

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Provide Limited Government: The bill authorizes the Department of Financial Services to contract with third parties to implement the Florida Comprehensive Hurricane Damage Mitigation Program.

B. EFFECT OF PROPOSED CHANGES:

Background on Mitigation

Mitigation is the ongoing effort to lessen the impact disasters have on people's lives and property through damage prevention. Within this context, hurricane mitigation can be defined as "a construction activity that fortifies or hardens the envelope of residential structures by using a variety of techniques." Techniques may include reinforcing roof-to-wall connections, reinforcing roof systems, use of superior roof material attachment methods, placement of a secondary water barrier on roof decking, and protection of all openings (window, doors, garage doors and gable vents, etc.) by either installing shutter systems or using wind and impact resistant window and/or door systems. Initially at the time of construction, or subsequently through retrofitting, increasing the wind-resistance of buildings delivers a return on investment by reducing damage and therefore insurance losses.

Safe homes can be built without prohibitive cost increases, especially when cost is calculated in the context of loss of quality of life post-hurricane, the payment of insurance deductibles, and general societal costs. Because of the age of Florida's housing stock¹, particular emphasis on meaningful mitigation retrofits to existing homes is critical in order to make people safer in their homes, to allow them to shelter in place, and to reduce their risk of loss. By reducing their risk of loss, homeowners make it less likely they will need to incur the additional cost of their insurance deductible or suffer the inconvenience and cost associated with temporary housing. According to the report issued in 2005 by the Multi-Hazard Mitigation Council of the National Institute of Building Sciences, "*Natural Hazard Mitigation Saves: An Independent Study to Assess the Future Savings from Mitigation Activities*", each dollar spent on mitigation saves society an average of four (4) dollars.

The Florida Comprehensive Hurricane Damage Mitigation Program

During the 2006 General Session, the Legislature enacted SB 1980² which created the Florida Comprehensive Hurricane Damage Mitigation Program and appropriated \$250 million to provide financial incentives to encourage residential property owners in Florida to retrofit their properties, making them less vulnerable to hurricane damage and helping decrease the cost of residential property and casualty insurance. The Florida Comprehensive Hurricane Damage Mitigation Program is administered by the Department of Financial Services (DFS or Department). The funds appropriated to the program do not revert back to the state until June 30, 2009.

Section 215.5586, Florida Statutes, establishes the Florida Comprehensive Hurricane Damage Mitigation Program, also known as the My Safe Florida Home Program. The bill changes the official name of the program from the Florida Comprehensive Hurricane Damage Mitigation Program (program) to the My Safe Florida Home Program and establishes annual reporting to the Legislative presiding officers on program activities. In addition, the bill allows the Department of Financial Services to contract with third parties to implement the program, but requires oversight of the Legislative Budget Commission for contracts valued at \$500,000 or more.

¹ According to a 2004 study by the Shimberg Center for Affordable Housing, Florida has 3.8 million homeowners living in homes built before the 2002 statewide building code.

² Ch. 2006-12, L.O.F.

Current law requires the program to be run by a person with prior executive experience in the private sector in insurance, business, or construction. The bill removes this requirement.

Inspections

The My Safe Florida Home Program provides free home inspections to identify structural improvements (or mitigation measures) that would reduce vulnerability to hurricane damage. Under current law, inspections are available for single-family and multi-family homes with up to four units. The bill, however, removes multi-family homes from eligibility for inspections under the program. Accordingly, only single-family homes will be eligible for future inspections.

Under the Department's current program procedures, to apply for an inspection, a homeowner must first fill out an application and submit proof to DFS that the property to be inspected has a homestead exemption and an insured value of \$500,000 or less, although the statute does not specify that the residential property to be inspected must be a homestead and have a total insured value less than \$500,000. Thus, the bill specifies the residential property to be inspected does not have to have a homestead exemption and a total insured value of less than \$500,000 in order to be eligible for an inspection. Accordingly, any residential property located in Florida will be eligible for a mitigation inspection. Additionally, the bill requires an inspection application to contain a sworn statement by the homeowner stating that the homeowner has submitted only one application for an inspection.

