

Amendment No.

CHAMBER ACTION

Senate

House

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1 Representative Trabulsy offered the following:

2
3 **Amendment**

4 Remove lines 408-1079 and insert:

5 3. The financing agreement does not utilize a negative
6 amortization schedule, a balloon payment, or prepayment fees or
7 finances other than nominal administrative costs. Capitalized
8 interest included in the original balance of the assessment
9 financing agreement does not constitute negative amortization.

10 4. All property taxes and any other assessments, including
11 non-ad valorem assessments, levied on the same bill as the
12 property taxes are current and have not been delinquent for the

264549

3/4/2024 12:11 PM

Amendment No.

13 preceding 3 years, or the property owner's period of ownership,
14 whichever is less.

15 5. There are no outstanding fines or fees related to
16 zoning or code enforcement violations issued by a county or
17 municipality, unless the qualifying improvement will remedy the
18 zoning or code violation.

19 6. There are no involuntary liens, including, but not
20 limited to, construction liens on the residential property.

21 7. No notices of default or other evidence of property-
22 based debt delinquency have been recorded and not released
23 during the preceding 3 years or the property owner's period of
24 ownership, whichever is less.

25 8. The property owner is current on all mortgage debt on
26 the residential property.

27 9. The property owner has not been subject to a bankruptcy
28 proceeding within the last 5 years unless it was discharged or
29 dismissed more than 2 years before the date on which the
30 property owner applied for financing.

31 10. The residential property is not subject to an existing
32 home equity conversion mortgage or reverse mortgage product.

33 11. The term of the financing agreement does not exceed
34 the weighted average useful life of the qualified improvements
35 to which the greatest portion of funds disbursed under the
36 assessment contract is attributable, not to exceed 20 years. The
37 program administrator shall determine the useful life of a

264549

3/4/2024 12:11 PM

Amendment No.

38 qualifying improvement using established standards, including
39 certification criteria from government agencies or nationally
40 recognized standards and testing organizations.

41 12. The total estimated annual payment amount for all
42 financing agreements entered into under this section on the
43 residential property does not exceed 10 percent of the property
44 owner's annual household income. Income must be confirmed using
45 reasonable evidence and not solely by a property owner's
46 statement.

47 13. If the qualifying improvement is for the conversion of
48 an onsite sewage treatment and disposal system to a central
49 sewerage system, the property owner has utilized all available
50 local government funding for such conversions and is unable to
51 obtain financing for the improvement on more favorable terms
52 through a local government program designed to support such
53 conversions.

54 (b) Before entering into a financing agreement, the
55 program administrator must determine if there are any current
56 financing agreements on the residential property and if the
57 property owner has obtained or sought to obtain additional
58 qualifying improvements on the same property which have not yet
59 been recorded. The existence of a prior qualifying improvement
60 non-ad valorem assessment or a prior financing agreement is not
61 evidence that the financing agreement under consideration is
62 affordable or meets other program requirements.

264549

3/4/2024 12:11 PM

Amendment No.

63 (c) Findings satisfying paragraphs (a) and (b) must be
64 documented, including supporting evidence relied upon, and
65 provided to the property owner prior to a financing agreement
66 being approved and recorded. The program administrator must
67 retain the documentation for the duration of the financing
68 agreement.

69 (d) If the qualifying improvement is estimated to cost
70 \$10,000 or more, before entering into a financing agreement the
71 program administrator must advise the property owner in writing
72 that the best practice is to obtain estimates from more than one
73 unaffiliated, registered qualifying improvement contractor for
74 the qualifying improvement and notify the property owner in
75 writing of the advertising and solicitation requirements of s.
76 163.085.

77 (e) A property owner and the program administrator may
78 agree to include in the financing agreement provisions for
79 allowing change orders necessary to complete the qualifying
80 improvement. Any financing agreement or contract for qualifying
81 improvements which includes such provisions must meet the
82 requirements of this paragraph. If a proposed change order on a
83 qualifying improvement will increase the original cost of the
84 qualifying improvement by 20 percent or more or will expand the
85 scope of the qualifying improvement by more than 20 percent,
86 before the change order may be executed which would result in an
87 increase in the amount financed through the program

264549

3/4/2024 12:11 PM

Amendment No.

88 administrator for the qualifying improvement, the program
89 administrator must notify the property owner, provide an updated
90 written disclosure form as described in subsection (4) to the
91 property owner, and obtain written approval of the change from
92 the property owner.

93 (f) A financing agreement may not be entered into if the
94 total cost of the qualifying improvement, including program fees
95 and interest, is less than \$2,500.

96 (g) A financing agreement may not be entered into for
97 qualifying improvements in buildings or facilities under new
98 construction or construction for which a certificate of
99 occupancy or similar evidence of substantial completion of new
100 construction or improvement has not been issued.

101 (4) DISCLOSURES.—

102 (a) In addition to the requirements imposed in subsection
103 (3), a financing agreement may not be executed unless the
104 program administrator first provides, including via electronic
105 means, a written financing estimate and disclosure to the
106 property owner which includes all of the following, each of
107 which must be individually acknowledged in writing by the
108 property owner:

109 1. The estimated total amount to be financed, including
110 the total and itemized cost of the qualifying improvement,
111 program fees, and capitalized interest;

112 2. The estimated annual non-ad valorem assessment;

264549

3/4/2024 12:11 PM

Amendment No.

113 3. The term of the financing agreement and the schedule
114 for the non-ad valorem assessments;

115 4. The interest charged and estimated annual percentage
116 rate;

117 5. A description of the qualifying improvement;

118 6. The total estimated annual costs that will be required
119 to be paid under the assessment contract, including program
120 fees;

121 7. The total estimated average monthly equivalent amount
122 of funds that would need to be saved in order to pay the annual
123 costs of the non-ad valorem assessment, including program fees;

124 8. The estimated due date of the first payment that
125 includes the non-ad valorem assessment;

126 9. A disclosure that the financing agreement may be
127 canceled within 3 business days after signing the financing
128 agreement without any financial penalty for doing so;

129 10. A disclosure that the property owner may repay any
130 remaining amount owed, at any time, without penalty or
131 imposition of additional prepayment fees or fines other than
132 nominal administrative costs;

133 11. A disclosure that if the property owner sells or
134 refinances the residential property, the property owner may be
135 required by a mortgage lender to pay off the full amount owed
136 under each financing agreement under this section;

264549

3/4/2024 12:11 PM

Amendment No.

137 12. A disclosure that the assessment will be collected
138 along with the property owner's property taxes, and will result
139 in a lien on the property from the date the financing agreement
140 is recorded;

141 13. A disclosure that potential utility or insurance
142 savings are not guaranteed, and will not reduce the assessment
143 amount; and

144 14. A disclosure that failure to pay the assessment may
145 result in penalties, fees, including attorney fees, court costs,
146 and the issuance of a tax certificate that could result in the
147 property owner losing the property and a judgment against the
148 property owner, and may affect the property owner's credit
149 rating.

150 (b) Prior to the financing agreement being approved, the
151 program administrator must conduct an oral, recorded telephone
152 call with the property owner during which the program
153 administrator must confirm each finding or disclosure required
154 in subsection (3) and this section.

155 (5) NOTICE TO LIENHOLDERS AND SERVICERS.--At least 5
156 business days before entering into a financing agreement, the
157 property owner must provide to the holders or loan servicers of
158 any existing mortgages encumbering or otherwise secured by the
159 residential property a written notice of the owner's intent to
160 enter into a financing agreement together with the maximum
161 amount to be financed, including the amount of any fees and

264549

3/4/2024 12:11 PM

Amendment No.

162 interest, and the maximum annual assessment necessary to repay
163 the total. A verified copy or other proof of such notice must be
164 provided to the program administrator. A provision in any
165 agreement between a mortgagor or other lienholder and a property
166 owner, or otherwise now or hereafter binding upon a property
167 owner, which allows for acceleration of payment of the mortgage,
168 note, or lien or other unilateral modification solely as a
169 result of entering into a financing agreement as provided for in
170 this section is unenforceable. This subsection does not limit
171 the authority of the holder or loan servicer to increase the
172 required monthly escrow by an amount necessary to pay the annual
173 assessment.

