

Tab 1	SB 228 by Rodriguez (CO-INTRODUCERS) Burgess, Hutson, Gruters, Hooper; (Similar to H 00101) Resiliency Energy Environment Florida Programs						
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Tab 2	SB 406 by Berman; (Identical to H 00451) Secured Transactions						
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Tab 3	SB 786 by Hutson; (Identical to H 06051) Aircraft Sales and Lease Tax						
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Tab 4	CS/SB 830 by CM, Hooper; (Compare to H 00509) Sales Tax						
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Tab 5	SM 982 by Diaz; (Similar to H 00641) Memorial/Internal Revenue Service Regulations						
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The Florida Senate
COMMITTEE MEETING EXPANDED AGENDA

FINANCE AND TAX
Senator Rodriguez, Chair
Senator Cruz, Vice Chair

MEETING DATE: Thursday, January 13, 2022
TIME: 9:00—10:30 a.m.
PLACE: Toni Jennings Committee Room, 110 Senate Building

MEMBERS: Senator Rodriguez, Chair; Senator Cruz, Vice Chair; Senators Berman, Harrell, Hooper, Jones, Rodrigues, and Wright

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
1	SB 228 Rodriguez (Similar H 101)	Resiliency Energy Environment Florida Programs; Providing that a property owner may apply to a Resiliency Energy Environment Florida (REEF) program for funding to finance a qualifying improvement and may enter into an assessment financing agreement with a local government; authorizing local governments to enter into agreements with program administrators to administer REEF programs; specifying underwriting, financing estimate, disclosure, and confirmation requirements for program administrators relating to residential real property, etc. CA 11/03/2021 Favorable FT 01/13/2022 Fav/CS AP	Fav/CS Yeas 7 Nays 0
2	SB 406 Berman (Identical H 451)	Secured Transactions; Providing that a description of certain accounts and entitlements by a certain type of collateral is insufficient for the purpose of security agreements; providing retroactive application, etc. CA 11/03/2021 Favorable FT 01/13/2022 Favorable AP	Favorable Yeas 7 Nays 0
3	SB 786 Hutson (Identical H 6051)	Aircraft Sales and Lease Tax; Exempting all aircraft sales and leases, rather than the sales and leases of certain aircraft, from the sales and use tax; deleting the definition of the term "common carrier" to conform to changes made by the act, etc. CM 11/30/2021 Favorable FT 01/13/2022 Fav/CS AP	Fav/CS Yeas 6 Nays 1
4	CS/SB 830 Commerce and Tourism / Hooper (Compare H 509)	Sales Tax; Specifying the sales tax rate on new mobile homes; defining the term "new mobile home", etc. CM 11/30/2021 Fav/CS FT 01/13/2022 Favorable AP	Favorable Yeas 7 Nays 0

COMMITTEE MEETING EXPANDED AGENDA

Finance and Tax

Thursday, January 13, 2022, 9:00—10:30 a.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
5	SM 982 Diaz (Similar HM 641)	Memorial/Internal Revenue Service Regulations; Urging Congress to protect consumers from harmful and intrusive Internal Revenue Service regulations, etc. FT 01/13/2022 Favorable RC	Favorable Yeas 5 Nays 2

Other Related Meeting Documents

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Finance and Tax

BILL: CS/SB 228

INTRODUCER: Finance and Tax Committee; and Senator Rodriguez and others

SUBJECT: Resiliency Energy Environment Florida Programs

DATE: January 13, 2022

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Hackett</u>	<u>Ryon</u>	<u>CA</u>	Favorable
2.	<u>Gross</u>	<u>Babin</u>	<u>FT</u>	Fav/CS
3.	_____	_____	<u>AP</u>	_____

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 228 substantially amends the Property Assessed Clean Energy program, which allows property owners to make qualifying improvements to real property and finance the cost through annual non-ad valorem tax assessments. Qualifying improvements are those that enhance energy efficiency, renewable energy, and wind resistance. The bill names the program the Resiliency Energy Environment Florida program and enhances protections for consumers entering into PACE contracts. The bill further allows governmental leased property to qualify for the program.

The bill does not affect state or local revenues.

The bill takes effect July 1, 2022.

II. Present Situation:

PACE in Florida

In 2010, local governments¹ were authorized to offer financing to property owners who enhance their property's energy efficiency or wind resistance by making qualifying improvements. The loan is repaid through annual non-ad valorem property tax assessments. Although Florida's law

¹ Section 163.08, F.S. "Local government" means a county, municipality, a dependent special district as defined in s. 189.012, F.S., or a separate legal entity created pursuant to s. 163.01(7), F.S.

does not use the terms “PACE” or “Property Assessed Clean Energy,” it is generally understood that s. 163.08, F.S., is Florida’s PACE program.²

Through a PACE program, a property owner may apply to a local government for funding to enhance energy conservation and efficiency improvements, such as energy-efficient HVAC systems, replacement of windows, electric vehicle charging equipment, and efficient lighting equipment; renewable energy improvements utilizing hydrogen, solar, geothermal, and wind energy; and wind resistance improvements such as wind-resistant shingles, gable-end bracing, storm shutters, and opening protections.³

PACE programs in Florida are formed by local governments and operate typically in partnership with several localities pursuant to an interlocal agreement. Additionally, PACE programs in Florida can be operated by a third-party PACE administrator, which is either a for-profit or not-for-profit entity acting on behalf of the local government.⁴ However, it is the local government that enters into a financing agreement directly with the property owner.⁵

At least 30 days before entering into the financing agreement, the property owner must provide notice to any mortgage holder or loan servicer of the intent to enter into the agreement, the maximum amount to be financed, and the maximum annual assessment. The law provides that an acceleration clause for “payment of the mortgage, note, or lien or other unilateral modification solely as a result of entering into a financing agreement ... is not enforceable.” However, the mortgage holder or loan servicer may increase the required monthly escrow by an amount necessary to pay for the qualifying improvement.⁶

Qualifying Improvements

The types of projects PACE financing may fund are referred to as “qualifying improvements.” A local government may only offer PACE financing for projects included in the statutory definition of qualifying improvements. As provided in current law, qualifying improvements include the following:

- Energy conservation and efficiency improvements,⁷ including, but not limited to:
 - Air sealing;
 - Installation of insulation;
 - Installation of energy efficient HVAC systems;
 - Building modifications which increase the use of daylight;
 - Replacement of windows;
 - Installation of energy controls or energy recovery systems;
 - Installation of electric vehicle charging equipment; and
 - Installation of efficient lighting equipment.

² See generally Erin Deady, *Property Assessed Clean Energy: Is There Finally a Clear Path to Success?* Florida Bar Journal Vol. 90, No. 6, June 2016, pg. 114, available at <https://www.floridabar.org/the-florida-bar-journal/property-assessed-clean-energy-is-there-finally-a-clear-path-to-success/> (last accessed Dec. 07, 2021).

³ Section 163.08(2)(b), F.S.

⁴ Section 163.08(6), F.S.

⁵ Section 163.08(8), F.S.

⁶ Section 163.08(13), F.S.

⁷ Section 163.08(2)(b)1., F.S.

- Renewable energy improvements,⁸ which means installation of any system in which the electrical, mechanical, or thermal energy is produced from a method utilizing hydrogen, solar energy, geothermal energy, bioenergy, or wind energy.
- Wind resistance improvements,⁹ to include:
 - Improving the strength of the roof deck attachment;
 - Creating a secondary water barrier to prevent water intrusion;
 - Installing wind-resistant shingles;
 - Installing gable-end bracing;
 - Reinforcing roof-to-wall connections;
 - Installing storm shutters; and
 - Installing opening protections.

Wind resistance improvements applied to buildings under new construction do not qualify for PACE financing.¹⁰

Florida PACE Consumer Protections

Current law provides that, before entering into a financing agreement, the local government must reasonably determine that:

- All property taxes and other assessments are current and have been paid for the preceding 3 years;
- There are no involuntary liens including construction liens;
- There are no notices of default or other evidence of property-based debt delinquency recorded and not released in the preceding 3 years; and
- The property owner is current on all mortgage debt on the property.¹¹

Further, any work requiring a license to make a qualifying improvement must be performed by a properly certified or registered contractor.¹² The total amount of PACE assessments for any property may not exceed 20 percent of the property's market value, unless an energy audit determines that the savings from the qualifying improvement equals or exceeds the repayment amount of the non-ad valorem assessment.¹³

Consumer Protections for Residential PACE Financing Generally

Concerns have arisen about issues consumers may face regarding residential PACE financing. Because the PACE financing is structured as a tax assessment instead of a loan, PACE programs historically have not been required to provide homeowners with the same disclosures about the financing costs that traditional lenders must provide.

⁸ Section 163.08(2)(b)2., F.S.

⁹ Section 163.08(2)(b)3., F.S.

¹⁰ Section 163.08(10), F.S.

¹¹ Section 163.08(9), F.S.

¹² Section 163.08(11), F.S.

¹³ Section 163.08(12), F.S.

Additionally, the tax liens for PACE financing take priority over other lien-holders, including the property's mortgage holder.¹⁴ Such priority has influenced Fannie Mae and Freddie Mac to refuse the purchase of loans with existing PACE-based tax assessments,¹⁵ and properties encumbered with PACE obligations are not eligible for Federal Housing Administration insured financing.¹⁶ However, priority lien position protects local governments, who are authorized to take on debt for the financing they provide.¹⁷ Advocates also state that the priority lien position enables local governments to offer competitive interest rates, ranging from approximately 6 to 9 percent.¹⁸

Consumer Financial Protection Bureau Steps

In 2018, the United States Congress directed the Consumer Financial Protection Bureau (CFPB) to promulgate regulations regarding PACE financing.¹⁹ The CFPB has issued advance notices of proposed rulemaking in order to apply the Truth in Lending Act's ability-to-repay requirements, currently in place for residential mortgage loans, to PACE financing.²⁰

The existing federal ability-to-repay requirements prohibit creditors from making a residential mortgage loan unless the creditor makes a reasonable and good faith determination based on verified and documented information that, at the time the loan is consummated, the consumer has a reasonable ability to repay the loan according to its terms, and all applicable taxes, insurance, and assessments.²¹ In making such a determination, the creditor must verify and consider specific factors including the consumer's income, assets, and existing debt obligations.²² The Truth in Lending Act's stated purpose is "to assure that consumers are offered and receive residential mortgage loans on terms that reasonably reflect their ability to repay the loans and that are understandable and not unfair, deceptive, or abusive."²³

The CFPB's regulations on residential PACE financing are still in development and have not been finalized at this time.

¹⁴ Debra Gruszecki, INLAND: Realtors Offer Word of Warning About Solar Financing Program," Jan. 19, 2015, The Press-Enterprise, available at <https://www.pe.com/2015/01/19/inland-realtors-offer-word-of-warning-about-solar-financing-program/> (last accessed Dec. 07, 2021).

¹⁵ *Statement of the Federal Housing Finance Agency on Certain Super-Priority Liens*, Federal Housing Finance Agency, Dec. 22, 2014, available at <https://www.fhfa.gov/Media/PublicAffairs/Pages/Statement-of-the-Federal-Housing-Finance-Agency-on-Certain-Super-Priority-Liens.aspx> (last visited Dec. 07, 2021).

¹⁶ *ML 2017-18: Property Assessed Clean Energy (PACE)*, Dec. 07, 2017, U.S. Department of Housing and Urban Development, available at <https://www.hud.gov/sites/dfiles/OCHCO/documents/17-18ml.pdf> (last accessed Dec. 07, 2021).

¹⁷ Section 163.08(7), F.S.

¹⁸ *AboutPACE*, Florida PACE Funding Agency, available at <https://floridapace.gov/about-pace/> (last visited Dec. 07, 2021).

¹⁹ Section 307, Economic Growth, Regulatory Relief, and Consumer Protection Act, Public Law No 115-174 (May 24, 2018).

²⁰ Advance Notice of Proposed Rulemaking on Residential Property Assessed Clean Energy Financing, Docket No. CFPB-2019-0011, available at https://files.consumerfinance.gov/f/documents/cfpb_anpr_residential-property-assessed-clean-energy-financing.pdf (last accessed Dec. 07, 2021).

²¹ *Id.*, citing TILA section 129C(a), 15 U.S.C. 1639c(a).

²² *Id.*

²³ 7 TILA section 129B(a)(2), 15 U.S.C. 1639b(a)(2).

California's Consumer Protection Measures

California, one of the three states currently offering residential PACE financing,²⁴ has taken measures to protect consumers independent of federal regulation. In 2016, California's law changed to require PACE programs to provide mortgage-level disclosures and to conduct live recorded calls with homeowners to confirm financing terms and obligations.²⁵

In 2017, California legislation required that PACE program administrators be licensed by the California Department of Financial Protection and Innovation, provided oversight for contractors and third party solicitors, and authorized the same department to bring enforcement actions against PACE administrators and contractors. The law also required that a PACE administrator thoroughly determine the property owner's ability to repay the loan before approving a financing contract.²⁶ In 2021, California took further action specifically to protect senior citizens being solicited at home, criminalizing transactions that are part of a pattern in violation of specific PACE consumer protections.²⁷

III. Effect of Proposed Changes:

The bill substantially amends Florida's Property Assessed Clean Energy (PACE) program in s. 163.08, F.S. It names the program the Resiliency Energy Environment Florida (REEF) program, defines key terms, expands the types of qualifying improvements, imposes new consumer protections, extends participation in the program to lessees of government property, and enacts new REEF contractor oversight and accountability provisions.

Definitions

The bill defines the following terms:

- "Assessment financing agreement" means the financing agreement under a REEF program between a local government and a property owner for the acquisition or installation of qualifying improvements.
- "Government-leased property" means real property owned by a local government which has become subject to taxation due to lease of the property to a nongovernmental lessee.
- "Non-ad valorem assessment" or "assessment" means the same as defined in s. 197.3632(1), F.S., to mean only those assessments which are not based upon millage and which can become a lien against a homestead as permitted in s. 4, Art. X of the State Constitution.
- "Nongovernmental lessee" means a person or an entity, other than a local government, which is the lessee of government-leased property.
- "Nonresidential real property" means any property not defined as residential real property and which will be or has been improved by a qualifying improvement. This term includes,

²⁴ California, Florida, and Missouri are the only three states offering PACE financing on residential property. See, Sijia Qiu and Jocelyn Durkay, *PACE Financing*, National Conference of State Legislatures, Jan. 26, 2016, available at <https://www.ncsl.org/research/energy/pace-financing.aspx> (last visited Dec. 07, 2021).

²⁵ James Reed, "Consumer Protections for PACE Now Written into State Law," Orange County Register, October 7, 2016, available at <https://www.ocregister.com/2016/10/07/consumer-protections-for-pace-now-written-into-state-law/> (last visited Dec. 07, 2021).

²⁶ Assembly Bill 1284 (Dababneh, Chap 475, Stats. 2017) – California Financing Law: Property Assessed Clean Energy program: program administrators.

²⁷ Assembly Bill 790 (Quirk-Silva, Chap 589, Stats. 2021) – Consumer Legal Remedies Act.

but is not limited to, multifamily residential property composed of five or more dwelling units, and office, commercial, industrial, agricultural, or government-leased property.

- “Program administrator” means an entity, including, but not limited to, a for-profit or-not-for-profit entity, with which a local government contracts to administer a REEF program.
- “Residential real property” means a residential property composed of four or fewer dwelling units which is or will be improved by a qualifying improvement.
- “Resiliency Energy Environment Florida (REEF) program” means a program established by a local government, alone or in partnership with other local governments or a program administrator, to finance qualifying improvements on commercial real property or residential real property.

Consumer Protection Measures

To account for recent consumer protection concerns regarding PACE financing, the bill provides regulations to mitigate these concerns and ensure consumers are well-informed of their obligations before entering into a REEF financing agreement.

Specifically, the bill provides that, before entering into a residential REEF financing agreement, a REEF administrator must reasonably determine that the property owner has the ability to pay the annual REEF assessment. This determination should be based on observations that:

- All property taxes and other assessments are current and have not been delinquent for more than 30 days for the preceding 3 years.
- There are no involuntary liens greater than \$1,000, including construction liens.
- There are no notices of default or other evidence of property-based debt delinquency recorded and not released in the preceding 3 years.
- The property owner has recorded all other PACE assessments on the property.
- The property owner is current on all mortgage debt on the property.
- The property, if residential real property, is not subject to an existing home equity conversion mortgage or reverse mortgage product, or is not currently a residential property gifted for free to a homeowner by a nonprofit entity. However, the agreement may not be invalidated solely on the basis that the homeowner failed to disclose that the property was a gift.
- The property owner is not currently in bankruptcy.
- The total estimated annual payment amount for all assessment financing agreements funded under the REEF program does not exceed 10 percent of the property owner’s annual household income. Such income should be confirmed by a reputable third party and may not be confirmed solely by the property owner.

Before entering into a residential REEF financing agreement, the REEF administrator must provide a financing estimate and disclosure to the property owner that includes:

- The total amount estimated to be funded, including program fees and capitalized interest;
- The estimated annual REEF assessment;
- The term of the REEF assessment;
- The interest charged and estimated annual percentage rate;
- A description of the qualifying improvement;
- A disclosure that if the property owner sells or refinances the property, the property owner may be required to pay off the full amount owed under each REEF financing agreement;

- A disclosure that the REEF assessment will be collected alongside other property taxes, and will result in a lien on the property during the term of the agreement; and
- A disclosure that failure to pay the REEF assessment may result in penalties and fees, along with the issuance of a tax certificate that could result in the property owner losing the real property.

The program administrator must also conduct a recorded telephone call with the property owner to confirm the following:

- That the property owner has access to the contract and financing estimates and disclosures;
- The qualifying improvement that is being financed;
- The total estimated annual costs, including fees;
- The total estimated average monthly equivalent amount required to pay such annual costs;
- The estimated date the property owner's first tax payment including the REEF assessment will be due;
- The term of the REEF financing agreement;
- That payments will cause the owner's annual tax bill to increase, that payments will be made through additional annual assessments, and that such payments will be made either directly to the county tax collector's office or through the owner's mortgage escrow account;
- That the owner has disclosed whether the property has received or is seeking additional REEF assessments and has disclosed all other REEF assessments or special taxes about to be placed on the property;
- That the property will be subject to a lien during the term of the REEF financing agreement which may require the contract to be paid in full before selling or refinancing the property;
- That any potential utility or insurance savings are not guaranteed and will not reduce the REEF or total assessment amount; and
- That the program administrator does not provide tax advice and that the owner should seek professional tax advice with questions regarding tax credits, deductibility, or other impacts of the qualifying improvement or REEF financing agreement.

A property owner may cancel the REEF financing agreement within three business days after signing the contract, without financial penalty.

The term of a REEF financing agreement may not exceed the lesser of:

- Thirty years; or
- The greater of the weighted average useful life of all the qualifying improvement being financed or the useful life of the qualifying improvement to which the greatest portion of funds is disbursed.

Additionally, a program administrator may not offer a REEF financing agreement on any residential real property that includes a negative amortization schedule, a balloon payment, or prepayment fees other than nominal administrative costs. Capitalized interest included in the original balance of an agreement is not considered negative amortization.

REEF Contractor Oversight

The bill provides that for residential real property, a program administrator may not enroll a contractor unless the administrator makes a reasonable effort to review the contractor's professional standing. This includes reviewing the appropriate licensure, permits, and registrations required for its business operations. Additionally, the administrator must obtain the contractor's written agreement that the contractor will act in accordance with all applicable laws to include advertising and marketing laws and regulations.

Further, the bill requires a program administrator to maintain a process to enroll new contractors that includes reasonable review of each contractor's relevant work or project history, financial and reputational background, criminal background, and status on Better Business Bureau or other online platform tracking contractor reviews.

Program administrators may pay or reimburse contractors for any expense allowable under state law including, but not limited to, marketing, training, and promotions.

Before disbursing funds to a contractor for a qualifying improvement on residential real property, a program administrator must confirm that the applicable work or service has been completed. This is accomplished through either written or telephonic certification with the property owner, or through a third-party site inspection.

A program administrator may not disclose to a contractor or third party solicitor the maximum financing amount for which a residential real property owner is eligible.

A contractor should not present a higher price for a qualifying improvement on residential real property financed by a REEF financing agreement than the contractor would otherwise present were the improvement not financed by REEF.

A program administrator may not provide a contractor with any payment, fee, or kickback in exchange for referring business relating to a specific assessment financing agreement on residential real property.

A program administrator must develop and implement policies and procedures for responding, tracking, and resolving questions and complaints. It must also have a process for monitoring contractors with regard to performance and compliance with program policies, and implement policies for suspending, terminating, and reinstating contractors based on violations of program policies or unscrupulous behavior. Further, a program administrator must submit an annual report to a dependent special district or separate legal entity²⁸ created pursuant to an interlocal agreement showing the number of property owner complaints and into what category the complaints fall.

The bill imposes certain marketing and communications guidelines for program administrators and contractors to follow. Under these provisions, program administrators and contractors may not suggest that REEF financing is a government assistance program, that qualifying

²⁸ See s. 163.01(7), F.S.

improvements are free or that REEF is a free program, or that utilizing REEF financing does not require the homeowner to repay the financial obligation. A program administrator or contractor may not make representations as to the tax deductibility of a REEF financing agreement on residential real property. They may only encourage a property owner to seek the advice of a tax professional.

