

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 marketing 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)~~ ~~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;

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

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

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

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

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

249 (j) For residential properties, the property owner is
250 current on nonmortgage debt excluding medical debt and has had

251 no more than one late payment exceeding 30 days during the 12
252 months immediately preceding the date that the property owner
253 applied for funding as set forth in subsection (4);

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

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

265
266 The existence of a prior qualifying improvement non-ad valorem
267 assessment or a prior financing agreement is not evidence that
268 the financing agreement under consideration is affordable or
269 meets other program requirements.

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

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

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

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

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

- 301 1. Secured and unsecured debt.
- 302 2. Housing expenses. The local government or program
 303 administrator, as applicable, shall make a reasonable estimate
 304 of the basic housing expenses based on the number of persons in
 305 the household.
- 306 3. Stated alimony or child support obligations.
- 307 (d) Shall determine whether the property owner has
 308 sufficient income to pay the annual non-ad valorem assessment
 309 and that he or she has sufficient residual income to meet his or
 310 her household living expenses.
- 311 (12) Each local government or program administrator that
 312 offers a qualifying improvement program must:
- 313 (a) Develop a written disclosure form that must be
 314 provided to the property owner before he or she executes the
 315 financing agreement and which contains the key terms of the
 316 agreement, including:
- 317 1. A description of the qualifying improvement;
- 318 2. The total financed amount, including the cost of the
 319 qualifying improvement, ancillary work, installation, program
 320 fees, and prepaid interest, if any;
- 321 3. The annual non-ad valorem assessment process and annual
 322 payment schedule;
- 323 4. The amount of the annual non-ad valorem assessment;
- 324 5. The term of the total financed amount;
- 325 6. The interest rate for the financed amount;

- 326 7. The annual percentage rate;
- 327 8. The total estimated annual costs that the residential
 328 real property owner will have to pay under the assessment
 329 contract, including applicable fees;
- 330 9. The total estimated average monthly equivalent amount
 331 of funds the residential real property owner would have to save
 332 in order to pay the annual costs of the non-ad valorem
 333 assessment, including applicable fees; and
- 334 10. The estimated due date of the residential real
 335 property owner's first property tax payment that includes the
 336 non-ad valorem assessment.
- 337 (b) Include the following statements in the written
 338 disclosure form, using the same order as listed in this
 339 paragraph, each of which must be individually acknowledged in
 340 writing by the property owner:
- 341 1. "I UNDERSTAND THAT IF I SELL OR REFINANCE THE PROPERTY,
 342 I MAY BE REQUIRED TO PAY OFF THE OUTSTANDING FINANCED AMOUNT AS
 343 A CONDITION OF THE SALE OR THE REFINANCE OF THE PROPERTY."
- 344
- 345 The previous statement must be made in at least 24-point
 346 boldfaced type.
- 347
- 348 2. "I understand that the annual non-ad valorem assessment
 349 will be paid when property taxes are paid and will result in a
 350 lien being placed on my property."

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

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

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

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

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

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

372 (c) Provide a printed cancellation form to the property
373 owner no later than the date on which the property owner signs
374 the financing agreement which allows the property owner to
375 cancel the contract, within the 3-day period specified in

376 subparagraph (b)6.

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

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

397 2. The qualifying improvement that is being financed.

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

401 4. The total estimated average monthly equivalent amount
402 of funds the residential real property owner would have to save
403 in order to pay the annual costs of the non-ad valorem
404 assessment, including applicable fees.

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

408 6. The term of the assessment contract.

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

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

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

426 property.

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

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

436 (e) The local government or program administrator shall
 437 develop additional procedures under this subsection to address
 438 the needs and concerns of elderly persons ~~The property owner is~~
 439 ~~current on all mortgage debt on the property.~~

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

450 (14)-(11) Any work requiring a license under any applicable

451 law to make or install a qualifying improvement shall be
452 performed by a contractor properly certified or registered
453 pursuant to ~~part I or part II of~~ chapter 489.

