

GENERAL ASSEMBLY OF NORTH CAROLINA

Session 2015

Legislative Fiscal Note

BILL NUMBER: House Bill 182 (First Edition)
SHORT TITLE: Property Insurance Fairness.
SPONSOR(S): Representatives Millis, Lewis, and Hager

FISCAL IMPACT					
	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No	<input type="checkbox"/> No Estimate Available		
	FY 2015-16	FY 2016-17	FY 2017-18	FY 2018-19	FY 2019-20
State Impact					
General Fund Revenues:					
General Fund Expenditures:					
Special Fund Revenues:					
Special Fund Expenditures:					
State Positions:					
NET STATE IMPACT	0	0	0	0	0

PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED:
 Department of Insurance

EFFECTIVE DATE:
 July 1, 2015

TECHNICAL CONSIDERATIONS:
 None

BILL SUMMARY: (UNC School of Government – Daily Bulletin)

H182. Property Insurance Fairness. (March 10, 2015)

Filed 03/10/15. AN ACT TO INCREASE THE FAIRNESS AND EQUITY OF PROPERTY INSURANCE RATE MAKING IN NORTH CAROLINA BY REQUIRING THAT CERTAIN PROPERTY INSURANCE DATA BE MADE AVAILABLE TO THE PUBLIC; BY PROVIDING THE COMMISSIONER WITH THE AUTHORITY TO ORDER A DECREASE IN RATES IN A PROPERTY INSURANCE RATE-MAKING PROCEEDING; BY PROVIDING THE NORTH CAROLINA INSURANCE UNDERWRITING ASSOCIATION THE AUTHORITY TO HAVE ISSUED TAX-EXEMPT BONDS TO COVER LOSS-RELATED LIABILITIES; BY REFORMING CONSENT TO RATE PRACTICES; BY REQUIRING THAT CATASTROPHE MODELING USED FOR PROPERTY RATE-MAKING PURPOSES MORE ACCURATELY REFLECT POTENTIAL IMPACTS IN NORTH CAROLINA; AND BY CREATING THE JOINT LEGISLATIVE STUDY COMMITTEE ON PROPERTY INSURANCE RATE MAKING.

Part I.

Amends GS Chapter 58 by creating new Part 10 (Property Insurance Rate Clarity). Provides that each insurer authorized to conduct property insurance business in North Carolina, the NC Insurance Underwriting Association, and the NC Joint Underwriting Association must annually submit to the Department of Insurance (Department) computations of the total amount of direct incurred losses, the number of policies in force, and the direct earned premiums for the prior calendar year, including policies written or serviced under GS Chapter 58, Articles 45 and 46. This information will be reported by rate territory and by type of property insurance policy. Provides that for this Part, property insurance also includes condo insurance, dwelling fire policies, renter's or tenant's insurance, and mobile home and manufactured housing property insurance.

Also requires each insurer authorized to conduct homeowners insurance in North Carolina to annually submit to the Department the total amount of direct incurred losses and the number of policies in force, by rate territory, for the prior calendar year for perils including fire, wind and hail, and all other perils.

Requires each insurer authorized to transact property insurance in North Carolina to provide information required pursuant to GS 58-10-705(a) for calendar years 2009 through 2014. Based on this information, the Department will compile aggregate totals and post such totals to the Department website no later than December 1, 2015.

Allows the Commissioner of Insurance (Commissioner) to waive, modify, or extend for an additional time period for good cause the reporting requirements imposed by this act when the waiver is requested in writing. Describes what constitutes good cause and how to demonstrate it. Failing to timely comply with the reporting requirements triggers a notice by the Department and any delay in complying past the 90th day after notice and hearing will require an insurer to pay a civil penalty of \$2,500 per month to the Commissioner until the date of compliance. Establishes that information reported to the Department pursuant to this act is considered a trade secret, as found in GS 66-152, and will be treated as confidential information.

The above changes are effective when the act becomes law, with any any current year requirements applying to the 2015 and subsequent calendar years.

Part II.

