

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Provide Limited Government –

- The bill creates a new state certification program within the Department of Business and Professional Regulation (DBPR) to certify and regulate individuals as wind mitigation inspectors. The bill provides that certain existing professions may be exempt under specified conditions.
- The bill creates the Windstorm Mitigation Study Committee to analyze solutions and programs and make recommendations.
- The bill provides authorization for the Department of Financial Services (DFS) to contract with a not-for-profit organization to conduct all or portions of the Florida Comprehensive Hurricane Damage Mitigation Program.
- Insurance agents are required to complete continuing education hours related to premium discounts available on property insurance policies for various hurricane mitigation measures and the means for obtaining the discounts.

Safeguard Individual Liberty –

- The bill expands the eligible activities covered by grants under the Florida Comprehensive Hurricane Damage Mitigation Program to include repair of existing structures for low-income homeowners when such repairs would lead to mitigation measures.
- The bill revises current continuing education requirements to ensure that insurance agents are knowledgeable of premium discounts for various hurricane mitigation options and the means of obtaining the discounts.
- The bill requires that hurricane mitigation measures must be accounted for by insurance companies when determining rates, and requires insurers to include deductible reductions for mitigation measures.

Promote personal responsibility –

- The bill offers provisions pertaining to mitigation measures in order to encourage homeowners to strengthen their homes to reduce the risks and damage associated with hurricanes.
- The bill promotes accountability within the inspection process by establishing qualifications and certification requirements for wind mitigation inspectors.

Empower families –

- The bill provides additional funding for residential mitigation, which will serve to better protect homes against hurricane damage with the anticipation that such mitigation will reduce property insurance rates.
- This will benefit families and increase family stability and self-support.

Maintain public security –

- The bill provides for a more detailed background check of applicants, to include fingerprinting, for wind mitigation inspectors participating in the Florida Comprehensive Hurricane Damage Mitigation Program.
- The bill creates a new state certification program to ensure wind mitigation inspectors are appropriately trained with continuing education requirements.

B. EFFECT OF PROPOSED CHANGES:

Chapter 2006-12, Laws of Florida, contained many provisions relating to insurance rates, deductibles and mitigation measures. This bill expands the 2006 legislation, particularly with regard to the Florida

Comprehensive Hurricane Damage Mitigation Program, wind mitigation inspectors, insurance premiums and deductibles, and a uniform home grading scale.

Background

Mitigation is a cost effective method of addressing affordable housing recovery challenges, including escalating insurance costs, in Florida. According to a recent study by the National Institute of Building Sciences, there is an approximate four to one return on investment for mitigation.¹ The 2006 Legislature created The Florida Comprehensive Hurricane Damage Mitigation Program and appropriated \$250 million in grants for hurricane shutters, roofing and other improvements to better protect homes against hurricane damage and reduce the state's exposure to claims.

The Florida Comprehensive Hurricane Damage Mitigation Program

Present Situation

Section 215.5586, Florida Statutes, establishes the Florida Comprehensive Hurricane Damage Mitigation Program, also known as the My Safe Florida Home Program. This program provides for free home inspections to identify structural improvements (or mitigation measures) that would reduce vulnerability to hurricane damage. The program provides 50 percent matching grants of up to \$5,000 to harden single-family homes to reduce vulnerability to hurricane damage, with up to 100 percent grants (\$5,000) for low-income homeowners. Eligibility requirements include: the structure must be a primary residence which is a single-family, site-built home with an insured value of \$500,000 or less and has a homestead exemption. Additionally, units in a residential multifamily building of up to four units are eligible for the free home inspection if all unit owners in the building agree to participate in the program.

Grants may be used for the following improvements:

- roof deck attachment;
- secondary water barrier;
- roof covering;
- brace gable ends;
- reinforce roof-to-wall connections;
- opening protection; and
- exterior doors, including garage doors.

On August 15, 2006, the My Safe Florida Home Program was opened to the public. In one day, more than 40,000 calls came through the DFS phone lines requesting information about the program. As of January 8, 2006, nearly 14,000 free home inspections have been completed and more than 1,600 inspector and contractor candidates have been trained.

DFS designed the program to (1) provide direct grants to homeowners; (2) contract with local governments to administer the grants; and (3) partner with the Volunteer Florida Foundation to distribute funds to non-profit organizations to retrofit low-income homes.

