

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2019

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HOUSE BILL 922*

Senate Commerce and Insurance Committee Substitute Adopted 6/27/19

Short Title: Enhance Insurance Coverage/Educ. Buildings.

(Public)

Sponsors:

Referred to:

April 22, 2019

A BILL TO BE ENTITLED

AN ACT TO REDUCE THE IMPACT TO TAXPAYERS OF NATURAL DISASTERS AND
OTHER INSURABLE RISKS BY ENHANCING STATE INSURANCE COVERAGE FOR
PUBLIC SCHOOL BUILDINGS AND COMMUNITY COLLEGES.

The General Assembly of North Carolina enacts:

ENHANCE INSURANCE COVERAGE FOR PUBLIC SCHOOL BUILDINGS

SECTION 1.(a) Article 37 of Chapter 115C of the General Statutes is amended by
adding a new section to read:

"§ 115C-523.1. Duty to insure public school property.

(a) The local board of education of every local school administrative unit in the public
school system of this State, in order to safeguard the investment made in public schools, shall:

- (1) Insure and keep insured to the extent of not less than eighty percent (80%) of
the current insurable value, as determined by the insurer and the insured, of
each of its insurable buildings against the perils embraced in broad form
coverage to include fire, lightning, windstorm, hail, explosion, aircraft or
vehicles, riot or civil commotion, smoke, vandalism, sprinkler leakage,
sinkhole collapse, volcanic action, falling objects, weight of snow, ice or sleet,
or water damage.

- (2) Insure and keep insured adequately the equipment and contents of the
building.

(b) The tax-levying authority for each local school administrative unit shall appropriate
funds necessary for compliance with the provisions of subsection (a) of this section.

(c) Local boards of education may purchase insurance from companies duly licensed and
authorized to sell insurance in this State or may obtain insurance in accordance with the
provisions of Article 31A of Chapter 58 of the General Statutes, "State Insurance of Public
Education Property."

(d) If the Commissioner of Insurance determines that any person has willfully failed to
comply with the provisions of subsections (a) and (b) of this section, the Commissioner of
Insurance may order, for each separate violation, a civil penalty under the procedures in
G.S. 58-2-70(d). Every 24 hours without such insurance constitutes a separate violation."

SECTION 1.(b) Article 37 of Chapter 115C of the General Statutes is amended by
adding a new section to read:

"§ 115C-523.2. Flood insurance.

(a) The local board of education of every local school administrative unit in the public
school system of this State, in order to safeguard the investment made in public schools, shall



1 insure and keep insured to the extent of not less than eighty percent (80%) of the current insurable
 2 value, as determined by the insurer and the insured, of each of its insurable buildings against
 3 flood when that property is located, or becomes located in, an area identified on the latest Flood
 4 Insurance Rate Map produced by the Federal Emergency Management Agency as area that will
 5 be inundated by the flood event having a one percent (1%) chance of being equaled or exceeded
 6 in any given year.

7 (b) The tax-levying authority for each local school administrative unit shall appropriate
 8 funds necessary for compliance with the provisions of subsection (a) of this section.

9 (c) Local boards of education may purchase insurance from companies duly licensed and
 10 authorized to sell insurance in this State or may obtain insurance in accordance with the
 11 provisions of Article 31A of Chapter 58 of the General Statutes, "State Insurance of Public
 12 Education Property."

13 (d) If the Commissioner of Insurance determines that any person has willfully failed to
 14 comply with the provisions of subsections (a) and (b) of this section, the Commissioner of
 15 Insurance may order, for each separate violation, a civil penalty under the procedures in
 16 G.S. 58-2-70(d). Every 24 hours without such insurance constitutes a separate violation."

17 **SECTION 1.(c)** G.S. 115C-238.66 is amended by adding a new subdivision to read:

18 "(14) Property insurance. – The board of directors shall comply with the
 19 requirements of G.S. 115C-523.1 and G.S. 115C-523.2 for any regional
 20 school building owned by the board of directors."

