

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2015

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HOUSE BILL 182*
Committee Substitute Favorable 4/28/15

Short Title: Property Insurance Fairness.

(Public)

Sponsors:

Referred to:

March 11, 2015

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; BY REFORMING CONSENT TO RATE
8 PRACTICES; BY REQUIRING THAT CATASTROPHE MODELING USED FOR
9 PROPERTY RATE-MAKING PURPOSES MORE ACCURATELY REFLECT
10 POTENTIAL IMPACTS IN NORTH CAROLINA; AND BY CREATING THE JOINT
11 LEGISLATIVE STUDY COMMITTEE ON PROPERTY INSURANCE RATE MAKING.

12 The General Assembly of North Carolina enacts:

13
14 **PART I. PROPERTY INSURANCE CLARITY**

15 **SECTION 1.** G.S. 58-36-15 is amended by adding a new subsection to read:

16 "(d2) With respect to homeowners insurance rate filings, the Bureau shall do the
17 following:

18 (1) Submit to the Department computations of the total amount of direct
19 incurred losses, direct earned premiums, house years and statewide expenses
20 for the most recent five years included in the filing.

21 (2) Report the computations to the Department by rate territory where available.

22 (3) Provide this information for each of the following policy categories:

23 a. All full homeowners policies.

24 b. All homeowners policies that exclude windstorm coverage.

25 c. All policies that only include windstorm coverage.

26 For the purposes of this subsection, homeowners insurance policies shall
27 include condominium insurance and renters insurance, but shall not include
28 creditor-placed policies, condominium association policies, or commercial
29 policies.

30 (4) Submit to the Department catastrophic wind and hail information pursuant to
31 a data call by the Department based on a specific catastrophic event.

32 Information received by the Department under this subsection shall be posted on the
33 Department's Web site. Any information reported to the Department by an insurer pursuant to
34 this subsection is considered a trade secret as defined in G.S. 66-152 and shall be treated as
35 confidential information by the Department. However, once the information from all property
36 insurers is aggregated, then the Department may provide such information in accordance with



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1 this subsection. Notice of at least 10 business days shall be given to the insurer if confidential
2 information pertaining to that insurer is ordered by a court of competent jurisdiction to be
3 released to the Department."

4 5 **PART II. BONDING AUTHORITY**

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

8 "Article 45A.

9 "Recovery Finance Authority.

10 **"§ 58-45A-1. Name.**

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

12 **"§ 58-45A-5. Legislative Findings.**

13 The General Assembly finds that the likelihood of one or more hurricanes or other
14 catastrophic events causing sufficient damage and destruction for the Association to incur
15 losses and loss expenses, including loss adjustment expenses, that exceed the combination of
16 available surplus, reinsurance, and other sources of funding, including assessments on its
17 member companies, is significant. The General Assembly finds that in any such event it will be
18 beneficial to the residents and property owners in this State and will increase the insurance
19 capacity and the overall functioning of the State's insurance industry that all or a portion of the
20 obligations to pay claims under policies issued by the Association and related to the hurricane
21 or other catastrophic event resulting in such excess losses and loss expenses, including loss
22 adjustment expenses, could be financed by a State entity through bonded indebtedness paid
23 from amounts including catastrophe recovery charges imposed on residential and commercial
24 property insurance policyholders statewide with their annual policy premiums. The General
25 Assembly therefore finds that, as an additional or alternative method to borrowing by the
26 Association for the purpose of paying such excess losses and loss expenses including loss
27 adjustment expenses, the creation of a State authority to acquire the obligation to pay such
28 claims under such policies and provide for the issuance of bonded indebtedness is necessary
29 and desirable to provide the most efficient mechanisms for addressing excess losses and loss
30 expenses, including loss adjustment expenses, that may arise from hurricanes or other
31 catastrophic events in the State.

32 **"§ 58-45A-10. Definitions.**

33 The following definitions apply to this Article:

- 34 (1) Assessment. – A nonrecoupable fee or charge levied on members in the
35 Association pursuant to G.S. 58-45-47(a).
- 36 (2) Association. – The North Carolina Insurance Underwriting Association,
37 established under this Article.
- 38 (3) Authority Board. – The governing body of the Recovery Finance Authority.
- 39 (4) Bonds. – Bonds, notes, debentures, loan agreements, or other types of
40 obligations of the Recovery Finance Authority.
- 41 (5) Catastrophe recovery charge. – A charge calculated as a uniform percentage
42 of written premiums to be paid with annual premiums on all residential and
43 commercial property insurance policies statewide.
- 44 (6) Deficit. – The amount of losses and loss expenses of the Association relating
45 to a particular Event that will exceed the combination of available surplus,
46 reinsurance, and other sources of funding, including assessments, for the
47 Association to fund losses and loss expenses, including loss adjustment
48 expenses, resulting from Events in that calendar year.
- 49 (7) Event. – A hurricane or other catastrophic event causing loss or loss
50 expenses to the Association for property in the State.

1 (8) Recovery Finance Authority. – The North Carolina Recovery Finance
2 Authority, a public agency created by this Article.

