

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1991

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SENATE BILL 31
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Short Title: Campground Memberships.

(Public)

Sponsors:

Referred to:

February 6, 1991

1 A BILL TO BE ENTITLED
2 AN ACT TO AMEND CHAPTER 66 OF THE GENERAL STATUTES
3 REGULATING PREPAID ENTERTAINMENT CONTRACTS AND TO ENACT
4 THE MEMBERSHIP CAMPING ACT.

5 The General Assembly of North Carolina enacts:

6 Section 1. G.S. 66-118 reads as rewritten:

7 **"§ 66-118. Definitions.**

8 ~~For purposes of this Article, a "prepaid entertainment contract" is any contract in~~
9 ~~which:~~

- 10 (1) ~~The buyer of a service pays for or is obligated to pay for service prior~~
11 ~~to the buyer's receipt of or enjoyment of any or all of the service; and~~
- 12 (2) ~~The seller is other than a licensed nonprofit school, college, or~~
13 ~~university; the State or any subdivision thereof; or a nonprofit~~
14 ~~religious, ethnic, or community organization; and~~
- 15 (3) ~~The services to be performed are related to any one of the following:~~
 - 16 a. ~~Dance lessons or facilities, or any related services or events;~~
 - 17 b. ~~Matching, dating, or social club services or facilities, including~~
18 ~~any service represented as providing names of, introductions to,~~
19 ~~or opportunity to meet members of the opposite sex;~~
 - 20 e. ~~Martial arts training;~~
 - 21 d. ~~Health or athletic club services or facilities.~~

22 As used in this Article, unless the context clearly requires otherwise:

- 1 (1) 'Contract cost' means the total consideration paid by a buyer pursuant
2 to a contract including but not limited to:
3 a. Any initiation or nonrecurring fee charged;
4 b. All periodic fees required by the contract;
5 c. All dues or maintenance fees; and
6 d. All finance charges, time-price differentials, interest, and other
7 similar fees and charges.
- 8 (2) 'Contract duration' means the total period of use allowed by a buyer's
9 contract, including months or time periods that are called 'free' or
10 'bonus' or that are described in any other terms suggesting that they are
11 provided free of charge.
- 12 (3) 'Prepaid entertainment contract' means any contract in which:
13 a. The buyer of a service pays for or is obligated to pay for service
14 prior to the buyer's receipt of or enjoyment of any or all of the
15 services;
16 b. The seller is other than a licensed nonprofit school, college, or
17 university; the State or any subdivision thereof; or a nonprofit
18 religious, ethnic, or community organization; and
19 c. The services to be performed are related to any one of the
20 following:
21 1. Dance lessons or facilities, or any related services or
22 events;
23 2. Matching, dating, or social club services or facilities,
24 including any service represented as providing names of,
25 introduction to, or opportunity to meet members of the
26 opposite sex;
27 3. Martial arts training;
28 4. Health or athletic club services or facilities."

29 Sec. 2. G.S. 66-124 reads as rewritten:

30 **"§ 66-124. ~~Services not available until future date. Bond or escrow account required.~~**

31 ~~If, for any reason, services under a prepaid entertainment contract are not available~~
32 ~~to the buyer on the date of sale, then:~~

- 33 (1) ~~The seller must establish a surety bond issued by a surety company~~
34 ~~authorized to do business in this State, or establish a trust account with~~
35 ~~a licensed and insured bank or savings institution located in this State.~~
36 ~~The amount of the bond or trust account shall equal all consideration~~
37 ~~received from the buyer. The bond or trust account must remain in~~
38 ~~force until 60 days after all services of the seller are available to the~~
39 ~~buyer. The bond or trust account shall be in favor of the State of North~~
40 ~~Carolina. Any person who is damaged by any violation of this Article,~~
41 ~~or by the seller's breach of the contract for sale or any obligation~~
42 ~~arising therefrom may bring an action against the bond or trust account~~
43 ~~to recover damages suffered; provided, however, that the aggregate~~

1 liability of the surety or trustee shall be only for actual damages and in
2 no event shall exceed the amount of the bond or trust account.

- 3 (2) ~~The buyer's right to cancel the contract pursuant to G.S. 66-121 shall
4 be extended until midnight of the third business day after the date upon
5 which the services become available and the buyer is so notified.
6 However, the buyer may waive the extension of his right to cancel by
7 initialing a written contract provision to that effect, if in consideration
8 for such waiver he has been allowed to buy the seller's services at a
9 price at least twenty five percent (25%) below the lowest price the
10 seller will charge for similar services when the facility is available.~~

11 (a) Prior to the sale of any prepaid entertainment contract for services which are
12 available on the day of sale, the seller shall purchase a surety bond issued by a surety
13 company authorized to do business in this State, as follows:

