

**GENERAL ASSEMBLY OF NORTH CAROLINA**  
**SESSION 2003**

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**HOUSE BILL 1006**

Short Title: Manufactured Housing.

(Public)

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Sponsors: Representatives Hunter and Barnhart (Primary Sponsors).

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Referred to: Judiciary II.

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April 10, 2003

A BILL TO BE ENTITLED

AN ACT TO GRANT GREATER CONSUMER PROTECTION TO RESIDENTS OF  
MANUFACTURED HOUSING IN NORTH CAROLINA.

The General Assembly of North Carolina enacts:

**SECTION 1.** G.S. 47-20.6(a) reads as rewritten:

"(a) If the owner of ~~real property~~ a manufactured home that is defined as real property in G.S. 105-273(13) has surrendered the title to ~~a~~ the ~~manufactured home that is placed on the real property~~ and the title has been cancelled by the Division of Motor Vehicles under G.S. 20-109.2, the owner, or the secured party having the first security interest in the manufactured home at time of surrender, shall record the affidavit described in G.S. 20-109.2 with the office of the register of deeds of the county where the ~~real property~~ manufactured home is located. Upon recordation, the affidavit shall be indexed on the grantor index in the name of the owner of the manufactured home and on the grantee index in the name of the secured party or lienholder, if any."

**SECTION 2.** G.S. 47-20.6 is amended by adding a new subsection to read:

"(e) In the event that the owner of a manufactured home described in subsection (a) of this section is not the owner of the real property to which the manufactured home is affixed, the owner or the secured party having the first security interest in the manufactured home at the time of surrender, shall indicate in the affidavit the following:

- (1) That the owner of the manufactured home is not the same as the owner of the real property to which the manufactured home is affixed.
- (2) That the owner of the manufactured home has entered into a lease for the real property on which the manufactured home is affixed with a primary term of at least 20 years."

**SECTION 3.** G.S. 47-20.7 reads as rewritten:

**"§ 47-20.7. Declaration of intent to affix manufactured home; transfer of real property with manufactured home attached.**

(a) ~~A~~ Except as provided in subsection (e) of this section, a person who owns real property or is purchasing on which a manufactured home that has been, or will be

1 ~~placed, as defined in G.S. 105-273(13), and either where the manufactured home has~~  
2 ~~never been titled by the Division of Motor Vehicles or where the title to the~~  
3 ~~manufactured home has been surrendered and cancelled by the Division, may and that is~~  
4 defined as real property in G.S. 105-273(13) or that will be so defined once it is affixed  
5 to real property, shall record in the office of the register of deeds of the county where  
6 the real property-manufactured home is or will be located a declaration of intent to affix  
7 the manufactured home to the real property and may shall convey or encumber the real  
8 property, including the manufactured home, only by a deed, deed of trust, or other  
9 instrument recorded in the office of the register of deeds. Upon recordation, the  
10 declaration of intent shall be indexed on the grantor index in the name of the owner of  
11 the manufactured home.

12 (b) The declaration of intent, deed, deed of trust, or other instrument shall contain  
13 a description of the manufactured home, including the name of the manufacturer, the  
14 model name, if applicable, the serial number, and a statement of the owner's intention  
15 that the manufactured home be treated as real property. In addition, in the event that the  
16 owner is not also the owner of the real property to which the manufactured home is or  
17 will be affixed, the owner shall indicate in the declaration of intent the following:

18 (1) That the owner of the manufactured home is not the same as the owner  
19 of the real property to which the manufactured home is affixed.

20 (2) That the owner of the manufactured home has entered into a lease for  
21 the real property on which the manufactured home is affixed with a  
22 primary term of at least 20 years.

23 (c) On or after the filing of the instrument with the office of the register of deeds  
24 pursuant to subsection (a) of this section, the manufactured home placed, or to be  
25 placed, on the real property becomes an improvement to real property. Any lien on the  
26 manufactured home shall be perfected and have priority in the manner provided for a  
27 lien on real property.

28 (d) The provisions of this section control over the provisions of G.S. 25-9-334  
29 relating to the priority of a security interest in fixtures, as applied to manufactured  
30 homes.

