

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2007

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HOUSE BILL 1134
Committee Substitute Favorable 6/18/08

Short Title: Cleanup of Abandoned Manufactured Homes.

(Public)

Sponsors:

Referred to:

March 28, 2007

A BILL TO BE ENTITLED

1
2 AN ACT TO PROTECT PUBLIC HEALTH AND THE ENVIRONMENT BY
3 ENCOURAGING COUNTIES TO DEVELOP PLANS THAT PROVIDE FOR
4 THE DECONSTRUCTION OF ABANDONED MANUFACTURED HOMES
5 AND THE REMOVAL OF REUSABLE OR RECYCLABLE COMPONENTS, BY
6 PROVIDING FOR THE ABATEMENT OF ABANDONED MANUFACTURED
7 HOMES THAT ARE DETERMINED TO BE A NUISANCE, AND TO
8 DESIGNATE THAT A PORTION OF THE SOLID WASTE MANAGEMENT
9 TRUST FUND BE USED TO FUND THE DECONSTRUCTION AND
10 REMOVAL OF ABANDONED MANUFACTURED HOMES.

11 The General Assembly of North Carolina enacts:

12 **SECTION 1.** Article 9 of Chapter 130A of the General Statutes is amended
13 by adding a new Part to read:

14 "Part 2F. Management of Abandoned Manufactured Homes.

15 **"§ 130A-309.99A. Findings; purpose.**

16 (a) The General Assembly finds that:

17 (1) The number of manufactured homes in North Carolina has risen
18 dramatically as land has become scarce and the housing market has
19 become more expensive.

20 (2) Manufactured homes may be difficult and expensive to repair when
21 they begin to deteriorate. Often consumers simply buy another
22 manufactured home unit rather than refurbish a manufactured home
23 that needs repair.

24 (3) According to data obtained through the 2000 United States Census,
25 there are more than 80,000 vacant manufactured homes in North
26 Carolina, of which 40,000 are estimated to be permanently untended or
27 in need of extensive repair.

28 (4) Abandoned manufactured homes create public health and
29 environmental problems and are a visual blight on the landscape of

1 North Carolina. Further, an abandoned manufactured home poses a fire
2 hazard, a safety hazard to unsupervised children, and is a potential
3 source of toxic or hazardous materials that may escape into the
4 environment. As a result, abandoned manufactured homes constitute a
5 nuisance.

6 (5) Most landfills will not accept intact manufactured homes due to their
7 bulky nature. In those instances where landfills do accept intact
8 manufactured homes for disposal, the cost of disposal can be
9 prohibitive for many manufactured homeowners. Landfill disposal
10 costs include tipping fees, the costs of transporting the obsolete
11 structures to the landfill, and the costs of removing any hazardous
12 materials, such as asbestos and other harmful chemicals.

13 (6) Many components of manufactured homes can be reused or recycled,
14 including windows, screens, doors, copper tubing, copper wiring,
15 aluminum, tin, steel, lumber, steel frames, pipes, countertops, cabinets,
16 and other appliances and fixtures. It is estimated that twenty-six
17 percent (26%) to thirty-eight percent (38%) of the components of a
18 manufactured home can be reused or recycled without extensive
19 manual labor.

20 (7) It is desirable to allow units of local government to manage the
21 disposal of abandoned manufactured homes for themselves and to
22 encourage regional approaches to the deconstruction of abandoned
23 manufactured homes, the removal of components from abandoned
24 manufactured homes that are reusable or recyclable, and the proper
25 disposal of the remainder.

26 (8) It is in the State's best interest to encourage the reduction of the
27 volume of intact manufactured homes being disposed of at public
28 sanitary landfills, to encourage the deconstruction of abandoned
29 manufactured homes, the removal of components from abandoned
30 manufactured homes that are reusable or recyclable, and to encourage
31 the proper disposal of the remainder.

