

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2023

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SENATE BILL 438
Judiciary Committee Substitute Adopted 4/26/23
Third Edition Engrossed 5/2/23

Short Title: NCORR Administrative Modifications.

(Public)

Sponsors:

Referred to:

April 3, 2023

1 A BILL TO BE ENTITLED
2 AN ACT TO ESTABLISH PROCUREMENT PROCEDURES FOR CONSTRUCTION
3 PROJECTS FUNDED BY THE COMMUNITY DEVELOPMENT BLOCK GRANT
4 DISASTER RECOVERY PROGRAM, TO PROTECT HOMEOWNERS FROM AN
5 INCREASE IN PROPERTY TAX LIABILITY RESULTING FROM THE
6 REVALUATION OF REAL PROPERTY REHABILITATED USING COMMUNITY
7 DEVELOPMENT BLOCK GRANT DISASTER RECOVERY FUNDS OR HURRICANE
8 FLORENCE DISASTER RECOVERY FUNDS BY LIMITING THE ABILITY OF
9 ASSESSORS TO REAPPRAISE REAL PROPERTY AT HIGHER VALUES UNDER
10 CERTAIN CIRCUMSTANCES, TO INCREASE THE INFORMAL BID THRESHOLD
11 FOR CONTRACTS FOR CONSTRUCTION OR REPAIR WORK RELATED TO
12 DISASTER RECOVERY UNDERTAKEN BY THE NORTH CAROLINA OFFICE OF
13 RECOVERY AND RESILIENCY, AND TO MAKE OTHER PROGRAMMATIC
14 CHANGES.

15 The General Assembly of North Carolina enacts:

16 SECTION 1. G.S. 143B-1040 reads as rewritten:

17 "§ 143B-1040. Office of Recovery and Resiliency.

18 (a) The Office of Recovery and Resiliency (Office) is created in the Department of Public
19 Safety. The Office shall execute multi-year recovery and resiliency projects and administer funds
20 provided by the Community Development Block Grant Disaster Recovery ~~program for~~
21 ~~Hurricanes Florence and Matthew.~~ program. The Office will provide general disaster recovery
22 coordination and public information; citizen outreach and application case management; audit,
23 finance, compliance, and reporting on disaster recovery funds; and program and construction
24 management services. The Office shall also contract for services from vendors specializing in
25 housing, construction, and project management services.

26 ...

27 (d) Notwithstanding any other provision of law to the contrary, no provision of this
28 Subpart relating to standards and practices of applicant and homeowner eligibility, contractor
29 requirements, rehabilitation assistance, physical condition requirements, and displacement and
30 relocation shall be construed to be more restrictive than applicable federal law or other provisions
31 of applicable State law."

32 SECTION 2.(a) Subpart D of Part 5 of Article 13 of Chapter 143B of the General
33 Statutes is amended by adding the following new section to read:

34 "§ 143B-1042. Disaster recovery procurement.



