

**GENERAL ASSEMBLY OF NORTH CAROLINA**  
**SESSION 2005**

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**HOUSE BILL 1537**

Short Title: Miscellaneous Changes/Mfg. Home Laws. (Public)

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Sponsors: Representatives Barnhart and Hunter (Primary Sponsors).

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Referred to: Finance.

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April 21, 2005

A BILL TO BE ENTITLED

1 AN ACT TO CHANGE THE MEMBERSHIP OF THE NORTH CAROLINA  
2 MANUFACTURED HOUSING BOARD; TO PROVIDE BUYERS WITH  
3 INFORMATION REGARDING THE PRICE OF MANUFACTURED HOMES;  
4 TO CLARIFY THE CONTRACT NEGOTIATION PROCESS AND EXTEND  
5 THE CANCELLATION PERIOD; TO REQUIRE MANUFACTURED HOME  
6 DEALERS TO ESTABLISH AND MAINTAIN ESCROW OR TRUST  
7 ACCOUNTS FOR BUYER DEPOSITS; AND TO INCREASE CERTAIN  
8 PENALTIES AND STANDARDS APPLICABLE TO THE MANUFACTURED  
9 HOME INDUSTRY.

10  
11 The General Assembly of North Carolina enacts:

12 **SECTION 1.** G.S. 143-143.8 through G.S. 143-143.25 of Article 9A of  
13 Chapter 143 of the General Statutes are redesignated as Part 1 of Article 9A of Chapter  
14 143 of the General Statutes to be entitled "Part 1. Duties, Warranties, Purchase  
15 Transaction.". The Revisor of Statutes is authorized to make changes in the newly  
16 designated Part 1 that will reflect the results of the recodification.

17 **SECTION 2.** G.S. 143-143.9 reads as rewritten:

18 **"§ 143-143.9. Definitions.**

19 The following definitions apply in this Article:

20 (1) Bank. – A federally insured financial institution including institutions  
21 defined under G.S. 53-1(1), savings and loan associations, credit  
22 unions, savings banks and other financial institutions chartered under  
23 this or any other state law or chartered under federal law.

24 ~~(1)~~(1a) Board. – The North Carolina Manufactured Housing Board.

25 (2) Buyer. – A person ~~who purchases at retail from a dealer or~~  
26 ~~manufacturer a~~ for whom a dealer performs, or is engaged to perform,  
27 any services or provides any products including the purchase and setup  
28 of a manufactured home for personal use as a residence or other  
29 related use.

- 1 (3) Code. – Engineering standards adopted by the Commissioner.  
2 (4) Commissioner. – The Commissioner of Insurance of the State of North  
3 Carolina.  
4 (5) Department. – The Department of Insurance of the State of North  
5 Carolina.  
6 (5a) Deposit. – Any and all funds received by a dealer from a buyer or  
7 someone on behalf of a buyer for the performance of services or the  
8 provision of goods.  
9 (5b) Escrow or trust account. – An account with a bank that is designated as  
10 an escrow account or as a trust account and that is maintained by a  
11 dealer for the deposit of buyers' funds.  
12 (5c) Escrow or trust account funds. – Funds belonging to a person other  
13 than the dealer that are received by or placed under the control of the  
14 dealer in connection with the performance of services or the provision  
15 of products by a dealer for a buyer.  
16 (5d) Funds. – Any form of money, including cash, payment instruments  
17 such as checks, money orders, or sales drafts, and receipts from  
18 electronic fund transfers. The term does not include letters of credit or  
19 promissory notes.  
20 ~~(5a)~~(5e) License. – A license issued under this Article.  
21 ~~(5b)~~(5f) Licensee. – A person who has been issued a license under this Article  
22 by the North Carolina Manufactured Housing Board.  
23 (6) Manufactured home. – A structure, transportable in one or more  
24 sections, which, in the travelling mode, is eight feet or more in width  
25 or is 40 feet or more in length, or when erected on site, is 320 or more  
26 square feet, and which is built on a permanent chassis and designed to  
27 be used as a dwelling with or without a permanent foundation when  
28 connected to the required utilities, and includes the plumbing, heating,  
29 air conditioning and electrical systems contained therein.  
30 (7) Manufactured home dealer or dealer. – Any person engaged in the  
31 business of buying or selling manufactured homes or offering or  
32 displaying manufactured homes for sale in North Carolina. Any person  
33 who buys or sells three or more manufactured homes in any 12-month  
34 period, or who offers or displays for sale three or more manufactured  
35 homes in any 12-month period shall be presumed to be a manufactured  
36 home dealer. The terms "selling" and "sale" include lease-purchase  
37 transactions. The term "manufactured home dealer" does not include  
38 banks and finance companies that acquire manufactured homes as an  
39 incident to their regular business.  
40 (8) Manufactured home manufacturer or manufacturer. – Any person,  
41 resident or nonresident, who manufactures or assembles manufactured  
42 homes for sale to dealers in North Carolina.  
43 (9) Manufactured home salesperson or salesperson. – Any person  
44 employed by a manufactured home dealer to sell manufactured homes

