

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H

2

HOUSE BILL 1149
Committee Substitute Favorable 4/27/99

Short Title: Modular Construction Requirements.

(Public)

Sponsors:

Referred to:

April 15, 1999

A BILL TO BE ENTITLED

1 AN ACT TO PROVIDE THAT A GENERAL CONTRACTOR LICENSE IS
2 REQUIRED FOR THE ERECTION OF A MODULAR BUILDING AND TO
3 PROVIDE LIMITED EXEMPTIONS FROM THIS REQUIREMENT FOR
4 CERTAIN RESIDENTIAL AND COMMERCIAL MODULAR STRUCTURES.
5

6 The General Assembly of North Carolina enacts:

7 Section 1. G.S. 87-1 reads as rewritten:

8 **"§ 87-1. 'General contractor' defined; exceptions.**

9 For the purpose of this Article any person or firm or corporation who for a fixed price,
10 commission, fee, or wage, undertakes to bid upon or to construct or who undertakes to
11 superintend or manage, on his own behalf or for any person, firm, or corporation that is
12 not licensed as a general contractor pursuant to this Article, the construction of any
13 building, highway, public utilities, grading or any improvement or structure where the
14 cost of the undertaking is thirty thousand dollars (\$30,000) or more, or undertakes to
15 erect a ~~North Carolina labeled manufactured~~ modular building meeting the North Carolina
16 State Building Code, shall be deemed to be a "general contractor" engaged in the business
17 of general contracting in the State of North Carolina.

18 This section shall not apply to persons or firms or corporations furnishing or erecting
19 industrial equipment, power plan equipment, radial brick chimneys, and monuments.

1 This section shall not apply to any person or firm or corporation who constructs or
2 alters a building on land owned by that person, firm or corporation provided such
3 building is intended solely for occupancy by that person and his family, firm, or
4 corporation after completion; and provided further that, if such building is not occupied
5 solely by such person and his family, firm, or corporation for at least 12 months
6 following completion, it shall be presumed that the person, firm, or corporation did not
7 intend such building solely for occupancy by that person and his family, firm, or
8 corporation.

9 This section shall not apply to any person engaged in the business of farming who
10 constructs or alters a building on land owned by that person and used in the business of
11 farming, when such building is intended for use by that person after completion.

12 This section shall not apply to any person that erects a modular building that meets the
13 requirements of G.S. 143-139.1(c) or (d)."

14 Section 2. G.S. 143-139.1 reads as rewritten:

15 "**§ 143-139.1. Certification of manufactured buildings, structures or components by**
16 **recognized independent testing laboratory.**—**laboratory; licensure**
17 **requirements for certain commercial buildings.**

18 (a) The State Building Code may provide, in circumstances deemed appropriate by
19 the Building Code Council, for testing, evaluation, inspection, and certification of
20 buildings, structures or components manufactured off the site on which they are to be
21 erected, by a recognized independent testing laboratory having follow-up inspection
22 services approved by the Building Code Council. Approval of such buildings, structures
23 or components shall be evidenced by labels or seals acceptable to the Council. All
24 building units, structures or components bearing such labels or seals shall be deemed to
25 meet the requirements of the State Building Code and this Article without further
26 inspection or payment of fees, except as may be required for the enforcement of the Code
27 relative to the connection of units and components and enforcement of local ordinances
28 governing zoning, utility connections, and foundations permits. The Building Code
29 Council shall adopt and may amend from time to time such reasonable and appropriate
30 rules and regulations as it deems necessary for approval of agencies offering such testing,
31 evaluation, inspection, and certification services and for overseeing their operations. Such
32 rules and regulations shall include provisions to insure that such agencies are independent
33 and free of any potential conflicts of interest which might influence their judgment in
34 exercising their functions under the Code. Such rules and regulations may include a
35 schedule of reasonable fees to cover administrative expenses in approving and overseeing
36 operations of such agencies and may require the posting of a bond or other security
37 satisfactory to the Council guaranteeing faithful performance of duties under the Code.

38 (b) A person that erects a modular building shall be licensed as a general
39 contractor pursuant to Chapter 87 of the General Statutes.

40 (c) Notwithstanding subsection (b) of this section and G.S. 87-1, a person that
41 erects a modular building that meets the requirements of this subsection shall be licensed
42 as either a general contractor under Chapter 87 of the General Statutes or a set-up
43 contractor under Article 9A of this Chapter. The Building Code Council may also adopt

1 rules to insure that any person that is not licensed, in accordance with G.S. 87-1, and that
2 undertakes to erect a North Carolina labeled ~~manufactured~~-on-frame single-family
3 residential modular building, meets the manufacturer's installation instructions and
4 applicable provisions of the State Building Code. Any such person, before securing a
5 permit to erect such a modular building, shall provide the code enforcement official proof
6 that he is a licensed set-up contractor under Article 9A of this Chapter and that he has in
7 force for each modular building to be erected a \$5,000 surety bond insuring compliance
8 with the regulations of the State Building Code governing installation of modular
9 buildings. For purposes of this section, an 'on-frame single-family residential modular
10 building' is a single-family residential modular home which is constructed on a steel
11 frame in accordance with the North Carolina State Building Code and is capable of being
12 transported to the site on its own transportation system.

13 (d) Notwithstanding subsection (b) of this section and G.S. 87-1, a person that
14 erects a modular building that meets all of the following requirements shall be licensed as
15 either a general contractor under Chapter 87 of the General Statutes or a set-up contractor
16 under Article 9A of this Chapter:

17 (1) The building is to be erected only for a commercial use.

18 (2) The building is structurally similar to and transported to the site in the
19 same manner as a manufactured home, as determined by rules adopted
20 by the Building Code Council.

21 (3) A building consisting of a single unit is no larger than 2,000 square feet.
22 With respect to a modular building consisting of multiple units, each of
23 which meets the requirements of subdivision (2) of this subsection, no
24 single unit is larger than 1,500 square feet, no more than five units are
25 joined together to form the building, and no units are stacked.

26 (4) When the work is performed by a set-up contractor licensed under
27 Article 9A of this Chapter, G.S. 143-143.12(c) shall also apply to the
28 buyer of the modular building.

29 (e) Proof of compliance with this section shall be provided to the code
30 enforcement official prior to the issuance of a permit for the erection of the building. The
31 Building Code Council shall adopt rules for the enforcement of this subsection."

32 Section 3. G.S. 143-143.13(a) reads as rewritten:

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

35 (1) Material misstatement in application for license;

36 (2) Failure to post an adequate corporate surety bond, cash bond or fixed
37 value equivalent thereof;

38 (3) Engaging in the business of manufactured home manufacturer, dealer,
39 salesman or set-up contractor without first obtaining a license from the
40 Board;

41 (4) Failure to comply with the warranty service obligations and claims
42 procedure established by this Article;

- 1 (5) Failure to comply with the set-up and tie-down requirements established
2 by this Article;
- 3 (6) Having knowingly failed or refused to account for or to pay over
4 moneys or other valuables belonging to others which have come into
5 licensee's possession arising out of the sale of manufactured homes;
- 6 (7) Use of unfair methods of competition or unfair or deceptive commercial
7 acts or practices;
- 8 (8) Failure to comply with any provision of this Article;
- 9 (9) Failure to appear before the Board upon due notice or to follow
10 directives of the Board issued pursuant to this Article;
- 11 (10) Employing unlicensed retail salesmen;
- 12 (11) Knowingly offering for sale the products of manufacturers who are not
13 licensed pursuant to this Article or selling, to dealers not licensed
14 pursuant to this Article, manufactured homes which are to be sold in this
15 State to buyers as defined in this Article;
- 16 (12) Conviction of a felony or any crime involving moral turpitude;
- 17 (13) Having had a license revoked, suspended or denied by the Board under
18 this Article; or having had a license revoked, suspended or denied by a
19 similar entity in another state; or engaging in conduct in another state
20 which conduct, if committed in this State, would have been a violation
21 under this Article;
- 22 (14) Knowingly engaging any person to perform set-up operations who is not
23 licensed by the Board as a set-up ~~contractor~~ contractor;
- 24 (15) Failure to comply with the applicable provisions of G.S. 143-139.1."
25 Section 4. This act becomes effective September 1, 1999.