

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2007**

**SESSION LAW 2008-136
HOUSE BILL 1134**

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.
 - b. An unreasonable danger to public health, safety, welfare, or the environment.
- (2) 'Intact' when used in connection with 'abandoned manufactured home' means an abandoned manufactured home from which the wheels and axles, white goods, and recyclable materials have not been removed.
- (3) 'Manufactured home' is defined in G.S. 105-164.3.
- (4) 'Responsible party' means any person or entity that possesses an ownership interest in an abandoned manufactured home.

"§ 130A-309.99C. Management of abandoned manufactured homes.

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

- (1) A method by which the county proposes to identify abandoned manufactured homes in the county, including, without limitation, a process by which manufactured homeowners or other responsible parties may request designation of their home as an abandoned manufactured home.
- (2) A plan for the deconstruction of these abandoned manufactured homes.
- (3) A plan for the removal of the deconstructed components, including mercury switches from thermostats, for reuse or recycling, as appropriate.
- (4) A plan for the proper disposal of abandoned manufactured homes that are not deconstructed under subdivision (2) of this subsection.

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

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

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

"§ 130A-309.99D. Process for the disposal of abandoned manufactured homes.

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

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

(c) When a county removes, deconstructs, and disposes of an abandoned manufactured home pursuant to this section, whether directly or through a party that contracted with the county, the responsible party shall be liable for the actual costs incurred by the county, directly or indirectly, for its abatement activities and its administrative and legal expenses incurred, less the amount of grants for reimbursement received by the county under G.S. 130A-309.99E for the disposal activities for that

manufactured home. The county may initiate a civil action to recover these unpaid costs from the responsible party. Nonpayment of any portion of the actual costs incurred by the county shall result in the imposition of a lien on any real property in the county owned by the responsible party.

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

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

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

"§ 130A-309.99E. Grants to local governments.

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

- (1) Provide grants to counties to reimburse their expenses for activities under this Part.
- (2) Provide technical assistance and support to counties to achieve the purposes of this Part.
- (3) Implement this Part, including costs associated with staffing, training, submitting reports, and fulfilling program goals.

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

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

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

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

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

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

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

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

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

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

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

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

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

- "(14) A description of the activities related to the management of abandoned manufactured homes in the State in accordance with G.S. 130A-309.99G, the beginning and ending balances in the Solid Waste Management Trust Fund for the reporting period and the amount of funds used, itemized by county, for grants made under Part 2F 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-309.99C(a)."

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

SECTION 5. A county designated as a development tier one or two area pursuant to G.S. 143B-437.08 may, upon resolution by the Board of Commissioners of their intent to (i) develop a plan for the management of abandoned manufactured homes

and (ii) implement the plan once developed, request a planning grant of up to two thousand five hundred dollars (\$2,500) from the Solid Waste Management Trust Fund. These funds shall be used by the county to prepare a plan as provided in G.S. 130A-309.99C, as enacted by Section 1 of this act, and to identify abandoned manufactured homes.

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

In the General Assembly read three times and ratified this the 17th day of July, 2008.

s/ Beverly E. Perdue
President of the Senate

s/ Joe Hackney
Speaker of the House of Representatives

s/ Michael F. Easley
Governor

Approved 8:18 p.m. this 28th day of July, 2008