- 14 (1) The amount of the surety bond shall be equal to the aggregate value of
15 outstanding liabilities to buyers, or ten thousand dollars (\$10,000),
16 whichever is greater. For purposes of this section, 'liabilities' means
17 the monies actually received in advance from the buyer on or after the
18 effective date of this subsection for contract costs, less the prorated
19 value of services rendered by the seller. The bond shall be in favor of
20 the State of North Carolina and in a form approved by the Attorney
21 General. The surety company shall have a duty to disclose the amount
22 and status of the bond to the public upon request. Any person who is
23 damaged by reason of the closing of a facility or bankruptcy of the
24 seller, may bring an action against the bond to recover damages
25 suffered; provided, however, that the aggregate liability of the surety
26 shall be only for actual damages and in no event shall exceed the
27 amount of the bond.
- 28 (2) The amount of the bond shall be based upon a written sworn statement
29 by the seller under penalty of perjury stating the seller's outstanding
30 liabilities to buyers. A corporate seller's statement shall be signed by
31 the president of the corporation; the statement of a partnership shall be
32 signed by a general partner; and the statement of a sole proprietorship
33 shall be signed by the sole proprietor. The statement and a copy of the
34 bond shall be filed with the Attorney General within 90 days after the
35 first contract is sold and at 180-day intervals thereafter.
- 36 (3) The amount of the bond shall be increased or may be decreased, as
37 necessary, to take into account changes in the seller's outstanding
38 liabilities to buyers on a semiannual basis.
- 39 (4) The bonding requirement of this section applies to each location of the
40 seller in any case where a seller operates or plans to operate more than
41 one facility in the State. A separate bond for each separately located
42 facility shall be filed with the Attorney General.

- 1 (5) Notwithstanding any other provision of this section, no seller is
2 required to purchase a bond in excess of two hundred fifty thousand
3 dollars (\$250,000) per facility.
- 4 (6) A change in ownership shall not release, cancel, or terminate liability
5 under any bond previously established unless the Attorney General
6 agrees in writing to the release, cancellation, or termination because
7 the new owner has established a new bond for the benefit of the
8 previous owner's members, or because the former owner has paid the
9 required funds to its members.
- 10 (7) In lieu of purchasing the bond required by subdivision (1), an
11 irrevocable letter of credit from a bank insured by the Federal Deposit
12 Insurance Corporation, in a form acceptable to the Attorney General,
13 may be filed with the Attorney General.
- 14 (8) Claims and actions by buyer of prepaid entertainment contract
15 services:
- 16 a. A buyer of prepaid entertainment contract services who suffers
17 or sustains any loss or damage by reason of the closing of a
18 facility or bankruptcy of the seller shall file a claim with the
19 surety, and, if the claim is not paid, may bring an action based
20 on the bond and recover against the surety. In the case of a
21 letter of credit that has been filed with the Attorney General, the
22 buyer may file a claim with the Attorney General;
- 23 b. Any claim under paragraph a. of this subsection shall be filed
24 no later than one year from the date on which the facility closed
25 or bankruptcy was filed;
- 26 c. The Attorney General may file a claim with the surety on behalf
27 of any buyer in paragraph a. of this subsection. The surety shall
28 pay the amount of the claims to the Attorney General for
29 distribution to claimants entitled to restitution and shall be
30 relieved of liability to that extent;
- 31 d. The liability of the surety under any bond may not exceed the
32 aggregate amount of the bond, regardless of the number or
33 amount of claims filed;
- 34 e. If the claims filed should exceed the amount of the bond, the
35 surety shall pay the amount of the bond to the Attorney General
36 for distribution to claimants entitled to restitution and shall be
37 relieved of all liability under the bond.
- 38 (9) The seller shall be exempt from the bonding requirement if all of its
39 unexpired contracts and present membership plans meet the following
40 criteria: (i) no initiation fee or similar nonrecurring fee is charged, and
41 (ii) at no time is any member charged to pay for use of facilities or
42 services more than 31 days in advance.
- 43 (b) If, for any reason, services under a prepaid entertainment contract are not
44 available to the buyer on the date of sale, then:

1 (1) The seller shall establish a surety bond issued by a surety company
2 authorized to do business in the State or shall establish an escrow
3 account with a licensed and insured bank or savings institution located
4 in this State. The surety bond or escrow account shall be in the
5 amount of ten thousand dollars (\$10,000) per location or in an amount
6 equal to all consideration received from the buyer, whichever is
7 greater. The bond or escrow account shall be in favor of the State of
8 North Carolina and a copy of the bond or escrow agreement shall be
9 filed with the Attorney General prior to the sale of any prepaid
10 entertainment contracts. The bond or escrow account shall remain in
11 force until 60 days after all services of the seller are available to the
12 buyer, at which time the seller shall comply with the bonding
13 requirement of subsection (a) of this section. The escrow account shall
14 be established and maintained only in a financial institution which
15 agrees in writing with the Attorney General to hold all funds deposited
16 and not to release such funds until receipt of written authorization from
17 the Attorney General. The funds deposited will be eligible for
18 withdrawal by the depositor after the facility has been open and
19 providing services for 60 days and the Attorney General gives written
20 authorization for withdrawal. Any person who is damaged by any
21 violation of this Article, or by the seller's breach of the contract for
22 sale or any obligation arising therefrom may bring an action against
23 the bond or escrow account to recover damages suffered; provided,
24 however, that the aggregate liability of the surety or escrow agent shall
25 be for actual damages only and in no event shall exceed the amount of
26 the bond or escrow account.