3 **"§ 58-45A-15. North Carolina Recovery Finance Authority.**

4 (a) Creation. – There is created a body politic and corporate to be known as the "North
5 Carolina Recovery Finance Authority." The Recovery Finance Authority is constituted as a
6 public agency, and the exercise by the Authority of the powers conferred by this Article in the
7 financing of deficits of the Association related to catastrophic events shall be deemed and held
8 to be the performance of an essential governmental function.

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

12 (c) Authority Board. – The Authority shall be governed by a nine-member Authority
13 Board consisting of two members appointed by the General Assembly upon the
14 recommendation of the President Pro Tempore of the Senate in accordance with G.S. 120-121,
15 two members appointed by the General Assembly upon the recommendation of the Speaker of
16 the House of Representatives in accordance with G.S. 120-121, two members appointed by the
17 Governor, two members appointed by the Association, and the Commissioner of Insurance or
18 the Commissioner's designee. Each appointing authority shall appoint members who reside in
19 diverse regions of the State. The chair of the Authority Board shall be selected by the Authority
20 Board.

21 (d) Staggered Terms. – The initial appointments to the Authority Board by the General
22 Assembly upon the recommendation of the President Pro Tempore of the Senate and by the
23 Governor shall be for terms ending April 1, 2017. The initial appointments to the Authority
24 Board by the General Assembly upon the recommendation of the Speaker of the House of
25 Representatives and by the Association shall be appointed to terms ending April 1, 2019. The
26 Commissioner of Insurance or the Commissioner's designee shall serve at all times as ex officio
27 voting member of the Board. Thereafter, at the expiration of each stipulated term of office, all
28 appointments shall be to a term of four years from the date of the expiration of the term;
29 provided all members of the Authority Board shall remain in office until their successors are
30 appointed and qualified. The original appointing authority may appoint a member to serve out
31 the unexpired term of any member appointed by such authority.

32 (e) Removal of Board Members. – Each member of the Authority Board,
33 notwithstanding subsection (d) of this section, shall serve at the pleasure of the original
34 appointing authority. The chair of the Authority Board serves at the pleasure of the Authority
35 Board.

36 (f) Conflicts of Interest; Ethics. – Members of the Authority Board shall be subject to
37 the provisions of Chapter 138A of the General Statutes as well as any ethics or conflicts
38 policies promulgated by the Governor for boards of State agencies in addition to the
39 requirements of this subsection. If any member of the Authority Board shall be: (i) interested
40 either directly or indirectly or (ii) an officer or employee of, or has an ownership interest in,
41 any firm or corporation, not including units of local government or the Association, interested
42 directly or indirectly, in any contract with the Authority, the interest shall be disclosed to the
43 Authority Board and shall be set forth in the minutes of the Authority Board. The member
44 having an interest shall not participate on behalf of the Authority in the authorization of such
45 contract. Other provisions of law notwithstanding, failure to take any or all actions necessary to
46 carry out the purposes of this subsection do not affect the validity of any bonds issued under
47 this Article. Members, officers, and employees of the Authority shall be subject to the
48 provisions of G.S. 14-234.

49 (g) Compensation. – The appointed members of the Authority Board shall receive no
50 salary for their services but shall be entitled to receive per diem and travel allowances in
51 accordance with the provisions of G.S. 138-5 and G.S. 138-6 as appropriate.

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

3 (i) Bylaws. – The Authority Board shall adopt, change, or amend bylaws with respect
4 to the calling of meetings, quorums, voting procedures, the keeping of records, and other
5 organizational, staffing, and administrative matters as the Authority Board may determine. Any
6 amendments to the bylaws after their initial adoption shall be submitted to the Commissioner of
7 Insurance for review and comment at least 45 days prior to adoption by the Authority Board.

8 **"§ 58-45A-20. Powers of the Recovery Finance Authority.**

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

11 (1) The powers of a corporate body, including the power to sue and be sued, to
12 make contracts, to adopt and use a common seal, and to alter the adopted
13 seal as needed.

14 (2) To issue bonds of the Authority as provided in this Article and use the
15 proceeds of such bonds to finance obligations to pay claims with respect to
16 policies assigned to it in connection with Events with the debt service on
17 such bonds payable from catastrophe recovery charges under G.S. 58-45-47,
18 other revenues of the Authority, or other payments by the Association or its
19 members. Proceeds of such bonds may be used to pay issuance expenses,
20 interest on the bonds for a period of up to one year, and to create a reserve
21 fund for the bonds.

22 (3) To invest the proceeds of bonds of the Authority that are pending
23 disbursement or other idle funds of the Authority in any investment
24 authorized by G.S. 159-30.

25 (4) To pay all necessary costs and expenses in the formation, organization,
26 administration, and operation of the Authority.

27 (5) To apply for, accept, and administer loans and grants of money or real or
28 personal property from the United States of America or any federal agency,
29 the State or its political subdivisions, local governments, or any other public
30 or private sources available.

31 (6) To adopt, alter, or repeal its own bylaws or rules implementing the
32 provisions of this Article.

33 (7) To contract for the services of consulting attorneys and other consultants, to
34 employ administrative staff as may be required in the judgment of the
35 Authority, and to fix and pay fees or compensation to the contractors and
36 administrative employees from funds available to the Authority.

