

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: PCB EDTS 13-02 Development Permits
SPONSOR(S): Economic Development & Tourism Subcommittee
TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
Orig. Comm.: Economic Development & Tourism Subcommittee		West	West

SUMMARY ANALYSIS

The Division of Emergency Management (Division) is administratively housed within the Executive Office of the Governor. The Director of the Division is appointed by, and serves at the pleasure of, the Governor and is the head of the Division for all purposes. The Division is tasked with administering programs to rapidly apply all available aid to communities stricken by an emergency and serves as a liaison with federal agencies and other public and private agencies.

The State Emergency Management Act establishes the powers of the Division. It tasks the Division with maintaining a comprehensive statewide program of emergency management efforts that includes coordinating efforts with the Federal Government, local governments, other state agencies, school boards, and private agencies that have a role in emergency management.

The National Flood Insurance Program (NFIP) was created by Congress in 1968 to address a shortage of flood insurance available from private insurance markets following frequent widespread flooding along the Mississippi River. The NFIP is administered by the Federal Emergency Management Administration (FEMA) and has three main components: to provide flood insurance, improve floodplain management, and develop maps of flood hazard areas. House Bill 503 (2012) contained provisions that, if implemented, would impede the state's ability to enforce required components of NFIP's floodplain management regulations and jeopardize Florida's voluntary participation in NFIP.

The PCB makes technical changes to Sections 125.022 and 166.033, Florida Statutes, to bring state law into compliance with the federal requirements of NFIP.

The PCB does not appear to have a fiscal impact on state funds or local governments.

The PCB provides an effective date of July 1, 2013.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

Division of Emergency Management

The Division of Emergency Management (Division) is administratively housed within the Executive Office of the Governor. The Division is a separate budget entity, as provided in the General Appropriations Act and must prepare and submit a budget request in accordance with chapter 216, Florida Statutes. The Division is responsible for all professional, technical, and administrative support functions necessary to carry out its responsibilities. The Director of the Division is appointed by, and serves at the pleasure of, the Governor and is the head of the Division for all purposes. The Division is tasked with administering programs to rapidly apply all available aid to communities stricken by an emergency and serves as a liaison with federal agencies and other public and private agencies.¹

The State Emergency Management Act (Act)² establishes the powers of the Division. It tasks the Division with maintaining a comprehensive statewide program of emergency management efforts that includes coordinating efforts with the Federal Government, local governments, other state agencies, school boards, and private agencies that have a role in emergency management.³ The statewide program of emergency management includes but is not limited to:

- Preparation of a comprehensive statewide emergency management plan;
- Adopting standards and requirements for county emergency management plans;
- Assisting political subdivisions in preparing and maintaining emergency management plans;
- Ascertaining the requirements for equipment and supplies for use in an emergency;
- Instituting statewide public awareness programs;
- Coordinating federal, state, and local emergency management activities in advance of an emergency; and
- Using and employing the property, services, and resources within the state in accordance with the Act.⁴

After a disaster, the Division conducts damage assessment surveys and advises the Governor on whether to declare an emergency and seek federal relief funds. The Division maintains a primary Emergency Operations Center (EOC) in Tallahassee. The EOC serves as the communications and command center for reporting emergencies and coordinating state response activities. The Division also operates the State Warning Point, a state emergency communications center staffed 24 hours each day. The center maintains statewide communications with county emergency officials.⁵

National Flood Insurance Program

The National Flood Insurance Program (NFIP) was created by Congress in 1968 as a result of passage of the National Flood Insurance Act to address economic hardships caused by flood disasters. Congress found that it was "...uneconomic for the private insurance industry alone to make flood insurance available to those in need of such protection on reasonable terms and conditions; but a program of flood insurance with large-scale participation of the Federal Government and carried out to the maximum extent practicable by the private insurance industry is feasible."⁶ In response, NFIP was created as a voluntary program that provided affordable flood insurance for people that lived in

¹ Section 14.2016, F.S.

² Section 252, F.S.

³ Section 252.35(1), F.S.

⁴ Section 252.35, F.S.

⁵ http://floridadisaster.org/about_the_division.htm

⁶ 42 U.S.C. § 4001(b)(1,2).

communities that adopted floodplain management regulations that meet or exceed federal standards.⁷ In most instances, homeowners buy flood policies from an insurance agent but in the event of a flood disaster the insurance company doesn't pay the claim, the Federal Government does. NFIP provides coverage up to \$250,000 for the home and \$100,000 for personal possessions for private dwellings and up to \$500,000 for buildings and \$500,000 for property and belongings for commercial properties.

NFIP in Florida

- More than 450 communities are active participants in NFIP
- More than 2 million flood insurance policies
- More than \$471 billion in flood coverage⁸

In March, 2012, FEMA expressed concern that HB 503 (2012) was inconsistent with federal law⁹ that requires communities to review proposed developments to ensure they have received necessary permits pursuant to federal and state law. This requirement ensures that coordination occurs between levels of government on projects impacting flood plains and that all necessary permits have been secured before commencement of construction. FEMA warned that if HB 503 was implemented, Florida communities would be subject to challenge and face legal impediments to as they tried to comply with NFIP requirements. If communities could not meet requirements of NFIP, they could be subject to suspension from the program that would include the following consequences:

- No selling or renewing of flood insurance policies within a community that is not in compliance with NFIP requirements;
- Federal agencies would be prohibited from issuing grants, loans, or guarantees for the acquisition or construction of structures located in a Special Flood Hazard Area;
- Lending institutions may require private flood insurance for high-risk properties at significantly higher cost to the homeowner, assuming private insurance is even available in that area; and
- If a flood disaster occurs in a suspended community, many types of federal disaster assistance would not be available.¹⁰

Effects of Proposed Changes

The PCB requires counties and municipalities to attach disclaimers to development permits that include a condition that all other applicable state or federal permits must be obtained before commencement of the development, including developments in mapped flood hazard areas. Such changes would ensure Florida is fully compliant with NFIP.

B. SECTION DIRECTORY:

Section 1: Amends s. 125.022, F.S., to provide that counties will attach disclaimers to development permits that include a condition that all other applicable state or federal permits must be obtained before commencement of the development, including developments in mapped flood hazard areas.

Section 2: Amends s. 166.033, F.S., to provide that municipalities will attach disclaimers to development permits that include a condition that all other applicable state or federal permits must be obtained before commencement of the development, including developments in mapped flood hazard areas.

Section 3: Provides an effective date of July 1, 2013.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

⁷ See 42 U.S.C. §§ 4012(c), 4022; 44 C.F.R. §§ 60.1, 60.2.

⁸ Letter from Major P. May (Regional Administrator, FEMA) to Governor Rick Scott, dated March 30, 2012; on file with Economic Development & Tourism Subcommittee.

⁹ 44 C.F.R. § 60.3(a)(2).

¹⁰ Id at 8.

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:

None.

D. FISCAL COMMENTS:

If a flood disaster occurs in a suspended community, many types of federal disaster assistance would not be available and could pose a financial hardship to that suspended community.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. This bill does not appear to: require counties or municipalities to spend funds or take an action requiring the expenditure of funds; reduce the authority that counties or municipalities have to raise revenues in the aggregate; or reduce the percentage of a state tax shared with counties or municipalities.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES