

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2007

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HOUSE BILL 1134

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

Sponsors: Representatives Haire, Allen, Tolson, Justice (Primary Sponsors); Coates, Faison, and Luebke.

Referred to: Environment and Natural Resources, if favorable, Finance.

March 28, 2007

A BILL TO BE ENTITLED

1
2 AN ACT TO PROTECT PUBLIC HEALTH AND THE ENVIRONMENT BY
3 ENCOURAGING COUNTIES TO DEVELOP PLANS THAT PROVIDE FOR
4 THE DECONSTRUCTION OF ABANDONED MANUFACTURED HOMES
5 AND THE REMOVAL OF REUSABLE OR RECYCLABLE COMPONENTS, BY
6 PROVIDING FOR THE ABATEMENT OF ABANDONED MANUFACTURED
7 HOMES THAT ARE DETERMINED TO BE A NUISANCE, AND BY
8 IMPOSING AN ENVIRONMENTAL REMEDIATION TAX ON THE SALE OF
9 NEW AND USED MANUFACTURED HOMES TO ENSURE THAT FUNDS
10 WILL BE AVAILABLE FOR THE DECONSTRUCTION OF ABANDONED
11 MANUFACTURED HOMES.

12 The General Assembly of North Carolina enacts:

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

15 "Part 2E. Management of Abandoned Manufactured Homes.

16 **"§ 130A-309.90. Findings; purpose.**

17 (a) The General Assembly finds that:

- 18 (1) The number of manufactured homes in North Carolina has risen
19 dramatically as land has become scarce and the housing market has
20 become more expensive.
- 21 (2) Manufactured homes may be difficult and expensive to repair when
22 they begin to deteriorate. Often consumers simply buy another
23 manufactured home unit rather than refurbish a manufactured home
24 that needs repair.
- 25 (3) According to data obtained through the 2000 United States Census,
26 there are more than 80,000 vacant manufactured homes in North
27 Carolina, of which 40,000 are estimated to be permanently untended or
28 in need of extensive repair.

- 1 (4) Abandoned manufactured homes create public health and
2 environmental problems and are a visual blight on the landscape of
3 North Carolina. Further, an abandoned manufactured home poses a fire
4 hazard, a safety hazard to unsupervised children, and is a potential
5 source of toxic or hazardous materials that may escape into the
6 environment. As a result, abandoned manufactured homes constitute a
7 nuisance.
- 8 (5) Most landfills will not accept intact manufactured homes due to their
9 bulky nature. In those instances where landfills do accept intact
10 manufactured homes for disposal, the cost of disposal can be
11 prohibitive for many manufactured homeowners. Landfill disposal
12 costs include tipping fees, the costs of transporting the obsolete
13 structures to the landfill, and the costs of removing any hazardous
14 materials, such as asbestos and other harmful chemicals.
- 15 (6) Many components of manufactured homes can be reused or recycled,
16 including windows, screens, doors, copper tubing, copper wiring,
17 aluminum, tin, steel, lumber, steel frames, pipes, countertops, cabinets,
18 and other appliances and fixtures. It is estimated that twenty-six
19 percent (26%) to thirty-eight percent (38%) of the components of a
20 manufactured home can be reused or recycled without extensive
21 manual labor.
- 22 (7) It is desirable to allow units of local government to manage the
23 disposal of abandoned manufactured homes for themselves and to
24 encourage regional approaches to the deconstruction of abandoned
25 manufactured homes, the removal of components from abandoned
26 manufactured homes that are reusable or recyclable, and the proper
27 disposal of the remainder.
- 28 (8) It is in the State's best interest to encourage the reduction of the
29 volume of intact manufactured homes being disposed of at public
30 sanitary landfills, to encourage the deconstruction of abandoned
31 manufactured homes, the removal of components from abandoned
32 manufactured homes that are reusable or recyclable, and to encourage
33 the proper disposal of the remainder.

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

38 **"§ 130A-309.91. Definitions.**

39 The following definitions apply to this Part:

- 40 (1) 'Abandoned manufactured home' means a manufactured home that is
41 both:
42 a. Vacant or in need of extensive repair.
43 b. An unreasonable danger to public health, safety, welfare, or the
44 environment.

- 1 (2) 'Account' means the Manufactured Homes Management Account
2 established pursuant to G.S. 130A-309.94.
- 3 (3) 'Intact' when used in connection with 'abandoned manufactured home'
4 means an abandoned manufactured home from which the wheels and
5 axels, white goods, and recyclable materials have not been removed.
- 6 (4) 'Manufactured home' is defined in G.S. 105-187.60.
- 7 (5) 'Responsible party' means any person or entity that possesses an
8 ownership interest in an abandoned manufactured home.

