

## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** CS/HB 1C Disaster Relief  
**SPONSOR(S):** Appropriations Committee, Shoaf & others  
**TIED BILLS:** IDEN./SIM. BILLS: SB 2-C

| REFERENCE                   | ACTION           | ANALYST | STAFF DIRECTOR or<br>BUDGET/POLICY CHIEF |
|-----------------------------|------------------|---------|--|
| 1) Appropriations Committee | 28 Y, 0 N, As CS | Willson | Pridgeon                                 |

### SUMMARY ANALYSIS

The bill contains several provisions and nonrecurring appropriations related to hurricane and disaster relief:

- Requires certain tangible personal property used in a farm operation that was unable to be used for at least 60 days due to the effects of Hurricane Idalia to be assessed at no greater than the property's salvage value.
- Provides sales tax exemptions for certain fencing and building materials used to repair or replace agricultural fencing or repair damage to nonresidential farm buildings damaged by Hurricane Idalia.
- Creates a refund for fuel taxes paid for agricultural shipment and debris removal from agricultural properties in counties affected by Hurricane Idalia.
- Specifies that the Legislature intends to provide the entire match requirement for FEMA Public Assistance to local governments within counties designated in the FEMA disaster declaration for Hurricane Idalia and appropriates \$30 million from the General Revenue Fund to the Division of Emergency Management (DEM) to fund the match.
- Extends the repeal date for the Florida Emergency Management Assistance Foundation, from December 31, 2024 to October 1, 2027.
- Extends the terms of loans from two years to five years under the Local Government Emergency Revolving Bridge Loan Program.
- Appropriates \$25 million from the Local Government Housing Trust Fund to the Florida Housing Finance Corporation to fund the Hurricane Housing Recovery Program for eligible counties and municipalities based on population and FEMA damage assessment data from Hurricane Idalia.
- Appropriates \$50 million from the General Revenue Fund to the DEM for the Hurricane Recovery Grant Program for local governments within counties designated in the FEMA disaster declaration for Hurricane Idalia. Funding may be used for repair and recovery projects, including unanticipated expenses or losses of revenue.
- Appropriates \$10 million from the State Transportation Trust Fund to the Department of Transportation for the Small County Outreach Program, specifically for transportation projects within counties designated in the federal disaster declaration related to Hurricane Idalia.
- Extends the prohibition on burdensome or restrictive local building processes enacted in the 2023 session in response to Hurricanes Ian and Nicole from October 1, 2024 to October 1, 2026, and clarifies the counties and municipalities affected by the prohibition.
- Appropriates \$3 million from the General Revenue Fund to DEM to provide planning and design grants for new emergency operations facilities in fiscally constrained counties impacted by Hurricane Idalia.
- Appropriates \$5 million from the General Revenue Fund to the Department of Commerce to award Rural Infrastructure Fund grants to fiscally constrained counties impacted by Hurricane Idalia.
- Appropriates \$181.5 million from the General Revenue Fund to the Department of Financial Services for mitigation grants and administrative costs associated with the My Safe Florida Home Program.
- Creates the Agriculture and Aquaculture Producers Natural Disaster Recovery Loan Program within the Department of Agriculture and Consumer Services (DACS) to provide loans to producers that have experienced damage or destruction from a declared natural disaster and transfers \$75 million from the General Revenue Fund to the DACS General Inspection Trust Fund to fund the program. Loan funds may be used to restore, repair, or replace essential physical property or remove vegetative debris from essential physical property.
- Authorizes DACS to administer a cost-sharing grant program to assist timber landowners in specified counties whose timber land was damaged as a result of Hurricane Idalia and appropriates \$37.5 million from the General Revenue Fund to DACS to fund the program.

The bill may have a positive but indeterminate fiscal impact on the local economy and a significant negative fiscal impact on state expenditures.

The bill will take effect upon becoming a law.

**This document does not reflect the intent or official position of the bill sponsor or House of Representatives .**

**STORAGE NAME:** h0001Ca.APC

**DATE:** 11/6/2023

# FULL ANALYSIS

## I. SUBSTANTIVE ANALYSIS

### A. EFFECT OF PROPOSED CHANGES:

#### Hurricane Idalia

Hurricane Idalia made landfall on August 30, 2023, along the Florida Big Bend coast at Keaton Beach as a category 3 hurricane with maximum wind speeds of 125 mph.<sup>1</sup> The system remained a hurricane as it impacted a large swath of north Florida before crossing into Georgia as a category 2 hurricane.<sup>2</sup> Idalia was only the third major hurricane on record to make landfall in the Big Bend region and the strongest to make landfall since the Cedar Key hurricane in 1896.<sup>3</sup> Hurricane Idalia brought significant storm surge and riverine flooding on Florida's west coast, including a peak storm surge level of 8 feet at Steinhatchee and a 6.9 foot storm surge that devastated Cedar Key.<sup>4</sup> Other areas generally experienced flooding of 3 to 4 feet. Preliminary insured losses in Florida are estimated to be at least \$9.6 billion.<sup>5</sup>

Prior to landfall, on August 26, 2023, Governor DeSantis issued Executive Order 23-171, declaring a state of emergency for several counties due to the continuing recovery efforts from Hurricanes Ian and Nicole and the dangers of Invest 93L, which was predicted to develop and organize into a tropical storm as it moved over the Caribbean Sea and Gulf of Mexico.<sup>6</sup> Governor DeSantis requested a major disaster declaration for Hurricane Idalia on August 30, 2023, which was approved on August 31, 2023, making federal disaster assistance available for impacted Florida counties.<sup>7</sup>

#### **Agricultural Losses Related to Hurricane Idalia**

Hurricane Idalia also had a significant impact on the agricultural production in the region. More than 3.3 million acres of Florida's agricultural lands were affected, of which almost 74 percent was grazing land.<sup>8</sup> The commodity groups most affected by the hurricane were animals and animal products and field and row crops. The University of Florida's Institute of Food and Agricultural Sciences (UF/IFAS) predicts that agricultural losses from Hurricane Idalia will likely be between \$78.8 million and \$370.9 million.<sup>9</sup> Although UF/IFAS has attempted to provide a rapid assessment of agricultural production losses in the state, it notes that other losses may have been incurred by impacted agricultural producers and are not included in its assessment, including:

- Damage to agricultural-related infrastructure that will need to be repaired or replaced;
- Stored inputs, such as seeds and fertilizer, or stored harvested products that were damaged or destroyed;
- Expenses related to Hurricane Idalia-specific preparations ahead of the storm and clean-up after the storm;
- Production losses that may carry over to 2024 and beyond due to damages to infrastructure or other effects of the storm;

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<sup>1</sup> Emily Powell, Florida Climate Center, *Hurricane Idalia Preliminary Post-Storm Summary*, Sept. 7, 2023, (last visited October 26, 2023).

<sup>2</sup> Christa D. Court, Xiaohui Qiao, Mengming Li, Kelsey McDaid, Food and Resource Economics Department, University of Florida, Institute of Food and Agricultural Sciences (UF/IFAS), *Preliminary Assessment of Agricultural Losses and Damages*

<sup>3</sup> *Supra* note 1.

<sup>4</sup> *Id.*

<sup>5</sup> *Id.*

<sup>6</sup> State of Florida Executive Order 23-175, <https://www.flgov.com/wp-content/uploads/2023/08/EO-23-175-1.pdf> (last visited Oct. 26, 2023).

<sup>7</sup> Executive Office of the Governor, *Governor Ron DeSantis Announces Approval of Florida's Major Disaster Declaration*, Aug. 31, 2023, <https://www.flgov.com/2023/08/31/governor-ron-desantis-announces-approval-of-floridas-major-disaster-declaration-2/> (last visited on October 26, 2023). *See also*, Federal Emergency Management Administration, *President Joseph R. Biden, Jr. Approves Major Disaster Declaration for Florida*, Aug. 31, 2023, <https://www.fema.gov/press-release/20230831/president-joseph-r-biden-jr-approves-major-disaster-declaration-florida> (last visited on Oct. 26, 2023).