Once an inspection application is received, the Department processes the application, verifies the information on the application and the supporting documentation (i.e. that the property to be inspected has a homestead exemption and a total insured value of less than \$500,000) and forwards the application to a wind inspection company that contacts the homeowner to schedule an appointment and perform an inspection.³ Under current law, wind mitigation inspectors must undergo training, testing, drug testing, and background checking to participate in the program. The bill allows wind inspector training to be done online or in person.

Wind inspectors are not directly employed by the Department; rather, they are employed by wind inspection companies under contract with the Department to provide inspections. The Department is required by law to maintain a list of the inspectors authorized to participate in the program.

After a home is inspected, inspectors upload data collected to a state-owned computer model that generates a report providing recommended mitigation plans, estimated costs to make improvements, estimated insurance discounts if improvements are made, and a hurricane-resistance rating scale that offers a rating of the home "as is" and after improvements are made. The inspection report and a grant application are mailed to the homeowner by DFS within 30 to 45 days. Although the inspection report currently provided by the program contains mitigation insurance discount information, the statute does not require this information be provided on the inspection report. Accordingly, the bill specifies the inspection report must contain estimated insurance premium discounts for implementation of mitigation measures.

Since beginning operation on August 15, 2006, the Department has seen an overwhelming response to the mitigation program. DFS initially implemented the inspection part of the mitigation program via a pilot program. DFS contracted with the not-for-profit Federal Alliance for Safe Homes (FLASH) to complete the pilot program for home inspections which resulted in over 14,000 inspections. Results from 4,523 inspections sampled in the pilot program revealed, on average, homeowners were eligible for 18% in property insurance premium discounts without any mitigation measures being done.⁴ In addition, the average total cost of the most aggressive improvement plan recommended was less than \$10,000.⁵

³ The Department forwards hundreds of inspections applications to wind inspection companies at a time.

⁴ Presentation by DFS to House Committee on Insurance, February 22, 2007.

⁵ Id.

As of February 22, 2007, DFS has received and processed over 67,000 inspection applications; completed over 14,000 free home inspections in 17 counties via the pilot program; and trained, background checked, and drug tested over 550 wind inspectors.⁶ DFS estimates it will complete another 10,000 inspections in Fiscal Year 2006-2007 at a cost of \$1.5 million and it anticipates completing another 66,000 inspections in Fiscal Year 2007-2008 at a cost of \$9.9 million. Over the life of the program, this will result in 90,000 inspections being completed at a cost of \$13.5 million.⁷

The bill provides that the Legislature intends the program to provide at least 400,000 inspections before June 30, 2009. Thus, more inspections than initially estimated by the Department should be provided. Additionally, the bill also requires the program to provide inspections statewide, rather than only in areas determined by the Department.

Grants

The program provides grant monies to homeowners to harden single-family homes to reduce vulnerability to hurricane damage. To be eligible for a grant, the home must have undergone an inspection, be homesteaded, and have an insured value of \$500,000 or less (with the exception of low-income homeowners, where there is no value limit and insurance is not required). Grants can be used on existing homes or rebuilds. Matching grants of up to \$5,000 are available to homeowners. Low-income homeowners are not required to match. The bill gives low-income homeowners the ability to self-certify, under penalty of perjury, if the homeowner meets the statutory definition of low-income. The bill also provides the Legislature's intent that grants provided under the program are disaster-relief assistance for federal income purposes.

Under current law, units in a residential multi-family building of up to four units are eligible for the mitigation grant if all unit owners in the building agree to participate in the program; however, the bill removes multi-family homes from eligibility for grants under the program. Accordingly, only single-family homes are eligible for mitigation grants if the other eligibility criteria are met.

The Department currently mails a grant application to each homeowner receiving an inspection. The mailing is done after the inspection is complete as the grant application is mailed with the inspection report. The bill, however, allows the mitigation inspector to collect the grant application at the time of the inspection.

