

AGENDA
FINANCIAL SERVICES COMMISSION
Office of Insurance Regulation
Materials Available on the Web at:
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March 9, 2010

MEMBERS

Governor Charlie Crist
Attorney General Bill McCollum
Chief Financial Officer Alex Sink
Commissioner Charles Bronson

Contact: Monte Stevens
(850-413-2571)

9:00 A. M.
LL-03, The Capitol
Tallahassee, Florida

ITEM	SUBJECT	RECOMMENDATION
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1. Minutes of the Financial Services Commission for January 26, 2010.

(ATTACHMENT 1)

FOR APPROVAL

2. Request for Approval for Adoption of Amendments to Proposed Rule 69O -170.0155: Form OIR-B1-1802

Section 627.711, Florida Statutes, requires the Office to develop a form to be used by home inspectors to verify the presence of windstorm-mitigation features on policyholder's property so the insurer can calculate appropriate discounts. This form, OIR-B1-1802, first developed in July 2007, is being revised to expand the descriptions of the construction features to be inspected and to comply with statutory changes made during the 2008 Legislative Session.

In response to concerns about fraudulently completed forms, the new version of this form will require photographic documentation of certain construction features and will also require the signatures of the homeowner, the inspector and the qualified person certifying the inspection.

(ATTACHMENT 2)

APPROVAL FOR FINAL ADOPTION

3. Request for Approval for Adoption of Amendments to Proposed Rule 69O-170.0155, Form OIR-B1-1655

Section 627.711, Florida Statutes, also requires the Office to develop a form that is used by insurance companies to provide information to policyholders about available windstorm mitigation discounts. Additionally, since the My Safe Florida Home Program is no longer operating, the form (OIR B1-1655) is being revised to remove references to this program.

(ATTACHMENT 3)

APPROVAL FOR FINAL ADOPTION

**Minutes of the Financial Services Commission
January 26, 2010**

<i>Members</i> Charlie Crist, Governor Alex Sink, Chief Financial Officer Bill McCollum, Attorney General Charles Bronson, Agriculture Commissioner	Presented by: Kevin McCarty Cabinet Meeting Room, Lower Level, The Capitol Tallahassee, Florida 32399
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Item 1: Request for Approval for Adoption Minutes of the Financial Services Commission for November 17, 2009

Upon motion by Agriculture Commissioner Charles Bronson and seconded by Attorney General Bill McCollum, the item was approved.

Item 2: Request for Approval for Adoption of Amendments to Proposed Rule 690-189.003; Workers' Compensation; Application and Audit Procedures.

Upon motion by Chief Financial Officer Alex Sink, and seconded by Attorney General Bill McCollum, the item was approved.

Item 3: Request for Approval for Publication of Proposed Rule 690-137.002; Model Audit Rule

Upon motion by Chief Financial Officer Alex Sink, and seconded by Agriculture Commissioner Charles Bronson, the item was approved.

Item 4: Request for Approval for Publication of Proposed Rule 690 157.302,.303,.304; Long-Term Care New Business Rates

Upon motion by Attorney General Bill McCollum and seconded by Agriculture Commissioner Charles Bronson, the item was approved.

M E M O R A N D U M

DATE: February 15, 2010
TO: Kevin M. McCarty, Commissioner, Office of Insurance Regulation
THROUGH: Steven H. Parton, General Counsel
FROM: Dennis Threadgill
Bob Prentiss
SUBJECT: Cabinet Agenda for March 9, 2010
Request for Final Approval to Adopt Amendments to
Rule 69O-170.0155, Form OIR-B1-1802
Assmt. 44304

Form 1

The Office of Insurance Regulation requests that these proposed rule amendments be presented to the Cabinet aides on or before March 3, 2010 and to the Financial Services Commission on March 9, 2010, with a request for Final Approval to Adopt the proposed rules. A notice of the Commission Final Rule Hearing was published in the *Florida Administrative Weekly* on February 5, 2010.

The notice of proposed rules was published November 25, 2009 in Volume 35, No. 47, of the *Weekly*. A hearing was held. There has been one Notice of Change published February 19, 2010 in Vol.36, No. 07.

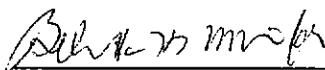
Section 627.711, Florida Statutes, requires the Office to develop a form to be used by home inspectors to verify the presence of windstorm-mitigation features on policyholder's property so the insurer can calculate appropriate discounts. This form, OIR-B1-1802, first developed in July 2007, is being revised to expand the descriptions of the construction feature to be inspected, and in response to concerns about fraudulently completed forms, to require photographic documentation of certain construction features and to require the signatures of the homeowner, the inspector and the qualified person certifying the inspection on the form.

Sections 624.308, 627.711, 215.5586, F.S., provide rulemaking authority and laws implemented for this rule.

The Legal Services Office has communicated with the Joint Administrative Procedures Committee, and ascertained that their review of the rules has been completed.

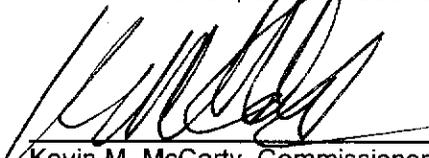
Stacy Wilhite is the attorney handling this rule. Attached are: 1) the proposed rule(s); 2) any incorporated materials, such as forms; 3) copies of the rulemaking statutory authority and law implemented.

Approved for signature:



Steven H. Parton, General Counsel 2/11/2018

Approved for submission to Financial Services
Commission:



Kevin M. McCarty, Commissioner
Office of Insurance Regulation

690-170.0155 Forms

The following forms are hereby adopted and incorporated by reference:

(1)(a) – (k) No change.

(l) OIR-B1-1802, "Uniform Mitigation Verification Inspection Form," (Rev. 2/10 New 7/07).

(1)(m) – (n) No change.

(2)(a) – (b) No change.

