

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 Military Affairs, Space, and Domestic Security Committee

BILL: CS/SB 1684

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

SUBJECT: Hurricane Loss Mitigation Program

DATE: February 8, 2012 **REVISED:** _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Fleming	Carter	MS	Fav/CS
2.	_____	_____	BI	_____
3.	_____	_____	BC	_____
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:

The bill revises provisions relating to the Hurricane Loss Mitigation Program, administered by the Division of Emergency Management. The bill establishes specific purposes and duties for the Hurricane Loss Mitigation Program which, among other specified functions, includes: establishing inspection standards related to hurricane and windstorm loss; funding and supervising the public hurricane loss projection model; and creating a database to track and measure the effectiveness of the Hurricane Loss Mitigation Program's efforts.

The bill revises the membership of the advisory council tasked with providing advice and assistance regarding the administration of the Hurricane Loss Mitigation Program, and shifts the entities responsible for prescribing the premium discounts for hurricane loss mitigation form and the uniform mitigation verification inspection form from the Office of Insurance Regulation and the Financial Services Commission to the Division of Emergency Management.

The bill substantially amends sections 215.559 and 627.711 of the Florida Statutes.

II. Present Situation:

Florida Hurricane Catastrophe Fund

The Florida Hurricane Catastrophe Fund (FHCF)¹ is a tax-exempt trust fund that was created by the Legislature in 1993 in response to the numerous problems that developed in the residential property insurance market as a result of Hurricane Andrew in August of 1992. The FHCF operates as a state administered insurer reimbursement program (similar to reinsurance) and is mandatory for residential property insurers writing covered policies in the state of Florida. In order for the FHCF to maintain its tax-exempt status, the Internal Revenue Service mandates that:

Each fiscal year, the Florida Legislature shall appropriate from the investment income of the FHCF an amount no less than \$10 million...for the purpose of providing funding for local governments, state agencies, public and private educational institutions, and nonprofit organizations to support programs intended to improve hurricane preparedness, reduce potential losses in the event of a hurricane, provide research into means to reduce such losses, educate or inform the public as to means to reduce hurricane losses, assist the public in determining appropriateness of particular upgrades to structures or in the financing of such upgrades, or to protect local infrastructure from potential damage from a hurricane.²

The Legislature satisfies this condition by annually funding the Hurricane Loss Mitigation Program administered by the Florida Division of Emergency Management outlined in s. 215.559, F.S.

Hurricane Loss Mitigation Program

The Legislature passed the Bill Williams Residential Safety and Preparedness Act, creating the Hurricane Loss Mitigation Program (Mitigation Program) in 1999. Located in s. 215.559, F.S., the Mitigation Program receives an annual appropriation of \$10 million from the FHCF which is submitted to the Division of Emergency Management (division) within the Executive Office of the Governor for administration of purposes specified in the section.

Of the \$10 million dollars that are allocated by the Legislature, \$7 million must be used to improve wind resistance of residences and mobile homes, through loans, subsidies, grants, demonstration projects and direct assistance, educate individuals on Florida Building Code cooperative programs, and provide other efforts to prevent or reduce losses or the cost of rebuilding after a disaster (referred to as the Residential Construction Mitigation Program).³ The remaining \$3 million must be used to retrofit existing facilities used as public hurricane shelters (referred to as the Shelter Retrofit Program).⁴

Under the requirements of the Mitigation Program, the division must provide a full report along with an accounting and evaluation of activities conducted under this section to the Speaker of the

¹ Section 215.555, F.S.

² Section 215.555(7)(c), F.S.

³ Section 215.559(1)(a), F.S.

⁴ Section 215.559(1)(b), F.S.

House of Representatives, the President of the Senate, and the Majority and Minority Leaders of the House of Representatives and the Senate on January 1 of each year.

According to the 2011 Florida Hurricane Loss Mitigation Program Annual Report, the following amounts were awarded for the 2010-11 fiscal year:

Amount Awarded: State Fiscal Year 2010-2011	
Shelter Retrofit Program	\$3,000,000.00
Residential Construction Program Retrofits	\$821,296.00
Mitigation Planning	\$318,719.00
Public Outreach and Training	\$297,972.00
Manufactured Homes (tie-down retrofit)	\$2,800,000.00
Hurricane Mitigation Research (FIU)	\$700,000.00
TOTAL AWARD AMOUNT	\$7,937,987.00

The Mitigation Program is set to be repealed on June 30, 2021.

