

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2005

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HOUSE DRH10161-MAx-38 (3/9)

Short Title: Create a Mobile Home Disposal Tax.

(Public)

Sponsors: Representative Hunter.

Referred to:

A BILL TO BE ENTITLED

AN ACT TO IMPOSE AN ADVANCE DISPOSAL FEE ON NEW AND USED MOBILE HOMES, TO REQUIRE COUNTIES TO DEVELOP PLANS THAT PROVIDE FOR THE DECONSTRUCTION OF OBSOLETE MOBILE HOMES AND THE REMOVAL OF REUSABLE OR RECYCLABLE COMPONENTS, AND TO PROVIDE FOR THE ABATEMENT OF NUISANCE OBSOLETE MOBILE HOMES.

The General Assembly of North Carolina enacts:

SECTION 1. Chapter 105 of the General Statutes is amended by adding a new Article to read:

"Article 5G.

"Mobile Home Disposal Tax.

"§ 105-187.60. Definitions.

The definitions in G.S. 105-164.3 apply to this Article, except that the term 'sale' does not include lease or rental. 'Mobile home' means a structure that satisfies all of the following:

- (1) The structure is designed, constructed, and intended for use as a dwelling house, office, place of business, or similar place of habitation.
- (2) The structure is capable of being transported from place to place on wheels attached to its frame.
- (3) At the time of sale, the structure is not placed on a permanent foundation.

'Mobile home' includes a manufactured home as defined in G.S. 143-143.9 that, at the time of sale, is not placed on a permanent foundation.

"§ 105-187.61. Tax imposed.

1 A privilege tax is imposed on a mobile home retailer at a flat rate for each new
2 mobile home sold by the retailer and for each used mobile home sold by the retailer. An
3 excise tax is imposed on a new mobile home and on a used mobile home purchased
4 outside the State for storage, use, or consumption in this State. These taxes are in
5 addition to all other taxes. The rate of the privilege tax and the excise tax is as follows:

- 6 (1) For each new single-wide mobile home, one thousand dollars (\$1,000).
7 (2) For each new multisection mobile home, seven hundred fifty dollars
8 (\$750.00) for each section of the mobile home.
9 (3) For each used single-wide mobile home, five hundred dollars
10 (\$500.00).
11 (4) For each used multisection mobile home, five hundred dollars
12 (\$500.00) for each section of the mobile home.

13 **"§ 105-187.62. Administration.**

14 The privilege tax this Article imposes on a mobile home retailer who sells new or
15 used mobile homes at retail is an additional State sales tax, and the excise tax this
16 Article imposes on the storage, use, or consumption of a new or used mobile home in
17 this State is an additional State use tax. Except as otherwise provided in this Article,
18 these taxes shall be collected and administered in the same manner as the State sales and
19 use taxes imposed by Article 5 of this Chapter. As under Article 5 of this Chapter, the
20 additional State sales tax paid when a new or used mobile home is sold is a credit
21 against the additional State use tax imposed on the storage, use, or consumption of the
22 same mobile home.

23 **"§ 105-187.63. Exemptions.**

24 The exemptions in G.S. 105-164.13 and the refunds allowed in G.S. 105-164.14 do
25 not apply to the taxes imposed by this Article.

26 **"§ 105-187.64. Use of tax proceeds.**

27 The Secretary shall distribute the taxes collected under this Article, less the cost of
28 collecting the taxes, in accordance with this section. The Secretary shall retain the cost
29 of collection as reimbursement to the Department of Revenue.

30 Each quarter, the Secretary shall credit the net tax proceeds to the Mobile Homes
31 Management Account. Funds in the Mobile Homes Management Account may be used
32 only as provided in G.S. 130A-309.94."

33 **SECTION 2.** Article 9 of Chapter 130A of the General Statutes is amended
34 by adding a new Part to read:

35 "Part 2E. Management of Obsolete Mobile Homes.

36 **"§ 130A-309.90. Findings; purpose.**

37 (a) The General Assembly finds that:

- 38 (1) The number of mobile homes in North Carolina has risen dramatically
39 as land has become scarce and the housing market has become more
40 expensive.
41 (2) By the nature of their construction, mobile homes are difficult and
42 expensive to repair when they begin to deteriorate. Often consumers
43 simply buy another mobile home rather than refurbish the mobile
44 home that needs repair.

