

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2005

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HOUSE BILL 1534

Short Title: Modular Home Sales/Installation Requirements. (Public)

Sponsors: Representative Gibson.

Referred to: Finance.

April 21, 2005

1 A BILL TO BE ENTITLED
2 AN ACT TO ESTABLISH REQUIREMENTS FOR SELLING AND INSTALLING
3 MODULAR HOMES AND TO ELIMINATE INEQUITIES IN THE TAXATION
4 OF MODULAR HOMES.

5 The General Assembly of North Carolina enacts:

6 **SECTION 1.** Chapter 143 of the General Statutes is amended by adding a
7 new Article to read:

"Article 9G.

"Modular Home Sales and Installation Requirements.

8
9
10 **"§ 143-151.70. Definitions.**

11 As used in this Article:

- 12 (1) "General contractor" means the same as defined in G.S. 87-1.
13 (2) "Installation contractor" means the same as defined in
14 G.S. 143-143.9(13) and licensed under G.S. 143-143.11.
15 (3) "Manufactured home retailer or dealer" means the same as defined in
16 G.S. 143-143.9(7) and licensed under G.S. 143-143.11.
17 (4) "Modular home" means a factory-built structure that is designed for
18 use as a one- or two-family dwelling, is manufactured in accordance
19 with the specifications for modular homes under the North Carolina
20 State Residential Building Code, and bears a seal or label issued by the
21 Department of Insurance under G.S. 143-139.1.
22 (5) "Modular home builder" means a person who furnishes for
23 consideration a modular home to a purchaser who will occupy the
24 modular home. The purchaser can be a person who will lease or rent
25 the unit as real property.

26 **"§ 143-151.71. Selling and installation requirements.**

27 (a) A modular home builder doing business in this State shall be licensed as
28 either a manufactured home retailer or a general contractor.

1 **(b)** Any person, other than a manufactured home retailer or general contractor,
2 who undertakes to erect a modular home for compensation shall be licensed by the State
3 as an installation contractor.

4 **(c)** An installation contractor who undertakes to erect a North Carolina-labeled
5 modular home shall comply with the manufacturer's installation instructions and
6 applicable provisions of the State Building Code. Before securing a permit to erect a
7 modular home, an installation contractor shall provide the code enforcement official
8 proof that the contractor has in force, for each modular home to be erected, a five-
9 thousand-dollar (\$5,000) surety bond ensuring compliance with the provisions of the
10 State Building Code governing the installation of modular homes. The bond shall cover
11 installation of the home as defined in the manufacturer's installation requirements. The
12 bond required by this subsection shall be in addition to the bond required by
13 G.S. 143-143.12(4).

14 **(d)** A manufactured home retailer who undertakes to erect a North Carolina-
15 labeled modular home shall comply with the manufacturer's installation instructions and
16 applicable provisions of the State Building Code. Before securing a permit to erect a
17 modular home, a manufactured home retailer shall have in force, for each modular
18 home to be erected, a five-thousand-dollar (\$5,000) surety bond ensuring compliance
19 with the provisions of the State Building Code governing the installation of modular
20 homes. The bond shall cover installation of the home as defined in the manufacturer's
21 installation requirements. The bond required by this subsection shall be in addition to
22 the bond required by G.S. 143-143.12(2) and (3).

23 **(e)** With respect to a manufactured home retailer who is a modular home builder,
24 the bonds required by G.S. 143-143(2) and (3) shall also be conditioned on the retailer
25 complying with all requirements governing the sale of modular homes. Any buyer of a
26 modular home who suffers any loss or damage by any act of a dealer that constitutes a
27 violation of any requirements governing the sale of modular homes may institute an
28 action to recover against the dealer and the surety.

29 **(f)** With respect to an installation contractor who undertakes to erect modular
30 homes, the bond required by G.S. 143-143.12(4) shall also be conditioned on the
31 contractor complying with all requirements governing the erecting of modular homes.
32 Any buyer of a modular home who suffers any loss or damage by an act of an
33 installation contractor that constitutes a violation of requirements governing the erecting
34 of modular homes may institute an action to recover against the contractor and the
35 surety.

