

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Criminal Justice Committee

BILL: CS/CS/SB 2078

INTRODUCER: Criminal Justice Committee, Banking and Insurance Committee, and Senator Justice

SUBJECT: My Safe Florida Home Program

DATE: April 21, 2009 REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Woodham/Emrich	Burgess	BI	Fav/CS
2.	Clodfelter	Cannon	CJ	Fav/CS
3.			GO	
4.			GA	
5.				
6.				

**Please see Section VIII. for Additional Information:**

- |                              |                                     |   |
|------------------------------|-------------------------------------|---|
| A. COMMITTEE SUBSTITUTE..... | <input checked="" type="checkbox"/> | Statement of Substantial Changes        |
| B. AMENDMENTS.....           | <input type="checkbox"/>            | Technical amendments were recommended   |
|                              | <input type="checkbox"/>            | Amendments were recommended             |
|                              | <input type="checkbox"/>            | Significant amendments were recommended |

**I. Summary:**

The My Safe Florida Home (MSFH) program within the Department of Financial Services (DFS) provides financial incentives and assistance for residential property owners in Florida to retrofit their properties, making them less vulnerable to hurricane damage and helping decrease the cost of residential property and casualty insurance. As of March 1, 2009, the MSFH program has processed 443,339 inspection applications and completed 399,164 free home inspections in 67 counties. The program has received 42,887 completed grant applications and awarded 40,385 grants for hurricane mitigation. The total amount of grants awarded is \$148 million. In addition, it has signed up 3,321 contractors to perform mitigation and 29,070 homes have been retrofitted with grant funds.

Committee Substitute for Senate Bill 2078 provides the following changes to the MSFH program:

- Clarifies legislative intent that the MSFH program provide trained and certified mitigation inspectors to perform inspections for homeowners and to provide grants to eligible applicants as funding allows.
- Eliminates the provision for “free” inspections.

- Adds the following mitigation improvements which are eligible for MSFH grant funding:
  - Reinforcing roof-to-wall connections;
  - Improving the strength of roof-deck attachments;
  - Upgrading the roof covering; and
  - Secondary water barrier for roof.
- Authorizes the DFS to establish by rule maximum grant allowances for any of the improvements allowable under grant eligibility provisions.
- Increases the amount for third party contracts which trigger Legislative Budget Commission oversight from \$500,000 to \$1 million.
- Eliminates the requirement for insurers to accept the validity of a uniform mitigation verification form that is certified by the Department of Financial Services or signed by a hurricane mitigation inspector, certified building code inspector, licensed general or residential contractor, professional engineer, or professional architect.
- Provides criminal misdemeanor penalties for individuals or entities who knowingly provide or utter a false or fraudulent mitigation verification form with intent to obtain or receive a discount on an insurance premium to which the individual or entity is not entitled.

This bill substantially amends the following sections of the Florida Statutes: 215.5586 and 627.711.

## II. Present Situation:

### **My Safe Florida Home Program**

In 2006, the Legislature created the Florida Comprehensive Hurricane Damage Mitigation Program and appropriated \$250 million to provide financial incentives and assistance for residential property owners in Florida to retrofit their properties, making them less vulnerable to hurricane damage and helping decrease the cost of residential property and casualty insurance.

Now called “My Safe Florida Home” (MSFH), the program is administered by the Department of Financial Services (DFS). The intent of the program is to:

- Provide free home inspections for at least 400,000 site-built, single-family, residential properties; and
- Provide grants to at least 35,000 applicants before June 30, 2009.

The grants are intended to help pay for improvements on residential property. Such improvements are typically referred to as “mitigation improvements” or simply “mitigation.” These two measures comprise the heart of the program, and are intended to go hand in hand. The purpose of the inspections is to identify weaknesses in residential structures that would make them especially vulnerable in a hurricane. The purpose of the grants is to assist the owners of such structures in “mitigating” those weaknesses.

The DFS has established a three-layered strategy for delivering inspection and mitigation for homeowners under the MSFH program:

- direct service through DFS to the homeowner,
- partnerships with non-profit entities, and

- partnerships with local governments.

**Inspections**

The MSFH program provides free home-retrofit inspections of site-built, single family, residential properties which are offered throughout the state. These inspections determine what mitigation measures are needed, what insurance premium discounts may be available, and what improvements to existing properties are needed to reduce the property's vulnerability to hurricane damage.

***Wind Certification Entities and Hurricane Mitigation Inspectors***

The DFS must contract with wind certification entities (WCE's) to provide the hurricane mitigation inspections. To qualify for selection by the DFS as a WCE, the entity must use hurricane mitigation inspectors who are certified as building inspectors; general or residential contractors; professional engineers; professional architects or have at least 2 years of experience in residential construction or building inspection. The hurricane mitigation inspectors must have undergone drug testing and level 2 background checks and have been certified to conduct the inspections.

