

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

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SENATE BILL 941
Commerce Committee Substitute Adopted 4/27/99

Short Title: Manufactured Homes Law Changes.

(Public)

Sponsors:

Referred to:

April 14, 1999

1 A BILL TO BE ENTITLED
2 AN ACT TO UPDATE THE MANUFACTURED HOUSING BOARD STATUTES, TO
3 PROVIDE FOR CONTINUING EDUCATION FOR LICENSEES, TO IMPROVE
4 THE BUYER CANCELLATION LAW, AND TO UPDATE THE LAW ON
5 MANUFACTURED HOME STANDARDS TO COMPLY WITH FEDERAL LAWS
6 AND REGULATIONS.

7 The General Assembly of North Carolina enacts:

8 Section 1. Article 9A of Chapter 143 of the General Statutes reads as
9 rewritten:

10 "ARTICLE 9A.
11 "NORTH CAROLINA MANUFACTURED HOUSING BOARD –
12 MANUFACTURED HOME WARRANTIES.

13 "§ 143-143.8. Purpose.

14 The General Assembly finds that ~~mobile-manufactured~~ homes have become a primary
15 housing resource for many of the citizens of North Carolina. The General Assembly finds
16 further that it is the responsibility of the ~~mobile-manufactured~~ home industry to provide
17 homes which are of reasonable quality and safety and to offer warranties to buyers that
18 provide a means of remedying quality and safety defects in ~~mobile-manufactured~~ homes.
19 The General Assembly also finds that it is in the public interest to provide a means for
20 enforcing such warranties.

1 Consistent with these findings and with the legislative intent to promote the general
2 welfare and safety of ~~mobile-manufactured~~ home residents in North Carolina, the General
3 Assembly finds that the most efficient and economical way to assure safety, quality and
4 responsibility is to require the licensing and bonding of all segments of the ~~mobile~~
5 manufactured home industry. The General Assembly also finds that it is reasonable and
6 proper for the ~~mobile-manufactured~~ home industry to cooperate with the Commissioner of
7 Insurance, through the establishment of the North Carolina Manufactured Housing Board,
8 to provide for a comprehensive framework for industry regulations.

9 **"§ 143-143.9. Definitions.**

10 The following ~~words, terms and phrases, when used in this Article, shall have the~~
11 ~~meanings respectively ascribed to them in this section, except where the context clearly~~
12 ~~indicates a different meaning:~~ definitions apply in this Article:

- 13 (1) ~~"Board" means the Board.~~ – The North Carolina Manufactured Housing
14 Board.
- 15 (2) ~~"Buyer" means a Buyer.~~ – A person who purchases at retail from a dealer
16 or manufacturer a manufactured home for personal use as a residence or
17 other related use.
- 18 (3) ~~"Code" means the appropriate Code.~~ – Engineering standards adopted by
19 the Commissioner.
- 20 (4) ~~"Commissioner" means the Commissioner.~~ – The Commissioner of
21 Insurance of the State of North Carolina.
- 22 (5) ~~"Department" means the Department.~~ – The Department of Insurance of
23 the State of North Carolina.
- 24 (5a) License. – A license issued under this Article.
- 25 (5b) Licensee. – A person who has been issued a license under this Article
26 by the North Carolina Manufactured Housing Board.
- 27 (6) ~~"Manufactured home" or "mobile home" means a~~ Manufactured home. – A
28 structure, transportable in one or more sections, which, in the travelling
29 mode, is eight feet or more in width or is 40 feet or more in length, or
30 when erected on site, is 320 or more square feet, and which is built on a
31 permanent chassis and designed to be used as a dwelling with or without
32 a permanent foundation when connected to the required utilities, and
33 includes the plumbing, heating, air conditioning and electrical systems
34 contained therein.
- 35 (7) ~~"Manufactured home dealer" or "dealer" means any~~ Manufactured home
36 dealer or dealer. – Any person engaged in the business of ~~buying, buying~~
37 or ~~selling or dealing in~~ manufactured homes or offering or displaying
38 manufactured homes for sale in North Carolina. Any person who ~~buys,~~
39 ~~sells or deals in~~ buys or sells three or more manufactured homes in any
40 12-month period, or who offers or displays for sale three or more
41 manufactured homes in any 12-month period shall be presumed to be a
42 manufactured home dealer. The terms 'selling' and 'sale' include lease-
43 purchase transactions. The term 'manufactured home dealer' does not

1 include banks and finance companies that acquire manufactured homes
2 as an incident to their regular business.

3 (8) ~~"Manufactured home manufacturer" or "manufacturer" means any~~
4 Manufactured home manufacturer or manufacturer. – Any person,
5 resident or nonresident, who manufactures or assembles manufactured
6 homes for sale to dealers in North Carolina.

7 (9) ~~"Manufactured home salesman" or "salesman" means any~~
8 Manufactured home salesperson or salesperson. – Any person employed as a ~~salesman~~
9 by a manufactured home dealer to sell manufactured homes to buyers.

10 (10) ~~"Person" means any~~ Person. – Any individual, natural persons, firm,
11 partnership, association, corporation, legal representative or other
12 recognized legal entity.

13 (11) ~~"Responsible party" means a~~ Responsible party. – A manufacturer, dealer,
14 supplier, or set-up contractor.

15 (12) ~~"Setup" means the~~ Setup. – The operations performed at the occupancy
16 site which render a manufactured home fit for habitation. ~~Such~~
17 ~~operations include, but are not limited to, transportation by a bona fide~~
18 ~~private or exempt carrier operating under the provisions of the Public~~
19 ~~Utilities Act, positioning, blocking, leveling, supporting, tying down,~~
20 ~~connecting utility systems, making minor adjustments, or assembling~~
21 ~~multiple or expandable units. Such operations do not include lawful~~
22 ~~transportation services performed by public utilities operating under~~
23 ~~certificates or permits issued by the North Carolina Utilities~~
24 ~~Commission.~~

25 (13) ~~"Set-up contractor" means a~~ Set-up contractor. – A person who engages in
26 the business of performing ~~set-up operations~~ setups for compensation in
27 North Carolina.

28 (14) ~~"Substantial defect" means any~~ Substantial defect. – Any substantial
29 deficiency in or damage to materials or workmanship occurring in a
30 manufactured home which has been reasonably maintained and cared
31 for in normal use. The term also means any structural element, utility
32 system or component part of the manufactured home which fails to
33 comply with the Code.

34 (15) ~~"Supplier" means the~~ Supplier. – The original producer of completed
35 components, including refrigerators, stoves, hot water heaters,
36 dishwashers, cabinets, air conditioners, heating units, and similar
37 components, and materials such as floor coverings, panelling, siding,
38 trusses, and similar materials, which are furnished to a manufacturer or
39 dealer for installation in the manufactured home prior to sale to a buyer.

40 **"§ 143-143.10. Manufactured Housing Board created; membership; terms;**
41 **meetings.**

1 (a) There is hereby created the North Carolina Manufactured Housing Board
2 within the ~~Department of Insurance~~ Department. The Board shall be composed of nine
3 members as follows:

- 4 (1) The Commissioner of Insurance or his ~~designee~~ designee.
5 (2) A manufactured home ~~manufacturer~~ manufacturer.
6 (3) A manufactured home ~~dealer~~ dealer.
7 (4) A representative of the banking and finance ~~business~~ business.
8 (5) A representative of the insurance ~~industry~~ industry.
9 (6) A manufactured home ~~supplier~~ supplier.
10 (7) A set-up ~~contractor~~ contractor.
11 (8) Two representatives of the general public.

