

NORTH CAROLINA GENERAL ASSEMBLY
1969 SESSION

CHAPTER 1284
SENATE BILL 662

1 AN ACT TO PROVIDE BASIC PROPERTY INSURANCE FOR PROPERTY OWNERS IN
2 URBAN AREAS OF NORTH CAROLINA; TO PROVIDE A FACILITY FOR THE
3 PLACEMENT OF ESSENTIAL PROPERTY INSURANCE IN RIOT-POTENTIAL
4 AREAS, AND TO PROVIDE FOR PARTICIPATION IN THE FAIR ACCESS OF
5 INSURANCE REQUIREMENTS (FAIR PLAN OF INSURANCE).

6
7 The General Assembly of North Carolina do enact:

8
9 **Section 1.** Subchapter 3 of Chapter 58 of the General Statutes is hereby amended
10 by adding at the end thereof a new article to be designated as Article 18B and reading as
11 follows:

12 "Article 18B

13 "Fair Access to Insurance Requirements.

14 "**Section 58-173.17. Purpose of Act.** It is the purpose of this Act to provide a program
15 whereby adequate basic property insurance may be made available to property owners having
16 insurable property in urban areas of the State and to enable insurers doing business in the State
17 to participate in the Federal reinsurance provisions or Public Law 90-448, 90th Congress,
18 August 1, 1968. It is further the purpose of this Act to encourage the improvement of properties
19 located in urban areas of the State and to arrest the decline of properties located in such areas."

20 "**Section 58-173.18. Organization of Underwriting Association.** All insurers licensed to
21 write and writing property insurance in this State on a direct basis are authorized, subject to the
22 approval and regulation by the Commissioner, to establish and maintain a FAIR Plan (Fair
23 Access to Insurance Requirements) and to establish and maintain an Underwriting Association
24 and to formulate, and from time to time, to amend the plans and articles of the association and
25 rules and regulations in connection therewith, and to assess and share on a fair and equitable
26 basis all expenses, income and losses incident to such FAIR Plan and Underwriting Association
27 in a manner consistent with the provisions of this Article and in conformity with the Urban
28 Property Protection and Reinsurance Act of 1968. (Title XI of Housing and Urban
29 Development Act of 1968, Public Law 90-448, 90th Congress, August 1, 1969)."

30 "**Section 58-173.19. Participation in association.** Every insurer authorized to write basic
31 property insurance in this State except town and county mutual insurance associations and
32 assessable mutual companies as authorized by G.S. 58-77(5)b, G.S. 58-77(5)d and
33 G.S. 58-77(7)b shall be required to become and remain a member of the Plan and Underwriting
34 Association and comply with the requirements thereof as a condition of its authority to transact
35 basic property insurance business in the State of North Carolina. The premiums paid by
36 insurers of North Carolina property to the National Insurance Development Fund for re-
37 insurance, shall be used for the payment of losses occurring in this State and shall, to the extent
38 not so used, be credited to the participation of such insurers in the re-insurance facility provided
39 by this Act and the Federal Act."

40 "**Section 58-173.20. Requirements of Plan and Authority of Association.** The Association
41 formed pursuant to the provisions of this Article shall have authority on behalf of its members
42 to cause to be issued basic property insurance policies, to reinsure in whole or in part, any such
43 policies, and to cede any such reinsurance. The Plan adopted, pursuant to the provision of this

1 Article, shall provide, among other things, for the perils to be covered, the geographical areas
2 of coverage, compensation and commissions, assessments of members, the sharing of expenses,
3 income and losses on an equitable basis, cumulative weighted voting for the Board of Directors
4 of the Association, the administration of the Plan and Association and any other matter
5 necessary or convenient for the purpose of assuring fair access to insurance requirements,
6 provided the same permits each member insurer thereof to qualify for federal insurance under
7 the Urban Property Protection and Reinsurance Act of 1968."

8 **"Section 58-173.21. Authority of Commissioner.** (a) Within 90 days following the effective
9 date of this Chapter, and before August 1, 1969, the directors of the Association shall submit to
10 the Commissioner of Insurance for his review, a proposed FAIR Plan and Articles of the
11 Association consistent with the provisions of this Chapter;

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

18 **"Section 58-173.22. Temporary Directors of Association.** Within 10 days after the effective
19 date of this Act, the Commissioner shall appoint a temporary board of directors of the
20 Association, which temporary board of directors may prepare and submit a Plan of operation
21 and Articles of Association in accordance with Section 58-173.22."

22 **"Section 58-173.23. Appeals; judicial review.** The Association shall provide reasonable
23 means, to be approved by the Commissioner, whereby any person or insurer affected by any act
24 or decision of the administrators of the Plan or Underwriting Association, any be heard in
25 person or by authorized representative, before the governing board of the Association or a
26 designated committee. Any person or insurer aggrieved by any decision of the governing board
27 or designated committee, may be appealed to the Commissioner within 30 days from the date
28 of such ruling or decision. The Commissioner, after hearing held pursuant to the procedure set
29 forth in G.S. 58-9.2, shall issue an order approving or disapproving the act or decision with
30 respect to the matter which is the subject of appeal. The Commissioner is authorized to appoint
31 a member of his staff as Deputy Commissioner for the purpose of hearing such appeals and a
32 ruling based on such hearing shall have the same effect as if heard by the Commissioner
33 personally. All persons or insurers or their representatives aggrieved by any order or decision
34 of the Commissioner may appeal as provided by the provisions of G.S. 58-9.3."

