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

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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:

SECTION 1. Chapter 6 of the General Laws is hereby amended by striking out section 108, as appearing in the 2016 Official Edition, and inserting in place thereof the following section:-

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(c) Upon receipt of a complaint from the attorney general, the commission shall assign 1 of its members to conduct a mediation between the parties involved in the dispute; provided, however, that commissioners or alternate commissioners appointed pursuant to section 108 of chapter 6 as residents or owners of a manufactured housing community shall not serve as mediators. The mediator may gather information that the mediator deems necessary to determine whether a violation has occurred. After reviewing information from the parties involved in the dispute, the mediator shall provide recommendations for the resolution of the dispute. If the parties accept the mediator's proposal, or subsequently negotiate a settlement, the mediator shall notify both parties in writing of the terms agreed to by the parties involved in the dispute. If the parties fail to agree to a resolution of the dispute during the mediation process, 1 or both parties may request that the commission hear and issue a decision on the dispute pursuant to subsection (d). The request shall be made in writing not later than 30 days after the close of the mediation. All requests for a hearing shall include a fee of $25 paid by the party requesting a hearing, subject to adjustment pursuant to section 3B of chapter 7, which the commission shall deposit into the Manufactured Housing Trust Fund established by section 2ZZZZ of chapter 29.

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

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

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

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

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

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