

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Community Affairs

BILL: SB 1840

INTRODUCER: Military and Veterans Affairs, Space and Domestic Security Committee

SUBJECT: Development Permits

DATE: April 9, 2013

REVISED: _____

| | ANALYST | STAFF DIRECTOR | REFERENCE | ACTION |
|----|-----------|----------------|-----------|----------------------------------|
| 1. | Spaulding | Ryon | | ms SPB 7142 as introduced |
| 2. | Anderson | Yeatman | CA | Pre-meeting |
| 3. | | | RC | |
| 4. | | | | |
| 5. | | | | |
| 6. | | | | |

I. Summary:

SB 1840 requires counties and municipalities to attach disclaimers to development permits that include a condition that all other applicable state or federal permits must be obtained before the commencement of any development. These changes will ensure Florida is fully compliant with the National Flood Insurance Program administered by the Federal Emergency Management Agency.

The bill substantially amends sections 125.022 and 166.033 of the Florida Statutes.

II. Present Situation:

Division of Emergency Management

The Division of Emergency Management (Division) is administratively housed within the Executive Office of the Governor. The Division is a separate budget entity, as provided in the General Appropriations Act and must prepare and submit a budget request in accordance with chapter 216, Florida Statutes.¹ The Division is responsible for all professional, technical, and administrative support functions necessary to carry out its responsibilities. The Director of the Division is appointed by, and serves at the pleasure of, the Governor and is the head of the Division for all purposes. The Division is tasked with administering programs to rapidly apply

¹ Division of Emergency Management (Executive Office of the Governor), Fiscal Year 2013-14 Base Budget Review, <http://www.flsenate.gov/UserContent/Topics/IntensiveBudgetReview/ATD/DEMBBaseBudget.pdf>, last viewed March 29, 2013.

all available aid to communities stricken by an emergency and serves as a liaison with federal agencies and other public and private agencies.²

The State Emergency Management Act³ establishes the powers of the Division. It tasks the Division with maintaining a comprehensive statewide program of emergency management efforts that includes coordinating efforts with the Federal Government, local governments, other state agencies, school boards, and private agencies that have a role in emergency management.⁴ The statewide program of emergency management includes but is not limited to:

- Preparation of a comprehensive statewide emergency management plan;
- Adopting standards and requirements for county emergency management plans;
- Assisting political subdivisions in preparing and maintaining emergency management plans;
- Ascertaining the requirements for equipment and supplies for use in an emergency;
- Instituting statewide public awareness programs;
- Coordinating federal, state, and local emergency management activities in advance of an emergency; and
- Using and employing the property, services, and resources within the state in accordance with the Act.⁵

After a disaster, the Division conducts damage assessment surveys and advises the Governor on whether to declare an emergency and seek federal relief funds. The Division maintains a primary Emergency Operations Center (EOC) in Tallahassee. The EOC serves as the communications and command center for reporting emergencies and coordinating state response activities. The Division also operates the State Warning Point, a state emergency communications center staffed 24 hours each day. The center maintains statewide communications with county emergency officials.⁶

National Flood Insurance Program

The National Flood Insurance Program (NFIP) was created by Congress in 1968 as a result of passage of the National Flood Insurance Act to address economic hardships caused by flood disasters. Congress found that it was "...uneconomic for the private insurance industry alone to make flood insurance available to those in need of such protection on reasonable terms and conditions; but a program of flood insurance with large-scale participation of the Federal Government and carried out to the maximum extent practicable by the private insurance industry is feasible."⁷ In response, NFIP was created as a voluntary program that provided affordable flood insurance for people that lived in communities that adopted floodplain management regulations that meet or exceed federal standards.⁸ In most instances, homeowners buy flood policies from an insurance agent but in the event of a flood disaster the insurance company does

² Section 14.2016, F.S.

³ Section 252.31, F.S.

⁴ Section 252.35(1), F.S.

⁵ Section 252.35, F.S.

⁶ Florida Division of Emergency Management, Florida Disaster, http://floridadisaster.org/about_the_division.htm, last viewed March 28, 2013.

⁷ 42 U.S.C. § 4001(b)(1,2).

⁸ 42 U.S.C. §§ 4012(c), 4022; 44 C.F.R. §§ 60.1, 60.2.

not pay the claim, the Federal Government does. NFIP provides coverage up to \$250,000 for the home and \$100,000 for personal possessions for private dwellings⁹ and up to \$500,000 for buildings and \$500,000 for property and belongings for commercial properties.¹⁰

NFIP in Florida

- There are 459 Florida communities actively participating in NFIP;
- More than 2 million flood insurance policies; and
- More than \$471 billion in flood coverage in the state.¹¹

In March, 2012, FEMA expressed concern that HB 503 (2012) was inconsistent with federal law¹² that requires communities to review proposed developments to ensure they have received necessary permits pursuant to federal and state law. This requirement ensures that coordination occurs between levels of government on projects impacting flood plains and that all necessary permits have been secured before commencement of construction. FEMA warned that if HB 503 was implemented, Florida communities would be subject to challenge and face legal impediments as they tried to comply with NFIP requirements. If communities could not meet the requirements of NFIP, they could be subject to suspension from the program that would include the following consequences:

- No selling or renewing of flood insurance policies within a community that is not in compliance with NFIP requirements;
- Federal agencies would be prohibited from issuing grants, loans, or guarantees for the acquisition or construction of structures located in a Special Flood Hazard Area (SFHA);¹³
- Lending institutions may require private flood insurance for high-risk properties at significantly higher cost to the homeowner, assuming private insurance is even available in that area; and
- If a flood disaster occurs in a suspended community, many types of federal disaster assistance would not be available.¹⁴

III. Effect of Proposed Changes:

Section 1 amends s. 125.022, F.S., to provide that counties will attach disclaimers to development permits that include a condition that all other applicable state or federal permits must be obtained before commencement of the development, including developments in mapped flood hazard areas.

Section 2 amends s. 166.033, F.S., to provide that municipalities will attach disclaimers to development permits that include a condition that all other applicable state or federal permits

⁹ Department of Homeland Security, FEMA, Reducing Damage from Localized Flooding: A Guide for Communities, p. 11-2, <http://www.fema.gov/pdf/fima/FEMA511-12-Chapter11.pdf>, last viewed March 28, 2013.

¹⁰ *Id*

¹¹ *Id* at 1.

¹² 44 C.F.R. § 60.3(a)(2), *Id* at 1.

¹³ This restriction applies to assistance from the Federal Housing Administration, the U.S. Department of Veterans Affairs, and the Small Business Administration, among other Federal agencies.

¹⁴ *Id* at 1.

must be obtained before commencement of the development, including developments in mapped flood hazard areas.

Section 3 provides an effective date of July 1, 2013.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

The bill ensures Florida is fully compliant with NFIP and will save communities from the threat of being suspended from the program for non-compliance with NFIB standards.

If a community were to be suspended for non-compliance with NFIB, lending institutions may require private flood insurance for high-risk properties at significantly higher cost to the homeowner. If a flood disaster occurs in a suspended community, many types of federal disaster assistance for the acquisition, construction, or repair of insurable structures within a SFHA normally available to individuals and households for housing and personal property will not be available.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Additional Information:

- A. **Committee Substitute – Statement of Substantial Changes:**
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

- B. **Amendments:**

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.