* S 4 3 8 - V - 3 *

- 1 (a) Definitions. – Unless otherwise provided, the following definitions apply in this
2 Subpart:
- 3 (1) Construction activities. – Any actions undertaken for purposes of fulfilling the
4 terms of a contract or for purposes of readying the property for any work that
5 requires a building permit, such as surveying property lines or easements.
6 (2) Contractor. – A person or company that undertakes a contract, utilizing
7 Community Development Block Grant Disaster Recovery funds, with the
8 Office for the rehabilitation, reconstruction, or installation of a detached
9 single-family dwelling, including mobile home units or modular homes.
10 (3) Property. – Land, buildings or structures on land, permanent fixtures on land,
11 or manufactured or modular homes on land.
- 12 (b) Procurement. – All of the following shall apply to contracts awarded or assigned by
13 the Office that are related to detached single-family dwellings and are funded with funds provided
14 by the Community Development Block Grant Disaster Recovery program:
- 15 (1) The Office shall develop a priority-based system for awarding or assigning
16 contracts for the construction, reconstruction, alteration, repair, movement to
17 another site, removal, or demolition of detached single-family dwellings
18 which shall be, at a minimum, based on all of the following:
19 a. The applicant's income for the prior 12 consecutive months, with
20 preference given to the lowest income applicants.
21 b. The applicant's age, with preference given to applicants over the age
22 of 62.
23 c. The presence of a person with a mental or physical disability in the
24 applicant's household.
25 d. The presence of dependents or minor children in the applicant's
26 household.
27 e. The length of time, if any, the applicant has been temporarily relocated
28 by the Office.
- 29 (2) Notwithstanding any other provision of law or any rule or regulation, the
30 Office shall limit the number of detached single-family dwelling projects
31 awarded or assigned to an individual contractor to no greater than 75 at any
32 given time. In no event shall the number of unfulfilled projects awarded or
33 assigned to an individual contractor exceed a total of 75.
- 34 (3) To expedite the recovery process for citizens while protecting the recovery
35 program from financial loss if a contractor fails to complete construction
36 activities within the time periods provided in subdivision (4) of this
37 subsection, all contracts awarded or assigned shall include both of the
38 following clauses:
39 a. Contract cancellation. – The clause shall clearly state that the failure
40 to begin construction activities as required by sub-subdivision a. of
41 subdivision (4) of this subsection shall result in the immediate
42 cancellation of the project. Notwithstanding the provisions of
43 subdivision (1) of this subsection, if a contract is cancelled, as required
44 by this sub-subdivision, the Office shall immediately rebid the project,
45 giving it priority as provided in subdivision (1) of this subsection.
46 b. Liquidated damages. – The clause shall clearly state the event that will
47 trigger the commencement of the assessment of liquidated damages,
48 and, upon that event, the Office shall assess daily liquidated damages
49 in the amount of two hundred fifty dollars (\$250.00) per calendar day.

- (4) A contractor who has been awarded or assigned a contract for the construction, reconstruction, alteration, repair, movement to another site, removal, or demolition of a detached single-family dwelling shall:
- a. Begin construction activities on each property described in the contract not later than 45 calendar days after the award or assignment.
- b. Complete construction activities not later than 135 calendar days after the award or assignment or the temporary relocation of the applicant, whichever occurs later. Construction activities shall be deemed completed upon the issuance of a certificate of compliance or occupancy.
- (5) The Office may, in writing, grant a contractor, who has been delayed in completing construction activities in the time periods described in subdivision (4) of this subsection due to weather phenomena or unforeseen circumstances, an extension of time in which to complete the construction activities, and the extension shall remain in effect for the duration of the weather phenomena and for such time thereafter that is reasonably necessary for the effects of the weather phenomena to subside. For purposes of this subdivision, the term "weather phenomena" means a weather event that creates a reasonable impossibility of the construction activities during the same period of time and locality where the construction activities are to be performed, as reported by the National Oceanic and Atmospheric Administration National Weather Service statistics. As used in this subdivision, "unforeseen circumstances" means actions taken by the applicant or other third party that limits the ability of the Office or contractors to continue construction activities. The Director may grant extensions under this subdivision not to exceed 45 days in total for any individual assignment or award. In addition, when unforeseen circumstances arise, the Secretary of the Department of Public Safety may grant an additional extension under this subdivision not to exceed 45 days in total for any individual assignment or award. Any extension granted by the Secretary under this subdivision shall be reported to the chairs of the Joint Legislative Commission on Governmental Operations within five business days. In no event shall the combined total number of days for all extensions granted under this subdivision exceed 90 days for any individual project awarded or assigned.
- (6) Within five business days of the completion of construction activities, the Office shall conduct a final inspection of the property and shall take all necessary steps to ensure that the applicant is able to take possession of the property without unreasonable delay.
- (7) Notwithstanding the provisions of this section, the Office may, depending upon the construction activities required, impose time lines for the commencement and completion of construction activities that are less than, but not more than, the time lines as prescribed in subdivision (4) of this subsection.
- (8) Notwithstanding the provisions of this subsection, if a state of emergency is declared by an authority listed in G.S. 166A-19.3(19), the Office shall not assess liquidated damages as provided in sub-subdivision b. of subdivision (3) of this subsection or require the contractor to comply with the time lines described in subdivision (4) of this subsection if, in the determination of the Office, the contractor's ability to perform as required by the contract or to meet

the time lines is substantially impaired by the emergency that led to the declaration of the state of emergency.

(9) Notwithstanding any other provision of law to the contrary, the Office shall contract for a comparable sized dwelling, not to exceed a fifteen percent (15%) increase or decrease of the pre-disaster dwelling size based on square footage, except insofar as it is reasonably necessary due to lot set back requirements, building or safety code requirements, or local use or standard requirements of the property. The Office shall, however, provide applicants the opportunity to further reduce the replacement square footage at the sole discretion and behest of the applicant."

SECTION 2.(b) Article 11 of Chapter 160D of the General Statutes is amended by adding a new section to read:

"§ 160D-1112.1. Disaster recovery projects; priority given.

Notwithstanding any other provision of the State Building Code or other applicable State or local laws, a local government inspection department and the inspectors in it shall give priority to inspection services, including inspections and reviewing, denying, and issuing permits, required by this Article that involve the construction, reconstruction, alteration, repair, movement to another site, removal, or demolition of a detached single-family dwelling that is funded, in whole or in part, with funds provided by the Community Development Block Grant Disaster Recovery program. The inspection department may require a contractor to present evidence, such as a contract or other paperwork, proving the construction activities subject to the building permit are funded by the Community Development Block Grant Disaster Recovery program prior to giving priority as provided in this section."

SECTION 2.(c) The North Carolina Office of Resiliency and Recovery shall adopt the priority-based system required by G.S. 143B-1042(b)(1), as enacted in Section 2(a) of this act, not later than 30 days after the date this act becomes law. Not later than 30 days after adopting the priority-based system, the Office shall submit a report to the Joint Legislative Commission on Governmental Operations detailing the priority-based system and the criteria used to establish the system.

SECTION 2.(d) This section applies to contracts assigned, renewed, extended, or awarded on or after the date this act becomes law.

SECTION 3.(a) G.S. 105-283 reads as rewritten:

"§ 105-283. Uniform appraisal standards.

~~All~~ Except as provided in G.S. 105-286.1, all property, real and personal, shall as far as practicable be appraised or valued at its true value in money. When used in this Subchapter, the words "true value" shall be interpreted as meaning market value, that is, the price estimated in terms of money at which the property would change hands between a willing and financially able buyer and a willing seller, neither being under any compulsion to buy or to sell and both having reasonable knowledge of all the uses to which the property is adapted and for which it is capable of being used. For the purposes of this section, the acquisition of an interest in land by an entity having the power of eminent domain with respect to the interest acquired shall not be considered competent evidence of the true value in money of comparable land."

SECTION 3.(b) G.S. 105-284(a) reads as rewritten:

"(a) Except as otherwise provided in this section, G.S. 105-286.1, and G.S. 105-328.1, all property, real and personal, shall be assessed for taxation at its true value or use value as determined under G.S. 105-283 or G.S. 105-277.6, and taxes levied by all counties and municipalities shall be levied uniformly on assessments determined in accordance with this section."

SECTION 3.(c) Article 14 of Subchapter II of Chapter 105 of the General Statutes is amended by adding a new section to read:

"§ 105-286.1. Reappraisal limitation for certain rehabilitation of real property.

(a) Unless the context provides otherwise, the following definitions apply in this section:

(1) Owner. – A person who holds legal or equitable title, whether individually, as a tenant by the entirety, a joint tenant, or a tenant in common, or as a holder of a life estate or an estate for the life of another. For purposes of this subdivision, a manufactured home jointly owned by husband and wife shall be considered property held by the entirety.

(2) Permanent residence. – A person's legal residence, including the dwelling, the dwelling site, not to exceed 1 acre, and related improvements. For purposes of this subdivision, a dwelling includes a single-family residence, a unit in a multifamily residential complex, or a manufactured home.

(3) Rehabilitation or rehabilitated. – The improvement of real property from damaged, deteriorated, or substandard to good or better condition.

(b) A permanent residence that has increased in true value, as that term is defined in G.S. 105-283, because it was rehabilitated using Community Development Block Grant Disaster Recovery program funds, administered by the Office of Recovery and Resiliency, or the Hurricane Florence Disaster Recovery Fund, administered by the Office of State Budget and Management, shall not be appraised at a value higher than the most recent value appraised prior to the rehabilitation of the permanent residence unless one of the following occurs:

(1) The owner transfers the permanent residence to another through any means allowed by law; provided, however, this subdivision shall not apply if (i) the property is transferred to a co-owner of the permanent residence or, as part of a divorce proceeding, to the owner's spouse and (ii) the co-owner or spouse occupies the property as his or her permanent residence.

(2) The owner dies; provided, however, this subdivision shall not apply if (i) the owner's share of the permanent residence passes upon the owner's death to a co-owner of the permanent residence or to the co-owner's spouse and (ii) the co-owner or spouse occupies the property as his or her permanent residence.

