SENATE BILL 438:
NCORR Administrative Modifications.

2023-2024 General Assembly

Committee:	Senate Rules and Operations of the Senate	**Date:**	April 27, 2023
Introduced by:	Sens. Jackson, Perry, Britt	**Prepared by:**	Bill Patterson
Analysis of:	Second Edition		Staff Attorney

***OVERVIEW:** Senate Bill 438 would modify administration of the disaster recovery program administered by the North Carolina Office of Recovery and Resiliency (NCORR), also known as Rebuild NC. Among other things, the bill would:*

- ***Remove language limiting the use of federal disaster recovery funds to victims of Hurricanes Florence and Matthew.***
- ***Provide that statutory provisions governing NCORR disaster recovery assistance relating to homeowner eligibility, contractor requirements, rehabilitation assistance, physical condition requirements, and displacement and relocation, shall not be construed in a manner more restrictive than federal law or other applicable State law.***
- ***Establish requirements for disaster recovery contracts awarded or assigned by NCORR for construction activities involving detached single-family dwellings.***
- ***Limit the total number of projects awarded or assigned to an individual contractor at any one time.***
- ***Require local building inspection departments to prioritize inspection services related to construction activities involving single-family dwellings that are funded in whole or in part with federal disaster recovery funds.***
- ***Limit the circumstances under which a permanent residence, which has increased in value because of modifications using disaster recovery funded rehabilitation, can be appraised at a value higher than the value of the property's most recent appraisal prior to rehabilitation.***
- ***Raise the contract amount below which NCORR is not required to use competitive bidding from $30,000 to $250,000.***

CURRENT LAW: The North Carolina Office of Recovery and Resiliency (NCORR) was created in 2018 to execute multi-year recovery and resiliency projects and administer federal funds provided under the Community Development Block Grant Disaster Recovery program for Hurricanes Matthew (2016) and Florence (2018).

The Office of State Budget and Management Hurricane administers the Florence Disaster Recovery Fund created by Session Law 2018-134 to provide necessary and appropriate relief and assistance from the effects of Hurricane Florence.

NCORR is required to use competitive bidding for disaster recovery program contracts involving the expenditure at least $30,000 but less than $500,000 in public funds, and the contract must go to the lowest responsive, responsible bidder. Construction contracts at or above $500,000 must go through a formal sealed bid process and meet additional statutory requirements.

BILL ANALYSIS: Section 1 of Senate Bill 438 would remove statutory references to specific hurricanes as the natural disasters for which NCORR is authorized to fund recovery and resiliency projects, and would provide that statutory provisions relating to applicant and homeowner eligibility, contractor requirements, rehabilitation assistance, physical condition requirements, or displacement and relocation shall not be construed as more restrictive than applicable federal law or other applicable State law provisions.

Section 2(a) would enact new requirements for disaster recovery program contracts awarded or assigned by NCORR, including the following:

- NCORR would be required to establish a priority-based system for contracts to construct, reconstruct, alter, repair, move to another site, remove, or demolish detached single-family dwellings. Under this system, NCORR would have to assign priority based on, at a minimum, the following criteria:
  - Applicants having the lowest income for the prior 12 consecutive months.
  - Applicants over the age of 62.
  - Applicants with minor children or persons with a mental or physical disability in their household.
  - The length of time the applicant has been temporarily relocated by the Office.
- An individual contractor would be limited to no more than 75 assigned or awarded detached single-family projects at any given time.
- All projects would be subject to immediate cancellation if construction activities are not commenced within 45 days after the contract is awarded or assigned, or if construction activities are not completed within 135 days after that date or the date of the applicant's temporary relocation, whichever is later.
- NCORR could reduce these deadlines depending on the nature of the construction activities, and could grant an extension not to exceed 45 days in total for delays caused by either of the following:
  - Weather phenomena, defined as 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.
  - Unforeseen circumstances, defined as actions taken by the applicant or other third parties that limits the ability to continue construction activities.
- For delays caused by unforeseen circumstances the Secretary of the Department of Public Safety could grant an additional extension of up to 45 days. The Secretary would be required to any additional extension to the chairs of the Joint Legislative Commission on Government Operations within five business days.
- In no case could the total number of days of extensions exceed 90 days for any individual project.
- All contracts would provide that in the event of cancellation for failure to meet deadlines, the contractor would be subject to liquidated damages of $250 per day, unless the contractor's ability to meet the contract requirements was substantially impaired by an emergency that has resulted in a state of emergency declared by the Governor, the General Assembly, the governing body or mayor of a municipality, or the governing of a county or chair of a county board of commissioners.

- NCORR would be required to limit any changes to the size of any detached single-family dwelling to no more than a 5% expansion or reduction of its pre-disaster square footage, except as required to meet lot setback requirements or other lot size requirements.

Section 2(b) would require local government building inspection departments to prioritize inspections required for construction activities involving recovery program funded detached single-family dwellings.

Section 2(c) would require NCORR, within 30 days after the date this act becomes law, to adopt the priority-based system required by Section 2(a), and within 30 days after adoption, to submit a report to the Joint Legislative Commission on Governmental Operations on its implementation of the system, including the criteria upon which the system was developed.

Section 3 would amend provisions governing real property appraisals used for taxation to provide that if the true value of a permanent residence has increased as a result of rehabilitation using federal funds from the Community Development Block Grant Disaster Recovery program or State funds from the Hurricane Florence Disaster Recovery Fund, the property shall not be reappraised at a value higher than its most recent pre-rehabilitation appraisal except upon the occurrence of one of the following circumstances:

- The owner transfers the residence to another, unless the transfer is to a co-owner or to the owner's spouse as part of a divorce proceeding, and the transferee occupies the property as his or her permanent residence.
- The owner has died, unless the owner's share of the property passed upon the owner's death to a co-owner of the property or the spouse of the owner, and the co-owner or spouse occupies the property as his or her permanent residence.
- The owner has ceased to use the property as his or her permanent residence.
- It has been at least five years since the residence was modified using Community Development Block Grant Disaster Recovery program funds or Hurricane Florence Disaster Recovery funds.

Section 3 would also make conforming changes to appraisal-related statutes to cross-reference the new reappraisal restrictions for property rehabilitated with disaster recovery program funds.

Section 4(a) would increase from $30,000 to $250,000 the contract amount below which NCORR must use competitive bidding and award the contract to the lowest responsive, responsible bidder.

Section 4(b) would provide that for disaster program recovery contracts involving an expenditure of at least $250,000 but less than $500,000 of public funds, NCORR must use competitive bidding and must award the contract to the lowest responsible, responsive bidder.

EFFECTIVE DATE: Sections 1, 2, and 4 are effective when this act becomes law. Section 2 applies to contracts assigned, renewed, extended, or awarded on or after that date, and Section 4 applies to contracts awarded on or after that date. Section 3 of the act is effective for taxes imposed for taxable years beginning on or after July 1, 2023.