

April 21, 2005

H 1537. MISCELLANEOUS CHANGES/MFG. HOME LAWS. TO CHANGE THE MEMBERSHIP OF THE NORTH CAROLINA MANUFACTURED HOUSING BOARD; TO PROVIDE BUYERS WITH INFORMATION REGARDING THE PRICE OF MANUFACTURED HOMES; TO CLARIFY THE CONTRACT NEGOTIATION PROCESS AND EXTEND THE CANCELLATION PERIOD; TO REQUIRE MANUFACTURE. Makes a number of changes to laws governing sales of

manufactured housing as title indicates. Amends GS 143-143.10 to provide that nine-member Board shall include an NC Housing Finance Agency-approved home-ownership counselor, an attorney who primarily represents individuals in consumer protection actions, and an accountant; and to provide that Board include either a manufactured home manufacturer or a manufactured home dealer (was, both); and a manufactured home dealer or a set-up contractor (was, both).

Amends subsection requiring appointment of various members by Governor, General Assembly, and Commissioner of Insurance and deletes provision requiring that certain members be appointed from lists of nominees submitted by the NC Manufactured Housing Institute's Board of Directors. Enacts GS 143-143.10(b)(7) and (8) to authorize Board to administer "Manufactured Housing Recovery Fund" and conduct random audits of dealer escrow or trust accounts. Enacts new GS 143-143.13(a)(6a) to add failure to comply with escrow or trust account provisions as grounds to suspend or revoke license and amends GS 143-143.13(c) to increase range of penalties Board is authorized to impose from a range of \$100—\$500 to a range of \$200—\$1,000.

Amends GS 143-143.20A to add requirement that manufactured housing dealer prominently display at the front of each home the individual cost of the specifications and options included in or available for the home, and a statement of additional estimated set-up costs. Rewrites GS 143-143.21A governing manufactured home sales agreements to provide for a two-step process involving a conditional sales contract (conditional contract) and a final manufactured home retail installment sales contract (final contract). Requires that conditional contract include same provisions as current purchase agreement, except that the amount of deposit to be paid by buyer is to be an estimated amount and conditional contract must contain a statement advising the buyer that the conditional contract is not binding, terms of which are set forth in section. Upon execution, requires that dealer provide buyer with an executed copy of the conditional contract along with a list of Board-approved appraisers. Further requires that buyer be given the option of financing home purchase independently or through the dealer and that dealer disclose business relationships with financial entities or appraisers. Prohibits dealer from requesting, demanding, or accepting funds from buyer, or beginning set-up procedures, prior to execution of final contract. Specifies provisions that must be included in final contract and requires that contract contain the right of cancellation statement currently used in purchase agreements, except that cancellation period is increased from three to five business days. If buyer cancels final contract, dealer must return buyer's deposit within 3 (was, 15) business days of receipt of notice of cancellation.

Enacts new Article 9A of GS Chapter 143 to require that a dealer maintain a buyer's deposit in a separate escrow or trust account that does not bear interest. Specifies rules for establishment of accounts, for deposits, and for receipts, as well as minimum requirements for dealer records for the accounts, including accountings to buyers and quarterly reconciliations. Limits use of buyer funds in escrow or trust account to purposes authorized under the contractual obligations of dealer to buyer for buyer's direct benefit. Makes required financial records subject to random audit and to audit for cause by Board, Comm'r, and Attorney General. Authorizes Board to fine dealer an amount equal to amount that dealer misappropriated or failed to place in the account if it finds that dealer has used a buyer's funds for an unauthorized purpose or has failed to place deposits in the dealer escrow or trust account.

Amends GS 143-151(a) to increase civil penalty for violations of article from \$1,000 to \$10,000. Requires that Board increase the standards for licensure of set-up contractors and that Comm'r review and revise the standards for installation of manufactured homes, so that each set of standards is at least as stringent as the most stringent standards adopted by another state. Prohibits Board from issuing any new licenses to manufactured home manufacturers, dealers, salespersons, or set-up contractors under GS Chapter 143, Article 9, unless and until a final rule for obtaining criminal background checks on all applicants is in place and effective.

Changes in Board and requirements for Board and Comm'r regarding licensure standards are effective when bill becomes law and the terms of the current appointed members of the Board

terminate. Remainder of act becomes effective January 1, 2006. Escrow or trust account requirements apply to deposits collected on or after January 1, 2006.

Intro. by Barnhart, Hunter.

Ref. to Finance

GS 143