

1 A bill to be entitled
2 An act relating to financing improvements to real
3 property; amending s. 163.08, F.S.; revising
4 legislative intent; defining and revising terms;
5 authorizing a residential or commercial property owner
6 to apply to a local government for funding to finance
7 an improvement and to enter into a financing agreement
8 with the local government; providing that a non-ad
9 valorem assessment on certain commercial property is
10 subject to a certain fee; requiring a delinquent
11 assessment with a nongovernmental lessee to be
12 enforced in the manner provided by law; specifying
13 requirements of the financing agreement for government
14 commercial property; specifying the determinations a
15 local government must make before entering into a
16 financing agreement for commercial and residential
17 properties; authorizing a financing agreement to be
18 executed for commercial property under certain
19 circumstances; restricting what improvements may be
20 covered in certain agreements between local
21 governments and residential property owners; limiting
22 the amount of non-ad valorem assessment for certain
23 residential property; providing an exception relating
24 to non-ad valorem assessment for residential property
25 that is supported by an energy audit; specifying

26 requirements for a local government before entering
 27 into a financing agreement; revising notice
 28 requirements regarding an owner's intent to enter into
 29 a financing agreement; revising the seller's
 30 disclosure statement for certain properties offered
 31 for sale; providing construction; providing an
 32 effective date.

33

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

35

36 Section 1. Paragraph (b) of subsection (1) and subsections
 37 (2), (4), (8), (9), (10), (12), (13), and (14) of section
 38 163.08, Florida Statutes, are amended, and subsection (17) is
 39 added to that section, to read:

40 163.08 Supplemental authority for improvements to real
 41 property.—

42 (1)

43 (b) The Legislature finds that all energy-consuming-
 44 improved properties that are not using energy conservation
 45 strategies contribute to the burden affecting all improved
 46 property resulting from fossil fuel energy production. Improved
 47 property ~~that has been~~ retrofitted with energy-related
 48 qualifying improvements receives the special benefit of
 49 alleviating the property's burden from energy consumption. All
 50 improved properties not protected from wind damage by wind

51 resistance qualifying improvements contribute to the burden
52 affecting all improved property resulting from potential wind
53 damage. Improved property ~~that has been~~ retrofitted with
54 resiliency ~~wind resistance~~ qualifying improvements receives the
55 special benefit of reducing the property's burden from potential
56 wind damage. Further, the installation and operation of
57 qualifying improvements not only benefit the affected properties
58 for which the improvements are made, but also assist in
59 fulfilling the goals of the state's energy and hurricane
60 mitigation policies. In order to make qualifying improvements
61 more affordable and assist property owners who wish to undertake
62 such improvements, the Legislature finds that there is a
63 compelling state interest in enabling property owners to
64 voluntarily finance such improvements with local government
65 assistance.

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

67 (a) "Commercial property" means real property not defined
68 as residential property which will be or has been improved by a
69 qualifying improvement, including, but not limited to, the
70 following:

71 1. A multifamily residential property composed of five or
72 more dwelling units;

73 2. A commercial real property;

74 3. An industrial building or property;

75 4. An agricultural property;

76 5. A nonprofit-owned property;

77 6. A long-term care facility, including nursing homes and
 78 assisted living facilities; or

79 7. A government commercial property.

80 (b) "Government commercial property" means real property
 81 owned by a local government and leased to a nongovernmental
 82 lessee where the usage by the lessee meets the definition of
 83 commercial property.

84 (c) "Local government" means a county, a municipality, a
 85 dependent special district as defined in s. 189.012, or a
 86 separate legal entity created pursuant to s. 163.01(7).

87 (d) "Nongovernmental lessee" means a person or an entity
 88 other than a local government which leases government commercial
 89 property.

90 (e)-(b) "Qualifying improvement" includes any:

91 1. Energy conservation and efficiency improvement, which
 92 is a measure to reduce consumption through conservation or a
 93 more efficient use of electricity, natural gas, propane, or
 94 other forms of energy on the property, including, but not
 95 limited to, air sealing; installation of insulation;
 96 installation of energy-efficient heating, cooling, or
 97 ventilation systems; building modifications to increase the use
 98 of daylight; replacement of windows; installation of energy
 99 controls or energy recovery systems; installation of electric
 100 vehicle charging equipment; ~~and~~ installation of efficient

HB 1151

2023

101 lighting equipment; or any other improvements necessary to
102 achieve a sustainable building rating or compliance with a
103 national model green building code.

104 2. Renewable energy improvement, which is the installation
105 of any system in which the electrical, mechanical, or thermal
106 energy is produced from a method that uses one or more of the
107 following fuels or energy sources: hydrogen, solar energy,
108 geothermal energy, bioenergy, and wind energy.

