

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; defining and revising terms; authorizing a  
5           residential or commercial property owner to apply to a  
6           qualifying improvement program for funding to finance  
7           an improvement and to enter into a financing agreement  
8           with the local government or program administrator;  
9           providing that a non-ad valorem assessment on certain  
10          commercial property is subject to a certain fee;  
11          specifying requirements of a financing agreement for  
12          government commercial property; revising and  
13          specifying public records requirements for assessment  
14          financing agreements and notices of lien; revising  
15          requirements for local governments and program  
16          administrators when determining eligibility for  
17          assessment financing; revising requirements for  
18          qualifying improvements; revising the calculation of  
19          non-ad valorem assessment limits; providing  
20          construction; specifying underwriting, financing  
21          estimate, disclosure, and confirmation requirements  
22          for local governments and program administrators;  
23          restricting what improvements may be covered in  
24          certain agreements between local governments or  
25          program administrators and commercial property owners;

26 |       revising notice and consent requirements regarding a  
 27 |       property owner's intent to enter into a financing  
 28 |       agreement; revising the seller's disclosure statement  
 29 |       for residential and commercial properties offered for  
 30 |       sale; authorizing a residential property owner, under  
 31 |       certain circumstances and within a certain timeframe,  
 32 |       to cancel a financing agreement without financial  
 33 |       penalty; specifying limitations on financing agreement  
 34 |       terms for residential property; prohibiting certain  
 35 |       financing terms for residential property; specifying  
 36 |       requirements for, and certain prohibited acts by,  
 37 |       program administrators relating to financing  
 38 |       agreements and contractors for qualifying improvements  
 39 |       to residential property; specifying annual reporting  
 40 |       requirements for local governments; providing  
 41 |       construction; providing an effective date.

42 |

43 | Be It Enacted by the Legislature of the State of Florida:

44 |

45 |       Section 1. Section 163.08, Florida Statutes, is amended to  
 46 |       read:

47 |       163.08 Supplemental authority for improvements to real  
 48 |       property.—

49 |       (1) (a) In chapter 2008-227, Laws of Florida, the  
 50 |       Legislature amended the energy goal of the state comprehensive

51 | plan to provide, in part, that the state shall reduce its energy  
52 | requirements through enhanced conservation and efficiency  
53 | measures in all end-use sectors and reduce atmospheric carbon  
54 | dioxide by promoting an increased use of renewable energy  
55 | resources. That act also declared it the public policy of the  
56 | state to play a leading role in developing and instituting  
57 | energy management programs that promote energy conservation,  
58 | energy security, and the reduction of greenhouse gases. In  
59 | addition to establishing policies to promote the use of  
60 | renewable energy, the Legislature provided for a schedule of  
61 | increases in energy performance of buildings subject to the  
62 | Florida Energy Efficiency Code for Building Construction. In  
63 | chapter 2008-191, Laws of Florida, the Legislature adopted new  
64 | energy conservation and greenhouse gas reduction comprehensive  
65 | planning requirements for local governments. In the 2008 general  
66 | election, the voters of this state approved a constitutional  
67 | amendment authorizing the Legislature, by general law, to  
68 | prohibit consideration of any change or improvement made for the  
69 | purpose of improving a property's resistance to wind damage or  
70 | the installation of a renewable energy source device in the  
71 | determination of the assessed value of residential real  
72 | property.

