



PHN: (919) 872-2740 | FAX: (919) 872-4826 | EMAIL: info@nc-mha.org

2010 NC General Assembly Overview

The 2010 Session of the North Carolina General Assembly adjourned in the early morning hours of Saturday, July 10. This concluded a two-month Session that began on May 12 and saw the introduction of over 300 bills in the Senate and 400+ bills in the House.

State Budget. The main business of the 2010 “Short” Session was to adjust the second year of the State’s biennial budget (July 1, 2010-June 30, 2011). In response to the continued economic recession, legislators cut another 3% from the \$19 billion operating budget. Department heads and universities were given authority, but not required, to furlough employees if necessary. Agencies were given authority to cut an additional 1% from their budgets if certain funds are not received from the federal government as expected.

Tax Credit for Small Business. The budget bill did not contain any new, across-the-board fee or tax increases. It did, however contain one item of tax relief. The bill provides for a tax credit of 25% of the amount paid into the state unemployment compensation fund by any small business. “Small business” is defined as a business with less than \$1 Million in annual gross receipts. This credit will be available for the 2010 and 2011 calendar years. The Legislature’s Fiscal Research staff estimates that 125,000 businesses in North Carolina will be eligible to claim this credit.

Ethics, Campaign Finance and Incentives. These issues consumed a lot of legislative time and attention and were not resolved until the final days.

Ethics – penalties were increased for illegal campaign contributions in excess of \$10,000. State board and commission members are required to account for any campaign fundraising they undertake for the officials who appointed them.

Campaign Finance – the U.S. Supreme Court, in the Citizens United case, declared unconstitutional federal laws which prohibit corporation and labor union expenditures in support of or in opposition to individual candidates. The General Assembly repealed North Carolina’s laws which prohibited the same conduct and substituted new disclosure laws if such expenditures are made.

Economic Incentives – After long and spirited debate over the whether incentives really work and whether North Carolina should try to outbid other states for projects, the Legislature approved economic incentive packages for several unnamed companies who may bring new facilities and jobs to the poorest counties in North Carolina.

Homeowner and Home Buyer Protection Act (SB1015)- This bill, introduced by Senator Josh Stein (D-Wake), establishes consumer protections in 3 types of real estate transactions: “foreclosure rescue” transactions (where a homeowner under threat of foreclosure deeds his property to another who agrees to make the monthly mortgage payments), lease with option to purchase transactions, and contract for deed transactions. The bill was supported by the N.C. Justice Center, the Consumer Protection Section of the Attorney General’s Office, and the N.C. Real Estate Commission.

NCMHA worked with interest groups such as NC Bankers Association, NC Justice Center, NC Realtors, NC Homebuilders, NC Housing Coalition and the bill sponsor to get fairness for manufactured homes and licensed retailers. We were able to eliminate (remove) manufactured homes as personal property from the lease/ purchase and contract for title sections of the bill. So these provisions will only apply to manufactured or modular homes that are affixed to real property and treated as real estate. Additionally, we able to amend the bill to say that manufactured home retailers will be treated the same as General Contractors.

The bill does not prohibit lease with option to purchase transactions, or contract for deed transactions, but the bill does establish new consumer protection requirements, such as: the contracts must be in writing, must include certain specific terms (buyer, seller, property description, amount of lease payment, amount paid for option, etc.), must be recorded with the Register of Deeds, must give the purchaser notice of and the right to cure any default, must give the purchaser a 3 day right to cancel, and must specify the consequences of a seller’s default on a loan secured by a lien on the property.,

This new law will go into effect on October 1, 2010 and will apply to transactions entered into on or after that date. . If you engage in foreclosure rescue, lease/option, or contract for deed (a/k/a contract for title) transactions, you will need to make sure your documents comply with the new requirements. Failure to do so constitutes an unfair and deceptive trade practice and could subject you to civil liability. Also, it would constitute a violation of the Manufactured Home Licensing Act and could subject you to disciplinary action by the Board.

Energy Tax Credit(HB 504)-

This bill would have provided a tax credit of \$1,000 for builders of federally qualified energy efficient homes and \$2,000 for state qualified energy efficient homes. NCMHA worked with several interest groups such as the NC Homebuilders and State Agencies such as NC State Energy Office in support of this bill. The bill did not pass this session due to the current budget shortfall. However, we were able to generate broad bi-partisan support for the credit and hope to be able to get it passed next session.

Permit Extensions (HB 683)-

In 2009, the General Assembly passed the Permit Extension Act of 2009 that stopped the expiration of all kinds of governmental permits issued to builders and developers, including anyone erecting a manufactured or modular home. Building permits, site plans, subdivision plans, and development approvals of any kind were extended to December 31, 2010. House Bill 683 extends that approval period another year – to December 31, 2011. This is an attempt to provide some relief to the real estate market, given the uncertainties of the current economy. If you have a current building permit approval, site plan or subdivision approval from a local government, that approval does not expire and cannot be withdrawn or repealed by the locality until December 31, 2011.

Sales and Use tax-

Prior to the session, a joint House-Senate committee was formed to look at the current tax structure for NC and make recommendations to the General Assembly during the short session. NCMHA participated and attended these meetings. The current tax structure for manufactured and modular homes was discussed and at times it seemed that we would be facing some change or increase in our current schedule. When the General Assembly convened the state was facing a several billion-dollar shortfall and all fees and taxes were open for discussion.

In the end, we were able to keep the current rate for sales and use tax for both manufactured and modular homes unchanged.

Appointments to Manufactured Housing Licensing Board-

This year there were two vacancies on the Department of Insurance Manufactured Housing Licensing Board. The seats were the service supplier representative and set-up/installation contractor representative. NCMHA recommended to the President Pro- tem Sen. Marc Basnight Cliff DeSpain of Batchelor Supply and Dave Cranfield of Mid-State Modular Construction for the vacant seats. These recommendations were included in the appointments bill, which passed into law. These appointees will serve a 3-year term.

Thanks to the Board of Directors and to the Legislative/Retailer/Community Committee members for their assistance and advice during the Session. The next session of the General Assembly will convene on January 26, 2011.