Amends GS 58-36-20, establishing that in the event the Commissioner finds that the proposed rates are excessive, the Commissioner will issue an order disapproving the filing and will specify the appropriate rate level that may be used (was, will specify the overall rates that may be used by the members of the Bureau instead of the rates proposed by the Bureau filing).

Part III.

Amends GS Chapter 58 to enact a new Article 45A (Recovery Finance Authority). Provides legislative findings establishing reasons for the Recovery Finance Authority, including the likelihood that one or more hurricanes or catastrophic events could surpass the financial abilities of

the NC Insurance Underwriting Association (Association). Provides eight definitions for use in this Article, including *assessment*, *bonds*, and *catastrophe recovery charge*.

Creates the North Carolina Recovery Finance Authority (Authority), constituted as a public agency, located in the Department, with specified powers related to the financing of deficits of the Association due to catastrophic events. Provides for a nine-member board with two members each appointed by the Speaker of the House and the Senate President Pro Tempore, two members appointed by the Governor, two members appointed by the Association, and one is the Commissioner of Insurance, with the Chair of the Authority to be appointed by the Board. Provides for staggered terms of the initial members and the members thereafter. Provides further requirements for the Authority regarding removal of board members, conflicts of interest and ethics, and compensation. Requires the Authority to create bylaws concerning organizational and administrative matters of the board.

Specifies 18 powers of the Authority, including to invest the proceeds of bonds of the Authority that are pending disbursement or other idle funds and to apply for, accept, and administer loans and grants of money or real or personal property from the United States or any federal agency, the state, or other public or private sources.

Exempts property owned by the Authority from taxation.

Authorizes the issuance of bonds by the Authority as if the Authority was a municipality, with all the powers and protections afforded to municipalities under the State and Local Government Revenue Bond Act. Specifies investment vehicles authorized for use, through contract, by the Authority, including interest rate swap agreements and contracts to exchange cash flows. Specifies provisions for and limitations of entering into such investment contracts. Provides certain obligations of the Authority if the Association requests the issuance of bonds. Provides provisions for and limitations on issued bonds, including that the bonds are not secured by the full faith and credit of the state, that bonds are considered securities in which varied individuals and institutions can invest, and that they are exempt from all state, county, and municipal taxation or assessment.

Amends GS 58-45-47 concerning deficit events, providing that when the Association expects to incur losses and expenses exceeding available surplus or other sources, taking into consideration account sources committed with respect to losses and expenses expected from prior events (previously, did not include clarifying language regarding losses and expenses from prior events), the Association is authorized to issue a nonrecouple assessment on its members. When it is expected that losses incurred will exceed sources of funding, including permissible member assessments, the Association must also immediately give notice to the Authority that a deficit event has incurred. Provides that upon such notice the Association must provide evidence in regards to its estimates of total losses and expenses expected to be incurred within the calendar year and funding amounts available to it. Such evidence and material is required to be available to the Commissioner for review. Provides that upon certification of the deficit event, the Association can determine the appropriate means of financing the deficit, which can include financing from the Authority. Provides and amends permissible actions if it is determined that losses and expenses incurred have risen to the level necessary for the imposition of a catastrophe recovery charge, including the new action that the Association can inform the Authority and the Commission that it

will assign specified obligations to pay claims to the Authority and act as agent for the Authority to collect catastrophe recovery charges and direct such amounts to the Authority. Adds new language concerning the Catastrophe Recovery Charge providing that when charged pursuant to this section, it be will a uniform percentage of written premiums as prescribed by the Commissioner, not to exceed an aggregate amount of 10% of the annual policy premium on any one policy of insurance, imposed on policyholders from the Association and the FAIR Plan. Provides for periodic revision of the Catastrophe Recovery Charge as well as provisions concerning the cessation, repayment, and limitations of the Catastrophe Recovery Charge. Makes various technical, organizational, and conforming changes.

Amends GS 120-123 to provide that no member of the General Assembly can serve on the Authority board.

Amends GS 159-81(3) to provide that the financing of deficits by the Authority can be considered a revenue bond project for the purposes pursuant to the section.

Amends GS 159-83 concerning powers associated with revenue bonds, providing that the Authority has the power to contract for the charging of catastrophe recovery charges, including covenanting to make such charged as necessary for the payment of revenue bonds as well as having the power to pledge and assign its rights to the making, revising, receiving, and enforcing such changes for its revenue bonds.

Amends GS 159-89, making conforming changes concerning special covenants of issuers of revenue bonds, providing the Association can enter into agreements to assign obligations to pay claims of amounts in excess of its losses and expenses that exceed available funding to the Authority as well as act as its agent in the recovery of such imposed charges.

Amends GS 159-90(a)(1) concerning the maturity dates of bonds, providing that maturity dates for bonds issued by the Authority will be related to the structuring of the repayment of proceeds rather than the facilities paid for, with an overall limit of 40 years.

Amends GS 159-93, updating the agreement of the state to not limit or alter the rights vested in the state or any municipality, at the time of issuance of bonds or notes, to include the collection of catastrophe recovery charges.

Amends GS 159-95 concerning the approval of state agencies for certain revenue bond projects, providing that bonds issued by the Authority do not require the approval of the Department of Insurance except to the extent catastrophe recovery charges require action pursuant to GS 58-45-47.

Amends GS 159-96 concerning geographical limitations for enterprises financed by revenue bonds, providing that no such geographical or territorial limitation exists on the use of proceeds of bonds issued by the Authority other than for payment of a deficit related to a catastrophic event affecting property covered under insurance policies issued by the NC Insurance Guaranty Association.

Part IV.

Amends GS 58-36-30 concerning deviations in certain rates established by the Rate Bureau (Bureau), providing that the provisions of subsection (b) only apply to insurance against theft for physical damage to nonfleet private passenger motor vehicles and for loss costs and residual market rate filings for workers' compensation and employers' liability insurance written in connection with those loss costs and rate filings. Enacts new subsection (b1), which applies only to insurance against loss to residential real property with not more than four housing units and provides that a rate in excess of that established by the Bureau can be charged by an insurer on any specific risk if the higher rate is charged pursuant to rules adopted by the Commissioner and is based on sound actuarial principles as well as is charged with the knowledge and written consent of the insured. Includes other provisions concerning this permissible higher rate.

Part V.

Amends GS 58-36-10, concerning the method of rate making and the factors considered, providing that if the Bureau presents any modeled losses with a property insurance rate filing, then it must also present data from more than one catastrophe model. Additionally, the models must be based on maximum load designs as contained in the NC State Building Codes.

Part VI.

Creates the Joint Legislative Study Committee on Property Insurance Rate Making (Committee), consisting of 10 members appointed as specified. Provides three areas that the Committee must study, including the structure, function, and operations of the Rate Bureau and the prevalence and geographic distribution of property insurance policies. Includes provisions concerning the appointment of cochairs and filing of vacancies on the Committee and details the Committee's powers and the staffing for the Committee. Requires the Committee to submit an interim report to the 2015 General Assembly when it reconvenes in 2016, with a final report being submitted to the 2017 General Assembly. After submitting the report the Committee is terminated.

Amends GS 58-45-5(2c), making technical deletions and clarifying changes.

Includes a severability clause.

Unless otherwise noted above, effective July 1, 2015.

ASSUMPTIONS AND METHODOLOGY:

- The requirements of the bill would be completed within the current operations of Department of Insurance and there is no additional cost to the department for its implementation.
- The bill imposes a monetary penalty to the insurance carriers who fail to comply with new reporting requirements. It is unknown how many carriers would fail to comply and how much in civil penalties would be collected.

SOURCES OF DATA:

Department of Insurance

TECHNICAL CONSIDERATIONS: None

FISCAL RESEARCH DIVISION: (919) 733-4910

PREPARED BY: Lisa Hollowell

APPROVED BY:

Mark Trogdon, Director
Fiscal Research Division

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