

**HOUSE OF REPRESENTATIVES STAFF ANALYSIS**

**BILL #:** PCB JEC 08-13 Mitigation Enhancement  
**SPONSOR(S):** Jobs & Entrepreneurship Council  
**TIED BILLS:** **IDEN./SIM. BILLS:**

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REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
Orig. Comm.: Jobs & Entrepreneurship Council	13 Y, 0 N	Overton/Topp	Thorn
1) _____	_____	_____	_____
2) _____	_____	_____	_____
3) _____	_____	_____	_____
4) _____	_____	_____	_____
5) _____	_____	_____	_____

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**SUMMARY ANALYSIS**

The bill makes several changes to the My Safe Florida Home (MSFH) program administered by the Department of Financial Services (DFS) that provides hurricane mitigation inspections and grants for specified improvements. The bill requires that to qualify for selection by the DFS as a wind certification entity to provide hurricane mitigation inspections, an entity must use mitigation inspectors who are certified or licensed building inspectors, general or residential contractors, professional engineers or architects, or individuals who have at least two years prior experience in residential building inspection or residential construction and have received specialized training in hurricane mitigation procedures.

The legislation requires DFS to adopt a quality assurance program that includes a statistically valid number of reinspections. It also allows DFS to verify that mitigation improvements have been made to all openings, including exterior doors and garage doors, prior to issuing a reimbursement grant check to the homeowner. The bill further allows DFS to contract with third parties for the provision of information technology and contractor services for low-income homeowners, which shall be considered direct program costs, rather than administrative costs for purposes of administrative cost limitations. The bill provides that DFS must develop the No-Interest Loan Program in the HSFH program by August 31, 2008. The bill allows DFS to contract with additional not-for-profit entities or local governments to provide inspections and grants to low-income homeowners or to provide the services itself.

The bill mandates that insurers accept as valid a uniform mitigation verification form signed by an approved MSFH inspector, certified or licensed building inspectors, general or residential contractors, professional engineers or architects so that homeowners can access insurance discounts or credits for which they are eligible. Additionally insurers must accept as valid a uniform mitigation verification form certified by DFS.

The bill provides that residential property insurers must take into account in their rate making county ordinances and local amendments to the Florida Building Code that effectuate mitigation measures for the reduction or elimination of geologic hazards such as sinkholes.

# FULL ANALYSIS

## I. SUBSTANTIVE ANALYSIS

### A. HOUSE PRINCIPLES ANALYSIS:

### B. EFFECT OF PROPOSED CHANGES:

#### **The Florida My Safe Florida Home Program**

In 2006, the Legislature 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.<sup>1</sup> The program is now called "My Safe Florida Home (MSFH program)"<sup>2</sup> and is administered by the Department of Financial Services (DFS). The intent of the program is to:

- Provide free home inspections for a least 400,000 site-built, single-family, residential properties; and
- Provide grants to as least 35,000 applicants before June 30, 2009.<sup>3</sup>

To accomplish these goals, the MSFH program processes applications for free home inspections and awards grants to interested homeowners who have received an inspection. The program also helps train and develops a mitigation workforce (inspectors and contractors) and provides education and consumer awareness programs.

#### **Inspections**

The MSFH program provides free home-retrofit inspections of site-built, single family, residential properties which are offered throughout the state. These inspections determine what mitigation measures are needed, what insurance premium discounts may be available and what improvements to existing properties are needed to reduce the property's vulnerability to hurricane damage. The DFS must contract with wind certification entities to provide the hurricane mitigation inspections.

After a home is inspected, inspectors generate a report that summarizes the results and identifies recommended improvements a homeowner may take to mitigate hurricane damage. The report also provides a range of cost estimates regarding recommended mitigation improvements; insurer-specific information regarding premium discounts correlated to the current mitigation features and recommended improvements; and a hurricane-resistance rating scale specifying the home's current and projected wind resistance.<sup>4</sup>

To qualify for selection by DFS as a wind certification entity that provides hurricane mitigation inspections, the entity must use hurricane mitigation inspectors who have prior experience in residential construction or inspection and have received training in mitigation procedures. These inspectors must have undergone drug testing, criminal background checks and be certified to conduct inspections. As required by rules adopted by DFS, the inspectors must also complete a 6-hour course and pass a 1-hour exam.

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<sup>1</sup>Chapter 2006-12, L.O.F. (CS/CS/SB 1980; s. 215.5586, F.S.) The unused funds appropriated to the program revert back to the state on June 30, 2009.

<sup>2</sup> The Program began operation on August 15, 2006.

<sup>3</sup> These goals were established in legislation enacted in 2007. (Chapter 2007-126, L.O.F.)

<sup>4</sup> Chapter 2007-1, L.O.F., directed the Financial Services Commission to adopt a uniform home grading scale to grade the ability of a home to withstand the wind load from a sustained severe tropical storm or hurricane. The FSC adopted the home grading scale and worked in collaboration with the Office of Insurance Regulation, Department of Financial Services and Department of Community Affairs. It was effective on November 1, 2007. (Rule 69O-167.015, Fla. Administrative Code).

As of February 28, 2008, the MSFH program has processed over 202,938 inspection applications; completed over 167,051 free home inspections in 67 counties; and trained, background checked, and drug tested, as of January 31, 2008, approximately 2,116 hurricane mitigation inspectors.

The MSFH program estimates it will complete 187,000 inspections in Fiscal Year 2007-2008 at a cost of \$28 million and it anticipates completing another 179,000 inspections in Fiscal Year 2008-2009 at a cost of \$25 million. Over the life of the program, this will result in 400,000 inspections being completed at a cost of \$61.3 million, with an average cost of \$145 per inspection.

### **Mitigation Grants**

Financial mitigation grants are used to encourage single-family, site-built, owner-occupied, residential property owners to retrofit their properties to make them less vulnerable to hurricane damage. To be eligible for a matching grant of up to \$5,000 for persons who have obtained a completed inspection after May 1, 2007, a residential property must:

- Have a homestead exemption under chapter 196, F.S.;
- Be a dwelling with an insured value of \$300,000 or less; homeowners who are low-income persons, as defined in s. 420.0004(10), F.S., are exempt from this requirement;
- Have undergone a hurricane mitigation inspection;
- Be located in the wind-borne debris region as defined in s. 1609.2, International Building Code (2006);<sup>5</sup> and
- Be a home for which the building permit application for initial construction was made before March 1, 2002.

Grant applications must contain a signed statement made under penalty of perjury that the applicant has submitted only a single application. Documents which demonstrate compliance with the above criteria must be attached. The MSFH program allows homeowners to select licensed contractors from a list of participating contractors. Mitigation must be based on securing required permits and inspections and must be performed by properly licensed contractors. Hurricane mitigation inspectors qualifying for the MSFH program may also participate as mitigation contractors. Matching fund grants must also be available to local governments and nonprofit entities for mitigation projects.

When recommended by a hurricane mitigation inspection, grants may only be used for opening protections; exterior doors, including garage doors and brace gable ends. The DFS may require that improvements be made to all openings, including exterior doors and garage doors, as a condition of approving a grant application if DFS determines that improvements to less than all openings would not improve the structure's ability to withstand hurricane damage. Grants may also be used on previously inspected existing structures or a rebuild home, however, the homeowner must be a low-income homeowner, must have a homestead exemption for that home prior to the hurricane, and must intend to rebuild the home as that homeowner's homestead. Further, low-income homeowners, as defined in s. 420.0004(10), F.S., are eligible for a grant of up to \$5,000 and are not required to provide a matching amount to receive the grant.

The DFS must establish objective, reasonable criteria for prioritizing grant applications and may have hurricane mitigation inspectors collect and verify grant application information to determine grant eligibility. The DFS is also authorized to undertake public outreach and advertising to inform consumers of the benefits of hurricane inspections. Further, the DFS is allowed to contract with third parties for such things as grant management, inspection services, educational outreach and auditing services.

As of February 28, 2008, the MSFH program has received 28,038 completed grant applications and awarded 26,233 grants for hurricane mitigation. In addition, it has signed up 3,321 contractors to perform mitigation under the program. Over the life of the program, MSFH program anticipates it will award a total of 35,000 grants. The total amount of grants awarded is estimated to be \$146 million. It is

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<sup>5</sup> The "wind-borne debris" region is where the Florida Building Code requires new homes to have opening protections (shutters, etc.) and is where sustained winds of 120 mph or greater are likely to occur.

projected that the total 35,000 grants will be approved by May of 2008, after which no further grant money will be available except for funds approved for grant recipients who do not complete their mitigation construction within the required one-year time limit.