109 3. Resiliency ~~Wind resistance~~ improvement, which includes,
110 but is not limited to:

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

112 b. Creating a secondary water barrier, including sea
113 walls, to prevent water intrusion;

114 c. Installing wind-resistant shingles;

115 d. Installing gable-end bracing;

116 e. Reinforcing roof-to-wall connections;

117 f. Installing storm shutters; ~~or~~

118 g. Installing opening protections;

119 h. Creating or improving stormwater, flood, and wastewater
120 management; or

121 i. Making any other improvements necessary to achieve a
122 sustainable building rating or compliance with a national model
123 resiliency standard.

124 (f) "Residential property" means a residential real
125 property of four or fewer dwelling units which will be or has

126 | been improved by a qualifying improvement.

127 | (4) Subject to local government ordinance or resolution, a
 128 | residential or commercial property owner may apply to the local
 129 | government for funding to finance a qualifying improvement and
 130 | enter into a financing agreement with the local government.
 131 | Costs incurred by the local government for such purpose may be
 132 | collected as a non-ad valorem assessment. A non-ad valorem
 133 | assessment must ~~shall~~ be collected pursuant to s. 197.3632 and,
 134 | notwithstanding s. 197.3632 (8) (a), is ~~shall~~ not ~~be~~ subject to
 135 | discount for early payment. However, the notice and adoption
 136 | requirements of s. 197.3632 (4) do not apply if this section is
 137 | used and complied with, and the intent resolution, publication
 138 | of notice, and mailed notices to the property appraiser, tax
 139 | collector, and Department of Revenue required by s.
 140 | 197.3632(3) (a) may be provided on or before August 15 in
 141 | conjunction with any non-ad valorem assessment authorized by
 142 | this section, if the property appraiser, tax collector, and
 143 | local government agree. A non-ad valorem assessment on a
 144 | commercial property securing financing for a qualifying
 145 | improvement, notwithstanding ss. 192.091(2) (b) and
 146 | 197.3632(8) (c), is subject to a maximum annual fee of 1 percent
 147 | of the annual non-ad valorem assessment collected or \$5,000,
 148 | whichever is less. Notwithstanding this subsection, a delinquent
 149 | assessment pursuant to a financing agreement with a
 150 | nongovernmental lessee must be enforced in the manner provided

151 by law for taxes and assessments on property owned by
 152 nongovernmental lessees of government commercial property.

153 (8) A local government may enter into a financing
 154 agreement to finance or refinance a qualifying improvement only
 155 with the record owner of the affected property. For government
 156 commercial property, the financing agreement must be executed by
 157 the nongovernmental lessee with the written consent of the
 158 governmental lessor. Evidence of such consent must be provided
 159 to the local government. The financing agreement with a
 160 nongovernmental lessee must provide that the nongovernmental
 161 lessee is the only party obligated to pay the assessment. Any
 162 financing agreement entered into pursuant to this section or a
 163 summary memorandum of such agreement must ~~shall~~ be recorded in
 164 the public records of the county within which the property is
 165 located by the sponsoring unit of local government within 5 days
 166 after execution of the agreement. The recorded agreement
 167 provides ~~shall provide~~ constructive notice that the assessment
 168 to be levied on the property constitutes a lien of equal dignity
 169 to county taxes and assessments from the date of recordation.

170 (9) (a) Before entering into a financing agreement for a
 171 commercial property, the local government shall reasonably
 172 determine that all of the following conditions have been met:

173 1. ~~that~~ All property taxes and any other assessments
 174 levied on the same bill as property taxes are current. ~~paid and~~
 175 ~~have not been delinquent for the preceding 3 years or the~~

176 ~~property owner's period of ownership, whichever is less;~~
 177 2. that There are no involuntary liens greater than
 178 \$10,000, including, but not limited to, construction liens on
 179 the property.~~.~~
 180 3. that No notices of default or other evidence of
 181 property-based debt delinquency have been recorded and not
 182 released during the preceding 3 years or the property owner's
 183 period of ownership, whichever is less.~~.~~
 184 4. and that The property owner is current on all mortgage
 185 debt on the property.
 186 (b) Before entering into a financing agreement for a
 187 residential property, the local government shall reasonably
 188 determine that all of the following conditions have been met:
 189 1. All property taxes and any other assessments levied on
 190 the same bill as property taxes are paid and have not been
 191 delinquent for the preceding 3 years or the property owner's
 192 period of ownership, whichever is less.
 193 2. There are no involuntary liens, including, but not
 194 limited to, construction liens on the property.
 195 3. No notices of default or other evidence of property-
 196 based debt delinquency have been recorded during the preceding 3
 197 years or the property owner's period of ownership, whichever is
 198 less.
 199 4. The property owner is current on all mortgage debt on
 200 the property.