27 (2) The buyer's right to cancel the contract pursuant to G.S. 66-121 shall
28 be extended until midnight of the third business day after the date upon
29 which the services become available and the buyer is notified that the
30 services are available."

31 Sec. 3. Article 21 of Chapter 66 of the General Statutes is amended by
32 adding the following new section to read:

33 "§ 66-124.1. Record keeping; provision of records to the Attorney General.

34 (a) Any person or business bonded under this Article shall maintain accurate
35 records of the bond and of premium payments on it. These records shall be open to
36 inspection by the Attorney General at any time during normal business hours.

37 (b) Any person who sells prepaid entertainment contracts shall maintain accurate
38 records, updated as necessary, of the name, address, contract terms, and payments of
39 each buyer of services. These records shall be open to inspection by the Attorney
40 General, upon reasonable notice not to exceed 72 hours, at any time during normal
41 business hours.

42 (c) On the permanent closing of a facility, the seller of the services shall provide
43 the following information to the Attorney General within 15 business days:

- 1 (1) A list of the names and addresses of all buyers holding unexpired
- 2 contracts;
- 3 (2) The original or a copy of all buyer's contracts; and
- 4 (3) A record of all payments received under buyers' agreements."

5 Sec. 4. Chapter 66 is amended by adding the following new Article 30:

6 **"ARTICLE 30.**

7 **"§ 66-220. Title.**

8 This Article shall be known and may be cited as the 'Membership Camping Act'.

9 **"§ 66-221. Applicability.**

10 This Chapter shall apply to each membership camping contract executed at least in
11 part in this State after January 1, 1993, regardless of the location of the membership
12 camping operator's principal office or his campground or recreational facilities.

13 **"§ 66-222. Definitions.**

14 For purposes of this Chapter the following definitions apply:

- 15 (1) 'Agreement' means a membership camping agreement.
- 16 (2) 'Blanket encumbrance' means any mortgage, deed of trust, option to
17 purchase, vendor's lien or interest under a contract or agreement of
18 sale, judgment lien, federal or State tax lien, or other material lien or
19 encumbrance which secures or evidences the obligation to pay money
20 or to sell or convey all or part of a campground located in this State,
21 made available to purchasers by the membership camping operator and
22 which authorizes, permits, or requires the foreclosure or other
23 disposition of the campground. Blanket encumbrance shall include the
24 lessor's interest in a lease of all or part of a campground which is
25 located in this State and which is made available to purchasers by a
26 membership camping operator. Blanket encumbrance shall not include
27 a lien for taxes or assessments levied by a public body which are not
28 yet due and payable.
- 29 (3) 'Business day' means any day except Sunday or a legal holiday.
- 30 (4) 'Camping site' means a space designed and promoted for the purpose
31 of locating a trailer, tent, tent trailer, recreational vehicle, pickup
32 camper, van or other similar device used for camping.
- 33 (5) 'Campground' means any single tract or parcel of real property within
34 the State on which there are at least 10 camping sites.
- 35 (6) 'Contract' means a membership camping contract.
- 36 (7) 'Contract cost' means the total consideration paid by a purchaser
37 pursuant to a contract including but not limited to:
 - 38 a. Any initiation or nonrecurring fee charged;
 - 39 b. All periodic fees required by the contract;
 - 40 c. All dues or maintenance fees; and
 - 41 d. All finance charges, time-price differentials, interest, and other
42 similar fees and charges.
- 43 (8) 'Facility' means an amenity within a campground set aside or
44 otherwise made available to purchasers for their use and enjoyment of

1 the campground, and may include campsites, swimming pools, tennis
2 courts, recreational buildings, boat docks, restrooms, showers, laundry
3 rooms, and trading posts or grocery stores.

4 (9) 'Membership camping contract' or 'membership camping agreement'
5 means any written agreement of more than one year's duration,
6 executed in whole or in part within this State, which grants to a
7 purchaser a right or license to use the campground of a membership
8 camping operator or any portion thereof. Any agreement which
9 constitutes a 'time share instrument' as defined in G.S. 93A-41 is
10 excluded from this definition.

11 (10) 'Membership camping operator' means any person who owns or
12 operates a campground and offers or sells membership camping
13 contracts. A membership camping operator shall not include:

14 a. Any enterprise that is tax-exempt under § 501(C) of the Internal
15 Revenue Code, as amended; or

16 b. Any enterprise that is tax-exempt under the General Statutes of
17 North Carolina; or

18 c. Mobile home parks wherein the residents occupy the premises
19 as their primary homes.

20 (11) 'Offer,' 'offer to sell,' 'offer to execute' or 'offering' means any offer,
21 solicitation, advertisement, or inducement to execute a membership
22 camping agreement.

23 (12) 'Person' means any individual, corporation, partnership, company,
24 unincorporated association, or any other legal entity other than a
25 government or agency or a subdivision thereof.

26 (13) 'Purchaser' means a person who enters into a membership camping
27 contract with the membership camping operator.

28 (14) 'Purchase money' means any money, currency, note, security, or other
29 consideration paid by the purchaser for a membership camping
30 agreement.

31 (15) 'Reciprocal program' means any arrangement under which a purchaser
32 is permitted to use camping sites or facilities at one or more
33 campgrounds not owned or operated by the membership camping
34 operator with whom the purchaser has entered into a membership
35 camping contract.

36 (16) 'Salesperson' means an individual, other than a membership camping
37 operator, who offers to sell a membership camping contract by means
38 of a direct sales presentation, but does not include a person who
39 merely refers a prospective purchaser to a salesperson without making
40 any direct sales presentation.

41 **"§ 66-223. Administration; unlawful offer or execution of membership camping**
42 **contract.**

1 (a) This Article shall be administered by the Secretary of State of North Carolina
2 or his designee, and shall be enforced by the Attorney General of North Carolina or his
3 designee.

4 (b) It shall be unlawful for any membership camping operator to offer to sell any
5 membership camping contract in this State unless he is registered with the Secretary of
6 State.

7 **"§ 66-224. Registration of membership camping operator.**

8 (a) The application for registration shall be on a form prescribed by the Secretary
9 of State and shall include the following:

- 10 (1) The applicant's name, address, and the organizational form of the
11 business, including the date, and jurisdiction under which the business
12 was organized; the address of each of its offices in this State; and the
13 name and address of each campground located in this State, which is
14 owned or operated, in whole or in part, by the applicant;
- 15 (2) The name, address, and principal occupation for the past five years of
16 every officer of the applicant, including its principal managers, and the
17 extent and nature of the interest of each person at the time the
18 application is filed;
- 19 (3) A list of all owners of ten percent (10%) or more of the capital stock of
20 the applicant, except that this list is not required if the applicant is a
21 company required to report under the Securities and Exchange Act of
22 1934;
- 23 (4) A brief description of and a certified copy of the instrument which
24 creates the applicant's ownership of, or other right to use the
25 campground and the facilities at the campground which are to be
26 available for use by purchasers, and a brief description of any material
27 encumbrance, together with a copy of any lease, license, franchise,
28 reciprocal agreement or other agreement entitling the applicant to use
29 such campground and facilities, and any material provision of the
30 agreement which restricts a purchaser's use of such campground or
31 facilities;
- 32 (5) A sample copy of each instrument which will be delivered to a
33 purchaser to evidence his membership in the campground and a
34 sample copy of each agreement which a purchaser will be required to
35 execute;
- 36 (6) A list of special taxes or assessments, whether current or proposed,
37 which affect the campground;
- 38 (7) A copy of the disclosure statement required by this Article;
- 39 (8) A narrative description of the promotional plan for the sale of the
40 membership camping contracts;
- 41 (9) A statement of the relationship, if any, between the applicant and other
42 parties owning, controlling or managing the campground and the
43 expected duration of that relationship. If the relationship is a
44 contractual one, a statement of the methods and conditions under

1 which the relationship can be terminated prior to the expected
2 termination of the relationship;

3 (10) A complete list of locations and addresses of any and all sales offices
4 located within the State;

5 (11) The names of any other states or foreign countries in which an
6 application for registration of the membership camping operator or the
7 membership camping contract or any similar document has been filed;

8 (12) A brief description of the membership camping operator's experience
9 in the membership camping business, including the length of time such
10 operator has been in the membership camping business; and a
11 statement detailing whether the applicant within the past five years has
12 been convicted of any misdemeanor or felony involving theft, fraud,
13 dishonesty, or moral turpitude, or whether the applicant has been
14 enjoined from, had any civil penalty assessed for, or been found to
15 have engaged in any violation of any law designed to protect
16 consumers. If the applicant is a corporation, this statement shall be
17 provided for each officer of the corporation;

18 (b) The application shall be signed by the membership camping operator, an
19 officer or general partner thereof or by another person holding a power of attorney for
20 this purpose from the membership camping operator. If the application is signed
21 pursuant to a power of attorney, a copy of the power of attorney shall be included with
22 the application.

