

CHAPTER 2022-272

Senate Bill No. 4-A

An act relating to disaster relief; amending s. 161.101, F.S.; authorizing the Department of Environmental Protection to waive or reduce match requirements for certain local governments; amending s. 194.032, F.S.; conforming provisions to changes made by the act; creating s. 197.3181, F.S.; providing definitions; authorizing the refund of ad valorem taxes for residential improvements rendered uninhabitable by certain hurricanes; providing procedures and requirements to receive a refund; requiring property appraisers and tax collectors to take certain actions; providing construction; providing retroactive applicability; providing for expiration; creating s. 197.3182, F.S.; providing for the extension and suspension of payments and discounts of certain taxes and assessments; providing for retroactive operation; providing for expiration; amending s. 252.37, F.S.; providing legislative intent; requiring the Division of Emergency Management and local governments to enter into certain agreements to receive specified funds; providing requirements for such agreements; providing for availability of funds; requiring the division to report progress on a certain timetable to specified parties; providing for expiration; creating s. 252.71, F.S.; providing definitions; providing for the organization and operation of the Florida Emergency Management Assistance Foundation within the division; providing for a board of directors; requiring the foundation to operate under a written contract with the division; specifying requirements for such contract; providing requirements for the governance, organization, and operations of the foundation; providing for the use of property, facilities, and personal services of the division by the foundation; requiring the submission of annual budgets and reports; requiring an annual audit; providing for future repeal; authorizing the Department of Revenue to adopt emergency rules; providing for the expiration of such authority; providing appropriations; requiring such appropriations to be spent in specified ways; requiring the Florida Housing Finance Corporation to coordinate with the division and the Department of Economic Opportunity for a specified purpose; creating the Hurricane Restoration Reimbursement Grant Program within the Department of Environmental Protection; providing purpose and eligibility requirements for such program; authorizing emergency rulemaking for the administration of such program; requiring the department to administer such program; providing requirements for such administration; providing for the expiration of such program; specifying that grants may only be used for reimbursement of specified costs; requiring cost-sharing; creating the Hurricane Stormwater and Wastewater Assistance Grant Program within the Department of Environmental Protection; providing purpose and eligibility requirements for such program; authorizing emergency rulemaking for the administration of such program; requiring the department to administer such program; providing requirements for such administration; providing for the expiration of such program;

providing appropriations; requiring such appropriations be spent in a specified way; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Subsection (22) of section 161.101, Florida Statutes, is amended to read:

161.101 State and local participation in authorized projects and studies relating to beach management and erosion control.—

(22) Notwithstanding subsections (1), (15), and (16), and for the ~~2022-2023~~ 2021-2022 fiscal year, ~~for in the event that beaches located in Brevard, Broward, Charlotte, Collier, Duval, Flagler, Indian River, Lee, Manatee, Martin, Nassau, Palm Beach, Saint Johns, Saint Lucie, Sarasota, and Volusia Counties, are impacted by Hurricane Ian~~ hurricanes or Hurricane Nicole ~~other storm events within communities with a per capita annual income that is less than the state's per capita annual income as shown in the most recent release from the United States Census Bureau of the United States Department of Commerce which includes both measurements, the department may waive or reduce the match requirements for local governments.~~ This subsection expires July 1, ~~2023~~ 2022.

Section 2. Paragraph (b) of subsection (1) of section 194.032, Florida Statutes, is amended to read:

194.032 Hearing purposes; timetable.—

(1)

(b) Notwithstanding the provisions of paragraph (a), the value adjustment board may meet prior to the approval of the assessment rolls by the Department of Revenue, but not earlier than July 1, to hear appeals pertaining to the denial by the property appraiser of exemptions, tax abatements under s. 197.3195, tax refunds under ~~ss. 197.3181 and 197.319~~ s. 197.319, agricultural and high-water recharge classifications, classifications as historic property used for commercial or certain nonprofit purposes, and deferrals under subparagraphs (a)2., 3., and 4. In such event, however, the board may not certify any assessments under s. 193.122 until the Department of Revenue has approved the assessments in accordance with s. 193.1142 and all hearings have been held with respect to the particular parcel under appeal.