Protections applying specifically to residential real property do not apply if the program administrator determines that the residential real property is owned by a business entity that owns more than four such properties, and the business entity's owners do not reside on the property.

Government Leased Property

The bill allows REEF financing to be utilized on government-leased property. REEF financing agreements must be executed by either the local government and the lessee or if only by the lessee, the local government must provide written consent to the program administrator.

The financing agreement must state that the lessee is the only party obligated to pay the assessment. A delinquent assessment will not become a lien on the real property but will constitute a debt and is recoverable by legal action or tax executions that lien other property of the lessee's that may be located in any county in Florida. In addition, the occupational license or corporate charter of the lessee will be revoked.²⁹

The assessment financing agreement's term may not exceed the lesser of:

- Thirty years;
- The remaining term of the lease on the government leased property; or
- The greater of the weighted average useful life of all qualifying improvements or the useful life of the qualifying improvement to which the greatest portion of funds are disbursed.

The bill takes effect July 1, 2022.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

Article VII, section 18 of the Florida Constitution requires a two-thirds vote of the membership of each house of the Legislature to pass legislation requiring counties and municipalities to spend funds, limiting their ability to raise revenue, or reducing the percentage of a state tax shared with them. This bill does not require counties or municipalities to spend funds, limit their authority to raise revenue, or reduce the percentage of a state tax shared with them as specified in Article VII, s. 18 of the Florida Constitution. Therefore, the provisions of Article VII, section 18 of the Florida Constitution do not apply.

²⁹ Section 196.199(8), F.S.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

The bill does not create or raise a state tax or fee. Therefore, the requirements of Article VII, s. 19 of the Florida Constitution do not apply.

E. Other Constitutional Issues:

None identified.

V. Fiscal Impact Statement:**A. Tax/Fee Issues:**

The bill does not affect state or local revenue.

B. Private Sector Impact:

Property owners who live within a jurisdiction that offers REEF financing will see the benefit of increased consumer protections.

C. Government Sector Impact:

REEF programs are designed to be budget-neutral for local governments. As such, no government sector impact is expected for this bill.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 163.08 of the Florida Statutes.

IX. Additional Information:

- A. **Committee Substitute – Statement of Substantial Changes:**
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS by Finance and Tax on January 13, 2022:

The CS:

- Clarifies the term lengths of REEF loans for both residential real property and government-leased property.
- Allows the use of third parties to determine the fair market value of real property for the purpose of establishing REEF loan limits.
- Authorizes a program administrator to pay or reimburse contractors for certain expenses, such as marketing, training, and promotions.
- Removes the definition of “contractor.”
- Prohibits the invalidation of an agreement or obligation solely on the basis that the property owner failed to disclose that they have been gifted the home for free.
- Removes the requirement that program administrators use plain language when conducting a telephone call with the residential property owner before a notice to proceed is issued.
- Removes a program administrator’s option to rely on a criminal background check conducted by the Construction Industry Licensing Board.
- Excludes capitalized interest from constituting negative amortization when it is included in the original balance of an agreement.
- Expressly states that the provision requiring a program administrator to determine if residential property is subject to an existing home equity conversion mortgage or reverse mortgage does not apply to nonresidential real property.
- The amendment makes additional technical and clarifying changes.

- B. **Amendments:**

None.



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LEGISLATIVE ACTION

Senate	.	House
Comm: FAV	.	
01/13/2022	.	
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	.	

The Committee on Finance and Tax (Rodriguez) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Present subsection (16) of section 163.08,
Florida Statutes, is redesignated as subsection (33), a new
subsection (16) and subsections (17) through (32) are added to
that section, and subsections (1), (2), (4), (6) through (10),
(12), (13), and (14) of that section are amended, to read:

163.08 Supplemental authority for improvements to real



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11 property.-

12 (1) (a) In chapter 2008-227, Laws of Florida, the
13 Legislature amended the energy goal of the state comprehensive
14 plan to provide, in part, that the state shall reduce its energy
15 requirements through enhanced conservation and efficiency
16 measures in all end-use sectors and reduce atmospheric carbon
17 dioxide by promoting an increased use of renewable energy
18 resources. That act also declared it the public policy of the
19 state to play a leading role in developing and instituting
20 energy management programs that promote energy conservation,
21 energy security, and the reduction of greenhouse gases. In
22 addition to establishing policies to promote the use of
23 renewable energy, the Legislature provided for a schedule of
24 increases in energy performance of buildings subject to the
25 Florida Energy Efficiency Code for Building Construction. In
26 chapter 2008-191, Laws of Florida, the Legislature adopted new
27 energy conservation and greenhouse gas reduction comprehensive
28 planning requirements for local governments. In the 2008 general
29 election, the voters of this state approved a constitutional
30 amendment authorizing the Legislature, by general law, to
31 prohibit consideration of any change or improvement made for the
32 purpose of improving a property's resistance to wind damage or
33 the installation of a renewable energy source device in the
34 determination of the assessed value of residential real
35 property.

36 (b) The Legislature finds that all energy-consuming-
37 improved properties that are not using energy conservation
38 strategies contribute to the burden affecting all improved
39 property resulting from fossil fuel energy production. Improved



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40 property that has been retrofitted with energy-related
41 qualifying improvements receives the special benefit of
42 alleviating the property's burden from energy consumption. All
43 improved properties not protected from wind damage by wind
44 resistance qualifying improvements contribute to the burden
45 affecting all improved property resulting from potential wind
46 damage. Improved property that has been retrofitted with wind
47 resistance qualifying improvements receives the special benefit
48 of reducing the property's burden from potential wind damage.
49 Further, the installation and operation of qualifying
50 improvements not only benefit the affected properties for which
51 the improvements are made, but also assist in fulfilling the
52 goals of the state's energy and hurricane mitigation policies.

53 (c) In order to make qualifying improvements more
54 affordable and assist property owners who wish to undertake such
55 improvements, the Legislature finds that there is a compelling
56 state interest in enabling property owners to voluntarily
57 finance such improvements with local government assistance.

58 (d) ~~(e)~~ The Legislature determines that the actions
59 authorized under this section, including, but not limited to,
60 the financing of qualifying improvements through the execution
61 of assessment financing agreements and the related imposition of
62 voluntary assessments, are reasonable and necessary to serve and
63 achieve a compelling state interest and are necessary for the
64 prosperity and welfare of the state and its property owners and
65 inhabitants.

66 (2) As used in this section, the term:

67 (a) "Assessment financing agreement" means the financing
68 agreement, under a REEF program, between a local government and



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69 a property owner for the acquisition or installation of
70 qualifying improvements.

71 (b) "Government-leased property" means real property owned
72 by a local government which has become subject to taxation due
73 to lease of the property to a nongovernmental lessee.

74 (c) ~~(a)~~ "Local government" means a county, a municipality, a
75 dependent special district as defined in s. 189.012, or a
76 separate legal entity created pursuant to s. 163.01(7).

77 (d) "Non-ad valorem assessment" or "assessment" has the
78 same meaning as the term "non-ad valorem assessment" as defined
79 in s. 197.3632(1).

80 (e) "Nongovernmental lessee" means a person or an entity,
81 other than a local government, which is the lessee of
82 government-leased property.

83 (f) "Nonresidential real property" means any property not
84 defined as residential real property and which will be or has
85 been improved by a qualifying improvement. The term includes,
86 but is not limited to, the following:

87 1. Multifamily residential property composed of five or
88 more dwelling units.

89 2. Office property.

90 3. Commercial real property.

91 4. Industrial property.

92 5. Agricultural property.

93 6. Government-leased property.

94 (g) "Program administrator" means an entity, including, but
95 not limited to, a for-profit or not-for-profit entity, with
96 which a local government may contract to administer a REEF
97 program.



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98 (h) ~~(b)~~ "Qualifying improvement" includes any:

99 1. Energy conservation and efficiency improvement, which is
100 a measure to reduce consumption through conservation or a more
101 efficient use of electricity, natural gas, propane, or other
102 forms of energy on the property, including, but not limited to,
103 air sealing; installation of insulation; installation of energy-
104 efficient heating, cooling, or ventilation systems; building
105 modifications to increase the use of daylight; replacement of
106 windows; installation of energy controls or energy recovery
107 systems; installation of electric vehicle charging equipment;
108 and installation of efficient lighting equipment.

109 2. Renewable energy improvement, which is the installation
110 of any system in which the electrical, mechanical, or thermal
111 energy is produced from a method that uses one or more of the
112 following fuels or energy sources: hydrogen, solar energy,
113 geothermal energy, bioenergy, and wind energy.

114 3. Wind resistance improvement, which includes, but is not
115 limited to:

116 a. Improving the strength of the roof deck attachment;

117 b. Creating a secondary water barrier to prevent water
118 intrusion;

119 c. Installing wind-resistant shingles;

120 d. Installing gable-end bracing;

121 e. Reinforcing roof-to-wall connections;

122 f. Installing storm shutters; or

123 g. Installing opening protections.

124 (i) "Residential real property" means a residential real
125 property composed of four or fewer dwelling units which has been
126 or will be improved by a qualifying improvement.



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127 (j) "Resiliency Energy Environment Florida (REEF) program"
128 means a program established by a local government, alone or in
129 partnership with other local governments or a program
130 administrator, to finance qualifying improvements on
131 nonresidential real property or residential real property.

132 (4) Subject to local government ordinance or resolution, a
133 property owner may apply to the REEF program ~~local government~~
134 for funding to finance a qualifying improvement and enter into
135 an assessment ~~a~~ financing agreement with the local government.
136 Costs incurred by the REEF program ~~local government~~ for such
137 purpose may be collected as a non-ad valorem assessment. A non-
138 ad valorem assessment shall be collected pursuant to s. 197.3632
139 and, notwithstanding s. 197.3632(8)(a), shall not be subject to
140 discount for early payment. However, the notice and adoption
141 requirements of s. 197.3632(4) do not apply if this section is
142 used and complied with, and the intent resolution, publication
143 of notice, and mailed notices to the property appraiser, tax
144 collector, and Department of Revenue required by s.
145 197.3632(3)(a) may be provided on or before August 15 in
146 conjunction with any non-ad valorem assessment authorized by
147 this section, if the property appraiser, tax collector, and
148 local government agree.

149 (6) A local government may enter into an agreement with a
150 program administrator to administer a REEF program on behalf of
151 the local government ~~A qualifying improvement program may be~~
152 ~~administered by a for-profit entity or a not-for-profit~~
153 ~~organization on behalf of and at the discretion of the local~~
154 ~~government.~~

155 (7) A local government may incur debt for the purpose of



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156 providing financing for qualifying such improvements, which debt
157 is payable from revenues received from the improved property, or
158 from any other available revenue source authorized under this
159 section or by other law.

160 (8) A local government may enter into an assessment a
161 financing agreement to finance or refinance a qualifying
162 improvement only with the record owner of the affected property.
163 Any assessment financing agreement entered into pursuant to this
164 section or a summary memorandum of such agreement shall be
165 submitted for recording recorded in the public records of the
166 county within which the property is located by the ~~sponsoring~~
167 ~~unit of~~ local government within 5 days after execution of the
168 agreement. The recorded agreement shall provide constructive
169 notice that the assessment to be levied on the property
170 constitutes a lien of equal dignity to county taxes and
171 assessments from the date of recordation. A notice of lien for
172 the full amount of the financing may be recorded in the public
173 records of the county where the property is located. Such lien
174 shall not be enforceable in a manner that results in the
175 acceleration of the remaining nondelinquent unpaid balance under
176 the assessment financing agreement.

177 (9) Before entering into an assessment a financing
178 agreement, the local government, or the program administrator
179 acting on its behalf, shall reasonably determine that all of the
180 following conditions are met:

181 (a) All property taxes and any other assessments levied on
182 the same bill as property taxes are current paid and have not
183 been delinquent for more than 30 days for the preceding 3 years
184 or the property owner's period of ownership, whichever is less. +



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185 (b) ~~that~~ There are no involuntary liens greater than
186 \$1,000, including, but not limited to, construction liens on the
187 property.

188 (c) ~~that~~ No notices of default or other evidence of
189 property-based debt delinquency have been recorded and not
190 released during the preceding 3 years or the property owner's
191 period of ownership, whichever is less.

192 (d) The local government or program administrator has asked
193 the property owner whether any other assessments under this
194 section have been recorded or have been funded and not yet
195 recorded on the property. The failure of a property owner to
196 disclose information set forth in this paragraph does not
197 invalidate an assessment financing agreement or any obligation
198 thereunder, even if the total financed amount of the qualifying
199 improvements exceeds the amount that would otherwise be
200 authorized under paragraph (12) (a).

201 (e) ~~and that~~ The property owner is current on all mortgage
202 debt on the property.

203 (f) The residential property is not subject to an existing
204 home equity conversion mortgage or reverse mortgage product.
205 This paragraph does not apply to nonresidential real properties.

206 (g) The property is not currently a residential property
207 gifted to a homeowner for free by a nonprofit entity as may be
208 disclosed by the property owner. The failure of a property owner
209 to disclose information set forth in this paragraph does not
210 invalidate an assessment financing agreement or any obligation
211 thereunder. This paragraph does not apply to nonresidential real
212 properties.

213 (10) Before final funding may be provided, a qualifying



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214 improvement must shall be affixed or planned to be affixed to a
215 nonresidential real property or residential real building or
216 facility that is part of the property and constitutes shall
217 constitute an improvement to that property the building or
218 facility or a fixture attached to the building or facility. An
219 assessment financing agreement may between a local government
220 and a qualifying property owner may not cover qualifying wind-
221 resistance improvements on nonresidential real property under
222 new construction or residential real property in buildings or
223 facilities under new construction or construction for which a
224 certificate of occupancy or similar evidence of substantial
225 completion of new construction or improvement has not been
226 issued.

227 (12) (a) Without the consent of the holders or loan
228 servicers of any mortgage encumbering or otherwise secured by
229 the property, the total amount of any non-ad valorem assessment
230 for a property under this section may not exceed 20 percent of
231 the fair market just value of the real property as determined by
232 the county property appraiser. The combined mortgage-related
233 debt and total amount of any non-ad valorem assessments funded
234 under this section for residential real property may not exceed
235 100 percent of the fair market value of the residential real
236 property. However, the failure of a property owner to disclose
237 information set forth in paragraph (9) (d) does not invalidate an
238 assessment financing agreement or any obligation thereunder,
239 even if the total financed amount of the qualifying improvements
240 exceeds the amount that would otherwise be authorized under this
241 paragraph. For purposes of this paragraph, fair market value may
242 be determined using reputable third parties.



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243 (b) Notwithstanding paragraph (a), a non-ad valorem
244 assessment for a qualifying improvement defined in subparagraph
245 (2) (h) 1. ~~(2) (b) 1.~~ or subparagraph (2) (h) 2. which ~~(2) (b) 2.~~ that
246 is supported by an energy audit is not subject to the limits in
247 this subsection if the audit demonstrates that the annual energy
248 savings from the qualified improvement equals or exceeds the
249 annual repayment amount of the non-ad valorem assessment.

250 (13) At least 30 days before entering into an assessment &
251 financing agreement, the property owner shall provide to the
252 holders or loan servicers of any existing mortgages encumbering
253 or otherwise secured by the property a notice of the owner's
254 intent to enter into an assessment & financing agreement
255 together with the maximum principal amount to be financed and
256 the maximum annual assessment necessary to repay that amount. A
257 verified copy or other proof of such notice shall be provided to
258 the local government. A provision in any agreement between a
259 mortgagee or other lienholder and a property owner, or otherwise
260 now or hereafter binding upon a property owner, which allows for
261 acceleration of payment of the mortgage, note, or lien or other
262 unilateral modification solely as a result of entering into an
263 assessment & financing agreement as provided for in this section
264 is not enforceable. This subsection does not limit the authority
265 of the holder or loan servicer to increase the required monthly
266 escrow by an amount necessary to ~~annually~~ pay the annual
267 ~~qualifying improvement~~ assessment.

268 (14) At or before the time a seller ~~purchaser~~ executes a
269 contract for the sale ~~and purchase~~ of any property for which a
270 non-ad valorem assessment has been levied under this section and
271 has an unpaid balance due, the seller must ~~shall~~ give the



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272 prospective purchaser a written disclosure statement in the
273 following form, which shall be set forth in the contract or in a
274 separate writing:

275
276 QUALIFYING IMPROVEMENTS FOR ENERGY EFFICIENCY,
277 RENEWABLE ENERGY, OR WIND RESISTANCE.—The property
278 being purchased is located within the jurisdiction of
279 a local government that has placed an assessment on
280 the property pursuant to s. 163.08, Florida Statutes.
281 The assessment is for a qualifying improvement to the
282 property relating to energy efficiency, renewable
283 energy, or wind resistance, and is not based on the
284 value of property. You are encouraged to contact the
285 county property appraiser's office to learn more about
286 this and other assessments that may be provided by
287 law.

288
289 (16) Before final approval of an assessment financing
290 agreement for a qualifying improvement on a residential real
291 property, a program administrator shall reasonably determine
292 that the property owner has the ability to pay the estimated
293 annual assessment. To do so, the program administrator shall, at
294 a minimum, use the underwriting requirements in subsection (9),
295 confirm that the property owner is not in bankruptcy, and
296 determine that the total estimated annual payment amount for all
297 assessment financing agreements funded under this section on the
298 property does not exceed 10 percent of the property owner's
299 annual household income. Income may be confirmed using
300 information gathered from reputable third parties that provide



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301 reasonably reliable evidence of the property owner's household
302 income. Income may not be confirmed solely by a property owner's
303 statement. The failure of a property owner to disclose
304 information set forth in paragraph (9)(d) does not invalidate an
305 assessment financing agreement or any obligation thereunder,
306 even if the total estimated annual payment amount exceeds the
307 amount that would otherwise be authorized under this subsection.

308 (17) Prior to or contemporaneously with a property owner
309 signing an assessment financing agreement on a residential real
310 property, the program administrator shall provide a financing
311 estimate and disclosure to the residential real property owner
312 which includes all of the following:

313 (a) The total amount estimated to be funded, including the
314 cost of the qualifying improvements, program fees, and
315 capitalized interest, if any.

316 (b) The estimated annual assessment.

317 (c) The term of the assessment.

318 (d) The interest charged and estimated annual percentage
319 rate.

320 (e) A description of the qualifying improvement.

321 (f) A disclosure that if the property owner sells or
322 refinances the property, the property owner, as a condition of
323 the sale or the refinance, may be required by a mortgage lender
324 to pay off the full amount owed under each assessment financing
325 agreement.

326 (g) A disclosure that the assessment will be collected
327 along with the property owner's property taxes and will result
328 in a lien on the property from the date the assessment financing
329 agreement is recorded.



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330 (h) A disclosure that failure to pay the assessment may
331 result in penalties and fees, along with the issuance of a tax
332 certificate that could result in the property owner losing the
333 real property.

334 (18) Before a notice to proceed is issued on residential
335 real property, the program administrator shall conduct with the
336 residential real property owner or an authorized representative
337 an oral, recorded telephone call. The program administrator
338 shall ask the residential real property owner if he or she would
339 like to communicate primarily in a language other than English.
340 A program administrator may not leave a voicemail to the
341 residential real property owner to satisfy this requirement. A
342 program administrator, as part of such telephone call, shall
343 confirm all of the following with the residential real property
344 owner:

345 (a) That at least one residential real property owner has
346 access to a copy of the assessment financing agreement and
347 financing estimates and disclosures.

348 (b) The qualifying improvements being financed.

349 (c) The total estimated annual costs that the residential
350 real property owner will have to pay under the assessment
351 financing agreement, including applicable fees.

352 (d) The total estimated average monthly equivalent amount
353 of funds the residential real property owner would have to save
354 in order to pay the annual costs of the assessment, including
355 applicable fees.

356 (e) The estimated date the residential real property
357 owner's first property tax payment that includes the assessment
358 will be due.



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- 359 (f) The term of the assessment financing agreement.
- 360 (g) That payments for the assessment financing agreement
361 will cause the residential real property owner's annual property
362 tax bill to increase, and that payments will be made through an
363 additional annual assessment on the property and either will be
364 paid directly to the county tax collector's office as part of
365 the total annual secured property tax bill or may be paid
366 through the residential real property owner's mortgage escrow
367 account.
- 368 (h) That the residential real property owner has disclosed
369 whether the property has received, or the owner is seeking,
370 additional assessments funded under this section and that the
371 owner has disclosed all other assessments funded under this
372 section which are or are about to be placed on the property.
- 373 (i) That the property will be subject to a lien during the
374 term of the assessment financing agreement and that the
375 obligations under the agreement may be required to be paid in
376 full before the residential real property owner sells or
377 refinances the property.
- 378 (j) That any potential utility or insurance savings are not
379 guaranteed and will not reduce the assessment or total
380 assessment amount.
- 381 (k) That the program administrator does not provide tax
382 advice, and the residential real property owner should seek
383 professional tax advice if he or she has questions regarding tax
384 credits, tax deductibility, or other tax impacts of the
385 qualifying improvement or the assessment financing agreement.
- 386 (19) A residential real property owner may cancel an
387 assessment financing agreement within 3 business days after



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388 signing the assessment financing agreement without any financial
389 penalty from the program administrator for doing so.

390 (20) The term of an assessment financing agreement on
391 residential real property may not exceed the lesser of:

392 (a) Thirty years; or

393 (b) The greater of either the weighted average estimated
394 useful life of all qualifying improvements being financed or the
395 estimated useful life of the qualifying improvements to which
396 the greatest portion of funds is disbursed.

