

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2007

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SENATE BILL 1159

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

Sponsors: Senator Hoyle.

Referred to: Commerce, Small Business and Entrepreneurship.

March 22, 2007

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:

"Article 9G.

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

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

4 **"§ 143-151.71. Selling and installation requirements.**

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

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

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

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

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

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

41 (g) In erecting a modular home, any person undertaking to provide additional,
42 on-site constructed improvements to the modular home, or to the property on which the
43 modular home is situated, shall be licensed as a general contractor if the amount of the
44 undertaking exceeds the amount established in G.S. 87-1.

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

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

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

13 **"§ 87-2. Licensing Board; organization.**

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

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

32 **"§ 87-13. Unauthorized practice of contracting; impersonating contractor; false**
33 **certificate; giving false evidence to Board; penalties.**

34 Any person, firm, or corporation not being duly authorized who shall contract for or
35 bid upon the construction of any of the projects or works enumerated in ~~G.S. 87-1,~~ or
36 Article 9G of Chapter 143 of the General Statutes, without having first complied with
37 the provisions hereof, or who shall attempt to practice general contracting in the State,
38 except as provided for in this Article, and any person, firm, or corporation presenting or
39 attempting to file as his own the licensed certificate of another or who shall give false or
40 forged evidence of any kind to the Board or to any member thereof in maintaining a
41 certificate of license or who falsely shall impersonate another or who shall use an
42 expired or revoked certificate of license, and any architect or engineer who recommends
43 to any project owner the award of a contract to anyone not properly licensed under this
44 Article, shall be deemed guilty of a Class 2 misdemeanor. And the Board may, in its

1 discretion, use its funds to defray the expense, legal or otherwise, in the prosecution of
2 any violations of this ~~Article~~. Article or Article 9G of Chapter 143 of the General
3 Statutes. No architect or engineer shall be guilty of a violation of this section if his
4 recommendation to award a contract is made in reliance upon current written
5 information received by him from the appropriate Contractor Licensing Board of this
6 State which information erroneously indicates that the contractor being recommended
7 for contract award is properly licensed."

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

9 "**§ 87-13.1. Board may seek injunctive relief.**

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

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

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

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

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