

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HM 1169 Disaster Savings Accounts
SPONSOR(S): Local & Federal Affairs Committee; Diaz, Jr.
TIED BILLS: **IDEN./SIM. BILLS:** CS/SM 1298

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Local & Federal Affairs Committee	17 Y, 0 N, As CS	Dougherty	Rojas
2) Regulatory Affairs Committee			

SUMMARY ANALYSIS

CS/HM 1169 urges Congress to pass legislation allowing deductions for amounts contributed to disaster savings accounts to be used for disaster mitigation expenses. The two federal bills seeking to accomplish this are H.R. 3989 and S. 1991, which amend the Internal Revenue Code to achieve the following:

- establish tax-exempt disaster savings accounts to pay the expenses of homeowners for disaster mitigation and recovery expenses,
- allow a deduction from gross income (above-the-line deduction) up to \$5,000 (adjusted annually for inflation) in a taxable year for cash contributions to such accounts,
- exclude from gross income distributions from such accounts to pay disaster mitigation and recovery expenses; and
- set forth tax rules and penalties for excess contributions to disaster savings accounts and for failure to file required reports on such accounts.

Legislative memorials are not subject to the Governor's veto power and are not presented to the Governor for review. Memorials have no force of law—they are mechanisms for formally petitioning the U.S. Congress to act on a particular subject.

This memorial does not have a fiscal impact.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

Florida's Unique Vulnerability to Natural Disasters

According to the Florida Division of Emergency Management, Florida may be considered the most vulnerable state in the nation to the impacts from hurricanes, tropical storms, and tropical depressions. In addition to hurricanes, the State of Florida is vulnerable to numerous other types of severe weather such as tornadoes, drought, various types of flooding, and extreme temperatures, including freezes. The vulnerable geography and environment of the state combined with the subtropical climate create continuous threats from these severe weather events.¹

Florida is ranked as the fifth highest state with regard to the number of Federal Disaster Declarations² in the last 60 years.³ As a result of Florida's high risk, Florida:

- Has over 2 million flood insurance policies issued by the National Flood Insurance Program.⁴ Florida's 2 million policies account for approximately 37 percent of the total policies issued by the flood program nationwide.
- In 2011, was ranked as the most expensive state for homeowners insurance, with an average expenditure of \$1,933.⁵
- Has the highest number of properties at potential risk for hurricane-driven storm surge,⁶ more than 1.4 million properties valued at more than \$386 billion.⁷
- Had a total value of coastal exposure at nearly \$2.9 trillion in 2012, which far exceeded the combined coastal exposure of the other gulf region states,⁸ with 1.6 trillion.⁹
- Had six of the twelve most costly hurricanes in insurance history impact the state:¹⁰
 - Hurricane Andrew (1992): \$25.6 billion.
 - Hurricane Jeanne (2004): \$5.6 billion.
 - Hurricane Francis (2004): \$5.6 billion.
 - Hurricane Charley (2004): \$9.2 billion.
 - Hurricane Wilma (2005): \$11.1 billion.
 - Hurricane Katrina (2005): \$48.7 billion.¹¹

¹ Florida Division of Emergency Management. *The State of Florida Tropical and Non-Tropical Severe Weather Annex to the 2012 Florida Comprehensive Emergency Management Plan*. Available at: <http://www.floridadisaster.org/documents/CEMP/2012/Tropical%20and%20Non-Tropical%20Severe%20Weather%20Annex%20-%202012.20.11.pdf> (Last viewed March 28, 2014).

² At the request of a disaster impacted state's Governor, the President may declare that a major disaster or emergency exists, thus activating an array of Federal programs to assist in the response and recovery effort. Not all programs, however, are activated for every disaster.

³ Federal Emergency Management Agency. *Disaster Declarations by State/Tribal Government*. Available at: <http://www.fema.gov/disasters/grid/state-tribal-government> (Last viewed March 28, 2014).

⁴ The NFIP is administered by the Federal Emergency Management Agency and provides property owners located in flood-prone areas the ability to purchase flood insurance protection from the federal government.

⁵ Presentation to the Florida House of Representatives Insurance & Banking Subcommittee, by Lynne McChristian, Insurance Information Institute: "State of the Florida Property Insurance Market: Past, Present and Future," Feb. 19, 2014. p. 21. (Citing 2013 National Association of Insurance Commissioners). Available at <http://www.iii.org/assets/docs/pdf/Florida-021914.pdf> (Last viewed March 28, 2014).

⁶ Storm surge is a complex phenomenon that occurs when water is pushed toward the shore through force of powerful winds associated with cyclonic storms. Storm surge has the potential to cause tremendous property loss, resulting in billions of dollars in property damage. See *infra* note 10, at 5 and 10.

⁷ Core Logic. *2013 Storm Surge Report*. p. 13. Available at: <http://www.corelogic.com/about-us/researchtrends/storm-surge-report.aspx> (Last viewed March 28, 2014).

⁸ Gulf region states, sometime referred to as "hurricane alley," include: Florida, Alabama, Mississippi, Louisiana, and Texas.

⁹ See *supra* note 8, at 45.

¹⁰ See *supra* note 8, at 44.

