

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2005

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HOUSE DRH30204-RTx-15A (03/14)

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

Sponsors: Representatives Haire and Grady (Primary Sponsors).

Referred to:

A BILL TO BE ENTITLED

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

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

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. A nuisance.

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

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

6 (4) 'Nuisance' means an unreasonable danger to public health, safety, or
7 welfare or to the environment or natural resources.

8 **"§ 130A-309.92. Management of abandoned manufactured homes.**

9 (a) Plan. – As a component of the comprehensive solid waste management plan it
10 is required to develop under G.S. 130A-309.09A(b), each county shall develop a written
11 plan for the management of abandoned manufactured homes. At a minimum, this plan
12 shall:

13 (1) Identify all abandoned manufactured homes in the county.

14 (2) Provide for the deconstruction of these abandoned manufactured
15 homes.

16 (3) Provide for the removal of the components thereof for reuse or
17 recycling, as appropriate.

18 (4) Provide for the proper disposal of the remaining abandoned
19 manufactured homes that were not deconstructed under subdivision (2)
20 of this subsection.

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

25 (c) Restrictions. – A county or a party that contracted with the county under
26 subsection (b) of this section shall not charge a disposal fee for the disposal of any
27 abandoned manufactured home sold on or after 1 January 2006.

28 (d) An intact abandoned manufactured home shall not be disposed of in a
29 landfill, other than a landfill that has been specifically permitted for the disposal of
30 construction and demolition waste, and shall not be disposed of in an incinerator or a
31 waste-to-energy facility, if the county in which the abandoned manufactured home is
32 located has elected to implement the plan it is required to develop under subsection (a)
33 of this section.

34 **"§ 130A-309.93. Process for abatement of nuisance caused by abandoned**
35 **manufactured homes.**

36 (a) If a county adopts and implements a plan for the management of abandoned
37 manufactured homes, the county or the party that contracted with the county under
38 G.S. 130A-309.92(b) shall notify the person responsible for each identified abandoned
39 manufactured home in the county that the abandoned manufactured home constitutes a
40 nuisance and shall request that the abandoned manufactured home be properly disposed
41 of by that person within 90 days. The notice shall be in writing and shall be served on
42 the person as provided by Rule 4(j) of the Rules of Civil Procedure, G.S. 1A-1. If the
43 person fails to take the requested action prior to the expiration of this period, the county
44 or the party that contracted with the county shall order the person to abate the nuisance

1 within 90 days of the expiration of this period. If the person responsible for the
2 abandoned manufactured home fails to comply with this order, the county or the party
3 that contracted with the county shall take any action it deems reasonably necessary to
4 abate the nuisance, including entering the property where the abandoned manufactured
5 home is located and arranging to have the abandoned manufactured home deconstructed
6 and disposed of in a manner consistent with the plan developed under
7 G.S. 130A-309.92(a). If the person responsible for the nuisance is not the owner of the
8 property on which the abandoned manufactured home is located, the county or the party
9 that contracted with the county may order the property owner to permit entry onto the
10 owner's property by an appropriate party to permit the removal and proper disposal of
11 the abandoned manufactured home.

12 (b) When a county removes, deconstructs, and disposes of an abandoned
13 manufactured home pursuant to subsection (a) of this section, whether directly or
14 through a party that contracted with the county, the person responsible for the
15 abandoned manufactured home shall be liable for any unpaid property taxes due on the
16 home and for the actual costs incurred by the county, directly or indirectly, for its
17 abatement activities and its administrative and legal expenses related to its abatement
18 activities, less the amount of grants for reimbursement received by the county under
19 G.S. 130A-309.94(c) for the abatement activities for that manufactured home. The
20 county or the party that contracted with the county may initiate a civil action to recover
21 these unpaid taxes or costs from the person responsible for the abandoned manufactured
22 home. Nonpayment of any unpaid taxes or of all or any portion of the actual costs
23 incurred by the county shall result in the imposition of a lien on any real property in the
24 county owned by the person responsible for the abandoned manufactured home.

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

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

31 (d) The order of priority for abatement activities under subsection (a) of this
32 section, from highest to lowest, is as follows:

- 33 (1) Any abandoned manufactured home that constitutes a fire hazard or
34 threat to public health or safety.
35 (2) Any abandoned manufactured home located in a densely populated
36 area.
37 (3) Any other abandoned manufactured home.

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

40 **"§ 130A-309.94. Manufactured Homes Management Account.**

41 (a) The Manufactured Homes Management Account is established within the
42 Department. The Manufactured Homes Management Account is nonreverting and
43 consists of revenue credited to the Manufactured Homes Management Account from the
44 proceeds of the manufactured home disposal tax imposed in G.S. 105-187.61.

1 (b) The Department may use a portion of the Manufactured Homes Management
2 Account to pay for the actual costs it incurs managing the Manufactured Homes
3 Management Account, providing technical assistance and support to counties to
4 facilitate achieving the purposes of this Part, and implementing, administering, and
5 supporting the program under this Part, including costs associated with staffing,
6 training, submitting reports, and fulfilling program goals.

7 (c) The Department shall use the remaining funds in the Manufactured Homes
8 Management Account to reimburse counties for a portion of their expenses for activities
9 under this Part by making grants to counties. The Department shall adopt rules setting
10 out the process for applying for reimbursement grants governing the award of
11 reimbursement grants by the Department.

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

28 (e) Each county is responsible for at least twenty-five percent (25%) of the cost
29 of identifying, removing, deconstructing, recycling, and disposing of each abandoned
30 manufactured home, except that any county may seek to recover any costs it incurs
31 pursuant to G.S. 130A-309.93(b). Reimbursement grants from the Manufactured Homes
32 Management Account shall be made in accordance with the terms of the grant
33 agreement, but in any event, all reimbursements shall be calculated on a per unit basis
34 and based on the actual cost of such activities, not to exceed seven hundred fifty dollars
35 (\$750.00) for each unit.

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

42 **"§ 130A-309.95. Authority to adopt ordinances.**

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

1 **"§ 130A-309.96. Reporting on the management of abandoned manufactured**
2 **homes.**

3 (a) On or before 1 November of each year, any county that receives a
4 reimbursement grant under G.S. 130A-309.94 shall submit an Annual Financial
5 Information Report, prepared in accordance with G.S. 159-33.1, to the Department. All
6 of the following information shall be included in the report:

7 (1) The number of units and approximate tonnage of abandoned
8 manufactured homes removed, deconstructed, recycled, and disposed
9 of during the previous fiscal year.

10 (2) A detailed statement of the county's abandoned manufactured homes
11 account receipts and disbursements during the previous fiscal year that
12 sets out the source of all receipts and the purpose of all disbursements.

13 (3) The obligated and unobligated balances in the county's abandoned
14 manufactured homes account at the end of the fiscal year.

15 (4) An assessment of the county's progress in removing, deconstructing,
16 recycling, and disposing of abandoned manufactured homes consistent
17 with this Part.

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

23 (1) The amount of taxes collected and distributed under G.S. 105-187.64
24 during the reporting period.

25 (2) The cost to each county of managing its abandoned manufactured
26 home program during the reporting period.

27 (3) The beginning and ending balances of the Manufactured Homes
28 Management Account for the reporting period and a list of grants made
29 from the Manufactured Homes Management Account for the period,
30 itemized by county.

31 (4) A summary of the information concerning the counties' abandoned
32 manufactured home management programs contained in the counties'
33 Annual Financial Information Report and the reports submitted under
34 subsection (a) of this section.

35 (5) Any other information the Department considers helpful in
36 understanding the problem of managing abandoned manufactured
37 homes in the State.

38 **"§ 130A-309.97. Effect on local ordinances.**

39 (a) This Part preempts any local ordinance regarding the management of
40 abandoned manufactured homes that is inconsistent with this Part. It does not preempt
41 any local ordinance regarding the management of abandoned manufactured homes that
42 is consistent with this Part.

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

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

6 "(14) A description of the activities related to the management of abandoned
7 manufactured homes in the State in accordance with
8 G.S. 130A-309.96, the beginning and ending balances in the
9 Manufactured Homes Management Account for the reporting period,
10 the amount credited to the Manufactured Homes Management Account
11 during the reporting period, and the amount of revenue used, itemized
12 by county, for grants made under Part 2E of Article 9 of Chapter 130A
13 of the General Statutes."

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

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

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

21 "Article 5G.

22 "Manufactured Home Disposal Tax.

23 "**§ 105-187.60. Definitions.**

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

30 "**§ 105-187.61. Tax imposed.**

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

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

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

41 "**§ 105-187.62. Administration.**

42 The privilege tax this Article imposes on a manufactured home retailer who sells
43 new or used manufactured homes at retail is an additional State sales tax, and the excise
44 tax this Article imposes on the storage, use, or consumption of a new or used

1 manufactured home in this State is an additional State use tax. Except as otherwise
2 provided in this Article, these taxes shall be collected and administered in the same
3 manner as the State sales and use taxes imposed by Article 5 of this Chapter. As under
4 Article 5 of this Chapter, the additional State sales tax paid when a new or used
5 manufactured home is sold is a credit against the additional State use tax imposed on the
6 storage, use, or consumption of the same manufactured home.

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 **SECTION 5.** This act becomes effective 1 January 2006. Section 4 of this
20 act applies to sales made on or after that date.