35 **"Section 58-173.24. Reports of inspection made available; immunity from liability.** All
36 reports of inspection performed by or on behalf of the Association shall be made available to
37 the members of the Association, applicants and the Commissioner. There shall be no liability
38 on the part of and no cause of action of any nature shall arise against the Commissioner, any of
39 his staff, the Association or any of its agents or employees, or against any participating insurer
40 for any inspections made hereunder or any statements made in good faith by them in any
41 reports or communications concerning risks submitted to the Association, or at any
42 administrative hearing conducted in connection therewith under the provisions of this Article."

43 **"Section 58-173.25. Riot reinsurance reimbursement fund; assessment of insurers.** In the
44 event it shall become necessary because of loss occasioned in this State at any time since
45 August 1, 1968, to reimburse the Secretary of the Department of Housing and Urban
46 Development under the provisions of Section 1223(a)(1) of the Urban Property Protection and
47 Reimbursement Act of 1968, the Insurance Commissioner shall assess all insurers engaged in
48 the business of writing property insurance in the State in an amount sufficient to pay any
49 unpaid reimbursements to the Secretary of the Department of Housing and Urban
50 Development. Provided, that the amount assessed each insurer shall be in the same proportion
51 that the premiums earned by each such insurer in this State bears to the aggregate premiums

1 earned in this State by all insurance companies on those lines of property insurance for which
2 reinsurance was available in this State from the Secretary of the Department of Housing and
3 Urban Development during the preceding calendar year. All assessments made by the
4 Insurance Commissioner under this Section shall be payable to the Treasurer of the State of
5 North Carolina and he shall maintain a special fund designated as the "Riot Reinsurance
6 Reimbursement Fund". All moneys received by the Treasurer pursuant to an assessment under
7 this Section shall be deposited in such special fund.

8 "Whenever the Insurance Commissioner shall certify to the Governor, the Council of State
9 and the Treasurer of the State of North Carolina that it has become necessary to reimburse the
10 Secretary of the Department of Housing and Urban Development under the provisions of the
11 Urban Property Protection and Reinsurance Act of 1968, because of losses occasioned in this
12 State since August 1, 1968, the Treasurer is hereby authorized and is directed to pay such
13 amounts certified by the Insurance Commissioner out of the Riot Reinsurance Reimbursement
14 fund to an extent, not exceeding in the aggregate for any one year, five percent (5%) of the
15 aggregate property insurance premiums earned in this State during the preceding calendar year
16 on those lines of insurance reinsured by the Secretary of Housing and Urban Development in
17 this State during the current year. Nothing herein shall be construed to pledge the faith and
18 credit of the State to any obligation or obligations."

19 "**Section 58-173.26. Assessment; inability to pay.** In the event any insurer fails by reason of
20 insolvency to pay any assessment as provided herein, the amount assessed each insurer, as
21 computed under Section 58-173.25, shall be immediately recalculated excluding therefrom the
22 insolvent insurer so that its assessment is, in effect, assumed and redistributed among the
23 remaining insurers. Such an assessment against an insolvent insurer shall not be a charge
24 against any special deposit fund held under the provisions of Article 20 of Chapter 58 for the
25 benefit of policyholders."

26 "**Section 58-173.27. Termination; outstanding obligations.** This Act shall expire on
27 December 31, 1974, or after the expiration of the Urban Property Protection and
28 Reimbursement Act of 1968, whichever shall first occur, except that rights and obligations
29 incurred by the Association and its members to be established pursuant to the provisions of this
30 Chapter shall not be impaired by the expiration of this Act, and such Association shall be
31 continued for the purpose of performing such obligations."

32 "**Section 58-173.28. Recoupment by insurers.** Any insurer assessed under the provisions of
33 this Act may add to the premiums applicable to the lines on which the assessment is levied an
34 amount to be approved by the Commissioner of Insurance sufficient to recover within not more
35 than three years an amount assessed under Section 58-173.25 of this Article during the
36 preceding calendar year, together with the amounts, costs and expenses reasonably attributable
37 to such assessment and recovery thereof. Every insurer adding to the premiums of its
38 policyholders to make a recoupment under the provisions of this Section, shall keep separate
39 records as to the costs and expenses and as to the amounts collected and shall file copies of
40 such records with the Insurance Commissioner in the year following such recoupment."

41 **Sec. 2.** All laws and clauses of laws in conflict with this Act are hereby repealed.

42 **Sec. 3.** This Act shall become effective upon ratification.

43 In the General Assembly read three times and ratified, this the 2nd day of July,
44 1969.