

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1991

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SENATE BILL 683

Short Title: Underwriting Assn. Directors.

(Public)

Sponsors: Senator Block.

Referred to: Insurance.

April 18, 1991

A BILL TO BE ENTITLED

AN ACT TO PROVIDE FOR THE APPOINTMENT OF DIRECTORS TO THE NORTH CAROLINA INSURANCE UNDERWRITING ASSOCIATION AND TO THE FAIR PLAN UNDERWRITING ASSOCIATION AND TO PERMIT THE COVERAGE OF FARM AND MANUFACTURING RISKS BY THE NORTH CAROLINA UNDERWRITING ASSOCIATION.

The General Assembly of North Carolina enacts:

Section 1. G.S. 58-45-20 reads as rewritten:

**§ 58-45-20. Temporary directors of Association. Board of Directors of Association.**

~~Within 10 days after April 17, 1969, the Commissioner shall appoint a temporary board of directors of this Association, which shall consist of 11 representatives of members of the Association. Such temporary board of directors shall prepare and submit a plan of operation in accordance with G.S. 58-45-30 and shall serve until the permanent board of directors shall take office in accordance with said plan of operation.~~  
The North Carolina Insurance Underwriting Association shall be administered by a board of directors. The Board of Directors shall consist of 11 persons having one vote each from the following classifications: Six directors of the Board shall be selected by the member insurers, and shall be fairly representative of the industry. To insure fair representation, one director shall be selected by the following groups: the American Insurance Association (or its successor), the Alliance of American Insurers (or its successor), all other stock insurers not affiliated with the above groups, and all other nonstock insurers not affiliated with the above groups. Not more than one company in a group under the same ownership and management shall be represented on the Board at the same time. The Commissioner of Insurance shall appoint five members of the

1 Board who shall be fire and casualty insurance agents licensed in the State and actively  
2 engaged in writing property insurance in this State. The term of office of the Board of  
3 Directors shall be two years."

4 Sec. 2. G.S. 58-45-30 reads as rewritten:

5 **"§ 58-45-30. Directors to submit plan of operation to Commissioner; review and**  
6 **approval; amendments.**

7 Within 90 days after April 17, 1969, the directors of the Association shall submit to  
8 the Commissioner for his review and approval, a proposed plan of operation. Such  
9 proposed plan shall ~~set forth the number, qualifications, terms of office, and manner of~~  
10 ~~election of the members of the board of directors, and shall grant proper credit annually to~~  
11 each member of the Association for essential property insurance voluntarily written in  
12 the beach area and shall provide for the efficient, economical, fair and  
13 nondiscriminatory administration of the Association and for the prompt and efficient  
14 provision of essential property insurance in the beach areas of North Carolina so as to  
15 promote orderly community development in those areas and to provide means for the  
16 adequate maintenance and improvement of the property in such areas. Such proposed  
17 plan may include a preliminary assessment of all members for initial expenses necessary  
18 to the commencement of operation; the establishment of necessary facilities;  
19 management of the Association; plan for the assessment of members to defray losses  
20 and expenses; underwriting standards; procedures for the acceptance and cession of  
21 reinsurance; procedures for determining the amounts of insurance to be provided to  
22 specific risks; time limits and procedures for processing applications for insurance and  
23 for such other provisions as may be deemed necessary by the Commissioner to carry out  
24 the purposes of this Article.

25 The proposed plan shall be reviewed by the Commissioner and approved by him if  
26 he finds that such plan fulfills the purposes provided by G.S. 58-45-1 of this Article. In  
27 the review of the proposed plan the Commissioner may, in his discretion, consult with  
28 the directors of the Association and may seek any further information which he deems  
29 necessary to his decision. If the Commissioner approves the proposed plan, he shall  
30 certify such approval to the directors and the plan shall become effective 10 days after  
31 such certification. If the Commissioner disapproves all or any part of the proposed plan  
32 of operation he shall return the same to the directors with his written statement for the  
33 reasons for disapproval and any recommendations he may wish to make. The directors  
34 may alter the plan in accordance with the Commissioner's recommendation or may  
35 within 30 days from the date of disapproval return a new plan to the Commissioner.  
36 Should the directors fail to submit a proposed plan of operation within 90 days of April  
37 17, 1969, or a new plan which is acceptable to the Commissioner, or accept the  
38 recommendations of the Commissioner within 30 days after his disapproval of the plan,  
39 the Commissioner shall promulgate and place into effect a plan of operation certifying  
40 the same to the directors of the Association. Any such plan promulgated by the  
41 Commissioner shall take effect 10 days after certification to the directors: Provided,  
42 however, that until a plan of operation is in effect, pursuant to the provisions of this  
43 Article, any existing temporary placement facility may be continued in effect on a  
44 mandatory basis on such terms as the Commissioner may determine.

1 The directors of the Association may, subject to the approval of the Commissioner,  
2 amend the plan of operation at any time. The Commissioner may review the plan of  
3 operation at any time he deems expedient or prudent, but not less than once in each  
4 calendar year. After review of such plan the Commissioner may amend the plan after  
5 consultation with the directors and upon certification to the directors of such  
6 amendment.

7 The Commissioner may designate the kinds of property insurance policies on  
8 principal residences to be offered by the association, including insurance policies under  
9 Article 36 of this Chapter, and the commission rates to be paid to agents or brokers for  
10 these policies, if he finds, after a hearing held in accordance with G.S. 58-2-50, that the  
11 public interest requires the designation. The provisions of Chapter 150B do not apply to  
12 any procedure under this paragraph, except that G.S. 150B-39 and G.S. 150B-41 shall  
13 apply to a hearing under this paragraph. Within 30 days after the receipt of notification  
14 from the Commissioner of a change in designation pursuant to this paragraph, the  
15 association shall submit a revised plan and articles of association for approval in  
16 accordance with this section."