1 to buyers. Manufactured home salesperson or salesperson also includes  
 2 sales managers, lot managers, general managers, or others who  
 3 manage or supervise salespersons.

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

7 (11) Responsible party. – A manufacturer, dealer, supplier, or set-up  
 8 contractor.

9 (12) Setup. – The operations performed at the occupancy site which render  
 10 a manufactured home fit for habitation.

11 (13) Set-up contractor. – A person who engages in the business of  
 12 performing setups for compensation in North Carolina.

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

18 (15) Supplier. – The original producer of completed components, including  
 19 refrigerators, stoves, hot water heaters, dishwashers, cabinets, air  
 20 conditioners, heating units, and similar components, and materials  
 21 such as floor coverings, panelling, siding, trusses, and similar  
 22 materials, which are furnished to a manufacturer or dealer for  
 23 installation in the manufactured home prior to sale to a buyer."

24 **SECTION 3.** G.S. 143-143.10 reads as rewritten:

25 **"§ 143-143.10. Manufactured Housing Board created; membership; terms;  
 26 meetings.**

27 (a) There is created the North Carolina Manufactured Housing Board within the  
 28 Department. The Board shall be composed of nine members as follows:

29 (1) The Commissioner of Insurance or ~~his~~ the Commissioner's designee.

30 (2) A manufactured home ~~manufacturer~~ manufacturer or a manufactured  
 31 home supplier.

32 (3) A manufactured home ~~dealer~~ dealer or a set-up contractor.

33 (4) A representative of the banking and finance business.

34 (5) ~~A representative of the insurance industry.~~ A person who is approved  
 35 by the North Carolina Housing Finance Agency as a home-ownership  
 36 counselor.

37 (6) ~~A manufactured home supplier.~~ An attorney whose primary practice  
 38 involves the representation of individuals in consumer protection  
 39 actions.

40 (7) ~~A set-up contractor.~~ An accountant.

41 (8) Two representatives of the general public.

42 The Commissioner or ~~his~~ the Commissioner's designee shall chair the Board. The  
 43 Governor shall appoint to the Board the ~~manufactured home manufacturer and the  
 44 manufactured home dealer~~ member designated under subdivision (a)(2) of this section

1 and a member of the general public. The General Assembly upon the recommendation  
2 of the Speaker of the House of Representatives in accordance with G.S. 120-121 shall  
3 appoint the representative of the banking and finance industry and the ~~representative of~~  
4 ~~the insurance industry member designated under subdivision (a)(5) of this section.~~ The  
5 General Assembly upon the recommendation of the President Pro Tempore of the  
6 Senate in accordance with G.S. 120-121 shall appoint ~~the manufactured home supplier~~  
7 ~~and set-up contractor~~ the member designated under subdivision (a)(3) of this section and  
8 an attorney whose primary practice involves the representation of individuals in  
9 consumer protection actions. The Commissioner shall appoint ~~two representatives one~~  
10 ~~representative~~ of the general public. ~~public and an accountant. Except for the~~  
11 ~~representatives from the general public and the persons appointed by the General~~  
12 ~~Assembly, each member of the Board shall be appointed by the appropriate appointing~~  
13 ~~authority from a list of nominees submitted to the appropriate appointing authority by~~  
14 ~~the Board of Directors of the North Carolina Manufactured Housing Institute. At least~~  
15 ~~three nominations shall be submitted for each position on the Board.~~ The members of  
16 the Board shall be residents of the State.

