

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2001**

**SESSION LAW 2002-144
HOUSE BILL 1105**

AN ACT TO FUND THE OPERATIONS OF THE DEPARTMENT OF INSURANCE FOR THE FISCAL YEAR 2002-2003 THROUGH THE INSURANCE REGULATORY FUND BY EXPANDING THE PURPOSES FOR WHICH THE FUND MAY BE USED AND BY CREDITING VARIOUS FEES COLLECTED BY THE DEPARTMENT AND OTHER AGENCIES UNDER THE DEPARTMENT INTO THE FUND FOR FISCAL YEAR 2002-2003, AND TO RESTORE THE 2002-2003 BUDGET REDUCTIONS SUSTAINED BY THE DEPARTMENT OF INSURANCE.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 58-6-25(d) reads as rewritten:

"(d) Use of Proceeds. – The Insurance Regulatory Fund is created in the State treasury, under the control of the Office of State Budget and Management. The proceeds of the charge levied in this section and all fees collected under Articles 69 through 71 of this Chapter and under Articles 9 and 9C of Chapter 143 of the General Statutes shall be credited to the Fund. The Fund shall be placed in an interest-bearing account and any interest or other income derived from the Fund shall be credited to the Fund. Moneys in the Fund may be spent only pursuant to appropriation by the General Assembly and in accordance with the line item budget enacted by the General Assembly. The Fund is subject to the provisions of the Executive Budget Act, except that no unexpended surplus of the Fund shall revert to the General Fund. All money credited to the Fund shall be used to reimburse the General Fund for the following:

- (1) Money appropriated to the Department of Insurance to pay its expenses incurred in regulating the insurance industry and other industries in this State.
- (2) Money appropriated to State agencies to pay the expenses incurred in regulating the insurance industry, in certifying statewide data processors under Article 11A of Chapter 131E of the General Statutes, and in purchasing reports of patient data from statewide data processors certified under that Article.
- (3) Money appropriated to the Department of Revenue to pay the expenses incurred in collecting and administering the taxes on insurance companies levied in Article 8B of Chapter 105 of the General Statutes.
- (4) Money appropriated for the office of Managed Care Patient Assistance Program established under G.S. 143-730 to pay the actual costs of administering the program.
- (5) Money appropriated to the Department of Insurance for the implementation and administration of independent external review procedures required by Part 4 of Article 50 of this Chapter.
- (6) Money appropriated to the Department of Insurance to pay its expenses incurred in connection with providing staff support for State boards and commissions, including the North Carolina Manufactured Housing Board, State Fire and Rescue Commission, North Carolina Building Code Council, North Carolina Code Officials Qualification Board, Public Officers and Employees Liability Insurance

Commission, North Carolina Home Inspector Licensure Board, and the Volunteer Safety Workers' Compensation Board.

- (7) Money appropriated to the Department of Insurance to pay its expenses incurred in connection with continuing education programs under Article 33 of this Chapter and in connection with the purchase and sale of copies of the North Carolina State Building Code."

SECTION 2. Article 33 of Chapter 58 of the General Statutes is amended by adding a new section to read:

"§ 58-33-133. Continuing education course provider fees.

(a) Each course provider shall submit a fee of one dollar (\$1.00) per approved credit hour per individual who successfully completes a course under G.S. 58-33-130.

(b) At the time a course provider submits an application to the Commissioner for approval of a course under G.S. 58-33-130, the provider shall pay to the Commissioner a filing fee of one hundred dollars (\$100.00) per course up to a two thousand five hundred dollars (\$2,500) per calendar year maximum.

(c) Fees collected by the Commissioner under this section shall be credited to the Department of Insurance Fund created under G.S. 58-6-25."

SECTION 3. G.S. 58-33-130(j) is repealed.

SECTION 4. G.S. 143-10(a) reads as rewritten:

"(a) There is created the North Carolina Manufactured Housing Board within the Department. The Board shall be composed of nine members as follows:

- (1) The Commissioner of Insurance or his designee.
- (2) A manufactured home manufacturer.
- (3) A manufactured home dealer.
- (4) A representative of the banking and finance business.
- (5) A representative of the insurance industry.
- (6) A manufactured home supplier.
- (7) A set-up contractor.
- (8) Two representatives of the general public.

The Commissioner or his designee shall chair the Board. The Governor shall appoint to the Board the manufactured home manufacturer and the manufactured home dealer. The General Assembly upon the recommendation of the Speaker of the House of Representatives in accordance with G.S. 120-121 shall appoint the representative of the banking and finance industry and the representative of the insurance industry. The General Assembly upon the recommendation of the President Pro Tempore of the Senate in accordance with G.S. 120-121 shall appoint the manufactured home supplier and set-up contractor. The Commissioner shall appoint two representatives of the general public. Except for the representatives from the general public and the persons appointed by the General Assembly, each member of the Board shall be appointed by the appropriate appointing authority from a list of nominees submitted to the appropriate appointing authority by the Board of Directors of the North Carolina Manufactured Housing Institute. At least three nominations shall be submitted for each position on the Board. The members of the Board shall be residents of the State.

The members of the Board shall serve for terms of three years. In the event of any vacancy of a position appointed by the Governor or Commissioner, the appropriate appointing authority shall appoint a replacement in the same manner as provided for the original appointment to serve the remainder of the unexpired term. Vacancies in appointments made by the General Assembly shall be filled in accordance with G.S. 120-122. In the event of any vacancy, the appropriate appointing authority shall appoint a replacement to serve the remainder of the unexpired term. Such appointment shall be made in the same manner as provided for the original appointment. No member of the Board shall serve more than two consecutive, three-year terms.

The member of the Board representing the general public shall have no financial interest connected with the manufactured housing industry. No member of the Board

shall participate in any proceeding before the Board involving that member's own business.

Each member of the Board, except the Commissioner and any other State employee, shall receive per diem and allowances as provided with respect to occupational licensing boards by G.S. 93B-5. ~~All per diem and travel expenses shall be paid exclusively out of the fees received by the Board as authorized by this Article. In no case shall any salary, expense, or other obligation of the Board be charged against the General Fund of the State of North Carolina. All moneys and receipts shall be kept in a special fund by and for the use of the Board for the exclusive purpose of carrying out the provisions of this Article. At the end of the fiscal year, the Board shall retain fifteen percent (15%) of the unexpended funds collected and received during that year. The remaining eighty five percent (85%) of these funds shall be credited to the General Fund. Fees collected by the Board under this Article shall be credited to the Department of Insurance Fund under G.S. 58-6-25.~~"

SECTION 5. G.S. 143-138(g) reads as rewritten:

"(g) Publication and Distribution of Code. – The Building Code Council shall cause to be printed, after adoption by the Council, the North Carolina State Building Code and each amendment thereto. It shall, at the State's expense, distribute copies of the Code and each amendment to State and local governmental officials, departments, agencies, and educational institutions, as is set out in the table below. (Those marked by an asterisk will receive copies only on written request to the Council.)

OFFICIAL OR AGENCY	NUMBER OF COPIES
State Departments and Officials	
Governor	1
Lieutenant Governor	1
Auditor	1
Treasurer	1
Secretary of State	1
Superintendent of Public Instruction	1
Attorney General (Library)	1
Commissioner of Agriculture	1
Commissioner of Labor	1
Commissioner of Insurance	1
Department of Environment and Natural Resources	1
Department of Health and Human Services	1
Department of Juvenile Justice and Delinquency Prevention	1
Board of Transportation.....	1
Utilities Commission	1
Department of Administration	1
OFFICIAL OR AGENCY	
Clerk of the Supreme Court	1
Clerk of the Court of Appeals	1
Clerk of the Superior Court.....	1 each
Department of Cultural Resources [State Library]	<u>51</u>
Supreme Court Library	<u>21</u>
Legislative Library	1
Office of Administrative Hearings	1
Rules Review Commission	1
Schools	
All state-supported colleges and universities in the State of North Carolina	*1 each
Local Officials	
Clerks of the Superior Courts	1 each
Chief Building Inspector of each incorporated	

municipality or county..... 1

In addition, the Building Code Council shall make additional copies available at such price as it shall deem reasonable to members of the general public. The proceeds from sales of the Building Code shall be credited to the Department of Insurance Fund under G.S. 58-6-25."

SECTION 6. G.S. 58-2-131(k) reads as rewritten:

"(k) When making an examination, the Commissioner may retain attorneys, appraisers, independent actuaries, independent certified public accountants, or other professionals and specialists as examiners. In the case of an examination of an insurer, the insurer shall bear the cost of retaining those persons."

SECTION 7. G.S. 58-2-133(b) reads as rewritten:

"(b) Notwithstanding the requirements of G.S. 58-2-131, the Commissioner may retain from time to time, on an individual basis, qualified actuaries, certified public accountants, or other similar individuals who are independently practicing their professions, even though they may from time to time be similarly employed or retained by persons subject to examination under the Examination Law. In the case of an examination of an insurer, the insurer shall bear the cost of retaining those persons."

SECTION 8. Article 2 of Chapter 58 of the General Statutes is amended by adding a new section to read:

"§ 58-2-136. Insurer records sent to Department for examination; expenses.

(a) As used in this section, 'records' means all data relating to the property, assets, business, and affairs of the insurer being examined.

(b) In addition to the Commissioner's authority in G.S. 58-2-185 through G.S. 58-2-200 to compel the production of records, in lieu of sending examiners to the location of an insurer's records to conduct an examination under the Examination Law, the Commissioner may require the insurer to send copies of its records to the Department. The chief executive or financial officer of the insurer shall certify under oath that the copies are true and accurate copies of the insurer's records. The insurer being examined shall pay all expenses associated with the examination. The insurer is not liable for the salaries and benefits of Department employees. The refusal by an insurer to pay for expenses under this subsection is grounds for the suspension, revocation, or refusal of a license.

(c) If the Commissioner sends examiners to the location of an insurer's records to conduct an examination under the Examination Law, the insurer shall pay for the travel and subsistence expenses and other administrative expenses associated with the examination. The insurer is not liable for the salaries and benefits of Department employees. The refusal by an insurer to pay for expenses under this subsection is grounds for the suspension, revocation, or refusal of a license."

SECTION 9. If Senate Bill 1115, 2002 Regular Session becomes law, then Section 2.1 of that act reads as rewritten:

"SECTION 2.1. Appropriations from the General Fund of the State for the maintenance of the State departments, institutions, and agencies, and for other purposes as enumerated are made for the fiscal year ending June 30, 2003, according to the schedule that follows. Amounts set out in brackets are reductions from General Fund appropriations for the 2002-2003 fiscal year.

...	
Department of Insurance	
Insurance	(1,882,104) 0
Insurance – Volunteer Safety Workers' Compensation	(2,500,000)"

SECTION 10. If Senate Bill 1115, 2002 Regular Session becomes law, then Section 2.2(a) of that act reads as rewritten:

"SECTION 2.2.(a) The General Fund availability used in adjusting the 2002-2003 fiscal year budget is shown below:

	2002-2003
Beginning Unreserved Credit Balance	25,000,000
Revenues Based on Existing Tax Structure	12,793,950,000
Nontax Revenues	
Investment Income	115,300,000
Judicial Fees	111,300,000
Disproportionate Share	107,000,000
Insurance	46,600,000
Other Nontax Revenues	98,900,000
Highway Trust Fund Transfer	172,400,000
Highway Fund Transfer	15,300,000
Subtotal Nontax Revenues	666,800,000
Total General Fund Availability	13,485,750,000
Adjustments to Availability: 2002 Session	
IRC Conformity (Includes Pensions and Education Changes, Estate Tax Credit, Accelerated Depreciated)	15,800,000
Delay 2001 Tax Breaks (Standard Deduction/Marriage Penalty, Child Tax Credit)	51,700,000
Conform Business Income	70,000,000
Correct LLC Franchise Tax	20,000,000
Conform Gift Tax Indexing	(230,000)
Low Income Housing Credit	(2,200,000)
Repeal Reimbursements to Local Governments	333,400,000
Project Tax Collect	32,500,000
Highway Trust Fund – recurring inflationary adjustment	80,000,000
Highway Trust Fund Transfer – one-time transfer	125,000,000
Tobacco Settlement Trust Funds – divert MSA receipts from Tobacco Trust Fund	38,000,000
Tobacco Settlement Trust Funds – divert MSA receipts from Health & Wellness Trust Fund	40,000,000
Transfer of Cash from Trust and Special Funds	20,438,259
Adjustment to Transfer from Insurance Regulatory Fund	<u>(1,282,104) 600,000</u>
Reimbursement for Unauthorized Substance Tax Division, Department of Revenue	885,884
Nontax Revenue Offsets, Department of State Treasurer	671,618
Increase Collection Rates for Offender Fees	1,160,000
Fee Increases	38,180,000
Subtotal Adjustments to Availability: 2002 Session	864,023,657 865,905,761
Revised General Fund Availability for 2002-2003 Fiscal Year	14,349,773,657 <u>14,351,655,761</u>
Less: Total General Fund Appropriations for 2002-2003 Fiscal Year	(14,349,773,657) <u>(14,351,655,761)</u>
Unappropriated Balance	0"

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

SECTION 12. This act becomes effective July 1, 2002. Sections 1 through 8 of this act expire June 30, 2003.

In the General Assembly read three times and ratified this the 2nd day of October, 2002.

s/ Beverly E. Perdue
President of the Senate

s/ James B. Black
Speaker of the House of Representatives

s/ Michael F. Easley
Governor

Approved 2:58 p.m. this 4th day of October, 2002