23 (c) The application shall be submitted along with the appropriate application fee.

24 (d) The registration of the membership camping operator shall be renewed
25 annually with the fee required in G.S. 66-226 not later than 30 days prior to the
26 anniversary of the current registration. The application shall include all changes which
27 have occurred in the information included in the application previously filed.

28 (e) Registration with the Secretary of State shall not be deemed to be an approval
29 or endorsement by the Secretary of State of the membership camping operator, his
30 membership camping contract, or his campground, and any attempt by the membership
31 camping operator to indicate that registration constitutes such approval or endorsement
32 shall be unlawful.

33 **"§ 66-225. Time of effect of registration.**

34 Upon receipt of the original application for registration in proper form, the Secretary
35 of State shall, within 10 business days, issue a notice to the applicant that the Secretary
36 of State has received the registration. Within 30 days thereafter, the Secretary of State
37 shall notify the operator that the registration has been accepted or rejected, and if
38 rejected, a brief statement explaining the reason. Registration shall be effective upon
39 notice of acceptance by the Secretary of State. Renewal of registration shall be
40 effective upon the anniversary of the current registration or 30 days after receipt,
41 whichever date occurs last, unless otherwise rejected.

42 **"§ 66-226. Registration fee.**

43 (a) Each original application for registration of a membership camping operator
44 under G.S. 66-224 shall be accompanied by a fee of one thousand five hundred dollars

1 (\$1,500). Each annual application for renewal shall be accompanied by a fee of one
2 thousand dollars (\$1000).

3 (b) Each salesperson registered with the Secretary of State shall pay a ten dollar
4 (\$10.00) registration fee upon the original registration and shall pay a ten dollar
5 (\$10.00) renewal fee annually.

6 (c) All fees shall be remitted to the State Treasurer and shall be credited to a
7 special fund of the Secretary of State's Office to be used in the administration of this
8 Article.

9 **"§ 66-227. Registration of salespersons.**

10 (a) It shall be unlawful for any salesperson to offer to sell any membership
11 camping contract in this State unless he is registered with the Secretary of State. The
12 application of a salesperson for registration shall be on a form prescribed by the
13 Secretary of State and shall include the following:

14 (1) A statement detailing whether the applicant within the past five years
15 has been convicted of any misdemeanor or felony involving theft,
16 fraud, dishonesty, or moral turpitude, or whether the applicant has
17 been enjoined from, had any civil penalty assessed for, or been found
18 to have engaged in any violation of any law designed to protect
19 consumers, and

20 (2) A statement describing the applicant's employment history for the past
21 five years and whether any termination of employment during the last
22 five years was occasioned by any theft, fraud, or act of dishonesty.

23 (b) Registration shall be effective for a period of one year. Registration shall be
24 renewed annually by the filing of a form prescribed by the Secretary of State for such
25 purpose. The registration application or the renewal application shall be accompanied
26 by a fee of ten dollars (\$10.00) and shall automatically become effective upon the
27 expiration of seven business days following the filing with the Secretary of State.

28 **"§ 66-228. Membership camping operator's disclosure statement.**

29 (a) Every membership camping operator, salesperson, or other person who is in
30 the business of offering for sale or transfer the rights under existing membership
31 camping contracts for a fee shall disclose the following information to a purchaser
32 before the purchaser signs a contract or gives any money or thing of value for the
33 purchase of a contract. The disclosures shall be delivered to the purchaser prior to the
34 time the contract is signed and must be presented in a clear, legible format prescribed by
35 the Secretary of State.

36 (b) The disclosures shall consist of the following:

37 (1) A cover page containing only the following in the order stated:

38 a. The words 'MEMBERSHIP CAMPING OPERATOR'S
39 DISCLOSURE STATEMENT': printed in boldface type of a
40 minimum size of 10 points, followed by;

41 b. The name and principal business address of the membership
42 camping operator, followed by;