36 **(g)** In erecting a modular home, any person undertaking to provide additional,
37 on-site constructed improvements to the modular home, or to the property on which the
38 modular home is situated, shall be licensed as a general contractor if the amount of the
39 undertaking exceeds the amount established in G.S. 87-1.

40 **(h)** A complaint by a buyer of a modular home that arises out of the sale or
41 installation of the modular home shall be filed with the Manufactured Housing Board if
42 the complaint is against a manufactured home retailer or installation contractor and the
43 name and license number of the dealer or installation contractor appears on the building
44 permit.

1 (i) A complaint by a buyer of a modular home that arises out of the sale or
2 installation of a modular home shall be filed with the State Licensing Board for General
3 Contractors if the complaint is against a general contractor and the name and license
4 number of the general contractor appears on the building permit."

5 **SECTION 2.** G.S. 87-2 reads as rewritten:

6 "**§ 87-2. Licensing Board; organization.**

7 There is created the State Licensing Board for General Contractors consisting of
8 ~~nine~~10 members appointed by the Governor for staggered five-year terms. Five of the
9 members shall be general contractors, one member shall be a registered engineer who
10 practices structural engineering, and three shall be public members. Of the general
11 contractor members, one shall have as the larger part of his business the construction of
12 highways; one shall have as the larger part of his business the construction of public
13 utilities; one shall have as the larger part of his business the construction of buildings;
14 and two shall have as a larger part of their businesses the construction of residences, one
15 of whom shall be the holder of an unlimited general contractor's ~~license~~license, and one
16 of whom shall be a modular home builder, as defined in G.S. 143-151.70(2). The public
17 members shall have no ties with the construction industry and shall represent the
18 interests of the public at large. Members shall serve until the expiration of their
19 respective terms and until their successors are appointed and qualified. Vacancies
20 occurring during a term shall be filled by appointment of the Governor for the
21 remainder of the unexpired term. The Governor may remove any member of the Board
22 for misconduct, incompetency, or neglect of duty. No Board member shall serve more
23 than two complete consecutive terms."

24 **SECTION 3.** G.S. 143-139.1(a) reads as rewritten:

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

1 posting of a bond or other security satisfactory to the Council guaranteeing faithful
2 performance of duties under the Code.

3 ~~The Building Code Council may also adopt rules to insure that any person that is not~~
4 ~~licensed, in accordance with G.S. 87-1, and that undertakes to erect a North Carolina~~
5 ~~labeled manufactured modular building, meets the manufacturer's installation~~
6 ~~instructions and applicable provisions of the State Building Code. Any such person,~~
7 ~~before securing a permit to erect a modular building, shall provide the code enforcement~~
8 ~~official proof that he has in force for each modular building to be erected a \$5,000~~
9 ~~surety bond insuring compliance with the regulations of the State Building Code~~
10 ~~governing installation of modular buildings."~~

11 **SECTION 4.** G.S. 105-164.4(a)(8) reads as rewritten:

12 "(a) **(Effective for sales made on or after July 1, 2005)** A privilege tax is
13 imposed on a retailer at the following percentage rates of the retailer's net taxable sales
14 or gross receipts, as appropriate. The general rate of tax is four percent (4%).

15 ...

16 (8) The rate of two and one-half percent (2.5%) applies to the sales price
17 of each modular home sold, including all accessories attached to the
18 modular home when it is delivered to the purchaser. For the purposes
19 of this subdivision, the retail sale is deemed to be the sale of a modular
20 home to a modular homebuilder. When a modular home manufacturer
21 or other seller of a modular home has purchased tangible personal
22 property that is incorporated into a modular home that is sold at retail
23 (including pursuant to a performance contract treated as a retail sale) in
24 this State, the seller shall be entitled to a tax credit against the tax
25 imposed by this section, up to the amount of tax paid, for any sales tax
26 properly paid upon the initial purchases of tangible personal property
27 in the other state or for any use tax properly paid upon the withdrawal
28 of the tangible property from inventory in the other state."

29 **SECTION 5.** Nothing in Section 2 of this act shall affect the terms and
30 memberships on the State Licensing Board for General Contractors in effect on the
31 effective date of this act.

32 **SECTION 6.** This act becomes effective January 1, 2006.