397 (21) An assessment financing agreement authorized under
398 this section on residential real property may not include any of
399 the following financing terms:

400 (a) A negative amortization schedule. Capitalized interest
401 included in the original balance of the assessment financing
402 agreement does not constitute negative amortization.

403 (b) A balloon payment.

404 (c) Prepayment fees, other than nominal administrative
405 costs.

406 (22) For residential real property, a program
407 administrator:

408 (a) May not enroll a contractor who contracts with
409 residential real property owners to install qualifying
410 improvements unless:

411 1. The program administrator makes a reasonable effort to
412 review that the contractor maintains in good standing an
413 appropriate license from the state, if applicable, as well as
414 any other permit, license, or registration required for engaging
415 in business in the jurisdiction in which he or she operates and
416 that the contractor maintains all state-required bond and



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417 insurance coverage; and

418 2. The program administrator obtains the contractor's
419 written agreement that the contractor will act in accordance
420 with all applicable laws, including applicable advertising and
421 marketing laws and regulations.

422 (b) Shall maintain a process to enroll new contractors
423 which includes reasonable review of the following for each
424 contractor:

425 1. Relevant work or project history.

426 2. Financial and reputational background checks.

427 3. A criminal background check.

428 4. Status on the Better Business Bureau online platform or
429 another online platform that tracks contractor reviews.

430 (c) A program administrator may pay or reimburse
431 contractors for any expense allowable under applicable state law
432 and not otherwise prohibited under this section, including, but
433 not limited to, marketing, training, and promotions.

434 (23) (a) Before disbursing funds to a contractor for a
435 qualifying improvement on residential real property, a program
436 administrator must first confirm that the applicable work or
437 service has been completed through any of the following:

438 1. A written certification from the property owner;

439 2. A recorded telephone call with the property owner;

440 3. A review of geotagged and time-stamped photographs;

441 4. A review of a final permit; or

442 5. A site inspection through third-party means.

443 (b) A program administrator may not disclose to a
444 contractor or to a third party engaged in soliciting an
445 assessment financing agreement the maximum financing amount for



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446 which a residential real property owner is eligible.
447 (24) A program administrator shall comply with the
448 following marketing and communications guidelines when
449 communicating with residential real property owners:
450 (a) A program administrator may not represent:
451 1. That the REEF program or assessment financing is a
452 government assistance program;
453 2. That qualifying improvements are free or that assessment
454 financing is a free program; or
455 3. That the financing of a qualifying improvement using the
456 REEF program does not require the property owner to repay the
457 financial obligation.
458 (b) A program administrator may not make any representation
459 as to the tax deductibility of an assessment authorized under
460 this section. A program administrator may encourage a property
461 owner to seek the advice of a tax professional regarding tax
462 matters related to assessments.
463 (25) A contractor should not present a higher price for a
464 qualifying improvement on residential real property financed by
465 an assessment financing agreement than the contractor would
466 otherwise reasonably present if the qualifying improvement was
467 not being financed through an assessment financing agreement.
468 (26) A program administrator shall use appropriate
469 methodologies or technologies to identify and verify the
470 identity of the residential real property owner who executes an
471 assessment financing agreement.
472 (27) A program administrator may not provide a contractor
473 with any payment, fee, or kickback in exchange for referring
474 assessment financing business relating to a specific assessment



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475 financing agreement on residential real property.

476 (28) A program administrator shall develop and implement
477 policies and procedures for responding to, tracking, and helping
478 to resolve questions and property owner complaints as soon as
479 reasonably practicable.

480 (29) A program administrator shall maintain a process for
481 monitoring enrolled contractors that contract with residential
482 real property owners to install qualifying improvements with
483 regard to performance and compliance with program policies and
484 shall implement policies for suspending and terminating enrolled
485 contractors based on violations of program policies or
486 unscrupulous behavior. A program administrator shall maintain a
487 policy for determining the conditions on which a contractor may
488 be reinstated to the program.

489 (30) A program administrator shall provide, at a reasonable
490 time following the end of the prior calendar year, an annual
491 report to the dependent special district as defined in s.
492 189.012 or a separate legal entity created pursuant to s.
493 163.01(7) which it has contracted with to administer a REEF
494 program and shall include information and data related to the
495 following:

496 (a) The total number of property owner complaints received
497 which are associated with project funding in the report year.

498 (b) Of the total number of property owner complaints
499 received associated with project funding in the report year:

500 1. The number and percentage of complaints that relate to
501 the assessment financing.

502 2. The number and percentage of complaints that relate to a
503 contractor or the workmanship of a contractor and are not



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504 related to assessment financing.

505 3. The number and percentage of complaints that relate to
506 both a contractor and the assessment financing.

507 4. The number and percentage of complaints identified in
508 subparagraphs 1., 2., and 3. which were resolved and the number
509 and percentage of property owner complaints that were not
510 resolved.

511 (c) The percentage of property owner complaints in
512 subparagraphs (b)1., 2., and 3. expressed as a total of all
513 projects funded in the report year.

514 (31) Notwithstanding any provision of this section to the
515 contrary, the following applies to government-leased property:

516 (a) The assessment financing agreement must be executed by
517 either:

518 1. The local government and the nongovernmental lessee; or

519 2. Solely by the nongovernmental lessee but with the

520 written consent of the local government. Evidence of such

521 consent must be provided to the program administrator or REEF

522 program.

523 (b) The assessment financing agreement must provide that
524 the nongovernmental lessee is the only party obligated to pay
525 the assessment.

526 (c) A delinquent assessment must be enforced in the manner
527 provided in ss. 196.199(8) and 197.432(10).

528 (d) The recorded assessment financing agreement, or a
529 summary memorandum of such recorded agreement, must provide
530 constructive notice that the assessment to be levied on the
531 property is subject to enforcement in the manner provided in ss.
532 196.199(8) and 197.432(10).



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533 (e) For purposes of subsections (9) and (13) only,
534 references to the property owner are deemed to refer to the
535 nongovernmental lessee and references to the period of ownership
536 are deemed to refer to the period that the nongovernmental
537 lessee has been leasing the property from the local government.

538 (f) The term of the assessment financing agreement on
539 government-leased property may not exceed the lesser of:

540 1. Thirty years;

541 2. The remaining term of the lease on the government-leased
542 property; or

543 3. The greater of either the weighted average estimated
544 useful life of all qualifying improvements being financed or the
545 estimated useful life of the qualifying improvements to which
546 the greatest portion of funds is disbursed.

547 (32) (a) Subsections (16) through (30) do not apply to
548 residential real property if the program administrator
549 reasonably determines that:

550 1. The residential real property is owned by a business
551 entity that owns more than four residential real properties; and

552 2. The business entity's managing member, partner, or
553 beneficial owner does not reside in the residential real
554 property.

555 (b) Subsections (16) through (30) apply to a program
556 administrator only when administering a REEF program for
557 qualifying improvements on residential real property.

558 Subsections (16) through (30) do not apply with respect to a
559 local government, to residential property owned by a local
560 government, or to nonresidential real property.

561 Section 2. This act shall take effect July 1, 2022.



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===== T I T L E A M E N D M E N T =====

And the title is amended as follows:

Delete everything before the enacting clause
and insert:

A bill to be entitled
An act relating to Resiliency Energy Environment
Florida programs; amending s. 163.08, F.S.; defining
terms; providing that a property owner may apply to a
Resiliency Energy Environment Florida (REEF) program
for funding to finance a qualifying improvement and
may enter into an assessment financing agreement with
a local government; providing that REEF program costs
may be collected as non-ad valorem assessments;
authorizing a local government to enter into an
agreement with a program administrator to administer a
REEF program on the local government's behalf;
revising and specifying public recording requirements
for assessment financing agreements and notices of
lien; revising requirements that apply to local
governments or program administrators in determining
eligibility for assessment financing; revising
requirements for qualifying improvements; revising the
calculation of non-ad valorem assessment limits;
providing construction; specifying underwriting,
financing estimate, disclosure, and confirmation
requirements for program administrators relating to
residential real property; authorizing a residential
real property owner, under certain circumstances and



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591 within a certain timeframe, to cancel an assessment
592 financing agreement without financial penalty;
593 specifying limitations on assessment financing
594 agreement terms for residential real property;
595 prohibiting certain financing terms for residential
596 real property; specifying requirements for, and
597 certain prohibited acts by, program administrators
598 relating to assessment financing agreements and
599 contractors for qualifying improvements to residential
600 real property; specifying additional annual reporting
601 requirements for program administrators; specifying
602 requirements for, and limitations on, assessment
603 financing agreements relating to government-leased
604 property; providing construction and applicability;
605 conforming provisions to changes made by the act;
606 providing an effective date.

By Senator Rodriguez

39-00332A-22

2022228__

1 A bill to be entitled
 2 An act relating to Resiliency Energy Environment
 3 Florida programs; amending s. 163.08, F.S.; defining
 4 terms; providing that a property owner may apply to a
 5 Resiliency Energy Environment Florida (REEF) program
 6 for funding to finance a qualifying improvement and
 7 may enter into an assessment financing agreement with
 8 a local government; providing that REEF program costs
 9 may be collected as non-ad valorem assessments;
 10 authorizing local governments to enter into agreements
 11 with program administrators to administer REEF
 12 programs; revising and specifying public recording
 13 requirements for assessment financing agreements and
 14 notices of lien; revising requirements that apply to
 15 local governments or program administrators in
 16 determining eligibility for assessment financing;
 17 revising requirements for qualifying improvements;
 18 revising and specifying limitations on non-ad valorem
 19 assessments; providing construction; specifying
 20 underwriting, financing estimate, disclosure, and
 21 confirmation requirements for program administrators
 22 relating to residential real property; authorizing a
 23 residential real property owner, under certain
 24 circumstances and within a certain timeframe, to
 25 cancel an assessment financing agreement without
 26 financial penalty; specifying limitations on
 27 assessment financing agreement terms for residential
 28 real property; prohibiting certain financing terms for
 29 residential real property; specifying requirements

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CODING: Words ~~stricken~~ are deletions; words underlined are additions.

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30 for, and certain prohibited acts by, program
 31 administrators relating to assessment financing
 32 agreements and contractors for qualifying improvements
 33 to residential real property; specifying additional
 34 annual reporting requirements for program
 35 administrators; specifying requirements for, and
 36 limitations on, assessment financing agreements
 37 relating to government-leased property; providing
 38 construction and applicability; conforming provisions
 39 to changes made by the act; providing an effective
 40 date.

42 Be It Enacted by the Legislature of the State of Florida:
 43

44 Section 1. Present subsection (16) of section 163.08,
 45 Florida Statutes, is redesignated as subsection (33), a new
 46 subsection (16) and subsections (17) through (32) are added to
 47 that section, and subsections (1), (2), (4), (6) through (10),
 48 (12), (13), and (14) of that section are amended, to read:
 49 163.08 Supplemental authority for improvements to real
 50 property.—

51 (1) (a) In chapter 2008-227, Laws of Florida, the
 52 Legislature amended the energy goal of the state comprehensive
 53 plan to provide, in part, that the state shall reduce its energy
 54 requirements through enhanced conservation and efficiency
 55 measures in all end-use sectors and reduce atmospheric carbon
 56 dioxide by promoting an increased use of renewable energy
 57 resources. That act also declared it the public policy of the
 58 state to play a leading role in developing and instituting

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CODING: Words ~~stricken~~ are deletions; words underlined are additions.

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59 energy management programs that promote energy conservation,
 60 energy security, and the reduction of greenhouse gases. In
 61 addition to establishing policies to promote the use of
 62 renewable energy, the Legislature provided for a schedule of
 63 increases in energy performance of buildings subject to the
 64 Florida Energy Efficiency Code for Building Construction. In
 65 chapter 2008-191, Laws of Florida, the Legislature adopted new
 66 energy conservation and greenhouse gas reduction comprehensive
 67 planning requirements for local governments. In the 2008 general
 68 election, the voters of this state approved a constitutional
 69 amendment authorizing the Legislature, by general law, to
 70 prohibit consideration of any change or improvement made for the
 71 purpose of improving a property's resistance to wind damage or
 72 the installation of a renewable energy source device in the
 73 determination of the assessed value of residential real
 74 property.

75 (b) The Legislature finds that all energy-consuming-
 76 improved properties that are not using energy conservation
 77 strategies contribute to the burden affecting all improved
 78 property resulting from fossil fuel energy production. Improved
 79 property that has been retrofitted with energy-related
 80 qualifying improvements receives the special benefit of
 81 alleviating the property's burden from energy consumption. All
 82 improved properties not protected from wind damage by wind
 83 resistance qualifying improvements contribute to the burden
 84 affecting all improved property resulting from potential wind
 85 damage. Improved property that has been retrofitted with wind
 86 resistance qualifying improvements receives the special benefit
 87 of reducing the property's burden from potential wind damage.

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88 Further, the installation and operation of qualifying
 89 improvements not only benefit the affected properties for which
 90 the improvements are made, but also assist in fulfilling the
 91 goals of the state's energy and hurricane mitigation policies.

92 (c) In order to make qualifying improvements more
 93 affordable and assist property owners who wish to undertake such
 94 improvements, the Legislature finds that there is a compelling
 95 state interest in enabling property owners to voluntarily
 96 finance such improvements with local government assistance.

97 (d) ~~(e)~~ The Legislature determines that the actions
 98 authorized under this section, including, but not limited to,
 99 the financing of qualifying improvements through the execution
 100 of assessment financing agreements and the related imposition of
 101 voluntary assessments, are reasonable and necessary to serve and
 102 achieve a compelling state interest and are necessary for the
 103 prosperity and welfare of the state and its property owners and
 104 inhabitants.

105 (2) As used in this section, the term:

106 (a) "Assessment financing agreement" means the financing
 107 agreement under a REEF program between a local government and a
 108 property owner for the acquisition or installation of qualifying
 109 improvements.

110 (b) "Contractor" means an independent contractor who
 111 contracts with a property owner to install qualifying
 112 improvements on real property but who is not the owner of such
 113 property.

114 (c) "Government-leased property" means real property owned
 115 by a local government which has become subject to taxation due
 116 to lease of the property to a nongovernmental lessee.

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

120 (e) "Non-ad valorem assessment" or "assessment" has the
 121 same meaning as the term "non-ad valorem assessment" as defined
 122 in s. 197.3632(1).

123 (f) "Nongovernmental lessee" means a person or an entity,
 124 other than a local government, which is the lessee of
 125 government-leased property.

126 (g) "Nonresidential real property" means any property not
 127 defined as residential real property and which will be or has
 128 been improved by a qualifying improvement. The term includes,
 129 but is not limited to, the following:

130 1. Multifamily residential property composed of five or
 131 more dwelling units.

132 2. Office property.

133 3. Commercial real property.

134 4. Industrial property.

135 5. Agricultural property.

136 6. Government-leased property.

137 (h) "Program administrator" means an entity, including, but
 138 not limited to, a for-profit or not-for-profit entity, with
 139 which a local government contracts to administer a REEF program.

140 (i)(b) "Qualifying improvement" includes any:

141 1. Energy conservation and efficiency improvement, which is
 142 a measure to reduce consumption through conservation or a more
 143 efficient use of electricity, natural gas, propane, or other
 144 forms of energy on the property, including, but not limited to,
 145 air sealing; installation of insulation; installation of energy-

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146 efficient heating, cooling, or ventilation systems; building
 147 modifications to increase the use of daylight; replacement of
 148 windows; installation of energy controls or energy recovery
 149 systems; installation of electric vehicle charging equipment;
 150 and installation of efficient lighting equipment.

151 2. Renewable energy improvement, which is the installation
 152 of any system in which the electrical, mechanical, or thermal
 153 energy is produced from a method that uses one or more of the
 154 following fuels or energy sources: hydrogen, solar energy,
 155 geothermal energy, bioenergy, and wind energy.

156 3. Wind resistance improvement, which includes, but is not
 157 limited to:

158 a. Improving the strength of the roof deck attachment;
 159 b. Creating a secondary water barrier to prevent water
 160 intrusion;

161 c. Installing wind-resistant shingles;

162 d. Installing gable-end bracing;

163 e. Reinforcing roof-to-wall connections;

164 f. Installing storm shutters; or

165 g. Installing opening protections.

166 (j) "Residential real property" means a residential real
 167 property composed of four or fewer dwelling units which is or
 168 will be improved by a qualifying improvement.

169 (k) "Resiliency Energy Environment Florida (REEF) program"
 170 means a program established by a local government, alone or in
 171 partnership with other local governments or a program
 172 administrator, to finance qualifying improvements on
 173 nonresidential real property or residential real property.

174 (4) Subject to local government ordinance or resolution, a

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175 property owner may apply to the REEF program local government
 176 for funding to finance a qualifying improvement and enter into
 177 an assessment a financing agreement with the local government.
 178 Costs incurred by the REEF program local government for such
 179 purpose may be collected as a non-ad valorem assessment. A non-
 180 ad valorem assessment shall be collected pursuant to s. 197.3632
 181 and, notwithstanding s. 197.3632(8) (a), shall not be subject to
 182 discount for early payment. However, the notice and adoption
 183 requirements of s. 197.3632(4) do not apply if this section is
 184 used and complied with, and the intent resolution, publication
 185 of notice, and mailed notices to the property appraiser, tax
 186 collector, and Department of Revenue required by s.
 187 197.3632(3) (a) may be provided on or before August 15 in
 188 conjunction with any non-ad valorem assessment authorized by
 189 this section, if the property appraiser, tax collector, and
 190 local government agree.

191 (6) A local government may enter into an agreement with a
 192 program administrator to administer a REEF program A qualifying
 193 improvement program may be administered by a for-profit entity
 194 or a not-for-profit organization on behalf of and at the
 195 discretion of the local government.

196 (7) A local government may incur debt for the purpose of
 197 providing financing for qualifying such improvements, which debt
 198 is payable from revenues received from the improved property, or
 199 from any other available revenue source authorized under this
 200 section or by other law.

201 (8) A local government may enter into an assessment a
 202 financing agreement to finance or refinance a qualifying
 203 improvement only with the record owner of the affected property.

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204 Any assessment financing agreement entered into pursuant to this
 205 section or a summary memorandum of such agreement shall be
 206 submitted for recording recorded in the public records of the
 207 county within which the property is located by the ~~sponsoring~~
 208 ~~unit of~~ local government within 5 days after execution of the
 209 agreement. The recorded agreement shall provide constructive
 210 notice that the assessment to be levied on the property
 211 constitutes a lien of equal dignity to county taxes and
 212 assessments from the date of recordation. A notice of lien for
 213 the full amount of the financing may be recorded in the public
 214 records of the county where the property is located. Such lien
 215 shall not be enforceable in a manner that results in the
 216 acceleration of the remaining nondelinquent unpaid balance under
 217 the assessment financing agreement.

218 (9) Before entering into an assessment a financing
 219 agreement, the local government, or the program administrator
 220 acting on its behalf, shall reasonably determine that:

221 (a) All property taxes and any other assessments levied on
 222 the same bill as property taxes are current paid and have not
 223 been delinquent for more than 30 days for the preceding 3 years
 224 or the property owner's period of ownership, whichever is less;

225 (b) ~~that~~ There are no involuntary liens greater than
 226 \$1,000, including, but not limited to, construction liens on the
 227 property;

228 (c) ~~that~~ No notices of default or other evidence of
 229 property-based debt delinquency have been recorded and not
 230 released during the preceding 3 years or the property owner's
 231 period of ownership, whichever is less;

232 (d) The local government or program administrator has asked

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233 the property owner whether any other assessments under this
 234 section have been recorded or have been funded and not yet
 235 recorded on the property. The failure of a property owner to
 236 disclose information set forth in this paragraph does not
 237 invalidate an assessment financing agreement or any obligation
 238 thereunder, even if the total financed amount of the qualifying
 239 improvements exceeds the amount that would otherwise be
 240 authorized under paragraph (12) (a);

241 (e) and that The property owner is current on all mortgage
 242 debt on the property; and

243 (f) If the property is residential real property, it is not
 244 subject to an existing home equity conversion mortgage or
 245 reverse mortgage product or is not currently a residential
 246 property gifted to a homeowner by a nonprofit entity.

247 (10) Before final funding may be provided, a qualifying
 248 improvement must shall be affixed or planned to be affixed to a
 249 nonresidential real property or residential real building or
 250 facility that is part of the property and constitutes shall
 251 constitute an improvement to that property the building or
 252 facility or a fixture attached to the building or facility. An
 253 assessment financing agreement may between a local government
 254 and a qualifying property owner may not cover qualifying wind-
 255 resistance improvements on nonresidential real property or
 256 residential real property in buildings or facilities under new
 257 construction or construction for which a certificate of
 258 occupancy or similar evidence of substantial completion of new
 259 construction or improvement has not been issued.

260 (12) (a) Without the consent of the holders or loan
 261 servicers of any mortgage encumbering or otherwise secured by

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262 the property, the total amount of any non-ad valorem assessment
 263 for a property under this section may not exceed 20 percent of
 264 the fair market ~~just~~ value of the real property ~~as determined by~~
 265 ~~the county property appraiser. The combined mortgage-related~~
 266 debt and total amount of any non-ad valorem assessments funded
 267 under this section for residential real property may not exceed
 268 100 percent of the fair market value of the residential real
 269 property. However, the failure of a property owner to disclose
 270 information set forth in paragraph (9) (d) does not invalidate an
 271 assessment financing agreement or any obligation thereunder,
 272 even if the total financed amount of the qualifying improvements
 273 exceeds the amount that would otherwise be authorized under this
 274 paragraph.