201 (10) To constitute an improvement to the building or
 202 facility, a qualifying improvement must be ~~shall be~~ affixed to a
 203 building or facility that is part of the property ~~and shall~~
 204 ~~constitute an improvement to the building or facility~~ or a
 205 fixture attached to the building or facility. A financing
 206 agreement may be executed for qualifying improvements in the
 207 construction of a commercial property before a certificate of
 208 occupancy or similar evidence of substantial completion of new
 209 construction or improvement is issued. Progress payments, or
 210 payments made before completion, are allowed for commercial
 211 properties, provided that the property owner subsequently
 212 provides, upon request for a final progress payment
 213 disbursement, written verification to the local government
 214 confirming that the qualifying improvements are completed and
 215 operating as intended. An agreement between a local government
 216 and a qualifying residential property owner may not cover wind-
 217 resistant ~~wind-resistance~~ improvements in buildings or
 218 facilities under new construction or construction for which a
 219 certificate of occupancy or similar evidence of substantial
 220 completion of new construction or improvement has not been
 221 issued.

222 (12) (a) Without the consent of the holders or loan
 223 servicers of any mortgage encumbering or otherwise secured by
 224 the residential property, the total amount of any non-ad valorem
 225 assessment for a property under this section may not exceed 20

226 percent of the just value of the property as determined by the
227 county property appraiser.

228 (b) Notwithstanding paragraph (a), a non-ad valorem
229 assessment for a qualifying improvement defined in subparagraph
230 (2)(e)1. or subparagraph (2)(e)2. on a residential property
231 ~~subparagraph (2)(b)1. or subparagraph (2)(b)2.~~ that is supported
232 by an energy audit is not subject to the limits in this
233 subsection if the audit demonstrates that the annual energy
234 savings from the qualified improvement equals or exceeds the
235 annual repayment amount of the non-ad valorem assessment.

236 (c) Before entering into a financing agreement with a
237 commercial property owner, the local government must be in
238 receipt of the written consent of the current holders or loan
239 servicers of any mortgage that encumbers or is otherwise secured
240 by the commercial property or that will otherwise be secured by
241 the property at the time the financing agreement is executed by
242 the local government.

243 (13) At least 30 days before entering into a financing
244 agreement, the property owner shall provide to the holders or
245 loan servicers of any existing mortgages that encumber the
246 property, encumbering or that will otherwise be otherwise
247 secured by the property at the time the financing agreement is
248 executed by the local government, a notice of the owner's intent
249 to enter into a financing agreement together with the maximum
250 principal amount to be financed and the maximum annual

251 assessment necessary to repay that amount. A verified copy or
 252 other proof of such notice must ~~shall~~ be provided to the local
 253 government. A provision in any agreement between a mortgagee or
 254 other lienholder and a property owner, or otherwise now or
 255 hereafter binding upon a property owner, which allows for
 256 acceleration of payment of the mortgage, note, or lien or other
 257 unilateral modification solely as a result of entering into a
 258 financing agreement as provided for in this section is not
 259 enforceable. This subsection does not limit the authority of the
 260 holder or loan servicer to increase the required monthly escrow
 261 by an amount necessary to ~~annually~~ pay the annual ~~qualifying~~
 262 ~~improvement~~ assessment.

263 (14) At or before the time a purchaser executes a contract
 264 for the sale and purchase of any property for which a non-ad
 265 valorem assessment has been levied under this section and has an
 266 unpaid balance due, the seller shall give the prospective
 267 purchaser a written disclosure statement in either of the
 268 following forms ~~form~~, which must ~~shall~~ be set forth in the
 269 contract or in a separate writing.

270 (a) For a commercial property:

271
 272 QUALIFYING IMPROVEMENTS FOR ENERGY EFFICIENCY,
 273 RENEWABLE ENERGY, OR RESILIENCY ~~WIND RESISTANCE~~.—The
 274 property being purchased is located within the
 275 jurisdiction of a local government that has placed an

276 assessment on the property pursuant to s. 163.08,
277 Florida Statutes. The assessment is for a qualifying
278 improvement to the property relating to energy
279 efficiency, renewable energy, or resiliency ~~wind~~
280 ~~resistance~~, and is not based on the value of property.
281 You are encouraged to contact the county property
282 appraiser's office to learn more about this and other
283 assessments that may be provided by law.

284
285 (b) For a residential property:

286
287 QUALIFYING IMPROVEMENTS FOR ENERGY EFFICIENCY,
288 RENEWABLE ENERGY, OR RESILIENCY.—The property being
289 purchased is located within the jurisdiction of a
290 local government that has placed an assessment on the
291 property pursuant to s. 163.08, Florida Statutes. The
292 assessment is for a qualifying improvement to the
293 property relating to energy efficiency, renewable
294 energy, or resiliency, and is not based on the value
295 of property. You are encouraged to contact the county
296 property appraiser's office to learn more about this
297 and other assessments that may be provided by law.

298
299 (17) This section is prospective only and does not affect
300 or amend any existing non-ad valorem assessment or any existing

HB 1151

2023

301 | interlocal agreement between local governments.

302 | Section 2. This act shall take effect July 1, 2023.