

**GENERAL ASSEMBLY OF NORTH CAROLINA
THIRD EXTRA SESSION 2016**

**SESSION LAW 2016-124
HOUSE BILL 2**

AN ACT TO ENACT THE DISASTER RECOVERY ACT OF 2016.

The General Assembly of North Carolina enacts:

PART I. TITLE OF ACT

SECTION 1.1. This act shall be known as "The Disaster Recovery Act of 2016."

PART II. LEGISLATIVE FINDINGS

DAMAGE CAUSED BY HURRICANE MATTHEW AND THE WILDFIRES IN THE WESTERN PART OF THE STATE

SECTION 2.1.(a) The General Assembly finds that Hurricane Matthew was one of the strongest hurricanes to form in the Atlantic Ocean in a decade and that it, along with Tropical Storms Julia and Hermine, caused widespread heavy rainfall, record flooding, and dozens of deaths in North Carolina. The General Assembly further finds that wildfires in the western part of the State burned tens of thousands of acres and destroyed hundreds of structures.

SECTION 2.1.(b) The General Assembly finds that as a result of Hurricane Matthew, the wildfires in western North Carolina, and Tropical Storms Julia and Hermine, the following has occurred:

- (1) Central and eastern North Carolina endured record-breaking rainfall that created 1,000-year flood events that devastated the people, infrastructure, businesses, and schools of entire communities.
- (2) At the height of Hurricane Matthew, 800,000 people were without power, nearly 3,750 were displaced from their homes, 635 roads were closed, 34 school systems were closed, and 28 people lost their lives.
- (3) Riverine flooding began several days after Hurricane Matthew passed and lasted more than two weeks. Several larger rivers reached well above major flooding levels, including the Tar, Cape Fear, Cashie, Lumber, and Neuse. On October 24, 2016, the last river that had reached flood stages finally returned to normal levels.
- (4) Forty-nine of the State's counties were declared a major disaster by the President of the United States under the Stafford Act (P.L. 93-288).
- (5) People lost their loved ones, their homes, their communities, their houses of worship, their life savings, their jobs, their family mementos, their pets, and their ways of life.
- (6) Entire towns were flooded to the rooftops as the water levels of rivers and streams throughout Eastern North Carolina crested at flood-stage heights far beyond those ever seen before in this State.
- (7) Approximately 88,000 homes were damaged with a total loss of more than \$967 million. Of these, 4,424 homes were completely destroyed. This damage represents an extraordinary economic loss as 68% of the damages,



or \$659 million, is not expected to be covered by insurance or FEMA assistance.

- (8) More than 30,000 businesses suffered physical or economic damage. More than 400,000 employees were impacted.
- (9) More than 8,000 businesses have requested assistance due to physical or economic impact loss as a result of the storm. As of November 28, 2016, 614 businesses have completed complex Small Business Administration loan applications. Only 143 of these loan applications have been approved. The numbers suggest both the numbers of businesses that suffered physical damage as a result of the hurricane and the inability of many businesses in the region to take on additional debt. Without additional assistance, many businesses may not be able to reopen and jobs will be lost.
- (10) Caskets floated out of the saturated ground.
- (11) Local governments have suffered loss of infrastructure, damage to public buildings, roads, wastewater treatment plants, and other facilities. Public Assistance projects are in planning stages to repair facilities and roads, remove debris, and otherwise affect cleanup and repair of local government facilities. In addition, the damage from the storms to property and businesses has eroded the tax base of the counties affected. These counties must bear a loss of revenue at the same time they are shouldering the costs of replacing and repairing the infrastructure and meeting the additional needs of the population struggling to recover from the effects of the hurricane.
- (12) More than 62,000 total acres burned in North Carolina, including more than 25,000 acres on land protected by the State.
- (13) More than 2,400 emergency responders responded to the wildfires and related events.
- (14) Firefighters from 40 states joined North Carolina to assist in firefighting efforts, including teams from Florida, Idaho, Oregon, Utah, and Nevada.
- (15) Starting just weeks after Hurricane Matthew on October 23, 2016, and continuing throughout November, 26 major and dozens of smaller fires impacted air quality across the State.

CRITICAL NEEDS NOT MET BY EXISTING STATE AND FEDERAL PROGRAMS AND FUNDS

SECTION 2.2.(a) The General Assembly finds that the State and federal disaster relief initiatives are not intended to make individuals whole after a loss; they are intended to assist the affected areas in recovering from the damage caused by Hurricane Matthew, the western wildfires, and Tropical Storms Julia and Hermine.

