

HOUSE No. 2117

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>John J. Binienda</i>	<i>17th Worcester</i>
<i>Shaunna O'Connell</i>	<i>3rd Bristol</i>
<i>Christine E. Canavan</i>	<i>10th Plymouth</i>
<i>Stephen R. Canessa</i>	<i>12th Bristol</i>
<i>Susan Williams Gifford</i>	<i>2nd Plymouth</i>

HOUSE No. 2117

By Mrs. Haddad of Somerset, a petition (accompanied by bill, House, No. 2117) of Patricia A. Haddad and others relative to manufactured housing communities. Housing.

The Commonwealth of Massachusetts

—————
In the Year Two Thousand Eleven
—————

An Act relative to manufactured housing communities.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. Chapter 6 of the General Laws, as appearing in the 2008 Official Edition,
2 is hereby amended by striking out section 108 and inserting in place thereof the following
3 section:-

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

14 manufactured housing, landlord-tenant law, or real estate law, and who shall not be a resident or
15 owner of a manufactured housing community. In the event that the governor, attorney general or
16 director cannot appoint an attorney with said experience, the attorney general may appoint an
17 attorney with experience in mediation or alternative dispute resolution programs. Each member
18 shall serve a term of 2 years and may be reappointed upon expiration of his term.

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

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

24 Section 2CCCC. There shall be established and set up on the books of the commonwealth
25 a separate fund to be known as the Manufactured Housing Trust Fund, hereinafter referred to as
26 the fund. The fund shall be administered by the secretary of the executive office for
27 administration and finance, and shall be credited with licensing revenues collected in accordance
28 with section 32B1/2 of chapter 140 and any interest thereon. Amounts credited to the fund shall
29 be expended, without further appropriation, to support the manufactured housing dispute
30 resolution program described in section 32T of said chapter 140, including, but not limited to,
31 compensation of commission members as determined by the secretary of the executive office for
32 administration and finance based on time actually worked on dispute resolution, and to support
33 funding of court appointed receiverships of manufactured housing communities.

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

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

39 Section 32B. The board of health of any city or town, in each instance after a hearing,
40 reasonable notice of which shall have been published once in a newspaper published in such city
41 or town, may grant, and may suspend or revoke, licenses for recreational camps, overnight
42 camps or cabins, or motels located within such city or town, which license, unless previously
43 suspended or revoked, shall expire on December thirty-first in the year of issue, but may be
44 renewed annually upon application without such notice and hearing. Unless otherwise
45 established in a town by town meeting action and in a city by city council action, and in a town
46 with no town meeting by town council action, by adoption of appropriate by-laws and ordinances
47 to set such fees, the fee for each original or renewal license shall be ten dollars, but in no event
48 shall any such fee be greater than fifty dollars. Such board of health shall at once notify the
49 department of environmental protection of the granting or renewal of such a license, and said
50 department shall have jurisdiction to inspect the premises so licensed to determine that the
51 sources of water supply and the works for the disposition of the sewage of such premises are
52 sanitary. If upon inspection of such premises said department finds the sources of water supply to
53 be polluted or the works for the disposition of the sewage to be unsanitary, or both of such
54 conditions, said department shall forthwith notify such board of health and such licensee to that
55 effect by registered mail and said board shall forthwith prohibit the use of any water supply
56 found by said department to be polluted. Unless such licensee shall, within thirty days following

57 the giving of such notice, correct the conditions at such premises to the satisfaction of both said
58 department and such board the license so granted shall be suspended or revoked by such board.
59 Any license so suspended may be reinstated by such board when the conditions at such premises,
60 as to sources of water supply and works for the disposition of sewage, are satisfactory to said
61 department and such board. The board of health of a city or town may adopt, and from time to
62 time alter or amend, rules and regulations to enforce this section in such city or town.

63

64 Section 32B1/2. The board of health of any city or town, in each instance after a hearing,
65 reasonable notice of which shall have been published once in a newspaper published in such city
66 or town, may grant, and may suspend or revoke, licenses for manufactured housing communities
67 located within such city or town, which license, unless previously suspended or revoked, shall
68 expire on December thirty-first in the year of issue, but may be renewed annually upon
69 application without such notice and hearing. All applications shall include: a true and complete
70 copy of the rules and regulations then in effect and approved by the attorney general for the
71 manufactured housing community to be licensed; a certification from the attorney general that
72 the rules and regulations have been approved pursuant to paragraph (5) of section thirty-two L;
73 and a certification by an entity approved by the department of environmental protection stating
74 that the sources of water supply and the works for the disposition of the sewage of such premises
75 have been inspected and are sanitary and properly functioning.

76 Unless otherwise established in a town by town meeting action and in a city by city
77 council action, and in a town with no town meeting by town council action, by adoption of
78 appropriate by-laws and ordinances to set such fees, the fee for each original or renewal license

79 for a manufactured housing community shall be ten dollars for each lot in the community,
80 whether occupied or vacant, of which eighty percent shall be deposited into the Manufactured
81 Housing Fund established in section 2CCCC of chapter twenty-nine. The remaining twenty
82 percent of the licensing fees shall be deposited into the general fund of the municipality pursuant
83 to section fifty three of chapter forty four. Such board of health shall at once notify the
84 department of environmental protection of the granting or renewal of such a license for a
85 manufactured housing community, and said department shall have jurisdiction to inspect the
86 premises so licensed to determine that the sources of water supply and the works for the
87 disposition of the sewage of such premises are sanitary. If upon inspection of any manufactured
88 housing community the department finds the sources of water supply to be polluted or the works
89 for the disposition of the sewage to be unsanitary, or both of such conditions, said department
90 shall forthwith notify such board of health and such licensee to that effect by registered mail and
91 said board shall forthwith prohibit the use of any water supply found by said department to be
92 polluted. Unless such licensee shall, within thirty days following the giving of such notice,
93 correct the conditions at such premises to the satisfaction of both said department and such
94 board, the license so granted shall be suspended or revoked by such board. Any license so
95 suspended or revoked may be reinstated by such board when the conditions at such premises, as
96 to sources of water supply and works for the disposition of sewage, are satisfactory to said
97 department and such board. The board of health of a city or town may adopt, and from time to
98 time alter or amend, rules and regulations to enforce this section in such city or town.