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

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

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

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

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

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

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

- 1 (15) To acquire by purchase, lease, gift, or otherwise or to obtain options for the
2 acquisition of any real or personal property or interest therein.
- 3 (16) To sell, lease, exchange, transfer, or otherwise dispose of or to grant options
4 for any of these purposes with respect to any real or personal property or
5 interest therein.
- 6 (17) Subject to the provisions of this Article, to pledge, assign, mortgage, or
7 otherwise grant a security interest in any real or personal property or interest
8 therein, including a leasehold interest or the right and power to pledge,
9 assign, or otherwise grant a security interest in any money, rents, charges, or
10 other revenues and any proceeds derived by the Authority from any and all
11 sources.
- 12 (18) To do all acts and terms necessary, convenient, or desirable to carry out the
13 purpose and exercise the specific powers granted to it herein.

14 **"§ 58-45A-25. Taxation of property of Recovery Finance Authority.**

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

17 **"§ 58-45A-30. Audit.**

18 The operations of the Recovery Finance Authority shall be subject to the oversight of the
19 State Auditor pursuant to Article 5A of Chapter 147 of the General Statutes.

20 **"§ 58-45A-35. Recovery Finance Authority bonds.**

21 (a) The Recovery Finance Authority shall be a municipality for purposes of Article 5 of
22 Chapter 159 of the General Statutes, the State and Local Government Revenue Bond Act, and
23 may issue revenue bonds pursuant to that Act to pay all or a portion of the cost of a deficit or to
24 refund any previously issued bonds. In connection with the issuance of revenue bonds, the
25 Authority shall have all powers of a municipality under the State and Local Government
26 Revenue Bond Act, and revenue bonds issued by the Authority shall be entitled to the
27 protection of all provisions of the State and Local Government Revenue Bond Act.

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

- 35 (1) Interest rate swap agreements, currency swap agreements, insurance
36 agreements, forward payment conversion agreements, and futures.
- 37 (2) Contracts providing for payments based on levels of, or changes in, interest
38 rates, currency exchange rates, event-related indices, or stock or other
39 indices.
- 40 (3) Contracts to exchange cash flows or a series of payments.
- 41 (4) Contracts to hedge payment, currency, rate, spread, or similar exposure,
42 including interest rate floors or caps, options, puts, and calls.

43 The Authority may enter a contract of this type in connection with, or incidental to, entering
44 into or maintaining any agreement that secures bonds. A contract shall contain the payment,
45 security, term, default, remedy, and other terms and conditions the Authority Board considers
46 appropriate. The Authority may enter a contract of this type with any person after giving due
47 consideration, where applicable, to the person's creditworthiness as determined by a rating by a
48 nationally recognized rating agency or any other criteria the Authority Board considers
49 appropriate. In connection with, or incidental to, the issuance or carrying of bonds, or the
50 entering into any contract described in this subsection, the Authority may enter into credit
51 enhancement or liquidity agreements, with payment, interest rate, termination date, currency,

1 security, default, remedy, and other terms and conditions as the Authority determines. Proceeds
2 of bonds and any moneys set aside and pledged to secure payment of bonds or any of the
3 contracts entered into under this subsection may be pledged to and used to service any of the
4 contracts entered into under this section.

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

7 (1) Take assignment, without recourse, of the Association's obligation to pay
8 claims with respect to insurance policies issued by the Association in an
9 amount estimated to be in excess of the Association's losses and expenses
10 resulting from Events in any calendar year that exceed available surplus,
11 reinsurance, and other sources of funding of Association losses, including
12 permissible assessments on Association member companies, as a result of a
13 hurricane or other catastrophic event.

14 (2) Issue bonds to finance such obligations.

15 (3) Utilize catastrophe recovery charges imposed pursuant to G.S. 58-45-47 to
16 provide amounts to pay such bonds.

17 (4) Contract with the Association to act as agent for the Authority to collect
18 such catastrophe recovery charges imposed pursuant to G.S. 58-45-47 and to
19 take all such other actions as may be necessary in connection with the bond
20 issuance, the catastrophe recovery charges, and related activities.

21 (5) Assign such amounts as may be required as security for the Authority's
22 bonds.

23 (d) Except as provided in this section, the provisions of Chapter 159 of the General
24 Statutes, the Local Government Finance Act, apply to revenue bonds issued by the Authority.

25 **"§ 58-45A-40. Sale of Recovery Finance Authority revenue bonds.**

26 Revenue bonds of the Recovery Finance Authority issued pursuant to this Article and the
27 State and Local Government Revenue Bond Act shall be sold in accordance with and pursuant
28 to Article 7 of Chapter 159 of the General Statutes.