12 The Commissioner of ~~Insurance~~ or his designee shall ~~serve as chairman of~~ chair the
13 Board. The Governor shall appoint to the Board the manufactured home manufacturer
14 and the manufactured home dealer. The General Assembly upon the recommendation of
15 the Speaker of the House of Representatives in accordance with G.S. 120-121 shall
16 appoint the representative of the banking and finance industry and the representative of
17 the insurance industry. The General Assembly upon the recommendation of the President
18 Pro Tempore of the Senate in accordance with G.S. 120-121 shall appoint the
19 manufactured home supplier and set-up contractor. The Commissioner of ~~Insurance~~ shall
20 appoint two representatives of the general public. Except for the representatives from the
21 general public and the persons appointed by the General Assembly, each member of the
22 Board shall be appointed by the appropriate appointing authority from a list of nominees
23 submitted to the appropriate appointing authority by the Board of Directors of the North
24 Carolina Manufactured Housing Institute. At least three nominations shall be submitted
25 for each position on the Board. The members of the Board shall be residents of the State.

26 The members of the Board shall serve for terms of three years ~~to begin on October 1,~~
27 ~~1981, except that the persons appointed by the General Assembly upon the~~
28 ~~recommendation of the Speaker shall serve two year terms to expire on September 30,~~
29 ~~1985, and the persons appointed by the General Assembly upon the recommendation of~~
30 ~~the President Pro Tempore of the Senate shall serve for three year terms to expire on~~
31 ~~September 30, 1986.~~ years. In the event of any vacancy of a position appointed by the
32 Governor or ~~Commissioner of Insurance~~, Commissioner, the appropriate appointing
33 authority shall appoint a replacement in the same manner as provided for the original
34 appointment to serve the remainder of the unexpired term. Vacancies in appointments
35 made by the General Assembly shall be filled in accordance with G.S. 120-122. In the
36 event of any vacancy, the appropriate appointing authority shall appoint a replacement to
37 serve the remainder of the unexpired term. Such appointment shall be made in the same
38 manner as provided for the original appointment. No member of the Board shall serve
39 more than two consecutive, three-year terms.

40 The member of the Board representing the general public shall have no financial
41 interest connected with the manufactured housing industry. No member of the Board
42 shall participate in any proceeding before the Board involving that member's own
43 business.

1 Each member of the Board, except the Commissioner of Insurance and any other State
2 employee, shall receive per diem and allowances as provided with respect to occupational
3 licensing boards by G.S. 93B-5. All per diem and travel expenses shall be paid
4 exclusively out of the fees received by the Board as authorized by this Article. In no case
5 shall any salary, expense, or other obligation of the Board be charged against the ~~Treasury~~
6 General Fund of the State of North Carolina. All moneys and receipts shall be kept in a
7 special fund by and for the use of the Board for the exclusive purpose of carrying out the
8 provisions of this Article. Unexpended funds shall not revert to the General Fund.

9 (b) In accordance with the provisions of this Article, the ~~North Carolina~~
10 ~~Manufactured Housing Board~~ shall have the following powers and duties:

11 (1) To issue licenses to manufacturers, dealers, ~~salesmen-salespersons,~~ and
12 ~~set-up contractors; contractors.~~

13 (2) To require that an adequate bond or other security be posted by all
14 licensees, except manufactured housing ~~salesmen;-salespersons.~~

15 (3) To receive and resolve complaints from buyers of manufactured homes
16 and from persons in the manufactured housing industry, in connection
17 with the warranty, warranty service, licensing requirements or any other
18 provision under this ~~Article; and Article.~~

19 (4) To ~~promulgate-adopt~~ rules in accordance with Chapter 150B of the
20 General Statutes as are necessary to carry out the provisions of this
21 Article.

22 (5) To file against the bond posted by a licensee for warranty repairs and
23 service on behalf of a buyer.

24 **"§ 143-143.11. License required; application for license.**

25 (a) It shall be unlawful for any manufactured home manufacturer, dealer, ~~salesman~~
26 ~~salesperson,~~ or set-up contractor to engage in business as such in this State without first
27 obtaining a license from the Board, as provided in this Article. The fact that a person is
28 licensed by the Board as a set-up contractor or a dealer does not preempt any other
29 licensing boards' applicable requirements for that person.

30 (b) Application for ~~such-the~~ license shall be made to the Board at such time, in
31 such form, and contain ~~such~~ information as the Board ~~shall require, requires,~~ and shall be
32 accompanied by the ~~required~~ fee established by the Board. ~~Such-The~~ fee shall not exceed
33 three hundred dollars (\$300.00) for any license.

34 (c) In ~~such-the~~ application, the Board shall require information relating to the
35 matters set forth in G.S. 143-143.13 as grounds for refusal of a license, and information
36 relating to other pertinent matters consistent with safeguarding the public interest. All
37 ~~such-of this~~ information shall be considered by the Board in determining the fitness of the
38 ~~applicant to engage in the business for which a license is sought. applicant.~~

39 (d) All licenses ~~that are granted~~ shall expire, unless ~~sooner~~ revoked or suspended, on
40 June 30 of each year following the date of issue.

41 (e) Every ~~registrant under this Chapter~~ licensee shall, on or before the first day of
42 July of each year, obtain a renewal of a license for the ~~ensuing next year,~~ by application,
43 accompanied by the required ~~fee; and upon~~ fee. Upon failure to renew, ~~his-a~~ license shall

1 automatically ~~expire; but such~~ expires. The license may be renewed at any time within one
2 year upon payment of the ~~prescribed renewal fee and upon evidence satisfactory to the Board~~
3 ~~that the applicant has not engaged in business as a manufactured home manufacturer, dealer,~~
4 ~~salesman or set-up contractor after expiration of the license and is otherwise eligible for~~
5 ~~registration under the provisions of this Chapter.~~ renewal fee.

6 (f) Supplemental licenses shall be issued for each place of business, operated or
7 proposed to be operated by the licensee, that is not contiguous to other premises for
8 which a license is issued. The fee for a supplemental license shall be established by the
9 Board and shall not exceed three hundred dollars (\$300.00), provided that no
10 supplemental license shall be required for a place of business operated by a licensee that
11 is used exclusively for storage.

12 (g) Notwithstanding the provisions of subsection (a), the Board may provide by
13 rule that a manufactured home ~~salesman~~ salesperson will be allowed to engage in business
14 during the time period after making application for a license but before such license is
15 granted.

16 (h) ~~To obtain~~ As a prerequisite to obtaining a license under this Article, a person
17 ~~must~~ may be required to pass an examination prescribed by the Board that is based on the
18 North Carolina Manufactured/Mobile Home Regulations and Administrative Procedures required
19 to enforce the Codes. Code, this Article, and any other subject matter considered relevant
20 by the Board.

21 **"§ 143-143.11A. Notification of change of address; service of notice.**

22 (a) Every applicant for a license shall inform the Board of the applicant's business
23 address. Every licensee shall give written notification to the Board of any change in the
24 licensee's business address, for whatever reason, within 10 business days after the
25 licensee moves to a new address or a change in the address takes place. A violation of
26 this subsection shall not constitute grounds for revocation, suspension, or non-renewal of
27 a license or for the imposition of any other penalty by the Board.

28 (b) Notwithstanding any other provision of law, whenever the Board is authorized
29 or required to give notice to a licensee under this Article, the notice may be delivered
30 personally to the licensee or sent by first-class mail to the licensee at the address provided
31 to the Board under subsection (a) of this section. Notice shall be deemed given four days
32 after mailing, and any Department employee may certify that notice has been given.

