

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

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SENATE BILL 941

Short Title: Manufactured Homes Law Changes.

(Public)

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Sponsors: Senators Warren; Albertson, Clodfelter, Cooper, Dannelly, Hoyle, Martin of Guilford, Martin of Pitt, and Rand.

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Referred to: Commerce.

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April 14, 1999

A BILL TO BE ENTITLED

1 AN ACT TO UPDATE THE MANUFACTURED HOUSING BOARD STATUTES, TO  
2 PROVIDE FOR CONTINUING EDUCATION FOR LICENSEES, TO IMPROVE  
3 THE BUYER CANCELLATION LAW, AND TO UPDATE THE LAW ON  
4 MANUFACTURED HOME STANDARDS TO COMPLY WITH FEDERAL LAWS  
5 AND REGULATIONS.  
6

7 The General Assembly of North Carolina enacts:

8 Section 1. Article 9A of Chapter 143 of the General Statutes reads as  
9 rewritten:

10 "ARTICLE 9A.

11 "NORTH CAROLINA MANUFACTURED HOUSING BOARD –  
12 "MANUFACTURED HOME WARRANTIES.

13 "§ 143-143.8. Purpose.

14 The General Assembly finds that ~~mobile-manufactured~~ homes have become a primary  
15 housing resource for many of the citizens of North Carolina. The General Assembly finds  
16 further that it is the responsibility of the ~~mobile-manufactured~~ home industry to provide  
17 homes which are of reasonable quality and safety and to offer warranties to buyers that  
18 provide a means of remedying quality and safety defects in ~~mobile-manufactured~~ homes.

1 The General Assembly also finds that it is in the public interest to provide a means for  
2 enforcing such warranties.

3 Consistent with these findings and with the legislative intent to promote the general  
4 welfare and safety of ~~mobile-manufactured~~ home residents in North Carolina, the General  
5 Assembly finds that the most efficient and economical way to assure safety, quality and  
6 responsibility is to require the licensing and bonding of all segments of the ~~mobile~~  
7 manufactured home industry. The General Assembly also finds that it is reasonable and  
8 proper for the ~~mobile-manufactured~~ home industry to cooperate with the Commissioner of  
9 Insurance, through the establishment of the North Carolina Manufactured Housing Board,  
10 to provide for a comprehensive framework for industry regulations.

11 **"§ 143-143.9. Definitions.**

12 The following words, terms and phrases, when used in this Article, shall have the  
13 meanings respectively ascribed to them in this section, except where the context clearly  
14 indicates a different meaning: definitions apply in this Article:

- 15 (1) ~~"Board" means the Board.~~ – The North Carolina Manufactured Housing  
16 Board.
- 17 (2) ~~"Buyer" means a Buyer.~~ – A person who purchases at retail from a dealer  
18 or manufacturer a manufactured home for personal use as a residence or  
19 other related use.
- 20 (3) ~~"Code" means the appropriate Code.~~ – Engineering standards adopted by  
21 the Commissioner.
- 22 (4) ~~"Commissioner" means the Commissioner.~~ – The Commissioner of  
23 Insurance of the State of North Carolina.
- 24 (5) ~~"Department" means the Department.~~ – The Department of Insurance of  
25 the State of North Carolina.
- 26 (5a) License. – A license issued under this Article.
- 27 (5b) Licensee. – A person who has been issued a license under this Article  
28 by the North Carolina Manufactured Housing Board.
- 29 (6) ~~"Manufactured home" or "mobile home" means a Manufactured home.~~ – A  
30 structure, transportable in one or more sections, which, in the travelling  
31 mode, is eight feet or more in width or is 40 feet or more in length, or  
32 when erected on site, is 320 or more square feet, and which is built on a  
33 permanent chassis and designed to be used as a dwelling with or without  
34 a permanent foundation when connected to the required utilities, and  
35 includes the plumbing, heating, air conditioning and electrical systems  
36 contained therein.
- 37 (7) ~~"Manufactured home dealer" or "dealer" means any Manufactured home~~  
38 dealer or dealer. – Any person engaged in the business of buying, buying  
39 or selling or dealing in manufactured homes or offering or displaying  
40 manufactured homes for sale in North Carolina. Any person who buys,  
41 sells or deals in buys or sells three or more manufactured homes in any  
42 12-month period, or who offers or displays for sale three or more  
43 manufactured homes in any 12-month period shall be presumed to be a

1 manufactured home dealer. The terms 'selling' and 'sale' include lease-  
2 purchase transactions. The term 'manufactured home dealer' does not  
3 include banks and finance companies that acquire manufactured homes  
4 as an incident to their regular business.

5 (8) ~~"Manufactured home manufacturer" or "manufacturer" means any~~  
6 Manufactured home manufacturer or manufacturer. – Any person,  
7 resident or nonresident, who manufactures or assembles manufactured  
8 homes for sale to dealers in North Carolina.

9 (9) ~~"Manufactured home salesman" or "salesman" means any~~  
10 Manufactured home salesperson or salesperson. – Any person employed as a salesman  
11 by a manufactured home dealer to sell manufactured homes to buyers.

12 (10) ~~"Person" means any Person.~~ – Any individual, natural persons, firm,  
13 partnership, association, corporation, legal representative or other  
14 recognized legal entity.

15 (11) ~~"Responsible party" means a~~ Responsible party. A manufacturer, dealer,  
16 supplier, or set-up contractor.

17 (12) ~~"Setup" means the Setup.~~ – The operations performed at the occupancy  
18 site which render a manufactured home fit for habitation. ~~Such~~  
19 ~~operations include, but are not limited to, transportation by a bona fide~~  
20 ~~private or exempt carrier operating under the provisions of the Public~~  
21 ~~Utilities Act, positioning, blocking, leveling, supporting, tying down,~~  
22 ~~connecting utility systems, making minor adjustments, or assembling~~  
23 ~~multiple or expandable units. Such operations do not include lawful~~  
24 ~~transportation services performed by public utilities operating under~~  
25 ~~certificates or permits issued by the North Carolina Utilities~~  
26 ~~Commission.~~

27 (13) ~~"Set up contractor" means a~~ Set-up contractor. – A person who engages in  
28 the business of performing ~~set up operations~~ setups for compensation in  
29 North Carolina.

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

36 (15) ~~"Supplier" means the~~ Supplier. – The original producer of completed  
37 components, including refrigerators, stoves, hot water heaters,  
38 dishwashers, cabinets, air conditioners, heating units, and similar  
39 components, and materials such as floor coverings, panelling, siding,  
40 trusses, and similar materials, which are furnished to a manufacturer or  
41 dealer for installation in the manufactured home prior to sale to a buyer.

42 **"§ 143-143.10. Manufactured Housing Board created; membership; terms;**  
43 **meetings.**

1 (a) There is hereby created the North Carolina Manufactured Housing Board  
2 within the ~~Department of Insurance~~ Department. The Board shall be composed of nine  
3 members as follows:

- 4 (1) The Commissioner of Insurance or his ~~designee~~ designee.
- 5 (2) A manufactured home ~~manufacturer~~ manufacturer.
- 6 (3) A manufactured home ~~dealer~~ dealer.
- 7 (4) A representative of the banking and finance ~~business~~ business.
- 8 (5) A representative of the insurance ~~industry~~ industry.
- 9 (6) A manufactured home ~~supplier~~ supplier.
- 10 (7) A set-up ~~contractor~~ contractor.
- 11 (8) Two representatives of the general public.

