

By Senator Hooper

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1 A bill to be entitled
2 An act relating to clean energy programs; amending s.
3 163.08, F.S.; creating the Property Assessed Clean
4 Energy (PACE) Act; providing a short title; revising
5 legislative findings; defining terms; authorizing a
6 property owner to apply to a local government or an
7 approved PACE administrator to finance a qualifying
8 improvement and enter into a PACE loan contract with
9 such government or administrator; authorizing a local
10 government to enter into a certain agreement with a
11 PACE administrator; specifying that a local government
12 or a PACE administrator may enter into a PACE loan
13 contract only with the record owner of a qualifying
14 commercial or residential real property; removing a
15 requirement for constructive notice; requiring that a
16 local government determine that the property owner has
17 not filed for bankruptcy within a specified number of
18 years before entering into a PACE loan contract;
19 providing the lien position of a PACE loan; providing
20 requirements for financing a qualifying residential
21 real property; providing requirements for and
22 restrictions on PACE loan contracts; prohibiting a
23 local government, a PACE administrator, or a PACE loan
24 contractor from entering into a PACE loan contract
25 with the property owner of qualifying residential real
26 property until verification of the property owner's
27 ability to repay the loan; providing requirements for
28 such verification; authorizing certain methods of
29 verification; defining terms; providing procedural

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30 requirements for a local government or a PACE
31 administrator in a certain telephone conversation with
32 the owner of qualifying residential real property
33 before the execution by the owner of a PACE contract
34 and the commencement of any installation of any energy
35 improvement; providing screening requirements for
36 income-eligible households that apply for a PACE loan
37 on qualifying residential real property; requiring a
38 financing estimate and disclosure form to be provided
39 to the property owner, subject to certain
40 requirements; providing the right to cancel a PACE
41 loan contract and requiring a disclosure statement to
42 be provided to the property owner relating to such
43 right, subject to certain requirements; prohibiting
44 PACE administrators and contractors from engaging in
45 certain practices; removing provisions relating to the
46 non-ad valorem assessment of property; removing
47 provisions requiring the property owner to provide
48 certain notice to the holders or loan servicers of any
49 existing mortgages encumbering or secured by the
50 property; prohibiting a local government or a PACE
51 administrator from entering into a PACE loan contract
52 under certain circumstances; prohibiting the making of
53 a PACE loan unless the qualifying property owner, the
54 local government, or the PACE administrator receives
55 certain signed confirmation from the holder of any
56 mortgage on the qualifying real property; providing
57 certain claims and defenses for a subsequent owner of,
58 a successor in interest to, or any person obligated to

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59 pay the property taxes on qualifying residential real
 60 property encumbered by a PACE lien; requiring PACE
 61 administrators to comply with the Servicemembers Civil
 62 Relief Act; prohibiting the waiver of specified
 63 rights; providing remedies for an owner of qualifying
 64 residential real property aggrieved by specified
 65 violations; requiring that a seller give the
 66 prospective purchaser a certain written disclosure
 67 statement by the time the seller, rather than the
 68 purchaser, executes a contract for the sale of a
 69 certain property; providing an effective date.

70
 71 Be It Enacted by the Legislature of the State of Florida:

72
 73 Section 1. Section 163.08, Florida Statutes, is amended to
 74 read:

75 163.08 Property Assessed Clean Energy Act ~~Supplemental~~
 76 ~~authority for improvements to real property.~~

77 (1) SHORT TITLE.—This section may be cited as the “Property
 78 Assessed Clean Energy Act” or the “PACE Act.”

79 (2) (a) (1) (a) LEGISLATIVE FINDINGS. ~~In chapter 2008-227,~~
 80 ~~Laws of Florida, the Legislature amended the energy goal of The~~
 81 ~~state comprehensive plan provides to provide, in part, that the~~
 82 ~~state shall reduce its energy requirements through enhanced~~
 83 ~~conservation and efficiency measures in all end-use sectors and~~
 84 ~~reduce atmospheric carbon dioxide by promoting an increased use~~
 85 ~~of renewable energy resources. That act also declared It is the~~
 86 ~~public policy of the state to play a leading role in developing~~
 87 ~~and instituting energy management programs that promote energy~~

