

GENERAL ASSEMBLY OF NORTH CAROLINA
THIRD EXTRA SESSION 2016

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Short Title: Disaster Recovery Act of 2016.

(Public)

Sponsors:

Referred to:

December 13, 2016

1 A BILL TO BE ENTITLED
2 AN ACT TO ENACT THE DISASTER RECOVERY ACT OF 2016.
3 The General Assembly of North Carolina enacts:

4
5 **PART I. TITLE OF ACT**

6 **SECTION 1.1.** This act shall be known as "The Disaster Recovery Act of 2016."
7

8 **PART II. LEGISLATIVE FINDINGS**

9
10 **DAMAGE CAUSED BY HURRICANE MATTHEW AND THE WILDFIRES IN THE**
11 **WESTERN PART OF THE STATE**

12 **SECTION 2.1.(a)** The General Assembly finds that Hurricane Matthew was one of
13 the strongest hurricanes to form in the Atlantic Ocean in a decade and that it, along with Tropical
14 Storms Julia and Hermine, caused widespread heavy rainfall, record flooding, and dozens of
15 deaths in North Carolina. The General Assembly further finds that wildfires in the western part of
16 the State burned tens of thousands of acres and destroyed hundreds of structures.

17 **SECTION 2.1.(b)** The General Assembly finds that as a result of Hurricane Matthew,
18 the wildfires in western North Carolina, and Tropical Storms Julia and Hermine, the following has
19 occurred:

- 20 (1) Central and eastern North Carolina endured record-breaking rainfall that
21 created 1,000-year flood events that devastated the people, infrastructure,
22 businesses, and schools of entire communities.
- 23 (2) At the height of Hurricane Matthew, 800,000 people were without power,
24 nearly 3,750 were displaced from their homes, 635 roads were closed, 34
25 school systems were closed, and 28 people lost their lives.
- 26 (3) Riverine flooding began several days after Hurricane Matthew passed and
27 lasted more than two weeks. Several larger rivers reached well above major
28 flooding levels, including the Tar, Cape Fear, Cashie, Lumber, and Neuse. On
29 October 24, 2016, the last river that had reached flood stages finally returned to
30 normal levels.
- 31 (4) Forty-nine of the State's counties were declared a major disaster by the
32 President of the United States under the Stafford Act (P.L. 93-288).



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- 1 (5) People lost their loved ones, their homes, their communities, their houses of
2 worship, their life savings, their jobs, their family mementos, their pets, and
3 their ways of life.
- 4 (6) Entire towns were flooded to the rooftops as the water levels of rivers and
5 streams throughout Eastern North Carolina crested at flood-stage heights far
6 beyond those ever seen before in this State.
- 7 (7) Approximately 88,000 homes were damaged with a total loss of more than
8 \$967 million. Of these, 4,424 homes were completely destroyed. This damage
9 represents an extraordinary economic loss as 68% of the damages, or \$659
10 million, is not expected to be covered by insurance or FEMA assistance.
- 11 (8) More than 30,000 businesses suffered physical or economic damage. More than
12 400,000 employees were impacted.
- 13 (9) More than 8,000 businesses have requested assistance due to physical or
14 economic impact loss as a result of the storm. As of November 28, 2016, 614
15 businesses have completed complex Small Business Administration loan
16 applications. Only 143 of these loan applications have been approved. The
17 numbers suggest both the numbers of businesses that suffered physical damage
18 as a result of the hurricane and the inability of many businesses in the region to
19 take on additional debt. Without additional assistance, many businesses may
20 not be able to reopen and jobs will be lost.
- 21 (10) Caskets floated out of the saturated ground.
- 22 (11) Local governments have suffered loss of infrastructure, damage to public
23 buildings, roads, wastewater treatment plants, and other facilities. Public
24 Assistance projects are in planning stages to repair facilities and roads, remove
25 debris, and otherwise affect cleanup and repair of local government facilities. In
26 addition, the damage from the storms to property and businesses has eroded the
27 tax base of the counties affected. These counties must bear a loss of revenue at
28 the same time they are shouldering the costs of replacing and repairing the
29 infrastructure and meeting the additional needs of the population struggling to
30 recover from the effects of the hurricane.
- 31 (12) More than 62,000 total acres burned in North Carolina, including more than
32 25,000 acres on land protected by the State.
- 33 (13) More than 2,400 emergency responders responded to the wildfires and related
34 events.
- 35 (14) Firefighters from 40 states joined North Carolina to assist in firefighting efforts,
36 including teams from Florida, Idaho, Oregon, Utah, and Nevada.
- 37 (15) Starting just weeks after Hurricane Matthew on October 23, 2016, and
38 continuing throughout November, 26 major and dozens of smaller fires
39 impacted air quality across the State.
- 40