***Inspection Reporting***

After a home is inspected, inspectors generate a report that summarizes the results and identifies recommended improvements a homeowner may make to mitigate hurricane damage. The report also provides a range of cost estimates regarding recommended mitigation improvements; insurer-specific information regarding premium discounts correlated to the current mitigation features and recommended improvements; and a hurricane-resistance rating scale specifying the home's current and projected wind resistance.

As of March 1, 2009, the MSFH program has processed 443,339 inspection applications and completed 399,164 free home inspections in 67 counties and trained, background checked, and drug tested approximately 2,416 hurricane mitigation inspectors. Over the life of the program, 400,000 inspections will be completed at a cost of \$60 million, with an average cost of \$150 per inspection. As of March 1, 2009, the MSFH program also performed quality assurance and grant work inspections at a cost of \$1.2 million.

In discussion with Senate professional staff, MSFH representatives report that the free-inspection portion of MSFH is now largely complete.

**Mitigation Grants**

The DFS also provides grants to homeowners whose homes have been identified as in need of mitigation by the inspection portion of MSFH. These mitigation grants are used to encourage single-family, site-built, owner-occupied, residential property owners to retrofit their properties to make them less vulnerable to hurricane damage.

***Eligibility***

To be eligible for a matching grant of up to \$5,000 for persons who have obtained a completed inspection after May 1, 2007, a residential property must:

- Have a homestead exemption under Chapter 196, F.S.;

- Be a dwelling with an insured value of \$300,000 or less; homeowners who are low-income persons, as defined in s. 420.0004(10), F.S., are exempt from this requirement;
- Have undergone a hurricane mitigation inspection;
- Be located in the wind-borne debris region as defined in s. 1609.2, International Building Code (2006); and
- Be a home for which the building permit application for initial construction was made before March 1, 2002.

### ***Grant Applications***

Grant applications must contain a signed statement made under penalty of perjury that the applicant has submitted only a single application. Documents which demonstrate compliance with the above criteria must be attached. The MSFH program allows homeowners to select licensed contractors from a list of participating contractors. Mitigation must be based on securing required permits and inspections and must be performed by properly licensed contractors. Hurricane mitigation inspectors qualifying for the MSFH program may also participate as mitigation contractors. Matching fund grants must also be available to local governments and nonprofit entities for mitigation projects.

### ***Criteria***

When recommended by a hurricane mitigation inspection, grants may only be used for:

- opening protections;
- exterior doors, including garage doors and
- brace gable ends.

The DFS may require that improvements be made to all openings, including exterior doors and garage doors, as a condition of approving a grant application should the DFS determine such additional improvements are necessary to achieve mitigation.

### ***Grants for Previously Inspected Existing Structures or a Rebuilt Home***

Grants may also be used on previously inspected existing structures or a rebuilt home, however, the homeowner must be a low-income homeowner, must have a homestead exemption for that home prior to the hurricane, and must intend to rebuild the home as that homeowner's homestead. Further, low-income homeowners, as defined in s. 420.0004(10), F.S., are eligible for a grant of up to \$5,000 and are not required to provide a matching amount to receive the grant.

As of March 1, 2009, the MSFH program has received 42,887 completed grant applications and awarded 40,385 grants for hurricane mitigation. In addition, it has signed up 3,321 contractors to perform mitigation under the program. As of March 1, 2009, 29,070 homes have been retrofitted with grant funds. The total amount of grants awarded is \$148 million. It is projected that the total of 32,000 homes will be retrofitted by June 30, 2009, since approximately 20 percent of homeowners awarded grants have not completed improvements and sought reimbursement from the program. If the unspent funds currently encumbered do not revert back to General Revenue on June 30, 2009, the program estimates funds could be used to serve a waiting list of approximately 2,700 homeowners.

***Contractors Providing Services under Mitigation Grants***

DFS third party contracts for services provided under MSFH are under Legislative Budget Commission oversight if they amount to \$500,000 or more.

***Uniform Mitigation Verification Forms***

Starting in 2005 the Legislature enacted legislation providing for premium discounts for hurricane mitigation.<sup>1</sup> In 2007, a “uniform mitigation verification” form was developed for use by policyholders to file with insurers for the purpose of “factoring discounts for wind insurance.”<sup>2</sup> In 2008, the law was changed to provide a list of individuals who by their signature could validate the form for a policyholder. Those individuals who can sign the form include hurricane mitigation inspectors employed by an approved My Safe Florida Home wind certification entity, as well as building code inspectors, general or residential contractors, professional engineers or professional architects.<sup>3</sup>

**III. Effect of Proposed Changes:**

**Section 1.** Amends s. 215.5586, F.S., to provide for the following changes to the My Safe Florida Home Program:

***Goals for Inspections and Grants***

Since the MSFH program will meet the goal of providing 400,000 inspections and grants to at least 35,000 applicants by June 30, 2009, the specific references to those goals are deleted. The statute is clarified that the MSFH program will provide “trained and certified inspectors” to perform inspections and provide grants to “eligible” applicants as “funding allows.”