17 The members of the Board shall serve for terms of three years. In the event of any  
18 vacancy of a position appointed by the Governor or Commissioner, the appropriate  
19 appointing authority shall appoint a replacement in the same manner as provided for the  
20 original appointment to serve the remainder of the unexpired term. Vacancies in  
21 appointments made by the General Assembly shall be filled in accordance with  
22 G.S. 120-122. In the event of any vacancy, the appropriate appointing authority shall  
23 appoint a replacement to serve the remainder of the unexpired term. Such appointment  
24 shall be made in the same manner as provided for the original appointment. No member  
25 of the Board shall serve more than two consecutive, three-year terms.

26 The ~~member members~~ of the Board ~~representing the general public designated in~~  
27 ~~subdivisions (a)(5), (a)(6), (a)(7), and (a)(8) of this section shall have no financial~~  
28 ~~interest connected with the manufactured housing industry. No member of the Board~~  
29 ~~shall participate in any proceeding before the Board involving that member's own~~  
30 ~~business.~~

31 Each member of the Board, except the Commissioner and any other State employee,  
32 shall receive per diem and allowances as provided with respect to occupational licensing  
33 boards by G.S. 93B-5. All per diem and travel expenses shall be paid exclusively out of  
34 the fees received by the Board as authorized by this Article. In no case shall any salary,  
35 expense, or other obligation of the Board be charged against the General Fund of the  
36 State of North Carolina. All moneys and receipts shall be kept in a special fund by and  
37 for the use of the Board for the exclusive purpose of carrying out the provisions of this  
38 Article. At the end of the fiscal year, the Board shall retain fifteen percent (15%) of the  
39 unexpended funds collected and received during that year. The remaining eighty-five  
40 percent (85%) of these funds shall be credited to the General Fund.

41 (b) In accordance with the provisions of this Article, the Board shall have the  
42 following powers and duties:

- 43 (1) To issue licenses to manufacturers, dealers, salespersons, and set-up  
44 contractors.

- 1           (2) To require that an adequate bond or other security be posted by all
- 2           licensees, except manufactured housing salespersons.
- 3           (3) To receive and resolve complaints from buyers of manufactured homes
- 4           and from persons in the manufactured housing industry, in connection
- 5           with the warranty, warranty service, licensing requirements or any
- 6           other provision under this Article.
- 7           (4) To adopt rules in accordance with Chapter 150B of the General
- 8           Statutes as are necessary to carry out the provisions of this Article.
- 9           (5) To file against the bond posted by a licensee for warranty repairs and
- 10          service on behalf of a buyer.
- 11          (6) To request that the Department of Justice conduct criminal history
- 12          checks of applicants for licensure pursuant to G.S. 114-19.13.
- 13          (7) To administer the Manufactured Housing Recovery Fund.
- 14          (8) To conduct random audits of dealer escrow or trust accounts."

15          **SECTION 4.** G.S. 143-143.13 reads as rewritten:

16          **"§ 143-143.13. Grounds for denying, suspending, or revoking licenses; civil**

17          **penalties.**

18          (a) A license may be denied, suspended or revoked by the Board on any one or

19          more of the following grounds:

- 20           (1) Making a material misstatement in application for license.
- 21           (2) Failing to post an adequate corporate surety bond, cash bond or fixed
- 22           value equivalent.
- 23           (3) Engaging in the business of manufactured home manufacturer, dealer,
- 24           salesperson, or set-up contractor without first obtaining a license from
- 25           the Board.
- 26           (4) Failing to comply with the warranty service obligations and claims
- 27           procedure established by this Article.
- 28           (5) Failing to comply with the set-up requirements established by this
- 29           Article.
- 30           (6) Failing or refusing to account for or to pay over moneys or other
- 31           valuables belonging to others that have come into licensee's possession
- 32           arising out of the sale of manufactured homes.
- 33           (6a) Failing to comply with the escrow or trust account provisions under
- 34           Part 2 of this Article.
- 35           (7) Using unfair methods of competition or committing unfair or deceptive
- 36           acts or practices.
- 37           (8) Failing to comply with any provision of this Article.
- 38           (9) Failing to appear for a hearing before the Board or for a prehearing
- 39           conference with a person or persons designated by the Board after
- 40           proper notice or failing to comply with orders of the Board issued
- 41           pursuant to this Article.
- 42           (10) Employing unlicensed salespersons.

