

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2023

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SENATE BILL 438

Short Title: NCORR Administrative Modifications. (Public)

Sponsors: Senators Jackson, Perry, and Britt (Primary Sponsors).

Referred to: Rules and Operations of the Senate

April 3, 2023

A BILL TO BE ENTITLED

AN ACT TO ESTABLISH PROCUREMENT PROCEDURES FOR CONSTRUCTION PROJECTS FUNDED BY THE COMMUNITY DEVELOPMENT BLOCK GRANT DISASTER RECOVERY PROGRAM, TO PROTECT HOMEOWNERS FROM AN INCREASE IN PROPERTY TAX LIABILITY RESULTING FROM THE REVALUATION OF REAL PROPERTY REHABILITATED USING COMMUNITY DEVELOPMENT BLOCK GRANT DISASTER RECOVERY FUNDS OR HURRICANE FLORENCE DISASTER RECOVERY FUNDS BY LIMITING THE ABILITY OF ASSESSORS TO REAPPRAISE REAL PROPERTY AT HIGHER VALUES UNDER CERTAIN CIRCUMSTANCES, TO INCREASE THE INFORMAL BID THRESHOLD FOR CONTRACTS FOR CONSTRUCTION OR REPAIR WORK RELATED TO DISASTER RECOVERY UNDERTAKEN BY THE NORTH CAROLINA OFFICE OF RECOVERY AND RESILIENCY, AND TO MAKE OTHER PROGRAMMATIC CHANGES.

The General Assembly of North Carolina enacts:

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

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

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

...

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

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

"§ 143B-1042. Disaster recovery procurement.

(a) Definitions. – Unless otherwise provided, the following definitions apply in this Subpart:



- 1 (1) Construction activities. – Any physical actions undertaken on property for
2 purposes of fulfilling the terms of a contract or for purposes of readying the
3 property for any work that requires a building permit, such as surveying
4 property lines or easements.
- 5 (2) Property. – Land, buildings or structures on land, permanent fixtures on land,
6 or manufactured or modular homes on land.
- 7 (b) Procurement. – All of the following shall apply to contracts awarded or assigned by
8 the Office that are related to detached single-family dwellings and are funded with funds provided
9 by the Community Development Block Grant Disaster Recovery program:
- 10 (1) The Office shall develop a priority-based system for awarding or assigning
11 contracts for the construction, reconstruction, alteration, repair, movement to
12 another site, removal, or demolition of detached single-family dwellings
13 which shall be based on all of the following:
- 14 a. The applicant's income for the prior 12 consecutive months, with
15 preference given to the lowest income applicants.
- 16 b. The applicant's age, with preference given to applicants over the age
17 of 62.
- 18 c. The presence of a person with a mental or physical disability in the
19 applicant's household.
- 20 d. The presence of dependents or minor children in the applicant's
21 household.
- 22 (2) Notwithstanding any other provision of law or any rule or regulation, the
23 Office shall limit the number of detached single-family dwellings included in
24 a single bid package or assignment to 20 or less; provided, however, at no time
25 shall a contractor be awarded or assigned a contract to perform construction
26 activities on more than a total of 20 detached single-family dwellings at one
27 time. Upon the completion of construction activities on 20 or less detached
28 single-family dwellings, which shall be demonstrated by the issuance of a
29 certificate of compliance or occupancy, a contractor may be awarded or
30 assigned additional contracts, but in no case shall the number of detached
31 single-family dwellings on which construction activities is to be performed
32 under the additional contracts exceed a total of 20.
- 33 (3) To protect the recovery program from financial loss if the contractor fails to
34 complete the construction activities within the time periods provided in
35 subdivision (4) of this subsection, all contracts awarded or assigned shall
36 include both of the following clauses:
- 37 a. Contract cancellation. – The clause shall clearly state that the failure
38 to begin construction activities as required by sub-subdivision a. of
39 subdivision (4) of this subsection shall result in the immediate
40 cancellation of the contract. Notwithstanding the provisions of
41 subdivision (1) of this subsection, if a contract is cancelled, as required
42 by this sub-subdivision, the Office shall immediately rebid the
43 contract, giving it priority as provided in subdivision (1) of this
44 subsection.
- 45 b. Liquidated damages. – The clause shall clearly state the event that will
46 trigger the commencement of the assessment of liquidated damages,
47 and, upon that event, the Office shall assess daily liquidated damages
48 in the amount of two hundred fifty dollars (\$250.00) or two percent
49 (2%), whichever is greater. Liquidated damages collected shall be
50 deposited in the Hurricane Florence Disaster Recovery Fund.

- (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 less than 45 calendar days after the award or assignment.
- b. Complete construction activities not later than 120 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 unusual weather phenomena, an extension of time in which to complete the construction activities, and the extension shall remain in effect for the duration of the unusual weather phenomena and for such time thereafter that is reasonably necessary for the effects of the unusual weather phenomena to subside. For purposes of this subdivision, the term "unusual weather phenomena" means a weather event that is unusual based on the average of the preceding five-year climatic range 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.
- (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) A contractor shall not be awarded or assigned a contract unless the contractor has completed at least seventy-five percent (75%) of the construction activities on the property that is the subject of the contract. Upon completion of construction activities as provided in this subdivision, which shall be demonstrated by the issuance of a certificate of compliance or occupancy, the Office may award or assign contracts to the contractors, which shall be subject to the requirements of this section.
- (8) 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.
- (9) 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."

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 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 rehabilitated using Community Development Block Grant Disaster Recovery program funds or Hurricane Florence Disaster Recovery funds, five calendar years have elapsed since the first reappraisal of the permanent residence.

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

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

"§ 105-328.1. 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 rehabilitated using Community Development Block Grant Disaster Recovery program funds or Hurricane Florence Disaster Recovery funds, five calendar years have elapsed since the first reappraisal of the permanent residence.

(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.(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. For the North Carolina Office of Recovery and Resiliency when awarding or assigning contracts under Subpart D of Part 5 of Article 13 of Chapter 143B of the General Statutes, the benchmark prescribed in this section is two hundred fifty thousand dollars (\$250,000).

...."

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.

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.

...."

SECTION 4.(c) This section applies to contracts awarded on or after the date this act becomes law.

SECTION 5. Except as otherwise provided, this act is effective when it becomes law.