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1 A bill to be entitled
2 An act relating to hurricane-relief funding; amending s.
3 252.37, F.S.; providing an exception to the time limit for
4 application by a local government for a waiver of all or a
5 portion of the required match for financial assistance
6 from the Federal Government under the federal Public
7 Assistance Program; providing for expiration of the
8 exception; providing an effective date.

9
10 WHEREAS, the 2004 hurricane season was one of the deadliest
11 in history for the State of Florida, with the state enduring
12 Tropical Storm Bonnie and Hurricanes Charley, Frances, Ivan, and
13 Jeanne all within a very compressed period of time and incurring
14 tremendous devastation as a consequence of those storms, and

15 WHEREAS, immediately following the occurrence of Hurricane
16 Ivan, the Governor's Office issued Executive Order 04-229 on
17 October 8, 2004, and

18 WHEREAS, Executive Order 04-229 states in part that, on
19 October 7, 2004, the President of the United States authorized
20 federal funds for public assistance under the Robert T. Stafford
21 Disaster Relief and Emergency Assistance Act, 42 U.S.C. s. 5121
22 (the Stafford Act), and

23 WHEREAS, section 252.37, Florida Statutes, 2003, authorized
24 the Governor to expend any grants, gifts, or payments in aid of
25 emergency prevention, mitigation, preparedness, response, or
26 recovery, and

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27 WHEREAS, the funds authorized by the President on October
28 7, 2004, under the Stafford Act constituted such a grant, gift,
29 or payment, and

30 WHEREAS, former Governor of Florida, Jeb Bush, in issuing
31 Executive Order 04-229, directed that the nonfederal share of
32 the total eligible costs for public assistance under the
33 Stafford Act be divided equally between the state and the
34 affected local governments eligible for such public assistance,
35 and

36 WHEREAS, Executive Order 04-229 also provides that "the
37 Executive Office of the Governor may approve a waiver of all or
38 a portion of the local match, subject to legislative notice and
39 review under section 216.177, Florida Statutes, if it is
40 determined that such a match cannot be provided or that doing so
41 would effect a documented hardship on the local entity, provided
42 that the local government applies for the waiver by no later
43 than September 24, 2006," and

44 WHEREAS, Executive Order 04-229 went into effect on October
45 8, 2004, and was scheduled to expire on October 8, 2006, unless
46 extended, and

47 WHEREAS, in response to the devastation of the 2004
48 hurricane season, the Florida Legislature held the 2004 Special
49 Session A of the Legislature from December 13, 2004, through
50 December 16, 2004, and

51 WHEREAS, on December 16, 2004, the Florida Legislature
52 passed House Bill 19-A, relating to hurricane-relief funding,
53 which was approved by the Governor on December 21, 2004, and

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54 WHEREAS, House Bill 19-A created section 252.37(5)(b),
55 Florida Statutes, which provided that "the Executive Office of
56 the Governor may approve a waiver, subject to the requirement
57 for legislative notice and review under s. 216.177, of all or a
58 portion of the required match for public assistance projects for
59 local governments if the Executive Office of the Governor
60 determines that such a match requirement cannot be provided, or
61 that doing so would impose a documented hardship on the local
62 government, and if the local government applies for the waiver
63 within the first 18 months after the disaster is declared," and

64 WHEREAS, section 252.37(5)(b), Florida Statutes, as created
65 by House Bill 19-A, 2004 Special Session A of the Florida
66 Legislature, clearly establishes the filing deadline for local
67 match waivers as being 18 months after the declaration of a
68 disaster, and

69 WHEREAS, this deadline was enacted into law in conflict
70 with the deadline of September 24, 2006, established under
71 Executive Order 04-229, and

72 WHEREAS, because the state of emergency resulting from
73 Hurricane Ivan was declared on September 10, 2004, the deadline
74 for a local government to apply for the waiver of all or a
75 portion of the required match for public assistance projects
76 under section 252.37(5)(b), Florida Statutes, was March 10,
77 2006, a full 6 months earlier than the deadline of September 24,
78 2006, set forth in Executive Order 04-229, and

79 WHEREAS, though the passage of House Bill 19-A moved the
80 deadline for local governments to apply for the waiver of the
81 required match for public assistance projects ahead by a full 6

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82 months, no direct notice of this change in the deadline was ever
83 provided to such applicants, and substantially identical local
84 match waiver application forms were issued, and

85 WHEREAS, to this date, no press releases notifying the
86 public of this change have been discovered, nor have any
87 postings of the change been found on any relevant Internet
88 websites, and

89 WHEREAS, the City of Gulf Breeze in Santa Rosa County filed
90 its local match waiver application form for damages resulting
91 from Hurricane Ivan on September 1, 2006, relying on information
92 from the original form made available to them which specifically
93 sets forth September 24, 2006, as the deadline for the
94 application, and

95 WHEREAS, though the application was clearly timely filed in
96 accordance with the application deadline established in
97 Executive Order 04-229, the waiver application for the City of
98 Gulf Breeze was summarily rejected without evaluation as failing
99 to be in conformance with the deadline of March 10, 2006,
100 established in section 252.37(5)(b), Florida Statutes, and

101 WHEREAS, subsequent correspondence between the City of Gulf
102 Breeze and the Governor's Office under then Governor Jeb Bush
103 indicated "that the Governor would not object to a narrow
104 extension of the statutory 18-month timeframe as it applies to
105 the 2004 hurricanes - Charley, Frances, Ivan, and Jeanne," NOW,
106 THEREFORE,

107

108 Be It Enacted by the Legislature of the State of Florida:

109

110 Section 1. Subsection (5) of section 252.37, Florida
 111 Statutes, is amended to read:

112 252.37 Financing.--

113 (5) Unless otherwise specified in the General
 114 Appropriations Act:

115 (a) Whenever the state accepts financial assistance from
 116 the Federal Government or its agencies under the federal Public
 117 Assistance Program and such financial assistance is conditioned
 118 upon a requirement for matching funds, the state shall provide
 119 the entire match requirement for state agencies and one-half of
 120 the required match for grants to local governments. The affected
 121 local government shall be required to provide one-half of the
 122 required match prior to receipt of such financial assistance.

123 (b) The Executive Office of the Governor may approve a
 124 waiver, subject to the requirement for legislative notice and
 125 review under s. 216.177, of all or a portion of the required
 126 match for public assistance projects for local governments if
 127 the Executive Office of the Governor determines that such a
 128 match requirement cannot be provided, or that doing so would
 129 impose a documented hardship on the local government, and,
 130 except as provided in paragraph (c), if the local government
 131 applies for the waiver within the first 18 months after the
 132 disaster is declared.

133 (c) A local government that applied for a waiver of all or
 134 a portion of the required match for public assistance projects
 135 in compliance with the deadline for such application established
 136 by Executive Order 04-229, issued on October 8, 2004, and whose
 137 application was rejected for failure to meet the deadline

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138 | established pursuant to paragraph (b) is eligible to make
139 | application for such waiver until midnight on January 1, 2008.
140 | The provisions of this paragraph shall expire and be void on
141 | July 1, 2008.

142 | Section 2. This act shall take effect upon becoming a law.