174 (6) CANCELLATION.—A property owner may cancel a financing
175 agreement on a form established by the program administrator
176 within 3 business days after signing the financing agreement
177 without any financial penalty for doing so.

178 (7) RECORDING.—Any financing agreement executed pursuant
179 to this section, or a summary memorandum of such agreement,
180 shall be submitted for recording in the public records of the
181 county within which the residential property is located by the
182 program administrator within 10 business days after execution of
183 the agreement and the 3-day cancellation period. The recorded
184 agreement must provide constructive notice that the non-ad
185 valorem assessment to be levied on the property constitutes a
186 lien of equal dignity to county taxes and assessments from the

264549

3/4/2024 12:11 PM

Amendment No.

187 date of recordation. A notice of lien for the full amount of the
188 financing may be recorded in the public records of the county
189 where the property is located. Such lien is not enforceable in a
190 manner that results in the acceleration of the remaining
191 nondelinquent unpaid balance under the assessment financing
192 agreement.

193 (8) SALE OF RESIDENTIAL PROPERTY.—At or before the time a
194 seller executes a contract for the sale of any residential
195 property for which a non-ad valorem assessment has been levied
196 under this section and has an unpaid balance due, the seller
197 shall give the prospective purchaser a written disclosure
198 statement in the following form, which must be set forth in the
199 contract or in a separate writing:

201 QUALIFYING IMPROVEMENTS.—The property being purchased
202 is subject to an assessment on the property pursuant
203 to s. 163.081, Florida Statutes. The assessment is for
204 a qualifying improvement to the property and is not
205 based on the value of the property. You are encouraged
206 to contact the property appraiser's office to learn
207 more about this and other assessments that may be
208 provided by law.

209
210 (9) DISBURSEMENTS.—Before disbursing final funds to a
211 qualifying improvement contractor for a qualifying improvement

264549

3/4/2024 12:11 PM

Amendment No.

212 on residential property, the program administrator shall confirm
213 that the applicable work or service has been completed or, as
214 applicable, that the final permit for the qualifying improvement
215 has been closed with all permit requirements satisfied or a
216 certificate of occupancy or similar evidence of substantial
217 completion of construction or improvement has been issued.

218 (10) CONSTRUCTION.—This section is additional and
219 supplemental to county and municipal home rule authority and not
220 in derogation of such authority or a limitation upon such
221 authority.

222 Section 3. Section 163.082, Florida Statutes, is created
223 to read:

224 163.082 Financing qualifying improvements to commercial
225 property.—

226 (1) COMMERCIAL PROPERTY PROGRAM AUTHORIZATION.—

227 (a) A program administrator may only offer a program for
228 financing qualifying improvements to commercial property within
229 the jurisdiction of a county or municipality if the county or
230 municipality has authorized by ordinance or resolution the
231 program administrator to administer the program for financing
232 qualifying improvements to commercial property. The authorized
233 program must, at a minimum, meet the requirements of this
234 section.

235 (b) Pursuant to this section or as otherwise provided by
236 law or pursuant to a county's or municipality's home rule power,

264549

3/4/2024 12:11 PM

Amendment No.

237 a county or municipality may enter into an interlocal agreement
238 providing for a partnership between one or more counties or
239 municipalities for the purpose of facilitating a program for
240 financing qualifying improvements to commercial property located
241 within the jurisdiction of the counties or municipalities that
242 are party to the agreement.

243 (c) A county or municipality may deauthorize a program
244 administrator through repeal of the ordinance or resolution
245 adopted pursuant to paragraph (a) or other action. Any recorded
246 financing agreements at the time of deauthorization shall
247 continue, except any financing agreement for which the
248 provisions of s. 163.086 apply.

249 (d) A program administrator may contract with one or more
250 third-party administrators to implement the program as provided
251 in s. 163.084.

