

By the Committee on Military Affairs, Space, and Domestic Security; and Senator Hays

583-03082-12

20121684c1

1 A bill to be entitled
2 An act relating to the Hurricane Loss Mitigation
3 Program; amending s. 215.559, F.S.; revising
4 provisions relating to the program; providing purposes
5 and program duties including funding and supervising
6 the public hurricane loss projection model; providing
7 additional specification as to how moneys appropriated
8 to the Division of Emergency Management for the
9 program are spent; revising the membership of the
10 program's advisory council; amending s. 627.711, F.S.;
11 requiring that the form used by insurers to provide
12 notice of premium discounts and the uniform mitigation
13 verification inspection form be prescribed by the
14 Division of Emergency Management; revising who must
15 conduct such mitigation verification inspections and
16 sign such form; providing an effective date.

17
18 Be It Enacted by the Legislature of the State of Florida:

19
20 Section 1. Section 215.559, Florida Statutes, is amended to
21 read:

22 215.559 Hurricane Loss Mitigation Program.—A Hurricane Loss
23 Mitigation Program is established in the Division of Emergency
24 Management.

25 (1) The purpose of the program is to:

26 (a) Reduce the vulnerability of and damage to residential
27 structures from wind, wind-driven rain, and wind-driven debris
28 during high-wind events through the implementation of a
29 residential mitigation retrofit program;

583-03082-12

20121684c1

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

32 (c) Ensure that all mitigation projects will be reviewed,
33 inspected, and designed by technical and environmental
34 professionals;

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

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

41 (f) Ensure that all mitigation activities follow recognized
42 best practices for residential wind mitigation and provide
43 increased sustainability;

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

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

49 (2) The program shall:

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

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

54 (c) Further the science of hurricane mitigation by working
55 with all types of businesses, scientists, and academics in order
56 to further the availability and measure the effectiveness of new
57 ways to mitigate hurricane damage to homes;

58 (d) Be a state resource on the assessment of potential

583-03082-12

20121684c1

59 costs of hurricane damage and the results of mitigation; and

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

63 (3)~~(1)~~ The Legislature shall annually appropriate \$10
64 million of the moneys authorized for appropriation under s.
65 215.555(7)(c) from the Florida Hurricane Catastrophe Fund to the
66 division for the purposes set forth in this section.

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

68 1.~~(a)~~ Seven million dollars ~~in funds~~ shall be used for
69 programs to improve the wind resistance of residences and mobile
70 homes, including loans, subsidies, grants, demonstration
71 projects, and direct assistance; educating persons concerning
72 the Florida Building Code cooperative programs with local
73 governments and the Federal Government; to establish inspection
74 standards and data collection related to hurricane and windstorm
75 loss and to fund the public hurricane loss-projection model; and
76 other efforts to prevent or reduce losses or reduce the cost of
77 rebuilding after a disaster. Of that amount:

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

80 b. Ten percent shall be allocated to the Florida
81 International University center dedicated to hurricane research.
82 The center shall develop a preliminary work plan to eliminate
83 the state and local barriers to upgrading existing mobile homes
84 and communities, research and develop a program for the
85 recycling of existing older mobile homes, and support programs
86 of research and development relating to hurricane loss reduction
87 devices and techniques for site-built residences. The center's

583-03082-12

20121684c1

88 preliminary plan shall be reviewed by the advisory council
89 established under subsection (6), which shall provide comments
90 and recommendations to the center with respect to the plan. The
91 center also shall consult with the division and assist the
92 division with the report required under subsection (7).

93 2.~~(b)~~ Three million dollars ~~in funds~~ shall be used to
94 retrofit existing facilities used as public hurricane shelters.
95 Each year the division shall prioritize the use of these funds
96 for projects included in the annual report of the Shelter
97 Retrofit Report prepared in accordance with s. 252.385(3). The
98 division must give funding priority to projects in regional
99 planning council regions that have shelter deficits and to
100 projects that maximize the use of state funds.

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

104 (4)~~(b)~~1. The Manufactured Housing and Mobile Home
105 Mitigation and Enhancement Program is established to.~~The~~
106 ~~program shall~~ require the mitigation of damage to or the
107 enhancement of homes for the areas of concern raised by the
108 Department of Highway Safety and Motor Vehicles in the 2004-2005
109 Hurricane Reports on the effects of the 2004 and 2005 hurricanes
110 on manufactured and mobile homes in this state. The mitigation
111 or enhancement must include, but need not be limited to,
112 problems associated with weakened trusses, studs, and other
113 structural components caused by wood rot or termite damage;
114 site-built additions; or tie-down systems and may also address
115 any other issues deemed appropriate by Tallahassee Community
116 College, the Federation of Manufactured Home Owners of Florida,

583-03082-12

20121684c1

117 Inc., the Florida Manufactured Housing Association, and the
118 Department of Highway Safety and Motor Vehicles. The program
119 shall include an education and outreach component to ensure that
120 owners of manufactured and mobile homes are aware of the
121 benefits of participation.

122 (a)2- The program shall be a grant program that ensures
123 that entire manufactured home communities and mobile home parks
124 may be improved wherever practicable. ~~The moneys appropriated~~
125 ~~for this program shall be distributed directly to Tallahassee~~
126 ~~Community College for the uses set forth under this subsection.~~

127 (b)3- Upon evidence of completion of the program, the
128 Citizens Property Insurance Corporation shall grant, on a pro
129 rata basis, actuarially reasonable discounts, credits, or other
130 rate differentials or appropriate reductions in deductibles for
131 the properties of owners of manufactured homes or mobile homes
132 on which fixtures or construction techniques that have been
133 demonstrated to reduce the amount of loss in a windstorm have
134 been installed or implemented. The discount on the premium must
135 be applied to subsequent renewal premium amounts. Premiums of
136 the Citizens Property Insurance Corporation must reflect the
137 location of the home and the fact that the home has been
138 installed in compliance with building codes adopted after
139 Hurricane Andrew. Rates resulting from ~~the~~ completion of the
140 ~~Manufactured Housing and Mobile Home Mitigation and Enhancement~~
141 program are not considered competitive rates for the purposes of
142 s. 627.351(6) (d)1. and 2.

143 (c)4- On or before January 1 of each year, Tallahassee
144 Community College shall provide a report of activities under
145 this subsection to the Governor, the President of the Senate,

583-03082-12

20121684c1

146 and the Speaker of the House of Representatives. The report must
147 set forth the number of homes that have taken advantage of the
148 program, the types of enhancements and improvements made to the
149 manufactured or mobile homes and attachments to such homes, and
150 whether there has been an increase in availability of insurance
151 products to owners of manufactured or mobile homes.

152 (d) Tallahassee Community College shall develop the program
153 ~~programs set forth in this subsection~~ in consultation with the
154 Federation of Manufactured Home Owners of Florida, Inc., the
155 Florida Manufactured Housing Association, and the Department of
156 Highway Safety and Motor Vehicles. The moneys ~~appropriated for~~
157 the program must be appropriated ~~the programs set forth in this~~
158 ~~subsection shall be distributed directly~~ to Tallahassee
159 Community College to be used as set forth in this subsection.

160 ~~(3) Of moneys provided to the division in paragraph (1) (a),~~
161 ~~10 percent shall be allocated to the Florida International~~
162 ~~University center dedicated to hurricane research. The center~~
163 ~~shall develop a preliminary work plan approved by the advisory~~
164 ~~council set forth in subsection (4) to eliminate the state and~~
165 ~~local barriers to upgrading existing mobile homes and~~
166 ~~communities, research and develop a program for the recycling of~~
167 ~~existing older mobile homes, and support programs of research~~
168 ~~and development relating to hurricane loss reduction devices and~~
169 ~~techniques for site-built residences. The State University~~
170 ~~System also shall consult with the division and assist the~~
171 ~~division with the report required under subsection (6).~~

172 ~~(4) Except for the programs set forth in subsection (3),~~
173 ~~the division shall develop the programs set forth in this~~
174 ~~section in consultation with an advisory council consisting of a~~

583-03082-12

20121684c1

175 ~~representative designated by the Chief Financial Officer, a~~
176 ~~representative designated by the Florida Home Builders~~
177 ~~Association, a representative designated by the Florida~~
178 ~~Insurance Council, a representative designated by the Federation~~
179 ~~of Manufactured Home Owners, a representative designated by the~~
180 ~~Florida Association of Counties, a representative designated by~~
181 ~~the Florida Manufactured Housing Association, and a~~
182 ~~representative designated by the Florida Building Commission.~~

183 (5) Moneys provided to the division under this section are
184 intended to supplement, not supplant, the division's other
185 funding sources.