¹¹ *Id.*

Disaster Mitigation

Mitigation is the effort to reduce the loss of life and property by lessening the impact of disasters.¹² Examples of mitigation efforts include elevating or relocating buildings from flood hazard areas, retrofitting buildings to make them more resistant to earthquakes or strong winds, and adopting and enforcing adequate building codes set by local, state and federal governments.¹³

The Federal Emergency Management Agency (FEMA) manages various grant programs that encourage individuals and communities to take proactive steps to mitigate losses and damage. A 2005 study found that on average, a dollar spent by FEMA on hazard mitigation provides \$4 in future benefits.¹⁴

In Florida, the state's Division of Emergency Management assists communities with mitigation efforts through the Residential Construction Mitigation Program.¹⁵ The Program receives \$7 million annually from the Florida Hurricane Catastrophe Trust Fund, of which:

- \$2.8 million is designated for the Mobile Home Tie-Down Program. Based on legislative directive, the Division of Emergency Management provides the funding directly to Tallahassee Community College (TCC). By statute, TCC prepares a separate report for the Governor and the Legislature on these directives.
- \$700,000 is designated for Hurricane Research to be conducted by Florida International University (FIU) to continue innovative research involving full-scale structural testing to determine inherent weakness of structures when subjected to categories 1 to 5 hurricane-force winds and rain, leading to new technologies, designs and products.
- Up to \$3.4 million is to be used to improve the wind resistance of residences through loans, subsidies, grants, demonstration projects, direct assistance, and cooperative programs with local and federal governments. The program is developed in coordination with the Advisory Council whose members consist of representatives from the Florida Association of Counties, the Florida Department of Insurance, the Federation of Manufactured Home Owners, the Florida Manufactured Housing Association, the Florida Insurance Council, and the Florida Home Builders Association.

The Disaster Savings Account Act of 2014

U.S. Representative Dennis Ross (FL-15) and U.S. Senator Jim Inhofe (R-Okla.) introduced The Disaster Savings Accounts Act (DSA) in their respective chambers as H.R. 3989 and S. 1991. These bills would establish a new tax-preferred savings account for the purpose of fortifying a residence property in preparation for an impending natural disaster and, in the aftermath, for rebuilding and damage expenses. A homeowner could contribute up to \$5,000 annually in pre-tax dollars to be used for DSA-qualified expenses and the balance would roll over at the end of each year.

The Disaster Savings Account Act of 2014 would allow for up to \$5,000 to be deducted from a taxpayer's yearly gross income and placed into a disaster saving account.¹⁶ Homeowners would be allowed to spend funds from their account on approved mitigation, such as:

- Safe rooms;¹⁷

¹² Federal Emergency Management Agency. *Mitigation's Value to Society Fact Sheet*. Available at: http://www.fema.gov/media-library-data/20130726-1621-20490-9581/mitigationvaluetosociety_2012.pdf (Last viewed March 28, 2014).

¹³ Federal Emergency Management Agency. *The Disaster Process & Disaster Aid Programs*. Available at: <http://www.fema.gov/disaster-process-disaster-aid-programs> (Last viewed March 28, 2014).

¹⁴ Multihazard Mitigation Council. *Natural Hazard Mitigation Saves: An Independent Study to Assess the Future Savings from Mitigation Activities*. 2005. Available at: http://c.ymcdn.com/sites/www.nibs.org/resource/resmgr/MMC/hms_vol1.pdf (Last viewed March 28, 2014).

¹⁵ <http://www.floridadisaster.org/mitigation/RCMP/index.htm> (Last viewed March 28, 2014)

¹⁶ Other congressionally approved tax-advantaged savings account include Individual Retirement Accounts (IRAs) and Health Savings Accounts (HSAs).

¹⁷ A safe room is a hardened structure specifically designed to provide "near-absolute protection" in extreme weather events, including tornadoes and hurricanes.

- Opening protection (i.e., impact and wind resistant windows, exterior doors, garage doors);
- Reinforcement of roof-to-wall and floor-to-wall connections for wind or seismic activity;
- Roof covering for impact, fire, or high wind resistance;
- Cripple and shear walls to resist seismic activity;¹⁸
- Flood resistant building materials;
- Elevating structures and utilities above base flood elevation;
- Lightning protection systems;
- Whole home standby generators; and
- Any activity specified by the Secretary of the Treasury as appropriate to mitigate the risks of future hazards; or
- For the recovery of at least \$3,000 in uninsured losses and expenses that were incurred during a state or federally declared disaster.

In addition to the traditional expenses associated with disaster mitigation and repair of a residence, the DSA account will allow homeowners to utilize DSA funds for uninsured personal casualty losses for the home. This will help mitigate insurance premium increases for instances where the availability of DSA funds for smaller-value damage would allow the homeowner to avoid tapping into insurance coverage for damage repair.

Effect of Proposed Changes

CS/HB 1169 urges Congress to pass legislation that allows a deduction for amounts contributed to disaster savings accounts to be used for the purpose of disaster mitigation expenses.

Legislative memorials are not subject to the Governor's veto power and are not presented to the Governor for review. Memorials have no force of law—they are mechanisms for formally petitioning the U.S. Congress to act on a particular subject.

Copies of the memorial will be provided to the President of the United States, the President of the United States Senate, the Speaker of the United States House of Representatives, and each member of the Florida delegation to the United States Congress.

This memorial has no fiscal impact.

B. SECTION DIRECTORY:

Not applicable.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

¹⁸ Cripple walls are short exterior walls built on top of foundation walls to create a crawlspace. These walls are built to carry the entire weight of the house. During an earthquake, cripple walls must sustain lateral (horizontal) movement and are at risk of failure. This can cause the house to collapse or shift significantly, often off its foundation. Cripple walls were a common construction practice in west coast homes until 1950.

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.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On April 8, 2014, the Local & Federal Affairs Committee adopted a technical amendment correcting the name of the federal bills.