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LEGISLATIVE ACTION

Senate

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House

The Committee on Military Affairs, Space, and Domestic Security (Bennett) recommended the following:

Senate Amendment (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 structures from wind, wind-driven rain, and wind-driven debris



394588

13 during high-wind events through the implementation of a
14 residential mitigation retrofit program;

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

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

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

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

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

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

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

34 (2) The program shall:

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

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

39 (c) Further the science of hurricane mitigation by working
40 with all types of businesses, scientists, and academics in order
41 to further the availability and measure the effectiveness of new



394588

42 ways to mitigate hurricane damage to homes;

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

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

48 (3)-(1) The Legislature shall annually appropriate \$10
49 million of the moneys authorized for appropriation under s.
50 215.555(7)(c) from the Florida Hurricane Catastrophe Fund to the
51 division for the purposes set forth in this section.

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

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

61 a. Forty percent shall be used to establish a statewide
62 program for inspection standards and data collection related to
63 hurricane and windstorm loss and to fund the public hurricane
64 loss projection model.

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



394588

71 of research and development relating to hurricane loss reduction
72 devices and techniques for site-built residences. The center's
73 preliminary plan shall be reviewed by the advisory council
74 established under subsection (4), which shall provide comments
75 and recommendations to the center with respect to the plan. The
76 State University System also shall consult with the division and
77 assist the division with the report required under subsection
78 (5).

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



394588

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

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

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

128 ~~4. On or before January 1 of each year, Tallahassee~~



394588

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

137
138 ~~Tallahassee Community College shall develop the programs set~~
139 ~~forth in this subsection in consultation with the Federation of~~
140 ~~Manufactured Home Owners of Florida, Inc., the Florida~~
141 ~~Manufactured Housing Association, and the Department of Highway~~
142 ~~Safety and Motor Vehicles. The moneys appropriated for the~~
143 ~~programs set forth in this subsection shall be distributed~~
144 ~~directly to Tallahassee Community College to be used as set~~
145 ~~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).~~



394588

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

172 (4) 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 with less than \$25 million in
184 surplus and is appointed by the President of the Senate, and one
185 of whom represents insurers with more than \$25 million in
186 surplus and is appointed by the Speaker of the House of



394588

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 direct reinsurer and is appointed
198 by the President of the Senate, and one of whom is a
199 representative of a reinsurance intermediary and is appointed by
200 the Speaker of 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 (5) ~~(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



394588

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 ~~(6)(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 Florida Building
226 Commission, in consultation with the Division of Emergency
227 Management Office of Insurance Regulation, the insurer shall
228 clearly notify the applicant or policyholder of any personal
229 lines residential property insurance policy, at the time of the
230 issuance of the policy and at each renewal, of the availability
231 and the range of each premium discount, credit, other rate
232 differential, or reduction in deductibles, and combinations
233 thereof of discounts, credits, rate differentials, or reductions
234 in deductibles, for properties on which fixtures or construction
235 techniques demonstrated to reduce the amount of loss in a
236 windstorm can be or have been installed or implemented. The
237 prescribed form must ~~shall~~ describe generally what actions the
238 policyholders may be able to take to reduce their windstorm
239 premium. The prescribed form and a list of such ranges approved
240 by the Florida Building Commission, in consultation with the
241 office, for each insurer licensed in the state and providing
242 such discounts, credits, other rate differentials, or reductions
243 in deductibles for properties described in this subsection shall
244 be made available for electronic viewing and downloading



394588

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

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



394588

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



394588

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



394588

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



394588

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; deleting the Manufactured
380 Housing and Mobile Home Mitigation and Enhancement
381 Program; amending s. 627.711, F.S.; requiring the form
382 used by insurers to provide notice of premium
383 discounts and the uniform mitigation verification
384 inspection form to be prescribed by the Florida
385 Building Commission, in consultation with the Division
386 of Emergency Management; revising who must conduct
387 such mitigation verification inspections and sign such
388 form; providing an effective date.