31 (e) Notwithstanding the provisions of subsection (a) of this section, any person  
32 who would otherwise be required to file a declaration of intent may elect not to have the  
33 owner's manufactured home classified as real property by applying for the issuance of a  
34 title for a manufactured home from the Division of Motor Vehicles and by filing a  
35 declaration of intent not to affix the manufactured home to real property with the  
36 register of deeds of the county where the manufactured home is or will be located. The  
37 declaration of intent not to affix shall contain a description of the manufactured home,  
38 including the name of the manufacturer, the model name, if applicable, the serial  
39 number, and a statement of the owner's intention that the manufactured home not be  
40 treated as real property. In the event that a declaration of intent not to affix is filed, the  
41 manufactured home will be considered tangible personal property, except as provided in  
42 G.S. 105-273(13)."

43 **SECTION 4.** Subdivision (13) of G.S. 105-273 reads as rewritten:

44 "**§ 105-273. Definitions.**

1 When used in this Subchapter (unless the context requires a different meaning):

2 ...

3 (13) "Real property," "real estate," and "land" mean not only the land itself,  
4 but also buildings, structures, improvements, and permanent fixtures  
5 on the land, and all rights and privileges belonging or in any way  
6 appertaining to the property. These terms also mean a manufactured  
7 home as defined in G.S. 143-143.9(6) if it is a residential structure; has  
8 the moving hitch, wheels, and axles removed; and is placed upon a  
9 permanent foundation either on land owned by the owner of the  
10 manufactured home—home or on land which the owner of the  
11 manufactured home has a leasehold interest pursuant to a lease with a  
12 primary term of at least twenty 20 years. A manufactured home as  
13 defined in G.S. 143-143.9(6) that does not meet all of these conditions  
14 is considered tangible personal property."

15 **SECTION 5.** G.S. 42-14 reads as rewritten:

16 **"§ 42-14. Notice to quit in certain tenancies.**

17 A tenancy from year to year may be terminated by a notice to quit given one month  
18 or more before the end of the current year of the tenancy; a tenancy from month to  
19 month by a like notice of seven days; a tenancy from week to week, of two days.  
20 Provided, however, where the tenancy involves only the rental of a space for a  
21 manufactured home as defined in G.S. 143-143.9(6), a notice to quit must be given at  
22 least ~~30~~120 days before the end of the current rental period, regardless of the term of the  
23 tenancy."

24 **SECTION 6.** Chapter 42 of the General Statutes is amended by adding a  
25 new section to read:

26 **"§ 42-14.3. Notice of sale or closure of manufactured home communities.**

27 (a) In the event that an owner of a manufactured home community (defined as a  
28 parcel of land, whether undivided or subdivided, that has been designed to  
29 accommodate at least three manufactured homes) intends to sell or close the  
30 manufactured home community, the owner shall give each resident notice of the  
31 intended sale or closure at least one year before the residents are required to vacate,  
32 regardless of the term of the tenancy. Failure to give notice as required by this section is  
33 a defense in an action for possession.

34 (b) Notwithstanding subsection (a) of this section, if a manufactured home  
35 community is being closed pursuant to a valid order of any unit of state or local  
36 government, the owner of the community shall be required to give notice of the closure  
37 of the community to each resident of the community within three business days of the  
38 date on which the order is issued."

39 **SECTION 7.** G.S. 143-143.10(a) reads as rewritten:

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

- 42 (1) The Commissioner of Insurance or his designee.  
43 (2) A manufactured home manufacturer.  
44 (3) A manufactured home dealer.

- 1 (4) A representative of the banking and finance business.
- 2 (5) A representative of the insurance industry.
- 3 (6) A manufactured home supplier.
- 4 (7) A set-up contractor.
- 5 (8) Two ~~representatives of the general public~~ individuals then living in
- 6 manufactured homes, as defined in G.S. 143-143.9(6).

