

Amendment No.

CHAMBER ACTION

Senate

House

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1 Representative Precourt offered the following:

2
3 **Amendment (with title amendment)**

4 Remove everything after the enacting clause and insert:

5 Section 1. Section 163.08, Florida Statutes, is created to
6 read:

7 163.08 Supplemental authority for improvements to real
8 property.-

9 (1) (a) In chapter 2008-227, Laws of Florida, the
10 Legislature amended the energy goal of the state comprehensive
11 plan to provide, in part, that the state shall reduce its energy
12 requirements through enhanced conservation and efficiency
13 measures in all end-use sectors and reduce atmospheric carbon
14 dioxide by promoting an increased use of renewable energy
15 resources. That act also declared it the public policy of the
16 state to play a leading role in developing and instituting

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17 energy management programs that promote energy conservation,
18 energy security, and the reduction of greenhouse gases. In
19 addition to establishing policies to promote the use of
20 renewable energy, the Legislature provided for a schedule of
21 increases in energy performance of buildings subject to the
22 Florida Energy Efficiency Code for Building Construction. In
23 chapter 2008-191, Laws of Florida, the Legislature adopted new
24 energy conservation and greenhouse gas reduction comprehensive
25 planning requirements for local governments. In the 2008 general
26 election, the voters of this state approved a constitutional
27 amendment authorizing the Legislature, by general law, to
28 prohibit consideration of any change or improvement made for the
29 purpose of improving a property's resistance to wind damage or
30 the installation of a renewable energy source device in the
31 determination of the assessed value of residential real
32 property.

33 (b) The Legislature finds that all energy-consuming-
34 improved properties that are not using energy conservation
35 strategies contribute to the burden affecting all improved
36 property resulting from fossil fuel energy production. Improved
37 property that has been retrofitted with energy-related
38 qualifying improvements receives the special benefit of
39 alleviating the property's burden from energy consumption. All
40 improved properties not protected from wind damage by wind
41 resistance qualifying improvements contribute to the burden
42 affecting all improved property resulting from potential wind
43 damage. Improved property that has been retrofitted with wind
44 resistance qualifying improvements receives the special benefit

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45 of reducing the property's burden from potential wind damage.
46 Further, the installation and operation of qualifying
47 improvements not only benefit the affected properties for which
48 the improvements are made, but also assist in fulfilling the
49 goals of the state's energy and hurricane mitigation policies.
50 In order to make qualifying improvements more affordable and
51 assist property owners who wish to undertake such improvements,
52 the Legislature finds that there is a compelling state interest
53 in enabling property owners to voluntarily finance such
54 improvements with local government assistance.

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

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

63 (a) "Local government" means a county, a municipality, or
64 a dependant special district as defined in s. 189.403.

65 (b) "Qualifying improvement" includes any:

66 1. Energy conservation and efficiency improvement, which
67 is a measure to reduce consumption through conservation or a
68 more efficient use of electricity, natural gas, propane, or
69 other forms of energy on the property, including, but not
70 limited to, air sealing; installation of insulation;
71 installation of energy-efficient heating, cooling, or
72 ventilation systems; building modifications to increase the use

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73 of daylight; replacement of windows; installation of energy
74 controls or energy recovery systems; installation of electric
75 vehicle charging equipment; and installation of efficient
76 lighting equipment.

77 2. Renewable energy improvement, which is the installation
78 of any system in which the electrical, mechanical, or thermal
79 energy is produced from a method that uses one or more of the
80 following fuels or energy sources: hydrogen, solar energy,
81 geothermal energy, bioenergy, and wind energy.

82 3. Wind resistance improvement, which includes, but is not
83 limited to:

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

85 b. Creating a secondary water barrier to prevent water
86 intrusion;

87 c. Installing wind-resistant shingles;

88 d. Installing gable-end bracing;

89 e. Reinforcing roof-to-wall connections;

90 f. Installing storm shutters; or

91 g. Installing opening protections.

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

94 (4) Subject to local government ordinance or resolution, a
95 property owner may apply to the local government for funding to
96 finance a qualifying improvement and enter into a financing
97 agreement with the local government. Costs incurred by the local
98 government for such purpose may be collected as a non-ad valorem
99 assessment. A non-ad valorem assessment shall be collected
100 pursuant to s. 197.3632 and, notwithstanding s. 197.3632(8)(a),
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101 shall not be subject to discount for early payment. However, the
102 notice and adoption requirements of s. 197.3632(4) do not apply
103 if this section is used and complied with, and the initial
104 resolution, publication of notice, and mailed notices to the
105 property appraiser, tax collector, and Department of Revenue
106 required by s. 197.3632(3) (a) may be provided on or before
107 August 15 in conjunction with any non-ad valorem assessment
108 authorized by this section, if the property appraiser, tax
109 collector, and local government agree.

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

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

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

122 (8) A local government may enter into a financing
123 agreement only with the record owner of the affected property.
124 Any financing agreement entered into pursuant to this section or
125 a summary memorandum of such agreement shall be recorded in the
126 public records of the county within which the property is
127 located by the sponsoring unit of local government within 5 days
128 after execution of the agreement. The recorded agreement shall

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129 provide constructive notice that the assessment to be levied on
130 the property constitutes a lien of equal dignity to county taxes
131 and assessments from the date of recordation.

