

1 A bill to be entitled
2 An act relating to improvements to real property;
3 amending s. 163.08, F.S.; providing and revising
4 definitions; prohibiting financing agreements for
5 qualifying improvements to fund ancillary work unless
6 specified criteria are met; prohibiting financing
7 agreements for qualifying improvements from being
8 approved unless specified criteria are met; requiring
9 the program administrator or other entity to use
10 specified information provided by the property owner
11 to determine the owner's ability to pay the annual
12 non-ad valorem assessment; providing criteria to be
13 used in making the determination; requiring the local
14 government or program administrator to develop a
15 written disclosure form to be given to property owners
16 that meets specified criteria; requiring the local
17 government or program administrator to provide a
18 printed cancellation form to and conduct an oral,
19 recorded telephone call with the property owner at a
20 specified time and containing specified information;
21 requiring the local government or program
22 administrator to develop procedures to address the
23 needs of elderly persons; specifying the total amount
24 of any non-ad valorem assessment that may be assessed
25 on properties as a result of qualifying improvements;

26 | prohibiting local governments or program
27 | administrators from offering financing for certain
28 | qualifying improvements if those financing agreements
29 | meet certain criteria; providing criteria that must be
30 | met before a local government or program administrator
31 | may enroll a PACE contractor to offer financing for
32 | residential properties; specifying criteria that must
33 | be met before a PACE contractor may receive funds for
34 | qualifying improvements on residential properties;
35 | providing market and communications guidelines that
36 | must be met when communicating with residential real
37 | property owners; specifying the types of contracts
38 | that are unenforceable and for which PACE contractors
39 | may not begin work; providing procedures for the
40 | return of chattel and fixtures that were installed in
41 | an unenforceable contract; prohibiting PACE
42 | contractors from engaging in specified activities
43 | concerning PACE contractors; requiring local
44 | governments that have authorized qualifying
45 | improvement programs to post specified information on
46 | their websites on an annual basis; providing an
47 | effective date.

48 |
49 | Be It Enacted by the Legislature of the State of Florida:
50 |

51 Section 1. Section 163.08, Florida Statutes, is amended to
52 read:

53 163.08 Supplemental authority for improvements to real
54 property.—

55 (1) (a) In chapter 2008-227, Laws of Florida, the
56 Legislature amended the energy goal of the state comprehensive
57 plan to provide, in part, that the state shall reduce its energy
58 requirements through enhanced conservation and efficiency
59 measures in all end-use sectors and reduce atmospheric carbon
60 dioxide by promoting an increased use of renewable energy
61 resources. That act also declared it the public policy of the
62 state to play a leading role in developing and instituting
63 energy management programs that promote energy conservation,
64 energy security, and the reduction of greenhouse gases. In
65 addition to establishing policies to promote the use of
66 renewable energy, the Legislature provided for a schedule of
67 increases in energy performance of buildings subject to the
68 Florida Energy Efficiency Code for Building Construction. In
69 chapter 2008-191, Laws of Florida, the Legislature adopted new
70 energy conservation and greenhouse gas reduction comprehensive
71 planning requirements for local governments. In the 2008 general
72 election, the voters of this state approved a constitutional
73 amendment authorizing the Legislature, by general law, to
74 prohibit consideration of any change or improvement made for the
75 purpose of improving a property's resistance to wind damage or

76 | the installation of a renewable energy source device in the
77 | determination of the assessed value of residential real
78 | property.

79 | (b) The Legislature finds that all energy-consuming-
80 | improved properties that are not using energy conservation
81 | strategies contribute to the burden affecting all improved
82 | property resulting from fossil fuel energy production. Improved
83 | property that has been retrofitted with energy-related
84 | qualifying improvements receives the special benefit of
85 | alleviating the property's burden from energy consumption. All
86 | improved properties not protected from wind damage by wind
87 | resistance qualifying improvements contribute to the burden
88 | affecting all improved property resulting from potential wind
89 | damage. Improved property that has been retrofitted with wind
90 | resistance qualifying improvements receives the special benefit
91 | of reducing the property's burden from potential wind damage.
92 | Further, the installation and operation of qualifying
93 | improvements not only benefit the affected properties for which
94 | the improvements are made, but also assist in fulfilling the
95 | goals of the state's energy and hurricane mitigation policies.
96 | In order to make qualifying improvements more affordable and
97 | assist property owners who wish to undertake such improvements,
98 | the Legislature finds that there is a compelling state interest
99 | in enabling property owners to voluntarily finance such
100 | improvements with local government assistance.