Residential Construction Mitigation Program

Section 215.559(1)(a), F.S., requires that \$7 million of the \$10 million appropriated under the Mitigation Program must be used to improve wind resistance and prevent or reduce losses after a disaster. These directives comprise the Residential Construction Mitigation Program (RCMP), and the \$7 million is allocated as follows:

- 40 percent, or \$2.8 million is used to inspect and improve tie-downs for mobile homes, through grants under the Manufactured Housing and Mobile Home Mitigation Enhancement Program at Tallahassee Community College;⁵
- 10 percent, or \$700,000 is directed to the Florida International University center that is dedicated to hurricane research;⁶ and
- 50 percent, or \$3.5 million is directed to programs developed by the division with the advice from the statutorily created advisory council in s. 215.559(4), F.S., to help prevent or reduce losses or to reduce the cost of rebuilding after a disaster.⁷

Mobile Home Tie-Down Enhancement Program

Section 215.559(2), F.S., sets forth the provisions for the Manufactured Housing and Mobile Home Mitigation and Enhancement Program, known as the Mobile Home Tie-Down Enhancement Program (Tie-Down Program). Tallahassee Community College is the entity statutorily authorized to administer the Tie-Down Program. This program is designed to demonstrate, test and raise awareness of new techniques to enhance manufactured home wind resistance.

The Tie-Down Program provides free tie-down retrofit services to eligible owners of manufactured homes.⁸ It is not the intention of the Tie-Down Program to bring existing

⁵ Section 215.559(2), F.S.

⁶ Section 215.559(3), F.S.

⁷ Florida Division of Emergency Management. Hurricane Loss Mitigation Program. 2011 Annual Report. (on file with the Senate Military Affairs, Space, and Domestic Security Committee).

⁸ A tie-down system is designed to secure a manufactured home to the ground.

manufactured homes up to code, but instead to make a mobile home as wind resistant as funding, physical characteristics and condition of premises permit.⁹ To qualify for participation in the Tie-Down Program, a manufactured home must:

- Be located within the boundaries of a mobile home community, in which 60% of the homes in the community have committed to participate in program;
- Have been built and installed prior to September 1999; and
- Be at least 15 inches from the ground to the sidewall of the home.¹⁰

During the 2010-11 fiscal year, the Tie-Down Program provided tie-downs and retrofitted over 1,995 manufactured homes in 16 mobile home communities within 8 Florida counties.¹¹ Since its inception in 2000, 22,265 manufactured homes have benefited from the free services provided through the Tie-Down Program.^{12,13}

Florida International University Hurricane Research Program

Of the moneys allocated to the division for administration of the RCMP, 10 percent, or \$700,000, is annually allocated to Florida International University to conduct research on the following issues:

- Elimination of state and local barriers to upgrading existing mobile homes and communities;
- Recycling of existing older mobile homes; and
- Hurricane loss reduction devices and techniques for site-built residences.¹⁴

RCMP Competitive Funding Projects

Fifty-percent of the RCMP funds, or \$3.5 million, are to be used to help prevent or reduce losses or to reduce the cost of rebuilding after a disaster. To meet these directives, the division, with the assistance from the advisory council established in s. 215.559(4), F.S., annually develops a framework of grant projects which are awarded for a one-year performance period. During the 2010-11 fiscal year, 17 RCMP projects were recommended for funding, which spanned the following three subject categories: residential mitigation retrofit projects; public outreach; and mitigation planning.

Shelter Retrofit Program

Section 215.559(1)(b), F.S., requires that \$3 million of the \$10 million appropriated under the Mitigation Program must be used to retrofit existing facilities used as public hurricane shelters. This is referred to as the Shelter Retrofit Program. A major component in the division's strategy to reduce the state's shelter deficit is to provide funding for cost-effective retrofit or other mitigation measures on existing buildings that can provide additional shelter capacity.

⁹ Tallahassee Community College. *Tie Down Program Information Sheet*. (On file with Senate Military Affairs, Space, and Domestic Security Committee).

¹⁰ *Id.*

¹¹ Tallahassee Community College. *Mobile Home Tie Down Program: 2010-2011 Annual Report*. (on file with Senate Military Affairs, Space, and Domestic Security Committee).

¹² This number does not include Tie-Down Program participants for fiscal year 2000-01, as Tallahassee Community College did not administer the program during that fiscal year.

¹³ E-mail correspondence with TCC Tie Down Program Administrator. February 3, 2012 (on file with Senate Military Affairs, Space, and Domestic Security Committee).

¹⁴ Division of Emergency Management. *Residential Construction Mitigation Program website*. Available at: <http://www.floridadisaster.org/mitigation/rcmp/index.htm>.

The division must annually prepare a Shelter Retrofit Report for the Governor and Legislature which provides the division's list of facilities recommended to be retrofitted using local, state, and federal funds. The report prioritizes facilities with specific projects and cost estimates which, when funded, will improve relative safety and reduce the emergency shelter space deficit of the state. The shelter retrofit projects are identified through a survey program implemented by the division, and are only recommended when the retrofit can create spaces that meet American Red Cross' *Standards for Hurricane Evacuation Shelter Selection* (ARC 4496, January 2002).

Advisory Council

Section 215.559(4), F.S., establishes an advisory council to provide project recommendations, selection criteria and guiding principles to administer the Mitigation Program. Membership of the advisory council consists of the following:

- A representative designated by the Chief Financial Officer;
- A representative designated by the Florida Home Builders Association;
- A representative designated by the Florida Insurance Council;
- A representative designated by the Federation of Manufactured Home Owners;
- A representative designated by the Florida Association of Counties;
- A representative designated by the Florida Manufactured Housing Association; and
- A representative designated by the Florida Building Commission.

Florida Public Hurricane Loss Projection Model¹⁵

After Hurricane Andrew in 1992, insurance companies began to use privately developed catastrophe loss models to estimate expected losses. Catastrophe models are complex computer simulations that property insurers worldwide use to project potential losses from natural catastrophes, such as hurricanes, earthquakes, and tornados.¹⁶

The 2000 Legislature authorized the creation of a public hurricane loss projection model (public model) in which the Office of Insurance Regulation (OIR) contracted with Florida International University (FIU) to develop in 2001. In March 2006 the public model was activated and in August 2007 it was found acceptable by the Florida Commission on Hurricane Loss Projection Methodology.¹⁷

The public model was built to assess hurricane risk and predict annual expected insured residential losses in Florida for an insurance company, zip code, county, or for the entire state. OIR uses the public model as an independent tool to facilitate its review of the reasonableness of the rates proposed in company filings. Without the public model, OIR's basis for rate determinations would be each insurer's own selected private model and corresponding loss data. OIR holds the copyright for the public model, which means that it has exclusive rights to the

¹⁵ Summary information on the Florida Public Hurricane Loss Projection Model obtained from Office of Program Policy Analysis and Government Accountability. Report No. 11-25: *Steps Could Be Taken to Reduce the Public Hurricane Loss Projection Model's Reliance on State Funding* (December 2011). Available at: <http://www.oppaga.state.fl.us/MonitorDocs/Reports/pdf/1125rpt.pdf>.

¹⁶ There are 4 private companies in Florida that have been approved to offer hurricane loss projection models. These include: AIR Worldwide, Applied Research Associates, EQECAT, and Risk Management Solutions.

¹⁷ The Florida Commission on Hurricane Loss Projection Methodology is an independent body of experts created by the Legislature in 1995 for the purpose of developing standards and reviewing hurricane loss models used in the development of residential property insurance rates and the calculation of probable maximum loss levels.

model but can authorize others to use it. FIU is the lead institution for developing and operating the public model, but it collaborates with several other public and private Florida universities (including Florida State University, the Florida Institute of Technology, the University of Florida, and the University of Miami) and the U.S. National Oceanic and Atmospheric Administration. In addition to OIR, users of the public model include Citizens Property Insurance Corporation, the Florida Hurricane Catastrophe Fund, and some private insurers.¹⁸

Since 2000, the Legislature has provided approximately \$11 million to OIR for the creation, operation, and maintenance of the public model.

Windstorm Mitigation Discounts

Section 627.0629, F.S., requires rate filings for residential property insurance to include actuarially reasonable discounts, credits, or other rate differentials, or appropriate reductions in deductibles to consumers who implement windstorm damage mitigation techniques to their properties. The windstorm mitigation measures that must be evaluated for purposes of mitigation discounts include fixtures or construction techniques that enhance roof strength; roof covering performance; roof-to-wall strength; wall-to-floor foundation strength; opening protections; and window, door, and skylight strength.

Section 627.711, F.S., requires insurers to clearly notify an applicant or policyholder of a personal lines residential property insurance policy of the availability and range of each premium discount, credit, other rate differential, or reduction in deductibles, for wind mitigation. The notice must be provided when the policy is issued and upon each renewal. The notification must be done on a form developed by OIR, known as the Notice of Premium Discounts for Hurricane Loss Mitigation.

