

SENATE No. 715

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:

Marc R. Pacheco

Thomas J. Calter

DISTRICT/ADDRESS:

First Plymouth and Bristol

12th Plymouth

SENATE No. 715

By Mr. Pacheco, a petition (accompanied by bill, Senate, No. 715) of Marc R. Pacheco and Thomas J. Calter for legislation relative to manufactured housing communities. Housing.

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE SENATE, NO. 610 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 2014 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 by
79 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 and is in compliance with the requirements of 310 C.M.R. 15.302 and 15.303
90 within the previous five years; provided, however, that if the system inspector certifies to the
91 local board of health that the on-site sewage disposal system or series of systems has been
92 pumped out at least once every three years since the prior certification by a septage hauler
93 licensed pursuant to 310 C.M.R. 15.500, the written certification of compliance required
94 hereunder need only demonstrate that the on-site sewage disposal system or series of systems has
95 been inspected in accordance with and is in compliance with the requirements of 310 C.M.R.
96 15.302 and 15.303 within the previous seven years; and provided further, that if no such
97 inspection that complies with the requirements of 310 C.M.R. 15.302 and 15.303 has occurred
98 within the previous five years, or the previous seven years if the system has been pumped out by
99 a septage hauler at least once every three years since the prior certification, no license or license

100 renewal shall be issued unless and until such inspection is conducted and said certification of
101 compliance with the requirements of 310 C.M.R. 15.302 and 15.303 has been submitted to the
102 board of health. The applicant shall submit to the board of health along with the required
103 certification a completed department of environmental protection Title 5 inspection form;

104 (v) for manufactured housing communities that employ an on-site sewage disposal
105 system or series of systems with a total design flow of 10,000 to 15,000 gallons per day instead
106 of being connected to a municipal sanitary sewer system, and are large systems as defined by
107 310 CMR 15.304, and are otherwise not required to obtain a groundwater discharge permit and a
108 privately owned wastewater treatment facility or treatment works pursuant to 310 C.M.R. 15.304
109 or any other applicable provision of Massachusetts law, a written certification from a system
110 inspector approved by the department of environmental protection pursuant to 310 C.M.R.
111 15.340 that the on-site sewage disposal system or series of systems has been inspected in
112 accordance with and is in compliance with the requirements of 310 C.M.R. 15.302, 15.303, and
113 15.304 within the previous five years; and provided, however, that if no such inspection that
114 complies with the requirements of 310 C.M.R. 15.302, 15.303, and 15.304 has occurred within
115 the previous five years, no application or renewal shall be issued unless and until such inspection
116 is conducted and said certification of compliance with the requirements of 310 C.M.R. 15.302,
117 15.303, and 15.304 has been submitted to the board of health. The applicant shall submit to the
118 board of health along with the required certification a completed department of environmental
119 protection Title 5 inspection form;

120 (vi) for manufactured housing communities that employ an on-site sewage disposal
121 system and which require a groundwater discharge permit and a privately owned wastewater
122 treatment facility or treatment works pursuant to 314 C.M.R. 5.00 et seq., a written certification

123 from a 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 the facilities
126 Groundwater Discharge Permit;

127 (vii) if a public water system as defined by 310 C.M.R. 22.02, a statement from a
128 Department of Environmental Protection approved primary certified operator who has received a
129 certificate of competency issued by the Board of Certification of Operators of Drinking Water
130 Supply Facilities in accordance with 236 C.M.R. 2.00 through 5.00, and currently maintains a
131 valid license, that the public water system is in compliance with the requirements of 310 C.M.R.
132 22.00 et seq ., or if a consecutive public water system as defined in 310 C.M.R. 22.02 but not
133 subjected to the requirements of 310 C.M.R. 22.00 as excepted under 310 C.M.R. 22.03(3), a
134 statement from a certified operator who has received a certificate of competency issued by the
135 Board of Certification of Operators of Drinking Water Supply Facilities in accordance with 236
136 C.M.R. through 5.00 and currently maintains a valid license, that the consecutive public water
137 system is in compliance with the requirements of 310 .C.M.R. 22.00 et seq. An applicant may
138 present a statement from the certified operator that is not more than one year old when first
139 required to include said statement with the application for license pursuant to this section; and
140 ; and

141 (viii) for manufactured housing communities that are connected to a municipal sanitary
142 sewer system, a written certification from a Massachusetts registered professional engineer with
143 background in civil, sanitary and environmental engineering and experience in the installation,
144 operation and maintenance of sewage collection systems that the sewage collection system at the

145 premises has been inspected within the previous two years and is in compliance with all
146 applicable federal, state and local statutes, regulations and bylaws. For the purposes of this
147 paragraph, an inspection need not include an evaluation of infiltration and inflow, unless there is
148 observable sanitary sewer overflow or other reasonable evidence that infiltration or inflow
149 exists..

