

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 Appropriations

BILL: CS/SB 168

INTRODUCER: Banking and Insurance Committee and Senator Hooper

SUBJECT: Hurricane Loss Mitigation Program

DATE: April 14, 2021 **REVISED:** _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Arnold</u>	<u>Knudson</u>	<u>BI</u>	Fav/CS
2.	<u>Paglialonga</u>	<u>Ryon</u>	<u>CA</u>	Favorable
3.	<u>McAuliffe</u>	<u>Sadberry</u>	<u>AP</u>	Favorable

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 168 extends the Hurricane Loss Mitigation Program within Division of Emergency Management until June 30, 2031. The Hurricane Loss Mitigation Program funds programs that improve the wind resistance of residences and public hurricane shelters. The program is funded through an annual appropriation of \$10 million from the Florida Hurricane Catastrophe Fund to the Division of Emergency Management. The Hurricane Loss Mitigation Program is set to expire on June 30, 2021.

The bill takes effect upon becoming a law.

II. Present Situation:

In the years following Hurricane Andrew, the Legislature created a series of programs to stabilize the economy and insurance industry.¹ These programs include the creation of Citizens Property Insurance Corporation, a state-administered insurance for those unable to obtain a conventional homeowners insurance policy; the Florida Hurricane Catastrophe Fund, a reinsurance fund established to limit residential insurers' exposure after a storm; and mitigation funding, which eventually became the Hurricane Loss Mitigation Program.²

¹ Division of Emergency Management, *Florida Hurricane Loss Mitigation Program: 2020 Annual Report* (January 1, 2021), <https://www.floridadisaster.org/dem/mitigation/hurricane-loss-mitigation-program/> (last visited March 12, 2021).

² *Id.* See also The Florida Senate, Committee on Comprehensive Planning, Local, and Military Affairs, *Funding for the Hurricane Loss Mitigation Program*, Interim Project Report 2000-22 (September 1999),

Hurricane Loss Mitigation Program (HLMP)

In 1999, the Legislature created the HLMP within the Division of Emergency Management (DEM) to fund programs for improving the wind resistance of residences and mobile homes.³ The HLMP is funded by an annual appropriation of \$10 million from the Florida Hurricane Catastrophe Fund.⁴ Specifically, current law requires the funds to be used as follows:

- \$3 million must be directed toward retrofitting existing facilities used as public hurricane shelters.⁵
- \$7 million must be directed toward programs that improve the wind resistance of residences and mobile homes, including loans, subsidies, grants, demonstration projects, and direct assistance; educating persons concerning the Florida Building Code; and other efforts to prevent or reduce losses or reduce the cost of building after a disaster.⁶

Of the \$7 million allocated to improve the wind resistance of residences and mobile homes, provide education regarding Florida Building Code cooperative programs, and reduce the cost of rebuilding after a disaster:

- 50 percent (\$3.5 million) is directed to grant funding for governmental entities, nonprofit organizations, and qualified for-profit organizations to improve the resiliency of residential, community, and government structures within their communities (Hurricane Loss Mitigation Program Retrofit Grant).
- 40 percent (\$2.8 million) must be directed to the Manufactured Housing and Mobile Home Mitigation and Enhancement Program (Mobile Home Tie-Down Program) to mitigate future losses for mobile homes and inspect and improve tie-downs for mobile homes. The program is administered by Tallahassee Community College (TCC).⁷
- 10 percent (\$700,000) must be directed to the Florida International University (FIU) for hurricane research at the International Hurricane Research Center.⁸

On January 1 of each year, DEM submits an annual report and accounting of activities under the HLMP and an evaluation of the activities.⁹ The report must be submitted to the Speaker of the House of Representatives, the President of the Senate, and the Majority and Minority Leaders of the House of Representatives and the Senate. The Office of Insurance Regulation must review the report and make recommendations to the insurance industry as deemed appropriate.¹⁰

The HLMP expires on June 30, 2021.¹¹

<https://www.flsenate.gov/UserContent/Committees/Publications/InterimWorkProgram/2000/pdf/00-22ca.pdf> (last visited March 13, 2021).

³ Chapter 99-305, Laws of Fla.

⁴ Section 215.559(1), F.S. *See* ch. 2020-111, s. 6., Specific Appropriations 2639 and 2446, Laws of Fla.