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

26 The members of the Board shall serve for terms of three years ~~to begin on October 1,~~  
27 ~~1981, except that the persons appointed by the General Assembly upon the~~  
28 ~~recommendation of the Speaker shall serve two year terms to expire on September 30,~~  
29 ~~1985, and the persons appointed by the General Assembly upon the recommendation of~~  
30 ~~the President Pro Tempore of the Senate shall serve for three year terms to expire on~~  
31 ~~September 30, 1986.~~ years. In the event of any vacancy of a position appointed by the  
32 Governor or ~~Commissioner of Insurance~~, Commissioner, the appropriate appointing  
33 authority shall appoint a replacement in the same manner as provided for the original  
34 appointment to serve the remainder of the unexpired term. Vacancies in appointments  
35 made by the General Assembly shall be filled in accordance with G.S. 120-122. In the  
36 event of any vacancy, the appropriate appointing authority shall appoint a replacement to  
37 serve the remainder of the unexpired term. Such appointment shall be made in the same  
38 manner as provided for the original appointment. No member of the Board shall serve  
39 more than two consecutive, three-year terms.

40 The member of the Board representing the general public shall have no financial  
41 interest connected with the manufactured housing industry. No member of the Board  
42 shall participate in any proceeding before the Board involving that member's own  
43 business.

1 Each member of the Board, except the Commissioner ~~of Insurance~~ and any other State  
2 employee, shall receive per diem and allowances as provided with respect to occupational  
3 licensing boards by G.S. 93B-5. All per diem and travel expenses shall be paid  
4 exclusively out of the fees received by the Board as authorized by this Article. In no case  
5 shall any salary, expense, or other obligation of the Board be charged against the ~~Treasury~~  
6 General Fund of the State of North Carolina. All moneys and receipts shall be kept in a  
7 special fund by and for the use of the Board for the exclusive purpose of carrying out the  
8 provisions of this Article. Unexpended funds shall not revert to the General Fund.

9 (b) In accordance with the provisions of this Article, the ~~North Carolina~~  
10 ~~Manufactured Housing Board~~ shall have the following powers and duties:

11 (1) To issue licenses to manufacturers, dealers, ~~salesmen~~ salespersons, and  
12 ~~set-up contractors;~~ contractors.

13 (2) To require that an adequate bond or other security be posted by all  
14 licensees, except manufactured housing ~~salesmen;~~ salespersons.

15 (3) To receive and resolve complaints from buyers of manufactured homes  
16 and from persons in the manufactured housing industry, in connection  
17 with the warranty, warranty service, licensing requirements or any other  
18 provision under this ~~Article;~~ and Article.

19 (4) To ~~promulgate~~ adopt rules in accordance with Chapter 150B of the  
20 General Statutes as are necessary to carry out the provisions of this  
21 Article.

22 (5) To file against the bond posted by a licensee for warranty repairs and  
23 service on behalf of a buyer.

24 **"§ 143-143.11. License required; application for license.**

25 (a) It shall be unlawful for any manufactured home manufacturer, dealer, ~~salesman~~  
26 salesperson, or set-up contractor to engage in business as such in this State without first  
27 obtaining a license from the Board, as provided in this Article. The fact that a person is  
28 licensed by the Board as a set-up contractor or a dealer does not preempt any other  
29 licensing boards' applicable requirements for that person.

30 (b) Application for ~~such~~ the license shall be made to the Board at such time, in  
31 such form, and contain ~~such~~ information as the Board ~~shall require,~~ requires, and shall be  
32 accompanied by the ~~required~~ fee established by the Board. ~~Such~~ The fee shall not exceed  
33 three hundred dollars (\$300.00) for any license.

34 (c) In ~~such~~ the application, the Board shall require information relating to the  
35 matters set forth in G.S. 143-143.13 as grounds for refusal of a license, and information  
36 relating to other pertinent matters consistent with safeguarding the public interest. All  
37 ~~such~~ of this information shall be considered by the Board in determining the fitness of the  
38 ~~applicant to engage in the business for which a license is sought.~~ applicant.

39 (d) All licenses ~~that are granted~~ shall expire, unless ~~sooner~~ revoked or suspended, on  
40 June 30 of each year following the date of issue.

41 (e) Every ~~registrant under this Chapter~~ licensee shall, on or before the first day of  
42 July of each year, obtain a renewal of a license for the ~~ensuing~~ next year, by application,  
43 accompanied by the required ~~fee;~~ and upon fee. Upon failure to renew, ~~his~~ a license shall

1 automatically ~~expire; but such~~ expires. The license may be renewed at any time within one  
2 year upon payment of the ~~prescribed renewal fee and upon evidence satisfactory to the Board~~  
3 ~~that the applicant has not engaged in business as a manufactured home manufacturer, dealer,~~  
4 ~~salesman or set-up contractor after expiration of the license and is otherwise eligible for~~  
5 ~~registration under the provisions of this Chapter.~~ renewal fee.

6 (f) Supplemental licenses shall be issued for each place of business, operated or  
7 proposed to be operated by the licensee, that is not contiguous to other premises for  
8 which a license is issued. The fee for a supplemental license shall be established by the  
9 Board and shall not exceed three hundred dollars (\$300.00), provided that no  
10 supplemental license shall be required for a place of business operated by a licensee that  
11 is used exclusively for storage.

12 (g) Notwithstanding the provisions of subsection (a), the Board may provide by  
13 rule that a manufactured home ~~salesman~~ salesperson will be allowed to engage in business  
14 during the time period after making application for a license but before such license is  
15 granted.

16 (h) ~~To obtain~~ As a prerequisite to obtaining a license under this Article, a person  
17 ~~must~~ may be required to pass an examination prescribed by the Board that is based on the  
18 North Carolina Manufactured/Mobile Home Regulations and Administrative Procedures required  
19 to enforce the Codes. Code, this Article, and any other subject matter considered relevant  
20 by the Board.

21 **"§ 143-143.11A. Notification of change of address; service of notice.**

22 (a) Every applicant for a license shall inform the Board of the applicant's business  
23 address. Every licensee shall give written notification to the Board of any change in the  
24 licensee's business address, for whatever reason, within 10 business days after the  
25 licensee moves to a new address or a change in the address takes place. A violation of  
26 this subsection shall not constitute grounds for revocation, suspension, or non-renewal of  
27 a license or for the imposition of any other penalty by the Board.

28 (b) Notwithstanding any other provision of law, whenever the Board is authorized  
29 or required to give notice to a licensee under this Article, the notice may be delivered  
30 personally to the licensee or sent by first-class mail to the licensee at the address provided  
31 to the Board under subsection (a) of this section. Notice shall be deemed given four days  
32 after mailing, and any Department employee may certify that notice has been given.

33 **"§ 143-143.11B. Continuing education.**

34 (a) The Board may establish programs and requirements of continuing education  
35 for licensees, but shall not require licensees to complete more than eight credit hours of  
36 continuing education. Prior to the renewal of a license, a licensee shall present evidence  
37 to the Board that he or she has completed the required number of continuing education  
38 hours in courses approved by the Board during the two months immediately preceding  
39 the expiration of his or her license.