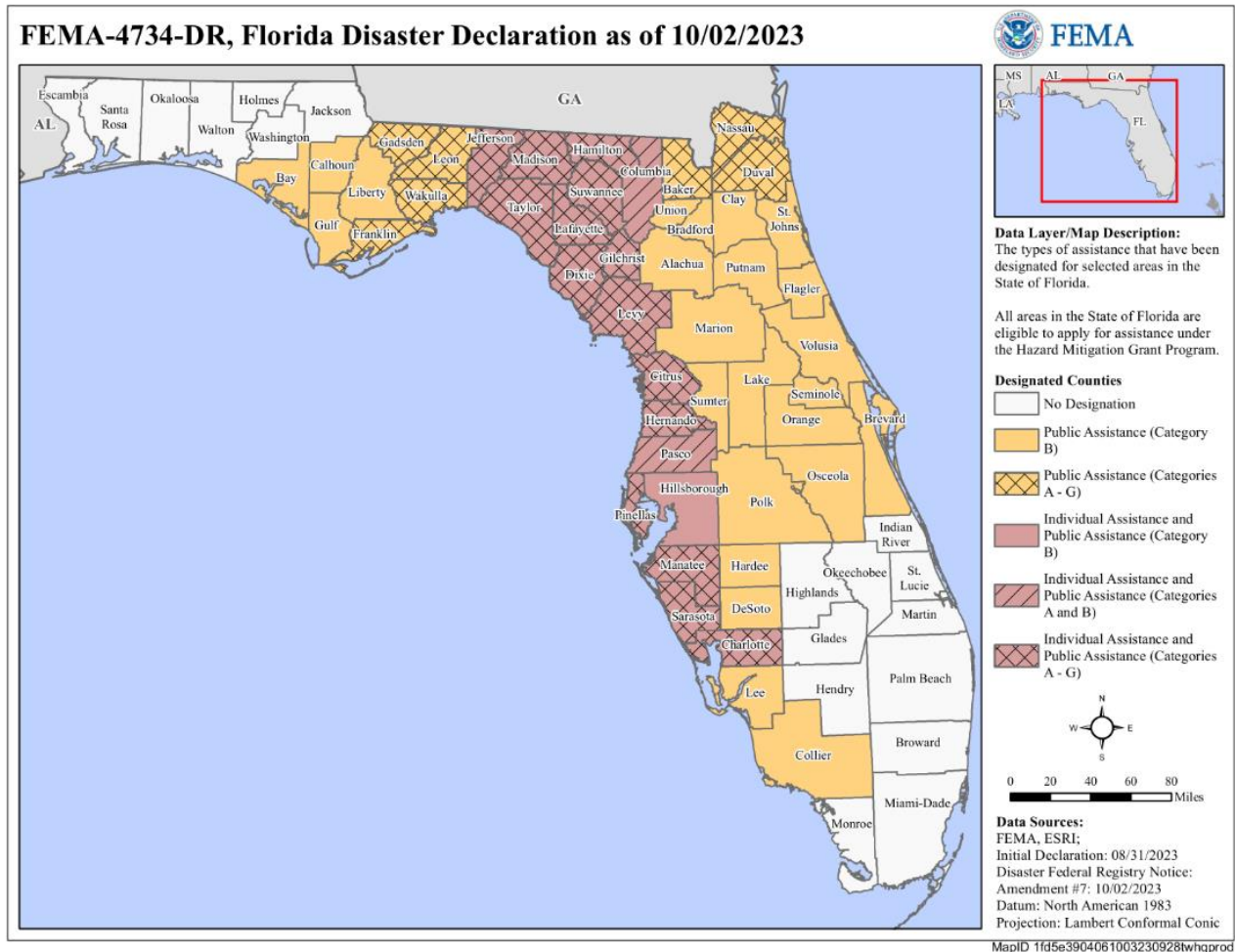
<sup>8</sup> *Supra* note 2.

<sup>9</sup> *Id.*

- Production losses for agricultural operations that specialize in post-harvest processing, packing, or distribution;
- Value of timber or forestry losses, which are being assessed by the Florida Forest Service; and
- Value of production losses to capture fisheries.

## Counties Designated for FEMA Assistance

The following graphic depicts the counties designated by FEMA for individual and public assistance as a result of Hurricane Idalia.



## Property Tax

The ad valorem tax, or “property tax,” is an annual tax levied by local government on the taxable value of real and tangible personal property. The Florida Constitution prohibits the state from levying ad valorem taxes on real or tangible personal property,<sup>10</sup> and instead authorizes local governments, including counties, school districts, and municipalities to levy ad valorem taxes. Special districts may also be given this authority by law.<sup>11</sup>

The property appraiser annually determines the “just value”<sup>12</sup> of property within the taxing authority’s jurisdiction and then applies relevant exclusions, assessment limitations, and exemptions to determine

<sup>10</sup> Article VII, s. 1(a), Fla. Const.

<sup>11</sup> Article VII, s. 9., Fla. Const.

<sup>12</sup> Property must be valued at “just value” for purposes of property taxation, unless the Florida Constitution provides otherwise.

(Article VII, s. 4, Fla. Const.). Just value has been interpreted by the courts to mean the fair market value that a willing buyer would

the property's "taxable value."<sup>13</sup> Tax bills are mailed in November of each year based on the previous January 1 valuation, and payment is due by March 31.<sup>14</sup>

The tax is based on the taxable value of property as of January 1 of each year.<sup>15</sup>

### **Assessment of Agricultural Equipment Damaged by Hurricane Idalia**

"Tangible personal property" means all goods, chattels, and other articles of value (not including vehicles) capable of manual possession and whose chief value is intrinsic to the article itself.<sup>16</sup> All tangible personal property is subject to ad valorem taxation unless expressly exempted.<sup>17</sup> Household goods and personal effects,<sup>18</sup> items of inventory,<sup>19</sup> and up to \$25,000 of assessed value for each tangible personal property tax return<sup>20</sup> are exempt from ad valorem taxation.

For purposes of ad valorem property taxation, agricultural equipment that is located on property classified as agricultural under s. 193.461, F.S., and is obsolete and no longer usable for its intended purpose is deemed to have a market value no greater than its value for salvage.<sup>21</sup>

### **Effect of Bill**

The bill creates s. 193.4518, F.S., providing that tangible personal property owned and operated by a farm, farm operation, or agricultural processing facility in certain counties shall be deemed to have a market value no greater than its salvage value, provided the tangible personal property was unable to be used for at least 60 days due to the effects of Hurricane Idalia.<sup>22</sup> This valuation will be effective only for the 2024 tax year.

### **Sales Tax**

Florida's sales and use tax is a six percent levy on retail sales of a wide array of tangible personal property, admissions, transient lodgings, and commercial real estate rentals<sup>23</sup>, unless expressly exempted. In addition, Florida authorizes several local option sales taxes that are levied at the county level on transactions that are subject to the state sales tax.<sup>24</sup> Generally, the sales tax is added to the price of a taxable good and collected from the purchaser at the time of sale.<sup>25</sup>

### **Fencing Materials used in Agriculture**

Current law exempts from the sales and use tax hog wire and barbed wire fencing, materials used to build or repair fencing to contain cattle, and materials used to build or repair fencing on agricultural

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pay a willing seller for the property in an arm's-length transaction. *See Walter v. Shuler*, 176 So. 2d 81 (Fla. 1965); *Deltona Corp. v. Bailey*, 336 So. 2d 1163 (Fla. 1976); *Southern Bell Tel. & Tel. Co. v. Dade County*, 275 So. 2d 4 (Fla. 1973).

<sup>13</sup> S. 192.001(2) and (16), F.S.

<sup>14</sup> S. 197.322 and 197.333, F.S.

<sup>15</sup> S. 192.042, F.S.

<sup>16</sup> S. 192.001(11)(d), F.S.

<sup>17</sup> S. 196.001(1), F.S.

<sup>18</sup> S. 196.181, F.S.

<sup>19</sup> S. 196.185, F.S.

<sup>20</sup> S. 196.183, F.S.

<sup>21</sup> S. 193.4615, F.S.

<sup>22</sup> The valuation provision is limited to tangible personal property in Charlotte, Citrus, Columbia, Dixie, Gilchrist, Hamilton, Hernando, Jefferson, Lafayette, Levy, Madison, Manatee, Pasco, Pinellas, Sarasota, Suwannee, and Taylor counties.

<sup>23</sup> Commercial real estate rentals are subject to a 5.5% sales tax pursuant to s. 212.031(1)(c), F.S.

<sup>24</sup> Ss. 212.054 and 212.055, F.S.

<sup>25</sup> S. 212.07(2), F.S.

lands.<sup>26</sup> The exemption is not allowed unless the purchaser or lessee signs a certificate stating that the item to be exempted is for the exclusive use designated in s. 212.08(5)(a), F.S.

Hurricane Idalia's path coincided with some of Florida's most productive agricultural landscapes for beef cattle, dairy cattle, poultry, aquaculture, horticulture, field corn, cotton, peanuts and pecans, and consequently it caused major losses to all segments of agriculture production, including crop losses and damaged infrastructure such as destroyed fences, shade structures, ground cover for row crops; uprooted or cracked trees and bushes and damages to cattle and poultry industry.<sup>27</sup> Preliminary estimates for total losses (crops and infrastructure) reported by the Department of Agriculture and Consumer Services are nearly \$448 million.<sup>28</sup>

### Effect of Bill

The bill provides an exemption from the sales and use tax for the purchase of fencing materials used in the repair or replacement of agricultural fencing that was damaged as a direct result of Hurricane Idalia.<sup>29</sup> The exemption is available through a refund of previously paid taxes and applies to purchases made between August 30, 2023, and June 30, 2024.

