

KFN
7589
W5
A25
1992

**LEGISLATIVE
RESEARCH COMMISSION**

BEACH AND FAIR PLANS



**REPORT TO THE
1991 GENERAL ASSEMBLY
OF NORTH CAROLINA
1992 SESSION**

LEGISLATIVE LIBRARY

**A LIMITED NUMBER OF COPIES OF THIS REPORT IS AVAILABLE
FOR DISTRIBUTION THROUGH THE LEGISLATIVE LIBRARY.**

**ROOMS 2126, 2226
STATE LEGISLATIVE BUILDING
RALEIGH, NORTH CAROLINA 27611
TELEPHONE: (919) 733-7778**

OR

**ROOM 500
LEGISLATIVE OFFICE BUILDING
RALEIGH, NORTH CAROLINA 27603-5925
TELEPHONE: (919) 733-9390**

TABLE OF CONTENTS

Letter of Transmittal..... i

Legislative Research Commission Membership.....ii

PREFACE..... 1

COMMITTEE PROCEEDINGS..... 3

FINDINGS AND RECOMMENDATIONS.....10

APPENDICES

Relevant portions of Chapter 754 of the 1991
Session Laws authorizing the study and
Senate Bill 917 of the 1991 SessionA-1

Membership of the LRC Committee on
Beach and FAIR Plans.....B-1

Statutes and rules in North Carolina on
Beach and FAIR Plans.....C-1

Plan of Operation of the North Carolina
Insurance Underwriting Association
(Beach Plan)D-1

Plan of Operation of the North Carolina
Joint Underwriting Association
(FAIR Plan).....E-1

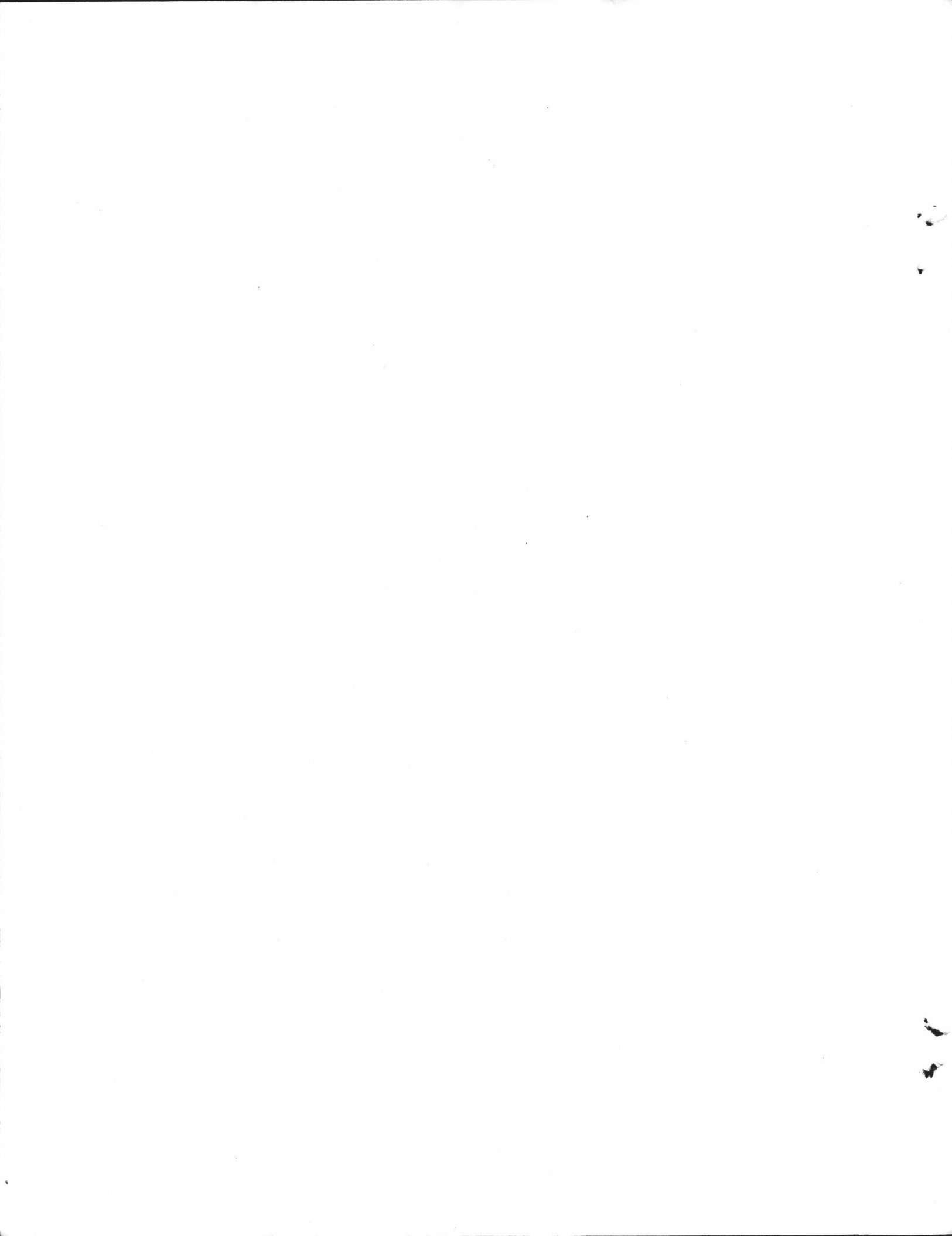
A Brief History of the North Carolina
FAIR and Beach Plans.....F-1

Assessments and Distributions to Member
Companies of the FAIR and Beach Plans.....G-1

Beach Plan Report of Operations for Fiscal
Years 1986 through 1990H-1

Legislative Proposal -- A BILL TO BE ENTITLED
AN ACT TO PROVIDE FOR IMPROVEMENTS IN THE
OPERATIONS OF THE FAIR AND BEACH PLANS
and a Section-by-Section Analysis of the Bill.....I-1

KFN 7589 W5 A25 1992



STATE OF NORTH CAROLINA
LEGISLATIVE RESEARCH COMMISSION
STATE LEGISLATIVE BUILDING
RALEIGH 27611

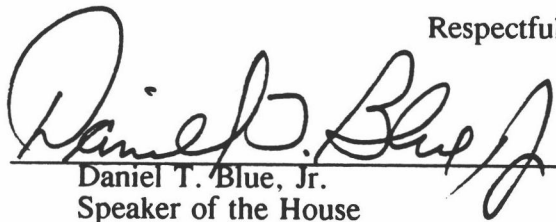


May 26, 1992

TO THE MEMBERS OF THE 1991 GENERAL ASSEMBLY (SECOND SESSION):

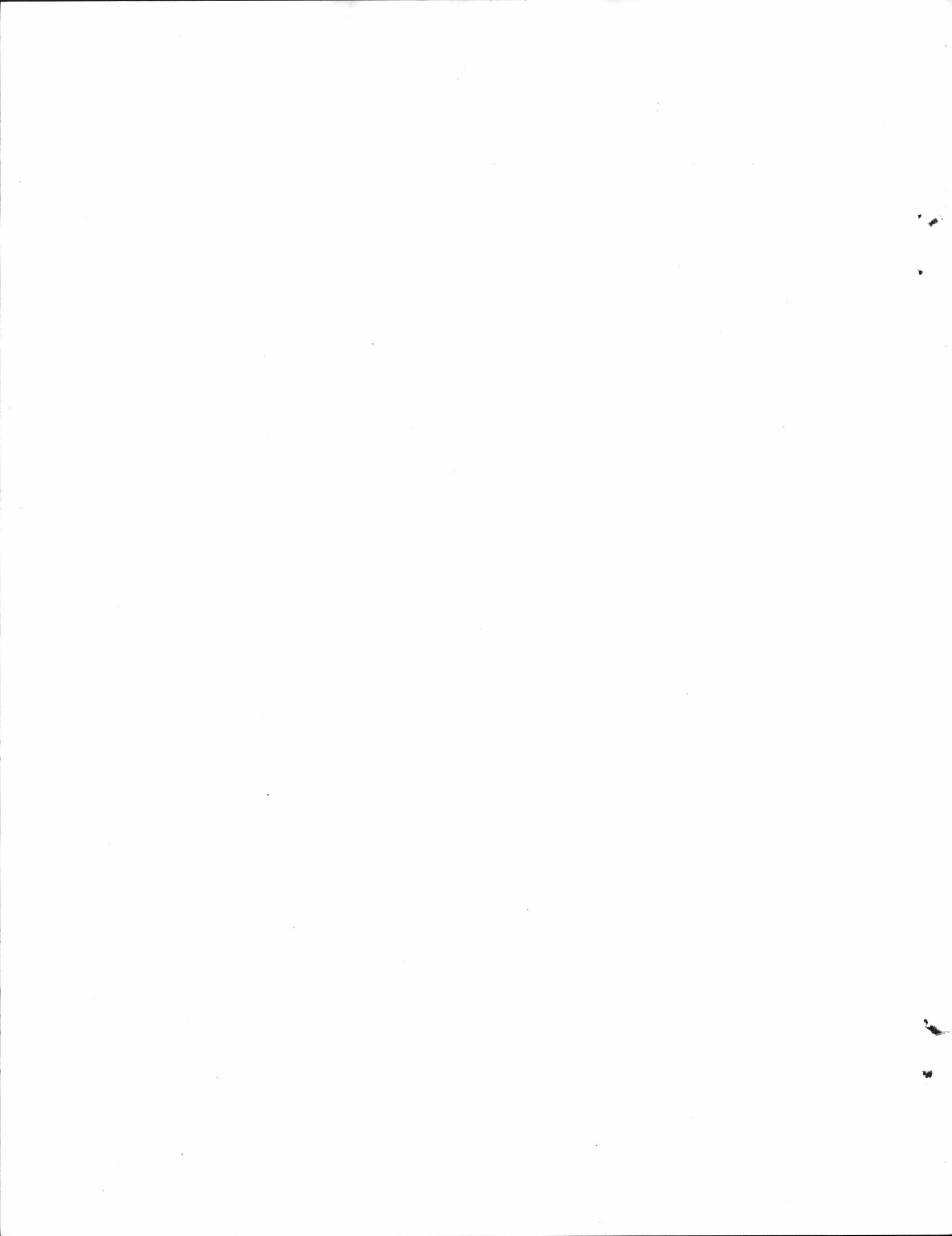
The Legislative Research Commission herewith submits to you for your consideration its report on North Carolina's Beach and FAIR Plans. The report was prepared by the Legislative Research Commission's Committee on Beach and FAIR Plans pursuant to Section 2.3 of Chapter 754 of the 1991 Session Laws.

Respectfully submitted,


Daniel T. Blue, Jr.
Speaker of the House


Henson P. Barnes
President Pro Tempore

Cochairmen
Legislative Research Commission



1991-1992

LEGISLATIVE RESEARCH COMMISSION

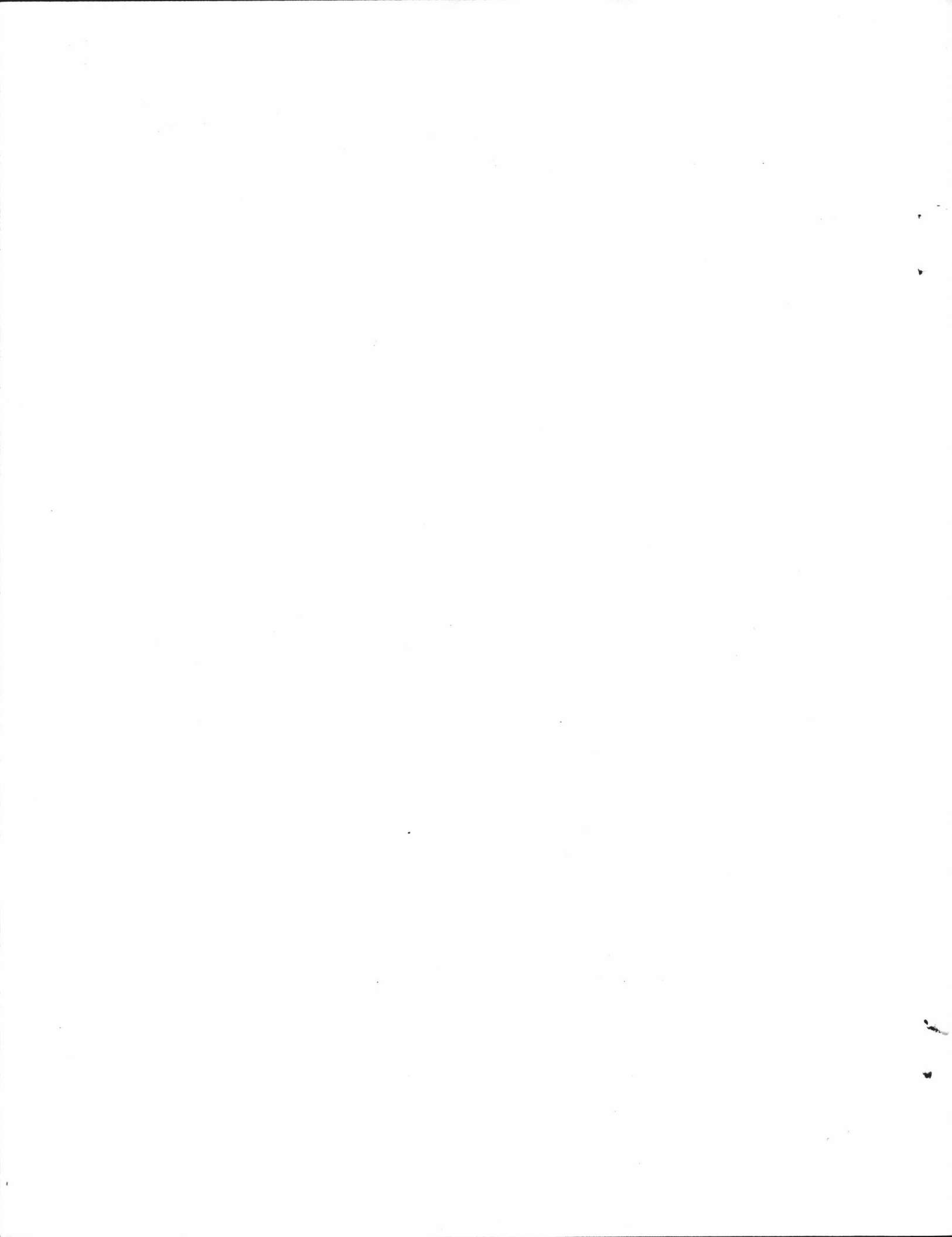
MEMBERSHIP

President Pro Tempore of
the Senate
Henson P. Barnes, Cochair

Senator Frank W. Ballance, Jr.
Senator Howard F. Bryan
Senator J. K. Sherron, Jr.
Senator Lura Tally
Senator Russell G. Walker

Speaker of the House of
Representatives
Daniel T. Blue, Jr., Cochair

Rep. Marie W. Colton
Rep. W. Pete Cunningham
Rep. E. David Redwine
Rep. Frank E. Rhodes
Rep. Peggy M. Stamey



PREFACE

The Legislative Research Commission, established by Article 6B of Chapter 120 of the General Statutes, is a general purpose study group. The Commission is cochaired by the Speaker of the House and the President Pro Tempore of the Senate and has five additional members appointed from each house of the General Assembly. Among the Commission's duties is that of making or causing to be made, upon the direction of the General Assembly, "such studies of and investigations into governmental agencies and institutions and matters of public policy as will aid the General Assembly in performing its duties in the most efficient and effective manner" (G.S. 120-30.17(1)).

At the direction of the 1991 General Assembly, the Legislative Research Commission has undertaken studies of numerous subjects. These studies were grouped into broad categories and each member of the Commission was given responsibility for one category of study. The Cochairs of the Legislative Research Commission, under the authority of G.S. 120-30.10(b) and (c), appointed committees consisting of members of the General Assembly and the public to conduct the studies. Cochairs, one from each house of the General Assembly, were designated for each committee.

The study of North Carolina's Beach and FAIR Plans was authorized by Section 2.3 of Chapter 754 of the 1991 Session Laws (1991 Regular Session). The Legislative Research Commission grouped this study in its State Regulation area under the direction of Senator Frank W. Ballance, Jr. The Committee was chaired by Senator Franklin W. Block and Representative John C. Hasty. The full membership of the Committee is listed in Appendix B of this report. A committee notebook containing

the committee minutes and all information presented to the committee is filed in the
Legislative Library.

COMMITTEE PROCEEDINGS

The Committee met four times to consider the operations and problems of the North Carolina Insurance Underwriting Association (Beach Plan) and the North Carolina Joint Underwriting Association (FAIR Plan).

December 12, 1991

The Beach and FAIR Plans Study Committee met and adopted its budget. The Committee heard the following presentations:

Mr. Marvin Wilson, Manager of the Beach and FAIR Plans, gave the Committee an overview of the Beach and FAIR Plans. He discussed the history of the Plans, the requirements to be a member company, and the structures of the Plans' Boards of Directors. He told the Committee that the Plans are nonprofit organizations, with any gains distributed to, and losses assessed from, the member companies. He gave some information about how rates are set for insurance provided by the Plans. He talked about what coverage is available under the Plans and why some risks are turned down.

Mr. Bill Hale, Chief Legislative Counsel at the Department of Insurance, spoke next. He told the Committee that the Department has general oversight of the Plans, but that it does not have oversight of their day to day operations.

Several members of the Outer Banks Chamber of Commerce spoke, airing their concerns about the windstorm coverage under the Beach Plan. Their complaints included the following: 1) When insurance companies refuse to include windstorm coverage, they give the insured a 10-15% credit for the windstorm exclusion, but the insured has to pay 100-270% more for the same or less coverage when purchasing windstorm coverage from the Beach Plan. 2) Many insurance companies will not write

coverage for the beach areas of the state. 3) The membership on the Plans' Boards of Directors heavily favors the member companies, providing agents and consumers no effective voice in the Plans. 4) Closings are delayed because applications are processed slowly and there is no binder for coverage. The speakers also suggested that a portion of the profits of the Beach Plan be put into a reserve fund for more than one year, to be built up over time, so that rates might be lowered.

Mr. Bill Weedman, of Southern Insurance Agency, Inc., echoed some of the concerns of the Chamber members. He showed with charts how homeowner's coverage rates vary within the four Extended Coverage Zones across the state.

Mr. Walton Joyner, General Counsel for the Beach and FAIR Plans, responded to some of the previous speakers' comments, saying that there was a misconception about the functions of the Plans and how they operate, and that any problems in the Plans are problems in the insurance industry as a whole. Furthermore, he said that if there is a problem with rates, it is in the rate-making structure itself, over which the Plans have no control.

The Committee expressed interest in hearing suggestions from the Beach and FAIR Plans, the Department of Insurance, and the insurance agents' associations about how the Plans could be improved.

February 14, 1992

Mr. Fletcher Willey, who represents the Joint Legislative Committee of the North Carolina Association of Professional Insurance Agents and is President of the Independent Insurance Agents of North Carolina, spoke first. He told the Committee that there were three areas of concern with the Beach and FAIR Plans: 1) premium

equity in the windstorm program; 2) the assurance of fairness to the insured public through improved procedures and balanced representation; and 3) development of an improved mechanism that would favor those companies that voluntarily accept the business that is now going into the Beach Plan. For premium equity, he recommended a legislative mandate requiring a reasonable relationship between the dollar amount of credit that a property owner receives for the exclusion of windstorm coverage from a homeowner's policy and the dollar amount charged by the Beach Plan. He agreed that an alternative is legislation giving the Insurance Commissioner more authority to regulate rates in the Beach Plan.

Mr. Bill Hale responded to questions directed to the Department of Insurance at the Committee's December meeting. The Department agreed that it would be helpful if there were clear standards that applied to the windstorm rates and windstorm credits. The Department did not see any reason why a binder could not be adopted for use in the Beach and FAIR Plans. Also, the Department supported giving voting rights to the two current agent representatives on the Plans' Boards. Finally, the Department supports a common sense approach that would permit certain manufacturing and processing operations to be insured through the Plans. The Committee asked that the Insurance Commissioner prepare proposed legislation addressing the problems raised at the meeting, including giving more authority to the Insurance Commissioner in setting rates in the Beach Plan, providing for a binder of coverage, and requiring a reserve fund for profits from the Plans.

Mr. Benjy Seagle, Chair of the Board of Directors of the North Carolina Insurance Underwriting Association (Beach Plan) and the North Carolina Joint Underwriting Association (FAIR Plan), responded to some of the comments of other speakers to the

Committee. He told the Committee that the Plans need to be depopulated and the voluntary market needs to be expanded, but that there is no incentive to depopulate because the Plans' rates are the same as the companies' rates. He said that the Plans would oppose any changes regarding the effective date of coverage of insurance issued by the Plans. He said that the Plans have reserves to take care of most losses and commented that the money is the companies' money, so the Plan tries to distribute as much back to the companies as possible, with the knowledge that it can assess the companies when it needs money to pay for losses. He responded to the suggestions that the Boards' make-up be restructured by saying that the Boards would have no reservations about the non-industry FAIR Plan Board members also serving on the Beach Plan Board. He said that if manufacturing risks were added to the Beach Plan, the standard market would contract, and that he would not recommend it.