275 (b) Notwithstanding paragraph (a), a non-ad valorem
 276 assessment for a qualifying improvement defined in subparagraph
 277 (2) (i) 1. ~~(2) (b) 1.~~ or subparagraph (2) (i) 2. which ~~(2) (b) 2.~~ that
 278 is supported by an energy audit is not subject to the limits in
 279 this subsection if the audit demonstrates that the annual energy
 280 savings from the qualified improvement equals or exceeds the
 281 annual repayment amount of the non-ad valorem assessment.

282 (13) At least 30 days before entering into an assessment a
 283 financing agreement, the property owner shall provide to the
 284 holders or loan servicers of any existing mortgages encumbering
 285 or otherwise secured by the property a notice of the owner's
 286 intent to enter into an assessment a financing agreement
 287 together with the maximum principal amount to be financed and
 288 the maximum annual assessment necessary to repay that amount. A
 289 verified copy or other proof of such notice shall be provided to
 290 the local government or program administrator. A provision in

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291 any agreement between a mortgagee or other lienholder and a
 292 property owner, or otherwise now or hereafter binding upon a
 293 property owner, which allows for acceleration of payment of the
 294 mortgage, note, or lien or other unilateral modification solely
 295 as a result of entering into an assessment ~~a~~ financing agreement
 296 as provided for in this section is not enforceable. This
 297 subsection does not limit the authority of the holder or loan
 298 servicer to increase the required monthly escrow by an amount
 299 necessary to ~~annually~~ pay the annual ~~qualifying improvement~~
 300 assessment.

301 (14) At or before the time a seller ~~purchaser~~ executes a
 302 contract for the sale ~~and purchase~~ of any property for which a
 303 non-ad valorem assessment has been levied under this section and
 304 has an unpaid balance due, the seller must ~~shall~~ give the
 305 prospective purchaser a written disclosure statement in the
 306 following form, which shall be set forth in the contract or in a
 307 separate writing:

308
 309 QUALIFYING IMPROVEMENTS FOR ENERGY EFFICIENCY,
 310 RENEWABLE ENERGY, OR WIND RESISTANCE.—The property
 311 being purchased is located within the jurisdiction of
 312 a local government that has placed an assessment on
 313 the property pursuant to s. 163.08, Florida Statutes.
 314 The assessment is for a qualifying improvement to the
 315 property relating to energy efficiency, renewable
 316 energy, or wind resistance, and is not based on the
 317 value of property. You are encouraged to contact the
 318 county property appraiser's office to learn more about
 319 this and other assessments that may be provided by

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320 law.

321
 322 (16) Before final approval of an assessment financing
 323 agreement for a qualifying improvement on a residential real
 324 property, a program administrator shall reasonably determine
 325 that the property owner has the ability to pay the estimated
 326 annual assessment. To do so, the program administrator shall, at
 327 a minimum, use the underwriting requirements in subsection (9),
 328 confirm that the property owner is not in bankruptcy, and
 329 determine that the total estimated annual payment amount for all
 330 assessment financing agreements funded under this section on the
 331 property does not exceed 10 percent of the property owner's
 332 annual household income. Income may be confirmed using
 333 information gathered from reputable third parties that provide
 334 reasonably reliable evidence of the property owner's household
 335 income. Income may not be confirmed solely by a property owner's
 336 statement. The failure of a property owner to disclose
 337 information set forth in paragraph (9) (d) does not invalidate an
 338 assessment financing agreement or any obligation thereunder,
 339 even if the total estimated annual payment amount exceeds the
 340 amount that would otherwise be authorized under this subsection.

341 (17) Prior to or contemporaneously with a property owner
 342 signing an assessment financing agreement on a residential real
 343 property, the program administrator shall provide a financing
 344 estimate and disclosure to the residential real property owner
 345 which includes all of the following:

346 (a) The total amount estimated to be funded, including the
 347 cost of the qualifying improvements, program fees, and
 348 capitalized interest, if any.

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349 (b) The estimated annual assessment.
 350 (c) The term of the assessment.
 351 (d) The interest charged and estimated annual percentage
 352 rate.
 353 (e) A description of the qualifying improvement.
 354 (f) A disclosure that if the property owner sells or
 355 refinances the property, the property owner, as a condition of
 356 the sale or the refinance, may be required by a mortgage lender
 357 to pay off the full amount owed under each assessment financing
 358 agreement.
 359 (g) A disclosure that the assessment will be collected
 360 along with the property owner's property taxes and will result
 361 in a lien on the property from the date the assessment financing
 362 agreement is recorded.
 363 (h) A disclosure that failure to pay the assessment may
 364 result in penalties and fees, along with the issuance of a tax
 365 certificate that could result in the property owner losing the
 366 real property.
 367 (18) Before a notice to proceed is issued on residential
 368 real property, the program administrator shall conduct with the
 369 residential real property owner or an authorized representative
 370 an oral, recorded telephone call during which the program
 371 administrator shall use plain language. The program
 372 administrator shall ask the residential real property owner if
 373 he or she would like to communicate primarily in a language
 374 other than English. A program administrator may not leave a
 375 voicemail to the residential real property owner to satisfy this
 376 requirement. A program administrator, as part of such telephone
 377 call, shall confirm all of the following with the residential

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378 real property owner:
 379 (a) That at least one residential real property owner has
 380 access to a copy of the assessment financing agreement and
 381 financing estimates and disclosures.
 382 (b) The qualifying improvements being financed.
 383 (c) The total estimated annual costs that the residential
 384 real property owner will have to pay under the assessment
 385 financing agreement, including applicable fees.
 386 (d) The total estimated average monthly equivalent amount
 387 of funds the residential real property owner would have to save
 388 in order to pay the annual costs of the assessment, including
 389 applicable fees.
 390 (e) The estimated date the residential real property
 391 owner's first property tax payment that includes the assessment
 392 will be due.
 393 (f) The term of the assessment financing agreement.
 394 (g) That payments for the assessment financing agreement
 395 will cause the residential real property owner's annual property
 396 tax bill to increase, and that payments will be made through an
 397 additional annual assessment on the property and either will be
 398 paid directly to the county tax collector's office as part of
 399 the total annual secured property tax bill or may be paid
 400 through the residential real property owner's mortgage escrow
 401 account.
 402 (h) That the residential real property owner has disclosed
 403 whether the property has received, or the owner is seeking,
 404 additional assessments funded under this section and that the
 405 owner has disclosed all other assessments funded under this
 406 section which are or are about to be placed on the property.

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- 407 (i) That the property will be subject to a lien during the
 408 term of the assessment financing agreement and that the
 409 obligations under the agreement may be required to be paid in
 410 full before the residential real property owner sells or
 411 refinances the property.
- 412 (j) That any potential utility or insurance savings are not
 413 guaranteed and will not reduce the assessment or total
 414 assessment amount.
- 415 (k) That the program administrator does not provide tax
 416 advice, and the residential real property owner should seek
 417 professional tax advice if he or she has questions regarding tax
 418 credits, tax deductibility, or other tax impacts of the
 419 qualifying improvement or the assessment financing agreement.
- 420 (19) A residential real property owner may cancel an
 421 assessment financing agreement within 3 business days after
 422 signing the assessment financing agreement without any financial
 423 penalty for doing so.
- 424 (20) The term of an assessment financing agreement on
 425 residential real property may not exceed:
- 426 (a) Thirty years; or
 427 (b) Either the weighted average estimated useful life of
 428 all qualifying improvements being financed or the estimated
 429 useful life of the qualifying improvements to which the greatest
 430 portion of funds is disbursed.
- 431 (21) An assessment financing agreement authorized under
 432 this section on residential real property may not include any of
 433 the following financing terms:
- 434 (a) A negative amortization schedule.
 435 (b) A balloon payment.

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- 436 (c) Prepayment fees, other than nominal administrative
 437 costs.
- 438 (22) For residential real property, a program
 439 administrator:
- 440 (a) May not enroll a contractor who contracts with
 441 residential real property owners to install qualifying
 442 improvements unless:
- 443 1. The program administrator makes a reasonable effort to
 444 determine that the contractor maintains in good standing an
 445 appropriate license from the state, if applicable, as well as
 446 any other permit, license, or registration required for engaging
 447 in business in the jurisdiction in which he or she operates and
 448 that the contractor maintains all state-required bond and
 449 insurance coverage; and
- 450 2. The program administrator obtains the contractor's
 451 written agreement that the contractor will act in accordance
 452 with all applicable laws, including applicable advertising and
 453 marketing laws and regulations.
- 454 (b) Shall maintain a process to enroll new contractors
 455 which includes reasonable review of the following for each
 456 contractor:
- 457 1. Relevant work or project history.
 458 2. Financial and reputational background checks.
 459 3. A criminal background check. A program administrator may
 460 rely on a background check conducted by the Construction
 461 Industry Licensing Board within the Department of Business and
 462 Professional Regulation to comply with this requirement.
- 463 4. Status on the Better Business Bureau online platform or
 464 another online platform that tracks contractor reviews.

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465 (23) (a) Before disbursing funds to a contractor for a
 466 qualifying improvement on residential real property, a program
 467 administrator must first confirm that the applicable work or
 468 service has been completed, either through a written
 469 certification from the property owner, a recorded telephone call
 470 with the property owner, review of geo-stamped and time-stamped
 471 photographs, review of a final permit, or a site inspection
 472 through third-party means.

473 (b) A program administrator may not disclose to a
 474 contractor or to a third party engaged in soliciting an
 475 assessment financing agreement the maximum financing amount for
 476 which a residential real property owner is eligible.

477 (24) A program administrator shall comply with the
 478 following marketing and communications guidelines when
 479 communicating with residential real property owners:

480 (a) A program administrator may not represent:

481 1. That the REEF program or assessment financing is a
 482 government assistance program;

483 2. That qualifying improvements are free or that assessment
 484 financing is a free program; or

485 3. That the financing of a qualifying improvement using the
 486 REEF program does not require the property owner to repay the
 487 financial obligation.

488 (b) A program administrator may not make any representation
 489 as to the tax deductibility of an assessment authorized under
 490 this section. A program administrator or contractor may
 491 encourage a property owner to seek the advice of a tax
 492 professional regarding tax matters related to assessments.

493 (25) A contractor should not present a higher price for a

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494 qualifying improvement on residential real property financed by
 495 an assessment financing agreement than the contractor would
 496 otherwise reasonably present if the qualifying improvement was
 497 not being financed through an assessment financing agreement.

498 (26) A program administrator shall use appropriate
 499 methodologies or technologies to identify and verify the
 500 identity of the residential real property owners who execute an
 501 assessment financing agreement.

502 (27) A program administrator may not provide a contractor
 503 with any payment, fee, or kickback in exchange for referring
 504 assessment financing business relating to a specific assessment
 505 financing agreement.

506 (28) A program administrator shall develop and implement
 507 policies and procedures for responding, tracking, and timely
 508 helping to resolve questions and property owner complaints as
 509 soon as reasonably practicable.

510 (29) A program administrator shall maintain a process for
 511 monitoring contractors that contract with residential real
 512 property owners to install qualifying improvements with regard
 513 to performance and compliance with program policies and shall
 514 implement policies for suspending and terminating contractors
 515 based on violations of program policies or unscrupulous
 516 behavior. A program administrator shall maintain a policy for
 517 determining the conditions on which a contractor may be
 518 reinstated to the program.

519 (30) A program administrator shall provide, at a reasonable
 520 time following the end of the prior calendar year, an annual
 521 report to the dependent special district as defined in s.
 522 189.012 or a separate legal entity created pursuant to s.

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523 163.01(7) which it has contracted with to administer a REEF
 524 program and shall include information and data related to the
 525 following:

526 (a) The total number of property owner complaints received
 527 which are associated with project funding in the report year.

528 (b) Of the total number of complaints received associated
 529 with project funding in the report year:

530 1. The number and percentage of complaints that relate to
 531 the assessment financing.

532 2. The number and percentage of complaints that relate to a
 533 contractor or the workmanship of a contractor and are not
 534 related to assessment financing.

535 3. The number and percentage of complaints that relate to
 536 both a contractor and the assessment financing.

537 4. The number and percentage of complaints identified in
 538 subparagraphs 1., 2., and 3. which were resolved and the number
 539 and percentage of complaints that were not resolved.

540 (c) The percentage of complaints in subparagraphs (b)1.,
 541 2., and 3. expressed as a total of all projects funded in the
 542 report year.

543 (31) Notwithstanding any provision of this section to the
 544 contrary, the following applies to government-leased property:

545 (a) The assessment financing agreement must be executed by
 546 either:

547 1. The local government and the nongovernmental lessee; or
 548 2. Solely by the nongovernmental lessee but with the
 549 written consent of the local government. Evidence of such
 550 consent must be provided to the program administrator or REEF
 551 program.

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552 (b) The assessment financing agreement must provide that
 553 the nongovernmental lessee is the only party obligated to pay
 554 the assessment.

555 (c) A delinquent assessment must be enforced in the manner
 556 provided in ss. 196.199(8) and 197.432(10).

557 (d) The recorded assessment financing agreement, or a
 558 summary memorandum of such recorded agreement, must provide
 559 constructive notice that the assessment to be levied on the
 560 property is subject to enforcement in the manner provided in ss.
 561 196.199(8) and 197.432(10).

562 (e) For purposes of subsections (9) and (13) only,
 563 references to the property owner are deemed to refer to the
 564 nongovernmental lessee and references to the period of ownership
 565 are deemed to refer to the period that the nongovernmental
 566 lessee has been leasing the property from the local government.

567 (f) The term of the assessment financing agreement on
 568 government-leased property may not exceed:

569 1. Thirty years;

570 2. The remaining term of the lease on the government-leased
 571 property; or

572 3. Either the weighted average estimated useful life of all
 573 qualifying improvements being financed or the estimated useful
 574 life of the qualifying improvements to which the greatest
 575 portion of funds is disbursed.

576 (32) (a) Subsections (16) through (30) do not apply to
 577 residential real property if the program administrator
 578 reasonably determines that:

579 1. The residential real property is owned by a business
 580 entity that owns more than four residential real properties; and

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581 2. The business entity's managing member, partner, or
582 beneficial owner does not reside in the residential real
583 property.

584 (b) Subsections (16) through (30) apply to a program
585 administrator only when administering a REEF program for
586 qualifying improvements on residential real property.
587 Subsections (16) through (30) do not apply with respect to a
588 local government or to nonresidential real property.

589 Section 2. This act shall take effect July 1, 2022.



687058

LEGISLATIVE ACTION

Senate	.	House
Comm: FAV	.	
01/13/2022	.	
	.	
	.	
	.	

The Committee on Finance and Tax (Rodriguez) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Present subsection (16) of section 163.08,
Florida Statutes, is redesignated as subsection (33), a new
subsection (16) and subsections (17) through (32) are added to
that section, and subsections (1), (2), (4), (6) through (10),
(12), (13), and (14) of that section are amended, to read:

163.08 Supplemental authority for improvements to real



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11 property.-

12 (1) (a) In chapter 2008-227, Laws of Florida, the
13 Legislature amended the energy goal of the state comprehensive
14 plan to provide, in part, that the state shall reduce its energy
15 requirements through enhanced conservation and efficiency
16 measures in all end-use sectors and reduce atmospheric carbon
17 dioxide by promoting an increased use of renewable energy
18 resources. That act also declared it the public policy of the
19 state to play a leading role in developing and instituting
20 energy management programs that promote energy conservation,
21 energy security, and the reduction of greenhouse gases. In
22 addition to establishing policies to promote the use of
23 renewable energy, the Legislature provided for a schedule of
24 increases in energy performance of buildings subject to the
25 Florida Energy Efficiency Code for Building Construction. In
26 chapter 2008-191, Laws of Florida, the Legislature adopted new
27 energy conservation and greenhouse gas reduction comprehensive
28 planning requirements for local governments. In the 2008 general
29 election, the voters of this state approved a constitutional
30 amendment authorizing the Legislature, by general law, to
31 prohibit consideration of any change or improvement made for the
32 purpose of improving a property's resistance to wind damage or
33 the installation of a renewable energy source device in the
34 determination of the assessed value of residential real
35 property.

36 (b) The Legislature finds that all energy-consuming-
37 improved properties that are not using energy conservation
38 strategies contribute to the burden affecting all improved
39 property resulting from fossil fuel energy production. Improved



687058

40 property that has been retrofitted with energy-related
41 qualifying improvements receives the special benefit of
42 alleviating the property's burden from energy consumption. All
43 improved properties not protected from wind damage by wind
44 resistance qualifying improvements contribute to the burden
45 affecting all improved property resulting from potential wind
46 damage. Improved property that has been retrofitted with wind
47 resistance qualifying improvements receives the special benefit
48 of reducing the property's burden from potential wind damage.
49 Further, the installation and operation of qualifying
50 improvements not only benefit the affected properties for which
51 the improvements are made, but also assist in fulfilling the
52 goals of the state's energy and hurricane mitigation policies.

53 (c) In order to make qualifying improvements more
54 affordable and assist property owners who wish to undertake such
55 improvements, the Legislature finds that there is a compelling
56 state interest in enabling property owners to voluntarily
57 finance such improvements with local government assistance.

58 (d) ~~(e)~~ The Legislature determines that the actions
59 authorized under this section, including, but not limited to,
60 the financing of qualifying improvements through the execution
61 of assessment financing agreements and the related imposition of
62 voluntary assessments, are reasonable and necessary to serve and
63 achieve a compelling state interest and are necessary for the
64 prosperity and welfare of the state and its property owners and
65 inhabitants.

66 (2) As used in this section, the term:

67 (a) "Assessment financing agreement" means the financing
68 agreement, under a REEF program, between a local government and



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69 a property owner for the acquisition or installation of
70 qualifying improvements.

71 (b) "Government-leased property" means real property owned
72 by a local government which has become subject to taxation due
73 to lease of the property to a nongovernmental lessee.

74 (c) ~~(a)~~ "Local government" means a county, a municipality, a
75 dependent special district as defined in s. 189.012, or a
76 separate legal entity created pursuant to s. 163.01(7).

77 (d) "Non-ad valorem assessment" or "assessment" has the
78 same meaning as the term "non-ad valorem assessment" as defined
79 in s. 197.3632(1).

80 (e) "Nongovernmental lessee" means a person or an entity,
81 other than a local government, which is the lessee of
82 government-leased property.

83 (f) "Nonresidential real property" means any property not
84 defined as residential real property and which will be or has
85 been improved by a qualifying improvement. The term includes,
86 but is not limited to, the following:

87 1. Multifamily residential property composed of five or
88 more dwelling units.

89 2. Office property.

90 3. Commercial real property.

91 4. Industrial property.

92 5. Agricultural property.

93 6. Government-leased property.

94 (g) "Program administrator" means an entity, including, but
95 not limited to, a for-profit or not-for-profit entity, with
96 which a local government may contract to administer a REEF
97 program.



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98 (h) ~~(b)~~ "Qualifying improvement" includes any:

99 1. Energy conservation and efficiency improvement, which is
100 a measure to reduce consumption through conservation or a more
101 efficient use of electricity, natural gas, propane, or other
102 forms of energy on the property, including, but not limited to,
103 air sealing; installation of insulation; installation of energy-
104 efficient heating, cooling, or ventilation systems; building
105 modifications to increase the use of daylight; replacement of
106 windows; installation of energy controls or energy recovery
107 systems; installation of electric vehicle charging equipment;
108 and installation of efficient lighting equipment.

109 2. Renewable energy improvement, which is the installation
110 of any system in which the electrical, mechanical, or thermal
111 energy is produced from a method that uses one or more of the
112 following fuels or energy sources: hydrogen, solar energy,
113 geothermal energy, bioenergy, and wind energy.

114 3. Wind resistance improvement, which includes, but is not
115 limited to:

- 116 a. Improving the strength of the roof deck attachment;
117 b. Creating a secondary water barrier to prevent water
118 intrusion;
119 c. Installing wind-resistant shingles;
120 d. Installing gable-end bracing;
121 e. Reinforcing roof-to-wall connections;
122 f. Installing storm shutters; or
123 g. Installing opening protections.

124 (i) "Residential real property" means a residential real
125 property composed of four or fewer dwelling units which has been
126 or will be improved by a qualifying improvement.



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127 (j) "Resiliency Energy Environment Florida (REEF) program"
128 means a program established by a local government, alone or in
129 partnership with other local governments or a program
130 administrator, to finance qualifying improvements on
131 nonresidential real property or residential real property.

132 (4) Subject to local government ordinance or resolution, a
133 property owner may apply to the REEF program ~~local government~~
134 for funding to finance a qualifying improvement and enter into
135 an assessment ~~a~~ financing agreement with the local government.
136 Costs incurred by the REEF program ~~local government~~ for such
137 purpose may be collected as a non-ad valorem assessment. A non-
138 ad valorem assessment shall be collected pursuant to s. 197.3632
139 and, notwithstanding s. 197.3632(8)(a), shall not be subject to
140 discount for early payment. However, the notice and adoption
141 requirements of s. 197.3632(4) do not apply if this section is
142 used and complied with, and the intent resolution, publication
143 of notice, and mailed notices to the property appraiser, tax
144 collector, and Department of Revenue required by s.
145 197.3632(3)(a) may be provided on or before August 15 in
146 conjunction with any non-ad valorem assessment authorized by
147 this section, if the property appraiser, tax collector, and
148 local government agree.

149 (6) A local government may enter into an agreement with a
150 program administrator to administer a REEF program on behalf of
151 the local government ~~A qualifying improvement program may be~~
152 ~~administered by a for-profit entity or a not-for-profit~~
153 ~~organization on behalf of and at the discretion of the local~~
154 ~~government.~~

155 (7) A local government may incur debt for the purpose of



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156 providing financing for qualifying such improvements, which debt
157 is payable from revenues received from the improved property, or
158 from any other available revenue source authorized under this
159 section or by other law.

160 (8) A local government may enter into an assessment a
161 financing agreement to finance or refinance a qualifying
162 improvement only with the record owner of the affected property.
163 Any assessment financing agreement entered into pursuant to this
164 section or a summary memorandum of such agreement shall be
165 submitted for recording recorded in the public records of the
166 county within which the property is located by the ~~sponsoring~~
167 ~~unit of~~ local government within 5 days after execution of the
168 agreement. The recorded agreement shall provide constructive
169 notice that the assessment to be levied on the property
170 constitutes a lien of equal dignity to county taxes and
171 assessments from the date of recordation. A notice of lien for
172 the full amount of the financing may be recorded in the public
173 records of the county where the property is located. Such lien
174 shall not be enforceable in a manner that results in the
175 acceleration of the remaining nondelinquent unpaid balance under
176 the assessment financing agreement.

177 (9) Before entering into an assessment a financing
178 agreement, the local government, or the program administrator
179 acting on its behalf, shall reasonably determine that all of the
180 following conditions are met:

181 (a) All property taxes and any other assessments levied on
182 the same bill as property taxes are current paid and have not
183 been delinquent for more than 30 days for the preceding 3 years
184 or the property owner's period of ownership, whichever is less. +



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185 (b) ~~that~~ There are no involuntary liens greater than
186 \$1,000, including, but not limited to, construction liens on the
187 property.

188 (c) ~~that~~ No notices of default or other evidence of
189 property-based debt delinquency have been recorded and not
190 released during the preceding 3 years or the property owner's
191 period of ownership, whichever is less.

192 (d) The local government or program administrator has asked
193 the property owner whether any other assessments under this
194 section have been recorded or have been funded and not yet
195 recorded on the property. The failure of a property owner to
196 disclose information set forth in this paragraph does not
197 invalidate an assessment financing agreement or any obligation
198 thereunder, even if the total financed amount of the qualifying
199 improvements exceeds the amount that would otherwise be
200 authorized under paragraph (12) (a).

201 (e) ~~and that~~ The property owner is current on all mortgage
202 debt on the property.

203 (f) The residential property is not subject to an existing
204 home equity conversion mortgage or reverse mortgage product.
205 This paragraph does not apply to nonresidential real properties.

206 (g) The property is not currently a residential property
207 gifted to a homeowner for free by a nonprofit entity as may be
208 disclosed by the property owner. The failure of a property owner
209 to disclose information set forth in this paragraph does not
210 invalidate an assessment financing agreement or any obligation
211 thereunder. This paragraph does not apply to nonresidential real
212 properties.

213 (10) Before final funding may be provided, a qualifying



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214 improvement must shall be affixed or planned to be affixed to a
215 nonresidential real property or residential real building or
216 facility that is part of the property and constitutes shall
217 constitute an improvement to that property the building or
218 facility or a fixture attached to the building or facility. An
219 assessment financing agreement may between a local government
220 and a qualifying property owner may not cover qualifying wind-
221 resistance improvements on nonresidential real property under
222 new construction or residential real property in buildings or
223 facilities under new construction or construction for which a
224 certificate of occupancy or similar evidence of substantial
225 completion of new construction or improvement has not been
226 issued.

227 (12) (a) Without the consent of the holders or loan
228 servicers of any mortgage encumbering or otherwise secured by
229 the property, the total amount of any non-ad valorem assessment
230 for a property under this section may not exceed 20 percent of
231 the fair market just value of the real property as determined by
232 the county property appraiser. The combined mortgage-related
233 debt and total amount of any non-ad valorem assessments funded
234 under this section for residential real property may not exceed
235 100 percent of the fair market value of the residential real
236 property. However, the failure of a property owner to disclose
237 information set forth in paragraph (9) (d) does not invalidate an
238 assessment financing agreement or any obligation thereunder,
239 even if the total financed amount of the qualifying improvements
240 exceeds the amount that would otherwise be authorized under this
241 paragraph. For purposes of this paragraph, fair market value may
242 be determined using reputable third parties.



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243 (b) Notwithstanding paragraph (a), a non-ad valorem
244 assessment for a qualifying improvement defined in subparagraph
245 (2) (h) 1. ~~(2) (b) 1.~~ or subparagraph (2) (h) 2. which ~~(2) (b) 2.~~ that
246 is supported by an energy audit is not subject to the limits in
247 this subsection if the audit demonstrates that the annual energy
248 savings from the qualified improvement equals or exceeds the
249 annual repayment amount of the non-ad valorem assessment.

250 (13) At least 30 days before entering into an assessment &
251 financing agreement, the property owner shall provide to the
252 holders or loan servicers of any existing mortgages encumbering
253 or otherwise secured by the property a notice of the owner's
254 intent to enter into an assessment & financing agreement
255 together with the maximum principal amount to be financed and
256 the maximum annual assessment necessary to repay that amount. A
257 verified copy or other proof of such notice shall be provided to
258 the local government. A provision in any agreement between a
259 mortgagee or other lienholder and a property owner, or otherwise
260 now or hereafter binding upon a property owner, which allows for
261 acceleration of payment of the mortgage, note, or lien or other
262 unilateral modification solely as a result of entering into an
263 assessment & financing agreement as provided for in this section
264 is not enforceable. This subsection does not limit the authority
265 of the holder or loan servicer to increase the required monthly
266 escrow by an amount necessary to ~~annually~~ pay the annual
267 ~~qualifying improvement~~ assessment.

268 (14) At or before the time a seller ~~purchaser~~ executes a
269 contract for the sale ~~and purchase~~ of any property for which a
270 non-ad valorem assessment has been levied under this section and
271 has an unpaid balance due, the seller must ~~shall~~ give the



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272 prospective purchaser a written disclosure statement in the
273 following form, which shall be set forth in the contract or in a
274 separate writing:

275
276 QUALIFYING IMPROVEMENTS FOR ENERGY EFFICIENCY,
277 RENEWABLE ENERGY, OR WIND RESISTANCE.—The property
278 being purchased is located within the jurisdiction of
279 a local government that has placed an assessment on
280 the property pursuant to s. 163.08, Florida Statutes.
281 The assessment is for a qualifying improvement to the
282 property relating to energy efficiency, renewable
283 energy, or wind resistance, and is not based on the
284 value of property. You are encouraged to contact the
285 county property appraiser's office to learn more about
286 this and other assessments that may be provided by
287 law.

288
289 (16) Before final approval of an assessment financing
290 agreement for a qualifying improvement on a residential real
291 property, a program administrator shall reasonably determine
292 that the property owner has the ability to pay the estimated
293 annual assessment. To do so, the program administrator shall, at
294 a minimum, use the underwriting requirements in subsection (9),
295 confirm that the property owner is not in bankruptcy, and
296 determine that the total estimated annual payment amount for all
297 assessment financing agreements funded under this section on the
298 property does not exceed 10 percent of the property owner's
299 annual household income. Income may be confirmed using
300 information gathered from reputable third parties that provide



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301 reasonably reliable evidence of the property owner's household
302 income. Income may not be confirmed solely by a property owner's
303 statement. The failure of a property owner to disclose
304 information set forth in paragraph (9)(d) does not invalidate an
305 assessment financing agreement or any obligation thereunder,
306 even if the total estimated annual payment amount exceeds the
307 amount that would otherwise be authorized under this subsection.

308 (17) Prior to or contemporaneously with a property owner
309 signing an assessment financing agreement on a residential real
310 property, the program administrator shall provide a financing
311 estimate and disclosure to the residential real property owner
312 which includes all of the following:

313 (a) The total amount estimated to be funded, including the
314 cost of the qualifying improvements, program fees, and
315 capitalized interest, if any.

316 (b) The estimated annual assessment.

317 (c) The term of the assessment.

318 (d) The interest charged and estimated annual percentage
319 rate.

320 (e) A description of the qualifying improvement.

321 (f) A disclosure that if the property owner sells or
322 refinances the property, the property owner, as a condition of
323 the sale or the refinance, may be required by a mortgage lender
324 to pay off the full amount owed under each assessment financing
325 agreement.

326 (g) A disclosure that the assessment will be collected
327 along with the property owner's property taxes and will result
328 in a lien on the property from the date the assessment financing
329 agreement is recorded.



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330 (h) A disclosure that failure to pay the assessment may
331 result in penalties and fees, along with the issuance of a tax
332 certificate that could result in the property owner losing the
333 real property.

334 (18) Before a notice to proceed is issued on residential
335 real property, the program administrator shall conduct with the
336 residential real property owner or an authorized representative
337 an oral, recorded telephone call. The program administrator
338 shall ask the residential real property owner if he or she would
339 like to communicate primarily in a language other than English.
340 A program administrator may not leave a voicemail to the
341 residential real property owner to satisfy this requirement. A
342 program administrator, as part of such telephone call, shall
343 confirm all of the following with the residential real property
344 owner:

345 (a) That at least one residential real property owner has
346 access to a copy of the assessment financing agreement and
347 financing estimates and disclosures.

348 (b) The qualifying improvements being financed.

349 (c) The total estimated annual costs that the residential
350 real property owner will have to pay under the assessment
351 financing agreement, including applicable fees.

352 (d) The total estimated average monthly equivalent amount
353 of funds the residential real property owner would have to save
354 in order to pay the annual costs of the assessment, including
355 applicable fees.

356 (e) The estimated date the residential real property
357 owner's first property tax payment that includes the assessment
358 will be due.



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- 359 (f) The term of the assessment financing agreement.
- 360 (g) That payments for the assessment financing agreement
361 will cause the residential real property owner's annual property
362 tax bill to increase, and that payments will be made through an
363 additional annual assessment on the property and either will be
364 paid directly to the county tax collector's office as part of
365 the total annual secured property tax bill or may be paid
366 through the residential real property owner's mortgage escrow
367 account.
- 368 (h) That the residential real property owner has disclosed
369 whether the property has received, or the owner is seeking,
370 additional assessments funded under this section and that the
371 owner has disclosed all other assessments funded under this
372 section which are or are about to be placed on the property.
- 373 (i) That the property will be subject to a lien during the
374 term of the assessment financing agreement and that the
375 obligations under the agreement may be required to be paid in
376 full before the residential real property owner sells or
377 refinances the property.
- 378 (j) That any potential utility or insurance savings are not
379 guaranteed and will not reduce the assessment or total
380 assessment amount.
- 381 (k) That the program administrator does not provide tax
382 advice, and the residential real property owner should seek
383 professional tax advice if he or she has questions regarding tax
384 credits, tax deductibility, or other tax impacts of the
385 qualifying improvement or the assessment financing agreement.
- 386 (19) A residential real property owner may cancel an
387 assessment financing agreement within 3 business days after



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388 signing the assessment financing agreement without any financial
389 penalty from the program administrator for doing so.

390 (20) The term of an assessment financing agreement on
391 residential real property may not exceed the lesser of:

392 (a) Thirty years; or

393 (b) The greater of either the weighted average estimated
394 useful life of all qualifying improvements being financed or the
395 estimated useful life of the qualifying improvements to which
396 the greatest portion of funds is disbursed.

397 (21) An assessment financing agreement authorized under
398 this section on residential real property may not include any of
399 the following financing terms:

400 (a) A negative amortization schedule. Capitalized interest
401 included in the original balance of the assessment financing
402 agreement does not constitute negative amortization.

403 (b) A balloon payment.

404 (c) Prepayment fees, other than nominal administrative
405 costs.

406 (22) For residential real property, a program
407 administrator:

408 (a) May not enroll a contractor who contracts with
409 residential real property owners to install qualifying
410 improvements unless:

411 1. The program administrator makes a reasonable effort to
412 review that the contractor maintains in good standing an
413 appropriate license from the state, if applicable, as well as
414 any other permit, license, or registration required for engaging
415 in business in the jurisdiction in which he or she operates and
416 that the contractor maintains all state-required bond and



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417 insurance coverage; and

418 2. The program administrator obtains the contractor's
419 written agreement that the contractor will act in accordance
420 with all applicable laws, including applicable advertising and
421 marketing laws and regulations.

422 (b) Shall maintain a process to enroll new contractors
423 which includes reasonable review of the following for each
424 contractor:

425 1. Relevant work or project history.

426 2. Financial and reputational background checks.

427 3. A criminal background check.

428 4. Status on the Better Business Bureau online platform or
429 another online platform that tracks contractor reviews.

430 (c) A program administrator may pay or reimburse
431 contractors for any expense allowable under applicable state law
432 and not otherwise prohibited under this section, including, but
433 not limited to, marketing, training, and promotions.

434 (23) (a) Before disbursing funds to a contractor for a
435 qualifying improvement on residential real property, a program
436 administrator must first confirm that the applicable work or
437 service has been completed through any of the following:

438 1. A written certification from the property owner;

439 2. A recorded telephone call with the property owner;

440 3. A review of geotagged and time-stamped photographs;

441 4. A review of a final permit; or

442 5. A site inspection through third-party means.

443 (b) A program administrator may not disclose to a
444 contractor or to a third party engaged in soliciting an
445 assessment financing agreement the maximum financing amount for



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446 which a residential real property owner is eligible.
447 (24) A program administrator shall comply with the
448 following marketing and communications guidelines when
449 communicating with residential real property owners:
450 (a) A program administrator may not represent:
451 1. That the REEF program or assessment financing is a
452 government assistance program;
453 2. That qualifying improvements are free or that assessment
454 financing is a free program; or
455 3. That the financing of a qualifying improvement using the
456 REEF program does not require the property owner to repay the
457 financial obligation.
458 (b) A program administrator may not make any representation
459 as to the tax deductibility of an assessment authorized under
460 this section. A program administrator may encourage a property
461 owner to seek the advice of a tax professional regarding tax
462 matters related to assessments.
463 (25) A contractor should not present a higher price for a
464 qualifying improvement on residential real property financed by
465 an assessment financing agreement than the contractor would
466 otherwise reasonably present if the qualifying improvement was
467 not being financed through an assessment financing agreement.
468 (26) A program administrator shall use appropriate
469 methodologies or technologies to identify and verify the
470 identity of the residential real property owner who executes an
471 assessment financing agreement.
472 (27) A program administrator may not provide a contractor
473 with any payment, fee, or kickback in exchange for referring
474 assessment financing business relating to a specific assessment



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475 financing agreement on residential real property.

476 (28) A program administrator shall develop and implement
477 policies and procedures for responding to, tracking, and helping
478 to resolve questions and property owner complaints as soon as
479 reasonably practicable.

480 (29) A program administrator shall maintain a process for
481 monitoring enrolled contractors that contract with residential
482 real property owners to install qualifying improvements with
483 regard to performance and compliance with program policies and
484 shall implement policies for suspending and terminating enrolled
485 contractors based on violations of program policies or
486 unscrupulous behavior. A program administrator shall maintain a
487 policy for determining the conditions on which a contractor may
488 be reinstated to the program.

489 (30) A program administrator shall provide, at a reasonable
490 time following the end of the prior calendar year, an annual
491 report to the dependent special district as defined in s.
492 189.012 or a separate legal entity created pursuant to s.
493 163.01(7) which it has contracted with to administer a REEF
494 program and shall include information and data related to the
495 following:

496 (a) The total number of property owner complaints received
497 which are associated with project funding in the report year.

498 (b) Of the total number of property owner complaints
499 received associated with project funding in the report year:

500 1. The number and percentage of complaints that relate to
501 the assessment financing.

502 2. The number and percentage of complaints that relate to a
503 contractor or the workmanship of a contractor and are not



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504 related to assessment financing.

505 3. The number and percentage of complaints that relate to
506 both a contractor and the assessment financing.

507 4. The number and percentage of complaints identified in
508 subparagraphs 1., 2., and 3. which were resolved and the number
509 and percentage of property owner complaints that were not
510 resolved.

511 (c) The percentage of property owner complaints in
512 subparagraphs (b)1., 2., and 3. expressed as a total of all
513 projects funded in the report year.

514 (31) Notwithstanding any provision of this section to the
515 contrary, the following applies to government-leased property:

516 (a) The assessment financing agreement must be executed by
517 either:

518 1. The local government and the nongovernmental lessee; or

519 2. Solely by the nongovernmental lessee but with the

520 written consent of the local government. Evidence of such

521 consent must be provided to the program administrator or REEF

522 program.

523 (b) The assessment financing agreement must provide that
524 the nongovernmental lessee is the only party obligated to pay
525 the assessment.

526 (c) A delinquent assessment must be enforced in the manner
527 provided in ss. 196.199(8) and 197.432(10).

528 (d) The recorded assessment financing agreement, or a
529 summary memorandum of such recorded agreement, must provide
530 constructive notice that the assessment to be levied on the
531 property is subject to enforcement in the manner provided in ss.
532 196.199(8) and 197.432(10).



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533 (e) For purposes of subsections (9) and (13) only,
534 references to the property owner are deemed to refer to the
535 nongovernmental lessee and references to the period of ownership
536 are deemed to refer to the period that the nongovernmental
537 lessee has been leasing the property from the local government.

538 (f) The term of the assessment financing agreement on
539 government-leased property may not exceed the lesser of:

540 1. Thirty years;

541 2. The remaining term of the lease on the government-leased
542 property; or

543 3. The greater of either the weighted average estimated
544 useful life of all qualifying improvements being financed or the
545 estimated useful life of the qualifying improvements to which
546 the greatest portion of funds is disbursed.

547 (32) (a) Subsections (16) through (30) do not apply to
548 residential real property if the program administrator
549 reasonably determines that:

550 1. The residential real property is owned by a business
551 entity that owns more than four residential real properties; and

552 2. The business entity's managing member, partner, or
553 beneficial owner does not reside in the residential real
554 property.

555 (b) Subsections (16) through (30) apply to a program
556 administrator only when administering a REEF program for
557 qualifying improvements on residential real property.

558 Subsections (16) through (30) do not apply with respect to a
559 local government, to residential property owned by a local
560 government, or to nonresidential real property.

561 Section 2. This act shall take effect July 1, 2022.



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===== T I T L E A M E N D M E N T =====

And the title is amended as follows:

Delete everything before the enacting clause
and insert:

A bill to be entitled
An act relating to Resiliency Energy Environment
Florida programs; amending s. 163.08, F.S.; defining
terms; providing that a property owner may apply to a
Resiliency Energy Environment Florida (REEF) program
for funding to finance a qualifying improvement and
may enter into an assessment financing agreement with
a local government; providing that REEF program costs
may be collected as non-ad valorem assessments;
authorizing a local government to enter into an
agreement with a program administrator to administer a
REEF program on the local government's behalf;
revising and specifying public recording requirements
for assessment financing agreements and notices of
lien; revising requirements that apply to local
governments or program administrators in determining
eligibility for assessment financing; revising
requirements for qualifying improvements; revising the
calculation of non-ad valorem assessment limits;
providing construction; specifying underwriting,
financing estimate, disclosure, and confirmation
requirements for program administrators relating to
residential real property; authorizing a residential
real property owner, under certain circumstances and



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591 within a certain timeframe, to cancel an assessment
592 financing agreement without financial penalty;
593 specifying limitations on assessment financing
594 agreement terms for residential real property;
595 prohibiting certain financing terms for residential
596 real property; specifying requirements for, and
597 certain prohibited acts by, program administrators
598 relating to assessment financing agreements and
599 contractors for qualifying improvements to residential
600 real property; specifying additional annual reporting
601 requirements for program administrators; specifying
602 requirements for, and limitations on, assessment
603 financing agreements relating to government-leased
604 property; providing construction and applicability;
605 conforming provisions to changes made by the act;
606 providing an effective date.

The Florida Senate

APPEARANCE RECORD

Deliver both copies of this form to Senate professional staff conducting the meeting

January 13, 2022
FOT
Meeting Date

228
Bill Number or Topic

Committee

Name Anthony Dimarco

Amendment Barcode (if applicable)

Phone (850) 224-2265

Address 1007 Thomasville

Email adimarco@florida.bankers.com

Street

Tallahassee FL 32303
City State Zip

Speaking: For Against Information OR Waive Speaking: In Support Against

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:
FL Bankers Association

I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf](#) (flsenate.gov)

This form is part of the public record for this meeting.

1/13

The Florida Senate APPEARANCE RECORD

228

Meeting Date

FINANCE & TAX

Deliver both copies of this form to
Senate professional staff conducting the meeting

Bill Number or Topic

687058

Committee

Amendment Barcode (if applicable)

Name

EDWARD METZGER

Phone

(850) 545-8291

Address

1231 WALDEN DR

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Street

Ft Myers

State

FL

33501

City

Zip

Speaking:

For

Against

Information

OR

Waive Speaking:

In Support

Against

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without
compensation or sponsorship.

I am a registered lobbyist,
representing:

I am not a lobbyist, but received
something of value for my appearance
(travel, meals, lodging, etc.),
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While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022JointRules.pdf](#) [flsenate.gov](#)

This form is part of the public record for this meeting.