Section 3. Section 197.3181, Florida Statutes, is created to read:

197.3181 Refund of taxes for residential improvements rendered uninhabitable by Hurricane Ian or Hurricane Nicole.—

(1) As used in this section, the term:

(a) “Damage differential” means the product arrived at by multiplying the percent change in value by a ratio, the numerator of which is the number of days the residential improvement was rendered uninhabitable in 2022, and the denominator of which is 365.

(b) “Disaster relief refund” means the product arrived at by multiplying the damage differential by the amount of timely paid taxes initially levied in 2022.

(c) “Percent change in value” means the difference between the just value of a residential parcel as of January 1, 2022, and its postdisaster just value, expressed as a percentage of the just value of the parcel as of January 1, 2022.

(d) “Postdisaster just value” means the just value of the residential parcel on January 1, 2022, adjusted by subtracting the just value of the residential improvement on January 1, 2022.

(e) “Residential improvement” means a residential dwelling or house on real estate used and owned as a homestead as defined in s. 196.012(13) or used as nonhomestead residential property as defined in s. 193.1554(1). A residential improvement does not include a structure that is not essential to the use and occupancy of the residential dwelling or house, including, but not limited to, a detached utility building, detached carport, detached garage, bulkhead, fence, or swimming pool, and does not include land.

(f) “Uninhabitable” means the loss of use and occupancy of a residential improvement for the purpose for which it was constructed resulting from damage to or destruction of, or from a condition that compromises the structural integrity of, the residential improvement which was caused by Hurricane Ian or Hurricane Nicole during the 2022 calendar year.

(2) If a residential improvement is rendered uninhabitable for at least 30 days, taxes originally levied and paid for 2022 may be refunded in the following manner:

(a) The property owner must file an application for refund with the property appraiser on a form prescribed by the department and furnished by the property appraiser, no sooner than January 1, 2023, and no later than April 1, 2023. The property appraiser may allow applications to be filed electronically.

(b) The application for refund must identify the residential parcel upon which the residential improvement was rendered uninhabitable and the number of days that the residential improvement was uninhabitable during 2022. For purposes of determining uninhabitability, the application must be accompanied by supporting documentation, including, but not limited to, utility bills, insurance information, contractors’ statements, building permit applications, or building inspection certificates of occupancy.

(c) The application for refund must be verified under oath and is subject to penalty of perjury.

(d) The property appraiser shall review the application and determine if the applicant is entitled to a refund of taxes. No later than June 1, 2023, the property appraiser must:

1. Notify the applicant if the property appraiser determines that the applicant is not entitled to receive a refund. If the property appraiser determines that the applicant is not entitled to a refund, the applicant may file a petition with the value adjustment board, pursuant to s. 194.011(3), requesting that the refund be granted. The petition must be filed with the value adjustment board on or before the 30th day following the issuance of the notice by the property appraiser.

2. Issue an official written statement to the tax collector and the applicant if the property appraiser determines that the applicant is entitled to a refund. The statement must provide:

a. The just value of the residential improvement as determined by the property appraiser on January 1, 2022.

b. The number of days during 2022 that the residential improvement was uninhabitable.

c. The postdisaster just value of the residential parcel as determined by the property appraiser.

d. The percent change in value applicable to the residential parcel.

(3) Upon receipt of the written statement from the property appraiser, the tax collector shall calculate the damage differential pursuant to this section.

(a) If the property taxes for 2022 have been paid, the tax collector must process a refund in an amount equal to the disaster relief refund.

(b) If, at the time of receipt of the written statement from the property appraiser under this subsection, the property taxes have not yet been paid pursuant to s. 197.3182, the tax collector must process a refund in an amount equal to the disaster relief refund upon receipt of timely payment of the property taxes for 2022 in accordance with s. 197.3182.

(4) A property owner who fails to file an application by April 1, 2023, waives a claim for a refund of taxes under this section.

(5) By September 1, 2023, the tax collector shall notify:

(a) The department of the total reduction in taxes for all properties that qualified for a refund pursuant to this section.