252 (e) An authorized program administrator may levy non-ad
253 valorem assessments to facilitate repayment of financing or
254 refinancing qualifying improvements. Costs incurred by the
255 program administrator for such purpose may be collected as a
256 non-ad valorem assessment. A non-ad valorem assessment shall be
257 collected pursuant to s. 197.3632 and, notwithstanding s.
258 197.3632(8)(a), is not subject to discount for early payment.
259 However, the notice and adoption requirements of s. 197.3632(4)
260 do not apply if this section is used and complied with, and the
261 intent resolution, publication of notice, and mailed notices to

264549

3/4/2024 12:11 PM

Amendment No.

262 the property appraiser, tax collector, and Department of Revenue
263 required by s. 197.3632(3)(a) may be provided on or before
264 August 15 of each year in conjunction with any non-ad valorem
265 assessment authorized by this section, if the property
266 appraiser, tax collector, and program administrator agree. The
267 program administrator shall only compensate the tax collector
268 for the actual cost of collecting non-ad valorem assessments,
269 not to exceed 2 percent of the amount collected and remitted.

270 (f) A program administrator may incur debt for the purpose
271 of providing financing for qualifying improvements, which debt
272 is payable from revenues received from the improved property or
273 any other available revenue source authorized by law.

274 (2) APPLICATION.—The owner of record of the commercial
275 property within the jurisdiction of the authorized program may
276 apply to the program administrator to finance a qualifying
277 improvement and enter into a financing agreement with the
278 program administrator to make such improvement. The program
279 administrator may only enter into a financing agreement with a
280 property owner.

281 (3) CONSENT OF LIENHOLDERS AND SERVICERS.—The program
282 administrator must receive the written consent of the current
283 holders or loan servicers of any mortgage that encumbers or is
284 otherwise secured by the commercial property or that will
285 otherwise be secured by the property before a financing
286 agreement may be executed.

264549

3/4/2024 12:11 PM

Amendment No.

287 (4) FINANCING AGREEMENTS.-

288 (a) A program administrator offering a program for
289 financing qualifying improvements to commercial property must
290 maintain underwriting criteria sufficient to determine the
291 financial feasibility of entering into a financing agreement. To
292 enter into a financing agreement, the program administrator
293 must, at a minimum, make each of the following findings based on
294 a review of public records derived from a commercially accepted
295 source and the statements, records, and credit reports of the
296 commercial property owner:

297 1. There are sufficient resources to complete the project.

298 2. All property taxes and any other assessments, including
299 non-ad valorem assessments, levied on the same bill as the
300 property taxes are current.

301 3. There are no involuntary liens greater than \$5,000,
302 including, but not limited to, construction liens on the
303 commercial property.

304 4. No notices of default or other evidence of property-
305 based debt delinquency have been recorded and not been released
306 during the preceding 3 years or the property owner's period of
307 ownership, whichever is less.

308 5. The property owner is current on all mortgage debt on
309 the commercial property.

310 6. The term of the financing agreement does not exceed the
311 weighted average useful life of the qualified improvements to

264549

3/4/2024 12:11 PM

Amendment No.

312 which the greatest portion of funds disbursed under the
313 assessment contract is attributable, not to exceed 30 years. The
314 program administrator shall determine the useful life of a
315 qualifying improvement using established standards, including
316 certification criteria from government agencies or nationally
317 recognized standards and testing organizations.

318 7. The property owner is not currently the subject of a
319 bankruptcy proceeding.

320 (b) Before entering into a financing agreement, the
321 program administrator shall determine if there are any current
322 financing agreements on the commercial property and whether the
323 property owner has obtained or sought to obtain additional
324 qualifying improvements on the same property which have not yet
325 been recorded. The existence of a prior qualifying improvement
326 non-ad valorem assessment or a prior financing agreement is not
327 evidence that the financing agreement under consideration is
328 affordable or meets other program requirements.

329 (c) The program administrator shall document and retain
330 findings satisfying paragraphs (a) and (b), including supporting
331 evidence relied upon, which were made prior to the financing
332 agreement being approved and recorded, for the duration of the
333 financing agreement.

334 (d) A property owner and the program administrator may
335 agree to include in the financing agreement provisions for
336 allowing change orders necessary to complete the qualifying

264549

3/4/2024 12:11 PM

Amendment No.

337 improvement. Any financing agreement or contract for qualifying
338 improvements which includes such provisions must meet the
339 requirements of this paragraph. If a proposed change order on a
340 qualifying improvement will increase the original cost of the
341 qualifying improvement by 20 percent or more or will expand the
342 scope of the qualifying improvement by 20 percent or more,
343 before the change order may be executed which would result in an
344 increase in the amount financed through the program
345 administrator for the qualifying improvement, the program
346 administrator must notify the property owner, provide an updated
347 written disclosure form as described in subsection (5) to the
348 property owner, and obtain written approval of the change from
349 the property owner.

350 (e) A financing agreement may not be entered into if the
351 total cost of the qualifying improvement, including program fees
352 and interest, is less than \$2,500.

353 (5) DISCLOSURES.—In addition to the requirements imposed
354 in subsection (4), a financing agreement may not be executed
355 unless the program administrator provides, whether on a separate
356 document or included with other disclosures or forms, a
357 financing estimate and disclosure to the property owner which
358 includes all of the following:

359 (a) The estimated total amount to be financed, including
360 the total and itemized cost of the qualifying improvement,
361 program fees, and capitalized interest;

264549

3/4/2024 12:11 PM

Amendment No.

- 362 (b) The estimated annual non-ad valorem assessment;
- 363 (c) The term of the financing agreement and the schedule
- 364 for the non-ad valorem assessments;
- 365 (d) The interest charged and estimated annual percentage
- 366 rate;
- 367 (e) A description of the qualifying improvement;
- 368 (f) The total estimated annual costs that will be required
- 369 to be paid under the assessment contract, including program
- 370 fees;
- 371 (g) The estimated due date of the first payment that
- 372 includes the non-ad valorem assessment; and
- 373 (h) A disclosure of any prepayment penalties, fees, or
- 374 finances as set forth in the financing agreement.
- 375 (6) RECORDING.—Any financing agreement executed pursuant
- 376 to this section or a summary memorandum of such agreement must
- 377 be submitted for recording in the public records of the county
- 378 within which the commercial property is located by the program
- 379 administrator within 10 business days after execution of the
- 380 agreement. The recorded agreement must provide constructive
- 381 notice that the non-ad valorem assessment to be levied on the
- 382 property constitutes a lien of equal dignity to county taxes and
- 383 assessments from the date of recordation. A notice of lien for
- 384 the full amount of the financing may be recorded in the public
- 385 records of the county where the property is located. Such lien
- 386 is not enforceable in a manner that results in the acceleration

264549

3/4/2024 12:11 PM

Amendment No.

387 of the remaining nondelinquent unpaid balance under the
388 assessment financing agreement.

389 (7) SALE OF COMMERCIAL PROPERTY.—At or before the time a
390 seller executes a contract for the sale of any commercial
391 property for which a non-ad valorem assessment has been levied
392 under this section and has an unpaid balance due, the seller
393 shall give the prospective purchaser a written disclosure
394 statement in the following form, which must be set forth in the
395 contract or in a separate writing:

396
397 QUALIFYING IMPROVEMENTS.—The property being purchased
398 is subject to an assessment on the property pursuant
399 to s. 163.082, Florida Statutes. The assessment is for
400 a qualifying improvement to the property and is not
401 based on the value of the property. You are encouraged
402 to contact the property appraiser's office to learn
403 more about this and other assessments that may be
404 provided for by law.

405
406 (8) COMPLETION CERTIFICATE.—Upon disbursement of all
407 financing and completion of installation of qualifying
408 improvements financed, the program administrator shall retain a
409 certificate that the qualifying improvements have been installed
410 and are in good working order.

264549

3/4/2024 12:11 PM

Amendment No.

411 (9) CONSTRUCTION.—This section is additional and
412 supplemental to county and municipal home rule authority and not
413 in derogation of such authority or a limitation upon such
414 authority.

415 Section 4. Section 163.083, Florida Statutes, is created
416 to read:

417 163.083 Qualifying improvement contractors.—

418 (1) A county or municipality shall establish a process, or
419 approve a process established by a program administrator, to
420 register contractors for participation in a program authorized
421 by a county or municipality pursuant to s. 163.081. A qualifying
422 improvement contractor may only perform such work that the
423 contractor is appropriately licensed, registered, and permitted
424 to conduct. At the time of application to participate and during
425 participation in the program, contractors must:

426 (a) Hold all necessary licenses or registrations for the
427 work to be performed which are in good standing. Good standing
428 includes no outstanding complaints with the state or local
429 government which issues such licenses or registrations.

430 (b) Comply with all applicable federal, state, and local
431 laws and regulations, including obtaining and maintaining any
432 other permits, licenses, or registrations required for engaging
433 in business in the jurisdiction in which it operates and
434 maintaining all state-required bond and insurance coverage.

264549

3/4/2024 12:11 PM

Amendment No.

435 (c) File with the program administrator a written
436 statement in a form approved by the county or municipality that
437 the contractor will comply with applicable laws and rules and
438 qualifying improvement program policies and procedures,
439 including those on advertising and marketing.

440 (2) A third-party administrator or a program
441 administrator, either directly or through an affiliate, may not
442 be registered as a qualifying improvement contractor.

443 (3) A program administrator shall establish and maintain:

444 (a) A process to monitor qualifying improvement
445 contractors for performance and compliance with requirements of
446 the program and must conduct regular reviews of qualifying
447 improvement contractors to confirm that each qualifying
448 improvement contractor is in good standing.

449 (b) Procedures for notice and imposition of penalties upon
450 a finding of violation, which may consist of placement of the
451 qualifying improvement contractor in a probationary status that
452 places conditions for continued participation, suspension, or
453 termination from participation in the program.

454 (c) An easily accessible page on its website that provides
455 information on the status of registered qualifying improvement
456 contractors, including any imposed penalties, and the names of
457 any qualifying improvement contractors currently on probationary
458 status or that are suspended or terminated from participation in
459 the program.

264549

3/4/2024 12:11 PM

Amendment No.

460 Section 5. Section 163.084, Florida Statutes, is created
461 to read:

462 163.084 Third-party administrator for financing qualifying
463 improvements programs.—

464 (1)(a) A program administrator may contract with one or
465 more third-party administrators to administer a program
466 authorized by a county or municipality pursuant to s. 163.081 or
467 s. 163.082 on behalf of and at the discretion of the program
468 administrator.

469 (b) The third-party administrator must be independent of
470 the program administrator and have no conflicts of interest
471 between managers or owners of the third-party administrator and
472 program administrator managers, owners, officials, or employees
473 with oversight over the contract. A program administrator,
474 either directly or through an affiliate, may not act as a third-
475 party administrator for itself or for another program
476 administrator. However, this paragraph does not apply to a
477 third-party administrator created by an entity authorized in law
478 pursuant to s. 288.9604.

479 (c) The contract must provide for the entity to administer
480 the program according to the requirements of s. 163.081 or s.
481 163.082 and the ordinance or resolution adopted by the county or
482 municipality authorizing the program. However, only the program
483 administrator may levy or administer non-ad valorem assessments.

264549

3/4/2024 12:11 PM

Amendment No.

484 (2) A program administrator may not contract with a third-
485 party administrator that, within the last 3 years, has been:

486 (a) Prohibited, after notice and a hearing, from serving
487 as a third-party administrator for another program administrator
488 for program or contract violations in this state; or

489 (b) Found by a court of competent jurisdiction to have
490 substantially violated state or federal laws related to the
491 administration of ss. 163.081-163.086 or a similar program in
492 another jurisdiction.

493 (3) The program administrator must include in any contract
494 with the third-party administrator the right to perform annual
495 reviews of the administrator to confirm compliance with ss.
496 163.081-163.086, the ordinance or resolution adopted by the
497 county or municipality, and the contract with the program
498 administrator. If the program administrator finds that the
499 third-party administrator has committed a violation of ss.
500 163.081-163.086, the adopted ordinance or resolution, or the
501 contract with the program administrator, the program
502 administrator shall provide the third-party administrator with
503 notice of the violation and may, as set forth in the adopted
504 ordinance or resolution or the contract with the third-party
505 administrator:

506 (a) Place the third-party administrator in a probationary
507 status that places conditions for continued operations.

