

The Florida Senate
VETO MESSAGE BILL ANALYSIS

(This document is based on the enrolled bill, as presented to the Governor.)

Prepared By: The Professional Staff of the Banking and Insurance Committee

BILL: HB 545

INTRODUCER: Representative Patterson and others

SUBJECT: Residential Property Sales

DATE: June 22, 2010

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Burgess	Burgess	BI	Withdrawn
2.	_____	_____	_____	_____
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

I. Summary:

Pursuant to current law, in November 2007, the Financial Services Commission adopted a rule establishing a uniform home grading scale to grade the ability of a home to withstand the wind load from a tropical storm or hurricane. The uniform home grading scale scores homes on a scale of 1 to 100 and takes into account the construction features of the home, the wind zone location, and the terrain surrounding the home. In evaluating the home itself, eight primary wind resistive building features are considered, ranging from roof shape and roof cover to opening protections. In 2008, the Legislature passed a law that established a two-part phase-in of a requirement that sellers of homes located in the state's wind borne debris region disclose the home's windstorm mitigation rating based on the grading scale to prospective purchasers:

- The first part of the phase-in was to begin January 2010, and would have required sellers of homes insured by Citizens Property Insurance Corporation for \$500,000 or more to disclose the home's windstorm mitigation rating to buyers. However, in 2009, before it took effect, this disclosure requirement was repealed.
- The second part of the phase-in, which remains law today and is scheduled to begin on January 1, 2011, will require sellers of any home in the windborne debris region to disclose to the purchaser the home's mitigation rating.

House Bill 545 (SB 2190) repeals the second part of the disclosure phase-in before it takes effect on January 1, 2011. Consequently, sellers of homes located in the windborne debris region would not be required to disclose the home's windstorm mitigation rating. The bill would save sellers of homes located in the windborne debris region the cost of a windstorm mitigation inspection, which averages between \$150 and \$250.

This bill substantially repeals the following section of the Florida Statutes: 689.262.

II. Present Situation:

Uniform Home Grading Scale

Pursuant to current law, in November 2007, the Financial Services Commission adopted a rule establishing a uniform home grading scale to grade the ability of a home to withstand the wind load from a tropical storm or hurricane.¹ The uniform home grading scale scores homes on a scale of 1 to 100 and takes into account the construction features of the home, the wind zone location, and the terrain surrounding the home. In evaluating the home itself, eight primary wind resistive building features are considered: roof shape, secondary water resistance, roof cover, roof deck attachment, roof-to-wall connection, opening protection, number of stories, and roof covering type. Eleven secondary factors are also considered.

Although the home grading scale is in place, Florida homes are not presently required by law to be graded. The grading scale is also not currently used to calculate mitigation discounts,² though it will be used for discount calculations in the future.³ Today's mitigation discount amounts are based on wind loss relativities developed in a study adopted by the Office of Insurance Regulation (OIR) in 2002, and are not linked to a home's mitigation rating given by the grading scale.

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¹ Rule 69O-167.015, F.A.C.

²Current law requires insurance companies to give homeowners mitigation discounts for mitigation features installed in their home. Mitigation discounts are advantageous for homeowners as they reduce the home's wind premium.

³Section 627.0629(1)(b), F.S., requires the OIR to develop a method by February 1, 2011, for insurance companies to establish mitigation discounts, credits, or other rate differentials for hurricane mitigation measures that correlate to the home's rating calculated by the home grading scale. Insurance companies then have until October 1, 2011, to make rate filings to revise their mitigation discounts to new ones that correlate to the home's rating. Homeowners then have two years to obtain their home's rating in order to continue to receive mitigation discounts. Thus, by October 1, 2013, all Florida homeowners will have to have their home rated pursuant to the home grading scale or forfeit receipt of mitigation discounts. The most likely way a homeowner will have their home rated is by having a windstorm mitigation inspection that will delineate the home's mitigation features and provide a mitigation rating based on the grading scale.

⁴ Ch. 2009-87, L.O.F., deleted the first part of the phase-in from s. 627.351(6)(a)5., F.S.

- The second part of the phase-in, which remains law today⁵ and is scheduled to begin on January 1, 2011, will require sellers of any home in the windborne debris region to disclose the home's rating.

III. Effect of Proposed Changes:

Section 1. Repeals s. 689.262, F.S., which is the requirement that purchasers of residential property that is located in the windborne debris region⁶ must be informed of the windstorm mitigation rating of the structure, based on the uniform home grading scale adopted under s. 215.55865, F.S., beginning January 1, 2011. The rating must be included in the contract for sale or as a separate document attached to the contract for sale.

The effect of repealing this provision is that sellers of homes located in the wind borne debris region will not be subject to a new disclosure requirement and, like sellers in other regions of Florida, will not have to disclose the windstorm mitigation rating to prospective buyers. The original intent of the existing law was to encourage Floridians living within the windborne debris regions of the state to retrofit residential properties in order to reduce the damaging effects of hurricanes, and ultimately to reduce the windstorm portion of their premiums. However, due to the current economic environment, this mandate could serve as an impediment to real estate sales and prove costly to property owners intending to sell their homes.

Section 2. Provides that the bill will take effect upon becoming law.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

⁵S. 689.262, F.S.

⁶The wind borne debris region applicable in s. 689.262, F.S., is the one defined in s. 1609.2 of the 2006 International Building Code. A map is available of the region at http://www.dca.state.fl.us/fbc/maps/Wind_borne_MAP_081208.pdf.

B. Private Sector Impact:

Sellers of homes located in the specified wind-borne debris regions will no longer have to obtain a wind inspection for their home in order to obtain the home's windstorm mitigation rating. Thus, these homeowners will save the cost of the inspection which typically costs \$150 - \$250.

C. Government Sector Impact:

Under current s. 689.262, F.S., the Financial Services Commission is responsible for adopting rules to administer the requirements of that section. The bill would remove the cost of enforcement that would be necessary to ensure inspections are accurate and reliable, and to impose sanctions that apply to errant inspectors and/or inspections.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Veto:**A. Governor's Stated Reason for Veto:**

The Governor vetoed this bill because it would repeal a "very good Florida law" that is "consumer-friendly." The Governor stated that the law being repealed "provides homebuyers in wind-borne debris regions with a clear and easy to understand grade on the quality of a home's hurricane resistant protections," and thus provides helpful information to home purchasers.

B. Professional Staff Comments:

The expected cost to obtain the required home inspection is in the range of \$150 - \$250 per home. Because the current law requires that the purchaser "must be informed" of the rating, it appears that the cost will be borne by the seller of the home, at least initially.

The requirements of s. 689.262, F.S., are to be administered by the Financial Services Commission (Commission) which may adopt rules as to the form of the disclosure and the requirements for the inspection and report. The Commission will also need to consider: the eligibility and qualifications of persons authorized to perform mitigation inspections that establish a home's rating; quality controls and enforcement that ensure inspections are accurate and reliable; and sanctions that apply to errant inspectors and/or inspections.

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