

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2017

FILED SENATE
Mar 15, 2017
S.B. 284
PRINCIPAL CLERK

S

D

SENATE BILL DRS45194-MH-26 (01/25)

Short Title: Property Insurance Fairness. (Public)

Sponsors: Senators Brown, Cook, and Rabon (Primary Sponsors).

Referred to:

1 A BILL TO BE ENTITLED
2 AN ACT TO INCREASE THE FAIRNESS AND EQUITY OF PROPERTY INSURANCE
3 RATE MAKING IN NORTH CAROLINA BY REQUIRING THAT CERTAIN
4 PROPERTY INSURANCE DATA BE MADE AVAILABLE TO THE PUBLIC; BY
5 PROVIDING THE NORTH CAROLINA INSURANCE UNDERWRITING
6 ASSOCIATION THE AUTHORITY TO HAVE ISSUED TAX-EXEMPT BONDS TO
7 COVER LOSS-RELATED LIABILITIES; AND TO REMOVE CERTAIN OBSOLETE
8 REFERENCES TO THE COASTAL PROPERTY INSURANCE POOL.

9 The General Assembly of North Carolina enacts:

10
11 **PART I. PROPERTY INSURANCE CLARITY**

12 **SECTION 1.(a)** G.S. 58-36-15 is amended by adding new subsections to read:

13 "(d4) With respect to homeowners insurance rate filings, the Bureau shall do the
14 following:

- 15 (1) Submit to the Department computations of the total amount of direct
16 incurred losses, direct earned premiums, house years, and statewide
17 expenses or expense factors for the most recent five years included in the
18 filing.
19 (2) Report the computations to the Department by rate territory where available.
20 (3) Provide this information for each of the following policy categories where
21 available:
22 a. All full homeowners policies.
23 b. All homeowners policies that exclude windstorm coverage.
24 c. All homeowners policies that only include windstorm coverage.
25 For the purposes of this subsection, homeowners insurance policies shall
26 include condominium insurance and renters insurance, but shall not include
27 creditor-placed policies, condominium association policies, or commercial
28 policies.

29 (d5) Companies shall submit to the Department and the Bureau catastrophic wind and
30 hail information pursuant to a data call by the Department for losses caused by a specific
31 catastrophic hurricane event.

32 (d6) Information provided to the Department and the Bureau under subsections (d4) and
33 (d5) of this section shall be posted on the Department's Web site. Any information reported to
34 the Department and the Bureau by an insurer pursuant to this subsection is considered a trade
35 secret as defined in G.S. 66-152 and shall be treated as confidential information by the
36 Department. However, once the information from all property insurers is aggregated, then the



1 Department may provide such aggregated information in accordance with this subsection.
2 Notice of at least 10 business days shall be given to the insurer if confidential information
3 pertaining to that insurer is ordered by a court of competent jurisdiction to be released to or by
4 the Department."

5 **SECTION 1.(b)** This section is effective when it becomes law and applies to
6 homeowners insurance rate filings on or after July 1, 2017.

8 **PART II. BONDING AUTHORITY**

9 **SECTION 2.1.** Chapter 58 of the General Statutes is amended by adding a new
10 Article to read:

11 "Article 45A.

12 "Recovery Finance Authority.

13 **"§ 58-45A-1. Name.**

14 This Article shall be known as the "North Carolina Recovery Finance Authority Act."

15 **"§ 58-45A-5. Legislative findings.**

16 The General Assembly finds that the likelihood of one or more events causing sufficient
17 damage and destruction for the Association to incur losses that exceed the combination of
18 available surplus, reinsurance, and other sources of funding, including assessments, is
19 significant. The General Assembly finds that it will be beneficial to the residents and property
20 owners in this State, and will increase the insurance capacity and the overall functioning of the
21 State's insurance industry, for all or a portion of the obligations to pay claims under policies
22 issued by the Association and related to the event or events resulting in such excess losses to be
23 able to be financed by a State entity through bonds paid from amounts including catastrophe
24 recovery charges. The General Assembly therefore finds that, as an additional or alternative
25 method to borrowing by the Association for the purpose of paying such excess losses, the
26 creation of a State authority to acquire the obligations to pay such claims under such policies
27 and to provide for the issuance of bonds is necessary and desirable as a mechanism for
28 efficiently addressing losses exceeding the combination of available surplus, reinsurance, and
29 other sources of funding available to the Association, including assessments.

30 The General Assembly further finds it is appropriate that bonds of this State authority be
31 issued under the strictures of the State and Local Government Revenue Bond Act, Article 5 of
32 Chapter 159 of the General Statutes, to incorporate the uniform system of limitations and
33 procedures in that Act, including the necessity for application to and approval of each bond
34 issuance by the North Carolina Local Government Commission, with the Commission
35 considering necessity, expedience, and feasibility for such bonds as well as reasonable rates of
36 interest, timing, and method of marketing, maturities, and credit ratings for the bonds; and the
37 agreement of the State that the rights vested in such State authority at the time of issuance with
38 respect to the elements of and charges for the revenues used directly or indirectly to pay such
39 bonds will not be limited or altered during the term of such bonds.

40 **"§ 58-45A-10. Definitions.**

41 The following definitions apply to this Article:

- 42 (1) Act. – The State and Local Government Revenue Bond Act, Article 5 of
43 Chapter 159 of the General Statutes.
- 44 (2) Assessment. – A nonrecoupable fee or charge levied on the Association's
45 member companies pursuant to G.S. 58-45-47(a).
- 46 (3) Association. – The North Carolina Insurance Underwriting Association,
47 established under Article 45 of this Chapter.
- 48 (4) Authority Board. – The governing body of the Recovery Finance Authority.
- 49 (5) Bonds. – Bonds, notes, debentures, loan agreements, or other types of
50 obligations of the Recovery Finance Authority.

