

## A BRIEF HISTORY OF HURRICANE WIND MITIGATION

Most experts agree that one of the best things that can be done to increase the potential for loss due to hurricanes is to “harden” the insured property and make it less susceptible to damage. To that end, the Florida Legislature has passed legislation designed to encourage property owners, with the enticement of property insurance rate credits, to inspect their homes and take corrective measures wherever storm-prone weaknesses are found. This process is called **mitigation**.

### DISCUSSION

- To help understand the mitigation process in Florida, it is helpful to look at a brief chronology of its development in this state.
- While the concept of mitigation credits were a part of 627.0629, F.S., at least as early as June 1, 2002, the current mitigation issue appears to have started March 28, 2002, with a 294-page report commissioned by the Florida Department of Community Affairs (DCA), using Applied Research Associates, Inc. (ARA), which recommended a certain level of mitigation credits, and was accompanied by a “relativity chart” outlining various mitigation factors and their impact on discounts. Those discounts, according to some, seemed rather high at the time, especially since they were unproven. The commissioner also thought them to be rather high, so he cut the level of discounts in half and asked for the insurance industry to voluntarily use them so that a track record could be created. Some companies responded.
- In 2005, the Florida Legislator passed CS/SB 1486, later codified as Ch. 2005-111, LOF. Section 22 of the law created a new 627.711, F.S., requiring insurers, on a form prescribed by the Office of Insurance Regulation (OIR), to notify each policy holder, at the time of issuing the policy and each renewal, of the availability and range of each premium discount, credit, other rate differential, or reduction in deductibles for properties on which fixtures or construction techniques are demonstrated their ability to reduce the amount of the loss in a windstorm if installed or implemented. The prescribed form also would describe the actions the policyholder needed to take to get the discount. The form and the range of discounts offered by each insurer would then be placed on the websites of both the OIR and the Department of Financial Services (DFS).
- The OIR followed up on this law by issuing Informal Memorandum OIR-05-22M on December eighth 2005. That memorandum told insurers that a mitigation form was available on the OIR website and that insurers should submit their own completed form to the OIR by January 31, 2006, and start sending the list of discounts to all new and renewal policies starting on February 1st, 2006.

- In November 2006, the Florida Cabinet, sitting as the Financial Services commission, doubled the discounts, thus restoring them to the original recommendations of the ARA study.
- In December 2006, the OIR promulgated Rule 690-170.017, which required all property insurers to provide to the OIR, no later than March 1, 2007, higher discounts in their insurance rates for policyholders who have recognized wind loss mitigation devices. According to the OIR, the rule requires insurers to send a list of those discounts with exact dollar saving to all new and renewed policyholders.
- During the 2007 Special Session 'A', the Legislature passed HB 1-A, which was approved on January 25, 2007, as Ch. 2007-1, LOF. The bill added a new §627.062(2)(i), F.S., which provided that residential property insurance create filings must account for mitigation measures undertaken by the policyholder to reduce hurricane loss. It amended §627.0629 (1), F.S., saying it was the intent of the Legislature for insurers to provide savings to the policyholders for mitigation measures. It also modified §627.711, F.S., to require policyholder notification of combinations of discounts, credits, etc., for mitigation. The bill created a Windstorm Mitigation Study Commission, charged with studying mitigation's effect on hurricanes losses and making a report to the governor and Legislature by March 6, 2007. Their report was issued on March 6, 2007, and contained 55 recommendations in eight categories. Finally, the bill charged the Financial Services Commission (governor and Cabinet) with adopting a uniform home grading scale to grade the ability of a home to withstand the wind load from a sustained severe tropical storm or hurricane. They were to work with the DCA and adopt the scale no later than June 30, 2007.
- During the 200 Regular Session, the Legislature passed CS/HB 7057, which was signed into law on June 12 as Ch. 2007-126, LOF. Among other things, the bill required the OIR, the DCA, and the Florida Building Commission to conduct a study of windstorm loss relativities for mitigation feature of both residential and commercial property in order to assure the validity of windstorm mitigation premium discounts. It also required the Florida Building Commission to develop recognized mitigation techniques and put in the building code by October 1, 2007. The study's funding was vetoed, but in Special Session 2007C, the funding was restored and the OIR issued a contract to have the study completed by April 1, 2008.
- Starting September 5, 2007, insurers must start sending form OIR-B1-1655, "Notice of Premium Discounts for Hurricane Loss Mitigation", to all new and renewal policyholders.
- Finally, on October 18, 2007, the OIR issued Information Memorandum OIE-07-16M. It told insurers that the OIR had issued a variance from rule 690-170.0155(1). The rule adopted Form OIR-B1-1802; "Uniform Mitigation verification Inspection Form", to be in compliance with the 2007 change to §627.0711 (2), F.S.

## **CONCLUSION**

Taken all together, the law changes, coupled with the mitigation efforts of the My safe Florid Home project, should go a long way in reducing loss cost when the next major hurricane inevitably hits the state of Florida. If you insureds have not taken advantage of the MSFH program's inspections, you should probably encourage them to do so.