7 The Commissioner or his designee shall chair the Board. The Governor shall appoint  
8 to the Board the manufactured home manufacturer and the manufactured home dealer.  
9 The General Assembly upon the recommendation of the Speaker of the House of  
10 Representatives in accordance with G.S. 120-121 shall appoint the representative of the  
11 banking and finance industry and the representative of the insurance industry. The  
12 General Assembly upon the recommendation of the President Pro Tempore of the  
13 Senate in accordance with G.S. 120-121 shall appoint the manufactured home supplier  
14 and set-up contractor. The Commissioner shall appoint two ~~representatives of the~~  
15 ~~general public~~ individuals living in manufactured homes after receiving  
16 recommendations from affordable housing advocates. Except for the ~~representatives~~  
17 ~~from the general public~~ individuals living in manufactured homes and the persons  
18 appointed by the General Assembly, each member of the Board shall be appointed by  
19 the appropriate appointing authority from a list of nominees submitted to the appropriate  
20 appointing authority by the Board of Directors of the North Carolina Manufactured  
21 Housing Institute. At least three nominations shall be submitted for each position on the  
22 Board. The members of the Board shall be residents of the State.

23 The members of the Board shall serve for terms of three years. In the event of any  
24 vacancy of a position appointed by the Governor or Commissioner, the appropriate  
25 appointing authority shall appoint a replacement in the same manner as provided for the  
26 original appointment to serve the remainder of the unexpired term. Vacancies in  
27 appointments made by the General Assembly shall be filled in accordance with G.S.  
28 120-122. In the event of any vacancy, the appropriate appointing authority shall appoint  
29 a replacement to serve the remainder of the unexpired term. Such appointment shall be  
30 made in the same manner as provided for the original appointment. No member of the  
31 Board shall serve more than two consecutive, three-year terms.

32 The ~~member~~ two members of the Board ~~representing the general public who live in~~  
33 manufactured homes shall have no beneficial financial interest connected with the  
34 manufactured housing industry. No member of the Board shall participate in any  
35 proceeding before the Board involving that member's own business.

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

1 unexpended funds collected and received during that year. The remaining eighty-five  
2 percent (85%) of these funds shall be credited to the General Fund.

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

- 5 (1) To issue licenses to manufacturers, dealers, salespersons, and set-up  
6 contractors.  
7 (2) To require that an adequate bond or other security be posted by all  
8 licensees, except manufactured housing salespersons.  
9 (3) To receive and resolve complaints from buyers of manufactured homes  
10 and from persons in the manufactured housing industry, in connection  
11 with the warranty, warranty service, licensing requirements or any  
12 other provision under this Article.  
13 (4) To adopt rules in accordance with Chapter 150B of the General  
14 Statutes as are necessary to carry out the provisions of this Article.  
15 (5) To file against the bond posted by a licensee for warranty repairs and  
16 service on behalf of a buyer."

17 **SECTION 8.** G.S. 143-143.10 is amended by adding a new subsection to  
18 read:

19 "(c) The Board shall meet no less than once every three months to conduct  
20 administrative hearings, if necessary, and to discharge any other Board business.  
21 Minutes of all Board meetings and records of all official actions taken by the Board,  
22 including, without limitation, its decisions with respect to any administrative hearing  
23 shall be kept in the Board's public records and posted on the Board's Internet website  
24 within one month of the adjournment of any Board meeting. Additionally, a current list  
25 of the Board's membership and the Board's next scheduled meetings shall be regularly  
26 posted on the Board's Internet website."

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

29 "**§ 143-143.20A. Display of pricing on manufactured homes.**

30 Each manufactured home dealer shall establish, permanently affix, and prominently  
31 display pricing for the manufactured homes offered for sale by the dealer. The prices  
32 shall be displayed in writing and shall be disclosed in advance of negotiations with any  
33 buyer. Each price shall include the cost of the manufactured home and alternative  
34 flooring. In addition, each price display shall include a disclosure that the price does not  
35 include variable costs, including, without limitation, transportation fees or set-up and  
36 installation costs.

37 **SECTION 10.** Chapter 143 of the General Statutes is amended by adding a  
38 new section to read:

39 "**§ 143-143.20B. Disclosure of financing options for manufactured housing.**

40 If a consumer is purchasing a manufactured home that shall be permanently affixed  
41 to land owned by the consumer or on land in which the purchaser of the manufactured  
42 home has a leasehold interest pursuant to a lease with a primary term of at least twenty  
43 20 years, the manufactured housing dealer shall disclose in writing to each consumer the  
44 option of having the manufactured home classified as real property pursuant to G.S. 47-

1 20.7 and the possibility that, pursuant to that classification, the acquisition of the  
2 manufactured home may be financed as real property by a lender. If the consumer elects  
3 to classify the manufactured home as real property, then the closing of the acquisition of  
4 the home shall be classified as a residential real estate transaction."