9 **"§ 130A-309.92. Management of abandoned manufactured homes.**

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

- 22 (1) A method by which the county proposes to identify abandoned
23 manufactured homes in the county, including, without limitation, a
24 process by which a manufactured home owner or other responsible
25 party may request designation of their home as an abandoned
26 manufactured home.
- 27 (2) A plan for the deconstruction of these abandoned manufactured
28 homes.
- 29 (3) A plan for the removal of the components thereof for reuse or
30 recycling, as appropriate.
- 31 (4) A plan for the proper disposal of abandoned manufactured homes that
32 are not deconstructed under subdivision (2) of this subsection.

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

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

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

42 **"§ 130A-309.93. Process for the disposal of abandoned manufactured homes.**

43 (a) If a county adopts and implements a plan for the management of abandoned
44 manufactured homes pursuant to this Part, the county shall notify the responsible party

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

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

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

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

- 39 (1) A retail business premises where manufactured homes are sold.
- 40 (2) A solid waste disposal facility where no more than 10 manufactured
41 homes are stored at one time if all of the manufactured homes received
42 for storage are deconstructed or removed from the facility within one
43 year after receipt.

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

3 **"§ 130A-309.94. Manufactured Homes Management Account.**

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

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

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

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

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

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

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

1 **"§ 130A-309.95. Authority to adopt ordinances.**

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

4 **"§ 130A-309.96. Reporting on the management of abandoned manufactured**
5 **homes.**

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

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

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

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

37 **"§ 130A-309.97. Effect on local ordinances.**

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

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

- 43 "(14) A description of the activities related to the management of abandoned
44 manufactured homes in the State in accordance with

G.S. 130A-309.96, the beginning and ending balances in the Manufactured Homes Management Account for the reporting period, the amount credited to the Manufactured Homes Management Account during the reporting period, and the amount of revenue used, itemized by county, for grants made under Part 2E of Article 9 of Chapter 130A of the General Statutes."

SECTION 3. G.S. 130A-309.09A(b) is amended by adding a new subdivision to read:

"(9) Include as a component a written plan for the management of abandoned manufactured homes as required under G.S. 130A-309.92(a)."

SECTION 4. Chapter 105 of the General Statutes is amended by adding a new Article to read:

"Article 5G.

"Manufactured Home Environmental Remediation Tax.

"§ 105-187.60. Definitions.

The definitions in G.S. 105-164.3 apply to this Article, except that the term 'sale' does not include lease or rental. 'Manufactured home' is defined in G.S. 105-164.3(20). Manufactured home also means any structure that otherwise satisfies the definition in G.S. 105-164.3(20) but that, although designed for use as a dwelling, is in fact used for commercial or other nonresidential purposes, and that may or may not be placed on a permanent foundation at the time of sale.

"§ 105-187.61. Tax imposed.

(a) A privilege tax is imposed on a manufactured home retailer at a flat rate for each new manufactured home sold by the retailer and for each used manufactured home sold by the retailer. An excise tax is imposed on each new manufactured home and on each used manufactured home purchased outside the State for storage, use, or consumption in this State. These taxes are in addition to all other taxes. The rate of the privilege tax and the excise tax is as follows:

(1) For each new or used singlewide manufactured home, three hundred dollars (\$300.00).

(2) For each new or used multi-section manufactured home, three hundred dollars (\$300.00) for each section of the manufactured home.

(b) The tax imposed by this Article shall only be paid once on each manufactured home throughout the useful life of the manufactured home.

"§ 105-187.62. Administration.

(a) The privilege tax this Article imposes on a manufactured home retailer who sells new or used manufactured homes at retail is an additional State sales tax, and the excise tax this Article imposes on the storage, use, or consumption of a new or used manufactured home in this State is an additional State use tax. Except as otherwise provided in this Article, these taxes shall be collected and administered in the same manner as the State sales and use taxes imposed by Article 5 of this Chapter. As under Article 5 of this Chapter, the additional State sales tax paid when a new or used

1 manufactured home is sold is a credit against the additional State use tax imposed on the
2 storage, use, or consumption of the same manufactured home.

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

6 **"§ 105-187.63. Exemptions.**

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

9 **"§ 105-187.64. Use of tax proceeds.**

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

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

18 **"§ 105-187.65. Proof of payment required to issue permit to occupy manufactured**
19 **home.**

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

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

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

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

42 **SECTION 5.** The Department of Environment and Natural Resources may
43 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.