

SENATE No. 2318

The Commonwealth of Massachusetts

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In the Year Two Thousand Fourteen
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SENATE, Tuesday, July 29, 2013

The committee on Ethics and Rules, to whom was referred the Senate Bill (in part) relative to manufactured housing communities (Senate, No. 1992),-- reports, recommending that the same ought to pass with an amendment of the same title (Senate, No. 2318)

For the committee,
Stanley C. Rosenberg

SENATE No. 2318

The Commonwealth of Massachusetts

In the Year Two Thousand Fourteen

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 is hereby amended by striking out section
2 108, as appearing in the 2012 Official Edition, and inserting in place thereof the following
3 section:-

4 Section 108. There shall be a manufactured housing commission, in this section referred
5 to as the “commission”. The commission shall consist of 5 members, not more than 3 of whom
6 shall be of the same political party and 2 alternate members. The governor shall appoint 3
7 members: 1 of whom shall be a resident of a manufactured housing community; 1 of whom shall
8 be an owner of a manufactured housing community; and 1 of whom shall be an attorney
9 authorized to practice law in the commonwealth with experience in legal issues regarding
10 manufactured housing, landlord-tenant law or real estate law and who shall not be a resident or
11 owner of a manufactured housing community. The governor shall appoint 2 alternate members,
12 1 of whom shall be a resident of a manufactured housing community and 1 of whom shall be an
13 owner of a manufactured housing community. The alternate resident-member shall not reside in
14 the same community as the resident-member of the commission and the alternate owner-member
15 shall not have an ownership interest in the same community as the owner-member of the

16 commission. The attorney general and director of housing and community development shall
17 each appoint 1 member who shall be an attorney authorized to practice law in the commonwealth
18 with experience in legal issues regarding manufactured housing, landlord-tenant law or real
19 estate law and who shall not be a resident or owner of a manufactured housing community. In
20 the event that the governor, attorney general or director cannot appoint an attorney with said
21 experience, the governor, the attorney general or the director may appoint an attorney with
22 experience in mediation or alternative dispute resolution programs. Each member shall serve a
23 term of 2 years and may be reappointed upon expiration of the member's 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 the member and a sufficient opportunity to be heard thereon.

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

29 Section 2NNNN. There shall be established and set up on the books of the
30 commonwealth a separate fund to be known as the Manufactured Housing Trust Fund. The fund
31 shall be administered by the secretary of administration and finance and shall be credited with
32 licensing revenues collected under section 32B ½ of chapter 140 and fees collected under
33 paragraph (c) of section 32T of said chapter 140 and any interest thereon. Amounts credited to
34 the fund shall be expended, without further appropriation, to support the manufactured housing
35 dispute resolution program described in section 32T of said chapter 140 and may be used for
36 compensation of commission members, as determined by the secretary of administration and
37 finance, based on time actually expended on dispute resolution under the program described in

38 said section 32T of said chapter 140 and to support funding of court appointed receiverships of
39 manufactured housing communities.

40 SECTION 3. Chapter 140 of the General Laws is hereby amended by inserting after
41 section 32B the following section:-

42 Section 32B ½ . The fee for each original or renewal license for a manufactured housing
43 community shall be \$10 for each lot in the community, whether occupied or vacant, unless the
44 city or town by adoption of an appropriate by-law or ordinance establishes a different fee;
45 provided, that said alternative fee shall be established in a town by town meeting action, in a city
46 by city council action and in a town with no town meeting by town council action; provided
47 further, that 80 per cent of said fee shall be deposited into the Manufactured Housing Fund
48 established in section 2NNNN of chapter 29 and 20 per cent shall be deposited into the general
49 fund of the municipality pursuant to section 53 of chapter 44. No licensing fees incurred under
50 this section shall be passed on, directly or indirectly, through a rent increase or otherwise, to any
51 tenant, resident or occupant of the community.

52 SECTION 4. Paragraph (3) of section 32L of said chapter 140, as so appearing, is hereby
53 amended by striking out the second sentence and inserting in place thereof the following
54 sentence:- A manufactured housing community owner shall not impose any conditions of rental
55 or occupancy which restrict the resident's choice of seller of fuel, furnishings, goods, services or
56 accessories connected with the rental or occupancy of a manufactured home lot; provided,
57 however, that any such seller or resident shall comply with the applicable laws, rules and
58 regulations of the manufactured housing community approved by the attorney general or

59 otherwise then in effect pursuant to paragraph (5) of section 32L, including rules imposing
60 reasonable insurance requirements.

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

63 (5) If any manufactured housing community owner promulgates, deletes or amends any
64 rule governing the rental or occupancy of a manufactured home site in a manufactured housing
65 community, a new copy of such rules shall be sent by certified mail, return receipt requested, to
66 the attorney general and the director of housing and community development at least 90 days
67 prior to the proposed effective date of the promulgated, deleted or amended rules. The director
68 shall have 45 days to review the rules for compliance with applicable housing laws. Upon
69 completing said review, the director shall forward his conclusion to the attorney general, who
70 shall have the remainder of said 90 day period to approve or disapprove the rules, unless the
71 attorney general determines that an extension of the rules review period is warranted. If the
72 attorney general makes such a determination, the attorney general shall send written notification
73 of such extension to the owner of the manufactured housing community; provided, that said
74 extension shall not exceed 90 days.

75 A copy of such rules shall be furnished to each manufactured housing community
76 resident in such community along with a copy of the certified mail receipts signed by a
77 representative of the attorney general. Such copies shall be furnished by the manufactured
78 housing community licensee to said residents at least 60 days prior to the proposed effective date
79 of the promulgated, deleted or amended rules. If the attorney general does not take action prior
80 to the expiration of the 90 day period or the expiration of any extension of the rules review

81 period, such rules shall be deemed approved. Nothing in this section shall preclude a private
82 party from challenging such rules or portions thereof in a court of competent jurisdiction prior to
83 or after such disapproval.

84 SECTION 6. Said section 32L of said chapter 140, as so appearing, is hereby further
85 amended by striking out, in lines 64 and 65, the words “thirty-two A to thirty-two S” and
86 inserting in place thereof the following words:- 32A to 32T.

87 SECTION 7. Said section 32L of said chapter 140, as so appearing, is hereby further
88 amended by striking out, in lines 96 and 97, the words “director of housing and community
89 development or the director’s designee” and inserting in place thereof the following words:- the
90 manufactured housing commission.

91 SECTION 8. Section 32P of said chapter 140, as so appearing, is hereby amended by
92 striking out, in lines 26 to 31, inclusive, the words “either a copy of the approvals thereof by the
93 attorney general and said director or a certificate signed by the owner stating that neither the
94 attorney general nor said director has taken any action with respect thereto within the period set
95 forth in paragraph (5) of section thirty-two L of chapter one hundred and forty. This notification
96 must be furnished to you at least thirty” and inserting in place thereof the following words:- a
97 copy of the approvals thereof by the attorney general or a certificate signed by the owner stating
98 that the attorney general has not taken any action with respect thereto within the period set forth
99 in paragraph (5) of section 32L. This notification must be furnished to you at least 60.

100 SECTION 9. Section 32R of said chapter 140, as so appearing, is hereby amended, in
101 lines 31 and 32 and line 38, the words “at least fifty-one percent” and inserting in place thereof,
102 in each instance, the following words:- more than 50 per cent.

103 SECTION 10. Section 32S of said chapter 140, as so appearing, is hereby amended by
104 striking out, in line 4, the words “thirty-two A to thirty-two S” and inserting in place thereof the
105 following words:- 32A to 32T.

106 SECTION 11. Said chapter 140 is hereby further amended by inserting after section 32S
107 the following section:-

108 Section 32T. (a) There shall be a manufactured housing dispute resolution program to
109 assist the manufactured housing community with resolving disputes. A resident, owner or
110 operator of a manufactured housing community may file a complaint with the attorney general
111 alleging a violation of sections 32A to 32S, inclusive, regulations promulgated by the attorney
112 general pursuant to said sections 32A to 32S, inclusive, or community rules approved pursuant to
113 paragraph (5) of section 32L. All complaints filed under this section shall be in writing and
114 include an acknowledgement signed by the party making the complaint that said party is aware
115 of the dispute resolution program created under this section.

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

118 (c) Upon receipt of a complaint from the attorney general, the commission shall assign 1
119 of its members to conduct a mediation between the parties involved in the dispute; provided,
120 however, that commissioners or alternate commissioners appointed under section 108 of chapter
121 6 as residents or owners of a manufactured housing community shall not serve as mediators.
122 The mediator may gather information, which the mediator deems necessary to determine whether
123 a violation has occurred. After reviewing information from the parties involved in the dispute,
124 the mediator shall provide recommendations for the resolution of the dispute. If the parties

125 accept the mediator's proposal, or subsequently negotiate a settlement, the mediator shall notify
126 both parties in writing of the terms agreed to by the parties involved in the dispute. If the parties
127 fail to agree to a resolution of the dispute during the mediation process, 1 or both parties may
128 request that the commission hear and issue a decision on the dispute under paragraph (d). Said
129 request shall be made in writing within 30 days of the close of the mediation. All requests for a
130 hearing shall include a fee of \$25 paid by the party requesting a hearing, subject to adjustment
131 pursuant to section 3B of chapter 7, which the commission shall deposit into the Manufactured
132 Housing Fund established in section 2NNNNof chapter 29.

133 (d) A hearing under subsection (c) shall be conducted by 3 members of the commission;
134 1 of whom shall be the member who is the resident of a manufactured housing community; and 1
135 of whom shall be the member who is the owner of a manufactured housing community.
136 Commission members appointed by the governor pursuant to section 108 of chapter 6 as either
137 owners or residents, and that own or reside in the manufactured housing community that is the
138 subject of the complaint, shall be prohibited from participating in hearings involving that
139 manufactured housing community. When a commission member is so excluded from hearing a
140 complaint, the corresponding alternate member of the commission shall replace the affected
141 member and hear the complaint. The third member who hears the complaint shall not be the
142 member who conducted the mediation of the complaint and shall be chosen on an alternating
143 basis from the 2 remaining commission members who are eligible to hear the complaint. Within
144 45 days after the hearing, the commission shall issue a written decision as to whether a violation
145 has occurred and shall order appropriate action, if any, to be taken by the owner, resident,
146 operator, or any of the parties.

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

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

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

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

158 SECTION 12. Section 32Q of chapter 140 of the General Laws, as appearing in the 2012
159 Official Edition, is hereby amended by striking out, in lines 2 to 4, inclusive, the words:- “ built
160 in conformance to the National Manufactured Home Construction and Safety Standards”.