

## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** HB 943 Pub. Rec./My Safe Florida Home Program

**SPONSOR(S):** LaMarca

**TIED BILLS:** IDEN./SIM. BILLS: SB 988

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Insurance & Banking Subcommittee		Fortenberry	Lloyd
2) Ethics, Elections & Open Government Subcommittee			
3) Commerce Committee			

### SUMMARY ANALYSIS

In 2006, the Legislature created the My Safe Florida Home Program (MSFH Program) within the Department of Financial Services (DFS), with the intent that the MSFH Program provide licensed inspectors to perform inspections for owners of site-built, single-family, residential properties and grants to eligible applicants, subject to the availability of funds.

Under the MSFH Program, licensed inspectors must provide home inspections of site-built, single-family, residential properties for which a homestead exemption has been granted, to determine what mitigation measures are needed, what insurance premium discounts may be available, and what improvements to existing residential properties are needed to reduce the property's vulnerability to hurricane damage. The inspections provided to homeowners under the MSFH Program must include, at a minimum, certain information. Further, the inspection reports provide detailed information to the MSFH Program regarding the applicant's home.

Similarly, financial grants under the MSFH Program are intended to encourage single-family, site-built, owner-occupied, residential property owners to retrofit their properties to make them less vulnerable to hurricane damage. For a homeowner to be eligible for a grant, the following criteria must be met:

- The homeowner must have been granted a homestead exemption on the home;
- The home must be a dwelling with an insured value of \$700,000 or less;
- The home must undergo an acceptable hurricane mitigation inspection under the MSFH Program;
- The building permit application for initial construction of the home must have been made before January 1, 2008; and
- The homeowner must agree to make his or her home available for inspection once a mitigation project is completed.

The bill creates a public records exemption for information contained in applications and inspection reports submitted under the MSFH Program, regardless of the date that such applications and reports were submitted.

The bill provides for repeal of the exemption on October 2, 2029, unless reviewed and saved from repeal by the Legislature. It also provides a public necessity statement as required by the Florida Constitution.

The bill may have an indeterminate negative fiscal impact on state government expenditures, no fiscal impact on state government revenues, no fiscal impact on local government revenues or expenditures, and an indeterminate positive fiscal impact on the private sector.

The bill provides an effective date of upon becoming a law.

**Article I, s. 24(c) of the Florida Constitution requires a two-thirds vote of the members present and voting for final passage of a newly created public record or public meeting exemption. The bill creates a public record exemption; thus, it requires a two-thirds vote for final passage.**

# FULL ANALYSIS

## I. SUBSTANTIVE ANALYSIS

### A. EFFECT OF PROPOSED CHANGES:

#### Background

##### My Safe Florida Home Program

In 2006, the Legislature created the My Safe Florida Home Program (MSFH Program) within the Department of Financial Services (DFS), with the intent that the MSFH Program provide licensed inspectors to perform inspections for owners of site-built, single-family, residential properties and grants to eligible applicants, subject to the availability of funds.<sup>1</sup> Under the MSFH Program, DFS must develop and implement a comprehensive and coordinated approach for hurricane damage mitigation that may include hurricane mitigation inspections,<sup>2</sup> mitigation grants,<sup>3</sup> and education, consumer awareness, and outreach.<sup>4</sup>

##### HURRICANE MITIGATION INSPECTIONS

Under the MSFH Program, licensed inspectors must provide home inspections of site-built, single-family, residential properties for which a homestead exemption has been granted, to determine:

- What mitigation measures are needed,
- What insurance premium discounts may be available, and
- What improvements to existing residential properties are needed to reduce the property's vulnerability to hurricane damage.<sup>5</sup>

DFS must also contract with wind certification entities to provide hurricane mitigation inspections. To qualify for selection by DFS as a wind certification entity to provide hurricane mitigation inspections, the entity must meet certain requirements.<sup>6</sup> The inspections provided to homeowners by such entities, at a minimum, must include:

- A home inspection and report that summarizes the results and identifies recommended improvements a homeowner may take to mitigate hurricane damage;
- A range of cost estimates regarding the recommended mitigation improvements; and
- Information regarding estimated premium discounts, which are correlated to the current mitigation features and the recommended mitigation improvements identified by the inspection.<sup>7</sup>

The inspection report provides information to the MSFH Program regarding the applicant's home, such as detailed descriptions of the premises, pictures of the interior and exterior of the structure, including private areas, entry points, and possible vulnerabilities to its security.

An application for an inspection must contain a signed or electronically verified statement, made under penalty of perjury, that the applicant has submitted only a single application for that home.<sup>8</sup>

##### MITIGATION GRANTS

Financial grants under the MSFH Program are intended to encourage single-family, site-built, owner-occupied, residential property owners to retrofit their properties to make them less vulnerable to hurricane damage.<sup>9</sup>

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<sup>1</sup> S. 215.5586, F.S.

<sup>2</sup> See S. 215.5586(1), F.S.

<sup>3</sup> See s. 215.5586(2), F.S.

<sup>4</sup> See s. 215.5586(3), F.S.

<sup>5</sup> S. 215.5586(2)(a), F.S.

<sup>6</sup> See s. 215.5586(2)(c), F.S.

<sup>7</sup> S. 215.5586(2)(b), F.S.

<sup>8</sup> S. 215.5586(2)(d), F.S.

For a homeowner to be eligible for a grant, the following criteria must be met:

- The homeowner must have been granted a homestead exemption on the home under ch. 196, F.S.;<sup>10</sup>
- The home must be a dwelling with an insured value of \$700,000 or less;<sup>11</sup>
- The home must undergo an acceptable hurricane mitigation inspection under the MSFH Program;
- The building permit application for initial construction of the home must have been made before January 1, 2008; and
- The homeowner must agree to make his or her home available for inspection once a mitigation project is completed.<sup>12</sup>

An application for a grant must contain a signed or electronically verified statement, made under penalty of perjury, that the applicant has submitted only a single application.<sup>13</sup> The application must include attachments that demonstrate the applicant meets the requirements described above.<sup>14</sup>

Under the MSFH Program, DFS must develop a process that ensures the most efficient means to collect and verify grant applications to determine eligibility and may direct hurricane mitigation inspectors to collect and verify grant application information or use the internet or other electronic means to collect information and determine eligibility.<sup>15</sup>

### **Effect of the Bill**

The bill creates a public records exemption for information contained in applications and inspection reports submitted under the MSFH Program, regardless of the date that such applications and reports were submitted.

The exemptions are subject to the Open Government Sunset Review Act, and will be repealed on October 2, 2029, unless reviewed and saved from repeal through reenactment by the Legislature. It also provides a statement of public necessity as required by the Florida Constitution.

### **B. SECTION DIRECTORY:**

**Section 1.** Creates s. 215.55861, F.S., relating to My Safe Florida Home Program public records exemption.

**Section 2.** Provides a statement of public necessity.

**Section 3.** Provides that the bill will take effect upon becoming a law.

## **II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT**

### **A. FISCAL IMPACT ON STATE GOVERNMENT:**

#### **1. Revenues:**

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<sup>9</sup> S. 215.5586(3), F.S.

<sup>10</sup> Chapter 196, F.S., relates to, among other things, homestead exemptions.

<sup>11</sup> Homeowners who are low-income persons, as defined s. 420.0004(11), F.S., are exempt from this requirement. The term "low-income persons" is defined by s. 420.0004(11), F.S., as one or more natural persons or a family, the total annual adjusted gross household income of which does not exceed 80% of the median annual adjusted gross income for households within the state, or 80% of the median annual adjusted gross income for households within the metropolitan statistical area (MSA) or, if not within an MSA, within the county in which the person or family resides, whichever is greater.

<sup>12</sup> S. 215.5586(2)(a), F.S.

<sup>13</sup> S. 215.5586(2), F.S.

<sup>14</sup> *Id.*

<sup>15</sup> S. 215.5586(2)(i), F.S.

None.

2. Expenditures:

Indeterminate. See "Fiscal Comments" section below.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The proposed public record exemption may encourage the submission of applications and inspection reports under the MSFH Program, in which case the bill would have a positive impact on communities affected by natural disasters. However, the impact to the private sector is indeterminate.

D. FISCAL COMMENTS:

The bill may have a minimal negative fiscal impact on state agencies because agency staff responsible for complying with public records requests may require training related to the creation of the public record exemption. Agencies could incur costs associated with redacting the confidential and exempt information prior to releasing a record. The costs, however, would be absorbed by existing resources, as they are part of the day-to-day responsibilities of such agencies.

### III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. This bill does not appear to affect county or municipal governments.

2. Other:

Vote Requirement

Article I, s. 24(c) of the Florida Constitution requires a two-thirds vote of the members present and voting for final passage of a newly created or expanded public record exemption. The bill creates a public record exemption; thus, it requires a two-thirds vote for final passage.

Public Necessity Statement

Article I, s. 24(c) of the Florida Constitution requires a public necessity statement for a newly created or expanded public record exemption. The bill creates a public record exemption; therefore, it includes a public necessity statement.

Breadth of Exemption

Article I, s. 24(c) of the Florida Constitution requires a newly created public record or public meeting exemption to be no broader than necessary to accomplish the stated purpose of the law. This bill creates a public record exemption for certain information received by DFS pursuant to an application and inspection reports submitted to the MSFH Program. The purpose of the exemption is to protect sensitive personal information, such as names, email addresses, mailing addresses, and telephone numbers, that DFS receives in conjunction with its duties related to the review of

such applications and inspection reports. As such, the bill appears to be no broader than necessary to accomplish its purpose.

**B. RULE-MAKING AUTHORITY:**

The bill does not confer rulemaking authority nor require the promulgation of rules.

**C. DRAFTING ISSUES OR OTHER COMMENTS:**

None.

**IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES**