

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2019

FILED SENATE
Apr 2, 2019
S.B. 468
PRINCIPAL CLERK

S

D

SENATE BILL DRS45217-MH-80

Short Title: Insurance Coverage/Public Buildings. (Public)

Sponsors: Senators Sawyer, Johnson, and Burgin (Primary Sponsors).

Referred to:

1 A BILL TO BE ENTITLED
2 AN ACT TO REDUCE THE IMPACT TO TAXPAYERS OF NATURAL DISASTERS AND
3 OTHER INSURABLE RISKS BY ENHANCING INSURANCE COVERAGE FOR
4 PUBLIC BUILDINGS.

5 The General Assembly of North Carolina enacts:

6
7 **STATE PROPERTY INSURANCE FUND AMENDMENTS**

8 **SECTION 1.(a)** Article 31 of Chapter 58 of the General Statutes reads as rewritten:

9 "Article 31.

10 "Insuring State Property, Officials and Employees.

11 **"§ 58-31-1. State Property ~~Fire~~ Insurance Fund created.**

12 Upon the expiration of all existing policies of fire insurance upon state-owned buildings,
13 fixtures, furniture, and equipment, including all such property the title to which may be in any
14 State department, institution, or agency, the State of North Carolina shall not reinsure any of such
15 properties.

16 There is hereby created a "State Property ~~Fire~~ Insurance Fund," which shall be as a special
17 fund in the State treasury, for the purpose of providing a reserve against loss from fire and other
18 perils as specified in this Article at State departments and institutions. The State Treasurer shall
19 be the custodian of the "State Property ~~Fire~~ Insurance Fund" and shall invest its assets in
20 accordance with the provisions of G.S. 147-69.2 and 147-69.3. ~~The unexpended appropriations~~
21 ~~of State departments and institutions for fire insurance premiums for the fiscal year 1944-1945~~
22 ~~and the appropriations for fire insurance premiums made for the biennium 1945-1947 or that may~~
23 ~~thereafter be made for this purpose shall be transferred to the "State Property Fire Insurance~~
24 ~~Fund."~~

25 **"§ 58-31-5. Appropriations; fund to pay administrative expenses.**

26 ~~Upon the expiration of the existing fire insurance policies on said properties and in making~~
27 ~~appropriations for any biennium after the next biennium, the~~ Each year the Commissioner shall
28 file with the Department of Administration ~~his an~~ estimate of the appropriations which will be
29 necessary in order to set up and maintain an adequate reserve in the State Property Insurance
30 Fund to provide ~~a fund~~ coverage sufficient to protect the State, its departments, institutions, and
31 agencies from loss or damage to any of said properties up to ~~fifty per centum (50%)~~ seventy-five
32 percent (75%) of the value thereof. To maintain adequate coverage levels, the Commissioner
33 shall annually adjust by two percent (2%) the value of all State property covered by the State
34 Property Insurance Fund. Appropriations made for the creating of such fire insurance reserves
35 against property of the Department of Agriculture and Consumer Services, or the Department of



* D R S 4 5 2 1 7 - M H - 8 0 *

1 Transportation or any special operating fund shall be charged against the funds of such
2 departments.

3 The State Property ~~Fire~~ Insurance Fund is authorized and empowered to pay all the
4 administrative expenses occasioned by the administration of ~~Article 31 of Chapter 58 of the~~
5 ~~General Statutes.~~this Article.

6 **"§ 58-31-10. Payment of losses on basis of actual cost of restoration or replacement; rules;
7 insurance and reinsurance; ~~sprinkler leakage insurance.~~reinsurance.**

8 (a) In the case of total or partial loss of any property of any State agency or institution,
9 the Commissioner shall determine the amount of loss and certify that amount to the agency or
10 institution concerned and to the Director of the Budget and Council of State. The Director of the
11 Budget and Council of State may authorize transfers from the Fund to the agency or institution
12 that suffered the loss in amounts that are necessary to pay for the actual cost of restoration or
13 replacement of the property. In the event there is not a sufficient amount in the Fund to pay for
14 the actual cost of restoration or replacement, the Director of the Budget and the Council of State
15 may supplement the Fund by transferring amounts from the Contingency and Emergency Fund.

