

By the Committees on Fiscal Policy; and Community Affairs; and
Senator Rodriguez

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1 A bill to be entitled
2 An act relating to improvements to real property;
3 amending s. 163.08, F.S.; revising legislative
4 findings and intent; defining terms and revising
5 definitions; authorizing a residential or commercial
6 property owner to apply to a qualifying improvement
7 program for funding to finance an improvement and to
8 enter into a financing agreement with the local
9 government; providing that a non-ad valorem assessment
10 on certain commercial property is subject to a certain
11 fee; specifying requirements of a financing agreement
12 for government commercial property; authorizing a
13 local government to incur debt for the purpose of
14 providing financing for qualifying improvements;
15 authorizing a local government to enter into a
16 financing agreement to finance or refinance a
17 qualifying improvement; providing that, for government
18 commercial property, the financing agreement must meet
19 specified conditions; revising and specifying public
20 recording requirements for assessment financing
21 agreements and notices of lien; providing that a
22 financing agreement for a residential property may not
23 be approved unless certain conditions are met;
24 providing that a financing agreement for a commercial
25 property may not be approved unless the local
26 government, or the program administrator acting on its
27 behalf, reasonably determines that that specified
28 conditions have been met; authorizing certain
29 determinations, considerations, and confirmations by

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30 the local government or program administrator, as
31 applicable, regarding the owner's ability to pay;
32 authorizing the local government or program
33 administrator to consider certain statements by the
34 property owner regarding his or her income, but
35 requiring additional confirmation; authorizing a
36 reduction in the annual assessment payment under
37 certain circumstances; providing construction;
38 specifying certain requirements for a local government
39 or program administrator that offers a qualifying
40 improvement program for residential properties;
41 authorizing a residential real property owner, under
42 certain circumstances and within a certain timeframe,
43 to cancel a financing agreement without financial
44 penalty; providing that certain contracts are
45 unenforceable and prohibiting a qualifying improvement
46 contractor from initiating work under such contracts;
47 specifying certain requirements if a qualifying
48 improvement contractor initiates work on a residential
49 property under an unenforceable agreement; providing a
50 procedure that must be followed if a qualifying
51 improvement contractor has delivered chattel or
52 fixtures to a residential property pursuant to an
53 unenforceable contract; providing that a residential
54 property owner may retain such chattel or fixtures in
55 a certain circumstance; providing that an
56 unenforceable contract is enforceable under certain
57 circumstances; providing that a financing agreement
58 may be executed for qualifying improvements in the

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59 construction of a commercial property before a
60 certificate of occupancy or similar evidence of
61 substantial completion of new construction or
62 improvement is issued; authorizing specified payments
63 for commercial properties under certain circumstances;
64 providing that a financing agreement with a commercial
65 property owner may cover wind-resistance improvements
66 in certain buildings or facilities; prohibiting wind-
67 resistance improvements in certain buildings or
68 facilities between a local government and a
69 residential property owner; authorizing execution of
70 an assessment financing agreement before a certificate
71 of occupancy or certain evidence is issued;
72 authorizing progress payments before completion of a
73 qualifying improvement on a commercial property if the
74 property owner provides certain information;
75 authorizing an assessment financing agreement to cover
76 certain qualifying improvements; requiring certain
77 work to be performed by properly certified or
78 registered contractors; revising the calculation of
79 non-ad valorem assessment limits; providing
80 construction; requiring the local government or
81 program administrator to be in receipt of the written
82 consent of the holders or loan servicers of certain
83 mortgages at a specified time; requiring the property
84 owner to provide written notice within a specified
85 timeframe to the holders or loan servicers of any
86 existing mortgages; revising the seller's disclosure
87 statement for residential and commercial properties

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88 offered for sale; prohibiting certain items in a
89 financing agreement for residential property;
90 prohibiting a local government or program
91 administrator from enrolling a qualifying improvement
92 contractor that contracts with residential property
93 owners to install qualifying improvements; providing
94 exceptions; prohibiting a program administrator from
95 being enrolled as a qualifying improvement contractor;
96 requiring the local government or program
97 administrator to confirm certain information before
98 disbursing funds financed under a residential program
99 to a qualifying improvement contractor; prohibiting a
100 local government or program administrator from
101 disclosing maximum financing amounts to certain
102 persons; requiring that, in communicating with
103 residential property owners, the local government or
104 program administrator comply with certain marketing
105 and communications guidelines and prohibiting such
106 entities from certain communication; prohibiting a
107 qualifying improvement contractor from advertising the
108 availability of assessment financing agreements;
109 providing exceptions; prohibiting a local government
110 or program administrator from providing certain
111 payments, fees, or kickbacks; authorizing a local
112 government or program administrator to provide
113 information or services to a qualifying improvement
114 contractor to facilitate certain installations;
115 authorizing a local government or program
116 administrator to reimburse a qualifying improvement

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117 contractor or third party for certain expenses;
118 prohibiting a local government or program
119 administrator from providing certain information to a
120 qualifying improvement contractor; prohibiting a
121 qualifying improvement contractor from providing
122 certain prices for a qualifying improvement;
123 prohibiting a local government or program
124 administrator from providing cash payment or anything
125 of material value to a residential property owner
126 explicitly on certain conditions; authorizing a local
127 government or program administrator to offer certain
128 programs or promotions; requiring each local
129 government and program administrator to develop and
130 implement certain policies and procedures; requiring a
131 local government that has authorized a residential
132 program to post on its website a certain report;
133 specifying the requirements for such report; providing
134 applicability and construction; providing an effective
135 date.