1 (11) Offering for sale manufactured homes manufactured or assembled by  
2 unlicensed manufacturers or selling manufactured homes to unlicensed  
3 dealers for sale to buyers in this State.

4 (12) Conviction of any crime listed in G.S. 143-143.10A.

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

10 (14) Employing or contracting with any person to perform setups who is  
11 not licensed by the Board as a set-up contractor.

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

13 (c) In addition to the authority to deny, suspend, or revoke a license under this  
14 Article, the Board may impose a civil penalty upon any person violating the provisions  
15 of this Article. Upon a finding by the Board of a violation of this Article, the Board  
16 shall order the payment of a penalty of not less than ~~one hundred fifty~~ two hundred fifty dollars  
17 ~~(\$100.00)~~ (\$250.00) nor more than ~~five hundred one thousand~~ one thousand dollars  
18 ~~(\$500.00)~~ (\$1,000). In determining the amount of the penalty, the Board shall consider  
19 the degree and extent of harm caused by the violation, the amount of money that inured  
20 to the benefit of the violator as a result of the violation, whether the violation was  
21 committed willfully, and the prior record of the violator in complying or failing to  
22 comply with laws, rules, or orders applicable to the violator. Each day during which a  
23 violation occurs shall constitute a separate offense. The penalty shall be payable to the  
24 Board. The Board shall remit the clear proceeds of penalties provided for in this  
25 subsection to the Civil Penalty and Forfeiture Fund in accordance with  
26 G.S. 115C-457.2.

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

31 **SECTION 5.** G.S. 143-143.20A reads as rewritten:

32 "**§ 143-143.20A. Display of pricing on manufactured homes; and notice of**  
33 **warranties; material comparison checklist.**

34 (a) ~~If the manufacturer of a manufactured home publishes a manufacturer's~~  
35 ~~suggested retail price, that price shall be displayed near the front entrance of the~~  
36 ~~manufactured home. The dealer shall prominently display the following information at~~  
37 ~~the front entrance of each manufactured home:~~

38 (1) The price of the home.

39 (2) The individual cost of the specifications and options included in or  
40 available for the home.

41 (3) A statement of estimated set-up costs not included in the price of the  
42 home.

43 (b) Each manufactured home dealer shall prominently display a sign and provide  
44 to each buyer a notice, developed by the North Carolina Manufactured Housing Board,

1 containing information about the Board, including how to file a consumer complaint  
2 with the Board and the warranties and protections provided for each new manufactured  
3 home under federal and State law."

4 **SECTION 6.** G.S. 143-143.21A reads as rewritten:

5 "**§ 143-143.21A. Purchase agreements; Conditional sales contract; final**  
6 **manufactured home retail installment sales contract; buyer**  
7 **cancellations.**

8 (a) A ~~purchase agreement~~ conditional sales contract for a manufactured home  
9 shall include all of the following:

- 10 (1) A description of the manufactured home and all accessories included  
11 in the purchase.
- 12 (2) The purchase price for the home and all accessories.
- 13 (3) The estimated amount of deposit or other payment toward or payment  
14 of to be paid by the buyer towards the purchase price of the  
15 manufactured home and accessories ~~that is made by the~~  
16 ~~buyer.~~ accessories.
- 17 (4) The date the retail purchase agreement is signed.
- 18 (5) The estimated terms of financing of the purchase, if any, including the  
19 estimated interest rate, number of years financed, and the amount of  
20 the monthly payment.
- 21 (6) The buyer's signature.
- 22 (7) The dealer's signature.

23 (a1) The conditional sales contract shall also contain in at least 10 point, all  
24 uppercase Gothic type the following statement in immediate proximity to the space  
25 reserved for the signature of the buyer:

26 I UNDERSTAND THIS IS NOT A BINDING AGREEMENT AND THAT I DO  
27 NOT HAVE TO PAY ANY MONEY TOWARDS THE PURCHASE OF A  
28 MANUFACTURED HOME UNTIL I SIGN A FINAL MANUFACTURED HOME  
29 RETAIL INSTALLMENT SALES CONTRACT. IN THE EVENT THAT I INTEND  
30 TO PURCHASE A NEW MANUFACTURED HOME WITH LAND I  
31 UNDERSTAND THAT I HAVE THE RIGHT TO HAVE AN APPRAISAL  
32 PERFORMED AT MY OWN COST.'

