

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2005

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SENATE BILL 913

Short Title: Recovery Fee/Abandoned Manufactured Homes. (Public)

Sponsors: Senators Clodfelter; Bingham and Kerr.

Referred to: Judiciary I.

March 24, 2005

1 A BILL TO BE ENTITLED
2 AN ACT TO IMPOSE AN ADVANCE DISPOSAL FEE ON NEW AND USED
3 MANUFACTURED HOMES, TO REQUIRE COUNTIES TO DEVELOP PLANS
4 THAT PROVIDE FOR THE DECONSTRUCTION OF ABANDONED
5 MANUFACTURED HOMES AND THE REMOVAL OF REUSABLE OR
6 RECYCLABLE COMPONENTS, AND TO PROVIDE FOR THE ABATEMENT
7 OF ABANDONED MANUFACTURED HOMES THAT ARE DETERMINED TO
8 BE A NUISANCE.

9 The General Assembly of North Carolina enacts:

10 **SECTION 1.** Chapter 105 of the General Statutes is amended by adding a
11 new Article to read:

12 "Article 5G.

13 "Manufactured Home Disposal Tax.

14 "**§ 105-187.60. Definitions.**

15 The definitions in G.S. 105-164.3 apply to this Article, except that the term 'sale'
16 does not include lease or rental. 'Manufactured home' is defined in G.S. 105-164.3(20).
17 Manufactured home also means any structure that otherwise satisfies the definition in
18 G.S. 105-164.3(20) but that, although designed for use as a dwelling, is in fact used for
19 commercial or other nonresidential purposes, and that may or may not be placed on a
20 permanent foundation at the time of sale.

21 "**§ 105-187.61. Tax imposed.**

22 A privilege tax is imposed on a manufactured home retailer at a flat rate for each
23 new manufactured home sold by the retailer and for each used manufactured home sold
24 by the retailer. An excise tax is imposed on each new manufactured home and on each
25 used manufactured home purchased outside the State for storage, use, or consumption in
26 this State. These taxes are in addition to all other taxes. The rate of the privilege tax and
27 the excise tax is as follows:

- 28 (1) For each new or used single-wide manufactured home, three hundred
29 dollars (\$300.00).

1 (2) For each new or used multisection manufactured home, three hundred
2 dollars (\$300.00) for each section of the manufactured home.

3 **"§ 105-187.62. Administration.**

4 The privilege tax this Article imposes on a manufactured home retailer who sells
5 new or used manufactured homes at retail is an additional State sales tax, and the excise
6 tax this Article imposes on the storage, use, or consumption of a new or used
7 manufactured home in this State is an additional State use tax. Except as otherwise
8 provided in this Article, these taxes shall be collected and administered in the same
9 manner as the State sales and use taxes imposed by Article 5 of this Chapter. As under
10 Article 5 of this Chapter, the additional State sales tax paid when a new or used
11 manufactured home is sold is a credit against the additional State use tax imposed on the
12 storage, use, or consumption of the same manufactured home.

13 **"§ 105-187.63. Exemptions.**

14 The exemptions in G.S. 105-164.13 and the refunds allowed in G.S. 105-164.14 do
15 not apply to the taxes imposed by this Article.

16 **"§ 105-187.64. Use of tax proceeds.**

17 The Secretary shall distribute the taxes collected under this Article, less the
18 Department of Revenue's allowance for cost of collecting the taxes, in accordance with
19 this section. The Secretary may retain the Department's cost of collection, not to exceed
20 one hundred thousand dollars (\$100,000), as reimbursement to the Department of
21 Revenue.

22 Each quarter, the Secretary shall credit the net tax proceeds to the Manufactured
23 Homes Management Account. Funds in the Manufactured Homes Management Account
24 may be used only as provided in G.S. 130A-309.94."

25 **SECTION 2.** Article 9 of Chapter 130A of the General Statutes is amended
26 by adding a new Part to read:

27 "Part 2E. Management of Abandoned Manufactured Homes.

28 **"§ 130A-309.90. Findings; purpose.**

29 (a) The General Assembly finds that:

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

33 (2) Manufactured homes may be difficult and expensive to repair when
34 they begin to deteriorate. Often consumers simply buy another
35 manufactured home unit rather than refurbish a manufactured home
36 that needs repair.

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

41 (4) Abandoned manufactured homes create public health and
42 environmental problems and are a visual blight on the landscape of
43 North Carolina. Further, an abandoned manufactured home poses a fire
44 hazard, a safety hazard to unsupervised children, and is a potential

1 source of toxic or hazardous materials that may escape into the
2 environment. As a result, abandoned manufactured homes constitute a
3 nuisance.

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

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

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

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

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

34 **"§ 130A-309.91. Definitions.**

35 The following definitions apply to this Part:

36 (1) 'Abandoned manufactured home' means a manufactured home that is
37 both:

38 a. Vacant or in need of extensive repair.

39 b. A nuisance.

40 (2) 'Manufactured home' is defined in G.S. 105-187.60.

41 (3) 'Nuisance' means an unreasonable danger to public health, safety, or
42 welfare or to the environment.

43 **"§ 130A-309.92. Management of abandoned manufactured homes.**

1 (a) Duty. – As a component of its comprehensive solid waste management plan
2 under G.S. 130A-309.09A(b), each county shall develop a written plan for the
3 management of abandoned manufactured homes. At a minimum, this plan shall:

4 (1) Identify all abandoned manufactured homes in the county.

5 (2) Provide for the deconstruction of these abandoned manufactured
6 homes.

7 (3) Provide for the removal of the components thereof for reuse or
8 recycling, as appropriate.

9 (4) Provide for the proper disposal of the remaining abandoned
10 manufactured homes that were not deconstructed under subdivision (2)
11 of this subsection.

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

16 (c) Restrictions. – A county or the party that contracted with the county under
17 subsection (b) of this section shall not charge a disposal fee for the disposal of any
18 abandoned manufactured home that was purchased after January 1, 2006. After January
19 1, 2006, an intact abandoned manufactured home shall not be disposed of in a landfill,
20 an incinerator, or a waste-to-energy facility, unless the county in which the abandoned
21 manufactured home is located has elected not to implement its plan under subsection (a)
22 of this section.

23 **§ 130A-309.93. Process for abatement of nuisance caused by abandoned**
24 **manufactured homes.**

25 (a) Once its plan for the management of abandoned manufactured homes is
26 adopted and implementation has commenced, a county or the party that contracted with
27 the county under G.S. 130A-309.92(b), shall notify, in writing, the person responsible
28 for each identified abandoned manufactured home in the county that the abandoned
29 manufactured home constitutes a nuisance. At the same, the county or the party that
30 contracted with the county shall also request, in writing, that the abandoned
31 manufactured home be properly disposed of by that person within 90 days of the date
32 this notice is sent to the person. If the person fails to take the requested action prior to
33 the expiration of this period, the county or the party that contracted with the county shall
34 order the person to abate the nuisance within 90 days of the expiration of this period. If
35 the person responsible for the abandoned manufactured home fails to comply with this
36 order, the county or the party that contracted with the county shall take any action it
37 deems reasonably necessary to abate the nuisance, including entering the property
38 where the abandoned manufactured home is located and arranging to have the
39 abandoned manufactured home deconstructed and disposed of in a manner consistent
40 with the plan under G.S. 130A-309.92(a). If the person responsible for the nuisance is
41 not the owner of the property on which the abandoned manufactured home is located,
42 the county or the party that contracted with the county may order the property owner to
43 permit entry onto the owner's property by an appropriate party to permit the removal
44 and proper disposal of the abandoned manufactured home.

1 (b) When a county removes, deconstructs, and disposes of an abandoned
2 manufactured home pursuant to subsection (a) of this section, whether directly or
3 through a party that contracted with the county, the person responsible for the
4 abandoned manufactured home shall be liable for any unpaid property taxes due on the
5 home and for the actual costs incurred by the county, directly or indirectly, for its
6 abatement activities and its administrative and legal expenses related to its abatement
7 activities, less the amount of grants for reimbursement received by the county under
8 G.S. 130A-309.94(c) for the abatement activities for that manufactured home. The
9 county or the party that contracted with the county may initiate a civil action to recover
10 these unpaid taxes or costs from the person responsible for the abandoned manufactured
11 home. Nonpayment of any unpaid taxes or of all or any portion of the actual costs
12 incurred by the county shall result in the imposition of a lien on any real property in the
13 county owned by the person responsible for the abandoned manufactured home.

14 (c) This section does not apply to any of the following:

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

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

20 (d) The order of priority for abatement activities under subsection (a) of this
21 section, from highest to lowest, is as follows:

22 (1) Any abandoned manufactured home that constitutes a fire hazard or
23 threat to public health or safety.

24 (2) Any abandoned manufactured home located in a densely populated
25 area.

26 (3) Any other abandoned manufactured home.

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

29 **"§ 130A-309.94. Manufactured Homes Management Account.**

30 (a) The Manufactured Homes Management Account is established within the
31 Department of Environment and Natural Resources, Division of Waste Management.
32 The Manufactured Homes Management Account is nonreverting and consists of
33 revenue credited to the Manufactured Homes Management Account from the proceeds
34 of the manufactured home disposal tax imposed in G.S. 105-187.61.

35 (b) The Department may use a portion of the Manufactured Homes Management
36 Account to pay for the actual costs it incurs managing the Manufactured Homes
37 Management Account, providing technical assistance and support to counties to
38 facilitate achieving the purposes of this Part, and implementing, administering, and
39 supporting the program under this Part, including costs associated with staffing,
40 training, submitting reports, and fulfilling program goals.

41 (c) The Department shall use the remaining funds in the Manufactured Homes
42 Management Account to reimburse counties for a portion of their expenses for activities
43 under this Part by making grants to counties. The Department shall provide guidance to

1 the counties by describing the process for applying for reimbursement grants and the
2 process for the Department making grants.

3 (d) Each county that requests a reimbursement grant from the Account shall also
4 submit to the Department a budget specifying in detail the expenses it expects to incur
5 in a specified time period in connection with the activities under this Part. The
6 Department shall review each submitted budget and make modifications, if necessary,
7 in light of the availability of funds in the Manufactured Homes Management Account,
8 the county's capacity to effectively and efficiently manage the abatement of abandoned
9 manufactured homes, and any other factors that the Department reasonably determines
10 are relevant. Once the Department and a county agree on the amount of the county's
11 budget under this subsection, the Department and the county shall execute a grant
12 agreement that reflects this amount and that specifies the time period covered by the
13 grant agreement. The amount of the budget in any grant agreement is the maximum
14 amount that any county may receive as a reimbursement grant from all sources for
15 abatement activities for the time period specified in the agreement. The amount of a
16 reimbursement grant shall be calculated in accordance with subsection (e) and
17 subsection (f) of this section; however, no county shall receive a reimbursement grant
18 unless it has filed all the annual reports it is required to submit under G.S. 130A-309.96.

19 (e) Each county is responsible for at least twenty-five percent (25%) of the cost
20 of identifying, removing, deconstructing, recycling, and disposing of each abandoned
21 manufactured home, except that any county may seek to recover any costs it incurs with
22 respect to such activities as provided in G.S. 130A-309.93(b). Reimbursement grants
23 from the Manufactured Homes Management Account shall be made in accordance with
24 the terms of the grant agreement, but in any event, all reimbursements shall be
25 calculated on a per unit basis and based on the actual cost of such activities, not to
26 exceed seven hundred fifty dollars (\$750.00) for each unit.

27 (f) A county shall use reimbursement grant funds for only operating expenses
28 that are directly related to the management of abandoned manufactured homes. If an
29 operating expense is partially related to the management of abandoned manufactured
30 homes, a county may use the reimbursement grant funds to finance the percentage of the
31 cost that equals the percentage of the expense that is directly related to the management
32 of abandoned manufactured homes.

33 **"§ 130A-309.95. Authority to adopt ordinances.**

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

36 **"§ 130A-309.96. Reporting on the management of abandoned manufactured
37 homes.**

38 (a) Any county that receives a reimbursement grant under G.S. 130A-309.94
39 shall report annually to the Department for as long as the county has projects underway
40 using grant funds. The report shall include the amount of funds the county received as a
41 grant, the manner in which the grant was used, and an assessment of the county's
42 progress in removing, deconstructing, recycling, and disposing of abandoned
43 manufactured homes consistent with this Part. The county shall include all the
44 information in this report in the Annual Financial Information Report it prepares under

1 G.S. 159-33.1, a copy of which is submitted to the Department in accordance with
2 G.S. 130A-309.87(b).

3 (b) The Department shall include in its annual report to the Environmental
4 Review Commission under G.S. 130A-309.06(c) a description of the management of
5 abandoned manufactured homes in the State for the fiscal year ending the preceding
6 June 30. The description of the management of abandoned manufactured homes shall
7 include the following information:

8 (1) The amount of taxes collected and distributed under G.S. 105-187.64
9 during the reporting period.

10 (2) The cost to each county of managing its abandoned manufactured
11 home program during the reporting period.

12 (3) The beginning and ending balances of the Manufactured Homes
13 Management Account for the reporting period and a list of grants made
14 from the Manufactured Homes Management Account for the period,
15 itemized by county.

16 (4) Any other information the Department considers helpful in
17 understanding the problem of managing abandoned manufactured
18 homes in the State.

19 (5) A summary of the information concerning the counties' abandoned
20 manufactured home management programs contained in the counties'
21 Annual Financial Information Report and the reports submitted under
22 subsection (a) of this section.

23 **§ 130A-309.97. Effect on local ordinances.**

24 This Part preempts any local ordinance regarding the management of abandoned
25 manufactured homes that is inconsistent with this Part. It does not preempt any local
26 ordinance regarding the management of abandoned manufactured homes that is
27 consistent with this Part."

28 **SECTION 3.** G.S. 130A-309.06(c) is amended by adding a new subdivision
29 to read:

30 "(14) A description of the activities related to the management of abandoned
31 manufactured homes in the State in accordance with
32 G.S. 130A-309.96, the beginning and ending balances in the
33 Manufactured Homes Management Account for the reporting period,
34 the amount credited to the Manufactured Homes Management Account
35 during the reporting period, and the amount of revenue used, itemized
36 by county, for grants made under Part 2E of Article 9 of Chapter 130A
37 of the General Statutes."

38 **SECTION 4.** G.S. 130A-309.09A(b) is amended by adding a new
39 subdivision to read:

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

43 **SECTION 5.** This act becomes effective January 1, 2006. Section 1 of this
44 act applies to sales made on or after that date.