(3) The owner ceases to use the property as the owner's permanent residence.

(4) After the owner's permanent residence is modified using Community Development Block Grant Disaster Recovery program funds or Hurricane Florence Disaster Recovery funds, five calendar years have elapsed.

(c) If an owner has cause to believe his or her permanent residence has been appraised in violation of this section, the owner may, on forms developed and provided by the assessor, state the reasons for his or her belief and provide the date the owner's property was rehabilitated and the source of the rehabilitation funds. The assessor shall assist the owner in providing or verifying the information in the custody of the city or county, as appropriate. Not later than 30 days after the owner has filed a complaint under this subsection, the assessor shall confirm or deny the validity of the owner's allegations and notify the owner of the same. If the assessor confirms that the owner's permanent residence was appraised in violation of this section resulting in the property being appraised at a value higher than the most recent value appraised prior to the rehabilitation of the property, the assessor shall take all necessary steps to reappraise the property to comply with the provisions of this section. If the assessor finds no error in the appraisal, the owner may appeal the decision to the governing body of the county where the ad valorem tax was paid. An appeal from the decision of the governing body of the county shall be made to the Property Tax Commission as provided in G.S. 105-290."

SECTION 3.(d) G.S. 105-328(a) reads as rewritten:

"(a) For purposes of municipal taxation, all property subject to taxation by a city or town situated in two or more counties may, subject to the conditions set forth in G.S. 105-328.1, by resolution of the governing body of the municipality, be listed, appraised, and assessed as provided in G.S. 105-326 and 105-327 if, in such a case, in the opinion of the governing body, the same appraisal and assessment standards will thereby apply uniformly throughout the

1 municipality. However, if, in such a case, the governing body shall determine that adoption of
2 the appraisals and assessments fixed by the counties will not result in uniform appraisals and
3 assessments throughout the municipality, the governing body may, by horizontal adjustments,
4 equalize the appraisal and assessment values fixed by the counties in order to obtain the required
5 uniformity. Taxes levied by the city or town shall be levied uniformly on the assessments so
6 determined."

7 **SECTION 3.(e)** Article 22 of Subchapter II of Chapter 105 of the General Statutes
8 is amended by adding a new section to read:

9 **"§ 105-328.1. Reappraisal limitation for certain rehabilitation of real property.**

10 (a) Unless the context provides otherwise, the following definitions apply in this section:

11 (1) Owner. – A person who holds legal or equitable title, whether individually, as
12 a tenant by the entirety, a joint tenant, or a tenant in common, or as a holder
13 of a life estate or an estate for the life of another. For purposes of this
14 subdivision, a manufactured home jointly owned by husband and wife shall
15 be considered property held by the entirety.

16 (2) Permanent residence. – A person's legal residence, including the dwelling, the
17 dwelling site, not to exceed 1 acre, and related improvements. For purposes
18 of this subdivision, a dwelling includes a single-family residence, a unit in a
19 multifamily residential complex, or a manufactured home.

20 (3) Rehabilitation or rehabilitated. – The improvement of real property from
21 damaged, deteriorated, or substandard to good or better condition.

22 (b) A permanent residence that has increased in true value, as that term is defined in
23 G.S. 105-283, because it was rehabilitated using Community Development Block Grant Disaster
24 Recovery program funds, administered by the Office of Recovery and Resiliency, or the
25 Hurricane Florence Disaster Recovery Fund, administered by the Office of State Budget and
26 Management, shall not be appraised at a value higher than the most recent value appraised prior
27 to the rehabilitation of the permanent residence unless one of the following occurs:

28 (1) The owner transfers the permanent residence to another through any means
29 allowed by law; provided, however, this subdivision shall not apply if (i) the
30 property is transferred to a co-owner of the permanent residence or, as part of
31 a divorce proceeding, to the owner's spouse and (ii) the co-owner or spouse
32 occupies the property as his or her permanent residence.

33 (2) The owner dies; provided, however, this subdivision shall not apply if (i) the
34 owner's share of the permanent residence passes upon the owner's death to a
35 co-owner of the permanent residence or to the co-owner's spouse and (ii) the
36 co-owner or spouse occupies the property as his or her permanent residence.

37 (3) The owner ceases to use the property as the owner's permanent residence.