33 (a2) At the time the buyer and the dealer execute the conditional sales contract, the  
34 dealer shall provide to the buyer an executed copy of the document and a list of  
35 appraisers approved by the Board. If the buyer intends to obtain financing to purchase  
36 the home, the buyer shall have the option of obtaining financing independently of the  
37 dealer or to have the dealer arrange for the financing. If the dealer arranges the  
38 financing through referral or otherwise, the provisions of Chapter 25A of the General  
39 Statutes shall apply. The dealer shall also disclose in writing to the buyer any business  
40 relationship the dealer has with any of the financial entities or appraisers.

41 (a3) The dealer shall not request, demand, or accept any funds from a buyer prior  
42 to the execution of a final manufactured home retail installment sales contract. The  
43 dealer shall not commence set-up procedures until after the buyer and the dealer execute  
44 a final sales contract.

1       (a4) In addition to any other provisions required by law, the final sales contract  
2 shall include all of the following:

- 3           (1) A description of the manufactured home and all accessories included  
4 in the purchase.  
5           (2) The purchase price for the home and all accessories.  
6           (3) The amount of deposit to be paid by the buyer towards the purchase  
7 price of the manufactured home and any accessories.  
8           (4) The date the final manufactured home retail installment sales contract  
9 is signed.  
10          (5) The final terms of financing the purchase, if any, including the interest  
11 rate, number of years financed, and monthly payment.  
12          (6) The buyer's signature.  
13          (7) The dealer's signature.  
14          (8) The date of the fifth business day after the date the buyer executes the  
15 final manufactured home retail installment sales contract.

16       (b) ~~The purchase agreement~~ final manufactured home retail installment sales  
17 contract shall contain, in immediate proximity to the space reserved for the signature of  
18 the buyer and in at least ten point, all upper-case Gothic type, the following statement:

19        "I UNDERSTAND THAT I HAVE THE RIGHT TO CANCEL THIS PURCHASE  
20 BEFORE MIDNIGHT OF THE ~~THIRD-FIFTH~~ BUSINESS DAY AFTER THE DATE  
21 THAT I HAVE SIGNED THIS ~~AGREEMENT.~~ CONTRACT. I UNDERSTAND  
22 THAT THIS CANCELLATION MUST BE IN WRITING. IF I CANCEL THE  
23 PURCHASE AFTER THE ~~THREE-DAY~~ FIVE-DAY PERIOD, I UNDERSTAND  
24 THAT THE DEALER MAY NOT HAVE ANY OBLIGATION TO GIVE ME BACK  
25 ALL OF THE MONEY THAT I PAID THE DEALER. ~~I UNDERSTAND ANY~~  
26 ~~CHANGE TO THE TERMS OF THE PURCHASE AGREEMENT BY THE DEALER~~  
27 ~~WILL CANCEL THIS AGREEMENT"~~

28       (c) At the time the ~~deposit or other payment toward or payment for the purchase~~  
29 ~~price is received by the dealer,~~ dealer receives the buyer's deposit, the dealer shall give  
30 the buyer a an executed copy of the purchase agreement ~~final manufactured home retail~~  
31 installment sales contract and a completed form in duplicate, captioned "Notice of  
32 Cancellation," ~~which Cancellation~~". The Notice shall be attached to the ~~purchase~~  
33 ~~agreement,~~ executed copy of the final sales contract, be easily detachable, and explain  
34 the buyer's right to cancel the purchase and how that right can be exercised.

35       (d) The dealer shall return the deposit ~~or other payment toward or payment for~~  
36 ~~the purchase price~~ to the buyer if the buyer cancels the purchase before midnight of the  
37 ~~third-fifth~~ business day after the date the buyer signed the ~~purchase agreement~~ or if any  
38 of the material terms of the purchase agreement are changed by the dealer. final  
39 manufactured home retail installment sales contract. To make the cancellation effective,  
40 the buyer shall give the dealer written notice of the buyer's cancellation of the purchase.  
41 The dealer shall return the deposit ~~or other payment toward or payment for the purchase~~  
42 ~~price~~ to the buyer within ~~15~~ three business days after receipt of the notice of ~~cancellation~~  
43 ~~or within three business days of any change by the dealer of the purchase agreement.~~  
44 cancellation. For purposes of this section, "business day" means any day except Sunday



1 and legal holidays. ~~Each time the dealer gives the buyer a new set of financing terms,~~  
2 ~~unless the financing terms are more favorable to the buyer, the buyer shall be given~~  
3 ~~another three-day cancellation period. The dealer shall not commence setup procedures~~  
4 ~~until after the final three-day cancellation period has expired.~~

5 (e) If the buyer cancels the purchase after the ~~three-day~~ five-day cancellation  
6 ~~period, but before the sale is completed,~~ period, and if:

7 (1) ~~The~~ the manufactured home ~~is~~ had been in the dealer's inventory, the  
8 dealer may retain from the deposit ~~or other payment received from the~~  
9 ~~buyer~~ actual damages up to a maximum of ten percent (10%) of the  
10 purchase ~~price;~~ or price.

11 (2) ~~The~~ If the buyer cancels the purchase after the five-day cancellation  
12 period, and the manufactured home is ~~was~~ specially ordered from the  
13 manufacturer for the buyer, the dealer may retain actual damages up to  
14 the full amount of the buyer's ~~deposit or other payment received from~~  
15 ~~the buyer.~~ deposit.

16 (f) ~~The Board shall adopt rules concerning the terms of any deposit paid by a~~  
17 ~~buyer to a dealer. The rules may exempt deposits of less than two thousand dollars~~  
18 ~~(\$2,000). To the extent practicable, the rules shall protect the deposits from the claims~~  
19 ~~of the creditors of a dealer that may thereafter be in bankruptcy. The rules shall further~~  
20 ~~provide for the prompt return of a buyer's deposit if the buyer is entitled to its return."~~

21 **SECTION 7.** Part 1 of Article 9 of Chapter 143 of the General Statutes is  
22 amended by adding a new section to read:

23 **"§ 143-143.21B. Independent appraisals.**

24 The Board, in consultation with the North Carolina Appraisers Board, shall develop  
25 a list of approved appraisers and adopt a uniform appraisal form to be provided to  
26 buyers under G.S. 143-143.21A."

27 **SECTION 8.** Article 9A of Chapter 143 of the General Statutes is amended  
28 by adding a new Part to read:

29 "Part 2. Buyer Deposit, Escrow or Trust Accounts.

30 **"§ 143-143.50. Escrow or trust account required.**

31 (a) Dealers shall maintain buyers' deposits in an escrow or trust account with a  
32 bank. A dealer shall not commingle any other funds with buyers' deposits in the escrow  
33 or trust account. The account shall not be interest bearing.

34 (b) Dealers shall notify the Board in writing when the escrow or trust account is  
35 established. The notification shall include the name and number of the account and the  
36 name and location of the bank holding the account.

37 (c) All buyer funds shall be placed in the escrow or trust account no later than the  
38 close of the second banking business day after receipt.

39 (d) Dealers shall provide buyers with a receipt for all buyer deposits received by  
40 the dealer. The receipt shall include the amount of the buyer deposit, the date the  
41 deposit was provided to the dealer, and the name and address of the bank where the  
42 buyer's funds will be deposited.

43 **"§ 143-143.51. Use of escrow or trust funds; penalty for violations.**

1       (a) Buyer funds in the dealer's escrow or trust account may only be used for  
2 purposes authorized under the contractual obligations of the dealer to the buyer for the  
3 direct benefit of the buyer for whom the funds are held.

4       (b) Notwithstanding any other provision of law and in addition to any other  
5 sanction the Board may impose under this Article, if the Board finds that a dealer has  
6 used a buyer's funds for a purpose that is not authorized under subsection (a) of this  
7 section or if the Board finds that a dealer has failed to place deposits in the dealer's  
8 escrow or trust account, the Board shall fine the dealer an amount that is equal to the  
9 amount that the dealer misappropriated or failed to place in the account.