33 **"§ 143-143.11B. Continuing education.**

34 (a) The Board may establish programs and requirements of continuing education
35 for licensees, but shall not require licensees to complete more than eight credit hours of
36 continuing education. Prior to the renewal of a license, a licensee shall present evidence
37 to the Board that he or she has completed the required number of continuing education
38 hours in courses approved by the Board during the two months immediately preceding
39 the expiration of his or her license.

40 (b) The Board may establish nonrefundable fees for the purpose of providing staff
41 and resources to administer continuing education programs, and may establish
42 nonrefundable course application fees, not to exceed one hundred fifty dollars (\$150.00),
43 for the Board's review and approval of proposed continuing education courses. The

1 Board may charge the sponsor of an approved course a nonrefundable fee not to exceed
2 seventy-five dollars (\$75.00) for the annual renewal of course approval. The Board may
3 also require a course sponsor to pay a fee, not to exceed five dollars (\$5.00) per credit
4 hour per licensee, for each licensee completing an approved continuing education course
5 conducted by the sponsor. The Board may award continuing education credit for an
6 unapproved course or related educational activity and may prescribe procedures for a
7 licensee to submit information on an unapproved course or related educational activity
8 for continuing education credit and may charge the licensee a fee not to exceed fifty
9 dollars (\$50.00) for each course or activity submitted. Any unexpended revenue from the
10 fees shall not revert to the General Fund.

11 (c) The Board may adopt any reasonable rules not inconsistent with this Article to
12 give purpose and effect to the continuing education requirement, including rules that
13 govern:

- 14 (1) The content and subject matter of continuing education courses.
- 15 (2) The criteria, standards, and procedures for the approval of courses,
16 course sponsors, and course instructors.
- 17 (3) The methods of instruction.
- 18 (4) The computation of course credit.
- 19 (5) The ability to carry forward course credit from one year to another.
- 20 (6) The waiver of or variance from the continuing education requirement
21 for hardship or other reasons.
- 22 (7) The procedures for compliance and sanctions for noncompliance.

23 (d) The license of any person who fails to comply with the continuing education
24 requirements under this section shall lapse. The Board may, for good cause shown, grant
25 extensions of time to licensees to comply with these requirements. Any licensee who,
26 after obtaining an extension, offers evidence satisfactory to the Board that he or she has
27 satisfactorily completed the required continuing education courses shall be deemed in
28 compliance with this section.

29 **"§ 143-143.12. Bond required.**

30 (a) A person licensed as a manufactured home ~~salesman~~ salesperson shall not be
31 required to furnish a bond, but each applicant approved by the Board for license as a
32 manufacturer, dealer, or set-up contractor shall furnish a corporate surety bond, cash
33 bond or fixed value equivalent ~~thereof~~ in the following amounts:

- 34 (1) For a ~~manufactured,~~ manufacturer, two thousand dollars (\$2,000) per
35 manufactured home manufactured in the prior license year, up to a
36 maximum of one hundred thousand dollars (\$100,000). When no
37 manufactured homes were produced in the prior year, the amount
38 required shall be based on the estimated number of manufactured homes
39 to be produced during the current ~~year,~~ year.
- 40 (2) For a dealer ~~who buys, sells, or deals in manufactured homes and~~ who has
41 four or less places of business, the amount shall be twenty-five thousand
42 dollars ~~(\$25,000);~~ (\$25,000).

1 (3) For a dealer ~~who buys, sells, or deals in manufactured homes and~~ who has
2 more than four places of business, the amount shall be fifty thousand
3 dollars ~~(\$50,000);~~ (\$50,000).

4 (4) For a set-up contractor, the amount shall be five thousand dollars
5 (\$5,000).

6 (b) A corporate surety bond shall be approved by the Board as to form and shall be
7 conditioned upon the obligor faithfully conforming to and abiding by the provisions of
8 this Article. A cash bond or fixed value equivalent ~~thereof~~ shall be approved by the Board
9 as to form and terms of deposits in order to secure the ultimate beneficiaries of the bond.
10 A corporate surety bond shall be for a one-year period, and a new bond or a proper
11 continuation certificate shall be delivered to the Board at the beginning of each
12 subsequent one-year period.

13 (c) Any buyer of a manufactured home who suffers any loss or damage by any act
14 of a licensee that constitutes a violation of this Article ~~shall have the right to~~ may institute
15 an action to recover against ~~such~~ the licensee and the surety.

16 (d) The Board may adopt rules to assure satisfaction of claims.

17 **"§ 143-143.13. Grounds for denying, ~~suspending~~ suspending, or revoking license.**
18 **licenses; civil penalties.**

19 (a) A license may be denied, suspended or revoked by the Board on any one or
20 more of the following grounds:

21 (1) ~~Material~~ Making a material misstatement in application for ~~license;~~
22 license.

23 (2) ~~Failure~~ Failing to post an adequate corporate surety bond, cash bond or
24 fixed value ~~equivalent thereof;~~ equivalent.

25 (3) Engaging in the business of manufactured home manufacturer, dealer,
26 ~~salesman~~ salesperson, or set-up contractor without first obtaining a
27 license from the ~~Board;~~ Board.

28 (4) ~~Failure~~ Failing to comply with the warranty service obligations and
29 claims procedure established by this ~~Article;~~ Article.

30 (5) ~~Failure~~ Failing to comply with the ~~set-up and tie-down~~ set-up
31 requirements established by this ~~Article;~~ Article.

32 (6) ~~Having knowingly failed or refused~~ Failing or refusing to account for or to
33 pay over moneys or other valuables belonging to others ~~which~~ that have
34 come into licensee's possession arising out of the sale of manufactured
35 ~~homes;~~ homes.

36 (7) ~~Use of~~ Using unfair methods of competition or committing unfair or
37 deceptive ~~commercial~~ acts or ~~practices;~~ practices.

38 (8) ~~Failure~~ Failing to comply with any provision of this ~~Article;~~ Article.

39 (9) ~~Failure~~ Failing to appear for a hearing before the Board or for a
40 prehearing conference with a person or persons designated by the Board
41 upon due after proper notice or failing to follow directives comply with
42 orders of the Board issued pursuant to this Article; Article.

43 (10) Employing unlicensed ~~retail salesmen;~~ salespersons.

1 (11) ~~Knowingly offering for sale the products of manufacturers who are not~~
2 ~~licensed pursuant to this Article or selling, to dealers not licensed~~
3 ~~pursuant to this Article, manufactured homes which are to be sold in this~~
4 ~~State to buyers as defined in this Article; Offering for sale manufactured~~
5 ~~homes manufactured or assembled by unlicensed manufacturers or~~
6 ~~selling manufactured homes to unlicensed dealers for sale to buyers in~~
7 ~~this State.~~

8 (12) Conviction of a felony or any crime involving moral ~~turpitude;~~ turpitude.

9 (13) Having had a license revoked, suspended or denied by the ~~Board under~~
10 ~~this Article; Board;~~ or having had a license revoked, suspended or denied
11 by a similar entity in another state; or engaging in conduct in another
12 state which conduct, if committed in this State, would have been a
13 violation under this ~~Article;~~ Article.

14 (14) ~~Knowingly engaging~~ Employing or contracting with any person to
15 ~~perform set-up operations~~ setups who is not licensed by the Board as a
16 set-up contractor.

17 (b) Repealed by Session Laws 1985, c. 666, s. 38.

18 (c) In addition to the authority to deny, suspend, or revoke a license under this
19 Article, the Board ~~also has the authority to~~ may impose a civil penalty upon any person
20 violating the provisions of this Article. Upon a finding by the Board of a violation of this
21 Article, the Board shall ~~direct order~~ the payment of a penalty of not less than one hundred
22 dollars (\$100.00) nor more than five hundred dollars (\$500.00). In determining the
23 amount of the penalty, the Board shall consider the degree and extent of harm caused by
24 the violation, the amount of money that inured to the benefit of the violator as a result of
25 the violation, whether the violation was committed willfully, and the prior record of the
26 violator in complying or failing to comply with laws, rules, or orders applicable to the
27 violator. Each day during which a violation occurs shall constitute a separate offense.
28 The penalty shall be payable to the Board. The Board shall remit the clear proceeds of
29 penalties provided for in this subsection to the Civil Penalty and Forfeiture Fund in
30 accordance with G.S. 115C-457.2.

31 Payment of the civil penalty under this section shall be in addition to payment of any
32 other penalty for a violation of the criminal laws of this State. Nothing in this subsection
33 shall prevent the Board from negotiating a mutually acceptable agreement with any
34 person as to the status of the person's license or certificate or as to any civil penalty.

35 "~~§ 143-143.14. Notice and hearing.~~ Hearings; rules.

36 (a) License suspensions, revocations, and renewal refusals are subject to the
37 provisions of Chapter 150B of the General Statutes.

38 (b) If the Board finds that an applicant has not met the requirements for licensure,
39 the Board shall refuse to issue the applicant a license and shall notify the applicant in
40 writing of the denial and the grounds for the denial. The application may also be denied
41 for any reason for which a license may be suspended or revoked or not renewed under
42 G.S. 143-143.13. Within 30 days after receipt of a notification that an application for a
43 license has been denied, the applicant may make a written request for a review by a

1 member of the Department staff designated by the ~~chairman~~ chair of the Board to
2 determine the reasonableness of the Board's action. The review shall be completed
3 without undue delay, and the applicant shall be notified promptly in writing as to the
4 outcome of the review. Within 30 days after service of the notification as to the outcome,
5 the applicant may make a written request for a hearing under Article 3A of Chapter 150B
6 of the General Statutes if the applicant disagrees with the outcome.

7 (c) The Board may adopt rules for hearings and prehearing conferences under this
8 Article, and the rules may include provisions for prefiled evidence, the use of evidence,
9 testimony of parties, prehearing statements, prehearing conference procedures, settlement
10 conference procedures, discovery, subpoenas, sanctions, motions, intervention,
11 consolidation of cases, continuances, and the rights and responsibilities of parties and
12 witnesses.

13 "~~§ 143-143.15. Seth~~ **(a) Manufactured homes shall be set up and anchored in**
14 **accordance with the standards adopted by the Commissioner.**

15 ~~(b) In the event that~~ If a manufactured home is insured against damage caused by
16 windstorm and subsequently sustains windstorm damage ~~of a nature that~~ indicates the
17 manufactured home was not ~~anchored or tied down~~ set up in the manner required by this
18 section, the insurer issuing the ~~homeowner's~~ insurance policy on the manufactured home
19 shall not be relieved from meeting the obligations specified in the insurance policy with
20 respect to such damage on the basis that the ~~mobile~~ manufactured home was not properly
21 ~~anchored or tied down~~ set up.

22 "~~§ 143-143.16. Warranties.~~

23 Each manufacturer, dealer and supplier of manufactured homes shall warrant each
24 new manufactured home sold in this State ~~and the setup of each such manufactured home in~~
25 accordance with the warranty requirements prescribed by this section for a period of at
26 least 12 months, measured from the date of delivery of the manufactured home to the
27 buyer. The warranty requirements for each manufacturer, dealer, supplier and set-up
28 contractor of manufactured homes are as follows:

29 (1) The manufacturer warrants that all structural elements, plumbing
30 systems, heating, cooling and fuel burning systems, electrical systems,
31 and any other components included by the manufacturer are
32 manufactured and installed free from substantial ~~defect~~ defects.

33 (2) The dealer warrants:

34 a. That any modifications or alterations made to the manufactured
35 home by the dealer or authorized by the dealer are free from
36 substantial defects. Alterations or modifications made by a dealer
37 shall relieve the manufacturer of warranty responsibility as to the
38 item altered or modified and any ~~damage resulting therefrom~~
39 resulting damage.

40 b. That ~~set-up operations~~ a setup performed by the dealer on the
41 manufactured home ~~are~~ is performed in compliance with
42 ~~applicable standards adopted by the Commissioner for the~~
43 ~~installation of manufactured homes~~ the Code.

1 c. ~~That, during the course of setup~~ That the setup and transportation of
2 the manufactured home performed by the dealer, substantial defects
3 do not occur to the manufactured home. dealer did not result in
4 substantial defects.

5 (3) The supplier warrants that any warranties generally offered in the
6 ordinary sale of his product to consumers shall be extended to buyers of
7 manufactured homes. The manufacturer's warranty shall remain in
8 effect notwithstanding the existence of a supplier's warranty.

9 (4) The set-up contractor warrants that ~~set-up operations are performed the~~
10 manufactured home is set up in compliance with applicable standards
11 adopted by the Commissioner for the installation of manufactured
12 homes, the Code and that during the course of set-up operations
13 performed on the manufactured home, substantial defects do not occur
14 to the manufactured home. the setup did not result in any substantial
15 defects.

16 **"§ 143-143.17. Presenting claims for warranties and substantial defects.**

17 (a) Whenever a claim for warranty service or about a substantial defect is made to
18 a licensee, it shall be handled as provided ~~by~~ in this Article. ~~A~~ The licensee shall make a
19 record shall be made of the name and address of each claimant and the date, substance,
20 and disposition of each claim about a substantial defect. The licensee may request that a
21 claim be in writing, but must nevertheless record it as provided above, and may not delay
22 service pending receipt of the written claim.

23 (b) When the licensee notified is not the responsible party, he shall in writing
24 immediately notify the claimant ~~of that fact, and shall also in writing immediately notify and~~
25 the responsible party of the claim. When a responsible party is asked to remedy defects, it
26 may not fail to remedy those defects because another party may also be responsible.
27 Nothing herein shall prevent such in this section prevents a party from obtaining
28 compensation by way of contribution or subrogation from another responsible party in
29 accordance with any other provision of law or contract.

30 (c) Within the time limits provided in this Article, the licensee shall either resolve
31 the claim or determine that it is not justified. At any time a licensee determines that a
32 claim for warranty service is not justified in whole or in part he shall immediately notify
33 the claimant in writing that the claim or part of the claim is rejected and why, and shall
34 inform the claimant that he is entitled to complain to the Board, for which a complete
35 mailing address shall be provided. ~~Within five working days of its receipt of a complaint, the~~
36 ~~Board shall send a complete copy thereof to the Attorney General and to the Commissioner of~~
37 ~~Insurance.~~

38 **"§ 143-143.18. Warranty service.**

39 (a) When a service agreement exists between or among a manufacturer, dealer and
40 supplier to provide warranty service, the agreement shall specify which party is to
41 remedy warranty defects. Every ~~such~~ service agreement shall be in writing. Nothing
42 contained in such an agreement shall relieve the responsible party, as provided by this
43 Article, of responsibility to perform warranty service. However, any licensee undertaking

1 by such agreement to perform the warranty service obligations of another shall thereby
2 himself become responsible both to that other licensee and to the buyer for his failure
3 adequately to perform as agreed.

4 (b) When no service agreement exists for warranty service, the responsible party
5 as designated by ~~the provisions of this Article~~ is responsible for remedying the warranty
6 defect.

7 (c) A substantial defect shall be remedied within 45 days ~~of~~ after the receipt of
8 written notification from the claimant. If no written notification is given, the defect shall
9 be remedied within 45 days ~~of~~ after the mailing of notification by the Board, unless the
10 claim is unreasonable or bona fide reasons exist for not remedying the defect within the
11 45-day period. The responsible party shall respond to the claimant in writing with a copy
12 to the Board stating its reasons for not promptly remedying the defect and stating what
13 further action is contemplated by the responsible party. Notwithstanding the foregoing
14 provisions of this subsection, defects, which constitute an imminent safety hazard to life
15 and health shall be remedied within five working days of receipt of the written
16 notification of the warranty claim. An imminent safety hazard to life and health shall
17 include but not be limited to (i) inadequate heating in freezing weather; (ii) failure of
18 sanitary facilities; (iii) electrical shock, leaking gas; or (iv) major structural failure. The
19 Board may suspend this five-day time period in the event of widespread defects or
20 damage resulting from adverse weather conditions or other natural catastrophes.

21 (d) When the person remedying the defect is not the responsible party as
22 designated by the provisions of this Article, he shall be entitled to reasonable
23 compensation paid to him by the responsible party. Conduct ~~which~~ that coerces or
24 requires a nonresponsible party to perform warranty service is a violation of this Article.

25 (e) Warranty service shall be performed at the site at which the ~~mobile~~
26 manufactured home is initially delivered to the buyer, except for components which can
27 be removed for service without substantial expense or inconvenience to the buyer.

28 (f) Any dealer, manufacturer or supplier ~~shall have the right to~~ may complain to the
29 Board when warranty service obligations under this Article are not being enforced.

30 **"§ 143-143.19. Dealer alterations.**

31 (a) No alteration or modification shall be made to a manufactured home by a
32 dealer after shipment from the manufacturer's plant, unless such alteration or
33 modification is authorized by this Article or the manufacturer. The dealer shall ensure
34 that all authorized alterations and modifications are performed, if so required, by
35 qualified persons as defined in subsection (d). An unauthorized alteration or modification
36 performed by a ~~manufactured home~~ dealer or his agent or employee shall place primary
37 warranty responsibility for the altered or modified item upon the dealer. If the
38 manufacturer fulfills or is required to fulfill the warranty on the altered or modified item,
39 he shall be entitled to recover damages in the amount of his cost and attorney's fee from
40 the dealer.

41 (b) An unauthorized alteration or modification of a manufactured home by the
42 owner or his agent shall relieve the manufacturer of responsibility to remedy defects
43 caused by such alteration or modification. A statement to this effect, together with a

1 warning specifying those alterations or modifications which should be performed only by
2 qualified personnel in order to preserve warranty protection, shall be displayed clearly
3 and conspicuously on the face of the warranty. Failure to display such statement shall
4 result in warranty responsibility on the manufacturer.

5 (c) The Board is authorized to ~~promulgate~~ adopt rules in accordance with Chapter
6 150B of the General Statutes ~~which~~ that define the alterations or modifications which
7 must be made by qualified personnel. The Board may require qualified personnel only for
8 those alterations and modifications which could substantially impair the structural
9 integrity or safety of the manufactured home.

10 (d) In order to be designated as a person qualified to alter or modify a
11 manufactured home, a person must comply with State licensing or competency
12 requirements in skills relevant to performing alterations or modifications on
13 manufactured homes.

14 **"§ 143-143.20. Disclosure of manner used in determining length of manufactured**
15 **homes.**

16 In any advertisement or other communication regarding the length of a manufactured
17 home, a manufacturer or dealer shall not include the coupling mechanism in describing
18 the length of the home.

19 "§ 143-143.21: **Repealed by Session Laws 1993, c. 409, s. 6, and applicable to**
20 **purchase agreements executed on or after that date.**

21 **"§ 143-143.21A. Refund of buyer deposit. Purchase agreements; buyer cancellations.**

22 (a) ~~A dealer shall record the following information in a retail~~ A purchase agreement for
23 a manufactured home; home shall include all of the following:

- 24 (1) A description of the manufactured home and all accessories included in
25 the ~~purchase;~~ purchase.
- 26 (2) The purchase price for the home and all ~~accessories;~~ accessories.
- 27 (3) The amount of ~~deposit;~~ deposit or other payment toward or payment of
28 the purchase price of the manufactured home and accessories that is
29 made by the buyer.
- 30 (4) The date the retail purchase agreement is ~~signed;~~ and signed.
- 31 (5) The estimated terms of financing the purchase, if any, including the
32 estimated interest rate, number of years financed, and monthly payment.
- 33 (6) The buyer's signature.
- 34 (7) The dealer's signature.

35 (b) ~~A dealer must present to the buyer and obtain his signature to a retail purchase~~
36 ~~agreement at the time the deposit is received.~~ The purchase agreement shall contain, in
37 immediate proximity to the space reserved for the signature of the buyer and in at least
38 ten point, all upper-case Gothic type, a statement in substantially the following form:
39 statement:

40 'I UNDERSTAND THAT I HAVE THE RIGHT TO CANCEL THIS
41 PURCHASE ~~PRIOR TO~~ BEFORE MIDNIGHT OF THE THIRD
42 BUSINESS DAY AFTER THE DATE THAT I HAVE SIGNED THIS
43 AGREEMENT. I UNDERSTAND THAT THIS CANCELLATION

1 MUST BE IN WRITING. IF I ~~ATTEMPT TO CANCEL~~ THE PURCHASE
2 AFTER THE THREE-DAY PERIOD, I UNDERSTAND THAT THE
3 DEALER ~~HAS NO~~ MAY NOT HAVE ANY OBLIGATION TO REFUND
4 THE ~~ENTIRE~~ AMOUNT OF MY DEPOSIT.' 'GIVE ME BACK ALL OF
5 THE MONEY THAT I PAID THE DEALER.'

6 (c) ~~The~~ At the time the deposit or other payment toward or payment for the
7 purchase price is received by the dealer, the dealer must ~~shall~~ give to the buyer a copy of
8 the purchase agreement ~~along with and~~ a completed form in duplicate, captioned 'Notice
9 of ~~Cancellation~~', Cancellation, which shall be attached to the purchase agreement, be
10 easily detachable, and ~~shall explain in plain English~~ the buyer's right to cancel the
11 ~~agreement~~ purchase and how that right can be exercised.

12 (d) ~~A dealer~~ The dealer shall refund to a buyer the full amount of a deposit on the
13 ~~purchase of a manufactured home~~ return the deposit or other payment toward or payment
14 for the purchase price to the buyer if the buyer cancels the purchase before midnight of
15 the third business day after the date the buyer signed the purchase agreement. ~~In order to~~
16 ~~make an effective cancellation, the buyer must notify the dealer, in writing, of the buyer's intent~~
17 ~~to cancel the purchase agreement.~~ To make the cancellation effective, the buyer shall give
18 the dealer written notice of the buyer's cancellation of the purchase. The dealer shall
19 ~~make the refund promptly and, in any event, return the deposit or other payment toward or~~
20 payment for the purchase price to the buyer within 15 business days ~~from~~ after receipt of
21 the notice of cancellation. For purposes of this section, 'business day' ~~shall mean Monday~~
22 ~~through Saturday, excluding~~ means any day except Sunday and legal holidays.

23 (e) If the buyer cancels the purchase ~~agreement~~ after the three-day cancellation
24 period, but before the home is delivered to the buyer, ~~then, sale is completed, and if:~~

25 (1) ~~If the~~ The manufactured home is in the dealer's inventory, the dealer
26 may retain from the deposit or other payment received from the buyer
27 actual damages up to a maximum of ten percent (10%) of the purchase
28 price; or

29 (2) ~~If the~~ The manufactured home is specially ordered from the
30 manufacturer for the buyer, the dealer may retain actual damages up to
31 the full amount of the buyer's ~~deposit.~~ deposit or other payment received
32 from the buyer.

33 **"§ 143-143.22. Inspection of service records.**

34 The Board ~~is authorized to~~ may inspect the ~~pertinent~~ service records of a manufacturer,
35 dealer, supplier or set-up contractor relating to a written warranty claim or complaint
36 made to the Board against ~~such~~ the manufacturer, dealer, supplier, or set-up contractor.
37 Every licensee shall send to the Board upon request within 10 days a ~~true~~ copy of every
38 document or record pertinent to any complaint or claim for service.

39 **"§ 143-143.23. Other remedies not excluded.**

40 Nothing in this ~~Article~~ Article, rules adopted by the Board, or any decision by
41 action of the Board shall limit any right or remedy available to the buyer ~~at common law or~~
42 ~~under any other statute, nor limit or~~ any power or duty of the Attorney General.

43 **"§ 143-143.24. Engaging in business without license a Class 1 misdemeanor.**

1 If any person shall unlawfully act as a manufactured home manufacturer, dealer,
2 ~~salesman, salesperson,~~ or set-up contractor without first obtaining a license from the North
3 Carolina Manufactured Housing Board, as provided in this Article, he shall be guilty of a
4 Class 1 misdemeanor.

5 **"§ 143-143.25. Staff support for Board.**

6 The Manufactured ~~Housing-Building~~ Division of the Department shall provide clerical
7 and other staff services required by the Board; and shall administer and enforce all
8 provisions of this Article and all rules adopted under this Article, subject to the direction
9 of the Board; except for powers and duties delegated by this Article to local units of
10 government, other State agencies, or to any persons."

11 Section 2. Article 9B of Chapter 143 of the General Statutes reads as
12 rewritten:

13 **"ARTICLE 9B.**

14 **"UNIFORM STANDARDS CODE FOR MANUFACTURED HOMES.**

15 **"§ 143-144. Short title.**

16 This Article shall be known and may be cited as 'The Uniform Standards Code for
17 Manufactured Homes Act.'

18 **"§ 143-145. Definitions.**

19 The following definitions apply in this Article:

20 ~~Unless clearly indicated otherwise by context, the following words when used in this~~
21 ~~Article, for the purpose of this Article, shall have the meanings respectively ascribed to~~
22 ~~them in this section:~~

23 (1) ~~"Certificate of compliance" means a certificate issued by an~~
24 ~~inspection department approved and licensed by the Council as being~~
25 ~~competent which certificate shall be valid only within the jurisdiction~~
26 ~~of the inspection department and on which certificate shall be~~
27 ~~recorded:~~

- 28 a. ~~The inspection department issuing such certificate;~~
29 b. ~~The date of issue;~~
30 c. ~~The serial or other identification number of such manufactured~~
31 ~~home and the name of the manufacturer;~~
32 d. ~~A certification that such manufactured home was on the day of~~
33 ~~inspection so opened that its entire structural, electrical, heating,~~
34 ~~plumbing and air-conditioning systems could be closely observed~~
35 ~~and inspected;~~
36 e. ~~A certification that said manufactured home complies in full with~~
37 ~~the standards and rules and regulations prescribed in this Article.~~

38 Act. – The National Manufactured Housing Construction and Safety
39 Standards Act of 1974, 42 U.S.C. § 5401, et seq., federal regulations
40 adopted under the Act, and any laws enacted by the United States
41 Congress that supersede or supplement the Act.

- 1 (2) ~~"Commissioner" means the Commissioner. – The Commissioner of~~
2 Insurance of the State of North Carolina ~~Carolina or an authorized~~
3 ~~designee of the Commissioner.~~
- 4 (3) ~~"Competent" shall mean competent to technically evaluate, test, and~~
5 ~~inspect in accordance with the standards, rules and regulations~~
6 ~~prescribed in this Article: the structural features, the plumbing, heating,~~
7 ~~electrical and air conditioning systems and the materials used in the~~
8 ~~construction of a manufactured home.~~
- 9 (4) ~~"Council" means the North Carolina State Building Code Council. HUD. –~~
10 ~~The United States Department of Housing and Urban Development or~~
11 ~~any successor agency.~~
- 12 (5) ~~"Inspection department" means a Inspection department. – A North~~
13 ~~Carolina city or county building inspection department authorized by~~
14 ~~Chapter 160-160A or Chapter 153-153A of the General Statutes.~~
- 15 (6) ~~"Label of compliance" shall mean a permanent label or seal permanently~~
16 ~~attached to a manufactured home at completion of construction thereof~~
17 ~~which is issued by any independent, solvent, and trustworthy person~~
18 ~~approved and licensed by the Council as being competent and as having~~
19 ~~and utilizing initial and follow-up manufacturing inspection services~~
20 ~~which provide the highest degree of quality control, and on which seal~~
21 ~~or label shall be recorded:~~
- 22 a. ~~The person issuing such label or seal and the serial number of the~~
23 ~~label or seal;~~
- 24 b. ~~The serial or other identification number of said manufactured~~
25 ~~home;~~
- 26 c. ~~A certification that said manufactured home was evaluated,~~
27 ~~tested, and inspected in accordance with the standards and rules~~
28 ~~and regulations prescribed in this Article.~~
- 29 Label. – The form of certification required by HUD to be permanently
30 affixed to each transportable section of each manufactured home
31 manufactured for sale to a purchaser in the United States to indicate that
32 the manufactured home conforms to all applicable federal construction
33 and safety standards.
- 34 (7) ~~"Manufactured home" means a Manufactured home. – A structure,~~
35 ~~transportable in one or more sections, which in the traveling mode is~~
36 ~~eight body feet or more in width, or 40 body feet or more in length, or,~~
37 ~~when erected on site, is 320 or more square feet; and which is built on a~~
38 ~~permanent chassis and designed to be used as a dwelling, with or~~
39 ~~without permanent foundation when connected to the required utilities,~~
40 ~~including the plumbing, heating, air conditioning and electrical systems~~
41 ~~contained therein. 'Manufactured home' includes any structure that~~
42 ~~meets all of the requirements of this subsection except the size~~
43 ~~requirements and with respect to which the manufacturer voluntarily~~

1 files a certification required by the Secretary of the ~~United States~~
2 ~~Department of Housing and Urban Development HUD~~ and complies with
3 the standards established under the ~~National Manufactured Housing~~
4 ~~Construction and Safety Standards Act of 1974, 42 U.S.C. §5401, et seq. Act.~~

5 For manufactured homes built ~~prior to~~ before June 15, 1976,
6 'manufactured home' means a portable manufactured housing unit
7 designed for transportation on its own chassis and placement on a
8 temporary or semipermanent foundation having a measurement of over
9 32 feet in length and over eight feet in width. 'Manufactured home' also
10 means a double-wide manufactured home, which is two or more
11 portable manufactured housing units designed for transportation on their
12 own chassis that connect on site for placement on a temporary or
13 semipermanent foundation having a measurement of over 32 feet in
14 length and over eight feet in width.

15 (8) ~~"Person" means any corporation, partnership, association, voluntary~~
16 ~~organization or governmental agency of the United States or any state~~
17 ~~therein and does not mean an individual natural person.~~

18 **"§ 143-146. Statement of policy; rule-making power.**

19 (a) Manufactured homes, because of the manner of their construction, assembly
20 and use and that of their systems, components and appliances (including heating,
21 plumbing and electrical systems) like other finished products having concealed vital parts
22 may present hazards to the health, life and safety of persons and to the safety of property
23 unless properly manufactured. In the sale of manufactured homes, there is also the
24 possibility of defects not readily ascertainable when inspected by purchasers. It is the
25 policy and purpose of this State to provide protection to the public against those possible
26 hazards, and for that purpose to forbid the manufacture and sale of new manufactured
27 homes, which are not so constructed as to provide reasonable safety and protection to
28 their owners and users. This Article ~~is intended to provide~~ provides to the Commissioner
29 all necessary authority to enable the State to obtain approval as a State Administrative
30 Agency under the provisions of the ~~National Manufactured Housing Construction and Safety~~
31 ~~Standards Act of 1974. Act.~~

32 (b) ~~The Commissioner shall make and promulgate rules embodying the standards~~
33 ~~for construction or manufacture of manufactured homes set by the Department of~~
34 ~~Housing and Urban Development under the provisions of the National Manufactured~~
35 ~~Housing Construction and Safety Standards Act of 1974, as these standards may be~~
36 ~~amended.~~

37 (c) ~~The Council is authorized to make and promulgate reasonable rules and~~
38 ~~regulations governing the procedure to be followed by a person or inspection department~~
39 ~~seeking to obtain a license pursuant to the provisions of this Article which shall provide~~
40 ~~opportunity for hearing before the Council on such application.~~

41 (d) ~~In order to insure the highest degree of quality control in the manufacture of~~
42 ~~manufactured homes, the Council is further authorized and empowered to make and~~
43 ~~promulgate reasonable rules and regulations governing the initial and follow up~~

1 manufacturing inspection practices and procedures to be performed by any person
2 granted a license to issue a label of compliance pursuant to this Article. In order to assure
3 uniformity in standards and enforcement, such rules and regulations may also provide
4 that any such licensee and its operations may be inspected from time to time by any other
5 person or licensee designated by the Council who shall report the results of such
6 examination to the Council. In such case the reasonable expense incurred by the examiner
7 in making such inspection shall be borne by the licensee whose operations were
8 examined.

9 (e) The Commissioner is authorized to promulgate such may adopt rules as are
10 necessary to carry out the provisions of the Act and this Article, including rules regarding
11 for consumer complaint procedures, and such other procedures and rules as are necessary to
12 enable the State to assume responsibility for the enforcement of the National Manufactured
13 Housing Construction and Safety Standards Act of 1974. standards and regulations
14 established and adopted by HUD under the Act.

15 **§ 143-147. Approval and licensing of persons and inspection departments.**
16 **Structures built under previous standards.**

17 (a) Any qualified person may make application to the Council for approval for
18 license to issue labels of compliance. Any inspection department may make application
19 to the Council for approval for issuing certificates of compliance. The Council after
20 notice and hearing, if satisfied that such person or inspection department meets the
21 qualifications prescribed in this Article, shall cause a license to be issued which license
22 shall be valid for a consecutive period of 12 months and may be renewed for like
23 consecutive periods on application to and approval by the Council;

24 (b) Any such license issued to a person other than an inspection department may
25 be suspended or revoked after notice and hearing if such person:

- 26 (1) Is either insolvent, not competent, not independent, or untrustworthy;
- 27 (2) Has made false statements in his application to the Council for license;
- 28 (3) Fails or neglects to perform evaluations, testing, or manufacturing
29 inspections in accordance with its proposed plans and procedures
30 submitted to the Council or fails to comply with any applicable rules
31 and regulations promulgated by the Council pursuant to G.S. 143-
32 146(d);
- 33 (4) Has repeatedly, specifically or by implication authorized the attachment
34 of its label of compliance to manufactured homes and such
35 manufactured homes did not meet the standards and rules and
36 regulations provided by this Article at the time said labels were
37 attached.

38 (c) Any such license issued to an inspection department may be suspended or
39 revoked after notice and hearing if such department:

- 40 (1) Is not competent;
- 41 (2) Has issued a certificate of compliance on a manufactured home when
42 such manufactured home was not opened for inspection so that the

1 entire structural, electrical, heating, plumbing and air conditioning
2 systems could be closely observed and inspected;

- 3 (3) ~~Has issued a certificate of compliance on a manufactured home and~~
4 ~~such manufactured home did not at the time of inspection meet the~~
5 ~~standards and rules and regulations provided by this Article.~~

6 The legal status of any structure built before the effective date of the Act shall not be
7 affected by any changes made in this Article by the General Assembly.

8 "**§ 143-148. Certain structures excluded from coverage.**

9 The Commissioner may by rule provide for the exclusion of certain structures by
10 certification in accordance with the ~~National Manufactured Housing Construction and Safety~~
11 ~~Standards Act of 1974.~~ Act.

12 "**§ 143-149. Necessity for obtaining label or certificate for purposes of sale.**

13 No ~~individual natural person, firm, partnership, association or corporation person~~
14 ~~shall after September 1, 1971, sell or offer for sale any manufactured home in this State,~~
15 ~~which manufactured home State that does not bear permanently attached thereto a label~~
16 ~~of compliance or for which manufactured home the individual natural person, firm,~~
17 ~~partnership, association, or corporation selling or offering to sell such manufactured~~
18 ~~home does not have a certificate of compliance; provided it shall be have a label. It is a~~
19 ~~defense to any prosecution for a violation of the provisions of this section if such~~
20 ~~individual natural person, firm, partnership, association or corporation shall show a~~
21 ~~person shows that a certificate of title for such the manufactured home as required by~~
22 ~~G.S. 20-52 was obtained prior to September 1, 1971, before June 15, 1976, or produces~~
23 ~~other satisfactory evidence on file with the North Carolina Department Division of Motor~~
24 ~~Vehicles that such the manufactured home was manufactured prior to September 1, 1971.~~
25 ~~before June 15, 1976.~~

26 "**§ 143-150. No electricity to be furnished units not in compliance.**

27 It is unlawful for any person to ~~initially~~ furnish electricity for use in any manufactured
28 home without first ascertaining that the manufactured home and its electrical supply has
29 been inspected pursuant to G.S. 143-139 by the inspection authority having jurisdiction
30 and found to comply with the requirements of the State Electrical Code. The certificate
31 of compliance issued by the inspection jurisdiction shall be accepted as evidence of
32 compliance.

33 "**§ 143-151. Penalties.**

34 (a) ~~Whoever violates (i) the provisions of this Article; or (ii) Any person who is found~~
35 ~~by the Commissioner to have violated the provisions of the Act, this Article, or any rules~~
36 ~~promulgated adopted under this Article, shall be liable for a civil penalty not to exceed one~~
37 ~~thousand dollars (\$1,000) for each violation. Each such violation shall constitute a~~
38 ~~separate violation with respect to for each manufactured home or with respect to for each~~
39 ~~failure or refusal to allow or perform an act required thereby, except that the by the Act,~~
40 ~~this Article, or any rules adopted under this Article. The maximum civil penalty may not~~
41 ~~exceed one million dollars (\$1,000,000) for any related series of violations occurring~~
42 ~~within one year from after the date of the first violation. In determining the amount of the~~
43 ~~penalty, the Commissioner shall consider the degree and extent of harm caused by the~~

1 violation, the amount of money that inured to the benefit of the violator as a result of the
2 violation, whether the violation was willful, and the prior record of the violator in
3 complying or failing to comply with laws, rules, or orders applicable to the violator. The
4 clear proceeds of civil penalties provided for in this section shall be remitted to the Civil
5 Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2.

