

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2007

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HOUSE DRH80222-RIxz-4 (01/30)

Short Title: Cleanup of Abandoned Manufactured Homes. (Public)

Sponsors: Representatives Haire, Allen, Tolson, and Justice (Primary Sponsors).

Referred to:

A BILL TO BE ENTITLED

AN ACT TO PROTECT PUBLIC HEALTH AND THE ENVIRONMENT BY ENCOURAGING COUNTIES TO DEVELOP PLANS THAT PROVIDE FOR THE DECONSTRUCTION OF ABANDONED MANUFACTURED HOMES AND THE REMOVAL OF REUSABLE OR RECYCLABLE COMPONENTS, BY PROVIDING FOR THE ABATEMENT OF ABANDONED MANUFACTURED HOMES THAT ARE DETERMINED TO BE A NUISANCE, AND BY IMPOSING AN ENVIRONMENTAL REMEDIATION TAX ON THE SALE OF NEW AND USED MANUFACTURED HOMES TO ENSURE THAT FUNDS WILL BE AVAILABLE FOR THE DECONSTRUCTION OF ABANDONED MANUFACTURED HOMES.

The General Assembly of North Carolina enacts:

SECTION 1. Article 9 of Chapter 130A of the General Statutes is amended by adding a new Part to read:

"Part 2E. Management of Abandoned Manufactured Homes.

"§ 130A-309.90. Findings; purpose.

(a) The General Assembly finds that:

- (1) The number of manufactured homes in North Carolina has risen dramatically as land has become scarce and the housing market has become more expensive.
- (2) Manufactured homes may be difficult and expensive to repair when they begin to deteriorate. Often consumers simply buy another manufactured home unit rather than refurbish a manufactured home that needs repair.
- (3) According to data obtained through the 2000 United States Census, there are more than 80,000 vacant manufactured homes in North

1 Carolina, of which 40,000 are estimated to be permanently untended or
2 in need of extensive repair.

3 (4) Abandoned manufactured homes create public health and
4 environmental problems and are a visual blight on the landscape of
5 North Carolina. Further, an abandoned manufactured home poses a fire
6 hazard, a safety hazard to unsupervised children, and is a potential
7 source of toxic or hazardous materials that may escape into the
8 environment. As a result, abandoned manufactured homes constitute a
9 nuisance.

10 (5) Most landfills will not accept intact manufactured homes due to their
11 bulky nature. In those instances where landfills do accept intact
12 manufactured homes for disposal, the cost of disposal can be
13 prohibitive for many manufactured homeowners. Landfill disposal
14 costs include tipping fees, the costs of transporting the obsolete
15 structures to the landfill, and the costs of removing any hazardous
16 materials, such as asbestos and other harmful chemicals.

17 (6) Many components of manufactured homes can be reused or recycled,
18 including windows, screens, doors, copper tubing, copper wiring,
19 aluminum, tin, steel, lumber, steel frames, pipes, countertops, cabinets,
20 and other appliances and fixtures. It is estimated that twenty-six
21 percent (26%) to thirty-eight percent (38%) of the components of a
22 manufactured home can be reused or recycled without extensive
23 manual labor.

24 (7) It is desirable to allow units of local government to manage the
25 disposal of abandoned manufactured homes for themselves and to
26 encourage regional approaches to the deconstruction of abandoned
27 manufactured homes, the removal of components from abandoned
28 manufactured homes that are reusable or recyclable, and the proper
29 disposal of the remainder.

30 (8) It is in the State's best interest to encourage the reduction of the
31 volume of intact manufactured homes being disposed of at public
32 sanitary landfills, to encourage the deconstruction of abandoned
33 manufactured homes, the removal of components from abandoned
34 manufactured homes that are reusable or recyclable, and to encourage
35 the proper disposal of the remainder.

36 (b) The purpose of this Part is to provide units of local government with the
37 authority, funding, and guidance needed to provide for the efficient and proper
38 identification, deconstruction, recycling, and disposal of abandoned manufactured
39 homes in this State.

40 **"§ 130A-309.91. Definitions.**

41 The following definitions apply to this Part:

42 (1) 'Abandoned manufactured home' means a manufactured home that is
43 both:

44 a. Vacant or in need of extensive repair.

1 b. An unreasonable danger to public health, safety, welfare, or the
2 environment.

3 (2) 'Account' means the Manufactured Homes Management Account
4 established pursuant to G.S. 130A-309.94.

5 (3) 'Intact' when used in connection with 'abandoned manufactured home'
6 means an abandoned manufactured home from which the wheels and
7 axels, white goods, and recyclable materials have not been removed.

8 (4) 'Manufactured home' is defined in G.S. 105-187.60.

9 (5) 'Responsible party' means any person or entity that possesses an
10 ownership interest in an abandoned manufactured home.

11 **"§ 130A-309.92. Management of abandoned manufactured homes.**

12 (a) Plan. – Each county shall consider whether to implement a program for the
13 management of abandoned manufactured homes. If, after consideration, the county
14 decides not to implement a program, the county must state in the comprehensive solid
15 waste management plan that it is required to develop under G.S. 130A-309.09A(b) that
16 the county considered whether to implement a program for the management of
17 abandoned manufactured homes and decided not to do so. A county may, at any time,
18 reconsider its decision not to implement a program for the management of abandoned
19 manufactured homes. If the county decides to implement a program, the county shall
20 develop a written plan for the management of abandoned manufactured homes and
21 include the plan as a component of the comprehensive solid waste management plan it
22 is required to develop under G.S. 130A-309.09A(b). At a minimum, the plan shall
23 include:

24 (1) A method by which the county proposes to identify abandoned
25 manufactured homes in the county, including, without limitation, a
26 process by which a manufactured home owner or other responsible
27 party may request designation of their home as an abandoned
28 manufactured home.

29 (2) A plan for the deconstruction of these abandoned manufactured
30 homes.

31 (3) A plan for the removal of the components thereof for reuse or
32 recycling, as appropriate.

33 (4) A plan for the proper disposal of abandoned manufactured homes that
34 are not deconstructed under subdivision (2) of this subsection.

35 (b) Authority to Contract. – A county may contract with another unit of local
36 government or a private entity in accordance with Article 15 of Chapter 153A of the
37 General Statutes to provide for the management of abandoned manufactured homes
38 within the county and the implementation of its plan under subsection (a) of this section.

39 (c) Restrictions. – A county or a party that contracted with the county under
40 subsection (b) of this section shall not charge a disposal fee for the disposal of any
41 abandoned manufactured home sold on or after 1 January 2008.

42 (d) An intact abandoned manufactured home shall not be disposed of in a
43 landfill.

44 **"§ 130A-309.93. Process for the disposal of abandoned manufactured homes.**

1 (a) If a county adopts and implements a plan for the management of abandoned
2 manufactured homes pursuant to this Part, the county shall notify the responsible party
3 for each identified abandoned manufactured home in the county that the abandoned
4 manufactured home must be properly disposed of by that person within 90 days. The
5 notice shall be in writing and shall be served on the person as provided by Rule 4(j) of
6 the Rules of Civil Procedure, G.S. 1A-1. The notice shall disclose the basis for the
7 action, and advise that a hearing will be held before a designated public officer at a
8 place within the county in which the manufactured home is located not less than 10 days
9 nor more than 30 days after the serving of the notice; that the responsible party shall be
10 given the right to file an answer to the order and to appear in person, or otherwise, and
11 give testimony at the place and time fixed in the notice; and that the rules of evidence
12 prevailing in courts of law or equity shall not be controlling in hearings before the
13 public officer.

14 (b) If, after notice and hearing, the public officer determines that the
15 manufactured home under consideration is abandoned, the officer shall state in writing
16 his findings of fact in support of that determination and the county shall order the
17 person to dispose of the abandoned manufactured home within 90 days of the expiration
18 of this period. If the responsible party fails to comply with this order, the county shall
19 take any action it deems reasonably necessary to dispose of the abandoned
20 manufactured home, including entering the property where the abandoned manufactured
21 home is located and arranging to have the abandoned manufactured home deconstructed
22 and disposed of in a manner consistent with the plan developed under
23 G.S. 130A-309.92(a). If the responsible party is not the owner of the property on which
24 the abandoned manufactured home is located, the county may order the property owner
25 to permit entry onto the owner's property by an appropriate party to permit the removal
26 and proper disposal of the abandoned manufactured home.

27 (c) When a county removes, deconstructs, and disposes of an abandoned
28 manufactured home pursuant to subsection (a) of this section, whether directly or
29 through a party that contracted with the county, the responsible party or the owner of the
30 property on whose land an abandoned manufactured home is located shall be joint and
31 severally liable for the actual costs incurred by the county, directly or indirectly, for its
32 abatement activities and its administrative and legal expenses incurred, less the amount
33 of grants for reimbursement received by the county under G.S. 130A-309.94(c) for the
34 disposal activities for that manufactured home. The county may initiate a civil action to
35 recover these unpaid costs from the responsible party or the owner of the property on
36 whose land an abandoned manufactured home is located. Nonpayment of any portion of
37 the actual costs incurred by the county shall result in the imposition of a lien on any real
38 property in the county owned by the responsible party, or the owner of the property on
39 whose land the abandoned manufactured home is located.