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

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

109 (a) "Facility" means any portion of a building, structure,
 110 or site improvement located on a site as defined in s. 202 of
 111 the 2020 Florida Building Code.

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

115 (c) "PACE contractor" means an independent contractor who
 116 is authorized under this section to contract with a property
 117 owner to install qualifying improvements on real property and
 118 who is not the owner of such property.

119 (d) "Program administrator" means a for-profit or not-for-
 120 profit entity which administers a qualifying improvement program
 121 on behalf and at the discretion of a local government.

122 (e) ~~(b)~~ "Qualifying improvement" includes any:

123 1. Energy conservation and efficiency improvement, which
 124 is a measure to reduce consumption through conservation or a
 125 more efficient use of electricity, natural gas, propane, or

126 other forms of energy on the property, including, but not
127 limited to, air sealing; installation of insulation;
128 installation of energy-efficient heating, cooling, or
129 ventilation systems; building modifications to increase the use
130 of daylight; replacement of windows; installation of energy
131 controls or energy recovery systems; installation of electric
132 vehicle charging equipment; and installation of efficient
133 lighting equipment.

134 2. Renewable energy improvement, which is the installation
135 of any system in which the electrical, mechanical, or thermal
136 energy is produced from a method that uses one or more of the
137 following fuels or energy sources: hydrogen, solar energy,
138 geothermal energy, bioenergy, and wind energy.

139 3. Wind resistance improvement, which includes the
140 products and installation for, ~~but is not limited to:~~

- 141 a. Improving the strength of the roof deck attachment;
142 b. Creating a secondary water barrier to prevent water
143 intrusion;
144 c. Installing wind-resistant shingles;
145 d. Installing gable-end bracing;
146 e. Reinforcing roof-to-wall connections;
147 f. Installing storm shutters; or
148 g. Installing opening protections.

149 (f) "Qualifying improvement program" means a program that
150 includes the financing and administration activities undertaken

151 by a local government or program administrator for property
152 owners to purchase and install qualifying improvements on a
153 building or facility.

154 (g) "Residential property" means real property upon which
155 any of the following is located:

156 1. One single-family residential unit or one multifamily
157 structure containing one to four residential units; or

158 2. Single-family residential units such as condominiums,
159 townhouses, timeshares, mobile homes, or houses in a subdivision
160 that may be legally sold, leased, or otherwise conveyed on a
161 unit-by-unit basis, regardless of whether the units are a part
162 of a larger building or parcel containing more than four
163 residential units.

164 (3) A local government may levy non-ad valorem assessments
165 to fund qualifying improvements.

166 (4) Subject to local government ordinance or resolution, a
167 property owner may apply to the local government for funding to
168 finance a qualifying improvement and enter into a financing
169 agreement with the local government. Costs incurred by the local
170 government for such purpose may be collected as a non-ad valorem
171 assessment. A non-ad valorem assessment shall be collected
172 pursuant to s. 197.3632 and, notwithstanding s. 197.3632(8)(a),
173 shall not be subject to discount for early payment. However, the
174 notice and adoption requirements of s. 197.3632(4) do not apply
175 if this section is used and complied with, and the intent

176 resolution, publication of notice, and mailed notices to the
177 property appraiser, tax collector, and Department of Revenue
178 required by s. 197.3632(3)(a) may be provided on or before
179 August 15 in conjunction with any non-ad valorem assessment
180 authorized by this section, if the property appraiser, tax
181 collector, and local government agree.