***Inspections***

The provision for free inspections is eliminated.

***Mitigation Grants: Criteria and Administration***

- Requires a home to have undergone an acceptable hurricane mitigation inspection after May 1, 2007.
- Those residential properties eligible for a grant because they are in a “wind-borne debris region” under s. 1609.2 of the 2006 version of the International Building Code must continue to qualify under future versions of the Code.
- The following additional mitigation improvements are now eligible for grant funding:
  - Reinforcing roof-to-wall connections;
  - Improving the strength of roof-deck attachments;
  - Upgrading the roof covering; and
  - Secondary water barrier for roof.

According to MSFH representatives, Federal matching funds previously unavailable may become so.

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<sup>1</sup> Chapter 2005-111, L.O.F.

<sup>2</sup> Section 627.711(2), F.S. Chapter 2007-1, L.O.F.

<sup>3</sup> Section 627.711(2), F.S. Chapter 2008-248, L.O.F.

- DFS may establish maximum grant allowances by rule for any of the improvements allowable under grant eligibility in the statute. This provision is intended to prevent a grantee from spending the entire amount of a grant on expensive improvements when less expensive improvements would suffice.
- The no interest loan program is eliminated.

#### ***Advisory Council***

- The bill corrects a reference that the director of the Division of Emergency Management serves on the MSFH Advisory Council instead of the director of the Division of Emergency Management of the Department of Community Affairs.

#### ***Contract Management***

The dollar amount for third party contracts which triggers Legislative Budget Commission oversight is raised from \$500,000 to \$1 million.

**Section 2.** Amends s. 627.711, F.S., to provide the following:

#### ***Uniform Mitigation Verification Forms:***

- Eliminates the requirement for insurers to accept the validity of a uniform mitigation verification form that is certified by the Department of Financial Services or signed by a hurricane mitigation inspector, certified building code inspector, licensed general or residential contractor, professional engineer, or professional architect.

#### ***Criminal Provisions against Fraud***

Individuals or entities who knowingly provide or utter a false or fraudulent mitigation verification form with intent to receive a discount on an insurance premium to which the individual or entity is not entitled commit a misdemeanor of the first degree, punishable pursuant to ss. 775.082, or 775.083, F.S. A first degree misdemeanor is punishable by imprisonment for not more than one year and fine of not more than \$1000.

**Section 3.** Provides an effective date of July 1, 2009.

#### **IV. Constitutional Issues:**

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

**V. Fiscal Impact Statement:****A. Tax/Fee Issues:**

None.

**B. Private Sector Impact:**

Grants would now be given for four new types of home mitigation improvements. Federal matching funds may be available for these grants, according to officials with the MSFH. Private sector contractors performing these improvements potentially benefit.

Hurricane mitigation inspectors, building code inspectors, general or residential contractors, professional engineers, and professional architects could incur some lost revenue because they would no longer be authorized to sign mitigation verification forms.

**C. Government Sector Impact:**

Counties would incur costs to jail any persons who are sentenced to incarceration for knowingly submitting a false or fraudulent mitigation verification form.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Additional Information:****A. Committee Substitute – Statement of Substantial Changes:**  
(Summarizing differences between the Committee Substitute and the prior version of the bill.)**CS by Criminal Justice on April 21, 2009:**

- Deletes language added in the Banking and Insurance Committee to create the Condominium Mitigation Loan Program.
- Eliminates the statutory requirement that insurers accept the validity of a uniform mitigation verification form that is certified by the Department of Financial Services or signed by a hurricane mitigation inspector, certified building code inspector, licensed general or residential contractor, professional engineer, or professional architect.
- Deletes language added in the Banking and Insurance Committee to allow insurers to contract with inspection firms at the insurer's expense for the purpose of reviewing mitigation verification forms and reinspecting mitigated properties.

**CS by Banking and Insurance on April 6, 2009:**

- Deletes the \$25 million appropriation for the MSFH program.
- Reduces the penalty (from a third degree felony to a first degree misdemeanor) for individuals who provide false or fraudulent mitigation verification forms.
- Clarifies legislative intent that the MSFH program provide trained and certified mitigation inspectors to perform inspections for homeowners and to provide grants to eligible applicants as funding allows.
- Eliminates the provision for “free” inspections.
- Deletes the provision for a competitive bidding process to select contractors who perform mitigation projects.
- Eliminates the requirement that hurricane mitigation inspectors can sign uniform mitigation verification forms that must be accepted by insurers.
- Removes the requirement that improvements be made to all “glazed” openings.
- Reduces the requirement for Legislative Budget Commission oversight of third party contracts from \$5 million to \$1 million.
- Authorizes the DFS to implement a Condominium Mitigation Loan Program and requires DFS to offer an interest subsidy to be paid in advance.
- Allows insurers to contract with inspection firms at the insurer’s expense to review mitigation verification forms and reinspect mitigated properties.

**B. Amendments:**

None.