

April 9, 2009

H 1305. BEACH PLAN CHANGES. Filed 4/8/09. *TO MAKE CHANGES TO THE NORTH CAROLINA BEACH PLAN AS RECOMMENDED BY THE JOINT SELECT COMMITTEE ON THE POTENTIAL IMPACT OF MAJOR HURRICANES ON THE NORTH CAROLINA INSURANCE INDUSTRY.*

Amends Article 45 of GS Chapter 58 as follows. Amends GS 58-45-1 by adding that the intent of the General Assembly is to exempt the activities of the North Carolina Insurance Underwriting Association (Association) from state and federal taxation, except for gross premium taxes. Adds definitions for *market of last resort*, *nonrecoupable assessment*, *probable maximum loss*, *property insurance*, *recoupable assessment*, *voluntary market*, and *voluntary market rates* and makes technical changes throughout the statute. Amends GS 58-45-15 to allow the Association to require insureds to purchase federal flood insurance where applicable and available in order to obtain replacement cost or other preferential forms, endorsements or coverages.

Amends GS 58-45-30 to add that any order of the Commissioner of Insurance (Commissioner) with respect to a proposed plan of operation or any amendment to a plan submitted by the Association Board of Directors is subject to review by the Superior Court as provided in GS 58-2-75 (Court review of orders and decisions). Removes language that provided for continuation of an existing temporary placement facility prior to a plan of operation being put into effect. Makes technical changes and a conforming change to the caption.

Enacts a new GS 58-45-41 to require the Association to cause insurance to be issued up to the reasonable value of an insurable property, subject to maximums under certain conditions. Sets the maximum for habitational property at \$750,000 and for commercial property at \$3 million. Provides that if the property value exceeds a maximum coverage limit that the Association will not issue coverage without the purchase of excess coverage to the full value of the insured property.

Amends GS 58-45-45(a) by stating that rates cannot be excessive, inadequate or unfairly discriminatory. Amends GS 58-45-45(c) by allowing the Association to adopt a schedule of surcharges *above corresponding manual rates* and adding that the schedule applies to not only homeowner policies but also dwelling and commercial policies, including coverage for separate policies of windstorm and hail. Makes technical changes. Enacts new subsections to GS 58-45-45 to make the following changes. Requires that the surcharges set pursuant to subsection (c) be examined by actuaries retained by the Association to determine whether the surcharges are actuarially sound and appropriate. Provides factors for the Association to consider in determining risk of exposure. Requires that, beginning July 1, 2010, the Association must submit a report on the surcharges to the Commissioner every two years by July 1, with copies of that report also submitted to specified legislative committees. Specifies that the procedures for regulation of insurance rates set forth in GS 58-40-25 through GS 58-40-45, as well as the appeal procedures of GS 58-2-80 and GS 58-2-85, apply to the Association's filing of rates, classification plans, rating plans, rating systems, or surcharges. Allows the Association to file a schedule of credits for policyholders based on the presence of mitigation and construction features and on the condition of insured buildings. Requires the Association, by May 1, 2010, to attain and maintain the ability to pay losses and expenses from a hurricane or combination of hurricanes expected to occur at probable maximum loss levels of 1:100. After May 1, 2010, increases the required combination of earned premium, surplus, and reinsurance every two years by increasing the probable maximum loss targets by ten years, until May 1, 2022, when the Association is protected with a maximum level of loss of 1:150. Requires that the amount of expected probable maximum loss at specified return intervals be determined by at least two industry reliable hurricane modelers, but gives the Association discretion in the method of averaging those results.

Enacts a new GS 58-45-47, which requires the Association to levy a nonrecoupable assessment on member insurers in an amount equal to a deficit (measured by a percentage yet to be determined of the last year's aggregate statewide property insurance written premiums and costs) incurred because of a catastrophic event. Requires that the Association notify the Commissioner when a post-catastrophe deficit event has occurred. Includes that the General Assembly intends that insurers remain fully responsible for paying nonrecoupable assessments and collecting recoupable assessments for any deficits of the Association. Provides that if the

Association determines that a deficit exceeds the amount recovered through nonrecoupable assessments, which is verified by the Department of Insurance, it must levy recoupable assessments in the year or years following the levy of the assessments, provided that amount does not exceed a percent (yet to be determined) of the annual premiums on any one policy of insurance. Sets forth a maximum aggregate amount of recoupable assessments (measured by a percentage yet to be determined of the last year's aggregate statewide property insurance written premiums and costs) and procedures for informing a policy holder of a recoupable assessment and payment responsibility. Requires the Association to report quarterly to the Commissioner by providing all financial information for each recoupable assessment, including total assessment funds recovered to date and other reasonably requested information. Makes conforming changes to GS 58-45-25 by removing the Association members' ability to participate in profits and by requiring the Association to retain its accumulated surplus from year to year to pay losses, reinsurance costs, and other operating expenses. Prohibits any member company from receiving a distribution of any portion of the surplus.

Enacts a new GS 58-45-48, which authorizes the Commissioner, upon application by the Association or upon the Commissioner's own initiative, to adjust the percentage of any recoupable assessment, previously established to achieve the objectives of GS 58-45-1 and GS 58-45-47, by considering specified relevant factors.

