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LEGISLATIVE ACTION

Senate

House

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Floor: 17/AD/2R

04/23/2010 02:05 PM

Senator Bennett moved the following:

Senate Amendment (with title amendment)

Delete lines 3192 - 3270

and insert:

(2) (a) ~~By July 1, 2007,~~ The Financial Services Commission shall develop by rule a uniform mitigation verification inspection form that shall be used by all insurers when submitted by policyholders for the purpose of factoring discounts for wind insurance. In developing the form, the commission shall seek input from insurance, construction, and building code representatives. Further, the commission shall provide guidance as to the length of time the inspection results are valid. An insurer shall accept as valid a uniform mitigation



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14 verification form ~~certified by the Department of Financial~~
15 ~~Services~~ or signed by the following authorized mitigation
16 inspectors:

17 1.(a) A home inspector licensed under s. 468.8314 who has
18 completed at least 3 hours of hurricane mitigation training
19 which includes hurricane mitigation techniques and compliance
20 with the uniform mitigation verification form and completion of
21 a proficiency exam. Thereafter, home inspectors licensed under
22 s. 468.8314, must complete at least 2 hours of continuing
23 education, as part of the existing licensure renewal
24 requirements each year, related to mitigation inspection and the
25 uniform mitigation form ~~hurricane mitigation inspector certified~~
26 ~~by the My Safe Florida Home program;~~

27 2.(b) A building code inspector certified under s. 468.607;

28 3.(c) A general, building, or residential contractor
29 licensed under s. 489.111;

30 4.(d) A professional engineer licensed under s. 471.015 who
31 ~~has passed the appropriate equivalency test of the building code~~
32 ~~training program as required by s. 553.841;~~

33 5.(e) A professional architect licensed under s. 481.213;
34 or

35 6.(f) Any other individual or entity recognized by the
36 insurer as possessing the necessary qualifications to properly
37 complete a uniform mitigation verification form.

38 (b) An insurer may, but is not required to, accept a form
39 from any other person possessing qualifications and experience
40 acceptable to the insurer.

41 (3) A person who is authorized to sign a mitigation
42 verification form must inspect the structures referenced by the



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43 form personally, not through employees or other persons, and
44 must certify or attest to personal inspection of the structures
45 referenced by the form. However, licensees under s. 489.111, may
46 authorize a direct employee, who is not an independent
47 contractor, and who possesses the requisite skill, knowledge and
48 experience to conduct a mitigation verification inspection.
49 Insurers shall have the right to request and obtain information
50 from the authorized mitigation inspector under s. 489.111,
51 regarding any authorized employee's qualifications prior to
52 accepting a mitigation verification form performed by an
53 employee that is not licensed under s. 489.111.

54 (4) An authorized mitigation inspector that signs a uniform
55 mitigation form, and a direct employee authorized to conduct
56 mitigation verification inspections under paragraph (3), may not
57 commit misconduct in performing hurricane mitigation inspections
58 or in completing a uniform mitigation form that causes financial
59 harm to a customer or their insurer; or that jeopardizes a
60 customer's health and safety. Misconduct occurs when an
61 authorized mitigation inspector signs a uniform mitigation
62 verification form that:

63 (a) Falsely indicates that he or she personally inspected
64 the structures referenced by the form;

65 (b) Falsely indicates the existence of a feature which
66 entitles an insured to a mitigation discount which the inspector
67 knows does not exist or did not personally inspect;

68 (c) Contains erroneous information due to the gross
69 negligence of the inspector; or

70 (d) Contains a pattern of demonstrably false information
71 regarding the existence of mitigation features that could give



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72 an insured a false evaluation of the ability of the structure to
73 withstand major damage from a hurricane endangering the safety
74 of the insured's life and property.

75 (5) The licensing board of an authorized mitigation
76 inspector that violates subsection (4) may commence disciplinary
77 proceedings and impose administrative fines and other sanctions
78 authorized under the authorized mitigation inspector's licensing
79 act. Authorized mitigation inspectors licensed under s. 489.111,
80 shall be directly liable for the acts of employees that violate
81 subsection (4) as if the authorized mitigation inspector
82 personally performed the inspection.

83 (6) An insurer, person, or other entity that obtains
84 evidence of fraud or evidence that an authorized mitigation
85 inspector or an employee authorized to conduct mitigation
86 verification inspections under paragraph (3), has made false
87 statements in the completion of a mitigation inspection form
88 shall file a report with the Division of Insurance Fraud, along
89 with all of the evidence in its possession that supports the
90 allegation of fraud or falsity. An insurer, person, or other
91 entity making the report shall be immune from liability in
92 accordance with s. 626.989(4), for any statements made in the
93 report, during the investigation, or in connection with the
94 report. The Division of Insurance Fraud shall issue an
95 investigative report if it finds that probable cause exists to
96 believe that the authorized mitigation inspector, or an employee
97 authorized to conduct mitigation verification inspections under
98 paragraph (3), made intentionally false or fraudulent statements
99 in the inspection form. Upon conclusion of the investigation and
100 a finding of probable cause that a violation has occurred, the



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101 Division of Insurance Fraud shall send a copy of the
102 investigative report to the office and a copy to the agency
103 responsible for the professional licensure of the authorized
104 mitigation inspector, whether or not a prosecutor takes action
105 based upon the report.

106 (7)-(3) An individual or entity who knowingly provides or
107 utters a false or fraudulent mitigation verification form with
108 the intent to obtain or receive a discount on an insurance
109 premium to which the individual or entity is not entitled
110 commits a misdemeanor of the first degree, punishable as
111 provided in s. 775.082 or s. 775.083.

112 (8) At its expense, the insurer may require that any
113 uniform mitigation verification form provided by an authorized
114 mitigation inspector or inspection company be independently
115 verified by an inspector, inspection company or an independent
116 third-party quality assurance provider which does possess a
117 quality assurance program prior to accepting the uniform
118 mitigation verification form as valid.

120 ===== T I T L E A M E N D M E N T =====

121 And the title is amended as follows:

122 Delete lines 191 - 217

123 and insert:

124 F.S.; revising the list of persons qualified to sign
125 certain mitigation verification forms for certain
126 purposes; authorizing insurers to accept forms from
127 certain other persons; providing requirements for
128 persons authorized to sign mitigation forms;
129 prohibiting misconduct in performing hurricane



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130 mitigation inspection or completing uniform mitigation
131 forms causing certain harm; specifying what
132 constitutes misconduct; authorizing certain licensing
133 boards to commence disciplinary proceedings and impose
134 administrative fines and sanctions; providing for
135 liability of mitigation inspectors; requiring certain
136 entities to file reports of evidence of fraud;
137 providing for immunity from liability for reporting
138 fraud; providing for investigative reports from the
139 Division of Insurance Fraud; providing penalties;
140 authorizing insurers to require independent
141 verification of uniform mitigation verification forms;
142 creating