22 **ENHANCE INSURANCE COVERAGE FOR COMMUNITY COLLEGES**

23 **SECTION 2.(a)** G.S. 115D-58.11 reads as rewritten:

24 **"§ 115D-58.11. Fire and casualty insurance on institutional buildings and contents.**

25 (a) The board of trustees of each institution, in order to safeguard the investment in
 26 institutional buildings and their contents, shall:

27 (1) Insure and keep insured each building owned by the institution to the extent
 28 of not less than eighty percent (80%) of the current insurable value, as
 29 determined by the insured and insurer, against loss by fire, lightning, and the
 30 other perils embraced in extended coverage, broad form coverage to include
 31 fire, lightning, windstorm, hail, explosion, aircraft or vehicles, riot or civil
 32 commotion, smoke, vandalism, sprinkler leakage, sinkhole collapse, volcanic
 33 action, falling objects, weight of snow, ice or sleet, or water damage to
 34 institutional buildings and properties.

35 (2) Insure and keep insured equipment and other contents of all institutional
 36 buildings that are the property of the institution or the State or which are used
 37 in the operation of the institution.

38 (b) The tax-levying authority of each institution shall provide the funds necessary for the
 39 purchase of the insurance required in ~~G.S. 115D-58.11(a)~~ subsection (a) of this section.

40 (c) Boards of trustees may purchase insurance from companies duly licensed and
 41 authorized to sell insurance in this State or may obtain insurance in accordance with the
 42 provisions of ~~Article 16, Chapter 115, Article 31A~~ of Chapter 58 of the General Statutes, "State
 43 Insurance of Public ~~School~~ Education Property."

44 (d) If the Commissioner of Insurance determines that any person has willfully failed to
 45 comply with the provisions of subsections (a) and (b) of this section, the Commissioner of
 46 Insurance may order, for each separate violation, a civil penalty under the procedures in
 47 G.S. 58-2-70(d). Every 24 hours without such insurance constitutes a separate offense violation."

48 **SECTION 2.(b)** Article 4A of Chapter 115D of the General Statutes is amended by
 49 adding a new section to read:

50 **"§ 115D-58.11A. Flood insurance.**

1 (a) The board of trustees of each institution, in order to safeguard the investment in
2 institutional buildings and their contents, shall insure and keep insured to the extent of not less
3 than eighty percent (80%) of the current insurable value, as determined by the insurer and the
4 insured, of each of its insurable buildings against flood when that property is located, or becomes
5 located in, an area identified on the latest Flood Insurance Rate Map produced by the Federal
6 Emergency Management Agency as area that will be inundated by the flood event having a one
7 percent (1%) chance of being equaled or exceeded in any given year.

8 (b) The tax-levying authority for each institution shall appropriate funds necessary for
9 compliance with the provisions of subsection (a) of this section.

10 (c) The board of trustees may purchase insurance from companies duly licensed and
11 authorized to sell insurance in this State or may obtain insurance in accordance with the
12 provisions of Article 31A of Chapter 58 of the General Statutes, "State Insurance of Public
13 Education Property."

14 (d) If the Commissioner of Insurance determines that any person has willfully failed to
15 comply with the provisions of subsections (a) and (b) of this section, the Commissioner of
16 Insurance may order, for each separate violation, a civil penalty under the procedures in
17 G.S. 58-2-70(d). Every 24 hours without such insurance constitutes a separate violation."

18 19 **TRANSFER PUBLIC SCHOOL INSURANCE FUND TO DEPARTMENT OF** 20 **INSURANCE**

21 **SECTION 3.(a)** All functions, powers, duties, obligations, resources, and
22 appropriations vested in the State Board of Education, the Superintendent of Public Instruction,
23 and the School Insurance Fund Section of the Department of Public Instruction for management
24 and operation of a system of insurance for public education property are transferred to, vested in,
25 and consolidated into the Department of Insurance and the Commissioner of Insurance as a Type
26 I transfer, as defined in G.S. 143A-6. The Commissioner of Insurance, the Department of
27 Insurance, and the Office of State Budget and Management are authorized to take all other steps
28 necessary to consolidate the system of insurance for public education property into the
29 Department of Insurance. To effectuate this Type I transfer, the State Treasurer shall transfer the
30 balance of the Public School Insurance Fund to the State Public Education Property Insurance
31 Fund, established pursuant to G.S. 58-31A-15, as enacted by this act.

32 **SECTION 3.(b)** Chapter 58 of the General Statutes is amended by adding a new
33 Article to read:

34 "Article 31A.

35 "State Insurance of Public Education Property.

36 **"§ 58-31A-1. Definitions.**

37 The following definitions shall apply in this Article:

38 (1) Insurable hazards. – A minimum list of perils, risks, or hazards which must be
39 insured against loss, which includes the following: fire, lightning, windstorm,
40 hail, explosion, aircraft or vehicles, riot or civil commotion, smoke,
41 vandalism, sprinkler leakage, sinkhole collapse, volcanic action, falling
42 objects, weight of snow, ice or sleet, or water damage.

43 (2) Public education board. – A local board of education of a local school
44 administrative unit, as defined in G.S. 115C-5(5), a board of trustees of a
45 regional school, as defined in G.S. 115C-238.63, or a board of trustees of a
46 community college, as defined in G.S. 115D-12.

47 (3) Public education property. – Property owned by a local board of education, a
48 regional school board of directors, or a community college board of trustees.

49 **"§ 58-31A-5. Duty of the Commissioner to operate insurance system for public education**
50 **property.**

1 The Commissioner shall have the duty to manage and operate a system of insurance for public
2 education property. The Commissioner may offer a system of property insurance to any charter
3 schools approved pursuant to G.S. 115C-218.5.

4 **"§ 58-31A-10. Flood insurance.**

5 Premiums for flood insurance coverage for public education buildings shall be paid by each
6 public education board in accordance with rates fixed by the Commissioner, and the
7 Commissioner may purchase from insurers admitted to do business in North Carolina such
8 insurance or reinsurance as may be necessary to protect the State Public Education Insurance
9 Fund against loss with respect to such insurance coverage.

10 **"§ 58-31A-15. Authority and rules for organization of system.**

11 The Commissioner is hereby authorized, directed, and empowered to establish a division to
12 manage and operate a system of insurance for public education property. The Commissioner shall
13 adopt such rules and regulations as may be necessary to provide all details inherent in the
14 insurance of public education property. The Commissioner shall employ any staff necessary,
15 which in his or her opinion is necessary to insure and protect effectively public education
16 property, and he or she shall fix their compensation consistent with the policies of the State
17 Human Resources Commission.

18 **"§ 58-31A-20. State Public Education Property Insurance Fund; decrease of premiums**
19 **when fund reaches five percent of total insurance in force.**

20 (a) There is established a State Public Education Property Insurance Fund (Fund) as a
21 special fund in the State treasury for the purpose of providing a reserve against property loss of
22 public education boards. The State Treasurer shall be the custodian of the Fund and shall invest
23 its assets in accordance with the provisions of G.S. 147-69.2 and G.S. 147-69.3. All funds paid
24 over to the State Treasurer by the Commissioner for premiums on insurance by public education
25 boards and all money received from interest or from loans and deposits and from any other source
26 connected with the insurance of the property shall be held by the State Treasurer in the Fund for
27 the purpose of paying all insurable hazards for which the Fund shall be liable and the expenses
28 necessary for the proper conduct of the insurance of such property, together with such premiums
29 for reinsurance that the Commissioner may deem necessary to reinsure as provided by this
30 Article.

31 (b) When the balance of the Fund reaches the sum of five percent (5%) of the total
32 insurance in force, then annually thereafter the Commissioner shall proportionately decrease the
33 premiums on insurance to an amount which will be sufficient to maintain the Fund at five percent
34 (5%) of the total insurance in force, and in the event in the judgment of the Commissioner the
35 income from the investments of the Fund are sufficient to maintain the same at five percent (5%)
36 of the total insurance in force, no premium shall be charged for the ensuing year. However, no
37 public education board shall cease to pay premiums until five annual payments of premiums have
38 been made on a building or property insured whether or not through such payments the Fund
39 shall be increased beyond five percent (5%) of the total insurance in force, unless such building
40 or property shall cease to be insurable under this Article within such five-year period.

41 **"§ 58-31A-25. Insurance of property by public education boards; notice of election to insure**
42 **and information to be furnished; outstanding policies.**

43 All public education boards may insure all public education property titled to that board
44 against the direct loss or damage by insurable hazards in public education buildings and other
45 public education properties in the Fund. Any property covered by an insurance policy in effect
46 on the date when the property of a public education board is insured in the Fund shall be insured
47 by the Fund as of the expiration of the policy. Each public education board shall give notice of
48 its election to insure in the Fund at least 90 days prior to such insurance becoming effective and
49 shall furnish to the Commissioner a full and complete list of all outstanding property insurance
50 policies, giving in complete detail the name of the insurers, the amount of the insurance and
51 expirations thereof. While the said insurance policies remain in effect, the Fund shall act as

1 coinsurer of the properties covered by such insurance to the same extent and in the same manner
2 as is provided for coinsurance under the provisions of the standard form of property insurance as
3 provided by law, and in the event of loss shall have the same rights and duties as required by
4 participating insurance companies.