182 (5) Pursuant to this section or as otherwise provided by
183 law or pursuant to a local government's home rule power, a local
184 government may enter into a partnership with one or more local
185 governments for the purpose of providing and financing
186 qualifying improvements.

187 (6) A qualifying improvement program may be administered
188 by a for-profit entity or a not-for-profit organization on
189 behalf of and at the discretion of the local government.

190 (7) A local government may incur debt for the purpose of
191 providing such improvements, payable from revenues received from
192 the improved property, or any other available revenue source
193 authorized by law.

194 (8) A local government may enter into a financing
195 agreement only with the record owner of the affected property.
196 Any financing agreement entered into pursuant to this section or
197 a summary memorandum of such agreement shall be recorded in the
198 public records of the county within which the property is
199 located by the sponsoring unit of local government within 5 days
200 after execution of the agreement. The recorded agreement shall

201 provide constructive notice that the non-ad valorem assessment
 202 to be levied on the property constitutes a lien of equal dignity
 203 to county taxes and assessments from the date of recordation.

204 (9) A financing agreement may not be used to fund
 205 ancillary work unless the scope of the ancillary work is
 206 directly related to and necessary for the installation and safe
 207 operation of a qualifying improvement and the cost of the
 208 ancillary work does not exceed the cost of the individual
 209 qualifying improvement to which it is directly related.

210 (10)-(9) A ~~Before entering into a~~ financing agreement for a
 211 qualifying improvement may not be approved unless, the local
 212 government or program administrator, as applicable, has ~~shall~~
 213 reasonably determined ~~determine~~ that:

214 (a) All property taxes and any other assessments levied on
 215 the same bill as property taxes are paid and have not been
 216 delinquent for the preceding 3 years or the property owner's
 217 period of ownership, whichever is less; that

218 (b) There are no involuntary liens, including, but not
 219 limited to, construction liens on the property; that

220 (c) No notices of default or other evidence of property-
 221 based debt delinquency have been recorded during the preceding 3
 222 years or the property owner's period of ownership, whichever is
 223 less; and that

224 (d) The property owner is current on all mortgage debt on
 225 the property and has had no more than one late payment exceeding

226 30 days during the 12 months immediately preceding the
227 application date; ~~The property owner is current on all mortgage~~
228 ~~debt on the property.~~

229 (e) The holders or loan servicers of any mortgage
230 encumbering or otherwise secured by the property have received
231 the written notice required by subsection (16);

232 (f) Any property owner whose real property taxes are paid
233 through an escrow account has notified the holder of the escrow
234 account that a non-ad valorem assessment will be imposed upon
235 the property pursuant to this section;

236 (g) The term of the financing agreement does not exceed
237 the estimated useful life of the qualifying improvement. The
238 local government or program administrator, as applicable, shall
239 determine the useful life using established third-party
240 standards, including certification criteria from government
241 agencies or nationally recognized standards and testing
242 organizations;

243 (h) The property owner has acknowledged in writing the
244 disclosure statements required by paragraph (12) (b);

245 (i) For residential properties, the property owner has not
246 been subject to a bankruptcy proceeding within the last 7 years
247 unless it was discharged or dismissed more than 2 years before
248 the date that the property owner applied for funding as set
249 forth in subsection (4);

250 (j) For residential properties, the property owner is

251 current on nonmortgage debt excluding medical debt, and has had
252 no more than one late payment exceeding 30 days during the 12
253 months immediately preceding the date that the property owner
254 applied for funding as set forth in subsection (4);

255 (k) The property is within the geographic boundaries of
256 the applicable qualifying improvement program; and

257 (l) The local government or program administrator, as
258 applicable, has asked if the property owner has obtained or
259 sought to obtain additional qualifying improvements on the same
260 property that have not yet been recorded. The failure of a
261 property owner to disclose information set forth in this
262 subsection does not invalidate a financing agreement or any
263 obligation thereunder, even if the total financed amount of the
264 qualifying improvement exceeds the amount that would otherwise
265 be authorized under subsection (15).

266
267 The existence of a prior qualifying improvement non-ad valorem
268 assessment or a prior financing agreement is not evidence that
269 the financing agreement under consideration is affordable or
270 meets other program requirements.

271 (11) In addition to obtaining the information in
272 subsection (10), and before a local government or program
273 administrator, as applicable, approves a qualifying improvement
274 on residential property, he or she must use information
275 contained in the property owner's application, reasonably

276 reliable third-party records, or an automated verification
277 system to reasonably determine whether the property owner has
278 the ability to pay the annual non-ad valorem assessment for the
279 qualifying improvement. The local government or program
280 administrator, as applicable, must review the property owner's
281 household income, housing expenses, assets, and other debt
282 obligations. If the local government or program administrator,
283 as applicable, uses an automated verification system, it must be
284 a system that can verify the property owner's income, is not
285 based on predictive or estimation methodologies, and has been
286 determined sufficient for such verification purposes by a
287 federal mortgage lending authority or regulator. In reviewing
288 the property owner's ability to pay, the local government or
289 program administrator, as applicable:

290 (a) When determining the household income, may include the
291 income of any property owner aged 18 years old or older whose
292 name is on the property title. If a person's income is
293 considered, that person's debt obligations must also be
294 considered.

295 (b) May not consider the equity in the property that will
296 secure the non-ad valorem assessment.

297 (c) Shall determine the property owner's debt obligations
298 using reasonably reliable third-party records, including at
299 least, one consumer credit report from an agency that meets the
300 requirements of 15 U.S.C. s. 1681a(p). Debt obligations to be

301 reviewed include:

302 1. Secured and unsecured debt.

303 2. Housing expenses. The local government or program
 304 administrator, as applicable, shall make a reasonable estimate
 305 of the basic housing expenses based on the number of persons in
 306 the household.

307 3. Stated alimony or child support obligations.

308 (d) Shall determine whether the property owner has
 309 sufficient income to pay the annual non-ad valorem assessment
 310 and that he or she has sufficient residual income to meet his or
 311 her household living expenses.

312 (12) Each local government or program administrator that
 313 offers a qualifying improvement program must:

314 (a) Develop a written disclosure form that must be
 315 provided to the property owner before he or she executes the
 316 financing agreement and which contains the key terms of the
 317 agreement, including:

318 1. A description of the qualifying improvement;

319 2. The total financed amount, including the cost of the
 320 qualifying improvement, ancillary work, installation, program
 321 fees, and prepaid interest, if any;

322 3. The annual non-ad valorem assessment process and yearly
 323 payment schedule;

324 4. The amount of the annual non-ad valorem assessment;

325 5. The term of the total financed amount;

- 326 6. The interest rate for the financed amount;
 327 7. The annual percentage rate;
 328 8. The total estimated annual costs that the residential
 329 real property owner will have to pay under the assessment
 330 contract, including applicable fees;
 331 9. The total estimated average monthly equivalent amount
 332 of funds the residential real property owner would have to save
 333 in order to pay the annual costs of the non-ad valorem
 334 assessment, including applicable fees; and
 335 10. The estimated due date of the residential real
 336 property owner's first property tax payment that includes the
 337 non-ad valorem assessment.

338 (b) Include the following statements in the written
 339 disclosure form, using the same order as listed in this
 340 paragraph, each of which must be individually acknowledged in
 341 writing by the property owner:

342 1. "I UNDERSTAND THAT IF I SELL OR REFINANCE THE PROPERTY,
 343 I MAY BE REQUIRED TO PAY OFF THE OUTSTANDING FINANCED AMOUNT AS
 344 A CONDITION OF THE SALE OR THE REFINANCE OF THE PROPERTY."

345
 346 The previous statement must be made in at least 24-point
 347 boldfaced type.

348
 349 2. "I understand that the annual non-ad valorem assessment
 350 will be paid when property taxes are paid and will result in a

351 lien being placed on my property."

352 3. "I understand that the annual non-ad valorem assessment
353 will be added to my property tax bill and if I pay my property
354 taxes through my mortgage payment using an escrow account, I
355 must notify my mortgage lender."

