

**GENERAL ASSEMBLY OF NORTH CAROLINA**  
**SESSION 2007**

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**SENATE DRS35246-LT-107 (03/13)**

Short Title: Clarify Law Governing Modular Homes. (Public)

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Sponsors: Senator Hoyle.

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Referred to:

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1 A BILL TO BE ENTITLED  
2 AN ACT TO CLARIFY THE REQUIREMENTS FOR SELLING AND INSTALLING  
3 MODULAR HOMES.

4 The General Assembly of North Carolina enacts:

5 **SECTION 1.** Chapter 143 of the General Statutes is amended by adding a  
6 new Article to read:

7 "Article 9G.

8 "Modular Home Sales and Installation Requirements.

9 "**§ 143-151.70. Definitions.**

10 The following definitions apply in this Article:

- 11 (1) Modular home. – A factory-built structure that is designed for use as a  
12 one- or two-family dwelling, is manufactured in accordance with the  
13 specifications for modular homes under the North Carolina State  
14 Residential Building Code, and bears a seal or label issued by the  
15 Department of Insurance under G.S. 143-139.1.
- 16 (2) Modular homebuilder. – A person who, for consideration, sells a  
17 modular home to a purchaser for occupancy. This term does not  
18 include (i) a real estate broker or provisional broker licensed under  
19 Chapter 93A of the General Statutes or (ii) any person who installs or  
20 erects a modular home on land owned by that person provided the  
21 home is intended solely for occupancy by that person or that person's  
22 family after completion and the home is in fact so occupied for at least  
23 12 months following completion.
- 24 (3) General contractor. – A person defined in G.S. 87-1.
- 25 (4) Manufactured home dealer. – A person defined in G.S. 143-143.9(7)  
26 and licensed under G.S. 143-143.11.

1           (5) Set-up contractor. – A person defined in G.S. 143-143.9(13) and  
2           licensed under G.S. 143-143.11.

3           (6) Person. – Any individual, natural person, firm, partnership,  
4           association, corporation, legal representative, or other recognized legal  
5           entity.

6 **"§ 143-151.71. Selling and installation requirements.**

7           (a) A modular homebuilder doing business in this State shall be licensed as either  
8           a manufactured home dealer pursuant to G.S. 143-143.11 or as a general contractor  
9           pursuant to Article 1 of Chapter 87 of the General Statutes.

10          (b) Any person, other than a manufactured home dealer or general contractor,  
11          who undertakes to erect a modular home for compensation shall be licensed by this  
12          State as a set-up contractor pursuant to G.S. 143-143.11.

13          (c) A set-up contractor who undertakes to erect a North Carolina labeled modular  
14          home shall comply with the manufacturer's installation instructions and applicable  
15          provisions of the State Building Code. Before a permit is issued to erect a modular  
16          home, the set-up contractor shall provide the code enforcement official proof that the  
17          contractor has in force for each modular home to be erected a five thousand dollar  
18          (\$5,000) surety bond insuring compliance with the provisions of the State Building  
19          Code governing installation of modular homes. The bond shall cover installation of the  
20          home as defined in the manufacturer's installation requirements. The bond required by  
21          this subsection shall be in addition to the bond required by G.S. 143-143.12(a)(4).

22          (d) A manufactured home dealer who undertakes to erect a North Carolina  
23          labeled modular home shall comply with the manufacturer's installation instructions and  
24          applicable provisions of the State Building Code. Before securing a permit to erect a  
25          modular home, a manufactured home dealer shall provide the code enforcement official  
26          proof that the dealer has in force for each modular home to be erected a five thousand  
27          dollar (\$5,000) surety bond insuring compliance with the provisions of the State  
28          Building Code governing modular homes. The bond shall cover installation of the home  
29          as defined in the manufacturer's installation requirements. The bond required by this  
30          subsection shall be in addition to the bond required by G.S. 143-143.12(a)(2) and (3).

31          (e) With respect to a manufactured home dealer who is a modular homebuilder,  
32          the bond required by G.S. 143-143.12(a)(2) or (3) shall be conditioned upon the obligor  
33          faithfully conforming to and abiding by the provisions of this Article, in addition to the  
34          provisions of Article 9A of this Chapter. Any buyer of a modular home who suffers any  
35          loss or damage by any act of a dealer that constitutes a violation of this Article may  
36          institute an action to recover against the dealer and any surety.

37          (f) With respect to a set-up contractor who undertakes to erect modular homes,  
38          the bond required by G.S. 143-143.12(a)(4) shall be conditioned upon the obligor  
39          faithfully conforming to and abiding by the provisions of this Article, in addition to the  
40          provisions of Article 9A of this Chapter. Any buyer of a modular home who suffers any  
41          loss or damage by any act of a set-up contractor that constitutes a violation of this  
42          Article may institute an action to recover against the contractor and any surety.

43          (g) In erecting a modular home, any person undertaking to provide additional,  
44          on-site constructed improvements to the modular home, or to the property on which the

1 modular home is situated, shall be licensed as a general contractor if the amount of the  
2 undertaking exceeds the amount established in G.S. 87-1.