- 1 c. A statement that the membership camping operator is in the
2 business of offering for sale membership camping contracts,
3 followed by:
- 4 d. The following, printed in boldface type of a minimum size of
5 10 points: IMPORTANT! READ THIS DISCLOSURE
6 STATEMENT BEFORE YOU SIGN ANYTHING. THE
7 LAW REQUIRES THAT YOU GET A COPY OF THIS
8 DISCLOSURE STATEMENT BEFORE YOU SIGN. IF
9 YOUR SALESPERSON TELLS YOU ANYTHING
10 DIFFERENT FROM WHAT IS WRITTEN, THEN DO NOT
11 SIGN. DO NOT BUY THIS MEMBERSHIP ASSUMING
12 THAT YOU WILL BE ABLE TO RESELL IT.
- 13 e. The following language, printed in boldface type of a minimum
14 size of 10 points after the appearance of the items required in
15 subdivisions a. through d. above:
16 YOU HAVE A 3-DAY RIGHT TO CANCEL A CAMPING
17 MEMBERSHIP CONTRACT. THIS RIGHT OF
18 CANCELLATION CANNOT BE WAIVED. YOUR RIGHT
19 TO CANCEL ENDS AT MIDNIGHT ON THE 3RD
20 BUSINESS DAY FOLLOWING THE DATE ON WHICH
21 THE CONTRACT WAS SIGNED. IF YOU HAVE ANY
22 QUESTIONS ABOUT YOUR RIGHTS, CONTACT THE
23 NORTH CAROLINA SECRETARY OF STATE.
- 24 (2) The following pages of the disclosure statement shall contain all of the
25 following:
- 26 a. The name of the operator and the address of the operator's
27 principal place of business in North Carolina, or if the operator
28 has no place of business in North Carolina, the operator's
29 principal place of business;
- 30 b. A brief description of the nature of the purchaser's right or
31 license to use the campground and the facilities which are to be
32 available for use by purchasers;
- 33 c. A brief description of the membership camping operator's
34 experience in the membership camping business, including the
35 length of time such operator has been in the membership
36 camping business;
- 37 d. The location of each of the campgrounds which is to be
38 available for use by purchasers, excluding campgrounds which
39 will be available to a purchaser only if he is a member in good
40 standing of a reciprocal program; and a description of the
41 facilities at each campground then available for use by
42 purchasers and those which are represented to purchasers as
43 being planned, together with a brief description of any facilities
44 that are or will be available to nonpurchasers or nonmembers;

- 1 e. As to all memberships offered by the membership camping
2 operator at each campground:
- 3 1. The form of membership offered;
4 2. The types of duration of membership along with a
5 summary of the major privileges, restrictions, and
6 limitations applicable to each type;
7 3. Provisions, if any, that have been made for public
8 utilities at each campsite including water, electricity,
9 telephone, and sewage facilities; and
10 4. The maximum number of current memberships to be
11 sold per site at that campground.
- 12 f. Any initial, additional, or special fee due from the purchaser
13 together with a description of the purpose and method of
14 calculating the fee;
- 15 g. A general description of any financing offered or available
16 through the membership camping operator;
- 17 h. Any schedule of fees or charges that purchasers are or may be
18 required to pay for use of the campground or any facilities or
19 reciprocal program;
- 20 i. The extent to which financial arrangements, if any, have been
21 provided for the completion of facilities, together with a
22 statement of the membership camping operator's obligation to
23 complete planned facilities. The statement shall include a
24 description of any restrictions or limitations on the membership
25 camping operator's obligation to begin or to complete the
26 facilities;
- 27 j. Any services which the membership camping operator currently
28 provides or expenses he pays which are expected to become the
29 responsibility of the purchasers, including the projected liability
30 which each such service or expense may impose on each
31 purchaser;
- 32 k. A summary or copy, whether by way of supplement or
33 otherwise, of the rules, restrictions, or covenants regulating the
34 purchaser's use of the campground and the facilities which are
35 to be available for use by the purchasers, including a statement
36 of whether and how the rules, restrictions, or covenants may be
37 changed;
- 38 l. A description of any restraints on the transfer of the
39 membership camping contract;
- 40 m. A statement of the policies covering the availability of
41 campsites, the availability of reservations, and the conditions
42 under which they are made;
- 43 n. A statement of any grounds for forfeiture of a purchaser's
44 membership camping contract;

1 o. A statement describing the material terms and conditions of any
2 reciprocal program to be available to the purchaser including a
3 statement concerning whether the purchaser's participation in
4 any reciprocal program is dependent upon the continued
5 affiliation of the membership camping operator with that
6 reciprocal program and whether the membership camping
7 operator reserves the right to terminate such affiliation.

8 (3) The membership camping operator shall promptly amend his
9 membership camping operator's disclosure statement to reflect any
10 material change in the campground or its facilities. He shall also file
11 within 30 days any such amendments with the Secretary of State.
12 Each disclosure statement provided to a prospective purchaser must
13 contain the most recent date when the statement was revised.

14 **§ 66-229. Contract terms.**

15 (a) The membership camping operator shall deliver to the purchaser a fully
16 executed copy of a membership camping contract in writing, which contract shall
17 include at least the following information:

- 18 (1) The name of the membership camping operator and the address of its
19 principal place of business;
20 (2) The actual date the membership camping contract was executed by the
21 purchaser;
22 (3) The total financial obligation imposed on the purchaser by the
23 contract, including the initial purchase price and any additional charge
24 the purchaser may be required to pay;
25 (4) A description of the nature and duration of the membership being
26 purchased;
27 (5) A statement that the membership camping operator is required by law
28 to provide each purchaser with a copy of the membership camping
29 operator's disclosure statement prior to execution of the contract and
30 that failure to do so is a violation of the law;
31 (6) The full name of each salesperson involved in the promotion and sale
32 of the membership camping contract; and
33 (7) In immediate proximity to the space reserved in the contract for the
34 signature of the purchaser and in boldface type of a minimum size of
35 10 points, a statement in substantially the following form: 'You the
36 buyer, may cancel this contract at any time prior to midnight of the
37 third business day after the date of this contract. See the attached
38 notice of cancellation form for an explanation of this right.'

39 **§ 66-230. Cancellation.**

40 In addition to any other right to revoke an offer or cancel a sale or contract, the
41 purchaser has the right to cancel a membership camping contract sale until midnight of
42 the third business day after the purchaser signs the contract.

- 43 (1) The membership camping operator must furnish the purchaser, at the
44 time the purchaser signs the membership camping contract or

otherwise agrees to buy services from the membership camping operator, a completed form in duplicate, captioned 'NOTICE OF CANCELLATION' which shall contain in 10 point boldface type the following information and statements in the same language, e.g., Spanish, as that used in the contract:

'NOTICE OF CANCELLATION'

(Enter date of transaction)

(date)

You, the purchaser, may cancel this transaction, without any penalty or obligation, within three business days from the date above. Business days are all days other than Sundays and legal holidays. You must cancel in writing. If given by mail, notice of cancellation is given when it is deposited in the United States mail properly addressed and postage prepaid.

If you cancel, any payments made by you under the contract or sale, and any negotiable instrument executed by you will be returned within 30 days following receipt by the seller of your cancellation notice, and any security interest arising out of the transaction will be cancelled.

To cancel this transaction, mail or deliver a signed and dated copy of this cancellation notice or any other written notice to

.....
.....

(Name of membership camping operator)

at.....
.....

(Membership camping operator's mailing and physical address)

not later than midnight of

.....
(date)

I hereby cancel this transaction.

.....
(date)

.....
(Purchaser's signature)'

(2) The membership camping operator shall, before furnishing copies of the 'Notice of Cancellation' to the purchaser, complete both copies by

1 entering the name of the membership camping operator, the address of
2 the membership camping operator's place of business, the date of the
3 transaction, and the date, not earlier than the third business day
4 following the day of the transaction, by which the purchaser may give
5 notice of cancellation.

6 (3) The membership camping operator shall orally inform each purchaser,
7 at the time he signs a contract or purchases the services, of his three-
8 day right to cancel; provided, that no oral notice is required in any case
9 in which the membership camping operator does not solicit the
10 purchaser's business in person and the purchaser signs the contract
11 outside the presence of the membership camping operator and returns
12 the signed contract to the membership camping operator by mail.

13 (4) Cancellation occurs when the purchaser gives written notice of
14 cancellation to the membership camping operator at the address stated
15 in the contract or in the notice of cancellation.

16 (5) Notice of cancellation, if given by mail, is given when it is deposited
17 in the United States mail properly addressed and postage prepaid.

18 (6) Notice of cancellation by the purchaser is sufficient if it indicates by
19 any form of written expression the intention of the purchaser not be
20 bound by the contract.

21 (7) Upon cancellation, the membership camping operator shall refund to
22 the purchaser all payments made pursuant to the canceled membership
23 camping contract and any notes or security instruments. The refund
24 shall be made within 30 days and where payment has been made by
25 credit card, may be made by an appropriate credit to the purchaser's
26 account.

27 (8) Failure of the membership camping operator to honor a purchaser's
28 cancellation is a violation of this act.

29 **"§ 66-231. Escrow account.**

30 (a) All purchase money received from or on behalf of a purchaser in connection
31 with the execution of a membership camping contract shall be deposited in an escrow
32 account designated solely for that purpose, which may be the membership camping
33 operator's own escrow or trust account or that of his attorney's, until 10 calendar days
34 after the date the contract was executed, unless a later time is provided in the
35 membership camping contract. If the membership camping operator has not received
36 notice of the purchaser's cancellation within 10 calendar days after the execution of the
37 contract, any purchase money may be released to the membership camping operator
38 upon the conveyance, in writing, to the purchaser of the right or license to use the
39 campground and facilities as required in the membership camping contract.

40 (b) A copy of the escrow agreement creating the escrow account shall be filed
41 with the Secretary of State prior to the sale of membership camping contracts.

42 **"§ 66-232. Advertising, solicitations.**

1 A membership camping operator shall disclose in all advertising programs which
2 seek to induce prospective purchasers to visit the campground that the program is
3 conducted by a membership camping operator and the purpose of any requested visit.

4 **"§ 66-233. Provision of records to the Secretary of State.**

5 Any membership camping operator shall maintain accurate records of the escrow
6 account. These records shall be open to inspection to the Secretary of State at any time
7 during normal business hours.