To receive a refund, the owner of the fencing materials must apply to the Department of Revenue by December 31, 2024, and include the following information:

- The name and address of the person claiming the refund.
- The address and assessment roll parcel number of the agricultural land where the fencing materials will be or were used.
- The sales invoice or other proof of purchase of the fencing materials, showing the amount of sales tax paid, the date of purchase, and the name and address of the sales tax dealer from whom the materials were purchased.
- An affidavit executed by the owner of the fencing materials including a statement that the fencing materials were or will be used to repair fencing damaged as a direct result of the impact of Hurricane Idalia.

### **Building Materials for Nonresidential Farm Buildings**

Current law defines a "nonresidential farm building" as any temporary or permanent building or support structure that is classified as a nonresidential farm building on a farm under s. 553.73(10)(c), F.S., or that is used primarily for agricultural purposes, is located on land that is an integral part of a farm operation or is classified as agricultural land under s. 193.461, F.S., and is not intended to be used as a residential dwelling.<sup>30</sup> The term includes barns, greenhouses, shade houses, farm offices, storage buildings, and poultry houses.

Generally, sales and use tax is levied on the purchase of tangible personal property that is used in the construction or repair of buildings and other projects, unless specifically exempted.<sup>31</sup> There is no general sales tax exemption for the purchase of tangible personal property used in the construction or repair of nonresidential farm buildings.

Hurricane Idalia caused major losses to Florida's agricultural landscapes, and damage to nonresidential farm buildings is a part of the agricultural infrastructure losses.

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<sup>26</sup> S. 212.08(5)(a), F.S.

<sup>27</sup> Florida Department of Agriculture and Consumer Services September 2023 Report titled "Preliminary Estimates of Damage to Florida Agriculture from Hurricane Idalia," <https://ccmedia.fdacs.gov/content/download/114349/file/Hurricane-Idalia-Damage-Report-WEB.pdf> (last accessed 10/27/2023).

<sup>28</sup> *Id.*

<sup>29</sup> The exemption is limited to repair or replacement of agricultural fencing in Charlotte, Citrus, Columbia, Dixie, Gilchrist, Hamilton, Hernando, Jefferson, Lafayette, Levy, Madison, Manatee, Pasco, Pinellas, Sarasota, Suwannee, and Taylor counties.

<sup>30</sup> S. 604.50, F.S.

<sup>31</sup> For example, s. 212.08(5)(q), F.S., exempts the sale of building materials that are used in new construction located in a rural area of opportunity.

## Effect of Bill

The bill provides an exemption from the sales and use tax for the purchase of certain building materials used to repair or replace nonresidential farm buildings that were damaged as a direct result of Hurricane Idalia.<sup>32</sup> The exemption is available through a refund of previously paid taxes and applies to purchases made between August 30, 2023, and June 30, 2024. The exempt building materials are broadly defined as tangible personal property that becomes a component part of a nonresidential farm building.

To receive a refund, the owner of the building materials must apply to the Department of Revenue by December 31, 2024, and include the following information:

- The name and address of the person claiming the refund.
- The address and assessment roll parcel number of the real property where the building materials will be or were used.
- The sales invoice or other proof of purchase of the building materials, showing the amount of sales tax paid, the date of purchase, and the name and address of the sales tax dealer from whom the materials were purchased.
- An affidavit executed by the owner of the building materials including a statement that the building materials were or will be used to repair the nonresidential farm building damaged as a direct result of the impact of Hurricane Idalia.

## Motor Fuel Taxes

Motor fuel and diesel fuel are subject to state taxation pursuant to ch. 206, F.S. The tax rate is a combination of several state and local rates, and the revenue collected is distributed to various state trust funds and to local governments for revenue sharing purposes.<sup>33</sup> For 2021, the combined state and local tax rate was 26.5 cents per gallon.<sup>34</sup> In addition, the retail sale of motor and diesel fuel is subject to sales tax under ch. 212, F.S., under certain circumstances if fuel taxes have not been paid.<sup>35</sup>

## Refund of Motor Fuel Taxes

Current law exempts the sale or use of motor and diesel fuel for agricultural or farm purposes;<sup>36</sup> however, agricultural or farm purposes are generally defined to mean “used exclusively on a farm or for processing farm products on the farm, and does not include fuel used in any vehicle or equipment operated upon public highways of the state.”<sup>37</sup>

## Effect of Bill

The bill creates an exemption from state and local taxes imposed on motor fuel and diesel under parts I and II, ch. 206, F.S.,<sup>38</sup> for fuel that is used for the transportation of agricultural products from the farm or agricultural land to a facility used to process or store the product; and for fuel that is used for hurricane debris removal. The exemption is limited to transport from a farm, nursery, forest, grove, orchard,

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<sup>32</sup> The exemption is limited building materials used to repair or replace nonresidential farm buildings in Charlotte, Citrus, Columbia, Dixie, Gilchrist, Hamilton, Hernando, Jefferson, Lafayette, Levy, Madison, Manatee, Pasco, Pinellas, Sarasota, Suwannee, and Taylor counties.

<sup>33</sup> S. 206.41, F.S.

<sup>34</sup> Revenue Estimating Conference, 2023 FLORIDA TAX HANDBOOK, pp. 131, <http://edr.state.fl.us/Content/revenues/reports/tax-handbook/taxhandbook2023.pdf>.

<sup>35</sup> S. 212.05(1)(k) and 212.0501, F.S.; Rule 12B-5.120, F.A.C.

<sup>36</sup> Ss. 206.41(4)(c), 206.64, 206.874(2)-(3), and 212.0501, F.S.

<sup>37</sup> The restriction does not apply to fuel used on highways to move equipment from one farm to another.

<sup>38</sup> The exemption does not include the 2 cent per gallon “second gas tax” imposed pursuant to art. XII, sec. 9(c), Fla. Const. under s. 206.41(1)(a), F.S., or the 0.125 cents per gallon inspection fee imposed under s. 206.41(1)(h), F.S.

vineyard, garden, or apiary located in Charlotte, Citrus, Columbia, Dixie, Gilchrist, Hamilton, Hernando, Jefferson, Lafayette, Levy, Madison, Manatee, Pasco, Pinellas, Sarasota, Suwannee, and Taylor counties.

The exemption is available through a refund of previously paid taxes and applies to purchases made between August 30, 2023, and June 30, 2024. To receive a refund, the fuel purchaser must apply to the Department of Revenue by December 31, 2024, and include the following information:

- The name and address of the person claiming the refund.
- The name and address of up to three owners of a farm or agricultural land whose agricultural product was shipped by the fuel purchaser.
- The sales invoice or other proof of purchase of the fuel, showing the number of gallons of fuel purchased, the type of fuel purchased, the date of purchase, and the name and place of business of the dealer from whom the fuel was purchased.
- The license number, or other identification number, of the motor vehicle that used the exempt fuel.
- An affidavit executed by the fuel purchaser including a statement that he or she purchased and used the fuel in a manner that qualifies for this exemption.

### **My Safe Florida Home Program**

In 2006, the Legislature created the My Safe Florida Home (MSFH) Program within the Department of Financial Services (DFS) and appropriated \$250 million for the program.<sup>39</sup> The Program provides hurricane mitigation inspections<sup>40</sup> and mitigation grants<sup>41</sup> for homeowners that qualify to fortify their homes and become eligible to receive premium discounts. Grants made to residential property owners under the program are considered disaster-relief assistance.<sup>42</sup> Following this initial appropriation, no additional funds were provided until 2022.

During the 2022D Special Session, the Legislature appropriated \$150 million in nonrecurring funds for a renewal of the Program in the 2022-2023 fiscal year. The funds appropriated were allocated as follows:

- \$115 million for mitigation grants.
- \$25 million for hurricane mitigation inspections.
- \$4 million for education and consumer awareness.
- \$1 million for public outreach for contractors and estate brokers and sales associates.
- \$5 million for administrative costs.

In the 2023 legislative session, the Legislature appropriated an additional \$100 million for mitigation grants and \$2,065,000 for operations and administration costs in the General Appropriations Act (GAA).<sup>43</sup> Additionally, the Legislature passed HB 881,<sup>44</sup> which expanded eligibility requirements for homeowners to qualify under the program and made the following changes to the MSFH Program:

- Monetary limits for eligibility for mitigation grants so that homes with an insured value of \$700,000, or less, qualify for the program.
- Use hurricane inspectors under s. 468.8314, F.S., that are licensed and have completed at least 3 hours of hurricane mitigation training approved by the Construction Industry Licensing Board.
- Hurricane mitigation inspectors must undergo level II background check.
- Broadens geographic eligibility to increase the amount of eligible homes outside of the wind-borne region.
- A townhouse as defined in s. 481.203, F.S., for which a homestead exemption has been granted may apply for and receive an inspection.

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<sup>39</sup> Ch. 2006-012, Laws of Fla.

<sup>40</sup> S. 215.5586(1), F.S.

<sup>41</sup> S. 215.5586(2), F.S.

<sup>42</sup> S.215.5586(8)

<sup>43</sup> SB 2500 (2023); Specific Appropriations 2368A & 2368B, ch. 2023-239, Laws of Fla.

<sup>44</sup> Ch. 2023-176, Laws of Fla.

- Removed the requirement that the Legislative Budget Commission (LBC) review and approve all MSFH contracts valued at \$1 million or more.
- Removed the designation of the grant funds for low-income recipients and increased the overall grant award to \$10,000.
- Added Citizens Property Insurance as an entity that may receive program brochures for redistribution.

## Statistics to Date

As of October 26, 2023, the MSFH Program has approved approximately 20,979 homeowner applications for grants.<sup>45</sup> \$209 million of appropriated funds have been obligated for grant disbursement, while over \$27 million has already been disbursed.<sup>46</sup> Homeowners that have made use of the MSFH Program have experienced about \$1,006 premium discount per home.<sup>47</sup>

### MSFH Statistics<sup>48</sup>:

- Inspections
  - 85,687 home inspections have been completed.
  - 12,310 home inspections are either scheduled or are in the process of being scheduled.
- Grants
  - 20,979 grants have been approved.
  - Over \$209 million has been obligated to homeowners who are in various stages of completing work on their homes.
  - 17,617 grant applications have been submitted and await funding.
- Reimbursements
  - 3,021 Homeowners have been sent a check for their grant reimbursements.
  - Average disbursement is \$9,153 per homeowner.
  - Total disbursements: \$27,652,688
- Insurance Premium Discounts Tracked
  - Of the 3,021 homeowners who have completed the process, 1,562 have reported an insurance premium discount.
  - Average discount of those reporting is \$1,006.

### Effect of Bill

This bill appropriates \$181,455,100 from the General Revenue Fund to the My Safe Florida Home Program in the DFS. A breakout of the funds includes:

- \$176,170,000 in nonrecurring general revenue for the backlog of 17,617 grant applications that have been submitted and await funding; and
- \$5,285,100 in nonrecurring general revenue for administrative costs related to the processing of MSFH grants.

The bill prohibits DFS from continuing to accept applications or to create a waiting list in anticipation of additional funding absent express authority from the Legislature.

### **FEMA Public Assistance Grant Program Matching**

FEMA's Public Assistance Grant Program provides funding to states, tribes, local governments, and certain types of private nonprofit organizations to assist them in responding to and recovering from presidentially-declared major disasters or emergencies. This program is intended to supplement state and local resources when an incident exceeds their ability to respond and recover and is only available after the President declares an emergency or major disaster upon the request of the governor of the affected state. Preliminary damage assessments by FEMA, in collaboration with state, local, and tribal

<sup>45</sup> Email from Steven Fielder, Chief Business Officer, Department of Financial Services, RE: MSFH Stats (Oct. 26, 2023).

<sup>46</sup> *Id.*

<sup>47</sup> *Id.*

<sup>48</sup> *Id.*



governments, are used to determine if an estimated cost of assistance exceeds certain thresholds and whether the Public Assistance Grant Program should be authorized. In Florida, once the FEMA Public Assistance Grant Program is authorized, the Division of Emergency Management (DEM) becomes the primary grant recipient. State, tribal, and local governments, as well as eligible nonprofit entities, may then apply for funding as “applicants.” Applicants must submit a request for grant funds to the DEM, which evaluates eligibility for the Public Assistance Grant Program with FEMA.<sup>49</sup>

Program funding is subject to a cost-share arrangement, of which the federal share may not be less than 75 percent of the eligible costs.<sup>50</sup> The federal cost share may be increased beyond 75 percent in limited circumstances, and for limited periods of time, if warranted.<sup>51</sup> Florida Statutes provide that in cases where the state accepts federal assistance under the Public Assistance Grant Program, and such assistance requires matching funds, the state will provide the full match requirement for state agencies and one-half of the required match for local governments.<sup>52</sup> However, eligible private nonprofits are responsible for the entire required match.

In cases of hardship, local governments can apply to the Executive Office of the Governor for a partial or complete waiver of the required match amount if the local government applies within the first 18 months after a disaster is declared.<sup>53</sup>

In response to Hurricanes Ian and Nicole, the Legislature provided the entire match requirement for FEMA Public Assistance to local governments within the counties designated in the FEMA disaster declarations on a first-come, first-served basis. To qualify, local governments must enter into agreements with DEM to have their match requirements waived and must agree to use an equal amount of funds toward further disaster recovery or mitigation. This provision expires June 30, 2027.

The Legislature also appropriated \$350 million in nonrecurring funds from the General Revenue Fund to the DEM to provide the federal match requirement for FEMA Public Assistance grants for local governments. The balance of this appropriation which is not disbursed by June 30, 2023, may be carried forward for up to 5 years after the effective date of the bill.

### Effect of Bill

The bill amends s. 252.37, F.S., to provide the entire match requirement for FEMA Public Assistance to local governments within counties designated in the FEMA disaster declaration for Hurricane Idalia, on a first-come, first-served basis. The bill also appropriates \$30 million in nonrecurring funds from the General Revenue Fund to DEM to provide the federal match requirement for FEMA Public Assistance grants for local governments. The balance of this appropriation which is not disbursed by June 30, 2024, may be carried forward for up to 5 years after the effective date of the bill. This provision of the bill expires June 30, 2028.

### Florida Emergency Management Assistance Foundation

Direct-support organizations (DSOs) are statutorily created private entities that are generally required to be nonprofit corporations and are authorized to carry out specific tasks in support of public entities or public causes. The purpose and functions of a DSO are prescribed by its enacting statute and, for most, by a written contract between the agency and the DSO. Current law provides that laws creating or authorizing a DSO generally repeal on October 1 of the fifth year after enactment, unless reviewed

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<sup>49</sup> DEM program information at <https://www.floridadisaster.org/dem/recovery/public-assistance-program/#:~:text=Following%20a%20Presidential%20Disaster%20Declaration,rebuilding%20a%20communities%20damaged%20infrastructure.> (last visited October 25, 2023)

<sup>50</sup> Public Assistance Program and Policy Guide, Version 4 Page 25, FEMA, [https://www.fema.gov/sites/default/files/documents/fema\\_pappg-v4-updated-links\\_policy\\_6-1-2020.pdf](https://www.fema.gov/sites/default/files/documents/fema_pappg-v4-updated-links_policy_6-1-2020.pdf) (last visited October 25, 2023.)

<sup>51</sup> *Id.*

<sup>52</sup> S. 252.37(5)(a), F.S.

<sup>53</sup> S. 252.37(5)(b), F.S.

and saved from repeal by the Legislature.<sup>54</sup>

During the 2022A Special Session, the Legislature passed a disaster relief bill (SB 4-A), creating s. 252.71, F.S., which established the “Florida Emergency Management Assistance Foundation,” a direct-support organization of the Division of Emergency Management (DEM).<sup>55</sup> The foundation provides assistance, funding, and support to DEM in its disaster response, recovery, and relief efforts for natural emergencies. The foundation must be a Florida nonprofit corporation and be recognized as such under s. 501(c)(3) of the Internal Revenue Code. The foundation is scheduled for repeal on December 31, 2024, unless reviewed and saved from repeal by the Legislature.

### Effect of Bill

The bill extends the repeal date for the Florida Emergency Management Assistance Foundation, from December 31, 2024 to October 1, 2027.

### Florida Emergency Bridge Loan Programs

The Department of Commerce (COM)<sup>56</sup> administers the Florida Small Business Emergency Bridge Loan Program to provide short-term, zero-interest loans to “bridge the gap” between the time a disaster impacts a business and when the business has secured longer term recovery funding.<sup>57</sup> Examples could include federal or commercial loans, insurance claims, or other resources. Eligible small businesses apply for loans up to \$50,000 through the program.

In response to Hurricane Ian, the Governor announced \$50 million would be available through the program to small businesses impacted by the hurricane, with \$10 million specifically dedicated to agricultural producers.<sup>58</sup>

Similarly, in 2023 the Legislature established the Local Government Emergency Revolving Bridge Loan within the Department of Commerce to provide financial assistance to local governments impacted by federally declared disasters.<sup>59</sup> The purpose of the loan program is to help these local governments maintain their operations by bridging the gap between the time the declared disaster occurred and the time that additional funding sources or revenues are secured to provide them with financial assistance. The loans are interest-free with the loan amount based upon demonstrated need, and must be paid back within two years unless extended by up to six months by the COM based on the local government’s financial condition.

