of which eighty percent shall be deposited into the Manufactured
174 Housing Fund established in section 2CCCC of chapter twenty-nine, and twenty percent of the
175 licensing fees shall be deposited into the general fund of the municipality pursuant to section
176 fifty three of chapter forty four. Such board of health shall at once notify the department of
177 environmental protection of the granting or renewal of such a license for a manufactured housing
178 community, and said department shall have jurisdiction to inspect the premises so licensed to
179 determine that the sources of public water supply and the works for the disposition of the sewage
180 of such premises are sanitary and in compliance with all applicable state statutes and department
181 regulations. If upon inspection of any manufactured housing community the department finds
182 the sources of public water supply to be polluted or otherwise not in compliance with all
183 applicable state statutes and regulations, or finds the works for the disposition of the sewage to
184 be unsanitary or otherwise not in compliance with all applicable state statutes and regulations, or
185 finds both systems are not in compliance with said statutes and regulations, said department shall
186 forthwith notify such board of health and such licensee to that effect by registered mail and said

187 board of health shall forthwith prohibit the use of any public water supply found by said
188 department to be polluted. Unless such licensee shall, within thirty days following the giving of
189 such notice, correct the conditions at such premises to the satisfaction of both said department
190 and such board of health, the license so granted shall be suspended or revoked by such board of
191 health. Any license so suspended or revoked may be reinstated by such board of health when the
192 conditions at such premises, as to sources of public water supply and works for the disposition of
193 sewage, are satisfactory to said department and such board of health. The board of health of a
194 city or town may adopt, and from time to time alter or amend, rules and regulations to enforce
195 this section in such city or town.

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

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

206

207 Section 32C. Every board of health shall, from time to time, examine all camps, motels,
208 and cabins licensed by it under authority of sections thirty-two B and manufactured housing

209 communities licensed under thirty-two B1/2, and if, upon such examination, such camp, motel,
210 cabin or manufactured housing community is found to be in an unsanitary condition, said board
211 of health may, after notice and a hearing, suspend or revoke such license.

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

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

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

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

226 SECTION 9. Section 32L of said chapter 140, as so appearing, is hereby amended by
227 striking out the second sentence in paragraph (3) and inserting in place thereof the following
228 sentence:- A manufactured housing community owner shall not impose any conditions of rental
229 or occupancy which restrict the resident in his choice of a seller of fuel, furnishings, goods,
230 services or accessories connected with the rental or occupancy of a manufactured home lot,

231 provided, however, that such seller is in compliance with applicable law and rules and
232 regulations of the manufactured housing community approved by the attorney general or
233 otherwise then in effect pursuant to paragraph (5) of section thirty-two L of chapter one hundred
234 and forty, including rules imposing reasonable insurance requirements.

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

237 (5) If any manufactured housing community owner promulgates, adds, deletes or amends
238 any rule governing the rental or occupancy of a manufactured home site in a manufactured
239 housing community, a new copy of all such rules shall be sent by certified mail, return receipt
240 requested, to the attorney general and the director of housing and community development at
241 least ninety days prior to the proposed effective date of such promulgation, addition, deletion or
242 amendment. The director shall have forty-five days to review the rules for compliance with
243 applicable housing law. Upon completing said review, the director shall forward his conclusion
244 to the attorney general, who shall have the remainder of said ninety day period to approve or
245 disapprove the rules, unless the attorney general determines that an extension of the rules review
246 period is warranted. If the attorney general makes such a determination, the attorney general
247 shall send written notification of such extension to the owner of the manufactured housing
248 community, and such extension shall not exceed ninety days. A copy of such rules shall be
249 furnished to each manufactured housing community resident in such community along with a
250 copy of the certified mail receipts signed by a representative of the attorney general. Such copies
251 shall be furnished by the manufactured housing community licensee to said residents at least
252 sixty days prior to the proposed effective date of such promulgations, addition, deletion or
253 amendment. If the attorney general does not take action prior to the expiration of the ninety day

254 period or the expiration of any extension of the rules review period, such rules shall be deemed
255 approved. Nothing in this section shall preclude a private party from challenging such rules or
256 portions thereof in a court of competent jurisdiction prior to or after such disapproval.

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

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

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

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

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

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

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

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

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

294 (c) Upon receipt of a complaint from the attorney general, the commission shall assign
295 one of its members to conduct a mediation between the parties involved in the dispute, provided
296 however that commissioners or alternate commissioners appointed under section 108 of chapter
297 6 as residents or owners of a manufactured housing community shall not serve as mediators.

298 The mediator may gather information he deems necessary to determine whether a violation has
299 occurred. After reviewing information from the parties involved in the dispute, the mediator
300 shall then provide recommendations for the resolution of the dispute. If the parties accept the
301 mediator's proposal, or subsequently negotiate a settlement, the mediator shall notify both parties
302 in writing of the terms agreed to by the parties involved in the dispute. If the parties fail to agree
303 to a resolution of the dispute during the mediation process, one or both parties may request that
304 the commission hear and issue a decision on the dispute under the process described in paragraph
305 (d) of this section. Said request shall be made in writing within thirty days of the close of the
306 mediation. All requests for a hearing shall include a fee of twenty-five dollars paid by the party
307 requesting a hearing, subject to adjustment pursuant to section 3B of chapter 7, which the
308 commission shall deposit into the manufactured housing fund established in section 2CCCC of
309 chapter 29.

310

311 (d) A hearing as described in subsection (c) shall be conducted by three members of the
312 commission; one of whom shall be the member who is the resident of a manufactured housing
313 community; and one of whom shall be the member who is the owner of a manufactured housing
314 community. Commission members appointed by the governor pursuant to section 108 of chapter
315 6 as either owners or residents, and that own or reside in the manufactured housing community
316 that is the subject of the complaint, shall be prohibited from participating in hearings involving
317 that manufactured housing community. When a commission member is so excluded from
318 hearing a complaint, the corresponding alternate-member of the commission shall replace the
319 affected member and hear the complaint. The third member who hears the complaint shall not
320 be the member who conducted the mediation of the complaint, and shall be chosen on an

321 alternating basis from the two remaining commission members who are eligible to hear the
322 complaint. Within forty-five days after the hearing, the commission shall issue a written decision
323 as to whether a violation has occurred, and shall order appropriate action, if any, to be taken by
324 the owner, resident, operator, and/or any of the parties.

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

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

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

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

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