

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2023

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SENATE BILL 438  
PROPOSED COMMITTEE SUBSTITUTE S438-PCS45323-TG-13

Short Title: NCORR Administrative Modifications.

(Public)

Sponsors:

Referred to:

April 3, 2023

A BILL TO BE ENTITLED

AN ACT TO ESTABLISH PROCUREMENT PROCEDURES FOR CONSTRUCTION PROJECTS FUNDED BY THE COMMUNITY DEVELOPMENT BLOCK GRANT DISASTER RECOVERY PROGRAM, TO PROTECT HOMEOWNERS FROM AN INCREASE IN PROPERTY TAX LIABILITY RESULTING FROM THE REVALUATION OF REAL PROPERTY REHABILITATED USING COMMUNITY DEVELOPMENT BLOCK GRANT DISASTER RECOVERY FUNDS OR HURRICANE FLORENCE DISASTER RECOVERY FUNDS BY LIMITING THE ABILITY OF ASSESSORS TO REAPPRAISE REAL PROPERTY AT HIGHER VALUES UNDER CERTAIN CIRCUMSTANCES, TO INCREASE THE INFORMAL BID THRESHOLD FOR CONTRACTS FOR CONSTRUCTION OR REPAIR WORK RELATED TO DISASTER RECOVERY UNDERTAKEN BY THE NORTH CAROLINA OFFICE OF RECOVERY AND RESILIENCY, AND TO MAKE OTHER PROGRAMMATIC CHANGES.

The General Assembly of North Carolina enacts:

**SECTION 1.** G.S. 143B-1040 reads as rewritten:

**"§ 143B-1040. Office of Recovery and Resiliency.**

(a) The Office of Recovery and Resiliency (Office) is created in the Department of Public Safety. The Office shall execute multi-year recovery and resiliency projects and administer funds provided by the Community Development Block Grant Disaster Recovery ~~program for Hurricanes Florence and Matthew.~~ program. The Office will provide general disaster recovery coordination and public information; citizen outreach and application case management; audit, finance, compliance, and reporting on disaster recovery funds; and program and construction management services. The Office shall also contract for services from vendors specializing in housing, construction, and project management services.

...

(d) Notwithstanding any other provision of law to the contrary, no provision of this Subpart relating to standards and practices of applicant and homeowner eligibility, contractor requirements, rehabilitation assistance, physical condition requirements, and displacement and relocation shall be construed to be more restrictive than applicable federal law or other provisions of applicable State law.

**SECTION 2.(a)** Subpart D of Part 5 of Article 13 of Chapter 143B of the General Statutes is amended by adding the following new section to read:

**"§ 143B-1042. Disaster recovery procurement.**

(a) Definitions. – Unless otherwise provided, the following definitions apply in this Subpart:



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- 1           (1)    Construction activities. – Any actions undertaken for purposes of fulfilling the  
2           terms of a contract or for purposes of readying the property for any work that  
3           requires a building permit, such as surveying property lines or easements.
- 4           (2)    Contractor. – A person or company that undertakes a contract, utilizing  
5           Community Development Block Grant Disaster Recovery funds, with the  
6           Office for the rehabilitation, reconstruction, or installation of a detached  
7           single-family dwelling, including mobile home units or modular homes.
- 8           (3)    Property. – Land, buildings or structures on land, permanent fixtures on land,  
9           or manufactured or modular homes on land.
- 10        (b)    Procurement. – All of the following shall apply to contracts awarded or assigned by  
11        the Office that are related to detached single-family dwellings and are funded with funds provided  
12        by the Community Development Block Grant Disaster Recovery program:
- 13           (1)    The Office shall develop a priority-based system for awarding or assigning  
14           contracts for the construction, reconstruction, alteration, repair, movement to  
15           another site, removal, or demolition of detached single-family dwellings  
16           which shall be, at a minimum, based on all of the following:
- 17           a.     The applicant's income for the prior 12 consecutive months, with  
18           preference given to the lowest income applicants.
- 19           b.     The applicant's age, with preference given to applicants over the age  
20           of 62.
- 21           c.     The presence of a person with a mental or physical disability in the  
22           applicant's household.
- 23           d.     The presence of dependents or minor children in the applicant's  
24           household.
- 25           e.     The length of time, if any, the applicant has been temporarily relocated  
26           by the Office.
- 27           (2)    Notwithstanding any other provision of law or any rule or regulation, the  
28           Office shall limit the number of detached single-family dwelling projects  
29           awarded or assigned to an individual contractor to no greater than 75 at any  
30           given time. In no event shall the number of unfulfilled projects awarded or  
31           assigned to an individual contractor exceed a total of 75.
- 32           (3)    To expedite the recovery process for citizens while protecting the recovery  
33           program from financial loss if a contractor fails to complete construction  
34           activities within the time periods provided in subdivision (4) of this  
35           subsection, all contracts awarded or assigned shall include both of the  
36           following clauses:
- 37           a.     Contract cancellation. – The clause shall clearly state that the failure  
38           to begin construction activities as required by sub-subdivision a. of  
39           subdivision (4) of this subsection shall result in the immediate  
40           cancellation of the project. Notwithstanding the provisions of  
41           subdivision (1) of this subsection, if a contract is cancelled, as required  
42           by this sub-subdivision, the Office shall immediately rebid the project,  
43           giving it priority as provided in subdivision (1) of this subsection.
- 44           b.     Liquidated damages. – The clause shall clearly state the event that will  
45           trigger the commencement of the assessment of liquidated damages,  
46           and, upon that event, the Office shall assess daily liquidated damages  
47           in the amount of two hundred fifty dollars (\$250.00) per calendar day.
- 48           (4)    A contractor who has been awarded or assigned a contract for the construction,  
49           reconstruction, alteration, repair, movement to another site, removal, or  
50           demolition of a detached single-family dwelling shall:

- 1                                   a.     Begin construction activities on each property described in the  
2   contract not later than 45 calendar days after the award or  
3   assignment.
- 4                                   b.     Complete construction activities not later than 135 calendar  
5   days after the award or assignment or the temporary relocation  
6   of the applicant, whichever occurs later. Construction activities  
7   shall be deemed completed upon the issuance of a certificate  
8   of compliance or occupancy.
- 9                   (5)   The Office may, in writing, grant a contractor, who has been delayed in  
10                                   completing construction activities in the time periods described in subdivision  
11                                   (4) of this subsection due to weather phenomena or unforeseen circumstances,  
12                                   an extension of time in which to complete the construction activities, and the  
13                                   extension shall remain in effect for the duration of the weather phenomena  
14                                   and for such time thereafter that is reasonably necessary for the effects of the  
15                                   weather phenomena to subside. For purposes of this subdivision, the term  
16                                   "weather phenomena" means a weather event that creates a reasonable  
17                                   impossibility of the construction activities during the same period of time and  
18                                   locality where the construction activities are to be performed, as reported by  
19                                   the National Oceanic and Atmospheric Administration National Weather  
20                                   Service statistics. As used in this subdivision, "unforeseen circumstances"  
21                                   means actions taken by the applicant or other third party that limits the ability  
22                                   of the Office or contractors to continue construction activities. The Director  
23                                   may grant extensions under this subdivision not to exceed 45 days in total for  
24                                   any individual assignment or award. In addition, when unforeseen  
25                                   circumstances arise, the Secretary of the Department of Public Safety may  
26                                   grant an additional extension under this subdivision not to exceed 45 days in  
27                                   total for any individual assignment or award. Any extension granted by the  
28                                   Secretary under this subdivision shall be reported to the chairs of the Joint  
29                                   Legislative Commission on Governmental Operations within five business  
30                                   days. In no event shall the combined total number of days for all extensions  
31                                   granted under this subdivision exceed 90 days for any individual project  
32                                   awarded or assigned.
- 33                   (6)   Within five business days of the completion of construction activities, the  
34                                   Office shall conduct a final inspection of the property and shall take all  
35                                   necessary steps to ensure that the applicant is able to take possession of the  
36                                   property without unreasonable delay.
- 37                   (7)   Notwithstanding the provisions of this section, the Office may, depending  
38                                   upon the construction activities required, impose time lines for the  
39                                   commencement and completion of construction activities that are less than,  
40                                   but not more than, the time lines as prescribed in subdivision (4) of this  
41                                   subsection.
- 42                   (8)   Notwithstanding the provisions of this subsection, if a state of emergency is  
43                                   declared by an authority listed in G.S. 166A-19.3(19), the Office shall not  
44                                   assess liquidated damages as provided in sub-subdivision b. of subdivision (3)  
45                                   of this subsection or require the contractor to comply with the time lines  
46                                   described in subdivision (4) of this subsection if, in the determination of the  
47                                   Office, the contractor's ability to perform as required by the contract or to meet  
48                                   the time lines is substantially impaired by the emergency that led to the  
49                                   declaration of the state of emergency.
- 50                   (9)   The Office shall limit the expansion or reduction in square footage of any  
51                                   detached single-family dwelling to no greater than five percent (5%) of the

1                    pre-disaster square footage of the dwelling, except insofar as it is reasonably  
2                    necessary due to lot setback requirements or other lot size requirements of the  
3                    real property."

4                    **SECTION 2.(b)** Article 11 of Chapter 160D of the General Statutes is amended by  
5 adding a new section to read:

6 **"§ 160D-1112.1. Disaster recovery projects; priority given.**

7                    Notwithstanding any other provision of the State Building Code or other applicable State or  
8                    local laws, a local government inspection department and the inspectors in it shall give priority  
9                    to inspection services, including inspections and reviewing, denying, and issuing permits,  
10                   required by this Article that involve the construction, reconstruction, alteration, repair, movement  
11                   to another site, removal, or demolition of a detached single-family dwelling that is funded, in  
12                   whole or in part, with funds provided by the Community Development Block Grant Disaster  
13                   Recovery program. The inspection department may require a contractor to present evidence, such  
14                   as a contract or other paperwork, proving the construction activities subject to the building permit  
15                   are funded by the Community Development Block Grant Disaster Recovery program prior to  
16                   giving priority as provided in this section."

17                   **SECTION 2.(c)** The North Carolina Office of Resiliency and Recovery shall adopt  
18 the priority-based system required by G.S. 143B-1042(b)(1), as enacted in Section 2(a) of this  
19 act, not later than 30 days after the date this act becomes law. Not later than 30 days after adopting  
20 the priority-based system, the Office shall submit a report to the Joint Legislative Commission  
21 on Governmental Operations detailing the priority-based system and the criteria used to establish  
22 the system.

23                   **SECTION 2.(d)** This section applies to contracts assigned, renewed, extended, or  
24 awarded on or after the date this act becomes law.

25                   **SECTION 3.(a)** G.S. 105-283 reads as rewritten:

26 **"§ 105-283. Uniform appraisal standards.**

27                   All-Except as provided in G.S. 105-286.1, all property, real and personal, shall as far as  
28                   practicable be appraised or valued at its true value in money. When used in this Subchapter, the  
29                   words "true value" shall be interpreted as meaning market value, that is, the price estimated in  
30                   terms of money at which the property would change hands between a willing and financially able  
31                   buyer and a willing seller, neither being under any compulsion to buy or to sell and both having  
32                   reasonable knowledge of all the uses to which the property is adapted and for which it is capable  
33                   of being used. For the purposes of this section, the acquisition of an interest in land by an entity  
34                   having the power of eminent domain with respect to the interest acquired shall not be considered  
35                   competent evidence of the true value in money of comparable land."

36                   **SECTION 3.(b)** G.S. 105-284(a) reads as rewritten:

37                   "(a) Except as otherwise provided in this section, G.S. 105-286.1, and G.S. 105-328.1, all  
38 property, real and personal, shall be assessed for taxation at its true value or use value as  
39 determined under G.S. 105-283 or G.S. 105-277.6, and taxes levied by all counties and  
40 municipalities shall be levied uniformly on assessments determined in accordance with this  
41 section."

42                   **SECTION 3.(c)** Article 14 of Subchapter II of Chapter 105 of the General Statutes  
43 is amended by adding a new section to read:

44 **"§ 105-286.1. Reappraisal limitation for certain rehabilitation of real property.**

45                   (a) Unless the context provides otherwise, the following definitions apply in this section:

46                   (1) Owner. – A person who holds legal or equitable title, whether individually, as  
47                   a tenant by the entirety, a joint tenant, or a tenant in common, or as a holder  
48                   of a life estate or an estate for the life of another. For purposes of this  
49                   subdivision, a manufactured home jointly owned by husband and wife shall  
50                   be considered property held by the entirety.

1           (2) Permanent residence. – A person's legal residence, including the dwelling, the  
2 dwelling site, not to exceed 1 acre, and related improvements. For purposes  
3 of this subdivision, a dwelling includes a single-family residence, a unit in a  
4 multifamily residential complex, or a manufactured home.

5           (3) Rehabilitation or rehabilitated. – The improvement of real property from  
6 damaged, deteriorated, or substandard to good or better condition.

7           (b) A permanent residence that has increased in true value, as that term is defined in  
8 G.S. 105-283, because it was rehabilitated using Community Development Block Grant Disaster  
9 Recovery program funds, administered by the Office of Recovery and Resiliency, or the  
10 Hurricane Florence Disaster Recovery Fund, administered by the Office of State Budget and  
11 Management, shall not be appraised at a value higher than the most recent value appraised prior  
12 to the rehabilitation of the permanent residence unless one of the following occurs:

13           (1) The owner transfers the permanent residence to another through any means  
14 allowed by law; provided, however, this subdivision shall not apply if (i) the  
15 property is transferred to a co-owner of the permanent residence or, as part of  
16 a divorce proceeding, to the owner's spouse and (ii) the co-owner or spouse  
17 occupies the property as his or her permanent residence.

18           (2) The owner dies; provided, however, this subdivision shall not apply if (i) the  
19 owner's share of the permanent residence passes upon the owner's death to a  
20 co-owner of the permanent residence or to the co-owner's spouse and (ii) the  
21 co-owner or spouse occupies the property as his or her permanent residence.

22           (3) The owner ceases to use the property as the owner's permanent residence.

23           (4) After the owner's permanent residence is modified using Community  
24 Development Block Grant Disaster Recovery program funds or Hurricane  
25 Florence Disaster Recovery funds, five calendar years have elapsed.

26           (c) If an owner has cause to believe his or her permanent residence has been appraised in  
27 violation of this section, the owner may, on forms developed and provided by the assessor, state  
28 the reasons for his or her belief and provide the date the owner's property was rehabilitated and  
29 the source of the rehabilitation funds. The assessor shall assist the owner in providing or verifying  
30 the information in the custody of the city or county, as appropriate. Not later than 30 days after  
31 the owner has filed a complaint under this subsection, the assessor shall confirm or deny the  
32 validity of the owner's allegations and notify the owner of the same. If the assessor confirms that  
33 the owner's permanent residence was appraised in violation of this section resulting in the  
34 property being appraised at a value higher than the most recent value appraised prior to the  
35 rehabilitation of the property, the assessor shall take all necessary steps to reappraise the property  
36 to comply with the provisions of this section. If the assessor finds no error in the appraisal, the  
37 owner may appeal the decision to the governing body of the county where the ad valorem tax  
38 was paid. An appeal from the decision of the governing body of the county shall be made to the  
39 Property Tax Commission as provided in G.S. 105-290."

40           **SECTION 3.(d)** G.S. 105-328(a) reads as rewritten:

41           "(a) For purposes of municipal taxation, all property subject to taxation by a city or town  
42 situated in two or more counties may, subject to the conditions set forth in G.S. 105-328.1, by  
43 resolution of the governing body of the municipality, be listed, appraised, and assessed as  
44 provided in G.S. 105-326 and 105-327 if, in such a case, in the opinion of the governing body,  
45 the same appraisal and assessment standards will thereby apply uniformly throughout the  
46 municipality. However, if, in such a case, the governing body shall determine that adoption of  
47 the appraisals and assessments fixed by the counties will not result in uniform appraisals and  
48 assessments throughout the municipality, the governing body may, by horizontal adjustments,  
49 equalize the appraisal and assessment values fixed by the counties in order to obtain the required  
50 uniformity. Taxes levied by the city or town shall be levied uniformly on the assessments so  
51 determined."

1           **SECTION 3.(e)** Article 22 of Subchapter II of Chapter 105 of the General Statutes  
2 is amended by adding a new section to read:

3 **"§ 105-328.1. Reappraisal limitation for certain rehabilitation of real property.**

4       (a) Unless the context provides otherwise, the following definitions apply in this section:

5           (1) Owner. – A person who holds legal or equitable title, whether individually, as  
6 a tenant by the entirety, a joint tenant, or a tenant in common, or as a holder  
7 of a life estate or an estate for the life of another. For purposes of this  
8 subdivision, a manufactured home jointly owned by husband and wife shall  
9 be considered property held by the entirety.

10          (2) Permanent residence. – A person's legal residence, including the dwelling, the  
11 dwelling site, not to exceed 1 acre, and related improvements. For purposes  
12 of this subdivision, a dwelling includes a single-family residence, a unit in a  
13 multifamily residential complex, or a manufactured home.

14          (3) Rehabilitation or rehabilitated. – The improvement of real property from  
15 damaged, deteriorated, or substandard to good or better condition.

16       (b) A permanent residence that has increased in true value, as that term is defined in  
17 G.S. 105-283, because it was rehabilitated using Community Development Block Grant Disaster  
18 Recovery program funds, administered by the Office of Recovery and Resiliency, or the  
19 Hurricane Florence Disaster Recovery Fund, administered by the Office of State Budget and  
20 Management, shall not be appraised at a value higher than the most recent value appraised prior  
21 to the rehabilitation of the permanent residence unless one of the following occurs:

22           (1) The owner transfers the permanent residence to another through any means  
23 allowed by law; provided, however, this subdivision shall not apply if (i) the  
24 property is transferred to a co-owner of the permanent residence or, as part of  
25 a divorce proceeding, to the owner's spouse and (ii) the co-owner or spouse  
26 occupies the property as his or her permanent residence.

27           (2) The owner dies; provided, however, this subdivision shall not apply if (i) the  
28 owner's share of the permanent residence passes upon the owner's death to a  
29 co-owner of the permanent residence or to the co-owner's spouse and (ii) the  
30 co-owner or spouse occupies the property as his or her permanent residence.

31           (3) The owner ceases to use the property as the owner's permanent residence.

32           (4) After the owner's permanent residence is modified using Community  
33 Development Block Grant Disaster Recovery program funds or Hurricane  
34 Florence Disaster Recovery funds, five calendar years have elapsed.

35       (c) If an owner has cause to believe his or her permanent residence has been appraised in  
36 violation of this section, the owner may, on forms developed and provided by the assessor, state  
37 the reasons for his or her belief and provide the date the owner's property was rehabilitated and  
38 the source of the rehabilitation funds. The assessor shall assist the owner in providing or verifying  
39 the information in the custody of the city or county, as appropriate. Not later than 30 days after  
40 the owner has filed a complaint under this subsection, the assessor shall confirm or deny the  
41 validity of the owner's allegations and notify the owner of the same. If the assessor confirms that  
42 the owner's permanent residence was appraised in violation of this section resulting in the  
43 property being appraised at a value higher than the most recent value appraised prior to the  
44 rehabilitation of the property, the assessor shall take all necessary steps to reappraise the property  
45 to comply with the provisions of this section. If the assessor finds no error in the appraisal, the  
46 owner may appeal the decision to the governing body of the county where the ad valorem tax  
47 was paid. An appeal from the decision of the governing body of the county shall be made to the  
48 Property Tax Commission as provided in G.S. 105-290."

49       **SECTION 3.(f)** This section is effective for taxes imposed for taxable years  
50 beginning on or after July 1, 2023.

51       **SECTION 4.(a)** G.S. 143-53.1 reads as rewritten:

1 **"§ 143-53.1. Setting of benchmarks; increase by Secretary.**

2 (a) On and after July 1, 2014, the procedures prescribed by G.S. 143-52 with respect to  
3 competitive bids and the bid value benchmark authorized by G.S. 143-53(a)(2) with respect to  
4 rule making by the Secretary of Administration for competitive bidding shall promote  
5 compliance with the principles of procurement efficiency, transparency, and fair competition to  
6 obtain the State's business. For State departments, institutions, and agencies, except the President  
7 of The University of North Carolina or a special responsibility constituent institution of The  
8 University of North Carolina and community colleges, the benchmark shall not be greater than  
9 one hundred thousand dollars (\$100,000). For the President of The University of North Carolina  
10 or a special responsibility constituent institution of The University of North Carolina, the  
11 benchmark prescribed in this section is as provided in G.S. 116-31.10. For community colleges,  
12 the benchmark prescribed in this section is as provided in G.S. 115D-58.14. For the North  
13 Carolina Office of Recovery and Resiliency when awarding or assigning contracts under Subpart  
14 D of Part 5 of Article 13 of Chapter 143B of the General Statutes, the benchmark prescribed in  
15 this section is two hundred fifty thousand dollars (\$250,000).

16 ...."

17 **SECTION 4.(b)** G.S. 143-131 reads as rewritten:

18 **"§ 143-131. When counties, cities, towns and other subdivisions may let contracts on  
19 informal bids.**

20 (a) All contracts for construction or repair work or for the purchase of apparatus, supplies,  
21 materials, or equipment, involving the expenditure of public money in the amount of thirty  
22 thousand dollars (\$30,000) or more, but less than the limits prescribed in G.S. 143-129, made by  
23 any officer, department, board, local school administrative unit, or commission of any county,  
24 city, town, or other subdivision of this State shall be made after informal bids have been secured;  
25 provided, however, ~~that that~~:

26 (1) The University of North Carolina and its constituent institutions shall be  
27 required to comply with the provisions of this subsection for all contracts for  
28 construction or repair work involving the expenditure of public money in the  
29 amount of one hundred thousand dollars (\$100,000) or more, but less than the  
30 limits prescribed in G.S. 143-129.

31 (2) The North Carolina Office of Recovery and Resiliency shall be required to  
32 comply with the provisions of this subsection for all contracts for construction  
33 or repair work related to disaster recovery involving the expenditure of public  
34 money in the amount of two hundred fifty thousand dollars (\$250,000) or  
35 more, but less than the limits prescribed in G.S. 143-129. For purposes of this  
36 subdivision, the term "construction" shall include the purchase of  
37 manufactured housing units.

38 All such contracts shall be awarded to the lowest responsible, responsive bidder, taking into  
39 consideration quality, performance, and the time specified in the bids for the performance of the  
40 contract. It shall be the duty of any officer, department, board, local school administrative unit,  
41 or commission entering into such contract to keep a record of all bids submitted, and such record  
42 shall not be subject to public inspection until the contract has been awarded.

43 ...."

44 **SECTION 4.(c)** This section applies to contracts awarded on or after the date this  
45 act becomes law.

46 **SECTION 5.** Except as otherwise provided, this act is effective when it becomes  
47 law.