(b) The governing board of each affected local government of the reduction in such local government's taxes which occurred pursuant to this section.

(6) For purposes of this section, a residential improvement that is uninhabitable has no value.

(7) The disaster relief refund is determined only for purposes of calculating tax refunds for 2022 under this section and does not determine a parcel's just value as of January 1, 2023, or any subsequent year.

(8) This section does not affect the requirements of s. 197.333.

(9) This section applies retroactively to January 1, 2022, and expires January 1, 2024.

Section 4. Section 197.3182, Florida Statutes, is created to read:

197.3182 Tax deadlines for real property destroyed or rendered uninhabitable by Hurricane Ian or Hurricane Nicole.—

(1) Notwithstanding any other law, for ad valorem taxes and non-ad valorem assessments levied in 2022, for all real property that has been completely destroyed or otherwise rendered uninhabitable due to damage or destruction caused by Hurricane Ian or Hurricane Nicole:

(a) The deadlines set forth in s. 197.333 are suspended and extended as follows:

1. Ad valorem taxes and non-ad valorem assessments levied in 2022, shall be due and payable on January 1, 2023.

2. Ad valorem taxes and non-ad valorem assessments shall become delinquent on June 1, 2023.

3. All dates or time periods and their associated provisions relative to the collection of, or administrative procedures regarding, delinquent taxes and non-ad valorem assessments, including, but not limited to, the sale of tax certificates, are extended based on the June 1, 2023, delinquency date, in accordance with s. 197.333.

(b) The deadlines set forth in s. 197.162 governing discounts for payments of all taxes assessed on the county tax rolls and collected by the county tax collector before the delinquency date are extended as follows:

1. Four percent in November 2022, December 2022, and January 2023.

2. Three percent in February 2023.

3. Two percent in March 2023.

4. One percent in April 2023.

5. Zero percent in May 2023.

(c) The deadlines set forth in s. 197.222(1)(c) and (d) governing ad valorem taxes prepaid in installments and the discounts applied to those payments are suspended and extended for 60 days.

(2) This section operates retroactively to January 1, 2022, and expires January 1, 2024.

Section 5. Paragraph (c) is added to subsection (5) of section 252.37, Florida Statutes, to read:

252.37 Financing.—

(5) Unless otherwise specified in the General Appropriations Act:

(c) Subject to appropriation, and notwithstanding paragraph (a), the Legislature intends to provide the entire match requirement for Public Assistance Program grants to local governments within a county designated in the Federal Emergency Management Agency disaster declarations for Hurricane Ian or Hurricane Nicole. Local governments named in such Federal Emergency Management Agency disaster declarations must enter into agreements with the division to have their portions of the match requirements waived and must agree to use an equal amount of funds toward further disaster recovery or mitigation. Funds shall be allocated on a first-come, first-served basis. Notwithstanding paragraph (a), a local government in an agreement with the division under this paragraph is not required to provide one-half of the required match prior to receipt of Public Assistance Program financial assistance. The division shall report quarterly to the Executive Office of the Governor and the chair of each legislative appropriations committee on the amount of match requirements waived, agreements entered into with local governments, and the amount of remaining appropriated funds. This paragraph expires June 30, 2027.

Section 6. Section 252.71, Florida Statutes, is created to read:

252.71 Florida Emergency Management Assistance Foundation.—

(1) As used in this section, the term:

(a) “Foundation” means the Florida Emergency Management Assistance Foundation for the division.

(b) “Personal services” includes full-time or part-time personnel of the division.

(2) The foundation is hereby created as a direct-support organization of the division to provide assistance, funding, and support to the division in its disaster response, recovery, and relief efforts for natural emergencies.

(a) The foundation must be an organization that is a Florida nonprofit corporation incorporated under chapter 617, approved by the Department of State, and recognized under s. 501(c)(3) of the Internal Revenue Code. The foundation is exempt from paying fees under s. 617.0122.

