SENATE DOCKET, NO. 917 FILED ON: 1/20/2011

SENATE . . . . . No. 614

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 passage of the accompanying:

An Act relative to manufactured housing communities.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
Marc R. Pacheco	*[District]*
Katherine M. Clark	*Middlesex and Essex*
Frederick E. Berry	*[District]*
John W. Scibak	*2nd Hampshire*
Jennifer E. Benson	*37th Middlesex*
Cory Atkins	*14th Middlesex*
Denise Andrews	*2nd Franklin*
Benjamin B. Downing	*Berkshire, Hampshire, and Franklin*
Thomas M. McGee	*Third Essex and Middlesex*

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SENATE . . . . . No. 614

By Mr. Pacheco, a petition (accompanied by bill, Senate, No. 614) of Marc R. Pacheco, Katherine M. Clark, Frederick E. Berry, John W. Scibak and other members of the General Court for legislation 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:

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

Section 108. There shall be a manufactured housing commission, hereinafter referred to as the "commission". The commission shall consist of five members, not more than three of whom shall be of the same political party. The governor shall appoint three members, one of whom shall be a resident of a manufactured housing community; one of whom shall be an owner of a manufactured housing community; and one 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 who shall not be a resident or owner of a manufactured housing community. The attorney general and director of the department of housing and community development shall each appoint one member who 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 who shall not be a resident or owner of a manufactured housing community. In the event that the governor, attorney general or director cannot appoint an attorney with said experience, the attorney general may appoint an attorney with experience in mediation or alternative dispute resolution programs. Each member shall serve a term of 2 years and may be reappointed upon expiration of his term.

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

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

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

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

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

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

59 as to sources of water supply and works for the disposition of sewage, are satisfactory to said
60 department and such board. The board of health of a city or town may adopt, and from time to
61 time alter or amend, rules and regulations to enforce this section in such city or town.

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

74 Unless otherwise established in a town by town meeting action and in a city by city
75 council action, and in a town with no town meeting by town council action, by adoption of
76 appropriate by-laws and ordinances to set such fees, the fee for each original or renewal license
77 for a manufactured housing community shall be ten dollars for each lot in the community,
78 whether occupied or vacant, of which eighty percent shall be deposited into the Manufactured
79 Housing Fund established in section 2CCCC of chapter twenty-nine. The remaining twenty
80 percent of the licensing fees shall be deposited into the general fund of the municipality pursuant
81 to section fifty three of chapter forty four. Such board of health shall at once notify the
82 department of environmental protection of the granting or renewal of such a license for a
83 manufactured housing community, and said department shall have jurisdiction to inspect the
84 premises so licensed to determine that the sources of water supply and the works for the
85 disposition of the sewage of such premises are sanitary. If upon inspection of any manufactured
86 housing community the department finds the sources of water supply to be polluted or the works
87 for the disposition of the sewage to be unsanitary, or both of such conditions, said department
88 shall forthwith notify such board of health and such licensee to that effect by registered mail and
89 said board shall forthwith prohibit the use of any water supply found by said department to be
90 polluted. Unless such licensee shall, within thirty days following the giving of such notice,
91 correct the conditions at such premises to the satisfaction of both said department and such
92 board, the license so granted shall be suspended or revoked by such board. Any license so
93 suspended or revoked may be reinstated by such board when the conditions at such premises, as
94 to sources of water supply and works for the disposition of sewage, are satisfactory to said
95 department and such board. The board of health of a city or town may adopt, and from time to
96 time alter or amend, rules and regulations to enforce this section in such city or town.

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

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

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

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

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

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

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

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

124 SECTION 9. Section 32L of said chapter 140, as so appearing, is hereby amended by
125 striking out the second sentence in paragraph (3) and inserting in place thereof the following
126 sentence:- A manufactured housing community owner shall not impose any conditions of rental
127 or occupancy which restrict the resident in his choice of a seller of fuel, furnishings, goods,
128 services or accessories connected with the rental or occupancy of a manufactured home lot,
129 provided, however, that such seller is in compliance with applicable law and rules and
130 regulations of the manufactured housing community approved by the attorney general or

131 otherwise then in effect pursuant to paragraph (5) of section thirty-two L of chapter one hundred
132 and forty, including rules imposing reasonable insurance requirements.

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

135 (5) If any manufactured housing community owner promulgates, adds, deletes or amends
136 any rule governing the rental or occupancy of a manufactured home site in a manufactured
137 housing community, a new copy of all such rules shall be sent by certified mail, return receipt
138 requested, to the attorney general and the director of housing and community development at
139 least ninety days prior to the proposed effective date of such promulgation, addition, deletion or
140 amendment. The director shall have forty-five days to review the rules for compliance with
141 applicable housing law. Upon completing said review, the director shall forward his conclusion
142 to the attorney general, who shall have the remainder of said ninety day period to approve or
143 disapprove the rules, unless the attorney general determines that an extension of the rules review
144 period is warranted. If the attorney general makes such a determination, the attorney general
145 shall send written notification of such extension to the owner of the manufactured housing
146 community, and such extension shall not exceed ninety days. A copy of such rules shall be
147 furnished to each manufactured housing community resident in such community along with a
148 copy of the certified mail receipts signed by a representative of the attorney general. Such copies
149 shall be furnished by the manufactured housing community licensee to said residents at least
150 sixty days prior to the proposed effective date of such promulgations, addition, deletion or
151 amendment. If the attorney general does not take action prior to the expiration of the ninety day
152 period or the expiration of any extension of the rules review period, such rules shall be deemed
153 approved. Nothing in this section shall preclude a private party from challenging such rules or
154 portions thereof in a court of competent jurisdiction prior to or after such disapproval.

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

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

162 SECTION 13. Section 32P of said chapter 140, as so appearing, is hereby amended by
163 striking out lines 21 through 34 and inserting in place thereof the following:- The rules set forth
164 below govern the terms of your lease or occupancy with this manufactured housing community.
165 If these rules are changed in any way, the addition, deletion or amendment must be delivered to
166 you, along with a copy of the certified mail receipts indicating that such change has been
167 submitted to the attorney general and the director of housing and community development and a

168 copy of the approvals thereof by the attorney general or a certificate signed by the owner stating
169 that the attorney general has not taken any action with respect thereto within the period set forth
170 in paragraph (5) of section thirty-two L of chapter one hundred and forty . This notification must
171 be furnished to you at least sixty days before the change goes into effect. The law requires all of
172 these rules and regulations to be fair and reasonable or said rules and regulations cannot be
173 enforced.

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

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

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

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

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

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

204 pursuant to section 3B of chapter 7, which the commission shall deposit into the manufactured
205 housing fund established in section 2CCCC of chapter 29.

206 (d) The hearing shall be conducted by three members of the commission; 1 of whom shall
207 be the member who is the resident of a manufactured housing community; and 1 of whom shall
208 be the member who is the owner of a manufactured housing community. The third member who
209 hears the complaint shall not be the member who conducted the mediation of the complaint, and
210 shall be chosen on an alternating basis from the two remaining commission members who are
211 eligible to hear the complaint. Within forty five days after the hearing, the commission shall
212 issue a written decision as to whether a violation has occurred, and shall order appropriate relief
213 if any against the owner, the resident, the operator or any of the parties.

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

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

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

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