99 No licensing or inspection fees incurred under this section shall be passed on, directly or
100 indirectly, through a rent increase or otherwise, to any tenant, resident or occupant of the
101 community.

102 All license applications shall include an acknowledgement signed by the licensee that
103 said licensee is aware of the dispute resolution program created under section thirty-two T of this
104 chapter.

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

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

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

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

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

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

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

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

137 (5) If any manufactured housing community owner promulgates, adds, deletes or amends
138 any rule governing the rental or occupancy of a manufactured home site in a manufactured
139 housing community, a new copy of all such rules shall be sent by certified mail, return receipt
140 requested, to the attorney general and the director of housing and community development at
141 least ninety days prior to the proposed effective date of such promulgation, addition, deletion or
142 amendment. The director shall have forty-five days to review the rules for compliance with
143 applicable housing law. Upon completing said review, the director shall forward his conclusion
144 to the attorney general, who shall have the remainder of said ninety day period to approve or

145 disapprove the rules, unless the attorney general determines that an extension of the rules review
146 period is warranted. If the attorney general makes such a determination, the attorney general
147 shall send written notification of such extension to the owner of the manufactured housing
148 community, and such extension shall not exceed ninety days. A copy of such rules shall be
149 furnished to each manufactured housing community resident in such community along with a
150 copy of the certified mail receipts signed by a representative of the attorney general. Such copies
151 shall be furnished by the manufactured housing community licensee to said residents at least
152 sixty days prior to the proposed effective date of such promulgations, addition, deletion or
153 amendment. If the attorney general does not take action prior to the expiration of the ninety day
154 period or the expiration of any extension of the rules review period, such rules shall be deemed
155 approved. Nothing in this section shall preclude a private party from challenging such rules or
156 portions thereof in a court of competent jurisdiction prior to or after such disapproval.

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

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

164 SECTION 13. Section 32P of said chapter 140, as so appearing, is hereby amended by
165 striking out lines 21 through 34 and inserting in place thereof the following:- The rules set forth
166 below govern the terms of your lease or occupancy with this manufactured housing community.

167 If these rules are changed in any way, the addition, deletion or amendment must be delivered to
168 you, along with a copy of the certified mail receipts indicating that such change has been
169 submitted to the attorney general and the director of housing and community development and a
170 copy of the approvals thereof by the attorney general or a certificate signed by the owner stating
171 that the attorney general has not taken any action with respect thereto within the period set forth
172 in paragraph (5) of section thirty-two L of chapter one hundred and forty . This notification must
173 be furnished to you at least sixty days before the change goes into effect. The law requires all of
174 these rules and regulations to be fair and reasonable or said rules and regulations cannot be
175 enforced.

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

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

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

184 Section 32T. (a) There shall be a manufactured housing dispute resolution program to
185 assist the manufactured housing community with resolving disputes. A resident, owner or
186 operator of a manufactured housing community may file a complaint with the attorney general
187 alleging a violation of sections 32A to 32S, inclusive, of chapter 140, regulations promulgated by
188 the attorney general pursuant to said sections, or community rules approved pursuant to

189 paragraph (5) of section thirty-two L of said chapter 140. All complaints filed under this section
190 shall be in writing and include an acknowledgement signed by the party making the complaint
191 that said party is aware of the dispute resolution program created under this section.

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

194 (c) Upon receipt of a complaint from the attorney general, the commission shall assign
195 one of its members to conduct a mediation between the parties involved in the dispute. All
196 members of the commission may serve as mediators except members who are residents or
197 owners of a manufactured housing community. The mediator may gather information he deems
198 necessary to determine whether a violation has occurred. After hearing from the parties involved
199 in the dispute, the mediator shall then provide recommendations for the resolution of the dispute.
200 If the parties accept the mediator's proposal, or subsequently negotiate a settlement, the mediator
201 shall notify both parties in writing of the terms agreed to by the parties involved in the dispute.
202 If the parties fail to agree to a resolution of the dispute during the mediation process, one or both
203 parties may request that the commission hear and decide the dispute. Said request shall be made
204 in writing within thirty days of the close of the mediation. All requests for a hearing shall
205 include a fee of twenty-five dollars paid by the party requesting a hearing, subject to adjustment
206 pursuant to section 3B of chapter 7, which the commission shall deposit into the manufactured
207 housing fund established in section 2CCCC of chapter 29.

208 (d) The hearing shall be conducted by three members of the commission; 1 of whom shall
209 be the member who is the resident of a manufactured housing community; and 1 of whom shall
210 be the member who is the owner of a manufactured housing community. The third member who

211 hears the complaint shall not be the member who conducted the mediation of the complaint, and
212 shall be chosen on an alternating basis from the two remaining commission members who are
213 eligible to hear the complaint. Within forty five days after the hearing, the commission shall
214 issue a written decision as to whether a violation has occurred, and shall order appropriate relief
215 if any against the owner, the resident, the operator or any of the parties.

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

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

221 (g) The attorney general, on request of the commission or his own initiative, or any party
222 to the commission hearing, may bring an action in a court of competent jurisdiction to enforce
223 the decision.

224 (h) The commission may promulgate regulations to carry out its duties under this
225 section.