

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2007

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HOUSE BILL 1700

Short Title: Prevent Displacement of Manufactured Homes. (Public)

Sponsors: Representative Fisher.

Referred to: Judiciary II, if favorable, Finance.

April 19, 2007

1 A BILL TO BE ENTITLED
2 AN ACT TO REQUIRE NOTICE TO MANUFACTURED HOMEOWNERS OF A
3 SALE OF A MANUFACTURED HOME COMMUNITY AND TO PROVIDE A
4 TAX CREDIT FOR THE SALE OF A MANUFACTURED HOME COMMUNITY
5 TO MANUFACTURED HOMEOWNERS.

6 The General Assembly of North Carolina enacts:

7 SECTION 1. Chapter 42 of the General Statutes is amended by adding a
8 new Article to read:

9 "Article 8.

10 "Sale of Manufactured Home Community.

11 "**§ 42-80. Notice required before sale.**

12 (a) No manufactured home community owner shall make a final unconditional
13 acceptance of any offer for the sale or transfer of a manufactured home community
14 without first giving 60 days' notice to each tenant (i) that the owner intends to sell the
15 manufactured home community and (ii) of the price, terms, and conditions of an
16 acceptable offer the community owner has received to sell the community or the price,
17 terms, and conditions for which the community owner intends to sell the community.
18 The notice required by this section runs concurrently with any other notice required by
19 this Chapter.

20 (b) The notice required in subsection (a) of this section shall include a copy of
21 the signed written offer which sets forth a description of the property to be purchased
22 and the price, terms, and conditions of the acceptable offer.

23 (c) During the notice period required under subsection (a) of this section, the
24 manufactured home community owner shall consider any offer received from the
25 tenants or a tenants' association, if any, and the owner shall negotiate in good faith with
26 the tenants concerning a potential purchase. If during the notice period the tenants
27 decide to make an offer to purchase the manufactured home community, the offer shall
28 be evidenced by a purchase and sale agreement; however, the tenants shall have a

1 reasonable time beyond the 60-day period, if necessary, to obtain financing for the
2 purchase.

3 (d) The notice required by subsection (a) of this section shall be served by
4 certified mail, return receipt requested, to each tenant at the tenant's abode. A receipt
5 from the United States Postal Service that is signed by any adult member of the
6 household to which it was mailed, or a notation on the letter that the letter was refused
7 by any adult member of the tenant household, or that the addressee no longer resides
8 there, or that the letter was returned to the post office unclaimed, shall constitute a
9 conclusive presumption that service was made in any court action in this State.

10 **"§ 42-81. Remedy.**

11 (a) The owner of a manufactured home community who sells or transfers a
12 community and willfully fails to comply with G.S. 42-80 is liable to the tenants in the
13 amount of ten thousand dollars (\$10,000) or ten percent (10%) of the total sales price.
14 The total of damages to all tenants, in the aggregate, shall not exceed ten thousand
15 dollars (\$10,000) or ten percent (10%), whichever is greater, of the total sales price.
16 This remedy is the sole and exclusive remedy for violation of G.S. 42-80, and the failure
17 by a community owner to comply with that section does not affect the validity of any
18 sale or transfer of title nor shall such noncompliance constitute grounds to set aside a
19 sale or transfer in any court proceedings. Nothing in this section shall be deemed to
20 permit a tenant to attach the real estate for the penalty established by this section.

21 (b) Lack of knowledge of this Article by a community owner is not a defense to
22 an action for damages based on failure to comply with G.S. 42-80.

23 **"§ 42-82. Exceptions.**

24 Notwithstanding the provisions of G.S. 42-80, the owner of a manufactured home
25 community shall not be required to give notice to the tenants if any of the following
26 conditions are satisfied:

- 27 (1) A bank, mortgage company, or any other mortgagee has foreclosed on
28 the community and the mortgagee:
29 a. Is selling the park at a foreclosure sale; or
30 b. Is selling the community after having purchased the community
31 at a foreclosure sale.
32 (2) The sale or transfer is to a family member of the owner or to a trust,
33 the beneficiaries of which are family members of the owner.
34 (3) The sale or transfer is by a partnership to one or more of its partners.
35 (4) The conveyance of an interest in the community is incidental to the
36 financing of such community.
37 (5) The sale or transfer is between joint tenants or tenants in common.
38 (6) The sale is pursuant to eminent domain.

39 **"§ 42-83. Affidavit of compliance.**

40 (a) A community owner may, as shall be appropriate under the circumstances,
41 record in the registry of deeds of the county in which the community is located an
42 affidavit in which the community owner certifies one of the following:

- 43 (1) The community owner has complied with the requirements of
44 G.S. 42-80.

1 (2) The sale or transfer of the community is exempted from this Chapter
2 pursuant to G.S. 42-82.

3 (b) Any party acquiring an interest in a manufactured home community, and any
4 and all title insurance companies and attorneys preparing, furnishing, or examining any
5 evidence of title, shall have the absolute right to rely on the truth and accuracy of all
6 statements appearing in such affidavit and shall be under no obligation to inquire further
7 as to any matter or fact relating to the community owner's compliance with the
8 provisions of this section. It is the purpose and intention of this paragraph to preserve
9 the marketability of title to manufactured home communities, and, accordingly, the
10 provisions hereof shall be liberally construed in order that all persons may rely on the
11 record title to manufactured housing community."

12 **SECTION 2.** Part 2 of Article 4 of Chapter 105 of the General Statutes is
13 amended by adding a new section to read:

14 **"§ 105-151.31. Manufactured home community sale; capital gain credit.**

15 A taxpayer is eligible for a credit against the tax imposed by this Part for a qualified
16 sale of a manufactured home community. The credit is in the amount of seven percent
17 (7%) of the taxpayer's gain subject to federal income tax for the taxable year. Credits in
18 excess of the taxpayer's tax liability for the taxable year may be carried forward for
19 credit in the next succeeding three taxable years. "Qualified sale of a manufactured
20 home community" means the sale of land comprising a manufactured home community
21 that is transferred in a single purchase to a group composed of a majority of the
22 manufactured home community leaseholders, or to a nonprofit organization that
23 represents such a group."

24 **SECTION 3.** Part 1 of Article 4 of Chapter 105 of the General Statutes is
25 amended by adding a new section to read:

26 **"§ 105-130.49. Manufactured home community sale; capital gain credit.**

27 A taxpayer is eligible for a credit against the tax imposed by this Part for a qualified
28 sale of a manufactured home community. The credit is in the amount of seven percent
29 (7%) of the taxpayer's gain subject to federal income tax for the taxable year. Credits in
30 excess of the taxpayer's tax liability for the taxable year may be carried forward for
31 credit in the next succeeding three taxable years. "Qualified sale of a manufactured
32 home community" means the sale of land comprising a manufactured home community
33 that is transferred in a single purchase to a group composed of a majority of the
34 manufactured home community leaseholders, or to a nonprofit organization that
35 represents such a group."

36 **SECTION 4.** Sections 2 and 3 of this act are effective for taxable years
37 beginning on or after January 1, 2007. The remainder of this act is effective when it
38 becomes law.