356 4. "I understand that if I fail to pay the annual non-ad
357 valorem assessment, I may incur penalties and fees and the local
358 government could issue a tax certificate which might result in
359 the loss of my property."

360 5. "I understand that any potential utility or insurance
361 savings are not guaranteed and will not reduce the annual non-ad
362 valorem assessment or total assessment amount."

363 6. "I understand that I have 3 days to cancel the
364 financing agreement. The 3-day right expires at midnight of the
365 third business day after I sign the agreement."

366 7. "I understand that the local government, program
367 administrator, or PACE contractor do not provide tax advice and
368 that I should seek professional tax advice if I have questions
369 regarding tax credits, tax deductibility, or other tax impacts
370 of the qualifying improvement or the assessment contract.

371 8. "I understand that I cannot be assessed a penalty if I
372 prepay the outstanding financed amount."

373 (c) Provide a printed cancellation form to the property
374 owner no later than the time the property owner signs the
375 financing agreement which allows the property owner to cancel

376 the contract, within the 3-day period specified in subparagraph
377 (b) 6.

378 (d) Conduct, with at least one residential real property
379 owner or an authorized representative, an oral, recorded
380 telephone call during which time the local government or program
381 administrator, as applicable, must use plain language. The local
382 government or program administrator, as applicable, must ask the
383 residential real property owner if he or she would like to
384 communicate primarily in a language other than English and, if
385 so, must conduct the call in the owner's preferred language. A
386 local government or program administrator, as applicable may not
387 leave a voicemail to the residential real property owner to
388 satisfy this requirement. The owner or their representative must
389 provide written acknowledgement that the oral confirmation was
390 given. A local government or program administrator, as
391 applicable, as part of this telephone call, must confirm with
392 the residential real property owner:

393 1. That at least one residential real property owner has
394 access to a copy of the assessment contract and financing
395 estimates and disclosures.

396 2. The qualifying improvement that is being financed.

397 3. The total estimated annual costs that the residential
398 real property owner will have to pay under the assessment
399 contract, including applicable fees.

400 4. The total estimated average monthly equivalent amount

401 of funds the residential real property owner would have to save
402 in order to pay the annual costs of the non-ad valorem
403 assessment, including applicable fees.

404 5. The estimated due date of the residential real property
405 owner's first property tax payment that includes the non-ad
406 valorem assessment.

407 6. The term of the assessment contract.

408 7. That payments for the assessment contract will cause
409 the residential real property owner's annual tax bill to
410 increase, that payments will be made through an additional
411 annual non-ad valorem assessment on the property, and will be
412 paid either directly to the county tax collector's office as
413 part of the total annual secured property tax bill or may be
414 paid through the residential real property owner's mortgage
415 escrow account.

416 8. That the qualifying residential property owner has
417 disclosed whether the property has received or is seeking
418 additional non-ad valorem assessments and has disclosed all
419 other assessments or special taxes that are or are about to be
420 placed on the property.

421 9. That the property will be subject to a lien during the
422 term of the assessment contract and that the obligations under
423 the contract may be required to be paid in full before the
424 residential real property owner sells or refinances the
425 property.

426 10. That any potential utility or insurance savings are
427 not guaranteed and will not reduce the annual non-ad valorem
428 assessment or total assessment amount.

429 11. That the local government, program administrator, or
430 PACE contractor do not provide tax advice and that the
431 residential real property owner should seek professional tax
432 advice if he or she has questions regarding tax credits, tax
433 deductibility, or other tax impacts of the qualifying
434 improvement or the assessment contract.

435 (e) The local government or program administrator shall
436 develop additional procedures under this subsection to address
437 the needs and concerns of elderly persons.

438 (13)-(10) A qualifying improvement shall be affixed or
439 connected to a building or facility that is part of the property
440 and shall constitute an improvement to the building or facility
441 or a fixture attached to the building or facility. An agreement
442 between a local government and a qualifying property owner may
443 not cover wind-resistance improvements in buildings or
444 facilities under new construction or construction for which a
445 certificate of occupancy or similar evidence of substantial
446 completion of new construction or improvement has not been
447 issued.