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88 conservation, energy security, and the reduction of greenhouse
89 gases. In addition to establishing policies to promote the use
90 of renewable energy, the Legislature provided for a schedule of
91 increases in energy performance of buildings subject to the
92 Florida Energy Efficiency Code for Building Construction. ~~In~~
93 ~~chapter 2008-191, Laws of Florida,~~ The Legislature adopted new
94 energy conservation and greenhouse gas reduction comprehensive
95 planning requirements for local governments and, in the 2008
96 general election, the voters of this state approved a
97 constitutional amendment authorizing the Legislature, by general
98 law, to prohibit consideration of any change or improvement made
99 for the purpose of improving a property's resistance to wind
100 damage or the installation of a renewable energy source device
101 in the determination of the assessed value of residential real
102 property.

103 (b) The Legislature finds that all energy-consuming-
104 improved properties that are not using energy conservation
105 strategies contribute to the burden affecting all improved
106 property resulting from fossil fuel energy production. Improved
107 property that has been retrofitted with energy-related
108 qualifying improvements receives the special benefit of
109 alleviating the property's burden from energy consumption. All
110 improved properties not protected from wind damage by wind
111 resistance qualifying improvements contribute to the burden
112 affecting all improved property resulting from potential wind
113 damage. Improved property that has been retrofitted with wind
114 resistance qualifying improvements receives the special benefit
115 of reducing the property's burden from potential wind damage.
116 Further, the installation and operation of qualifying

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117 improvements not only benefit the affected properties for which
118 the improvements are made, but also assist in fulfilling the
119 goals of the state's energy and hurricane mitigation policies.
120 In order to make qualifying improvements more affordable and
121 assist property owners who wish to undertake such improvements,
122 the Legislature finds that there is a compelling state interest
123 in enabling property owners to voluntarily finance such
124 improvements with local government assistance.

125 (c) The Legislature determines that the actions authorized
126 under this section, including, but not limited to, PACE loans
127 for the financing of qualifying improvements through the
128 execution of loan contracts ~~financing agreements~~ and the related
129 imposition of voluntary assessments, are reasonable and
130 necessary to serve and achieve a compelling state interest and
131 are necessary for the prosperity and welfare of the state and
132 its property owners and inhabitants.

133 (3)(2) DEFINITIONS.—As used in this section, the term:

134 (a) "Local government" means a county, a municipality, a
135 dependent special district as defined in s. 189.012, or a
136 separate legal entity created pursuant to s. 163.01(7).

137 (b) "PACE administrator" means an entity with whom a local
138 government contracts to administer a PACE program.

139 (c) "PACE contractor" means a person who installs
140 qualifying improvements under this section.

141 (d) "PACE loan" means financing offered to an owner of
142 qualifying commercial or residential real property for a
143 qualifying improvement which is repayable through a non-ad
144 valorem assessment.

145 (e) "PACE loan contract" means the legal agreement between

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146 a local government, a PACE administrator, or a PACE contractor
147 and a qualifying property owner which contains the terms and
148 conditions of a PACE loan.

149 (f) "Qualifying commercial real property" means a
150 multifamily residential, commercial, or industrial building that
151 a local government has determined may be benefited by
152 installation of a qualifying improvement.

153 (g) ~~(b)~~ "Qualifying improvement" includes any:

154 1. Energy conservation and efficiency improvement, which is
155 a measure that reduces ~~to reduce~~ consumption through
156 conservation or a more efficient use of electricity, natural
157 gas, propane, or other forms of energy on the property,
158 including, but not limited to, air sealing; installation of
159 insulation; installation of energy-efficient heating, cooling,
160 or ventilation systems; building modifications to increase the
161 use of daylight; replacement of windows; installation of energy
162 controls or energy recovery systems; installation of electric
163 vehicle charging equipment; and installation of efficient
164 lighting equipment.

165 2. Renewable energy improvement, which is the installation
166 of any system in which the electrical, mechanical, or thermal
167 energy is produced from a method that uses one or more of the
168 following fuels or energy sources: hydrogen, solar energy,
169 geothermal energy, bioenergy, or ~~and~~ wind energy.