Without significant additional State assistance to the area devastated by these events, further deterioration of the economy, the environment, public health and safety, and quality of life in the region is likely to occur. Without additional State assistance:

- (1) Many people in uninsured, damaged homes will either not qualify for federal housing assistance or not have the resources to take advantage of federal housing assistance.
- (2) Local governments already overwhelmed with storm-related expenses may not have the resources to repair damaged infrastructure and provide the new infrastructure necessary for families relocating out of the flood and landslide zones and for businesses that are in the process of rebuilding.
- (3) Jobs may be permanently lost because many cannot qualify for Small Business Administration loans.

- (4) Many farmers who suffered significant losses may find it difficult to continue farming.
- (5) Resources for drinking water protection, solid waste cleanup, hazardous waste cleanup, and remediation of high-risk storage tanks will be inadequate.

SECTION 2.2.(b) It is the intent of the General Assembly that the benefits of the projects and programs authorized by this act are for the common good and collective recovery of the people of this State following devastating natural disasters directly affecting a large portion of the State and indirectly affecting the entire State. The entire State faces a major loss if the counties that bore the major impact of these disasters are not offered the assistance provided by this act. The purpose of this act is to provide an ultimate net public benefit to the State through a successful recovery initiative.

PART III. COUNTIES COVERED BY THIS ACT

SECTION 3.1. Sections 2.1 through 4.4 of this act apply in the North Carolina counties that were any of the following:

- (1) Declared a major disaster by the President of the United States under the Stafford Act (P.L. 93-288) as a result of Hurricane Matthew, wildfires in the western part of the State, Tropical Storm Julia, or Tropical Storm Hermine.
- (2) Part of the emergency area set forth in any of the following gubernatorial executive orders: Executive Order No. 97 (September 1, 2016), Executive Order No. 103 (September 22, 2016), Executive Order No. 107 (October 3, 2016), Executive Order No. 115 (November 16, 2016), or Executive Order No. 116.

PART IV. FUNDING OF DISASTER RELIEF

APPROPRIATIONS AND ALLOCATIONS OF FUNDS FOR DISASTER RELIEF

SECTION 4.1. In addition to any other funds appropriated during the 2016-2017 fiscal year, there is appropriated from the Savings Reserve Account to the General Fund the sum of one hundred million nine hundred twenty-eight thousand three hundred seventy dollars (\$100,928,370) in nonrecurring funds for the 2016-2017 fiscal year and there is appropriated from the unappropriated General Fund balance the sum of one hundred million dollars (\$100,000,000) in nonrecurring funds for the 2016-2017 fiscal year. These funds shall be allocated as follows:

- (1) \$20,000,000 shall be allocated to the Housing Trust Fund for eligible projects under Chapter 122E of the General Statutes. Notwithstanding G.S. 122E-6, these funds shall directly benefit persons and families affected by Hurricane Matthew, the western wildfires, or Tropical Storms Julia and Hermine whose incomes do not exceed one hundred percent (100%) of the area's median income, with adjustments for family size, according to the latest figures available from the U.S. Department of Housing and Urban Development.
- (2) \$9,000,000 shall be allocated to the Division of Emergency Management to develop, implement and fund disaster assistance programs to meet the emergency sheltering and short-term housing needs of individuals affected by Hurricane Matthew, the western wildfires, and Tropical Storms Julia and Hermine.
- (3) \$11,500,000 shall be allocated to the Division of Emergency Management for resilient redevelopment planning. These funds shall be used to do the following:

- a. Oversee and facilitate strategic resiliency planning meetings at each of the 49 counties that were declared a major disaster by the President of the United States as a result of Hurricane Matthew as well as the five economic development regions that were affected by that storm.
 - b. Develop strategic, resilient redevelopment plans for each of these 49 counties.
 - c. Oversee the submission of county-approved strategic resiliency action plans for federal approval.
 - d. Provide redevelopment expertise, technical assistance, and administrative support to the 49 counties and economic regions throughout the planning, design, and implementation of action plans.
- (4) \$66,228,370 shall be allocated to the State Emergency Response and Disaster Relief Fund to provide the State match for federal disaster assistance programs.
 - (5) \$10,000,000 shall be allocated to the State Emergency Response and Disaster Relief Fund to ensure that sufficient funds are available to provide relief and assistance from future emergencies, as authorized by G.S. 166A-19.42.
 - (6) \$5,000,000 shall be allocated to The Golden L.E.A.F. (Long-Term Economic Advancement Foundation), Inc., a nonprofit corporation, for the purpose of providing grants to eligible entities capable of making loans to small businesses affected by Hurricane Matthew, the western wildfires, or Tropical Storms Julia and Hermine.
 - (7) \$20,000,000 shall be allocated to The Golden L.E.A.F. (Long-Term Economic Advancement Foundation), Inc., a nonprofit corporation, to provide grants to local governments to construct new infrastructure required to support the development of new residential structures in areas outside the 100-year floodplain or repair or replace existing infrastructure. For purposes of this subdivision, infrastructure includes water, sewer, sidewalks, storm drainage, and other, similar projects that provide assistance or relief for Hurricane Matthew, the western wildfires, and Tropical Storms Julia and Hermine.
 - (8) \$10,000,000 shall be allocated to the Department of Commerce to be further allocated to the Rural Economic Development Division to provide grants to local governments to construct new infrastructure required to support the development of new residential structures in areas outside the 100-year floodplain or repair or replace existing infrastructure. For purposes of this subdivision, infrastructure includes water, sewer, sidewalks, storm drainage, and other, similar projects that provide assistance or relief for Hurricane Matthew, the western wildfires, or Tropical Storms Julia and Hermine.
 - (9) \$10,000,000 shall be allocated to the Department of Environmental Quality for disaster-related infrastructure and cleanup needs including, but not limited to, repair of wastewater and drinking water systems, dam safety, emergency permitting, and solid waste cleanup. The Department of Environmental Quality shall do all of the following:
 - a. Allocate a portion of these funds to assist local governments to mitigate the failure of burial sites and to take other steps necessary to protect the public health.
 - b. Use, in conjunction with the Department of Health and Human Services, a portion of these funds to provide grants to assist with the

- repair, replacement, or removal of septic tank systems related to damage caused by flooding.
- (10) \$37,950,000 shall be allocated to the Department of Agriculture and Consumer Services to be further allocated for the following purposes:
 - a. \$25,500,000 to the North Carolina Forest Service for repairs and operational expenses at Claridge Nursery in Wayne County, wildfire response, and disaster-related timber restoration.
 - b. \$12,200,000 to the Division of Soil and Water Conservation for stream debris removal and non-field farm road repairs and for supplemental funding of the Agricultural Water Resources Assistance Program to support disaster-related farm pond and dam repairs.
 - c. \$250,000 to the Research Stations Division for dike repairs at the Cherry Research Farm in Wayne County.
 - (11) \$1,000,000 shall be allocated to the Department of Insurance, Office of the State Fire Marshal, to provide grants to volunteer fire departments for repairs of damages caused by Hurricane Matthew, the wildfires in the western part of the State, and Tropical Storms Julia and Hermine that were not covered by federal assistance or by the proceeds of insurance policies.
 - (12) \$250,000 shall be allocated to the Department of Commerce to assess, in consultation with the Economic Development Partnership of North Carolina, the need for business assistance funds for businesses affected by Hurricane Matthew, the western wildfires, and Tropical Storms Julia and Hermine. The Department may use funds allocated in this section to fund time-limited positions, as needed, within the Department or the Economic Development Partnership of North Carolina to conduct the assessment. On or before March 1, 2017, the Department shall submit a report detailing its findings and making recommendations for the best process to administer recovery assistance funds to the Chairs of the House Appropriations Committee, the Chairs of the Senate Appropriations/Base Budget Committee, and the Fiscal Research Division.

LIMITATIONS ON FUND USE

SECTION 4.2. The General Assembly finds that the scope of the immediate needs produced by the devastation wrought by recent natural disasters in this State warrants taking the steps in this act. The General Assembly further finds that efforts to assess and address the damage will need to continue when the General Assembly returns for the 2017 Regular Session. Because the 2017 General Assembly will convene shortly and has continuing authority to address the State's disaster relief needs, the 2015 General Assembly finds that broad executive expenditure flexibility over the funds appropriated in this act is not warranted. Accordingly, the Governor shall not use funds appropriated in this act to make budget adjustments under G.S. 143C-6-4 or to make reallocations under G.S. 166A-19.40(c). Nothing in this section shall be construed to prohibit the Governor from exercising the Governor's authority under these statutes with respect to funds other than those appropriated in this act.

EACH APPROPRIATION AND ALLOCATION IS MAXIMUM AND CONDITIONAL

SECTION 4.3. The appropriations and allocations made in this act are for maximum amounts necessary to implement this act. Savings shall be effected where the total amounts appropriated or allocated are not required to implement this act.

FUNDS DO NOT REVERT

SECTION 4.4. Funds appropriated in or allocated in this act shall remain available to implement the provisions of this act until the General Assembly directs the reversion of any unexpended and unencumbered funds. G.S. 143C-6-23(f1)(1) shall not apply to funds appropriated in this act.

