

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 Communications, Energy, and Public Utilities Committee

BILL: CS/SB 450

INTRODUCER: Military Affairs, Space and Domestic Security Committee and Senator Bennett

SUBJECT: Emergency Management

DATE: March 11, 2011 **REVISED:** _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Yune	Carter	MS	Fav/CS
2.			JU	
3.			RC	
4.				
5.				
6.				

Please see Section VIII. for Additional Information:

- A. COMMITTEE SUBSTITUTE..... Statement of Substantial Changes
- B. AMENDMENTS..... Technical amendments were recommended
- Amendments were recommended
- Significant amendments were recommended

I. Summary:

This bill provides immunity from civil liability to any person who gratuitously and in good faith provides temporary housing, food, water, or electricity to emergency first responders or the immediate family members of emergency first responders unless the person acts in a manner that demonstrates a reckless disregard for the consequences of another. This bill provides specific requirements with regard to when the immunity applies and when it does not.

This bill creates section 252.515 of the Florida Statutes.

II. Present Situation:

Presently, s. 252.36(2), F.S., empowers the Governor to declare a state of emergency if he or she finds that an emergency has occurred or that the threat of an emergency is imminent. Also, s. 381.00315, F.S., empowers the State Health Officer to declare public health emergencies.¹ State

¹ Section 381.00315(1)(b), F.S., provides in part: "Public health emergency" means any occurrence, or threat thereof, whether natural or man made, which results or may result in substantial injury or harm to the public health from infectious disease, chemical agents, nuclear agents, biological toxins, or situations involving mass casualties or natural disasters.

of emergencies and public health emergencies may only last for 60 days unless the Governor renews the declarations.²

Chapter 768, F.S., deals with the tort of negligence and provides several sections where certain individuals or groups are immune from civil liability if the individuals or groups meet the statutory requirements. For example, the Good Samaritan Act, under s. 768.13, F.S., provides that health care providers, including a hospital licensed under chapter 395, that provide emergency services pursuant to certain statutes are immune from civil liability unless the health care provider acted with reckless disregard. “Reckless disregard” is defined as “such conduct that a health care provider knew or should have known, at the time such services were rendered, created an unreasonable risk of injury so as to affect the life or health of another, and such risk was substantially greater than that which is necessary to make the conduct negligent.”³ Also, s. 768.1315, F.S., provides that a state agency or subdivision which donates fire control or fire rescue equipment to a volunteer fire department is not liable for civil damages caused by a defect in the equipment which occurs after the donation.

III. Effect of Proposed Changes:

This bill creates the “Postdisaster Relief Assistance Act.” This bill provides that any person who gratuitously and in good faith provides temporary housing, food, water, or electricity to emergency first responders or the immediate family members⁴ of emergency first responders may not be held liable for any civil damages unless the person acts in a manner that demonstrates a reckless disregard for the consequences of another.

This bill defines “reckless disregard” as conduct that a reasonable person knew or should have known, at the time such services were provided, would be likely to result in injury so as to affect the life or health of another, taking into account the extent or serious nature of the prevailing circumstances.

The immunity from civil liability applies in emergency situations that are related to and that arise out of a public health emergency pursuant to s. 381.00315, F.S., or a state of emergency pursuant to s. 252.36, F.S., for a period of 6 months following the declared public health emergency or the declared a state of emergency.

This bill also provides that a person may register with a county emergency management agency as a temporary provider of housing, food, water, and electricity. If a person who provides the said services registers with a county emergency management agency, he or she is presumed to have acted in good faith in providing such services.

The immunity provided to persons under this bill does not apply to damages as a result of any act or omission:

² See ss. 252.36(2) and 381.00315, F.S.

³ s. 768.13(2)(b)3., F.S.

⁴ The bill defines immediate family member as a parent, spouse, child or sibling.

- That occurs more than 6 months after the declaration of an emergency by the Governor, unless the declared state of emergency is extended by the Governor, in which case the immunity continues to apply for the duration of the extension; or
- That is unrelated to the original declared emergency or any extension thereof.

This bill has an effective date of July 1, 2011.

Other Potential Implications:

This bill provides that immunity from civil liability does not apply in situations that are “unrelated to the original declared emergency or any extension thereof.” This language may be interpreted to undermine or limit the intent of the bill.

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.

B. Private Sector Impact:

None.

C. Government Sector Impact:

This bill grants immunity from civil liability to specific entities that annually register with a county emergency management agency. As a result, counties may incur minimal expenditures relating to such registration.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Additional Information:**A. Committee Substitute – Statement of Substantial Changes:**
(Summarizing differences between the Committee Substitute and the prior version of the bill.)**CS by Military Affairs, Space, and Domestic Security Committee on March 10, 2011:**

The committee substitute:

- Provides that any person, rather than an individual, corporation, business entity, or employee thereof, who provides temporary housing, food, water, or electricity to emergency first responders or the immediate family members of emergency first responders may not be held liable for any civil damages;
- Provides that such said services must be provided “gratuitously and in good faith”;
- Defines an “emergency first responder”;
- Applies a uniform “reckless disregard” standard of conduct that will either permit or bar a provider of housing, food, water, or electricity from receiving immunity from civil damages and eliminates the “ordinary reasonably prudent person” standard of conduct; and
- Grants those providers who register with a county emergency management agency as a temporary provider of housing, food, water, or electricity the presumption that their actions are done in good faith.

B. Amendments:

None.