

**SENATE . . . . . No. 610**

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**The Commonwealth of Massachusetts**

PRESENTED BY:

***Marc R. Pacheco***

*To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:*

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

An Act relative to manufactured housing communities.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
<i>Attorney General Martha Coakley</i>	<i>One Ashburton Place</i>
<i>Marc R. Pacheco</i>	<i>First Plymouth and Bristol</i>
<i>Patricia A. Haddad</i>	<i>5th Bristol</i>
<i>Benjamin B. Downing</i>	<i>Berkshire, Hampshire, Franklin and Hampden</i>
<i>Gailanne M. Cariddi</i>	<i>1st Berkshire</i>
<i>Thomas J. Calter</i>	<i>12th Plymouth</i>

**SENATE . . . . . No. 610**

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

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

**The Commonwealth of Massachusetts**

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

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

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

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

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

84 (iv) for manufactured housing communities that employ an on-site sewage disposal  
85 system or series of systems with a total design flow of less than 10,000 gallons per day instead of  
86 being connected to a municipal sanitary sewer system, a written certification from a system  
87 inspector approved by the department of environmental protection pursuant to 310 C.M.R.  
88 15.340 that the on-site sewage disposal system or series of systems has been inspected in  
89 accordance with the requirements of 310 C.M.R. 15.301 and 15.302 within the previous five  
90 years and is in compliance with all applicable federal, state and local statutes, regulations and  
91 bylaws; provided, however, that if the system inspector certifies to the local board of health that

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

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

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

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

131 C.M.R. 22.00 et seq., is in compliance with all applicable federal, state and local statutes,  
132 regulations and bylaws. An applicant may present a statement from the certified operator that is  
133 not more than one year old when first required to include said statement with the application for  
134 license pursuant to this section; and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

235 The rules set forth below govern the terms of your lease or occupancy with this  
236 manufactured housing community. If these rules are changed in any way, the addition, deletion  
237 or amendment must be delivered to you, along with a copy of the certified mail receipts  
238 indicating that such change has been submitted to the attorney general and the director of  
239 housing and community development and a copy of the approvals thereof by the attorney general  
240 or a certificate signed by the owner stating that the attorney general has not taken any action with



241 respect thereto within the period set forth in paragraph (5) of section thirty-two L of chapter one  
242 hundred and forty . This notification must be furnished to you at least sixty days before the  
243 change goes into effect. The law requires all of these rules and regulations to be fair and  
244 reasonable or said rules and regulations cannot be enforced.

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

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

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

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

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

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

277 commission shall deposit into the manufactured housing fund established in section 2CCCC of  
278 chapter 29.

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

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

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

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

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

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