DFS contracted with the not-for-profit Federal Alliance for Safe Homes (FLASH) to complete the inspection program. FLASH reports that of the 2,678 final reports for homes across 16 counties inspected under the program thus far, the insurance savings were evident. Based on the inspections alone, FLASH determined that even prior to undertaking any mitigation action, homeowners were entitled to an average savings of 19 percent, or \$302, in insurance premium savings. FLASH also found the average total cost of the most aggressive improvement plan was less than \$10,000, and the average discount for homes in their current condition is about twice the typical cost of an inspection.

¹ Source: National Institute of Building Sciences, *National Hazard Mitigation Saves: An Independent Study to Assess the Future Savings from Mitigation Activities, December 2005*

Effect of the Bill

The bill makes a number of changes to the Florida Comprehensive Hurricane Damage Mitigation Program, as follows:

- Wind mitigation inspectors must have a level 2 background check, which includes fingerprinting.
- Wind mitigation inspectors must be certified by the Department of Business and Professional Regulation (DBPR). This certification is effective October 1, 2007, with a transition provision through December 1, 2007.
- To be eligible for a grant, the residential property must be a dwelling structure with an assessed value of \$500,000 or less.
- Grants may be used on previously inspected existing structures, or a rebuild. A rebuild is defined as a site-built, single-family dwelling under construction to replace a home that was destroyed or significantly damaged by a hurricane and deemed unlivable by a regulatory authority. The homeowner must have had a homestead exemption prior to the hurricane and maintained the homestead exemption.
- The bill clarifies the requirements for low-income homeowners and allows up to 20 percent of the grant value to be used for repair to existing structures leading to mitigation improvements.
- The bill authorizes a public-private partnership between DFS and a not-for-profit corporation to conduct all or portions of the program and to increase awareness of mitigation benefits among Florida homeowners. DFS is to consider the not-for-profit's ability to raise funds from the private sector in order to provide for mitigation grants and the corporation's administrative capabilities.

Wind Mitigation Inspector Certification

Present Situation

Wind mitigation inspectors are not currently regulated by the State of Florida. However, to participate in the DFS program, inspectors must have prior experience in residential construction or inspection and have received specialized training in hurricane mitigation procedures. FLASH has designed a seven hour training program as a prerequisite for participating in the DFS program. Proficiency and satisfactory completion is determined by a one hour exam.

Effect of the Bill

The bill creates a new wind mitigation inspector certification program within the Department of Business and Professional Regulation, effective October 1, 2007. The bill establishes certification requirements, disciplinary actions in certain situations, and criminal penalties for specified violations. The bill also establishes continuing education requirements. Additionally, the bill authorizes a fee of up to \$200 for each application or renewal to cover the cost of the program. The fee is to be established by rule.

Applications for certification must be submitted in writing on forms approved and furnished by DBPR. To be eligible for certification, a person must:

- Be at least 18 year of age;
- Of good moral character; and
- Provide proof that the applicant has satisfactorily completed classroom education courses for initial certification. The department may establish by rule criteria for accepting alternative nonclassroom education or training.

The bill provides that no person may be employed by a state agency or local governmental authority or hold themselves out to the general public for compensation as wind mitigation inspectors without possessing the certificate issued through this new program, with the exception of licensed contractors, engineers and architects that have satisfactorily completed a continuing education course in wind certification and hurricane mitigation. Wind mitigation inspectors that have been approved by the DFS under the Florida Comprehensive Hurricane Damage Mitigation Program are given until December 31,

2007, to comply with the new certification requirements, and are not restricted from performing inspections until that date.

DBPR is required to develop and maintain a statewide list of authorized wind mitigation inspectors and a list of contractors authorized to conduct wind mitigation inspections.

DBPR is authorized to adopt rules in order to implement these provisions.

\$1,761,000 from the Professional Regulation Trust Fund and five positions are appropriated to the DBPR for fiscal year 2006-2007 for the purposes of implementing these provisions.

Continuing Education for Contractors, Engineers, and Architects: Section 487.115, Florida Statutes, provides that, in Florida, a person must be certified or registered in the proper classification prior to engaging in contracting business. Currently, the Construction Industry Licensing Board has the authority to approve specialized continuing education courses on compliance with the wind resistance provisions for one and two family dwellings contained in the Florida Building Code and any alternate methodologies for providing such wind resistance which may be approved for use by the Florida Building Commission.

This bill adds wind mitigation methodologies that have been approved by the DFS to this provision. In addition, it provides that upon completion of these specialized courses, Division I certificateholders (defined in s. 489.105(3), Florida Statutes, as general, building and residential contractors) or registrants who demonstrate proficiency in wind mitigation methodologies may conduct wind mitigation inspections.