Eligible local governments must be a county or municipality located in an area designated in FEMA disaster declarations. Also, the local government must show that it may suffer or has suffered substantial loss of its tax or other revenues as a result of the hurricane and demonstrate a need for financial assistance to enable it to continue to perform its governmental operations.

A local government may only use loan funds to continue local governmental operations or to expand and modify such operations to meet disaster-related needs. The funds may not be used to finance or supplant funding for capital improvements or to repair or restore damaged public facilities or infrastructure. The COM must coordinate with the Division of Emergency Management to assess whether such loans would affect reimbursement under federal programs for disaster-related expenses.

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<sup>54</sup> S. 20.058(5), F.S.

<sup>55</sup> S. 6, ch. 2022-272, Laws of Fla.

<sup>56</sup> Renaming the Department of Economic Opportunity, ss. 10 and 147, ch. 2023-173, Laws of Fla.

<sup>57</sup> Florida Department of Commerce, *Florida Small Business Emergency Bridge Loan Program*, <https://floridacommerce.my.site.com/RebuildFloridaBusinessLoanFund/s/> (last visited October 25, 2023).

<sup>58</sup> Executive Office of the Governor, *Governor Ron DeSantis Activates the Florida Small Business Emergency Bridge Loan Program, Making \$50 Million Available – At Least \$10 Million of Which Must Go to Assist Agricultural Businesses Impacted by Hurricane Ian*, <https://www.flgov.com/2022/10/04/governor-ron-desantis-activates-the-florida-small-business-emergency-bridge-loan-program-making-50-million-available-at-least-10-million-of-which-must-go-to-assist-agricultural-businesses/> (last visited October 25, 2023).

<sup>59</sup> S. 288.066, F.S.

This program expires July 1, 2038. All repayments of principal and interest must be returned to the loan fund and made available for future loans, and any unencumbered funds and loan repayments made after the program expiration must be returned to the General Revenue Fund. Two appropriations totaling a combined \$100 million were provided to implement the loan program for both the 2022-2023 and the 2023-2024 fiscal years.<sup>60</sup>

### Effect of Bill

The bill extends the maximum term of a loan from two to five years, prohibits further loan extensions, and additionally authorizes COM to amend any previously executed loan agreements under the program to five year terms upon the request of the local government.

### **Affordable Housing**

#### **Florida Housing Finance Corporation**

The Florida Housing Finance Corporation (FHFC) is a public corporation of the State of Florida that administers federal and state resources to finance the development and preservation of affordable homeowner and rental housing, and assist homebuyers with financing and down payment assistance.<sup>61</sup> Two of the most commonly used state affordable housing programs managed by the FHFC are the State Housing Initiatives Partnership Program (SHIP)<sup>62</sup> and the State Apartment Incentive Loan Program (SAIL).<sup>63</sup>

The SHIP program provides funds to local governments as an incentive to create partnerships that produce and preserve affordable homeownership and multifamily housing. The program was designed to serve low, very-low, and moderate-income families.<sup>64</sup> SHIP funds are distributed on a population-based formula to all 67 counties and to 52 eligible municipalities<sup>65</sup> in Florida. In order to participate, local governments must establish a local housing assistance program by ordinance; develop a local housing assistance plan approved by FHFC and a housing incentive strategy; amend land development regulations or establish local policies to implement the incentive strategies; form partnerships and combine resources in order to reduce housing costs; and ensure that rent or mortgage payments within the targeted areas do not exceed 30 percent of the area median income limits unless authorized by the mortgage lender.<sup>66</sup> Statutory spending requirements specify at least 65 percent of funds must be used for homeownership.<sup>67</sup>

The SAIL program provides low-interest loans on a competitive basis to affordable housing developers each year.<sup>68</sup> SAIL dollars are available to individuals, public entities, and not-for-profit or for-profit organizations that propose the construction or substantial rehabilitation of multifamily units affordable to very low-income individuals and families.<sup>69</sup> Special consideration is given to properties that target specific demographic groups such as the elderly, homeless people, farm workers, and commercial fishing workers.<sup>70</sup>

#### **Hurricane Housing Response**

Following the 2004 hurricane season, a statewide Hurricane Housing Work Group was created to recommend how to leverage funding recommended by the Governor for hurricane housing recovery

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<sup>60</sup> S. 3, ch. 2023-1, Laws of Fla.; s. 17, ch. 2023-304, Laws of Fla.

<sup>61</sup> S. 420.504(a), F.S.

<sup>62</sup> S. 420.9072, F.S.

<sup>63</sup> S. 420.507 and 420.5087, F.S.

<sup>64</sup> S. 420.9072(1)(a), F.S.

<sup>65</sup> S. 420.9071(10), F.S.

<sup>66</sup> S. 420.9072, F.S.

<sup>67</sup> S. 420.9075(5)(a), F.S.

<sup>68</sup> S. 420.5087, F.S.

<sup>69</sup> S. 420.5087, F.S.

<sup>70</sup> S. 420.5087(3), F.S.

needs. The work group recommended,<sup>71</sup> and the Legislature subsequently funded, the Hurricane Housing Recovery Program (HHRP) and the Rental Recovery Loan Program (RRLP). As a result of the work group's recommendation, the 2005 Legislature appropriated \$250 million for housing recovery: \$208 million for the HHRP and another \$42 million for the RRLP.<sup>72</sup> An additional \$93 million was appropriated in 2006 for the RRLP.<sup>73</sup>

The Hurricane Housing Recovery Program was created as a local housing recovery program aimed at assisting homeowners with post-hurricane recovery efforts and modeled after the existing SHIP program. The program required that local governments submit a strategy outlining proposed recovery actions, income levels, and number of units to be served. Hurricane recovery purposes may include, but are not limited to, repair and replacement of housing; assistance to homeowners to pay insurance deductibles; repair, replacement, and relocation assistance for manufactured homes; acquisition of building materials for home repair and construction; down payment assistance; housing re-entry assistance, such as security deposits, utility deposits, and temporary storage of household furnishings; or strategies in the approved local housing assistance plan.<sup>74</sup>

The Rental Recovery Loan Program was created to provide affordable rental units needed to promote the housing recovery needs of local communities. Modeled in part after the SAIL Program, the RRLP program allowed the state to leverage existing federal rental financing programs to provide units that served a range of incomes, including extremely low-income households, throughout the areas impacted by the hurricanes.

In response to Hurricane Michael in late 2018: \$65 million was disbursed to the HHRP and \$50 million to the RRLP program in Fiscal Year 2019-2020. An additional \$20 million was provided for the Hurricane Housing Recovery Program again in Fiscal Year 2020-2021.

In response to Hurricanes Ian and Nicole in 2022: \$60 million was disbursed to the HHRP and \$90 million to the RRLP program in Fiscal Year 2022-2023.

#### Effect of Bill

The bill appropriates \$25 million in nonrecurring funds from the Local Government Housing Trust Fund to the Florida Housing Finance Corporation for the 2023-2024 fiscal year. The funds must be used to fund the Hurricane Housing Recovery Program for eligible counties and municipalities based on population and FEMA damage assessment data from Hurricane Idalia. The funds must be used for hurricane recovery purposes including, but not limited to, site preparation, repair and replacement of housing; assistance to homeowners to pay insurance deductibles; repair, replacement, and relocation assistance for manufactured homes; acquisition of building materials for home repair and construction; down payment assistance; housing re-entry assistance, such as security deposits, utility deposits, and temporary storage of household furnishings. The Florida Housing Finance Corporation must coordinate with DEM and COM to prevent any duplication of benefits related to other state or federal programs.

#### **DEM Hurricane Recovery Grant Program**

In response to Hurricane Michael, the Legislature established the Hurricane Michael Recovery Grant Program and appropriated \$25 million to provide resources to fund mitigation of local and county revenue losses and operating deficits, infrastructure repair and replacement, beach renourishment, and debris removal. Funds requested by the local government and school boards, including charter schools, were needed to maintain services or infrastructure essential to support health, safety and welfare functions, and to be reimbursed for unanticipated expenses related to responding to Hurricane

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<sup>71</sup> Hurricane Housing Work Group Recommendations to Assist in Florida's Long Term Housing Recovery Efforts, [https://www.floridahousing.org/docs/default-source/disasterrelief/hhrp/hurricanehousingworkgroupreportfinal.pdf?sfvrsn=9883f7b\\_2](https://www.floridahousing.org/docs/default-source/disasterrelief/hhrp/hurricanehousingworkgroupreportfinal.pdf?sfvrsn=9883f7b_2) (last visited October 25, 2023).

<sup>72</sup> S. 2, ch. 2005-92, Laws of Fla.

<sup>73</sup> S. 31, ch. 2006-69, Laws of Fla.