PART V. IMPLEMENTATION OF ACT

AUTHORITY TO ESTABLISH TIME-LIMITED POSITIONS TO IMPLEMENT THIS ACT

SECTION 5.1. The Governor may establish part-time and full-time personnel positions to implement this act. Positions established under this section are time-limited and exempt from the State Human Resources Act.

AUTHORITY TO ESTABLISH ADVISORY COUNCILS TO ADVISE STATE AGENCIES ON RECOVERY EFFORTS

SECTION 5.2. The Governor shall establish advisory councils to advise relevant State agencies on hurricane relief and recovery efforts and to ensure input from representatives of affected communities and groups.

SUBROGATION BY STATE OF RIGHT TO INSURANCE COVERAGE FOR DAMAGED HOMES PURCHASED OR RELOCATED UNDER THE HAZARD MITIGATION PROGRAM

SECTION 5.3. If a person's home is relocated or purchased with funds from the Hazard Mitigation Grant Program or the State Acquisition and Relocation Fund, the State Emergency Response and Disaster Relief Fund is subrogated to the person's rights under any insurance coverage for the damage to the home, and any monies received from the insurance coverage shall be paid to the State Emergency Response and Disaster Relief Fund. The Division of Emergency Management shall ensure that those potentially affected by this section are notified of, and adhere to, its requirements.

INVOLVEMENT OF HISTORICALLY UNDERUTILIZED BUSINESSES

SECTION 5.4. It is the intent of the General Assembly that, during this time of rebuilding and relief efforts, each State agency should strive to acquire goods and services from historically underutilized business vendors, whether directly as principal contractors or indirectly as subcontractors or otherwise.

LEGISLATIVE REVIEW OF FEDERAL FUNDING AND REMAINING UNMET NEEDS

SECTION 5.5. It is the intent of the General Assembly to review in 2017 and 2018 the funds appropriated by Congress and to consider actions needed to address any remaining unmet needs. It is also the intent of the General Assembly to review the adequacy of the measures funded by subdivision (3) of Section 4.1 of this act at that time.

PROHIBITION ON USE OF STATE FUNDS TO CONSTRUCT CERTAIN RESIDENCES

SECTION 5.6.(a) No State funds appropriated in this act may be expended for the construction of any new residence within the 100-year floodplain unless the construction is in an area regulated by a unit of local government pursuant to a floodplain management ordinance and the construction complies with the ordinance. As used in this section, "100-year floodplain" means any area subject to inundation by a 100-year flood, as indicated on the most recent Flood

Insurance Rate Map prepared by the Federal Emergency Management Agency under the National Flood Insurance Program.

SECTION 5.6.(b) Homeowners in the 100-year floodplain who receive homeowner's housing assistance pursuant to this act shall have in effect federal flood insurance, if available, as a precondition to receipt of State homeowner's housing assistance for losses resulting from future flooding.

SECTION 5.6.(c) Funds loaned to small and mid-sized businesses shall be used only for eligible purposes under the Small Business Administration (SBA) disaster loan assistance program, as described in the Federal disaster declarations designated by the SBA as NC 14911 and NC 14912. Payments for economic losses shall be limited to documented business expenses necessary for the continued operation of the business.

FLEXIBILITY IN SCHOOL CALENDAR TO ACCOMMODATE EXTRAORDINARY CIRCUMSTANCES

SECTION 5.7.(a) Notwithstanding G.S. 115C-84.2(a)(1), if a local board of education closed any school in the local school administrative unit during the month of October 2016 due to unusual and extraordinary inclement weather conditions related to Hurricane Matthew for at least two consecutive school days, that school shall be deemed to have completed any scheduled instructional hours and days in excess of those two days missed due to Hurricane Matthew during the month of October 2016. Teachers and other school employees employed for a 10-month term are deemed to have been employed for the scheduled instructional days missed due to Hurricane Matthew in excess of those two days during the month of October 2016, and all other employees shall be compensated as if they had worked the scheduled instructional days missed due to Hurricane Matthew in excess of those two days during the month of October 2016.

SECTION 5.7.(b) Notwithstanding G.S. 115C-218.85(a)(1), if a charter school was closed during the months of October or November 2016 due to unusual and extraordinary inclement weather conditions related to Hurricane Matthew or to wildfires in the western part of the State for at least two consecutive school days, that charter school shall be deemed to have completed any scheduled instructional hours and days in excess of those two days missed due to Hurricane Matthew or to wildfires in the Western part of the State during the months of October or November 2016.

SECTION 5.7.(c) Notwithstanding G.S. 115C-238.53(d) and G.S. 115C-238.66(1)d., if a regional board of directors closed a regional school under that board's control during the month of October 2016 due to unusual and extraordinary inclement weather conditions related to Hurricane Matthew for at least two consecutive school days, that regional school shall be deemed to have completed any scheduled instructional hours and days in excess of those two days missed due to Hurricane Matthew during the month of October 2016. Teachers and other school employees employed for a 10-month term are deemed to have been employed for the scheduled instructional days missed due to Hurricane Matthew in excess of those two days during the month of October 2016, and all other employees shall be compensated as if they had worked the scheduled instructional days missed due to Hurricane Matthew in excess of those two days during the month of October 2016.

SECTION 5.7.(d) The Superintendent of Public Instruction shall report to the Chairs of the House of Representatives and Senate Appropriations Committees and to the Fiscal Research Division of the General Assembly on the implementation of this section by local school administrative units, charter schools, and regional schools by March 10, 2017, and shall also provide any additional reports or information requested by the Fiscal Research Division. Local school administrative units, charter schools, and regional schools shall provide information on implementation of this section in the form requested by the Superintendent of Public Instruction no later than February 10, 2017.

REPORTING REQUIREMENTS

SECTION 5.8. The Office of State Budget and Management shall report to the Chairs of the House of Representatives and Senate Appropriations Committees and to the Fiscal Research Division of the General Assembly on the implementation of this act on a monthly basis and shall also provide any additional reports or information requested by the Fiscal Research Division. Each report required by this section shall include information about all funds expended or encumbered pursuant to this act as of the date of the report, regardless of which State agency or non-State entity administers the funds. Non-State entities that administer or receive any funds appropriated in this act shall assist and fully cooperate with the Office of State Budget and Management in meeting the Office's obligations under this section.

WAIVER OF CERTAIN DMV FEES

SECTION 5.9.(a) Notwithstanding G.S. 20-14, 20-37.7, 20-85, and 20-88.03, the Governor may waive any fees assessed by the Division of Motor Vehicles under those sections for the following:

- (1) A duplicate drivers license, commercial drivers license, or special identification card.
- (2) A special identification card issued to a person for the first time.
- (3) An application for a duplicate or corrected certificate of title.
- (4) A replacement registration plate.
- (5) An application for a duplicate registration card.
- (6) Late payment of a motor vehicle registration renewal fee.

SECTION 5.9.(b) The waiver authorized under subsection (a) of this section applies only to residents of counties impacted by Hurricane Matthew, as determined by the Governor.

SECTION 5.9.(c) This section is effective when it becomes law and applies to fees assessed or collected on or after October 1, 2016. This section expires December 1, 2016.

ADDITIONAL LIMITATIONS ON USE OF FUNDS

SECTION 5.10. The Governor shall ensure that funds appropriated in this act are expended in a manner that does not adversely affect any person's or entity's eligibility for federal funds that are made available, or that are anticipated to be made available, as a result of Hurricane Matthew, the western North Carolina wildfires, or Tropical Storms Julia and Hermine. The Governor shall also, to the extent practicable, avoid using State funds to cover costs that will be, or likely will be, covered by federal funds.

FACILITATE USE OF COMMUNITY DEVELOPMENT BLOCK GRANTS FOR DISASTER RELIEF

SECTION 5.11.(a) Notwithstanding any other provision of law, all Community Development Block Grant Disaster Recovery Program funds received by the Department of Commerce in response to the declarations and executive orders described in Section 3.1 of this act shall be transferred to the Emergency Management Division of the Department of Public Safety.

SECTION 5.11.(b) The Emergency Management Division shall assist the Department of Commerce in fulfilling any reporting requirements arising from receipt of the Disaster Recovery Program funds described in subsection (a) of this section.

REQUIRE REPLENISHING OF SAVINGS RESERVE ACCOUNT

SECTION 5.12. The Governor's Recommended State Budget for the 2017-2018 fiscal year shall include a recommendation to transfer to the Savings Reserve Account the amount of funds appropriated from that Reserve in Section 4.1 of this act.

PART VI. EFFECTIVE DATE

SECTION 6.1. Except as otherwise provided, this act is effective when it becomes law.

In the General Assembly read three times and ratified this the 14th day of December, 2016.

s/ Daniel J. Forest
President of the Senate

s/ Tim Moore
Speaker of the House of Representatives

s/ Pat McCrory
Governor

Approved 9:18 a.m. this 15th day of December, 2016