29 **"§ 58-45A-45. Faith and credit of State and units of local government not pledged.**

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

38 **"§ 58-45A-50. Bonds eligible for investment.**

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

50 **"§ 58-45A-55. Taxation of revenue bonds.**

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

7 **"§ 58-45A-60. Members not liable.**

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

10 **SECTION 2.2.** G.S. 58-45-47 reads as rewritten:

11 **"§ 58-45-47. Deficit event.**

12 (a) Nonrecoupable Assessment. – In the event of the Association expects to incur losses
13 and expenses to the Association exceeding available surplus, reinsurance, and other sources of
14 funding of Association losses, with such availability determined taking into account sources
15 committed with respect to losses and expenses expected from prior events, the Association is
16 authorized to issue a nonrecoupable assessment upon its members—member companies in
17 accordance with its Plan of Operation. Member assessments shall not exceed one billion dollars
18 (\$1,000,000,000) for losses incurred from any event or series of events that occur in a given
19 calendar year, regardless of when such assessments are actually levied on or collected from
20 member companies.

21 (b) Deficit Event. – When the Association knows that it has incurred—determines that it
22 expects it will incur losses and loss expenses in a particular calendar year that will exceed the
23 combination of available surplus, reinsurance, and other sources of funding, including
24 permissible member company assessments, then the Association shall immediately give notice
25 to the Commissioner and the North Carolina Recovery Finance Authority that a deficit event
26 has occurred—will occur. With such notice the Association shall provide evidence with respect
27 to its estimates of the total losses and loss expenses the Association expects to incur within the
28 calendar year and the amounts available to it from available surplus, reinsurance, and other
29 sources of funding, including member company assessments, with such availability determined
30 by taking into account sources committed with respect to losses and expenses expected by prior
31 events. The Association shall make such evidence and related material available to the
32 Commissioner for review and verification.

33 (c) Imposition of Catastrophe Recovery Charge. – Upon agreement by the
34 Commissioner with a determination by the Association that a deficit event has occurred,—will
35 occur, the Association shall determine, in its discretion, the appropriate means of financing the
36 deficit,—deficit in whole or in part, which may include, but is not limited to, the purchase of
37 reinsurance, arranging lines of credit, or—other forms of borrowing or financing.—financing,
38 including a North Carolina Recovery Finance Authority financing as described in subdivision
39 (2) of this subsection, or any combination of these means. If the Association determines that the
40 member companies have paid—issued one billion dollars (\$1,000,000,000) in nonrecoupable
41 assessments for losses and expenses incurred in any given year pursuant to subsection (a) of
42 this section, the Association may, subject to the verification by the Commissioner that the
43 dollar value of losses and expenses has reached the level necessary for a catastrophe recovery
44 charge, take either of the following actions:

- 45 (1) authorize—Authorize member companies to impose a catastrophe recovery
46 charge on their residential and commercial property insurance policyholders
47 statewide. Catastrophe recovery charges shall be charged as a uniform
48 percentage of written premiums as prescribed by the Commissioner and shall
49 not exceed an aggregate amount of ten percent (10%) of the annual policy
50 premium on any one policy of insurance. Catastrophe recovery charges
51 collected under this section—subsection shall be transferred on a periodic

1 basis, as determined by the Association and ordered by the Commissioner,
2 directly to the Association on a periodic basis as determined by the
3 Association and ordered by the Commissioner. The Association and the
4 FAIR Plan also shall charge their policyholders a catastrophe recovery
5 charge as provided in this section. Association, or at the Association's
6 direction, to a trustee for the Association's creditors in a financing.

7 (2) Inform the North Carolina Recovery Finance Authority and the
8 Commissioner that it will assign without recourse to the North Carolina
9 Recovery Finance Authority the Association's obligation to pay claims with
10 respect to policies issued by the Association in an amount estimated to be in
11 excess of its losses and expenses that exceed available surplus, reinsurance,
12 and other sources of funding of Association losses, including permissible
13 assessments on member companies, and act as agent for the North Carolina
14 Recovery Finance Authority to collect catastrophe recovery charges imposed
15 pursuant to this section and direct amounts so collected to the North Carolina
16 Recovery Finance Authority or at its direction.

17 (d) Requirements for Catastrophe Recovery Charge. – Catastrophe recovery charges
18 imposed under this section shall be charged as a uniform percentage of written premiums as
19 prescribed by the Commissioner, shall not exceed an aggregate amount of ten percent (10%) of
20 the annual policy premium on any one policy of insurance, and shall also be imposed upon
21 policyholders with insurance from the Association and the FAIR Plan established under Article
22 46 of this Chapter. The catastrophe recovery charge shall be clearly identified to policyholders
23 on the premium statement, declarations page, or by other appropriate electronic or written
24 method. The identification shall refer to the post-catastrophe loss for which the charge was
25 imposed. Any such catastrophe recovery charge shall not be considered premium for any
26 purpose, including premium taxes or commissions, except that failure to pay the catastrophe
27 recovery charge shall be treated as failure to pay premium and shall be grounds for termination
28 of insurance. The identified catastrophe recovery charge shall be accompanied by an
29 explanation of the charge and shall appear on the medium by which the charge is conveyed to
30 the policyholder. The explanatory language shall be prescribed by the Commissioner.

31 (e) Report. – The Association shall report quarterly to the Commissioner and the North
32 Carolina Recovery Finance Authority providing all financial information for each catastrophe
33 recovery charge authorized by this section, including total catastrophe recovery charge funds
34 recovered to date and any information reasonably requested by the
35 Commissioner. Commissioner or the North Carolina Recovery Finance Authority.