40 (b) The Board may establish nonrefundable fees for the purpose of providing staff  
41 and resources to administer continuing education programs, and may establish  
42 nonrefundable course application fees, not to exceed one hundred fifty dollars (\$150.00),  
43 for the Board's review and approval of proposed continuing education courses. The

1 Board may charge the sponsor of an approved course a nonrefundable fee not to exceed  
2 seventy-five dollars (\$75.00) for the annual renewal of course approval. The Board may  
3 also require a course sponsor to pay a fee, not to exceed five dollars (\$5.00) per credit  
4 hour per licensee, for each licensee completing an approved continuing education course  
5 conducted by the sponsor. The Board may award continuing education credit for an  
6 unapproved course or related educational activity and may prescribe procedures for a  
7 licensee to submit information on an unapproved course or related educational activity  
8 for continuing education credit and may charge the licensee a fee not to exceed fifty  
9 dollars (\$50.00) for each course or activity submitted. Any unexpended revenue from the  
10 fees shall not revert to the General Fund.

11 (c) The Board may adopt any reasonable rules not inconsistent with this Article to  
12 give purpose and effect to the continuing education requirement, including rules that  
13 govern:

- 14 (1) The content and subject matter of continuing education courses.
- 15 (2) The criteria, standards, and procedures for the approval of courses,  
16 course sponsors, and course instructors.
- 17 (3) The methods of instruction.
- 18 (4) The computation of course credit.
- 19 (5) The ability to carry forward course credit from one year to another.
- 20 (6) The waiver of or variance from the continuing education requirement  
21 for hardship or other reasons.
- 22 (7) The procedures for compliance and sanctions for noncompliance.

23 (d) The license of any person who fails to comply with the continuing education  
24 requirements under this section shall lapse. The Board may, for good cause shown, grant  
25 extensions of time to licensees to comply with these requirements. Any licensee who,  
26 after obtaining an extension, offers evidence satisfactory to the Board that he or she has  
27 satisfactorily completed the required continuing education courses shall be deemed in  
28 compliance with this section.

29 **"§ 143-143.12. Bond required.**

30 (a) A person licensed as a manufactured home ~~salesman~~ salesperson shall not be  
31 required to furnish a bond, but each applicant approved by the Board for license as a  
32 manufacturer, dealer, or set-up contractor shall furnish a corporate surety bond, cash  
33 bond or fixed value equivalent ~~thereof~~ in the following amounts:

- 34 (1) For a ~~manufactured,~~ manufacturer, two thousand dollars (\$2,000) per  
35 manufactured home manufactured in the prior license year, up to a  
36 maximum of one hundred thousand dollars (\$100,000). When no  
37 manufactured homes were produced in the prior year, the amount  
38 required shall be based on the estimated number of manufactured homes  
39 to be produced during the current ~~year,~~ year.
- 40 (2) For a dealer ~~who buys, sells, or deals in manufactured homes and~~ who has  
41 four or less places of business, the amount shall be twenty-five thousand  
42 dollars ~~(\$25,000);~~ (\$25,000).

1 (3) For a dealer ~~who buys, sells, or deals in manufactured homes and who has~~  
2 more than four places of business, the amount shall be fifty thousand  
3 dollars ~~(\$50,000);~~ (\$50,000).

4 (4) For a set-up contractor, the amount shall be five thousand dollars  
5 (\$5,000).

6 (b) A corporate surety bond shall be approved by the Board as to form and shall be  
7 conditioned upon the obligor faithfully conforming to and abiding by the provisions of  
8 this Article. A cash bond or fixed value equivalent ~~thereof~~ shall be approved by the Board  
9 as to form and terms of deposits in order to secure the ultimate beneficiaries of the bond.  
10 A corporate surety bond shall be for a one-year period, and a new bond or a proper  
11 continuation certificate shall be delivered to the Board at the beginning of each  
12 subsequent one-year period.

13 (c) Any buyer of a manufactured home who suffers any loss or damage by any act  
14 of a licensee that constitutes a violation of this Article ~~shall have the right to~~ may institute  
15 an action to recover against ~~such~~ the licensee and the surety.

16 (d) The Board may adopt rules to assure satisfaction of claims.

17 **"§ 143-143.13. Grounds for denying, ~~suspending~~ suspending, or revoking license.**  
18 **licenses; civil penalties.**

19 (a) A license may be denied, suspended or revoked by the Board on any one or  
20 more of the following grounds:

21 (1) ~~Material~~ Making a material misstatement in application for ~~license;~~  
22 license.

23 (2) ~~Failure~~ Failing to post an adequate corporate surety bond, cash bond or  
24 fixed value ~~equivalent thereof;~~ equivalent.

25 (3) Engaging in the business of manufactured home manufacturer, dealer,  
26 ~~salesman~~ salesperson, or set-up contractor without first obtaining a  
27 license from the ~~Board;~~ Board.

28 (4) ~~Failure~~ Failing to comply with the warranty service obligations and  
29 claims procedure established by this ~~Article;~~ Article.

30 (5) ~~Failure~~ Failing to comply with the ~~set-up and tie-down~~ set-up  
31 requirements established by this ~~Article;~~ Article.

32 (6) ~~Having knowingly failed or refused~~ Failing or refusing to account for or to  
33 pay over moneys or other valuables belonging to others ~~which~~ that have  
34 come into licensee's possession arising out of the sale of manufactured  
35 ~~homes;~~ homes.

36 (7) ~~Use of~~ Using unfair methods of competition or committing unfair or  
37 deceptive ~~commercial~~ acts or ~~practices;~~ practices.

38 (8) ~~Failure~~ Failing to comply with any provision of this ~~Article;~~ Article.

39 (9) ~~Failure~~ Failing to appear for a hearing before the Board or for a  
40 prehearing conference with a person or persons designated by the Board  
41 upon due after proper notice or failing to follow directives comply with  
42 orders of the Board issued pursuant to this Article; Article.

43 (10) Employing unlicensed ~~retail salesmen;~~ salespersons.



1 (11) ~~Knowingly offering for sale the products of manufacturers who are not~~  
2 ~~licensed pursuant to this Article or selling, to dealers not licensed~~  
3 ~~pursuant to this Article, manufactured homes which are to be sold in this~~  
4 ~~State to buyers as defined in this Article; Offering for sale manufactured~~  
5 ~~homes manufactured or assembled by unlicensed manufacturers or~~  
6 ~~selling manufactured homes to unlicensed dealers for sale to buyers in~~  
7 ~~this State.~~

8 (12) Conviction of a felony or any crime involving moral ~~turpitude;~~ turpitude.

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

14 (14) ~~Knowingly engaging~~ Employing or contracting with any person to  
15 perform set-up operations setups who is not licensed by the Board as a  
16 set-up contractor.

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

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

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

35 "~~§ 143-143.14. Notice and hearing.~~ Hearings; rules.

36 (a) License suspensions, revocations, and renewal refusals are subject to the  
37 provisions of Chapter 150B of the General Statutes.