The Committee asked that Mr. Seagle go back to the Boards of Directors of the Beach and FAIR Plans and report to the Committee whether things can be worked out, now that Mr. Seagle had heard the complaints and concerns.

Mr. Edwin Rollins, Director of the North Carolina Surplus Lines Association, spoke, urging the Committee to put the surplus lines companies on the same level as the residual market, so that surplus lines are not the market of last resort. This would, he argued, help depopulate the Plans. The Committee questioned Mr. Rollins and Mr. Hale about the financial stability of surplus lines companies.

March 20, 1992

The meeting, held in Kill Devil Hills, North Carolina, opened with a public hearing. The people who spoke included owners of homes and businesses on the Outer

Banks and some insurance agents and realtors. Most of the speakers talked about the high buy-back premiums for the windstorm coverage in the Beach Plan. A couple of the speakers said that the high cost of insurance had a detrimental effect on the local economy because it made homes less affordable and discouraged outside investment. Some of the speakers asked for equal representation of citizens and insurance representatives on the Boards of the Beach and FAIR Plans.

Ms. Mollie Fearing, a Committee member and an insurance agent in Manteo, listed several problems that she sees with the Beach Plan. Her general areas of concern were: 1) problems with what coverage the Plan would provide and when it would refuse to write coverage; 2) certain unreasonable requirements for writing coverage; 3) the Plan's reservation of the right to modify or terminate procedures at any time without notice; 4) the Plan's inefficient operations; and 5) the existence of an adverse insurance climate. She complained that the large profits realized by the member companies keep the Boards from reducing consumer costs, comparing the costs of certain coverage paid on the Outer Banks to the costs in Virginia Beach. She also said that the two Boards of the FAIR and Beach Plans should not share members nor have members who are on the Governing Committee of the Rate Bureau. She asked that the Committee consider legislation to do the following: 1) change the composition of the Boards to allow greater representation of insurance agents; 2) keep the windstorm coverage premium in the Beach Plan from exceeding the credit given by companies for its exclusion; 3) require a coverage binder, effective the day after the policy submission; 4) require acceptance of inland marine contracts as underlying policies for windstorm coverage in the Beach Plan; 5) give the Department of Insurance approval authority over both Plans' rules, procedures, and operations; 6) require replacement cost coverage for

certain buildings; 7) provide for greater penalties against redlining; and 8) allow coverage of manufacturing and processing plant risks in the Beach Plan.

Mr. Fletcher Willey compared the profits of the North Carolina Beach Plan with the profits of six other states' beach plans, saying that the gains in the North Carolina Plan were 36% of the total underwriting gains in the seven plans. He suggested that, to promote an active voluntary market for beach property insurance, companies that write a proportion of insurance at the Outer Banks equal to their market throughout the State receive favorable treatment if there are assessments after a catastrophe.

Mr. Malcolm Fearing, President of Outer Banks Insurance Agency, disagreed with comments by some of the speakers about possible changes to the Plans. He said that the Plans have been great for development on the Outer Banks and that companies cannot be forced to write insurance on the beach. He emphasized that the money in the Plans is the companies' money and that they assume the risk of loss of that money. He asked the Committee to consider carefully the ramifications of any proposed legislation.

Mr. Bill Hale reviewed with the Committee the Insurance Department's draft of proposed legislation that would be submitted with the Committee's report. The draft, titled "A BILL TO BE ENTITLED AN ACT TO PROVIDE FOR IMPROVEMENTS IN THE OPERATIONS OF THE FAIR AND BEACH PLANS", would do the following: 1) give the Insurance Commissioner more authority over the Beach and FAIR Plans and their rates; 2) provide for a Beach Plan reserve fund; 3) remove the exclusion of farm and manufacturing risks from the Beach Plan; 4) require the Plans to provide binder coverage for the day after the application submission is postmarked; and 5) change the composition of the Plans' Boards of Directors.

Mr. Benjy Seagle told the Committee that the Boards would like to make some suggestions at the Committee's next meeting, in light of the proposed legislation. He said that the Boards were not meeting until May, but that he would try to respond as well as he could at the next Committee meeting. He said that the Beach Plan provides that companies can write themselves out of the Plan by writing windstorm and hail coverage voluntarily on the beach, but that few companies have done that.

In response to the Committee's questions, Mr. Hale said that consumers can get beach and FAIR-type coverage from surplus lines companies, without being rejected by the Beach or FAIR Plan, as long as the surplus lines policy has meaningful differences in coverage from a Beach or FAIR Plan policy. Surplus lines companies cannot compete on cost alone.

The Committee planned to review the proposed legislation at its next meeting, taking into consideration the suggestions Mr. Seagle would present to the Committee.

April 21, 1992

The Committee met and approved its report to the 1992 Session of the 1991 General Assembly.

FINDINGS AND RECOMMENDATIONS

RECOMMENDATION: The General Assembly should enact legislation to provide for improvements in the operations of the FAIR and Beach Plans. (See Appendix I.)

The Committee finds that there are problems in the operations of the North Carolina Beach and FAIR Plans that warrant legislative action. These problems include: windstorm rates in the Beach Plan that are many times more than the credits private insurers give for excluding windstorm coverage from homeowner's policies; exclusion of manufacturing risks from the Beach Plan; the lack of a binder of coverage in the Beach and FAIR Plans; and many insurance companies' refusal to write insurance on properties in the beach areas of the State. The Committee believes that giving the Insurance Commissioner more authority over the Beach and FAIR Plans and their rates, and removing the exclusion of manufacturing risks from the Beach Plan would work toward solving those problems.

APPENDIX A

CHAPTER 754
SENATE BILL 917

AN ACT TO AUTHORIZE STUDIES BY THE LEGISLATIVE RESEARCH COMMISSION. TO CREATE AND CONTINUE VARIOUS COMMITTEES AND COMMISSIONS. TO MAKE APPROPRIATIONS THEREFOR. TO DIRECT VARIOUS STATE AGENCIES TO STUDY SPECIFIED ISSUES. AND TO MAKE OTHER AMENDMENTS TO THE LAW.

PART I.-----TITLE

Section 1. This act shall be known as "The Studies Act of 1991."

.....

PART II.-----LEGISLATIVE RESEARCH COMMISSION

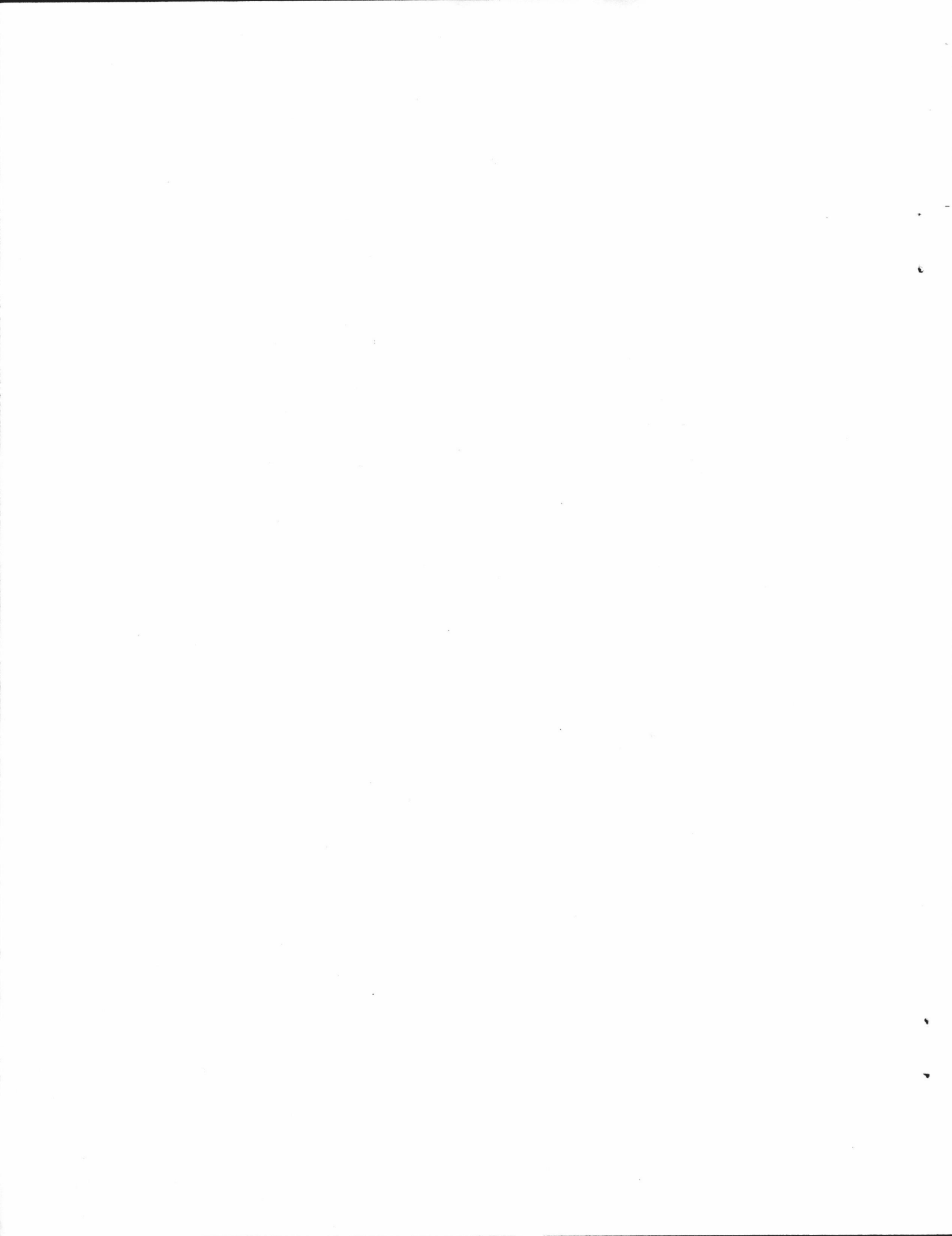
....

Sec. 2.3. Beach and FAIR Plans Study (Basnight, Block). The Legislative Research Commission may study the North Carolina Insurance Underwriting Association and its operation of the Beach Plan, which was authorized by Article 45 of Chapter 58 of the General Statutes to provide an adequate market for essential property insurance in the beach area of North Carolina; and the underwriting association of the FAIR Plan and its operation of the FAIR Plan, which was authorized by Article 46 of Chapter 58 of the General Statutes to facilitate the issuance of basic property insurance to encourage the improvement of properties considered to be high risk. The study, if undertaken, may include the following:

- (1) The operating procedures and operating plans of the Beach Plan and the FAIR Plan;
 - (2) How the Beach Plan and the FAIR Plan effect coverage;
 - (3) The types of coverage offered, including coverage for wind and hail damage, by the Beach Plan and the FAIR Plan, and coverage availability and cost; and
 - (4) Whether the operations of the Beach Plan and the FAIR Plan are fulfilling the purposes of the plans, as stated in their statutory authorizations.
-

PART XXI.-----EFFECTIVE DATE

Sec. 21.1. This act is effective upon ratification.
In the General Assembly read three times and ratified this the 16th day of July, 1991.



APPENDIX B

**BEACH AND FAIR PLANS
MEMBERSHIP - 1991-1992**

LRC Member: Senator Frank W. Ballance, Jr.
P.O. Box 616
Warrenton, NC 27589
(919) 257-1012

Members:

President Pro Tempore's Appointments

Sen. Franklin H. Block, Cochair
520 Princess Street
Wilmington, NC 28401
(919) 763-3463

Sen. Marc Basnight
P.O. Box 1025
Manteo, NC 27954
(919) 473-3474

Ms. Mollie Fearing
411 Agona Street
Manteo, NC 27954

Sen. Ralph A. Hunt
1005 Crete Street
Durham, NC 27707
(919) 682-5259

Sen. Joseph E. Johnson
P.O. Box 31507
Raleigh, NC 27622
(919) 787-5200

Sen. B. Tommy Pollard
1014 Richlands Highway
Jacksonville, NC 28540
(919) 455-3180

Mr. Louie E. Woodbury, Jr.
721 Forest Hills Drive
Wilmington, NC 28403

Staff:

Mr. Linwood Jones
Ms. Lynn Marshbanks
(919) 733-2578

Speaker's Appointments

Rep. John C. Hasty, Cochair
P.O. Box 945
Maxton, NC 28364
(919) 844-5965

Rep. R. Donald Beard
2918 Skye Drive
Fayetteville, NC 28303
(919) 484-9935

Rep. C. Robert Brawley
P.O. Box 1322
Mooresville, NC 28115
(704) 664-1502

Rep. Harold J. Brubaker
138 Scarboro Street
Asheboro, NC 27203
(919) 629-5128

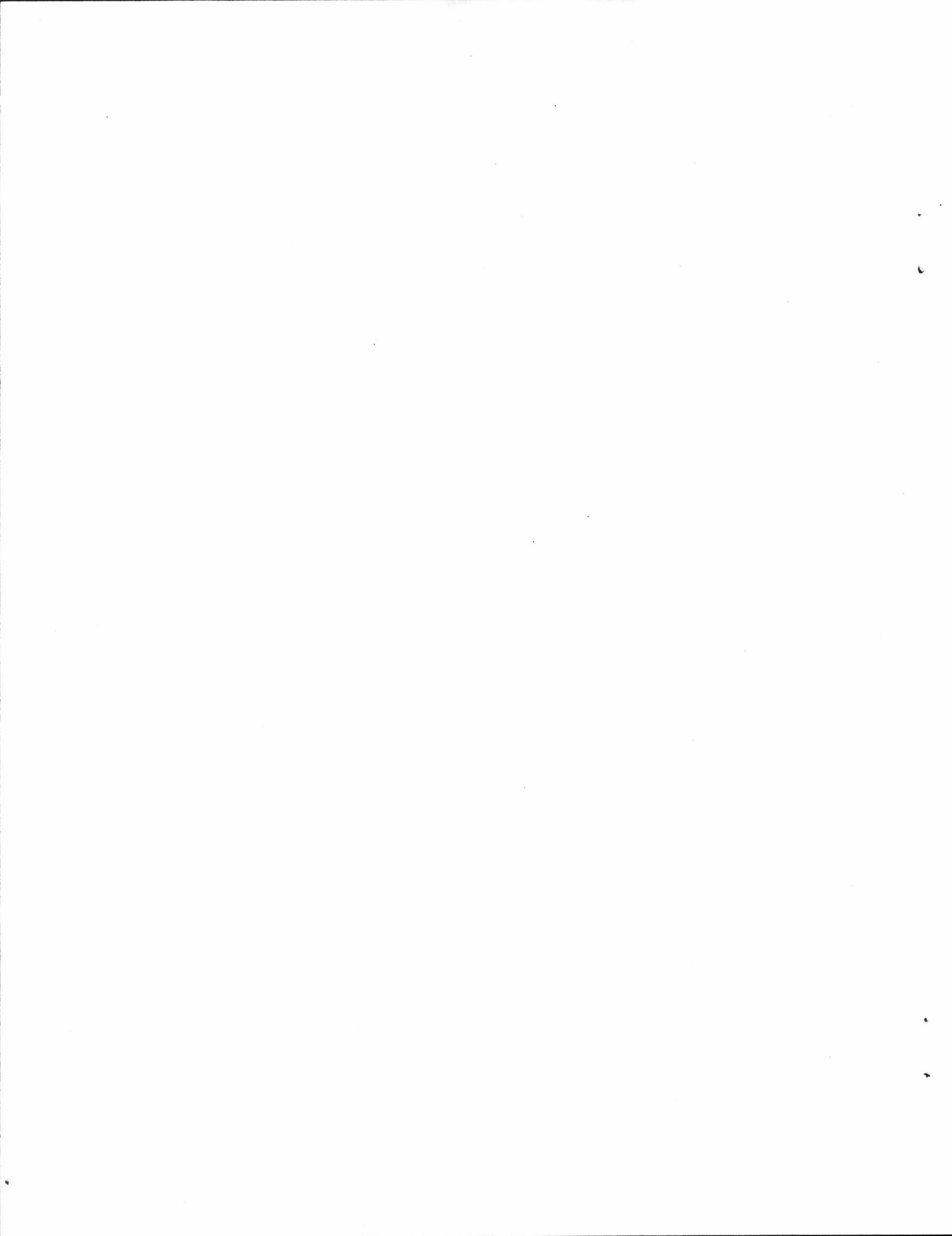
Rep. Ronald L. Smith
P.O. Box 3091
Atlantic Beach, NC 28512
(919) 726-7933

Rep. E. Alexander Warner
3610 Frierson Street
Hope Mills, NC 28348
(919) 424-0030

Rep. William H. Withrow
Route 1, Box 102
Ellenboro, NC 28040
(704) 453-7712

Clerk:

Carol Resar
(919) 733-7223 (O)
(919) 876-1664 (H)



APPENDIX C

§ 58-44-55 ART 45. INSURANCE FOR BEACH PROPERTY §56-45-1

§ 58-44-55. Farmowners' and other property policies; ice, snow, or sleet damage.

Under any policy of farmowners' or other property insurance that insures against all direct loss by fire, lightning, or other perils that may be delivered or issued for delivery in this State with respect to any farm dwellings, appurtenant private structures, barns, or other farm buildings or farm structures located in this State, coverage shall be available for inclusion therein or supplemental thereto to include direct loss caused by weight of ice, snow, or sleet that results in physical damage to such buildings or structures, and shall be offered to all insureds requesting these policies. (1981, c. 550, s. 1.)

Editor's Note. — Session Laws 1981, c. 550, s. 2, provided that the act would apply to all new and renewal policies of insurance specified in section 1 of the act that were delivered or issued for delivery on or after October 1, 1981.

Legal Periodicals. — For survey of 1981 administrative law, see 60 N.C.L. Rev. 1165 (1982).

ARTICLE 45.

Essential Property Insurance for Beach Area Property.

§ 58-45-1. Declarations and purpose of Article.

It is hereby declared by the General Assembly of North Carolina that an adequate market for essential property insurance is necessary to the economic welfare of the beach area of the State of North Carolina and that without such insurance the orderly growth and development of the beach area of the State of North Carolina would be severely impeded; that furthermore, adequate insurance upon property in the beach area is necessary to enable homeowners and commercial owners to obtain financing for the purchase and improvement of their property; and that while the need for such insurance is increasing, the market for such insurance is not adequate and is likely to become less adequate in the future; and that the present plans to provide adequate insurance on property in the beach area, while deserving praise, have not been sufficient to meet the needs of this area. It is further declared that the State has an obligation to provide an equitable method whereby every licensed insurer writing essential property insurance in North Carolina is required to meet its public responsibility instead of shifting the burden to a few willing and public-spirited insurers. It is the purpose of this Article to accept this obligation and to provide a mandatory program to assure an adequate market for essential property insurance in the beach area of North Carolina. (1967, c. 1111, s. 1; 1969, c. 249; 1979, c. 601, s. 1.)

§ 58-45-5. Definition of terms.

In this Article, unless the context otherwise requires,

- (1) "Association" means the North Carolina Insurance Writing Association established pursuant to the provisions of this Article;
- (2) "Beach area" means all of that area of the State of North Carolina south and east of the inland waterway from the South Carolina line to Fort Macon (Beaufort Inlet); the area south and east of Core, Pamlico, Roanoke and Currituck sounds to the Virginia line, being those portions of land generally known as the Outer Banks;
- (3) Repealed by Session Laws 1991, c. 720, s. 6, effective July 16, 1991.
- (3a) "Crime insurance" means insurance against losses resulting from robbery, burglary, larceny, and similar crimes, more specifically defined and limited in the various crime insurance policies, or their successor forms of coverage approved by the Commissioner and issued by the Association. Such policies shall not be more restrictive than those issued under the Federal Crime Insurance Program authorized by Public Law 91-609.
- (4) "Essential property insurance" means insurance against direct loss to property as defined in the standard statutory fire policy and extended coverage, vandalism and malicious mischief endorsements thereon, or their successor forms of coverage, as approved by the Commissioner.
- (5) "Insurable property" means real property at fixed location in beach areas of the State as that term is herein defined or the tangible personal property located thereon but shall not include insurance on motor vehicles, farm and manufacturing risks, which property is determined by the Association, after inspection and pursuant to the criteria specified in the plan of operation, to be in an insurable condition: Provided, however, any one and two family dwellings built in substantial accordance with the Federal Manufactured Home Construction and Safety Standards, any predecessor or successor federal or State construction or safety standards, and any further construction or safety standards promulgated by the association and approved by the Commissioner, or the North Carolina Uniform Residential Building Code and any structure or building built in substantial compliance with the North Carolina Building Code, including the design-wind requirements, which is not otherwise rendered uninsurable by reason of use or occupancy, shall be an insurable risk within the meaning of this Article, but neighborhood, area, location, environmental hazards beyond the control of the applicant or owner of the property shall not be considered in determining insurable condition. Provided further, that any structure commenced on or after January 1, 1970, not built in substantial compliance with the Federal Manufactured Home Construction and Safety Standards, any predecessor or successor federal or State construction or safety standards, and any further construction or safety standards promulgated by the association and approved by the Commissioner,

- (6) "Net direct premium" means the net direct premium including reinsurance in this State for the fire and extended coverage risks, computed by the Commissioner upon cancelled contracts, deposits, and manufacturing risks and manufacturing risks, which property is determined by the Association, after inspection and pursuant to the criteria specified in the plan of operation, to be in an insurable condition: Pursuant to the provisions of Public Law 91-609, 1969, c. 249; 1977, c. 287; 1986, c. 287; 1988, c. 975, ss.
- (7) "Plan of operation" means a plan of operation approved by the Commissioner pursuant to the provisions of Public Law 91-609, 1969, c. 249; 1977, c. 287; 1986, c. 287; 1988, c. 975, ss.

