

Amendment No.

CHAMBER ACTION

Senate

House

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1 Representative Aubuchon offered the following:

2
3 **Amendment (with title amendment)**

4 Remove lines 1862-1890 and insert:

5 Section 44. Section 627.711, Florida Statutes, is amended
6 to read:

7 627.711 Notice of premium discounts for hurricane loss
8 mitigation; uniform mitigation verification inspection form.—

9 (1) Using a form prescribed by the Office of Insurance
10 Regulation, the insurer shall clearly notify the applicant or
11 policyholder of any personal lines residential property
12 insurance policy, at the time of the issuance of the policy and
13 at each renewal, of the availability and the range of each
14 premium discount, credit, other rate differential, or reduction
15 in deductibles, and combinations of discounts, credits, rate
16 differentials, or reductions in deductibles, for properties on
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17 which fixtures or construction techniques demonstrated to reduce
18 the amount of loss in a windstorm can be or have been installed
19 or implemented. The prescribed form shall describe generally
20 what actions the policyholders may be able to take to reduce
21 their windstorm premium. The prescribed form and a list of such
22 ranges approved by the office for each insurer licensed in the
23 state and providing such discounts, credits, other rate
24 differentials, or reductions in deductibles for properties
25 described in this subsection shall be available for electronic
26 viewing and download from the Department of Financial Services'
27 or the Office of Insurance Regulation's Internet website. The
28 Financial Services Commission may adopt rules to implement this
29 subsection.

30 (2) (a) ~~By July 1, 2007,~~ The Financial Services Commission
31 shall develop by rule a uniform mitigation verification
32 inspection form that shall be used by all insurers when
33 submitted by policyholders for the purpose of factoring
34 discounts for wind insurance. In developing the form, the
35 commission shall seek input from insurance, construction, and
36 building code representatives. Further, the commission shall
37 provide guidance as to the length of time the inspection results
38 are valid. An insurer shall accept as valid a uniform mitigation
39 verification form ~~certified by the Department of Financial~~
40 ~~Services~~ or signed by the following authorized mitigation
41 inspectors:

42 1.(a) A home inspector licensed under s. 468.8314 who has
43 completed at least 3 hours of hurricane mitigation training
44 which includes hurricane mitigation techniques and compliance
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45 with the uniform mitigation verification form and completion of
46 a proficiency exam. Thereafter, home inspectors licensed under
47 s. 468.8314, must complete at least 2 hours of continuing
48 education, as part of the existing licensure renewal
49 requirements each year, related to mitigation inspection and the
50 uniform mitigation form ~~hurricane mitigation inspector certified~~
51 ~~by the My Safe Florida Home program;~~

52 2.(b) A building code inspector certified under s.
53 468.607;

54 3.(e) A general, building, or residential contractor
55 licensed under s. 489.111;

56 4.(d) A professional engineer licensed under s. 471.015
57 ~~who has passed the appropriate equivalency test of the building~~
58 ~~code training program as required by s. 553.841;~~

59 5.(e) A professional architect licensed under s. 481.213;
60 or

61 6.(f) Any other individual or entity recognized by the
62 insurer as possessing the necessary qualifications to properly
63 complete a uniform mitigation verification form.

64 (b) An insurer may, but is not required to, accept a form
65 from any other person possessing qualifications and experience
66 acceptable to the insurer.

67 (3) A person who is authorized to sign a mitigation
68 verification form must inspect the structures referenced by the
69 form personally, not through employees or other persons, and
70 must certify or attest to personal inspection of the structures
71 referenced by the form. However, licensees under s. 489.111, may
72 authorize a direct employee, who is not an independent

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73 contractor, and who possesses the requisite skill, knowledge and
74 experience to conduct a mitigation verification inspection.

75 Insurers shall have the right to request and obtain information
76 from the authorized mitigation inspector under s. 489.111,
77 regarding any authorized employee's qualifications prior to
78 accepting a mitigation verification form performed by an
79 employee that is not licensed under s. 489.111.

80 (4) An authorized mitigation inspector that signs a
81 uniform mitigation form, and a direct employee authorized to
82 conduct mitigation verification inspections under paragraph (3),
83 may not commit misconduct in performing hurricane mitigation
84 inspections or in completing a uniform mitigation form that
85 causes financial harm to a customer or their insurer; or that
86 jeopardizes a customer's health and safety. Misconduct occurs
87 when an authorized mitigation inspector signs a uniform
88 mitigation verification form that:

89 (a) Falsely indicates that he or she personally inspected
90 the structures referenced by the form;

91 (b) Falsely indicates the existence of a feature which
92 entitles an insured to a mitigation discount which the inspector
93 knows does not exist or did not personally inspect;

94 (c) Contains erroneous information due to the gross
95 negligence of the inspector; or

96 (d) Contains a pattern of demonstrably false information
97 regarding the existence of mitigation features that could give
98 an insured a false evaluation of the ability of the structure to
99 withstand major damage from a hurricane endangering the safety
100 of the insured's life and property.

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101 (5) The licensing board of an authorized mitigation
102 inspector that violates subsection (4) may commence disciplinary
103 proceedings and impose administrative fines and other sanctions
104 authorized under the authorized mitigation inspector's licensing
105 act. Authorized mitigation inspectors licensed under s. 489.111,
106 shall be directly liable for the acts of employees that violate
107 subsection (4) as if the authorized mitigation inspector
108 personally performed the inspection.

109 (6) An insurer, person, or other entity that obtains
110 evidence of fraud or evidence that an authorized mitigation
111 inspector or an employee authorized to conduct mitigation
112 verification inspections under paragraph (3), has made false
113 statements in the completion of a mitigation inspection form
114 shall file a report with the Division of Insurance Fraud, along
115 with all of the evidence in its possession that supports the
116 allegation of fraud or falsity. An insurer, person, or other
117 entity making the report shall be immune from liability in
118 accordance with s. 626.989(4), for any statements made in the
119 report, during the investigation, or in connection with the
120 report. The Division of Insurance Fraud shall issue an
121 investigative report if it finds that probable cause exists to
122 believe that the authorized mitigation inspector, or an employee
123 authorized to conduct mitigation verification inspections under
124 paragraph (3), made intentionally false or fraudulent statements
125 in the inspection form. Upon conclusion of the investigation and
126 a finding of probable cause that a violation has occurred, the
127 Division of Insurance Fraud shall send a copy of the
128 investigative report to the office and a copy to the agency

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129 responsible for the professional licensure of the authorized
130 mitigation inspector, whether or not a prosecutor takes action
131 based upon the report.

132 (7)(3) An individual or entity who knowingly provides or
133 utters a false or fraudulent mitigation verification form with
134 the intent to obtain or receive a discount on an insurance
135 premium to which the individual or entity is not entitled
136 commits a misdemeanor of the first degree, punishable as
137 provided in s. 775.082 or s. 775.083.

138 (8) At its expense, the insurer may require that any
139 uniform mitigation verification form provided by an authorized
140 mitigation inspector or inspection company be independently
141 verified by an inspector, inspection company or an independent
142 third-party quality assurance provider which does possess a
143 quality assurance program prior to accepting the uniform
144 mitigation verification form as valid.

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148 **T I T L E A M E N D M E N T**

149 Remove line 185 and insert:

150 purposes; authorizing insurers to accept forms from certain
151 other persons; providing requirements for persons authorized to
152 sign mitigation forms; prohibiting misconduct in performing
153 hurricane mitigation inspection or completing uniform mitigation
154 forms causing certain harm; specifying what constitutes
155 misconduct; authorizing certain licensing boards to commence
156 disciplinary proceedings and impose administrative fines and
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157 sanctions; providing for liability of mitigation inspectors;
158 requiring certain entities to file reports of evidence of fraud;
159 providing for immunity from liability for reporting fraud;
160 providing for investigative reports from the Division of
161 Insurance Fraud; providing penalties; authorizing insurers to
162 require independent verification of uniform mitigation
163 verification forms; amending s. 633.021, F.S.; providing
164 additional