

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 Fiscal Policy

BILL: SB 2-C

INTRODUCER: Senator Simon

SUBJECT: Disaster Relief

DATE: November 2, 2023

REVISED: 11/3/23

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. Parsons	Yeatman	FP	Favorable

I. Summary:

To mitigate the impacts of recent disasters affecting the state, SB 2-C does the following:

- Provides that certain agricultural equipment that was unable to be used for 60 days due to Hurricane Idalia would be assessed at salvage value on the 2024 property tax roll.
- Grants refunds of sales tax paid on fencing materials used to repair or replace farm fences on lands classified as agriculture and were damaged due to Hurricane Idalia.
- Grants refunds of sales tax paid on building materials used to repair or replace nonresidential farm buildings damaged as a result of Hurricane Idalia
- Grants refunds of motor fuel taxes used for agricultural shipments and debris removal after Hurricane Idalia.
- Funds applications current as of October 15 for the My Safe Florida Home program and directs the Department of Financial Services to stop taking applications when available funding is exhausted.
- Authorizes the Division of Emergency Management (DEM) to enter into agreements with eligible local governments impacted by Hurricane Idalia to provide funds for the non-federal share of the FEMA reimbursement program.
- Authorizes the Department of Commerce to extend loans made under the Local Government Emergency Revolving Bridge Loan program from 24 months to 5 years.
- Directs the Florida Housing Finance Corporation to use appropriated funds for the Hurricane Housing Recovery Program within eligible counties impacted by Hurricane Idalia and provides the activities for which funds may be used.
- Directs the DEM to provide grants and loans for hurricane repair and recovery projects within certain counties designated under the FEMA disaster declaration for Hurricane Idalia.
- Directs the Department of Transportation to fund transportation projects within fiscally constrained counties designated under the FEMA disaster declaration for Hurricane Idalia.
- Extends the prohibition on burdensome or restrictive local building processes enacted in the 2023 session in response to Hurricanes Ian and Nicole to October 1, 2026, and specifies that such restrictions apply to certain counties and the municipalities therein.

- Directs the DEM to provide planning and design grants to fiscally constrained counties designated in the FEMA disaster declaration for Hurricane Idalia for new facilities for emergency operations.
- Authorizes the Department of Commerce to award grants to fiscally constrained counties impacted by Hurricane Idalia under the Rural Infrastructure Fund.
- Creates the Agriculture and Aquaculture Producers Natural Disaster Recovery Loan Program within the Department of Agriculture and Consumer Services (DACS) to provide low-interest or interest-free loans to agricultural producers that have experienced damage or destruction from a declared natural disaster.
- Authorizes the DACS to award cost sharing grants to assist timber landowners with site preparation and tree replanting in counties impacted by Hurricane Idalia.

For the 2023-2024 fiscal year, the bill appropriates:

- \$176,170,000 in nonrecurring funds from the General Revenue Fund to the DFS provide mitigation grants under the My Florida Safe Home Program for applications submitted on or before October 15, 2023, and \$5,280,100 in nonrecurring funds from the General Revenue fund for administrative costs for implementation of the mitigation grants.
- \$30 million in nonrecurring funds from the General Revenue Fund to the DEM to provide the required matching funds for Federal Emergency Management Agency (FEMA) Public Assistance grants related to Hurricane Idalia.
- \$25 million in nonrecurring funds from the Local Government Housing Trust Fund to the Florida Housing Finance Corporation for hurricane recovery purposes related to Hurricane Idalia.
- \$50 million in nonrecurring funds from the General Revenue Fund to the DEM to provide grants or loans for hurricane repair and recovery projects related to Hurricane Idalia.
- \$10 million in nonrecurring funds from the State Transportation Trust Fund to the Department of Transportation for transportation projects under the Small County Outreach Program for projects related to related to Hurricane Idalia.
- \$3 million in nonrecurring funds from the General Revenue Fund to the DEM to provide planning and design grants for new emergency operations facilities in fiscally constrained counties impacted by Hurricane Idalia.
- \$5 million in nonrecurring funds from the General Revenue Fund to the Department of Commerce for the Rural Infrastructure Fund for projects in fiscally constrained counties impacted by Hurricane Idalia.
- \$75 million in nonrecurring funds from the General Inspection Trust Fund within the DACS as fixed capital outlay for the Agriculture and Aquaculture Producers Natural Disaster Recovery Loan Program after the sum is transferred from the General Revenue Fund into the General Inspection Trust Fund.
- \$37.5 million in nonrecurring funds from the General Revenue Fund to the DACS as fixed capital outlay to administer a cost-sharing grant program to assist timber landowners in eligible counties impacted by Hurricane Idalia.

See Section V., Fiscal Impact Statement, for Revenue Estimating Conference analyses on individual components of the bill.

The bill takes effect upon becoming a law.

II. Present Situation:

Hurricane Idalia

Hurricane Idalia made landfall on August 30, 2023, along the Florida Big Bend coast at Keaton Beach as a category 3 hurricane with maximum wind speeds of 125 mph.¹ The system remained a hurricane as it impacted a large swath of north Florida before crossing into Georgia as a category 2 hurricane.² Idalia was only the third major hurricane on record to make landfall in the Big Bend region and the strongest to make landfall since the Cedar Key hurricane in 1896.³ Hurricane Idalia brought significant storm surge and riverine flooding on Florida's west coast, including a peak storm surge level of 8 feet at Steinhatchee and a 6.9 foot storm surge that devastated Cedar Key.⁴ Other areas generally experienced flooding of 3 to 4 feet. Preliminary insured losses in Florida are estimated to be at least \$9.6 billion.⁵

Prior to landfall, on August 26, 2023, Governor DeSantis issued Executive Order 23-171, declaring a state of emergency for several counties due to the continuing recovery efforts from Hurricanes Ian and Nicole and the dangers of Invest 93L, which was predicted to develop and organize into a tropical storm as it moved over the Caribbean Sea and Gulf of Mexico.⁶ Governor DeSantis requested a major disaster declaration for Hurricane Idalia on August 30, 2023, which was approved on August 31, 2023, making federal disaster assistance available for impacted Florida counties.⁷

Agricultural Losses Related to Hurricane Idalia

Hurricane Idalia also had a significant impact on the agricultural production in the region. More than 3.3 million acres of Florida's agricultural lands were affected, of which almost 74 percent was grazing land.⁸ The commodity groups most affected by the hurricane were animals and animal products and field and row crops. The University of Florida's Institute of Food and Agricultural Sciences (UF/IFAS) predicts that agricultural losses from Hurricane Idalia will likely be between \$78.8 million and \$370.9 million.⁹ Although UF/IFAS has attempted to provide a rapid assessment of agricultural production losses in the state, it notes that other losses may have been incurred by impacted agricultural producers and are not included in its assessment, including:

¹ Emily Powell, Florida Climate Center, *Hurricane Idalia Preliminary Post-Storm Summary*, Sept. 7, 2023, (last visited Oct. 26, 2023).

² Christa D. Court, Xiaohui Qiao, Mengming Li, Kelsey McDaid, Food and Resource Economics Department, University of Florida, Institute of Food and Agricultural Sciences (UF/IFAS), *Preliminary Assessment of Agricultural Losses and Damages*

³ *Supra* note 1.

⁴ *Id.*

⁵ *Id.*

⁶ State of Florida Executive Order 23-175, available at <https://www.flgov.com/wp-content/uploads/2023/08/EO-23-175-1.pdf> (last visited Oct. 26, 2023).

⁷ Executive Office of the Governor, *Governor Ron DeSantis Announces Approval of Florida's Major Disaster Declaration*, Aug. 31, 2023, available at <https://www.flgov.com/2023/08/31/governor-ron-desantis-announces-approval-of-floridas-major-disaster-declaration-2/> (last visited on Oct. 26, 2023). *See also*, Federal Emergency Management Administration, *President Joseph R. Biden, Jr. Approves Major Disaster Declaration for Florida*, Aug. 31, 2023, available at <https://www.fema.gov/press-release/20230831/president-joseph-r-biden-jr-approves-major-disaster-declaration-florida> (last visited on Oct. 26, 2023).