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Finance and Tax

BILL: SB 406

INTRODUCER: Senator Berman

SUBJECT: Secured Transactions

DATE: January 13, 2022

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Hackett</u>	<u>Ryon</u>	<u>CA</u>	Favorable
2.	<u>Covin</u>	<u>Babin</u>	<u>FT</u>	Favorable
3.	_____	_____	<u>AP</u>	_____

I. Summary:

SB 406 provides that language referring only to the type of collateral is insufficient to waive constitutional and statutory protections that prevent creditors from obtaining a judgment against certain assets, allowing the individual to pledge such assets as collateral.

These changes are in response to a recent federal court case which held that mere contractual reference to “all assets” included certain property previously understood to be excluded from such an agreement. Assets unexpectedly put at risk include retirement accounts, pension payments, and education savings accounts.

The bill does not affect state or local revenue.

The bill takes effect upon becoming a law and applies retroactively.

II. Present Situation:

Asset Protection from Legal Process

A creditor can collect money owed by filing an action for a judgment in state court. A judgment is an order of the court creating an obligation, typically a debt when creditors are involved. The creditor may then use that judgment to collect assets from the debtor. Chapter 222, F.S., contains exemptions that protect certain assets from legal process under Florida law, absent a waiver. Florida exempts the following assets against creditor claims in most situations:

- Homestead property (ss. 222.01-222.05, F.S.).
- Certain items of personal property (s. 222.061, F.S.).
- Certain disposable earnings of a head of family (s. 222.11, F.S.).
- The proceeds of a life insurance policy (s. 222.13, F.S.).

- The cash surrender value of a life insurance policy and the proceeds of an annuity contract (s. 222.14, F.S.).
- Disability benefits payable from any insurance (s. 222.18, F.S.).
- Certain pension, retirement, or profit sharing benefits (s. 222.21, F.S.).
- Prepaid College Trust Fund moneys and Medical Savings Account funds (s. 222.22, F.S.).
- A debtor's interest in a motor vehicle, up to \$1,000 in value (s. 222.25, F.S.).
- A debtor's interest in any professionally prescribed health aids (s. 222.25, F.S.).
- Social security benefits, unemployment compensation, or public assistance benefits; veterans' benefits; disability, illness, or unemployment benefits; alimony, support, or separate maintenance; and stock or pension plans under specified circumstances (s. 222.201, F.S.).

These exemptions have historically been construed liberally in favor of the consumer against creditors' claims to exempt property.¹ When a consumer enters a security agreement – a contract in which a debtor offers assets as collateral (“security”) to guarantee repayment – the contract describes what assets are offered as security. Historically, a contract's blanket offering of “all assets” as security has not been interpreted to include assets subject to these exemptions.²

An individual must take additional steps in order to offer certain exempt assets as collateral. For example, in the case of a Floridian's homestead exemption, which protects homestead property from bankruptcy proceedings, a contractual waiver of those rights must be “knowing, voluntary, and intelligent” to have any effect.³ As another example, certain wages are exempt from legal process.⁴ The wages exemption may only be waived in writing, in a separate document attached to the security agreement, which must contain mandatory waiver language in at least 14-point font.⁵

Sufficiency of Description for Collateral in Security Agreements

An effective description of collateral in a security agreement identifies the asset by specific listing; category; type of collateral; quantity, computational or allocational formula; or any method under which the identity of the collateral is objectively determinable.⁶

Current law specifically provides that a description of collateral as “all the debtor's assets” or “all the debtor's personal property” does not reasonably identify collateral.⁷

¹ See e.g. *Patten Package Co. v. Houser*, 102 Fla. 603, 607, 136 So. 353, 355 (1931); *Killian v. Lawson*, 387 So.2d 960, 962 (Fla. 1980); *Havoco of Am. Ltd. v. Hill*, 790 So.2d 1018, 1021 (Fla. 2001); *Connor v. Seaside National Bank*, 135 So.3d 508, 509 (Fla. 5th DCA 2014).

² Section 679.1081(3), F.S., Official Comment 2 to U.C.C. s. 9-110 (s. 679.1081(3), F.S.).

³ See e.g. *Chames v. DeMayo*, 972 So.2d 850, 861 (Fla. 2007) (citing *State v. Upton*, 658 So.2d 86, 87 (Fla. 1995)).

⁴ Section 222.11, F.S.

⁵ Section 222.11(2), F.S.

⁶ Section 679.1081(2), F.S. Chapter 679, F.S., adopts Article 9 of the Universal Commercial Code (U.C.C.), dealing with secured transactions. Every state in the United States has adopted the U.C.C. See <https://www.uniformlaws.org/acts/ucc> (last visited Oct. 26, 2021).

⁷ Section 679.1081(3), F.S.

Finally, current law provides that a description defined by “type” of collateral alone for a commercial tort claim or, in a consumer transaction, for a security entitlement, securities account, or commodity account, is not sufficient.⁸ For example, “all existing and after-acquired investment property” or “all existing and after-acquired security entitlements,” without more, would be insufficient in a consumer transaction to describe a security entitlement, securities account, or commodity account.⁹

Kearney Construction Co, LLC v. Travelers Casualty & Surety Company of America

A recent federal court case held that general, broad pledges of “all assets” waives ch. 222, F.S., protections.¹⁰ In *Kearney Construction Company, LLC v. Travelers Casualty and Surety Company of America*¹¹ the debtor obtained a line of credit and pledged collateral in the contract as follows:

Grant of Security Interest. As security for any and all Indebtedness (as defined below), the Pledgor hereby irrevocably and unconditionally grants a security interest in the collateral described in the following properties[:] all assets and rights of the Pledgor, wherever located, whether now owned or hereafter acquired or arising, and all proceeds and products thereof, all goods (including inventory, equipment and any accessories thereto), instruments (including promissory notes)[,] documents, accounts, chattel paper, deposit accounts, letters of credit, rights, securities and all other investment property, supporting obligation[s], any contract or contract rights or rights to the payment of money, insurance claims, and proceeds, and general intangibles (the “Collateral”).¹²

The Eleventh Circuit considered whether this language included assets held in the debtor’s Individual Retirement Account (IRA). The debtor argued that the IRA should not have been included in all assets and was never intended to have been offered as collateral.¹³ The court found that the security agreement’s language constituted an “unambiguous pledge” of all assets, which includes those exempt under ch. 222, F.S.¹⁴ Kearney’s IRA was not specifically listed in the agreement, but the court concluded that the broad language of the contract “encompassed potential retirement accounts or funds, such as the [IRA] at issue here.”¹⁵

The courts did not address whether ch. 222, F.S., exemptions or ch. 679, F.S., description requirements should have any weight in interpreting the contract. The courts also did not explain what part of the security agreement encompassed the IRA. It is unclear if it was part of a specific

⁸ Section 679.1081(5), F.S.

⁹ Section 679.1081(5), F.S.; Official Comment 5 to U.C.C. s. 9-108 (s. 679.1081(5), F.S.).

¹⁰ Concerns were raised by the Florida Bar’s Real Property, Probate, and Trust Law Section, which formed a “Kearney Subcommittee” within its Asset Protection Committee. See the Kearney Subcommittee’s White Paper (Oct. 14, 2021) (on file with the Senate Committee on Finance and Tax).

¹¹ 795 Fed.Appx. 671 (Fla. 11th Cir. Nov. 13, 2019).

¹² *Id.* at 673.

¹³ *Id.*

¹⁴ *Id.*

¹⁵ Magistrate Judge’s Report and Recommendation, Case 8:09-cv-01850-JSM-TBM, Docket 865, at 28.

collateral category such as a deposit account, investment property, general intangible, or another category,¹⁶ each of which could have different treatment.¹⁷

Federal law treats the use of any funds inside a tax-advantaged retirement account as a taxable distribution from that account.¹⁸ Therefore, any such funds used unexpectedly for a pledge of “all assets” towards a debt risk losing their tax-advantaged status, subject to back taxes and penalties.

III. Effect of Proposed Changes:

Section 1 amends s. 679.1081(5), F.S., to provide that those accounts and entitlements described in ss. 222.13-222.16, s. 222.18, and ss. 222.201-222.22, F.S., are not adequately described by general reference to the type of collateral. In order to include such an asset in a security agreement, the asset must be described by specific reference to the individual asset as provided in s. 679.1081, F.S.

The assets referred to in those sections include life insurance policies, cash surrender value of life insurance policies and annuity contracts; wages or reemployment assistance or unemployment compensation payments due deceased employees; disability income benefits; certain payments protected by the federal Bankruptcy Reform Act of 1978; pension money and tax exempt retirement accounts; and assets in qualified tuition programs, medical savings accounts, Coverdell education savings accounts, and hurricane savings accounts.

Section 2 provides that the bill applies retroactively.

Section 3 provides the bill takes effect upon becoming a law.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

Section 18, Art. VII of the State Constitution requires a two-thirds vote of the membership of each house of the Legislature to pass legislation requiring counties and municipalities to spend funds, limit their ability to raise revenue, or reduce the percentage of a state tax shared with them. The bill does not require counties and municipalities to spend funds, limit their ability to raise revenue, or reduce the percentage of a shared state tax. Therefore, the provisions of s. 18, Art. VII of the State Constitution do not apply.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

¹⁶ *Id.*

¹⁷ Sections 679.1021, 679.1031, 679.1041, 679.1051, 679.1061, 679.1071, 679.1081 and 679.1091, F.S.

¹⁸ I.R.C. s. 408(e)(4).

D. State Tax or Fee Increases:

The bill does not create or raise state taxes or fees. Therefore, the requirements of s. 19, Art. VII of the State Constitution do not apply.

E. Other Constitutional Issues:

None identified.

V. Fiscal Impact Statement:**A. Tax/Fee Issues:**

The bill does not affect state or local revenue.

B. Private Sector Impact:

The bill protects consumers from unknowingly pledging otherwise exempt assets.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

The bill substantially amends section 679.1081 of the Florida Statutes.

IX. Additional Information:**A. Committee Substitute – Statement of Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.

By Senator Berman

31-00385-22

2022406__

1 A bill to be entitled
2 An act relating to secured transactions; amending s.
3 679.1081, F.S.; providing that a description of
4 certain accounts and entitlements by a certain type of
5 collateral is insufficient for the purpose of security
6 agreements; providing retroactive application;
7 providing an effective date.
8
9 Be It Enacted by the Legislature of the State of Florida:
10
11 Section 1. Subsection (5) of section 679.1081, Florida
12 Statutes, is amended to read:
13 679.1081 Sufficiency of description.—
14 (5) A description only by type of collateral defined in
15 this chapter is an insufficient description of:
16 (a) A commercial tort claim;
17 (b) In a consumer transaction, consumer goods, a security
18 entitlement, a securities account, or a commodity account; ~~or~~
19 (c) An account consisting of a right to payment of a
20 monetary obligation for the sale of real property that is the
21 debtor's homestead under the laws of this state; or
22 (d) Accounts and other entitlements set forth in ss.
23 222.13-222.16, s. 222.18, and ss. 222.201-222.22.
24 Section 2. The amendment made by this act to s. 679.1081,
25 Florida Statutes, is remedial in nature and applies
26 retroactively.
27 Section 3. This act shall take effect upon becoming a law.

The Florida Senate

APPEARANCE RECORD

Deliver both copies of this form to Senate professional staff conducting the meeting

1/13/22

Meeting Date

SB 406

Bill Number or Topic

Finance and Tax

Committee

Amendment Barcode (if applicable)

Name Aimee Diaz Lyon

Phone 850-205-9000

Address 119 South Monroe Street #200

Email adl@mhdfirm.com

Street

Tallahassee

FL

32301

City

State

Zip

Speaking: [] For [] Against [] Information OR Waive Speaking: [x] In Support [] Against

PLEASE CHECK ONE OF THE FOLLOWING:

[] I am appearing without compensation or sponsorship.

[x] I am a registered lobbyist, representing: The Business Law Section of the Florida Bar

[] I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. 2020-2022JointRules.pdf (flsenate.gov)

This form is part of the public record for this meeting.

APPEARANCE RECORD

SB 406

Deliver both copies of this form to
Senate professional staff conducting the meeting

1/13/22

Meeting Date

Finance and Tax

Committee

Bill Number or Topic

Amendment Barcode (if applicable)

Name Martha Edenfield

Phone 850-999-4100

Address 106 E. College Ave #1200

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32301

City

State

Zip

Speaking: For Against Information **OR** Waive Speaking: In Support Against

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

**The Real Property, Probate and Trust
Law Section of the Florida Bar**

I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf](#) ([flsenate.gov](#))

This form is part of the public record for this meeting.



The Florida Senate

Committee Agenda Request

To: Senator Ana Maria Rodriguez, Chair
Committee on Finance and Tax

Subject: Committee Agenda Request

Date: November 3, 2021

I respectfully request that **Senate Bill #406**, relating to Secured Transactions, be placed on the:

- committee agenda at your earliest possible convenience.
- next committee agenda.

A handwritten signature in black ink, appearing to read "Lori Berman", written over a horizontal line.

Senator Lori Berman
Florida Senate, District 31

cc: Senator Janet Cruz, Vice Chair
Robert Babin, Staff Director

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Finance and Tax

BILL: CS/SB 786

INTRODUCER: Finance and Tax Committee and Senator Hutson

SUBJECT: Aircraft Sales and Lease Tax

DATE: January 13, 2022

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Harmsen</u>	<u>McKay</u>	<u>CM</u>	Favorable
2.	<u>Sachmorov</u>	<u>Babin</u>	<u>FT</u>	Fav/CS
3.	_____	_____	<u>AP</u>	_____

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

SB 786 exempts all sales and leases of aircraft from sales and use tax. Currently, Florida exempts the sale or lease of specific aircraft used by an airline from state tax; all other aircraft are subject to state sales and use tax of 6 percent and any discretionary local sales and use tax.

The Revenue Estimating Conference estimates that the bill will reduce General Revenue Fund receipts by \$23.3 million dollars in Fiscal Year 2022-2023, and by \$25.4 million in future years. The bill will reduce local government revenues by \$6.9 million in Fiscal Year 2022-2023, and by \$7.5 million in future years.¹

The bill takes effect July 1, 2022.

¹ The Revenue Estimating Conference, *2022 Regular Session Revenue Estimating Conference: Impact Conference Results*, p. 45-46 (Nov. 19, 2021), available at <http://edr.state.fl.us/Content/conferences/revenueimpact/archives/2022/pdf/Impact1119.pdf> (last visited Jan. 13, 2022).

II. Present Situation:

Florida Sales and Use Tax

Florida levies a 6 percent sales and use tax on the sale or rental of most tangible personal property,² admissions,³ transient rentals,⁴ and a limited number of services. Chapter 212, F.S., contains provisions authorizing the levy and collection of Florida's sales and use tax, as well as the exemptions and credits applicable to certain items or uses under specified circumstances. Sales and use tax is added to the price of the taxable good or service and collected from the purchaser at the time of sale.⁵

Counties are authorized to impose local discretionary sales surtaxes in addition to the state sales tax.⁶ A surtax applies to "all transactions occurring in the county which transactions are subject to the state tax imposed on sales, use, services, rentals, admissions, and other transactions by [ch. 212, F.S.], and communications services as defined in ch. 202."⁷ The discretionary sales surtax is based on the tax rate imposed by the county where the taxable goods or services are sold or delivered. Discretionary sales surtax rates currently levied vary by county in a range of 0.5 to 2.5 percent.⁸

Generally, tangible personal property that is sold in an isolated or occasional sale is exempt from the state sales and use tax.⁹ A seller makes an isolated or occasional sale if the sale or series of sales occurs no more than twice during any 12-month period.¹⁰ A seller is required to register as a dealer if he or she completes more than three sales of the same type of item during a 12-month period.¹¹ The sale of mobile homes, aircraft, boats, and motor vehicles are expressly excluded from the isolated or occasional state sales and use tax exemption.¹²

Florida Taxation of Aircraft

Aircraft purchased through a local dealer or broker are taxed as tangible personal property that are subject to a 6 percent sales tax at the time of the sale.¹³ A discretionary local sales tax on up to the first \$5,000 of the purchase price may also be added to the tax.¹⁴

² Section 212.05(1)(a)1.a., F.S.

³ Section 212.04(1)(b), F.S.

⁴ Section 212.03(1)(a), F.S.

⁵ Section 212.07(2), F.S.

⁶ Section 212.055, F.S.

⁷ Section 212.054(2)(a), F.S.

⁸ Office of Economic and Demographic Research, *Florida Tax Handbook*, 227-228 (2021), available at <http://edr.state.fl.us/Content/revenues/reports/tax-handbook/taxhandbook2021.pdf> (last visited Jan. 13, 2022).

⁹ Fla. Admin. Code R. 12A01.037(1). See also, s. 212.02(2), defining "business" as activity engaged in by a person with the object of private or public gain, benefit, or advantage.

¹⁰ Fla. Admin. Code R. 12A-1.037(3)(b).

¹¹ *Id.*

¹² See, s. 212.05(1)(a)1.b., and Fla. Admin. Code R. 12A-1.037(2)(a)1.

¹³ Section 212.05(1), F.S.

¹⁴ Fla. Dep't. of Revenue, *Form GT-800008, Sales and Use Tax Aircraft Information for Owners and Purchasers* (rev. Sept., 2020), available at https://floridarevenue.com/Forms_library/current/gt800008.pdf (last visited Dec. 06, 2021). See also, Fla. Dep't. of Revenue, *Sales and Use Tax Return for Aircraft- Form DR-15AIR* (rev. Jan. 2016), available at https://floridarevenue.com/Forms_library/current/dr15air.pdf (last visited Dec. 06, 2021).

An aircraft that is sold by a nonregistered dealer or an aircraft that is purchased in another state and brought into Florida for storage or use is subject to Florida's 6 percent use tax.¹⁵

Aircraft Sales and Use Tax Exemptions

Common Carrier Exemptions—Sales and Lease Tax

Aircraft operated by a common carrier that either have a maximum certified takeoff weight of more than 15,000 pounds, and those deemed “qualified aircraft” are exempt from Florida's sales and use tax.¹⁶ A “qualified aircraft” is any aircraft that has a maximum certified takeoff weight of less than 10,000 pounds and that is equipped with twin turbofan engines that meet Stage IV noise requirements that is used by a business that operates as an on-demand air carrier, which owns or leases a fleet of 25 or more aircraft in Florida.¹⁷ In order to qualify for this sales and lease tax exemption, the qualified aircraft must be offered for use in a Florida university's flight training and research program.¹⁸ Aircraft with a 15,000 pound maximum certified takeoff weight are exempt from sales tax.¹⁹

Common Carrier Exemption- Tax on Repair and Maintenance

Labor charges for the repair and maintenance of qualified aircraft and aircraft that weigh more than 2,000 pounds maximum certified takeoff weight are exempt from tax under ch. 212, F.S.²⁰ Similarly, replacement engines, parts, and equipment used to repair or maintain these aircraft are exempt from the tax imposed under ch. 212, F.S. if the repair occurs in Florida.²¹

To receive the repair and maintenance exemptions for a qualified aircraft, a purchaser or lessee must offer, in writing, to participate in a flight training and research program with at least two Florida Universities that offer graduate programs in aeronautical or aerospace engineering and that offer flight training through a school of aeronautics or college of aviation.²²

Fly-Away Exemption

If a nonresident purchases an aircraft in Florida and plans to remove the aircraft from the state, the purchase is exempt from sales tax pursuant to an exemption commonly referred to as the “fly-away exemption.”²³ However, the nonresident purchaser must remove the aircraft from Florida within 10 days of its purchase.²⁴ Additionally, the aircraft cannot return to Florida for a total of more than 21 days during the 6-month period after its date of purchase or otherwise appropriate departure from the state.²⁵

¹⁵ Section 212.05(1)(a), F.S. See also, Fla. Dep't. of Revenue, *Form GT-800008*, supra note 15.

¹⁶ Section 212.08(7)(ss), F.S.

¹⁷ Section 212.02 (33), F.S.

¹⁸ Section 212.0801, F.S.

¹⁹ Section 212.08(7)(ss), F.S.

²⁰ Section 212.08(7)(ee), F.S.

²¹ Section 212.08(7)(rr), F.S.

²² Section 212.0801, F.S.

²³ Sections 212.08(7)(fff)1. and 212.05(1)(a)2., F.S. See also, Michael Cosby, *A Practitioner's Guide to State Tax Issues Related to Private Aircraft Ownership and Operation*, p. 33 (Summer 2018),

²⁴ Section 212.05(2)(a), F.S.

²⁵ Section 212.08(7)(fff)1., F.S.

The nonresident purchaser must provide the Department of Revenue with proof of transport of the aircraft out of state and its registration (or application for registration) in a state other than Florida.²⁶

Aircraft Repair and Maintenance

Labor charges and specific equipment used for the repair and maintenance of qualified aircraft and aircraft of more than 2,000 pounds maximum certified takeoff weight, including rotary wing aircraft, are exempt from the tax imposed under ch. 212, F.S.²⁷

Additionally, nonresident purchasers of aircraft in Florida are exempt from Florida use tax for the duration of the aircraft's placement in a Florida registered repair facility for the purpose of repairs, alterations, refitting, or modification.²⁸ However, the nonresident aircraft must be removed from Florida within 20 days of completion of the repairs to maintain this exemption.²⁹

Foreign Jurisdiction's Taxation of Aircraft

The sales and use tax laws applicable to the sale and storage or use of aircraft in the United States vary widely. Alaska,³⁰ Delaware,³¹ Montana,³² New Hampshire,³³ and Oregon³⁴ do not levy a statewide tax on the sale of goods in general, and therefore do not levy a sales tax on aircraft. These states may apply local sales tax or rental tax to the sale or use of the aircraft, however.³⁵ Connecticut offers a sales tax exemption on aircraft that weight 6,000 pounds or more.³⁶ North Carolina caps their tax at \$2,500 for aircraft.³⁷ Rhode Island exempts the sale, storage, use, or consumption of an aircraft or aircraft parts from their state sales and use taxes if the aircraft or aircraft parts are used in Rhode Island.³⁸

²⁶ See, e.g., Fla. Admin. Code R. 12A-1.007(10).

²⁷ Section 212.08(7)(ee), F.S.

²⁸ Section 212.08(7)(fff)2., F.S.

²⁹ Section 212.05(2)(f), F.S.

³⁰ Alaska Dep't. of Revenue- Tax Division, *Sales and Use Tax News: Does Alaska have a Sales and Use Tax?*, <http://tax.alaska.gov/programs/programs/index.aspx?10002> (last visited Jan. 13, 2022).

³¹ Effective February 1, 2003, aircraft are exempt from retail and wholesale gross receipt taxes in Delaware. Delaware Div. of Revenue, *Aircraft Sales*, <https://revenue.delaware.gov/business-tax-forms/aircraft-sales/> (last visited Jan. 13, 2022).

³² Montana levies an annual "fee in lieu of tax" for aircraft based on the age and type of aircraft, ranging from \$37.50-\$4,500. Mont. Code Ann. §§67-3-201 and 67-3-206.

³³ New Hampshire levies an aircraft operating fee ranging from \$100-\$3,500 per aircraft, based on its weight, but does not levy any sales tax. N.H. Code Ann. § 2371:1- 237:7 (2018). See also, New Hampshire Dept. of Transp., *Aircraft Registrations: How Much Are the Registration Fees?*, <https://www.nh.gov/dot/org/aerorailtransit/aeronautics/faq.htm#Q1> (last visited Jan. 06, 2022).

³⁴ Owners of civil aircraft are exempt from ad valorem property taxation. ORS § 308.558, https://oregon.public.law/statutes/ors_308.558 (last visited Jan. 13, 2022).

³⁵ These five states do not levy any state sales tax, and therefore aircraft sales that occur in those states are not subject to a state sales tax in that jurisdiction. Janelle Cammenga, Tax Foundation, *State & Local Sales Tax Rates*, p. 5-6, (Jan. 2020), <https://taxfoundation.org/2020-sales-taxes/> (last visited Jan. 13, 2022). See also, Michael Cosby, *supra* note 26.

³⁶ Conn. Gen. Stat. §12-412(99), <https://portal.ct.gov/DRS/Sales-Tax/Exemptions-from-Sales-and-Use-Taxes> (last visited Jan. 13, 2022).

³⁷ North Carolina Dep't. of Revenue- Sales and Use Tax Div., *Sales and Use Tax Bulletins*, p. 62 (Jan. 2021), available at <https://www.ncdor.gov/media/11564/open> (last visited Jan. 13, 2022).

³⁸ R.I. Gen. Laws § 44-18-30(56), <http://webserver.rilin.state.ri.us/Statutes/TITLE44/44-18/44-18-30.HTM> (last visited Jan. 13, 2022).

III. Effect of Proposed Changes:

The bill exempts all sales and leases of aircraft from the sales and use tax. Currently, Florida exempts the sale or lease of specific aircraft used by an airline from state tax; all other aircraft are subject to state sales tax of 6 percent and any discretionary local sales tax.

The bill defines aircraft as a manned vehicle capable of flight which is designed to transport persons or property.

The bill takes effect July 1, 2022.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

Article VII, s. 18 of the Florida Constitution governs laws that require counties and municipalities to spend funds, limit the ability of counties and municipalities to raise revenue, or reduce the percentage of state tax shared with counties and municipalities.

Subsection (b) of s. 18, Art. VII of the Florida Constitution provides that except upon approval of each house of the Legislature by two-thirds vote of the membership, the legislature may not enact, amend, or repeal any general law if the anticipated effect of doing so would be to reduce the authority that municipalities or counties have to raise revenue in the aggregate, as such authority existed on February 1, 1989. However, the mandates requirements do not apply to laws that have an insignificant impact,^{39, 40} which is \$2.3 million or less for Fiscal Year 2022-2023.⁴¹

The Revenue Estimating Conference determined that the bill will reduce the authority that counties have to raise revenue from the local option sales tax by \$3.9 million in Fiscal Year 2022-2023.⁴² Therefore, the mandates provision may apply.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

³⁹ FLA. CONST. art. VII, s. 18(d).

⁴⁰ An insignificant fiscal impact is the amount not greater than the average statewide population for the applicable fiscal year multiplied by \$0.10. See Florida Senate Committee on Community Affairs, *Interim Report 2012-115: Insignificant Impact*, (September 2011), available at <http://www.flsenate.gov/PublishedContent/Session/2012/InterimReports/2012-115ca.pdf> (last visited Jan. 13, 2022).

⁴¹ Based on the Demographic Estimating Conference's population adopted on March 3, 2021. The conference packet is available at <http://edr.state.fl.us/Content/conferences/population/ConferenceResults.pdf> (last visited Jan. 13, 2022).

⁴² The Revenue Estimating Conference, *2022 Regular Session Revenue Estimating Conference: Impact Conference Results*, p. 45-46 (Nov. 19, 2021), available at http://edr.state.fl.us/Content/conferences/revenueimpact/archives/2022/_pdf/Impact1119.pdf (last visited Jan. 13, 2022).

D. State Tax or Fee Increases:

Section 19 of Article VII, Florida Constitution requires increased taxes or fees to be passed in a separate bill and by two-thirds vote of the membership of each house of the Legislature. This bill does not increase any taxes or fees, and thus the increased tax or fee requirements do not apply.

E. Other Constitutional Issues:

None identified.

V. Fiscal Impact Statement:**A. Tax/Fee Issues:**

The Revenue Estimating Conference estimates that the bill will reduce General Revenue receipts by \$23.3 million in Fiscal Year 2022-2023 and by \$25.4 million in future years. The bill will reduce local government revenues by \$6.9 million in Fiscal Year 2022-23 and by \$7.5 million in future years.

B. Private Sector Impact:

The private sector will experience reduced costs associated with aircraft purchases due to the sales and use tax exemption provided in this legislation. Some individuals may delay their purchase of a qualifying aircraft until implementation of this bill in order to realize cost savings of the tax exemption.

C. Government Sector Impact:

The Department of Revenue will be required to update Rules 12A-1.007 and 12A-1.097, Florida Administrative Code, and Forms DR-15AIR, DR-300400, GT-800008, and GT-800009. Additionally, the Department will need to eliminate or revise certain brochures relating to the taxation of aircraft. The Department estimates that it will expend less than \$25,000 to perform these updates.⁴³

VI. Technical Deficiencies:

None.

VII. Related Issues:

The bill amends the sales and use tax exemption to apply simply to “an aircraft.” There is no definition of the term “aircraft” in ch. 212, F.S. However, s. 330.27, F.S., defines “aircraft” as “a powered or unpowered machine or device capable of atmospheric flight, except a parachute or other such device used primarily as safety equipment.” This definition may capture machines or devices other than airplanes, including drones and certain model airplanes.

⁴³ Fla. Dep’t. of Revenue, *SB 786 Agency Analysis*, p. 2-3 (Nov. 4, 2022) (on file with the Senate Committee on Commerce and Tourism).

VIII. Statutes Affected:

This bill substantially amends section 212.08 of the Florida Statutes.

IX. Additional Information:

- A. **Committee Substitute – Statement of Substantial Changes:**
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS by Finance and Tax on January 13, 2022:

The CS:

- Defines “aircraft.”

- B. **Amendments:**

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill’s introducer or the Florida Senate.



303042

LEGISLATIVE ACTION

Senate	.	House
Comm: FAV	.	
01/13/2022	.	
	.	
	.	
	.	

The Committee on Finance and Tax (Hutson) recommended the following:

Senate Amendment (with title amendment)

Delete lines 41 - 42
and insert:
exempt from the tax imposed by this chapter. As used in this
paragraph, the term "aircraft" means a manned vehicle capable of
flight which is designed to transport persons or property.
~~"common carrier" means an airline operating under~~

===== T I T L E A M E N D M E N T =====



303042

11 And the title is amended as follows:
12 Delete line 5
13 and insert:
14 certain aircraft, from the sales and use tax; defining
15 the term "aircraft"; deleting

By Senator Hutson

7-00872-22

2022786__

A bill to be entitled

An act relating to aircraft sales and lease tax; amending s. 212.08, F.S.; exempting all aircraft sales and leases, rather than the sales and leases of certain aircraft, from the sales and use tax; deleting the definition of the term "common carrier" to conform to changes made by the act; providing an effective date.

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

Section 1. Paragraph (ss) of subsection (7) of section 212.08, Florida Statutes, is amended to read:

212.08 Sales, rental, use, consumption, distribution, and storage tax; specified exemptions.—The sale at retail, the rental, the use, the consumption, the distribution, and the storage to be used or consumed in this state of the following are hereby specifically exempt from the tax imposed by this chapter.

(7) MISCELLANEOUS EXEMPTIONS.—Exemptions provided to any entity by this chapter do not inure to any transaction that is otherwise taxable under this chapter when payment is made by a representative or employee of the entity by any means, including, but not limited to, cash, check, or credit card, even when that representative or employee is subsequently reimbursed by the entity. In addition, exemptions provided to any entity by this subsection do not inure to any transaction that is otherwise taxable under this chapter unless the entity has obtained a sales tax exemption certificate from the department

Page 1 of 2

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

7-00872-22

2022786__

or the entity obtains or provides other documentation as required by the department. Eligible purchases or leases made with such a certificate must be in strict compliance with this subsection and departmental rules, and any person who makes an exempt purchase with a certificate that is not in strict compliance with this subsection and the rules is liable for and shall pay the tax. The department may adopt rules to administer this subsection.

(ss) Aircraft sales or leases.—The sale or lease of a ~~qualified aircraft or an aircraft of more than 15,000 pounds maximum certified takeoff weight for use by a common carrier~~ is exempt from the tax imposed by this chapter. ~~As used in this paragraph, "common carrier" means an airline operating under Federal Aviation Administration regulations contained in Title 14, chapter I, part 121 or part 129 of the Code of Federal Regulations.~~

Section 2. This act shall take effect July 1, 2022.

Page 2 of 2

CODING: Words ~~stricken~~ are deletions; words underlined are additions.



303042

LEGISLATIVE ACTION

Senate	.	House
Comm: FAV	.	
01/13/2022	.	
	.	
	.	
	.	

The Committee on Finance and Tax (Hutson) recommended the following:

Senate Amendment (with title amendment)

Delete lines 41 - 42
and insert:
exempt from the tax imposed by this chapter. As used in this
paragraph, the term "aircraft" means a manned vehicle capable of
flight which is designed to transport persons or property.
~~"common carrier" means an airline operating under~~

===== T I T L E A M E N D M E N T =====



303042

11 And the title is amended as follows:
12 Delete line 5
13 and insert:
14 certain aircraft, from the sales and use tax; defining
15 the term "aircraft"; deleting



The Florida Senate

Committee Agenda Request

To: Senator Ana Maria Rodriguez, Chair
Committee on Finance and Tax

Subject: Committee Agenda Request

Date: November 30, 2021

I respectfully request that **Senate Bill #786**, relating to Aircraft Sales and Lease Tax, be placed on the:

- committee agenda at your earliest possible convenience.
- next committee agenda.

A handwritten signature in black ink that reads "Travis Hutson".

Senator Travis Hutson
Florida Senate, District 7

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Finance and Tax

BILL: CS/SB 830

INTRODUCER: Commerce and Tourism Committee and Senator Hooper

SUBJECT: Sales Tax

DATE: January 13, 2022

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Harmsen</u>	<u>McKay</u>	<u>CM</u>	Fav/CS
2.	<u>Sachmorov</u>	<u>Babin</u>	<u>FT</u>	Favorable
3.	_____	_____	<u>AP</u>	_____

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

SB 830 decreases the applicable state sales tax on the sale of a new mobile home from 6 percent to 3 percent. A “new mobile home” is one that has never been transferred by a manufacturer or similar entity to a purchaser.

The Revenue Estimating Conference determined that the bill will reduce General Revenue Fund receipts by \$14.4 million in Fiscal Year 2022-2023 with a recurring impact of \$15.2 million. The bill will reduce local revenues by \$1.8 million in Fiscal Year 2022-2023 with a recurring local impact of \$2 million.

The bill takes effect on October 1, 2022.

II. Present Situation:

Florida Sales and Use Tax

Florida levies a 6 percent sales and use tax on the sale or rental of most tangible personal property,¹ admissions,² transient rentals,³ and a limited number of services. Chapter 212, F.S., contains provisions authorizing the levy and collection of Florida’s sales and use tax, as well as

¹ Section 212.05(1)(a)1.a., F.S.

² Section 212.04(1)(b), F.S.

³ Section 212.03(1)(a), F.S.

the exemptions and credits applicable to certain items or uses under specified circumstances. Sales tax is added to the price of the taxable good or service and collected from the purchaser at the time of sale.⁴

Counties are authorized to impose local discretionary sales surtaxes in addition to the state sales tax.⁵ A surtax applies to “all transactions occurring in the county which transactions are subject to the state tax imposed on sales, use, services, rentals, admissions, and other transactions by [ch. 212, F.S.], and communications services as defined in ch. 202.”⁶ The discretionary sales surtax is based on the tax rate imposed by the county where the taxable goods or services are sold or delivered. Discretionary sales surtax rates currently levied vary by county in a range of 0.5 to 2.5 percent.⁷

Generally, tangible personal property that is sold in an isolated or occasional sale is exempt from the state sales tax.⁸ A seller makes an isolated or occasional sale if the sale or series of sales occurs no more than twice during any 12-month period.⁹ A seller is required to register as a dealer if he or she completes more than three sales of the same type of item during a 12-month period.¹⁰ The sale of mobile homes, aircrafts, boats, and motor vehicles are expressly excluded from the isolated or occasional state sales and use tax exemption.¹¹

Florida Taxation of Mobile Homes

Mobile homes, aircrafts, boats, and certain motor vehicles are classified as tangible personal property¹² and are subject to a 6 percent sales tax at each sale, including an occasional or isolated sale.¹³ In addition, a Florida mobile home is taxed annually in one of the following three ways:¹⁴

- Assessed and taxed as real property by the county property appraiser;
- Subjected to an annual license tax by the county tax collector’s office; or
- Assessed and taxed as tangible personal property by the county property appraiser.

If the mobile home’s owner permanently affixes the mobile home to land that he or she owns, then the mobile home may be considered real property.¹⁵ The local property appraiser assesses and then lists the mobile home as real property based on his or her findings. If the mobile home is real property, the owner must make a one-time purchase of a \$3 RP decal from his or her local

⁴ Section 212.07(2), F.S.

⁵ Section 212.055, F.S.

⁶ Section 212.054(2)(a), F.S.

⁷ Office of Economic and Demographic Research, *Florida Tax Handbook*, 227-228 (2021), available at <http://edr.state.fl.us/Content/revenues/reports/tax-handbook/taxhandbook2021.pdf> (last visited Dec. 09, 2021).

⁸ Fla. Admin. Code R. 12A01.037(1). See also, s. 212.02(2), defining “business” as activity engaged in by a person with the object of private or public gain, benefit, or advantage.

⁹ Fla. Admin. Code R. 12A-1.037(3)(b).

¹⁰ *Id.*

¹¹ See, s. 212.05(1)(a)1.b., and Fla. Admin. Code R. 12A-1.037(2)(a)1.

¹² Section 212.02(19), F.S.

¹³ Section 212.05(1)(a)1.b., F.S.

¹⁴ See generally, Florida Department of Revenue, Form 800047, *Taxation of Mobile Homes in Florida* (rev. Dec. 2017), available at https://floridarevenue.com/Forms_library/current/gt800047.pdf (last visited Dec. 09, 2021).

¹⁵ Section 320.015, F.S.

county tax collector's office.¹⁶ The RP decal subjects the mobile home to annual assessment and taxation by the county property appraiser. If the mobile home continues to be affixed to the land, it is considered real property, and therefore taxed as such (exempt from subsequent sales and use tax) at subsequent sales.¹⁷

A mobile home that is affixed to land that is owned by someone other than the mobile home's owner is subject to an annual license tax, which is levied by the Department of Highway Safety and Motor Vehicles, and can be purchased at the local county tax collector's office.¹⁸ This license tax varies from \$20 to \$80, based on the mobile home's length.¹⁹

Any mobile home that qualifies for, but fails to pay, the license tax, is assessed and taxed as tangible personal property by the county property appraiser.²⁰ The mobile home is then placed on the tangible personal property assessment roll and is taxed as such for the year. If the owner purchases an annual license tax for the mobile home before January 1 of the next year, then the mobile home will be removed from the tangible personal property assessment roll, and would not be subject to further tangible personal property taxation.²¹

III. Effect of Proposed Changes:

The bill reduces state sales tax from 6 percent to 3 percent on the sale of a new mobile home. The bill relies on the definition of "new mobile home" provided in s. 319.001(8), F.S., which defines it as a mobile home for which equitable or legal title has not yet been transferred by a manufacturer, distributor, importer, or dealer to an ultimate purchaser.

The bill takes effect on October 1, 2022.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

Article VII, s. 18 of the Florida Constitution governs laws that require counties and municipalities to spend funds, limit the ability of counties and municipalities to raise revenue, or reduce the percentage of state tax shared with counties and municipalities.

Subsection (b) of s. 18, Art. VII of the Florida Constitution provides that except upon approval of each house of the Legislature by two-thirds vote of the membership, the

¹⁶ While the RP decal is issued by local county property appraisers, it is provided by the Department of Highway Safety and Motor Vehicles to the county tax collectors. The \$3 fee is distributed as follows: \$2.50 to the tax collector, 25 cents to the property appraiser, and 25 cents to the DHSMV. Section 320.0815(2), F.S. *See, e.g.*, Florida Department of Revenue, *Declaration of Mobile Home as Real Property: Form DR-402* (Aug. 1995), <https://floridarevenue.com/property/Documents/dr402.pdf> (last visited Dec. 09, 2021).

¹⁷ Florida Department of Revenue, *SB 830 Agency Analysis* (Nov. 16, 2021) (on file with the Senate Committee on Commerce and Tourism).

¹⁸ Florida Department of Revenue, Form 800047, *Taxation of Mobile Homes in Florida* (rev. Dec. 2017), available at https://floridarevenue.com/Forms_library/current/gt800047.pdf (last visited Dec. 09, 2021).

¹⁹ Section 320.08(11), F.S.

²⁰ Florida Department of Revenue, Form 800047, *Taxation of Mobile Homes in Florida* (rev. Dec. 2017), available at https://floridarevenue.com/Forms_library/current/gt800047.pdf (last visited Dec. 09, 2021).

²¹ *Id.*

legislature may not enact, amend, or repeal any general law if the anticipated effect of doing so would be to reduce the authority that municipalities or counties have to raise revenue in the aggregate, as such authority existed on February 1, 1989. However, the mandates requirements do not apply to laws that have an insignificant impact, which is \$2.3 million or less for Fiscal Year 2022-2023.

The mandates provision of Art. VII, Section 18, of the Florida Constitution will not apply. The bill only adjusts the state portion of the sales tax rate; it does not reduce the authority that counties have to raise revenue from the local option sales tax.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

Section 19 of Article VII, Florida Constitution requires increased taxes or fees to be passed in a separate bill and by two-thirds vote of the membership of each house of the Legislature. This bill does not increase any taxes or fees; therefore, the increased tax or fee requirements do not apply.

E. Other Constitutional Issues:

None identified.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

The Revenue Estimating Conference determined that the bill will reduce General Revenue Fund receipts by \$14.4 million in Fiscal Year 2022-2023 with a recurring impact of \$15.2 million. The bill will reduce local revenues by \$1.8 million in Fiscal Year 2022-2023 with a recurring local impact of \$2 million.

B. Private Sector Impact:

The purchaser of a new mobile home from a dealer will pay 3 percent state sales and use tax instead of a 6 percent state tax.

C. Government Sector Impact:

The Department of Revenue may be required to undergo rulemaking to update Rule 12A-1.007 of the Florida Administrative Code.

The Department of Revenue may incur expenses related to creating and issuing a Taxpayer Information Publication (TIP) to alert eligible taxpayers about the tax reduction and exemption.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 212.05 of the Florida Statutes.

IX. Additional Information:

- A. **Committee Substitute – Statement of Substantial Changes:**
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS by Commerce and Tourism on November 30, 2021:

- Removes the sale of used mobile homes from the sales tax reduction provided in the bill;
- Reduces the applicable state sales tax on the sale of new mobile homes from 6 percent to 3 percent, rather than limiting the tax to 50 percent of the sales price; and
- Delays the effective date to October 1, 2022, which provides the DOR time to notify affected parties and update their processes before the tax reduction goes into effect.

- B. **Amendments:**

None.

By the Committee on Commerce and Tourism; and Senator Hooper

577-01294-22

2022830c1

1 A bill to be entitled
2 An act relating to sales tax; amending s. 212.05,
3 F.S.; specifying the sales tax rate on new mobile
4 homes; defining the term "new mobile home"; providing
5 an effective date.