448 (14)-(11) Any work requiring a license under any applicable
449 law to make or install a qualifying improvement shall be
450 performed by a contractor properly certified or registered

451 pursuant to ~~part I or part II~~ of chapter 489.

452 ~~(15)(12)(a) Without the consent of the holders or loan~~
453 ~~servicers of any mortgage encumbering or otherwise secured by~~
454 ~~the property,~~ The total amount of any non-ad valorem assessment
455 for a property under this section may not exceed 20 percent of
456 the fair market value of the property ~~just value of the property~~
457 ~~as determined by the county property appraiser. In addition, the~~
458 total of any non-ad valorem assessments plus any mortgage-
459 related debt on the property may not exceed 97 percent of the
460 fair market value of the property. The fair market value of the
461 property shall be derived using any methodology commonly used in
462 the real estate finance industry.

463 ~~(b) Notwithstanding paragraph (a), a non-ad valorem~~
464 ~~assessment for a qualifying improvement defined in subparagraph~~
465 ~~(2)(b)1. or subparagraph (2)(b)2. that is supported by an energy~~
466 ~~audit is not subject to the limits in this subsection if the~~
467 ~~audit demonstrates that the annual energy savings from the~~
468 ~~qualified improvement equals or exceeds the annual repayment~~
469 ~~amount of the non-ad valorem assessment.~~

470 ~~(16)(13)~~ At least 30 days before entering into a financing
471 agreement, the property owner shall provide to the holders or
472 loan servicers of any existing mortgages encumbering or
473 otherwise secured by the property a notice of the owner's intent
474 to enter into a financing agreement together with the maximum
475 principal amount to be financed and the maximum annual

476 assessment necessary to repay that amount. A verified copy or
477 other proof of such notice shall be provided to the local
478 government or program administrator, as applicable. A provision
479 in any agreement between the a mortgagee or other lienholder and
480 a property owner, or otherwise now or hereafter binding upon a
481 property owner, which allows for acceleration of payment of the
482 mortgage, note, or lien or other unilateral modification solely
483 as a result of entering into a financing agreement as provided
484 for in this section is not enforceable. This subsection does not
485 limit the authority of the holder or loan servicer to increase
486 the required monthly escrow by an amount necessary to annually
487 pay the qualifying improvement assessment.

488 (17)~~(14)~~ At or before the time a purchaser executes a
489 contract for the sale and purchase of any property for which a
490 non-ad valorem assessment has been levied under this section and
491 has an unpaid balance due, the seller shall give the prospective
492 purchaser a written disclosure statement in the following form,
493 which shall be set forth in the contract or in a separate
494 writing:

495
496 QUALIFYING IMPROVEMENTS FOR ENERGY EFFICIENCY, RENEWABLE ENERGY,
497 OR WIND RESISTANCE.—The property being purchased is located
498 within the jurisdiction of a local government that has placed an
499 non-ad valorem assessment on the property pursuant to s. 163.08,
500 Florida Statutes. The non-ad valorem assessment is for a

501 qualifying improvement to the property relating to energy
502 efficiency, renewable energy, or wind resistance, and is not
503 based on the value of property. You are encouraged to contact
504 the county property appraiser's office to learn more about this
505 and other assessments that may be provided by law.

506 (18)~~(15)~~ A provision in any agreement between a local
507 government and a public or private power or energy provider or
508 other utility provider is not enforceable to limit or prohibit
509 any local government from exercising its authority under this
510 section.

511 (19)~~(16)~~ This section is additional and supplemental to
512 county and municipal home rule authority and not in derogation
513 of such authority or a limitation upon such authority.

514 (20) A local government or program administrator, as
515 applicable, may not offer financing for an qualifying
516 improvement authorized pursuant to this section on any
517 residential real property that includes any of the following:

518 (a) A negative amortization schedule;

519 (b) A balloon payment; or

520 (c) Pre-payment fees, other than nominal administrative
521 costs.

