

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2019

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HOUSE BILL 922*
Senate Commerce and Insurance Committee Substitute Adopted 6/27/19
Third Edition Engrossed 7/8/19

Short Title: Enhance Insurance Coverage/Educ. Buildings.

(Public)

Sponsors:

Referred to:

April 22, 2019

1 A BILL TO BE ENTITLED
2 AN ACT TO REDUCE THE IMPACT TO TAXPAYERS OF NATURAL DISASTERS AND
3 OTHER INSURABLE RISKS BY ENHANCING STATE INSURANCE COVERAGE FOR
4 PUBLIC SCHOOL BUILDINGS AND COMMUNITY COLLEGES.

5 The General Assembly of North Carolina enacts:

6
7 **ENHANCE INSURANCE COVERAGE FOR PUBLIC SCHOOL BUILDINGS**

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

10 **"§ 115C-523.1. Duty to insure public school property.**

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

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

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

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

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

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

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

34 **"§ 115C-523.2. Flood insurance.**



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

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

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

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

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

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

23

24 **ENHANCE INSURANCE COVERAGE FOR COMMUNITY COLLEGES**

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

26 **"§ 115D-58.11. Fire and casualty insurance on institutional buildings and contents.**

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

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

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

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

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

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

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

"§ 115D-58.11A. Flood insurance.

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

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

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

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

TRANSFER PUBLIC SCHOOL INSURANCE FUND TO DEPARTMENT OF INSURANCE

SECTION 3.(a) All functions, powers, duties, obligations, resources, and appropriations vested in the State Board of Education, the Superintendent of Public Instruction, and the School Insurance Fund Section of the Department of Public Instruction for management and operation of a system of insurance for public education property are transferred to, vested in, and consolidated into the Department of Insurance and the Commissioner of Insurance as a Type I transfer, as defined in G.S. 143A-6. The Commissioner of Insurance, the Department of Insurance, and the Office of State Budget and Management are authorized to take all other steps necessary to consolidate the system of insurance for public education property into the Department of Insurance. To effectuate this Type I transfer and ensure continuation of other benefit services in the Department of Public Instruction, the following shall occur:

- (1) The State Treasurer shall transfer the balance of the Public School Insurance Fund to the State Public Education Property Insurance Fund, established pursuant to G.S. 58-31A-20, as enacted by this act.
- (2) The following positions shall be transferred from the Department of Public Instruction to the Department of Insurance as part of the Type I transfer, and the Department of Insurance may eliminate these positions as needed for the efficient operation of the Department:

	<u>Position number</u>	<u>Title</u>
a.	60009670	School Insurance Consultant.
b.	60009672	Fire Safety Inspector.
c.	60009673	Fire Safety Inspector.
d.	60009674	Fire Safety Inspector.
e.	60009675	Administrative Specialist II.
f.	60009677	Accounting Technician II.
g.	60009668	Administrative Specialist I.

- (3) The Department of Public Instruction shall retain the following position to continue administration of non-property insurance benefit services formerly handled by the School Insurance Fund Section, and shall use funds appropriated to Fund Code 1870 for costs associated with that position:

	<u>Position number</u>	<u>Title</u>
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a. 60009669 Education Program Administrator II.

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

"Article 31A.

"State Insurance of Public Education Property.

"§ 58-31A-1. Definitions.

The following definitions shall apply in this Article:

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

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

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

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

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

"§ 58-31A-10. Flood insurance.

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

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

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

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

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

1 (b) When the balance of the Fund reaches the sum of five percent (5%) of the total
2 insurance in force, then annually thereafter the Commissioner shall proportionately decrease the
3 premiums on insurance to an amount which will be sufficient to maintain the Fund at five percent
4 (5%) of the total insurance in force, and in the event in the judgment of the Commissioner the
5 income from the investments of the Fund are sufficient to maintain the same at five percent (5%)
6 of the total insurance in force, no premium shall be charged for the ensuing year. However, no
7 public education board shall cease to pay premiums until five annual payments of premiums have
8 been made on a building or property insured whether or not through such payments the Fund
9 shall be increased beyond five percent (5%) of the total insurance in force, unless such building
10 or property shall cease to be insurable under this Article within such five-year period.

11 **"§ 58-31A-25. Insurance of property by public education boards; notice of election to insure**
12 **and information to be furnished; outstanding policies.**

13 All public education boards may insure all public education property titled to that board
14 against the direct loss or damage by insurable hazards in public education buildings and other
15 public education properties in the Fund. Any property covered by an insurance policy in effect
16 on the date when the property of a public education board is insured in the Fund shall be insured
17 by the Fund as of the expiration of the policy. Each public education board shall give notice of
18 its election to insure in the Fund at least 90 days prior to such insurance becoming effective and
19 shall furnish to the Commissioner a full and complete list of all outstanding property insurance
20 policies, giving in complete detail the name of the insurers, the amount of the insurance and
21 expirations thereof. While the said insurance policies remain in effect, the Fund shall act as
22 coinsurer of the properties covered by such insurance to the same extent and in the same manner
23 as is provided for coinsurance under the provisions of the standard form of property insurance as
24 provided by law, and in the event of loss shall have the same rights and duties as required by
25 participating insurance companies.