3 (h) A complaint by a buyer of a modular home that arises out of the sale or  
4 installation of the modular home shall be filed with the Manufactured Housing Board if  
5 the complaint is against a manufactured home dealer or a set-up contractor in  
6 accordance with Article 9A of Chapter 143 of the General Statutes. Article 9A of  
7 Chapter 143 of the General Statutes shall apply to all complaints filed against  
8 manufactured home dealers or set-up contractors.

9 (i) A complaint by a buyer of a modular home that arises out of the installation  
10 of a modular home shall be filed with the State Licensing Board for General Contractors  
11 in accordance with Article 1 of Chapter 87 of the General Statutes if the complaint is  
12 against a general contractor. Article 1 of Chapter 87 of the General Statutes shall apply  
13 to all complaints filed against general contractors."

14 **SECTION 2.** G.S. 87-2 reads as rewritten:

15 **"§ 87-2. Licensing Board; organization.**

16 There is created the State Licensing Board for General Contractors consisting of  
17 nine members appointed by the Governor for staggered five-year terms. Five of the  
18 members shall be general contractors, one member shall be a registered engineer who  
19 practices structural engineering, and three shall be public members. Of the general  
20 contractor members, one shall have as the larger part of his business the construction of  
21 highways; one shall have as the larger part of his business the construction of public  
22 utilities; one shall have as the larger part of his business the construction of buildings;  
23 and two shall have as a larger part of their businesses the construction of residences, one  
24 of whom shall be the holder of an unlimited general contractor's ~~license.~~ license, and  
25 one whom shall be a modular homebuilder, as defined in G.S. 143-151.70(2). The  
26 public members shall have no ties with the construction industry and shall represent the  
27 interests of the public at large. Members shall serve until the expiration of their  
28 respective terms and until their successors are appointed and qualified. Vacancies  
29 occurring during a term shall be filled by appointment of the Governor for the  
30 remainder of the unexpired term. The Governor may remove any member of the Board  
31 for misconduct, incompetency, or neglect of duty. No Board member shall serve more  
32 than two complete consecutive terms."

33 **SECTION 3.** G.S. 87-13 reads as rewritten:

34 **"§ 87-13. Unauthorized practice of contracting; impersonating contractor; false**  
35 **certificate; giving false evidence to Board; penalties.**

36 Any person, firm, or corporation not being duly authorized who shall contract for or  
37 bid upon the construction of any of the projects or works enumerated in ~~G.S. 87-1,~~ or  
38 Article 9G of Chapter 143 of the General Statutes, without having first complied with  
39 the provisions hereof, or who shall attempt to practice general contracting in the State,  
40 except as provided for in this Article, and any person, firm, or corporation presenting or  
41 attempting to file as his own the licensed certificate of another or who shall give false or  
42 forged evidence of any kind to the Board or to any member thereof in maintaining a  
43 certificate of license or who falsely shall impersonate another or who shall use an  
44 expired or revoked certificate of license, and any architect or engineer who recommends

1 to any project owner the award of a contract to anyone not properly licensed under this  
2 Article, shall be deemed guilty of a Class 2 misdemeanor. And the Board may, in its  
3 discretion, use its funds to defray the expense, legal or otherwise, in the prosecution of  
4 any violations of this ~~Article~~. Article or Article 9G of Chapter 143 of the General  
5 Statutes. No architect or engineer shall be guilty of a violation of this section if his  
6 recommendation to award a contract is made in reliance upon current written  
7 information received by him from the appropriate Contractor Licensing Board of this  
8 State which information erroneously indicates that the contractor being recommended  
9 for contract award is properly licensed."

10 **SECTION 4.** G.S. 87-13.1 reads as rewritten:

11 "**§ 87-13.1. Board may seek injunctive relief.**

12 Whenever the Board determines that any person, firm or corporation has violated or  
13 is violating any of the provisions of this ~~Article~~ Article or Article 9G of Chapter 143 of  
14 the General Statutes or rules and regulations of the Board promulgated under this  
15 ~~Article~~, Article or Article 9G of Chapter 143 of the General Statutes, the Board may  
16 apply to the superior court for a restraining order and injunction to restrain the violation;  
17 and the superior courts have jurisdiction to grant the requested relief, irrespective of  
18 whether or not criminal prosecution has been instituted or administrative sanctions  
19 imposed by reason of the violation. The court may award the Board its reasonable costs  
20 associated with the investigation and prosecution of the violation."

21 **SECTION 5.** G.S. 143-143.13(a) is amended by adding a new subdivision to  
22 read:

23 "(15) Violating Article 9G of this Chapter."

24 **SECTION 6.** Nothing in this act shall affect the members of the State  
25 Licensing Board for General Contractors in effect on January 1, 2008, and the terms of  
26 their membership.

27 **SECTION 7.** This act becomes effective January 1, 2008, and applies to  
28 offenses committed on or after that date.