522 (21) For residential real property, a local government or
523 program administrator, as applicable:

524 (a) May not enroll a PACE contractor who offers financing
525 on residential real property unless:

526 1. The local government or program administrator, as
 527 applicable, determines that the PACE contractor maintains in
 528 good standing an appropriate license from the state, if
 529 applicable, as well as any other permits, licenses, or
 530 registrations required for engaging in its business in the
 531 jurisdiction where it operates and maintains all state required
 532 bond and insurance coverage.

533 2. A local government or program administrator, as
 534 applicable, obtains the PACE contractor's written agreement that
 535 the PACE contractor will comply with all applicable laws,
 536 including applicable advertising and marketing laws and
 537 regulations and the requirements of subsection (23).

538 (b) Must maintain a process to enroll new PACE contractors
 539 that includes reasonable review of the following for each
 540 contractor:

- 541 1. Relevant work or project history.
- 542 2. Financial and reputational background checks.
- 543 3. The contractor's status on the Better Business Bureau
 544 platform or other online platforms that track contractor
 545 reviews.

546 (22) (a) Before disbursing funds to a PACE contractor for a
 547 qualifying improvement on residential real property, the local
 548 government or program administrator, as applicable, must first
 549 confirm that the applicable work or service has been completed
 550 and the local government has determined the work complies with

551 applicable codes and standards, including, but not limited to,
552 the Florida Building Code and the Florida Fire Prevention Code.

553 (b) A local government or program administrator, as
554 applicable, may not disclose the maximum financing amount for
555 which a residential real property owner is eligible to a PACE
556 contractor or to a third party engaged in soliciting assessment
557 contracts financed pursuant to this section.

558 (23) When communicating with residential real property
559 owners, a local government, program administrator, PACE
560 contractor, or a third party engaged in marketing on behalf of
561 these entities, must comply with the following marketing and
562 communications guidelines and may not:

563 (a) Suggest or imply:

564 1. That a non-ad valorem assessment authorized under this
565 section is a government assistance program;

566 2. That qualifying improvements are free or provided at no
567 cost, or that the financing related to an non-ad valorem
568 assessment authorized under this section is free or provided at
569 no cost; or

570 3. That the financing of a qualifying improvement using
571 the program authorized pursuant to this section does not require
572 the property owner to repay the financial obligation.

573 (b) Make any representation as to the tax deductibility of
574 a non-ad valorem assessment on residential real property. A
575 local government, program administrator, or PACE contractor, or

576 a third party engaged in marketing on behalf of these entities,
577 may encourage a property owner to seek the advice of a tax
578 professional regarding tax matters related to assessments.

579 (24) (a) A contract to sell or install a qualifying
580 improvement that is related to an application for financing in a
581 qualifying improvement program for a residential property is
582 unenforceable and a PACE contractor may not begin work under
583 such a contract if:

584 1. The property owner would not have entered into the
585 contract but for the belief that the qualifying improvement or
586 its installation would be paid under the financing agreement; or

587 2. The property owner applied for, accepted, and canceled
588 a qualifying improvement financing agreement within the 3-day
589 right-to-cancel period set forth in subparagraph (12) (b) 6.

590 (b) If a PACE contractor has initiated work on a
591 residential property under an unenforceable contract as
592 determined under paragraph (a), the PACE contractor:

593 1. May not receive compensation for that work under the
594 financing agreement.

595 2. Shall restore the property to its original condition at
596 no cost to the property owner.

597 3. Shall immediately return any money, property, and other
598 consideration given by the property owner. If the property owner
599 provided any property and the PACE contractor does not or cannot
600 return it, the PACE contractor shall immediately return the fair

601 market value of the property or its value as designated in the
602 contract, whichever is greater.

603 (c) If the PACE contractor has delivered chattel or
604 fixtures to the residential property pursuant to an
605 unenforceable contract, the PACE contractor shall have 90 days
606 from the date the contract was executed to retrieve the chattel
607 or fixtures provided that:

608 1. The PACE contractor has fulfilled the requirements of
609 subparagraphs (b)2. and 3.