38 (b) If the Board finds that an applicant has not met the requirements for licensure,  
39 the Board shall refuse to issue the applicant a license and shall notify the applicant in  
40 writing of the denial and the grounds for the denial. The application may also be denied  
41 for any reason for which a license may be suspended or revoked or not renewed under  
42 G.S. 143-143.13. Within 30 days after receipt of a notification that an application for a  
43 license has been denied, the applicant may make a written request for a review by a

1 member of the Department staff designated by the ~~chairman~~ chair of the Board to  
2 determine the reasonableness of the Board's action. The review shall be completed  
3 without undue delay, and the applicant shall be notified promptly in writing as to the  
4 outcome of the review. Within 30 days after service of the notification as to the outcome,  
5 the applicant may make a written request for a hearing under Article 3A of Chapter 150B  
6 of the General Statutes if the applicant disagrees with the outcome.

7 (c) The Board may adopt rules for hearings and prehearing conferences under this  
8 Article, and the rules may include provisions for prefiled evidence, the use of evidence,  
9 testimony of parties, prehearing statements, prehearing conference procedures, settlement  
10 conference procedures, discovery, subpoenas, sanctions, motions, intervention,  
11 consolidation of cases, continuances, and the rights and responsibilities of parties and  
12 witnesses.

13 "**§ 143-143.15. ~~Seth~~ (a) Manufactured homes shall be set up and anchored in**  
14 **accordance with the standards adopted by the Commissioner.**

15 (b) ~~In the event that~~ If a manufactured home is insured against damage caused by  
16 windstorm and subsequently sustains windstorm damage ~~of a nature that~~ indicates the  
17 manufactured home was not ~~anchored or tied down~~ set up in the manner required by this  
18 section, the insurer issuing the ~~homeowner's~~ insurance policy on the manufactured home  
19 shall not be relieved from meeting the obligations specified in the insurance policy with  
20 respect to such damage on the basis that the ~~mobile~~ manufactured home was not properly  
21 ~~anchored or tied down~~ set up.

22 "**§ 143-143.16. Warranties.**

23 Each manufacturer, dealer and supplier of manufactured homes shall warrant each  
24 new manufactured home sold in this State ~~and the setup of each such manufactured home in~~  
25 accordance with the warranty requirements prescribed by this section for a period of at  
26 least 12 months, measured from the date of delivery of the manufactured home to the  
27 buyer. The warranty requirements for each manufacturer, dealer, supplier and set-up  
28 contractor of manufactured homes are as follows:

29 (1) The manufacturer warrants that all structural elements, plumbing  
30 systems, heating, cooling and fuel burning systems, electrical systems,  
31 and any other components included by the manufacturer are  
32 manufactured and installed free from substantial ~~defect~~ defects.

33 (2) The dealer warrants:

34 a. That any modifications or alterations made to the manufactured  
35 home by the dealer or authorized by the dealer are free from  
36 substantial defects. Alterations or modifications made by a dealer  
37 shall relieve the manufacturer of warranty responsibility as to the  
38 item altered or modified and any ~~damage resulting therefrom~~  
39 resulting damage.

40 b. That ~~set-up operations~~ a setup performed by the dealer on the  
41 manufactured home ~~are~~ is performed in compliance with  
42 ~~applicable standards adopted by the Commissioner for the~~  
43 ~~installation of manufactured homes~~ the Code.

1 c. ~~That, during the course of setup~~ That the setup and transportation of  
2 the manufactured home performed by the dealer, substantial defects  
3 do not occur to the manufactured home. dealer did not result in  
4 substantial defects.

5 (3) The supplier warrants that any warranties generally offered in the  
6 ordinary sale of his product to consumers shall be extended to buyers of  
7 manufactured homes. The manufacturer's warranty shall remain in  
8 effect notwithstanding the existence of a supplier's warranty.

9 (4) The set-up contractor warrants that ~~set-up operations are performed the~~  
10 manufactured home is set up in compliance with applicable standards  
11 adopted by the Commissioner for the installation of manufactured  
12 homes, the Code and that during the course of set-up operations  
13 performed on the manufactured home, substantial defects do not occur  
14 to the manufactured home. the setup did not result in any substantial  
15 defects.

16 **"§ 143-143.17. Presenting claims for warranties and substantial defects.**

17 (a) Whenever a claim for warranty service or about a substantial defect is made to  
18 a licensee, it shall be handled as provided ~~by~~ in this Article. ~~A~~ The licensee shall make a  
19 record shall be made of the name and address of each claimant and the date, substance,  
20 and disposition of each claim about a substantial defect. The licensee may request that a  
21 claim be in writing, but must nevertheless record it as provided above, and may not delay  
22 service pending receipt of the written claim.

23 (b) When the licensee notified is not the responsible party, he shall in writing  
24 immediately notify the claimant ~~of that fact, and shall also in writing immediately notify and~~  
25 the responsible party of the claim. When a responsible party is asked to remedy defects, it  
26 may not fail to remedy those defects because another party may also be responsible.  
27 ~~Nothing herein shall prevent such~~ in this section prevents a party from obtaining  
28 compensation by way of contribution or subrogation from another responsible party in  
29 accordance with any other provision of law or contract.

30 (c) Within the time limits provided in this Article, the licensee shall either resolve  
31 the claim or determine that it is not justified. At any time a licensee determines that a  
32 claim for warranty service is not justified in whole or in part he shall immediately notify  
33 the claimant in writing that the claim or part of the claim is rejected and why, and shall  
34 inform the claimant that he is entitled to complain to the Board, for which a complete  
35 mailing address shall be provided. ~~Within five working days of its receipt of a complaint, the~~  
36 ~~Board shall send a complete copy thereof to the Attorney General and to the Commissioner of~~  
37 ~~Insurance.~~

38 **"§ 143-143.18. Warranty service.**

39 (a) When a service agreement exists between or among a manufacturer, dealer and  
40 supplier to provide warranty service, the agreement shall specify which party is to  
41 remedy warranty defects. Every ~~such~~ service agreement shall be in writing. Nothing  
42 contained in such an agreement shall relieve the responsible party, as provided by this  
43 Article, of responsibility to perform warranty service. However, any licensee undertaking

1 by such agreement to perform the warranty service obligations of another shall thereby  
2 himself become responsible both to that other licensee and to the buyer for his failure  
3 adequately to perform as agreed.

4 (b) When no service agreement exists for warranty service, the responsible party  
5 as designated by ~~the provisions of this Article~~ is responsible for remedying the warranty  
6 defect.

7 (c) A substantial defect shall be remedied within 45 days ~~of~~ after the receipt of  
8 written notification from the claimant. If no written notification is given, the defect shall  
9 be remedied within 45 days ~~of~~ after the mailing of notification by the Board, unless the  
10 claim is unreasonable or bona fide reasons exist for not remedying the defect within the  
11 45-day period. The responsible party shall respond to the claimant in writing with a copy  
12 to the Board stating its reasons for not promptly remedying the defect and stating what  
13 further action is contemplated by the responsible party. Notwithstanding the foregoing  
14 provisions of this subsection, defects, which constitute an imminent safety hazard to life  
15 and health shall be remedied within five working days of receipt of the written  
16 notification of the warranty claim. An imminent safety hazard to life and health shall  
17 include but not be limited to (i) inadequate heating in freezing weather; (ii) failure of  
18 sanitary facilities; (iii) electrical shock, leaking gas; or (iv) major structural failure. The  
19 Board may suspend this five-day time period in the event of widespread defects or  
20 damage resulting from adverse weather conditions or other natural catastrophes.

21 (d) When the person remedying the defect is not the responsible party as  
22 designated by the provisions of this Article, he shall be entitled to reasonable  
23 compensation paid to him by the responsible party. Conduct ~~which~~ that coerces or  
24 requires a nonresponsible party to perform warranty service is a violation of this Article.

25 (e) Warranty service shall be performed at the site at which the ~~mobile~~  
26 manufactured home is initially delivered to the buyer, except for components which can  
27 be removed for service without substantial expense or inconvenience to the buyer.

28 (f) Any dealer, manufacturer or supplier ~~shall have the right to~~ may complain to the  
29 Board when warranty service obligations under this Article are not being enforced.

30 **"§ 143-143.19. Dealer alterations.**

31 (a) No alteration or modification shall be made to a manufactured home by a  
32 dealer after shipment from the manufacturer's plant, unless such alteration or  
33 modification is authorized by this Article or the manufacturer. The dealer shall ensure  
34 that all authorized alterations and modifications are performed, if so required, by  
35 qualified persons as defined in subsection (d). An unauthorized alteration or modification  
36 performed by a ~~manufactured home~~ dealer or his agent or employee shall place primary  
37 warranty responsibility for the altered or modified item upon the dealer. If the  
38 manufacturer fulfills or is required to fulfill the warranty on the altered or modified item,  
39 he shall be entitled to recover damages in the amount of his cost and attorney's fee from  
40 the dealer.

41 (b) An unauthorized alteration or modification of a manufactured home by the  
42 owner or his agent shall relieve the manufacturer of responsibility to remedy defects  
43 caused by such alteration or modification. A statement to this effect, together with a

1 warning specifying those alterations or modifications which should be performed only by  
2 qualified personnel in order to preserve warranty protection, shall be displayed clearly  
3 and conspicuously on the face of the warranty. Failure to display such statement shall  
4 result in warranty responsibility on the manufacturer.

5 (c) The Board is authorized to ~~promulgate~~ adopt rules in accordance with Chapter  
6 150B of the General Statutes ~~which~~ that define the alterations or modifications which  
7 must be made by qualified personnel. The Board may require qualified personnel only for  
8 those alterations and modifications which could substantially impair the structural  
9 integrity or safety of the manufactured home.

10 (d) In order to be designated as a person qualified to alter or modify a  
11 manufactured home, a person must comply with State licensing or competency  
12 requirements in skills relevant to performing alterations or modifications on  
13 manufactured homes.

14 **"§ 143-143.20. Disclosure of manner used in determining length of manufactured**  
15 **homes.**

16 In any advertisement or other communication regarding the length of a manufactured  
17 home, a manufacturer or dealer shall not include the coupling mechanism in describing  
18 the length of the home.

19 "§ 143-143.21: **Repealed by Session Laws 1993, c. 409, s. 6, and applicable to**  
20 **purchase agreements executed on or after that date.**

21 **"§ 143-143.21A. Refund of buyer deposit. Purchase agreements; buyer cancellations.**

22 (a) ~~A dealer shall record the following information in a retail~~ A purchase agreement for  
23 a manufactured home: home shall include all of the following:

- 24 (1) A description of the manufactured home and all accessories included in  
25 the ~~purchase;~~ purchase.
- 26 (2) The purchase price for the home and all ~~accessories;~~ accessories.
- 27 (3) The amount of ~~deposit;~~ deposit or other payment toward or payment of  
28 the purchase price of the manufactured home and accessories that is  
29 made by the buyer.
- 30 (4) The date the retail purchase agreement is ~~signed;~~ and signed.
- 31 (5) The estimated terms of financing the purchase, if any, including the  
32 estimated interest rate, number of years financed, and monthly payment.
- 33 (6) The buyer's signature.
- 34 (7) The dealer's signature.

35 (b) ~~A dealer must present to the buyer and obtain his signature to a retail purchase~~  
36 ~~agreement at the time the deposit is received.~~ The purchase agreement shall contain, in  
37 immediate proximity to the space reserved for the signature of the buyer and in at least  
38 ten point, all upper-case Gothic type, a statement in substantially the following form:  
39 statement:

40 'I UNDERSTAND THAT I HAVE THE RIGHT TO CANCEL THIS  
41 PURCHASE ~~PRIOR TO~~ BEFORE MIDNIGHT OF THE THIRD  
42 BUSINESS DAY AFTER THE DATE THAT I HAVE SIGNED THIS  
43 AGREEMENT. I UNDERSTAND THAT THIS CANCELLATION

1           MUST BE IN WRITING. IF I ~~ATTEMPT TO CANCEL~~ THE PURCHASE  
2           AFTER THE THREE-DAY PERIOD, I UNDERSTAND THAT THE  
3           DEALER ~~HAS NO~~ MAY NOT HAVE ANY OBLIGATION TO REFUND  
4           THE ~~ENTIRE AMOUNT OF MY DEPOSIT.~~ 'GIVE ME BACK ALL OF  
5           THE MONEY THAT I PAID THE DEALER.'

6           (c) ~~The~~ At the time the deposit or other payment toward or payment for the  
7           purchase price is received by the dealer, the dealer must ~~shall~~ give to the buyer a copy of  
8           the purchase agreement ~~along with and~~ a completed form in duplicate, captioned 'Notice  
9           of ~~Cancellation~~, Cancellation,' which shall be attached to the purchase agreement, be  
10          easily detachable, and ~~shall explain in plain English~~ the buyer's right to cancel the  
11          ~~agreement purchase~~ and how that right can be exercised.

12          (d) ~~A dealer~~ The dealer shall refund to a buyer the full amount of a deposit on the  
13          ~~purchase of a manufactured home~~ return the deposit or other payment toward or payment  
14          for the purchase price to the buyer if the buyer cancels the purchase before midnight of  
15          the third business day after the date the buyer signed the purchase agreement. ~~In order to~~  
16          ~~make an effective cancellation, the buyer must notify the dealer, in writing, of the buyer's intent~~  
17          ~~to cancel the purchase agreement.~~ To make the cancellation effective, the buyer shall give  
18          the dealer written notice of the buyer's cancellation of the purchase. The dealer shall  
19          ~~make the refund promptly and, in any event, return the deposit or other payment toward or~~  
20          payment for the purchase price to the buyer within 15 business days ~~from~~ after receipt of  
21          the notice of cancellation. For purposes of this section, 'business day' ~~shall mean Monday~~  
22          ~~through Saturday, excluding~~ means any day except Sunday and legal holidays.

23          (e) If the buyer cancels the purchase ~~agreement~~ after the three-day cancellation  
24          period, but before the home is delivered to the buyer, ~~then, sale is completed, and if:~~

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

29           (2) ~~If the~~ The manufactured home is specially ordered from the  
30           manufacturer for the buyer, the dealer may retain actual damages up to  
31           the full amount of the buyer's ~~deposit.~~ deposit or other payment received  
32           from the buyer.

33          **"§ 143-143.22. Inspection of service records.**

34          The Board ~~is authorized to~~ may inspect the ~~pertinent~~ service records of a manufacturer,  
35          dealer, supplier or set-up contractor relating to a written warranty claim or complaint  
36          made to the Board against ~~such~~ the manufacturer, dealer, supplier, or set-up contractor.  
37          Every licensee shall send to the Board upon request within 10 days a ~~true~~ copy of every  
38          document or record pertinent to any complaint or claim for service.