5 **SECTION 11.** G.S. 143-143.21A reads as rewritten:

6 **"§ 143-143.21A. Purchase agreements; buyer cancellations.**

7 (a) A purchase agreement for a manufactured home shall include all of the  
8 following:

9 (1) A description of the manufactured home and all accessories included  
10 in the purchase.

11 (2) The purchase price for the home and all accessories.

12 (3) The amount of deposit or other payment toward or payment of the  
13 purchase price of the manufactured home and accessories that is made  
14 by the buyer.

15 (4) The date the retail purchase agreement is signed.

16 (5) The estimated terms of financing the purchase, if any, including the  
17 estimated interest rate, number of years financed, and monthly  
18 payment.

19 (6) The buyer's signature.

20 (7) The dealer's signature.

21 (b) The purchase agreement shall contain, in immediate proximity to the space  
22 reserved for the signature of the buyer and in at least ten point, all upper-case Gothic  
23 type, the following statement:

24 "I UNDERSTAND THAT I HAVE THE RIGHT TO CANCEL THIS PURCHASE  
25 BEFORE MIDNIGHT OF THE THIRD BUSINESS DAY AFTER THE DATE THAT  
26 I HAVE SIGNED THIS AGREEMENT. I UNDERSTAND THAT THIS  
27 CANCELLATION MUST BE IN WRITING. IF I CANCEL THE PURCHASE  
28 AFTER THE THREE-DAY PERIOD, I UNDERSTAND THAT THE DEALER MAY  
29 NOT HAVE ANY OBLIGATION TO GIVE ME BACK ALL OF THE MONEY  
30 THAT I PAID THE DEALER. I UNDERSTAND ANY CHANGE TO THE TERMS  
31 OF THE PURCHASE AGREEMENT BY THE DEALER WILL CANCEL THIS  
32 AGREEMENT."

33 (c) At the time the deposit or other payment toward or payment for the purchase  
34 price is received by the dealer, the dealer shall give the buyer a copy of the purchase  
35 agreement and a completed form in duplicate, captioned "Notice of Cancellation,"  
36 which shall be attached to the purchase agreement, be easily detachable, and explain the  
37 buyer's right to cancel the purchase and how that right can be exercised.

38 (d) The dealer shall return the deposit or other payment toward or payment for  
39 the purchase price to the buyer if the buyer cancels the purchase before midnight of the  
40 third business day after the date the buyer signed the purchase ~~agreement~~agreement or  
41 if any of the material terms of the purchase agreement are changed by the dealer. To  
42 make the cancellation effective, the buyer shall give the dealer written notice of the  
43 buyer's cancellation of the purchase. The dealer shall return the deposit or other  
44 payment toward or payment for the purchase price to the buyer within 15 business days

1 after receipt of the notice of ~~cancellation~~ cancellation or within three business days of  
2 any change by the dealer of the purchase agreement. For purposes of this section,  
3 "business day" means any day except Sunday and legal holidays. Each time the dealer  
4 gives the buyer a new set of financing terms, the buyer shall be given another three-day  
5 cancellation period. The dealer shall not commence setup procedures until after the  
6 three-day cancellation period has run.

7 (e) If the buyer cancels the purchase after the three-day cancellation period, but  
8 before the sale is completed, and if:

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

13 (2) The manufactured home is specially ordered from the manufacturer for  
14 the buyer, the dealer may retain actual damages up to the full amount  
15 of the buyer's deposit or other payment received from the buyer.

16 (f) A dealer shall maintain in a segregated escrow fund or trust account any  
17 funds that come into the dealer's possession, but that are not the dealer's property and  
18 that the dealer is not entitled to retain under the circumstances. The escrow fund or trust  
19 account shall be held on deposit at a federally insured financial institution.

20 (g) A dealer may not transfer title to a manufactured home or otherwise sell,  
21 assign, or convey a manufactured home to a consumer unless the dealer delivers to the  
22 consumer a written document disclosing the total purchase price, as adjusted for any  
23 agreed interest rate and any points or fees, and the length of time for any loan  
24 repayment."

25 **SECTION 12.** This act becomes effective July 1, 2003.