170 3. Wind resistance improvement, which includes, but is not
171 limited to:

172 a. Improving the strength of the roof deck attachment;
173 b. Creating a secondary water barrier to prevent water
174 intrusion;

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- 175 c. Installing wind-resistant shingles;
- 176 d. Installing gable-end bracing;
- 177 e. Reinforcing roof-to-wall connections;
- 178 f. Installing storm shutters; or
- 179 g. Installing opening protections.

180 (h) "Qualifying residential real property" means a single-
 181 family residential building that the local government has
 182 determined may be benefited by installation of a qualifying
 183 improvement.

184 (4)-(3) PROGRAM PURPOSE AND AUTHORITY.-

185 (a) A local government may levy non-ad valorem assessments
 186 to fund qualifying improvements.

187 (b)-(4) Subject to local government ordinance or resolution,
 188 a property owner may apply to the local government or an
 189 approved PACE administrator for funding to finance a qualifying
 190 improvement and enter into a PACE loan contract ~~financing~~
 191 ~~agreement~~ with the local government or the PACE administrator.
 192 Costs incurred by the local government for such purpose may be
 193 collected as a non-ad valorem assessment. A non-ad valorem
 194 assessment must ~~shall~~ be collected pursuant to s. 197.3632 and,
 195 notwithstanding s. 197.3632(8)(a), is ~~shall~~ not be subject to
 196 discount for early payment. However, the notice and adoption
 197 requirements of s. 197.3632(4) do not apply if this section is
 198 ~~used and~~ complied with, and the intent resolution, publication
 199 of notice, and mailed notices to the property appraiser, tax
 200 collector, and Department of Revenue required by s.
 201 197.3632(3)(a) may be provided on or before August 15 in
 202 conjunction with any non-ad valorem assessment authorized by
 203 this section, if the property appraiser, tax collector, and

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204 local government agree.

205 (c)~~(5)~~ Pursuant to this section or as otherwise provided by
206 law or pursuant to a local government's home rule power, a local
207 government may enter into a partnership with one or more local
208 governments for the purpose of providing and financing
209 qualifying improvements.

210 (d)~~(6)~~ A local government may enter into an agreement with
211 a PACE administrator to administer the PACE Act ~~A qualifying~~
212 ~~improvement program may be administered by a for-profit entity~~
213 ~~or a not-for-profit organization on behalf of and at the~~
214 ~~discretion of the local government.~~

215 (e)~~(7)~~ A local government may incur debt for the purpose of
216 providing such improvements, payable from revenues received from
217 the improved property, or any other available revenue source
218 authorized by law.

219 (f)~~(8)~~ A local government or a PACE administrator, as
220 applicable, may enter into a PACE loan contract financing
221 ~~agreement~~ only with the record owner of the qualifying
222 commercial or residential real affected property. Any PACE loan
223 contract financing agreement entered into pursuant to this
224 section or a summary memorandum of such contract must agreement
225 ~~shall~~ be recorded in the public records of the county within
226 which the property is located by the sponsoring unit of local
227 government within 5 days after execution of the PACE loan
228 contract agreement. ~~The recorded agreement shall provide~~
229 ~~constructive notice that the assessment to be levied on the~~
230 ~~property constitutes a lien of equal dignity to county taxes and~~
231 ~~assessments from the date of recordation.~~

232 (5)~~(9)~~ PROGRAM REQUIREMENTS.—Before entering into a PACE

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233 loan contract ~~financing agreement~~, the local government shall
234 reasonably determine that:

235 (a) All property taxes and any other assessments levied on
236 the same bill as property taxes are paid and have not been
237 delinquent for the preceding 3 years or the property owner's
238 period of ownership, whichever is less.~~†~~

239 (b) ~~that~~ There are no involuntary liens, including, but not
240 limited to, construction liens on the property.~~†~~

241 (c) ~~that~~ No notices of default or other evidence of
242 property-based debt delinquency have been recorded during the
243 preceding 3 years or the property owner's period of ownership,
244 whichever is less.~~†~~ ~~and~~

245 (d) ~~that~~ The property owner is current on all mortgage debt
246 on the property.

247 (e) The property owner has not filed for bankruptcy
248 protection within the preceding 3 years.

249 (6) PACE LOAN LIEN POSITION.—Notwithstanding any law to the
250 contrary, a PACE loan is:

251 (a) Subordinate to all liens on the qualifying real
252 property recorded before the notice of the PACE lien is
253 recorded.