610 2. The chattel and fixtures can be removed at the PACE
611 contractor's expense without damaging the property owner's
612 property and practically returned.

613 (d) The residential property owner may retain any chattel
614 or fixtures provided pursuant to an unenforceable contract if a
615 PACE contractor fails to comply with the provisions of this
616 subsection.

617 (e) A contract which is otherwise unenforceable under this
618 subsection remains enforceable if the residential property owner
619 waives his or her right to cancel the contract, allows the PACE
620 contractor to proceed with the installation of the qualifying
621 improvement, and cancels the financing agreement.

622 (25) (a) A PACE contractor or third party may not advertise
623 the availability of financing agreements or solicit property
624 owners on behalf of the local government or program
625 administrator unless:

626 1. The PACE contractor or third party maintains the
627 appropriate registration or certification from the Construction
628 Industry Licensing Board or any other permit, license, or
629 registration required to conduct business in the jurisdiction
630 where it operates, and provides proof of having the required
631 bond and insurance coverage amounts.

632 2. The local government or program administrator, as
633 applicable, obtains the PACE contractor's or third party's
634 written agreement that the PACE contractor or third party will
635 meet applicable laws and rules and qualifying improvement
636 program policies and procedures, including those on advertising
637 and marketing.

638 (b) A local government or program administrator may not
639 provide any direct or indirect cash payment or thing of material
640 value to a PACE contractor or third party in excess of the
641 actual price charged by that PACE contractor for the sale and
642 installation of the qualifying improvements that are financed by
643 a financing agreement. However, a program administrator may
644 provide information or services to a PACE contractor to
645 facilitate the installation of a qualifying improvement for a
646 property owner.

647 (c) A local government or program administrator may not
648 reimburse a PACE contractor or third party for its expenses in
649 advertising and marketing campaigns and materials. A local
650 government or program administrator, as applicable, and a PACE

651 contractor may share expenses in connection with joint
652 advertising and marketing campaigns and materials, if the
653 expenses are shared on a commercially reasonable basis.

654 (d) A local government or program administrator may not
655 provide to a PACE contractor engaged in soliciting financing
656 agreements on its behalf any information that discloses the
657 amount of funds for which a property owner is eligible for
658 qualifying improvements or the amount of equity in a property.

659 (e) For residential properties, a PACE contractor may not
660 provide a different price for a qualifying improvement financed
661 under this section than the PACE contractor would provide if the
662 property owner paid for the improvement in cash.

663 (f) A program administrator may not provide any direct
664 cash payment or other thing of material value to a property
665 owner explicitly conditioned upon the property owner entering
666 into a financing agreement. However, a program administrator may
667 offer programs or promotions that provide reduced fees or
668 interest rates if the reduced fees or interest rates are
669 reflected in the financing agreements and are not provided to
670 the property owners as cash consideration.

671 (26) Each local government that has authorized a
672 qualifying improvement program shall post on its website an
673 annual report for the period ending December 31 each year
674 containing the following information:

675 (a) The number of qualifying improvements funded.

676 (b) The aggregate, average, and median dollar amounts of
677 annual and total number of assessments that funded qualifying
678 improvements.

679 (c) The percentage, the number, and the dollar value of
680 assessments that funded qualifying improvements, represented by
681 the category types consisting of energy efficiency, renewable
682 energy, and wind resistance.

683 (d) The number of defaulted assessments including the
684 total number and defaulted amount, the number and dates of
685 missed payments, the total number of parcels defaulted and years
686 in default, and the percentage of defaults by total assessments.

687 (e) A summary of all reported violations of this section,
688 including the resolution of each.

689 (f) Estimated number of jobs created.

690 (g) The number and percentage of homeowners 60 years of
691 age or older participating in a qualifying improvement program.

692
693 This report shall be posted no later than April 1 of the year
694 following the calendar year covered by the report.

695 Section 2. This act shall take effect July 1, 2021.