6
7 Be It Enacted by the Legislature of the State of Florida:

8
9 Section 1. Paragraph (n) is added to subsection (1) of
10 section 212.05, Florida Statutes, to read:

11 212.05 Sales, storage, use tax.—It is hereby declared to be
12 the legislative intent that every person is exercising a taxable
13 privilege who engages in the business of selling tangible
14 personal property at retail in this state, including the
15 business of making or facilitating remote sales; who rents or
16 furnishes any of the things or services taxable under this
17 chapter; or who stores for use or consumption in this state any
18 item or article of tangible personal property as defined herein
19 and who leases or rents such property within the state.

20 (1) For the exercise of such privilege, a tax is levied on
21 each taxable transaction or incident, which tax is due and
22 payable as follows:

23 (n) At the rate of 3 percent of the sales price on the sale
24 of a new mobile home. As used in this paragraph, the term "new
25 mobile home" has the same meaning as in s. 319.001.

26 Section 2. This act shall take effect October 1, 2022.

The Florida Senate

APPEARANCE RECORD

Deliver both copies of this form to Senate professional staff conducting the meeting

1/13

Meeting Date

830

Bill Number or Topic

Committee

Amendment Barcode (if applicable)

Name Lori KILLINGER

Phone 850 545 2909

Address 315 S. Calhoun St.

Email lkillinger@llw-law.com

Street

Tallahassee

3230

City

State

Zip

Speaking: For Against Information

OR

Waive Speaking: In Support Against

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

Florida Manufactured Housing Assn.

I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. 2020-2022 Joint Rules.pdf | flsenate.gov

This form is part of the public record for this meeting.

The Florida Senate

APPEARANCE RECORD

1-13-2021

Meeting Date

830

Bill Number or Topic

Deliver both copies of this form to Senate professional staff conducting the meeting

Committee

Amendment Barcode (if applicable)

Name Jim Ayotte Phone 850-907-9111

Address 1284 TIMBERLANE RD. Street Email JAYOTTE@FMHA.ORG

City Tallahassee State FL Zip 32312

Speaking: [] For [] Against [] Information OR Waive Speaking: [x] In Support [] Against

PLEASE CHECK ONE OF THE FOLLOWING:
[] I am appearing without compensation or sponsorship.
[] I am a registered lobbyist, representing:
[x] I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by: FMHA

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This form is part of the public record for this meeting.



The Florida Senate

Committee Agenda Request

To: Honorable Ana Maria Rodriguez, Chair
Committee on Finance and Tax

Subject: Committee Agenda Request

Date: November 30, 2021

I respectfully request that **Senate Bill # 830**, relating to Sales Tax, be placed on the:

- committee agenda at your earliest possible convenience.
- next committee agenda.

A handwritten signature in black ink, appearing to read "Ed Hooper", written over a horizontal line.

Senator Ed Hooper
Florida Senate, District 16

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Finance and Tax

BILL: SM 982

INTRODUCER: Senator Diaz

SUBJECT: Memorial/Internal Revenue Service Regulations

DATE: January 13, 2022

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Covin	Babin	FT	Favorable
2.			RC	

I. Summary:

SM 982 is a memorial to the Congress of the United States urging Congress to protect consumers from harmful and intrusive Internal Revenue Service regulations, such as burdensome reporting requirements for financial institutions.

Legislative memorials are not subject to the Governor's veto power and are not presented to the Governor for review. Memorials have no force of law, as they are mechanisms for formally petitioning the federal government to act on a particular subject.

The memorial does not have a fiscal impact on the state or local governments.

II. Present Situation:

The memorial appears to urge Congress to limit reporting requirements for financial institutions. Federal law does require reporting by financial institutions, and recently proposed federal legislation included an expansion of those reporting requirements; however, those additional reporting requirements were removed from the latest draft of the federal legislation. A separate, recently enacted federal law includes an expansion of reporting requirements imposed on brokers relating to digital assets, which may apply to financial institutions that serve as brokers.

Cash Payment Reporting

Current federal law requires a person to report cash transactions of more than \$10,000 received in a trade or business.¹ "Person" means an individual, company, corporation, partnership, association, trust, or estate.² "Cash" includes coins and currency of the United States or any

¹ Internal Revenue Code (IRC), s. 6050I. Cash payment report helps government combat money laundering, IRS, <https://www.irs.gov/newsroom/cash-payment-report-helps-government-combat-money-laundering> (Last visited Jan. 10, 2022).

² IRC, s. 7701(a)(1).

foreign country.³ Cash also includes a cashier's check, bank draft, traveler's check, or money order with a face amount of \$10,000 or less that a person receives for either a designated reporting transaction or any transaction in which the person knows the payer is trying to avoid a report.⁴

Banks and other financial institutions are required to report each deposit, withdrawal, exchange of currency or other payment or transfer, by, through, or to the bank or financial institution which involves a transaction in currency of more than \$10,000, including cash purchases of cashier's checks, treasurer's checks, bank checks, bank drafts, traveler's checks, and money orders with a face value of more than \$10,000, to the Internal Revenue Service (IRS).⁵

The Infrastructure Investment and Jobs Act

The Infrastructure Investment and Jobs Act (Act) was signed into law on November 15, 2021.⁶ The Act adds additional reporting requirements for a broker that facilitates the movement of "digital assets," or cryptocurrency.⁷ Applicable to returns required to be filed and statements required to be furnished after December 31, 2023, the Act:

- Expands the definition of broker to include "any person who (for consideration) is responsible for regularly providing any service effectuating transfers of digital assets on behalf of another person."⁸ A broker is required to file a return with the IRS showing the name and address of each customer with details regarding gross proceeds and other information.⁹
- Modifies the definition of "specified security" to include digital assets.
- Requires brokers to report transfers of digital assets that are not otherwise subject to reporting to the IRS.¹⁰

The act also expands the definition of cash for purposes of cash reporting to include digital assets. By including digital assets in the definition of cash, the Act extends the reporting requirements for transactions of more than \$10,000 in cash to transactions involving digital assets of more than \$10,000. The new reporting requirement requires a person that is currently required to comply with cash reporting requirements to collect information and report to the IRS

³ IRC, s. 6050I(d).

⁴ See IRC, s. 6050I(d) and (f). A "designated reporting transaction" is the retail sale of tangible personal property that's generally suited for personal use, expected to last at least one year and has a sales price of more than \$10,000, such as sales of automobiles, jewelry, mobile homes, and furniture, the sale of a collectible, or the sale of travel and entertainment if the total price of the items for the same trip or entertainment event is more than \$10,000. Cash payment report helps government combat money laundering, IRS, <https://www.irs.gov/newsroom/cash-payment-report-helps-government-combat-money-laundering>, (Last visited Jan. 10, 2022).

⁵ *Id.* 31 C.F.R. ss. 1010.311 and 1010.313; and 31 U.S.C. ss. 5312 and 5313.

⁶ Infrastructure and Jobs Act, Pub. L. No. 117-58 (2021), § 80603, <https://www.congress.gov/bill/117th-congress/house-bill/3684/text> (Last visited Jan. 10, 2022).

⁷ *Id.* IRC, s. 6045(g)(3)(D) defines "digital asset" to mean, except as otherwise provided by the [United States] Secretary [of the Treasury], any digital representation of value which is recorded on a cryptographically secured distributed ledger or any similar technology as specified by the Secretary.

⁸ *Id.* IRC, s. 6045(c)(1)(D).

⁹ *Id.* IRC, s. 6045(a).

¹⁰ *Id.* IRC, s. 6045A(d).

details of transactions involving digital assets, or cryptocurrency transactions, of more than \$10,000.¹¹

The Biden Administration Revenue Proposals

In the Biden Administration’s proposal released in May 2021, a provision provided the IRS increased scrutiny over bank accounts.¹² The proposal would require banks, credit unions, and other financial companies to monitor deposits and withdrawals in accounts that have balances of more than \$600 and submit information to the IRS. Under a revised proposal, financial accounts with money flowing in and out that total \$10,000 or more annually would be subject to additional reporting requirements.¹³ In the current version of the Build Back Better Act passed by the United States House of Representatives on November 19, 2021, the provision requiring additional reporting by banks, credit unions, and other financial companies was omitted.¹⁴

Senate Memorial

A Senate Memorial is “a measure addressed to an executive agency or another legislative body, usually Congress, which expresses the consensus of the Florida Legislature or urges that certain action be taken on a matter within the jurisdiction of the agency or body to which it is addressed. When both houses adopt the measure, the memorial is signed by the legislative officers and transmitted to the Secretary of State for presentation to the addressee. A memorial is not subject to the approval or veto powers of the Governor, is not subject to constitutional title requirements, and does not have the effect of law.”¹⁵

III. Effect of Proposed Changes:

The Senate memorial would urge the United States Congress to protect consumers from harmful and intrusive Internal Revenue Service regulations and dispatch a message to that effect.

Copies of the memorial will be sent by Florida’s Secretary of State to the President of the United States, the President of the United States Senate, the Speaker of the United States House of Representatives, and each member of the Florida delegation to the United States Congress.

The memorial contains six whereas clauses. The clauses outline concerns regarding data privacy and security relating to a proposed expansion of reporting requirements as well as concerns regarding additional regulations imposed on financial institutions.

¹¹ *Id.* IRC, s. 6050I(d).

¹² General Explanations of the Administration’s Fiscal Year 2022 Revenue Proposals, United States Department of the Treasury, May 2021, <https://home.treasury.gov/system/files/131/General-Explanations-FY2022.pdf> (Last visited Jan. 10, 2022).

¹³ FACT SHEET: Tax Compliance Proposals Will Improve Tax Fairness While Protecting Taxpayer Privacy, United States Department of Treasury, Oct. 19, 2021, <https://home.treasury.gov/news/press-releases/jy0415> (Last visited Jan. 10, 2022).

¹⁴ Build Back Better Act, H.R. 5376, 117th Cong. (2021) <https://www.congress.gov/bill/117th-congress/house-bill/5376> (Last visited Jan. 10, 2022).

¹⁵ Senate Glossary, <https://www.flsenate.gov/Reference/Glossary> (Last visited Jan. 10, 2022).

IV. Constitutional Issues:**A. Municipality/County Mandates Restrictions:**

As SM 982 is a memorial requesting an action of the federal government, mandate restrictions do not apply because the bill does not require counties and municipalities to spend funds, reduce the counties' or municipalities' ability to raise revenue, or reduce the percentage of state tax shared with counties or municipalities.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

Laws that create or raise state taxes or fees must be passed by two-thirds vote of the membership of each house of the Legislature in a separate bill that contains no other subject.¹⁶ The memorial does not increase any taxes or fees; therefore, the increased tax or fee requirements do not apply.

E. Other Constitutional Issues:

None identified.

V. Fiscal Impact Statement:**A. Tax/Fee Issues:**

The memorial does not affect state or local revenues.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

¹⁶ See FLA. CONST., art. VII, s. 19.

VII. Related Issues:

None.

VIII. Statutes Affected:

None.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

By Senator Diaz

36-01028-22

2022982__

Senate Memorial

A memorial to the Congress of the United States urging Congress to protect consumers from harmful and intrusive Internal Revenue Service regulations.

WHEREAS, the Biden Administration and some in Congress have proposed changes to tax information reporting which would require financial institutions to provide the Internal Revenue Service reports of incoming and outgoing transactions from every customer financial account with gross inflows and outflows that range from \$600 to \$10,000 in a tax year, and

WHEREAS, these proposals would require financial institutions to include in the reports a breakdown for physical cash, transactions with foreign accounts, and transfers to and from another account with the same owner, and would be applicable to both personal and business accounts, and

WHEREAS, savings, transactional, loan, and investment accounts at those financial institutions would be subject to this proposed new requirement, and

WHEREAS, there are real concerns regarding data privacy and security if this new requirement is put in place as keeping member and customer account information private and secure is among the primary goals of all financial institutions in this state, and this new requirement at any threshold dollar amount could jeopardize the security of accounts and personal information, and

WHEREAS, privacy is cited as one of the primary reasons individuals choose not to open bank accounts, and this proposal lays a foundation for new and future barriers for the unbanked

Page 1 of 2

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

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or underbanked, and

WHEREAS, financial institutions throughout this state and nation are already subject to many burdensome regulations, and the inclusion of this new, hyperextensive reporting requirement would deepen that burden in an untenable and destructive fashion for many community-based financial institutions, NOW, THEREFORE,

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

That the Congress of the United States is urged to protect consumers from harmful and intrusive Internal Revenue Service regulations, such as burdensome reporting requirements for financial institutions.

BE IT FURTHER RESOLVED that the Secretary of State is directed to dispatch copies of this memorial to the President of the United States, the President of the United States Senate, the Speaker of the United States House of Representatives, the Commissioner of the Internal Revenue Service, and each member of the Florida delegation to the United States Congress.

Page 2 of 2

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

January 13, 2022
Meeting Date

F&T
Committee

Name Anthony DiMarco

Address 1001 Thomasville Rd
Street

Tallahassee FL 32302
City State Zip

The Florida Senate

APPEARANCE RECORD

Deliver both copies of this form to
Senate professional staff conducting the meeting

982
Bill Number or Topic

Phone (850) 228-2205
Amendment Barcode (if applicable)

Email ademara@floridabankers.com

Speaking: For Against Information **OR** Waive Speaking: In Support Against

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:
FL Bankers Assoc

I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022JointRules.pdf flsenate.gov](#)

This form is part of the public record for this meeting.



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

SENATOR MANNY DIAZ, JR.
36th District

COMMITTEES:
Health Policy Chair
Appropriations Subcommittee on
Education Vice Chair
Appropriations
Appropriations Subcommittee on Health
and Human Services
Education
Commerce and Tourism
Rules

December 14, 2021

Honorable Senator Ana Maria Rodriguez
Chair
Committee on Finance and Tax

Honorable Chair Rodriguez,

I respectfully request Senate Bill Number 982 Memorial/Internal Revenue Service Regulations be placed on the next committee agenda.

This bill aims to urge Congress to protect consumers from harmful and intrusive Internal Revenue Service regulations, etc.

Sincerely appreciate your support.

A handwritten signature in blue ink, appearing to read "M. Diaz, Jr.", written over a horizontal line.

Senator Manny Diaz, Jr.
Florida Senate, District 36

CC: Robert Babin, Staff Director
Stephanie Bell-Parke, Committee Administrative Assistant
Lia Duran, Legislative Assistant

REPLY TO:

- 10001 Northwest 87th Avenue, Hialeah Gardens, Florida 33016 (305) 364-3073
- 306 Senate Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5036

Senate's Website: www.flsenate.gov

Wilton Simpson
President of the Senate

Aaron Bean
President Pro Tempore

CourtSmart Tag Report

Room: SB 110
Caption: Finance & Tax Committee

Case No.:

Type:
Judge:

Started: 1/13/2022 9:01:50 AM
Ends: 1/13/2022 9:26:13 AM **Length:** 00:24:24

9:01:49 AM Meeting called to order by Chair Rodriguez
9:01:58 AM Roll call by CAA Stephanie Bell-Parke
9:02:05 AM Quorum present
9:02:15 AM Comments from Chair Rodriguez, Senator Cruz is excused
9:02:42 AM Introduction of Tab 5, SM 982 by Chair Rodriguez
9:02:48 AM Explanation of SM 982, Memorial/Internal Revenue Service Regulations by Senator Diaz
9:03:58 AM Comments from Chair Rodriguez
9:04:03 AM Question from Senator Berman
9:04:10 AM Response from Senator Diaz
9:04:40 AM Comments from Chair Rodriguez
9:04:49 AM Speaker Anthony DiMarco, Florida Bankers Association waives in support
9:05:03 AM Comments from Chair Rodriguez
9:05:24 AM Senator Berman in debate
9:05:40 AM Senator Rodrigues in debate
9:06:30 AM Closure waived
9:06:33 AM Roll call by CAA
9:06:38 AM SM 982 reported favorably
9:06:55 AM Introduction of Tab 2, SB 406 by Chair Rodriguez
9:07:11 AM Explanation of SB 406, Secured Transactions by Senator Berman
9:08:09 AM Comments from Chair Rodriguez
9:08:16 AM Aimee Diaz Lyon, The Business Law Section of the Florida Bar waives in support
9:08:26 AM Martha Edenfield, The Real Property, Probate and Trust Law Section of the Florida Bar waives in support
9:08:38 AM Comments from Chair Rodriguez
9:08:41 AM Closure waived
9:08:43 AM Roll call by CAA
9:08:49 AM SB 406 reported favorably
9:08:59 AM Introduction of Tab 3, SB 786 by Chair Rodriguez
9:09:19 AM Explanation of SB 786, Aircraft Sales and Lease Tax by Senator Hutson
9:09:43 AM Comments from Chair Rodriguez
9:09:50 AM Question from Senator Jones
9:09:54 AM Response from Senator Hutson
9:10:14 AM Introduction of Amendment Barcode No. 303042 by Chair Rodriguez
9:10:19 AM Explanation of Amendment by Senator Hutson
9:10:27 AM Comments from Chair Rodriguez
9:10:39 AM Closure waived
9:10:42 AM Amendment adopted
9:10:45 AM Comments from Chair Rodriguez
9:10:54 AM Question from Senator Jones
9:11:02 AM Response from Senator Hutson
9:11:35 AM Question from Senator Berman

9:11:41 AM Response from Senator Hutson
9:12:26 AM Comments from Chair Rodriguez
9:12:27 AM Senator Berman in debate
9:12:38 AM Comments from Chair Rodriguez
9:12:40 AM Closure waived
9:12:42 AM Roll call by CAA
9:12:49 AM CS/SB 786 reported favorably
9:12:58 AM Introduction of Tab 4, CS/SB 830 by Chair Rodriguez
9:13:14 AM Explanation of CS/SB 830, Sales Tax by Senator Hooper
9:14:17 AM Comments from Chair Rodriguez
9:14:20 AM Question from Senator Harrell
9:14:24 AM Response from Senator Hooper
9:14:40 AM Comments from Chair Rodriguez
9:14:49 AM Lori Killinger, Florida Manufactured Housing Association in support
9:14:54 AM Jim Ayotte waives in support
9:15:00 AM Comments from Chair Rodriguez
9:15:29 AM Senator Rodrigues in debate
9:15:50 AM Comments from Chair Rodriguez
9:15:52 AM Senator Hooper in closure
9:15:57 AM Roll call by CAA
9:16:02 AM CS/SB 830 reported favorably
9:16:12 AM Chair passed to Senator Rodrigues
9:16:24 AM Introduction of Tab 1, SB 228 by Chair Rodrigues
9:16:37 AM Explanation of SB 228, Resiliency Energy Environment Florida Programs by Senator Rodriguez
9:18:19 AM Introduction of Amendment Barcode No. 687058 by Chair Rodrigues
9:18:46 AM Explanation of Amendment by Senator Rodriguez
9:19:25 AM Comments from Chair Rodrigues
9:19:39 AM Question from Senator Berman
9:19:44 AM Response from Senator Rodriguez
9:20:12 AM Comments from Senator Berman
9:20:27 AM Comments from Chair Rodrigues
9:20:45 AM Amendment adopted
9:20:48 AM Comments from Chair Rodrigues
9:21:06 AM Edward Metzger waives in support
9:21:22 AM Speaker Anthony DiMarco, Florida Bankers Association in opposition
9:23:56 AM Comments from Chair Rodrigues
9:24:05 AM Senator Berman in debate
9:24:41 AM Comments from Chair Rodrigues
9:24:47 AM Senator Rodriguez in closure
9:24:54 AM Roll call by CAA
9:25:26 AM CS/SB 228 reported favorably
9:25:45 AM Chair passed to Senator Rodriguez
9:25:51 AM Comments from Chair Rodriguez
9:25:57 AM Senator Hooper moves to adjourn
9:26:04 AM Meeting adjourned

THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:

Finance and Tax, *Vice Chair*
Appropriations Subcommittee on Education
Appropriations Subcommittee on Transportation,
Tourism, and Economic Development
Community Affairs
Health Policy
Military and Veterans Affairs, Space,
and Domestic Security

JOINT COMMITTEE:

Joint Legislative Auditing Committee

SENATOR JANET CRUZ

18th District

January 12, 2022

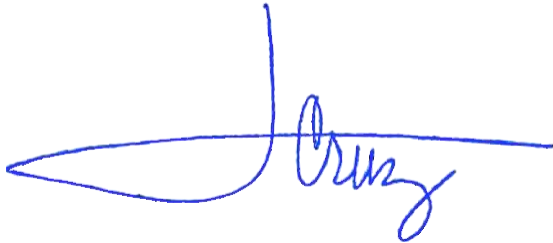
The Honorable Ana Maria Rodriguez Chair
Committee on Finance and Tax
215 Knott Building
404 South Monroe Street,
Tallahassee, FL 32399-1400

Dear Chair Rodriguez,

I respectfully request an excused absence from the Committee on Finance and Tax meeting scheduled for January 13, 2022. My mother is currently in the hospital and I will not be able to attend the scheduled committee meeting.

Please let me know if I may be of any further assistance with this request.

Respectfully,



Senator Janet Cruz

District 18

REPLY TO:

- 210A S. MacDill Avenue, Tampa, Florida 33609 (813) 348-1017 FAX: (888) 263-3681
- 216 Senate Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5018

Senate's Website: www.flsenate.gov

WILTON SIMPSON
President of the Senate

AARON BEAN
President Pro Tempore