36 (f) Periodic Revision of Catastrophe Recovery Charge. – The Association shall
37 recalculate the catastrophe recovery charge amount annually for any such charge imposed
38 pursuant to subdivision (1) of subsection (c) of this section and, subject to procedure approved
39 by the Commissioner, adjust the charge percentage as needed. The North Carolina Recovery
40 Finance Authority shall recalculate the catastrophe recovery charge amount annually for any
41 such charge imposed pursuant to subdivision (2) of subsection (c) of this section and adjust the
42 charge percentage as needed.

43 (g) Cessation; Treatment of Excess Charges. – The catastrophe recovery charge amount
44 shall continue until financing or refinancing of the deficit event has been paid in full. The State
45 of North Carolina does pledge to and agree with any creditors of the Association under
46 financings pursuant to subdivision (1) of subsection (c) of this section that so long as any such
47 financing is outstanding and unpaid the State will not limit the rights to catastrophe recovery
48 charges vested in the Association at the time of incurrence its obligations under such
49 financings. Upon order of cessation, any catastrophe recovery charge amounts imposed
50 pursuant to subdivision (1) of subsection (c) of this section collected by member companies,
51 the Association or the FAIR Plan that exceed amounts necessary for payment of the debt shall

1 be remitted to the Association and added to the surplus for the purposes of offsetting future
2 Association losses or expenses. Any catastrophe recovery charge amounts imposed pursuant to
3 subdivision (2) of subsection (c) of this section collected by member companies, the
4 Association or the FAIR Plan that exceed amounts necessary for payment of the debt shall first
5 be remitted to the North Carolina Recovery Finance Authority for payment of reasonable
6 outstanding expenses associated with the issuance and repayment of the debt and other
7 necessary related activities of the North Carolina Recovery Finance Authority. Charge amounts
8 remaining after expenses shall be remitted to the Association.

9 (h) Limitations. – Nothing contained in this section prohibits the Association from
10 entering into any financing arrangements for the purpose of financing a deficit, provided that
11 the pledge of catastrophe recovery charge amounts under such financing agreements shall not
12 result in the actual levying of any catastrophe recovery charge until after the Association has
13 incurred a deficit and until after the Commissioner has approved implementation of the
14 Association's catastrophe recovery charge plan. Nothing in this section prevents the Association
15 from utilizing financings under both subdivisions (1) and (2) of subsection (c) of this section or
16 either of them in the same calendar year or there being in existence more than one catastrophe
17 recovery charge under either subsection or both subsections at the same time; provided all
18 catastrophe recovery charges, whether imposed by the Association or the North Carolina
19 Recovery Finance Authority, may not in the aggregate exceed ten percent (10%) of the annual
20 policy premium on any one policy of insurance."

21 **SECTION 2.3.** G.S. 120-123 is amended by adding a new subdivision to read:

22 "(81) The North Carolina Recovery Finance Authority."

23 **SECTION 2.4.** G.S. 159-81(1) reads as rewritten:

24 "(1) "Municipality" means a county, city, town, incorporated village, sanitary
25 district, metropolitan sewerage district, metropolitan water district,
26 metropolitan water and sewerage district, county water and sewer district,
27 water and sewer authority, hospital authority, hospital district, parking
28 authority, special airport district, special district created under Article 43 of
29 Chapter 105 of the General Statutes, regional public transportation authority,
30 regional transportation authority, regional natural gas district, regional sports
31 authority, airport authority, joint agency created pursuant to Part 1 of Article
32 20 of Chapter 160A of the General Statutes, a joint agency authorized by
33 agreement between two cities to operate an airport pursuant to G.S. 63-56,
34 the North Carolina Recovery Finance Authority described in Article 45A of
35 Chapter 58 of the General Statutes, and the North Carolina Turnpike
36 Authority described in Article 6H of Chapter 136 of the General Statutes and
37 transferred to the Department of Transportation pursuant to
38 G.S. 136-89.182(b), but not any other forms of State or local government."

39 **SECTION 2.5.** G.S. 159-81(3) reads as rewritten:

40 "(3) "Revenue bond project" means any undertaking for the acquisition,
41 construction, reconstruction, improvement, enlargement, betterment, or
42 extension of any one or combination of the revenue-producing utility or
43 public service enterprise facilities or systems listed in this subdivision, to be
44 financed through the issuance of revenue bonds, thereby providing funds to
45 pay the costs of the undertaking or to reimburse funds loaned or advanced by
46 or on the behalf of either the State or a municipality to pay the costs of the
47 undertaking.

48 A revenue bond project shall be (i) owned or leased as lessee by the
49 issuing unit or (ii) owned by one or more of the municipalities participating
50 in an undertaking established pursuant to Part 1 of Article 20 of Chapter
51 160A of the General Statutes. If the revenue bond project is owned by one or

1 more municipalities as provided in (ii) of this subdivision, any one or more
2 of the participating municipalities may each be an issuing unit consistent
3 with their agreement to establish a joint undertaking. In addition, any joint
4 agency established by participating municipalities pursuant to Part 1 of
5 Article 20 of Chapter 160A of the General Statutes may be an issuing unit
6 without owning the revenue bond project or leasing it as lessee.