508 (b) Impose any fines or sanctions.

264549

3/4/2024 12:11 PM

Amendment No.

509 (c) Suspend the activity of the third-party administrator
510 for a period of time.

511 (d) Terminate the agreement with the third-party
512 administrator.

513 (4) A program administrator may terminate the agreement
514 with a third-party administrator, as set forth by the county or
515 municipality in its adopted ordinance or resolution or the
516 contract with the third-party administrator, if the program
517 administrator makes a finding that:

518 (a) The third-party administrator has violated the
519 contract with the program administrator. The contract may set
520 forth substantial violations that may result in contract
521 termination and other violations that may provide for a period
522 of time for correction before the contract may be terminated.

523 (b) The third-party administrator, or an officer, a
524 director, a manager or a managing member, or a control person of
525 the third-party administrator, has been found by a court of
526 competent jurisdiction to have violated state or federal laws
527 related to the administration of a program authorized of the
528 provisions of ss. 163.081-163.086 or a similar program in
529 another jurisdiction within the last 5 years.

530 (c) Any officer, director, manager or managing member, or
531 control person of the third-party administrator has been
532 convicted of, or has entered a plea of guilty or nolo contendere
533 to, regardless of whether adjudication has been withheld, a

264549

3/4/2024 12:11 PM

Amendment No.

534 crime related to administration of a program authorized of the
535 provisions of ss. 163.081-163.086 or a similar program in
536 another jurisdiction within the last 10 years.

537 (d) An annual performance review reveals a substantial
538 violation or a pattern of violations by the third-party
539 administrator.

540 (5) Any recorded financing agreements at the time of
541 termination or suspension by the program administrator shall
542 continue, except any financing agreement for which the
543 provisions of s. 163.086 apply.

544 Section 6. Section 163.085, Florida Statutes, is created
545 to read:

546 163.085 Advertisement and solicitation for financing
547 qualifying improvements programs under s. 163.081 or s.
548 163.082.-

549 (1) When communicating with a property owner, a program
550 administrator, qualifying improvement contractor, or third-party
551 administrator may not:

552 (a) Suggest or imply:

553 1. That a non-ad valorem assessment authorized under s.
554 163.081 or s. 163.082 is a government assistance program;

555 2. That qualifying improvements are free or provided at no
556 cost, or that the financing related to a non-ad valorem
557 assessment authorized under s. 163.081 or s. 163.082 is free or
558 provided at no cost; or

264549

3/4/2024 12:11 PM

Amendment No.

559 3. That the financing of a qualifying improvement using
560 the program authorized pursuant to s. 163.081 or s. 163.082 does
561 not require repayment of the financial obligation.

562 (b) Make any representation as to the tax deductibility of
563 a non-ad valorem assessment. A program administrator, qualifying
564 improvement contractor, or third-party administrator may
565 encourage a property owner to seek the advice of a tax
566 professional regarding tax matters related to assessments.

567 (2) A program administrator or third-party administrator
568 may not provide to a qualifying improvement contractor any
569 information that discloses the amount of financing for which a
570 property owner is eligible for qualifying improvements or the
571 amount of equity in a residential property or commercial
572 property.

573 (3) A qualifying improvement contractor may not advertise
574 the availability of financing agreements for, or solicit program
575 participation on behalf of, the program administrator unless the
576 contractor is registered by the program administrator to
577 participate in the program and is in good standing with the
578 program administrator.

579 (4) A program administrator or third-party administrator
580 may not provide any payment, fee, or kickback to a qualifying
581 improvement contractor for referring property owners to the
582 program administrator or third-party administrator. However, a
583 program administrator or third-party administrator may provide

264549

3/4/2024 12:11 PM

Amendment No.

584 information to a qualifying improvement contractor to facilitate
585 the installation of a qualifying improvement for a property
586 owner.