26 **"§ 58-31A-30. Inspections of insured public education properties.**

27 The Commissioner shall provide for periodic inspections of all public education properties
28 in the State of North Carolina insured under the provisions of this Article, in addition to the
29 inspections required by G.S. 115C-525(b). The person making inspections required under
30 G.S. 115C-525(b) shall furnish a copy to the Commissioner, and the local superintendent shall
31 furnish to the Commissioner their corrective action plan. The inspections shall be for safety of
32 buildings and particularly buildings used to provide instruction to students. The inspections shall
33 be the basis for offering such engineering advice as may be thought to be necessary to safeguard
34 students in public education buildings from death and injury from school fires or explosions and
35 to protect the properties from loss, and the public education properties shall be required so far as
36 possible, and reasonable, to carry out and put into effect any recommendations made by the
37 Commissioner.

38 **"§ 58-31A-35. Information to be furnished prior to insuring in Fund; providing for**
39 **payment of premiums.**

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

50 **"§ 58-31A-40. Determination and adjustment of premium rates; certificate as to insurance**
51 **carried; no lapse; notice as to premiums required, and payments of premiums.**

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

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

20 **§ 58-31A-45. Adjustment of losses; determination and report of appraisers; payment of**
21 **amounts to treasurers of local school administrative units; disbursement of**
22 **funds.**

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

33 (b) In the event of loss or damage by insurable hazards to public education buildings and
34 properties of the public education boards, to the property insured, when an agreement as to the
35 extent of the loss or damage cannot be arrived at between the Commissioner and the public
36 education board with control charge of the property, the amount of the loss or damage shall be
37 determined by three appraisers selected as follows: the Commissioner shall select one appraiser,
38 the public education board in control of the property shall select one appraiser, and the two
39 appraisers selected by the Commissioner and the public education board shall select a third
40 appraiser. The selected appraisers shall be disinterested persons and shall be qualified from
41 experience to appraise and value the property. If the appraisers appointed by the Commissioner
42 and the public education board shall fail to agree upon a third appraiser within 15 days of their
43 selection, then, on request of the Commissioner or the public education board, a third appraiser
44 shall be selected by any regular resident superior court judge of the superior court district or set
45 of districts as defined in G.S. 7A-41.1 in which the property is located. The selected appraisers
46 shall file their written report with the Commissioner and with the public education board. The
47 costs of the appraisal shall be paid from the Fund. Upon the determination of the loss by the
48 appraisers, the Commissioner shall pay the amount of the loss or damage to the education
49 property to the finance officer of the public education board, upon proper warrant of the
50 Commissioner. The funds shall be paid out by the finance officer for the disbursement of the
51 funds to the public education board.

1 **"§ 58-31A-50. Maintenance of inspection and engineering service; cancellation of**
2 **insurance.**

3 The Commissioner is authorized and empowered to maintain an inspection and engineering
4 service deemed by it to be appropriate and necessary to reduce the hazards of fire in public
5 education buildings insured in the Fund and to expend for such purpose not in excess of ten
6 percent (10%) of the annual premiums collected from the public education boards. The
7 Commissioner is authorized and empowered to cancel any insurance on any public education
8 property when, in his or her opinion, because of dilapidation and depreciation of the property,
9 the property is no longer insurable. The public education board shall be notified at least 30 days
10 prior to cancellation, and in the event the public education board demonstrates the property can
11 be restored to insurable condition, the Commissioner may continue insurance coverage,
12 provided, that the findings and results of the inspection of public education property by the agents
13 of the Commissioner shall be reported to the public education board and to the tax-levying
14 authority for that public education board that carry insurance with the Fund at least 30 days prior
15 to finalization of a local budget for that fiscal year to ensure that all public education property
16 shall be properly taken care of and made safe from fire hazards.

17 **"§ 58-31A-55. Other property insurance.**

18 The Commissioner shall adopt rules for providing property insurance on property insured by
19 the Fund against all risks of direct physical loss not otherwise insured against pursuant to this
20 Article. Losses covered by this additional insurance shall be paid out of the Fund in the same
21 manner as fire and extended coverage losses. Each public education board that elects to purchase
22 this additional insurance shall pay a premium in accordance with rates fixed by the
23 Commissioner. This additional insurance shall be subject to the provisions and stipulations on
24 policy forms approved by the Commissioner."

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

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

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

31 ...

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

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

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

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

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

41
42 **PART IV. EFFECTIVE DATE**

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