Once the Department receives a completed grant application, the application is reviewed and approved within 30 days. The bill requires the grant application to contain a statement by the homeowner that the homeowner has submitted only one application for a grant and requires the grant applicant to attach documentation to the application confirming the applicant's property to be mitigated has been granted a homestead, has undergone a wind inspection, and has an insured value of \$500,000 or less (except for low-income grant applicants).

The bill sets forth which grant applicants should be given priority when the Department distributes grants. Once the Department approves a grant, a grant award letter and reimbursement forms are sent advising the homeowner they have one year to complete the recommended improvements. Funds are encumbered by DFS at that time as well. The homeowner then contacts a contractor to perform the mitigation work. The contractor must be certified by the Department to participate in the mitigation program and must complete training in mitigation construction. Under the current program procedures, the Department does not allow the mitigation inspector to do the mitigation construction work. The bill, however, allows the mitigation inspector to also do the mitigation contracting work as long as the wind inspector meets the Department's qualifications and certification for a mitigation contractor. Upon completion of the mitigation construction work, the homeowner returns reimbursement forms (which require the contractor to verify work was completed) and the Department issues a check to the

⁶ Id.

⁷ Id.

homeowner within 10 days. The bill also reduces the mitigation construction re-inspection rate from 5 percent to 10 percent of all mitigation projects.

According to the statute (s. 215.5586, F.S.) grants must be used for one of seven types of mitigation improvements (and in the case of the low-income homeowners, up to 20 percent may be used for repairs necessary to effectuate mitigation improvements). 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.

As of February 22, 2007, DFS had mailed over 11,500 grant applications to homeowners, received 1,400 completed applications, and awarded 960 grants.⁸ In addition, it had signed up 870 contractors to perform mitigation under the program and partnered with 175 financial institutions to offer loans for home improvements.⁹

Over the life of the program, DFS anticipates it will award a total of 50,000 grants (10,000 grants awarded in Fiscal Year 2006-2007, 30,000 in Fiscal Year 2007-2008 and 10,000 in Fiscal Year 2008-2009). The total amount of grants awarded is estimated to be \$200 million.¹⁰

The bill provides that the Legislature intends the program to provide at least 35,000 grants before June 30, 2009. Accordingly, the Department may award less grants than currently estimated.

No-Interest Loans

The bill authorizes no-interest loans as part of the mitigation program. By December 31, 2007, the Department is directed to develop a program to provide no-interest loans to homeowners and manufactured homeowners for installation of mitigation measures. The bill allocates \$10 million of the \$250 million initially appropriated to the My Safe Florida Home Program for the no-interest loan program. The principal amount of the loan is limited to \$5,000 and the loan term is limited to three years. The Department will pay the market rate interest on the loan but cannot pay more than 18 percent per annum simple interest. Homeowners are only eligible for the loan if the homeowner has obtained a home inspection report specifying what mitigation measures need to be installed and if the homeowner meets the loan underwriting requirements set by the lender. The loan can only be used for installation of mitigation measures for the seven improvements the grant monies can be used for.

Non-Profit Organization Participation in Program

DFS has established a three-prong approach to delivering mitigation to homeowners under the My Safe Florida Home Program: direct service through DFS as described above, partnership with non-profit organizations, and partnership with local governments. To effectuate the second prong of the delivery approach, DFS has partnered with the Volunteer Florida Foundation and its non-profit partners. In this regard, DFS has allocated \$15 million of the \$250 million appropriated to the program to the Volunteer Florida Foundation.¹¹ The Volunteer Florida Foundation is to use this money to partner with other non-profit organizations to provide mitigation measures for primarily low-income Floridians. The Volunteer Florida Foundation anticipates it can serve up to 4,000 low-income homeowners over the next year in 12 different counties.¹² The bill specifies that the program can contract with non-profit organizations for

⁸ Id.

⁹ Id.

¹⁰ Id.

¹¹ Id.