6 (b) Any individual, ~~corporation,~~ or a director, officer or agent of a corporation who
7 knowingly and willfully violates the Act, this Article ~~Article,~~ or any rules ~~promulgated~~
8 adopted under this Article in a manner ~~which~~ ~~that~~ threatens the health or safety of any
9 purchaser is guilty of a Class ~~4 misdemeanor.~~ I felony.

10 **"§ 143-151.1. Enforcement.**

11 The Commissioner ~~of Insurance or any inspection department~~ may initiate any
12 appropriate action or proceeding to prevent, restrain, or correct any violation of the Act,
13 this Article, or any rules adopted under this Article. The Commissioner, or any of his
14 deputies or employees, upon showing proper credentials and in the discharge of their
15 duties ~~pursuant to~~ under this Article, or the ~~National Manufactured Housing Construction and~~
16 ~~Safety Standards Act of 1974,~~ Act, is authorized at reasonable hours and without advance
17 notice to enter and inspect all factories, warehouses, or establishments ~~in the State of North~~
18 ~~Carolina~~ this State in which manufactured homes are manufactured, stored or held for
19 sale.

20 **"§ 143-151.2. Fees.**

21 (a) The Commissioner ~~may~~ shall establish a monitoring inspection fee in an
22 amount ~~established~~ required by the Secretary of ~~Housing and Urban Development.~~ HUD.
23 This monitoring inspection fee shall be an amount paid by each manufactured home
24 manufacturer ~~in the~~ this State for each manufactured home produced by the manufacturer
25 ~~in that state.~~ this State.

26 (b) The monitoring inspection fee shall be paid by the manufacturer to the
27 Secretary of ~~Housing and Urban Development~~ HUD or ~~such~~ the Secretary's agent, ~~who~~
28 ~~shall distribute the fees collected from all manufactured home manufacturers among the~~
29 ~~approved and conditionally approved states based on the number of manufactured homes~~
30 ~~whose first location after leaving the manufacturing plant is on the premises of a~~
31 ~~distributor, dealer, or purchaser in that state, and the extent of participation of the State in~~
32 ~~the joint monitoring team program established under the National Manufactured Housing~~
33 ~~Construction and Safety Standards Act of 1974.~~ agent.

34 **"§ 143-151.3. Reports.**

35 Each manufacturer, distributor, and dealer of manufactured homes shall establish and
36 maintain such records, make such reports, and provide such information as the
37 Commissioner or the Secretary of ~~Housing and Urban Development~~ HUD may reasonably
38 require to be able to determine whether ~~such~~ the manufacturer, distributor, or dealer has
39 acted or is acting in compliance with this Article, or the ~~National Manufactured Housing~~
40 ~~Construction and Safety Standards Act of 1974.~~ Act and shall, upon request of a person ~~duly~~
41 designated by the Commissioner or the Secretary of ~~Housing and Urban Development,~~
42 HUD, permit ~~such~~ the person to inspect appropriate books, papers, records and documents
43 relevant to determining whether ~~such~~ the manufacturer, distributor, or dealer has acted or

1 is acting in compliance with this Article or the ~~National Manufactured Housing Construction~~
2 ~~and Safety Standards Act of 1974. Act~~, and any rules adopted by the Commissioner under
3 this Article.

4 **"§ 143-151.4. Notification of defects-~~defects and correction procedures.~~**

5 Every manufacturer of manufactured homes shall ~~furnish~~ provide for notification of
6 ~~any defect and correction procedures~~ in any manufactured home produced by ~~such~~ the
7 manufacturer and ~~correct such defect~~ in accordance with the Act, this Article, and any
8 ~~procedures specified~~ rules adopted by the Commissioner.

9 **"§ 143-151.5. Prohibited acts.**

10 (a) No person shall:

11 (1) Manufacture for sale, lease, sell, offer for sale or lease, or introduce or
12 deliver, or import into the United States, any manufactured home ~~which~~
13 that is manufactured on or after the effective date of any applicable
14 manufactured home construction and safety standard under the Act or
15 this Article and ~~which~~ that does not comply with ~~such~~ the standard,
16 except as provided in ~~subsection (b);~~ subsections (b), (c), and (d) of this
17 section.

18 (2) Fail or refuse to permit access to or copying of records, or fail to make
19 reports or provide information, or fail or refuse to permit entry or
20 inspection, as required under the Act or this Article; ~~Article.~~

21 (3) Fail to furnish notification of any defect as required by ~~G.S. 143-151.4;~~
22 the Act or this Article.

23 (4) Fail to issue a ~~certificate of compliance,~~ label or issue a ~~certification to~~
24 ~~the effect that a manufactured home conforms to all applicable~~
25 ~~manufactured home construction and safety standards,~~ label if ~~such~~ the
26 person in the exercise of due care has reason to know that ~~such~~
27 ~~certification~~ the label is false or misleading in a material ~~respect;~~
28 respect.

29 (5) Fail to comply with a rule adopted or an order issued by the
30 Commissioner under ~~this Article;~~ or Article.

31 (6) Issue a certification pursuant to G.S. 143-148 if ~~such~~ the person in the
32 exercise of due care has reason to know that ~~such~~ the certification is
33 false or misleading in a material respect.

34 (b) (1) ~~Paragraph (1) of subsection (a) shall~~ Subdivision (a)(1) of this
35 section does not apply to the sale, the offer for sale, or the
36 introduction or delivery of any manufactured home after the first
37 purchase of it in good faith for purposes other than resale.

38 (2) ~~Paragraph (1) of subsection (a) shall~~ Subdivision (a)(1) of this section does
39 not apply to any person who establishes that he did not have reason to
40 know in the exercise of due care that ~~such~~ the manufactured home was
41 not in conformity with applicable manufactured home construction and
42 safety ~~standards,~~ standards. ~~or~~

1 (c) Subdivision (a)(1) of this section shall not apply to any person who, ~~prior to~~
2 ~~such~~ before the first purchase, holds a certificate of compliance issued by the
3 manufacturer or importer of ~~such~~ the manufactured home to the effect that ~~such~~ mobile the
4 manufactured home conforms to all applicable manufactured home construction and
5 safety standards, unless ~~such~~ the person knows that ~~such~~ the manufactured home does not
6 so conform.

7 "§§ 143-151.6, 143-151.7: **Reserved for future codification purposes.**"

8 Section 3. Article 9D of Chapter 143 of the General Statutes is repealed.

9 Section 4. G.S. 58-2-55 reads as rewritten:

10 "**§ 58-2-55. Designated hearing officers.**

11 In any contested case under ~~Articles 1 through 64, 65 and 66, 67, 69, 70, or 71 of this~~
12 ~~Chapter, Chapter~~ or Article 9A or Article 9B of Chapter 143 of the General Statutes, the
13 Commissioner may designate a member of his staff to serve as a hearing officer. When
14 the Commissioner is unable or elects not to hear a contested case and elects not to
15 designate a hearing officer to hear a contested case, he shall apply to the director of the
16 Office of Administrative Hearings for the designation of an administrative law judge to
17 preside at the hearing of a contested case. Upon receipt of the application, the Director
18 shall, without undue delay, assign an administrative law judge to hear the case."

19 Section 5. Structures built before the effective date of the Act shall not be
20 affected by any changes made in this Article.

21 Section 6. This act is effective when it becomes law.