- 1 (6) Catastrophe recovery charge. – A catastrophe recovery charge as defined in
2 G.S. 58-45-5.
- 3 (7) Deficit. – The amount of losses of the Association relating to a particular
4 event that will exceed the combination of available surplus, reinsurance, and
5 other sources of funding, including assessments, for the Association.
- 6 (8) Event. – A hurricane or other catastrophic event causing loss or loss
7 expenses to the Association for property in the State.
- 8 (9) Losses. – Losses and loss expenses, including loss adjustment expenses, of
9 the Association.
- 10 (10) Recovery Finance Authority or Authority. – The North Carolina Recovery
11 Finance Authority, a public agency created by this Article.

12 **§ 58-45A-15. North Carolina Recovery Finance Authority.**

13 (a) Creation. – There is created a body politic and corporate to be known as the "North
14 Carolina Recovery Finance Authority." The Recovery Finance Authority is constituted as a
15 public agency of the State, and the exercise by the Authority of the powers conferred by this
16 Article in the financing of a deficit of the Association related to one or more events shall be
17 deemed and held to be the performance of an essential governmental function.

18 (b) Administrative Placement. – The Authority shall be located within the Department
19 for administrative purposes, but shall exercise all of its powers independently of the
20 Department and the Association except as otherwise specified in this Article.

21 (c) Authority Board. – The Authority shall be governed by a nine-member Authority
22 Board consisting of two members appointed by the General Assembly upon the
23 recommendation of the President Pro Tempore of the Senate in accordance with G.S. 120-121,
24 two members appointed by the General Assembly upon the recommendation of the Speaker of
25 the House of Representatives in accordance with G.S. 120-121, two members appointed by the
26 Governor, two members appointed by the Association, and the Commissioner of Insurance or
27 the Commissioner's designee. Each appointing authority shall appoint members who reside in
28 diverse regions of the State. The chair of the Authority Board shall be selected by the Authority
29 Board.

30 (d) Staggered Terms. – The initial appointments to the Authority Board by the General
31 Assembly upon the recommendation of the President Pro Tempore of the Senate and by the
32 Governor shall be for terms ending April 1, 2019. The initial appointments to the Authority
33 Board by the General Assembly upon the recommendation of the Speaker of the House of
34 Representatives and by the Association shall be appointed to terms ending April 1, 2021. The
35 Commissioner of Insurance or the Commissioner's designee shall serve at all times as an ex
36 officio voting member of the Board. Thereafter, at the expiration of each stipulated term of
37 office, all appointments shall be to a term of four years from the date of the expiration of the
38 term, provided that all members of the Authority Board shall remain in office until their
39 successors are appointed and qualified. The appointing authority may appoint a member to
40 serve out the unexpired term of any member appointed by such authority.

41 (e) Removal of Board Members. – Each member of the Authority Board,
42 notwithstanding subsection (d) of this section, shall serve at the pleasure of the respective
43 appointing authority. A new chair of the Authority Board may be selected at any time at the
44 pleasure of the Authority Board.

45 (f) Conflicts of Interest; Ethics. – Members of the Authority Board shall be subject to
46 the provisions of Chapter 138A of the General Statutes as well as any ethics or conflicts
47 policies promulgated by the Governor for boards of State agencies in addition to the
48 requirements of this subsection. Members of the Authority Board shall disclose to the Board
49 and set forth in the Board's minutes direct or indirect interests in contracts with the Authority
50 held by (i) the member or (ii) any firm or corporation, not including units of local government
51 or the Association, that employs the member as an officer or employee or in which the member

1 has an ownership interest. The member having an interest shall not participate on behalf of the
2 Authority in the authorization of such contract. Other provisions of law notwithstanding, failure
3 to take any or all actions necessary to carry out the purposes of this subsection do not affect the
4 validity of any bonds issued under this Article. Members, officers, and employees of the
5 Authority shall be subject to the provisions of G.S. 14-234.

6 (g) Compensation. – The appointed members of the Authority Board shall receive no
7 salary for their services but shall be entitled to receive per diem and travel allowances in
8 accordance with the provisions of G.S. 138-5 and G.S. 138-6, as appropriate, beginning with
9 the first Authority meeting called to discuss a particular bond issue.

10 (h) Initial Meeting. – The initial meeting of the Authority may be called by the
11 Commissioner of Insurance or any other four members.

12 (i) Bylaws. – The Authority Board shall adopt, change, or amend bylaws with respect
13 to the calling of meetings, quorums, voting procedures, the keeping of records, and other
14 organizational, staffing, and administrative matters as the Authority Board may determine. Any
15 amendments to the bylaws after their initial adoption shall be submitted to the Commissioner of
16 Insurance for review and comment at least 45 days prior to adoption by the Authority Board,
17 unless such notice period is waived by the Commissioner of Insurance.

18 **§ 58-45A-20. Powers of the Recovery Finance Authority.**

19 (a) The Recovery Finance Authority shall have all of the powers necessary to execute
20 the provisions of this Article, including the following:

- 21 (1) The powers of a corporate body, including the power to sue and be sued, to
22 make contracts, to adopt and use a common seal, and to alter the adopted
23 seal as needed.
- 24 (2) To issue bonds as provided in this Article and use the proceeds of such
25 bonds directly or indirectly to pay claims with respect to policies assigned to
26 it in connection with events, with the debt service on such bonds payable
27 from catastrophe recovery charges under G.S. 58-45-47, other revenues of
28 the Authority, or other payments by the Association or its member
29 companies. Proceeds of such bonds may be used to pay issuance expenses
30 and interest on the bonds for a period of up to one year and to create a
31 reserve fund for the bonds.
- 32 (3) To invest the proceeds of bonds of the Authority that are pending
33 disbursement or other idle funds of the Authority in any investment
34 authorized by G.S. 159-30.
- 35 (4) To pay all necessary costs and expenses in the formation, organization,
36 administration, and operation of the Authority with such amounts
37 reimbursed from proceeds of bonds when issued if so determined by the
38 Authority.
- 39 (5) To apply for, accept, and administer loans and grants of money or real or
40 personal property from the United States of America or any federal agency,
41 the State or its political subdivisions, local governments, or any other public
42 or private sources available.
- 43 (6) To adopt, alter, or repeal its own bylaws or rules implementing the
44 provisions of this Article.
- 45 (7) To contract for the services of consulting attorneys and other consultants, to
46 employ administrative staff as may be required in the judgment of the
47 Authority, and to fix and pay fees or compensation to the contractors and
48 administrative employees from funds available to the Authority, provided
49 that financial advisors, underwriters, placement agents, feasibility
50 consultants, and bond counsel shall be selected by the Association since the

1 cost thereof, whether paid from proceeds or otherwise, will be attributable to
2 the deficit.

3 (8) To receive and use appropriations from the State and federal government.

4 (9) To adopt procedures to govern its procurement of services.

5 (10) To perform or procure any portion of services required by the Authority.

6 (11) To use officers, employees, agents, and facilities of the Department or the
7 Association for the purposes and upon the terms as may be mutually
8 agreeable.

9 (12) To enter into partnership agreements with the Department or the
10 Association, agreements with political subdivisions of the State, and
11 agreements with private entities, and to expend such funds as it deems
12 necessary pursuant to such agreements for its purposes.

13 (13) To enter into swap agreements pursuant to Article 13 of Chapter 159 of the
14 General Statutes.

15 (14) To receive, administer, and comply with the conditions and requirements
16 respecting any gift, grant, or donation of any property or money.

17 (15) To acquire by purchase, lease, gift, or otherwise or to obtain options for the
18 acquisition of any real or personal property or interest therein.

19 (16) To sell, lease, exchange, transfer, or otherwise dispose of or to grant options
20 for any of these purposes with respect to any real or personal property or
21 interest therein.

22 (17) Subject to the provisions of this Article, to pledge, assign, mortgage, or
23 otherwise grant a security interest in any real or personal property or interest
24 therein, including a leasehold interest or the right and power to pledge,
25 assign, or otherwise grant a security interest in any money, rents, charges, or
26 other revenues and any proceeds derived by the Authority from any and all
27 sources.

28 (18) To request a revenue ruling from the Internal Revenue Service with respect
29 to the issuance of bonds and the provisions for security thereof and payments
30 thereon, among other things.

31 (19) To pay, from amounts transferred from the Association or other sources, any
32 costs for bonds or associated claims incurred prior to the issuance thereof,
33 with such amounts reimbursed from proceeds of bonds when issued.

34 (20) To do all acts and terms necessary, convenient, or desirable to carry out the
35 purpose and exercise the specific powers granted to it by this Article.

36 **"§ 58-45A-25. Taxation of property of Recovery Finance Authority.**

37 Property owned by the Recovery Finance Authority is exempt from taxation in accordance
38 with Section 2 of Article V of the North Carolina Constitution.

39 **"§ 58-45A-30. Audit.**

40 The Recovery Finance Authority shall be subject to examination by the State Auditor
41 pursuant to Article 5A of Chapter 147 of the General Statutes.

42 **"§ 58-45A-35. Recovery Finance Authority bonds.**

43 (a) The Recovery Finance Authority shall be treated as a municipality for purposes of
44 the Act and may issue revenue bonds pursuant to that Act to pay all or a portion of the cost of a
45 deficit or to refund any previously issued bonds. In connection with the refunding of any bonds
46 previously issued by the Authority, the present value of the aggregate net debt service for such
47 refunding bonds must be less than the present value of the aggregate net debt service no longer
48 due on the bonds being refunded with such present value calculated using the yield on the
49 bonds being refunded as the present value factor. In connection with the issuance of revenue
50 bonds, the Authority shall have all powers of a municipality under the Act, and revenue bonds
51 issued by the Authority shall be entitled to the protection of all provisions of the Act.

1 (b) In addition to swap agreements permitted by Article 13 of Chapter 159 of the
2 General Statutes, in connection with or incidental to the acquisition or carrying of any
3 investment relating to bonds, program of investment relating to bonds, or carrying of bonds, the
4 Authority may, with the approval of the Local Government Commission, enter into a contract
5 to place the investment or obligation of the Authority, as represented by the bonds, investment,
6 or program of investment and the contract or contracts, in whole or in part, on an interest rate,
7 currency, cash flow, or other basis, including the following:

- 8 (1) Interest rate swap agreements, currency swap agreements, insurance
9 agreements, forward payment conversion agreements, and futures.
- 10 (2) Contracts providing for payments based on levels of, or changes in, interest
11 rates, currency exchange rates, event-related indices, or stock or other
12 indices.
- 13 (3) Contracts to exchange cash flows or a series of payments.
- 14 (4) Contracts to hedge payment, currency, rate, spread, or similar exposure,
15 including interest rate floors or caps, options, puts, and calls.

16 The Authority may enter a contract of this type in connection with, or incidental to, entering
17 into or maintaining any agreement that secures bonds. A contract shall contain the payment,
18 security, term, default, remedy, and other terms and conditions the Authority Board considers
19 appropriate. The Authority may enter a contract of this type with any person after giving due
20 consideration, where applicable, to the person's creditworthiness as determined by a rating by a
21 nationally recognized rating agency or any other criteria the Authority Board considers
22 appropriate. In connection with, or incidental to, the issuance or carrying of bonds, or the
23 entering into any contract described in this subsection, the Authority may enter into credit
24 enhancement or liquidity agreements, with payment, interest rate, termination date, currency,
25 security, default, remedy, and other terms and conditions as the Authority determines. Proceeds
26 of bonds and any moneys set aside and pledged to secure payment of bonds or any of the
27 contracts entered into under this subsection may be pledged to and used to service any of the
28 contracts entered into under this section.