16 (b) The Commissioner, with the approval of the Council of State, is authorized to adopt
17 rules necessary to carry out the purpose of this Article, which rules shall be binding on all State
18 agencies and institutions. ~~The Commissioner, with the approval of the Director of the Budget and~~
19 ~~the Council of State, is authorized to~~Commissioner shall purchase from qualified insurers
20 insurance or reinsurance necessary to protect the Fund against loss on any one building and its
21 contents in excess of fifty thousand dollars (\$50,000), and the premiums for this coverage shall
22 be paid ~~from the Fund by each requesting department, agency, or institution in accordance with~~
23 rates fixed by the Commissioner.

24 (c) ~~Upon the request of any State agency or institution, sprinkler leakage insurance shall~~
25 ~~be provided on designated property of the agency or institution that is insured by the Fund.~~
26 ~~Premiums for this coverage shall be paid by the requesting agency or institution in accordance~~
27 ~~with rates fixed by the Commissioner. Losses covered by this insurance may be paid out of the~~
28 ~~Fund in the same manner as other losses. The Commissioner, with the approval of the Director~~
29 ~~of the Budget and the Council of State, is authorized to purchase from qualified insurers insurance~~
30 ~~or reinsurance necessary to protect the Fund against loss with respect to sprinkler leakage~~
31 ~~insurance coverage.~~

32 **"§ 58-31-12. Policy forms.**

33 ~~The Commissioner, with the approval of the Council of State,~~Commissioner may adopt
34 insurance forms for coverages provided by the State Property ~~Fire~~ Insurance Fund under this
35 Article.

36 **"§ 58-31-13. Hazardous conditions in State-owned buildings.**

37 If the Commissioner determines that an undue hazard to life, safety, or property exists
38 because of a condition or the use of a building owned by the State, the Commissioner shall advise
39 the proper agency how to limit or prohibit use of the building until the hazard is abated.

40 **"§ 58-31-15. Extended coverage ~~insurance.~~insurance required.**

41 ~~Upon request of any~~Every State department, agency or ~~institution,~~institution shall obtain
42 ~~extended coverage insurance, and other insurance and any other property insurance, may be~~
43 ~~provided on designated insurance coverages that the Commissioner determines to be appropriate~~
44 ~~in light of the location, exposure to risk, age, and any other factors the Commissioner finds~~
45 ~~relevant to ensure appropriate coverage for state-owned property of such department, agency or~~
46 ~~institution which is insured by the State Property Fire Insurance Fund. Premiums for such~~
47 ~~insurance coverage shall be paid by each requesting department, agency or institution in~~
48 ~~accordance with rates fixed by the Commissioner. Losses covered by such insurance may be paid~~
49 ~~for out of the State Property Fire Insurance Fund in the same manner as fire losses. Fund as set~~
50 ~~forth in this Article.~~The Commissioner, with the approval of the Governor and Council of State,
51 is authorized and empowered tomay purchase from insurers admitted to do business in North

1 Carolina such insurance or reinsurance as may be necessary to protect the State Property Fire
2 Insurance Fund against loss with respect to such insurance coverage. The words "extended
3 coverage insurance," as used in this section, ~~mean shall include, but is not limited to,~~ insurance
4 against loss or damage caused by fire, lightning, windstorm, hail, explosion, riot, riot attending
5 a strike, civil commotion, vandalism, water damage, aircraft, vehicles or smoke.

6 **"§ 58-31-18. Flood insurance.**

7 Flood insurance shall be provided on State-owned property of each department, agency, or
8 institution which is insured by the State Property Insurance Fund when that property is located,
9 or becomes located, in an area identified on the latest Flood Insurance Rate Map produced by the
10 Federal Emergency Management Agency as an area that will be inundated by the flood event
11 having a one percent (1%) chance of being equaled or exceeded in any given year. Premiums for
12 flood insurance coverage shall be paid by each department, agency, or institution in accordance
13 with rates fixed by the Commissioner, and the Commissioner may purchase from insurers
14 admitted to do business in North Carolina such insurance or reinsurance as may be necessary to
15 protect the State Property Insurance Fund against loss with respect to flood insurance coverage.

16 **"§ 58-31-20. Use and occupancy and business interruption insurance.**

17 Upon request of any State department, agency or institution, use and occupancy and business
18 interruption insurance shall be provided on state-owned property of such department, agency or
19 institution which is insured by the State Property ~~Fire~~-Insurance Fund. Premiums for such
20 insurance coverage shall be paid by each requesting department, agency or institution in
21 accordance with rates fixed by the Commissioner. Losses covered by such insurance may be paid
22 for out of the State Property ~~Fire~~-Insurance Fund in the same manner as fire losses. The
23 Commissioner, ~~with the approval of the Governor and Council of State, is authorized and~~
24 ~~empowered to~~ may purchase from insurers admitted to do business in North Carolina such
25 insurance or reinsurance as may be necessary to protect the State Property ~~Fire~~-Insurance Fund
26 against loss with respect to such insurance coverage.

27 **"§ 58-31-25. Professional liability insurance for officials and employees of the State.**

28 The Commissioner may acquire professional liability insurance covering the officers and
29 employees of any State department, institution or agency upon the request of such State
30 department, institution or agency. Premiums for such insurance coverage shall be paid by the
31 requesting department, institution or agency at rates fixed by the Commissioner from funds made
32 available to it for the purpose. The Commissioner, in placing a contract for such insurance is
33 authorized to place such insurance through the Public Officers and Employees' Liability
34 Insurance Commission, and shall exercise all efforts to place such insurance through the said
35 commission prior to attempting to procure such insurance through any other source.

36 The Commissioner, pursuant to this section, may acquire professional liability insurance
37 covering the officers and employees of a department, institution or agency of State government
38 only if the coverage to be provided by such policy is coverage of claims in excess of the
39 protection provided by Articles 31 and 31A of Chapter 143 of the General Statutes.

40 The purchase, by any State department, institution or agency of professional liability
41 insurance covering the law-enforcement officers, officers or employees of such department,
42 institution or agency shall not be construed as a waiver of any defense of sovereign immunity by
43 such department, institution or agency. The purchase of such insurance shall not be deemed a
44 waiver by any employee of the defense of sovereign immunity to the extent that such defense
45 may be available to ~~him~~ the Commissioner.

46 The payment, by any State department, institution or agency of funds as premiums for
47 professional liability insurance through the plan provided herein, covering the law-enforcement
48 officers or officials or employees of such department, institution or agency is hereby declared to
49 be for a public purpose.

50 ...

51 **"§ 58-31-35. Information furnished Commissioner by officers in charge.**

1 It is the duty of the different officers or boards having in their custody any property belonging
2 to the State to inform the Commissioner, giving ~~him in detail a full~~ the Commissioner a full and
3 detailed description of same, and to keep ~~him~~ the Commissioner informed of any changes in such
4 property or its location or surroundings.

5 **"§ 58-31-40. Commissioner to inspect State property.**

6 (a) The Commissioner shall, as often as is required in the fire code adopted by the North
7 Carolina Building Code Council or more often if the Commissioner considers it necessary, visit,
8 inspect, and thoroughly examine every State property to analyze and determine its protection
9 from fire, including the property's occupants or contents. The Commissioner shall notify in
10 writing the agency or official in charge of the property of any defect noted by the Commissioner
11 or any improvement considered by the Commissioner to be necessary, and a copy of that notice
12 shall be forwarded by the Commissioner to the Department of Administration.

13 (b) No agency or person authorized or directed by law to select a plan or erect a building
14 comprising 20,000 square feet or more for the use of any county, city, or school district shall
15 receive and approve of the plan until it is submitted to and approved by the Commissioner as to
16 the safety of the proposed building from fire, including the property's occupants or contents.

17"

18 **SECTION 1.(b)** G.S. 147-69.2(a)(12) reads as rewritten:

19 "(12) The State Property ~~Fire~~-Insurance Fund."

20 **SECTION 2.** This act is effective March 31, 2021.