41 **CRITICAL NEEDS NOT MET BY EXISTING STATE AND FEDERAL PROGRAMS** 42 **AND FUNDS**

43 **SECTION 2.2.(a)** The General Assembly finds that the State and federal disaster
44 relief initiatives are not intended to make individuals whole after a loss; they are intended to assist
45 the affected areas in recovering from the damage caused by Hurricane Matthew, the western
46 wildfires, and Tropical Storms Julia and Hermine.

47 Without significant additional State assistance to the area devastated by these events,
48 further deterioration of the economy, the environment, public health and safety, and quality of life
49 in the region is likely to occur. Without additional State assistance:

- 1 (1) Many people in uninsured, damaged homes will either not qualify for federal
2 housing assistance or not have the resources to take advantage of federal
3 housing assistance.
- 4 (2) Local governments already overwhelmed with storm-related expenses may not
5 have the resources to repair damaged infrastructure and provide the new
6 infrastructure necessary for families relocating out of the flood and landslide
7 zones and for businesses that are in the process of rebuilding.
- 8 (3) Jobs may be permanently lost because many cannot qualify for Small Business
9 Administration loans.
- 10 (4) Many farmers who suffered significant losses may find it difficult to continue
11 farming.
- 12 (5) Resources for drinking water protection, solid waste cleanup, hazardous waste
13 cleanup, and remediation of high-risk storage tanks will be inadequate.

14 **SECTION 2.2.(b)** It is the intent of the General Assembly that the benefits of the
15 projects and programs authorized by this act are for the common good and collective recovery of
16 the people of this State following devastating natural disasters directly affecting a large portion of
17 the State and indirectly affecting the entire State. The entire State faces a major loss if the counties
18 that bore the major impact of these disasters are not offered the assistance provided by this act.
19 The purpose of this act is to provide an ultimate net public benefit to the State through a successful
20 recovery initiative.

21 **PART III. COUNTIES COVERED BY THIS ACT**

22 **SECTION 3.1.** Sections 2.1 through 4.4 of this act apply in the North Carolina
23 counties that were any of the following:

- 24 (1) Declared a major disaster by the President of the United States under the
25 Stafford Act (P.L. 93-288) as a result of Hurricane Matthew, wildfires in the
26 western part of the State, Tropical Storm Julia, or Tropical Storm Hermine.
- 27 (2) Part of the emergency area set forth in any of the following gubernatorial
28 executive orders: Executive Order No. 97 (September 1, 2016), Executive
29 Order No. 103 (September 22, 2016), Executive Order No. 107 (October 3,
30 2016), Executive Order No. 115 (November 16, 2016), or Executive Order No.
31 116.

32 **PART IV. FUNDING OF DISASTER RELIEF**

33 **APPROPRIATIONS AND ALLOCATIONS OF FUNDS FOR DISASTER RELIEF**

34 **SECTION 4.1.** In addition to any other funds appropriated during the 2016-2017
35 fiscal year, there is appropriated from the Savings Reserve Account to the General Fund the sum
36 of one hundred million nine hundred twenty-eight thousand three hundred seventy dollars
37 (\$100,928,370) in nonrecurring funds for the 2016-2017 fiscal year and there is appropriated from
38 the unappropriated General Fund balance the sum of one hundred million dollars (\$100,000,000)
39 in nonrecurring funds for the 2016-2017 fiscal year. These funds shall be allocated as follows:

- 40 (1) \$20,000,000 shall be allocated to the Housing Trust Fund for eligible projects
41 under Chapter 122E of the General Statutes. Notwithstanding G.S. 122E-6,
42 these funds shall directly benefit persons and families affected by Hurricane
43 Matthew, the western wildfires, or Tropical Storms Julia and Hermine whose
44 incomes do not exceed one hundred percent (100%) of the area's median
45 income, with adjustments for family size, according to the latest figures
46 available from the U.S. Department of Housing and Urban Development.
- 47 (2) \$9,000,000 shall be allocated to the Division of Emergency Management to
48 develop, implement and fund disaster assistance programs to meet the
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1 emergency sheltering and short-term housing needs of individuals affected by
2 Hurricane Matthew, the western wildfires, and Tropical Storms Julia and
3 Hermine.