Effect of Amendments. — This amendment, effective July 16, 1991, substituted "Commissioner" for

§ 58-45-10. North Carolina Insurance Writing Association

There is hereby created the North Carolina Insurance Writing Association, consisting of all persons who are licensed to engage in writing with respect to property insurance, except marine and assessable marine risks, and who are licensed to write insurance in this State by the provisions of this Article. The Commissioner shall be a member of the Association as a condition of its authority.

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

- (6) "Net direct premiums" means gross direct premiums (excluding reinsurance assumed and ceded) written on property in this State for essential property insurance, including the fire and extended coverage components of homeowners and commercial multiple peril package policies as computed by the Commissioner, less return premiums upon cancelled contracts, dividends paid or credited to policyholders or the unused or unabsorbed portion of premium deposits, and further excluding premiums on farm properties and manufacturing risks;
- (7) "Plan of operation" means the plan of operation of the Association approved or promulgated by the Commissioner, pursuant to the provisions of this Article. (1967, c. 1111, s. 1; 1969, c. 249; 1979, c. 601, ss. 2, 3; 1985, c. 516, s. 1; 1985 (Reg. Sess., 1986), c. 1027, ss. 21, 25; 1987 (Reg. Sess., 1988), c. 975, ss. 18, 19; 1991, c. 720, ss. 4, 6.)

Effect of Amendments. — The 1991 amendment, effective July 16, 1991, substituted "Commissioner" for "Commissioner of Insurance" in subsection (7); and repealed former subdivision (3), which defined "Commissioner."

§ 58-45-10. North Carolina Insurance Underwriting Association created.

There is hereby created the North Carolina Insurance Underwriting Association, consisting of all insurers authorized to write and engage in writing within this State, on a direct basis, essential property insurance, except town and county mutual insurance associations and assessable mutual companies as authorized by G.S. 58-7-75(5)b, 58-7-75(5)d, and 58-7-75(7)b and except an insurer who only writes insurance in this State on property exempted from taxation by the provisions of G.S. 105-296 and 105-297. Every such insurer shall be a member of the Association and shall remain a member of the Association so long as the Association is in existence as a condition of its authority to continue to transact the business of

Chapter 58-45

insurance in this State. (1967, c. 1111, s. 1; 1969, c. 249; 1971, c. 1067, s. 2; 1987 (Reg. Sess., 1988), c. 975, s. 20.)

Effect of Amendments. — The 1991 amendment, effective July 16, 1991, c.

§ 58-45-15. Powers and duties of Association.

The Association shall, pursuant to the provisions of this Article and the plan of operation, and with respect to essential property insurance on insurable property, have the power on behalf of its members:

- (1) To cause to be issued policies of insurance to applicants;
- (2) To assume reinsurance from its members;
- (3) To cede reinsurance to its members and to purchase reinsurance in behalf of its members. (1967, c. 1111, s. 1; 1969, c. 249.)

§ 58-45-20. Temporary 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. (1967, c. 1111, s. 1; 1969, c. 249.)

§ 58-45-25. Each member of Association to participate in its writings, expenses, profits and losses in proportion to net direct premium of such member.

All members of the Association shall participate in its writings, expenses, profits and losses in the proportion that the net direct premium of such member written in this State during the preceding calendar year bears to the aggregate net direct premiums written in this State by all members of the Association, as certified to the Association by the Commissioner after review of annual statements, other reports and any other statistics the Commissioner shall deem necessary to provide the information herein required and which the Commissioner is hereby authorized and empowered to obtain from any member of the Association, provided, however, that a member shall annually receive credit for essential property insurance voluntarily written in the beach area and its participation in the writings in the Association shall be reduced accordingly. Each member's participation in the Association shall be determined annually in the same manner as the initial determination. Any insurer authorized to write and engage in writing any insurance, the writing of which requires such insurer to be a member of the Association, pursuant to the provisions of G.S. 58-45-10, who is authorized and engaged in writing such insurance after April 17, 1969, shall become a member of the Association on the January 1 immediately following such authorization and the determination of such insurer's participation in the Association shall be made as of the date of such membership in the same manner as for all other members of the Association. (1967, c. 1111, s. 1; 1969, c. 249; 1991, c. 720, s. 58.)

§ 58-45-30. Directors to Commission amendment

Within 90 days after April 17, the Commissioner shall submit to the Commission a proposed plan of operation. Such plan shall include the number, qualifications, terms and conditions of membership of the members of the board of directors, and shall be submitted annually to each member of the board of directors for insurance voluntarily written in the beach area for the efficient, economical and profitable operation of essential property insurance in the beach areas and to provide means for the improvement of the property in the beach areas. Such plan shall include a preliminary assessment of the expenses necessary to the commission for the assessment of membership, underwriting standards; procedures for reinsurance; procedures to be provided to specify processing applications for reinsurance. Such plan may be deemed necessary for the purposes of this Article.

The proposed plan shall be approved by him if he finds it to be in the best interest provided by G.S. 58-45-1. If the Commissioner may, in his discretion, the Association and may, if he deems necessary to his decision, propose a plan, he shall certify that the plan shall become effective if the Commissioner disapproves the plan of operation he shall return to the Association a statement for the reasons he may wish to make in accordance with the Commission within 30 days from the date of the Commissioner's disapproval. Should the plan of operation within 90 days which is acceptable to the Commissioner, the Commissioner shall certify the plan, the Commissioner shall certify the plan of operation certifying that the plan shall become effective 10 days after certification that until a plan of operation is submitted, any existing plan of this Article, any existing

§58-45-25

c. 249; 1971, c.

Effect of Amendments. — The 1991 amendment, effective July 16, 1991, deleted 'of this Article' following "G.S. 58-45-10."

ciation.

of this Article
essential property
on behalf of its

to applicants,

purchase rein-
111, s. 1; 1969,

ociation.

ssioner shall ap-
on, which shall
ociation. Such
omit a plan of
serve until the
ccordance with
c. 249.)

1 to partici-
ses, profits
net direct

n its writings,
the net direct
the preceding
niums written
certified to the
annual state-
Commissioner
erein required
nd empowered
ided, however,
ntial property
its participa-
d accordingly.
be determined
ination. Any
ny insurance,
number of the
45-10, who is
fter April 17,
the January 1
termination of
be made as of
s for all other
c. 249; 1991,

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

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

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

continued in effect on a mandatory basis on such terms as the Commissioner may determine.

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

The Commissioner may designate the kinds of property insurance policies on principal residences to be offered by the association, including insurance policies under Article 36 of this Chapter and the commission rates to be paid to agents or brokers for such policies, if he finds, after a hearing held in accordance with G.S. 58-2-50, that the public interest requires the designation. The provisions of Chapter 150B do not apply to any procedure under this paragraph, except that G.S. 150B-39 and G.S. 150B-41 shall apply to a hearing under this paragraph. Within 30 days after the receipt of notification from the Commissioner of a change in designation pursuant to this paragraph, the association shall submit a revised plan and articles of association for approval in accordance with this section. (1967, c. 1111, s. 1; 1969, c. 249; 1986, Ex. Sess., c. 7, § 1; 1987, c. 731, s. 1; c. 864, s. 41; 1991, c. 720, s. 59.)

Effect of Amendments. — The 1991 amendment, effective July 16, 1991, deleted "of this Article" following "G.S.

58-45-1" near the beginning of the second paragraph.

§ 58-45-35. Persons eligible to apply to Association for coverage; contents of application.

(a) Any person having an insurable interest in insurable property, may, on or after the effective date of the plan of operation, be entitled to apply to the Association for such coverage and for an inspection of the property. Such application may be made on behalf of the applicant by a broker or agent authorized by him. Each application shall contain a statement as to whether or not there are any unpaid premiums due from the applicant for essential property insurance on the property.

The term "insurable interest" as used in this subsection shall be deemed to include any lawful and substantial economic interest in the safety or preservation of property from loss, destruction or pecuniary damage.

(b) If the Association determines that the property is insurable and that there is no unpaid premium due from the applicant for prior insurance on the property, the Association upon receipt of the premium, or such portion thereof, as is prescribed in the plan of operation, shall cause to be issued a policy of essential property insurance and shall offer additional extended coverage, optional perils endorsements, crime insurance, separate policies of windstorm and hail insurance, or their successor forms of coverage, for a term of one year. Any policy issued pursuant to the provisions of this section shall be renewed annually, upon application therefor, so long as the property meets the definition of "insurable property" set forth in G.S. 58-45-5(5).

If the Association, for any reason, declines to cause to be issued an insurance policy to any applicant or takes no action within the time prescribed in the plan of operation, the applicant may appeal to the Commissioner and the Commissioner may designate by him, after consultation with the staff of the Association to issue or cause to be issued a policy of insurance to the applicant. In carrying out his duties under this section the Commissioner may request and receive any information the Commissioner deems necessary concerning the reason for the failure of the Association to issue or cause to be issued a policy of insurance to the applicant.

(d) An agent who is licensed under Article 45 of this Chapter and is an agent of a company which is a member of the Association established under this Article shall not be eligible to act as an agent for the Association.

(e) Policies of windstorm and hail insurance provided under section (b) of this section are a part of essential property insurance has. Whenever such other essential property insurance includes replacement cost coverage, the insurer shall also offer replacement cost coverage. A policy of windstorm and hail insurance issued by the Association, along with a policy of windstorm and hail insurance, a policy of windstorm and hail insurance, a policy of windstorm and hail insurance is in force. Notwithstanding to the Association, along with rating plans, and rating rules shall be filed by the Association for approval. The policy forms for v to be filed by the Association with before they may be used. (1967, c. 1111, s. 2; 1985 (Reg. Sess.), 1986, c. 516, s. 2; 1986 (Reg. Sess.), 1987, c. 629, s. 11; c. 864, s. 24; 1987, c. 864, s. 11; c. 864, s. 24; 1987, c. 629, s. 11; c. 864, s. 24; 1987, c. 629, s. 11; c. 864, s. 24; 1989, c. 376; c. 485, s. 26; 1991, c. 720, s. 59.)

(e) Policies of windstorm and hail insurance provided under section (b) of this section are a part of essential property insurance has. Whenever such other essential property insurance includes replacement cost coverage, the insurer shall also offer replacement cost coverage. A policy of windstorm and hail insurance issued by the Association, along with a policy of windstorm and hail insurance, a policy of windstorm and hail insurance, a policy of windstorm and hail insurance is in force. Notwithstanding to the Association, along with rating plans, and rating rules shall be filed by the Association for approval. The policy forms for v to be filed by the Association with before they may be used. (1967, c. 1111, s. 2; 1985 (Reg. Sess.), 1986, c. 516, s. 2; 1986 (Reg. Sess.), 1987, c. 629, s. 11; c. 864, s. 24; 1987, c. 864, s. 11; c. 864, s. 24; 1987, c. 629, s. 11; c. 864, s. 24; 1989, c. 376; c. 485, s. 26; 1991, c. 720, s. 59.)

(e) Policies of windstorm and hail insurance provided under section (b) of this section are a part of essential property insurance has. Whenever such other essential property insurance includes replacement cost coverage, the insurer shall also offer replacement cost coverage. A policy of windstorm and hail insurance issued by the Association, along with a policy of windstorm and hail insurance, a policy of windstorm and hail insurance, a policy of windstorm and hail insurance is in force. Notwithstanding to the Association, along with rating plans, and rating rules shall be filed by the Association for approval. The policy forms for v to be filed by the Association with before they may be used. (1967, c. 1111, s. 2; 1985 (Reg. Sess.), 1986, c. 516, s. 2; 1986 (Reg. Sess.), 1987, c. 629, s. 11; c. 864, s. 24; 1987, c. 864, s. 11; c. 864, s. 24; 1987, c. 629, s. 11; c. 864, s. 24; 1989, c. 376; c. 485, s. 26; 1991, c. 720, s. 59.)

Effect of Amendments. — The 1991 amendment, effective July 16, 1991, deleted "of this Article" following "G.S.

§ 58-45-40. Association insurance to Association.

Any member of the Association who is licensed under Article 45 of this Chapter and is an agent of a company which is a member of the Association established under this Article shall not be eligible to act as an agent for the Association.

§ 58-45-45. Rates, rating plans, and rating rules.

The rates, rating plans, rating rules, and rating forms for windstorm and hail insurance written by the Association shall be the most recent manual rates for the State. No special surcharge, except as provided in this section, may be applied to the p

§ 58-45-40. If the Association, for any reason, denies an application and refuses to cause to be issued an insurance policy on insurable property to any applicant or takes no action on an application within the time prescribed in the plan of operation, such applicant may appeal to the Commissioner and the Commissioner, or a member of his staff designated by him, after reviewing the facts, may direct the Association to issue or cause to be issued an insurance policy to the applicant. In carrying out his duties pursuant to this section, the Commissioner may request, and the Association shall provide any information the Commissioner deems necessary to a determination concerning the reason for the denial or delay of the application.

(d) An agent who is licensed under Article 33 of this Chapter as an agent of a company which is a member of the Association established under this Article shall not be deemed an agent of the Association.

(e) Policies of windstorm and hail insurance provided for in subsection (b) of this section are available only for risks for which essential property insurance has been written by licensed insurers. Whenever such other essential property insurance written by licensed insurers includes replacement cost coverage, the Association shall also offer replacement cost coverage. In order to be eligible for a policy of windstorm and hail insurance, the applicant shall provide the Association, along with the premium payment for the windstorm and hail insurance, a certificate that the essential property insurance is in force. Notwithstanding G.S. 58-45-45, the rates, rating plans, and rating rules for windstorm and hail insurance shall be filed by the Association with the Commissioner for his approval. The policy forms for windstorm and hail insurance shall be filed by the Association with the Commissioner for his approval before they may be used. (1967, c. 1111, s. 1; 1969, c. 249; 1985, c. 516, s. 2; 1985 (Reg. Sess., 1986), c. 1027, s. 22; 1987, c. 421, ss. 1, 2; c. 629, s. 11; c. 864, s. 24; 1987 (Reg. Sess., 1988), c. 975, ss. 21-23; 1989, c. 376; c. 485, s. 26; 1991, c. 720, s. 25.)

Effect of Amendments. — The 1991 substituted "Article 33" for "Article 45" amendment, effective July 16, 1991, in subsection (d).

§ 58-45-40. Association members may cede insurance to Association.

Any member of the Association may cede to the Association essential property insurance written on insurable property, to the extent, if any, and on the terms and conditions set forth in the plan of operation. (1967, c. 1111, s. 1; 1969, c. 249.)

§ 58-45-45. Rates, rating plans, rating rules, and forms applicable.

The rates, rating plans, rating rules, and forms applicable to the insurance written by the Association shall be in accordance with the most recent manual rates and forms that are legally in effect in the State. No special surcharge, other than those presently in effect, may be applied to the property insurance rates of properties

located in the beach area. (1967, c. 1111, s. 1; 1969, c. 249; 1979, c. 601, s. 4; 1987 (Reg. Sess., 1988), c. 975, s. 24.)

§ 58-45-50. Appeal from acts of Association to Commissioner; appeal from Commissioner to superior court.

Any person or any insurer who may be aggrieved by an act, ruling or decision of the Association other than an act, ruling or decision relating to the cause or amount of a claimed loss, may, within 30 days after such ruling appeal to the Commissioner. Any hearings held by the Commissioner pursuant to such an appeal shall be in accordance with the procedure set forth in G.S. 58-2-50: Provided, however, the Commissioner is authorized to appoint a member of his staff as deputy commissioner for the purpose of hearing such appeals and a ruling based upon such hearing shall have the same effect as if heard by the Commissioner. All persons or insureds aggrieved by any order or decision of the Commissioner may appeal as is provided by the provisions of G.S. 58-2-75.

No later than 20 days before each hearing, the appellant shall file with the Commissioner or his designated hearing officer and shall serve on the appellee a written statement of his case and any evidence he intends to offer at the hearing. No later than five days before such hearing, the appellee shall file with the Commissioner or his designated hearing officer and shall serve on the appellant a written statement of his case and any evidence he intends to offer at the hearing. Each such hearing shall be recorded and transcribed. The cost of such recording and transcribing shall be borne equally by the appellant and appellee; provided that upon any final adjudication the prevailing party shall be reimbursed for his share of such costs by the other party. Each party shall, on a date determined by the Commissioner or his designated hearing officer, but not sooner than 15 days after delivery of the completed transcript to the party, submit to the Commissioner or his designated hearing officer and serve on the other party, a proposed order. The Commissioner or his designated hearing officer shall then issue an order. (1967, c. 1111, s. 1; 1969, c. 249; 1985, c. 516, s. 3; 1989 (Reg. Sess., 1990), c. 1069, s. 18; 1991, c. 720, s. 4.)

Editor's Note. — For the purpose of Session Laws 1989 (Reg. Sess., 1990), c. 1069, which amended this section, see s. 1 thereof, as quoted in the Editor's note under § 58-2-25.

Effect of Amendments. — The 1989 (Reg. Sess., 1990) amendment, effective

July 28, 1990, added the second paragraph of this section.

The 1991 amendment, effective July 16, 1991, substituted "Commissioner" for "Commissioner of Insurance" three times in the first paragraph.

§ 58-45-55. Reports of inspection made available.

All reports of inspection performed by or on behalf of the Association shall be made available to the members of the Association, applicants, agent or broker, and the Commissioner. (1967, c. 1111, s. 1; 1969, c. 249.)

§ 58-45-60. Association from liability

There shall be no liability of any nature shall arise against the Association or its agents or participating insurer, for any inspections made in good faith by the Association concerning risks submitted to the Association for administrative hearings conducted pursuant to the provisions of this Article. (1967, c. 1111, s. 4.)

Effect of Amendments. — The 1991 amendment, effective July 16, 1991,

§ 58-45-65. Association Commissioner

The Association shall file in annual basis on or before January 31st, a summary of the transactions, condense the Association during the preceding year and inform the Commissioner and shall be in such a position to assist him at any time to him any additional information or any other matter which the Commissioner may require to assist him in evaluating the Association. (1967, c. 1111, s. 27; 1988), c. 975, s. 27.)

§ 58-45-70. Commissioner Association

The Commissioner may from time to time become involved into the affairs of the Association and in undertaking such examination pursuant to the provisions of this Article shall be borne by the Association. (1967, c. 1111, s. 1; 1969, c. 249.)

§ 58-45-75. Commissioner gate reason

The Commissioner shall have and regulations, not inconsistent with the provisions of this Article shall not be liable for any act or omission in the administration of the duties in this Article. (1967, c. 1111, s. 1; 1969, c. 249.)

§58-45-55

9; 1979, c.

§ 58-45-60. Association and Commissioner immune from liability.

There shall be no liability on the part of and no cause of action of any nature shall arise against the Commissioner or any of his staff, the Association or its agents or employees, or against any participating insurer, for any inspections made hereunder or any statements made in good faith by them in any reports or communications concerning risks submitted to the Association, or at any administrative hearings conducted in connection therewith under the provisions of this Article. (1967, c. 1111, s. 1; 1969, c. 249; 1991, c. 720, s. 4.)

Effect of Amendments. — The 1991 substituted "Commissioner" for "Commissioner of Insurance." amendment, effective July 16, 1991.

tion to
ommiss-

y an act,
ruling or
oss, may,
ner. Any
in appeal
58-2-50:
appoint a
e of hear-
hall have
ersons or
nmissioner
-2-75.

§ 58-45-65. Association to file annual report with Commissioner.