⁵ Section 215.559(1)(b), F.S.

⁶ Section 215.559(1)(a), F.S.

⁷ Section 215.559(2), F.S.

⁸ Section 215.559(3), F.S.

⁹ Hurricane Loss Mitigation Reports reside on the DEM website: <https://www.floridadisaster.org/dem/mitigation/hurricane-loss-mitigation-program/> (last accessed March 12, 2021).

¹⁰ Section 215.559(6), F.S.

¹¹ Section 215.559(7), F.S.

Shelter Retrofit Program

Of the funds dedicated to the Shelter Retrofit Program, the DEM must prioritize the use of the funds for projects included in the annual Shelter Retrofit Report.¹² The DEM must similarly prioritize these funds to projects in regional planning council regions with shelter deficits and projects that maximize the use of state funds.¹³

In Fiscal Year 2019-2020, the DEM reports that 14 new shelter retrofit agreements were executed and 16 projects were completed. At the end of the fiscal year, 19 projects were active in communities across the state; of the total, nine projects were opened in previous fiscal years. The funds in the program that have not been expended in previous fiscal years are made available in following years for new projects.¹⁴

Hurricane Loss Mitigation Program Retrofit Grant

Governmental entities, nonprofit organizations, and qualified for-profit organizations can submit a proposal for the HLMP Retrofit Grant. Each submitted proposal is reviewed through a cost-benefit analysis to ensure that the recommended mitigation retrofits remain cost effective. A review panel selects eligible applicants based on priority, need, benefit, and alignment with local mitigation strategy projects.¹⁵

In Fiscal Year 2019-2020, the DEM reports that 16 new wind mitigation retrofits to homes were awarded and 7 grants were awarded that involved other mitigation strategies, such as stormwater drainage, flood mitigation, and public wind retrofit activities. Due to projects being halted and supply chain bottlenecks for construction equipment and materials because of COVID-19 impacts, the projects were granted an extension for completion. Typically projects must be complete at the end of the fiscal year; however, the 2019-2020 fiscal year projects were granted an extension through December 31, 2020. Similar to the Shelter Retrofit Grant, funds in the program that have not been expended in previous fiscal years are made available in following years for new projects.¹⁶

Mobile Home Tie-Down Program

The purpose of the Mobile Home Tie-Down Program is to mitigate future losses and inspect and improve tie-downs for mobile homes built before 1999 to meet the current standards.¹⁷ Mitigation under the program includes addressing problems associated with weakened trusses, studs, and other structural components caused by wood rot or termite damage; site-built additions, such as porches or carports; tie-down systems; and any additional issues deemed appropriate by TCC, the Federation of Manufactured Home Owners of Florida, the Florida Manufactured Housing Association, and the Department of Highway Safety and Motor Vehicles (DHSMV).¹⁸

¹² The Shelter Retrofit Report is prepared annually and submitted to the Governor and the Legislature. *See* s. 252.385, F.S.

¹³ Section 215.559(1)(b), F.S.

¹⁴ *Supra* at note 1.

¹⁵ *Id.*

¹⁶ *Id.*

¹⁷ The standards are established in Rules 15C-1.0101 through 15C-1.0109, F.A.C.

¹⁸ Section 215.559(2)(b)1., F.S.

The Mobile Home Tie-Down Program is funded by a direct \$2.8 million allocation under the HLMP to TCC, which serves as program administrator.¹⁹ The Mobile Home Tie-Down Program does not, and mobile homes are ineligible to, receive federal mitigation funds under Federal Emergency Management Agency (FEMA) Pre-Disaster Mitigation Grant, Building Resilient Infrastructure and Communities, or Hazard Mitigation Grant programs.

Since 1999, the Mobile Home Tie-Down Program has served over 40,000 mobile homes in over 278 mobile home communities.²⁰ Activities during the 2019-2020 fiscal year included 1,702 completed mobile homes in 14 mobile home communities.²¹ COVID-19 travel, inspection, and community access restrictions prevented the Mobile Home Tie-Down Program from expensing 100% of the allocated funds.²²

Third-party studies of the Mobile Home Tie-Down Program report improved wind resistance following participation in the program. In 2005, a FEMA Mitigation Branch Technical Services Division study of impacted mobile home communities during the 2004 hurricane season reported 4 percent to 5 percent of inspected mobile homes with retrofitted tie-downs were substantially damaged.²³ The same study reported that the primary cause of damage to mobile homes was caused by roof failure associated with the destruction of carports and sunrooms not constructed to code.²⁴

As of December 2020, the Mobile Home Tie-Down Program reported a current waiting list of seven years.²⁵ TCC is not accepting new applications until the waiting list shortens to three years.²⁶

Hurricane Research

FIU conducts research to support hurricane loss reduction devices and techniques as identified by the International Hurricane Research Center. The center's mission is to reduce hurricane damage and loss of life through more effective mitigation. The center has four laboratories focused on different aspects of hurricane impact: Laboratory for Coastal Research; Laboratory for Social and Behavioral Research; Laboratory for Insurance, Financial, and Economic Research; and Laboratory for Wind Engineering Research.²⁷

¹⁹ Section 215.559(2)(a), F.S.

²⁰ Florida Housing Coalition, *Hurricane Member Update Webinar* (August 28, 2020), <https://www.flhousing.org/wp-content/uploads/2020/09/FHC-Hurricane-Member-Update-8-28-20.pdf> (last visited March 12, 2021).

²¹ Division of Emergency Management, *Florida Hurricane Loss Mitigation Program: 2020 Annual Report* (January 1, 2021), <https://www.floridadisaster.org/dem/mitigation/hurricane-loss-mitigation-program/> (last visited March 12, 2021).

²² *Id.*

²³ Federal Emergency Management Agency, Mitigation Section, Technical Services Branch, *Third Party Analysis of Manufactured Home Retrofit Tie Downs* (June 2005) at p.3. On file with the Senate Committee on Banking and Insurance.

²⁴ *Id.* at p. 5.

²⁵ Telephone conversation between Senate Banking and Insurance Committee staff and Amy Bradbury, Director of Financial Planning and Sponsored Programs, Tallahassee Community College, in Tallahassee, Fla. (December 14, 2020).

²⁶ Tallahassee Community College, *Mobile Home Tie-Down Program*, <https://www.tcc.fl.edu/about/college/administrative-services/sponsored-programs/mobile-home-tie-down-program/> (last visited March 12, 2021).

²⁷ Florida International University, International Hurricane Research Center, *About and History*, <http://www.ihrc.fiu.edu/about/> (last visited March 13, 2021).

For Fiscal Year 2019-2020, the International Hurricane Research Center is researching several topics, including experimental and analytical assessments of effects of leakage around residential building openings; investigation to codify wind pressure distribution of elevated homes; continued development of an integrated storm tide and freshwater flooding model; and education and outreach programs to convey the benefits of various hurricane loss mitigation devices and techniques. Due to the impacts of COVID-19, the center was granted an extension to finish its research. Final reports will be delivered to the state in April 2021.²⁸

Florida Hurricane Catastrophe Fund (Cat Fund)

The Cat Fund is a tax-exempt fund created in 1993 after Hurricane Andrew as a form of mandatory reinsurance for residential property insurers.²⁹ The Cat Fund is administered by the State Board of Administration and is a tax-exempt source of reimbursement to property insurers for a selected percentage (45, 75, or 90 percent) of hurricane losses above the insurer's retention (deductible).³⁰ The fund provides insurers an additional source of reinsurance that is less expensive than what is available in the private market, enabling insurers to generally write more residential property insurance in the state than would otherwise be written. All insurers admitted to do business in this state writing residential property insurance that includes wind coverage must buy reimbursement coverage (reinsurance) on their residential property exposure through the Cat Fund.³¹ Because of the low cost of coverage from the Cat fund, the fund acts to lower residential property insurance premiums for consumers.

When the moneys in the Cat Fund are or will be insufficient to cover losses, the fund is authorized to issue revenue bonds funded by emergency assessments on all lines of insurance, except medical malpractice and workers compensation.³² Through private letter ruling the U.S. Internal Revenue Service authorized the Cat Fund to issue tax-exempt bonds. The initial ruling was granted on March 27, 1998, and in 2008 another private letter ruling held that the prior exemption could continue to be relied upon on a permanent basis.³³

The private letter ruling "includes a requirement that a certain amount of [Cat Fund] funds be devoted to hurricane mitigation purposes."³⁴ "The allocation of a portion of [Cat Fund] funds to the broad public purpose of hurricane loss mitigation was one of the factors that the US Internal Revenue Service relied on in determining the tax-exempt status of the [fund]."³⁵

²⁸ *Supra* note 1.