- 1 (3) It is estimated that, as of 2005, there are more than 30,000 vacant
2 mobile homes in North Carolina.
- 3 (4) Nuisance obsolete mobile homes create public health and
4 environmental problems and are a visual blight on the landscape of
5 North Carolina. A nuisance obsolete mobile home poses a fire hazard,
6 is a safety hazard to unsupervised children, and is a potential source of
7 toxic or hazardous materials that may escape into the environment.
- 8 (5) Most landfills will not accept intact mobile homes due to their bulky
9 nature. In those instances where landfills do accept mobile homes for
10 disposal, the cost of disposal can be prohibitive for many mobile home
11 owners. Landfill disposal costs include tipping fees, the costs of
12 transporting the obsolete structures to the landfill, and the costs of
13 removing any hazardous materials, such as asbestos and other harmful
14 chemicals.
- 15 (6) Many components of mobile homes can be reused or recycled,
16 including windows, screens, doors, copper tubing, copper wiring,
17 aluminum, tin, steel, lumber, steel frames, pipes, countertops, cabinets,
18 and other appliances and fixtures. It is estimated that twenty-six
19 percent (26%) to thirty-eight percent (38%) of the components of a
20 mobile home can be reused or recycled without extensive manual
21 labor.
- 22 (7) It is desirable to allow units of local government to manage the
23 disposal of mobile homes for themselves and to encourage
24 multicounty, regional approaches to the deconstruction of obsolete
25 mobile homes and the removal of components that are reusable or
26 recyclable.
- 27 (8) It is in the State's best interest to encourage the reduction of the
28 volume of mobile homes being disposed of at public sanitary landfills,
29 to encourage the deconstruction of obsolete mobile homes and the
30 removal of components that are reusable or recyclable, and to
31 encourage the reduction of potentially toxic or hazardous materials
32 components of obsolete mobile homes.

33 (b) The purpose of this Part is to provide statewide guidelines and structure for
34 the environmentally safe disposal of obsolete mobile homes to be administered through
35 units of local government.

36 "**§ 130A-309.91. Definitions.**

37 The following definitions apply to this Part:

- 38 (1) Mobile home. – Defined in G.S. 105-187.60.
39 (2) Nuisance. – An unreasonable danger to public health, safety, or
40 welfare or to the environment.
41 (3) Obsolete mobile home. – An abandoned mobile home or a mobile
42 home that is untended or in need of extensive repair and that no longer
43 functions for any of its intended uses as a dwelling house, office, place
44 of business, or similar place of habitation.

1 **"§ 130A-309.92. Management of obsolete mobile homes; disposal fee prohibited**
2 **for certain mobile homes.**

3 (a) Duty. – Each county shall develop a plan for the disposal of obsolete mobile
4 homes that provides for the deconstruction of mobile homes and the removal of
5 components as practical for reuse or recycling. A county may contract with another unit
6 of local government or a private entity in accordance with Article 15 of Chapter 153A
7 of the General Statutes to provide for the management of obsolete mobile homes or for
8 the deconstruction of mobile homes and the removal of components as practical for
9 reuse or recycling.

10 (b) Restrictions. – A unit of local government or a contracting party shall not
11 charge a disposal fee for the disposal of obsolete mobile homes that were purchased
12 after January 1, 2006. An intact mobile home shall not be disposed of in a landfill, an
13 incinerator, or a waste-to-energy facility.

14 (c) Plan. – Each county shall establish written procedures for the management of
15 obsolete mobile homes. The county shall include the procedures in any solid waste
16 management plan required by the Department under this Article.

17 **"§ 130A-309.93. Nuisance obsolete mobile homes.**

18 (a) If a county or municipality determines that an obsolete mobile home is a
19 nuisance, it shall notify the person responsible for the nuisance and request that the
20 mobile home be properly disposed of or removed within 90 days. If the person fails to
21 take the requested action within 90 days, the county or municipality shall order the
22 person to abate the nuisance within 90 days. If the person responsible for the nuisance is
23 not the owner of the property on which the mobile home is located, the county or
24 municipality may order the property owner to permit abatement of the nuisance. If the
25 person responsible for the nuisance fails to comply with the order, the county or
26 municipality shall take any action necessary to abate the nuisance, including entering
27 the property where the mobile home is located to inspect the mobile home, arranging to
28 have title to the mobile home transferred to the county or municipality, as appropriate,
29 or arranging to have the mobile home deconstructed at the site or removed for disposal
30 consistent with this Article.

31 (b) When the county or municipality abates the nuisance pursuant to subsection
32 (a) of this section, the person responsible for the nuisance shall be liable for any unpaid
33 property taxes due on the mobile home and for the actual costs incurred by the county or
34 municipality for its nuisance abatement activities and its administrative and legal
35 expenses related to the abatement. The county or municipality may initiate a civil action
36 to recover these unpaid taxes or costs from the person responsible for the nuisance.
37 Nonpayment of either any unpaid taxes or of the actual costs incurred by the county or
38 municipality shall result in the imposition of a lien on the owner's real property on
39 which the mobile home site is located.

40 (c) This section does not apply to any of the following:

41 (1) A retail business premises where mobile homes are sold.

42 (2) A solid waste disposal facility where no more than 10 mobile homes
43 are stored at one time if all of the mobile homes received for storage

1 are deconstructed or removed from the facility within one year after
2 receipt.

3 (d) The descending order of priority for abatement activities under subsection (a)
4 of this section is as follows:

5 (1) Any obsolete mobile home that constitutes a fire hazard or threat to
6 public health or safety.

7 (2) An obsolete mobile home located in a densely populated area.

8 (3) Any other obsolete mobile home that is determined to be a nuisance.

9 (e) This section does not change the existing authority of a county or a
10 municipality to enforce any existing laws or of any person to abate a nuisance.