<sup>74</sup> "Hurricane Housing Recovery Program (HHRP) – Ownership," p. 18 of the Affordable Housing Resource Guide produced by the Florida Housing Coalition, <https://www.flhousing.org/wp-content/uploads/2020/06/Affordable-Housing-Resource-Guide-FINAL-06.202033806.pdf> (last visited October 25, 2023).

Michael or for the loss of revenues related to these impacts. The local government must also agree to reimburse the state for funds subsequently received should federal funds, private funds, or insurance proceeds become available to meet the local government's original needs.

During the 2023 legislative session, in response to Hurricanes Ian and Nicole, the Legislature authorized the Hurricane Recovery Grant Program a second time, appropriating \$350 million for the efforts. While virtually identical to the program authorized for Michael, this effort further included independent special districts as eligible grant recipients, and requires that grantees match 50 percent of infrastructure project costs. DEM must coordinate with stakeholders to ensure there is no duplication of benefits between state funds and other funding sources, and any grants approved that could be eligible for other funding sources must be provided as loans which shall be repaid up to the amount of funds received.

### Effect of Bill

The bill provides \$50 million from the General Revenue Fund to the DEM for the Hurricane Recovery Grant Program in the 2023-2024 fiscal year for local governments within counties designated in the FEMA disaster declaration for Hurricane Idalia.

### **Small County Outreach Program (SCOP)**

Through the Small County Outreach Program (SCOP), the Department of Transportation (DOT) assists small county governments in repairing or rehabilitating county bridges, paving unpaved roads, addressing road-related drainage improvements, resurfacing or reconstructing county roads, or constructing capacity or safety improvements to county roads.<sup>75</sup>

Small counties, those having a population of 200,000 or less as determined by the most recent official estimate, are eligible to compete for funds that have been designated for the SCOP for projects on county roads. Available funds are allocated to the DOT districts based on the number of eligible counties, and the department shall fund 75% of the cost of projects on county roads funded under the program. To help ensure that the funds are utilized on as many projects as possible, any initial bid costs or project overruns after the letting that exceed the department's participation as stated, will be at the county's expense.

Funding for the program is included in the department's Five-Year Work Program annually, and totals \$87.4 million in Fiscal Year 2023-2024. As recently as 2019, \$15 million of the SCOP allocation was specifically earmarked for transportation projects within counties designated in the federal disaster declaration related to Hurricane Michael.<sup>76</sup>

### Effect of Bill

The bill appropriates \$10 million in nonrecurring funds from the State Transportation Trust Fund to the Department of Transportation for SCOP in the 2023-2024 fiscal year, specifically for transportation projects within program-eligible counties designated in the federal disaster declaration related to Hurricane Idalia.

### **Community Planning**

The Community Planning Act provides counties and municipalities with the power to plan for future development by adopting comprehensive plans.<sup>77</sup> Each county and municipality must maintain a comprehensive plan to guide future development.<sup>78</sup>

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<sup>75</sup> Section 339.2818, F.S.

<sup>76</sup> Specific Appropriation 1975, ch. 2019-115, Laws of Fla.

<sup>77</sup> S. 163.3167(1), F.S.

<sup>78</sup> S. 163.3167(2), F.S.

All development, both public and private, and all development orders approved by local governments must be consistent with the local government's comprehensive plan.<sup>79</sup> A comprehensive plan is intended to provide for the future use of land, which contemplates a gradual and ordered growth, and establishes a long-range maximum limit on the possible intensity of land use.

A locality's comprehensive plan lays out the locations for future public facilities, including roads, water and sewer facilities, neighborhoods, parks, schools, and commercial and industrial developments. A comprehensive plan is made up of 10 required elements, each laying out regulations for a different facet of development.<sup>80</sup>

A comprehensive plan is implemented through the adoption of land development regulations<sup>81</sup> that are consistent with the plan, and which contain specific and detailed provisions necessary to implement the plan.<sup>82</sup> Substantially affected persons have the right to maintain administrative actions which assure that land development regulations implement and are consistent with the comprehensive plan.<sup>83</sup>

Development that does not conform to the comprehensive plan may not be approved by a local government unless the local government amends its comprehensive plan first. State law requires a proposed comprehensive plan amendment to receive two public hearings, the first held by the local planning board, and subsequently by the governing board.<sup>84</sup>

The Community Planning Act defines "development" as "the carrying out of any building activity or mining operation, the making of any material change in the use or appearance of any structure or land, or the dividing of land into three or more parcels."<sup>85</sup> When a party wishes to engage in development activity, they must seek a development permit from the appropriate local government having jurisdiction. Under the Community Planning Act, a development permit includes "any building permit, zoning permit, subdivision approval, rezoning, certification, special exception, variance, or any other official action of local government having the effect of permitting the development of land."<sup>86</sup> Once a local government has officially granted or denied a development permit, the official action constitutes a development order.<sup>87</sup> A development order vests certain rights related to the land.<sup>88</sup>

## 2023 Legislation

Following the 2022 hurricane season, the Legislature passed a hurricane resiliency bill which contained the following provision:

"A county or municipality located entirely or partially within 100 miles of where either Hurricane Ian or Hurricane Nicole<sup>89</sup> made landfall shall not propose or adopt any moratorium on construction, reconstruction, or redevelopment of any property damaged by Hurricane Ian or Hurricane Nicole; propose or adopt more restrictive or burdensome amendments to its comprehensive plan or land development regulations, or propose or adopt more restrictive or burdensome procedures concerning review, approval, or

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<sup>79</sup> S. 163.3194(3), F.S.

<sup>80</sup> S. 163.3177(6), F.S. The 10 required elements include capital improvements; future land use plan; transportation; general sanitary sewer, solid waste, drainage, potable water, and natural groundwater aquifer recharge; conservation; recreation and open space; housing; coastal management; intergovernmental coordination; and property rights. Throughout statutes exist plans and programs that may be added as optional elements.

<sup>81</sup> "Land development regulations" means ordinances enacted by governing bodies for the regulation of any aspect of development and includes any local government zoning, rezoning, subdivision, building construction, or sign regulations or any other regulations controlling the development of land, except that this definition does not apply in s. 163.3213. See s. 163.3164(26), F.S.

<sup>82</sup> S. 163.3202, F.S.

<sup>83</sup> S. 163.3213, F.S.

<sup>84</sup> Ss. 163.3174(4)(a) and 163.3184, F.S.

<sup>85</sup> S. 163.3164(14), F.S.

<sup>86</sup> S. 163.3164(16), F.S.

<sup>87</sup> See s. 163.3164(15), F.S.

<sup>88</sup> See s. 163.3167(3), F.S.

<sup>89</sup> All 67 counties in Florida were designated within the federal disaster declaration for Hurricane Ian, and 61 counties for Hurricane Nicole.

issuance of a site plan, development permit, or development order, to the extent that those terms are defined by s. 163.3164, F.S., before October 1, 2024, and any such moratorium restrictive or burdensome comprehensive plan amendment, land development regulation, or procedure shall be null and void ab initio.”<sup>90</sup>

The provision applies retroactively to September 28, 2022 (the date of Hurricane Ian landfall in Florida). The provision also states that any comprehensive plan amendment, land development regulation amendment, site plan, development permit, or development order approved or adopted by a county or municipality before or after the effective date of the provision may be enforced if:

- The associated application is initiated by a private party other than the county or municipality; and
- The property that is the subject of the application is owned by the initiating private party.

The provision took effect on June 28, 2023, and expires on June 30, 2025.

### Effect of Bill

The bill specifies that the following local governments will be subject to the provision: Charlotte, Collier, Desoto, Glades, Hardee, Hendry, Highlands, Lee, Manatee, and Sarasota Counties, and any municipality located within one of those counties. The bill also extends the moratorium date to October 1, 2026, and the expiration date for the law to June 30, 2027.

### Emergency Operations Facilities

Section 252.38, F.S., charges counties and applicable municipalities with “establish[ing] and maintain[ing] such an emergency management agency and develop[ing] a county emergency management plan and program that is coordinated and consistent with the state comprehensive emergency management plan and program.”<sup>91</sup> Additionally, among other related authority, political subdivisions are directed to establish emergency operating centers to provide continuity of government and direction and control of emergency operations.<sup>92</sup>

### Effect of Bill

The bill appropriates \$3 million in fixed capital outlay from General Revenue to DEM for facility planning and design grants for the following fiscally constrained counties impacted by Hurricane Idalia: Columbia, Dixie, Gilchrist, Hamilton, Jefferson, Lafayette, Levy, Madison, Suwannee, and Taylor.<sup>93</sup> Eligible counties may apply for a grant to be used for engineering, planning and design services. DEM must prioritize applications for grants that will fund public safety complexes, combining emergency operations, fire or police services, emergency medical services, or dispatch in one facility. DEM must also prioritize applicants based on need, including consideration of:

- The current condition of the structures;
- Whether the current structures are aged or appropriately hurricane rated for the geographic location or proposed site;
- The need for a consolidated and updated facility; and
- The ability to expand the facility in the future based on need.