²⁹ Section 215.555(1)(f), F.S. *See also* ch. 93-409, Laws of Fla, relating to creation of the fund.

³⁰ Section 215.555(2)(e), F.S.

³¹ Section 215.555(4)(a), F.S.

³² Section 215.555(6), F.S.

³³ State Board of Administration, Florida Hurricane Catastrophe Fund, *Fiscal Year 2014-2015 Annual Report*, https://www.sbafla.com/fhcf/Portals/FHCF/Content/Reports/Annual/20160330_FHCF_AnnualRpt2014_15.pdf?ver=2016-06-08-121801-380 (last visited March 13, 2021).

³⁴ *Id.*

³⁵ State Board of Administration of Florida, Florida Hurricane Catastrophe Fund, *2019 Annual Report*, https://www.sbafla.com/fhcf/Portals/FHCF/Content/Reports/Annual/20200617_2019_FHCFAnnualReport.pdf?ver=2020-06-17-123729-280 (last visited March 13, 2021).

Section 215.555(7)(c), F.S., specifies that the appropriation is for the purpose of providing funding for local governments, state agencies, public and private educational institutions, and nonprofit organizations to:

- Support programs intended to improve hurricane preparedness;
- Reduce potential losses in the event of a hurricane;
- Provide research into means to reduce such losses;
- Educate or inform the public as to means to reduce hurricane losses;
- Assist the public in determining the appropriateness of particular upgrades to structures or in the financing of such upgrades; or
- Protect local infrastructure from potential damage from a hurricane.

Statute requires an annual appropriation of at least \$10 million, but no more than 35 percent of yearly investment income. Annually \$13.5 million is appropriated from the Cat Fund to DEM, including a recurring \$3.5 million for the statewide emergency and mass notification system (Alert System) and a recurring \$10 million for the HLMP as discussed above.

Obsolete Reference

Section 215.559(2)(b)3., F.S., contains an obsolete reference regarding competitive rates for the Manufactured Housing and Mobile home Mitigation and Enhancement Program. The reference is to a defunct rate standard that has not applied to mobile home insurance policies issued by Citizens Property Insurance Corporation since 2007.³⁶

III. Effect of Proposed Changes:

Section 1 extends until June 30, 2031, the Hurricane Loss Mitigation Program (HLMP) within the Division of Emergency Management. Without the bill, the HLMP is set to expire on June 30, 2021.

The bill also removes an obsolete reference in s. 215.559(2)(b)3., F.S.

Section 2 provides the bill takes effect upon becoming a law.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

³⁶ Chapter 2007-1, Laws of Fla.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Indeterminate with respect to insurance premiums. A reduction in wind loss attributable to retrofitted tie-downs may be offset by wind loss attributable to carports and sunrooms not constructed to code, which FEMA has concluded as being the primary causes of damage to mobile homes from a wind event.

Nonprofit organizations, qualified for-profit organizations, and property owners benefit from the extension of the mitigation retrofit grant program, which provides for hazard mitigation retrofitting to residential and commercial properties.

C. Government Sector Impact:

The Legislature needs to ensure the continuation of appropriations of at least \$10 million from the Cat Fund are made to hurricane mitigation programs as provided under s. 215.555(7)(c), F.S., to maintain the tax exempt status of the Cat Fund. The extension of the HLMP under the bill provides continued direction for use of these funds. Local housing authorities, local governments, TCC, and FIU benefit from the extension of the shelter retrofit program, the mitigation retrofit grant program, the Mobile Home Tie-Down Program, and the hurricane research at FIU.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 215.559 of the Florida Statutes.

IX. Additional Information:

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

CS by Banking and Insurance on February 2, 2021:

The committee substitute removes a cross-reference to a defunct rate standard for mobile home insurance policies issued by Citizens Property Insurance Corporation.

- B. **Amendments:**

None.