7 The cost of an undertaking may include all property, both real and
8 personal and improved and unimproved, plants, works, appurtenances,
9 machinery, equipment, easements, water rights, air rights, franchises, and
10 licenses used or useful in connection with the undertaking; the cost of
11 demolishing or moving structures from land acquired and the cost of
12 acquiring any lands to which the structures are to be moved; financing
13 charges; the cost of plans, specifications, surveys, and estimates of cost and
14 revenues; administrative and legal expenses; and any other expense
15 necessary or incident to the project.

16 The following facilities or systems may be revenue bond projects under
17 this subdivision:

18 ...

19 r. In the case of the North Carolina Recovery Finance Authority, the
20 financing of a deficit in the North Carolina Insurance Underwriting
21 Association pursuant to G.S. 58-45-47 with the repayment thereof to
22 come from catastrophe recovery charges pursuant to that section or
23 other revenues of the North Carolina Recovery Finance Authority,
24 including payments from the Association or its members."

25 **SECTION 2.6.** G.S. 159-83 is amended by adding a new subsection to read:

26 "(g) The North Carolina Recovery Finance Authority by the power to finance as a
27 revenue project a deficit in the Association pursuant to G.S. 58-45-47 and for this purpose may
28 contract for the charging of catastrophe recovery charges pursuant to G.S. 58-45-47, including
29 covenanting to make such charges as necessary for the payment of revenue bonds, and shall
30 have the power to pledge and assign its rights to the making, revising, receiving, and enforcing
31 such changes as security for its revenue bonds."

32 **SECTION 2.7.** G.S. 159-89 is amended by adding a new subdivision to read:

33 "(15) With respect to revenue bonds issued by the North Carolina Recovery
34 Finance Authority, any agreements with the North Carolina Insurance
35 Underwriting Association to assign without recourse to the Recovery
36 Finance Authority the Insurance Underwriting Association's obligation to
37 pay claims with respect to insurance policies issued by the Insurance
38 Underwriting Association in an amount estimated to be in excess of its
39 losses and expenses that exceed available surplus, reinsurance, and other
40 sources of funding of Insurance Underwriting Association losses, including
41 permissible assessments on its members, and act as agent for the Recovery
42 Finance Authority to collect catastrophe recovery charges imposed by it
43 under G.S. 58-45-47 and direct amounts so collected to the Recovery
44 Finance Authority."

45 **SECTION 2.8.** G.S. 159-90(a)(1) reads as rewritten:

46 "(1) The maturity dates may not exceed the maximum maturity periods
47 prescribed by the Commission for general obligation bonds pursuant to
48 G.S. 159-122. G.S. 159-122, provided the maturity dates for revenue bonds
49 issued by the North Carolina Recovery Finance Authority shall be related to
50 the structuring of the repayment of the proceeds rather than the facilities paid
51 for, subject to an overall limit of 40 years. For bonds issued in

1 reimbursement of a loan or advance, the maximum maturity period to be
2 used in determining the maturity dates of the bonds shall be the maximum
3 permissible period prescribed by the Commission for the original project for
4 which the loan or advance was expended, calculated from the date the
5 original project is completed."

6 **SECTION 2.9.** G.S. 159-93 reads as rewritten:

7 **"§ 159-93. Agreement of the State.**

8 The State of North Carolina does pledge to and agree with the holders of any revenue bonds
9 or revenue bond anticipation notes heretofore or hereafter issued by the State or any
10 municipality in this State that so long as any such bonds or notes are outstanding and unpaid
11 the State will not limit or alter the rights vested in the State or the municipality at the time of
12 issuance of the bonds or notes to establish, maintain, revise, charge, and collect such rates, fees,
13 rentals, tolls, catastrophe recovery charges, and other charges for the use, services, facilities,
14 and commodities of or furnished by the revenue bond project in connection with which the
15 bonds or notes, or bonds or notes refunded by the bonds or notes, were issued as shall produce
16 revenues at least sufficient with other available funds to meet the expense of maintenance and
17 operation of and renewal and replacements to such project, including reserves therefor, to pay
18 when due the principal, interest, and redemption premiums (if any) of the bonds or notes, and
19 to fulfill the terms of any agreements made with the bondholders or noteholders, nor will the
20 State in any way impair the rights and remedies of the bondholders or noteholders until the
21 bonds or notes and all costs and expenses in connection with any action or proceedings by or
22 on behalf of the bondholders or noteholders, are fully paid, met, and discharged."

23 **SECTION 2.10.** G.S. 159-95 reads as rewritten:

24 **"§ 159-95. Approval of State agencies.**

25 The general design and plan of any revenue bond project undertaken for water systems or
26 facilities or sewage disposal systems or facilities shall be subject to the approval of the
27 Commission for Public Health or the State Environmental Management Commission to the
28 same extent that such projects would be if they were not financed by revenue bonds, and the
29 provisions of the revenue bond order shall be consistent with any requirements imposed on the
30 project by the Commission for Public Health or the State Environmental Management
31 Commission. No revenue bond project for the acquisition or construction of systems or
32 facilities for the generation, production, or transmission of gas or electric power may be
33 undertaken by the State or a municipality unless the State or municipality, as the case may be,
34 shall first obtain a certificate of convenience and necessity from the North Carolina Utilities
35 Commission. Bonds issued by the North Carolina Recovery Finance Authority do not require
36 the approval of the Department of Insurance except to the extent catastrophe recovery charges
37 therefore require action pursuant to G.S. 58-45-47."