40 (d) This section does not apply to any of the following:

41 (1) A retail business premises where manufactured homes are sold.

42 (2) A solid waste disposal facility where no more than 10 manufactured
43 homes are stored at one time if all of the manufactured homes received

1 for storage are deconstructed or removed from the facility within one
2 year after receipt.

3 (e) This section does not change the existing authority of a county or a
4 municipality to enforce any existing laws or of any person to abate a nuisance.

5 "§ 130A-309.94. Manufactured Homes Management Account.

6 (a) The Manufactured Homes Management Account is established within the
7 Department. The Account is nonreverting and consists of revenue credited to the
8 Account from the proceeds of the manufactured home environmental remediation tax
9 imposed by G.S. 105-187.61. Funds in the Account may be used to:

10 (1) Provide grants to counties to reimburse their expenses for activities
11 under this Part.

12 (2) Provide technical assistance and support to counties to achieve the
13 purposes of this Part.

14 (3) Implement this Part, including costs associated with staffing, training,
15 submitting reports, and fulfilling program goals.

16 (b) Each county that requests a reimbursement grant from the Account shall also
17 submit to the Department a proposed budget specifying in detail the expenses it expects
18 to incur in a specified time period in connection with the activities under this Part. The
19 Department shall review each submitted budget and make modifications, if necessary,
20 in light of the availability of funds in the Account, the county's capacity to effectively
21 and efficiently manage the abatement of abandoned manufactured homes, and any other
22 factors that the Department reasonably determines are relevant. When the Department
23 and a county agree on the amount of the county's budget under this subsection, the
24 Department and the county shall execute an agreement that reflects this amount and that
25 specifies the time period covered by the agreement, and the Department shall reserve
26 funds for the county in the amount necessary to reimburse allowable costs. The amount
27 of a reimbursement grant shall be calculated in accordance with subsections (c) and (d)
28 of this section. A county shall not receive a reimbursement grant unless it has filed all
29 the annual reports it is required to submit under G.S. 130A-309.96.

30 (c) Reimbursement grants from the Account shall be made in accordance with
31 the terms of the grant agreement developed pursuant to subsection (b) of this section,
32 but in any event, all reimbursements shall be calculated on a per unit basis and based on
33 the actual cost of such activities, not to exceed one thousand dollars (\$1,000) for each
34 unit. For a county designated as a development tier one or two area pursuant to
35 G.S. 143B-437.08 where the costs associated with the disposition of an abandoned
36 manufactured home in a manner consistent with this part exceed one thousand dollars
37 (\$1,000) per unit, a county may request a supplemental grant in an amount equal to fifty
38 percent (50%) of the amount in excess of one thousand dollars (\$1,000). The
39 Department shall consider the efficiency and effectiveness of the county program in
40 making the supplemental grant, and the county participation must be a cash match.

41 (d) A county shall use reimbursement grant funds only for operating expenses
42 that are directly related to the management of abandoned manufactured homes. If an
43 operating expense is partially related to the management of abandoned manufactured
44 homes, a county may use the reimbursement grant funds to finance the percentage of the

1 cost that equals the percentage of the expense that is directly related to the management
2 of abandoned manufactured homes.

3 **"§ 130A-309.95. Authority to adopt ordinances.**

4 A county, or a unit of local government that is delegated authority to do so by the
5 county, may adopt ordinances it deems necessary in order to implement this Part.

6 **"§ 130A-309.96. Reporting on the management of abandoned manufactured
7 homes.**

8 (a) On or before 1 August of each year, any county that receives a reimbursement
9 grant under G.S. 130A-309.94 shall submit a report to the Department that includes all
10 of the following information:

- 11 (1) The number of units and approximate tonnage of abandoned
12 manufactured homes removed, deconstructed, recycled, and disposed
13 of during the previous fiscal year.
- 14 (2) A detailed statement of the county's abandoned manufactured homes
15 account receipts and disbursements during the previous fiscal year that
16 sets out the source of all receipts and the purpose of all disbursements.
- 17 (3) The obligated and unobligated balances in the county's abandoned
18 manufactured homes account at the end of the fiscal year.
- 19 (4) An assessment of the county's progress in removing, deconstructing,
20 recycling, and disposing of abandoned manufactured homes consistent
21 with this Part.

22 (b) The Department shall include in its annual report to the Environmental
23 Review Commission under G.S. 130A-309.06(c) a description of the management of
24 abandoned manufactured homes in the State for the fiscal year ending the preceding 30
25 June. The description of the management of abandoned manufactured homes shall
26 include all of the following information:

- 27 (1) The amount of taxes collected and distributed under G.S. 105-187.64
28 during the reporting period.
- 29 (2) The cost to each county of managing its abandoned manufactured
30 home program during the reporting period.
- 31 (3) The beginning and ending balances of the Account for the reporting
32 period and a list of grants made from the Account for the period,
33 itemized by county.
- 34 (4) A summary of the information contained in the reports submitted by
35 counties pursuant to subsection (a) of this section.
- 36 (5) Any other information the Department considers helpful in
37 understanding the problem of managing abandoned manufactured
38 homes in the State.