8 **"§ 66-234. Limitation on duration of contract term.**

9 Every membership camping contract shall have specified duration in years, months,
10 or both, which shall be clearly stated in the contract. No person shall sell any
11 membership camping contract or contracts which, when taken together with all other
12 contracts in force between the parties, have an aggregate duration of service in excess of
13 30 years.

14 **"§ 66-235. Prohibited practices.**

15 It shall be unlawful for any membership camping operator or salesperson to state or
16 imply in attempting to sell a membership or to persuade a member to make payment
17 that the purchaser will be able to sell the contract and thereby eliminate his obligation or
18 recoup all or a substantial part of his purchase price.

19 **"§ 66-236. Nondisturbance provisions.**

20 (a) With respect to any property in this State acquired and put into operation by a
21 membership camping operator on or after the effective date of this act, the membership
22 camping operator shall not offer or execute a membership camping contract in this State
23 granting the right to use the property until the following requirements are met:

24 (1) Each person holding an interest in a voluntary blanket encumbrance
25 has executed and delivered to the Secretary of State a nondisturbance
26 agreement and recorded the agreement in the real estate records of the
27 county in which the campground is located. The agreement shall
28 include all of the following:

29 a. That the rights of the holder or holders of the blanket
30 encumbrance in the affected campground are subordinate to the
31 rights of purchasers;

32 b. That any person who acquires the affected campground or any
33 portion of the campground by the exercise of any right of sale
34 or foreclosure contained in the blanket encumbrance takes the
35 campground subject to the rights of purchasers; and

36 c. That the holder or holders of the blanket encumbrance shall not
37 use or cause the campground to be used in a manner which
38 interferes with the right of purchasers to use the campground
39 and its facilities in accordance with the terms and conditions of
40 the membership camping contract; and

41 (2) Each hypothecation lender which has a lien on or security interest in
42 the membership camping operator's ownership interest in the
43 campground has executed and delivered to the Secretary of State a
44 nondisturbance agreement and recorded the agreement in the real

1 estate records of the county in which the campground is located. In
2 addition, each person holding an interest in a blanket encumbrance
3 superior to the interest held by the hypothecation lender has executed,
4 delivered, and recorded an instrument stating that such person will
5 give the hypothecation lender notice of, and at least 30 days to cure,
6 any default under the blanket encumbrance before before the person
7 commences any foreclosure action affecting the campground. For the
8 purposes of this section:

- 9 a. Hypothecation lender shall mean a financial institution which
10 provides a major hypothecation loan to a membership camping
11 operator;
12 b. Major hypothecation loan shall mean a loan or line of credit
13 secured by substantially all of the contracts receivable arising
14 from the membership camping operator's sale of membership
15 camping contracts; and
16 c. Nondisturbance agreement shall mean an instrument by which a
17 hypothecation lender agrees to conditions substantially the same
18 as those set forth in subdivision (1) of this subsection.

19 (b) In lieu of compliance with subsection (a) of this section, a surety bond or
20 letter of credit satisfying the requirements of this subsection may be delivered and
21 accepted by the Secretary of State. The surety bond or letter of credit shall be issued to
22 the Secretary of State for the benefit of purchasers and shall be in an amount which is
23 not less than one hundred five percent (105%) of the remaining principal balance of
24 every indebtedness secured by a blanket encumbrance affecting the campground. The
25 bond shall be issued by a surety which is authorized to do business in this State and
26 which has sufficient net worth to satisfy the indebtedness. The aggregate liability of the
27 surety for all damages shall not exceed the amount of the bond. The letter of credit shall
28 be irrevocable, shall be drawn upon an insured bank, savings and loan association, or
29 other financial institution, and shall be in a form and content acceptable to the Secretary
30 of State. The bond or letter of credit shall provide for payment of all amounts secured
31 by the blanket encumbrance, including costs, expenses, and legal fees of the lienholder,
32 if for any reason the blanket encumbrance is enforced.

33 "§ 66-237. Remedies.

34 (a) Any purchaser injured by any violation of this Article may bring an action for
35 rescission and restitution or for recovery of damages and for reasonable attorney's fees.

36 (b) The remedies herein shall be in addition to any other remedies provided for
37 by law or in equity, but the damages assessed shall not exceed the largest amount of
38 damages available by any single remedy.

39 (c) In addition to any other remedies provided for by law or in equity, the
40 Secretary of State may bring an action to:

- 41 (1) Revoke the registration of a membership camping operator or a
42 salesperson and seek an injunction to enjoin him from engaging in the
43 business of offering for sale or selling camping membership contracts
44 in this State, or

1 (2) Enforce a final court order from any state or federal jurisdiction
2 restricting or enjoining the acts or practices of a membership camping
3 operator or a salesperson pertaining to the business of offering or
4 selling membership camping contracts.

5 (d) The violation of any provisions of this Article shall constitute an unfair
6 practice under G.S. 75-1.1."

7 Sec. 5. This act shall become effective January 1, 1993.