10 **"§ 143-143.52. Minimum requirements for dealer records for escrow or trust**  
11 **accounts at banks.**

12       The minimum records required for escrow or trust accounts maintained at a bank  
13 shall consist of the following:

- 14       (1) All bank receipts or deposit slips listing the source and date of receipt  
15 of all funds deposited in the account and the name of the buyer to  
16 whom the funds belong.
- 17       (2) All cancelled checks or other instruments drawn on the account, or  
18 printed digital images thereof furnished by the bank, showing the  
19 amount, date, and recipient of the disbursement.
- 20       (3) All instructions or authorizations to transfer, disburse, or withdraw  
21 funds from the escrow or trust account.
- 22       (4) All bank statements and other documents received from the bank with  
23 respect to the escrow or trust account, including notices of return or  
24 dishonor of any instrument drawn on the account against insufficient  
25 funds.
- 26       (5) A ledger containing a record of receipts and disbursements for each  
27 buyer from whom and for whom funds are received and showing the  
28 current balance of funds held in the escrow or trust account for each  
29 buyer.
- 30       (6) Any other records required by law to be maintained for the escrow or  
31 trust account.

32 **"§ 143-143.53. Quarterly reconciliation of escrow or trust accounts.**

33       At least quarterly, individual buyer balances shown on the ledger of an escrow or  
34 trust account shall be totaled and reconciled with the current bank balance for the trust  
35 account as a whole.

36 **"§ 143-143.54. Accountings for escrow or trust funds.**

37       The dealer shall provide to the buyer a written accounting of the receipts and  
38 disbursements of all escrow or trust funds upon the complete disbursement of the  
39 escrow or trust accounts, upon the request of the buyer, and at least quarterly if the  
40 funds are retained for a period of more than three months.

41 **"§ 143-143.55. Audits and record inspection.**

42       All financial records required by this Part shall be subject to audit for cause and to  
43 random audit at the discretion of and by the Board, the Commissioner, or the Attorney  
44 General. The Board may inspect these records periodically, without prior notice and

1 may also inspect these records whenever the Board determines that the records are  
2 pertinent to an investigation of any complaint against a licensee. The dealer shall  
3 provide written authorization to the bank that holds the escrow or trust account to  
4 release any and all information relative to the account to the parties authorized under  
5 this section to inspect those records."

6 **SECTION 9.** G.S. 143-151(a) reads as rewritten:

7 **"§ 143-151. Penalties.**

8 (a) Any person who is found by the Commissioner to have violated the  
9 provisions of the Act, this Article, or any rules adopted under this Article, shall be liable  
10 for a civil penalty not to exceed ~~one ten~~ thousand dollars (~~\$1,000~~) (\$10,000) for each  
11 violation. Each violation shall constitute a separate violation for each manufactured  
12 home or for each failure or refusal to allow or perform an act required by the Act, this  
13 Article, or any rules adopted under this Article. The maximum civil penalty may not  
14 exceed one million dollars (\$1,000,000) for any related series of violations occurring  
15 within one year after the date of the first violation. In determining the amount of the  
16 penalty, the Commissioner shall consider the degree and extent of harm caused by the  
17 violation, the amount of money that inured to the benefit of the violator as a result of the  
18 violation, whether the violation was willful, and the prior record of the violator in  
19 complying or failing to comply with laws, rules, or orders applicable to the violator. The  
20 clear proceeds of civil penalties provided for in this section shall be remitted to the Civil  
21 Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2."

22 **SECTION 10.** The North Carolina Manufactured Housing Board shall  
23 increase the standards for licensure of set-up contractors. The revised standards shall be  
24 at least as stringent as the most stringent standards adopted by another state.

25 **SECTION 11.** The Manufactured Housing Board shall not issue any new  
26 licenses under Article 9 of Chapter 143 of the General Statutes unless and until a final  
27 rule for obtaining criminal background checks on all applicants is in place and effective.

28 **SECTION 12.** The Commissioner of Insurance shall review the standards  
29 for installation of manufactured homes and revise the standards to be at least as  
30 stringent as the most stringent standards adopted by another state.

31 **SECTION 13.** Sections 3, 10, 11, 12, and 13 of this act are effective when  
32 this act becomes law, and the terms of the current appointed members of the North  
33 Carolina Housing Board shall terminate. The remainder of this act becomes effective  
34 January 1, 2006. Section 8 applies to deposits and funds collected on or after January 1,  
35 2006.