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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/08/2012	.	
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The Committee on Military Affairs, Space, and Domestic Security (Bennett) recommended the following:

Senate Substitute for Amendment (394588) (with title amendment)

Delete everything after the enacting clause and insert:

Section 1. Section 215.559, Florida Statutes, is amended to read:

215.559 Hurricane Loss Mitigation Program.—A Hurricane Loss Mitigation Program is established in the Division of Emergency Management.

(1) The purpose of the program is to:

(a) Reduce the vulnerability of and damage to residential



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13 structures from wind, wind-driven rain, and wind-driven debris
14 during high-wind events through the implementation of a
15 residential mitigation retrofit program;

16 (b) Ensure that residential mitigation activities
17 prioritize wind-borne debris regions throughout the state;

18 (c) Ensure that all mitigation projects will be reviewed,
19 inspected, and designed by technical and environmental
20 professionals;

21 (d) Ensure that all mitigation projects be cost-effective
22 and provide a positive return on investment;

23 (e) Ensure that all products and systems are installed in
24 accordance with the Florida Building Code and manufacturer's
25 installation specifications and have a product approval number
26 from the building code;

27 (f) Ensure that all mitigation activities follow recognized
28 best practices for residential wind mitigation and provide
29 increased sustainability;

30 (g) Ensure that all mitigation activities are tracked and
31 analyzed after the event in order to measure the effectiveness
32 of the mitigation program. A database must be maintained to
33 capture all necessary information; and

34 (h) Ensure that participation by homeowners is voluntary.

35 (2) The program shall:

36 (a) Provide funding and supervision for the public
37 hurricane loss projection model established under s. 627.06281;

38 (b) Establish a statewide program for inspection standards
39 and data collection related to hurricane loss;

40 (c) Further the science of hurricane mitigation by working
41 with all types of businesses, scientists, and academics in order



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42 to further the availability and measure the effectiveness of new
43 ways to mitigate hurricane damage to homes;

44 (d) Be a state resource on the assessment of potential
45 costs of hurricane damage and the results of mitigation; and

46 (e) Determine appropriate wind mitigation standards based
47 on hurricane loss models and the applicability and use of wind
48 mitigation discounts for homeowners' insurance.

49 (3)~~(1)~~ The Legislature shall annually appropriate \$10
50 million of the moneys authorized for appropriation under s.
51 215.555(7) (c) from the Florida Hurricane Catastrophe Fund to the
52 division for the purposes set forth in this section.

53 (a) Of that ~~the~~ amount:

54 1.~~(a)~~ Seven million dollars ~~in funds~~ shall be used for
55 programs to improve the wind resistance of residences and mobile
56 homes, including loans, subsidies, grants, demonstration
57 projects, and direct assistance; educating persons concerning
58 the Florida Building Code cooperative programs with local
59 governments and the Federal Government; to establish inspection
60 standards and data collection related to hurricane and windstorm
61 loss and to fund the public hurricane loss-projection model; and
62 other efforts to prevent or reduce losses or reduce the cost of
63 rebuilding after a disaster. Of that amount:

64 a. Forty percent shall be used to inspect and improve tie-
65 downs for mobile homes described in subsection (4).

66 b. Ten percent shall be allocated to the Florida
67 International University center dedicated to hurricane research.
68 The center shall develop a preliminary work plan to eliminate
69 the state and local barriers to upgrading existing mobile homes
70 and communities, research and develop a program for the



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71 recycling of existing older mobile homes, and support programs
72 of research and development relating to hurricane loss reduction
73 devices and techniques for site-built residences. The center's
74 preliminary plan shall be reviewed by the advisory council
75 established under subsection (6), which shall provide comments
76 and recommendations to the center with respect to the plan. The
77 center also shall consult with the division and assist the
78 division with the report required under subsection (7).

79 ~~2.(b)~~ Three million dollars ~~in funds~~ shall be used to
80 retrofit existing facilities used as public hurricane shelters.
81 Each year the division shall prioritize the use of these funds
82 for projects included in the annual report of the Shelter
83 Retrofit Report prepared in accordance with s. 252.385(3). The
84 division must give funding priority to projects in regional
85 planning council regions that have shelter deficits and to
86 projects that maximize the use of state funds.

87 ~~(2)(a) Forty percent of the total appropriation in~~
88 ~~paragraph (1)(a) shall be used to inspect and improve tie-downs~~
89 ~~for mobile homes.~~

90 ~~(4)(b)1.~~ The Manufactured Housing and Mobile Home
91 Mitigation and Enhancement Program is established to. ~~The~~
92 ~~program shall~~ require the mitigation of damage to or the
93 enhancement of homes for the areas of concern raised by the
94 Department of Highway Safety and Motor Vehicles in the 2004-2005
95 Hurricane Reports on the effects of the 2004 and 2005 hurricanes
96 on manufactured and mobile homes in this state. The mitigation
97 or enhancement must include, but need not be limited to,
98 problems associated with weakened trusses, studs, and other
99 structural components caused by wood rot or termite damage;



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100 site-built additions; or tie-down systems and may also address
101 any other issues deemed appropriate by Tallahassee Community
102 College, the Federation of Manufactured Home Owners of Florida,
103 Inc., the Florida Manufactured Housing Association, and the
104 Department of Highway Safety and Motor Vehicles. The program
105 shall include an education and outreach component to ensure that
106 owners of manufactured and mobile homes are aware of the
107 benefits of participation.

108 ~~(a)2.~~ The program shall be a grant program that ensures
109 that entire manufactured home communities and mobile home parks
110 may be improved wherever practicable. ~~The moneys appropriated~~
111 ~~for this program shall be distributed directly to Tallahassee~~
112 ~~Community College for the uses set forth under this subsection.~~

113 ~~(b)3.~~ Upon evidence of completion of the program, the
114 Citizens Property Insurance Corporation shall grant, on a pro
115 rata basis, actuarially reasonable discounts, credits, or other
116 rate differentials or appropriate reductions in deductibles for
117 the properties of owners of manufactured homes or mobile homes
118 on which fixtures or construction techniques that have been
119 demonstrated to reduce the amount of loss in a windstorm have
120 been installed or implemented. The discount on the premium must
121 be applied to subsequent renewal premium amounts. Premiums of
122 the Citizens Property Insurance Corporation must reflect the
123 location of the home and the fact that the home has been
124 installed in compliance with building codes adopted after
125 Hurricane Andrew. Rates resulting from ~~the~~ completion of the
126 ~~Manufactured Housing and Mobile Home Mitigation and Enhancement~~
127 program are not considered competitive rates for the purposes of
128 s. 627.351(6) (d)1. and 2.



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129 (c)4. On or before January 1 of each year, Tallahassee
130 Community College shall provide a report of activities under
131 this subsection to the Governor, the President of the Senate,
132 and the Speaker of the House of Representatives. The report must
133 set forth the number of homes that have taken advantage of the
134 program, the types of enhancements and improvements made to the
135 manufactured or mobile homes and attachments to such homes, and
136 whether there has been an increase in availability of insurance
137 products to owners of manufactured or mobile homes.

138 (d) Tallahassee Community College shall develop the program
139 ~~programs set forth in this subsection~~ in consultation with the
140 Federation of Manufactured Home Owners of Florida, Inc., the
141 Florida Manufactured Housing Association, and the Department of
142 Highway Safety and Motor Vehicles. The moneys ~~appropriated~~ for
143 the program must be appropriated ~~the programs set forth in this~~
144 ~~subsection shall be distributed directly~~ to Tallahassee
145 Community College to be used as set forth in this subsection.

146 ~~(3) Of moneys provided to the division in paragraph (1)(a),~~
147 ~~10 percent shall be allocated to the Florida International~~
148 ~~University center dedicated to hurricane research. The center~~
149 ~~shall develop a preliminary work plan approved by the advisory~~
150 ~~council set forth in subsection (4) to eliminate the state and~~
151 ~~local barriers to upgrading existing mobile homes and~~
152 ~~communities, research and develop a program for the recycling of~~
153 ~~existing older mobile homes, and support programs of research~~
154 ~~and development relating to hurricane loss reduction devices and~~
155 ~~techniques for site-built residences. The State University~~
156 ~~System also shall consult with the division and assist the~~
157 ~~division with the report required under subsection (6).~~



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158 ~~(4) Except for the programs set forth in subsection (3),~~
159 ~~the division shall develop the programs set forth in this~~
160 ~~section in consultation with an advisory council consisting of a~~
161 ~~representative designated by the Chief Financial Officer, a~~
162 ~~representative designated by the Florida Home Builders~~
163 ~~Association, a representative designated by the Florida~~
164 ~~Insurance Council, a representative designated by the Federation~~
165 ~~of Manufactured Home Owners, a representative designated by the~~
166 ~~Florida Association of Counties, a representative designated by~~
167 ~~the Florida Manufactured Housing Association, and a~~
168 ~~representative designated by the Florida Building Commission.~~

169 (5) Moneys provided to the division under this section are
170 intended to supplement, not supplant, the division's other
171 funding sources.

172 (6) An advisory council shall be established to provide
173 advice and assistance regarding the administration of the
174 program. The advisory council shall consist of:

175 (a) The director of the Office of Insurance Regulation, or
176 his or her designee, who may not serve as chair of the
177 committee;

178 (b) The director of the Division of Emergency Management,
179 or his or her designee;

180 (c) The Insurance Consumer Advocate, or his or her
181 designee;

182 (d) Two representatives of authorized homeowners' insurers,
183 one of whom represents insurers having less than \$25 million in
184 surplus and is appointed by the President of the Senate, and one
185 of whom represents insurers having more than \$25 million in
186 surplus and is appointed by the Speaker of the House of



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187 Representatives;

188 (e) Two scientists, one of whom has experience and training
189 in the sciences related to windstorm loss mitigation or the
190 Florida Building Code and is appointed by the President of the
191 Senate, and one of whom has a background in engineering and is
192 appointed by the Speaker of the House of Representatives;

193 (f) Two legislators, one appointed by the President of the
194 Senate, and one appointed by the Speaker of the House of
195 Representatives;

196 (g) Two representatives of the reinsurance industry, one
197 whom is a representative of a reinsurer and is appointed by the
198 President of the Senate, and one of whom is a representative of
199 a reinsurance intermediary and is appointed by the Speaker of
200 the House of Representatives;

201 (h) One scientist who has a background in modeling and is
202 appointed by the division; and

203 (i) One representative from the windstorm mitigation
204 inspection industry who is appointed jointly by the President of
205 the Senate and the Speaker of the House of Representatives.

206 (7) ~~(6)~~ On January 1st of each year, the division shall
207 provide a full report and accounting of activities under this
208 section and an evaluation of such activities to the Speaker of
209 the House of Representatives, the President of the Senate, and
210 the Majority and Minority Leaders of the House of
211 Representatives and the Senate. Upon completion of the report,
212 the division shall deliver the report to the Office of Insurance
213 Regulation. The Office of Insurance Regulation shall review the
214 report and shall make such recommendations available to the
215 insurance industry as the Office of Insurance Regulation deems



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216 appropriate. These recommendations may be used by insurers for
217 potential discounts or rebates pursuant to s. 627.0629. The
218 Office of Insurance Regulation shall make such recommendations
219 within 1 year after receiving the report.

220 ~~(8)(7)~~ This section expires ~~is repealed~~ June 30, 2021.

221 Section 2. Section 627.711, Florida Statutes, is amended to
222 read:

223 627.711 Notice of premium discounts for hurricane loss
224 mitigation; uniform mitigation verification inspection form.—

225 (1) Using a form prescribed by the Division of Emergency
226 Management, in consultation with the advisory council created
227 under s. 215.559 ~~Office of Insurance Regulation~~, the insurer
228 shall clearly notify the applicant or policyholder of any
229 personal lines residential property insurance policy, at the
230 time of the issuance of the policy and at each renewal, of the
231 availability and the range of each premium discount, credit,
232 other rate differential, or reduction in deductibles, and
233 combinations thereof ~~of discounts, credits, rate differentials,~~
234 ~~or reductions in deductibles~~, for properties on which fixtures
235 or construction techniques demonstrated to reduce the amount of
236 loss in a windstorm can be or have been installed or
237 implemented. The prescribed form must ~~shall~~ describe generally
238 what actions the policyholders may be able to take to reduce
239 their windstorm premium. The prescribed form and a list of such
240 ranges approved by the Division of Emergency Management, in
241 consultation with the advisory council, ~~the office~~ for each
242 insurer licensed in the state and providing such discounts,
243 credits, other rate differentials, or reductions in deductibles
244 for properties described in this subsection shall be made



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245 available for electronic viewing and downloading ~~download from~~
246 ~~the Department of Financial Services' or the Office of Insurance~~
247 ~~Regulation's Internet website. The Financial Services Commission~~
248 ~~may adopt rules to implement this subsection.~~

249 (2) ~~(a)~~ The Division of Emergency Management, in
250 consultation with the advisory council created under s. 215.559,
251 ~~Financial Services Commission~~ shall develop by rule a uniform
252 mitigation verification inspection form to that shall be used by
253 all insurers when submitted by policyholders for the purpose of
254 factoring discounts for wind insurance. In developing the form,
255 the division ~~the Commission~~ shall seek input from insurance,
256 construction, and home inspector and building code
257 representatives. ~~Further,~~ The division ~~commission~~ shall also
258 provide guidance as to the length of time the inspection results
259 are valid.

260 (a) An insurer shall accept as valid a uniform mitigation
261 verification form signed by the following authorized mitigation
262 inspectors who have completed at least 3 hours of hurricane
263 mitigation training approved by the Construction Industry
264 Licensing Board which includes hurricane mitigation techniques
265 and compliance with the uniform mitigation verification form and
266 completion of a proficiency examination:

267 1. A home inspector licensed under s. 468.8314 ~~who has~~
268 ~~completed at least 3 hours of hurricane mitigation training~~
269 ~~approved by the Construction Industry Licensing Board which~~
270 ~~includes hurricane mitigation techniques and compliance with the~~
271 ~~uniform mitigation verification form and completion of a~~
272 ~~proficiency exam;~~

273 2. A building code inspector certified under s. 468.607;



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274 3. A general, building, or residential contractor licensed
275 under s. 489.111;

276 4. A professional engineer licensed under s. 471.015;

277 5. A professional architect licensed under s. 481.213; or

278 6. Any other individual or entity recognized by the insurer
279 as possessing the necessary qualifications to properly complete
280 a uniform mitigation verification form.

281 (b) An insurer may, ~~but is not required to,~~ accept a form
282 from any other person possessing qualifications and experience
283 acceptable to the insurer.

284 (3) A person who is authorized to sign a mitigation
285 verification form must inspect the structures referenced by the
286 form personally, not through employees or other persons, and
287 must certify or attest to personal inspection of the structures
288 referenced by the form. ~~However, licensees under s. 471.015 or~~
289 ~~s. 489.111 may authorize a direct employee, who is not an~~
290 ~~independent contractor, and who possesses the requisite skill,~~
291 ~~knowledge and experience, to conduct a mitigation verification~~
292 ~~inspection. Insurers shall have the right to request and obtain~~
293 ~~information from the authorized mitigation inspector under s.~~
294 ~~471.015 or s. 489.111, regarding any authorized employee's~~
295 ~~qualifications prior to accepting a mitigation verification form~~
296 ~~performed by an employee that is not licensed under s. 471.015~~
297 ~~or s. 489.111.~~

298 (4) An authorized mitigation inspector that signs a uniform
299 mitigation form, ~~and a direct employee authorized to conduct~~
300 ~~mitigation verification inspections under paragraph (3),~~ may not
301 commit misconduct in performing hurricane mitigation inspections
302 or in completing a uniform mitigation form that causes financial



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303 harm to a customer or their insurer; or that jeopardizes a
304 customer's health and safety. Misconduct occurs when an
305 authorized mitigation inspector signs a uniform mitigation
306 verification form that:

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

309 (b) Falsely indicates the existence of a feature that ~~which~~
310 entitles an insured to a mitigation discount that ~~which~~ the
311 inspector knows does not exist or did not personally inspect;

312 (c) Contains erroneous information due to the gross
313 negligence of the inspector; or

314 (d) Contains a pattern of demonstrably false information
315 regarding the existence of mitigation features that could give
316 an insured a false evaluation of the ability of the structure to
317 withstand major damage from a hurricane endangering the safety
318 of the insured's life and property.

319 (5) The licensing board of an authorized mitigation
320 inspector that violates subsection (4) may commence disciplinary
321 proceedings and impose administrative fines and other sanctions
322 authorized under the authorized mitigation inspector's licensing
323 act. ~~Authorized mitigation inspectors licensed under s. 471.015
324 or s. 489.111 shall be directly liable for the acts of employees
325 that violate subsection (4) as if the authorized mitigation
326 inspector personally performed the inspection.~~

327 (6) An insurer, person, or other entity that obtains
328 evidence of fraud or evidence that an authorized mitigation
329 inspector ~~or an employee authorized to conduct mitigation
330 verification inspections under paragraph (3)~~ has made false
331 statements in the completion of a mitigation inspection form



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332 shall file a report with the Division of Insurance Fraud, along
333 with all of the evidence in its possession which ~~that~~ supports
334 the allegation of fraud or falsity. An insurer, person, or other
335 entity making the report is ~~shall be~~ immune from liability, in
336 accordance with s. 626.989(4), for any statements made in the
337 report, during the investigation, or in connection with the
338 report. The Division of Insurance Fraud shall issue an
339 investigative report if it finds that probable cause exists to
340 believe that the authorized mitigation inspector, ~~or an employee~~
341 ~~authorized to conduct mitigation verification inspections under~~
342 ~~paragraph (3)~~, made intentionally false or fraudulent statements
343 in the inspection form. Upon conclusion of the investigation and
344 a finding of probable cause that a violation has occurred, the
345 Division of Insurance Fraud shall send a copy of the
346 investigative report to the office and a copy to the agency
347 responsible for the professional licensure of the authorized
348 mitigation inspector, whether or not a prosecutor takes action
349 based upon the report.

350 (7) An individual or entity who knowingly provides or
351 utters a false or fraudulent mitigation verification form with
352 the intent to obtain or receive a discount on an insurance
353 premium to which the individual or entity is not entitled
354 commits a misdemeanor of the first degree, punishable as
355 provided in s. 775.082 or s. 775.083.

356 (8) At its expense, the insurer may require that a uniform
357 mitigation verification form provided by a policyholder, a
358 policyholder's agent, or an authorized mitigation inspector or
359 inspection company be independently verified by an inspector, an
360 inspection company, or an independent third-party quality



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361 assurance provider that ~~which~~ possesses a quality assurance
362 program before accepting the uniform mitigation verification
363 form as valid.

364 Section 3. This act shall take effect July 1, 2012.

365

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

367 And the title is amended as follows:

368 Delete everything before the enacting clause
369 and insert:

370

A bill to be entitled

371 An act relating to the Hurricane Loss Mitigation
372 Program; amending s. 215.559, F.S.; revising
373 provisions relating to the program; providing purposes
374 and program duties including funding and supervising
375 the public hurricane loss projection model; providing
376 additional specification as to how moneys appropriated
377 to the Division of Emergency Management for the
378 program are spent; revising the membership of the
379 program's advisory council; amending s. 627.711, F.S.;
380 requiring that the form used by insurers to provide
381 notice of premium discounts and the uniform mitigation
382 verification inspection form be prescribed by the
383 Division of Emergency Management; revising who must
384 conduct such mitigation verification inspections and
385 sign such form; providing an effective date.