

Part 2D. Management of Discarded White Goods.

§ 130A-309.80. Findings and purpose.

The General Assembly finds that white goods are difficult to dispose of, that white goods that contain chlorofluorocarbon refrigerants pose a danger to the environment, and that it is in the best interest of the State to require that chlorofluorocarbon refrigerants be removed from discarded white goods. This Part therefore provides for the management of discarded white goods. (1993, c. 471, s. 4.)

§ 130A-309.81. Management of discarded white goods; disposal fee prohibited.

(a)Duty. - Each county is responsible for providing at least one site for the collection of discarded white goods. It must also provide for the disposal of discarded white goods and for the removal of chlorofluorocarbon refrigerants from white goods. A county may contract with another unit of local government or a private entity in accordance with Article 15 of Chapter 153A of the General Statutes to provide for the management of discarded white goods or for the removal of chlorofluorocarbon refrigerants from white goods.

(b) Restrictions. - A unit of local government or a contracting party may not charge a disposal fee for the disposal of white goods. A white good may not be disposed of in a landfill, an incinerator, or a waste-to-energy facility.

(c) Plan. - Each county shall establish written procedures for the management of white goods. The county shall include the procedures in any solid waste management plan required by the Department under this Article. (1993, c. 471, ss. 4, 6; 1993 (Reg. Sess., 1994), c. 745, ss. 36, 37; 2001-265, s. 6.)

§ 130A-309.82. Use of disposal tax proceeds by counties.

Article 5C of Chapter 105 of the General Statutes imposes a tax on new white goods to provide funds for the management of discarded white goods. A county must use the proceeds of the tax distributed to it under that Article for the management of discarded white goods. The purposes for which a county may use the tax proceeds include, but are not limited to, the following:

- (1) Capital improvements for infrastructure to manage discarded white goods, such as concrete pads for loading, equipment essential for moving white goods, storage sheds for equipment essential to white goods disposal management, and freon extraction equipment.
- (2) Operating costs associated with managing discarded white goods, such as labor, transportation, and freon extraction.
- (3) The cleanup of illegal white goods disposal sites, the cleanup of illegal disposal sites consisting of more than fifty percent (50%) discarded white goods, and, as to those illegal disposal sites consisting of fifty percent (50%) or less discarded white goods, the cleanup of the discarded white goods portion of the illegal disposal sites.

Except as provided in subdivision (3) of this section, a

county may not use the tax proceeds for a capital improvement or operating expense that does not directly relate to the management of discarded white goods. Except as provided in subdivision (3) of this section, if a capital improvement or operating expense is partially related to the management of discarded white goods, a county may use the tax proceeds to finance a percentage of the costs equal to the percentage of the use of the improvement or expense directly related to the management of discarded white goods. (1993, c. 471, s. 4; 1998-24, ss. 4, 7; 2000-109, s. 9(a); 2001-265, s. 5.)

§ 130A-309.83. White Goods Management Account.

(a) The White Goods Management Account is established within the Department. The Account consists of revenue credited to the Account from the proceeds of the white goods disposal tax imposed by Article 5C of Chapter 105 of the General Statutes.

(b) The Department shall use revenue in the Account to make grants to units of local government to assist them in managing discarded white goods. To administer the grants, the Department shall establish procedures for applying for a grant and the criteria for selecting among grant applicants. The criteria shall include the financial ability of a unit to manage white goods, the severity of a unit's white goods management problem, and the effort made by a unit to manage white goods within the resources available to it.

(c) A unit of local government is not eligible for a grant unless its costs of managing white goods for a six-month period preceding the date the unit files an application for a grant exceeded the amount the unit received during that period from the proceeds of the white goods disposal tax under G.S. 105-187.24. The Department shall determine the six-month period to be used in determining who is eligible for a grant. A grant to a unit may not exceed the unit's unreimbursed cost for the six-month period.

(d) If a unit of local government anticipates that its costs of managing white goods during a six-month period will exceed the amount the unit will receive during that period because the unit will make a capital expenditure for the management of white goods or because the unit will incur other costs resulting from improvements to that unit's white goods management program, the unit may request that the Department make an advance determination that the costs are eligible to be paid by a grant from the White Goods Management Account and that there will be sufficient funds available in the Account to cover those costs. If the Department determines that the costs are eligible for reimbursement and that funds will be available, the Department shall reserve funds for that unit of local government in the amount necessary to reimburse allowable costs. The Department shall notify the unit of its determination and fund availability within 60 days of the request from the unit of local government. This subsection applies only to capital expenditures for the management of white goods and to costs resulting from improvements to a unit's white goods management program. (1993, c. 471, s. 4; 1995 (Reg. Sess., 1996), c. 594, s. 24; 1998-24, s. 7; 2000-109, s. 9(a); 2001-265, s. 5.)