17 Sec. 3. G.S. 58-45-5(5) reads as rewritten:

18 "(5) 'Insurable property' means real property at fixed locations in beach  
19 areas of the State as that term is hereinafter defined or the tangible  
20 personal property located therein, ~~but shall not include insurance on motor~~  
21 ~~vehicles, therein including farm and manufacturing risks, risks but~~  
22 excluding insurance on motor vehicles, which property is determined  
23 by the Association, after inspection and pursuant to the criteria  
24 specified in the plan of operation, to be in an insurable condition:  
25 Provided, however, any one and two family dwellings built in  
26 substantial accordance with the Federal Manufactured Home  
27 Construction and Safety Standards, any predecessor or successor  
28 federal or State construction or safety standards, and any further  
29 construction or safety standards promulgated by the association and  
30 approved by the Commissioner, or the North Carolina Uniform  
31 Residential Building Code and any structure or building built in  
32 substantial compliance with the North Carolina Building Code,  
33 including the design-wind requirements, which is not otherwise  
34 rendered uninsurable by reason of use or occupancy, shall be an  
35 insurable risk within the meaning of this Article, but neighborhood,  
36 area, location, environmental hazards beyond the control of the  
37 applicant or owner of the property shall not be considered in  
38 determining insurable condition. Provided further, that any structure  
39 commenced on or after January 1, 1970, not built in substantial  
40 compliance with the Federal Manufactured Home Construction and  
41 Safety Standards, any predecessor or successor federal or State  
42 construction or safety standards, and any further construction or safety  
43 standards promulgated by the association and approved by the  
44 Commissioner, or the North Carolina Uniform Residential Building

1 Code or the North Carolina Building Code, including the design-wind  
2 requirements therein, shall not be an insurable risk. The owner or  
3 applicant shall furnish with the application proof in the form of a  
4 certificate from a local building inspector, contractor, engineer or  
5 architect that the structure is built in substantial accordance with the  
6 Federal Manufactured Home Construction and Safety Standards, any  
7 predecessor or successor federal or State construction or safety  
8 standards, and any further construction or safety standards  
9 promulgated by the association and approved by the Commissioner, or  
10 the North Carolina Uniform Residential Building Code or the North  
11 Carolina Building Code; provided, however, such individual certificate  
12 shall not be necessary in those cases where the structure is located  
13 within a political subdivision which has certified to the Association on  
14 an annual basis that it is enforcing the North Carolina Uniform  
15 Residential Building Code or the North Carolina Building Code and  
16 has no plans to discontinue enforcing these codes during that year."

17 Sec. 4. G.S. 58-46-25 reads as rewritten:

18 **"§ 58-46-25. ~~Temporary directors of association.~~ Board of Directors of the FAIR Plan**  
19 **Underwriting Association.**

20 ~~Within 10 days after July 2, 1969, the Commissioner shall appoint a temporary~~  
21 ~~board of directors of the association, which temporary board of directors may prepare~~  
22 ~~and submit a Plan of operation and articles of association in accordance with G.S. 58-~~  
23 ~~46-20.~~

24 The underwriting association of the FAIR Plan shall be administered by a board of  
25 directors. The Board of Directors shall consist of 11 persons having one vote each from  
26 the following classifications: Six directors of the Board shall be selected by the member  
27 insurers, and shall be fairly representative of the industry. To insure fair representation,  
28 one director shall be selected by the following groups: the American Insurance  
29 Association (or its successor), the Alliance of American Insurers (or its successor), all  
30 other stock insurers not affiliated with the above groups, and all other nonstock insurers  
31 not affiliated with the above groups. Not more than one company in a group under the  
32 same ownership and management shall be represented on the Board at the same time.  
33 The Commissioner of Insurance shall appoint five members of the Board who shall be  
34 fire and casualty insurance agents licensed in the State and actively engaged in writing  
35 property insurance in this State. The term of office of the Board of Directors shall be  
36 two years."

37 Sec. 5. G.S. 58-46-15 reads as rewritten:

38 **"§ 58-46-15. Requirements of Plan and authority of Association.**

39 The Association formed pursuant to the provisions of this Article shall have  
40 authority on behalf of its members to cause to be issued basic property insurance  
41 policies, including coverage for farm risks; and shall offer additional extended  
42 coverage, optional perils endorsements, and crime insurance policies, or their successor  
43 forms of coverage; to reinsure in whole or in part, any such policies; and to cede any  
44 such reinsurance. The Plan adopted, pursuant to the provision of this Article, shall

1 provide, among other things, for the perils to be covered, compensation and  
2 commissions, assessments of members, the sharing of expenses, income and losses on  
3 an equitable basis, ~~cumulative weighted voting for the board of directors of the Association,~~  
4 the administration of the Plan and Association and any other matter necessary or  
5 convenient for the purpose of assuring fair access to insurance requirements. The  
6 directors of the Association may, subject to the approval of the Commissioner, amend  
7 the plan of operation at any time. The Commissioner may review the plan of operation  
8 at any time he deems to be expedient or prudent, but not less than once in each calendar  
9 year. After review of such plan the Commissioner may amend the plan after  
10 consultation with the directors and upon certification to the directors of such  
11 amendment."

12           Sec. 6. This act becomes effective October 1, 1991.