The bill also amends ss. 471.017 and 481.215, Florida Statutes, to provide that licensed professional engineers and architects may conduct wind mitigation inspections if they demonstrate proficiency in wind mitigation methodologies and have completed specialized courses in wind certification and hurricane mitigation designed by the respective oversight boards in accordance with methodologies approved by DFS as part of their continuing education.

The bill provides that licensed contractors, professional engineers, and architects who have satisfactorily completed such continuing education courses are exempt from certification by DBPR as wind mitigation inspectors.

Insurance Premiums and Deductibles/Continuing Education for Insurance Agents

Present Situation

Chapter 2006-12, Laws of Florida, required the Office of Insurance Regulation (OIR), by July 1, 2007, to "evaluate the discounts, credits, other rate differentials, and appropriate reductions in deductibles for fixtures and construction techniques that meet the minimum requirements of the Florida Building Code, based upon actual experience or any other loss relativity studies." Also, to "determine the discounts, credits, other rate differentials, and appropriate reductions in deductibles that reflect the full actuarial value of such reductions."

Effect of the Bill

The bill requires insurance agents to complete continuing education hours related to premium discounts available on property insurance policies for various hurricane mitigation measures and the means for obtaining the discounts.

Effective October 1, 2007, this bill authorizes the reduction of hurricane deductibles for homeowners who have undertaken mitigation measures to strengthen their homes to reduce the amount of loss in a windstorm. All insurance companies must make a rate filing which includes reductions in deductibles,

in addition to the credits, discounts, or other rate differentials, for fixtures and construction techniques which meet the minimum requirements of the Florida Building Code.

The bill requires the Financial Services Commission to develop a uniform mitigation verification inspection form to be used by all insurers when factoring wind insurance discounts, and directs the Commission to seek input from knowledgeable representatives (including insurance, construction, and building code representatives), and to provide guidance regarding the length of time the inspection results are valid.

Uniform Home Grading Scale

Present Situation

Chapter 2006-12, Laws of Florida, Section 39, required the OIR to study and develop a program to provide an objective rating system to allow homeowners to evaluate their home's ability to withstand the wind load from a hurricane. OIR has contracted with the University of Florida to do the study and develop the pilot program.

Effect of the Bill

The bill requires the Financial Services Commission to develop a uniform home grading scale to grade a home's ability to withstand wind damage. The Commission is to work with the OIR, DFS, and the Department of Community Affairs (DCA) in developing the scale, which must be consistent with the rating system required in Chapter 2006-12, Laws of Florida, Section 39. The Commission is given rulemaking authority to adopt the uniform grading scale no later than June 30, 2007.

\$2,000,000 is appropriated for fiscal year 2006-2007 from the Insurance Regulatory Trust Fund to the Department of Financial Services for the purposes of implementing this provision.

Windstorm Mitigation Study Committee

The bill creates the Windstorm Mitigation Study Committee and establishes its membership and duties. The Committee is made up of eight members: two members to be appointed by the Governor, one to be designated to serve as chair; two members appointed by the Chief Financial Officer; two members appointed by the Speaker of the House of Representatives; and two members appointed by the President of the Senate. All members are to be knowledgeable of mitigation issues, with at least one member representing primarily the interests of homeowners.

The Committee is to analyze solutions and programs that address Florida's need for mitigation, especially residential property that is located in areas at greatest risk of windstorm damage. Solutions and programs to be analyzed by the Committee include, but are not limited to, those that provide for:

- the availability of home inspections for windstorm resistance;
- grants to assist homeowners, and possibly other groups of property owners, to harden their property against windstorm damage;
- the full actuarial value to be reflected in premium credits for windstorm mitigation;
- the most effective way to inform policyholders of the availability of and means by which to obtain premium credits for windstorm mitigation;
- coordination among federal, local and private initiatives;
- streamlining or strengthening applicable state, regional, and local regulations;
- the stimulation of public and private efforts to mitigate against windstorm injury and damage;
- the discovery and assessment of funding sources for windstorm mitigation;
- tax incentives for windstorm mitigation;
- consumer information concerning the benefits of windstorm mitigation, including personal safety as well as property security; and

- research on windstorm mitigation.

The first meeting of the Committee is to occur no later than February 9, 2007. Reimbursements for travel are to be paid by the appointing entity and DFS is to provide staff assistance as necessary. DFS, OIR, Citizens Property Insurance Corporation, and other state agencies are directed to supply any information, assistance, and facilities that are considered necessary for the Committee to fulfill its duties.