136

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

138

139 Section 1. Section 163.08, Florida Statutes, is amended to
140 read:

141 163.08 Supplemental authority for improvements to real
142 property.—

143 (1) (a) In chapter 2008-227, Laws of Florida, the
144 Legislature amended the energy goal of the state comprehensive
145 plan to provide, in part, that the state shall reduce its energy

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146 requirements through enhanced conservation and efficiency
147 measures in all end-use sectors and reduce atmospheric carbon
148 dioxide by promoting an increased use of renewable energy
149 resources. That act also declared it the public policy of the
150 state to play a leading role in developing and instituting
151 energy management programs that promote energy conservation,
152 energy security, and the reduction of greenhouse gases. In
153 addition to establishing policies to promote the use of
154 renewable energy, the Legislature provided for a schedule of
155 increases in energy performance of buildings subject to the
156 Florida Energy Efficiency Code for Building Construction. In
157 chapter 2008-191, Laws of Florida, the Legislature adopted new
158 energy conservation and greenhouse gas reduction comprehensive
159 planning requirements for local governments. In the 2008 general
160 election, the voters of this state approved a constitutional
161 amendment authorizing the Legislature, by general law, to
162 prohibit consideration of any change or improvement made for the
163 purpose of improving a property's resistance to wind damage or
164 the installation of a renewable energy source device in the
165 determination of the assessed value of residential real
166 property.

167 (b) The Legislature finds that all energy-consuming-
168 improved properties that are not using energy conservation
169 strategies contribute to the burden affecting all improved
170 property resulting from fossil fuel energy production. Improved
171 property that has been retrofitted with energy-related
172 qualifying improvements receives the special benefit of
173 alleviating the property's burden from energy consumption. All
174 improved properties not protected from wind damage by wind

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175 resistance qualifying improvements contribute to the burden
176 affecting all improved property resulting from potential wind
177 damage. Improved commercial property constructed or that has
178 ~~been~~ retrofitted with resiliency qualifying improvements and
179 improved residential property retrofitted with wind ~~resistance~~
180 qualifying improvements receive ~~receives~~ the special benefit of
181 reducing the property's burden from potential ~~wind~~ damage.
182 Further, the installation and operation of qualifying
183 improvements not only benefit the affected properties for which
184 the improvements are made, but also assist in fulfilling the
185 goals of the state's energy and hurricane mitigation policies.
186 Residential properties that do not use advanced technologies for
187 wastewater removal contribute to the water quality problems
188 affecting this state, particularly in coastal areas. Improved
189 residential property that has been retrofitted with an advanced
190 onsite sewage treatment and disposal system or has been
191 converted to central sewerage significantly benefits the quality
192 of water that may enter streams, lakes, rivers, aquifers, or
193 coastal areas.

194 (c) In order to make qualifying improvements more
195 affordable and assist property owners who wish to undertake such
196 improvements, the Legislature finds that there is a compelling
197 state interest in enabling property owners to voluntarily
198 finance such improvements with local government assistance.

199 (d) ~~(e)~~ The Legislature determines that the actions
200 authorized under this section, including, but not limited to,
201 the financing of qualifying improvements through the execution
202 of financing agreements and the related imposition of voluntary
203 assessments are reasonable and necessary to serve and achieve a

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204 compelling state interest and are necessary for the prosperity
205 and welfare of the state and its property owners and
206 inhabitants.

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

208 (a) "Commercial property" means real property not defined
209 as residential property which will be, or has been, improved by
210 a qualifying improvement, including, but not limited to, the
211 following:

212 1. A multifamily residential property composed of five or
213 more dwelling units;

214 2. A commercial real property;

215 3. An industrial building or property;

216 4. An agricultural property;

217 5. A nonprofit-owned property;

218 6. A long-term care facility, including a nursing home or
219 an assisted living facility; or

220 7. A government commercial property.

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

224 (c) "Government commercial property" means real property
225 owned by a local government and leased to a nongovernmental
226 lessee where the usage by the lessee meets the definition of
227 commercial property.

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

231 (e) "Nongovernmental lessee" means a person or an entity
232 other than a local government which leases government commercial

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233 property.

234 (f) "Program administrator" means an entity, including, but
235 not limited to, a for-profit or not-for-profit entity, with
236 which a local government has contracted to administer a
237 qualifying improvement program.

238 (g) "Qualifying improvement contractor" means an
239 independent contractor who has been enrolled under a qualifying
240 improvement program to install or otherwise perform work on
241 qualifying improvements financed through the program.

242 (h) "Qualifying improvement program" means a program
243 established by a local government, alone or in partnership with
244 other local governments or a program administrator, to finance
245 qualifying improvements on residential or commercial real
246 property.

247 (i) ~~(b)~~ "Qualifying improvements": improvement"

248 1. For residential property, includes any:

249 a. ~~1.~~ Energy conservation and efficiency improvement, which
250 is a measure to reduce consumption through conservation or a
251 more efficient use of electricity, natural gas, propane, or
252 other forms of energy on the property, including, but not
253 limited to, air sealing; installation of insulation;
254 installation of energy-efficient heating, cooling, or
255 ventilation systems; building modifications to increase the use
256 of daylight; replacement of windows; installation of energy
257 controls or energy recovery systems; installation of electric
258 vehicle charging equipment; and installation of efficient
259 lighting equipment.

260 b. ~~2.~~ Renewable energy improvement, which is the
261 installation of any system in which the electrical, mechanical,

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262 or thermal energy is produced from a method that uses one or
263 more of the following fuels or energy sources: hydrogen, solar
264 energy, geothermal energy, bioenergy, and wind energy.

265 c.3. Wind resistance improvement, which includes, but is
266 not limited to:

267 (I)~~a.~~ Improving the strength of the roof deck attachment;

268 (II)~~b.~~ Creating a secondary water barrier to prevent water
269 intrusion;

270 (III)~~c.~~ Installing wind-resistant shingles;

271 (IV)~~d.~~ Installing gable-end bracing;

272 (V)~~e.~~ Reinforcing roof-to-wall connections;

273 (VI)~~f.~~ Installing storm shutters; or

274 (VII)~~g.~~ Installing opening protections.

275 d. Wastewater improvement, which includes, but is not
276 limited to:

277 (I) Removing, replacing, or improving an onsite sewage
278 treatment and disposal system with a secondary or advanced
279 onsite sewage treatment and disposal system or technology;

280 (II) Replacing or converting an onsite sewage treatment and
281 disposal system to a central sewerage system or distributed
282 sewerage system, including, but not limited to, installing a
283 sewer lateral and anything necessary to connect the onsite
284 sewage treatment and disposal system or the building's plumbing
285 to a central sewerage system or distributed sewerage system; or

286 (III) Any removal, repairs, or modifications made to an
287 onsite sewage treatment and disposal system, including any
288 repair, modification, or replacement of a system required under
289 a local ordinance enacted pursuant to ss. 381.0065 and
290 381.00651.

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291 e. Flood and water damage mitigation and resiliency
292 improvement, which includes, but is not limited to, projects and
293 installation for:

294 (I) Raising a structure above the base flood elevation to
295 reduce flood damage;

296 (II) A flood diversion apparatus or seawall improvement,
297 which includes seawall repairs and seawall replacements;

298 (III) Flood-damage-resistant building materials;

299 (IV) Electrical, mechanical, plumbing, or other system
300 improvements that reduce flood damage; or

301 (V) Other improvements that qualify for reductions in flood
302 insurance premiums.

303 2. For commercial property, includes any:

304 a. Energy conservation and efficiency improvement, which is
305 a measure to reduce consumption through conservation or a more
306 efficient use of electricity, natural gas, propane, or other
307 forms of energy on the property, including, but not limited to,
308 air sealing; installation of insulation; installation of energy-
309 efficient heating, cooling, or ventilation systems; building
310 modifications to increase the use of daylight; replacement of
311 windows; installation of energy controls or energy recovery
312 systems; installation of electric vehicle charging equipment;
313 installation of efficient lighting equipment; or any other
314 improvements necessary to achieve a sustainable building rating
315 or compliance with a national model green building code.

316 b. Renewable energy improvement, which is the installation
317 of any system in which the electrical, mechanical, or thermal
318 energy is produced from a method that uses one or more of the
319 following fuels or energy sources: hydrogen, solar energy,

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320 geothermal energy, bioenergy, or wind energy.

321 c. Resiliency improvement, which includes, but is not
322 limited to:

323 (I) Improving the strength of the roof deck attachment;

324 (II) Creating a secondary water barrier to prevent water
325 intrusion;

326 (III) Installing wind-resistant shingles;

327 (IV) Installing gable-end bracing;

328 (V) Reinforcing roof-to-wall connections;

329 (VI) Installing storm shutters;

330 (VII) Installing opening protections;

331 (VIII) Creating or improving stormwater and flood
332 resiliency, including shoreline improvements; or

333 (IX) Making any other improvements necessary to achieve a
334 sustainable building rating or compliance with a national model
335 resiliency standard and any improvements to a structure to
336 achieve wind or flood insurance rate reductions, including
337 building elevation.

338 (j) "Residential property" means a residential real
339 property composed of four or fewer dwelling units which has been
340 or will be improved by a qualifying improvement.

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

343 (4) Subject to local government ordinance or resolution, a
344 residential or commercial property owner may apply to the
345 qualifying improvement program ~~local government~~ for funding to
346 finance a qualifying improvement and enter into a financing
347 agreement with the local government. Costs incurred by the local
348 government for such purpose may be collected as a non-ad valorem

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349 assessment. A non-ad valorem assessment must ~~shall~~ be collected
350 pursuant to s. 197.3632 and, notwithstanding s. 197.3632(8)(a),
351 is ~~shall~~ not be subject to discount for early payment. However,
352 the notice and adoption requirements of s. 197.3632(4) do not
353 apply if this section is used and complied with, and the intent
354 resolution, publication of notice, and mailed notices to the
355 property appraiser, tax collector, and Department of Revenue
356 required by s. 197.3632(3)(a) may be provided on or before
357 August 15 in conjunction with any non-ad valorem assessment
358 authorized by this section, if the property appraiser, tax
359 collector, and local government agree.

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

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

368 (7) A local government may incur debt for the purpose of
369 providing financing for qualifying ~~such~~ improvements, which debt
370 is payable from revenues received from the improved property, or
371 any other available revenue source authorized by law.

372 (8) (a) A local government may enter into a financing
373 agreement to finance or refinance a qualifying improvement only
374 with the record owner of the affected property. For government
375 commercial property, the financing agreement must be executed by
376 the nongovernmental lessee with the written consent of the
377 governmental lessor. Evidence of such consent must be provided

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378 to the local government. The financing agreement with the
379 nongovernmental lessee must provide that the nongovernmental
380 lessee is the only party obligated to pay the assessment.

381 (b) Any financing agreement entered into pursuant to this
382 section or a summary memorandum of such agreement ~~must shall~~ be
383 submitted for recording ~~recorded~~ in the public records of the
384 county within which the property is located by the sponsoring
385 unit of local government within 10 ~~5~~ days after execution of the
386 agreement. The recorded agreement provides ~~shall provide~~
387 constructive notice that the non-ad valorem assessment to be
388 levied on the property constitutes a lien of equal dignity to
389 county taxes and assessments from the date of recordation. A
390 notice of lien for the full amount of the financing may be
391 recorded in the public records of the county where the property
392 is located. Such lien is not enforceable in a manner that
393 results in the acceleration of the remaining nondelinquent
394 unpaid balance under the assessment financing agreement.

395 (9) (a) ~~Before entering into~~ A financing agreement for a
396 residential property may not be approved unless, the local
397 government, or the program administrator acting on its behalf,
398 has ~~shall~~ reasonably determined ~~determine~~ that all of the
399 following conditions have been met:

400 1. All property taxes and any other assessments levied on
401 the same bill as property taxes are current ~~paid~~ and have not
402 been delinquent for the preceding 3 years or the property
403 owner's period of ownership, whichever is less. ~~;~~ ~~that~~

404 2. There are no involuntary liens, including, but not
405 limited to, construction liens on the property. ~~;~~ ~~that~~

406 3. There are no notices of default or other evidence of

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407 property-based debt delinquency which have been recorded during
408 the preceding 3 years or the property owner's period of
409 ownership, whichever is less. ~~;~~ ~~and that~~

410 4. The property owner is current on all mortgage debt on
411 the property.

412 5. The property owner has acknowledged in writing the
413 disclosure statements required by paragraph (11) (b).

414 6. The property is within the geographic boundaries of the
415 applicable qualifying improvement program.

416 7. The term of the financing agreement does not exceed:

417 a. For a single qualifying improvement, the estimated
418 useful life of the qualifying improvement.

419 b. For multiple qualifying improvements, the lesser of:

420 (I) Thirty years; or

421 (II) The greater of either the weighted average estimated
422 useful life of all qualifying improvements being financed or the
423 estimated useful life of the qualifying improvements to which
424 the greatest portion of funds is disbursed. The local government
425 or program administrator, as applicable, shall determine the
426 useful life of a qualifying improvement using established third-
427 party standards, including certification criteria from
428 government agencies or nationally recognized standards and
429 testing organizations.

430 8. The property owner is not currently the subject to
431 bankruptcy proceedings.

432 9. The property is not subject to an existing home equity
433 conversion mortgage or reverse mortgage product.

434 10. The property is not a residential property gifted to a
435 homeowner for free by a nonprofit entity as may be disclosed by

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436 the property owner. The failure of a property owner to disclose
437 the gift does not invalidate a financing agreement or any
438 obligation thereunder.

439 11. The property owner has obtained estimates from at least
440 two unaffiliated, competitive entities, one of which is a
441 qualifying improvement contractor, for the qualifying
442 improvement to be financed.

443 12. The local government or program administrator, as
444 applicable, has asked if the property owner has obtained or
445 sought to obtain additional qualifying improvements on the same
446 property which have not yet been recorded. The failure of a
447 property owner to disclose such information does not invalidate
448 a financing agreement or any obligation thereunder, even if the
449 total financed amount of the qualifying improvement exceeds the
450 amount that would otherwise be authorized under paragraph
451 (15) (a). The existence of a prior qualifying improvement non-ad
452 valorem assessment or a prior financing agreement is not
453 evidence that the financing agreement under consideration is
454 affordable or meets other program requirements.

455 (b) A financing agreement for a commercial property may not
456 be approved unless the local government, or the program
457 administrator acting on its behalf, has reasonably determined
458 that all of the following conditions have been met:

459 1. All property taxes and any other assessments levied on
460 the same bill as property taxes are current.

461 2. There are no involuntary liens greater than \$10,000,
462 including, but not limited to, construction liens, on the
463 property.

464 3. No notices of default or other evidence of property-

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465 based debt delinquency have been recorded and not released
466 during the preceding 3 years or the property owner's period of
467 ownership, whichever is less.

468 4. The property owner is current on all mortgage debt on
469 the property.

470 (10) In addition to obtaining the information in subsection
471 (9) (a), and before a local government or program administrator,
472 as applicable, approves a qualifying improvement on residential
473 property, the local government or program administrator must use
474 information contained in the property owner's application,
475 reasonably reliable third-party records, or an automated
476 verification system to reasonably determine whether the property
477 owner has the ability to pay the annual non-ad valorem
478 assessment for the qualifying improvement. The local government
479 or program administrator, as applicable, must review the
480 property owner's household income. To do so, the program
481 administrator shall, at a minimum, use the underwriting
482 requirements in subsection (9), confirm that the property owner
483 is not in bankruptcy, and determine that the total estimated
484 annual payment amount for all financing agreements funded under
485 this section on the property does not exceed 10 percent of the
486 property owner's annual household income. In reviewing the
487 property owner's ability to pay, the local government or program
488 administrator, as applicable, when determining the household
489 income:

490 (a) May include the income of any nonproperty owners who
491 reside on the property.

492 (b) May not consider the equity in the property which will
493 secure the non-ad valorem assessment.

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494 (c) May confirm income by use of any of the following:

495 1. Information or income models gathered from and prepared
496 by reputable third parties which provide reasonably reliable
497 evidence of the property owner's household income.

498 2. Federal and state tax returns.

499 3. Statements prepared by a certified public accountant.

500 4. Bank statements.

501 5. Credit reports.

502 6. Retirement accounts.

503 7. Social security statements.

504 8. Trust documents.

505 9. Any other reputable sources of financial information.

506
507 The local government or program administrator may consider
508 statements by the property owner regarding the property owner's
509 income, but income may not be confirmed solely by a property
510 owner's statements.

511 (d) In the event that a court or tribunal determines, by
512 clear and convincing evidence, that the program administrator's
513 determination of the property owner's ability to pay was not
514 objectively reasonable based on the information provided by the
515 property owner, the yearly assessment payment must be reduced by
516 an amount that is within the property owner's ability to pay.
517 This paragraph does not require or authorize the administrator
518 to reduce the amount owed on the assessment.

519 (e) The failure of a property owner to disclose information
520 specified in subsection (9) does not invalidate a financing
521 agreement or any obligation thereunder, even if the total
522 estimated annual payment amount exceeds the amount that would

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523 otherwise be authorized under this subsection.

524 (11) Each local government or program administrator that
525 offers a qualifying improvement program for residential
526 properties shall:

527 (a) Develop a written disclosure form, which may be
528 presented in electronic format, which must be provided to a
529 residential property owner before he or she executes the
530 financing agreement, and which contains the key terms of the
531 agreement, including:

532 1. A description of the qualifying improvement;

533 2. The estimated total financed amount, including the cost
534 of the qualifying improvement, ancillary work, program fees, and
535 prepaid interest, if any;

536 3. The annual non-ad valorem assessment process and
537 estimated yearly payment schedule;

538 4. The estimated amount of the annual non-ad valorem
539 assessment;

540 5. The term of the total financed amount;

541 6. The interest rate for the financed amount;

542 7. The estimated annual percentage rate;

543 8. The total estimated annual costs that the residential
544 property owner will be required to pay under the assessment
545 contract, including program fees;

546 9. The total estimated average monthly equivalent amount of
547 funds that the residential property owner would have to save in
548 order to pay the annual costs of the non-ad valorem assessment,
549 including program fees; and

550 10. The estimated due date of the residential property
551 owner's first property tax payment that includes the non-ad

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552 valorem assessment.

553 (b) Include the following statements verbatim and in the
554 following order in the written disclosure form, each of which
555 must be individually acknowledged in writing by the property
556 owner:

557 1. I UNDERSTAND THAT IF I SELL OR REFINANCE THE PROPERTY, I
558 MAY BE REQUIRED TO PAY OFF THE OUTSTANDING FINANCED AMOUNT AS A
559 CONDITION OF THE SALE OR THE REFINANCE OF THE PROPERTY. The
560 previous statement must be made in at least 24-point boldfaced
561 type.

562 2. I understand that the annual non-ad valorem assessment
563 will be paid when property taxes are paid and will result in a
564 lien being placed on my property.

565 3. I understand that the annual non-ad valorem assessment
566 will be added to my property tax bill and that if I pay my
567 property taxes through my mortgage payment using an escrow
568 account, I must notify my mortgage lender.

569 4. I understand that if I fail to pay the annual non-ad
570 valorem assessment, I may incur penalties and fees and the local
571 government could issue a tax certificate that might result in
572 the loss of my property.

573 5. I understand that any potential utility or insurance
574 savings are not guaranteed and will not reduce the annual non-ad
575 valorem assessment or total assessment amount.

576 6. I understand that I have 5 days to cancel the financing
577 agreement. The 5-day right expires at midnight on the 5th
578 business day after I sign the agreement.

579 7. I understand that the local government, program
580 administrator, or qualifying improvement contractor does not

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581 provide tax advice and that I should seek professional tax
582 advice if I have questions regarding tax credits, tax
583 deductibility, or other tax impacts of the qualifying
584 improvement or the assessment contract.

585 8. I understand that I cannot be assessed a penalty if I
586 prepay the outstanding financed amount.

587 (c) Provide a printed or electronic cancellation form to
588 the residential property owner no later than the date that the
589 property owner signs the financing agreement, which allows the
590 property owner to cancel the contract within the 5-day period
591 specified in subparagraph (b)6.

592 (d) Before a notice to proceed is issued, conduct, with at
593 least one residential property owner or an individual who is not
594 affiliated or associated with the local government, program
595 administrator, or qualifying improvement contractor and who is
596 legally authorized to act on behalf of the property owner, an
597 oral, recorded telephone call, during which the local government
598 or program administrator must use plain language. The local
599 government or program administrator, as applicable, shall ask
600 the residential property owner or authorized representative if
601 he or she would like to communicate primarily in a language
602 other than English. A local government or program administrator,
603 as applicable, may not leave a voicemail for the residential
604 property owner or authorized representative to satisfy this
605 requirement. A local government or program administrator, as
606 applicable, as part of this telephone call, must confirm with
607 the residential property owner or authorized representative:

608 1. That at least one residential property owner has access
609 to a copy of the financing agreement and financing estimates and

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610 disclosures.

611 2. The qualifying improvement that is being financed.

612 3. The total estimated annual costs that the residential
613 property owner will have to pay under the financing agreement,
614 including program fees.

615 4. The total estimated average monthly equivalent amount of
616 funds that the residential property owner would have to save in
617 order to pay the annual costs of the non-ad valorem assessment,
618 including program fees.

619 5. The estimated due date of the residential property
620 owner's first property tax payment that includes the non-ad
621 valorem assessment.

622 6. The term of the financing agreement.

623 7. That payments for the financing agreement will cause the
624 residential property owner's annual tax bill to increase and
625 that payments will be made through an additional annual non-ad
626 valorem assessment on the property and will be paid either
627 directly to the county tax collector's office as part of the
628 total annual secured property tax bill or may be paid through
629 the residential property owner's mortgage escrow account.

630 8. That the qualifying residential property owner has
631 disclosed whether the property has received or is seeking
632 additional non-ad valorem assessments and has disclosed all
633 other assessments or special taxes that are or are projected to
634 be placed on the property.

635 9. That the property will be subject to a lien during the
636 term of the financing agreement and that the obligations under
637 the agreement may be required to be paid in full before the
638 residential property owner sells or refinances the property.

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

642 11. That the local government, program administrator, or
643 qualifying improvement contractor does not provide tax advice
644 and that the residential property owner should seek professional
645 tax advice if he or she has questions regarding tax credits, tax
646 deductibility, or other tax impacts of the qualifying
647 improvement or the financing agreement.

648 (12) (a) A residential property owner may cancel a financing
649 agreement within 5 business days after signing the financing
650 agreement without being assessed a financial penalty by the
651 local government or program administrator, as applicable.

652 (b) A contract to sell or install a qualifying improvement
653 that is related to an application for financing in a qualifying
654 improvement program for a residential property is unenforceable,
655 and a qualifying improvement contractor may not begin work under
656 such a contract, if the property owner applied for, accepted,
657 and canceled a qualifying improvement financing agreement within
658 the 5-business-day right-to-cancel period set forth in paragraph
659 (a).

660 (c) If a qualifying improvement contractor has initiated
661 work on a residential property under a contract deemed
662 unenforceable under this subsection, the qualifying improvement
663 contractor:

664 1. May not receive compensation for that work under the
665 financing agreement.

666 2. Must restore the property to its original condition at
667 no cost to the property owner.

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668 3. Must immediately return any money, property, and other
669 consideration given by the property owner. If the property owner
670 provided any property and the qualifying improvement contractor
671 does not or cannot return it, the qualifying improvement
672 contractor must immediately return the fair market value of the
673 property or its value as designated in the contract, whichever
674 is greater.

675 (d) If the qualifying improvement contractor has delivered
676 chattel or fixtures to the residential property pursuant to a
677 contract deemed unenforceable under this subsection, the
678 qualifying improvement contractor has 90 days after the date on
679 which the contract was executed to retrieve the chattel or
680 fixtures, provided that:

681 1. The qualifying improvement contractor has fulfilled the
682 requirements of subparagraphs (c)2. and 3.

683 2. The chattel and fixtures can be removed at the
684 qualifying improvement contractor's expense without damaging the
685 property owner's property.

686 (e) If a qualifying improvement contractor fails to comply
687 with this subsection, the residential property owner may retain
688 any chattel or fixtures provided pursuant to a contract deemed
689 unenforceable under this subsection.

690 (f) A contract that is otherwise unenforceable under this
691 subsection remains enforceable if the residential property owner
692 waives his or her right to cancel the contract or cancels the
693 financing agreement under paragraph (b) but allows the
694 qualifying improvement contractor to proceed with the
695 installation of the qualifying improvement.

696 (13) To constitute an improvement to a building or

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697 facility, a qualifying improvement must ~~shall~~ be affixed to a
698 building or facility that is part of the property ~~and shall~~
699 ~~constitute an improvement to the building or facility~~ or a
700 fixture attached to the building or facility.

701 (a) A financing ~~an~~ agreement between a local government and
702 a residential ~~qualifying~~ property owner may not cover wind-
703 resistance improvements in buildings or facilities under new
704 construction or construction for which a certificate of
705 occupancy or similar evidence of substantial completion of new
706 construction or improvement has not been issued.

707 (b) A financing agreement may be executed for qualifying
708 improvements in the construction of a commercial property before
709 a certificate of occupancy or similar evidence of substantial
710 completion of new construction or improvement is issued.

711 Progress payments, or payments made before completion, are
712 allowed for commercial properties, provided that the property
713 owner subsequently provides, upon request for a final progress
714 payment disbursement, written verification to the local
715 government confirming that the qualifying improvements are
716 completed and operating as intended. A financing agreement with
717 a commercial property owner may cover wind-resistance
718 improvements in buildings or facilities under new construction
719 or construction for which a certificate of occupancy or similar
720 evidence of substantial completion of new construction or
721 improvement has not been issued.

722 (14) ~~(11)~~ Any work requiring a license under any applicable
723 law to make a qualifying improvement must ~~shall~~ be performed by
724 a contractor properly certified or registered pursuant to ~~part I~~
725 ~~or part II~~ of chapter 489.

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726 ~~(15)(12)~~(a) Without the consent of the holders or loan
727 servicers of any mortgage encumbering or otherwise secured by
728 the residential property;

729 1. The total amount of any non-ad valorem assessment for a
730 residential property under this section may not exceed 20
731 percent of the fair market ~~just~~ value of the property ~~as~~
732 ~~determined by the county property appraiser.~~

733 2. The combined mortgage-related debt and total amount of
734 any non-ad valorem assessments funded under this section for
735 residential property may not exceed 97 percent of the fair
736 market value of the residential property.

737
738 The failure of a property owner to disclose information set
739 forth in paragraph (9) (a) does not invalidate a financing
740 agreement or any obligation thereunder, even if the total
741 financed amount of the qualifying improvements exceeds the
742 amount that would otherwise be authorized under this paragraph.
743 For purposes of this paragraph, fair market value may be
744 determined using third party valuations based on reputable
745 methodologies.

746 (b) Before entering into a financing agreement with the
747 owner of a commercial property, the local government or program
748 administrator, as applicable, must be in receipt of the written
749 consent of the current holders or loan servicers of any mortgage
750 that encumbers or is otherwise secured by the property or that
751 will otherwise be secured by the property at the time the
752 financing agreement is executed by the local government or
753 program administrator ~~Notwithstanding paragraph (a), a non-ad~~
754 ~~valorem assessment for a qualifying improvement defined in~~

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755 ~~subparagraph (2) (b) 1. or subparagraph (2) (b) 2. that is supported~~
756 ~~by an energy audit is not subject to the limits in this~~
757 ~~subsection if the audit demonstrates that the annual energy~~
758 ~~savings from the qualified improvement equals or exceeds the~~
759 ~~annual repayment amount of the non-ad valorem assessment.~~

760 ~~(16)~~(13) At least 30 days before entering into a financing
761 agreement, the property owner shall provide to the holders or
762 loan servicers of any existing mortgages encumbering or
763 otherwise secured by the property a written notice of the
764 owner's intent to enter into a financing agreement together with
765 the maximum principal amount to be financed and the maximum
766 annual assessment necessary to repay that amount. A verified
767 copy or other proof of such notice must ~~shall~~ be provided to the
768 local government or program administrator, as applicable. A
769 provision in any agreement between a mortgagee or other
770 lienholder and a property owner, or otherwise now or hereafter
771 binding upon a property owner, which allows for acceleration of
772 payment of the mortgage, note, or lien or other unilateral
773 modification solely as a result of entering into a financing
774 agreement as provided for in this section is not enforceable.
775 This subsection does not limit the authority of the holder or
776 loan servicer to increase the required monthly escrow by an
777 amount necessary to ~~annually~~ pay the annual ~~qualifying~~
778 ~~improvement~~ assessment.

779 ~~(17)~~(14) At or before the time a seller ~~purchaser~~ executes
780 a contract for the sale ~~and purchase~~ of any property for which a
781 non-ad valorem assessment has been levied under this section and
782 has an unpaid balance due, the seller must ~~shall~~ give the
783 prospective purchaser a written disclosure statement in either

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784 of the following forms ~~form~~, which must ~~shall~~ be set forth in
785 the contract or in a separate writing.

786 (a) For a residential property:

787
788 QUALIFYING IMPROVEMENTS FOR ENERGY EFFICIENCY,
789 RENEWABLE ENERGY, ADVANCED TECHNOLOGIES FOR WASTEWATER
790 REMOVAL, OR WIND RESISTANCE.—The property being
791 purchased is located within the jurisdiction of a
792 local government that has placed an assessment on the
793 property pursuant to s. 163.08, Florida Statutes. The
794 assessment is for a qualifying improvement to the
795 property relating to energy efficiency, renewable
796 energy, advanced technologies for wastewater removal,
797 or wind resistance, and is not based on the value of
798 property. You are encouraged to contact the county
799 property appraiser's office to learn more about this
800 and other assessments that may be provided by law.

801
802 (b) For a commercial property:

803
804 QUALIFYING IMPROVEMENTS FOR ENERGY EFFICIENCY,
805 RENEWABLE ENERGY, OR RESILIENCY.—The property being
806 purchased is located within the jurisdiction of a
807 local government that has placed an assessment on the
808 property pursuant to s. 163.08, Florida Statutes. The
809 assessment is for a qualifying improvement to the
810 property relating to energy efficiency, renewable
811 energy, or resiliency, and is not based on the value
812 of property. You are encouraged to contact the county

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813 property appraiser's office to learn more about this
814 and other assessments that may be provided by law.

815
816 (18) A financing agreement authorized under this section on
817 residential property may not include any of the following:

818 (a) A negative amortization schedule. Capitalized interest
819 included in the original balance of the financing agreement does
820 not constitute negative amortization.

821 (b) A balloon payment.

822 (c) Prepayment fees, other than nominal administrative
823 costs.

824 (19) For residential property, a local government or
825 program administrator:

826 (a) May not enroll a qualifying improvement contractor who
827 contracts with residential property owners to install qualifying
828 improvements unless:

829 1. The local government or program administrator, as
830 applicable, determines that the qualifying improvement
831 contractor maintains in good standing an appropriate license
832 from the state, if applicable, as well as any other permits,
833 licenses, or registrations required for engaging in its business
834 in the jurisdiction in which it operates and maintains all
835 state-required bond and insurance coverage.

836 2. The local government or program administrator, as
837 applicable, obtains the qualifying improvement contractor's
838 written agreement that the qualifying improvement contractor
839 will comply with all applicable laws, including applicable
840 advertising and marketing laws and regulations and the
841 requirements of this section.

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842 (b) Must maintain a process to enroll new qualifying
843 improvement contractors which includes reasonable review of the
844 following for each contractor:

845 1. Relevant work or project history.

846 2. Financial and reputational background checks, including
847 a criminal background check.

848 3. The contractor's status on the Better Business Bureau
849 platform or other online platform that tracks contractor
850 reviews.