38 (4) After the owner's permanent residence is modified using Community
39 Development Block Grant Disaster Recovery program funds or Hurricane
40 Florence Disaster Recovery funds, five calendar years have elapsed.

41 (c) If an owner has cause to believe his or her permanent residence has been appraised in
42 violation of this section, the owner may, on forms developed and provided by the assessor, state
43 the reasons for his or her belief and provide the date the owner's property was rehabilitated and
44 the source of the rehabilitation funds. The assessor shall assist the owner in providing or verifying
45 the information in the custody of the city or county, as appropriate. Not later than 30 days after
46 the owner has filed a complaint under this subsection, the assessor shall confirm or deny the
47 validity of the owner's allegations and notify the owner of the same. If the assessor confirms that
48 the owner's permanent residence was appraised in violation of this section resulting in the
49 property being appraised at a value higher than the most recent value appraised prior to the
50 rehabilitation of the property, the assessor shall take all necessary steps to reappraise the property
51 to comply with the provisions of this section. If the assessor finds no error in the appraisal, the

owner may appeal the decision to the governing body of the county where the ad valorem tax was paid. An appeal from the decision of the governing body of the county shall be made to the Property Tax Commission as provided in G.S. 105-290."

SECTION 3.(f) This section is effective for taxes imposed for taxable years beginning on or after July 1, 2023.

SECTION 4.(a) G.S. 143-53.1 reads as rewritten:

"§ 143-53.1. Setting of benchmarks; increase by Secretary.

(a) On and after July 1, 2014, the procedures prescribed by G.S. 143-52 with respect to competitive bids and the bid value benchmark authorized by G.S. 143-53(a)(2) with respect to rule making by the Secretary of Administration for competitive bidding shall promote compliance with the principles of procurement efficiency, transparency, and fair competition to obtain the State's business. For State departments, institutions, and agencies, except the President of The University of North Carolina or a special responsibility constituent institution of The University of North Carolina and community colleges, the benchmark shall not be greater than one hundred thousand dollars (\$100,000). For the President of The University of North Carolina or a special responsibility constituent institution of The University of North Carolina, the benchmark prescribed in this section is as provided in G.S. 116-31.10. For community colleges, the benchmark prescribed in this section is as provided in G.S. 115D-58.14. Notwithstanding any other provision of law, the bid value benchmark shall not be greater than two hundred fifty thousand dollars (\$250,000) for Community Development Block Grant Disaster Recovery funds available to the North Carolina Office of Recovery and Resiliency.

...."

SECTION 4.(b) G.S. 143-131 reads as rewritten:

"§ 143-131. When counties, cities, towns and other subdivisions may let contracts on informal bids.

(a) All contracts for construction or repair work or for the purchase of apparatus, supplies, materials, or equipment, involving the expenditure of public money in the amount of thirty thousand dollars (\$30,000) or more, but less than the limits prescribed in G.S. 143-129, made by any officer, department, board, local school administrative unit, or commission of any county, city, town, or other subdivision of this State shall be made after informal bids have been secured; provided, however, ~~that that~~:

(1) The University of North Carolina and its constituent institutions shall be required to comply with the provisions of this subsection for all contracts for construction or repair work involving the expenditure of public money in the amount of one hundred thousand dollars (\$100,000) or more, but less than the limits prescribed in G.S. 143-129.

(2) The North Carolina Office of Recovery and Resiliency shall be required to comply with the provisions of this subsection for all contracts for construction or repair work related to disaster recovery involving the expenditure of public money in the amount of two hundred fifty thousand dollars (\$250,000) or more, but less than the limits prescribed in G.S. 143-129. For purposes of this subdivision, the term "construction" shall include the purchase of manufactured housing units. Notwithstanding G.S. 143-129 and G.S. 143-131, the North Carolina Office of Recovery and Resiliency shall use G.S. 143-135.9 and award construction contracts as best value procurements.

All such contracts shall be awarded to the lowest responsible, responsive bidder, taking into consideration quality, performance, and the time specified in the bids for the performance of the contract. It shall be the duty of any officer, department, board, local school administrative unit, or commission entering into such contract to keep a record of all bids submitted, and such record shall not be subject to public inspection until the contract has been awarded.

...."

1 **SECTION 4.(c)** This section applies to contracts awarded on or after the date this
2 act becomes law.
3 **SECTION 5.** Except as otherwise provided, this act is effective when it becomes
4 law.