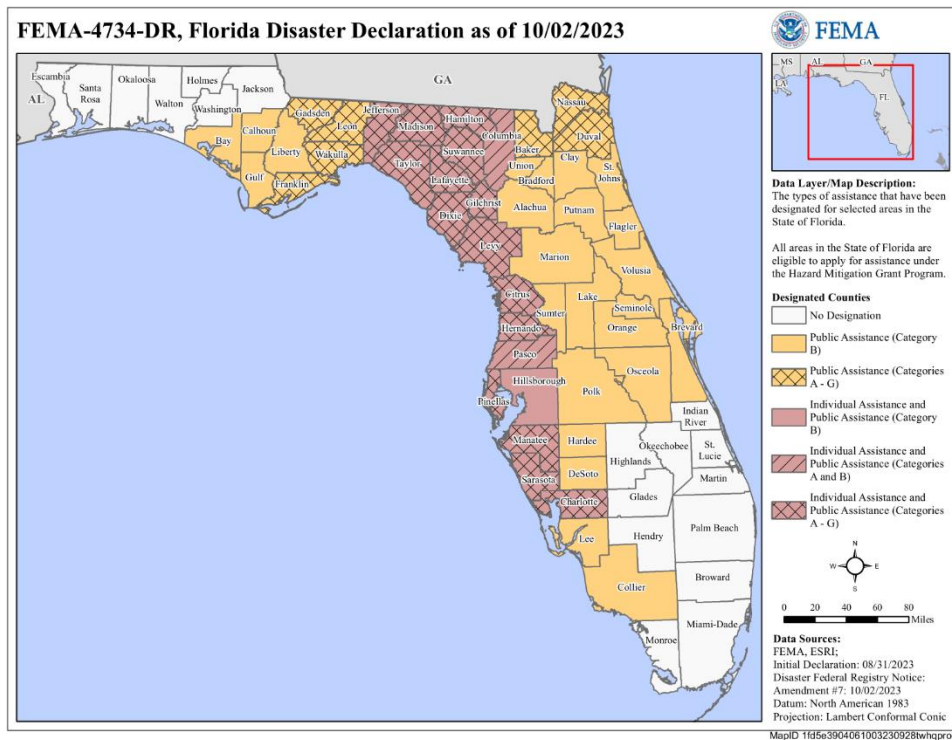
⁸ *Supra* note 2.

⁹ *Id.*

- Damage to agricultural-related infrastructure that will need to be repaired or replaced;
- Stored inputs, such as seeds and fertilizer, or stored harvested products that were damaged or destroyed;
- Expenses related to Hurricane Idalia-specific preparations ahead of the storm and clean-up after the storm;
- Production losses that may carry over to 2024 and beyond due to damages to infrastructure or other effects of the storm;
- Production losses for agricultural operations that specialize in post-harvest processing, packing, or distribution;
- Value of timber or forestry losses, which are being assessed by the Florida Forest Service; and
- Value of production losses to capture fisheries.

Counties Designated for FEMA Assistance

Below is the FEMA Florida Disaster Declaration map designating eligible counties for individual and public assistance.



The present situation for each issue in the bill is described below in Section III, Effect of Proposed Changes.

III. Effect of Proposed Changes:

Present Situation:

Taxation of Agricultural Property in Florida

Counties, municipalities, school districts, and some special districts have the authority to levy ad valorem (“property”) taxes.¹⁰ Property tax applies to real property and tangible personal property.

“Tangible personal property” means all goods, chattels, and other articles of value (not including vehicles) capable of manual possession and whose chief value is intrinsic to the article itself.¹¹ All tangible personal property is subject to ad valorem taxation unless expressly exempted.¹² Household goods and personal effects,¹³ items of inventory,¹⁴ and up to \$25,000 of assessed value for each tangible personal property tax return¹⁵ are exempt from ad valorem taxation.

For purposes of ad valorem property taxation, agricultural equipment that is located on property classified as agricultural under s. 193.461, F.S., and is obsolete and no longer usable for its intended purpose is deemed to have a market value no greater than its value for salvage.¹⁶

Effect of Proposed Changes:

Section 1 creates s. 193.4518, F.S., providing that tangible personal property owned and operated by a farm, farm operation, or agricultural processing facility in certain counties shall be deemed to have a market value no greater than its salvage value, provided the tangible personal property was unable to be used in the operation of the facility for at least 60 days due to the effects of Hurricane Idalia. This valuation will be effective only for the 2024 tax year and is limited to properties in Charlotte, Citrus, Columbia, Dixie, Gilchrist, Hamilton, Hernando, Jefferson, Lafayette, Levy, Madison, Manatee, Pasco, Pinellas, Sarasota, Suwannee, or Taylor Counties.

The deadline to apply for this assessment is March 1, 2024. If the application is denied by the property appraiser, a petition may be filed with the value adjustment board to request the property be assessed according to this provision. The petition must be filed on or before the 25th day after the property appraiser mails the 2024 notice of assessment.

¹⁰ FLA. CONST. art VII, s. 9.

¹¹ Section 192.001(11)(d), F.S.

¹² Section 196.001(1), F.S.

¹³ Section 196.181, F.S.

¹⁴ Section 196.185, F.S.

¹⁵ Section 196.183, F.S.

¹⁶ Section 193.4615, F.S.

Present Situation:

Sales Tax

Florida Sales Tax

Florida levies a 6 percent sales and use tax on the sale or rental of most tangible personal property,¹⁷ admissions,¹⁸ transient rentals,¹⁹ and a limited number of services. In addition to the 6 percent sales tax, Florida law authorizes counties to levy discretionary sales surtaxes.²⁰ Sales tax is added to the price of the taxable good or service and collected from the purchaser at the time of sale. The sales and use tax accounted for approximately 75 percent of the state's General Revenue Fund in Fiscal Year 2022-2023.²¹

Chapter 212, F.S., contains provisions authorizing the levy and collection of Florida's sales and use tax, as well as the exemptions and credits applicable to certain items or uses under specified circumstances. There are currently more than 280 exemptions, exclusions, deduction, and credits from sales and use tax.²²

Building Materials for Nonresidential Farm Buildings

A "nonresidential farm building" is defined as any temporary or permanent building or support structure that is classified as a nonresidential farm building on a farm under s. 553.73(10)(c), F.S., or that is used primarily for agricultural purposes, is located on land that is an integral part of a farm operation or is classified as agricultural land under s. 193.461, F.S., and is not intended to be used as a residential dwelling.²³ The term includes barns, greenhouses, shade houses, farm offices, storage buildings, and poultry houses.

The sale of building materials used in the construction or repair of buildings and other projects is generally subject to the sales and use tax; however, a sale might be exempt depending upon how or where the materials are used or who makes the purchase.²⁴

Fencing Materials used in Agriculture

Current law exempts from the sales and use tax hog wire and barbed wire fencing, including gates and materials used to construct or repair such fencing, and materials used to construct or repair permanent or temporary fencing used to contain, confine, or process cattle, including gates and energized fencing systems if such fencing is used in agricultural operations on lands classified as agricultural lands under s. 193.461.²⁵ The purchaser or lessee must sign a certificate

¹⁷ Section 212.05(1)(a)1.a., F.S.

¹⁸ Section 212.04(b), F.S.

¹⁹ Section 212.03(1)(a), F.S.

²⁰ Section 212.055, F.S.

²¹ Office of Economic and Demographic Research, *Revenue Estimating Conference Long-Term Revenue Analysis Volume 39*, Table 1.3, available at <http://edr.state.fl.us/Content/conferences/longtermrevenue/index.cfm/> (last visited Nov. 1, 2023).

²² Office of Economic and Demographic Research, *Florida Tax Handbook (2023)*, at 171-176, available at <http://edr.state.fl.us/Content/revenues/reports/tax-handbook/taxhandbook2023.pdf> (last visited Nov. 1, 2023).

²³ Section 604.50(d), F.S.

²⁴ See s. 212.08, F.S..

²⁵ Section 212.08(5)(a), F.S.

stating that the item to be exempted is for the exclusive use which would qualify the purchaser for the exemption.

Effect of Proposed Changes:

Section 2 exempts the purchase of fencing materials used in the repair or replacement of agricultural fencing that was damaged as a direct result of Hurricane Idalia from the sales and use tax. The exemption is available through a refund of previously paid taxes and applies to purchases made between August 30, 2023, and June 30, 2024.

The exempt fencing materials must be used to replace or repair fences located in Charlotte, Citrus, Columbia, Dixie, Gilchrist, Hamilton, Hernando, Jefferson, Lafayette, Levy, Madison, Manatee, Pasco, Pinellas, Sarasota, Suwannee, or Taylor County that were damaged as a direct result of the impact of Hurricane Idalia.

To receive a refund, the owner of the fencing materials must apply to the Department of Revenue (DOR) by December 31, 2024, and include the following information:

- The name and address of the person claiming the refund;
- The address and assessment roll parcel number of the agricultural land where the fencing materials will be or were used;
- The sales invoice or other proof of purchase of the fencing materials, showing the amount of sales tax paid, the date of purchase, and the name and address of the dealer from whom the materials were purchased; and
- An affidavit executed by the owner of the fencing materials including a statement that the fencing materials were or will be used to repair fencing damaged as a direct result of the impact of Hurricane Idalia.

The bill provides for retroactivity to August 30, 2023, and authorizes the DOR to adopt emergency rules to implement this provision.

Section 3 exempts the purchase of certain building materials²⁶ used to repair or replace nonresidential farm buildings that were damaged as a direct result of Hurricane Idalia from the sales and use tax. The exemption is available through a refund of previously paid taxes and applies to purchases made between August 30, 2023, and June 30, 2024. The exempt building materials are broadly defined as tangible personal property that becomes a component part of a nonresidential farm building.

The exempt building materials must be used to replace or repair nonresidential farm buildings in Charlotte, Citrus, Columbia, Dixie, Gilchrist, Hamilton, Hernando, Jefferson, Lafayette, Levy, Madison, Manatee, Pasco, Pinellas, Sarasota, Suwannee, or Taylor County that were damaged as a direct result of the impact of Hurricane Idalia.

²⁶ The bill defines “building materials” as tangible personal property that becomes a component part of a nonresidential farm building.

To receive a refund, the owner of the building materials must apply to the DOR by December 31, 2024, and include the following information:

- The name and address of the person claiming the refund;
- The address and assessment roll parcel number of the real property where the building materials will be or were used;
- The sales invoice or other proof of purchase of the building materials, showing the amount of sales tax paid, the date of purchase, and the name and address of the sales tax dealer from whom the materials were purchased; and
- An affidavit executed by the owner of the building materials including a statement that the building materials were or will be used to repair the nonresidential farm building damaged as a direct result of the impact of Hurricane Idalia.

The bill provides for retroactivity to August 30, 2023, and authorizes the DOR to adopt emergency rules to implement this provision.

Present Situation:

Refund of Fuel Taxes

Motor fuel and diesel fuel are subject to state taxation pursuant to ch. 206, F.S. The tax rate is a combination of several state and local rates, and the revenue collected is distributed to various state trust funds and to local governments for revenue sharing purposes.²⁷ For 2021, the combined state tax rate is 26.5 cents per gallon.²⁸ In addition, diesel fuel may be subject to sales tax if such fuel is used in trade or business and not used upon the public highways of Florida.²⁹

Current law exempts the sale or use of motor and diesel fuel for agricultural and aquacultural purposes;³⁰ however, agricultural and aquacultural purposes are generally defined to mean “used exclusively on a farm or for processing farm products on the farm,” and does not include fuel “used in any vehicle driven or equipment operated upon public highways of this state.”³¹

Effect of Proposed Changes:

Section 4 creates an exemption from state and local taxes imposed on motor fuel and diesel under parts I and II, ch. 206, F.S., for fuel that is used for the transportation of agricultural products from the farm or agricultural land to a facility used to process, package, or store the product; and for fuel that is used for hurricane debris removal. The exemption is limited to Charlotte, Citrus, Columbia, Dixie, Gilchrist, Hamilton, Hernando, Jefferson, Lafayette, Levy, Madison, Manatee, Pasco, Pinellas, Sarasota, Suwannee, or Taylor counties.

²⁷ Section 206.41, F.S.

²⁸ Revenue Estimating Conference, *Florida Tax Handbook (2023)*, pp. 131-136, available at: <http://edr.state.fl.us/Content/revenues/reports/tax-handbook/index.cfm>. (last visited Nov. 1, 2023).

²⁹ Section 212.0501, F.S.

³⁰ Sections 206.41(4)(c), 206.64, 206.874(2)-(3), and 212.0501, F.S.

³¹ Section 206.41(4)(c)2. The restriction does not apply to fuel used on highways to move equipment from one farm to another. *Id.*

The exemption is available through a refund of previously paid taxes and applies to purchases made between August 30, 2023, and June 30, 2024. Excluded from this exemption are the “constitutional fuel tax” levied under s. 9(c), Art. XII of the 1968 State Constitution, and the 0.125 cents per gallon levied to defray expenses for motor fuel inspection, testing, and analysis by the Department of Agriculture and Consumer Services.³²

To receive a refund, the fuel purchaser must apply to the DOR by December 31, 2024, and include the following information:

- The name and address of the person claiming the refund.
- The name and address of up to three owners of a farm or agricultural land whose agricultural product was shipped by the fuel purchaser.
- The sales invoice or other proof of purchase of the fuel, showing the number of gallons of fuel purchased, the type of fuel purchased, the date of purchase, and the name and place of business of the dealer from whom the fuel was purchased.
- The license number, or other identification number, of the motor vehicle that used the exempt fuel.
- An affidavit executed by the fuel purchaser including a statement that he or she purchased and used the fuel in a manner that qualifies for this exemption.

The bill provides for retroactivity to August 30, 2023, and authorizes the DOR to adopt emergency rules to implement this provision.

Present Situation:

My Safe Florida Home Program

In 2006, the Legislature created the My Safe Florida Home (MSFH) Program within the Department of Financial Services (DFS), with the intent that the program provide trained and certified inspectors to perform inspections for owners of site-built, single-family, residential properties (mitigation inspections), and grants to eligible applicants, subject to funding availability.³³ The original appropriation in 2006 was \$250 million for a period not to exceed three years with any unused appropriated funds reverting to the state on June 30, 2009.³⁴ While the MSFH program was never repealed from law, additional funding was not appropriated until May 2022.³⁵

During the 2022D Special Session, the Legislature passed a property insurance bill (SB 2-D),³⁶ in which it revised the program and renewed the funding for the MSFH program by appropriating \$150 million in nonrecurring funds from the General Revenue Fund to the DFS for the MSFH program for the 2022-2023 fiscal year.³⁷ The funds appropriated were allocated as follows:

- \$115 million for mitigation grants.

³² Sections 206.41(1)(a) and (h), F.S.

³³ S. 215.5586, F.S.

³⁴ Chapter 2006-12 L.O.F.

³⁵ Chapter 2022-268 L.O.F.

³⁶ Chapter 2022-271, L.O.F.

³⁷ *Id.*

- \$25 million for hurricane mitigation inspections.
- \$4 million for education and consumer awareness.
- \$1 million for public outreach for contractors and estate brokers and sales associates.
- \$5 million for administrative costs.

During the 2023 Regular Session, the Legislature extended the MSFH program to include homes insured up to \$700,000, increased the overall grant award for low-income recipients from \$5,000 to \$10,000, and removed geographic requirements that eligible homes be located in the wind-borne debris region, making it a statewide program.³⁸ The program is currently paused as applications have greatly exceeded the amount of funding available.³⁹ The 2023-2024 General Appropriations Act included an additional appropriation of \$100 million for the program.⁴⁰

Effect of Proposed Changes:

Section 5 directs DFS to stop taking applications that exceed the amount of available funding.

Section 6 appropriates \$176,170,000 in nonrecurring funds from the General Revenue Fund to the DFS for mitigation grants under the MSFH program for applications submitted on or before October 15, 2023. This section also appropriates \$5,285,100 in nonrecurring funds from the General Revenue Fund to the DFS for administrative costs related to the MSFH program.

Present Situation:

FEMA Public Assistance Grant Program

The Federal Emergency Management Agency (FEMA) Public Assistance (PA) Grant Program provides funding to states, tribes, local governments and certain types of private nonprofit organizations to assist them in responding to and recovering from presidentially-declared major disasters or emergencies. PA is intended to supplement state and local resources when an incident exceeds their ability to respond and recover. PA is only available after the President declares an emergency or major disaster upon request by the governor of the affected state. Preliminary damage assessments by FEMA, in collaboration with state, local, and tribal governments, are used to determine if the estimated cost of assistance exceeds certain thresholds and whether PA should be authorized. In Florida, once PA is authorized, the Florida Division of Emergency Management (DEM) becomes the primary PA grant recipient. State, tribal, and local governments, as well as eligible nonprofit entities, may then apply for funding as “applicants.” Applicants must submit a request for grant funds to the DEM, which evaluates eligibility for PA with FEMA.⁴¹

³⁸ Chapter 2023-176 L.O.F.

³⁹ Department of Financial Services, *My Safe Florida Home Program*, available at <https://mysafeflhome.com> (last visited Oct., 26, 2023).

⁴⁰ Specific Appropriation 2368A, ch. 2023-239, Laws of Fla.

⁴¹ Congressional Research Service, *A Brief Overview of FEMA’s Public Assistance Program*, available at: <https://crsreports.congress.gov/product/pdf/IF/IF11529> (last visited Oct. 30, 2023).

PA funds are categorized broadly as either “emergency work” or “permanent work.” Within those two broad categories are separate sub-categories. Emergency work⁴² (Categories A and B) may be authorized under an emergency or major disaster declaration. It includes efforts undertaken to save lives and protect property and public health and safety, or to lessen or avert an immediate threat of additional damage. Permanent work⁴³ (Categories C–G) may only be authorized under a major disaster declaration. It includes efforts to repair, restore, reconstruct, or replace disaster-damaged public and eligible private nonprofit facilities.⁴⁴

PA Cost-Sharing

PA funding is subject to a cost-share, of which the federal share may not be less than 75 percent of the eligible costs.⁴⁵ The federal cost share may be increased beyond 75 percent in limited circumstances, and for limited periods of time, if warranted.⁴⁶

Florida Statutes provides that in cases where the state accepts federal assistance under the PA Program, and such assistance requires matching funds, the state will provide the full match requirement for state agencies and one-half of the required match for local governments.⁴⁷ However, eligible private non-profits are responsible for the entire required match.

In cases of hardship, local governments can apply to the Governor for a partial or complete waiver of the required match amount if the local government applies within the first 18 months a disaster is declared.⁴⁸

In December 2022, the Legislature appropriated \$350 million to the DEM to provide the federal match requirement for FEMA PA grants for eligible local governments impacted by Hurricane Ian.⁴⁹

For Hurricane Idalia, FEMA approved 100 percent reimbursement for 30 days for work in Category A (debris removal) from September 4 until October 3 and Category B (emergency protective measures) from August 27 until September 25. The DEM requested a 30-day extension for the coverage of the Category A (debris removal) expenditures that is current under consideration for approval by FEMA.⁵⁰

⁴² The performance period for emergency work is normally within 6 months after the presidential declaration, unless extended.

⁴³ The performance period for permanent work is normally within 18 months after the presidential declaration, unless extended.

⁴⁴ FEMA, *Public Assistance Program and Policy Guide*, Version 4, p. 140, available at:

https://www.fema.gov/sites/default/files/documents/fema_pappg-v4-updated-links_policy_6-1-2020.pdf (last visited Oct. 30, 2023).

⁴⁵ *Supra* note 27 at p. 25.

⁴⁶ *Id.*

⁴⁷ Section 252.37(5)(a), F.S.

⁴⁸ Section 252.37(5)(b), F.S.

⁴⁹ Chapter 2022-272 Laws of Fla.

⁵⁰ FEMA letter to DEM, *Re: Florida Division of Emergency Management Request, Dated September 22, 2023, To Designate Timeframe of September 4, 2023, to October 3, 2023, In Accordance With the FEMA-4734-DR-FL Declaration*, (October 31, 2023). FEMA letter to DEM, *Re: Florida Division of Emergency Management Request, Dated September 20, 2023, To Designate Timeframe of August 27 to September 25, 2020, In Accordance With the FEMA-4734-DR-FL*

Effect of Proposed Changes:

Section 7 creates s. 252.37(5)(d), F.S., to provide that subject to appropriation, the Legislature intends to provide the entire match requirement for FEMA Public Assistance to local governments within counties designated for eligible for individual assistance and public assistance (Categories A-G) under the disaster declaration for Hurricane Idalia on a first-come, first-served basis. To qualify, local governments must enter into agreements with the division to have their match requirements waived and must agree to use an equal amount of funds toward further disaster recovery or mitigation.

The DEM must report quarterly to the Governor and the chair of each legislative appropriations committee on the amount of match requirement waived, agreements entered into with local governments, and the amount of remaining funds available.

This provision expires June 30, 2028.

Section 8 appropriates \$30 million in nonrecurring funds from the General Revenue Fund to the DEM to provide the federal match requirement for FEMA Public Assistance Program grants for local governments under s. 252.37(5)(d), F.S., as created in the bill. The balance of this appropriation which is not disbursed by June 30, 2024, may be carried forward for up to 5 years after the effective date of the bill.

Present Situation:**Florida Emergency Management Assistance Foundation**

The Florida Emergency Management Assistance Foundation was created by the Legislature in December 2022 as a direct-support organization of the DEM.⁵¹ The foundation is charged with providing assistance, funding, and support to DEM in its disaster response, recovery, and relief efforts for natural emergencies. The foundation is currently operating under the name “Florida Disaster Foundation.”⁵² The foundation operates pursuant to a contract with the DEM.

The foundation is governed by a board of directors of five Florida citizen members appointed by the director of DEM for up to two terms of 3 years. A majority of members must be knowledgeable about emergency management activities and programs, and geographic representation must be considered in their selection. Currently the foundation has three board

Declaration, (October 24, 2023). DEM letter to FEMA, *RE: Request for Cost Share Extension (Category A) DR-4734-FL Hurricane Idalia*, (October 11, 2023).

⁵¹ Section 252.71, F.S. Chapter 2022-272, Laws of Fla. See also Document No. N23000006094 on the Department of State corporate filing website for more information, available at sunbiz.org.

⁵² See foundation website available at <https://www.floridadisasterfoundation.org/> (last visited Nov. 1, 2023).

members appointed in May 2023 as an initial board.⁵³ The first public meeting of the board of the foundation will be December 5, 2023.⁵⁴

The authority for the foundation is repealed December 31, 2024, unless reviewed and saved from repeal by the Legislature.

Effect of Proposed Changes:

Section 9 extends the expiration date for the foundation to October 1, 2027.

Present Situation:

Local Government Emergency Revolving Bridge Loan Program

During the 2023B legislative session, the Legislature created s. 288.066, F.S., to establish the Local Government Emergency Response Bridge Loan within the Department of Economic Opportunity (hereinafter Department of Commerce)⁵⁵ to provide financial assistance to local governments impacted by Hurricane Ian or Hurricane Nicole.^{56,57} The purpose of the loan program is to assist these local governments in maintaining operations by bridging the gap between the time that the declared disaster occurred and the time that additional funding sources or revenues are secured to provide financial assistance.⁵⁸ The bill appropriated \$50 million to the department for the program.

During the 2023 legislative session, the Legislature amended s. 288.066, F.S., to require the Local Government Emergency Bridge Loan Program to become a revolving program and make funds available for local governments impacted by federally declared disasters until July 1, 2038. The program was also renamed the Local Government Emergency Revolving Bridge Loan Program.⁵⁹

The Legislature also appropriated an additional \$50 million in nonrecurring funds from the General Revenue Fund to the Economic Development Trust Fund of the Department of Commerce for the bridge loan program.⁶⁰ Any funds from the original appropriation that had not been loaned to a local government pursuant to a loan agreement as of July 1, 2023, were

⁵³ DEM, *Executive Director Kevin Guthrie Appoints Three to the Florida Emergency Management Assistance Foundation*, (May 5, 2023), available at <https://www.floridadisaster.org/news-media/news/20230505-executive-director-kevin-guthrie-appoints-three-to-the-florida-emergency-management-association-foundation/> (last visited Nov. 1, 2023).

⁵⁴ Notice of Meeting, Florida Emergency Assistance Foundation, available at <https://www.floridadisasterfoundation.org/globalassets/public-notice-for-femaf-board-meeting-20231205.pdf> (last visited Nov. 1, 2023).

⁵⁵ Department of Economic Opportunity was renamed Department of Commerce in 2023, *see* Chapter 2023-173 L.O.F.

⁵⁶ Chapter 2023-1 L.O.F.

⁵⁷ The following local governments have availed themselves of the Local Government Emergency Bridge Loan Program as of October, 2023: City of Sanibel; Lee County; City of Fort Myers Beach; City of Bonita Springs; and City of Crystal River. Department of Commerce, Press Release, Aug. 24, 2023, available at <https://www.floridajobs.org/news-center/DEO-Press/2023/08/24/deadline-approaching-for-hurricane-ian-and-nicole-impacted-communities-to-apply-for-funding-available-through-the-local-government-emergency-revolving-bridge-loan-program> (last visited Oct. 31, 2023).

⁵⁸ *Id.*

⁵⁹ Section 288.066, F.S.

⁶⁰ Chapter 2023-304 L.O.F.

transferred to the Economic Development Trust Fund to be used for the Local Government Emergency Revolving Bridge Loan Program. Lastly, all loans made pursuant to the existing Local Government Emergency Bridge Loan Program must be repaid into the Economic Development Trust Fund and be made available for loans under the revolving loan program.⁶¹

Effect of Proposed Changes:

Section 10 amends s. 288.066(3)(c), F.S., to extend the loan term to up to five years. Currently the term of the loan is 24 months. However, the department may extend the loan for up to 6 months based on the local government's financial condition.

Section 11 authorizes the Department of Commerce to amend previously executed agreements to be allow for a loan term of five years from the original date of execution, upon request of the local government.

Present Situation:

State Housing Initiative Program for Hurricane Idalia Impacted Counties

Following the 2004 hurricane season, a statewide Hurricane Housing Work Group was created to recommend how best to leverage funding recommended by the Governor for hurricane housing recovery needs. The work group recommended, and the Legislature subsequently funded, the Hurricane Housing Recovery Program (HHRP) and the Rental Recovery Loan Program (RRLP).⁶²

SHIP dollars may be used to fund emergency repairs, new construction, rehabilitation, down payment and closing cost assistance, impact fees, construction and gap financing, mortgage buy-downs, acquisition of property for affordable housing, matching dollars for federal housing grants and programs, and homeownership counseling. SHIP funds may be used to assist units that meet the standards of ch. 553, F.S.⁶³

Additionally, related to recovery from emergencies, s. 420.9073(5), F.S., authorizes the FHFC to withhold up to \$5 million of the total amount distributed each fiscal year from the Local Government Housing Trust Fund to provide additional funding to counties and eligible municipalities where a state of emergency has been declared by the Governor. Following Hurricane Ian, the FHFC awarded the \$5 million set aside to local SHIP offices in areas hardest hit by Hurricane Ian to assist residents in several Southwest Florida counties to pay home insurance deductibles.⁶⁴

⁶¹ Section 288.066, F.S.

⁶² See FHFC, *2006 Annual Report*, p. 40 and 42, available at https://www.floridahousing.org/docs/default-source/data-docs-and-reports/annual-reports/2006AR_SpreadsPDFweb.pdf (last visited Oct. 27, 2023).

⁶³ Florida Housing Finance Corporation, *State Housing Initiatives Partnership*, available at <https://www.floridahousing.org/programs/special-programs/ship---state-housing-initiatives-partnership-program> (last visited Oct. 31, 2023)

⁶⁴ Governor Ron DeSantis Announces Support for Ian-Impacted Homeowners Insurance Deductibles, *News Releases*, available at <https://www.flgov.com/2022/10/22/governor-ron-desantis-announces-support-for-ian-impacted-homeowners-insurance-deductibles/> (last visited Oct. 30, 2023).

Effect of Proposed Changes:

Section 12 appropriates \$25 million from the Local Government Housing Trust Fund to the Florida Housing Finance Corporation for hurricane recovery purposes through the Hurricane Housing Recovery program. The funds shall be administered to eligible counties and municipalities based on Hurricane Idalia FEMA damage assessment data and population.

Hurricane recovery purposes includes, but is not limited to:

- Site preparation, demolition, repair, and replacement of housing;
- Repair, replacement and relocation assistance for manufactured homes;
- Acquisition of building materials for home repair and construction;
- Assistance to homeowners to pay insurance deductibles;
- Down payment assistance; and
- Housing reentry assistance, such as security deposits, utility deposits, and temporary storage of household furnishings.

The Florida Housing Finance Corporation is directed to coordinate with the DEM to ensure benefits are not duplicated.

Present Situation:**DEM Hurricane Recovery Grant Program**

The Division of Emergency Management coordinates with the federal government, state agencies, local governments, and private entities to respond to and recovery from a declared disaster.⁶⁵ In this coordination, including as discussed above reviewing local governments' Public Assistance requests to FEMA, the DEM has a broad perspective of the activities undertaken in relation to an event.

In the 2019-2020 General Appropriations Act, the Legislature appropriated \$25 million from general revenue to the DEM to administer a hurricane recovery grant program to assist local governments with mitigation, repair, and other recovery activities related to Hurricane Michael. In addition to project funding appropriated within the General Appropriations Act and local government reimbursement and grant requests to FEMA, the DEM was authorized to provide grants using this funding for projects where there were insufficient federal funds, private funds, or insurance proceeds available to conduct the project.⁶⁶ A similar program was funded in the 2023-2024 General Appropriations Act for grants for recovery work related to Hurricanes Ian and Nicole.⁶⁷

Effect of Proposed Changes:

Section 13 appropriates \$50 million in nonrecurring funds from the General Revenue Fund for the 2023-2024 fiscal year to the DEM to provide grants or loans for hurricane repair or recovery projects within counties designated for individual assistance and public assistance (Categories A-G) in the FEMA disaster declaration for Hurricane Idalia.

⁶⁵ Section 252.35, F.S.

⁶⁶ Specific Appropriation 2645A, ch. 2019-115, Laws of Fla.

⁶⁷ Specific Appropriation 2676A, ch. 2023-239, Laws of Fla.

The DEM is authorized to provide funding to local governments, independent special districts and school boards, including charter schools, to fund gaps in:

- Mitigation of local and county revenue losses and operating deficits;
- Infrastructure repair and replacement, including road, sewer and water facilities;
- Beach renourishment;
- Debris removal; and
- Dredging of public waterways.

Except for projects in fiscally constrained counties, local governments requesting funding for infrastructure repair, dredging of public waterways, or beach renourishment projects must secure matching funds of at least 50 percent of the project cost. Additionally, applicants must certify to the DEM in the application that the funding is necessary to maintain services or infrastructure essential to support health, safety, and welfare functions; funding is necessary to reimburse the applicant for unanticipated expenses related to the respond to Hurricane Idalia; and insufficient funds are available to the applicant to do the projects and should funds become available the applicant would reimburse the state.

The DEM is directed to coordinate with other state agencies to ensure there is no duplication of benefits between these funds and other sources. The DEM is authorized to provide grants to projects which are ineligible under other state and federal programs. Approved applications for projects which are eligible for funding from other services, must be provided as loans which must be repaid up to the amount of the other funding received. The applicant must reimburse the state if other funds subsequently become available to meet the need of the original application. Any funds reimbursed to the state must be deposited in the General Revenue Fund.

Present Situation:

Small County Outreach Program

The Small County Outreach Program under the Department of Transportation (DOT) assists small county governments in repairing or rehabilitating county bridges, paving unpaved roads, addressing road-related draining improvements, resurfacing or reconstructing county roads, or constructing capacity or safety improvements to county roads.⁶⁸ Under the program, the DOT funds 75 percent of the cost of eligible projects.⁶⁹

Effect of Proposed Changes:

Section 14 appropriates \$10 million in nonrecurring funds from the State Transportation Trust Fund to the DOT for transportation projects under the Small County Outreach program within counties designated for individual assistance and public assistance (Categories A-G) in the FEMA disaster declaration for Hurricane Idalia.

⁶⁸ Section 339.2812, F.S.

⁶⁹ Section 339.2812(4)(a), F.S.

Present Situation:

Community Planning

The Community Planning Act provides counties and municipalities with the power to plan for future development by adopting comprehensive plans.⁷⁰ Each county and municipality must maintain a comprehensive plan to guide future development.⁷¹

All development, both public and private, and all development orders approved by local governments must be consistent with the local government's comprehensive plan.⁷² A comprehensive plan is intended to provide for the future use of land, which contemplates a gradual and ordered growth, and establishes a long-range maximum limit on the possible intensity of land use.

A locality's comprehensive plan lays out the locations for future public facilities, including roads, water and sewer facilities, neighborhoods, parks, schools, and commercial and industrial developments. A comprehensive plan is made up of 10 required elements, each laying out regulations for a different facet of development.⁷³

A comprehensive plan is implemented through the adoption of land development regulations⁷⁴ that are consistent with the plan, and which contain specific and detailed provisions necessary to implement the plan.⁷⁵ Such regulations must, among other prescriptions, regulate the subdivision of land and the use of land for the land use categories in the land use element of the comprehensive plan.⁷⁶ Substantially affected persons have the right to maintain administrative actions which assure that land development regulations implement and are consistent with the comprehensive plan.⁷⁷

Development that does not conform to the comprehensive plan may not be approved by a local government unless the local government amends its comprehensive plan first. State law requires a proposed comprehensive plan amendment to receive two public hearings, the first held by the local planning board, and subsequently by the governing board.⁷⁸

⁷⁰ Section 163.3167(1), F.S.

⁷¹ Section 163.3167(2), F.S.

⁷² Section 163.3194(3), F.S.

⁷³ Section 163.3177(6), F.S. The 10 required elements include capital improvements; future land use plan; transportation; general sanitary sewer, solid waste, drainage, potable water, and natural groundwater aquifer recharge; conservation; recreation and open space; housing; coastal management; intergovernmental coordination; and property rights. Throughout statutes exist plans and programs that may be added as optional elements.

⁷⁴ "Land development regulations" means ordinances enacted by governing bodies for the regulation of any aspect of development and includes any local government zoning, rezoning, subdivision, building construction, or sign regulations or any other regulations controlling the development of land, except that this definition does not apply in s. 163.3213, F.S. See s. 163.3164(26), F.S.

⁷⁵ Section 163.3202, F.S.