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

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

472 ~~(16)(13)~~ At least 30 days before entering into a financing
473 agreement, the property owner shall provide to the holders or
474 loan servicers of any existing mortgages encumbering or
475 otherwise secured by the property a written notice of the

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

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

498
 499 QUALIFYING IMPROVEMENTS FOR ENERGY EFFICIENCY, RENEWABLE ENERGY,
 500 OR WIND RESISTANCE.—The property being purchased is located

501 within the jurisdiction of a local government that has placed an
502 non-ad valorem assessment on the property pursuant to s. 163.08,
503 Florida Statutes. The non-ad valorem assessment is for a
504 qualifying improvement to the property relating to energy
505 efficiency, renewable energy, or wind resistance, and is not
506 based on the value of property. You are encouraged to contact
507 the county property appraiser's office to learn more about this
508 and other assessments that may be provided by law.

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

514 ~~(19)-(16)~~ This section is additional and supplemental to
515 county and municipal home rule authority and not in derogation
516 of such authority or a limitation upon such authority.

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

- 521 (a) A negative amortization schedule;
522 (b) A balloon payment; or
523 (c) Prepayment fees, other than nominal administrative
524 costs.

525 (21) For residential real property, a local government or

526 program administrator, as applicable:

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

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

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

541 (b) Must maintain a process to enroll new PACE contractors
542 that includes reasonable review of the following for each
543 contractor:

544 1. Relevant work or project history.

545 2. Financial and reputational background checks.

546 3. The contractor's status on the Better Business Bureau
547 platform or other online platforms that track contractor
548 reviews.

549 (22) (a) Before disbursing funds to a PACE contractor for a
550 qualifying improvement on residential real property, the local

551 government or program administrator, as applicable, must first
552 confirm that the applicable work or service has been completed
553 and the local government has determined the work complies with
554 applicable codes and standards, including, but not limited to,
555 the Florida Building Code and the Florida Fire Prevention Code.

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

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

566 (a) Suggest or imply:

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

569 2. That qualifying improvements are free or provided at no
570 cost or that the financing related to a non-ad valorem
571 assessment authorized under this section is free or provided at
572 no cost; or

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

576 (b) Make any representation as to the tax deductibility of
577 a non-ad valorem assessment on residential real property. A
578 local government, program administrator, or PACE contractor, or
579 a third party engaged in marketing on behalf of these entities,
580 may encourage a property owner to seek the advice of a tax
581 professional regarding tax matters related to assessments.

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

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

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

593 (b) If a PACE contractor has initiated work on a
594 residential property under an unenforceable contract as
595 determined under paragraph (a), the PACE contractor:

596 1. May not receive compensation for that work under the
597 financing agreement.

598 2. Must restore the property to its original condition at
599 no cost to the property owner.

600 3. Must immediately return any money, property, and other

601 consideration given by the property owner. If the property owner
602 provided any property and the PACE contractor does not or cannot
603 return it, the PACE contractor shall immediately return the fair
604 market value of the property or its value as designated in the
605 contract, whichever is greater.

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

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

613 2. The chattel and fixtures can be removed at the PACE
614 contractor's expense without damaging the property owner's
615 property and practically returned.

616 (d) The residential property owner may retain any chattel
617 or fixtures provided pursuant to an unenforceable contract if a
618 PACE contractor fails to comply with this subsection.

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

624 (25) (a) A PACE contractor or third party may not advertise
625 the availability of financing agreements or solicit property

626 owners on behalf of the local government or program
627 administrator unless:

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

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

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

649 (c) A local government or program administrator may not
650 reimburse a PACE contractor or third party for its expenses in

651 advertising and marketing campaigns and materials. A local
652 government or program administrator, as applicable, and a PACE
653 contractor may share expenses in connection with joint
654 advertising and marketing campaigns and materials if the
655 expenses are shared on a commercially reasonable basis.

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

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

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

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

676 containing the following information:

677 (a) The number of qualifying improvements funded.

678 (b) The aggregate, average, and median dollar amounts of
679 annual non-ad valorem assessments and the total number of non-ad
680 valorem assessments that funded qualifying improvements.

681 (c) The percentage, number, and dollar value of non-ad
682 valorem assessments that funded qualifying improvements,
683 aggregated by the category types consisting of energy
684 efficiency, renewable energy, and wind resistance.

685 (d) The number of defaulted non-ad valorem assessments,
686 including the total number and defaulted amount, the number and
687 dates of missed payments, the total number of parcels defaulted
688 and the years in default, and the percentage of defaults by
689 total assessments.

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

692 (f) Estimated number of jobs created.

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

695
696 This report shall be posted no later than April 1 of the year
697 following the calendar year covered by the report.

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