11 **"§ 130A-309.94. Mobile Homes Management Account.**

12 (a) The Mobile Homes Management Account is established within the
13 Department. The Mobile Homes Management Account consists of revenue credited to
14 the Account from the proceeds of the mobile home disposal tax imposed by Article 5G
15 of Chapter 105 of the General Statutes.

16 (b) The Department shall use revenue in the Account to make grants to units of
17 local government to assist them in managing obsolete mobile homes. To administer the
18 grants, the Department shall establish procedures for applying for a grant and the
19 criteria for selecting among grant applicants. The criteria shall include the financial
20 ability of a unit to manage obsolete mobile homes, the severity of a unit's obsolete
21 mobile home management problem, and the effort made by a unit to manage obsolete
22 mobile homes within the resources available to it. A unit of local government may apply
23 for a grant for any of the following:

24 (1) Capital improvements for infrastructure to deconstruct obsolete mobile
25 homes and remove components for reuse or recycling, equipment
26 essential for the deconstruction of obsolete mobile homes or the
27 removal of components, and storage sheds for this essential equipment.

28 (2) Operating costs associated with the deconstruction of obsolete mobile
29 homes and the removal of reusable or recyclable components, such as
30 labor and transportation.

31 (3) The costs of abating a nuisance obsolete mobile home under
32 G.S. 130A-309.93.

33 (c) A unit of local government shall not use grant funds for a capital
34 improvement or an operating expense that does not directly relate to the management of
35 obsolete mobile homes. If a capital improvement or operating expense is partially
36 related to the management of obsolete mobile homes, a unit of local government may
37 use the funds to finance a percentage of the costs equal to the percentage of the use of
38 the improvement or expense directly related to the management of obsolete mobile
39 homes.

40 **"§ 130A-309.95. Authority to adopt rules and ordinances.**

41 (a) The Department may adopt rules necessary to implement this Part.

42 (b) A unit of local government may adopt ordinances necessary to implement this

43 Part.

44 **"§ 130A-309.96. Civil penalties for improper disposal.**

1 The Department may assess a civil penalty of not more than one thousand dollars
2 (\$1,000) against a person who, knowing it is unlawful, places or otherwise disposes of
3 an obsolete mobile home in a landfill, an incinerator, or a waste-to-energy facility. The
4 Department may assess this penalty for the day the unlawful disposal occurs and each
5 following day until the mobile home is disposed of properly. The clear proceeds of civil
6 penalties assessed pursuant to this section shall be remitted to the Civil Penalty and
7 Forfeiture Fund in accordance with G.S. 115C-457.2.

8 **"§ 130A-309.97. Reporting on the management of mobile homes.**

9 (a) Any unit of local government that received a grant under G.S. 130A-309.94
10 shall report to the Department within six months of receiving the grant and every six
11 months thereafter until a final report is submitted at the completion of the project funded
12 in whole or in part with the grant. The report shall include the amount of funds received
13 as a grant, the manner in which the grant was used, and the extent to which the grant
14 assisted the unit of local government in managing the disposal of obsolete mobile
15 homes consistent with this Part.

16 (b) The Department shall include in the report to be delivered to the
17 Environmental Review Commission on or before 15 January of each year pursuant to
18 G.S. 130A-309.06(c) a description of the management of obsolete mobile homes in the
19 State for the fiscal year ending the preceding 30 June. The description of the
20 management of obsolete mobile homes shall include the following information:

- 21 (1) The amount of taxes collected and distributed under G.S. 105-187.61
22 during the period covered by the report.
- 23 (2) The cost to each county of managing obsolete mobile homes and
24 nuisance obsolete mobile homes during the period covered by the
25 report.
- 26 (3) The beginning and ending balances of the Mobile Homes Management
27 Account for the period covered by the report and a list of grants made
28 from the Account for the period.
- 29 (4) Any other information the Department considers helpful in
30 understanding the problem of managing obsolete mobile homes.
- 31 (5) A summary of the information concerning the counties' obsolete
32 mobile homes management programs contained in the counties'
33 Annual Financial Information Report and the reports submitted under
34 subsection (a) of this section.

35 **"§ 130A-309.98. Effect on local ordinances.**

36 This Part preempts any local ordinance regarding the management of mobile homes
37 that is inconsistent with this Part or the rules adopted pursuant to this Part. It does not
38 preempt any local ordinance regarding the management of mobile homes that is
39 consistent with this Part or rules adopted pursuant to this Part."

40 **SECTION 3.** G.S. 130A-309.06(c) reads as rewritten:

41 "(c) The Department shall report to the Environmental Review Commission on or
42 before 15 January of each year on the status of solid waste management efforts in the
43 State. The report shall include:

44 ...

1 (14) A description of the management of obsolete mobile homes in the
2 State, the beginning and ending balances in the Mobile Homes
3 Management Account for the reporting period, the amount credited to
4 the Mobile Homes Management Account during the reporting period,
5 and the amount of revenue used, listed by county, for grants and to
6 clean up nuisance obsolete mobile homes, as required by
7 G.S. 130A-309.93."

8 **SECTION 4.** This act becomes effective January 1, 2006. Section 1 of this
9 act applies to sales made on or after that date.