(b) The foundation is organized and operated exclusively to obtain funds; request and receive grants, gifts, and bequests of moneys or other items; acquire, receive, hold, invest, and administer in its own name securities, funds, or property; and make expenditures to or for the direct or indirect benefit of the division, political subdivisions of this state, and individuals adversely impacted by a natural emergency occurring within this state.

(c) The division must determine that the foundation is operating in a manner consistent with the goals of the division and in the best interest of the state.

(3) The foundation shall be governed by a board of directors.

(a) The board of directors shall consist of five members appointed by the director of the division. A majority of the members must be knowledgeable about emergency management activities and programs. The importance of geographic representation shall be considered in appointing members. Members must be residents of this state at the time of appointment and throughout their terms.

(b) The term of office of the appointed members of the board of directors shall be 3 years, except that the initial terms of appointment shall be two members for 1 year, two members for 2 years, and one member for 3 years. A member may be reappointed when his or her term expires and may continue to serve in such capacity upon expiration of his or her term until an appointment is made to fill the vacancy. However, a member may not serve more than two consecutive terms.

(c) Upon a finding based on a majority vote of the board of directors, the director of the division may remove any member of the board for cause.

(d) Any vacancy that occurs shall be filled in the same manner as the original appointment for the unexpired term of that seat.

(e) Members of the board of directors shall serve without compensation, but are entitled to receive reimbursement for per diem and travel expenses in accordance with s. 112.061, and shall be paid from funds managed by the foundation.

(f) Moneys of the foundation must be held in a separate depository account in the name of the foundation, subject to the provisions of the contract with the division, and shall be used in a manner consistent with the goals of the foundation.

(4) The foundation shall operate under a written contract with the division. The written contract must, at a minimum, provide for:

(a) Approval of the articles of incorporation and bylaws of the foundation by the director of the division.

(b) Certification by the division that the foundation is complying with the terms of the contract and is doing so consistent with the goals and purposes of the division and in the best interests of the state. The division must make this certification annually and it must be reported in the official minutes of a meeting of the foundation.

(c) Reversion of moneys and property held by the foundation to the:

1. Division if the foundation is no longer approved to operate by the division;

2. Division if the foundation fails to maintain its tax-exempt status pursuant to s. 501(c)(3) of the Internal Revenue Code;

3. Division if the foundation ceases to exist; or

4. State if the division ceases to exist.

(d) Prominent disclosure of the distinction between the division and the foundation to donors, including such disclosure in all promotional and fundraising publications or activities.

(e) Approval by the board of directors of an annual operating budget for the foundation.

(f) Adoption of an ethics code as required by s. 112.3251.

(5) The division may permit the use of its property, facilities, and personal services by the foundation and shall set forth any requirements or conditions on such use in the contract between the division and the foundation, including provisions governing the use of such property, facilities, and personal services during a declared state of emergency for a natural emergency. However, the division may not permit the use of such property, facilities, or personal services by the foundation if it does not provide equal employment opportunities to all persons regardless of race, color, national origin, gender, age, or religion.

(6)(a) The fiscal year of the foundation shall begin on July 1 of each year and end on June 30 of the following year.

(b) By August 1 of each year, the foundation shall submit to the division its federal Internal Revenue Service Application for Recognition of Exemption form (Form 1023) and federal Internal Revenue Service Return of Organization Exempt from Income Tax form (Form 990).

(c) By September 30 of each year, the foundation shall submit the budget and a report of contributions and expenditures to the division in a manner prescribed by the division.

(7) The foundation shall provide for an annual financial audit in accordance with s. 215.981.

(8) This section is repealed December 31, 2024, unless reviewed and saved from repeal by the Legislature.

Section 7. The Department of Revenue may, and all conditions are deemed met to, adopt emergency rules pursuant to s. 120.54(4), Florida Statutes, to administer the creation of ss. 197.3181 and 197.3182, Florida Statutes, and the amendment made to s. 194.032, Florida Statutes, by this act. Notwithstanding any other law, emergency rules adopted pursuant to this section are effective for 6 months after adoption and may be renewed during the pendency of procedures to adopt permanent rules addressing the subject of the emergency rules. This section expires July 1, 2024.

Section 8. For the 2022-2023 fiscal year, the nonrecurring sum of \$350,000,000 from the General Revenue Fund is appropriated to the Division of Emergency Management within the Executive Office of the Governor to provide the match requirement for Public Assistance Program grants pursuant to s. 252.37(5)(c), Florida Statutes, as created by this act. Appropriated funds may only be used to meet federal match requirements as provided in s. 252.37(5)(c), Florida Statutes, as created by this act. Notwithstanding s. 216.301, Florida Statutes, and pursuant to s. 216.351, Florida Statutes, 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 this act.

Section 9. For the 2022-2023 fiscal year, the nonrecurring sum of \$150,000,000 from the General Revenue Fund is appropriated in the Affordable Housing for Hurricane Recovery appropriation category to the Florida Housing Finance Corporation.

(1) From these funds, \$60,000,000 shall be used to fund the Hurricane Housing Recovery Program, to be administered in accordance with part VII of chapter 420, Florida Statutes, for eligible counties and municipalities based on Hurricane Ian and Hurricane Nicole Federal Emergency Management Agency damage assessment data and population. Hurricane recovery purposes may include, but are not limited to, repair and replacement of housing; repair, replacement, and relocation assistance for manufactured homes; acquisition of building materials for home repair and construction; or housing reentry assistance, such as security deposits, utility deposits, and temporary storage of household furnishings. Of this amount for the Hurricane Housing Recovery Program, up to \$25,000,000 may be used to provide assistance to homeowners to pay insurance deductibles.

(2) From these funds, \$90,000,000 shall be used to fund the Rental Recovery Loan Program for eligible counties and municipalities based on Hurricane Ian and Hurricane Nicole Federal Emergency Management Agency damage assessment data and population.

(3) The Florida Housing Finance Corporation shall coordinate with the Executive Office of the Governor's Division of Emergency Management and the Department of Economic Opportunity to prevent duplication of benefits related to other state or federal programs for recipients of funds appropriated under this section.

Section 10. Hurricane Restoration Reimbursement Grant Program.—

(1) There is hereby created within the Department of Environmental Protection the Hurricane Restoration Reimbursement Grant Program for the purpose of providing financial assistance to mitigate coastal beach erosion for coastal homeowners whose property was significantly impacted by Hurricane Ian or Hurricane Nicole in 2022. The department is authorized to provide financial assistance grants to eligible recipients located in Brevard, Broward, Charlotte, Collier, Duval, Flagler, Indian River, Lee, Manatee, Martin, Nassau, Palm Beach, Saint Johns, Saint Lucie, Sarasota, and Volusia Counties.

(2) The department may provide grants to property owners to mitigate for coastal beach erosion caused by Hurricane Ian or Hurricane Nicole during 2022. Grant funding may only be used to reimburse a property owner for construction costs:

(a) Related to sand placement and temporary or permanent coastal armoring construction projects to mitigate coastal beach erosion and may not be used for the repair of residential structures.

(b) Incurred as a result of preparation for or damage sustained from Hurricane Ian or Hurricane Nicole in 2022.

(c) Incurred after September 23, 2022.

(d) Related to a project that has been permitted, is exempt from permitting requirements, or is otherwise authorized by law.

(3) Financial assistance grants may only be provided to mitigate damage to property located in Brevard, Broward, Charlotte, Collier, Duval, Flagler, Indian River, Lee, Manatee, Martin, Nassau, Palm Beach, Saint Johns, Saint Lucie, Sarasota, and Volusia Counties that is a:

(a) Residential property that meets the following requirements:

1. The parcel must be a single-family, site-built, residential property; and

2. The homeowner must have been granted a homestead exemption on the home under chapter 196, Florida Statutes;

(b) Residential condominium, as defined in chapter 718, Florida Statutes; or

(c) Cooperative, as defined in chapter 719, Florida Statutes.

(4)(a) The department shall cost-share with \$1 provided by the property owner for every \$1 provided by the state with a maximum of \$150,000 in state funding toward the actual cost of an eligible project. The department shall prioritize applicants who are low-income or moderate-income persons, as defined in s. 420.0004, Florida Statutes. Grants will be awarded to property owners for eligible projects following the receipt of a completed application on a first-come, first-served basis until funding is exhausted.

1. Applications may be submitted beginning February 1, 2023.

2. Applicants must include evidence that the project meets the criteria in subsections (2) and (3).

(b) If the department determines that an application meets the requirements of this section, the department shall enter into a cost-share grant agreement with the applicant consistent with this section.

(c) The department shall disburse grant funds on a reimbursement basis. In order to receive reimbursement, property owners must submit, at a minimum:

1. If applicable, the permit issued under chapter 161, Florida Statutes, or applicable statute, and evidence that the project complies with all permitting requirements.

2. All invoices and payment receipts for eligible projects.

3. If applicable, documentation that the eligible project was completed by a licensed professional or contractor.

(5) No later than January 31, 2023, the department shall adopt emergency rules prescribing the procedures, administration, and criteria for approving the applications for the Hurricane Restoration Reimbursement Grant Program. The department is authorized, and all conditions are deemed met, to adopt emergency rules under ss. 120.536(1) and 120.54(4), Florida Statutes, to implement this section. The Legislature finds that such emergency rulemaking authority is necessary to address critical shoreline erosion which may result in the loss of property by homeowners in those areas of the state that sustained damage due to Hurricane Ian or Hurricane Nicole during 2022. Such rules shall remain effective for 6 months after the date of adoption.

(6) This section expires July 1, 2023.

Section 11. Hurricane Stormwater and Wastewater Assistance Grant Program.—

(1) There is hereby created within the Department of Environmental Protection the Hurricane Stormwater and Wastewater Assistance Grant

Program for the purpose of providing financial assistance to local governments located in Brevard, Broward, Charlotte, Collier, Duval, Flagler, Indian River, Lee, Manatee, Martin, Nassau, Palm Beach, Saint Johns, Saint Lucie, Sarasota, and Volusia Counties and impacted by Hurricane Ian or Hurricane Nicole.

(2) The department shall administer the Hurricane Stormwater and Wastewater Assistance Grant Program to remediate damage to stormwater and wastewater systems resulting from Hurricane Ian or Hurricane Nicole.

(3) Eligible recipients of such grants include counties, municipalities, and special taxing districts that operate a stormwater or wastewater management system.

(4) All information pertaining to the grant application process must be provided on the department's website no later than February 1, 2023.

(5) No later than January 31, 2023, the department must adopt emergency rules prescribing the procedure and application for the Hurricane Stormwater and Wastewater Assistance Grant Program. All conditions are deemed met to adopt such emergency rules under ss. 120.536(1) and 120.54(4), Florida Statutes, to implement this section. Such rules shall remain effective for 6 months after the date of adoption.

(6) Grant applications must be submitted to the department on or before March 31, 2023.

(7) To be eligible for the program, the applicant must provide proof that:

(a) The applicant's stormwater or wastewater systems sustained damages as a result of Hurricane Ian or Hurricane Nicole.

(b) The damage to the stormwater or wastewater system poses an immediate threat to the public health or the environment if not immediately addressed.

(8) Grants may not exceed \$10 million per project.

(9) Grants must be awarded by May 1, 2023.

(10) This section expires July 1, 2023.

Section 12. For the 2022-2023 fiscal year, the sum of \$251.5 million in nonrecurring funds is appropriated from the General Revenue Fund to the Department of Environmental Protection as follows: \$250 million as Fixed Capital Outlay for damages related to Hurricane Ian or Hurricane Nicole, including \$100 million for beach erosion projects as identified in s. 161.101(22), Florida Statutes; \$50 million for the Hurricane Restoration Reimbursement Grant Program; \$100 million for the Hurricane Stormwater and Wastewater Assistance Grant Program; and \$1.5 million as administrative costs for the department to implement this section.

Section 13. This act shall take effect upon becoming a law.

Approved by the Governor December 16, 2022.

Filed in Office Secretary of State December 16, 2022.