Rulemaking Specific Authority: 624.308(1), 627.711, 627.736 F.S. Law Implemented: 215.5586, 624.307(1), 624.424, 627.062, 627.0629, 627.0645, 627.711, 627.736 F.S. History–New 6-19-03, Formerly 4-170.0155, Amended 2-23-06, 12-26-06, 6-12-07, 7-17-07, 9-5-07, 3-13-08, _____.

Uniform Mitigation Verification Inspection Form

Maintain a copy of this form with the insurance policy

Inspection Date:		
Owner Information		
Owner Name:		Contact Person:
Address:		Home Phone:
City:	Zip:	Work Phone:
County:		Cell Phone:
Insurance Company:		Policy #:
Year of Home:	# of Stories:	Email:

I, _____ (print name of the individual who actually performed the inspection), personally conducted the inspection of the residence identified on this form and in my professional opinion, all the data I reported is true and correct.

1. **Building Code:** What building code was used to design and build the structure?

- A. 1994 South Florida Building Code (building permit application date of 9/1/1994 or later in Miami-Dade and Broward Counties (also known as the High Velocity Hurricane Zone (HVHZ)).
- B. Building code prior to the 1994 South Florida Building Code (building permit application date of 8/31/1994 or earlier in Miami-Dade and Broward Counties (HVHZ).
- C. 2001 Florida Building Code (building permit application date of 3/1/2002 or later outside the HVHZ).
- D. Building code prior to the 2001 Florida Building Code (building permit application date of 2/28/2002 or earlier outside the HVHZ).
- E. Unknown or undetermined.

2. **Predominant Roof Covering:**

Permit Application Date: _____ or Date of Installation: _____

- A. At a minimum meets the 2001 Florida Building Code or the 1994 South Florida Building Code and has a Miami-Dade NOA or FBC 2001 Product Approval listing demonstrating compliance with ASTM D 3161 (enhanced for 110MPH) OR ASTM D 7158 (F, G or H), OR FBC TAS 100-95 and TAS 107-95, OR FMRC 4470 and/or 4471 (for metal roofs).
- B. Does not meet the above minimum requirements.
- C. Unknown or undetermined.

NOTE: At least one photo documenting the existence of each visible and accessible construction or mitigation attribute marked in Sections 3 through 9 must accompany this form.

3. **Roof Deck Attachment:** What is the **weakest** form of roof deck attachment?

- A. Plywood/OSB roof sheathing with a minimum thickness of 7/16" attached to the roof truss/rafter (spaced a maximum of 24" o.c.) by 8d common nails spaced 6" along the edge and 6" in the field. **-OR-** Dimensional lumber/Tongue & Groove decking with a minimum of 2 nails per board. **-OR-** Any system of screws, nails, adhesives, other deck fastening system or truss/rafter spacing that has an equivalent mean uplift resistance of 182 psf.
- B. Plywood/OSB roof sheathing with a minimum thickness of 7/16" attached to the roof truss/rafter (spaced a maximum of 24" o.c.) by 8d common nails spaced 6" along the edge and 12" in the field. **-OR-** Any system of screws, nails, adhesives, other deck fastening system or truss/rafter spacing that has an equivalent mean uplift resistance of 103 psf.
- C. Plywood/Oriented strand board (OSB) roof sheathing attached to the roof truss/rafter (spaced a maximum of 24" o.c.) by staples or 6d nails spaced at 6" along the edge and 12" in the field. **-OR-** Batten decking supporting wood shakes or wood shingles. **-OR-** Any system of screws, nails, adhesives, other deck fastening system or truss/rafter spacing that has an equivalent mean uplift resistance of 55 psf.
- D. Reinforced Concrete Roof Deck.

Inspectors Initials _____ Property Address _____

*This verification form is valid up to five (5) years provided no material changes have been made to the structure.

- E. Other: _____
- F. Unknown or unidentified.
- G. No attic access.

4. **Roof to Wall Attachment:** What is the **weakest** roof to wall connection?

- A. Toe Nails Rafter/truss anchored to top plate of wall using nails driven at an angle through the rafter/truss and attached to the top plate of the wall.
- B. Clips Metal attachments on every rafter/truss that are nailed to one side (or both sides in the case of a diamond type clip) of the rafter/truss and attached to the top plate of the wall frame or embedded in the bond beam.
- C. Single Wraps Metal Straps must be secured to every rafter/truss with a minimum of 3 nails, wrapping over and securing to the opposite side of the rafter/truss with a minimum of 1 nail. The Strap must be attached to the top plate of the wall frame or embedded in the bond beam in at least one place.
- D. Double Wraps Both Metal Straps must be secured to every rafter/truss with a minimum of 3 nails, wrapping over and securing to the opposite side of the rafter/truss with a minimum of 1 nail. Each Strap must be attached to the top plate of the wall frame or embedded in the bond beam in at least one place.
- E. Structural Anchor bolts structurally connected or reinforced concrete roof.
- F. Other: _____
- G. Unknown or Unidentified
- H. No attic access

5. **Roof Geometry:** What is the roof shape(s)? (Porches or carports that are attached only to the fascia or wall of the host structure and not structurally connected to the main roof system are not considered in the roof geometry determination.)

- A. Hip Roof Hip roof with no other roof shapes greater than 10% of the total building perimeter.
- B. Non-Hip Roof Any other roof shape or combination of roof shapes including hip, gable, gambrel, mansard and other roof shapes not including flat roofs.
- C. Flat Roof Flat roof shape greater than 100 square feet or 10% of the entire roof, whichever is greater.

6. **Gable End Bracing:** For roof structures that contain gables, please check the **weakest** that apply:

- A. Gable End(s) are braced at a minimum in accordance with the 2001 Florida Building Code.
- B. Does not meet the above minimum requirements.
- C. Not applicable, unknown or unidentified.

7. **Wall Construction Type:** Check all wall construction types for exterior walls of the structure and percentages for each:

- A. Wood Frame _____%
- B. Un-Reinforced Masonry _____%
- C. Reinforced Masonry _____%
- D. Poured Concrete _____%
- E. Other: _____%

8. **Secondary Water Resistance (SWR):** (standard underlayments or hot mopped felts are not SWR)

- A. SWR Self adhering polymer modified bitumen roofing underlayment applied directly to the sheathing or foam adhesive SWR barrier (not foamed on insulation) applied as a secondary means to protect the dwelling from water intrusion.
- B. No SWR
- C. Unknown or undetermined.

9. **Opening Protection:** What is the **weakest** form of wind borne debris protection installed on the structure? (Exterior openings include, but are not limited to: windows, doors, garage doors, skylights, etc. Product approval may be required for opening protection devices without proper rating identification.)

- A. **All Exterior Openings (Glazed and Unglazed)** All exterior openings are fully protected at a minimum with impact resistant coverings, impact resistant doors and/or impact resistant window units that are listed as wind borne debris protection devices in the product approval system of the State of Florida or Miami-Dade County and meet the requirements of one of

Inspectors Initials _____ Property Address _____

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the following for "Cyclic Pressure and Large Missile Impact". For the HVHZ, systems must have either a Miami-Dade NOA or FBC Approval marked "For Use in the HVHZ".

- Miami-Dade County Notice of Acceptance (NOA) 201, 202 **and** 203. (Large Missile - 9 lb.)
 - Florida Building Code Testing Application Standard (TAS) 201, 202 **and** 203. (Large Missile - 9 lb.)
 - American Society for Testing and Materials (ASTM) E 1886 **and** ASTM E 1996. (Large Missile - 9 lb.)
 - Southern Standards Technical Document (SSTD) 12. (Large Missile - 9 lb.)
 - For Skylights Only: ASTM E 1886/E 1996. (Large Missile - 4.5 lb.)
 - For Garage Doors Only: ANSI/DASMA 115. (Large Missile - 9 lb.)
- B. **All exterior openings** are fully protected at a minimum with impact resistant coverings, impact resistant doors and/or impact resistant window units that are listed as windborne debris protection devices in the product approval system of the State of Florida or Miami-Dade County and meet the requirements of one of the following for "Cyclic Pressure and Large Missile Impact":
- ASTM E 1886 and ASTM E 1996. (Large Missile - 4.5 lb.)
 - SSTD 12. (Large Missile - 4 lb. to 8 lb.)
 - For Skylights Only: ASTM E 1886/E 1996. (Large Missile - 2 to 4.5 lb.)
- C. **All exterior openings** are fully protected at a minimum with impact resistant coverings, impact resistant doors and/or impact resistant window units that are listed as windborne debris protection devices in the product approval system of the State of Florida or Miami-Dade County and meet the requirements of one of the following for "Cyclic Pressure and Small Missile Impact":
- Miami-Dade County NOA 201, 202 **and** 203. (Small Missile - 2grams)
 - Florida Building Code TAS 201, 202 **and** 203. (Small Missile - 2 grams)
 - ASTM E 1886 **and** ASTM E 1996. (Small Missile - 2 grams)
 - SSTD 12. (Small Missile - 2 grams)
- D. **All exterior openings** are fully protected with windborne debris protection devices that cannot be indentified as Miami-Dade or Florida Building Code (FBC) product approved. This does not include plywood/OSB or plywood alternatives (see Answer "H").

All Glazed Exterior Openings

- E. **All glazed exterior openings** are fully protected at a minimum with impact resistant coverings and/or impact resistant window units that meet the requirements of one of the standards listed in Answer "A" of this question. (Large Missile - 9 lb.)
- F. **All glazed exterior openings** are fully protected at a minimum with impact resistant coverings and/or impact resistant window units that meet the requirements of one of the standards listed in Answer "B" of this question. (Large Missile - 2 lb. - 8 lb.)
- G. **All glazed exterior openings** are fully protected at a minimum with impact resistant coverings and/or impact resistant window units that meet the requirements of one of the standards listed in Answer "C" of this question. (Small Missile - 2 grams)
- H. **All glazed exterior openings** are covered with plywood/OSB meeting the requirements of Section 1609 and Table 1609.1.4 of the 2004 FBC (with 2006 supplements).
- I. **All glazed exterior openings** are fully protected with wind-borne debris protection devices that cannot be identified as Miami-Dade or FBC product approved. This does not include plywood/OSB or other plywood alternatives that do not meet Answer H (see Answer "K").

None or Some Glazed Openings

- J. At least one glazed exterior opening does not have wind-borne debris protection.
- K. No glazed exterior openings have wind-borne debris protection. This includes plywood/OSB or plywood alternative systems that do not meet Answer "H".
- L. Unknown or undetermined.

Inspectors Initials _____ Property Address _____

MITIGATION INSPECTIONS MUST BE CERTIFIED BY A QUALIFIED INSPECTOR.
Section 627.711(2), Florida Statutes, provides a listing of individuals who may sign this form.

Qualified Inspector Name:	License Type:	License # or MSFH certificate #:
Inspection Company:	Phone:	

Qualified Inspector – I hold an active license or certificate as a: (check one)

- Hurricane mitigation inspector certified by the My Safe Florida Home Program.
- Building code inspector certified under Section 468.607, Florida Statutes.
- General, building or residential contractor licensed under Section 489.111, Florida Statutes.
- Professional architect licensed under Section 481.213, Florida Statutes.
- Professional engineer licensed under Section 471.015, Florida Statutes.
- Other individual or entity recognized by the insurer as possessing the necessary qualifications to properly complete this form pursuant to Section 627.711(2)(f), Florida Statutes.

Individuals signing this form must have their license or certificate in an "Active" status at time of the inspection.

I, _____ am a qualified inspector and I personally performed the inspection or had
(print name)
my employee (_____) perform the inspection and I agree to be responsible for his/her work.
(print name)

Qualified Inspector Signature: _____ **Date:** _____

An individual or entity who knowingly provides or utters a false or fraudulent mitigation verification form with the intent to obtain or receive a discount on an insurance premium to which the individual or entity is not entitled commits a misdemeanor of the first degree (Section 627.711(3), Florida Statutes). The Qualified Inspector who certifies this form is strictly liable for all acts, statements, concealment of facts, omissions, and documentation provided by his or her employee who actually performed the inspection.

Homeowner to complete: I certify that the named Qualified Inspector or his or her employee did perform an inspection of the residence identified on this form and that proof of identification was provided to me or my Authorized Representative.

Signature: _____ **Date:** _____

An individual or entity who knowingly provides or utters a false or fraudulent mitigation verification form with the intent to obtain or receive a discount on an insurance premium to which the individual or entity is not entitled commits a misdemeanor of the first degree. (Section 627.711(3), Florida Statutes)

The definitions on this form are for inspection purposes only and cannot be used to certify any product or construction feature as offering protection from hurricanes.

Inspectors Initials _____ Property Address _____

*This verification form is valid up to five (5) years provided no material changes have been made to the structure.

624.308 Rules.--

(1) The department and the commission may each adopt rules pursuant to ss. 120.536(1) and 120.54 to implement provisions of law conferring duties upon the department or the commission, respectively.

627.711 Notice of premium discounts for hurricane loss mitigation; uniform mitigation verification inspection form.--

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

(2) By July 1, 2007, the Financial Services Commission shall develop by rule a uniform mitigation verification inspection form that shall be used by all insurers when submitted by policyholders for the purpose of factoring discounts for wind insurance. In developing the form, the commission shall seek input from insurance, construction, and building code representatives. Further, the commission shall provide guidance as to the length of time the inspection results are valid. An insurer shall accept as valid a uniform mitigation verification form certified by the Department of Financial Services or signed by:

- (a) A hurricane mitigation inspector certified by the My Safe Florida Home program;
- (b) A building code inspector certified under s. 468.607;
- (c) A general, building, or residential contractor licensed under s. 489.111;
- (d) A professional engineer licensed under s. 471.015 who has passed the appropriate equivalency test of the building code training program as required by s. 553.841;
- (e) A professional architect licensed under s. 481.213; or
- (f) Any other individual or entity recognized by the insurer as possessing the necessary qualifications to properly complete a uniform mitigation verification form.

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

215.5586 My Safe Florida Home Program.--There is established within the Department of Financial Services the My Safe Florida Home Program. The department shall provide fiscal accountability, contract management, and strategic leadership for the program, consistent with this section. This section does not create an entitlement for property owners or obligate the state in any way to fund the

inspection or retrofitting of residential property in this state. Implementation of this program is subject to annual legislative appropriations. It is the intent of the Legislature that the My Safe Florida Home Program provide trained and certified inspectors to perform inspections for owners of site-built, single-family, residential properties and grants to eligible applicants as funding allows. The program shall develop and implement a comprehensive and coordinated approach for hurricane damage mitigation that may include the following:

(1) HURRICANE MITIGATION INSPECTIONS.--

(a) Certified inspectors to provide home-retrofit inspections of site-built, single-family, residential property may be offered 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 Department of Financial Services shall contract with wind certification entities to provide hurricane mitigation inspections. The inspections provided to homeowners, at a minimum, must include:

1. A home inspection and report that summarizes the results and identifies recommended improvements a homeowner may take to mitigate hurricane damage.
2. A range of cost estimates regarding the recommended mitigation improvements.
3. Insurer-specific information regarding premium discounts correlated to the current mitigation features and the recommended mitigation improvements identified by the inspection.
4. A hurricane resistance rating scale specifying the home's current as well as projected wind resistance capabilities. As soon as practical, the rating scale must be the uniform home grading scale adopted by the Financial Services Commission pursuant to s. 215.55865.

(b) To qualify for selection by the department as a wind certification entity to provide hurricane mitigation inspections, the entity shall, at a minimum, meet the following requirements:

1. Use hurricane mitigation inspectors who:
 - a. Are certified as a building inspector under s. 468.607;
 - b. Are licensed as a general or residential contractor under s. 489.111;
 - c. Are licensed as a 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;
 - d. Are licensed as a professional architect under s. 481.213; or
 - e. Have at least 2 years of experience in residential construction or residential building inspection and have received specialized training in hurricane mitigation procedures. Such training may be provided by a class offered online or in person.
2. Use hurricane mitigation inspectors who also:
 - a. Have undergone drug testing and level 2 background checks pursuant to s. 435.04. The department may conduct criminal record checks of inspectors used by wind certification entities. Inspectors must submit a set of the fingerprints to the department for state and national criminal history checks and must pay the fingerprint processing fee set forth in s. 624.501. The fingerprints shall be sent by the

department to the Department of Law Enforcement and forwarded to the Federal Bureau of Investigation for processing. The results shall be returned to the department for screening. The fingerprints shall be taken by a law enforcement agency, designated examination center, or other department-approved entity; and

b. Have been certified, in a manner satisfactory to the department, to conduct the inspections.

3. Provide a quality assurance program including a reinspection component.

(c) The department shall implement a quality assurance program that includes a statistically valid number of reinspections.

(d) 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.

(e) The owner of a site-built, single-family, residential property may apply for and receive an inspection without also applying for a grant pursuant to subsection (2) and without meeting the requirements of paragraph (2)(a).

(2) MITIGATION GRANTS. --Financial grants shall be used to encourage single-family, site-built, owner-occupied, residential property owners to retrofit their properties to make them less vulnerable to hurricane damage.

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

1. The homeowner must have been granted a homestead exemption on the home under chapter 196.
2. The home must 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), are exempt from this requirement.
3. The home must have undergone an acceptable hurricane mitigation inspection after May 1, 2007.
4. The home must be located in the "wind-borne debris region" as that term is defined in s. 1609.2, International Building Code (2006), or as subsequently amended.
5. The building permit application for initial construction of the home must have been made before March 1, 2002.

