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LEGISLATIVE ACTION

Senate

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House

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Senator Bennett moved the following:

**Senate Amendment (with title amendment)**

Delete lines 3192 - 3270

and insert:

(2) (a) ~~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



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14 verification form ~~certified by the Department of Financial~~  
15 ~~Services~~ or signed by the following authorized mitigation  
16 inspectors:

17 1.(a) A home inspector licensed under s. 468.8314 who has  
18 completed at least 3 hours of hurricane mitigation training  
19 which includes hurricane mitigation techniques and compliance  
20 with the uniform mitigation verification form and completion of  
21 a proficiency exam. Thereafter, home inspectors licensed under  
22 s. 468.8314, must complete at least 2 hours of continuing  
23 education, as part of the existing licensure renewal  
24 requirements each year, related to mitigation inspection and the  
25 uniform mitigation form ~~hurricane mitigation inspector certified~~  
26 ~~by the My Safe Florida Home program;~~

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

28 3.(c) A general, building, or residential contractor  
29 licensed under s. 489.111;

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

33 5.(e) A professional architect licensed under s. 481.213;  
34 or

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

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

41 (3) A person who is authorized to sign a mitigation  
42 verification form must inspect the structures referenced by the



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43 form personally, not through employees or other persons, and  
44 must certify or attest to personal inspection of the structures  
45 referenced by the form. However, licensees under s. 489.111, may  
46 authorize a direct employee, who is not an independent  
47 contractor, and who possesses the requisite skill, knowledge and  
48 experience to conduct a mitigation verification inspection.  
49 Insurers shall have the right to request and obtain information  
50 from the authorized mitigation inspector under s. 489.111,  
51 regarding any authorized employee's qualifications prior to  
52 accepting a mitigation verification form performed by an  
53 employee that is not licensed under s. 489.111.

54 (4) An authorized mitigation inspector that signs a uniform  
55 mitigation form, and a direct employee authorized to conduct  
56 mitigation verification inspections under paragraph (3), may not  
57 commit misconduct in performing hurricane mitigation inspections  
58 or in completing a uniform mitigation form that causes financial  
59 harm to a customer or their insurer; or that jeopardizes a  
60 customer's health and safety. Misconduct occurs when an  
61 authorized mitigation inspector signs a uniform mitigation  
62 verification form that:

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

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

68 (c) Contains erroneous information due to the gross  
69 negligence of the inspector; or

70 (d) Contains a pattern of demonstrably false information  
71 regarding the existence of mitigation features that could give



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72 an insured a false evaluation of the ability of the structure to  
73 withstand major damage from a hurricane endangering the safety  
74 of the insured's life and property.

75 (5) The licensing board of an authorized mitigation  
76 inspector that violates subsection (4) may commence disciplinary  
77 proceedings and impose administrative fines and other sanctions  
78 authorized under the authorized mitigation inspector's licensing  
79 act. Authorized mitigation inspectors licensed under s. 489.111,  
80 shall be directly liable for the acts of employees that violate  
81 subsection (4) as if the authorized mitigation inspector  
82 personally performed the inspection.

83 (6) An insurer, person, or other entity that obtains  
84 evidence of fraud or evidence that an authorized mitigation  
85 inspector or an employee authorized to conduct mitigation  
86 verification inspections under paragraph (3), has made false  
87 statements in the completion of a mitigation inspection form  
88 shall file a report with the Division of Insurance Fraud, along  
89 with all of the evidence in its possession that supports the  
90 allegation of fraud or falsity. An insurer, person, or other  
91 entity making the report shall be immune from liability in  
92 accordance with s. 626.989(4), for any statements made in the  
93 report, during the investigation, or in connection with the  
94 report. The Division of Insurance Fraud shall issue an  
95 investigative report if it finds that probable cause exists to  
96 believe that the authorized mitigation inspector, or an employee  
97 authorized to conduct mitigation verification inspections under  
98 paragraph (3), made intentionally false or fraudulent statements  
99 in the inspection form. Upon conclusion of the investigation and  
100 a finding of probable cause that a violation has occurred, the



101 Division of Insurance Fraud shall send a copy of the  
102 investigative report to the office and a copy to the agency  
103 responsible for the professional licensure of the authorized  
104 mitigation inspector, whether or not a prosecutor takes action  
105 based upon the report.

106 (7)-(3) An individual or entity who knowingly provides or  
107 utters a false or fraudulent mitigation verification form with  
108 the intent to obtain or receive a discount on an insurance  
109 premium to which the individual or entity is not entitled  
110 commits a misdemeanor of the first degree, punishable as  
111 provided in s. 775.082 or s. 775.083.

112 (8) At its expense, the insurer may require that any  
113 uniform mitigation verification form provided by an authorized  
114 mitigation inspector or inspection company be independently  
115 verified by an inspector, inspection company or an independent  
116 third-party quality assurance provider which does possess a  
117 quality assurance program prior to accepting the uniform  
118 mitigation verification form as valid.

120 ===== T I T L E A M E N D M E N T =====

121 And the title is amended as follows:

122 Delete lines 191 - 217

123 and insert:

124 F.S.; revising the list of persons qualified to sign  
125 certain mitigation verification forms for certain  
126 purposes; authorizing insurers to accept forms from  
127 certain other persons; providing requirements for  
128 persons authorized to sign mitigation forms;  
129 prohibiting misconduct in performing hurricane



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130 mitigation inspection or completing uniform mitigation  
131 forms causing certain harm; specifying what  
132 constitutes misconduct; authorizing certain licensing  
133 boards to commence disciplinary proceedings and impose  
134 administrative fines and sanctions; providing for  
135 liability of mitigation inspectors; requiring certain  
136 entities to file reports of evidence of fraud;  
137 providing for immunity from liability for reporting  
138 fraud; providing for investigative reports from the  
139 Division of Insurance Fraud; providing penalties;  
140 authorizing insurers to require independent  
141 verification of uniform mitigation verification forms;  
142 creating