⁷⁶ *Id.*

⁷⁷ Section 163.3213, F.S.

⁷⁸ Sections 163.3174(4)(a) and 163.3184, F.S.

Development Permits and Orders

The Community Planning Act defines "development" as "the carrying out of any building activity or mining operation, the making of any material change in the use or appearance of any structure or land, or the dividing of land into three or more parcels."⁷⁹ When a party wishes to engage in development activity, they must seek a development permit from the appropriate local government having jurisdiction. Under the Community Planning Act, a development permit includes "any building permit, zoning permit, subdivision approval, rezoning, certification, special exception, variance, or any other official action of local government having the effect of permitting the development of land."⁸⁰ Once a local government has officially granted or denied a development permit, the official action constitutes a development order.⁸¹ A development order vests certain rights related to the land.⁸²

Restrictions on Local Building Restrictions Following Hurricanes Ian and Nicole

Following the 2022 hurricane season, the Legislature passed a hurricane resiliency bill (SB 250)⁸³ that, in part, provided that a local government, located within 100 miles of where Hurricane Ian or Hurricane Nicole made landfall, shall not adopt more restrictive or burdensome procedures to its comprehensive plan or land development regulations concerning the review, approval or issuance of a site plan, development permit, or development order, or propose any such adoption of amendment before October 1, 2024.

Effect of Proposed Changes:

Section 15 of the bill extends the prohibition on building restrictions enacted in ch. 2023-304, Laws of Florida, to October 1, 2026. The 100 mile radius restriction is removed and the bill subjects the following counties and municipalities located therein to the prohibition of the adoption of more restrictive or burdensome procedures to comprehensive plan or land development regulations: Charlotte, Collier, Desoto, Glades, Hardee, Hendry, Highlands, Lee, Manatee, and Sarasota.

Present Situation:

Funding for New Emergency Operations Centers

Section 252.38, F.S., charges counties and applicable municipalities with "establish[ing] and maintain[ing] such an emergency management agency and develop[ing] a county emergency management plan and program that is coordinated and consistent with the state comprehensive emergency management plan and program."⁸⁴ Additionally, among other related authority, political subdivisions are directed to establish emergency operating centers to provide continuity of government and direction and control of emergency operations.⁸⁵

⁷⁹ Section 163.3164(14), F.S.

⁸⁰ *Id.* at (16).

⁸¹ *See id.* at (15).

⁸² *See s.* 163.3167(3), F.S.

⁸³ Section 14, ch. 23-304, Laws of Fla.

⁸⁴ Section 252.38(1)(a), (2), F.S.

⁸⁵ Section 252.38(3)(a)(3), F.S.

Effect of Proposed Changes:

Section 16 appropriates \$3 million in fixed capital outlay from general revenue to the DEM for facility planning and design grants for the following fiscally constrained counties impacted by Hurricane Idalia: Columbia, Dixie, Gilchrist, Hamilton, Jefferson, Lafayette, Levy, Madison, Suwannee, and Taylor.⁸⁶ Eligible counties may apply for a grant to be used for engineering, planning, and design services. The DEM must prioritize applications for grants that will fund public safety complexes, combining emergency operations, fire or police services, emergency medical services, or dispatch in one facility. Lastly, the DEM must grant awards based on greatest need and conduct assessments, considering:

- The current condition of the structures;
- Whether the current structures are aged or appropriately hurricane rated for the geographic location or proposed site;
- The need for a consolidated and updated facility; and
- The ability to expand the facility in the future based on need.

Present Situation:**Rural Infrastructure Fund for Impacted Counties**

The Rural Infrastructure Fund is a grant program created to facilitate the planning, preparing, and financing of infrastructure projects in rural communities.⁸⁷ The program funds infrastructure project grants, infrastructure feasibility grants, and preclearance review grants.

The Department of Commerce may award grants for up to 75 percent of the total infrastructure project costs or up to 100 percent of the total infrastructure project cost for a project located in a rural community that is also located in a fiscally constrained county or rural area of opportunity.⁸⁸ Additionally, projects may include improving any inadequate infrastructure that has resulted in regulatory action that prohibits economic or community growth or reducing the costs to community users of proposed infrastructure improvements that exceed such costs in comparable communities.

Eligible uses of funds include improvements to public infrastructure for industrial or commercial sites, upgrades to or development of public tourism infrastructure, infrastructure feasibility studies, or surveys and other activities related to the identification and preclearance review of land for infrastructure projects. Infrastructure can include public or public-private partnership facilities, like stormwater systems, telecommunication, roads, and nature-based tourism.⁸⁹

A total of \$25 million in funding was made through the Rural Infrastructure Fund for Fiscal Year 2023-2024. Twenty million was available for eligible rural communities statewide and an additional \$5 million was available specifically for inland Florida Panhandle counties.⁹⁰

⁸⁶ Hurricane Idalia impacted ten fiscally constrained counties: Columbia; Dixie; Gilchrist; Hamilton; Jefferson; Lafayette; Levy; Madison; Suwannee; and Taylor.

⁸⁷ See s. 288.0655, F.S.

⁸⁸ See also s. 288.0656, F.S., for the definition of rural community and rural area of opportunity.

⁸⁹ *Id.*

⁹⁰ Specific Appropriation 2324, ch. 2023-239, Laws of Fla.

Effect of Proposed Situation:

Section 17 amends s. 288.0655, F.S., to authorize the Department of Commerce to award grants to fiscally constrained counties impacted by Hurricane Idalia for the purpose of planning, preparing, and financing infrastructure projects.⁹¹ Such eligible projects include:

- Roads other remedies to transportation impediments;
- Stormwater systems;
- Water or wastewater facilities; and
- Telecommunications.

Under the bill, these changes expire July 1, 2024.

Section 18 appropriates \$5 million in Fixed Capital Outlay from the General Revenue Fund to the Department of Commerce to fund the Rural Infrastructure Fund projects for fiscally constrained counties impacted by Hurricane Idalia.

Present Situation:**Agricultural Economic Development Program**

In 2000 the Legislature created the Agricultural Economic Development Program,⁹² which provides loans to farmers who experienced losses due to natural disasters or socioeconomic events or conditions.⁹³ Loan funds may be used to restore or replace essential physical property or remove debris from essential physical property, pay all or part of production costs associated with the disaster year, pay essential family living expenses, and restructure farm debts.⁹⁴

To be eligible for the program, agricultural producers must have a parcel or parcels of land not exceeding 300 acres⁹⁵ and funds may be issued as direct loans or as loan guarantees for up to 90 percent of the total loan, in amounts between \$30,000 and \$300,000.⁹⁶ Applicants must provide at least 10 percent equity.⁹⁷

The following crops are eligible for the emergency loan program:⁹⁸

- Crops grown for human consumption;
- Crops planted and grown for livestock consumption, including, but not limited to, grain, seed, and forage crops;
- Crops grown for fiber, except for trees; and
- Specialty crops, such as seafood and aquaculture.⁹⁹

⁹¹ The fiscally constrained counties are Columbia, Dixie, Gilchrist, Hamilton, Jefferson, Lafayette, Levy, Madison, Suwannee, and Taylor.

⁹² Ch. 2000-308, s. 26, Laws of Fla. (creating s. 570.249, F.S., effective June 16, 2000).

⁹³ Section 570.82(1)(a), F.S.

⁹⁴ *Id.*

⁹⁵ Section 570.82(1)(b), F.S.

⁹⁶ Section 570.82(1)(c), F.S.

⁹⁷ *Id.*

⁹⁸ Section 570.82(2), F.S.

⁹⁹ *Id.*

In order to qualify for a loan the applicant must:

- Submit an application to the Department of Agriculture and Consumer Services (DACS) within 90 days after the date of the natural disaster or socioeconomic condition or event occurs or the crop damage becomes apparent;
- Be a citizen of the United States and a bona fide resident of the state;
- Demonstrate the need for economic assistance; and
- Demonstrate that he or she has the ability to repay the loan.¹⁰⁰

All loans must be secured and a first lien is required on all property acquired, produced, or refinanced with loan funds.¹⁰¹ The specific type of collateral required may vary depending upon the loan purpose, repayment ability, and the particular circumstances of the applicant.¹⁰²

The term of the loans for crops, livestock, and non-real-estate losses are up to 7 years, or, in special circumstances, up to 20 years, and loans for physical losses to real estate building have a term of up to 30 years.¹⁰³ The program requires borrowers to return to conventional credit sources when they are financially able.¹⁰⁴

The statute also authorizes DACS to establish a grant program to provide aid to agribusinesses to assist in market development. The statute, including the loan program, has never been funded by the Legislature and no loans have been made.

Effect of the Proposed Changes:

Agricultural Economic Development Program

Section 19 repeals s. 570.82, F.S., relating to the Agricultural Economic Development Program.

Agriculture and Aquaculture Producers Natural Disaster Recovery Loan Program

Section 20 creates s. 570.822, F.S., to establish the Agriculture and Aquaculture Producers Natural Disaster Recovery Loan Program as a revolving loan program with the DACS to provide financial assistance to agriculture and aquaculture producers that have experienced damage or destruction from a declared natural disaster.

Under the program, the DACS will make low-interest or interest-free loans of up to \$500,000 to eligible applicants. An approved applicant may receive no more than one loan per declared disaster, two loans per year in disaster loans, and five loans within any 3-year period. The term of each loan is 10 years.

The bill authorizes loan funds to be used for the restoration, repair, or replacement of essential physical property or the removal vegetative debris from essential physical property. If loan

¹⁰⁰ Section 570.82(4), F.S.

¹⁰¹ Section 570.82(5), F.S.

¹⁰² *Id.*

¹⁰³ Section 570.82(6), F.S.

¹⁰⁴ *Id.*

funds are used to construct a building or structure, it must comply with the storm-hardening standards for nonresidential farm buildings¹⁰⁵ as adopted by the DACS by rule.¹⁰⁶

To be eligible, an applicant must own or lease a bona fide farm operation that is located in a county named in a declared natural emergency and that was damaged or destroyed as a result of such declared natural emergency. The bill defines a “bona fide farm operation” to mean a farm operation engaged in the a good faith commercial agricultural use of land on land classified as agricultural pursuant to s. 193.461, F.S., or on sovereign submerged land that is leased to the applicant by the DACS pursuant to s. 597.010, F.S., and that produces agricultural products within the definition of agriculture under s. 570.02, F.S.¹⁰⁷

The eligible applicant must also:

- Maintain complete and acceptable farm records, pursuant to criteria published by the DACS, and present them as proof of the production levels and bona fide farm operations;
- Demonstrate a need for financial assistance; and
- Demonstrate an ability to repay the loan or meet a standard credit rating, as determined by the DACS.

When a natural disaster is declared pursuant to s. 252.36, F.S., the DACS shall determine if funds are available to make loans, whether from a specific appropriation or availability of funds due to repayments. The DACS will notice an application period for the loan program within 60 days after the date of a declared natural disaster. The application period runs for up to one year or until all available loan funds are exhausted, whichever occurs first.

The bill requires the DACS to enter into a written agreement with an approved applicant which details the terms and conditions of the loan, including a condition that the loan is due upon the sale of the property or if other collateral for the property is sold. The bill provides that a loan issued under the loan program is not assumable. An approved applicant must also agree to stay in production for the duration of the loan term. The DACS may periodically review an approved applicant to confirm whether the applicant is in compliance with the conditions and terms of the loan agreement. If it is found that the applicant is no longer in production or has violated the terms of the loan agreement, the DACS may seek the repayment of the entire loan, including any interests or costs, and excluding any applied or anticipated reduction of the original principal balance.

The bill requires all loans to be secured by a first lien on the property or other collateral as provided in the loan agreement, which the DACS must record in the public records in the county

¹⁰⁵ As defined in s. 604.50(2), F.S.

¹⁰⁶ Section 640.50(2)(d), F.S., defines a “nonresidential farm building” as a temporary or permanent building or support structure that is classified as a nonresidential farm building on a farm under s. 553.73(10)(c), F.S., or that is used primarily for agricultural purposes, is located on land that is an integral part of a farm operation or is classified as agricultural land under s. 193.461, F.S., and is not intended to be used as a residential dwelling. The term may include, but is not limited to, a barn, greenhouse, shade house, farm office, storage building, or poultry house.

¹⁰⁷ The definition means the science and art of production of plants and animals useful to humans, including to a variable extent the preparation of these products for human use and their disposal by marketing or otherwise, and includes aquaculture, horticulture, floriculture, viticulture, forestry, dairy, livestock, poultry, bees, and any and all forms of farm products and farm production.

where the property is located and, in the case of personal property, must perfect the security interest by filing appropriate uniform commercial code forms with the Florida Secured Transaction Registry as required pursuant to ch. 697, F.S. The type of collateral required by the loan may vary based on the purpose of the loan, the ability to repay, and the particular circumstances of the applicant.

The bill provides that a loan is due and payable in accordance with the terms of the written agreement. The bill requires the DACS to defer payments for the first 3 years of the loan. After that initial deferral of payments, the DACS must reduce the original principal balance in a manner that will result in a reduction of the principal balance by 30 percent by the end of the loan term. An approved applicant may make payments on the loan at any time without penalty and early repayment is encouraged. If the principal balance is repaid prior to the end of the loan term, the DACS may not require an approved applicant to pay more than 70 percent of original principal balance.

The bill requires all repayments of principal and interest received by the DACS in a fiscal year to be returned to the loan fund so that it may be available to other applicants in the next application period. Funds appropriated for the loan program are not subject to reversion. The bill requires the DACS to create and maintain a separate account in the General Inspection Trust Fund as a fund for the program. DACS must manage the loan fund, establishing loan practices that include, but are not limited to:

- Procedures for establishing loan interest rates;
- Uses of funding;
- Application procedures; and
- Application review procedures.

The bill authorizes the DACS to contract with a third-party administrator to administer the loan program and manage the loan fund. Such contract must require the third-party administrator to maintain the loan fund to ensure that the loan program may operate in a revolving manner.

The DACS must coordinate with other state agencies and other entities to ensure that agriculture and aquaculture producers have access to the maximum financial assistance available after a natural disaster. Such coordination must attempt to ensure that there is no duplication of financial assistance between the loan program and other state and federal programs, such as FEMA or U.S. Department of Agriculture assistance, which could render the approved applicant ineligible for other financial assistance.

The bill requires the DACS to adopt rules to implement the loan program.

By December 1, 2024, and each December 1, thereafter, the bill requires the DACS to submit a report to the Legislature detailing its activities of the previous fiscal year, including:

- Information on noticed application periods;
- The number and value of loans awarded under the program for each application period;
- The number and value of loans outstanding;
- The number and value of any loan repayments received; and
- An anticipated repayment schedule for all loans.

The loan program expires on July 1, 2043, unless reviewed and saved from repeal by the Legislature.

Section 21 amends s. 201.25, F.S., to exempt loans made under the loan program from the documentary stamp tax. Currently, Florida levies a documentary stamp tax on certain documents, such as promissory notes.¹⁰⁸ Certain transactions are exempt from the documentary stamp tax. Any loan made by the Small Business Emergency Bridge Loan Program in response to a disaster for which the Governor declares a state of emergency, any federal loan that is related to a declared state of emergency, and any loan made by the Agricultural Economic Development Program pursuant to s. 570.82, F.S., are currently exempt.¹⁰⁹

Section 22 grants the DACS emergency rulemaking authority to implement the loan program, and provides that such emergency rules are effective for six months after adoption and may be renewed while the DACS undergoes the procedures to adopt permanent rules.

Section 23 directs the CFO to transfer \$75 million in nonrecurring funds from the General Revenue Fund to the General Inspection Trust Fund of the DACS. The bill appropriates \$75 million in nonrecurring funds from the General Inspection Trust Fund in fixed capital outlay to the DACS for the loan program. The bill authorizes the DACS to use up to 5 percent of the appropriated funds for administrative costs to implement the program.

Present Situation:

Florida's Future Forests Program

Florida's Future Forests Program is designed to help increase the acreage of healthy forests in Florida by assisting Florida landowners in making the long-term investment required to establish and/or maintain this valuable ecosystem. The program offers landowners cost-share payments for conducting certain approved forest management practices that establish new forest stands. This program is administered by the DACS' Florida Forest Service and is funded by the state.

The Florida Forest Service will focus the use of funds providing cost-share payments to landowners to encourage implementation of approved tree-establishment practices, including site preparation, seedling purchase and planting.^{110,111}

Effect of Proposed Changes:

Section 24 appropriates \$37.5 million in nonrecurring funds from the General Revenue Fund in fixed capital outlay to the DACS for the 2023-2024 fiscal year, to administer a cost-sharing grant program to assist timber landowners in Charlotte, Citrus Columbia, Dixie, Gilchrist, Hamilton,

¹⁰⁸ See ss. 201.02(1)(a), 201.07, and 201.08(1)(a), F.S.

¹⁰⁹ Section 201.25, F.S.

¹¹⁰ Florida Department of Agriculture and Consumer Services, *Florida's Future Forest Program*, available at <https://www.fdacs.gov/Forest-Wildfire/For-Landowners/Grants/Florida-s-Future-Forests-Program> (last visited Oct. 31, 2023).