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

36 **"§ 130A-309.99B. Definitions.**

37 The following definitions apply to this Part:

- 38 (1) 'Abandoned manufactured home' means a manufactured home that is
39 both:
40 a. Vacant or in need of extensive repair.
41 b. An unreasonable danger to public health, safety, welfare, or the
42 environment.

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

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

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

7 **"§ 130A-309.99C. Management of abandoned manufactured homes.**

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

20 (1) A method by which the county proposes to identify abandoned
21 manufactured homes in the county, including, without limitation, a
22 process by which a manufactured home owner or other responsible
23 party may request designation of their home as an abandoned
24 manufactured home.

25 (2) A plan for the deconstruction of these abandoned manufactured
26 homes.

27 (3) A plan for the removal of the deconstructed components for reuse or
28 recycling, as appropriate.

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

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

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

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

40 **"§ 130A-309.99D. Process for the disposal of abandoned manufactured homes.**

41 (a) If a county adopts and implements a plan for the management of abandoned
42 manufactured homes pursuant to this Part, the county shall notify the responsible party
43 for each identified abandoned manufactured home in the county that the abandoned
44 manufactured home must be properly disposed of by that person within 90 days. The

1 notice shall be in writing and shall be served on the person as provided by Rule 4(j) of
2 the Rules of Civil Procedure, G.S. 1A-1. The notice shall disclose the basis for the
3 action, and advise that a hearing will be held before a designated public officer at a
4 place within the county in which the manufactured home is located not less than 10 days
5 nor more than 30 days after the serving of the notice; that the responsible party shall be
6 given the right to file an answer to the order and to appear in person, or otherwise, and
7 give testimony at the place and time fixed in the notice; and that the rules of evidence
8 prevailing in courts of law or equity shall not be controlling in hearings before the
9 public officer.

10 (b) If, after notice and hearing, the public officer determines that the
11 manufactured home under consideration is abandoned, the officer shall state in writing
12 the officer's findings of fact in support of that determination, and the county shall order
13 the person to dispose of the abandoned manufactured home within 90 days of the
14 expiration of this period. If the responsible party fails to comply with this order, the
15 county shall take any action it deems reasonably necessary to dispose of the abandoned
16 manufactured home, including entering the property where the abandoned manufactured
17 home is located and arranging to have the abandoned manufactured home deconstructed
18 and disposed of in a manner consistent with the plan developed under
19 G.S. 130A-309.92(a). If the responsible party is not the owner of the property on which
20 the abandoned manufactured home is located, the county may order the property owner
21 to permit entry onto the owner's property by an appropriate party to permit the removal
22 and proper disposal of the abandoned manufactured home.

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

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

37 (1) A retail business premises where manufactured homes are sold.

38 (2) A solid waste disposal facility where no more than 10 manufactured
39 homes are stored at one time if all of the manufactured homes received
40 for storage are deconstructed or removed from the facility within one
41 year after receipt.

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

44 **"§ 130A-309.99E. Grants to local governments.**

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

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

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

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

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

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

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

40 **"§ 130A-309.99F. Authority to adopt ordinances.**

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

43 **"§ 130A-309.99G. Reporting on the management of abandoned manufactured**
44 **homes.**

1 (a) On or before 1 August of each year, any county that receives a reimbursement
2 grant under G.S. 130A-309.94 shall submit a report to the Department that includes all
3 of the following information:

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

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

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

30 **"§ 130A-309.99H. Effect on local ordinances.**

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

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

- 36 "(14) A description of the activities related to the management of abandoned
37 manufactured homes in the State in accordance with
38 G.S. 130A-309.96, the beginning and ending balances in the Solid
39 Waste Management Trust Fund for the reporting period and the
40 amount of funds used, itemized by county, for grants made under Part
41 2E of Article 9 of Chapter 130A of the General Statutes."

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

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

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

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

16 **SECTION 6.** This act becomes effective 1 March 2009 and expires 1
17 October 2023.