254 (b) Subordinate to a first mortgage on the qualifying real
255 property recorded after the notice of the PACE lien is recorded.

256 (c) Superior to any lien on the qualifying real property
257 recorded after the notice of the PACE lien is recorded.

258 (7) FINANCING FOR QUALIFYING RESIDENTIAL REAL PROPERTY.—A
259 local government shall verify that:

260 (a) The maturity date of the PACE loan does not exceed the
261 useful life of the qualifying improvement, as determined by the

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262 local government; however, a loan term may not exceed 15 years.

263 (b) The PACE loan amount does not exceed the lesser of 15
264 percent of the assessed value of the real property on which the
265 qualifying improvement will be installed or the actual cost of
266 all qualifying improvements on the property, including the labor
267 to install the improvements, and any equipment or materials used
268 to install the improvements.

269 (c) The combined debt of existing mortgages and the PACE
270 loan amount does not exceed 75 percent of the assessed value of
271 the real property.

272 (8) PACE LOAN CONTRACTS FOR QUALIFYING RESIDENTIAL REAL
273 PROPERTY.—

274 (a) A residential PACE loan contract must:

275 1. Be in writing and contain all the terms and conditions
276 of the PACE loan.

277 2. Be signed by the owner of qualifying residential real
278 property.

279 3. Be written in the language in which the contract was
280 negotiated.

281 4. Offer a fixed simple interest rate.

282 5. Charge an interest rate that does not exceed any limits
283 imposed by law.

284 6. Fully amortize the debt obligation.

285 7. Authorize prepayment of some or all of the PACE loan
286 balance with no penalty, fee, or other charge for such
287 prepayment.

288 8. Include the right to cancel, as provided in subsection
289 (13).

290 (b) A residential PACE loan contract may not:

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- 291 1. Result at any time in negative amortization;
292 2. Charge any interest upon interest or fees; or
293 3. Contain any provision requiring forced arbitration or
294 restricting class action.
- 295 (9) UNDERWRITING FOR QUALIFYING RESIDENTIAL REAL PROPERTY.—
296 (a) The local government, PACE administrator, or PACE loan
297 contractor may not enter into a PACE loan contract with the
298 property owner of qualifying residential real property until it
299 verifies that the property owner has the ability to repay the
300 loan by determining that the:
- 301 1. Property owner's total monthly debt to total monthly
302 income ratio at the time the loan is executed does not exceed 43
303 percent, including the PACE loan.
- 304 2. Property owner has sufficient residual income to meet
305 basic living expenses.
- 306 (b) Income, debt, and expenses must be verified by using
307 third-party records that provide reasonably reliable evidence of
308 the property owner's income, debt, and expenses. A PACE
309 administrator may verify the property owner's income using a tax
310 return transcript issued by the Internal Revenue Service. A
311 local government may also use the following records to verify
312 the property owner's income or assets:
- 313 1. Copies of the property owner's tax returns filed with
314 the Internal Revenue Service;
- 315 2. Internal Revenue Service forms used for reporting wages
316 or tax withholding;
- 317 3. Payroll statements;
318 4. Financial institution records;
319 5. Records from the property owner's employer; or

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320 6. Records from any governmental agency stating the
321 property owner's income from any benefits or entitlements.

322 (c) For the purposes of this subsection, the term:

323 1. "Basic living expenses" includes, but is not limited to,
324 food and other household necessities; medical expenses,
325 including premiums, co-pays, and cost of medicine, and other
326 related expenses; transportation costs, including fuel, auto
327 insurance, and maintenance; public transportation costs; and
328 utility expenses.

329 2. "Residual income" means the property owner's remaining
330 income after subtracting the owner's total monthly debt
331 obligations from the owner's total monthly income.

332 3. "Total monthly debt" means the sum of the property
333 owner's monthly debt obligations, such as mortgage-related
334 obligations, which include all mortgage principal and interest
335 payments, insurance, property taxes, mortgage guaranty
336 insurance, and other preexisting fees and assessments, including
337 the PACE assessment and court-ordered alimony and child support.