### Rural Infrastructure Fund

Established in 1999, the Legislature created the Rural Infrastructure Fund (RIF) as a reimbursement grant program to facilitate the planning, preparing, and financing of infrastructure projects in rural communities to encourage job creation, capital investment, and the strengthening and diversification of

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<sup>90</sup> “Void ab initio” means something was void from the beginning.

<sup>91</sup> S. 252.38(1)(a), (2), F.S.

<sup>92</sup> S. 252.38(3)(a)(3), F.S.

<sup>93</sup> Hurricane Idalia impacted ten fiscally constrained counties: Columbia; Dixie; Gilchrist; Hamilton; Jefferson; Lafayette; Levy; Madison; Suwannee; and Taylor.

rural economies by promoting tourism, trade, and economic development.<sup>94</sup> The Department of Commerce administers the fund and awards grants to local governments to maximize the use of federal, local, and private resources. Generally, RIF funds are available to units of local government within an area designated as a Rural Area of Opportunity or a rural county or community,<sup>95</sup> for eligible activities that focus on planning and construction for necessary investments in roads, wastewater, sewer, stormwater, drinking water, and telecommunications infrastructure. There are currently 32 counties and their respective municipalities designated as eligible applicants<sup>96</sup> from which the department may award funding under the program.

Beginning in 2019, partially spurred on by Hurricane Michael recovery efforts, the Legislature designated a portion of appropriations from the RIF program specifically toward inland panhandle counties of Florida. Similar to RIF statewide programming, \$5 million of annual funding has been dedicated to facilitate the planning, preparing and financing of infrastructure including roads, stormwater systems, water or wastewater facilities, and telecommunications facilities. Compared to eligibility of all rural counties for statewide funding, these grant funds are limited to use in Calhoun, Gadsden, Holmes, Jackson, Liberty and Washington counties. Nothing prohibits these six panhandle counties from simultaneously seeking review and approval of additional grant funding under the statewide program should it be available.

### Effect of Bill

For the 2023-2024 fiscal year, the bill appropriates \$5 million in nonrecurring funds from the General Revenue Fund to the Department of Commerce to award grants to fiscally constrained counties impacted by Hurricane Idalia.<sup>97</sup> Eligible uses of the grants include roads or other remedies to transportation impediments, stormwater systems, water or wastewater facilities, and telecommunications facilities.

### **Hurricane Michael Recovery**

Congress passed the Additional Supplemental Appropriations for Disaster Relief Act 2019 and the Further Consolidated Appropriations Act 2020 to provide funds for necessary expenses related to losses of crops, trees, bushes, and vines related to the impact of Hurricane Michael and other selected weather events that occurred during the calendar years 2018 and 2019. From those funds, the U.S. Department of Agriculture (USDA), Farm Service Agency (FSA) provided \$380,700,000 plus administrative costs in the amount of \$19,035,000 in the form of a block grant to the State of Florida to cover qualifying losses associated with Hurricane Michael not covered by other USDA disaster programs for timber and center pivot irrigation. On May 29, 2020, Governor Ron DeSantis announced that Florida had signed an agreement with USDA to administer these funds. The Division of Emergency Management is the state entity that has provided management and oversight of the block grant program. The grant award was effective on May 28, 2020, and will end on December 31, 2023.

Additionally, the Florida Timber Recovery Block Grant Program was available to timber producers who suffered timber damage as a result of Hurricane Michael in 2018. Compensation for hurricane related crop loss was provided to producers that met eligibility requirements. The program was managed by the Florida Division of Emergency Management in conjunction with the Florida Department of Agriculture and Consumer Services and the U.S. Department of Agriculture.

### **Agricultural Economic Development Program**

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<sup>94</sup> S. 288.0655, F.S.

<sup>95</sup> S. 288.0656, F.S.

<sup>96</sup> Baker, Bradford, Calhoun, Columbia, DeSoto, Dixie, Flagler, Franklin, Gadsden, Gilchrist, Glades, Gulf, Hamilton, Hardee, Hendry, Highlands, Holmes, Jackson, Jefferson, Lafayette, Levy, Liberty, Madison, Nassau, Okeechobee, Putnam, Suwannee, Taylor, Union, Wakulla, Walton and Washington counties.

<sup>97</sup> Columbia, Dixie, Gilchrist, Hamilton, Jefferson, Lafayette, Levy, Madison, Suwannee, and Taylor counties.



In 2000, the Legislature created the Agricultural Economic Development Program (AEDP).<sup>98</sup> The program is designed to provide loans to agricultural producers who have experienced crop losses due to natural disasters or socioeconomic conditions or events and may be used to:

- Restore or replace essential physical property, such as fences, equipment, agricultural facilities, infrastructure or farmworker housing; and remove debris from essential physical property.
- Pay for production costs associated with the disaster year.
- Pay for essential family living expenses.
- Restructure farm debts.<sup>99</sup>

Eligible crops include:

- Crops grown for human consumption.
- Crops planted and grown for livestock consumption, including, but not limited to, grain, seed, and forage crops.
- Crops grown for fiber, except for trees.
- Specialty crops, such as seafood and aquaculture, including, but not limited to, the products of shellfish cultivation and harvesting, ornamental fish farming, and commercial fishing; floricultural or ornamental nursery crops; Christmas trees; turf for sod; industrial crops; and seed crops used to produce eligible crops.

Eligible parcels must be in production and no larger than 300 acres.

To qualify for the loan, the applicant must be a citizen of the United States, a resident of the State of Florida, and demonstrate the ability to repay the loan. Funds may be issued as direct loans or as loan guarantees for up to 90 percent of the total loan, in amounts not less than \$30,000 or more than \$300,000. Applicants must provide at least ten percent equity.<sup>100</sup> Loan repayments are normally made within 7 years or in special circumstances within 20 years.

### Effect of Bill

#### *Agriculture and Aquaculture Producers Natural Disaster Recovery Loan Program*

The bill repeals s. 570.82, F.S., relating to the Agricultural Economic Development Program and creates s. 570.822, F.S., to establish the Agriculture and Aquaculture Producers Natural Disaster Recovery Loan Program within the Department of Agriculture and Consumer Services (DACS). The purpose of the program is to provide low-interest or interest-free loans to agriculture and aquaculture producers that have experienced damage or destruction from a declared natural disaster. Loan funds may be used to restore, repair, or replace essential physical property or remove vegetative debris from essential physical property. Applicants are limited to \$500,000 per application cycle, with no more than two loans in one year or no more than five loans over three years.

To be eligible for the program, an applicant must:

- Own or lease a bona fide farm operation located in a county named in a declared natural disaster that was damaged or destroyed by the declared natural disaster.
- Maintain farm records, as required by DACS, which provide proof of operations.

The bill requires DACS to:

- Publicly notice an application period within 60 days of the declared natural disaster and make funds available for up to 1 year or until all funds have been exhausted.
- Specify the applicant must demonstrate the need for financial assistance and ability to repay the loan.
- Provide a written agreement with terms and conditions.
- Specify that the applicant must stay in production for the duration of the loan.

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<sup>98</sup> Ch. 2000-308, Laws of Fla.

<sup>99</sup> S. 570.82(1)(a), F.S.

<sup>100</sup> S. 570.82(1)(c), F.S.

Additional loan provisions include:

- All loans must be secured by a lien, subordinate only to certain mortgages held by a financial institution, on the property or other collateral.
- Payments will be deferred the first three years.
- Early payments may be made at any time without penalty.
- All payments must be returned to the loan fund and made available for future loan cycles.
- Applicants may be reviewed for compliance with terms and conditions.

The bill authorizes DACS to coordinate with other state agencies and other entities to ensure to the greatest extent possible that agriculture and aquaculture producers in this state have access to the maximum financial assistance available following a natural disaster.

The bill requires DACS to submit an annual report to the President of the Senate and Speaker of the House of Representatives, beginning December 1, 2024. The report must include various provisions pertaining to the administration of the loan program.

Additionally, the bill requires DACS to adopt rules to implement the program, and provides emergency rulemaking authority. Like the Agricultural Economic Development Program repealed by the bill, loans made by the program are exempt from the documentary stamp tax. The program is scheduled to expire on July 1, 2043, unless reviewed and saved from repeal through reenactment by the Legislature.

The bill transfers \$75 million in nonrecurring funds from the General Revenue Fund to the General Inspection Trust Fund for appropriation in fixed capital outlay. Up to five percent of the appropriated funds may be used for administrative costs to implement the program.

#### *Timber Grant Program*

The bill authorizes DACS to implement a cost-sharing grant program to assist timber landowners in Charlotte, Citrus, Columbia, Dixie, Gilchrist, Hamilton, Hernando, Jefferson, Lafayette, Levy, Madison, Manatee, Pasco, Pinellas, Sarasota, Suwannee, or Taylor Counties whose timber land was damaged as a result of Hurricane Idalia.