5 **"§ 58-31A-30. Inspections of insured public education properties.**

6 The Commissioner shall provide for periodic inspections of all public education properties
7 in the State of North Carolina insured under the provisions of this Article, in addition to the
8 inspections required by G.S. 115C-525(b). The person making inspections required under
9 G.S. 115C-525(b) shall furnish a copy to the Commissioner, and the local superintendent shall
10 furnish to the Commissioner their corrective action plan. The inspections shall be for safety of
11 buildings and particularly buildings used to provide instruction to students. The inspections shall
12 be the basis for offering such engineering advice as may be thought to be necessary to safeguard
13 students in public education buildings from death and injury from school fires or explosions and
14 to protect the properties from loss, and the public education properties shall be required so far as
15 possible, and reasonable, to carry out and put into effect any recommendations made by the
16 Commissioner.

17 **"§ 58-31A-35. Information to be furnished prior to insuring in Fund; providing for**
18 **payment of premiums.**

19 Public education boards shall, at least 90 days before insuring in the Fund, furnish to the
20 Commissioner a complete and detailed list of all public education buildings and contents of those
21 buildings and other insurable public education property, together with an estimate of the present
22 value of the property. Valuation for purposes of insuring in the Fund shall be reached by
23 agreement in accordance with the procedure established for adjustment of losses. Public
24 education boards and the tax-levying authority shall be required to provide for the payment of
25 premiums for insurance on the school properties of each public education board, respectively, to
26 the extent of not less than eighty percent (80%) of the current insurable value of the said
27 properties, including the insurance in property insurance companies and the insurance provided
28 by the Fund.

29 **"§ 58-31A-40. Determination and adjustment of premium rates; certificate as to insurance**
30 **carried; no lapse; notice as to premiums required, and payments of premiums.**

31 (a) The Commissioner shall determine the annual premium rate to be charged for
32 insurance of public education properties pursuant to this Article, and rates shall be adjusted from
33 time to time so as to provide insurance against damage or loss resulting from insurable hazards
34 to public education buildings and properties of the public education boards at the lowest cost
35 possible in keeping with the payment of cost of administration under this Article, and the creation
36 of adequate reserves to pay losses which may be incurred. The Commissioner shall furnish to
37 each public education board annually and, at such times as changes may require, a certificate
38 showing the amount of insurance carried on each item of insurable property. This insurance shall
39 not lapse but shall remain in force until the public education board requests that the insurance be
40 canceled or until such property becomes uninsurable in the manner set out in G.S. 58-31A-45.
41 From time to time, the public education board shall be notified as to the amount of the premiums
42 required to be paid for insurance and the amounts to be provided for in the annual budget of the
43 public education board. The tax-levying authorities shall provide by taxation or otherwise a sum
44 sufficient to pay the required premiums.

45 (b) The public education board shall, within 30 days from notice of the rate of the
46 premium, pay to the Commissioner the amount of the premiums on the insurance, and in the
47 event that there are no funds available to make a payment on the premiums as required by this
48 subsection, the premium shall be paid out of the first funds available to the public education
49 board. Delayed payments shall bear interest at the rate of six percent (6%) per annum.

1 **"§ 58-31A-45. Adjustment of losses; determination and report of appraisers; payment of**
2 **amounts to treasurers of local school administrative units; disbursement of**
3 **funds.**

4 (a) In the event of loss or damage by insurable hazards to public education buildings and
5 properties for the public education boards, the Fund shall pay the loss (i) in the same proportion
6 as the amount of insurance carried bore to the valuation of the property at the time it was insured,
7 but not exceeding the amount which it would cost to repair or replace the property with material
8 of like kind and quality within a reasonable time after the loss, (ii) not in excess of the amount of
9 insurance provided for the property, and (iii) not in excess of the amount of the loss that the Fund
10 is required to pay in participation with property insurance companies having policies of insurance
11 in force on the properties at the time of the loss or damage. The Fund shall not be liable for a
12 greater proportion of any loss than the amount of insurance shall bear to the whole insurance
13 covering the property against the peril involved.

14 (b) In the event of loss or damage by insurable hazards to public education buildings and
15 properties of the public education boards, to the property insured, when an agreement as to the
16 extent of the loss or damage cannot be arrived at between the Commissioner and the public
17 education board with control charge of the property, the amount of the loss or damage shall be
18 determined by three appraisers selected as follows: the Commissioner shall select one appraiser,
19 the public education board in control of the property shall select one appraiser, and the two
20 appraisers selected by the Commissioner and the public education board shall select a third
21 appraiser. The selected appraisers shall be disinterested persons and shall be qualified from
22 experience to appraise and value the property. If the appraisers appointed by the Commissioner
23 and the public education board shall fail to agree upon a third appraiser within 15 days of their
24 selection, then, on request of the Commissioner or the public education board, a third appraiser
25 shall be selected by any regular resident superior court judge of the superior court district or set
26 of districts as defined in G.S. 7A-41.1 in which the property is located. The selected appraisers
27 shall file their written report with the Commissioner and with the public education board. The
28 costs of the appraisal shall be paid from the Fund. Upon the determination of the loss by the
29 appraisers, the Commissioner shall pay the amount of the loss or damage to the education
30 property to the finance officer of the public education board, upon proper warrant of the
31 Commissioner. The funds shall be paid out by the finance officer for the disbursement of the
32 funds to the public education board.

33 **"§ 58-31A-50. Maintenance of inspection and engineering service; cancellation of**
34 **insurance.**

35 The Commissioner is authorized and empowered to maintain an inspection and engineering
36 service deemed by it to be appropriate and necessary to reduce the hazards of fire in public
37 education buildings insured in the Fund and to expend for such purpose not in excess of ten
38 percent (10%) of the annual premiums collected from the public education boards. The
39 Commissioner is authorized and empowered to cancel any insurance on any public education
40 property when, in his or her opinion, because of dilapidation and depreciation of the property,
41 the property is no longer insurable. The public education board shall be notified at least 30 days
42 prior to cancellation, and in the event the public education board demonstrates the property can
43 be restored to insurable condition, the Commissioner may continue insurance coverage,
44 provided, that the findings and results of the inspection of public education property by the agents
45 of the Commissioner shall be reported to the public education board and to the tax-levying
46 authority for that public education board that carry insurance with the Fund at least 30 days prior
47 to finalization of a local budget for that fiscal year to ensure that all public education property
48 shall be properly taken care of and made safe from fire hazards.

49 **"§ 58-31A-55. Other property insurance.**

50 The Commissioner shall adopt rules for providing property insurance on property insured by
51 the Fund against all risks of direct physical loss not otherwise insured against pursuant to this

1 Article. Losses covered by this additional insurance shall be paid out of the Fund in the same
2 manner as fire and extended coverage losses. Each public education board that elects to purchase
3 this additional insurance shall pay a premium in accordance with rates fixed by the
4 Commissioner. This additional insurance shall be subject to the provisions and stipulations on
5 policy forms approved by the Commissioner."

6 **SECTION 3.(c)** Article 38 of Chapter 115C of the General Statutes is repealed.

7 **SECTION 3.(d)** G.S. 115C-12(9) reads as rewritten:

8 "(9) Miscellaneous Powers and Duties. – All the powers and duties exercised by
9 the State Board of Education shall be in conformity with the Constitution and
10 subject to such laws as may be enacted from time to time by the General
11 Assembly. Among such duties are:

12 ...

13 e. ~~To manage and operate a system of insurance for public school~~
14 ~~property, as provided in Article 38 of this Chapter.~~

15 In making substantial policy changes in administration,
16 curriculum, or programs the Board should conduct hearings
17 throughout the regions of the State, whenever feasible, in order that
18 the public may be heard regarding these matters."

19 **SECTION 3.(e)** G.S. 147-69.2(15) is amended by adding a new subdivision to read:

20 "(15) The ~~State Public School Education Property~~ Insurance Fund."

21 **SECTION 3.(f)** Section 6(d)(30) of S.L. 2018-32 is repealed.

22
23 **PART IV. EFFECTIVE DATE**

24 **SECTION 4.** This act becomes effective July 1, 2020.