4 (3) \$11,500,000 shall be allocated to the Division of Emergency Management for
5 resilient redevelopment planning. These funds shall be used to do the
6 following:

7 a. Oversee and facilitate strategic resiliency planning meetings at each of
8 the 49 counties that were declared a major disaster by the President of
9 the United States as a result of Hurricane Matthew as well as the five
10 economic development regions that were affected by that storm.

11 b. Develop strategic, resilient redevelopment plans for each of these 49
12 counties.

13 c. Oversee the submission of county-approved strategic resiliency action
14 plans for federal approval.

15 d. Provide redevelopment expertise, technical assistance, and
16 administrative support to the 49 counties and economic regions
17 throughout the planning, design, and implementation of action plans.

18 (4) \$66,228,370 shall be allocated to the State Emergency Response and Disaster
19 Relief Fund to provide the State match for federal disaster assistance programs.

20 (5) \$10,000,000 shall be allocated to the State Emergency Response and Disaster
21 Relief Fund to ensure that sufficient funds are available to provide relief and
22 assistance from future emergencies, as authorized by G.S. 166A-19.42.

23 (6) \$5,000,000 shall be allocated to The Golden L.E.A.F. (Long-Term Economic
24 Advancement Foundation), Inc., a nonprofit corporation, for the purpose of
25 providing grants to eligible entities capable of making loans to small businesses
26 affected by Hurricane Matthew, the western wildfires, or Tropical Storms Julia
27 and Hermine.

28 (7) \$20,000,000 shall be allocated to The Golden L.E.A.F. (Long-Term Economic
29 Advancement Foundation), Inc., a nonprofit corporation, to provide grants to
30 local governments to construct new infrastructure required to support the
31 development of new residential structures in areas outside the 100-year
32 floodplain or repair or replace existing infrastructure. For purposes of this
33 subdivision, infrastructure includes water, sewer, sidewalks, storm drainage,
34 and other, similar projects that provide assistance or relief for Hurricane
35 Matthew, the western wildfires, and Tropical Storms Julia and Hermine.

36 (8) \$10,000,000 shall be allocated to the Department of Commerce to be further
37 allocated to the Rural Economic Development Division to provide grants to
38 local governments to construct new infrastructure required to support the
39 development of new residential structures in areas outside the 100-year
40 floodplain or repair or replace existing infrastructure. For purposes of this
41 subdivision, infrastructure includes water, sewer, sidewalks, storm drainage,
42 and other, similar projects that provide assistance or relief for Hurricane
43 Matthew, the western wildfires, or Tropical Storms Julia and Hermine.

44 (9) \$10,000,000 shall be allocated to the Department of Environmental Quality for
45 disaster-related infrastructure and cleanup needs including, but not limited to,
46 repair of wastewater and drinking water systems, dam safety, emergency
47 permitting, and solid waste cleanup. The Department of Environmental Quality
48 shall do all of the following:

49 a. Allocate a portion of these funds to assist local governments to mitigate
50 the failure of burial sites and to take other steps necessary to protect the
51 public health.

- 1 b. Use, in conjunction with the Department of Health and Human Services,
2 a portion of these funds to provide grants to assist with the repair,
3 replacement, or removal of septic tank systems related to damage
4 caused by flooding.
- 5 (10) \$37,950,000 shall be allocated to the Department of Agriculture and Consumer
6 Services to be further allocated for the following purposes:
- 7 a. \$25,500,000 to the North Carolina Forest Service for repairs and
8 operational expenses at Claridge Nursery in Wayne County, wildfire
9 response, and disaster-related timber restoration.
- 10 b. \$12,200,000 to the Division of Soil and Water Conservation for stream
11 debris removal and non-field farm road repairs and for supplemental
12 funding of the Agricultural Water Resources Assistance Program to
13 support disaster-related farm pond and dam repairs.
- 14 c. \$250,000 to the Research Stations Division for dike repairs at the
15 Cherry Research Farm in Wayne County.
- 16 (11) \$1,000,000 shall be allocated to the Department of Insurance, Office of the
17 State Fire Marshal, to provide grants to volunteer fire departments for repairs of
18 damages caused by Hurricane Matthew, the wildfires in the western part of the
19 State, and Tropical Storms Julia and Hermine that were not covered by federal
20 assistance or by the proceeds of insurance policies.
- 21 (12) \$250,000 shall be allocated to the Department of Commerce to assess, in
22 consultation with the Economic Development Partnership of North Carolina,
23 the need for business assistance funds for businesses affected by Hurricane
24 Matthew, the western wildfires, and Tropical Storms Julia and Hermine. The
25 Department may use funds allocated in this section to fund time-limited
26 positions, as needed, within the Department or the Economic Development
27 Partnership of North Carolina to conduct the assessment. On or before March 1,
28 2017, the Department shall submit a report detailing its findings and making
29 recommendations for the best process to administer recovery assistance funds
30 to the Chairs of the House Appropriations Committee, the Chairs of the Senate
31 Appropriations/Base Budget Committee, and the Fiscal Research Division.
- 32

33 **LIMITATIONS ON FUND USE**

34 **SECTION 4.2.** The General Assembly finds that the scope of the immediate needs
35 produced by the devastation wrought by recent natural disasters in this State warrants taking the
36 steps in this act. The General Assembly further finds that efforts to assess and address the damage
37 will need to continue when the General Assembly returns for the 2017 Regular Session. Because
38 the 2017 General Assembly will convene shortly and has continuing authority to address the
39 State's disaster relief needs, the 2015 General Assembly finds that broad executive expenditure
40 flexibility over the funds appropriated in this act is not warranted. Accordingly, the Governor shall
41 not use funds appropriated in this act to make budget adjustments under G.S. 143C-6-4 or to make
42 reallocations under G.S. 166A-19.40(c). Nothing in this section shall be construed to prohibit the
43 Governor from exercising the Governor's authority under these statutes with respect to funds other
44 than those appropriated in this act.

45

46 **EACH APPROPRIATION AND ALLOCATION IS MAXIMUM AND CONDITIONAL**

47 **SECTION 4.3.** The appropriations and allocations made in this act are for maximum
48 amounts necessary to implement this act. Savings shall be effected where the total amounts
49 appropriated or allocated are not required to implement this act.

50

51 **FUNDS DO NOT REVERT**

1 **SECTION 4.4.** Funds appropriated in or allocated in this act shall remain available to
2 implement the provisions of this act until the General Assembly directs the reversion of any
3 unexpended and unencumbered funds. G.S. 143C-6-23(f1)(1) shall not apply to funds
4 appropriated in this act.

5
6 **PART V. IMPLEMENTATION OF ACT**

7
8 **AUTHORITY TO ESTABLISH TIME-LIMITED POSITIONS TO IMPLEMENT THIS**
9 **ACT**

10 **SECTION 5.1.** The Governor may establish part-time and full-time personnel
11 positions to implement this act. Positions established under this section are time-limited and
12 exempt from the State Human Resources Act.

13
14 **AUTHORITY TO ESTABLISH ADVISORY COUNCILS TO ADVISE STATE**
15 **AGENCIES ON RECOVERY EFFORTS**

16 **SECTION 5.2.** The Governor shall establish advisory councils to advise relevant
17 State agencies on hurricane relief and recovery efforts and to ensure input from representatives of
18 affected communities and groups.

19
20 **SUBROGATION BY STATE OF RIGHT TO INSURANCE COVERAGE FOR**
21 **DAMAGED HOMES PURCHASED OR RELOCATED UNDER THE HAZARD**
22 **MITIGATION PROGRAM**

23 **SECTION 5.3.** If a person's home is relocated or purchased with funds from the
24 Hazard Mitigation Grant Program or the State Acquisition and Relocation Fund, the State
25 Emergency Response and Disaster Relief Fund is subrogated to the person's rights under any
26 insurance coverage for the damage to the home, and any monies received from the insurance
27 coverage shall be paid to the State Emergency Response and Disaster Relief Fund. The Division
28 of Emergency Management shall ensure that those potentially affected by this section are notified
29 of, and adhere to, its requirements.