To qualify for a hurricane premium discount, consumers must submit a completed Uniform Mitigation Verification Inspection Form developed by rule by the Financial Services Commission (FSC). All insurers are required to use this form when factoring discounts for wind insurance.

III. Effect of Proposed Changes:

Section 1 amends s. 215.559, F.S., to provide specific purposes and program duties relating to the Mitigation Program. The bill specifies that the purpose of the Mitigation Program is to implement a residential mitigation retrofit program to reduce the vulnerability and damage to residential structures during high-wind events. Additionally, the bill provides that the purpose of the Mitigation Program is to ensure that:

- Residential mitigation activities prioritize wind-borne debris regions throughout the state;
- All mitigation projects follow recognized best practices, be cost effective, and be reviewed, inspected, and designed by technical and environmental professionals;
- All products and systems are installed in accordance with the Florida Building Code and manufacturer's installation specifications;
- All mitigation activities are tracked and analyzed to measure the effectiveness of the Mitigation Program; and

¹⁸ Property insurers contract with FIU to use the model and pay the university for these services.

- Participation by homeowners is voluntary.

The bill provides for the following duties of the Mitigation Program:

- To provide funding and supervision for the public hurricane loss projection model;
- To establish a statewide program for inspection standards and data collection related to hurricane loss;
- To further the science of hurricane mitigation;
- To be a state resource on the assessment of potential costs of hurricane damage and the results of mitigation;
- To determine the appropriate wind mitigation standards based on hurricane loss models and the applicability and use of wind mitigation discounts for homeowners' insurance.

Additionally, the bill revises the current membership of the advisory council tasked with providing advice and assistance regarding the administration of the Mitigation Program to constitute the following:

- The director of OIR, or his or her designee, who may not serve as chair of the council;
- The director of DEM;
- The Insurance Consumer Advocate, or his or her designee;
- Two representatives of homeowners' insurance companies, one of whom represents insurers having less than \$25 million in surplus and is appointed by the President of the Senate, and one of whom represents insurers having more than \$25 million in surplus and is appointed by the Speaker of the House of Representatives;
- Two scientists, one of whom has experience and training in the sciences related to windstorm loss mitigation or the Florida Building Code and is appointed by the President of the Senate, and one of whom has a background in engineering and is appointed by the Speaker of the House of Representatives;
- Two legislators, one appointed by the President of the Senate, and one appointed by the Speaker of the House of Representatives;
- Two representatives of the reinsurance industry, one whom is a representative of a reinsurer and is appointed by the President of the Senate, and one of whom is a representative of a reinsurance intermediary and is appointed by the Speaker of the House of Representatives;
- One scientist who has a background in modeling and is appointed by DEM; and
- One representative from the windstorm mitigation inspection industry who is appointed jointly by the President of the Senate and the Speaker of the House of Representatives.

Section 2 requires DEM, in consultation with the advisory council established in section 1 of the bill, to prescribe the form which insurers must use to provide notice to applicants and residential property insurance policyholders for premium discounts for wind mitigation. This form is currently prescribed by the OIR.

The bill also requires DEM, in consultation with the advisory council established in section 1 of the bill, to develop by rule a uniform mitigation verification inspection form to be used by insurers when submitted by policyholders for the purpose of factoring discounts for wind insurance. This form is currently developed by rule by the FSC.

Finally, the bill eliminates the provision that allows a professional licensed engineer or a licensed general, building, or residential contractor to authorize a direct employee who is not an independent contractor, but who possesses the skill, knowledge, and experience, to conduct a mitigation verification inspection and sign the accompanying uniform mitigation verification inspection form.

Section 3 provides an effective date of July 1, 2012.

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:

None.

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 on February 7, 2012:

- Provides specified purposes for the Mitigation Program, which includes establishing a database to analyze the effectiveness of the program;
- Restores current statutory language relating to the Mobile Home Tie Down Program administered by Tallahassee Community College;
- Restores current statutory language relating to the Shelter Retrofit Program;
- Restores current statutory language relating to hurricane research at Florida International University;
- Removes language from the bill relating to the My Safe Florida Home Program;
- Revises the membership of the advisory council for the Mitigation Program;
- Shifts the entity responsible for prescribing the premium discounts for hurricane loss mitigation form and the uniform mitigation verification inspection form from OIR and FSC to DEM; and
- Prohibits a professional licensed independent contractor from authorizing a direct employee who is not an independent contractor, but who possesses the skill, knowledge, and experience, to conduct a mitigation verification inspection and sign the accompanying uniform mitigation verification inspection form.

- B. **Amendments:**

None.