186 (6) An advisory council shall be established to provide
187 advice and assistance regarding the administration of the
188 program. The advisory council shall consist of:

189 (a) The director of the Office of Insurance Regulation, or
190 his or her designee, who may not serve as chair of the
191 committee;

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

194 (c) The Insurance Consumer Advocate, or his or her
195 designee;

196 (d) Two representatives of authorized homeowners' insurers,
197 one of whom represents insurers having less than \$25 million in
198 surplus and is appointed by the President of the Senate, and one
199 of whom represents insurers having more than \$25 million in
200 surplus and is appointed by the Speaker of the House of
201 Representatives;

202 (e) Two scientists, one of whom has experience and training
203 in the sciences related to windstorm loss mitigation or the

583-03082-12

20121684c1

204 Florida Building Code and is appointed by the President of the
205 Senate, and one of whom has a background in engineering and is
206 appointed by the Speaker of the House of Representatives;

207 (f) Two legislators, one appointed by the President of the
208 Senate, and one appointed by the Speaker of the House of
209 Representatives;

210 (g) Two representatives of the reinsurance industry, one
211 whom is a representative of a reinsurer and is appointed by the
212 President of the Senate, and one of whom is a representative of
213 a reinsurance intermediary and is appointed by the Speaker of
214 the House of Representatives;

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

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

220 (7)~~(6)~~ On January 1st of each year, the division shall
221 provide a full report and accounting of activities under this
222 section and an evaluation of such activities to the Speaker of
223 the House of Representatives, the President of the Senate, and
224 the Majority and Minority Leaders of the House of
225 Representatives and the Senate. Upon completion of the report,
226 the division shall deliver the report to the Office of Insurance
227 Regulation. The Office of Insurance Regulation shall review the
228 report and ~~shall~~ make such recommendations available to the
229 insurance industry as the Office of Insurance Regulation deems
230 appropriate. These recommendations may be used by insurers for
231 potential discounts or rebates pursuant to s. 627.0629. The
232 Office of Insurance Regulation shall make such recommendations

583-03082-12

20121684c1

233 within 1 year after receiving the report.

234 ~~(8)-(7)~~ This section expires ~~is repealed~~ June 30, 2021.

235 Section 2. Section 627.711, Florida Statutes, is amended to
236 read:

237 627.711 Notice of premium discounts for hurricane loss
238 mitigation; uniform mitigation verification inspection form.—

239 (1) Using a form prescribed by the Division of Emergency
240 Management, in consultation with the advisory council created
241 under s. 215.559 ~~Office of Insurance Regulation~~, the insurer
242 shall clearly notify the applicant or policyholder of any
243 personal lines residential property insurance policy, at the
244 time of the issuance of the policy and at each renewal, of the
245 availability and the range of each premium discount, credit,
246 other rate differential, or reduction in deductibles, and
247 combinations thereof ~~of discounts, credits, rate differentials,~~
248 ~~or reductions in deductibles~~, for properties on which fixtures
249 or construction techniques demonstrated to reduce the amount of
250 loss in a windstorm can be or have been installed or
251 implemented. The prescribed form must ~~shall~~ describe generally
252 what actions the policyholders may be able to take to reduce
253 their windstorm premium. The prescribed form and a list of such
254 ranges approved by the Division of Emergency Management, in
255 consultation with the advisory council, ~~the office~~ for each
256 insurer licensed in the state and providing such discounts,
257 credits, other rate differentials, or reductions in deductibles
258 for properties described in this subsection shall be made
259 available for electronic viewing and downloading ~~download from~~
260 ~~the Department of Financial Services' or the Office of Insurance~~
261 ~~Regulation's Internet website. The Financial Services Commission~~

583-03082-12

20121684c1

262 ~~may adopt rules to implement this subsection.~~

263 (2) ~~(a)~~ The Division of Emergency Management, in
264 consultation with the advisory council created under s. 215.559,
265 ~~Financial Services Commission~~ shall develop by rule a uniform
266 mitigation verification inspection form to that shall be used by
267 all insurers when submitted by policyholders for the purpose of
268 factoring discounts for wind insurance. In developing the form,
269 the division ~~the Commission~~ shall seek input from insurance,
270 construction, and home inspector and building code
271 representatives. ~~Further,~~ The division ~~commission~~ shall also
272 provide guidance as to the length of time the inspection results
273 are valid.

274 (a) An insurer shall accept as valid a uniform mitigation
275 verification form signed by the following authorized mitigation
276 inspectors who have completed at least 3 hours of hurricane
277 mitigation training approved by the Construction Industry
278 Licensing Board which includes hurricane mitigation techniques
279 and compliance with the uniform mitigation verification form and
280 completion of a proficiency examination:

- 281 1. A home inspector licensed under s. 468.8314 ~~who has~~
282 ~~completed at least 3 hours of hurricane mitigation training~~
283 ~~approved by the Construction Industry Licensing Board which~~
284 ~~includes hurricane mitigation techniques and compliance with the~~
285 ~~uniform mitigation verification form and completion of a~~
286 ~~proficiency exam;~~
- 287 2. A building code inspector certified under s. 468.607;
- 288 3. A general, building, or residential contractor licensed
289 under s. 489.111;
- 290 4. A professional engineer licensed under s. 471.015;

583-03082-12

20121684c1

291 5. A professional architect licensed under s. 481.213; or
292 6. Any other individual or entity recognized by the insurer
293 as possessing the necessary qualifications to properly complete
294 a uniform mitigation verification form.

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

298 (3) A person who is authorized to sign a mitigation
299 verification form must inspect the structures referenced by the
300 form personally, not through employees or other persons, and
301 must certify or attest to personal inspection of the structures
302 referenced by the form. ~~However, licensees under s. 471.015 or~~
303 ~~s. 489.111 may authorize a direct employee, who is not an~~
304 ~~independent contractor, and who possesses the requisite skill,~~
305 ~~knowledge and experience, to conduct a mitigation verification~~
306 ~~inspection. Insurers shall have the right to request and obtain~~
307 ~~information from the authorized mitigation inspector under s.~~
308 ~~471.015 or s. 489.111, regarding any authorized employee's~~
309 ~~qualifications prior to accepting a mitigation verification form~~
310 ~~performed by an employee that is not licensed under s. 471.015~~
311 ~~or s. 489.111.~~

312 (4) An authorized mitigation inspector that signs a uniform
313 mitigation form, ~~and a direct employee authorized to conduct~~
314 ~~mitigation verification inspections under paragraph (3),~~ may not
315 commit misconduct in performing hurricane mitigation inspections
316 or in completing a uniform mitigation form that causes financial
317 harm to a customer or their insurer; or that jeopardizes a
318 customer's health and safety. Misconduct occurs when an
319 authorized mitigation inspector signs a uniform mitigation

583-03082-12

20121684c1

320 verification form that:

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

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

326 (c) Contains erroneous information due to the gross
327 negligence of the inspector; or

328 (d) Contains a pattern of demonstrably false information
329 regarding the existence of mitigation features that could give
330 an insured a false evaluation of the ability of the structure to
331 withstand major damage from a hurricane endangering the safety
332 of the insured's life and property.

333 (5) The licensing board of an authorized mitigation
334 inspector that violates subsection (4) may commence disciplinary
335 proceedings and impose administrative fines and other sanctions
336 authorized under the authorized mitigation inspector's licensing
337 act. ~~Authorized mitigation inspectors licensed under s. 471.015
338 or s. 489.111 shall be directly liable for the acts of employees
339 that violate subsection (4) as if the authorized mitigation
340 inspector personally performed the inspection.~~

341 (6) An insurer, person, or other entity that obtains
342 evidence of fraud or evidence that an authorized mitigation
343 inspector ~~or an employee authorized to conduct mitigation
344 verification inspections under paragraph (3)~~ has made false
345 statements in the completion of a mitigation inspection form
346 shall file a report with the Division of Insurance Fraud, along
347 with all of the evidence in its possession which ~~that~~ supports
348 the allegation of fraud or falsity. An insurer, person, or other

583-03082-12

20121684c1

349 entity making the report is ~~shall be~~ immune from liability, in
350 accordance with s. 626.989(4), for any statements made in the
351 report, during the investigation, or in connection with the
352 report. The Division of Insurance Fraud shall issue an
353 investigative report if it finds that probable cause exists to
354 believe that the authorized mitigation inspector, ~~or an employee~~
355 ~~authorized to conduct mitigation verification inspections under~~
356 ~~paragraph (3)~~, made intentionally false or fraudulent statements
357 in the inspection form. Upon conclusion of the investigation and
358 a finding of probable cause that a violation has occurred, the
359 Division of Insurance Fraud shall send a copy of the
360 investigative report to the office and a copy to the agency
361 responsible for the professional licensure of the authorized
362 mitigation inspector, whether or not a prosecutor takes action
363 based upon the report.

364 (7) An individual or entity who knowingly provides or
365 utters a false or fraudulent mitigation verification form with
366 the intent to obtain or receive a discount on an insurance
367 premium to which the individual or entity is not entitled
368 commits a misdemeanor of the first degree, punishable as
369 provided in s. 775.082 or s. 775.083.

370 (8) At its expense, the insurer may require that a uniform
371 mitigation verification form provided by a policyholder, a
372 policyholder's agent, or an authorized mitigation inspector or
373 inspection company be independently verified by an inspector, an
374 inspection company, or an independent third-party quality
375 assurance provider that ~~which~~ possesses a quality assurance
376 program before accepting the uniform mitigation verification
377 form as valid.

583-03082-12

20121684c1

378

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