39          **"§ 143-143.23. Other remedies not excluded.**

40          Nothing in this ~~Article nor~~ Article, rules adopted by the Board, or any decision by  
41          action of the Board shall limit any right or remedy available to the buyer ~~at common law or~~  
42          ~~under any other statute, nor limit or~~ any power or duty of the Attorney General.

43          **"§ 143-143.24. Engaging in business without license a Class 1 misdemeanor.**

1 If any person shall unlawfully act as a manufactured home manufacturer, dealer,  
2 ~~salesman, salesperson,~~ or set-up contractor without first obtaining a license from the North  
3 Carolina Manufactured Housing Board, as provided in this Article, he shall be guilty of a  
4 Class 1 misdemeanor.

5 **"§ 143-143.25. Staff support for Board.**

6 The Manufactured ~~Housing-Building~~ Division of the Department shall provide clerical  
7 and other staff services required by the Board; and shall administer and enforce all  
8 provisions of this Article and all rules adopted under this Article, subject to the direction  
9 of the Board; except for powers and duties delegated by this Article to local units of  
10 government, other State agencies, or to any persons."

11 Section 2. Article 9B of Chapter 143 of the General Statutes reads as  
12 rewritten:

13 **"ARTICLE 9B.**

14 **"UNIFORM STANDARDS CODE FOR MANUFACTURED HOMES.**

15 **"§ 143-144. Short title.**

16 This Article shall be known and may be cited as 'The Uniform Standards Code for  
17 Manufactured Homes Act.'

18 **"§ 143-145. Definitions.**

19 The following definitions apply in this Article:

20 ~~Unless clearly indicated otherwise by context, the following words when used in this~~  
21 ~~Article, for the purpose of this Article, shall have the meanings respectively ascribed to~~  
22 ~~them in this section:~~

23 (1) ~~"Certificate of compliance" means a certificate issued by an~~  
24 ~~inspection department approved and licensed by the Council as being~~  
25 ~~competent which certificate shall be valid only within the jurisdiction~~  
26 ~~of the inspection department and on which certificate shall be~~  
27 ~~recorded:~~

28 a. ~~The inspection department issuing such certificate;~~

29 b. ~~The date of issue;~~

30 c. ~~The serial or other identification number of such manufactured~~  
31 ~~home and the name of the manufacturer;~~

32 d. ~~A certification that such manufactured home was on the day of~~  
33 ~~inspection so opened that its entire structural, electrical, heating,~~  
34 ~~plumbing and air-conditioning systems could be closely observed~~  
35 ~~and inspected;~~

36 e. ~~A certification that said manufactured home complies in full with~~  
37 ~~the standards and rules and regulations prescribed in this Article.~~

38 Act. – The National Manufactured Housing Construction and Safety  
39 Standards Act of 1974, 42 U.S.C. § 5401, et seq., federal regulations  
40 adopted under the Act, and any laws enacted by the United States  
41 Congress that supersede or supplement the Act.

- 1           (2) ~~"Commissioner" means the Commissioner. – The Commissioner of~~  
2           Insurance of the State of North Carolina ~~Carolina or an authorized~~  
3           ~~designee of the Commissioner.~~
- 4           (3) ~~"Competent" shall mean competent to technically evaluate, test, and~~  
5           ~~inspect in accordance with the standards, rules and regulations~~  
6           ~~prescribed in this Article: the structural features, the plumbing, heating,~~  
7           ~~electrical and air conditioning systems and the materials used in the~~  
8           ~~construction of a manufactured home.~~
- 9           (4) ~~"Council" means the North Carolina State Building Code Council. HUD. –~~  
10           ~~The United States Department of Housing and Urban Development or~~  
11           ~~any successor agency.~~
- 12           (5) ~~"Inspection department" means a Inspection department. – A North~~  
13           ~~Carolina city or county building inspection department authorized by~~  
14           ~~Chapter 160-160A or Chapter 153-153A of the General Statutes.~~
- 15           (6) ~~"Label of compliance" shall mean a permanent label or seal permanently~~  
16           ~~attached to a manufactured home at completion of construction thereof~~  
17           ~~which is issued by any independent, solvent, and trustworthy person~~  
18           ~~approved and licensed by the Council as being competent and as having~~  
19           ~~and utilizing initial and follow up manufacturing inspection services~~  
20           ~~which provide the highest degree of quality control, and on which seal~~  
21           ~~or label shall be recorded:~~
- 22           a. ~~The person issuing such label or seal and the serial number of the~~  
23           ~~label or seal;~~
- 24           b. ~~The serial or other identification number of said manufactured~~  
25           ~~home;~~
- 26           c. ~~A certification that said manufactured home was evaluated,~~  
27           ~~tested, and inspected in accordance with the standards and rules~~  
28           ~~and regulations prescribed in this Article.~~
- 29           Label. – The form of certification required by HUD to be permanently  
30           affixed to each transportable section of each manufactured home  
31           manufactured for sale to a purchaser in the United States to indicate that  
32           the manufactured home conforms to all applicable federal construction  
33           and safety standards.
- 34           (7) ~~"Manufactured home" means a Manufactured home. – A structure,~~  
35           ~~transportable in one or more sections, which in the traveling mode is~~  
36           ~~eight body feet or more in width, or 40 body feet or more in length, or,~~  
37           ~~when erected on site, is 320 or more square feet; and which is built on a~~  
38           ~~permanent chassis and designed to be used as a dwelling, with or~~  
39           ~~without permanent foundation when connected to the required utilities,~~  
40           ~~including the plumbing, heating, air conditioning and electrical systems~~  
41           ~~contained therein. 'Manufactured home' includes any structure that~~  
42           ~~meets all of the requirements of this subsection except the size~~  
43           ~~requirements and with respect to which the manufacturer voluntarily~~



1 files a certification required by the Secretary of the ~~United States~~  
2 ~~Department of Housing and Urban Development HUD~~ and complies with  
3 the standards established under the ~~National Manufactured Housing~~  
4 ~~Construction and Safety Standards Act of 1974, 42 U.S.C. §5401, et seq. Act.~~

5 For manufactured homes built ~~prior to~~ before June 15, 1976,  
6 'manufactured home' means a portable manufactured housing unit  
7 designed for transportation on its own chassis and placement on a  
8 temporary or semipermanent foundation having a measurement of over  
9 32 feet in length and over eight feet in width. 'Manufactured home' also  
10 means a double-wide manufactured home, which is two or more  
11 portable manufactured housing units designed for transportation on their  
12 own chassis that connect on site for placement on a temporary or  
13 semipermanent foundation having a measurement of over 32 feet in  
14 length and over eight feet in width.

15 (8) ~~"Person" means any corporation, partnership, association, voluntary~~  
16 ~~organization or governmental agency of the United States or any state~~  
17 ~~therein and does not mean an individual natural person.~~

18 **"§ 143-146. Statement of policy; rule-making power.**

19 (a) Manufactured homes, because of the manner of their construction, assembly  
20 and use and that of their systems, components and appliances (including heating,  
21 plumbing and electrical systems) like other finished products having concealed vital parts  
22 may present hazards to the health, life and safety of persons and to the safety of property  
23 unless properly manufactured. In the sale of manufactured homes, there is also the  
24 possibility of defects not readily ascertainable when inspected by purchasers. It is the  
25 policy and purpose of this State to provide protection to the public against those possible  
26 hazards, and for that purpose to forbid the manufacture and sale of new manufactured  
27 homes, which are not so constructed as to provide reasonable safety and protection to  
28 their owners and users. This Article ~~is intended to provide~~ provides to the Commissioner  
29 all necessary authority to enable the State to obtain approval as a State Administrative  
30 Agency under the provisions of the ~~National Manufactured Housing Construction and Safety~~  
31 ~~Standards Act of 1974. Act.~~

32 (b) ~~The Commissioner shall make and promulgate rules embodying the standards~~  
33 ~~for construction or manufacture of manufactured homes set by the Department of~~  
34 ~~Housing and Urban Development under the provisions of the National Manufactured~~  
35 ~~Housing Construction and Safety Standards Act of 1974, as these standards may be~~  
36 ~~amended.~~

37 (c) ~~The Council is authorized to make and promulgate reasonable rules and~~  
38 ~~regulations governing the procedure to be followed by a person or inspection department~~  
39 ~~seeking to obtain a license pursuant to the provisions of this Article which shall provide~~  
40 ~~opportunity for hearing before the Council on such application.~~

41 (d) ~~In order to insure the highest degree of quality control in the manufacture of~~  
42 ~~manufactured homes, the Council is further authorized and empowered to make and~~  
43 ~~promulgate reasonable rules and regulations governing the initial and follow up~~

1 manufacturing inspection practices and procedures to be performed by any person  
2 granted a license to issue a label of compliance pursuant to this Article. In order to assure  
3 uniformity in standards and enforcement, such rules and regulations may also provide  
4 that any such licensee and its operations may be inspected from time to time by any other  
5 person or licensee designated by the Council who shall report the results of such  
6 examination to the Council. In such case the reasonable expense incurred by the examiner  
7 in making such inspection shall be borne by the licensee whose operations were  
8 examined.

9 (e) The Commissioner is authorized to promulgate such may adopt rules as are  
10 necessary to carry out the provisions of the Act and this Article, including rules regarding  
11 for consumer complaint procedures, and such other procedures and rules as are necessary to  
12 enable the State to assume responsibility for the enforcement of the National Manufactured  
13 Housing Construction and Safety Standards Act of 1974. standards and regulations  
14 established and adopted by HUD under the Act.

15 **"§ 143-147. Approval and licensing of persons and inspection departments.**

16 (a) Any qualified person may make application to the Council for approval for  
17 license to issue labels of compliance. Any inspection department may make application  
18 to the Council for approval for issuing certificates of compliance. The Council after  
19 notice and hearing, if satisfied that such person or inspection department meets the  
20 qualifications prescribed in this Article, shall cause a license to be issued which license  
21 shall be valid for a consecutive period of 12 months and may be renewed for like  
22 consecutive periods on application to and approval by the Council;

23 (b) Any such license issued to a person other than an inspection department may  
24 be suspended or revoked after notice and hearing if such person:

- 25 (1) Is either insolvent, not competent, not independent, or untrustworthy;
- 26 (2) Has made false statements in his application to the Council for license;
- 27 (3) Fails or neglects to perform evaluations, testing, or manufacturing  
28 inspections in accordance with its proposed plans and procedures  
29 submitted to the Council or fails to comply with any applicable rules  
30 and regulations promulgated by the Council pursuant to G.S. 143-  
31 146(d);
- 32 (4) Has repeatedly, specifically or by implication authorized the attachment  
33 of its label of compliance to manufactured homes and such  
34 manufactured homes did not meet the standards and rules and  
35 regulations provided by this Article at the time said labels were  
36 attached.

37 (c) Any such license issued to an inspection department may be suspended or  
38 revoked after notice and hearing if such department:

- 39 (1) Is not competent;
- 40 (2) Has issued a certificate of compliance on a manufactured home when  
41 such manufactured home was not opened for inspection so that the  
42 entire structural, electrical, heating, plumbing and air conditioning  
43 systems could be closely observed and inspected;

1           (3) ~~Has issued a certificate of compliance on a manufactured home and~~  
2           ~~such manufactured home did not at the time of inspection meet the~~  
3           ~~standards and rules and regulations provided by this Article.~~

4 **"§ 143-148. Certain structures excluded from coverage.**

5           The Commissioner may by rule provide for the exclusion of certain structures by  
6 certification in accordance with the ~~National Manufactured Housing Construction and Safety~~  
7 ~~Standards Act of 1974. Act.~~

8 **"§ 143-149. Necessity for obtaining label ~~or certificate~~ for purposes of sale.**

9           No ~~individual natural person, firm, partnership, association or corporation person~~  
10 shall ~~after September 1, 1971,~~ sell or offer for sale any manufactured home in this State,  
11 ~~which manufactured home State that does not bear permanently attached thereto a label~~  
12 ~~of compliance or for which manufactured home the individual natural person, firm,~~  
13 ~~partnership, association, or corporation selling or offering to sell such manufactured~~  
14 ~~home does not have a certificate of compliance; provided it shall be have a label. It is a~~  
15 ~~defense to any prosecution for a violation of the provisions of this section if such~~  
16 ~~individual natural person, firm, partnership, association or corporation shall show a~~  
17 ~~person shows that a certificate of title for such the manufactured home as required by~~  
18 ~~G.S. 20-52 was obtained prior to September 1, 1971, before June 15, 1976, or produces~~  
19 ~~other satisfactory evidence on file with the North Carolina Department Division of Motor~~  
20 ~~Vehicles that such the manufactured home was manufactured prior to September 1, 1971.~~  
21 ~~before June 15, 1976.~~

22 **"§ 143-150. No electricity to be furnished units not in compliance.**

23           It is unlawful for any person to ~~initially~~ furnish electricity for use in any manufactured  
24 home without first ascertaining that the manufactured home and its electrical supply has  
25 been inspected pursuant to G.S. 143-139 by the inspection authority having jurisdiction  
26 and found to comply with the requirements of the State Electrical Code. The certificate  
27 of compliance issued by the inspection jurisdiction shall be accepted as evidence of  
28 compliance.

29 **"§ 143-151. Penalties.**

30           (a) ~~Whoever violates (i) the provisions of this Article; or (ii) Any person who is found~~  
31 ~~by the Commissioner to have violated the provisions of the Act, this Article, or any rules~~  
32 ~~promulgated adopted under this Article, shall be liable for a civil penalty not to exceed one~~  
33 ~~thousand dollars (\$1,000) for each violation. Each such violation shall constitute a~~  
34 ~~separate violation with respect to for each manufactured home or with respect to for each~~  
35 ~~failure or refusal to allow or perform an act required thereby, except that the by the Act,~~  
36 ~~this Article, or any rules adopted under this Article. The maximum civil penalty may not~~  
37 ~~exceed one million dollars (\$1,000,000) for any related series of violations occurring~~  
38 ~~within one year from after the date of the first violation. In determining the amount of the~~  
39 ~~penalty, the Commissioner shall consider the degree and extent of harm caused by the~~  
40 ~~violation, the amount of money that inured to the benefit of the violator as a result of the~~  
41 ~~violation, whether the violation was willful, and the prior record of the violator in~~  
42 ~~complying or failing to comply with laws, rules, or orders applicable to the violator. The~~

1 clear proceeds of civil penalties provided for in this section shall be remitted to the Civil  
2 Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2.