### **No-Interest Loans**

DFS was directed to develop a program to provide no-interest loans to homeowners and manufactured homeowners for installation of mitigation measures by December 31, 2007. Ten million dollars of the \$250 million initially appropriated to the My Safe Florida Home Program was allocated to 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. DFS is directed to 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 mitigation measures.

DFS has not yet developed the No-Interest Loan program; however, it has developed an action plan for issuing a request for proposal for contracting with private companies to begin the program by September 2008.

### **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, partnership with non-profit organizations, and partnership with local governments. To effectuate the second prong of the delivery approach, DFS has been directed to transfer \$40 million from the \$250 million program appropriation to the Volunteer Florida Foundation. 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.

### **Proposed Changes to the MSFH Program**

The bill provides that to qualify for selection by the DFS as a wind certification entity to provide hurricane mitigation inspections, an entity must use hurricane mitigation inspectors who are:

- Certified as building inspectors under s. 468.607, F.S.<sup>6</sup>;
- Licensed as a general or residential contractor under s. 489.111, F.S.<sup>7</sup>;
- Licensed as a professional engineer under s. 471.015, F.S.<sup>8</sup> and who have passed the appropriate equivalency test of the Building Code Training Program required by s. 553.841, F.S.,
- Licensed as a professional architect under s. 481.213, F.S.<sup>9</sup> or,
- Persons who have at least two years of prior experience in either residential construction or residential building inspection and have received specialized training in hurricane mitigation procedures.

According to DFS officials, establishing minimum standards for inspectors who perform hurricane mitigation inspections will help improve the quality and accuracy of the inspections performed. Additionally, a recent quality assurance review completed by DFS confirmed that licensed professionals with residential construction or inspection experience had fewer reporting errors.

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<sup>6</sup> The Florida Building Code Administrators and Inspectors Board certifies building inspectors after such individuals have completed requisite classroom work and met other eligibility requirements under Part XII of ch. 468, F.S.

<sup>7</sup> General and residential contractors are required to have extensive experience and meet specified education and other requirements prior to licensure by the Department of Business and Professional Regulation.

<sup>8</sup> The Florida Engineers Management Corp. issues licenses to individuals who the Board of Professional Engineers certifies as qualified to practice engineering and who have passed fundamentals examination and the principles and practice examination. The Board certifies for licensure individuals who satisfy examination and education requirements or hold valid engineering licenses issued by other states, subject to specified criteria.

<sup>9</sup> The Department of Business and Professional Regulation issues licenses to individuals who have been certified as qualified by the Board of Architecture and Interior Design and who have completed educational and other specified requirements.

The bill also requires the DFS to implement a quality assurance program that includes a statistically valid number of reinspections. The DFS has already implemented such a program. The bill will make it clear that DFS may conduct reinspections to allow DFS to properly oversee and monitor the quality of inspections and identify additional training needs for inspectors. According to DFS officials, properly completed inspections are the key to the MSFH program and that function can not be compromised. A statistically valid number of reinspections will be determined by DFS based on the volume of inspections conducted and the performance rate of inspectors.

The bill provides that DFS, as a condition of 'reimbursing a homeowner,' may require that improvements be made to all openings, including exterior doors and garage doors. The effect of this provision allows DFS officials to verify that improvements were made to all openings prior to issuing a reimbursement check to the homeowner. This provision reflects the current practice by the agency to not reimburse a homeowner until improvements are made to all openings.

The legislation expands the areas that allow DFS to contract with third parties, by allowing the agency to contract for "contractor services for low-income homeowners and information technology." These services would be added to the services for which costs are considered direct costs of the program and are not subject to administrative costs limit, which are one percent (\$2.5 million) of the amount originally appropriated (\$250 million) for the program in 2006.<sup>10</sup> Currently, According to DFS representatives, many low-income homeowners who have been approved for a grant are unable to pay a deposit up front to contractors to do mitigation improvements. The DFS would like to competitively bid for contractor services to assist low-income homeowners in strengthening their homes by paying contractors directly to do mitigation work. This provision will allow the MSFH program to accomplish this service. Regarding information technology, due to the limited number of full-time positions funded for the MSFH program (10 FTE), the DFS has had to hire Information Technology (IT) services to meet customer demands, improve service delivery and properly collect data for all program areas. See Government Sector Impact, below, for further detail.

The bill repeals the provision that directs DFS to transfer to the Volunteer Florida Foundation all of the \$40 million reserved for contracting for or directly providing inspections and grants to low-income homeowners. This will allow DFS flexibility to use the funds for direct service, partnership with the Volunteer Florida Foundation or other non-profit organizations, and partnership with local governments.

The bill provides that DFS shall develop the no-interest loan program by August 31, 2008.

### **Uniform Mitigation Verification Inspection Forms**

Section 627.711, F. S., directs the Financial Services Commission shall develop by rule a uniform mitigation verification inspection form to be used by all insurers when factoring discounts for wind insurance.

The bill requires an insurer to accept as valid a uniform mitigation verification form signed by an approved MSFH wind inspector or certified by the DFS. This language is necessary because it aids homeowners in obtaining insurance premium discounts or credits for which they are entitled based on the inspection performed by trained and certified wind inspectors with the MSFH program. This provision also codifies the current practice of the MSFH program in coordination with insurance companies.

Additionally the bill provides that an insurer must accept as valid a uniform mitigation verification form if it is signed by:

- a certified building inspector under s. 468.607;
- a licensed general or residential contractor under s. 489.111;
- a licensed professional engineer under s. 471.015 and who have passed the appropriate equivalency test of the Building Code Training Program as required by s. 553.841; or

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<sup>10</sup> Ch. 2006-12, L.O.F.

- a licensed professional architect under s. 481.213.

### **Sink Holes and Insurance Rate Standards**

In some areas of the state, sinkhole costs have grown at an exponential rate in recent years particularly the Tampa Bay area (Hernando, Hillsborough, Pasco, and Pinellas counties). As a result of these increased costs, some of these local governments have adopted county ordinances and local amendments to the Florida Building Code that effectuate mitigation measures for the reduction or elimination of geologic hazards such as sinkholes. For example, Pasco County has a Geologic Hazards Ordinance that would require engineering geological reports, including maps, evaluations and recommendations, be submitted to the County prior to development approval. Additionally, the ordinance creates building permit application requirements mandating the removal and/or recompaction of materials likely to cause settlement and cracking or in the alternative a proper foundation designed for use with compressible/collapsible materials.

The bill provides that insurers residential property insurers must take into account in their rate making county ordinances and local amendments to the Florida Building Code that effectuate mitigation measures for the reduction or elimination of geologic hazards such as sinkholes.

#### **C. SECTION DIRECTORY:**

Section 1 amends s. 215.5586, F.S., relating to the My Safe Florida Home Program.

Section 2 amends s. 627.062, F.S., relating to insurance rate standards.

Section 3 amends s. 627.711, F.S., relating to the uniform mitigation verification inspection form.

Section 4 provides an effective date of July 1, 2008.

## **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:**

Licensed contractors, architects, engineers, certified building inspectors or persons who have had at least two years experience in residential construction or residential building inspections may benefit by the revised criteria for program inspectors. Conversely, certified inspectors who do not meet these criteria will no longer be eligible for payment from the program. Homeowners and insurers are expected to benefit by providing greater assurance that the inspection accurately reflects the current mitigation

features in order to obtain the correct premium discount and provides the appropriate recommendations for improvements.

**D. FISCAL COMMENTS:**

The amount of \$250 million was appropriated for the MSFH program in 2006 with a cap on administrative expenses of one percent (\$2.5 million). As of February 28, 2008, the administrative expenses for the program totaled \$1,410,618. The large expenses for the program include the following: \$428,430 for information technology services; \$698,301 for temporary personnel; \$110,213 for data entry and document scanning; and \$173,674 for postage and shipping. DFS is concerned that anticipated IT costs may exceed the one percent cap for administrative expenses. By specifying that IT services are considered direct program costs, they would not be considered administrative costs under the one percent cap.

**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:**

None.

**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**