851 (c) Must establish and maintain a process for monitoring
852 qualifying improvement contractors with regard to performance
853 and compliance with program policies and must implement policies
854 for suspending, reinstating, and terminating qualifying
855 improvement contractors based on violations of program policies
856 or unscrupulous behavior.

857
858 A program administrator, either directly or through an
859 affiliate, may not be enrolled as a qualifying improvement
860 contractor.

861 (20) (a) Before disbursing final funds to a qualifying
862 improvement contractor for a qualifying improvement on
863 residential property, the local government or program
864 administrator, as applicable, must confirm that the applicable
865 work or service has been completed or that the final permit for
866 the qualifying improvement has been closed with all permit
867 requirements satisfied.

868 (b) A local government or program administrator, as
869 applicable, may not disclose the maximum financing amount for
870 which a residential property owner is eligible to a qualifying

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871 improvement contractor or to a third party engaged in soliciting
872 financing agreements financed pursuant to this section.

873 (21) When communicating with residential property owners, a
874 local government or program administrator must comply with the
875 following marketing and communication guidelines and may not:

876 (a) Suggest or imply:

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

879 2. That qualifying improvements are free or provided at no
880 cost, or that the financing related to a non-ad valorem
881 assessment authorized under this section is free or provided at
882 no cost; or

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

886 (b) Make any representation as to the tax deductibility of
887 a non-ad valorem assessment on residential property. A local
888 government, program administrator, or qualifying improvement
889 contractor, or a third party engaged in marketing on behalf of
890 such entities, may encourage a property owner to seek the advice
891 of a tax professional regarding tax matters related to
892 assessments.

893 (22) (a) A qualifying improvement contractor may not
894 advertise the availability of financing agreements for, or
895 solicit property owners on behalf of, the local government or
896 program administrator unless:

897 1. The qualifying improvement contractor maintains the
898 appropriate registration or certification from the Construction
899 Industry Licensing Board or any other permit, license, or

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900 registration required to conduct business in the jurisdiction in
901 which it operates, and provides proof of having the required
902 bond and insurance coverage amounts.

903 2. The local government or program administrator, as
904 applicable, obtains the qualifying improvement contractor's
905 written agreement that the qualifying improvement contractor or
906 third party will comply with applicable laws and rules and
907 qualifying improvement program policies and procedures,
908 including those on advertising and marketing.

909 (b) A local government or program administrator may not
910 provide any payment, fee, or kickback to a qualifying
911 improvement contractor for referring financing business relating
912 to a specific financing agreement on a residential property.
913 However, a local government or program administrator may provide
914 information or services to a qualifying improvement contractor
915 to facilitate the installation of a qualifying improvement for a
916 property owner.

917 (c) A local government or program administrator may
918 reimburse a qualifying improvement contractor or third party for
919 its expenses in advertising and marketing campaigns and
920 materials.

921 (d) A local government or program administrator may not
922 provide to a qualifying improvement contractor any information
923 that discloses the amount of funds for which a property owner is
924 eligible for qualifying improvements or the amount of equity in
925 a property.

926 (e) For residential properties, a qualifying improvement
927 contractor may not provide a different price for a qualifying
928 improvement financed under this section than the price that the

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929 qualifying improvement contractor would otherwise reasonably
930 provide if the qualifying improvement was not being financed
931 through an assessment financing agreement.

932 (f) A local government or program administrator may not
933 provide any direct cash payment or other thing of material value
934 to a residential property owner explicitly conditioned upon the
935 property owner entering into a financing agreement. However, a
936 local government or program administrator may offer programs or
937 promotions that provide reduced fees or interest rates if the
938 reduced fees or interest rates are reflected in the financing
939 agreements and are not provided to the property owners as cash
940 consideration.

941 (23) Each local government and program administrator must
942 develop and implement policies and procedures for responding to,
943 tracking, and resolving questions and complaints about its
944 qualifying improvement program.

945 (24) Each local government that has authorized a qualifying
946 improvement program shall post on its website an annual report
947 for the period ending December 31 each year containing the
948 following information:

949 (a) The number of qualifying improvements funded.

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

953 (c) The percentage, number, and dollar value of non-ad
954 valorem assessments that funded qualifying improvements,
955 aggregated by the following category types: energy efficiency,
956 renewable energy, wind resistance, residential property
957 wastewater, commercial property resiliency, and other commercial

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958 property qualifying improvements.

959 (d) The number of defaulted non-ad valorem assessments,
960 including the total number and defaulted amount, the number and
961 dates of missed payments, the total number of parcels defaulted
962 and the years in default, and the percentage of defaults by
963 total assessments.

964 (e) A summary of all reported complaints received by the
965 local government and its program administrators related to
966 authorized qualifying improvements programs, including the
967 resolution of each complaint.

968 (f) The estimated number of jobs created.

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

971
972 This report must be posted no later than April 1 of the year
973 following the calendar year covered by the report.

974 (25) ~~(15)~~ A provision in any agreement between a local
975 government and a public or private power or energy provider or
976 other utility provider is not enforceable to limit or prohibit
977 any local government from exercising its authority under this
978 section.

979 (26) ~~(16)~~ This section is additional and supplemental to
980 county and municipal home rule authority and not in derogation
981 of such authority or a limitation upon such authority.

982 (27) This section is prospective only and does not affect
983 or amend any existing non-ad valorem assessment or any existing
984 interlocal agreement between local governments.

985 Section 2. This act shall take effect January 1, 2024.