587 (5) A program administrator or third-party administrator
588 may not reimburse a qualifying improvement contractor for its
589 expenses in advertising and marketing campaigns and materials.

590 (6) A qualifying improvement contractor may not provide a
591 different price for a qualifying improvement financed under s.
592 163.081 than the price that the qualifying improvement
593 contractor would otherwise provide if the qualifying improvement
594 was not being financed through a financing agreement. Any
595 contract between a property owner and a qualifying improvement
596 contractor must clearly state all pricing and cost provisions,
597 including any process for change orders which meet the
598 requirements of s. 163.081(3)(d).

599 (7) A program administrator, qualifying improvement
600 contractor, or third-party administrator may not provide any
601 direct cash payment or other thing of material value to a
602 property owner which is explicitly conditioned upon the property
603 owner entering into a financing agreement. However, a program
604 administrator or third-party administrator may offer programs or
605 promotions on a nondiscriminatory basis that provide reduced
606 fees or interest rates if the reduced fees or interest rates are
607 reflected in the financing agreements and are not provided to
608 the property owner as cash consideration.

264549

3/4/2024 12:11 PM

Amendment No.

609 Section 7. Section 163.086, Florida Statutes, is created
610 to read:

611 163.086 Unenforceable financing agreements for qualifying
612 improvements programs under s. 163.081 or s. 163.082;
613 attachment; fraud.-

614 (1) A recorded financing agreement may not be removed from
615 attachment to a residential property or commercial property if
616 the property owner fraudulently obtained funding pursuant to s.
617 163.081 or s. 163.082.

618 (2) A financing agreement may not be enforced, and a
619 recorded financing agreement may be removed from attachment to a
620 residential property or commercial property and deemed null and
621 void, if:

622 (a) The property owner applied for, accepted, and canceled
623 a financing agreement within the 3-business-day period pursuant
624 to s. 163.081(6). A qualifying improvement contractor may not
625 begin work under a canceled contract.

626 (b) A person other than the property owner obtained the
627 recorded financing agreement. The court may enter an order which
628 holds that person or persons personally liable for the debt.

629 (c) The program administrator, third-party administrator,
630 or qualifying improvement contractor approved or obtained
631 funding through fraudulent means and in violation of ss.
632 163.081-163.085, or this section for qualifying improvements on
633 the residential property or commercial property.

264549

3/4/2024 12:11 PM

Amendment No.

634 (3) If a qualifying improvement contractor has initiated
635 work on residential property or commercial property under a
636 contract deemed unenforceable under this section, the qualifying
637 improvement contractor:

638 (a) May not receive compensation for that work under the
639 financing agreement.

640 (b) Must restore the residential property or commercial
641 property to its original condition at no cost to the property
642 owner.

643 (c) Must immediately return any funds, property, and other
644 consideration given by the property owner. If the property owner
645 provided any property and the qualifying improvement contractor
646 does not or cannot return it, the qualifying improvement
647 contractor must immediately return the fair market value of the
648 property or its value as designated in the contract, whichever
649 is greater.

650 (4) If the qualifying improvement contractor has delivered
651 chattel or fixtures to residential property or commercial
652 property pursuant to a contract deemed unenforceable under this
653 section, the qualifying improvement contractor has 90 days after
654 the date on which the contract was executed to retrieve the
655 chattel or fixtures, provided that:

656 (a) The qualifying improvement contractor has fulfilled
657 the requirements of paragraphs (3)(a) and (b).

264549

3/4/2024 12:11 PM

Amendment No.

658 (b) The chattel and fixtures can be removed at the
659 qualifying improvement contractor's expense without damaging the
660 residential property or commercial property.

661 (5) If a qualifying improvement contractor fails to comply
662 with this section, the property owner may retain any chattel or
663 fixtures provided pursuant to a contract deemed unenforceable
664 under this section.

665 (6) A contract that is otherwise unenforceable under this
666 section remains enforceable if the property owner waives his or
667 her right to cancel the contract or cancels the financing
668 agreement pursuant to s. 163.081(6) but allows

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3/4/2024 12:11 PM