338 4. "Total monthly income" means the sum of the property
339 owner's current or reasonably expected income, including any
340 income from assets and excluding the qualifying residential real
341 property, including any attached real property, which secures
342 the PACE loan. Such income may not be derived from temporary
343 sources of income, illiquid assets, or proceeds derived from the
344 equity from the qualifying residential real property.

345 (10) CONFIRMATION FOR PACE LOANS ON QUALIFYING RESIDENTIAL
346 REAL PROPERTY.—

347 (a) Before the execution by the owner of qualifying
348 residential real property of a PACE contract and before the

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349 commencement of any installation of any energy improvement, the
350 local government or the PACE administrator must orally, in a
351 live, recorded telephone conversation with the owner:

352 1. Confirm the key terms of the agreement and the scope of
353 energy improvement work, including, at a minimum:

354 a. The measures to be installed which are financed by the
355 PACE loan;

356 b. The total estimated annual payment;

357 c. The date the first tax payment will be due;

358 d. The interest rate expressed as an annual percentage
359 rate;

360 e. The term of the loan; and

361 f. That repayments will be made through the owner's
362 property taxes.

363 2. Verify that the owner understands:

364 a. The key terms of the agreement;

365 b. If payments are escrowed, by how much the escrowed
366 amounts will increase, or, if payments are not escrowed, that
367 the property owner should save enough money during the year to
368 cover the increase in property taxes from the PACE loan;

369 c. That the PACE loan becomes a PACE lien on the owner's
370 property and will likely need to be paid off when the house is
371 sold;

372 d. The right to cancel a PACE loan contract under
373 subsection (13);

374 e. The risk that energy savings from the energy improvement
375 measures may not equal or exceed the amount of the PACE loan
376 payments that will be added to the owner's property taxes;

377 f. That the owner may encounter difficulty when refinancing

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378 or selling the home; and

379 g. The risk of a tax lien for failure to pay increased
380 property taxes or foreclosure for failure to pay increased
381 escrow payments to the mortgageholder.

382 (b) A voicemail message does not meet the requirements of
383 this subsection.

384 (11) REQUIRED SCREENING.—Before entering into a PACE loan
385 on qualifying residential real property, income-eligible
386 households must be screened for eligibility for the
387 Weatherization Assistance Program or other low-cost or no-cost
388 programs that may be provided by the Florida Housing Finance
389 Corporation or the utility company serving the property owner.

390 (12) FINANCING ESTIMATE AND DISCLOSURE.—

391 (a) A financing estimate and disclosure form or a
392 substantially equivalent form that displays the same information
393 in a substantially similar format must be provided to the
394 property owner at least 3 business days before the PACE loan
395 contract is signed. The disclosure form must contain the
396 following statement:

397 Payments on the PACE loan contract will be made
398 through taxes assessed on your property. If your
399 property taxes are paid through an escrow account,
400 your mortgage lender may apportion the amount and add
401 it to your monthly payment. You may be required to pay
402 off the remaining balance of the PACE loan before you
403 can sell or refinance your property. If your property
404 tax payment is late, the enforcement and collection
405 procedures in the Florida Uniform Assessment
406 Collection Act may be used for the sale of a tax

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407 certificate for your property and the ultimate sale of
408 your property for the payment of the delinquent
409 assessment installments, associated penalties,
410 interest, and other costs.

411
412 (b) The disclosure form also must contain cost and fee
413 information, including, but not limited to, product costs,
414 financing costs, annual interest rates, and administrative fees,
415 and a customer service toll-free telephone number and e-mail
416 address to address customer complaints.

417 (13) RIGHT TO CANCEL A PACE LOAN CONTRACT.-

418 (a) A local government may not permit a property owner to
419 enter into a PACE loan contract pursuant to this section unless
420 the property owner is given the right to cancel the PACE loan
421 contract.

422 (b) The property owner must receive the right to cancel
423 within 3 business days after the owner has signed the contract,
424 received the financing estimate and disclosure, or received the
425 notice of right to cancel, whichever is latest.