3 (b) Any individual, ~~corporation~~, or a director, officer or agent of a corporation who  
4 knowingly and willfully violates the Act, this Article ~~Article~~, or any rules promulgated  
5 adopted under this Article in a manner ~~which~~ that threatens the health or safety of any  
6 purchaser is guilty of a Class 4 ~~misdemeanor~~ felony.

7 **"§ 143-151.1. Enforcement.**

8 The Commissioner ~~of Insurance or any inspection department~~ may initiate any  
9 appropriate action or proceeding to prevent, restrain, or correct any violation of the Act,  
10 this Article, or any rules adopted under this Article. The Commissioner, or any of his  
11 deputies or employees, upon showing proper credentials and in the discharge of their  
12 duties ~~pursuant to~~ under this Article, or the ~~National Manufactured Housing Construction and~~  
13 ~~Safety Standards Act of 1974,~~ Act, is authorized at reasonable hours and without advance  
14 notice to enter and inspect all factories, warehouses, or establishments in ~~the State of North~~  
15 ~~Carolina~~ this State in which manufactured homes are manufactured, stored or held for  
16 sale.

17 **"§ 143-151.2. Fees.**

18 (a) The Commissioner ~~may~~ shall establish a monitoring inspection fee in an  
19 amount ~~established~~ required by the Secretary of ~~Housing and Urban Development~~ HUD.  
20 This monitoring inspection fee shall be an amount paid by each manufactured home  
21 manufacturer in ~~the~~ this State for each manufactured home produced by the manufacturer  
22 in ~~that state~~ this State.

23 (b) The monitoring inspection fee shall be paid by the manufacturer to the  
24 Secretary of ~~Housing and Urban Development~~ HUD or ~~such~~ the Secretary's agent, who  
25 ~~shall distribute the fees collected from all manufactured home manufacturers among the~~  
26 ~~approved and conditionally approved states based on the number of manufactured homes~~  
27 ~~whose first location after leaving the manufacturing plant is on the premises of a~~  
28 ~~distributor, dealer, or purchaser in that state, and the extent of participation of the State in~~  
29 ~~the joint monitoring team program established under the National Manufactured Housing~~  
30 ~~Construction and Safety Standards Act of 1974.~~ agent.

31 **"§ 143-151.3. Reports.**

32 Each manufacturer, distributor, and dealer of manufactured homes shall establish and  
33 maintain such records, make such reports, and provide such information as the  
34 Commissioner or the Secretary of ~~Housing and Urban Development~~ HUD may reasonably  
35 require to be able to determine whether ~~such~~ the manufacturer, distributor, or dealer has  
36 acted or is acting in compliance with this Article, or the ~~National Manufactured Housing~~  
37 ~~Construction and Safety Standards Act of 1974~~ Act and shall, upon request of a person ~~duly~~  
38 designated by the Commissioner or the Secretary of ~~Housing and Urban Development,~~  
39 HUD, permit ~~such~~ the person to inspect appropriate books, papers, records and documents  
40 relevant to determining whether ~~such~~ the manufacturer, distributor, or dealer has acted or  
41 is acting in compliance with this Article or the ~~National Manufactured Housing Construction~~  
42 ~~and Safety Standards Act of 1974.~~ Act, and any rules adopted by the Commissioner under  
43 this Article.

1 **"§ 143-151.4. Notification of ~~defects~~-defects and correction procedures.**

2 Every manufacturer of manufactured homes shall ~~furnish~~provide for notification of  
3 ~~any defect and correction procedures~~ in any manufactured home produced by ~~such the~~  
4 manufacturer and ~~correct such defect~~ in accordance with the Act, this Article, and any  
5 ~~procedures specified~~rules adopted by the Commissioner.

6 **"§ 143-151.5. Prohibited acts.**

7 (a) No person shall:

8 (1) Manufacture for sale, lease, sell, offer for sale or lease, or introduce or  
9 deliver, or import into the United States, any manufactured home ~~which~~  
10 that is manufactured on or after the effective date of any applicable  
11 manufactured home construction and safety standard under the Act or  
12 ~~this Article and which~~that does not comply with ~~such the~~ standard,  
13 except as provided in ~~subsection (b);~~subsections (b), (c), and (d) of this  
14 section.

15 (2) Fail or refuse to permit access to or copying of records, or fail to make  
16 reports or provide information, or fail or refuse to permit entry or  
17 inspection, as required under the Act or this Article; ~~Article.~~

18 (3) Fail to furnish notification of any defect as required by ~~G.S. 143-151.4;~~  
19 the Act or this Article.

20 (4) Fail to issue a ~~certificate of compliance,~~ label or issue a ~~certification to~~  
21 ~~the effect that a manufactured home conforms to all applicable~~  
22 ~~manufactured home construction and safety standards,~~ label if ~~such the~~  
23 person in the exercise of due care has reason to know that ~~such~~  
24 ~~certification~~ the label is false or misleading in a material ~~respect;~~  
25 respect.

26 (5) Fail to comply with a rule adopted or an order issued by the  
27 Commissioner under ~~this Article;~~ or Article.

28 (6) Issue a certification pursuant to G.S. 143-148 if ~~such the~~ person in the  
29 exercise of due care has reason to know that ~~such the~~ certification is  
30 false or misleading in a material respect.

31 (b) (1) ~~Paragraph (1) of subsection (a) shall~~ Subdivision (a)(1) of this  
32 section does not apply to the sale, the offer for sale, or the  
33 introduction or delivery of any manufactured home after the first  
34 purchase of it in good faith for purposes other than resale.

35 (2) ~~Paragraph (1) of subsection (a) shall~~ Subdivision (a)(1) of this section does  
36 not apply to any person who establishes that he did not have reason to  
37 know in the exercise of due care that ~~such the~~ manufactured home was  
38 not in conformity with applicable manufactured home construction and  
39 safety ~~standards,~~ standards. ~~or~~

40 (c) Subdivision (a)(1) of this section shall not apply to any person who, ~~prior to~~  
41 ~~such~~ before the first purchase, holds a certificate of compliance issued by the  
42 manufacturer or importer of ~~such the~~ manufactured home to the effect that ~~such mobile the~~  
43 manufactured home conforms to all applicable manufactured home construction and

1 safety standards, unless ~~such~~ the person knows that ~~such~~ the manufactured home does not  
2 so conform.

3 "§§ 143-151.6, 143-151.7: **Reserved for future codification purposes.**"

4 Section 3. Article 9D of Chapter 143 of the General Statutes is repealed.

5 Section 4. G.S. 58-2-55 reads as rewritten:

6 "**§ 58-2-55. Designated hearing officers.**

7 In any contested case under ~~Articles 1 through 64, 65 and 66, 67, 69, 70, or 71 of this~~  
8 ~~Chapter, Chapter~~ or Article 9A or Article 9B of Chapter 143 of the General Statutes, the  
9 Commissioner may designate a member of his staff to serve as a hearing officer. When  
10 the Commissioner is unable or elects not to hear a contested case and elects not to  
11 designate a hearing officer to hear a contested case, he shall apply to the director of the  
12 Office of Administrative Hearings for the designation of an administrative law judge to  
13 preside at the hearing of a contested case. Upon receipt of the application, the Director  
14 shall, without undue delay, assign an administrative law judge to hear the case."

15 Section 5. Structures built before the effective date of the Act shall not be  
16 affected by any changes made in this Article.

17 Section 6. This act is effective when it becomes law.