

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2007

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HOUSE BILL 1134
Committee Substitute Favorable 6/18/08
Committee Substitute #2 Favorable 6/30/08
Fourth Edition Engrossed 7/3/08
Senate Commerce, Small Business and Entrepreneurship Committee Substitute
Adopted 7/10/08
Senate Finance Committee Substitute Adopted 7/16/08

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

Sponsors:

Referred to:

March 28, 2007

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 TO DESIGNATE THAT A PORTION OF THE SOLID WASTE MANAGEMENT TRUST FUND BE USED TO FUND THE DECONSTRUCTION AND REMOVAL 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 2F. Management of Abandoned Manufactured Homes.

"§ 130A-309.99A. Purpose.

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

"§ 130A-309.99B. Definitions.

The following definitions apply to this Part:

(1) 'Abandoned manufactured home' means a manufactured home or mobile classroom that is both:

a. Vacant or in need of extensive repair.

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

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

6 (3) 'Manufactured home' is defined in G.S. 105-187.60.

7 (4) 'Responsible party' means any person or entity that possesses an
8 ownership interest in an abandoned manufactured home.

9 **"§ 130A-309.99C. 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 manufactured homeowners or other responsible
25 parties 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 deconstructed components, including
30 mercury switches from thermostats, for reuse or recycling, as
31 appropriate.

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

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

38 (c) Fee Authority. – A unit of local government or a party that contracted with
39 the county under subsection (b) of this section may charge a disposal fee for the
40 disposal of any abandoned manufactured home at a landfill pursuant to this Part.

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

43 **"§ 130A-309.99D. 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 and the owner of the property on whose land the abandoned manufactured home is
4 located for each identified abandoned manufactured home in the county that the
5 abandoned manufactured home must be properly disposed of by the responsible party
6 within 90 days. The notice shall be in writing and shall be served on the person as
7 provided by Rule 4(j) of the Rules of Civil Procedure, G.S. 1A-1. The notice shall
8 disclose the basis for the action and advise that a hearing will be held before a
9 designated public officer at a place within the county in which the manufactured home
10 is located not less than 10 days nor more than 30 days after the serving of the notice;
11 that the responsible party shall be given the right to file an answer to the order and to
12 appear in person, or otherwise, and give testimony at the place and time fixed in the
13 notice; and that the rules of evidence prevailing in courts of law or equity shall not be
14 controlling in hearings before the public officer.

15 (b) If, after notice and hearing, the public officer determines that the
16 manufactured home under consideration is abandoned, the officer shall state in writing
17 the officer's findings of fact in support of that determination, and the county shall order
18 the responsible party to dispose of the abandoned manufactured home within 90 days of
19 the expiration of this period. If the responsible party fails to comply with this order, the
20 county shall take any action it deems reasonably necessary to dispose of the abandoned
21 manufactured home, including entering the property where the abandoned manufactured
22 home is located and arranging to have the abandoned manufactured home deconstructed
23 and disposed of in a manner consistent with the plan developed under
24 G.S. 130A-309.99C(a). If the responsible party is not the owner of the property on
25 which the abandoned manufactured home is located, the county may order the property
26 owner to permit entry onto the owner's property by an appropriate party to permit the
27 removal and proper disposal of the abandoned manufactured home.

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

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-309.99E. Grants to local governments.**

4 (a) The Department shall use funds from the Solid Waste Trust Fund established
5 by G.S. 130A-309.12 to:

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

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

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

12 (b) Each county that requests a reimbursement grant from the Department shall
13 also submit to the Department a proposed budget specifying in detail the expenses it
14 expects to incur in a specified time period in connection with the activities under this
15 Part. The Department shall review each submitted budget and make modifications, if
16 necessary, in light of the availability of funds, the county's capacity to effectively and
17 efficiently manage the abatement of abandoned manufactured homes, and any other
18 factors that the Department reasonably determines are relevant. When the Department
19 and a county agree on the amount of the county's budget under this subsection, the
20 Department and the county shall execute an agreement that reflects this amount and that
21 specifies the time period covered by the agreement, and the Department shall reserve
22 funds for the county in the amount necessary to reimburse allowable costs. The amount
23 of a reimbursement grant shall be calculated in accordance with subsections (c) and (d)
24 of this section. A county shall not receive a reimbursement grant unless it has filed all
25 the annual reports it is required to submit under G.S. 130A-309.99G.

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

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

43 **"§ 130A-309.99F. Authority to adopt ordinances.**

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

3 **"§ 130A-309.99G. Reporting on the management of abandoned manufactured**
4 **homes.**

5 (a) On or before 1 August of each year, any county that receives a reimbursement
6 grant under G.S. 130A-309.99E shall submit a report to the Department that includes all
7 of the following information:

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

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

- 24 (1) The cost to each county of managing its abandoned manufactured
25 home program during the reporting period.
26 (2) The beginning and ending balances of the Solid Waste Management
27 Trust Fund for the reporting period and a list of grants made from the
28 Fund for the period, itemized by county.
29 (3) A summary of the information contained in the reports submitted by
30 counties pursuant to subsection (a) of this section.
31 (4) Any other information the Department considers helpful in
32 understanding the problem of managing abandoned manufactured
33 homes in the State.

34 **"§ 130A-309.99H. Effect on local ordinances.**

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

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

- 40 "(14) A description of the activities related to the management of abandoned
41 manufactured homes in the State in accordance with
42 G.S. 130A-309.99G, the beginning and ending balances in the Solid
43 Waste Management Trust Fund for the reporting period and the

1 amount of funds used, itemized by county, for grants made under Part
2 2E of Article 9 of Chapter 130A of the General Statutes."

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

5 "(9) Include as a component a written plan for the management of
6 abandoned manufactured homes as required under
7 G.S. 130A-309.99C(a)."

8 **SECTION 4.** The Department of Environment and Natural Resources shall
9 annually use up to one million dollars (\$1,000,000) from the Solid Waste Management
10 Trust Fund established by G.S. 130A-309.12 in order to fund the cleanup of abandoned
11 mobile homes as provided in G.S. 130A-309.99E.

12 **SECTION 5.** A county designated as a development tier one or two area
13 pursuant to G.S. 143B-437.08 may, upon resolution by the Board of Commissioners of
14 their intent to (i) develop a plan for the management of abandoned manufactured homes
15 and (ii) implement the plan once developed, request a planning grant of up to two
16 thousand five hundred dollars (\$2,500) from the Solid Waste Management Trust Fund.
17 These funds shall be used by the county to prepare a plan as provided in
18 G.S. 130A-309.99C, as enacted by Section 1 of this act, and to identify abandoned
19 manufactured homes.

20 **SECTION 6.** This act becomes effective 1 July 2009 and expires 1 October
21 2023.