150 (c) If a manufactured housing community is unable to provide certification to a board of
151 health pursuant to paragraphs (iv) through (viii) of subsection (b) due to substandard, degraded,
152 or otherwise non-functional water, sewage disposal, or sewer infrastructure and facilities, the
153 board of health may, at its discretion, issue a conditional license for a term of up to one year if it
154 reasonably determines that (i) the lack of compliance with said paragraphs presents no
155 immediate threat to the health, safety, or welfare of the manufactured housing community
156 residents, and (ii) the applicant has taken or plans to take substantial steps to make repairs and
157 improvements to bring the system or systems into compliance to meet the certification
158 requirements enumerated in said paragraphs during the conditional licensure period, provided
159 that the manufactured housing community owner presents to the board of health a work plan and
160 satisfactory proof of a financing plan for the necessary repairs and improvements. A board of
161 health may, at its discretion, at the conclusion of the one year conditional licensure period,
162 extend the conditional license for a term of up to one additional year, provided that a board of
163 health may not issue a conditional license for a total of more than two years. The board of health
164 may rescind any conditional license if it determines that the operator of the community has not
165 complied in full with the terms of its work and financing plans. Nothing in this subsection shall
166 be construed as requiring a board of health to issue a conditional license.

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

190 conditions at such premises, as to sources of public water supply and works for the disposition of
191 sewage, are satisfactory to said department and such board of health. The board of health of a
192 city or town may adopt, and from time to time alter or amend, rules and regulations to enforce
193 this section in such city or town.

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

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

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

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

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

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

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

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

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

234 (5) If any manufactured housing community owner promulgates, adds, deletes or amends
235 any rule governing the rental or occupancy of a manufactured home site in a manufactured
236 housing community, a new copy of all such rules shall be sent by certified mail, return receipt
237 requested, to the attorney general and the director of housing and community development at
238 least ninety days prior to the proposed effective date of such promulgation, addition, deletion or
239 amendment. The director shall have forty-five days to review the rules for compliance with
240 applicable housing law. Upon completing said review, the director shall forward his conclusion
241 to the attorney general, who shall have the remainder of said ninety day period to approve or
242 disapprove the rules, unless the attorney general determines that an extension of the rules review
243 period is warranted. If the attorney general makes such a determination, the attorney general
244 shall send written notification of such extension to the owner of the manufactured housing
245 community, and such extension shall not exceed ninety days. A copy of such rules shall be
246 furnished to each manufactured housing community resident in such community along with a
247 copy of the certified mail receipts signed by a representative of the attorney general. Such copies
248 shall be furnished by the manufactured housing community licensee to said residents at least
249 sixty days prior to the proposed effective date of such promulgations, addition, deletion or
250 amendment. If the attorney general does not take action prior to the expiration of the ninety day
251 period or the expiration of any extension of the rules review period, such rules shall be deemed
252 approved. Nothing in this section shall preclude a private party from challenging such rules or
253 portions thereof in a court of competent jurisdiction prior to or after such disapproval.

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

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

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

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

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

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

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

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

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

291 (c) Upon receipt of a complaint from the attorney general, the commission shall assign
292 one of its members to conduct a mediation between the parties involved in the dispute, provided
293 however that commissioners or alternate commissioners appointed under section 108 of chapter
294 6 as residents or owners of a manufactured housing community shall not serve as mediators.
295 The mediator may gather information he deems necessary to determine whether a violation has
296 occurred. After reviewing information from the parties involved in the dispute, the mediator
297 shall then provide recommendations for the resolution of the dispute. If the parties accept the

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

307 (d) A hearing as described in subsection (c) shall be conducted by three members of the
308 commission; one of whom shall be the member who is the resident of a manufactured housing
309 community; and one of whom shall be the member who is the owner of a manufactured housing
310 community. Commission members appointed by the governor pursuant to section 108 of chapter
311 6 as either owners or residents, and that own or reside in the manufactured housing community
312 that is the subject of the complaint, shall be prohibited from participating in hearings involving
313 that manufactured housing community. When a commission member is so excluded from
314 hearing a complaint, the corresponding alternate-member of the commission shall replace the
315 affected member and hear the complaint. The third member who hears the complaint shall not
316 be the member who conducted the mediation of the complaint, and shall be chosen on an
317 alternating basis from the two remaining commission members who are eligible to hear the
318 complaint. Within forty-five days after the hearing, the commission shall issue a written decision
319 as to whether a violation has occurred, and shall order appropriate action, if any, to be taken by
320 the owner, resident, operator, and/or any of the parties.

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

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

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

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

331 SECTION 17. Section 32Q of chapter 140 of the General Laws, as appearing in the 2014
332 Official Edition, is hereby amended by striking out in lines 2-4 the following: words “, built in
333 conformance to the National Manufactured Home Construction and Safety Standards”.