

1 A bill to be entitled
2 An act relating to qualifying improvements to real
3 property; creating s. 163.08, F.S.; providing legislative
4 purposes and findings and intent; providing definitions;
5 authorizing a local government to levy non-ad valorem
6 assessments to fund certain improvements; authorizing a
7 property owner to apply for funding and enter into a
8 financing agreement with a local government to finance
9 certain improvements; authorizing a local government to
10 collect moneys for such purposes through non-ad valorem
11 assessments; providing collection requirements;
12 authorizing local governments to partner with other local
13 governments to provide and finance certain improvements;
14 authorizing a qualifying improvement program to be
15 administered by a for-profit entity or not-for-profit
16 organization under certain circumstances; authorizing a
17 local government to incur debt payable from revenues
18 received from the improved property; providing a financing
19 restriction for local governments; requiring a financial
20 agreement to be recorded in a county's public records
21 within 5 days after execution of the agreement; specifying
22 responsibilities for local governments before entering
23 into financing agreements; requiring qualifying
24 improvements to be affixed to a building or facility on
25 the property and be performed by a properly certified or
26 registered contractor; excluding certain projects from
27 financing agreement coverage; limiting the amount of the
28 non-ad valorem assessment to a percentage of the just

29 value of the property; providing exceptions; specifying
30 information provision requirements for property owners
31 before entering into financing agreements; prohibiting
32 acceleration of a mortgage under certain circumstances;
33 providing assessment disclosure requirements; specifying
34 unenforceability of certain agreement provisions;
35 providing construction preserving a local government's
36 home rule authority; providing an effective date.

37
38 Be It Enacted by the Legislature of the State of Florida:

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40 Section 1. Section 163.08, Florida Statutes, is created to
41 read:

42 163.08 Supplemental authority for improvements to real
43 property.-

44 (1) (a) In chapter 2008-227, Laws of Florida, the
45 Legislature amended the energy goal of the state comprehensive
46 plan to provide, in part, that the state shall reduce its energy
47 requirements through enhanced conservation and efficiency
48 measures in all end-use sectors and reduce atmospheric carbon
49 dioxide by promoting an increased use of renewable energy
50 resources. That act also declared it the public policy of the
51 state to play a leading role in developing and instituting
52 energy management programs that promote energy conservation,
53 energy security, and the reduction of greenhouse gases. In
54 addition to establishing policies to promote the use of
55 renewable energy, the Legislature provided for a schedule of
56 increases in energy performance of buildings subject to the

57 Florida Energy Efficiency Code for Building Construction. In
58 chapter 2008-191, Laws of Florida, the Legislature adopted new
59 energy conservation and greenhouse gas reduction comprehensive
60 planning requirements for local governments. In the 2008 general
61 election, the voters of this state approved a constitutional
62 amendment authorizing the Legislature, by general law, to
63 prohibit consideration of any change or improvement made for the
64 purpose of improving a property's resistance to wind damage or
65 the installation of a renewable energy source device in the
66 determination of the assessed value of residential real
67 property.

68 (b) The Legislature finds that all energy-consuming-
69 improved properties that are not using energy conservation
70 strategies contribute to the burden affecting all improved
71 property resulting from fossil fuel energy production. Improved
72 property that has been retrofitted with energy-related
73 qualifying improvements receives the special benefit of
74 alleviating the property's burden from energy consumption. All
75 improved properties not protected from wind damage by wind
76 resistance qualifying improvements contribute to the burden
77 affecting all improved property resulting from potential wind
78 damage. Improved property that has been retrofitted with wind
79 resistance qualifying improvements receives the special benefit
80 of reducing the property's burden from potential wind damage.
81 Further, the installation and operation of qualifying
82 improvements not only benefit the affected properties for which
83 the improvements are made, but also assist in fulfilling the
84 goals of the state's energy and hurricane mitigation policies.

85 In order to make qualifying improvements more affordable and
86 assist property owners who wish to undertake such improvements,
87 the Legislature finds that there is a compelling state interest
88 in enabling property owners to voluntarily finance such
89 improvements with local government assistance.

90 (c) The Legislature determines that the actions authorized
91 under this section, including, but not limited to, the financing
92 of qualifying improvements through the execution of financing
93 agreements and the related imposition of voluntary assessments
94 are reasonable and necessary to serve and achieve a compelling
95 state interest and are necessary for the prosperity and welfare
96 of the state and its property owners and inhabitants.

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

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

100 (b) "Qualifying improvement" includes any:

101 1. Energy conservation and efficiency improvement, which
102 is a measure to reduce consumption through conservation or a
103 more efficient use of electricity, natural gas, propane, or
104 other forms of energy on the property, including, but not
105 limited to, air sealing; installation of insulation;
106 installation of energy-efficient heating, cooling, or
107 ventilation systems; building modifications to increase the use
108 of daylight; replacement of windows; installation of energy
109 controls or energy recovery systems; installation of electric
110 vehicle charging equipment; and installation of efficient
111 lighting equipment.

112 2. Renewable energy improvement, which is the installation

113 of any system in which the electrical, mechanical, or thermal
114 energy is produced from a method that uses one or more of the
115 following fuels or energy sources: hydrogen, solar energy,
116 geothermal energy, bioenergy, and wind energy.

117 3. Wind resistance improvement, which includes, but is not
118 limited to:

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

120 b. Creating a secondary water barrier to prevent water
121 intrusion;

122 c. Installing wind-resistant shingles;

123 d. Installing gable-end bracing;

124 e. Reinforcing roof-to-wall connections;

125 f. Installing storm shutters; or

126 g. Installing opening protections.

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

129 (4) Subject to local government ordinance or resolution, a
130 property owner may apply to the local government for funding to
131 finance a qualifying improvement and enter into a financing
132 agreement with the local government. Costs incurred by the local
133 government for such purpose may be collected as a non-ad valorem
134 assessment. A non-ad valorem assessment shall be collected
135 pursuant to s. 197.3632 and, notwithstanding s. 197.3632(8)(a),
136 shall not be subject to discount for early payment. However, the
137 notice and adoption requirements of s. 197.3632(4) do not apply
138 if this section is used and complied with, and the initial
139 resolution, publication of notice, and mailed notices to the
140 property appraiser, tax collector, and Department of Revenue

141 required by s. 197.3632(3)(a) may be provided on or before
 142 August 15 in conjunction with any non-ad valorem assessment
 143 authorized by this section, if the property appraiser, tax
 144 collector, and local government agree.

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

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

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

157 (8) A local government may enter into a financing
 158 agreement only with the record owner of the affected property.
 159 Any financing agreement entered into pursuant to this section or
 160 a summary memorandum of such agreement shall be recorded in the
 161 public records of the county within which the property is
 162 located by the sponsoring unit of local government within 5 days
 163 after execution of the agreement. The recorded agreement shall
 164 provide constructive notice that the assessment to be levied on
 165 the property constitutes a lien of equal dignity to county taxes
 166 and assessments from the date of recordation.

167 (9) Before entering into a financing agreement, the local
 168 government shall reasonably determine that all property taxes

169 and any other assessments levied on the same bill as property
 170 taxes are paid and have not been delinquent for the preceding 3
 171 years or the property owner's period of ownership, whichever is
 172 less; that there are no involuntary liens, including, but not
 173 limited to, construction liens on the property; that no notices
 174 of default or other evidence of property-based debt delinquency
 175 have been recorded during the preceding 3 years or the property
 176 owner's period of ownership, whichever is less; and that the
 177 property owner is current on all mortgage debt on the property.

178 (10) A qualifying improvement shall be affixed to a
 179 building or facility that is part of the property and shall
 180 constitute an improvement to the building or facility or a
 181 fixture attached to the building or facility. An agreement
 182 between a local government and a qualifying property owner may
 183 not cover wind-resistance improvements in buildings or
 184 facilities under new construction or construction for which a
 185 certificate of occupancy or similar evidence of substantial
 186 completion of new construction or improvement has not been
 187 issued.

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

192 (12) (a) Without the consent of the holders or loan
 193 servicers of any mortgage encumbering or otherwise secured by
 194 the property, the total amount of any non-ad valorem assessment
 195 for a property under this section may not exceed 20 percent of
 196 the just value of the property as determined by the county

197 property appraiser.

198 (b) Notwithstanding paragraph (a), a non-ad valorem
 199 assessment for a qualifying improvement defined in subparagraph
 200 (2)(b)1. or subparagraph (2)(b)2. that is supported by an energy
 201 audit is not subject to the limits in this subsection if the
 202 audit demonstrates that the annual energy savings from the
 203 qualified improvement equals or exceeds the annual repayment
 204 amount of the non-ad valorem assessment.

205 (13) At least 30 days before entering into a financing
 206 agreement, the property owner shall provide to the holders or
 207 loan servicers of any existing mortgages encumbering or
 208 otherwise secured by the property a notice of the owner's intent
 209 to enter into a financing agreement together with the maximum
 210 principal amount to be financed and the maximum annual
 211 assessment necessary to repay that amount. A verified copy or
 212 other proof of such notice shall be provided to the local
 213 government. A provision in any agreement between a mortgagee or
 214 other lienholder and a property owner, or otherwise now or
 215 hereafter binding upon a property owner, which allows for
 216 acceleration of payment of the mortgage, note, or lien or other
 217 unilateral modification solely as a result of entering into a
 218 financing agreement as provided for in this section is not
 219 enforceable. This subsection does not limit the authority of the
 220 holder or loan servicer to increase the required monthly escrow
 221 by an amount necessary to annually pay the qualifying
 222 improvement assessment.

223 (14) At or before the time a purchaser executes a contract
 224 for the sale and purchase of any property for which a non-ad

225 valorem assessment has been levied under this section and has an
 226 unpaid balance due, the seller shall give the prospective
 227 purchaser a written disclosure statement in the following form,
 228 which shall be set forth in the contract or in a separate
 229 writing:

230
 231 QUALIFYING IMPROVEMENTS FOR ENERGY EFFICIENCY,
 232 RENEWABLE ENERGY, OR WIND RESISTANCE.—The property
 233 being purchased is located within the jurisdiction of
 234 a local government that has placed an assessment on
 235 the property pursuant to s. 163.08, Florida Statutes.
 236 The assessment is for a qualifying improvement to the
 237 property relating to energy efficiency, renewable
 238 energy, or wind resistance, and is not based on the
 239 value of property. You are encouraged to contact the
 240 county property appraiser's office to learn more about
 241 this and other assessments that may be provided by
 242 law.

243
 244 (15) A provision in any agreement between a local
 245 government and a public or private power or energy provider or
 246 other utility provider is not enforceable to limit or prohibit
 247 any local government from exercising its authority under this
 248 section.

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

252 Section 2. This act shall take effect upon becoming a law.