¹² Id.

the grant part of the program even though the current statute allows the program to contract with such organizations for all or portions of the program. The bill requires the Department to transfer \$40 million from the \$250 million program appropriation to the Volunteer Florida Foundation. It also specifies 5 percent of the funds can be used by the Volunteer Florida Foundation for administrative costs. In return, the Volunteer Florida Foundation is required to provide inspections and grants to low-income homeowners with the funds and to report on its activities in the regard quarterly and annually.

Local Government Participation in Program

To effectuate the third prong of the delivery approach, DFS has partnered with local governments for two years. The DFS has allocated \$8 million of its \$250 million appropriation for its local government partnerships.¹³ Once a partnership with a local government is established, the local government is to use the DFS monies to provide mitigation measures for its local homeowners.

Education and Consumer Awareness Provided by the Program

Under current law, the program is required to provide public education and advertising to educate homeowners about mitigation techniques. The Department estimates it will spend \$3 million of the \$250 million appropriation to education and consumer awareness. The bill deletes the mandatory public education and advertising requirement, but allows the Department to perform an outreach and advertising campaign about hurricane inspections and hurricane mitigation.

Public Outreach For Contractors and Realtors

The bill creates a public outreach campaign for contractors and realtors to educate homeowners about mitigation. In this regard, the bill requires the program to develop brochures explaining the benefits of mitigation and to encourage distribution of such brochures by general contractors and roofers prior to new construction or repair construction on a home and by realtors prior to the purchase of a home.

Manufactured Housing and Mobile Home Mitigation and Enhancement Program

SB 1980 also created the Manufactured Housing and Mobile Home Mitigation and Enhancement Program (Manufactured Housing Mitigation Program) and appropriated \$7.5 million of the \$250 million for the My Safe Florida Home Program for this program. The Manufactured Housing Mitigation Program is designed to provide grants for mitigation for manufactured home communities and mobile home parks and is to be administered by the Tallahassee Community College. The program provides grants of \$3,500 per manufactured home for mitigation and requires the homeowner to match the \$3,500 provided under the program. Grant monies are used to install shutters; carport, shed, screen and sunroom reinforcements; and tie downs.¹⁴

As of March 13, 2007, the Manufactured Housing Mitigation Program had completed 1,500 inspections of manufactured homes and spent approximately \$3.5 million of the \$7.5 million appropriated.¹⁵ The bill increases the Manufactured Housing Program's appropriation from the My Safe Florida Home Program appropriation of \$250 million from \$7.5 million to \$22.5 million, thus providing \$15 million more for mitigation of manufactured homes.

Windstorm Mitigation Study Committee

HB 1A¹⁶, passed in the 2007 Special Session, created the Windstorm Mitigation Study Committee (Committee) and established its membership and duties. The Committee's charge was to analyze solutions and programs that addressed Florida's need for mitigation, especially for residential property

¹³ Id.

¹⁴ Information received from a representative of the Federation of Manufactured Home Owners of Florida, Inc. received on March 13, 2007 on file with the House Committee on Insurance.

¹⁵ Id.

¹⁶ Ch. 2007- 1, L.O.F.

that is located in areas at greatest risk of windstorm damage. Solutions and programs to be analyzed by the Committee included, but were 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 Committee met eleven times from February 8, 2007 to March 5, 2007.¹⁷ As required by statute, the Committee issued its report on March 6, 2007. The report identified recommendations in the areas listed above and contained recommendations specific to the My Safe Florida Home Program and to mitigation in general. Many of the Committee's recommendations are incorporated in the bill. The Committee expires on May 15, 2007.

Continuing Education for Contractors Regarding Mitigation

Chapter 489, F.S., requires all individuals who practice contracting in Florida must either be "registered" or "certified." "Registration" allows an individual to practice contracting only in the jurisdiction that issues that individual's local license. This registration is issued by the Department of Business and Professional Regulation (DBPR) upon proof of local licensure. Such proof consists of an occupational license issued by the local jurisdiction, and evidence of compliance with local licensing requirements, if local licensing requirements exist. Some local jurisdictions have rigorous standards for license issuance, such as experience and insurance requirements, and passage of an examination. Other local jurisdictions will issue a license for a nominal fee and have no experience or examination requirements.