30
31 **INVOLVEMENT OF HISTORICALLY UNDERUTILIZED BUSINESSES**

32 **SECTION 5.4.** It is the intent of the General Assembly that, during this time of
33 rebuilding and relief efforts, each State agency should strive to acquire goods and services from
34 historically underutilized business vendors, whether directly as principal contractors or indirectly
35 as subcontractors or otherwise.

36
37 **LEGISLATIVE REVIEW OF FEDERAL FUNDING AND REMAINING UNMET NEEDS**

38 **SECTION 5.5.** It is the intent of the General Assembly to review in 2017 and 2018
39 the funds appropriated by Congress and to consider actions needed to address any remaining
40 unmet needs. It is also the intent of the General Assembly to review the adequacy of the measures
41 funded by subdivision (3) of Section 4.1 of this act at that time.

42
43 **PROHIBITION ON USE OF STATE FUNDS TO CONSTRUCT CERTAIN RESIDENCES**

44 **SECTION 5.6.(a)** No State funds appropriated in this act may be expended for the
45 construction of any new residence within the 100-year floodplain unless the construction is in an
46 area regulated by a unit of local government pursuant to a floodplain management ordinance and
47 the construction complies with the ordinance. As used in this section, "100-year floodplain" means
48 any area subject to inundation by a 100-year flood, as indicated on the most recent Flood
49 Insurance Rate Map prepared by the Federal Emergency Management Agency under the National
50 Flood Insurance Program.

1 **SECTION 5.6.(b)** Homeowners in the 100-year floodplain who receive homeowner's
2 housing assistance pursuant to this act shall have in effect federal flood insurance, if available, as a
3 precondition to receipt of State homeowner's housing assistance for losses resulting from future
4 flooding.

5 **SECTION 5.6.(c)** Funds loaned to small and mid-sized businesses shall be used only
6 for eligible purposes under the Small Business Administration (SBA) disaster loan assistance
7 program, as described in the Federal disaster declarations designated by the SBA as NC 14911 and
8 NC 14912. Payments for economic losses shall be limited to documented business expenses
9 necessary for the continued operation of the business.

10 11 **FLEXIBILITY IN SCHOOL CALENDAR TO ACCOMMODATE EXTRAORDINARY** 12 **CIRCUMSTANCES**

13 **SECTION 5.7.(a)** Notwithstanding G.S. 115C-84.2(a)(1), if a local board of
14 education closed any school in the local school administrative unit during the month of October
15 2016 due to unusual and extraordinary inclement weather conditions related to Hurricane Matthew
16 for at least two consecutive school days, that school shall be deemed to have completed any
17 scheduled instructional hours and days in excess of those two days missed due to Hurricane
18 Matthew during the month of October 2016. Teachers and other school employees employed for a
19 10-month term are deemed to have been employed for the scheduled instructional days missed due
20 to Hurricane Matthew in excess of those two days during the month of October 2016, and all other
21 employees shall be compensated as if they had worked the scheduled instructional days missed
22 due to Hurricane Matthew in excess of those two days during the month of October 2016.

23 **SECTION 5.7.(b)** Notwithstanding G.S. 115C-218.85(a)(1), if a charter school was
24 closed during the months of October or November 2016 due to unusual and extraordinary
25 inclement weather conditions related to Hurricane Matthew or to wildfires in the western part of
26 the State for at least two consecutive school days, that charter school shall be deemed to have
27 completed any scheduled instructional hours and days in excess of those two days missed due to
28 Hurricane Matthew or to wildfires in the Western part of the State during the months of October or
29 November 2016.

30 **SECTION 5.7.(c)** Notwithstanding G.S. 115C-238.53(d) and G.S. 115C-238.66(1)d.,
31 if a regional board of directors closed a regional school under that board's control during the
32 month of October 2016 due to unusual and extraordinary inclement weather conditions related to
33 Hurricane Matthew for at least two consecutive school days, that regional school shall be deemed
34 to have completed any scheduled instructional hours and days in excess of those two days missed
35 due to Hurricane Matthew during the month of October 2016. Teachers and other school
36 employees employed for a 10-month term are deemed to have been employed for the scheduled
37 instructional days missed due to Hurricane Matthew in excess of those two days during the month
38 of October 2016, and all other employees shall be compensated as if they had worked the
39 scheduled instructional days missed due to Hurricane Matthew in excess of those two days during
40 the month of October 2016.

41 **SECTION 5.7.(d)** The Superintendent of Public Instruction shall report to the Chairs
42 of the House of Representatives and Senate Appropriations Committees and to the Fiscal Research
43 Division of the General Assembly on the implementation of this section by local school
44 administrative units, charter schools, and regional schools by March 10, 2017, and shall also
45 provide any additional reports or information requested by the Fiscal Research Division. Local
46 school administrative units, charter schools, and regional schools shall provide information on
47 implementation of this section in the form requested by the Superintendent of Public Instruction
48 no later than February 10, 2017.

49 50 **REPORTING REQUIREMENTS**

1 **SECTION 5.8.** The Office of State Budget and Management shall report to the Chairs
2 of the House of Representatives and Senate Appropriations Committees and to the Fiscal Research
3 Division of the General Assembly on the implementation of this act on a monthly basis and shall
4 also provide any additional reports or information requested by the Fiscal Research Division. Each
5 report required by this section shall include information about all funds expended or encumbered
6 pursuant to this act as of the date of the report, regardless of which State agency or non-State
7 entity administers the funds. Non-State entities that administer or receive any funds appropriated
8 in this act shall assist and fully cooperate with the Office of State Budget and Management in
9 meeting the Office's obligations under this section.

10 11 **WAIVER OF CERTAIN DMV FEES**

12 **SECTION 5.9.(a)** Notwithstanding G.S. 20-14, 20-37.7, 20-85, and 20-88.03, the
13 Governor may waive any fees assessed by the Division of Motor Vehicles under those sections for
14 the following:

- 15 (1) A duplicate drivers license, commercial drivers license, or special identification
16 card.
- 17 (2) A special identification card issued to a person for the first time.
- 18 (3) An application for a duplicate or corrected certificate of title.
- 19 (4) A replacement registration plate.
- 20 (5) An application for a duplicate registration card.
- 21 (6) Late payment of a motor vehicle registration renewal fee.

22 **SECTION 5.9.(b)** The waiver authorized under subsection (a) of this section applies
23 only to residents of counties impacted by Hurricane Matthew, as determined by the Governor.

24 **SECTION 5.9.(c)** This section is effective when it becomes law and applies to fees
25 assessed or collected on or after October 1, 2016. This section expires December 1, 2016.

26 27 **ADDITIONAL LIMITATIONS ON USE OF FUNDS**

28 **SECTION 5.10.** The Governor shall ensure that funds appropriated in this act are
29 expended in a manner that does not adversely affect any person's or entity's eligibility for federal
30 funds that are made available, or that are anticipated to be made available, as a result of Hurricane
31 Matthew, the western North Carolina wildfires, or Tropical Storms Julia and Hermine. The
32 Governor shall also, to the extent practicable, avoid using State funds to cover costs that will be,
33 or likely will be, covered by federal funds.

34 35 **FACILITATE USE OF COMMUNITY DEVELOPMENT BLOCK GRANTS FOR** 36 **DISASTER RELIEF**

37 **SECTION 5.11.(a)** Notwithstanding any other provision of law, all Community
38 Development Block Grant Disaster Recovery Program funds received by the Department of
39 Commerce in response to the declarations and executive orders described in Section 3.1 of this act
40 shall be transferred to the Emergency Management Division of the Department of Public Safety.

41 **SECTION 5.11.(b)** The Emergency Management Division shall assist the Department
42 of Commerce in fulfilling any reporting requirements arising from receipt of the Disaster
43 Recovery Program funds described in subsection (a) of this section.

44 45 **REQUIRE REPLENISHING OF SAVINGS RESERVE ACCOUNT**

46 **SECTION 5.12.** The Governor's Recommended State Budget for the 2017-2018 fiscal
47 year shall include a recommendation to transfer to the Savings Reserve Account the amount of
48 funds appropriated from that Reserve in Section 4.1 of this act.

49 50 **PART VI. EFFECTIVE DATE**

1 **SECTION 6.1.** Except as otherwise provided, this act is effective when it becomes
2 law.