

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/CS/SB 578

INTRODUCER: Community Affairs Committee; Banking and Insurance Committee; and Senator Hooper

SUBJECT: Hurricane Loss Mitigation Program

DATE: February 25, 2022 **REVISED:** _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Arnold</u>	<u>Knudson</u>	<u>BI</u>	<u>Fav/CS</u>
2.	<u>Hunter</u>	<u>Ryon</u>	<u>CA</u>	<u>Fav/CS</u>
3.	<u>Hrdlicka</u>	<u>Sadberry</u>	<u>AP</u>	<u>Pre-meeting</u>

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/CS/SB 578 extends the Hurricane Loss Mitigation Program (HLMP) within Florida's Division of Emergency Management (DEM) until June 30, 2032. The HLMP funds programs that improve the wind resistance of residences and public hurricane shelters. The HLMP program operations are funded through an annual appropriation of \$10 million from the Florida Hurricane Catastrophe Fund to the Division of Emergency Management. The HLMP is set to expire on June 30, 2022.

The bill also expands the type of projects eligible for the Shelter Retrofit Program within the HLMP. Currently, the program is to retrofit *existing* facilities that are shelters. Under the bill, the program may fund projects to construct or retrofit facilities.

The bill takes effect upon becoming a law.

II. Present Situation:

Hurricane Loss Mitigation Program

In 1999, the Legislature created the HLMP within the DEM for funding programs for improving the wind resistance of residences and mobile homes.¹ The HLMP can provide funding through loans, subsidies, grants, demonstration projects, and direct assistance. It also funds cooperative

¹ Chapter 99-305, L.O.F.

programs with local governments and the federal government to reduce hurricane losses or the costs of rebuilding after a disaster.

The HLMP is funded by an annual appropriation of \$10 million from the Florida Hurricane Catastrophe Fund.² 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. DEM must prioritize the use of these funds for projects included in the annual Shelter Retrofit Report.³
- \$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.⁴

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.
- 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).⁵
- 10 percent (\$700,000) must be directed to the Florida International University (FIU) for hurricane research.⁶

On January 1 of each year, DEM submits an annual report and accounting of activities under the HLMP and an evaluation of the activities.⁷ 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 (OIR) must review the report and make recommendations to the insurance industry as deemed appropriate.⁸

The HLMP expires on June 30, 2022.⁹

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.¹⁰ The DEM must similarly

² Section 215.559(1), F.S. *See* ch. 2020-111, s. 6., Specific Appropriations 2639 and 2446, Laws of Fla.

³ Section 215.559(1)(b), F.S.

⁴ Section 215.559(1)(a), F.S.

⁵ Section 215.559(2), F.S.

⁶ Section 215.559(3), F.S.

⁷ Hurricane Loss Mitigation Reports reside on the DEM website: <https://www.floridadisaster.org/dem/mitigation/hurricane-loss-mitigation-program/> (last accessed February 22, 2022).

⁸ Section 215.559(6), F.S.

⁹ Section 215.559(7), F.S.

¹⁰ The Shelter Retrofit Report is prepared annually and submitted to the Governor and the Legislature. *See* s. 252.385, F.S.

prioritize these funds to projects in regional planning council regions with shelter deficits and projects that maximize the use of state funds.¹¹

In Fiscal Year 2021-2021, the DEM reports that 4 new shelter retrofit agreements were executed and 9 projects were completed. At the end of the fiscal year, 19 projects were active in communities across the state; of the total, 15 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.¹²

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.¹³

In Fiscal Year 2020-2021, the DEM reports that 14 new wind mitigation retrofits to homes were awarded (no grants were awarded in the year for 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 2020-2021 fiscal year projects were granted an extension through December 31, 2021. For Fiscal Year 2021-2022, 5 new wind mitigation retrofits to homes were awarded and 6 new grants were awarded for other mitigation strategies. 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.¹⁴

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.¹⁵ 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).¹⁶

¹¹ Section 215.559(1)(b), F.S.

¹² Division of Emergency Management, *Florida Hurricane Loss Mitigation Program: 2021 Annual Report* (January 1, 2022), <https://www.floridadisaster.org/dem/mitigation/hurricane-loss-mitigation-program/> (last visited February 22, 2022).

¹³ *Id.*

¹⁴ *Id.*

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

¹⁶ 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.¹⁷ 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.¹⁸ Activities during the 2020-2021 fiscal year included only 686 completed mobile homes in 9 mobile home communities.¹⁹ COVID-19 travel, inspection, and community access restrictions affected participation and prevented the Mobile Home Tie-Down Program from expensing 100% of the allocated funds.²⁰

As of December 2021, the Mobile Home Tie-Down Program reported a current waiting list of 115 outstanding parks and 39 individual applications – the waiting list currently exceeds 5 years. TCC is not accepting new applications until the waiting list shortens.²¹

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.²²

For Fiscal Year 2020-2021, the International Hurricane Research Center is researching several topics, including experimental and analytical assessments of effects of leakage around sliding glass door systems; investigation to codify wind pressure distribution of irregular shaped 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.²³

Florida Hurricane Catastrophe Fund (FHCF)

The FHCF is a tax-exempt fund created in 1993 after Hurricane Andrew as a form of mandatory reinsurance for residential property insurers.²⁴ The FHCF is administered by the State Board of Administration and is a tax-exempt source of reimbursement to property insurers for a selected

¹⁷ Section 215.559(2)(a), F.S.

¹⁸ 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 February 22, 2022).

¹⁹ 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 February 22, 2022).

²⁰ *Id.*

²¹ 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 February 22, 2022).

²² Florida International University, International Hurricane Research Center, *About and History*, <http://www.ihrc.fiu.edu/about/> (last visited February 22, 2022).

²³ Division of Emergency Management, *Florida Hurricane Loss Mitigation Program: 2021 Annual Report*.

²⁴ Section 215.555(1)(f), F.S. *See also* ch. 93-409, Laws of Fla, relating to creation of the fund.

percentage (45, 75, or 90 percent) of hurricane losses above the insurer's retention (deductible).²⁵ The FHCF 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. Because of the low cost of coverage from the FHCF, the fund acts to lower residential property insurance premiums for consumers.

When the moneys in the FHCF are or will be insufficient to cover losses, the law authorizes the FHCF to issue revenue bonds funded by emergency assessments on all lines of insurance except medical malpractice and workers compensation.²⁶ Emergency assessments may be levied up to 6 percent of the premium for losses attributable to any one contract year and up to 10 percent of the premium for aggregate losses from multiple years. The FHCF's broad-based assessment authority is one reason the FHCF was able to obtain an exemption from federal taxation from the Internal Revenue Service as an integral part of state government.²⁷

The private letter ruling "includes a requirement that a certain amount of FHCF funds be devoted to hurricane mitigation purposes."²⁸ "The allocation of a portion of FHCF 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 FHCF."²⁹

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 FHCF to DEM,

²⁵ Section 215.555(2)(e), F.S.

²⁶ Section 215.555(6)(b), F.S.

²⁷ The U.S. Internal Revenue Service has, by a Private Letter Ruling, authorized the FHCF to issue tax-exempt bonds. The initial ruling was granted on March 27, 1998, for 5 years until June 30, 2003. On May 28, 2008, the Internal Revenue Service issued a private letter ruling holding that the prior exemption, which was to expire on June 30, 2008, could continue to be relied upon on a permanent basis (on file with the Committee on Banking and Insurance).

²⁸ *Id.*

²⁹ State Board of Administration, Florida Hurricane Catastrophe Fund, *2020 Annual Report*, https://www.sbafla.com/fhcf/Portals/FHCF/Content/Reports/Annual/20210614_2020_FHCFAnnualReport.pdf?ver=2021-06-14-123243-403 (last visited February 22, 2022).

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.

III. Effect of Proposed Changes:

The bill extends until June 30, 2032, the HLMP within the DEM. The HLMP funds programs that improve the wind resistance of residences and public hurricane shelters. Without the bill, the HLMP is set to expire on June 30, 2022.

The bill also expands the type of projects eligible for the Shelter Retrofit Program. Currently, the program is to retrofit *existing* facilities that are shelters. Under the bill, the program may fund projects to construct or retrofit facilities.

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

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.

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.³⁰

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/CS by Community Affairs on February 2, 2022:

The committee substitute removes the provision which annually appropriates \$2 million from Cat Fund investment income to the University of South Florida School of Risk Management and Insurance for the purpose of researching Florida's property insurance market.

CS by Banking and Insurance on January 12, 2022:

The committee substitute:

- Expands the list of projects which are eligible to receive funds allocated under the HLMP for retrofitting existing public hurricane facilities to include construction of new public hurricane facilities.

³⁰ See 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.

- Creates a recurring annual appropriation of \$2 million from Cat Fund investment income to the University of South Florida School of Risk Management and Insurance for the purposes of researching Florida's property insurance market.

B. Amendments:

None.

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