132 (9) Before entering into a financing agreement, the local
133 government shall reasonably determine that all property taxes
134 and any other assessments levied on the same bill as property
135 taxes are paid and have not been delinquent for the preceding 3
136 years or the property owner's period of ownership, whichever is
137 less; that there are no involuntary liens, including, but not
138 limited to, construction liens on the property; that no notices
139 of default or other evidence of property-based debt delinquency
140 have been recorded during the preceding 3 years or the property
141 owner's period of ownership, whichever is less; and that the
142 property owner is current on all mortgage debt on the property.

143 (10) A qualifying improvement shall be affixed to a
144 building or facility that is part of the property and shall
145 constitute an improvement to the building or facility or a
146 fixture attached to the building or facility. An agreement
147 between a local government and a qualifying property owner may
148 not cover wind-resistance improvements in buildings or
149 facilities under new construction or construction for which a
150 certificate of occupancy or similar evidence of substantial
151 completion of new construction or improvement has not been
152 issued.

153 (11) Any work requiring a license under any applicable law
154 to make a qualifying improvement shall be performed by a
155 contractor properly certified or registered pursuant to part I
156 or part II of chapter 489.

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157 (12) (a) Without the consent of the holders or loan
158 servicers of any mortgage encumbering or otherwise secured by
159 the property, the total amount of any non-ad valorem assessment
160 for a property under this section may not exceed 20 percent of
161 the just value of the property as determined by the county
162 property appraiser.

163 (b) Notwithstanding paragraph (a), a non-ad valorem
164 assessment for a qualifying improvement defined in subparagraph
165 (2)(b)1. or subparagraph (2)(b)2. that is supported by an energy
166 audit is not subject to the limits in this subsection if the
167 audit demonstrates that the annual energy savings from the
168 qualified improvement equals or exceeds the annual repayment
169 amount of the non-ad valorem assessment.

170 (13) At least 30 days before entering into a financing
171 agreement, the property owner shall provide to the holders or
172 loan servicers of any existing mortgages encumbering or
173 otherwise secured by the property a notice of the owner's intent
174 to enter into a financing agreement together with the maximum
175 principal amount to be financed and the maximum annual
176 assessment necessary to repay that amount. A verified copy or
177 other proof of such notice shall be provided to the local
178 government. A provision in any agreement between a mortgagee or
179 other lienholder and a property owner, or otherwise now or
180 hereafter binding upon a property owner, which allows for
181 acceleration of payment of the mortgage, note, or lien or other
182 unilateral modification solely as a result of entering into a
183 financing agreement as provided for in this section is not
184 enforceable. This subsection does not limit the authority of the

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185 holder or loan servicer to increase the required monthly escrow
186 by an amount necessary to annually pay the qualifying
187 improvement assessment.

188 (14) At or before the time a purchaser executes a contract
189 for the sale and purchase of any property for which a non-ad
190 valorem assessment has been levied under this section and has an
191 unpaid balance due, the seller shall give the prospective
192 purchaser a written disclosure statement in the following form,
193 which shall be set forth in the contract or in a separate
194 writing, in boldfaced and conspicuous type that is larger than
195 the type in the remaining text of the contract or separate
196 writing:

197
198 QUALIFYING IMPROVEMENTS FOR ENERGY EFFICIENCY,
199 RENEWABLE ENERGY, OR WIND RESISTANCE.—The property
200 being purchased is located within the jurisdiction of
201 a local government that has placed an assessment on
202 the property pursuant to s. 163.08, Florida Statutes.
203 The assessment is for a qualifying improvement to the
204 property relating to energy efficiency, renewable
205 energy, or wind resistance, and is not based on the
206 value of property. You are encouraged to contact the
207 county property appraiser's office to learn more about
208 this and other assessments that may be provided by
209 law.

210
211 (15) A provision in any agreement between a local
212 government and a public or private power or energy provider or
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213 other utility provider is not enforceable to limit or prohibit
214 any local government from exercising its authority under this
215 section.

216 (16) This section is additional and supplemental to county
217 and municipal home rule authority and not in derogation of such
218 authority or a limitation upon such authority.

219 Section 2. This act shall take effect upon becoming a law.
220
221

222 -----
223 **T I T L E A M E N D M E N T**

224 Remove the entire title and insert:

225 A bill to be entitled

226 An act relating to qualifying improvements to real
227 property; creating s. 163.08, F.S.; providing legislative
228 purposes and findings and intent; providing definitions;
229 authorizing a local government to levy non-ad valorem
230 assessments to fund certain improvements; authorizing a
231 property owner to apply for funding and enter into a
232 financing agreement with a local government to finance
233 certain improvements; authorizing a local government to
234 collect moneys for such purposes through non-ad valorem
235 assessments; providing collection requirements;
236 authorizing local governments to partner with other local
237 governments to provide and finance certain improvements;
238 authorizing a qualifying improvement program to be
239 administered by a for-profit entity or not-for-profit
240 organization under certain circumstances; authorizing a

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241 local government to incur debt payable from revenues
242 received from the improved property; providing a financing
243 restriction for local governments; requiring a financial
244 agreement to be recorded in a county's public records
245 within 5 days after execution of the agreement; specifying
246 responsibilities for local governments before entering
247 into financing agreements; requiring qualifying
248 improvements to be affixed to a building or facility on
249 the property and be performed by a properly certified or
250 registered contractor; excluding certain projects from
251 financing agreement coverage; limiting the amount of the
252 non-ad valorem assessment to a percentage of the just
253 value of the property; providing exceptions; specifying
254 information provision requirements for property owners
255 before entering into financing agreements; prohibiting
256 acceleration of a mortgage under certain circumstances;
257 providing assessment disclosure requirements; specifying
258 unenforceability of certain agreement provisions;
259 providing construction preserving a local government's
260 home rule authority; providing an effective date.

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