

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 4061 Uniform Home Grading Scale

SPONSOR(S): Bernard

TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Insurance & Banking Subcommittee	13 Y, 1 N	Callaway	Cooper
2) Economic Affairs Committee	17 Y, 1 N	Callaway	Tinker

SUMMARY ANALYSIS

Section 215.55865, F.S., enacted in 2007, requires the Financial Services Commission to adopt a uniform home grading scale consistent with the rating system required by legislation enacted in 2006. The 2006 legislation required the Office of Insurance Regulation (OIR) to develop a program to provide an objective rating system allowing homeowners to evaluate the relative ability of Florida properties to withstand the wind load from a sustained severe tropical storm or hurricane. The OIR developed the home structure rating system on March 30, 2007. In November 2007, the Financial Services Commission adopted the home structure rating system developed by the OIR as the uniform home rating scale required by s. 215.55865, F.S.

The uniform home rating scale adopted scores a homes' ability to withstand wind load from a tropical storm or hurricane on a scale of 1 to 100.

In 2008, the Legislature required use of the home grading scale in sales of homes located in the state's wind borne debris region. The 2008 legislation required sellers of homes located in this region to disclose the home's windstorm mitigation rating based on the home grading scale to buyers. The legislation established a two-part phase in for this disclosure requirement. However, the entire disclosure requirement was subsequently repealed and current law does not require use of the home grading scale in real estate transactions.

The only other use of the home grading scale in Florida law was repealed during the 2011 Session. Section 627.0629(1)(b), F.S., which was repealed in 2011, required the OIR to develop a method for correlating the numerical rating of a home issued pursuant to the uniform home grading scale with mitigation discount amounts and required the Financial Services Commission to adopt rules requiring property insurers to make a rate filing to correlate mitigation discounts to the home grading scale.

The bill repeals the statutory authority for the home grading scale and makes a conforming change to the My Safe Florida Home Program statute that refers to the uniform home grading scale. There is nothing in current law requiring use of the scale.

The bill has no fiscal impact on state or local governments or the private sector.

The bill is effective July 1, 2012.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Section 215.55865, F.S., enacted in 2007,¹ requires the Financial Services Commission to adopt a uniform home grading scale consistent with the rating system required by legislation enacted in 2006.² The 2006 legislation required the Office of Insurance Regulation (OIR) to develop a program to provide an objective rating system allowing homeowners to evaluate the relative ability of Florida properties to withstand the wind load from a sustained severe tropical storm or hurricane. In response to the 2006 legislation, the OIR created a Home Structure Rating System Advisory Board (advisory board) comprised of representatives from the:

- OIR
- Department of Community Affairs Building Codes and Standards Office;
- Department of Financial Services;
- Federal Alliance for Safe Homes;
- Florida Insurance Council;
- Florida Home Builders Association;
- Florida Manufactured Housing Association;
- Florida State University, Risk Management and Insurance, College of Business;
- Institute for Business and Homes Safety; and
- Mercedes Homes.

Faculty from the University of Florida in the following areas provided technical support to the advisory board:

- Rinker School of Building Construction, College of Design, Construction and Planning;
- Institute of Food and Agricultural Science; and
- Department of Civil Engineering, College of Engineering.

The advisory board held numerous meetings in 2006 and 2007 and recommended a home structure rating system to the OIR on March 30, 2007.³ In November 2007, the Financial Services Commission⁴ adopted the home structure rating system developed by the OIR based upon recommendations by the advisory board as the uniform home rating scale required by s. 215.55865, F.S.⁵

The uniform home rating scale adopted scores a homes' ability to withstand wind load from a tropical storm or hurricane on a scale of 1 to 100. The primary factors used to calculate the home rating score include roof shape, secondary water resistance, roof cover, roof deck attachment, roof-to-wall connection, opening protection, number of stories, and roof covering type. General geographic features of wind zone location and local terrain are also used to calculate a home's score.

In 2008, the Legislature required use of the home grading scale in sales of homes located in the state's wind borne debris region.⁶ The 2008 legislation required sellers of homes located in this region to disclose the home's windstorm mitigation rating based on the home grading scale to buyers.⁷ The legislation established a two-part phase in for this disclosure requirement.⁸

¹ Section 40, Ch. 2007-1, L.O.F.

² Section 39, 2006-12, L.O.F.

³ The report issued by the OIR on the home structure rating system can be found at http://www.flair.com/siteDocuments/HSRS_Report_Package_March302007.pdf (last viewed October 25, 2011).

⁴ The Financial Services Commission is comprised of the Governor and Cabinet (s. 20.121(3), F.S.).

⁵ Rule 69O-167.015, F.A.C.

⁶ The wind borne debris region applicable in is the one defined in s. 1609.2 of the 2006 International Building Code. A map of the region is on file with the Insurance & Banking Subcommittee.

⁷ Section 13, Ch. 2008-66, L.O.F., created the first part of the phase-in of disclosure that was to begin January 2010, and section 15 created s. 689.262 F.S., the second part of the phase-in of disclosure that was to begin January 2011.

⁸ s. 627.351(6)(a)5., F.S. (changes made by Ch. 2009-87, L.O.F. now repealed); s. 689.262, F.S. (complete statute now repealed)

- The first part of the phase-in was to begin in January 2010 and would have required sellers of homes insured by Citizens Property Insurance Corporation for \$500,000 or more to disclose the home's windstorm mitigation rating. However, in 2009, before it took effect, this disclosure requirement was repealed.⁹
- The second part of the phase-in,¹⁰ which was to begin on January 1, 2011, would have required sellers of any home in the windborne debris region to disclose the home's rating. However, in 2010, before it took effect, this disclosure requirement was repealed.¹¹

Current law does not require use of the home grading scale in real estate transactions.

The only other use of the home grading scale in Florida law was repealed during the 2011 Session. Section 627.0629(1)(b), F.S., which was repealed in 2011, required the OIR to develop a method for correlating the numerical rating of a home issued pursuant to the uniform home grading scale with mitigation discount amounts and required the Financial Services Commission to adopt rules requiring property insurers to make a rate filing to correlate mitigation discounts to the home grading scale.

The bill repeals the statutory authority for the home grading scale. There is nothing in current law requiring use of the scale.

The bill also makes a conforming change to s. 215.5586, F.S., relating to the My Safe Florida Home Program (program). The program was created in 2006 to provide Florida residential property owners with mitigation inspections and mitigation grants for installation of specified mitigation features in order to make the property less vulnerable to hurricane damage and help decrease the cost of residential property insurance.¹² The program began operation on August 15, 2006 and was administered by the Department of Financial Services. The program is no longer operative as all funds originally appropriated to the program were exhausted and no additional funding was appropriated.¹³ The mitigation inspection provided by the program was required to specify the property's hurricane resistance rating based on the uniform home grading scale. Because the bill repeals the uniform home grading scale, the reference to the scale in the My Safe Florida Home Program statute is obsolete and is repealed by the bill.

B. SECTION DIRECTORY:

Section 1: Repeals s. 215.55865, F.S., relating to the uniform home grading scale.

Section 2: Amends s. 215.5586, F.S.; relating to the My Safe Florida Home Program to make a conforming change.

Section 3: Provides an effective date of July 1, 2012.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

⁹ Ch. 2009-87, L.O.F., s.10 removed ("repealed") the first part of the phase-in of disclosure from s. 627.351(6)(a)5., F.S.

¹⁰ s. 689.262, F.S.

¹¹ Ch. 2010-275, L.O.F.

¹² s. 215.5586(1)(a) and (2), F.S.

¹³ The program stopped accepting applications in 2008. Chapter 2006-12, L.O.F., created the program and specified the unused funds appropriated to the program revert back to the state on June 30, 2009. The program expended all funds appropriated and to date, no additional funding has been appropriated.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. This bill does not appear to: require counties or municipalities to spend funds or take an action requiring the expenditure of funds; reduce the authority that counties or municipalities have to raise revenues in the aggregate; or reduce the percentage of a state tax shared with counties or municipalities.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The statute repealed requires the Financial Services Commission to adopt the uniform home grading scale by rule.

C. DRAFTING ISSUES OR OTHER COMMENTS:

The bill does not impact or preclude a homeowner's receipt of mitigation discounts or credits pursuant to s. 627.0629(1), F.S.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

None.