

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 7181 PCB INBS 11-01 Repeal of the Correlation of Mitigation Discounts, Credits, or Other Rate Differentials to the Uniform Home Grading Scale

SPONSOR(S): Insurance & Banking Subcommittee, Nelson

TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
Orig. Comm.: Insurance & Banking Subcommittee	10 Y, 1 N	Callaway	Cooper
1) Economic Affairs Committee	16 Y, 1 N	Callaway	Tinker

SUMMARY ANALYSIS

Since 2003, insurers have been required to provide mitigation credits, discounts, other rate differentials, or reductions in deductibles (mitigation discounts) to reduce residential property insurance premiums for properties with mitigation features. In 2003, the Office of Insurance Regulation (OIR) computed suggested mitigation discount amounts to apply to each mitigation feature installed on the property.

Section 627.711, F.S., requires insurers to clearly notify an applicant for 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. Typically, policyholders are responsible for substantiating to their insurers that the insured property has mitigation features by submitting a completed uniform mitigation verification inspection form to the insurer.

Section 215.55865, F.S., enacted in 2007, required the Financial Services Commission to adopt a uniform home grading scale consistent with the rating system required by legislation enacted in 2006. The 2006 legislation required the OIR to develop a program to provide an objective rating system allowing homeowners to evaluate the relative ability of Florida properties to withstand the wind load from a sustained severe tropical storm or hurricane. In response to the 2006 legislation, the OIR created a Home Structure Rating System Advisory Board (advisory board) comprised of various stakeholders. This advisory board recommended a home structure rating system to the OIR on March 30, 2007. In November 2007, the Financial Services Commission adopted the home structure rating system recommended by the advisory board as the uniform home rating scale required by s. 215.55865, F.S. The uniform home rating scale adopted by the Financial Services Commission is an objective system rating a homes' ability to withstand wind load from a tropical storm or hurricane and scores homes on a scale of 1 to 100.

In 2008, the Legislature required use of the home grading scale in sales of homes located in the state's wind borne debris region. The legislation required sellers of homes located in this region to disclose the home's windstorm mitigation rating based on the home grading scale to buyers. The legislation established a two-part phase in for this disclosure requirement. However, the entire disclosure requirement was subsequently repealed and current law does not require use of the home grading scale in real estate transactions.

Section 627.0629(1)(b), F.S., also enacted in 2008, required the OIR to develop, by February 1, 2011, a method for correlating the numerical rating of a structure issued pursuant to the uniform home rating scale with mitigation discount amounts. This statute also requires the Financial Services Commission (FSC) to adopt rules by October 1, 2011 that require insurers to make rate filings for residential property insurance correlating the mitigation discount amounts to the home grading scale. The bill repeals the requirement that the OIR develop the method for correlating mitigation discounts to a home's rating, the requirement that the FSC adopt rules requiring rate filings to correlate mitigation discounts to a home's rating, and the requirement that the mitigation discounts correlated to the home grading scale supersede other mitigation discounts.

The bill has no fiscal impact on state or local governments or the private sector.

The bill is effective on July 1, 2011.

This document does not reflect the intent or official position of the bill sponsor or House of Representatives.

STORAGE NAME: h7181a.EAC

DATE: 4/1/2011

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Mitigation Discounts

Since 2003, insurers have been required to provide mitigation credits, discounts, other rate differentials, or reductions in deductibles (mitigation discounts) to reduce residential property insurance premiums for properties with mitigation features.¹ In 2003, the Office of Insurance Regulation (OIR) computed suggested mitigation discount amounts to apply to each mitigation feature installed on the property. Insurers must use the discount amounts computed by the OIR unless the insurer provides detailed alternate studies supporting modification of the discount amounts suggested by the OIR.²

Mitigation discounts were initially given at 50 percent of the actuarial value of the discount.³ In 2006, the Legislature amended the mitigation discount law (s. 627.0629(1)(a), F.S.) to require the OIR to reevaluate the mitigation discounts and require insurers to give full actuarial value for them.⁴ Thus, the OIR amended the mitigation discount administrative rule⁵ to require insurers to provide mitigation discount amounts equal to 100 percent of the mitigation discount amount.⁶ In 2008, the OIR obtained a new study to evaluate the appropriate mitigation discount amounts, however, the OIR has not changed the mitigation discount amounts due to the results of the 2008 study.

Section 627.711, F.S., requires insurers to clearly notify an applicant for 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 renewed.

Typically, policyholders are responsible for substantiating to their insurers the insured property has mitigation features. Policyholders submit a completed uniform mitigation verification inspection form to the insurer to substantiate mitigation features.

The Uniform Home Grading Scale

Section 215.55865, F.S., enacted in 2007,⁷ required the Financial Services Commission to adopt a uniform home grading scale consistent with the rating system required by legislation enacted in 2006.⁸ The 2006 legislation required the OIR to develop a program to provide an objective rating system allowing homeowners to evaluate the relative ability of Florida properties to withstand the wind load from a sustained severe tropical storm or hurricane. In response to the 2006 legislation, the OIR created a Home Structure Rating System Advisory Board (advisory board) comprised of various stakeholders representing the construction industry, the insurance industry, the home safety industry, academia, and state agencies with regulatory authority over insurance and building codes. This advisory board recommended a home structure rating system to the OIR on March 30, 2007. In November 2007, the Financial Services Commission⁹ adopted the home structure rating system recommended by the advisory board as the uniform home rating scale required by s. 215.55865, F.S.¹⁰

¹ s. 627.0629(1)(a), F.S. Mitigation features are construction techniques used or items purchased and installed by a property owner to protect a structure against windstorm damage and loss. (e.g., hurricane shutters, hip roof, specified roof covering).

² Rule 69O-170.017, F.A.C.

³ In an Informational Memorandum issued on January 23, 2003, the OIR notified insurance companies of its suggested mitigation credits for new and existing construction based on its analysis of the 2002 study completed by Applied Research Associates. However, the OIR tempered the mitigation credits derived from the study by 50 percent. As stated by the OIR in the memorandum, the 50 percent tempering of the credits was due to the large rate decreases that could result from application of the credits, the approximations needed to produce practical results, and the potential for differences in results using different hurricane models. The OIR cautioned in the memorandum that the tempering implemented would be curtailed in the future.

⁴ Section 14, Ch. 2006-12, L.O.F.

⁵ Rule 69O-170.017, F.A.C.

⁶ The rule allowed insurance companies to modify the mitigation discounts if the insurer provided detailed alternate studies supporting the modification and allowed the OIR to review all assumptions used in the studies supporting the modification.

⁷ Section 40, Ch. 2007-1, L.O.F.

⁸ Section 39, Ch. 2006-12, L.O.F.

⁹ The Financial Services Commission is comprised of the Governor and Cabinet (s. 20.121(3), F.S.).

¹⁰ Rule 69O-167.015, F.A.C.

The uniform home rating scale adopted by the Financial Services Commission is an objective rating system rating a homes' ability to withstand wind load from a tropical storm or hurricane and scores homes on a scale of 1 to 100.

In 2008, the Legislature required use of the home grading scale in sales of homes located in the state's wind borne debris region. The 2008 legislation required sellers of homes located in this region to disclose the home's windstorm mitigation rating based on the home grading scale to buyers. The legislation established a two-part phase in for this disclosure requirement.¹¹ However, the entire disclosure requirement was subsequently repealed and current law does not require use of the home grading scale in real estate transactions.¹²

The Correlation of Mitigation Discounts to the Home Grading Scale

Section 627.0629(1)(b), F.S., also enacted in 2008,¹³ required the OIR to develop, by February 1, 2011, a method for correlating the numerical rating of a structure issued pursuant to the uniform home rating scale with mitigation discount amounts. This statute also requires the Financial Services Commission to adopt rules by October 1, 2011 that require insurers to make rate filings for residential property insurance correlating the mitigation discount amounts to the home grading scale. Content for these rules is also contained in s. 627.0629(1)(b), F.S. In addition, current law requires the mitigation discounts correlated with the home grading scale supersede all other mitigation discounts.

The bill repeals the requirement that the OIR develop the method for correlating mitigation discounts to a home's rating, the requirement that the Financial Services Commission adopt rules requiring rate filings to correlate mitigation discounts to a home's rating, and the requirement that the mitigation discounts correlated to the home grading scale supersede other mitigation discounts.

B. SECTION DIRECTORY:

Section 1: Repeals s. 627.0629(1)(b), F.S., relating to the correlation of mitigation discounts to the home grading scale.

Section 2: Provides an effective date of July 1, 2011.

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.

¹¹ s. 627.351(6)(a)5., F.S. (changes made by Ch. 2009-87, L.O.F. now repealed); s. 689.262, F.S. (complete statute now repealed)

¹² Section 13, Ch. 2008-66, L.O.F., created the first part of the phase-in of disclosure that was to begin January 2010, and section 15 created s. 689.262 F.S., the second part of the phase-in of disclosure that was to begin January 2011. The first part of the phase-in, that was to begin January 2010, would have required sellers of homes located in the wind borne debris region and 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. (See Ch. 2009-87, L.O.F.) The second part of the phase-in, that was to begin January 2011, would have required sellers of *any* home in the windborne debris region to disclose the home's rating. However, in 2010, before it took effect, this disclosure was repealed. (See Ch. 2010- 275, L.O.F.)

¹³ Section 12, Ch. 2008-66, L.O.F., creating s. 627.0629(1)(b), F.S.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

Repeal of the correlation of mitigation discounts to the uniform home grading scale will not affect the amount of discounts homeowners receive for mitigation features. The discount amounts are not changed by the bill and homeowners will continue to receive mitigation discounts available under current law.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. This bill does not appear to: require counties or municipalities to spend funds or take an action requiring the expenditure of funds; reduce the authority that counties or municipalities 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 bill repeals current law requiring the Financial Services Commission to adopt rules requiring insurers to make rate filings to correlate mitigation discounts to the home grading scale by October 1, 2011. The rulemaking is repealed because the substantive law requiring the correlation of mitigation discounts to the home grading scale is repealed.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES