

Sellers Beware: Price Gouging After Hurricane Ian

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In the aftermath of Hurricane Ian, you may be considering raising prices for certain goods or services, such as ice, water, gas, lumber, rent, and hotel rooms. But before you do, it's important to understand Florida's price gouging statute and its exceptions during a state of emergency.

It's not that difficult to violate Florida's price gouging statute, as its restrictions prevent grossly disparate price increases in certain goods, services, materials, merchandise, and other "commodities" as defined in Florida Statutes section 501.160(1)(a).

Price restrictions are counterintuitive to most since a business owner is usually permitted to charge whatever a willing buyer will pay. But that's not the rule once a state of emergency is declared, at least concerning certain commodities. The price increase restrictions come into play once Florida's governor declares a state of emergency, [such as what occurred during the COVID-19 pandemic](#). Similarly, in the wake of Hurricane Ian, Gov. Ron DeSantis issued an executive order [declaring a state of emergency](#) and [expanding it statewide](#) to cover all Florida counties, not just those in the path of Hurricane Ian — even Florida's most western county, Escambia, far from where Hurricane Ian leveled houses and destroyed property and more, is covered by DeSantis' declaration of a state of emergency.

Simply put, once the governor declares a state of emergency in Florida, price gouging may occur when the amount charged for a commodity represents a gross disparity when compared to the average price at which that commodity or dwelling unit was offered during the 30 days before the declaration of the state of emergency. While some price increases are permitted, grossly disparate price increases are not. In fact, they can trigger a price gouging complaint and an inquiry by the Florida Attorney General's Office. Unfortunately, Florida's price gouging statute does not define what "gross disparity" means. And, even after looking at past Florida attorney general investigations and price gouging inquiries that resulted in enforcement actions and press releases about them, it's still difficult to distill any meaningful guidelines from them, particularly for the business owner who is not well-versed in price gouging law.

As a result, we encourage business owners and vendors to consult with experienced counsel regarding what price increases are reasonable and unlikely to generate interest by the Florida Attorney General's Office during the state of emergency, which expires November 22, 2022. For more information about how to avoid a price gouging inquiry and scrutiny of your product pricing, or assistance with a price gouging inquiry, please contact the author of this article or a member of Carlton Fields' White Collar and Government Investigations Practice.

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