Grants made to eligible timber landowners:

- Must be for up to 75 percent of the costs for site preparation and tree replanting on lands.
- May include site preparation work for downed tree removal by a variety of methods, including mechanical harvesting or prescribed burns authorized by the Florida Forest Service.
- May not exceed \$250,000.

The bill appropriates \$37.5 million in nonrecurring General Revenue funds to administer the cost-sharing grant program for timber landowners of which up to \$1 million may be used for administrative costs to implement the grant program.

Additionally, the bill grants emergency rule making authority to DACS to implement the program and requires DACS to coordinate with other state agencies to avoid duplication of financial assistance.

#### B. SECTION DIRECTORY:

- Section 1. Creates s. 193.4518, F.S., to require agricultural equipment rendered unusable due to Hurricane Idalia to be assessed at no greater than its salvage value.
- Section 2. Provides an exemption from sales tax on fencing materials used to replace or repair agricultural fences damaged by Hurricane Idalia.
- Section 3. Provides an exemption from sales tax on certain building materials used to replace or repair nonresidential farm buildings damaged by Hurricane Idalia.

- Section 4. Provides an exemption from motor fuel taxes on motor and diesel fuels used in agricultural shipment and hurricane debris removal in counties affected by Hurricane Idalia.
- Section 5. Amends s. 215.5586, F.S., relating to the My Safe Florida Home Program.
- Section 6. Provides an appropriation for the My Safe Florida Home Program and prohibits DFS taking certain actions in the absence of express authority from the Legislature.
- Section 7. Amends s. 252.37, F.S., relating to the Public Assistance Program.
- Section 8. Provides an appropriation for the Public Assistance Program.
- Section 9. Amends s. 252.71, F.S., extending the date for future review and repeal of provisions related to the Florida Emergency Management Assistance Foundation.
- Section 10. Amends s. 288.066, F.S., revising the maximum length of a loan term under the Local Government Emergency Revolving Bridge Loan Program.
- Section 11. Authorizes the Department of Commerce to amend certain previously executed loan agreements under certain circumstances.
- Section 12. Provides an appropriation for the Hurricane Housing Recovery Program.
- Section 13. Provides an appropriation for hurricane repair and recovery projects within counties with a certain Federal Emergency Management Agency disaster designation.
- Section 14. Provides an appropriation for the Small County Outreach Program for certain counties.
- Section 15. Amends ch. 2023-304, Laws of Fla., relating to a prohibition on counties and municipalities proposing or adopting certain amendments to specified regulations.
- Section 16. Provides an appropriation for certain planning and design grants.
- Section 17. Amends s. 288.0655, F.S., relating to the Rural Infrastructure Fund.
- Section 18. Provides an appropriation relating to the Rural Infrastructure Fund.
- Section 19. Repeals s. 570.82, F.S., related to AEDP disaster loans and grants and aid.
- Section 20. Creates s. 570.822, F.S., related to the establishment of Agriculture and Aquaculture Producers Natural Disaster Recovery Loan Program.
- Section 21. Amends s. 201.25, F.S., related to tax exemptions.
- Section 22. Requires the adoption of emergency rules.
- Section 23. Provides for a transfer and nonrecurring appropriation from the General Revenue Fund to DACS in the General Inspection Trust Fund.
- Section 24. Provides a nonrecurring appropriation from the General Revenue Fund to DACS to administer a cost-sharing grant program.
- Section 25. Provides an effective date.

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

### A. FISCAL IMPACT ON STATE GOVERNMENT:

#### 1. Revenues:

The Revenue Estimating Conference estimated that the sales and motor fuel tax relief provisions of the bill will have an impact on state government in Fiscal Year 2024-2025 of \$0.5 million, of which -\$0.2 million is on General Revenue and -\$0.3 million is on state trust funds.

#### 2. Expenditures:

See Fiscal Comments

### B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

#### 1. Revenues:

The Revenue Estimating Conference estimated that for Fiscal Year 2024-2025, the ad valorem tax relief provision of the bill will have an impact of -\$1.7 million on local government (-\$0.6 million school taxes, -\$1.1 million non-school taxes), the motor fuel refund provision of the bill will have an impact of -\$0.1 million on local governments, and the sales tax refund provisions of the bill will have a negative insignificant impact on local governments.

#### 2. Expenditures:

None.

### C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill provides tax relief to agricultural producers affected by Hurricane Idalia through assessment of tangible personal property deemed unusable for 60 days as a direct result of Hurricane Idalia at salvage value, refund of sales tax for fencing materials purchased for use on agricultural lands due to Hurricane Idalia damage and building materials used to replace or repair nonresidential farm buildings damaged by Hurricane Idalia, and refund of taxes on fuel used for agricultural shipment or hurricane debris removal after Hurricane Idalia.

The bill increases funding for the My Safe Florida Home Program which may allow homeowners to harden their homes, mitigate damage, and experience a reduction in insurance premiums.

The bill provides low-interest or interest-free loans for agricultural producers who need to remediate damage to certain types of physical property resulting from a declared natural disaster. Additionally, eligible timber landowners will benefit from cost sharing grants for site preparation and tree replanting.

### D. FISCAL COMMENTS:

The bill appropriates \$181.5 million in nonrecurring funds from the General Revenue Fund to the Department of Financial Services for mitigation grants and administrative costs associated with the My Safe Florida Home Program.

The bill amends s. 252.37, F.S., providing that the Legislature intends to provide the entire match requirement for FEMA Public Assistance to local governments within counties designated in the FEMA disaster declaration for Hurricane Idalia. It further appropriates \$30 million of nonrecurring funds from the General Revenue Fund to DEM to fund the local match requirement.

The bill appropriates \$25 million in nonrecurring funds from the Local Government Housing Trust Fund to the Florida Housing Finance Corporation for the 2023-2024 fiscal year. The funds must be used to fund the Hurricane Housing Recovery Program for eligible counties and municipalities based on population and FEMA damage assessment data from Hurricane Idalia.

The bill provides \$50 million in nonrecurring funds from the General Revenue Fund to the DEM for the Hurricane Recovery Grant Program in the 2023-2024 fiscal year for local governments within counties designated in the FEMA disaster declaration for Hurricane Idalia. Funding may be used for repair and recovery projects, including unanticipated expenses or losses of revenue.

The bill appropriates \$10 million in nonrecurring funds from the State Transportation Trust Fund to the Department of Transportation for the Small County Outreach Program in the 2023-2024 fiscal year, specifically for transportation projects within counties designated in the federal disaster declaration related to Hurricane Idalia.

The bill appropriates \$3 million in nonrecurring funds from the General Revenue Fund to DEM to provide planning and design grants for new emergency operations facilities in fiscally constrained counties impacted by Hurricane Idalia.

The bill appropriates \$5 million in nonrecurring funds from the General Revenue Fund to the Department of Commerce to award Rural Infrastructure Fund grants to fiscally constrained counties impacted by Hurricane Idalia.

The bill provides a nonrecurring transfer of \$75 million from the General Revenue Fund to the General Inspection Trust Fund in Fiscal Year 2023-2024 and appropriates in fixed capital outlay within DACS to implement the Agriculture and Aquaculture Producers Natural Disaster Recovery Loan Program. It also provides that up to five percent of the appropriated funds may be used for administrative costs to implement the program.

The bill appropriates \$37.5 million in nonrecurring General Revenue funds for Fiscal Year 2023-2024 to DACS to administer a cost-sharing grant program to assist timber landowners in specified counties whose timber land was damaged as a result of Hurricane Idalia. Up to \$1 million of the appropriated funds may be used for administrative costs to implement the program.

### III. COMMENTS

#### A. CONSTITUTIONAL ISSUES:

##### 1. Applicability of Municipality/County Mandates Provision:

Not Applicable. The bill does not appear to require counties or municipalities to spend funds or take action requiring the expenditures of funds; reduce the authority that counties or municipalities have to raise revenues in the aggregate; or reduce the percentage of state tax shared with counties or municipalities.

##### 2. Other:

None.

#### B. RULE-MAKING AUTHORITY:

The bill authorizes the Department of Revenue to adopt emergency rules to implement several tax related provisions in the bill.

The bill authorizes DACS to adopt rules to implement the Agriculture and Aquaculture Producers Natural Disaster Recovery Loan Program as well as the cost-sharing grant program to assist timber landowners.

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

None.

#### **IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES**

On November 6, 2023, the Appropriations Committee adopted an amendment and reported the bill favorably as a committee substitute. The amendment specified that loans made under the Agriculture and Aquaculture Producers Natural Disaster Recovery Loan Program must be secured by a lien that is subordinate only to a mortgage held by a financial institution as defined in s. 655.005, F.S.