

GENERAL ASSEMBLY OF NORTH CAROLINA
1987 SESSION

CHAPTER 980
HOUSE BILL 579

AN ACT TO PROVIDE THAT COUNTIES MAY BY RESOLUTION DEEM THE CREATION OF A SELF-FUNDED RISK PROGRAM AS THE PURCHASE OF INSURANCE FOR THE PURPOSE OF WAIVING THE DEFENSE OF GOVERNMENTAL IMMUNITY.

The General Assembly of North Carolina enacts:

Section 1. G.S. 153A-435(a) reads as rewritten:

"(a) A county may contract to insure itself and any of its officers, agents, or employees against liability for wrongful death or negligent or intentional damage to person or property or against absolute liability for damage to person or property caused by an act or omission of the county or of any of its officers, agents, or employees when acting within the scope of their authority and the course of their employment. The board of commissioners shall determine what liabilities and what officers, agents, and employees shall be covered by any insurance purchased pursuant to this subsection.

Purchase of insurance pursuant to this subsection waives the county's governmental immunity, to the extent of insurance coverage, for any act or omission occurring in the exercise of a governmental function. Participation in a local government risk pool pursuant to Article 39 of General Statute Chapter 58 shall be deemed to be the purchase of insurance for the purposes of this section. By entering into an insurance contract with the county, an insurer waives any defense based upon the governmental immunity of the county. In the event that a county elects to use a funded reserve in lieu of purchasing insurance against liability for wrongful death or negligence or intentional damage to personal property or against absolute liability for damage to person or property caused by an act or omission of the County or any of its officers, agents, or employees when action within the scope of their authority and the course of their employment, the Board of Commissioners may adopt a resolution which deems the creation of a funded reserve to be the same as the purchase of insurance for purposes of this provision. Adoption of this resolution waives the County's governmental immunity to the extent specified in the Board's resolution, but in no event greater than funds available in the funded reserve for the payment of claims."

Sec. 2. This act applies to Mecklenburg County and Catawba Counties only.

Sec. 3. This act is effective upon ratification.

In the General Assembly read three times and ratified this the 27th day of June, 1988.