426 (c) The property owner must be provided with a notice of
427 cancellation form or a substantially similar form that contains
428 the same information in a similar format. The form must be
429 provided to the property owner as a separate, printed document
430 in at least 12-point type and must contain the following
431 statement:

432 To cancel the PACE loan contract you must mail or
433 otherwise deliver a signed and dated copy of this form
434 to (insert name of the PACE administrator) at (insert
435 physical address or, if the PACE administrator accepts

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436 electronic cancellations, the e-mail address of the
437 PACE administrator). You do not have to use this form,
438 but you must notify (insert the name of the PACE
439 administrator) in writing at (insert physical address
440 or, if the PACE administrator accepts electronic
441 cancellations, the e-mail address of the PACE
442 administrator) of your intention to cancel. If you
443 cancel, any payments made by you under this contract
444 will be returned within 20 business days after the
445 PACE administrator receives this form.

446
447 (d) When an owner of qualifying residential real property
448 cancels a PACE loan, the owner is not liable for any amount,
449 including any finance charge, fee, or other charge.

450 (e) The right to cancel as provided under this subsection
451 may not be waived.

452 (14) PROHIBITED PRACTICES.—A PACE administrator or PACE
453 contractor may not do any of the following:

454 (a) Make any representations of increased value to a
455 property owner as a result of improvements made in connection
456 with the loan.

457 (b) Make any false, deceptive, abusive, or misleading
458 statement or material omission in connection with a PACE loan,
459 including, but not limited to, any statement that a PACE loan is
460 a free form of public assistance or a government program, that a
461 PACE loan will be repaid by the subsequent owner of the
462 qualifying residential property, that the improvements will pay
463 for themselves, or that the property owner will receive tax
464 benefits from the program.

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465 (c) Begin construction work before the expiration of the
466 cancellation period following the execution of a PACE loan
467 contract.

468 (d) Charge the property owner a different price than would
469 be charged for similar improvements that are not financed
470 through a PACE loan.

471 (e) Disclose or permit disclosure to a PACE contractor or a
472 third party engaged in soliciting assessment contracts of the
473 amount of the PACE loan financing for which a property owner is
474 eligible.

475 (f) Offer or provide direct or indirect monetary payments;
476 any other form of compensation, incentive, kickback, or
477 inducement; or any other thing of value to a PACE contractor to
478 offer, favor, or refer a property owner to a PACE loan over
479 other forms of financing or credit.

480 (g) Sell, assign, or otherwise convey a PACE loan debt to a
481 debt buyer.

482 (15) QUALIFYING IMPROVEMENTS.—

483 (a) ~~(10)~~ A qualifying improvement must ~~shall~~ be affixed to a
484 building or facility that is part of the property and
485 constitutes ~~shall constitute~~ an improvement to the building or
486 facility or a fixture attached to the building or facility. An
487 agreement between a local government and a qualifying property
488 owner may not cover wind-resistance improvements in buildings or
489 facilities under new construction or construction for which a
490 certificate of occupancy or similar evidence of substantial
491 completion of new construction or improvement has not been
492 issued.

493 (b) ~~(11)~~ Any work requiring a license under any applicable

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494 law to make a qualifying improvement must ~~shall~~ be performed by
495 a contractor properly certified or registered pursuant to part I
496 or part II of chapter 489.

497 ~~(12) (a) Without the consent of the holders or loan~~
498 ~~servicers of any mortgage encumbering or otherwise secured by~~
499 ~~the property, the total amount of any non-ad valorem assessment~~
500 ~~for a property under this section may not exceed 20 percent of~~
501 ~~the just value of the property as determined by the county~~
502 ~~property appraiser.~~

503 ~~(b) Notwithstanding paragraph (a), a non-ad valorem~~
504 ~~assessment for a qualifying improvement defined in subparagraph~~
505 ~~(2) (b)1. or subparagraph (2) (b)2. that is supported by an energy~~
506 ~~audit is not subject to the limits in this subsection if the~~
507 ~~audit demonstrates that the annual energy savings from the~~
508 ~~qualified improvement equals or exceeds the annual repayment~~
509 ~~amount of the non-ad valorem assessment.~~

510 ~~(13) At least 30 days before entering into a financing~~
511 ~~agreement, the property owner shall provide to the holders or~~
512 ~~loan servicers of any existing mortgages encumbering or~~
513 ~~otherwise secured by the property a notice of the owner's intent~~
514 ~~to enter into a financing agreement together with the maximum~~
515 ~~principal amount to be financed and the maximum annual~~
516 ~~assessment necessary to repay that amount. A verified copy or~~
517 ~~other proof of such notice shall be provided to the local~~
518 ~~government. A provision in any agreement between a mortgagee or~~
519 ~~other lienholder and a property owner, or otherwise now or~~
520 ~~hereafter binding upon a property owner, which allows for~~
521 ~~acceleration of payment of the mortgage, note, or lien or other~~
522 ~~unilateral modification solely as a result of entering into a~~

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523 ~~financing agreement as provided for in this section is not~~
524 ~~enforceable. This subsection does not limit the authority of the~~
525 ~~holder or loan servicer to increase the required monthly escrow~~
526 ~~by an amount necessary to annually pay the qualifying~~
527 ~~improvement assessment.~~

528 (16) LIENHOLDER NOTICE AND CONSENT.—

529 (a) A local government or a PACE administrator may not
530 enter into a PACE loan contract with a qualifying owner unless
531 the owner, the local government, or the PACE administrator has:

532 1. Provided written notice to each of the holders of any
533 mortgage on the qualifying residential or commercial real
534 property that the property owner intends to enter into a PACE
535 loan contract; and

536 2. Obtained a verified written consent from each of the
537 holders of any mortgage on the qualifying residential or
538 commercial real property.

539 (b) A PACE loan may not be made unless the qualifying
540 property owner, the local government, or the PACE administrator
541 receives signed confirmation from the holder of any mortgage on
542 the qualifying real property that entering into the PACE loan
543 contract does not constitute an event of default or give rise to
544 any remedies under the terms of the mortgage loan or other
545 contractual agreement.

546 (17) PRESERVATION OF CLAIMS AND DEFENSES.—A subsequent
547 owner of, a successor in interest to, or any person obligated to
548 pay the property taxes on qualifying residential real property
549 encumbered by a PACE lien may assert all claims and defenses
550 against a PACE administrator or servicer of a PACE loan which
551 the owner of qualifying residential real property who originally

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552 entered into the PACE loan could assert against the original
553 PACE administrator or servicer of a PACE loan.

554 (18) RELATION TO OTHER LAWS.—A PACE administrator must
555 comply with the Servicemembers Civil Relief Act, 50 U.S.C. ss.
556 3901 et seq. The rights granted under that act may not be
557 waived.

558 (19) REMEDIES.—In addition to remedies under the Florida
559 Deceptive and Unfair Trade Practices Act, any owner of
560 qualifying residential real property aggrieved by a violation of
561 this section is entitled to actual, incidental, and
562 consequential damages; reasonable attorney fees; investigative
563 and court costs; and any other equitable relief as determined by
564 the court against the local government, the PACE administrator,
565 or the PACE contractor.

566 (20) ~~(14)~~ ASSESSMENT FOR QUALIFYING IMPROVEMENT.—At or
567 before the time a seller ~~purchaser~~ executes a contract for the
568 sale ~~and purchase~~ of any property for which a non-ad valorem
569 assessment has been levied under this section and has an unpaid
570 balance due, the seller shall give the prospective purchaser a
571 written disclosure statement in the following form, which shall
572 be set forth in the contract or in a separate writing:

573

574 QUALIFYING IMPROVEMENTS FOR ENERGY EFFICIENCY,
575 RENEWABLE ENERGY, OR WIND RESISTANCE.—The property
576 being purchased is located within the jurisdiction of
577 a local government that has placed an assessment on
578 the property pursuant to s. 163.08, Florida Statutes.
579 The assessment is for a qualifying improvement to the
580 property relating to energy efficiency, renewable

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581 energy, or wind resistance, and is not based on the
582 value of property. You are encouraged to contact the
583 county property appraiser's office to learn more about
584 this and other assessments that may be provided by
585 law.

586
587 (21)~~(15)~~ ENFORCEABILITY.—A provision in any agreement
588 between a local government and a public or private power or
589 energy provider or other utility provider is not enforceable to
590 limit or prohibit any local government from exercising its
591 authority under this section.

592 (22)~~(16)~~ HOME RULE AUTHORITY.—This section is additional
593 and supplemental to county and municipal home rule authority and
594 not in derogation of such authority or a limitation upon such
595 authority.

596 Section 2. This act shall take effect July 1, 2020.