29 (c) If requested by the Association to issue bonds pursuant to G.S. 58-45-47(c)(2), the
30 Authority shall do all of the following:

- 31 (1) Enter into an assignment and payment agreement with the Association as
32 described in subsection (d) of this section.
- 33 (2) Issue bonds under a trust agreement or indenture, which may include special
34 covenants as described in G.S. 159-89, to finance obligations incurred under
35 the assignment and payment agreement.
- 36 (3) Utilize catastrophe recovery charges imposed pursuant to G.S. 58-45-47 and
37 transferred to the Authority under the assignment and payment agreement to
38 provide amounts to pay such bonds.
- 39 (4) Contract with the Association to act as agent for the Authority, either within
40 the assignment and payment agreement or separately, to collect catastrophe
41 recovery charges imposed pursuant to G.S. 58-45-47 and assigned to the
42 Authority and to take all such other actions as may be necessary in
43 connection with the bond issuance, the catastrophe recovery charges, and
44 related activities, including the adjustment of claims and the payment of
45 losses and loss expenses. The Association shall not receive any payments
46 from the Authority for its service as agent with respect to activities described
47 by this subsection.
- 48 (5) Assign such rights and amounts as may be required as security for the bonds.

49 (d) An assignment and payment agreement shall be entered into between the Authority
50 and the Association for each bond issuance, which may contain the following provisions:

- 1 (1) For the Authority to take assignment, without recourse, of the Association's
2 obligations to pay claims with respect to insurance policies issued by the
3 Association. The total amount of obligations to pay claims so assigned shall
4 be in excess of the net proceeds of the bonds to be issued (after deduction of
5 issuance expenses, funded interest, reserves and other costs to be paid or
6 reimbursed from proceeds) but not in excess of the estimated amount of the
7 Association's losses resulting from events in any calendar year that exceed
8 available surplus, reinsurance, and other sources of funding of Association
9 losses, including assessments, as a result of one or more events. If the
10 obligations so assigned cease to comply with the amount requirements, as a
11 result of adjustments or for other reasons, the Association will make further
12 assignments.
- 13 (2) For the Authority to accept from the Association an assignment of
14 catastrophe recovery charges imposed pursuant to G.S. 58-45-47 such that
15 the expected annual amount of payments derived from such assigned charges
16 will exceed the annual debt service due on the bonds in all years except the
17 last year of the bond issue by a factor of twenty-five percent (25%) and in
18 that year be at least equal to debt service not already funded.
- 19 (3) For the Authority and the Association to agree that one or more obligations
20 to pay claims may be withdrawn from the assignment for which an
21 agreement is reached under this section and exchanged for one or more
22 obligations to pay claims in an equal or greater amount at any time upon the
23 request of the Association and shall be so withdrawn and exchanged at any
24 time an obligation relates to a claim being in dispute.
- 25 (4) For the Association to fund initial expenses for the Authority or for any issue
26 with such funding reimbursed upon issuance of the bonds.

27 **"§ 58-45A-40. Sale of Recovery Finance Authority revenue bonds.**

28 Revenue bonds of the Recovery Finance Authority issued pursuant to this Article and the
29 Act shall be sold in accordance with and pursuant to Article 7 of Chapter 159 of the General
30 Statutes.

31 **"§ 58-45A-45. Faith and credit of State and units of local government not pledged.**

32 Bonds issued under this Article shall not constitute a debt secured by a pledge of the faith
33 and credit of the State or a political subdivision of the State and shall be payable solely from
34 the revenues, property, and other funds pledged for their payment. The bonds issued by the
35 Recovery Finance Authority shall contain a statement that the Authority is obligated to pay the
36 bond or the interest on the bond only from the revenues, property, or other funds pledged for
37 their payment and that neither the faith and credit nor the taxing power of the State or any
38 political subdivision of the State is pledged as security for the payment of the principal of or the
39 interest or premium on the bonds.

40 **"§ 58-45A-50. Bonds eligible for investment.**

41 Bonds issued under this Article are hereby made securities in which all public officers,
42 agencies, and public bodies of the State and its political subdivisions, all insurance companies,
43 trust companies, investment companies, banks, savings banks, building and loan associations,
44 credit unions, pension or retirement funds, other financial institutions engaged in business in
45 the State, executors, administrators, trustees, and other fiduciaries may properly and legally
46 invest funds, including capital in their control or belonging to them. These bonds are hereby
47 made securities that may properly and legally be deposited with and received by any officer or
48 agency of the State or political subdivision of the State for any purpose for which the deposit of
49 bonds, notes, or obligations of the State or any political subdivision of the State is authorized
50 by law. This section does not apply to any State pension or retirement fund or a pension or
51 retirement fund of a political subdivision of the State.

1 **"§ 58-45A-55. Taxation of revenue bonds.**

2 Any bonds issued by the Recovery Finance Authority under the provisions of this Article
3 shall be exempt from all State, county, and municipal taxation or assessment, direct or indirect,
4 general or special, whether imposed for the purpose of general revenue or otherwise, excluding
5 income taxes on the gain from the transfer of bonds. The interest on bonds issued by the
6 Recovery Finance Authority under the provisions of this Article shall not be subject to taxation
7 as to income.

8 **"§ 58-45A-60. Members not liable.**

9 No member of the Authority Board shall be subject to any personal liability or
10 accountability by reason of the execution of any bonds or the issuance of any bonds."

11 **SECTION 2.2.** G.S. 58-45-5 reads as rewritten:

12 **"§ 58-45-5. Definition of terms.**

13 As used in this Article, unless the context clearly otherwise requires:

14 ...

15 (2a) Catastrophe recovery charge. – Any charge collected by member insurers
16 from policyholders statewide, including any charge collected by the
17 Association and Fair Plan from their policyholders, upon issuance or
18 renewal of residential and commercial property insurance policies, other
19 than National Flood Insurance policies, after a deficit event has occurred as
20 provided in G.S. 58 45 47. The amount of the catastrophe recovery charge
21 collected in a particular year shall not exceed an aggregate amount of ten
22 percent (10%) of policy premium. The catastrophe recovery charge shall be
23 limited to the recovery of losses resulting from claims for property damage,
24 allocated loss expenses, and actual costs and expenses directly resulting
25 from the catastrophe recovery charge ~~plan~~ plan, including the costs of
26 issuance, funded interest, and reserves for any bonds issued under
27 G.S. 58-45A-35.

28 ...

29 (7a) Recovery Finance Authority or Authority. – The North Carolina Recovery
30 Finance Authority, a public agency created by Article 45A of this Chapter.

31"

32 **SECTION 2.3.** G.S. 58-45-47 reads as rewritten:

33 **"§ 58-45-47. Deficit event.**

34 (a) ~~In the event of Nonrecoupable Assessment.~~ – If the Association expects to incur
35 losses and expenses to the Association loss expenses, including loss adjustment expenses,
36 exceeding available surplus, reinsurance, and other sources of funding of Association losses,
37 with such availability determined by taking into account sources committed with respect to
38 losses and expenses, including loss adjustment expenses, expected from prior events, the
39 Association is authorized to issue a nonrecoupable assessment upon its ~~members~~ member
40 companies in accordance with this Article and its Plan of Operation. Member company
41 assessments shall not exceed one billion dollars (\$1,000,000,000) for losses incurred from any
42 event or series of events that occur in a given calendar year, regardless of when such
43 assessments are actually levied on or collected from member companies.

44 (b) ~~When Deficit Event.~~ – After the occurrence of a hurricane or other catastrophic
45 event causing loss or loss expenses to the Association for property in the State, if the
46 Association ~~knows that it has incurred~~ determines that it expects to incur losses and loss
47 expenses expenses, including loss adjustment expenses, in a particular calendar year that will
48 exceed the combination of available surplus, reinsurance, and other sources of funding,
49 including permissible member company assessments, then the Association shall immediately
50 give notice of such determination to the Commissioner ~~that a deficit event has occurred~~ and the
51 Recovery Finance Authority. With such notice the Association shall provide evidence with

1 respect to its estimates of the total losses and loss expenses, including loss adjustment
2 expenses, the Association expects to incur within the calendar year and the amounts available
3 to it from surplus, reinsurance, and other sources of funding, including member company
4 assessments, with such availability determined by taking into account sources committed with
5 respect to losses and loss expenses, including loss adjustment expenses, expected from prior
6 events. The Association shall make such evidence and related material available to the
7 Commissioner for review and verification.

8 (c) Imposition of Catastrophe Recovery Charge. – Upon agreement by the
9 Commissioner with a determination by the Association that a deficit event has occurred,
10 described in subsection (b) of this section, the Association shall determine, in its discretion, the
11 appropriate means of financing the deficit, excess losses and loss expenses, including loss
12 adjustment expenses, in whole or in part, which may include, but is not limited to, the purchase
13 of reinsurance, arranging lines of credit, or other forms of borrowing or financing. financing,
14 including a Recovery Finance Authority financing as described in subdivision (2) of this
15 subsection, or any combination of these means. If the Association determines that it has issued
16 to the member companies have paid one billion dollars (\$1,000,000,000) in nonrecoupable
17 assessments for losses and expenses expenses, including loss adjustment expenses, incurred in
18 any given year pursuant to subsection (a) of this section, the Association may, subject to the
19 verification by the Commissioner that the dollar value of losses and expenses loss expenses,
20 including loss adjustment expenses, has reached the level necessary for a catastrophe recovery
21 charge, authorize member companies to impose a catastrophe recovery charge on their
22 residential and commercial property insurance policyholders statewide. Catastrophe recovery
23 charges shall be charged as a uniform percentage of written premiums as prescribed by the
24 Commissioner and shall not exceed an aggregate amount of ten percent (10%) of the annual
25 policy premium on any one policy of insurance. Catastrophe statewide, with the catastrophe
26 recovery charges collected under this section shall subsection to be transferred directly to the
27 Association on a periodic basis as determined by the Association and ordered by the
28 Commissioner. The Association and the FAIR Plan also shall charge their policyholders a
29 eatastrophe recovery charge as provided in this section on a periodic basis, as determined by
30 the Association and ordered by the Commissioner, to either of the following:

- 31 (1) Directly to the Association, or, at the Association's direction, to a trustee for
32 the Association's creditors in a financing by the Association.
- 33 (2) To a trustee for the benefit of holders of bonds issued by the Recovery
34 Finance Authority upon the issuance of such bonds and the execution of an
35 assignment and payment agreement as described in G.S. 58-45A-35.

36 (d) Requirements for Catastrophe Recovery Charge. – Catastrophe recovery charges
37 imposed under this section shall be charged as a uniform percentage of written premiums as
38 prescribed by the Commissioner, shall not exceed an aggregate amount of ten percent (10%) of
39 the annual policy premium on any one policy of insurance, and shall also be imposed upon
40 policyholders with insurance from the Association and the FAIR Plan established under Article
41 46 of this Chapter. The catastrophe recovery charge shall be clearly identified to policyholders
42 on the premium statement, declarations page, or by other appropriate electronic or written
43 method. The identification shall refer to the post-catastrophe loss for which the charge was
44 imposed. Any such catastrophe recovery charge shall not be considered premium for any
45 purpose, including premium taxes or commissions, except that failure to pay the catastrophe
46 recovery charge shall be treated as failure to pay premium and shall be grounds for termination
47 of insurance. The identified catastrophe recovery charge shall be accompanied by an
48 explanation of the charge and shall appear on the medium by which the charge is conveyed to
49 the policyholder. The explanatory language shall be prescribed by the Commissioner.

50 (e) Report. – The Association shall report quarterly to the Commissioner and the
51 Recovery Finance Authority providing all financial information for each catastrophe recovery

1 charge authorized by this section, including total catastrophe recovery charge funds recovered
2 to date and any information reasonably requested by the ~~Commissioner~~ Commissioner or the
3 Recovery Finance Authority.

4 (f) Periodic Revision of Catastrophe Recovery Charge. – The Association shall
5 recalculate the catastrophe recovery charge amount at least annually for any such charge
6 imposed pursuant to subdivision (1) of subsection (c) of this section and, subject to a procedure
7 approved by the Commissioner, adjust the charge percentage as needed. The Association as
8 agent for the Recovery Finance Authority shall recalculate the catastrophe recovery charge
9 amount at least annually for any such charge imposed pursuant to subdivision (2) of subsection
10 (c) of this section and adjust the charge percentage as needed.

11 (g) Cessation; Treatment of Excess Charges. – The catastrophe recovery charge amount
12 shall continue until financing or refinancing of the deficit event has been paid in full. The State
13 of North Carolina does pledge to and agree with any creditors of the Association under
14 financings or refinancings pursuant to subdivision (1) of subsection (c) of this section that so
15 long as any such financing or refinancing is outstanding and unpaid the State will not limit the
16 rights to catastrophe recovery charges vested in the Association at the time of incurrence of its
17 obligations under such financings. Upon order of cessation, any catastrophe recovery charge
18 amounts imposed pursuant to subdivision (1) of subsection (c) of this section collected by
19 member companies, the Association or the FAIR Plan that exceed amounts necessary for
20 payment of the debt shall be remitted to the Association and added to the surplus for the
21 purposes of offsetting future Association losses or expenses. Any catastrophe recovery charge
22 amounts imposed pursuant to subdivision (2) of subsection (c) of this section collected by
23 member companies, the Association, or the FAIR Plan that exceed amounts necessary for
24 payment of the debt shall first be remitted to the Recovery Finance Authority for payment of
25 reasonable outstanding expenses associated with the issuance and repayment of the debt and
26 other necessary related activities of the Recovery Finance Authority. Charge amounts
27 remaining after payment of such expenses shall be remitted to the Association to be added to
28 surplus.

29 (h) Limitations. – Nothing contained in this section prohibits the Association from
30 entering into any financing arrangements for the purpose of financing a deficit, provided that
31 the pledge of catastrophe recovery charge amounts under such financing agreements shall not
32 result in the actual levying of any catastrophe recovery charge until after the Association has
33 ~~incurred~~ determined that it will incur a deficit and until after the ~~Commissioner has approved~~
34 ~~implementation of the Association's catastrophe recovery charge plan requirements of this~~
35 section have been met. Nothing in this section prevents the Association from utilizing
36 financings under both subdivisions (1) and (2) of subsection (c) of this section or either of them
37 in the same calendar year or there being in existence more than one catastrophe recovery charge
38 under either subdivision or both subdivisions at the same time, provided that all catastrophe
39 recovery charges, whether imposed by the Association or the North Carolina Recovery Finance
40 Authority, may not in the aggregate exceed ten percent (10%) of the annual policy premium on
41 any one policy of insurance."

42 **SECTION 2.4.** G.S. 120-123 is amended by adding a new subdivision to read:

43 "(84) The North Carolina Recovery Finance Authority."

44 **SECTION 2.5.** G.S. 159-81(1) reads as rewritten:

45 "(1) "Municipality" means a county, city, town, incorporated village, sanitary
46 district, metropolitan sewerage district, metropolitan water district,
47 metropolitan water and sewerage district, county water and sewer district,
48 water and sewer authority, hospital authority, hospital district, parking
49 authority, special airport district, special district created under Article 43 of
50 Chapter 105 of the General Statutes, regional public transportation authority,
51 regional transportation authority, regional natural gas district, regional sports

1 authority, airport authority, joint agency created pursuant to Part 1 of Article
2 20 of Chapter 160A of the General Statutes, a joint agency authorized by
3 agreement between two cities to operate an airport pursuant to G.S. 63-56,
4 the North Carolina Recovery Finance Authority described in Article 45A of
5 Chapter 58 of the General Statutes, and the North Carolina Turnpike
6 Authority described in Article 6H of Chapter 136 of the General Statutes and
7 transferred to the Department of Transportation pursuant to
8 G.S. 136-89.182(b), but not any other forms of State or local government."

9 **SECTION 2.6.** G.S. 159-81(3) reads as rewritten:

10 "(3) "Revenue bond project" means any undertaking for the acquisition,
11 construction, reconstruction, improvement, enlargement, betterment, or
12 extension of any one or combination of the revenue-producing utility or
13 public service enterprise facilities or systems listed in this subdivision, to be
14 financed through the issuance of revenue bonds, thereby providing funds to
15 pay the costs of the undertaking or to reimburse funds loaned or advanced by
16 or on the behalf of either the State or a municipality to pay the costs of the
17 undertaking.

18 A revenue bond project shall be (i) owned or leased as lessee by the
19 issuing unit or (ii) owned by one or more of the municipalities participating
20 in an undertaking established pursuant to Part 1 of Article 20 of Chapter
21 160A of the General Statutes. If the revenue bond project is owned by one or
22 more municipalities as provided in (ii) of this subdivision, any one or more
23 of the participating municipalities may each be an issuing unit consistent
24 with their agreement to establish a joint undertaking. In addition, any joint
25 agency established by participating municipalities pursuant to Part 1 of
26 Article 20 of Chapter 160A of the General Statutes may be an issuing unit
27 without owning the revenue bond project or leasing it as lessee.

28 The cost of an undertaking may include all property, both real and
29 personal and improved and unimproved, plants, works, appurtenances,
30 machinery, equipment, easements, water rights, air rights, franchises, and
31 licenses used or useful in connection with the undertaking; the cost of
32 demolishing or moving structures from land acquired and the cost of
33 acquiring any lands to which the structures are to be moved; financing
34 charges; the cost of plans, specifications, surveys, and estimates of cost and
35 revenues; administrative and legal expenses; and any other expense
36 necessary or incident to the project.

37 The following facilities or systems may be revenue bond projects under
38 this subdivision:

- 39 ...
40 r. In the case of the North Carolina Recovery Finance Authority, the
41 financing of a deficit in the North Carolina Insurance Underwriting
42 Association pursuant to G.S. 58-45-47 with the repayment of that
43 financing to come from catastrophe recovery charges pursuant to that
44 section or other revenues of the North Carolina Recovery Finance
45 Authority, including payments from the Association or its members."

46 **SECTION 2.7.** G.S. 159-83 is amended by adding a new subsection to read:

47 "(g) The North Carolina Recovery Finance Authority, by the power to finance as a
48 revenue project a deficit in the Association pursuant to G.S. 58-45-47 and for this purpose, has
49 the power to (i) contract for the charging of catastrophe recovery charges pursuant to
50 G.S. 58-45-47, including covenanting to make such charges as necessary for the payment of

1 revenue bonds, and (ii) pledge and assign its rights to the making, revising, receiving, and
2 enforcing of such changes as security for its revenue bonds."

3 **SECTION 2.8.** G.S. 159-89 is amended by adding a new subdivision to read:

4 "(15) With respect to revenue bonds issued by the North Carolina Recovery
5 Finance Authority, any agreements with the North Carolina Insurance
6 Underwriting Association to (i) assign without recourse to the Recovery
7 Finance Authority the Insurance Underwriting Association's obligation to
8 pay claims with respect to insurance policies issued by the Insurance
9 Underwriting Association in an amount estimated to be in excess of its
10 losses and expenses that exceed available surplus, reinsurance, and other
11 sources of funding of Insurance Underwriting Association losses, including
12 permissible assessments on its members and (ii) act as agent for the
13 Recovery Finance Authority to collect catastrophe recovery charges imposed
14 by it under G.S. 58-45-47 and direct amounts so collected to the Recovery
15 Finance Authority."

16 **SECTION 2.9.** G.S. 159-90(a)(1) reads as rewritten:

17 "(1) The maturity dates may not exceed the maximum maturity periods
18 prescribed by the Commission for general obligation bonds pursuant to
19 G.S. 159-122. For bonds issued in reimbursement of a loan or advance, the
20 maximum maturity period to be used in determining the maturity dates of the
21 bonds shall be the maximum permissible period prescribed by the
22 Commission for the original project for which the loan or advance was
23 expended, calculated from the date the original project is completed. For
24 revenue bonds issued by the North Carolina Recovery Finance Authority,
25 the maturity dates shall be related to the structuring of the repayment of the
26 proceeds rather than the facilities financed by the bonds, subject to an
27 overall limit of 40 years."

28 **SECTION 2.10.** G.S. 159-93 reads as rewritten:

29 **"§ 159-93. Agreement of the State.**

30 The State of North Carolina does pledge to and agree with the holders of any revenue bonds
31 or revenue bond anticipation notes heretofore or hereafter issued by the State or any
32 municipality in this State that so long as any such bonds or notes are outstanding and unpaid
33 the State will not limit or alter the rights vested in the State or the municipality at the time of
34 issuance of the bonds or notes to establish, maintain, revise, charge, and collect such rates, fees,
35 rentals, tolls, catastrophe recovery charges, and other charges for the use, services, facilities,
36 and commodities of or furnished by the revenue bond project in connection with which the
37 bonds or notes, or bonds or notes refunded by the bonds or notes, were issued as shall produce
38 revenues at least sufficient with other available funds to meet the expense of maintenance and
39 operation of and renewal and replacements to such project, including reserves therefor, to pay
40 when due the principal, interest, and redemption premiums (if any) of the bonds or notes, and
41 to fulfill the terms of any agreements made with the bondholders or noteholders, nor will the
42 State in any way impair the rights and remedies of the bondholders or noteholders until the
43 bonds or notes and all costs and expenses in connection with any action or proceedings by or
44 on behalf of the bondholders or noteholders, are fully paid, met, and discharged."

45 **SECTION 2.11.** G.S. 159-95 reads as rewritten:

46 **"§ 159-95. Approval of State agencies.**

47 The general design and plan of any revenue bond project undertaken for water systems or
48 facilities or sewage disposal systems or facilities shall be subject to the approval of the
49 Commission for Public Health or the State Environmental Management Commission to the
50 same extent that such projects would be if they were not financed by revenue bonds, and the
51 provisions of the revenue bond order shall be consistent with any requirements imposed on the

1 project by the Commission for Public Health or the State Environmental Management
2 Commission. No revenue bond project for the acquisition or construction of systems or
3 facilities for the generation, production, or transmission of gas or electric power may be
4 undertaken by the State or a municipality unless the State or municipality, as the case may be,
5 shall first obtain a certificate of convenience and necessity from the North Carolina Utilities
6 Commission. Bonds issued by the North Carolina Recovery Finance Authority do not require
7 the approval of the Department of Insurance except to the extent catastrophe recovery charges
8 therefore require action pursuant to G.S. 58-45-47."

9 **SECTION 2.12.** G.S. 159-96 is amended by adding a new subsection to read:

10 "(f) Notwithstanding the other provisions of this section, there is no geographic or
11 territorial limitation on the use of proceeds of North Carolina Recovery Finance Authority
12 revenue bonds other than for payment of a deficit related to a catastrophic event affecting
13 property covered under insurance policies issued by the North Carolina Insurance Underwriting
14 Association."

15 16 **PART III. AUTHORITY TO LOWER RATES**

17 **SECTION 3.** G.S. 58-36-20 reads as rewritten:

18 "**§ 58-36-20. Disapproval; hearing, order; adjustment of premium, review of filing.**

19 (a) At any time within 50 days after the date of any filing, the Commissioner may give
20 written notice to the Bureau specifying in what respect and to what extent the Commissioner
21 contends the filing fails to comply with the requirements of this Article and fixing a date for
22 hearing not less than 30 days from the date of mailing of such notice. Once begun, hearings
23 must proceed without undue delay. At the hearing the burden of proving that the proposed rates
24 are not excessive, inadequate, or unfairly discriminatory is on the Bureau. At the hearing the
25 factors specified in G.S. 58-36-10 shall be considered. If the Commissioner after hearing finds
26 that the filing does not comply with the provisions of this Article, he may issue his order
27 determining wherein and to what extent such filing is deemed to be improper and fixing a date
28 thereafter, within a reasonable time, after which the filing shall no longer be effective. In the
29 event the Commissioner finds that the proposed rates are excessive, the Commissioner shall
30 ~~specify the overall rates, between the existing rates and the rates proposed by the Bureau filing,~~
31 ~~that may be used by the members of the Bureau instead of the rates proposed by the Bureau~~
32 ~~filing—~~issue an order disapproving the filing and specifying the appropriate rate level or levels
33 that may be used by the members of the Bureau instead of the rate level or levels proposed by
34 the Bureau filing. In any such order, the Commissioner shall make findings of fact based on the
35 evidence presented in the filing and at the hearing. Any order issued after a hearing shall be
36 issued within 45 days after the completion of the hearing. If no order is issued within 45 days
37 after the completion of the hearing, the filing shall be deemed to be approved.

38"

39 40 **PART IV. REMOVE CERTAIN OBSOLETE REFERENCES TO THE COASTAL** 41 **PROPERTY INSURANCE POOL**

42 **SECTION 4.1.** The title of Article 45 of Chapter 58 of the General Statutes reads
43 as rewritten:

44 "Article 45.

45 "Essential Property Insurance for ~~Beach Area Coastal~~ Property."

46 **SECTION 4.2.** G.S. 58-45-5(2c) reads as rewritten:

47 "(2c) Coastal Property Insurance Pool. – ~~The name of which was formerly known~~
48 ~~as "the Beach Plan" and which is governed by the North Carolina Insurance~~
49 ~~Underwriting Association. All references to "the Beach Plan" shall mean the~~
50 ~~Coastal Property Insurance Pool, which is the market of last resort which is~~

governed by the North Carolina Insurance Underwriting Association and is provided by the Association to the beach area and the coastal area."

PART V. COASTAL INSURANCE POOL FLEXIBILITY

SECTION 5.(a) G.S. 58-45-5 is amended by adding a new subdivision to read:

"(5a) Mitigation programs. – Programs, including, but not limited to, educational, incentive, and grant programs when those programs are approved by the Directors and are intended to prevent or reduce the exposure of policyholders to risk of loss."

SECTION 5.(b) G.S. 58-45-15 is amended by adding a new subdivision to read:

"(6) To adopt and fund mitigation programs for persons insured by the Association. These programs include, but are not limited to, the mitigation programs authorized by G.S. 58-45-45(e)."

SECTION 5.(c) G.S. 58-45-25 reads as rewritten:

"§ 58-45-25. **Each member of Association to participate in nonrecoupable assessments.**

...

(b1) The accumulated surplus of the Association shall be retained from year to year and used to pay losses, reinsurance costs, and other operating expenses as necessary. No member company shall be entitled to the distribution of any portion of the Association's surplus, except pursuant to judgments entered prior to August 26, 2009.

(b2) The premiums, surplus, assessments, investment income, and other revenue of the Association are funds received for the sole purpose of providing insurance coverage, paying claims for Association policyholders, purchasing reinsurance, securing and repaying debt obligations issued by the Association, funding mitigation programs, and conducting all other activities of the Association, as required or permitted by this Article. Accumulated surplus shall not be removed from the Association or used for other purposes except pursuant to judgments entered prior to August 26, 2009.

...."

PART VI. HOME ELEVATION INSURANCE REQUIREMENTS

SECTION 6.(a) Chapter 66 of the General Statutes is amended by adding a new Article to read:

"Article 47.

"Home Elevation Businesses.

"§ 66-450. **Home elevation insurance requirements.**

Any person, firm, or corporation that for valuable consideration engages in the home elevation business or trade shall be subject to the following insurance requirements:

- (1) Comprehensive general liability insurance with a minimum coverage of three hundred fifty thousand dollars (\$350,000) combined single limit of liability.
- (2) All-risk cargo insurance with a minimum coverage of one hundred percent (100%) of the value of the structure or three hundred fifty thousand dollars (\$350,000), whichever is greater.
- (3) Workers' compensation insurance that complies with Chapter 97 of the General Statutes for all employees engaged in the home elevation business or trade. The exemptions in G.S. 97-13 from the provisions of Chapter 97 of the General Statutes shall not apply to employees engaged in the home elevation business or trade.

For the purposes of this section, the term "home elevation" means any activity that involves the raising or elevating of an entire residential or noncommercial structure to a higher level above the ground."

1 **SECTION 6.(b)** This section becomes effective January 1, 2018.

2
3 **PART VII. INSURANCE ADJUSTER DISCLOSURE**

4 **SECTION 7.** G.S. 58-33-30 is amended by adding a new subsection to read:

5 "(f1) Adjusters. – Adjusters licensed under this Article shall have a duty of disclosure of
6 the adjuster's principal and shall provide the disclosure in a form and manner specified by the
7 Commissioner in all interactions with insureds."

8
9 **PART VIII. MISCELLANEOUS PROVISIONS**

10 **SECTION 8.1.** If any section or provision of this act is declared unconstitutional or
11 invalid by the courts, such action does not affect the validity of this act as a whole or any part
12 other than the part so declared to be unconstitutional or invalid.

13 **SECTION 8.2.** Except as otherwise provided, this act becomes effective July 1,
14 2017.