The Association shall file in the office of the Commissioner on an annual basis on or before January 1 a statement which shall summarize the transactions, conditions, operations and affairs of the Association during the preceding year. Such statement shall contain such matters and information as are prescribed by the Commissioner and shall be in such form as is approved by him. The Commissioner may at any time require the Association to furnish to him any additional information with respect to its transactions or any other matter which the Commissioner deems to be material to assist him in evaluating the operation and experience of the Association. (1967, c. 1111, s. 1; 1969, c. 249; 1987 (Reg. Sess., 1988), c. 975, s. 27.)

shall file
and shall
any evi-
five days
missioner
pellant a
s to offer
nd tran-
be borne
any final
his share
te deter-
icer, but
script to
hearing
Commis-
in order.
eg. Sess.,

§ 58-45-70. Commissioner may examine affairs of Association.

The Commissioner may from time to time make an examination into the affairs of the Association when he deems it to be prudent and in undertaking such examination he may hold a public hearing pursuant to the provisions of G.S. 58-2-50. The expenses of such examination shall be borne and paid by the Association. (1967, c. 1111, s. 1; 1969, c. 249.)

cond para-
ctive July
missioner
nce" three

§ 58-45-75. Commissioner authorized to promulgate reasonable rules and regulations.

The Commissioner shall have authority to make reasonable rules and regulations, not inconsistent with law, to enforce, carry out and make effective the provisions of this Article. The Commissioner shall not be liable for any act or omission in connection with the administration of the duties imposed upon him by the provisions of this Article. (1967, c. 1111, s. 1; 1969, c. 249; 1991, c. 720, s. 4.)

ilable.
Associa-
tion,
c. 1111,

Effect of Amendments. — The 1991 amendment, effective July 16, 1991, substituted "Commissioner" for "Commissioner of Insurance."

§ 58-45-80. Premium taxes to be paid through Association to Commissioner.

All premium taxes due on insurance written under this Article shall be remitted by each insurer to the Association; and the Association, as collecting agent for its member companies, shall forward all such taxes to the Commissioner as provided in Article 8B of Chapter 105 of the General Statutes. (1985 (Reg. Sess., 1986), c. 928, s. 10.)

ARTICLE 46.

Fair Access to Insurance Requirements.

§ 58-46-1. Purpose and geographic coverage of Article.

(a) It is the purpose of this Article to provide a program whereby adequate basic property insurance may be made available to property owners having insurable property in the State. It is further the purpose of this Article to encourage the improvement of properties located in the State and to arrest the decline of properties located in the State.

(b) This Article shall apply to all geographic areas of the State except the "Beach Area" defined in G.S. 58-45-5(2).

(c) As used in this Article, "crime insurance" means insurance against losses resulting from robbery, burglary, larceny, and similar crimes, as more specifically defined and limited in the various crime insurance policies, or their successor forms of coverage, approved by the Commissioner and issued by the Association. Such policies shall not be more restrictive than those issued under the Federal Crime Insurance Program authorized by Public Law 91-609. (1969, c. 1284; 1985, c. 519, s. 1; 1986, Ex. Sess., c. 7, s. 4; 1985 (Reg. Sess., 1986), c. 1027, s. 24; 1987, c. 731, s. 1; 1987 (Reg. Sess., 1988), c. 975, s. 18.)

§ 58-46-5. Organization of underwriting association.

All insurers licensed to write and writing property insurance in this State on a direct basis are authorized, subject to the approval and regulation by the Commissioner, to establish and maintain a FAIR Plan (Fair Access to Insurance Requirements) and to establish and maintain an underwriting association and to formulate, and from time to time, to amend the plans and articles of the association and rules and regulations in connection therewith, and to assess and share on a fair and equitable basis all expenses, income and losses incident to such FAIR Plan and underwriting association in a manner consistent with the provisions of this Article. (1969, c. 1284; 1985, c. 519, s. 2.)

§ 58-46-10. Participator

(a) Every insurer authorized in this State except town and county and assessable mutual companies 58-7-75(5)b, 58-7-75(5)d and 58-7-75(5)e only writes insurance on property in this State in accordance with the provisions of G.S. 105-278.1 through 105-278.4 and shall become and remain a member of the Association and comply with the requirements of this Article and the authority to transact basic property insurance in this State of North Carolina.

(b) An agent who is licensed in this State as an agent of a company which is licensed under this Article shall not be a participator. (1969, c. 1284; 1971, c. 1284; 1972, c. 629, s. 12; 1991, c. 720, s. 24.)

Editor's Note. — The provisions as to property exempt from taxation formerly contained in §§ 105-296 and 105-297 referred to in this section, now appear in §§ 105-278.1 et seq.

OPINIONS OF A

The credit referred to in this section is to be accumulated by the Federal Insurance Development Fund and is available to pay reinsured riot-caused losses. It is not a credit which accrues to the benefit of the individual participators.

§ 58-46-15. Requirement of Association.

The Association formed pursuant to this Article shall have authority on behalf of the State to issue and administer basic property insurance policies; and shall offer additional extensions of coverage, and crime insurance of coverage; to reinsure in whole or in part any such reinsurance. The provisions of this Article, shall provide for the perils to be covered, compensation of members, the sharing of expenses on a fair basis, cumulative weighted average of the Association, the administration of any other matter necessary or convenient to insure fair access to insurance requirements may, subject to the approval of the Commissioner, be included in the plan of operation at any time, but not less than once in each year. The Commissioner may, in consultation with the directors and upon ce

§ 58-46-10. Participation in association.

(a) Every insurer authorized to write basic property insurance in this State except town and county mutual insurance associations and assessable mutual companies as authorized by G.S. 58-7-75(5)b, 58-7-75(5)d and 58-7-75(7)b and except an insurer who only writes insurance on property exempted from taxation by the provisions of G.S. 105-278.1 through 105-278.8 shall be required to become and remain a member of the Plan and underwriting association and comply with the requirements thereof as a condition of its authority to transact basic property insurance business in the State of North Carolina.

(b) An agent who is licensed under Article 33 of this Chapter as an agent of a company which is a member of the Association established under this Article shall not be deemed an agent of the Association. (1969, c. 1284; 1971, c. 1067, s. 1; 1985, c. 519, s. 3; 1987, c. 629, s. 12; 1991, c. 720, s. 24.)

Editor's Note. — The provisions as to property exempt from taxation formerly contained in §§ 105-296 and 105-297, referred to in this section, now appear in §§ 105-278.1 et seq.

Effect of Amendments. — The 1991 amendment, effective July 16, 1991, substituted "105-278.1 through 105-278.8" for "105-296 and 105-297" in subsection (a).

OPINIONS OF ATTORNEY GENERAL

The credit referred to in this section is to be accumulated by the Federal Insurance Development Fund and is available to pay reinsured riot-caused losses. It is not a credit which accrues to the benefit of the individual participat-

ing insurers in the State, but it does reduce the possibility of a call upon the State. See opinion of the Attorney General to the Honorable Edwin S. Lanier, Commissioner of Insurance, 40 N.C.A.G. 333 (1969).

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

The Association formed pursuant to the provisions of this Article shall have authority on behalf of its members to cause to be issued basic property insurance policies, including coverage for farm risks; and shall offer additional extended coverage, optional perils endorsements, and crime insurance policies, or their successor forms of coverage; to reinsure in whole or in part, any such policies; and to cede any such reinsurance. The Plan adopted, pursuant to the provision of this Article, shall provide, among other things, for the perils to be covered, compensation and commissions, assessments of members, the sharing of expenses, income and losses on an equitable basis, cumulative weighted voting for the board of directors of the Association, the administration of the Plan and Association and any other matter necessary or convenient for the purpose of assuring fair access to insurance requirements. The directors of the Association may, subject to the approval of the Commissioner, amend the plan of operation at any time. The Commissioner may review the plan of operation at any time he deems to be expedient or prudent, but not less than once in each calendar year. After review of such plan the Commissioner may amend the plan after consultation with the directors and upon certification to the directors of such

amendment. (1969, c. 1284; 1985, c. 519, s. 4; 1986, Ex. Sess., c. 7, ss. 5, 6; 1985 (Reg. Sess., 1986), c. 1027, s. 23; 1987, c. 731, s. 1; c. 864, s. 24; 1987 (Reg. Sess., 1988), c. 975, ss. 25, 29.)

§ 58-46-20. Authority of Commissioner.

(a) Within 90 days following July 2, 1969, and before August 1, 1969, the directors of the association shall submit to the Commissioner for his review, a proposed FAIR Plan and articles of the association consistent with the provisions of this Article.

(b) The FAIR Plan and articles of association shall be subject to approval by the Commissioner and shall take effect 10 days after having been approved by him. If the Commissioner disapproves all or any part of the proposed Plan and articles, the directors of the association shall within 30 days submit for review an appropriately revised Plan and articles and if the directors fail to do so, the Commissioner shall thereafter promulgate such Plan and articles not inconsistent with the provisions of this Article.

(c) The Commissioner may designate the kinds of property insurance policies on principal residences to be offered by the association, including insurance policies under Article 36 of this Chapter, and the commission rates to be paid to agents or brokers for these policies, if he finds, after a hearing held in accordance with G.S. 58-2-50, that the public interest requires the designation. The provisions of Chapter 150B do not apply to any procedure under this subsection, except that G.S. 150B-39 and G.S. 150B-41 shall apply to a hearing under this subsection. Within 30 days after the receipt of notification from the Commissioner of a change in designation pursuant to this subsection, the association shall submit a revised plan and articles of association for approval in accordance with subsection (b) of this section. (1969, c. 1284; 1986, Ex. Sess., c. 7, s. 7; 1987, c. 731, s. 1; 1991, c. 720, s. 4.)

Effect of Amendments. — The 1991 amendment, effective July 16, 1991, substituted "Commissioner" for "Com-

§ 58-46-25. Temporary directors of association.

Within 10 days after July 2, 1969, the Commissioner shall appoint a temporary board of directors of the association, which temporary board of directors may prepare and submit a Plan of operation and articles of association in accordance with G.S. 58-46-20. (1969, c. 1284.)

§ 58-46-30. Appeals; judicial review.

The association shall provide reasonable means, to be approved by the Commissioner, whereby any person or insurer affected by any act or decision of the administrators of the Plan or underwriting association, other than an act or decision relating to the cause or amount of a claimed loss, may be heard in person or by an authorized representative, before the governing board of the association or a designated committee. Any person or insurer aggrieved by any decision of the governing board or designated committee, may be appealed to the Commissioner within 30 days from the date of such

ruling or decision. The Commissioner to the procedure set forth in G.S. 58-46-30, providing or disapproving the act or decision which is the subject of appeal. The Commissioner shall have the same effect as if heard by the Commissioner. All persons or insurers or their agents shall be bound by any order or decision of the Commissioner by the provisions of G.S. 58-2-75.

No later than 20 days before each hearing with the Commissioner or his designee on the appellee a written statement of his case and of his intended course of action before such hearing, the appellee or his designated hearing officer and a written statement of his case and of his intended course of action at the hearing. Each such hearing shall be recorded and the cost of such recording shall be borne equally by the appellant and appellee. In the event of an appeal, the prevailing party shall be awarded such costs by other party. Each appeal shall be heard by the Commissioner or his designee. The appellant shall file with the Commissioner or his designee, submit to the Commissioner or his designee, and serve on the other party, a printed copy of the hearing officer's ruling within 15 days after delivery of the ruling. (1969, c. 1284; 1985, c. 519, s. 5; 1989 (R.

Editor's Note. — For the purpose of Session Laws 1989 (Reg. Sess., 1990), c. 1069, which amended this section, see s. 1 thereof, as quoted in the Editor's note under § 58-2-25.

§ 58-46-35. Reports of inspection; immunity from

All reports of inspection performed by the Commissioner or his staff, or employees, or against any parties named in any reports or communications made hereunder or any statements made in any reports or communications to the association, or at any administrative hearing held hereunder, shall be confidential and shall not be disclosed in any connection therewith under the provisions of G.S. 58-46-35. (1969, c. 1284.)

4: 1986, Ex. Sess., c. 7, § 23; 1987, c. 731, s. 1; c. 25, 29.)

sioner.

and before August 1, submit to the Commissioner and articles of this Article. shall be subject to the effect 10 days after the Commissioner disapproves all the directors of the review an appropriately fail to do so, the Commission Plan and articles not

inds of property insurance offered by the association 36 of this Chapter, its or brokers for these accordance with G.S. designation. The procedure under this S. 150B-41 shall apply 1 days after the receipt change in designation shall submit a revised in accordance with 1986, Ex. Sess., c. 7, s.

Insurance" in subsection

of association.

Commissioner shall association, which tem- submit a Plan of opera- e with G.S. 58-46-20.

w.

means, to be approved r insurer affected by e Plan or underwrit- relating to the cause person or by an autho- rd of the association rer aggrieved by any d committee, may be from the date of such

ruling or decision. The Commissioner, after hearing held pursuant to the procedure set forth in G.S. 58-2-50, shall issue an order approving or disapproving the act or decision with respect to the matter which is the subject of appeal. The Commissioner is authorized to appoint a member of his staff as deputy commissioner for the purpose of hearing such appeals and a ruling based on such hearing shall have the same effect as if heard by the Commissioner personally. All persons or insurers or their representatives aggrieved by any order or decision of the Commissioner may appeal as provided by the provisions of G.S. 58-2-75.

No later than 20 days before each hearing, the appellant shall file with the Commissioner or his designated hearing officer and shall serve on the appellee a written statement of his case and any evidence he intends to offer at the hearing. No later than five days before such hearing, the appellee shall file with the Commissioner or his designated hearing officer and shall serve on the appellant a written statement of his case and any evidence he intends to offer at the hearing. Each such hearing shall be recorded and transcribed. The cost of such recording and transcribing shall be borne equally by the appellant and appellee; provided that upon any final adjudication the prevailing party shall be reimbursed for his share of such costs by other party. Each party shall, on a date determined by the Commissioner or his designated hearing officer, but not sooner than 15 days after delivery of the completed transcript to the party, submit to the Commissioner or his designated hearing officer and serve on the other party, a proposed order. The Commissioner or his designated hearing officer shall then issue an order. (1969, c. 1284; 1985, c. 519, s. 5; 1989 (Reg. Sess., 1990), c. 1069, s. 19.)

Editor's Note. — For the purpose of Session Laws 1989 (Reg. Sess., 1990), c. 1069, which amended this section, see s. 1 thereof, as quoted in the Editor's note under § 58-2-25.

Effect of Amendments. — The 1989 (Reg. Sess., 1990) amendment, effective July 26, 1990, added the second paragraph of this section.

§ 58-46-35. Reports of inspection made available; immunity from liability.

All reports of inspection performed by or on behalf of the association shall be made available to the members of the association, applicants and the Commissioner. There shall be no liability on the part of and no cause of action of any nature shall arise against the Commissioner, any of his staff, the association or any of its agents or employees, or against any participating insurer for any inspections made hereunder or any statements made in good faith by them in any reports or communications concerning risks submitted to the association, or at any administrative hearing conducted in connection therewith under the provisions of this Article. (1969, c. 1284.)

§ 58-46-40. Assessment; inability to pay.

In the event any insurer fails by reason of insolvency to pay any assessment as provided herein, the amount assessed each insurer shall be immediately recalculated excluding therefrom the insolvent insurer so that its assessment is, in effect, assumed and redistributed among the remaining insurers. Such an assessment against an insolvent insurer shall not be a charge against any special deposit fund held under the provisions of Article 5 of this Chapter for the benefit of policyholders. (1969, c. 1284; 1985, c. 519, s. 7; 1991, c. 720, s. 26.)

Effect of Amendments. — The 1991 amendment, effective July 16, 1991, substituted "this Chapter" for "Chapter 58."

§ 58-46-45. Premium taxes to be paid through Association to Commissioner.

All premium taxes due on insurance written under this Article shall be remitted by each insurer to the Association; and the Association, as collecting agent for its member companies, shall forward all such taxes to the Commissioner as provided in Article 8B of Chapter 105 of the General Statutes. (1985 (Reg. Sess., 1986), c. 928, s. 10.)

§ 58-46-50. Annual reports.

On or before January 1 of each year the association shall file with the Commissioner a statement that summarizes the transactions, conditions, operations, and affairs of the association during the preceding year. The statement shall contain such matters and information as are prescribed by the Commissioner and shall be in such form as is approved by him. The Commissioner may at any time require the association to furnish him with any additional information with respect to its transactions or any other matter that the Commissioner deems to be material to assist him in evaluating the operation and experience of the association. (1987 (Reg. Sess., 1988), c. 975, s. 26.)

§ 58-46-55. Rates, rating plans, rating rules, and forms applicable.

The rates, rating plans, rating rules, and forms applicable to the insurance written by the association shall be in accord with the most recent manual rates and forms that are legally in effect in this State. No special surcharge, other than those presently in effect, may be applied to the property insurance rates of properties located in the geographic areas to which this Article applies. (1987 (Reg. Sess., 1988), c. 975, s. 28.)

North Carolina Health Care

§ 58-47-1. Findings and purpose.

The General Assembly finds that the cost of health care insurance has risen to intolerable levels; and that the current excess coverage is approximately one hundred percent of one hundred thousand dollars (\$100,000); and that health care providers are unable to obtain excess liability coverage (\$1,000,000); that said excess coverage in the past by the with insurer from the State, and coverage will continue to increase costs of health care in North Carolina and the claims against North Carolina health care providers increased risks commensurate with the increased and procedures are mandatory for liability insurance in excess of one hundred thousand dollars.

The General Assembly finds that health care providers are endangering the health of the people of North Carolina by curtailing of health care services. The General Assembly finds that the unintentional consequences of the health care industry are essential to the health and welfare of the people of North Carolina. The General Assembly finds that the health and welfare of the people of North Carolina is declared to be the policy of the State. The General Assembly, Article, maintains the duty of health care providers to protect and contribute to the public policy. (1975, 2nd

§ 58-47-5. Definitions.

The following terms as used in this Article shall mean:

- (1) "Board" means the North Carolina Health Care Board created by G.S. 58-47-20.
- (2) Repealed by Session Law 1991-16.
- (3) "Fund" means the Health Care Liability Fund provided for in Article 58 of the General Statutes.
- (4) "Health care provider" means any person licensed or otherwise authorized to practice the practice of, or

SECTION .1300 - NORTH CAROLINA JOINT UNDERWRITING ASSOCIATION

.1301 RATES: RATING PLANS: RATING RULES AND FORMS APPLICABLE

Unless otherwise approved by the commissioner, the rates, rating plans, rating rules and forms applicable shall be in accordance with the most recent manual rates, rating plans, rating rules and forms promulgated by either the North Carolina Rate Bureau or the Insurance Services Office, Inc. and approved for usage in North Carolina.

*History Note: Statutory Authority G.S. 58-9; 58-173.17; 58-173.20;
58-173.21; 58-173.31;
Eff. January 1, 1989.*

.1302 CHANGE TO RATES: RATING PLANS: RATING RULES: FORMS APPLICABLE

Unless otherwise approved by the commissioner, any changes to the manual rates, rating plans, rating rules and forms promulgated by either the North Carolina Rate Bureau or the Insurance Services Office, Inc. and approved for usage in North Carolina shall be implemented no later than 30 days after the earliest permitted date.

*History Note: Statutory Authority G.S. 58-9; 58-173.17; 58-173.20;
58-173.21; 58-173.31;
Eff. January 1, 1989.*

SECTION .1400 - NORTH CAROLINA INSURANCE UNDERWRITING ASSOCIATION**.1401 RATES: RATING PLANS: RATING RULES AND FORMS APPLICABLE**

Unless otherwise approved by the commissioner, the rates, rating plans, rating rules and forms applicable shall be in accordance with the most recent manual rates, rating plans, rating rules and forms promulgated by either the North Carolina Rate Bureau or the Insurance Services Office, Inc. and approved for usage in North Carolina.

*History Note: Statutory Authority G.S. 58-9; 58-173.2; 58-173.7; 58-173.8;
58-173.10; 58-173.16;
Eff. January 1, 1989.*

.1402 CHANGES TO RATES: RATING PLANS: RATING RULES: FORMS APPLICABLE

Unless otherwise approved by the commissioner, any change to the manual rates, rating plans, rating rules and forms promulgated by either the North Carolina Rate Bureau or the Insurance Services Office, Inc. and approved for usage in North Carolina shall be implemented no later than 30 days after the earliest permitted date.

*History Note: Statutory Authority G.S. 58-9; 58-173.2; 58-173.7; 58-173.8;
58-173.10; 58-173.16;
Eff. January 1, 1989.*

APPENDIX D

PLAN OF OPERATION

OF

NORTH CAROLINA INSURANCE UNDERWRITING ASSOCIATION

REVISED JULY, 1990

The North Carolina Insurance Underwriting Association has been established by Article 45 of Chapter 58 of the General Statutes of North Carolina to provide a method whereby adequate Fire, Extended Coverage, Additional Extended Coverage, Optional Perils Coverage, Vandalism and Malicious Mischief, Windstorm and Hail Coverage, and Crime insurance, as herein defined and limited, may be provided in the Beach area of North Carolina. The Plan of Operation as outlined herein shall become effective ten days after certification of approval by the Commissioner.