§ 130A-309.84. Civil penalties for improper disposal.

The Department may assess a civil penalty of not more than one hundred dollars (\$100.00) against a person who, knowing it is unlawful, places or otherwise disposes of a discarded white good in a landfill, an incinerator, or a waste-to-energy facility. The Department may assess this penalty for the day the unlawful disposal occurs and each following day until the white good is disposed of properly.

The Department may assess a penalty of up to one hundred dollars (\$100.00) against a person who, knowing it is required, fails to remove chlorofluorocarbon refrigerants from a discarded white good. The Department may assess this penalty for the day the failure occurs and each following day until the chlorofluorocarbon refrigerants are removed.

The clear proceeds of civil penalties assessed pursuant to this section shall be remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2. (1993, c. 471, s. 4; 1998-215, s. 59.)

§ 130A-309.85. Reporting on the management of white goods.

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

- (1) The amount of taxes collected and distributed under G.S. 105-187.24 during the period covered by the report.
- (2) The cost to each county of managing white goods during the period covered by the report.
- (3) The beginning and ending balances of the White Goods Management Account for the period covered by the report and a list of grants made from the Account for the period.
- (4) Any other information the Department considers helpful in understanding the problem of managing white goods.
- (5) A summary of the information concerning the counties' white goods management programs contained in the counties' Annual Financial Information Report. (1993, c. 471, s. 4; 1995 (Reg. Sess., 1996), c. 594, s. 25; 1998-24, ss. 5, 7; 2000-109, s. 9(a); 2001-265, s. 5; 2001-452, s. 3.5.)

§ 130A-309.86. Effect on local ordinances.

This Part preempts any local ordinance regarding the management of white goods that is inconsistent with this Part or the rules adopted pursuant to this Part. It does not preempt any local ordinance regarding the management of white goods that is consistent with this Part or rules adopted pursuant to this Part. (1993, c. 471, s. 4.)

§ 130A-309.87. Eligibility for disposal tax proceeds.

(a) Receipt of Funds. - A county may not receive a quarterly distribution of the white goods disposal tax proceeds under G.S. 105-187.24 unless the undesignated balance in the county's white goods account at the end of its fiscal year is less than the threshold amount. Based upon the information in a county's Annual Financial Information Report, the Department must notify the Department of Revenue by March 1 of each year which counties may not receive a distribution of the white goods disposal tax for the current calendar year. The Department of Revenue will credit the undistributed tax proceeds to the White Goods Management Account.

If the undesignated balance in a county's white goods account subsequently falls below the threshold amount, the county may submit a statement to the Department, certified by the county finance officer, that the undesignated balance in its white goods account is less than the threshold amount. Upon receipt of the statement, the Department will notify the Department of Revenue to distribute to the county its quarterly distribution of the white goods disposal tax proceeds. The Department must notify the Department of Revenue of the county's change of status at least 30 days prior to the next quarterly distribution.

For the purposes of this subsection, the term "threshold amount" means twenty-five percent (25%) of the amount of white goods disposal tax proceeds a county received, or would have received if it had been eligible to receive them under G.S. 130A-309.87, during the preceding fiscal year.

(b) Annual Financial Information Report. - On or before November 1 of each year, a county must submit a copy of its Annual Financial Information Report, prepared in accordance with G.S. 159-33.1, to the Department. The Secretary of the Local Government Commission must require the following information in that report:

- (1) The tonnage of white goods scrap metal collected.
- (2) The amount of revenue credited to its white goods account. This revenue should include all receipts derived from the white goods disposal tax, the sale of white goods scrap metals and freon, and a grant from the White Goods Management Account.
- (3) The expenditures from its white goods account. The expenditures should include operating expenses and capital improvement costs associated with its white goods management program.
- (4) The designated and undesignated balance of its white goods account.
- (5) A comparison of the undesignated balance of its white goods account at the end of the fiscal year and the amount of white goods disposal tax proceeds it received, or would have received if it had been eligible to receive it under G.S. 130A-309.87, during the fiscal year. (1998-24, s. 6.)