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 and must have attached documents demonstrating the applicant meets the requirements of this paragraph.

(b) All grants must be matched on a dollar-for-dollar basis up to a total of \$10,000 for the actual cost of the mitigation project with the state's contribution not to exceed \$5,000.

(c) The program shall create a process in which contractors agree to participate and homeowners select from a list of participating contractors. All mitigation must be based upon the securing of all required local permits and inspections and must be performed by properly licensed contractors. Mitigation projects are subject to random reinspection of up to at least 5 percent of all projects. Hurricane mitigation inspectors qualifying for the program may also participate as mitigation contractors as long as the inspectors meet the department's qualifications and certification requirements for mitigation contractors.

(d) Matching fund grants shall also be made available to local governments and nonprofit entities for projects that will reduce hurricane damage to single-family, site-built, owner-occupied, residential property. The department shall liberally construe those requirements in favor of availing the state of the opportunity to leverage funding for the My Safe Florida Home Program with other sources of funding.

(e) When recommended by a hurricane mitigation inspection, grants may be used for the following improvements:

1. Opening protection.
2. Exterior doors, including garage doors.
3. Brace gable ends.
4. Reinforcing roof-to-wall connections.
5. Improving the strength of roof-deck attachments.
6. Upgrading roof covering from code to code plus.
7. Secondary water barrier for roof.

The department may require that improvements be made to all openings, including exterior doors and garage doors, as a condition of reimbursing a homeowner approved for a grant. The department may adopt, by rule, the maximum grant allowances for any improvement allowable under this paragraph.

(f) Grants may be used on a previously inspected existing structure or on a rebuild. A rebuild is defined as a site-built, single-family dwelling under construction to replace a home that was destroyed or significantly damaged by a hurricane and deemed unlivable by a regulatory authority. The homeowner must be a low-income homeowner as defined in paragraph (g), must have had a homestead exemption for that home prior to the hurricane, and must be intending to rebuild the home as that homeowner's homestead.

(g) Low-income homeowners, as defined in s. 420.0004(10), who otherwise meet the requirements of paragraphs (a), (c), (e), and (f) are eligible for a grant of up to \$5,000 and are not required to provide a matching amount to receive the grant. Additionally, for low-income homeowners, grant funding may be used for repair to existing structures leading to any of the mitigation improvements provided in paragraph (e), limited to 20 percent of the grant value. The program may accept a certification directly from a low-income homeowner that the homeowner meets the requirements of s. 420.0004(10) if the homeowner provides such certification in a signed or electronically verified statement made under penalty of perjury.

(h) The department shall establish objective, reasonable criteria for prioritizing grant applications, consistent with the requirements of this section.

(i) The department shall 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.

(3) EDUCATION AND CONSUMER AWARENESS.--The department may undertake a statewide multimedia public outreach and advertising campaign to inform consumers of the availability and benefits of

hurricane inspections and of the safety and financial benefits of residential hurricane damage mitigation. The department may seek out and use local, state, federal, and private funds to support the campaign.

- (4) **ADVISORY COUNCIL.**--There is created an advisory council to provide advice and assistance to the department regarding administration of the program. The advisory council shall consist of:
- (a) A representative of lending institutions, selected by the Financial Services Commission from a list of at least three persons recommended by the Florida Bankers Association.
 - (b) A representative of residential property insurers, selected by the Financial Services Commission from a list of at least three persons recommended by the Florida Insurance Council.
 - (c) A representative of home builders, selected by the Financial Services Commission from a list of at least three persons recommended by the Florida Home Builders Association.
 - (d) A faculty member of a state university, selected by the Financial Services Commission, who is an expert in hurricane-resistant construction methodologies and materials.
 - (e) Two members of the House of Representatives, selected by the Speaker of the House of Representatives.
 - (f) Two members of the Senate, selected by the President of the Senate.
 - (g) The Chief Executive Officer of the Federal Alliance for Safe Homes, Inc., or his or her designee.
 - (h) The senior officer of the Florida Hurricane Catastrophe Fund.
 - (i) The executive director of Citizens Property Insurance Corporation.
 - (j) The director of the Florida Division of Emergency Management.

Members appointed under paragraphs (a)-(d) shall serve at the pleasure of the Financial Services Commission. Members appointed under paragraphs (e) and (f) shall serve at the pleasure of the appointing officer. All other members shall serve as voting ex officio members. Members of the advisory council shall serve without compensation but may receive reimbursement as provided in s. 112.061 for per diem and travel expenses incurred in the performance of their official duties.

- (5) **FUNDING.**--The department may seek out and leverage local, state, federal, or private funds to enhance the financial resources of the program.
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- (7) **HURRICANE MITIGATION INSPECTOR LIST.**--The department shall develop and maintain as a public record a current list of hurricane mitigation inspectors authorized to conduct hurricane mitigation inspections pursuant to this section.
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estate brokers and sales associates licensed under part I of chapter 475 explaining the benefits to homeowners of residential hurricane damage mitigation. The program shall encourage contractors to distribute the brochures to homeowners at the first meeting with a homeowner who is considering contracting for home or roof repairs or contracting for the construction of a new home. The program shall encourage real estate brokers and sales associates licensed under part I of chapter 475 to distribute the brochures to clients prior to the purchase of a home. The brochures may be made available electronically.

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(10) **INTENT.**--It is the intent of the Legislature that grants made to residential property owners under this section shall be considered disaster-relief assistance within the meaning of s. 139 of the Internal Revenue Code of 1986, as amended.

(11) **REPORTS.**--The department shall make an annual report on the activities of the program that shall account for the use of state funds and indicate the number of inspections requested, the number of inspections performed, the number of grant applications received, and the number and value of grants approved. The report shall be delivered to the President of the Senate and the Speaker of the House of Representatives by February 1 of each year.

M E M O R A N D U M

DATE: February 10, 2010
TO: Kevin M. McCarty, Commissioner, Office of Insurance Regulation
THROUGH: Steven H. Parton, General Counsel
FROM: Dennis Threadgill *DT*
Bob Prentiss *B1*
SUBJECT: Cabinet Agenda for March 9, 2010
Request for Final Approval to Adopt Amendments to
Rule 69O-170.0155, Form OIR-B1-1655
Assmt. 44282

Form 2

The Office of Insurance Regulation requests that these proposed rule amendments be presented to the Cabinet aides on or before March 3, 2020 and to the Financial Services Commission on March 9, 2010, with a request for Final Approval to Adopt the proposed rules. A notice of the Commission Final Rule Hearing was published in the *Florida Administrative Weekly* on February 5, 2010.

The notice of proposed rules was published November 25, 2009 in Volume 35, No. 47, of the *Weekly*. A hearing was held. One change was made published on February 19, 2010 in Vol. 36, No. 07.

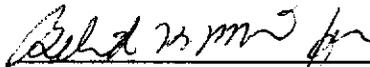
Section 627.711, Florida Statutes, required the Office to develop a form to be used by insurers to provide policyholders information about available windstorm mitigation discounts. Because the free inspections and the grants offered by the My Safe Florida Home program are no longer available, Form OIR-B1-1655 is being revised to remove references to these programs.

Sections 624.308, 627.711, 215.5586, F.S., provide rulemaking authority and laws implemented for this rule.

The Legal Services Office has communicated with the Joint Administrative Procedures Committee, and ascertained that their review of the rules has been completed.

Stacy Wilhite is the attorney handling this rule. Attached are: 1) the proposed rule(s); 2) any incorporated materials, such as forms; 3) copies of the rulemaking statutory authority and law implemented.

Approved for signature:



Steven H. Parton, General Counsel

2/15/2010

Approved for submission to Financial Services
Commission:



Kevin M. McCarty, Commissioner
Office of Insurance Regulation

690-170.0155 Forms

The following forms are hereby adopted and incorporated by reference:

(1)(a) – (j) No change.

(k) OIR-B1-1655, "Notice of Premium Discounts for Hurricane Loss Mitigation," (Rev. 02/10 7/07).

(1)(l) – (n) No change.

(2)(a) – (b) No change.

Rulemaking Specific Authority: 624.308(1), 627.711, 627.736 F.S. Law Implemented: 215.5586, 624.307(1), 624.424, 627.062, 627.0629, 627.0645, 627.711, 627.736 F.S. History–New 6-19-03, Formerly 4-170.0155, Amended 2-23-06, 12-26-06, 6-12-07, 7-17-07, 9-5-07, 3-13-08, _____.

Notice of Premium Discounts for Hurricane Loss Mitigation

*** Important Information *** About Your Personal Residential Insurance Policy

Dear Homeowner,

Hurricanes have caused tens of billions of dollars in insured damages and predictions of more catastrophic hurricanes making landfall in Florida have triggered increases in insurance premiums to cover potential future losses. Enclosed is information regarding wind loss mitigation that will make your home more resistant to wind and help protect your family during a catastrophic event. In addition to reducing your hurricane wind premium by installing mitigation features, you may also reduce the likelihood of out of pocket expenses, such as your hurricane deductible, you may otherwise incur after a catastrophic event.

What factors are considered in establishing my premium?

Your location: The closer a home is to the coast, the more vulnerable it is to damage caused by hurricane winds. This makes the hurricane-wind premium higher than for similar homes in other areas of the state.

Your policy: Your insurance policy is divided into two premiums: one for damage caused by hurricane force winds (hurricane-wind) and one for all other damage (all perils), such as fire.

Your deductible: Under the law, you are allowed to choose a \$500, 2%, 5% or 10% deductible, depending on the actual value of your home. The larger your deductible, the lower your hurricane-wind premium. However, if you select a higher deductible your out-of-pocket expenses in the event of a hurricane claim will be higher.

Improvements to your home: The state requires insurance companies to offer discounts for protecting your home against damage caused by hurricane winds. Securing your roof so it doesn't blow off and protecting your windows from flying debris are the two most cost effective measures you can take to safeguard your home and reduce your hurricane –wind premium. These discounts apply only to the hurricane-wind portion of your policy.

The costs of the improvement projects vary. Homeowners should contact a licensed contractor for an estimate. You can find a Certified Contractor in your area by visiting the Florida Department of Business and Professional Regulation online at www.myfloridalicense.com.

Your maximum discount: Discounts are not calculated cumulatively. The total discount is not the sum of the individual discounts. Instead, when one discount is applied, other discounts are reduced until you reach your maximum discount of XX%.

How can I take advantage of the discounts?

Homeowners will need a qualified inspector such as a general, building, or residential contractor licensed under Section 489.111, Florida Statutes, or a professional engineer licensed under Section 471.015, Florida Statutes, who has passed the appropriate equivalency test of the Building Code training program as required by Section 553.841, Florida Statutes, or a professional architect licensed under Section 481.213, Florida Statutes, or a building code inspector certified under Section 468.607, to inspect the home to identify potential mitigation measures and verify improvements. For a listing of individuals and/or inspection companies meeting these qualifications contact your insurance agent or insurance company.

The following is an example of how much you can reduce your insurance premium if you have mitigating features on your home. The example is based on your hurricane-wind premium* of _____ which is part of your total annual premium of _____. Remember, the discounts shown only apply to the hurricane-wind portion of the premium and the discounts for the construction techniques and features listed below are not cumulative.

*** Wind mitigation credits apply to that portion of your premium that covers the peril of wind, whether or not a hurricane exists.**

Homes built prior to the 2001 building code

Description of Feature	Estimated* Premium Discount Percent	Estimated* Annual Premium (\$) is Reduced by:
<p><u>Roof Covering (i.e., shingles or tiles)</u></p> <ul style="list-style-type: none"> • Meets the Florida Building Code. • Reinforced Concrete Roof Deck. (If this feature is installed on your home you most likely will not qualify for any other discount.) 		
<p><u>How Your Roof is Attached</u></p> <ul style="list-style-type: none"> • Using a 2" nail spaced at 6" from the edge of the plywood and 12" in the field of the plywood. • Using a 2 1/2" nail spaced at 6" from the edge of the plywood and 12" in the field of the plywood. • Using a 2 1/2" nail spaced at 6" from the edge of the plywood and 6" in the field of the plywood. 		

<p><u>Roof-to-Wall Connection</u></p> <ul style="list-style-type: none"> • Using "Toe Nails" – defined as three nails driven at an angle through the rafter and into the top roof. • Using Clips - defined as pieces of metal that are nailed into the side of the rafter/truss and into the side of the top plate or wall stud. • Using Single Wraps – a single strap that is attached to the side and/or bottom of the top plate and are nailed to the rafter/truss. • Using Double Wraps - straps are attached to the side and/or bottom of the top plate and are nailed to the rafter/truss. 		
<p><u>Roof Shape</u></p> <ul style="list-style-type: none"> • Hip Roof – defined as your roof sloping down to meet all your outside walls (like a pyramid). • Other. 		
<p><u>Secondary Water Resistance (SWR)</u></p> <ul style="list-style-type: none"> • SWR – defined as a layer of protection between the shingles and the plywood underneath that protects the building if the shingles blow off. • No SWR. 		
<p><u>Shutters</u></p> <ul style="list-style-type: none"> • None. • Intermediate Type —shutters that are strong enough to meet half the old Miami-Dade building code standards. • Hurricane Protection Type -- shutters that are strong enough to meet the current Miami-Dade building code standards. 		

* Estimate is based on information currently on file and the actual amount may vary.

Homes built under the 2001 building code or later

Description of Feature	Estimated* Premium Discount Percent	Estimated* Annual Premium (\$) is Reduced by:
<p>Homes built under the 2001 Florida Building Code or later edition (also including the 1994 South Florida Building Code for homes in Miami-Dade and Broward Counties) are eligible for a minimum 68% discount on the hurricane-wind portion of your premium. You may be eligible for greater discount if other mitigation features are installed on your home.</p>		
<p><u>Shutters</u></p> <ul style="list-style-type: none"> • None. • Intermediate Type —shutters that are strong enough to meet half the old Miami-Dade building code standards. • Hurricane Protection Type -- shutters that are strong enough to meet the current Miami-Dade building code standards. 		
<p><u>Roof Shape</u></p> <ul style="list-style-type: none"> • Hip Roof – defined as your roof sloping down to meet all your outside walls (like a pyramid). • Other. 		

* Estimate is based on information currently on file and the actual amount may vary.

Alternately and regardless of the year of construction, if you meet the minimum fixture and construction requirements of the 2001 Florida Building Code you have the option to reduce your hurricane-wind deductible from _____ to _____.

If you have further questions about the construction techniques and features or other construction techniques and features that could result in a discount, please contact your insurance agent or the insurance company at _____.

624.308 Rules.--

(1) The department and the commission may each adopt rules pursuant to ss. 120.536(1) and 120.54 to implement provisions of law conferring duties upon the department or the commission, respectively.

627.711 Notice of premium discounts for hurricane loss mitigation; uniform mitigation verification inspection form.--

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

(2) By July 1, 2007, the Financial Services Commission shall develop by rule a uniform mitigation verification inspection form that shall be used by all insurers when submitted by policyholders for the purpose of factoring discounts for wind insurance. In developing the form, the commission shall seek input from insurance, construction, and building code representatives. Further, the commission shall provide guidance as to the length of time the inspection results are valid. An insurer shall accept as valid a uniform mitigation verification form certified by the Department of Financial Services or signed by:

- (a) A hurricane mitigation inspector certified by the My Safe Florida Home program;
- (b) A building code inspector certified under s. 468.607;
- (c) A general, building, or residential contractor licensed under s. 489.111;
- (d) A professional engineer licensed under s. 471.015 who has passed the appropriate equivalency test of the building code training program as required by s. 553.841;
- (e) A professional architect licensed under s. 481.213; or
- (f) Any other individual or entity recognized by the insurer as possessing the necessary qualifications to properly complete a uniform mitigation verification form.

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

215.5586 My Safe Florida Home Program.--There is established within the Department of Financial Services the My Safe Florida Home Program. The department shall provide fiscal accountability, contract management, and strategic leadership for the program, consistent with this section. This section does not create an entitlement for property owners or obligate the state in any way to fund the

inspection or retrofitting of residential property in this state. Implementation of this program is subject to annual legislative appropriations. It is the intent of the Legislature that the My Safe Florida Home Program provide trained and certified inspectors to perform inspections for owners of site-built, single-family, residential properties and grants to eligible applicants as funding allows. The program shall develop and implement a comprehensive and coordinated approach for hurricane damage mitigation that may include the following:

(1) HURRICANE MITIGATION INSPECTIONS.--

(a) Certified inspectors to provide home-retrofit inspections of site-built, single-family, residential property may be offered 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 Department of Financial Services shall contract with wind certification entities to provide hurricane mitigation inspections. The inspections provided to homeowners, at a minimum, must include:

1. A home inspection and report that summarizes the results and identifies recommended improvements a homeowner may take to mitigate hurricane damage.
2. A range of cost estimates regarding the recommended mitigation improvements.
3. Insurer-specific information regarding premium discounts correlated to the current mitigation features and the recommended mitigation improvements identified by the inspection.
4. A hurricane resistance rating scale specifying the home's current as well as projected wind resistance capabilities. As soon as practical, the rating scale must be the uniform home grading scale adopted by the Financial Services Commission pursuant to s. 215.55865.

(b) To qualify for selection by the department as a wind certification entity to provide hurricane mitigation inspections, the entity shall, at a minimum, meet the following requirements:

1. Use hurricane mitigation inspectors who:
 - a. Are certified as a building inspector under s. 468.607;
 - b. Are licensed as a general or residential contractor under s. 489.111;
 - c. Are licensed as a 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;
 - d. Are licensed as a professional architect under s. 481.213; or
 - e. Have at least 2 years of experience in residential construction or residential building inspection and have received specialized training in hurricane mitigation procedures. Such training may be provided by a class offered online or in person.
2. Use hurricane mitigation inspectors who also:
 - a. Have undergone drug testing and level 2 background checks pursuant to s. 435.04. The department may conduct criminal record checks of inspectors used by wind certification entities. Inspectors must submit a set of the fingerprints to the department for state and national criminal history checks and must pay the fingerprint processing fee set forth in s. 624.501. The fingerprints shall be sent by the

department to the Department of Law Enforcement and forwarded to the Federal Bureau of Investigation for processing. The results shall be returned to the department for screening. The fingerprints shall be taken by a law enforcement agency, designated examination center, or other department-approved entity; and

b. Have been certified, in a manner satisfactory to the department, to conduct the inspections.

3. Provide a quality assurance program including a reinspection component.

(c) The department shall implement a quality assurance program that includes a statistically valid number of reinspections.

(d) 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.

(e) The owner of a site-built, single-family, residential property may apply for and receive an inspection without also applying for a grant pursuant to subsection (2) and without meeting the requirements of paragraph (2)(a).

(2) MITIGATION GRANTS.--Financial grants shall be used to encourage single-family, site-built, owner-occupied, residential property owners to retrofit their properties to make them less vulnerable to hurricane damage.

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

1. The homeowner must have been granted a homestead exemption on the home under chapter 196.
2. The home must 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), are exempt from this requirement.
3. The home must have undergone an acceptable hurricane mitigation inspection after May 1, 2007.
4. The home must be located in the "wind-borne debris region" as that term is defined in s. 1609.2, International Building Code (2006), or as subsequently amended.
5. The building permit application for initial construction of the home must have been made before March 1, 2002.

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 and must have attached documents demonstrating the applicant meets the requirements of this paragraph.

(b) All grants must be matched on a dollar-for-dollar basis up to a total of \$10,000 for the actual cost of the mitigation project with the state's contribution not to exceed \$5,000.

(c) The program shall create a process in which contractors agree to participate and homeowners select from a list of participating contractors. All mitigation must be based upon the securing of all required local permits and inspections and must be performed by properly licensed contractors. Mitigation projects are subject to random reinspection of up to at least 5 percent of all projects. Hurricane mitigation inspectors qualifying for the program may also participate as mitigation contractors as long as the inspectors meet the department's qualifications and certification requirements for mitigation contractors.

(d) Matching fund grants shall also be made available to local governments and nonprofit entities for projects that will reduce hurricane damage to single-family, site-built, owner-occupied, residential property. The department shall liberally construe those requirements in favor of availing the state of the opportunity to leverage funding for the My Safe Florida Home Program with other sources of funding.

(e) When recommended by a hurricane mitigation inspection, grants may be used for the following improvements:

1. Opening protection.
2. Exterior doors, including garage doors.
3. Brace gable ends.
4. Reinforcing roof-to-wall connections.
5. Improving the strength of roof-deck attachments.
6. Upgrading roof covering from code to code plus.
7. Secondary water barrier for roof.

The department may require that improvements be made to all openings, including exterior doors and garage doors, as a condition of reimbursing a homeowner approved for a grant. The department may adopt, by rule, the maximum grant allowances for any improvement allowable under this paragraph.

(f) Grants may be used on a previously inspected existing structure or on a rebuild. A rebuild is defined as a site-built, single-family dwelling under construction to replace a home that was destroyed or significantly damaged by a hurricane and deemed unlivable by a regulatory authority. The homeowner must be a low-income homeowner as defined in paragraph (g), must have had a homestead exemption for that home prior to the hurricane, and must be intending to rebuild the home as that homeowner's homestead.

(g) Low-income homeowners, as defined in s. 420.0004(10), who otherwise meet the requirements of paragraphs (a), (c), (e), and (f) are eligible for a grant of up to \$5,000 and are not required to provide a matching amount to receive the grant. Additionally, for low-income homeowners, grant funding may be used for repair to existing structures leading to any of the mitigation improvements provided in paragraph (e), limited to 20 percent of the grant value. The program may accept a certification directly from a low-income homeowner that the homeowner meets the requirements of s. 420.0004(10) if the homeowner provides such certification in a signed or electronically verified statement made under penalty of perjury.

(h) The department shall establish objective, reasonable criteria for prioritizing grant applications, consistent with the requirements of this section.

(i) The department shall 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.

(3) EDUCATION AND CONSUMER AWARENESS.--The department may undertake a statewide multimedia public outreach and advertising campaign to inform consumers of the availability and benefits of

hurricane inspections and of the safety and financial benefits of residential hurricane damage mitigation. The department may seek out and use local, state, federal, and private funds to support the campaign.

(4) **ADVISORY COUNCIL.**--There is created an advisory council to provide advice and assistance to the department regarding administration of the program. The advisory council shall consist of:

(a) A representative of lending institutions, selected by the Financial Services Commission from a list of at least three persons recommended by the Florida Bankers Association.

(b) A representative of residential property insurers, selected by the Financial Services Commission from a list of at least three persons recommended by the Florida Insurance Council.

(c) A representative of home builders, selected by the Financial Services Commission from a list of at least three persons recommended by the Florida Home Builders Association.

(d) A faculty member of a state university, selected by the Financial Services Commission, who is an expert in hurricane-resistant construction methodologies and materials.

(e) Two members of the House of Representatives, selected by the Speaker of the House of Representatives.

(f) Two members of the Senate, selected by the President of the Senate.

(g) The Chief Executive Officer of the Federal Alliance for Safe Homes, Inc., or his or her designee.

(h) The senior officer of the Florida Hurricane Catastrophe Fund.

(i) The executive director of Citizens Property Insurance Corporation.

(j) The director of the Florida Division of Emergency Management.

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