Section I - Purpose of the North Carolina Insurance Underwriting Association

1. To provide an adequate market for Fire, Extended Coverage, Additional Extended Coverage, and Vandalism and Malicious Mischief Insurance that is necessary to the economic welfare of the Beach area in order to insure its orderly growth and development.
2. To provide adequate insurance upon property in the Beach area that is necessary to enable homeowners and commercial owners to obtain financing for the purchase and improvement of their property.
3. To provide an equitable method whereby every licensed insurer writing Fire, Extended Coverage and Vandalism and Malicious Mischief insurance in North Carolina is required to meet its public responsibility.

4. To provide a mandatory Plan to assure an adequate market for Fire, Extended Coverage, Additional Extended Coverage, Optional Perils Coverage, and Vandalism and Malicious Mischief insurance in Beach areas of North Carolina, to fulfill the Purposes provided in General Statute 58-45-1; and to assure an adequate market for Crime Insurance, as herein defined and limited, in the same Beach area; and to offer separate policies of Windstorm and Hail Insurance.

Section II - Definition of Terms

1. "Essential Property Insurance" means insurance against direct loss to property as defined and limited in the standard statutory fire policy, extended coverage endorsement and Vandalism and Malicious Mischief Endorsement thereon, as approved by the Commissioner. Essential Property Insurance does not include Crime Insurance, Additional Extended Coverage, Optional Perils Coverage, or policies of Windstorm and Hail Insurance only.
2. "Association" means the North Carolina Insurance Underwriting Association established pursuant to the provisions of Article 45 of Chapter 58 of the General Statutes of North Carolina.
3. "Plan of Operation" means the plan of operation promulgated by the Association and approved by the Commissioner.
4. "Insurable Property" means real property at fixed locations in Beach areas of the State as that term is hereinafter defined or the tangible personal property located therein, which property is determined by the Association, after inspection and pursuant to the criteria specified in the Plan of Operation, to be in an insurable condition; but shall not include insurance on motor vehicles, farm or manufacturing risks.
5. "Commissioner" means the Commissioner of Insurance of the State of North Carolina.

6. "Beach Area" means all of that area of the State south and east of the inland waterway from the South Carolina line to Fort Macon (Beaufort Inlet); thence, south and east of Core, Pamlico, Roanoke and Currituck Sounds to the Virginia line, being those portions of land generally known as the Outer Banks.
7. "Net Direct Premiums" means gross premiums (excluding reinsurance assumed and ceded) written on property in North Carolina for Fire, Extended Coverage and Vandalism and Malicious Mischief insurance, including the Fire and Extended Coverage components of Homeowners and Commercial Multiple Peril Package Policies, as computed by the Commissioner, less return premiums upon canceled contracts, dividends paid or credited to policyholders or the unused or unabsorbed portion of premium deposits, and further excluding premiums on farm properties and manufacturing risks.
8. "Insurer" means any insurance company or other organization authorized to write and engaged in writing property insurance, including the property insurance components of Multiple Peril Policies, on a direct basis in this State, except town and county mutual insurance associations and assessable mutual companies.
7. "Crime insurance" means insurance against losses resulting from robbery, burglary, larceny, and similar crimes, as more specifically defined and limited in the various Crime Insurance policies approved by the Commissioner and issued by the Association.

Section III - Inspections and Reports

1. Any person having an insurable interest in insurable property located in the Beach Area of North Carolina may be entitled to apply to the Association for such coverage and for an inspection of the property by the Association. Such application shall be submitted on forms prescribed by the Association and may be made

on behalf of the applicant by a broker or agent authorized by him, and shall contain a statement as to whether or not there are any unpaid premiums due from the applicant for fire insurance on the property. The term "insurable interest" shall be deemed to include any lawful and substantial economic interest in the safety or preservation of property from loss, destruction or pecuniary damage.

2. The manner and scope of the inspections shall be prescribed by the Association with the approval of the Commissioner.
3. The Association must be provided full access to the building, but the presence of the owner of a building may not be required for a tenant seeking insurance.
4. An inspection report shall be made for each property inspected. The report shall cover pertinent structural and occupancy features as well as the general condition of the building and surrounding structures. A representative photograph of the property may be taken during the inspection.
5. After the inspection, a copy of the completed inspection report (and any photograph), indicating the pertinent features of building construction, maintenance, and occupancy, shall be sent within fifteen days to the Association. Included with the report shall be a rate make-up statement reflecting the current rate, including any condition charges or surcharges imposed in conformity with rating plans approved by the Commissioner.
6. All reports of inspections performed by or on behalf of the Association shall be made available to members of the Association, applicants, their producers of record, and the Commissioner upon request.

Section IV - Procedure After Inspection

1. The Association shall, within five business days after receipt of the inspection report and application, advise the applicant or his agent that:
 - (a) The risk is acceptable and will cause to be issued a policy upon receipt by the Association of the full amount of the premium; or
 - (b) the risk is not accepted but will be acceptable if improvements noted in the action report are made by the applicant and confirmed by reinspection; or
 - (c) the risk is not acceptable for the reason stated in the action report.

2. In the event a risk is declined because it fails to meet reasonable underwriting standards, the Association shall notify the applicant or his designated representative. Reasonable underwriting standards shall include, but not be limited to, the following:
 - (a) the amount of insurance requested, together with other insurance is within reasonable relationship to the actual cash value of the property involved;
 - (b) physical condition of the property, such as its construction, heating, wiring, evidence of previous fires or general deterioration;
 - (c) its present use or housekeeping, such as vacancy, overcrowding, storage of rubbish or flammable materials;
 - (d) violation of law, public policy, morals and the character or integrity of the property owner or occupant.

3. Any one and two family dwelling built in substantial compliance with the Federal Manufactured Home Construction and Safety Standards, any predecessor or successor Federal or State

construction or safety standards, and any further construction or safety standards promulgated by the Association and approved by the Commissioner, or the North Carolina Uniform Residential Building Code and any structure or building built in substantial compliance with the North Carolina Building Code, including the design-wind requirements, which is not otherwise rendered uninsurable by reason of use or occupancy, shall be an insurable risk within the meaning of the Plan. Further, any structure commenced on or after January 1, 1970, not built in substantial compliance with the Federal Manufactured Home Construction and Safety Standards, any predecessor or successor Federal or State construction or safety standards, and any further construction or safety standards promulgated by the Association and approved by the Commissioner, or the North Carolina Uniform Residential Building Code or the North Carolina Building Code, including the design-wind requirements therein, shall not be an insurable risk. The owner or applicant shall furnish with the application proof in the form of a certificate from a local building inspector, contractor, engineer or architect that the structure is built in substantial accordance with the Federal Manufactured Home Construction and Safety Standards, any predecessor or successor Federal or State construction or safety standards, and any further construction or safety standards promulgated by the Association and approved by the Commissioner, or the North Carolina Uniform Residential Building Code or the North Carolina Building Code. Provided, however, such individual certificate shall not be necessary in those cases where the structure is located within a political subdivision which has certified to the Association on an annual basis that it is enforcing the North Carolina Uniform Residential Building Code and the North Carolina

Building Code and has no plans to discontinue enforcing these codes during that year. Individual certificates will be required for dwellings built in substantial compliance with the Federal Manufactured Home Construction and Safety Standards, and any predecessor or successor Federal or State construction or safety standards, and such certificates shall state that the dwelling meets the wind design load requirements for "Hurricane Zones" identified in the State of North Carolina Regulations for Mobile Homes, when said dwelling is, in fact, a mobile home.

4. A risk shall not be declined for neighborhood, area, location, or environmental hazards beyond the control of the applicant or owner of the property.
5. In any case where a risk, not accepted because the property does not meet reasonable underwriting standards, can be improved to meet such standards, the Association shall promptly advise the applicant what improvements, noted in the action report, should be made to the property to make it acceptable. Upon notice to the Association of completion of such improvements, the Association shall promptly arrange to have the property reinspected and if, after such reinspection, the property is found insurable, the Association shall upon receipt of the full amount of the premium cause to be issued a policy.
6. If the inspection of property reveals the existence of substandard conditions, charges shall be applied in conformity with rating plans approved by the Commissioner.
7. If the risk is declined, or if the applicant is notified that coverage will be written if stated improvements are made, the Association shall within ten days send copies of the inspection

and action reports to the property owner and shall advise the property owner of his right to appeal and the procedures therefor.

8. No new or increased coverage shall be bound or application for new or increased coverage accepted when the center of a designated hurricane is located within Longitudes 65° West and 85° West, and Latitudes 20° North and 37° North. The term "designated hurricane" is a windstorm designated as a hurricane by the National Weather Service.
9. Policies of windstorm and hail insurance are available only for risks for which essential property insurance has been written by licensed insurers. In order to be eligible for a policy of windstorm and hail insurance, the applicant shall provide the Association, along with the premium payment for the windstorm and hail insurance, a certificate that the essential property insurance is in force.

Section V - Placement of Insurance

1. Upon approval by the Association of an application for insurance and upon receipt by the Association of the full amount of the required premium in cash, certified check, bank check, money order, the check of a licensed lending institution, the Association shall cause to be issued a policy of insurance. Check certification is not required when the premium is remitted by a North Carolina licensed agent provided satisfactory evidence is submitted to the Association that a valid agent's license from the Insurance Department is in force.
2. Notwithstanding any of the other provisions of this Plan, interim coverage shall be extended to eligible commercial risks without further action if:

- (a) through no fault of the applicant, coverage has not been either offered or denied within twenty calendar days after the date the request for inspection was received by the Association; and
- (b) the applicant, at the time of requesting the inspection or at any time prior to the receipt of an inspection report indicating that the property is uninsurable, pays the estimated annual premium. The estimated annual premium shall be based on the applicable existing specific or class rate in accordance with the rates promulgated by the North Carolina Rate Bureau or such other rating organization having applicable rate jurisdiction. If the coverage is presently provided under an expiring policy written through the Association, the deposit premium shall be no less than the premium charged under such policy.

Such insurance shall be effective at a time in accordance with the policy provisions the twentieth day after the date the request for inspection was received or at a time in accordance with the policy provisions on the day following the date the estimated premium is received by the Association, whichever occurs later.

- 3. The Association shall cause to be issued insurance up to the reasonable insurable value of the property, subject to a maximum of \$1,500,000 Habitational and \$1,500,000 Commercial, on all interest at one risk.
- 4. In the event that insurance is available to the applicant from other sources, the Association may waive the pro-rata liability provisions of the commercial policy and may provide primary insurance with the excess being provided by a member company of

this Association. The premium charged for such primary insurance will be determined in a manner approved by the Board of Directors and the Commissioner of Insurance.

Section VI - Standard Policy Coverage

1. All policies issued shall be on standard policy forms for Fire, Extended Coverage, Additional Extended Coverage, Optional Perils Coverage and Vandalism and Malicious Mischief and shall be issued for a term of one year. Crime policies shall be approved by the Commissioner and issued by the Association; and shall not be more restrictive than those previously available under the Federal Crime Insurance Program authorized by Public Law 91-609. Windstorm and Hail policies shall be approved by the Commissioner and issued by the Association for a term of one year.
2. Any policy issued pursuant to the provisions of this Plan shall be renewed annually, upon application therefore, so long as the property meets the definition of "Insurable Property" and reasonable underwriting standards.

Section VII - Cancellation

1. Grounds for cancellation by the Association shall be limited to:
 - (a) non-payment of premium; or
 - (b) evidence of incendiarism; or
 - (c) misrepresentation of any material fact either before or after loss; or
 - (d) cause which would have been grounds for non-acceptance of the risk under the Plan of Operation had such cause been known at the time of acceptance; or
 - (e) cause arising subsequent to the inspection which would have been grounds for non-acceptance of the risk under the Plan of Operation had such cause been known at the time of acceptance.

2. Notice of Cancellation, together with a statement of the reason therefor, shall be sent to the insured, identified mortgagees and the insured's producer of record. Such notice shall be accompanied by a statement explaining that the insured has a right of appeal as hereinafter provided.

Section VIII - Appeals

1. Any applicant for insurance and any person insured under the Plan of Operation or any affected insurer may appeal to the Board of Directors within fifteen days after any final ruling, action or decision of the Association (other than a ruling, action or decision relating to the cause or amount of a claimed loss). The Board or an Appeals Committee designated by the Board shall hear and determine such appeal within fifteen days after the same is filed. Such determination may be appealed to the Commissioner within thirty days as provided by Statute.
2. Orders of the Commissioner shall be subject to judicial review as provided by Statute.

Section IX - Underwriting Association

1. The Underwriting Association shall be authorized to purchase reinsurance on behalf of its members, provided such reinsurance is authorized by a majority of the Directors.
2. Each member of the Association shall participate in the writings, expenses, profits and losses in the proportion that the net direct premiums of such member written in the State during the preceding calendar year bear to the aggregate net direct premiums written in the State by all members of the Association. The Commissioner shall certify to the Association, after review of annual statements, other reports, and any other statistics he shall deem necessary, the aggregate net direct premiums written by all members. However, a member shall annually receive credit

for Essential Property Insurance voluntarily written in the Beach area and its participation in the writings of the Association shall be reduced accordingly. The method of determination of such credit shall be as authorized by the Board of Directors. Each member's participation in the Association shall be determined annually.

3. Any insurer authorized to write and engaged in writing Essential Property Insurance after the effective date of this Plan shall become a member of the Association on the October 1 immediately following such authorization and the determination of such insurer's participation in the Association shall be made as of the date of such membership in the same manner as for all other members of the Association.
4. The Board of Directors, acting on behalf of the Association, is authorized to make preliminary assessments upon all insurers and such further assessments as may be deemed necessary.

Section X - Commission

1. Commission to the licensed agent or broker designated by the applicant shall be as determined by the Board of Directors and approved by the Commissioner.
2. In the event of cancellation of a policy, or if an endorsement is issued which requires premium to be returned to the insured, the producer shall refund ratably to the Association commission on the unearned portion of canceled liability and on reductions in premiums at the same rate at which such commissions were originally paid.

Section XI - Administration

1. This Plan shall be administered by a Board of Directors (hereinafter referred to as the Board) of the North Carolina Insurance Underwriting Association, subject to the review of the Commissioner.
2. The Board shall consist of a) eleven insurers, two of which shall be domestic insurers, and b) two individuals who are North Carolina licensed insurance agents or brokers. The eleven members consisting of insurers and the two individual members shall be elected annually by cumulative voting by the insurers of the Association, whose votes in such election shall be weighted in accordance with the proportion that each insurer's net direct premiums written in the State during the most recent calendar year for which data are available bear to the aggregate net direct premiums written by all insurers. The two insurance agents or brokers shall be elected from a list of five (5) individuals who shall be nominated by the Commissioner. Voting may be in person or by proxy. Nominations for election to such Board shall close ten days prior to the election. Not more than one Insurer in a group under the same management or ownership shall serve on the Board at the same time.

Section XII - Annual and Special Meetings

1. The annual meeting of the insurers for the election of the Board and such other business as may be necessary shall be held in the State of North Carolina at a time and place to be determined by the Board each year. At any regular or special meeting at which the vote of the insurers is or may be required on any proposal, voting may be in person or by written proxy. Voting at regular or special meetings of insurers, or any vote of the insurers which may be taken by mail, shall be cast and counted on a

weighted basis in the same proportion as each insurer's net direct premiums written bear to the aggregate net direct premiums written by all insurers. A proposal shall become effective when approved by the majority of the votes cast on such weighted basis.

2. As soon as practicable after election to membership on the Board, and thereafter from time to time as it may elect, an Insurer shall designate a qualified representative and an alternate of such representative to serve for it and shall immediately notify in writing the Manager of the Association of such designation. In the event one of the two individual Board members should die, resign or become incapable of serving on the Board, the Chairman of the Board shall appoint a successor who meets the qualifications set forth in Section XI, paragraph 2 above, and who shall serve until the next annual meeting of the insurers. The individual so appointed shall be one of the Commissioner's nominees for director at the last annual meeting of the insurers.
3. Officers - the Board shall elect a Chairman, Vice Chairman, Secretary, Treasurer, and Manager.
 - (a) The Chairman shall preside over all meetings of the Board and at all meetings of the insurers. He shall discharge such other duties as may be incidental to his office or as shall be required of him by these rules or by the Board.
 - (b) The Vice Chairman shall preside at any meeting of the Board in the absence of the Chairman. In the event of death, incapacity, or disability of the Chairman, the Vice Chairman shall perform the duties of the Chairman until such office has been filled by the Board.

- (c) The Secretary shall issue all notices of meetings, record minutes of all meetings, keep the records of the Board, and discharge such other duties as may be incidental to his office or as shall be required of him by these rules or by the Board.
 - (d) The Treasurer shall discharge such duties as may be incidental to his office or as shall be required of him by these rules or by the Board.
 - (e) The Manager shall discharge such duties as may be incidental to his office or as shall be required of him by these rules or by the Board.
4. Special Meetings - Special Meetings of the Board or of the Insurers may be held upon the call of the Chairman or in the event of his resignation, death, or incapacity, upon the call of the Vice Chairman. Any six members of the Board, acting by their designated representatives, may request the Chairman to call a meeting of the Board or of the Insurers at such time and place and for such purposes as may be set out in writing in such request. Should the Chairman decline to call such meetings, the same may be called by the six members making the request. Such special meetings may be held at the principal office of the Association or at such other place within the State of North Carolina as may be designated in the call.
5. Notices of Meetings - Notices of all meetings shall be given by the Secretary to the members of the Board and in the case of meetings of the Insurers to the Insurers, and shall state the time and place and the principal purposes thereof, except that no notice of the annual meeting shall be give to newly elected Insurers in order to legally constitute the meeting, provided a majority of the designated representatives of the Insurers shall

be present at such meeting. Such notices may be given by telegram or by mail, directed to the individual Board Members and to the attention of the designated representatives of the Insurers and shall be sent or mailed at least ten days in advance of the meeting. Any individual Board Member, and any Insurer or the designated representative of any Insurer may waive notice of any meeting, and the presence of the such representative at any meeting shall constitute a waiver of notice as to such Insurer.

6. Advance Agenda - The Secretary, after consultation with the Chairman, shall prepare in advance of each meeting of the Board and each meeting of the Insurers an agenda which, with such supporting data and information as may be conveniently assembled, shall be forwarded to the individual members of the Board and to the Insurers or their designated representatives, as the case may be, in advance of any such meeting.
7. Committees - Subject to the Articles of Agreement, the Chairman of the Board may appoint or the Board may elect such standing committees or such temporary or special committees as may be deemed necessary for the transaction of its business.
8. Ex-Officio Members - The Chairman and Vice-Chairman of the Board shall be ex-officio members of all standing or special committees, with right to vote.
9. Mail Ballot - Voting by mail is permitted by the Board and by the member companies upon the giving of at least ten (10) days' written notice. Any matter submitted by mail to the Board shall be carried provided it receives an affirmative vote from a majority of the members of the Board and provided there are no negative votes received. Any matter submitted by mail to the member companies shall be carried provided it receives an

affirmative vote from a weighted majority and provided no more than 5% of the votes entitled to be cast, counted on a weighted basis, are negative votes.

10. The Directors of the Association may, subject to the approval of the Commissioner, amend the Plan of Operation at any time.