39 **"§ 130A-309.97. Effect on local ordinances.**

40 This Part shall not be construed to limit the authority of counties under Article 18 of
41 Chapter 153A of the General Statutes or the authority of cities under Article 19 of
42 Chapter 160A of the General Statutes."

43 **SECTION 2.** G.S. 130A-309.06(c) is amended by adding a new subdivision
44 to read:

1 Article 5 of this Chapter, the additional State sales tax paid when a new or used
2 manufactured home is sold is a credit against the additional State use tax imposed on the
3 storage, use, or consumption of the same manufactured home.

4 (b) The Secretary shall maintain a record of all manufactured homes on which
5 the Manufactured Home Environmental Remediation Tax has been paid, listed by serial
6 number.

7 **"§ 105-187.63. Exemptions.**

8 The exemptions in G.S. 105-164.13 and the refunds allowed in G.S. 105-164.14 do
9 not apply to the taxes imposed by this Article.

10 **"§ 105-187.64. Use of tax proceeds.**

11 (a) The Secretary shall distribute the taxes collected under this Article, less the
12 Department of Revenue's allowance for cost of collecting the taxes, in accordance with
13 this section. The Secretary may retain the Department of Revenue's cost of collection,
14 not to exceed one hundred thousand dollars (\$100,000), as reimbursement to the
15 Department of Revenue.

16 (b) Each quarter, the Secretary shall credit the net tax proceeds to the
17 Manufactured Homes Management Account. Funds in the Manufactured Homes
18 Management Account may be used only as provided in G.S. 130A-309.94.

19 **"§ 105-187.65. Proof of payment required to issue permit to occupy manufactured**
20 **home.**

21 (a) Retailers of manufactured homes shall provide proof of payment of all taxes
22 due to be paid on a transaction under G.S. 105-187.61 at the time of sale. The proof of
23 payment shall include the name and address of the retailer; the name and address of the
24 owner; the make, model, size, and serial number of the manufactured home; the amount
25 of sale; and the amount of tax due to be paid on the transaction.

26 (b) In lieu of proof of payment from the retailer pursuant to subsection (a) of this
27 section, a person may obtain a record of payment from information maintained by the
28 Secretary, or a person may pay the amount due to be paid on a transaction under
29 G.S. 105-187.61 to the office of the tax collector for the county in which the
30 manufactured home is to be located. The tax collector shall provide proof of payment to
31 the person making payment. The tax collector shall promptly remit such payments to the
32 Department of Revenue with relevant information concerning the transaction, including:
33 the name and address of the retailer; the name and address of the owner; the make,
34 model, size, and serial number of the manufactured home; the amount of sale; and the
35 amount of tax paid.

36 (c) The tax collector may retain the county's cost of collection, not to exceed one
37 percent (1%), of the Manufactured Home Environmental Remediation Tax collected by
38 the county, as reimbursement to the county.

39 (d) The local government having jurisdiction shall not issue any permit to allow
40 occupancy of a manufactured home subject to the tax imposed by this section without
41 proof of payment pursuant to subsections (a) and (b) of this section from the owner of
42 the manufactured home."

43 **SECTION 5.** The Department of Environment and Natural Resources may
44 use up to fifty thousand dollars (\$50,000) in the Manufactured Homes Management

1 Account, as established in Section 1 of this act, during each calendar year for the
2 following purposes:

- 3 (1) Training and program development across the State.
- 4 (2) Identification of qualified contractors.
- 5 (3) Dissemination of best deconstruction practices.

6 **SECTION 6.** A county designated as a development tier one or two area
7 pursuant to G.S. 143B-437.08 may, upon resolution by the Board of Commissioners of
8 their intent to (i) develop a plan for the management of abandoned manufactured homes
9 and (ii) implement the plan once developed, request a planning grant of up to two
10 thousand five hundred dollars (\$2,500) from the Manufactured Homes Management
11 Account, established by G.S. 130A-309.94, as enacted by Section 1 of this act. These
12 funds shall be used by the county to prepare a plan as provided in G.S. 130A-309.92, as
13 enacted by Section 1 of this act, and to identify abandoned manufactured homes.

14 **SECTION 7.** This act becomes effective 1 October 2008 and expires 1
15 October 2020. Section 4 of this act applies to sales of new or used manufactured homes
16 made on or after the effective date.