The bill requires the committee to submit recommendations by March 6, 2007, to the Governor, the President of the Senate, the Speaker of the House of Representatives, the Chief Financial Officer, and the Commissioner of Insurance Regulation.

The committee expires on May 15, 2007.

Community Development Block Grant Disaster Supplemental Funding

Present Situation

Florida has been awarded a federal grant of \$100,066,518 from the Emergency Supplemental Appropriations Act for Defense, the Global War on Terror, and Hurricane Recovery, 2006. The DCA submitted an Action Plan to the United States Department of Housing and Urban Development (HUD) in December 2006 detailing the proposed use of the funds for residential mitigation as a means to maintain Florida's affordable housing stock and reduce the financial burden of higher insurance premiums on low-income homeowners. Additionally, the Action Plan allows funds to be used for housing rehabilitation or repair and infrastructure development or improvement related to hurricane damage.

The DCA will work in partnership with DFS, local governments and non-profit entities to ensure that funding is used to complement the My Safe Florida Home Program and address other disaster related housing and infrastructure needs of the counties included in federal declaration FEMA-1609-DR, Hurricane Wilma, for the purposes of hurricane housing mitigation, rehabilitation/repair and infrastructure development.

Based on HUD guidelines, at least \$20 million of these funds (19.33 percent of Florida's total allocation) must be used for repair, rehabilitation, and reconstruction of the affordable rental housing stock, including public and other HUD-assisted housing, in the impacted areas. The DCA will work in partnership with DFS, Florida Housing Finance Corporation, and Florida offices of HUD and USDA Rural Development to make these funds available to multi-family properties in declared counties which currently receive project based rental assistance through either HUD or USDA-Rural Development.

Effect of the Bill

For Fiscal Year 2006-07, the bill appropriates \$100,066,518 in federal funds from the Small Cities Community Development Block Grant Program Fund to the Department of Community Affairs to be used consistent with the federal supplemental appropriation and approved Action Plan.

C. SECTION DIRECTORY:

Section 1 cites the bill as the "Home Enhancement and Loss Prevention Act."

Section 2 amends s. 215.5586, F.S., to require that wind mitigation inspectors must have undergone Level 2 background checks and have been certified as wind mitigation inspectors pursuant to a newly

created program in the Department of Business and Professional Regulation. Further, the Florida Comprehensive Hurricane Damage Mitigation Program is modified with respect to eligibility and use of grant funds, and the Department of Financial Services is authorized to contract with a not-for-profit corporation to conduct all or portions of the program.

Section 3 creates Part XV of chapter 468, F.S., consisting of s. 468.851, F.S., to provide definitions, requirements related to certification of wind mitigation inspectors, and criteria for disciplinary actions and criminal penalties in certain situations and authorizes the Department of Business and Professional Regulation to adopt rules to implement such provisions. The bill authorizes a fee of up to \$200 for initial certification applications and renewals. The new program takes effect on October 1, 2007.

Section 4 provides for a transition period for inspectors previously approved by the Department of Financial Services to perform services.

Section 5 amends s. 471.017, F.S., to create subsection (4) related to renewal of licenses and authorization for licensed professional engineers to conduct wind mitigation inspections upon specialized course completion.

Section 6 amends 481.215, F.S., to create subsection (7) related to renewal of licenses and authorization for licensed architects to conduct wind mitigation inspections upon specialized course completion.

Section 7 amends s. 489.115, F.S., to authorize the Construction Industry Licensing Board to approve specialized continuing education courses using wind mitigation methodologies approved by the Department of Financial Services and to authorize specified certificateholders or registrants to conduct inspections under certain circumstances.

Section 8 amends s. 626.2815, F.S., to require continuing education courses for certain general lines agents and customer representatives on the subject of premium discounts available on property insurance policies based on various hurricane mitigation options and the means for obtaining the discounts.

Section 9 amends s. 627.062 (2)(k), F.S., to require that rate filings must account for mitigation measures undertaken by policyholders to reduce hurricane losses.

Section 10 amends s. 627.0629, F.S., effective October 1, 2007, to provide for reductions in deductibles for mitigation measures.

Section 11 amends 627.701, F.S., to require the insurer provide to the policyholder the option of selecting an appropriate reduction in the policy's hurricane deductible or selecting the appropriate discount credit or other rate differential.

Section 12 amends s. 627.711, F.S., to require the Financial Services Commission develop, by rule, a uniform mitigation verification inspection form to be used by all insurers when factoring discounts for wind insurance.