Section XIII - Duties of the Board

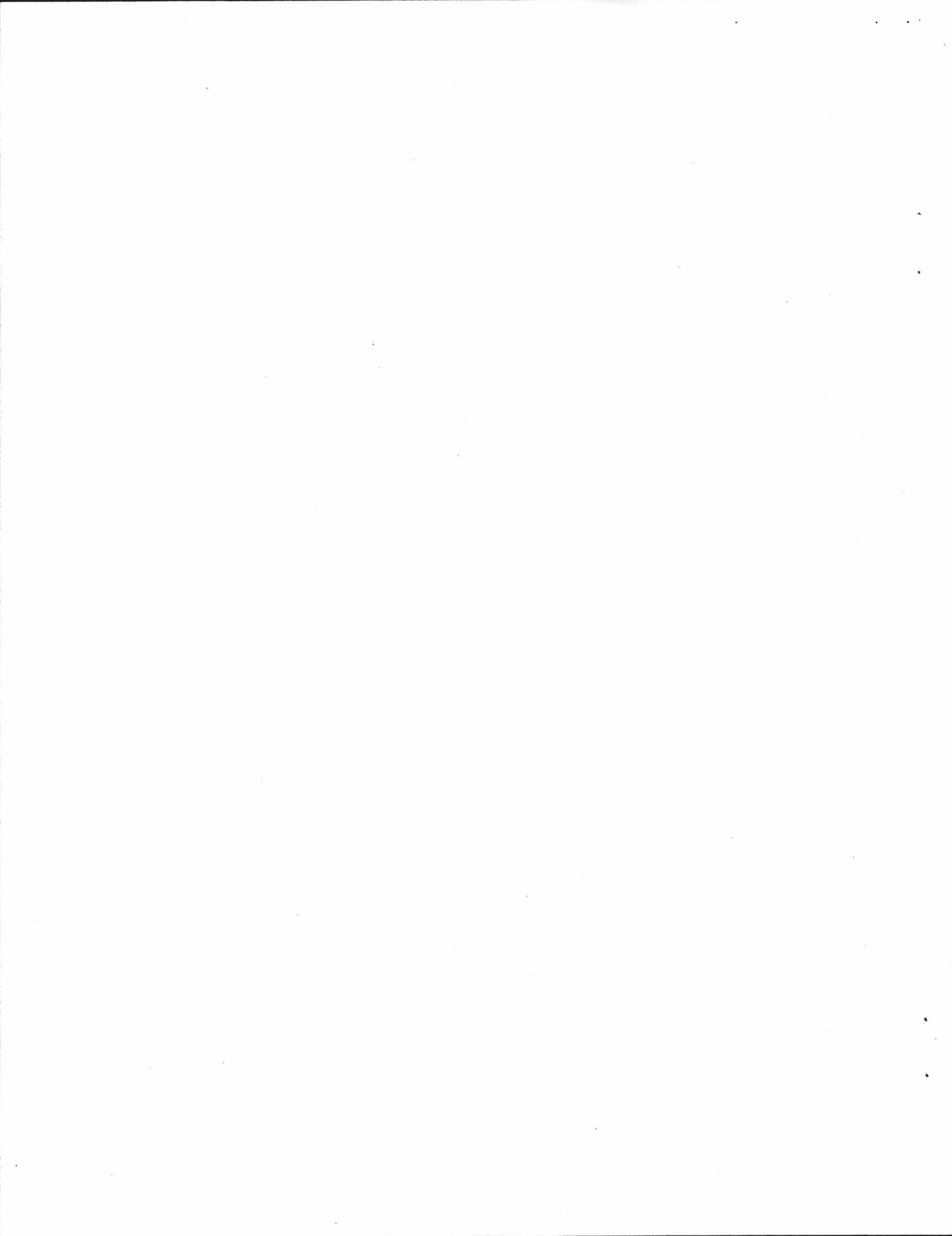
1. The Board shall meet as often as required to perform the general duties of the administration of the Plan of Operation or on the call of the Commissioner. Seven members of the Board shall constitute a quorum.
2. The Board shall be empowered to appoint or otherwise contract for the services of a Manager; to budget expenses; levy assessments including preliminary assessments; disburse funds and perform all other duties provided herein or necessary or incidental to the administration of the Plan of Operation. The adoption of substantive changes in pension plans or employee benefits programs shall be subject to approval of Insurers. Assessments upon each Insurer shall be levied on the basis of its net direct premiums written.
3. Annually the Manager shall prepare an operating budget which shall be subject to approval upon request. Any contemplated expenditure in excess of or not included in the annual budget shall require prior approval by the Board.
4. The Board shall furnish to the Commissioner a written report of operations annually on or before January 1 in such form and detail as the Commissioner may determine. The Board shall furnish to all insurers a written report of operations annually in such form and detail as the Board may determine.

Section XIV - Crime Insurance

1. Pursuant to Chapter 1027 of the 1985 Session (Regular Session 1986) Laws of North Carolina, the North Carolina Insurance Underwriting Association shall offer Crime Insurance for eligible and insurable property located in the "Beach Area" of North Carolina.
2. The following provisions of this Plan of Operation shall not apply to Crime Insurance; Section IV, paragraphs 2, 3 6 and 8; Section V, paragraphs 2, 3 and 4; Section VII, paragraphs 1(b); and Section IX, paragraphs 2 (3rd and 4th sentences) and 3.
3. Residential crime insurance will be provided in amounts approved by the Board of Directors and the Insurance Commissioner, not to exceed \$10,000. The residential crime insurance policy shall be a combination package for both burglary and robbery coverage. Commercial crime insurance coverages offered shall be: 1) burglary only; 2) robbery only; or 3) a combination of burglary and robbery in uniform or varying amounts as specified by the Board of Directors and approved by the Commissioner, up to a maximum of \$15,000.
4. Rates will be established by the Board of Directors, with the approval of the Commissioner.
5. Applicants must submit a properly completed, signed, application to be considered for crime coverage. The application will set forth minimum protective device requirements that must be met for eligibility. These requirements will be established by the Board of Directors and approved by the Commissioner. The signed application will become a part of the policy contract and will be attached thereto.
6. Reasonable underwriting standards shall include, but not be limited to, the following:

- (a) physical condition of the property;
- (b) violation of law, public policy, morals and the character or integrity of the property owner or occupant;
- (c) such other standards as may be approved from time to time by the Commissioner of Insurance.

7. The insured must notify local law enforcement authorities and the Association immediately after discovery of a loss.



APPENDIX E

PLAN OF OPERATION

OF

NORTH CAROLINA JOINT UNDERWRITING ASSOCIATION

REVISED SEPTEMBER, 1991

The North Carolina Joint Underwriting Association has been formulated by the insurance industry pursuant to Article 46 of the General Statutes of North Carolina to provide a facility for the placement of adequate basic property insurance, Additional Extended Coverage, Optional Perils Coverage and Crime Insurance, as herein defined and limited, on insurable property in all geographic areas of the state except the "Beach area" as defined in G.S. 58-45-5(2), and to provide for the participation in the Fair Access to Insurance Requirements (FAIR Plan of Insurance).

Section I - Purpose of the Plan of Operation

1. To provide a Plan of Operation whereby adequate basic property insurance, Additional Extended Coverage, Optional Perils Coverage and Crime Insurance, as herein defined and limited, may be made available to property owners having insurable property in eligible areas of the State.
2. To encourage improvement of properties located in the State and to arrest the decline of properties wherever located.
3. To make public the purposes and procedures of this Plan of Operation.

Section II - Effective Date

The Plan of Operation shall become effective ten days after approval by the Commissioner.

Section III - Definition

1. "Insurer" means every insurer authorized to write basic property insurance in North Carolina except town and county mutual insurance associations and assessable mutual companies as authorized by G.S. 58-7-75(5)b. G.S. 58-7-75(5)d, and G.S. 58-7-75(7)b.
2. "Basic Property Insurance" means the coverage against direct loss to real and tangible personal property at a fixed location that is provided in the Standard Fire Policy and Extended Coverage Endorsement (including builders' risk coverage), Vandalism and malicious mischief insurance and such other classes of insurance as may be added to the Plan of Operation with respect to said property by amendment as hereinafter provided. Basic Property Insurance does not include motor vehicles, manufacturing risks or Crime Insurance.
3. "The North Carolina Joint Underwriting Association" (hereinafter referred to as the Association), means the organization formed by Insurers to administer the Plan of Operation herein set forth.
4. "Premiums Written" means gross direct premiums charged during the most recent calendar year for which data is available, as determined by the Association, with respect to property in this state on all policies of Basic Property Insurance and the Basic Property Insurance premium components of all multi-peril policies, as computed by the Association less return premiums, dividends paid or credited to policyholders, or the unused or unabsorbed portions of premium deposits.
5. "Commissioner" means the Commissioner of Insurance of the State of North Carolina.

6. "Crime insurance" means insurance against losses resulting from robbery, burglary, larceny, and similar crimes, as more specifically defined and limited in the various crime insurance policies approved by the Commissioner and issued by the Association.

Section IV - FAIR Plan - Inspections and Reports

1. Any person having an insurable interest in real or tangible personal property at a fixed location in all geographic areas of the state except the "Beach area" defined in G.S. 58-45-5(2) shall be entitled upon application (which application need not be in writing), in person or by his authorized representative, to the Association to an inspection of the property by the Association at no cost to the applicant.
2. The manner and scope of the inspections shall be prescribed by the Association with the approval of the Commissioner.
3. An inspection report shall be made for each property inspected. The report shall cover pertinent structural and occupancy features as well as the general condition of the building and surrounding structures. A representative photograph of the property may be taken during the inspection.
4. After the inspection, a copy of the completed inspection report, and any photograph, indicating the pertinent features of building construction, maintenance, occupancy, and surrounding property shall be sent within fifteen days to the Association. Included with the report shall be a rate make-up statement, including any condition charges or surcharges imposed in conformity with the Plan of Operation or under any substandard rating plan approved by the Commissioner. A copy of the inspection report shall be made available to the applicant or his agent upon request.

Section V - FAIR Plan Business - Placement of Insurance

1. Upon approval by the Association of an application for insurance and upon receipt by the Association of the full amount of the required premium in cash, certified check, bank check, money order, the check of a licensed lending institution, or a check remitted by a North Carolina licensed agent, provided satisfactory evidence is submitted to the Association that a valid agent's license from the Insurance Department is in force, the Association shall cause to be issued a policy of insurance.
2. Notwithstanding any of the other provisions of this Plan, interim coverage shall be extended to eligible occupied habitational risks upon receipt of a properly completed application and the estimated annual premium, and shall be extended to other eligible risks without further action if:
 - (a) through no fault of the applicant, coverage has not been either offered or denied within twenty calendar days after the date the request for inspection was received by the Association; and
 - (b) the applicant, at the time of requesting the inspection or at any time prior to the receipt of an inspection report indicating that the property is uninsurable, pays the estimated annual premium. The estimated annual premium shall be based on the applicable existing specific or class rate in accordance with the rates promulgated by the North Carolina Rate Bureau or such other rating organization having applicable rate jurisdiction. If the coverage is presently provided under an expiring policy written through the Association the deposit premium shall be no less than the premium charged under such policy.

Such insurance shall be effective at a time in accordance with the policy provisions the twentieth day after the date the request for inspection was received, or at 12:01 A.M. (standard time) following the date the estimated premium is received by the Association, whichever occurs later.

3. Limits of coverage shall be provided for in rules adopted by the Board of Directors subject to approval of the Commissioner. Such limits shall not exceed \$1.5 million aggregate liability per risk as determined by the Board on real or tangible personal property in conjunction with other underwriting devices to obtain full insurable value on any individual property. The Association will take responsibility for seeking to place the excess portion of the risk exceeding the \$1.5 million aggregate liability.

Section VI - Procedure After Inspection

1. The Association shall, within five business days after receipt of the inspection report and application, advise the applicant or his agent that:
 - (a) the risk is acceptable, and if surcharged, the improvements necessary to remove the surcharge, and will cause to be issued a policy upon receipt by the Association of the full amount of the premium; or
 - (b) the risk is not accepted, but will be acceptable if the improvements noted in the action report are made by the applicant and confirmed by reinspection; or
 - (c) the risk is not acceptable for the reasons stated in the action report.
2. In the event a risk is declined because it fails to meet reasonable underwriting standards, the Association shall so notify the applicant. Reasonable underwriting standards shall include, but not be limited to, the following:

- (a) physical condition of the property, such as its construction, heating, wiring, evidence of previous fires or general deterioration;
- (b) its present use or housekeeping, such as vacancy, overcrowding, storage of rubbish or flammable materials;
- (c) violation of law or public policy which results in increased exposure to loss;
- (d) such other standards as may be approved from time to time by the Commissioner of Insurance.

A risk shall not be declined for neighborhood or area location or any environmental hazard beyond the control of the property owner.

- 3. In the event the risk is conditionally declined because the property does not meet reasonable underwriting standards but can be improved to meet such standards, the Association shall promptly advise the applicant what improvements noted in the action report should be made to the property. Upon completion of the improvements by the applicant or property owner, the Association, when so notified, will have the property promptly reinspected.
- 4. If the inspection of the property reveals that there are one or more substandard conditions, surcharges will be imposed in conformity with any substandard rating plan approved by the Commissioner.
- 5. If a risk is declined or the coverage will be written on the condition that the property will be improved, the Association shall, within ten days, send copies of inspection and action reports to the property owner and shall advise Property Owner of his right of appeal and the procedure therefor.

6. No new or increased coverage shall be bound or application for new or increased coverage accepted for properties located in Extended Coverage Territory #1, as defined in the N.C. Dwelling Manual, when the center of a designated hurricane is located within Longitudes 65 degrees West and 85 degrees West, and Latitudes 20 degrees North and 37 degrees North. The term "designated hurricane" is a windstorm designated as a hurricane by the National Weather Service.

Section VII - Joint Underwriting Association

1. Each insurer shall participate in the writings, expenses, profits, and losses of the Association in the same proportion as its Premiums Written bear to the aggregate Premiums Written by all insurers in the Plan of Operation.
2. The Board of Directors, acting on behalf of the Association, shall be authorized to make a preliminary assessment upon all Insurers and such further assessments as may be deemed necessary.

Section VIII - Standard Policy Coverage

All policies for Basic Property Insurance, including Additional Extended Coverage and Optional Perils Coverage shall be on standard policy forms and shall be issued for a term of one year. Crime policies shall be approved by the Commissioner and issued by the Association; and shall not be more restrictive than those previously available under the Federal Crime Insurance Program authorized by Public Law 91-609.

Section IX - Cancellation

1. Grounds for cancellation by the Association shall be limited to:
 - (a) cause which would have been grounds for non-acceptance of the risk under the Plan of Operation had such cause been known at the time of acceptance; or
 - (b) non-payment of premium; or

- (c) evidence of incendiarism; or
 - (d) misrepresentation of any material fact either before or after loss; or
 - (e) a finding on the basis of satisfactory evidence that changes in the physical condition of the property or other changed conditions make the risk uninsurable.
2. Notice of Cancellation, together with a statement of the reason therefor, shall be sent to the insured, identified mortgagees and producer of record.
 3. Any cancellation notice to the insured shall be accompanied by a statement that the insured has a right of appeal as hereinafter provided.
 4. The Association may effectuate cancellation upon such other grounds and upon such notice thereof as may be approved from time to time by the Commissioner of Insurance.

Section X - Right of Appeal

Any applicant for insurance and any person insured under the Plan of Operation or any affected insurer may appeal to the Board of Directors within fifteen days after any final ruling, action or decision of the Association (other than a ruling, action or decision relating to the cause or amount of a claimed loss). Any decision of the Board may be further appealed to the Commissioner within thirty days. Orders of the Commissioner shall be subject to judicial review.

Section XI - Commission

1. Commission to the licensed agent or broker designated by the applicant shall be as determined by the Board of Directors and approved by the Commissioner.
2. In the event of cancellation of a policy, or if an endorsement is issued which requires premium to be returned to the insured, the producer shall refund ratably to the Association commissions on

the unearned portion of canceled liability and on reductions in premiums at the same rate at which such commissions were originally paid.

Section XII - Administration

1. This Plan of Operation shall be administered by a Board of Directors (hereinafter referred to as the Board) of the Joint Underwriting Association, subject to the review of the Commissioner.
2. The permanent voting membership of the Board of Directors shall consist of a) ten (10) insurers (two of which shall be domestic insurers) b) three (3) individuals not employed by, or otherwise affiliated with, insurers, insurance agents, insurance brokers, producers or other entities of the insurance industry, and c) two (2) individuals who are North Carolina licensed insurance agents or brokers. The ten (10) members consisting of insurers and the five (5) individual members shall be elected annually by cumulative voting by the insurers of the Association, whose vote in such election shall be weighted in accordance with the proportion that each insurer's premiums written in the state during the most recent calendar year for which data are available bear to the aggregate Premiums Written by all insurers in the Plan of Operation. The three (3) individual members not affiliated with the insurance industry shall be elected from a list of seven (7) individuals who shall be nominated by the Commissioner of Insurance, and the two (2) insurance agents or brokers shall be elected from a list of five (5) individuals who shall be nominated by the Commissioner. Voting may be in person or by proxy. Nominations for election to such Board shall close

ten days prior to the election. Not more than one Insurer in a group under the same management or ownership shall serve on the Board at the same time.

Section XIII - Annual and Special Meetings

1. Meetings - The annual meeting of the Insurers for the election of the Board and such other business as may be necessary shall be held in the State of North Carolina at a time and place to be determined by the Board each year. At any regular or special meeting at which the vote of the insurers is or may be required on any proposal, voting may be in person or by written proxy. Voting at regular or special meetings of Insurers, or any vote of the Insurers which may be taken by mail, shall be cast and counted on a weighted basis in the same proportion as each Insurer's Premiums Written bear to the aggregate Premiums Written by all Insurers in the Plan of Operation. A proposal shall become effective when approved by the majority of the votes cast on such weighted basis.
2. As soon as practicable after election to membership on the Board, and thereafter from time to time as it may elect, an Insurer shall designate a qualified representative and an alternate of such representative to serve for it and shall immediately notify in writing the Manager of the Association of such designation. In the event one of the five individual Board members should die, resign or become incapable of serving on the Board, the Chairman of the Board shall appoint a successor who meets the qualifications set forth in Section XII, paragraph 2 above, and who shall serve until the next Annual Meeting of the Insurers. The individual so appointed shall be one of the Commissioner's nominees for director at the last Annual Meeting of the Insurers.

3. Officers - the Board shall elect a Chairman, Vice Chairman, Secretary, Treasurer, and Manager.
- (a) The Chairman shall preside over all meetings of the Board and at all meetings of the Insurers which are Members of the North Carolina Joint Underwriting Association. He shall discharge such other duties as may be incidental to his office or as shall be required of him by these rules or by the Board.
 - (b) The Vice Chairman shall preside at any meeting of the Board in the absence of the Chairman. In the event of death, incapacity, or disability of the Chairman, the Vice Chairman shall perform the duties of the Chairman until such office has been filled by the Board.
 - (c) The Secretary shall issue all notices of meetings, record minutes of all meetings, keep the records of the Board, and discharge such other duties as may be incidental to his office or as shall be required of him by these rules or by the Board.
 - (d) The Treasurer shall discharge such duties as may be incidental to his office or as shall be required of him by these rules or by the Board.
 - (e) The Manager shall discharge such duties as may be incidental to his office or as shall be required of him by these rules or by the Board.
4. Special Meetings - Special Meetings of the Board or of the Insurers may be held upon the call of the Chairman or in the event of his resignation, death, or incapacity, upon the call of the Vice Chairman. Any six members of the Board, acting by their designated representatives, may request the Chairman to call a meeting of the Board or of the Insurers at such time and place

and for such purposes as may be set out in writing in such request. Should the Chairman decline to call such meetings, the same may be called by the six members making the request. Such special meetings may be held at the principal office of the Association or at such other place within the State of North Carolina as may be designated in the call.

5. Notices of Meetings - Notices of all meetings shall be given by the Secretary to the members of the Board and in the case of meetings of the Insurers to the Insurers, and shall state the time and place and the principal purposes thereof, except that no notice of the annual meeting shall be give to newly elected Insurers in order to legally constitute the meeting, provided a majority of the designated representatives of the Insurers shall be present at such meeting. Such notices may be given by telegram or by mail, directed to the individual members and to the attention of the designated representatives of the Insurers and shall be sent or mailed at least ten days in advance of the meeting. Any individual Board Member, and any Insurer or the designated representative of any Insurer may waive notice of any meeting, and the presence of the such representative at any meeting shall constitute a waiver of notice as to such Insurer.
6. Advance Agenda - The Secretary, after consultation with the Chairman, shall prepare in advance of each meeting of the Board and each meeting of the Insurers an agenda which, with such supporting data and information as may be conveniently assembled, shall be forwarded to the individual members of the Board and to the Insurers or their designated representatives, as the case may be, in advance of any such meeting.

7. Committees - Subject to the Articles of Agreement, the Chairman of the Board may appoint or the Board may elect such standing committees or such temporary or special committees as may be deemed necessary for the transaction of its business. With the exception of the Appeals Committee, all committees so appointed or elected shall be advisory only. The Appeals Committee shall consist of three members one of whom shall be a non-industry member of the Board and shall be appointed annually by the Commissioner of Insurance, and two of whom shall be appointed by the Chairman.
8. Ex-Officio Members - The Chairman and Vice-Chairman of the Board shall be ex-officio members of all standing or special committees, with right to vote.
9. Mail Ballot - Voting by mail is permitted by the Board and by the member companies upon the giving of at least ten (10) days' written notice. Any matter submitted by mail to the Board shall be carried provided it receives an affirmative vote from a majority of the members of the Board and provided there are no negative votes received. Any matter submitted by mail to the member companies shall be carried provided it receives an affirmative vote from a weighted majority and provided no more than 5% of the votes entitled to be cast, counted on a weighted basis, are negative votes.
10. Any amendment of the Plan of Operation shall be made by the Insurers in conformity with Subsection (1) of this Section and shall be subject to approval by the Commissioner.

Section XIV - Duties of the Board

1. The Board shall meet as often as required to perform the general duties of the administration of the Plan of Operation or on the call of the Commissioner. Ten (10) members of the Board shall constitute a quorum.
2. The Board shall be empowered to appoint or otherwise contract for the services of a Manager; to budget expenses; levy assessments including preliminary assessments; disburse funds and perform all other duties provided herein or necessary or incidental to the administration of the Plan of Operation. The adoption of substantive changes in pension plans or employee benefits programs shall be subject to approval of Insurers. Assessments upon each Insurer shall be levied on the basis of its Premiums Written.
3. Annually the Manager shall prepare an operating budget which shall be subject to approval upon request. Any contemplated expenditure in excess of or not included in the annual budget shall require prior approval by the Board.
4. The Board shall furnish to the Commissioner a written report of operations annually on or before January 1 in such form and detail as the Commissioner may determine. The Board shall furnish to all insurers a written report of operations annually in such form and detail as the Board may determine.

Section XV - Public Education

All insurers agree to undertake a continuing public education program in cooperation with producers and others, to assure that the Basic Property Insurance Inspection and Placement Program receives adequate public attention.

Section XVI - Termination of the Plan of Operation

The Plan of Operation shall terminate at such time as specified by the General Statutes of North Carolina; notwithstanding the foregoing, any obligations incurred by the Association or Insurers thereof shall not be impaired by the expiration of the Plan of Operation and such Association shall be continued for the purpose of performing such obligations.

Section XVII - Responsibility with Respect to Cancellation of Non-Renewals

As respects risks eligible under the Plan of Operation, each participating Insurer agrees that with respect to cancellation or non-renewals initiated by it, it will give to policyholders, except in cases of nonpayment of premium, material misrepresentation, or evidence of incendiarism, thirty days to avail themselves of the Plan of Operation and the Insurer shall, in writing, explain to the policyholder the procedures for making application under the Plan of Operation.

Section XVIII - Crime Insurance

1. Pursuant to Chapter 1027 of the 1985 Session (Regular Session 1986) Laws of North Carolina, the North Carolina Joint Underwriting Association shall offer Crime Insurance for eligible and insurable property located in North Carolina, other than in the "Beach Area."
2. The following provisions of this Plan of Operation shall not apply to Crime Insurance; Section IV; Section V, paragraphs 2 and 3; Section VI, paragraphs 2 and 4; and Section IX, paragraph 1(c).
3. Residential crime insurance will be provided in amounts approved by the Board of Directors and the Insurance Commissioner, not to exceed \$10,000. The residential crime insurance policy shall be

a combination package for both burglary and robbery coverage. Commercial crime insurance coverages offered shall be: 1) burglary only; 2) robbery only; or 3) a combination of burglary and robbery in uniform or varying amounts as specified by the Board of Directors and approved by the Commissioner, up to a maximum of \$15,000.

4. Rates will be established by the Board of Directors, with the approval of the Commissioner.
5. Applicants must submit a properly completed, signed, application to be considered for crime coverage. The application will set forth minimum protective device requirements that must be met for eligibility. These requirements will be established by the Board of Directors and approved by the Commissioner. The signed application will become a part of the policy contract and will be attached thereto.
6. Reasonable underwriting standards shall include, but not be limited to, the following:
 - (a) physical condition of the property;
 - (b) violation of law, public policy, morals and the character or integrity of the property owner or occupant;
 - (c) such other standards as may be approved from time to time by the Commissioner of Insurance.
7. The insured must notify local law enforcement authorities and the Association immediately after discovery of a loss.

APPENDIX F

A Brief History of the North Carolina FAIR and Beach Plans

Back in the 1960's when this country was troubled with riots and civil unrest, people owning property in downtown areas of many cities were having trouble getting insurance companies to cover their property. The problem was severe for insurance companies. In 1965, insurance companies lost \$38 million due to rioting. By 1967, the losses totaled \$68 million, and by 1968 they had reached a high of \$79 million. In 1969, the losses began to shrink and were only \$31 million.¹

The problem was so widespread that the president created a National Advisory Panel on Insurance in Riot-Affected Areas. Upon recommendations made by this panel, the Urban Property Protection and Reinsurance Act of 1968 (Public Law 90-448) was created and placed under the jurisdiction of the department of Housing and Urban Development.

A model plan was developed by leading insurance associations to meet the HUD requirements. This plan was called the Model Uniform Basic Property Insurance Inspection and Placement Program. It required inspection procedures for homes and businesses, a plan for placing the business with insurers, and a joint reinsurance plan within each state for the participating insurers. States developing their own plans had to meet the fundamental federal requirements.

North Carolina created a FAIR Plan in 1969 (Article 46 of Chapter 58 in the General Statutes of North Carolina). The purposes of the FAIR Plan were to provide property owners in cities having a population of 10,000 or more with "Fair Access to Insurance Requirements", to encourage the improvement of properties in these areas of the state and to arrest the decline of property within these areas. Under the FAIR Plan, a property owner cannot be denied coverage based upon its location or other environmental factors. The property owner pays a standard rate unless the property fails to meet certain minimal requirements.

The Beach Plan was created the same year (Article 45 of Chapter 58 in the General Statutes of North Carolina) for the same lack of available market that created the FAIR Plan. Due to the threat of catastrophic loss if a hurricane should strike the coast of North Carolina, many insurance companies were unwilling to write very much business along the shoreline. The purposes of the Beach Plan are to promote the growth, development and economic welfare of the beach areas of our state.

When initially created in 1969, the FAIR Plan and Beach Plans were operated by the North Carolina Fire Insurance Rating Bureau, where they remained until 1977. For the next two years, operation of the Plans was moved to the Insurance Services Offices (ISO). Finally, in 1979, the Plans spun off from ISO and became an independent organization.

¹ David L. Bickelhaupt, General Insurance, pp. 809-813

Originally the Plans placed their business with different insurance companies on a rotating basis. These companies issued the policies and handled the claims, so all the Plan had to do after underwriting the risks was to assign the risks to the different companies. Later they used one company, the South Carolina Insurance Company, as a servicing carrier to write all of the policies and handle all of the claims.

Once they spun off from ISO a number of changes occurred. They began issuing their own policies under their names; the North Carolina Joint Underwriting Association and the North Carolina Insurance Underwriting Association, and handling their own claims, using independent adjusters. Prior to the spin-off the FAIR Plan had traded under the name, the North Carolina Insurance Placement Facility. The offices were relocated from Dawson Street to Wade Avenue. They stayed at the Wade Avenue location for seven years until rapid growth brought about by going statewide forced them to move to their present location, 505 Oberlin Road.

In 1981, they went on-line with their first computer system, hooked in with the Harford Mutual Insurance Company. In 1985, they moved the computer facility to General Data Systems, Ltd, which was later purchased by computer giant EDS.

In 1989, the Associations purchased software from Strategic Data Systems and an AS/400 from IBM and started issuing policies in-house for those policies effective after October 1, 1990.

Around 1984 or so, the federal government eliminated the Urban Property Protection and Reinsurance Act of 1968, so the FAIR Plan is now solely under state legislative control although it still follows most of the rules and guidelines of the Reinsurance Act.

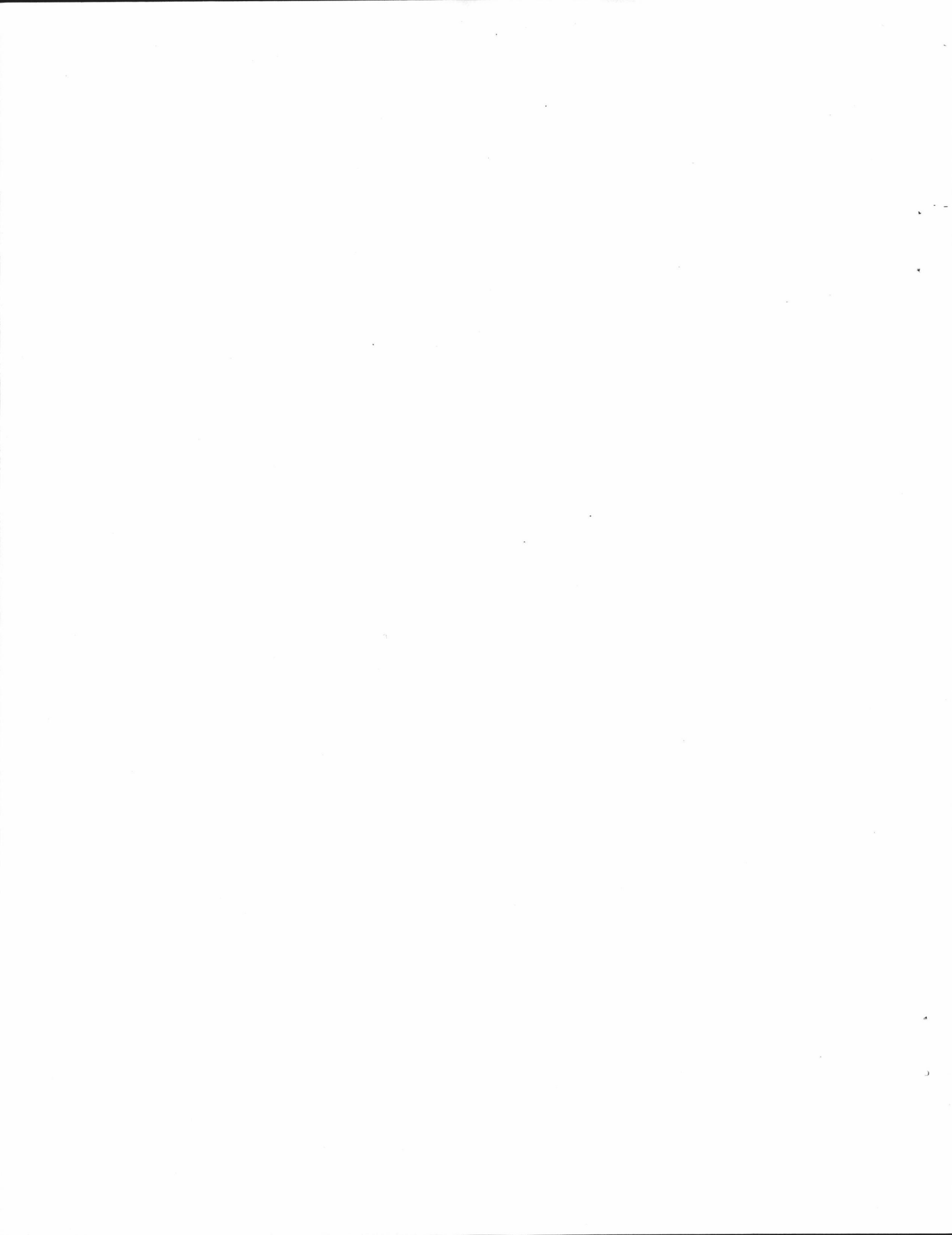
In 1986, the North Carolina legislature, in response to a lack of available insurance in rural markets, changed the statute so that the FAIR Plan now provides insurance to properties across the state, except for the Beach Plan area. Primarily because of this change the Plan grew rapidly. In October of 1985, they had 18 people employed by the Association. At this time there are around 53. Policy volume is up to 45,000+ policies in force compared to approximately 15,000-16,000 in force in 1984.

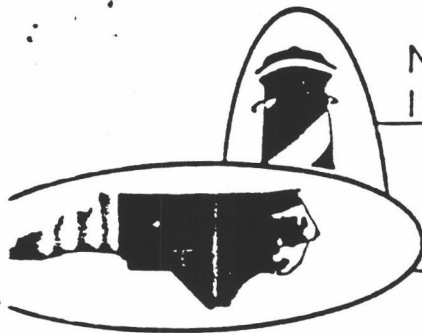
In February, 1987, the Federal Crime Insurance Program moved out of North Carolina. The legislature gave the task of providing crime insurance to the FAIR and Beach Plans. The Crime Program now has over 1,200 policies.

In 1988, the Beach Plan began offering a new coverage. With this coverage, an insured can obtain a windstorm and hail policy from the Association and have a licensed company write all the other coverages as a "wrap-around" policy. Growth due to this coverage is yet to be determined.

For years, the Plans had been offering seminars for the benefit of insurance agents, on a periodic basis, and in 1989 they began an annual series of such seminars. That same year saw the establishment of a Manager's Advisory Council, comprised of eight licensed agents from various sections of the state. This Council acts as a review board for changes in Association procedures, is advisory to the Manager and reviews periodically Association practices and procedures, applications and forms.

The Associations' staff also present workshops and meetings for adjusters, periodic sessions with Insurance Department personnel, and in 1992 will start workshops for inspectors.





NORTH CAROLINA
INSURANCE UNDERWRITING ASSOCIATION

BEACH PLAN

NORTH CAROLINA
JOINT UNDERWRITING ASSOCIATION

FAIR PLAN

March 22, 1991

Mr. Dave Diehl
Policy & Rate Analyst
Property & Casualty Division
Department of Insurance
State of North Carolina
P.O. Box 26387
Raleigh, NC 27611

RE: Fiscal Year Results for the North Carolina Insurance
Underwriting Association and the North Carolina Joint
Underwriting Association

Dear Mr. Diehl:

As requested in your letter of February 19, 1991, enclosed you will find two exhibits, one for the FAIR Plan and one for the Beach Plan, listing assessments or distributions to member companies for the past ten fiscal year, including any advanced assessments or distributions which have been made to member companies for which the fiscal year has not yet been finalized.

In your letter you requested separate data for the FAIR Plan, Beach Plan, and Windstorm Program. We do not make separate assessments and distributions for the Windstorm Program, as this is part of the Beach Plan.

If we can be of further service, please let us know.

Yours very truly,

Marvin P. Wilson, Jr.
Manager

MPWjr:lc/00000099
Enclosures

RECEIVED

c: K.A. Harshaw
B.F. Seagle
W.L. Pollard
W.K. Joyner

G-1



NORTH CAROLINA
JOINT UNDERWRITING ASSOCIATION

FAIR PLAN

North Carolina Joint Underwriting Association
FAIR Plan

<u>Transaction Date</u>		
April 10, 1981	Assessment for 1980-81 Losses	\$ 600,000
August 25, 1983	Assessment for 1982-83 Losses	\$ 500,000
January 20, 1984	Final Close-Out for 1978-79 Policy Fiscal Year Resulted in Return of \$1,103,795 Applied as Follows:	
	1 - 1979-80 Unclosed Year Deficit	\$ 677,350
	2 - 1980-81 Unclosed Year Deficit	\$ 426,445
February 24, 1984	Assessment for 1982-83 Losses	\$ 600,000
September 28, 1984	Assessment for 1983-84 Losses	\$ 950,000
December 12, 1985	Final Close-Out of 1979-80 Policy Fiscal Year - Distribution	\$ 239,235
	Final Close-out of 1980-81 Policy Fiscal Year - Assessment	\$ 333,148
December 17, 1986	Final Close-Out of 1981-82 Policy Fiscal Year - Assessment	\$ 468,882
December 17, 1987	Final Close-Out of 1982-83 Policy Fiscal Year - Distribution	\$ 353,956
December 17, 1988	Final Close-Out of 1983-84 Policy Fiscal Year - Assessment	\$ 152,741
October 10, 1989	Assessment for Hurricane Hugo Losses 1988-89	\$8,000,000
December 19, 1989	Final Close-Out of 1984-85 Policy Fiscal Year - Assessment	\$ 414,031
December 20, 1990	Final Close-Out of 1985-86 Policy Fiscal Year - Distribution	\$ 389,489
	1990 Premium Tax Assessment	\$ 202,422

MPWjr:lc/00000091



NORTH CAROLINA
INSURANCE UNDERWRITING ASSOCIATION

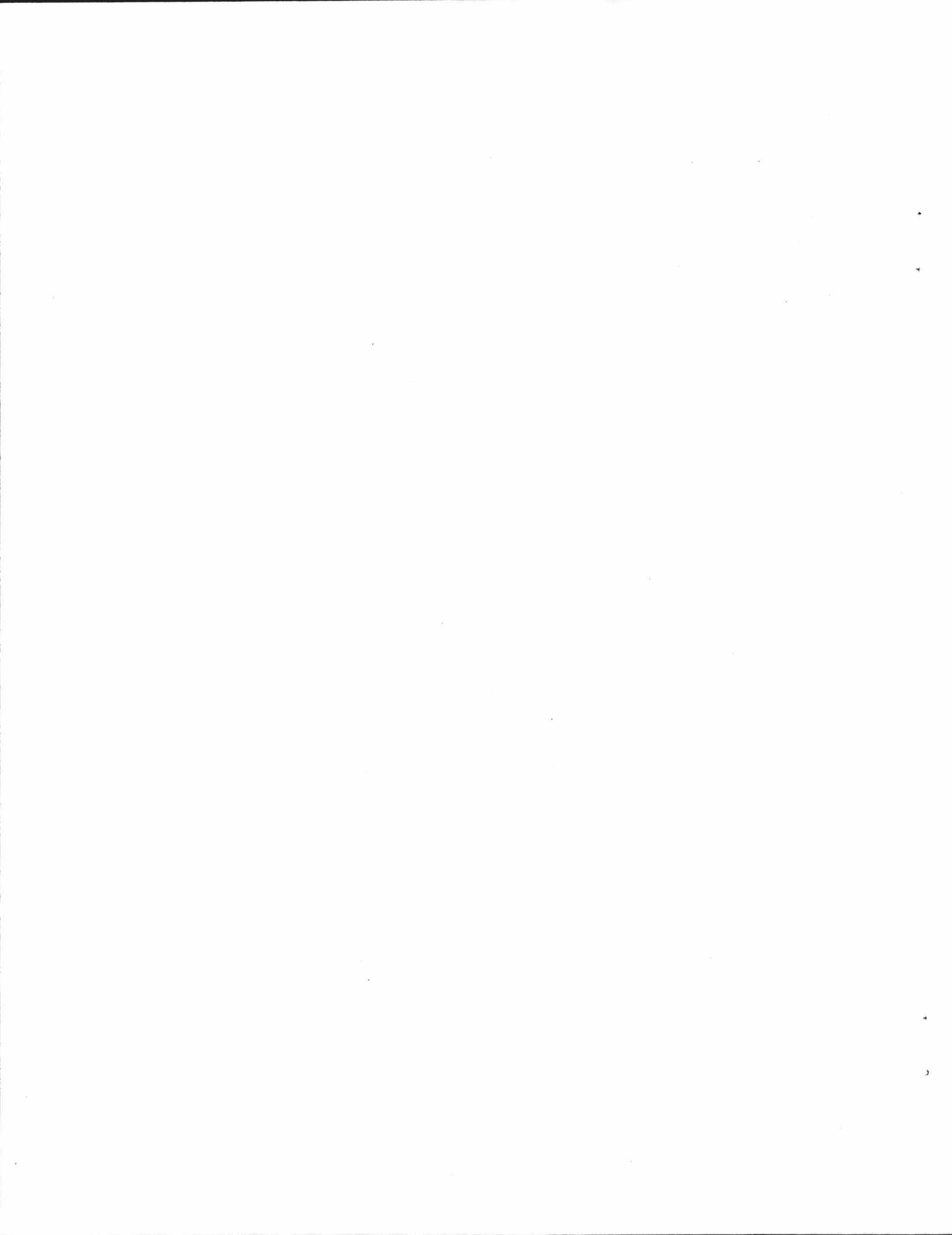
BEACH PLAN

North Carolina Insurance Underwriting Association
Beach Plan

Transaction
Date

December 12, 1985	Final Close-Out of 1980-81 Policy Fiscal Year - Distribution	\$2,900,750
May 6, 1987	Final Close-Out of 1981-82 Policy Fiscal Year - Distribution	\$3,387,095
July 7, 1988	Distribution for Unclosed Out Years Policy Year 1983-84 - Deficit \$ 1,421,463 Policy Year 1984-85 - Distribution 4,851,998 Policy Year 1985-86 - Distribution <u>10,232,558</u>	\$13,663,093
December 19, 1988	Final Close-Out of 1983-84 Policy Fiscal Year	\$ 0
	Distribution for Unclosed Out Year Policy Year 1986-87 - Distribution	\$10,471,728
December 19, 1989	Final Close-Out of 1984-85 Policy Fiscal Year - Distribution	\$ 278,445
	Advance Distribution for 1987-88 Policy Fiscal Year	\$10,000,000
December 18, 1990	Final Close-Out of 1985-86 Policy Fiscal Year - Distribution	\$ 26,864
	Advance Distribution for 1988-89 Policy Fiscal Year	\$ 6,250,648
	1990 Premium Tax Assessment	\$ 256,060

MPWjr:lc/00000098



BEACH PLAN REPORT OF OPERATIONS
Five Year Experience Report
Fiscal Years 1986, 1987, 1988, 1989 and 1990

STATE	YEAR	APPLICATIONS RECEIVED	BINDERS OR POLICIES ISSUED	EXPOSURE ('000) *	PREMIUMS WRITTEN ('000)	PREMIUMS EARNED ('000)	NUMBER OF LOSSES REPORTED	TOTAL LOSS AND LOSS ADJUSTMENT EXPENSE	LOSS AND LOSS ADJUSTMENT EXPENSE RATIO +	COMBINED RATIO +	PROFIT/ (LOSS) ('000)	
ALABAMA	1986	3,861	3,654	\$268,646	\$3,879	\$2,949	190	\$338				
	1987	4,053	3,876	292,503	4,811	4,321	134	284	11.5%	35.4%	\$1,905	
	1988	3,501	3,407	216,384	3,136	4,051	241	366	9.0	27.8	3,120	
	1989	3,223	3,102	182,987	2,692	2,935	195	236	6.6	24.4	3,062	
	1990	2,970	2,902	173,223	2,600	2,740	136	248	8.0	30.1	2,053	
	5 YEAR TOTAL: Inception- 1990	17,608 48,689	16,941 46,636	———— ————	\$17,118 \$29,951	\$16,996 \$28,547	896 6,467	\$1,472 \$55,632	8.7%	29.0%	218.5%	\$12,074 (\$33,828)
FLORIDA ** 1	1986	53,907	51,416	\$5,203,835	\$11,895	\$7,126	1,914	\$5,751				
	1987	59,569	56,836	6,011,325	13,124	7,480	563	590	80.7%	122.0%	(\$1,568)	
	1988	62,113	59,373	7,149,152	14,624	10,558	1,081	1,368	7.9	52.2	3,578	
	1989	64,766	60,955	6,360,121	15,169	6,921	626	951	13.0	45.9	5,714	
	1990	72,461	69,288	6,774,676	15,959	7,758	443	553	13.7	67.2	2,268	
	5 YEAR TOTAL: Inception- 1990	312,816 749,250	297,868 677,221	———— ————	\$70,771 \$141,757	\$39,843 \$95,670	4,627 13,961	\$9,213 \$33,199	23.1%	66.9%	77.2%	\$13,180 \$21,810
LOUISIANA	1986	6,242	8,411	\$213,411	\$3,597	\$3,200	277	\$1,195				
	1987	7,876	7,772	205,999	3,389	3,421	178	695	37.3%	69.1%	\$988	
	1988	8,481	7,752	207,627	3,032	3,201	173	983	20.3	47.9	1,783	
	1989	8,324	7,204	184,739	2,637	2,819	161	530	30.7	58.4	1,331	
	1990	8,019	7,194	190,000	2,478	2,595	159	519	18.8	47.4	1,482	
	5 YEAR TOTAL: Inception- 1990	38,942 74,026	38,333 140,479	———— ————	\$15,133 \$49,875	\$15,236 \$50,726	948 4,670	\$3,922 \$15,160	25.7%	54.9%	58.4%	\$6,872 \$21,082
MISSISSIPPI **	1986	10,526	10,205	\$560,388	\$8,886	\$6,621	389	\$2,312				
	1987	13,837	13,213	566,432	9,330	9,128	345	1,993	34.9%	76.3%	\$1,568	
	1988	5,439	5,653	119,360	4,077	6,812	348	1,868	21.8	57.1	3,914	
	1989	5,635	5,305	379,592	3,320	3,794	76	82	27.4	50.2	3,394	
	1990	5,466	5,159	352,895	3,098	2,238	84	207	2.2	33.8	2,512	
	5 YEAR TOTAL: Inception- 1990	40,903 156,209	39,535 150,107	———— ————	\$28,711 \$59,916	\$28,593 \$57,343	1,242 12,790	\$6,462 \$38,605	9.2	22.6%	67.3%	56.9%

APPENDIX H

H-1

BEACH PLAN REPORT OF OPERATIONS
Five Year Experience Report
Fiscal Years 1986, 1987, 1988, 1989 and 1990

STATE	YEAR	APPLICATIONS RECEIVED	BINDERS OR POLICIES ISSUED	EXPOSURE ('000) *	PREMIUMS WRITTEN ('000)	PREMIUMS EARNED ('000)	NUMBER OF LOSSES REPORTED	TOTAL LOSS AND LOSS ADJUSTMENT EXPENSE	LOSS AND LOSS ADJUSTMENT EXPENSE RATIO +	COMBINED RATIO +	PROFIT/ (LOSS) ('000)
NORTH CAROLINA	1986	14,571	9,529	\$1,074,241	\$11,509	\$8,479	244	\$434	5.1%	25.8%	\$6,293
	1987	17,191	12,519	1,234,913	13,741	12,830	368	1,172	9.1	26.5	9,436
	1988	17,739	14,010	1,262,512	11,424	12,147	459	1,245	10.2	28.6	8,670
	1989	27,263	15,453	1,543,634	12,007	12,510	1,828	3,465	27.7	45.7	6,789
	1990	18,193	16,089	1,727,044	12,764	16,539	964	3,332	20.1	35.4	10,685
	5 YEAR TOTAL: Inception- 1990		94,957 178,082	67,600 141,630	— —	\$61,445 \$95,090	\$62,505 \$93,031	3,863 10,111	\$9,648 \$21,230	15.4% 22.8%	33.0% 41.6%
SOUTH CAROLINA **	1986	6,651	6,438	\$1,557,823	\$9,621	\$5,170	68	\$111	2.1%	31.1%	\$3,561
	1987	6,791	6,742	1,185,595	7,076	4,298	167	193	4.5	34.7	2,808
	1988	6,522	5,871	951,468	4,509	3,094	62	165	5.3	38.3	1,909
	1989	6,314	6,174	920,300	3,469	806	3,511	150,073	18619.5	18735.1	(150,199)
	1990	7,193	6,604	1,064,752	4,056	(881)	380	(48,970)	5558.5	5417.5	46,847
	5 YEAR TOTAL: Inception- 1990		33,471 85,107	31,829 78,386	— —	\$28,731 \$41,853	\$12,487 \$24,157	4,188 6,061	\$101,572 \$105,006	813.4% 434.7%	861.4% 474.3%
TEXAS **	1986	72,726	43,393	\$4,433,626	\$16,335	\$5,229	1,010	\$1,202	23.0%	99.4%	\$30
	1987	69,390	43,353	4,288,486	15,979	4,931	1,784	2,555	51.8	134.8	(1,715)
	1988	69,609	44,420	4,185,577	14,816	3,551	1,028	2,509	70.7	185.2	(3,024)
	1989	68,963	43,658	4,236,600	14,039	5,330	7,859	14,176	266.0	341.7	(12,883)
	1990	66,392	43,108	4,248,611	14,179	16,761	523	1,589	9.5	34.4	11,000
	5 YEAR TOTAL: Inception- 1990		347,080 1,181,029	217,932 817,023	— —	\$75,348 \$194,795	\$35,802 \$139,145	12,204 52,676	\$22,031 \$205,826	61.5% 147.9%	118.4% 182.6%
TOTALS	1986	168,484	133,046	\$13,311,970	\$65,722	\$38,774	4,092	\$11,343	29.3%	67.0%	\$12,777
	1987	178,707	144,311	13,785,253	67,450	46,409	3,539	7,482	16.1	50.6	22,924
	1988	173,404	140,486	14,092,080	55,618	43,414	3,392	8,504	19.6	51.5	21,056
	1989	184,488	141,851	13,807,973	53,333	35,115	14,256	169,513	482.7	521.4	(147,978)
	1990	180,694	150,344	14,531,201	55,134	47,750	2,689	(42,522)	0.0	0.0	75,864
	5 YEAR TOTAL: Inception- 1990		885,777 2,472,392	710,038 2,051,482	— —	\$297,257 \$613,237	\$211,462 \$488,619	27,968 106,736	\$154,320 474,658	73.0% 97.1%	107.3% 129.5%

H-2

APPENDIX I

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1991

D

92-RNZ-004

THIS IS A DRAFT 24-APR-92 10:40:04

Short Title: BEACH AND FAIR PLAN AMENDMENTS

(Public)

Sponsors:

Referred to:

1 A BILL TO BE ENTITLED
2 AN ACT TO PROVIDE FOR IMPROVEMENTS IN THE OPERATIONS OF THE
3 FAIR AND BEACH PLANS.
4 The General Assembly of North Carolina enacts:
5 Section 1. G.S. 58-45-35 reads as rewritten:
6 "**§ 58-45-35. Persons eligible to apply to Association for coverage; contents of**
7 **application.**
8 (a) Any person having an insurable interest in insurable property, may, on or after
9 the effective date of the plan of operation, be entitled to apply to the Association for
10 such coverage and for an inspection of the property. ~~Such application may be made on~~
11 ~~behalf of the applicant by a broker or agent authorized by him.~~ A broker or agent
12 authorized by the applicant may apply on the applicant's behalf. Each application shall
13 contain a statement as to whether or not there are any unpaid premiums due from the
14 applicant for essential property insurance on the property.
15 The term "insurable interest" as used in this subsection shall ~~be deemed to~~ include
16 any lawful and substantial economic interest in the safety or preservation of property
17 from loss, destruction or pecuniary damage.
18 (b) If the Association determines that the property is insurable and that there is no
19 unpaid premium due from the applicant for prior insurance on the property, the

1 ~~Association~~ Association, upon receipt of the premium, or ~~such portion thereof~~, part of
2 the premium, as is prescribed in the plan of operation, shall cause to be issued a policy
3 of essential property insurance and shall offer additional extended coverage, optional
4 perils endorsements, crime insurance, separate policies of windstorm and hail
5 insurance, or their successor forms of coverage, for a term of one year. Any policy
6 issued ~~pursuant to~~ under the provisions of this section shall be renewed annually, upon
7 ~~application therefor~~, application, so long as the property meets the definition of
8 "insurable property" set forth in G.S. 58-45-5(5).

9 (c) If the Association, for any reason, denies an application and refuses to cause to
10 be issued an insurance policy on insurable property to any applicant or takes no action
11 on an application within the time prescribed in the plan of operation, ~~such~~ the applicant
12 may appeal to the Commissioner and the Commissioner, ~~or a member of his staff~~
13 ~~designated by him~~, or the Commissioner's designee from the Commissioner's staff,
14 after reviewing the facts, may direct the Association to issue or cause to be issued an
15 insurance policy to the applicant. In carrying out ~~his~~ the Commissioner's duties
16 ~~pursuant to~~ under this section, the Commissioner may request, and the Association shall
17 ~~provide~~ provide, any information the Commissioner deems necessary to a determination
18 concerning the reason for the denial or delay of the application.

19 (d) An agent who is licensed under Article 33 of this Chapter as an agent of a
20 company which is a member of the Association established under this Article shall not
21 be deemed an agent of the Association.

22 (e) Policies of windstorm and hail insurance provided for in subsection (b) of this
23 section are available only for risks for which essential property insurance has been
24 written by licensed insurers. Whenever such other essential property insurance written
25 by licensed insurers includes replacement cost coverage, the Association shall also offer
26 replacement cost coverage. In order to be eligible for a policy of windstorm and hail
27 insurance, the applicant shall provide the Association, along with the premium payment
28 for the windstorm and hail insurance, a certificate that the essential property insurance
29 is in force. ~~Notwithstanding G.S. 58-45-45, the rates, rating plans, and rating rules for~~
30 ~~windstorm and hail insurance shall be filed by the Association with the Commissioner~~
31 ~~for his approval.~~ The policy forms for windstorm and hail insurance shall be filed by
32 the Association with the Commissioner for his approval before they may be used."

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

34 "§ 58-45-45. Rates, rating plans, rating rules, and forms applicable.

35 (a) Except as provided in subsection (b) of this section, the ~~The~~ rates, rating plans,
36 rating rules, and forms applicable to the insurance written by the Association shall be in
37 accordance with the most recent manual rates or adjusted loss costs and forms that are
38 legally in effect in the State. No special surcharge, other than those presently in effect,
39 may be applied to the property insurance rates of properties located in the beach area.

1 (b) The rates, rating plans, and rating rules for the separate policies of windstorm
2 and hail insurance described in G.S. 58-45-35(b) shall be filed by the Association with
3 the Commissioner for the Commissioner's approval, disapproval, or modification. The
4 provisions of Articles 40 and 41 of this Chapter shall govern the filings."

5 Sec. 3. G.S. 58-46-55 reads as rewritten:

6 "**§ 58-46-55. Rates, rating plans, rating rules, and forms applicable.**

7 The rates, rating plans, rating rules, and forms applicable to the insurance written by
8 the association shall be in ~~accord~~ accordance with the most recent manual rates or
9 adjusted loss costs and forms that are legally in effect in this State. No special
10 surcharge, other than those presently in effect, may be applied to the property
11 insurance rates of properties located in the geographic areas to which this Article
12 applies."

13 Sec. 4. G.S. 58-45-5(5) reads as rewritten:

14 "(5) 'Insurable property' means real property at fixed locations in the
15 beach areas ~~Beach area of the State as that term is hereinafter defined~~
16 or the tangible personal property located therein, but shall not include
17 insurance on motor ~~vehicles, vehicles or farm and manufacturing risks,~~
18 risks; which property is determined by the Association, after
19 inspection and ~~pursuant to~~ under the criteria specified in the plan of
20 operation, to be in an insurable ~~condition: Provided, however,~~
21 condition. However, any one and two family dwellings built in
22 substantial accordance with the Federal Manufactured Home
23 Construction and Safety Standards, any predecessor or successor
24 federal or State construction or safety standards, and any further
25 construction or safety standards promulgated by the association and
26 approved by the Commissioner, or the North Carolina Uniform
27 Residential Building Code and any structure or building built in
28 substantial compliance with the North Carolina Building Code,
29 including the design-wind requirements, which is not otherwise
30 rendered uninsurable by reason of use or occupancy, shall be an
31 insurable risk within the meaning of this Article, but Article.
32 However, none of the following factors shall be considered in
33 determining insurable condition: neighborhood, area, location,
34 environmental hazards beyond the control of the applicant or owner of
35 the property shall not be considered in determining insurable
36 condition. Provided further, that property. Also, any structure
37 commenced begun on or after January 1, 1970, not built in substantial
38 compliance with the Federal Manufactured Home Construction and
39 Safety Standards, any predecessor or successor federal or State
40 construction or safety standards, and any further construction or safety

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

20 Sec. 5. G.S. 58-45-30 reads as rewritten:

21 "§ 58-45-30. Directors to submit plan of operation to Commissioner; review and
22 approval; amendments.

23 (a) Within 90 days after April 17, 1969, the directors of the Association shall submit
24 to the Commissioner for his review and approval, a proposed plan of operation. Such
25 proposed plan shall set forth the number, qualifications, terms of office, and manner of
26 election of the members of the board of directors, and shall grant proper credit
27 annually to each member of the Association for essential property insurance voluntarily
28 written in the beach area and shall provide for the efficient, economical, fair and
29 nondiscriminatory administration of the Association and for the prompt and efficient
30 provision of essential property insurance in the beach areas of North Carolina so as to
31 promote orderly community development in those areas and to provide means for the
32 adequate maintenance and improvement of the property in such areas. Such proposed
33 plan may include a preliminary assessment of all members for initial expenses necessary
34 to the commencement of operation; the establishment of necessary facilities;
35 management of the Association; plan for the assessment of members to defray losses
36 and expenses; underwriting standards; procedures for the acceptance and cession of
37 reinsurance; procedures for determining the amounts of insurance to be provided to
38 specific risks; time limits and procedures for processing applications for insurance and
39 for such other provisions as may be deemed necessary by the Commissioner to carry
40 out the purposes of this Article.

1 (b) The proposed plan shall be reviewed by the Commissioner and approved by him
2 if he finds that such plan fulfills the purposes provided by G.S. 58-45-1. In the review
3 of the proposed plan the Commissioner may, in his discretion, consult with the
4 directors of the Association and may seek any further information which he deems
5 necessary to his decision. If the Commissioner approves the proposed plan, he shall
6 certify such approval to the directors and the plan shall become effective 10 days after
7 such certification. If the Commissioner disapproves all or any part of the proposed
8 plan of operation he shall return the same to the directors with his written statement for
9 the reasons for disapproval and any recommendations he may wish to make. The
10 directors may alter the plan in accordance with the Commissioner's recommendation or
11 may within 30 days from the date of disapproval return a new plan to the
12 Commissioner. Should the directors fail to submit a proposed plan of operation within
13 90 days of April 17, 1969, or a new plan which is acceptable to the Commissioner, or
14 accept the recommendations of the Commissioner within 30 days after his disapproval
15 of the plan, the Commissioner shall promulgate and place into effect a plan of
16 operation certifying the same to the directors of the Association. Any such plan
17 promulgated by the Commissioner shall take effect 10 days after certification to the
18 directors: Provided, however, that until a plan of operation is in effect, pursuant to the
19 provisions of this Article, any existing temporary placement facility may be continued
20 in effect on a mandatory basis on such terms as the Commissioner may determine.

21 (c) The directors of the Association may, subject to the approval of the
22 Commissioner, amend the plan of operation at any time. The Commissioner may
23 review the plan of operation at any time ~~he~~ the Commissioner deems expedient or
24 prudent, but not less than once in each calendar year. After review of ~~such~~ the plan
25 the Commissioner may amend the plan after consultation with the directors and upon
26 certification to the directors of ~~such~~ the amendment.

27 (d) The Commissioner may designate the kinds of property insurance policies on
28 principal residences to be offered by the association, including insurance policies under
29 Article 36 of this Chapter, and the commission rates to be paid to agents or brokers for
30 these policies, if ~~he~~ the Commissioner finds, after a hearing held in accordance with
31 G.S. 58-2-50, that the public interest requires the designation. The provisions of
32 Chapter 150B do not apply to any procedure under this paragraph, except that G.S.
33 150B-39 and G.S. 150B-41 shall apply to a hearing under this paragraph. Within 30
34 days after the receipt of notification from the Commissioner of a change in designation
35 pursuant to this paragraph, the association shall submit a revised plan and articles of
36 association for approval in accordance with this section.

37 (e) The Association shall, subject to the Commissioner's approval or modification,
38 provide in the plan of operation for coverage for appropriate classes of manufacturing
39 risks.

1 (f) As used in this section, 'plan of operation' includes all written rules, practices,
2 and procedures of the Association, except for staffing and personnel matters."

3 Sec. 6. G.S. 58-46-20 is amended by adding a new subsection to read:

4 "(d) As used in this section and in G.S. 58-46-15, 'FAIR Plan', 'plan of operation',
5 and 'articles of association' include all written rules, practices, and procedures of the
6 Association, except for staffing and personnel matters."

7 Sec. 7. Article 45 of Chapter 58 of the General Statutes is amended by
8 adding a new section to read:

9 "**§ 58-45-85. Assessment; inability to pay.**

10 If any insurer fails, by reason of insolvency, to pay any assessment as provided in
11 this Article, the amount assessed each insurer shall be immediately recalculated,
12 excluding the insolvent insurer, so that its assessment is assumed and redistributed
13 among the remaining insurers. Any assessment against an insolvent insurer shall not be
14 a charge against any special deposit fund held under the provisions of Article 5 of this
15 Chapter for the benefit of policyholders."

16 Sec. 8. Within 30 days after the effective date of this act, the North
17 Carolina Insurance Underwriting Association and the North Carolina Joint Underwriting
18 Association shall file, with the Commissioner of Insurance for approval or modification,
19 all written rules, practices, and procedures that are in effect on that date.

20 Sec. 9. This act is effective upon ratification.

SUMMARY OF PROPOSED LEGISLATION

SECTION 1. Section 1 of the bill removes a provision requiring rates, rating plans, and rating rules for windstorm and hail insurance under the Beach Plan to be filed with the Commissioner of Insurance. The provision is removed to conform this section with Section 2.

SECTION 2. Section 2 provides that the rates, rating rules, and rating plans for the Beach Plan are subject to Articles 40 and 41 of Chapter 58 of the General Statutes and therefore cannot be excessive, inadequate, or unfairly discriminatory.

SECTION 3. Section 3 requires rates and forms to be in accordance with the most recent manual rates or adjusted loss costs and forms.

SECTION 4. Section 4 amends the definition of "insurable property" under the Beach Plan to allow manufacturing risks to be covered. See Section 5 for the provision allowing the Beach Plan to classify manufacturing risks.

SECTION 5. Section 5 permits the Association, with the Commissioner's approval, to determine in its plan of operation which classes of manufacturing risks it will insure under the Beach Plan. This section also defines "plan of operation" to include the written rules, practices, and procedures of the Beach Plan, thus requiring these items to be filed with the Commissioner for approval.

SECTION 6. Section 6 amends the FAIR plan to provide that all rules and procedures of the FAIR plan are considered to be part of the "plan of operation" that is subject to the Commissioner's approval.

SECTION 7. Section 7 provides for the recalculation of an assessment levied against Beach Plan members if a member has failed, because of insolvency, to pay its share. The unpaid share is reallocated among the other members of the Beach Plan.

SECTION 8. Section 8 requires the FAIR and Beach Plan rules and procedures to be filed with the Commissioner for approval or modification within 30 days after ratification of the bill.

SECTION 9. Section 9 makes this act effective on ratification.

LEGISLATIVE LIBRARY