

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2017

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

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

Short Title: Property Insurance Fairness. (Public)

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

Referred to:

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

9 The General Assembly of North Carolina enacts:

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

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

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

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

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

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



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

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

## 8 **PART II. BONDING AUTHORITY**

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

11 "Article 45A.

12 "Recovery Finance Authority.

### 13 **"§ 58-45A-1. Name.**

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

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

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

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

### 40 **"§ 58-45A-10. Definitions.**

41 The following definitions apply to this Article:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

39 **"§ 58-45A-30. Audit.**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

14 ...

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

28 ...

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

31 ...."

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

33 **"§ 58-45-47. Deficit event.**

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

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



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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

38 ...."

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

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

44 "Article 45.

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

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

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



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

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

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

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

8  
9   **PART VIII. MISCELLANEOUS PROVISIONS**

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

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