¹¹¹ The Legislature appropriated \$4 million in Fiscal Year 2023-2024; however, the Governor vetoed the line item. Specific Appropriation 1473A, ch. 2023-239, Laws of Fla.. Letter to Cord Byrd, Secretary of State from Ron DeSantis, Governor, (June 15, 2023), available at <https://www.flgov.com/wp-content/uploads/2023/06/veto-letter.pdf> (last visited Oct. 31, 2023).

Hernando, Jefferson, Lafayette, Levy, Madison, Manatee, Pasco, Pinellas, Sarasota, Suwannee, or Taylor counties whose timber land was damaged by Hurricane Idalia. Grants may be up to 75 percent of the costs for site preparation and tree planting on agricultural lands. Site preparation work may include removal of downed trees by a variety of methods, including mechanical harvesting or prescribed burns authorized by Florida Forest Service. The maximum grant award is \$250,000. The DACS may use up to \$1 million of the appropriation to implement the program. The bill grants the DACS emergency rulemaking authority to implement the grant program.

The bill requires the DACS to coordinate with other state agencies and other entities to ensure that timber landowners have access to the maximum financial assistance available following Hurricane Idalia. Such coordination must attempt to ensure that there is no duplication of financial assistance between the grant program and other state and federal programs, such as FEMA or U.S. Department of Agriculture assistance, which could render the approved applicant ineligible for other financial assistance.

Section 25 provides that the bill takes effect upon becoming a law.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

Article VII, s. 18(b) of the Florida Constitution provides that, except upon the approval of each house of the Legislature by a two-thirds vote of the membership, the Legislature may not enact, amend, or repeal any general law if the anticipated effect of doing so would be to reduce the authority that municipalities or counties have to raise revenue in the aggregate, as such authority existed on February 1, 1989. However, the mandates requirements do not apply to laws having an insignificant impact,¹¹² which is \$2.3 million or less for Fiscal Year 2024-2025.¹¹³

The bill will reduce the authority of local governments to raise revenue from local option sales taxes, property taxes, and local option fuel taxes by \$1.8 million. Therefore, this bill may not be a mandate subject to Article VII, s. 18 of the Florida Constitution.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

¹¹² FLA. CONST. art. VII, s. 18(d). An insignificant fiscal impact is the amount not greater than the average statewide population for the applicable fiscal year multiplied by \$0.10. See FLA. SENATE COMM. ON CMTY. AFFAIRS, *Interim Report 2012-115: Insignificant Impact*, (September 2011), available at <http://www.flsenate.gov/PublishedContent/Session/2012/InterimReports/2012-115ca.pdf> (last visited Nov. 3, 2023).

¹¹³ Based on the Demographic Estimating Conference's estimated population adopted on July 11, 2023. The conference packet is available at <http://www.edr.state.fl.us/Content/conferences/population/ConferenceResults.pdf> (last visited Nov. 3, 2023).

D. State Tax or Fee Increases:

Section 19 of Article VII, Florida Constitution, requires increased taxes or fees to be passed in a separate bill and by two-thirds vote of the membership of each house of the Legislature. This bill does not increase any taxes or fees, and thus the increased tax or fee requirements do not apply.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:**A. Tax/Fee Issues:**

The Revenue Estimating Conference determined that the bill will reduce General Revenue Fund receipts by \$0.2 million, trusts funds by \$0.3 million, and local government revenue by \$1.8 million in Fiscal Year 2024-2025.

The Revenue Estimating Conference adopted estimates of the following provisions:

- The sales and use tax refunds for nonresidential building materials and fences on agricultural lands will reduce General Revenue Fund receipts by \$0.2 million in Fiscal Year 2024-2025. Local government revenues are estimated to be reduced by an amount less than \$0.1 million.
- The motor fuel tax refunds for the shipment of agricultural products and debris removal will reduce the State Transportation Trust Fund by \$0.3 million in Fiscal Year 2024-2025. Local government revenue will be reduced by \$0.1 million.
- The assessment limitation for tangible personal property that is unable to be used as a result of Hurricane Idalia will reduce local property tax collections by \$1.7 million in Fiscal Year 2024-2025. Of this amount, property tax collections for school purposes will be reduced by \$0.6 million.

The Revenue Estimating Conference has not yet adopted an estimate for the repeal of the documentary stamp tax exemption for loans made by the Agricultural Economic Development Program and the exemption authorized by the bill for loans made by the Agriculture and Aquaculture Producers Natural Disaster Recovery Loan Program. Staff estimates the combined effect of these changes to be indeterminate but likely negative.

B. Private Sector Impact:

The bill:

- Provides low-interest or interest-free loans to agricultural producers that experienced damage or destruction to certain types of tangible agricultural property from Hurricane Idalia.
- Creates a cost sharing grant program to assist timber landowners whose timber was damaged within counties in the disaster declaration, granting up to 75 percent of the total cost for certain timber related activities, with a maximum of \$250,000 per grant.

- Provides tax relief to agricultural producers affected by Hurricane Idalia through assessment of tangible personal property deemed unusable for 60 days as a direct result of Hurricane Idalia at salvage value, refund of sales tax for fencing materials purchased for use on agricultural lands due to Hurricane Idalia damage and building materials used to replace or repair nonresidential farm buildings damaged by Hurricane Idalia, and refund of taxes on fuel used for agricultural shipment or hurricane debris removal after Hurricane Idalia.
- Provides funding for the Hurricane Housing Recovery Program that will be used to help eligible local governments assist individual citizens to recover from Hurricane Idalia.

C. Government Sector Impact:

The bill makes the following appropriations for the 2023-2024 fiscal year:

- \$176,170,000 in nonrecurring funds from the General Revenue Fund to the Department of Financial Services to provide mitigation grants under the My Safe Florida Home Program;
- \$5,285,100 in nonrecurring funds from the General Revenue Fund to the Department of Financial Services for administrative costs related to implementation of mitigation grants under the My Safe Florida Home Program;
- \$30 million in nonrecurring funds from the General Revenue Fund to the DEM to provide the match requirement for Public Assistance Program grants for counties designated for individual assistance and public assistance (Categories A-G) in the FEMA disaster declaration for Hurricane Idalia. The balance of the appropriation not disbursed by June 30, 2024, may be carried forward for 5 years after the effective date of the bill;
- \$50 million in nonrecurring funds from the General Revenue Fund to the DEM to provide grants or loans for hurricane repair and recovery projects within counties designated for individual assistance and public assistance (Categories A-G) in the FEMA disaster declaration for Hurricane Idalia;
- \$3 million in nonrecurring funds from the General Revenue Fund to the DEM as fixed capital outlay to provide planning and design grants to the 10 fiscally constrained counties designated in the FEMA disaster declaration for Hurricane Idalia for new facilities for emergency operations;
- \$5 million in nonrecurring funds from the General Revenue Fund to the Department of Commerce as fixed capital outlay for grants awarded under the Rural Infrastructure Fund for the 10 fiscally constrained counties designated in the FEMA disaster declaration for Hurricane Idalia;
- \$75 million in nonrecurring funds from the General Inspection Trust Fund within the DACS as fixed capital outlay for the Agriculture and Aquaculture Producers Natural Disaster Recovery Loan Program after the sum is transferred from the General Revenue Fund into the General Inspection Trust Fund. The DACS may use up to 5 percent of the appropriated funds to administer the program.
- \$37.5 million in nonrecurring funds from the General Revenue Fund to the DACS as fixed capital outlay to administer a cost-sharing grant program to assist timber landowners in eligible counties impacted by Hurricane Idalia. Of that amount, the

DACS is authorized to use up to \$1 million of the funds for administration of the program.

- \$25 million in nonrecurring funds from the Local Government Housing Trust Fund in the Affordable Housing for Hurricane Recovery appropriation category to the Florida Housing Finance Corporation to use for the Hurricane Housing Recovery Program in counties designated in the FEMA disaster declaration for Hurricane Idalia; and
- \$10 million in nonrecurring funds from the State Transportation Trust Fund to the Department of Transportation for transportation projects under the Small County Outreach Program within counties designated for individual assistance and public assistance (categories A-G) in the FEMA disaster declaration for Hurricane Idalia.

The Department of Commerce has approximately \$40 million remaining from previous appropriations to the Local Government Emergency Revolving Bridge Loan Program.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 201.25, 215.5586, 252.37, 252.71, 288.066, and 288.0655.

This bill creates the following sections of the Florida Statutes: 193.4518 and 570.822.

This bill repeals the following sections of the Florida Statutes: 570.82.

This bill creates several undesignated sections of Florida Law. This bill amends section 14 of chapter 2023-304, Laws of Florida.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.