The DBPR issues a "certificate" to those individuals who apply to the Construction Industry Licensing Board (CILB), show compliance with education and experience requirements, and pass a DBPR/CILB sanctioned and administered examination for a particular scope of practice. A certification allows an individual to practice their trade in any jurisdiction in the state.

For contractors who are either "registered" or "certified," s. 489.115 requires at least 14 hours of continuing education each biennium. Classes on workers' compensation, business practices, and workplace safety must be taken as part of the required continuing education. The DBPR determines how many of the 14 hours of continuing education must be taken on workers' compensation, business practices, and workplace safety. In addition to the continuing education classes on workers' compensation, business practices, and workplace safety required under current law, the bill requires individuals "registered" or "certified" under Chapter 489 to take continuing education classes in wind mitigation methodologies.

Florida Catastrophic Storm Risk Management Center of Excellence

¹⁷ Some meetings were held via conference call.

Florida has many ongoing and planned mitigation research initiatives, including the International Hurricane Research Center (IHRC), housed at Florida International University (FIU), which is the only Type I hurricane research center in the state. This research center receives \$700,000 annually through the Residential Construction Mitigation Program (RCMP).

FIU is also part of an interstate research consortium composed of the University of Florida (UF), Florida State University (FSU), Florida Atlantic University (FAU), Clemson University and Texas Tech, among others. Additionally, the Federal Alliance for Safe Homes (FLASH) and the Institute for Business and Home Safety (IBHS) partner with the universities on wind mitigation research. FIU has also conducted extensive behavioral and demographic research into hurricane response behavior, as well as issues related to mobile/manufactured homes and mitigation.

Research projects now in development include the "Wall of Wind", a full-scale testing concept in development at both FIU and UF. The Florida Coastal Monitoring Program at UF is funded in large part with RCMP funds. This project has installed instruments on 33 homes along the Florida coast to measure and gather data on the effects of hurricane winds to better evaluate and improve mitigation methods and techniques. RCMP funds were also used to conduct research for windstorm loss relativities to determine what level of discounts and credits on insurance premiums should be made available for specific home features and mitigation techniques.

The Windstorm Mitigation Study Committee concluded that it would be of great value to fund and establish a Florida Catastrophic Storm Risk Management Center of Excellence to coordinate research and grant development among higher education institutions and the private sector to maximize Florida's ability to prepare, respond, recover and mitigate.

The bill creates the Florida Catastrophic Storm Risk Management Center of Excellence. The center is housed at the Florida State University and its purpose is to promote and disseminate research on issues related to hurricane catastrophe loss and to assist in identifying and developing education/research grant funding opportunities among Florida's higher education institutions and the private sector.

The center shall:

(1) Coordinate and disseminate applied research efforts that are expected to have an immediate impact on policy and practices related to windstorm mitigation.

(2) Coordinate and disseminate information related to catastrophic storm risk management. This would include research and information that would benefit businesses, consumers, and public policy makers. Areas of interest may include storm forecasting, loss modeling, building construction and mitigation, and risk management strategies. Through its efforts, the Center will facilitate Florida's preparedness for and responsiveness to catastrophic storms.

(3) Create and promote studies that enhance the educational options available to risk management and insurance students.

(4) Publish and disseminate findings.

(5) To organize and sponsor conferences, symposia, and workshops to educate consumers and policymakers.

Funding for the Florida Catastrophic Storm Risk Management Center of Excellence

The Florida Hurricane Catastrophe Fund (FHCF, also known as the "Cat Fund"), is a tax-exempt state fund administered by the State Board of Administration (SBA). The FHCF reimburses insurers for a portion of their residential hurricane losses in exchange for a premium that is much lower than what

private reinsurers charge. This results in lower premiums to policyholders and enables a greater number of policies to be written. The FHCF helps stabilize the property insurance market, particularly after an active hurricane period, as Florida experienced in 2004 and 2005, that is followed by increased costs and lower availability of private reinsurance.

Section 215.555(7)(c), F.S., provides that the Legislature shall appropriate from the investment income of the Florida Hurricane Catastrophe Fund an amount no less than \$10 million and no more than 35 percent of the investment income to support programs intended to improve hurricane preparedness, reduce potential, provide research into means to reduce losses, educate or inform the public as to means to reduce hurricane losses, assist the public in determining the appropriateness of particular upgrades to structures or in the financing of such upgrades, or protect local infrastructure from potential damage from a hurricane.

Section 215.559, F.S., creates the Hurricane Loss Mitigation Program which includes programs to improve the wind resistance of residences and mobile homes; to inspect and improve tie-downs for mobile homes; and to retrofit existing facilities used as public hurricane shelters. The Legislature annually appropriates \$10 million of the moneys authorized for appropriation under s. 215.555(7)(c) to the Hurricane Loss Mitigation Program. The Hurricane Loss Mitigation Program and its funding will sunset June 30, 2011.

The bill provides that the legislature shall annually appropriate one million dollars from the moneys authorized for appropriation under section 215.555(7)(c) to the Florida Catastrophic Storm Risk Management Center of Excellence. This appropriation from the FHCF is intended to be in addition to the \$10 million per year appropriation which funds the Hurricane Loss Mitigation Program. The requirement that the legislature annually appropriate one million dollars for the center will sunset June 30, 2011; however, the center will not sunset.

C. SECTION DIRECTORY:

Section 1: Amends s. 215.5586, F.S., relating to the Florida Comprehensive Hurricane Damage Mitigation Program.

Section 2: Amends s. 215.559, F. S., relating to annual appropriations from the Florida Hurricane Catastrophe Fund.

Section 3: Creates s. 215.5597, F.S., creating the Florida Catastrophic Storm Risk Management Center of Excellence.

Section 4: Amends s. 489.115, F.S., relating to continuing education of registered or certified contractors.

Section 5: Amends sections 4, 39, and 42 of Ch. 2006-12, L.O.F., relating to an appropriation to the Florida Comprehensive Hurricane Damage Mitigation Program used for the Manufactured Housing and Mobile Home Mitigation and Enhancement Program and amending the name of the Florida Comprehensive Hurricane Damage Mitigation Program.

Section 6: Provides an effective date of July 1, 2007.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill expands the My Safe Florida Home Program to provide no-interest loans to assist homeowners in mitigating their homes.

D. FISCAL COMMENTS:

Section 4 of chapter 2006-12, Laws of Florida, appropriated \$250 million in nonrecurring general revenue to the Department of Financial Services to fund the My Safe Florida Home Program. The appropriation will not revert until June 30, 2009.

The bill does not provide any new funding for the My Safe Florida Home Program. The bill does specify that the program should transfer \$40 million to the Volunteer Florida Foundation and that \$10 million should be set aside for no-interest loans. Also the bill directs the program to increase the contract amount from \$7.5 million to \$22.5 million with Tallahassee Community College for the Manufactured Housing and Mobile Home Mitigation and Enhancement Program.

The bill provides that the legislature shall annually appropriate one million dollars from the moneys authorized for appropriation from the investment income of the FHCF to the Florida Catastrophic Storm Risk Management Center of Excellence. Until the legislature makes such appropriation by law, there is no fiscal impact on the FHCF.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The mandates provision does not apply because this bill does not: require counties or municipalities to spend funds or to take an action requiring the expenditure of funds; reduce the authority that municipalities or counties have to raise revenues in the aggregate; or reduce the percentage of a state tax shared with counties or municipalities.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The Department of Financial Services is required to adopt rules to implement the no-interest loan program for mitigation created in the bill.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

D. STATEMENT OF THE SPONSOR

None required as the bill was a proposed council bill.

IV. AMENDMENTS/COUNCIL SUBSTITUTE CHANGES

None.