38 **SECTION 2.11.** G.S. 159-96 is amended by adding a new subsection to read:

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

44
45 **PART III. REFORM CONSENT TO RATE**

46 **SECTION 3.1.** G.S. 58-36-30 reads as rewritten:

47 **"§ 58-36-30. Deviations.**

48 ...

49 (b) This subsection applies only to insurance nonfleet private passenger motor vehicles
50 coverage, with the exception of liability coverage. A rate in excess of that promulgated by the
51 Bureau may be charged by an insurer on any specific risk if the higher rate is charged in

1 accordance with rules adopted by the Commissioner and with the knowledge and written
2 consent of the insured. The insurer is not required to obtain the written consent of the insured
3 on any renewal of or endorsement to the policy if the policy renewal or endorsement states that
4 the rates are greater than those rates that are applicable in the State of North Carolina. The
5 insurer shall retain the signed consent form and other policy information for each insured and
6 make this information available to the Commissioner, upon request of the Commissioner. This
7 subsection may be used to provide motor vehicle liability coverage limits above those required
8 under Article 9A of Chapter 20 of the General Statutes and above those cedable to the Facility
9 under Article 37 of this Chapter to persons whose personal excess liability insurance policies
10 require that they maintain specific higher liability coverage limits. Any data obtained by the
11 Commissioner under this subsection is proprietary and confidential and is not a public record
12 under G.S. 132-1 or G.S. 58-2-100.

13 (b1) This subsection applies only to insurance against loss to residential real property
14 with not more than four housing units. A rate in excess of that promulgated by the Bureau may
15 be charged by an insurer on any specific risk if the higher rate is charged in accordance with
16 rules adopted by the Commissioner and is charged with the knowledge and written consent of
17 the insured. An insurer shall give reasonable notice to the insured by including the following
18 language on the insured's written consent to rate form in at least 10 point type:

19 "NOTICE: THE PREMIUM USING NORTH CAROLINA RATE BUREAU'S
20 MANUAL RATES FOR THE HOMEOWNER'S INSURANCE COVERAGE I
21 APPLIED FOR IS \$ _____. THE PREMIUM FOR THIS COVERAGE IS
22 \$ _____. THE TOTAL PERCENTAGE INCREASE ABOVE THE MANUAL
23 RATES IS _____%, WHICH DOES NOT EXCEED 250% OF THE PREMIUM
24 THAT I WOULD BE CHARGED USING NORTH CAROLINA RATE BUREAU
25 MANUAL RATES FOR THE SAME COVERAGE."

26 The insurer shall provide the rate information on the disclosure statement above, as
27 applicable, to the insured. The disclosure statement noted above in this subsection shall be
28 included on any renewal of or endorsement to the policy for any subsequent rate increase above
29 the manual rate following the initial written consent of an insured. However, once an initial
30 written consent to rate is received, the insurer is not required to obtain the written consent of
31 the insured on any renewal of or endorsement to the policy. The insurer shall give 30 days'
32 notice to the insured for all written consents to rate and notices required under this subsection
33 on all policy renewals and endorsements. The insurer shall retain the signed consent form and
34 other policy information for each insured and make this information available to the
35 Commissioner, upon request of the Commissioner. Any data obtained by the Commissioner
36 under this subsection is proprietary and confidential and is not a public record under G.S. 132-1
37 or G.S. 58-2-100.

38"
39

40 PART IV. CATASTROPHIC MODELING

41 SECTION 4.1. G.S. 58-36-10 reads as rewritten:

42 "§ 58-36-10. Method of rate making; factors considered.

43 The following standards shall apply to the making and use of rates:

- 44 (1) Rates or loss costs shall not be excessive, inadequate or unfairly
45 discriminatory.
- 46 (2) Due consideration shall be given to actual loss and expense experience
47 within this State for the most recent three-year period for which that
48 information is available; to prospective loss and expense experience within
49 this State; to the hazards of conflagration and catastrophe; to a reasonable
50 margin for underwriting profit and to contingencies; to dividends, savings, or
51 unabsorbed premium deposits allowed or returned by insurers to their

1 policyholders, members, or subscribers; to investment income earned or
2 realized by insurers from their unearned premium, loss, and loss expense
3 reserve funds generated from business within this State; to past and
4 prospective expenses specially applicable to this State; and to all other
5 relevant factors within this State: Provided, however, that countrywide
6 expense and loss experience and other countrywide data may be considered
7 only where credible North Carolina experience or data is not available.

- 8 (3) In the case of property insurance rates under this Article, consideration may
9 be given to the experience of property insurance business during the most
10 recent five-year period for which that experience is available. In the case of
11 property insurance rates under this Article, consideration shall be given to
12 the insurance public protection classifications of fire districts established by
13 the Commissioner. The Commissioner shall establish and modify from time
14 to time insurance public protection districts for all rural areas of the State
15 and for cities with populations of 100,000 or fewer, according to the most
16 recent annual population estimates certified by the State Budget Officer. In
17 establishing and modifying these districts, the Commissioner shall use
18 standards at least equivalent to those used by the Insurance Services Office,
19 Inc., or any successor organization. The standards developed by the
20 Commissioner are subject to Article 2A of Chapter 150B of the General
21 Statutes. The insurance public protection classifications established by the
22 Commissioner issued pursuant to the provisions of this Article shall be
23 subject to appeal as provided in G.S. 58-2-75, et seq. The exceptions stated
24 in G.S. 58-2-75(a) do not apply. If the Rate Bureau presents any modeled
25 losses with a property insurance rate filing, the Bureau shall present data
26 from more than one catastrophe model and the models shall be based on
27 maximum load designs such as maximum wind or rain loads contained
28 within the State Building Codes promulgated by the State Building Code
29 Council.

30"

31 32 PART V. STUDIES

33 **SECTION 5.1.(a)** LSC Study of Property Insurance Rate Making. – There is
34 created the Joint Legislative Study Committee on Property Insurance Rate Making. The
35 Committee shall consist of 10 members to be appointed as follows:

- 36 (1) Five members of the House of Representatives appointed by the Speaker of
37 the House of Representatives.
38 (2) Five members of the Senate appointed by the President Pro Tempore of the
39 Senate.

40 **SECTION 5.1.(b)** Study. – The Committee shall study the following:

- 41 (1) The structure, function, and operations of the Rate Bureau, with particular
42 attention to the conditions and characteristics of the insurance market and
43 the magnitude and type of insurable risks in North Carolina that require the
44 existence of a body such as the Rate Bureau that no longer exists in any
45 other state.
46 (2) The prevalence and geographic distribution of property insurance policies
47 (including homeowners' insurance policies and separate policies of
48 windstorm and hail insurance) issued with a rate in excess of that
49 promulgated by the North Carolina Rate Bureau that is charged with the
50 knowledge and written consent of the insured under G.S. 58-36-30(b)
51 (Consent to Rate Policies).

1 (3) Any other subject the Committee finds germane to an understanding of and
2 basis for legislative proposals to revise the property insurance rate-making
3 process in North Carolina.

4 **SECTION 5.1.(c)** Cochairs; Vacancies. – The Speaker of the House of
5 Representatives shall designate one representative to serve as cochair and the President Pro
6 Tempore of the Senate shall designate one senator to serve as cochair. Vacancies on the
7 Committee shall be filled by the same appointing authority making the initial appointment.

8 **SECTION 5.1.(d)** Powers. – The Committee, while in the discharge of its official
9 duties, may exercise all powers provided for under G.S. 120-19 and G.S. 120-19.1 through
10 G.S. 120-19.4. The Committee may meet at any time upon the joint call of the cochairs. The
11 Committee may meet in the Legislative Building or the Legislative Office Building.

12 **SECTION 5.1.(e)** Staffing. – The Legislative Services Commission, through the
13 Legislative Services Officer, shall assign professional staff to assist the Committee in its work.
14 The Directors of Legislative Assistants of the Senate and of the House of Representatives shall
15 assign clerical staff to the Committee, and the expenses relating to the clerical employees shall
16 be borne by the Committee. Members of the Committee shall receive subsistence and travel
17 expenses at the rates set forth in G.S. 120-3.1, 138-5, or 138-6, as appropriate.

18 **SECTION 5.1.(f)** Report. – The Committee shall submit an interim report to the
19 2015 General Assembly when it reconvenes in 2016. The Committee shall submit a final
20 report, including findings and legislative recommendations, to the 2017 General Assembly
21 when it convenes. The Committee shall terminate upon filing its final report.

22 23 **PART VI. REMOVE CERTAIN OBSOLETE REFERENCES TO THE COASTAL** 24 **PROPERTY INSURANCE POOL**

25 **SECTION 6.1.(a)** The title of Article 45 of Chapter 58 of the General Statutes
26 reads as rewritten:

27 "Article 45.

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

29 **SECTION 6.1.(b)** G.S. 58-45-5(2c) reads as rewritten:

30 "(2c) Coastal Property Insurance Pool. – ~~The name of which was formerly known~~
31 ~~as "the Beach Plan" and which is governed by the North Carolina Insurance~~
32 ~~Underwriting Association. All references to "the Beach Plan" shall mean the~~
33 ~~Coastal Property Insurance Pool, which is the market of last resort which is~~
34 governed by the North Carolina Insurance Underwriting Association and is
35 provided by the Association to the beach area and the coastal area."

36 37 **PART VII. MISCELLANEOUS PROVISIONS**

38 **SECTION 7.1.** If any section or provision of this act is declared unconstitutional or
39 invalid by the courts, such action does not affect the validity of this act as a whole or any part
40 other than the part so declared to be unconstitutional or invalid.

41 **SECTION 7.2.** Section 1 of this act is effective when it becomes law and any
42 current year requirements apply to the 2015 and subsequent calendar years. The remainder of
43 this act becomes effective July 1, 2015.