Section 13 creates the Windstorm Mitigation Study Committee and provides for membership, duties, submittal of recommendations, and an expiration date.

Section 14 directs the Financial Services Commission to adopt a uniform home grading scale, by rule, to grade the ability of a home to withstand the wind load from a sustained severe tropical storm or hurricane.

Section 15 appropriates \$100,066,518 in fiscal year 2006-2007 to the Department of Community Affairs for housing mitigation. Funds may also be used to support housing rehabilitation or repair and infrastructure development or improvement.

Section 16 appropriates \$1,761,000 for fiscal year 2006-2007 from the Department of Business and Professional Regulation Professional Regulation Trust Fund and 5 FTE to the Department of Business and Professional Regulation for the purposes of implementing section 3 of this bill.

Section 17 appropriates \$2,000,000 for fiscal year 2006-2007 from the Department of Financial Services Insurance Regulatory Trust Fund to the Department of Financial Services for the purposes of implementing section 14 of this bill.

Section 18 provides the bill take effect upon becoming a law, except as otherwise provided.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

- a. The bill authorizes DBPR to establish by rule a fee not to exceed \$200 for wind mitigation inspector certifications and renewals. The new program will be effective October 1, 2007.
- b. Florida has received a federal award of \$100,066,518 from the United States Department of Housing and Urban Development for housing mitigation and hurricane recovery.

2. Expenditures:

- DCA – The bill appropriates \$100,066,518 from the Small Cities Community Development Block Grant Program Fund to the DCA to provide grants to harden single-family and multifamily housing. Funds may also be used to support housing rehabilitation or repair and infrastructure development or improvement.
- DFS – There may be a slight, yet insignificant fiscal impact to DFS for provisions related to: development of the uniform mitigation verification inspection form and staffing and travel reimbursement for the Windstorm Mitigation Study Committee.
- DBPR – The bill appropriates \$1,761,000 from the Professional Regulation Trust Fund and 5 FTE to DBPR for the purposes of implementing the wind mitigation inspector certification program in FY 2006-07. There will be a fiscal impact on DBPR to continue the wind mitigation inspector certification program in FY 2007-08. The bill provides a revenue source to cover these expenses.

- OIR – The bill appropriates \$2,000,000 for fiscal year 2006-07 from the Insurance Regulatory Trust Fund to DFS for purposes of implementing the Home Structure Rating System (Uniform Home Grading Scale).
- Other – Insignificant fiscal impacts to the Governor’s Office, House of Representatives, and the Senate related to reimbursements for travel for appointed members of the Windstorm Mitigation Study Committee.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

Local governments in the counties declared under federal declaration FEMA-1609-DR, Hurricane Wilma, may apply for the Community Development Block Grant funds for the purposes of hurricane housing mitigation, rehabilitation/repair and infrastructure development.

2. Expenditures:

Local governments in the counties declared under federal declaration FEMA-1609-DR, Hurricane Wilma, may apply for the Community Development Block Grant funds for the purposes of hurricane housing mitigation, rehabilitation/repair and infrastructure development.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Studies have shown that mitigation is a cost effective method of addressing long-term affordable housing recovery challenges in Florida and a response to the state’s property insurance crisis. The National Institute of Building Sciences, *National Hazard Mitigation Saves: An Independent Study to Assess the Future Savings from Mitigation Activities, December 2005*, reports an approximate \$4:\$1 return on investment for mitigation.

It is anticipated that more Florida homeowners will realize the benefits of residential mitigation by the expanded eligible activities covered by grants under the Florida Comprehensive Hurricane Damage Mitigation Program to include repair of existing structures. Additionally, the \$100 million federal CDBG funds will assist homeowners and local governments with hurricane-related repairs and recovery.

Wind mitigation inspectors will most likely be required to pay for the level 2 background checks in order to participate in the DFS mitigation program.

Wind mitigation inspectors that wish to become certified by the new state program will be required to undergo a training program, pay a fee of up to \$200 for initial certification and renewal, and participate in continuing education courses.

Licensed contractors, licensed architects, and licensed engineers who wish to be exempt from the new wind mitigation inspector certification program will have to take continuing education courses in order to perform wind certification inspections.

Insurance agencies and customer service representatives will have to take continuing education courses.

D. FISCAL COMMENTS:

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

2. Other:

B. RULE-MAKING AUTHORITY:

DFS, DBPR and the Financial Services Commission are provided authority to establish and adopt rules in order to implement provisions contained in the bill.

C. DRAFTING ISSUES OR OTHER COMMENTS:

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES