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LEGISLATIVE ACTION

Senate

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House

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Floor: WD/2R

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03/01/2012 12:01 PM

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Senator Bennett moved the following:

Senate Amendment (with title amendment)

Between lines 1177 and 1178

insert:

Section 14. Section 627.711, Florida Statutes, is amended to read:

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

(1) Using a form prescribed by the Office of Insurance Regulation, the insurer shall clearly notify the applicant or policyholder of any personal lines residential property insurance policy, at the time of the issuance of the policy and at each renewal, of the availability and the range of each



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14 premium discount, credit, other rate differential, or reduction
15 in deductibles, and combinations of discounts, credits, rate
16 differentials, or reductions in deductibles, for properties on
17 which fixtures or construction techniques demonstrated to reduce
18 the amount of loss in a windstorm can be or have been installed
19 or implemented. The prescribed form shall describe generally
20 what actions the policyholders may be able to take to reduce
21 their windstorm premium. The prescribed form and a list of such
22 ranges approved by the office for each insurer licensed in the
23 state and providing such discounts, credits, other rate
24 differentials, or reductions in deductibles for properties
25 described in this subsection shall be available for electronic
26 viewing and download from the Department of Financial Services'
27 or the Office of Insurance Regulation's Internet website. The
28 Financial Services Commission may adopt rules to implement this
29 subsection.

30 (2)~~(a)~~ The Financial Services Commission shall develop by
31 rule a uniform mitigation verification inspection form that
32 shall be used by all insurers when submitted by policyholders
33 for the purpose of factoring discounts for wind insurance. In
34 developing the form, the commission shall seek input from
35 insurance, construction, home inspection, and building code
36 representatives. Further, the commission shall provide guidance
37 as to the length of time the inspection results are valid.

38 (a) An insurer shall accept as valid a uniform mitigation
39 verification form signed by the following authorized mitigation
40 inspectors:

41 1. A home inspector licensed under s. 468.8314 who has
42 completed at least 3 hours of hurricane mitigation training



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43 approved by the Construction Industry Licensing Board which
44 includes hurricane mitigation techniques and compliance with the
45 uniform mitigation verification form and completion of a
46 proficiency exam;

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

48 3. A general, building, or residential contractor licensed
49 under s. 489.111;

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

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

52 6. Any other individual or entity recognized by the insurer
53 as possessing the necessary qualifications to properly complete
54 a uniform mitigation verification form.

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

58 (3) A person who is authorized to sign a mitigation
59 verification form must inspect the structures referenced by the
60 form personally, not through employees or other persons, and
61 must certify or attest to personal inspection of the structures
62 referenced by the form. However, licensees under s. 468.8314, s.
63 468.607, s. 471.015, ~~or~~ s. 489.111, or s. 481.213 may authorize
64 a direct employee, ~~who is not an independent contractor,~~ and who
65 possesses the requisite skill, knowledge, and experience, to
66 conduct a mitigation verification inspection. Insurers ~~shall~~
67 have the right to request and obtain information from the
68 authorized mitigation inspector under s. 468.8314, s. 468.607,
69 s. 471.015, ~~or~~ s. 489.111, or s. 481.213, regarding any
70 authorized employee's qualifications before ~~prior to~~ accepting a
71 mitigation verification form performed by an employee who ~~that~~



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72 is not licensed under s. 468.8314, s. 468.607, s. 471.015, ~~or~~ s.
73 489.111, or s. 481.213.

74 (4) An authorized mitigation inspector that signs a uniform
75 mitigation form, and a direct employee authorized to conduct
76 mitigation verification inspections under paragraph (3), may not
77 commit misconduct in performing hurricane mitigation inspections
78 or in completing a uniform mitigation form that causes financial
79 harm to a customer or their insurer; or that jeopardizes a
80 customer's health and safety. Misconduct occurs if ~~when~~ an
81 authorized mitigation inspector signs a uniform mitigation
82 verification form that:

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

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

88 (c) Contains erroneous information due to the gross
89 negligence of the inspector; or

90 (d) Contains a pattern of demonstrably false information
91 regarding the existence of mitigation features that could give
92 an insured a false evaluation of the ability of the structure to
93 withstand major damage from a hurricane endangering the safety
94 of the insured's life and property.

95 (5) The licensing board of an authorized mitigation
96 inspector that violates subsection (4) may commence disciplinary
97 proceedings and impose administrative fines and other sanctions
98 authorized under the authorized mitigation inspector's licensing
99 act. Authorized mitigation inspectors licensed under s.

100 468.8314, s. 468.607, s. 471.015, ~~or~~ s. 489.111, or s. 481.213



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101 are ~~shall be~~ directly liable for the acts of employees who ~~that~~
102 violate subsection (4) as if the authorized mitigation inspector
103 personally performed the inspection.

104 (6) An insurer, person, or other entity that obtains
105 evidence of fraud or evidence that an authorized mitigation
106 inspector or an employee authorized to conduct mitigation
107 verification inspections under paragraph (3) has made false
108 statements in the completion of a mitigation inspection form
109 shall file a report with the Division of Insurance Fraud, along
110 with all of the evidence in its possession which ~~that~~ supports
111 the allegation of fraud or falsity. An insurer, person, or other
112 entity making the report is ~~shall be~~ immune from liability, in
113 accordance with s. 626.989(4), for any statements made in the
114 report, during the investigation, or in connection with the
115 report. The Division of Insurance Fraud shall issue an
116 investigative report if it finds that probable cause exists to
117 believe that the authorized mitigation inspector, or an employee
118 authorized to conduct mitigation verification inspections under
119 paragraph (3), made intentionally false or fraudulent statements
120 in the inspection form. Upon conclusion of the investigation and
121 a finding of probable cause that a violation has occurred, the
122 Division of Insurance Fraud shall send a copy of the
123 investigative report to the office and a copy to the agency
124 responsible for the professional licensure of the authorized
125 mitigation inspector, whether or not a prosecutor takes action
126 based upon the report.

127 (7) An individual or entity who knowingly provides or
128 utters a false or fraudulent mitigation verification form with
129 the intent to obtain or receive a discount on an insurance



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130 premium to which the individual or entity is not entitled
131 commits a misdemeanor of the first degree, punishable as
132 provided in s. 775.082 or s. 775.083.

133 (8) At its expense, the insurer may require that a uniform
134 mitigation verification form provided by a policyholder, a
135 policyholder's agent, or an authorized mitigation inspector or
136 inspection company be independently verified by an inspector, an
137 inspection company, or an independent third-party quality
138 assurance provider that ~~which~~ possesses a quality assurance
139 program before accepting the uniform mitigation verification
140 form as valid.

141
142 ===== T I T L E A M E N D M E N T =====

143 And the title is amended as follows:

144 Delete line 72

145 and insert:

146 meeting the 2007 building code; amending s. 627.711,
147 F.S.; authorizing home inspectors, architects, and
148 building code inspectors to allow direct employees to
149 conduct home inspections; including home inspector
150 representatives among those providing input to the
151 Financial Services Commission regarding factoring
152 discounts for wind insurance; amending s. 633.0215,