Enacts a new GS 58-45-95 to require that the Association make available, upon request by any company or Association board member, information concerning the Association's activities, provided the information does not include an established trade secret or confidential individual policy holder information without that individual's consent, unless the Association adopted a rule allowing disclosure of policyholder information intended to enhance the voluntary market.

Enacts a new GS 58-45-96 to allow the surplus held by the Association to be transferred to a successor organization, if and when one is formed to perform the Association's general functions.

Intro. by Holliman.

GS 58

July 1, 2009

H 1305. BEACH PLAN CHANGES. Filed 4/8/09. House committee substitute makes the following changes to 1st edition. Rewrites bill to provide as follows. (1) Renames the Beach Plan as the Coastal Property Insurance Pool (Pool). (2) Adds a definition for *catastrophic assessment recoupment* and deletes definitions of *market of last resort*, *probable maximum loss*, *property insurance*, and *recoupable assessment*. (3) Provides that each member of the NC Insurance Underwriting Association (Association) must participate in the Association's nonrecoupable assessments (was, expenses, profits, and losses) in the specified proportion. (4) Provides that the premiums, surplus, assessments, investment income, and other revenue of the Association are funds received for the purpose of providing insurance coverage, paying claims for policyholders, purchasing reinsurance, securing and repaying debt issued by the Association, and conducting other activities. (5) Limits contents coverage to 40% of building value. (6) Increases homeowners' coverage surcharges to 10% above approved voluntary market rates for separate wind and hail coverage and 20% for wind and hail as part of a homeowner's policy. Also requires that the Association offer a deductible for wind and hail coverage of 1% of the insured value of the property and allows any other deductible option provided by the NC Rate Bureau, as long as it is not lower than 1% of the insured value of the property. Deletes proposed language in GS 58-45-45 concerning the examination of surcharges by actuaries and reporting on surcharges. (7) Requires (was, allows) Pool to file schedule of credits by May 1, 2010, for policyholders based on mitigation and construction features. (8) Requires Pool to submit installment plan for premium payments to Commissioner of Insurance (Commissioner). (9) Allows Pool, with approval of the Commissioner, to institute catastrophic assessment recoupment (not to exceed 10% of the annual policy premium) on residential and commercial policyholders statewide if Pool's losses exceed \$1 billion. (10) Requires insurers to report to the Commissioner by February 1 of each year the amount of homeowner's insurance written in the beach and coastal areas of NC. (11) Allows the nonrecoupable assessment of a member insurer to be ordered deferred if the Commissioner believes payment of the assessment would render the insurer insolvent or in danger of insolvency or would leave the insurer in a condition so that further transaction of

business would be hazardous to its policyholders. (12) Amends provisions concerning succession and dissolution of the Association. (13) Requires the NC Rate Bureau to revise, monitor, and review territories in the beach and coastal areas. (14) Deletes the requirement in GS 58-36-20(a) that an order of disapproval be entered within 210 days after the date the filing is received by the Commissioner. (15) Requires public notice in at least two newspapers with statewide distribution of filings for increases in residential property insurance rates.

Makes technical and conforming changes and changes the title.

July 13, 2009

H 1305. BEACH PLAN CHANGES. Filed 4/8/09. House committee substitute makes the following changes to 2nd edition. Amends GS 58-45-5, to define the term *named storm* to mean a weather-related event involving wind, including hurricanes, tropical depressions, and tropical storms, that has been assigned a formal name by any of the generally recognized scientific or meteorological associations that provide formal names for these events for public use and reference.

Amends GS 58-45-15 to delete the requirement that insureds of the North Carolina Insurance Underwriting Association (established under Article 45 of GS Chapter 58) purchase federal flood insurance in order to obtain certain benefits.

Amends GS 58-45-45(a2) to require the North Carolina Insurance Underwriting Association (Association) to offer a deductible for named storm wind and hail losses (was, for wind and hail coverage) of 1% of the insured value of the property for all properties. Provides that the Association may offer any other deductible options provided by the North Carolina Rate Bureau as long as the deductible is not less than 1% of the insured property value applicable to named storm wind and hail losses (was, wind and hail losses). Makes the provisions of this subsection effective when a rate or rates for a deductible for named storm wind and hail losses of 1% as required by the subsection become effective, as approved by the Commissioner of Insurance (Commissioner) (was, effective when it becomes law).

Amends GS 58-6-26 to provide that the additional insurance regulatory charge for the NC Underwriting Association is in addition to the charge imposed under GS 58-6-25 (was, GS 25-6-25).

Directs the NC Rate Bureau, no later than February 1, 2010, to file for approval by the Commissioner of its rating plans for policies under its jurisdiction in the North Carolina beach and coastal areas that include a deductible for named storm wind and hail losses of 1% of the insured property value.

Enacts GS 58-45-65.1 to require that the Association be audited annually by an auditor selected by the Commissioner.

Makes organizational changes, and makes a conforming change to the title. Provides that the act applies to policies filed, issued, or renewed (was, *and* renewed) on or after the effective date. Except as otherwise indicated, the effective date is when the act becomes law.

August 5, 2009

H 1305. BEACH PLAN CHANGES. Filed 4/8/09. Senate committee substitute makes the following changes to 3rd edition. (1) Makes clear that the NC Insurance Underwriting Association (Association) must use available surplus, reinsurance, and other sources of funding before issuing a nonrecoupable assessment upon members. (2) Makes clear that the Association may raise funds by borrowing from members. (3) The previous edition prohibited distribution of the Association's surplus to any member, except pursuant to "contractual obligations" incurred before the effective date of the act; this committee substitute limits the exception to "judgments" entered before the effective date. (4) Directs the Association to annually consider purchase of reinsurance to maintain the ability to pay losses and expenses from one or more named storms. (5) Continues the threshold of \$1 billion of nonrecoupable assessments on members before charges are permitted upon policy holders, and changes the name of the charge against policy holders from "catastrophic assessment recoupments" to "catastrophe recovery charges." Directs the Association to annually recalculate the catastrophe recovery charge amount and adjust the charge percentage as needed; and provides that the charge amount shall continue until financing

of the deficit amount has been paid in full, with any amounts collected in excess of need to be added to the Association's surplus. Makes clear that the charges apply to policies written in the FAIR plan. (6) Increases the maximum value of insurance on habitational property from \$750,000 to \$1 million, and directs the Association to ensure that rates accurately reflect the maximum limits for contents coverage and any reduction in contents coverage limits for such property. (7) Reduces the maximum surcharge for wind and hail coverage from 10% to 5%, and the maximum surcharge for homeowners' insurance including wind and hail coverage from 20 to 15%. (8) Adds new GS 58-36-15 directing the NC Rate Bureau to file, no later than May 1, 2010, a schedule of credits for policyholders based on presence of mitigation and construction features and on the condition of buildings it insures in the beach and coastal areas of the state. (9) Makes information concerning Association activities (subject to trade secret protection) available generally, rather than to only companies and Association board members. (10) Deletes proposed GS 58-6-26, which would have levied an annual charge on the NC Underwriting Association; and proposed amendment to GS 58-36-20(a), which would have deleted the requirement that orders of disapproval be entered within 210 days after filing. (11) Adds authorization to Legislative Research Commission to study need for changes in the composition of the Board of Directors of the Association and the method of selection of directors; and to study the adequacy of public participation in the filing of rates for property insurance by the NC Rate Bureau, the Association, and the NC Joint Underwriting Association. Directs a final report to the 2011 General Assembly. (12) Adds a severability provision and makes technical changes. Makes a conforming change to the title.

August 5, 2009

H 1305. BEACH PLAN CHANGES. Filed 4/8/09. Senate amendments make the following changes to 4th edition. Amendment #1 deletes (1) the January 1, 2010, effective date in proposed GS 58-45-45(a1) and (2) GS 58-45-45(c), which allowed the NC Insurance Underwriting Association (Association) to adopt a schedule of special surcharges relating to homeowner's insurance policies issued by the Association. Amends GS 58-36-20(a) to provide that a hearing regarding the Commissioner of Insurance's challenge of a rate filing by the NC Rate Bureau (Bureau) must proceed without undue delay, once begun. Specifies that the Bureau has the burden of proving that proposed rates are not excessive, inadequate, or unfairly discriminatory at the hearing. Provides that an order of disapproval by the Commissioner must be issued within 45 days after the completion of the hearing (was, the order must be entered within 210 days after the date the filing is received). States that if an order is not issued within that time, the filing is deemed to be approved. Makes a conforming change. Changes the title to *AN ACT TO MAKE CHANGES TO THE COASTAL PROPERTY INSURANCE POOL, PRESENTLY KNOWN AS THE BEACH PLAN, AS RECOMMENDED BY THE JOINT SELECT STUDY COMMITTEE ON THE POTENTIAL IMPACT OF MAJOR HURRICANES ON THE NORTH CAROLINA INSURANCE INDUSTRY, AND TO MAKE OTHER CHANGES.*

Amendment #2 amends proposed GS 58-45-41 to decrease the maximum amount of insurance for the reasonable value of insurable habitational property that the Association must cause to be issued to \$750,000 (was, \$1 million).

September 1, 2009

SL 2009-472 (H 1305). BEACH PLAN CHANGES. *AN ACT TO MAKE CHANGES TO THE COASTAL PROPERTY INSURANCE POOL, PRESENTLY KNOWN AS THE BEACH PLAN, AS RECOMMENDED BY THE JOINT SELECT STUDY COMMITTEE ON THE POTENTIAL IMPACT OF MAJOR HURRICANES ON THE NORTH CAROLINA INSURANCE INDUSTRY, AND TO MAKE OTHER CHANGES.* Summarized in *Daily Bulletin* 4/9/09, 7/1/09, 7/13/09, and 8/5/09. Enacted August 26, 2009. The provisions of GS 58-45-45(a2), as enacted by Section 1, become effective when a rate or rates with a deductible for named storm wind and hail losses of 1% as required by that subsection become effective, as approved by the Commissioner. The remainder is effective August 26, 2009.