

March 3, 2005

**S 346. MISCELLANEOUS CHANGES/MFG. HOME LAWS. TO CHANGE THE MEMBERSHIP OF THE NORTH CAROLINA MANUFACTURED HOUSING BOARD; TO CREATE THE MANUFACTURED HOUSING RECOVERY FUND; TO PROVIDE BUYERS WITH INFORMATION REGARDING THE PRICE, FAIR MARKET VALUE AND SPECIFICATIONS OF MANUFACTURED HOMES; TO CLARIFY THE CONTRACT NEGOTIATION PROCESS AND EXTEND THE CANCELLATION PERIOD; TO REQUIRE MANUFACTURED HOME DEALERS TO ESTABLISH AND MAINTAIN ESCROW OR TRUST ACCOUNTS FOR BUYER DEPOSITS; AND TO INCREASE CERTAIN PENALTIES AND STANDARDS APPLICABLE TO THE MANUFACTURED HOME INDUSTRY.** 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 (1) a NC Housing Finance Agency-approved home-ownership counselor, an attorney who primarily represents individuals in consumer protection actions, and an accountant; (2) either a manufactured home manufacturer or a manufactured home dealer (was, both); and (3) a manufactured home dealer or a set-up contractor (was, both). Amends subsection requiring appointment of various members by Governor, General Assembly, and Comm'r 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 the 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 to \$250 to \$1,000 (was, \$100 to \$500).

Enacts new GS 143.143.18A establishing the Manufactured Housing Recovery Fund (Fund), to reimburse actual losses (up to \$75,000) incurred by purchaser of manufactured home for personal or family residential use, where the required bond has been exhausted, applicant obtained civil judgment against licensee for warranty failures, fraud, or conversion, and manufacturer cannot satisfy judgment or filed for bankruptcy. Requires that Fund claim be filed within one year after civil judgment or termination of bankruptcy proceedings, whichever is applicable. Requires that Board adopt rules for administration of Fund.

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. Adopts new GS 143-143.20A(c) to require that dealer also provide a material comparison checklist to each manufactured home purchaser. Enacts new GS 143-146A requiring that Comm'r develop checklist and specifying information to be included.

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 statement advising buyer that 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 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. Requires that if buyer finances home purchase, final contract may not be executed until buyer has obtained independent appraisal. 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 right of cancellation statement currently used in purchase agreement, except cancellation period is increased from three to five business days. If buyer cancels final contract, dealer must return buyer's deposit within three (was, 15) business days after receipt of notice of cancellation.

New Article 9A of GS Ch. 143 requires that a dealer maintain a buyer's deposit in a separate interest-bearing escrow or trust account. Specifies rules for establishment of accounts, for deposits, and for receipts, as well as minimum requirements for dealer records for cited 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 penalties for violations of article to \$10,000 (was, \$1,000), and the maximum civil penalty for any related series of violations occurring within one year of date of first violation to \$10 million (was, \$1 million). Requires Board to increase the standards for licensure of set-up contractors and requires Comm'r to 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 Ch. 143, Art. 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 (previous paragraph) 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, and Fund provisions apply to claims arising from acts occurring on or after June 1, 2006. Makes conforming changes and technical corrections.

**Intro. by Holloman.**

Ref. to Commerce

GS 143