73 |       (b) The Legislature finds that all energy-consuming-  
74 | improved properties that are not using energy conservation  
75 | strategies contribute to the burden affecting all improved

76 | property resulting from fossil fuel energy production. Improved  
77 | property that has been retrofitted with energy-related  
78 | qualifying improvements receives the special benefit of  
79 | alleviating the property's burden from energy consumption. All  
80 | improved properties not protected from wind damage by wind  
81 | resistance qualifying improvements contribute to the burden  
82 | affecting all improved property resulting from potential wind  
83 | damage. Improved commercial property constructed or ~~that has~~  
84 | ~~been~~ retrofitted with resiliency qualifying improvements and  
85 | improved residential property retrofitted with wind ~~resistance~~  
86 | qualifying improvements receive ~~receives~~ the special benefit of  
87 | reducing the property's burden from potential ~~wind~~ damage.  
88 | Further, the installation and operation of qualifying  
89 | improvements not only benefit the affected properties for which  
90 | the improvements are made, but also assist in fulfilling the  
91 | goals of the state's energy and hurricane mitigation policies.  
92 | Residential properties that do not use advanced technologies for  
93 | wastewater removal contribute to the water quality problems  
94 | affecting this state, particularly the coastal areas. Improved  
95 | residential property retrofitted with an advanced onsite sewage  
96 | treatment and disposal system or converted to central sewerage  
97 | significantly benefits the quality of water that may enter  
98 | streams, lakes, rivers, aquifers, or coastal areas.

99 |       (c) In order to make qualifying improvements more  
100 | affordable and assist property owners who wish to undertake such

101 improvements, the Legislature finds that there is a compelling  
 102 state interest in enabling property owners to voluntarily  
 103 finance such improvements with local government assistance.

104 (d)~~(e)~~ The Legislature determines that the actions  
 105 authorized under this section, including, but not limited to,  
 106 the financing of qualifying improvements through the execution  
 107 of financing agreements and the related imposition of voluntary  
 108 assessments are reasonable and necessary to serve and achieve a  
 109 compelling state interest and are necessary for the prosperity  
 110 and welfare of the state and its property owners and  
 111 inhabitants.

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

113 (a) "Commercial property" means real property not defined  
 114 as residential property which will be or has been improved by a  
 115 qualifying improvement, including, but not limited to, the  
 116 following:

- 117 1. A multifamily residential property composed of five or  
 118 more dwelling units;
- 119 2. A commercial real property;
- 120 3. An industrial building or property;
- 121 4. An agricultural property;
- 122 5. A nonprofit-owned property;
- 123 6. A long-term care facility, including nursing homes and  
 124 assisted living facilities; or
- 125 7. A government commercial property.

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

129        (c) "Government commercial property" means real property  
130 owned by a local government and leased to a nongovernmental  
131 lessee when the usage by the lessee meets the definition of  
132 commercial property.

133        (d)-(a) "Local government" means a county, a municipality,  
134 a dependent special district as defined in s. 189.012, or a  
135 separate legal entity created pursuant to s. 163.01(7).

136        (e) "Nongovernmental lessee" means a person or an entity  
137 other than a local government which leases government commercial  
138 property.

139        (f) "Program administrator" means an entity, including,  
140 but not limited to, a for-profit or not-for-profit entity, with  
141 which a local government has contracted to administer a  
142 qualifying improvement program.

143        (g) "Qualifying improvement contractor" means an  
144 independent contractor who has been enrolled under a qualifying  
145 improvement program to install or otherwise perform work on  
146 qualifying improvements financed through the program.

147        (h) "Qualifying improvement program" means a program  
148 established by a local government, alone or in partnership with  
149 other local governments or a program administrator, to finance  
150 qualifying improvements on residential or commercial real

151 property.

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

153 1. For residential property, includes any:

154 a.1. Energy conservation and efficiency improvement, which  
 155 is a measure to reduce consumption through conservation or a  
 156 more efficient use of electricity, natural gas, propane, or  
 157 other forms of energy on the property, including, but not  
 158 limited to, air sealing; installation of insulation;  
 159 installation of energy-efficient heating, cooling, or  
 160 ventilation systems; building modifications to increase the use  
 161 of daylight; replacement of windows; installation of energy  
 162 controls or energy recovery systems; installation of electric  
 163 vehicle charging equipment; and installation of efficient  
 164 lighting equipment.

165 b.2. Renewable energy improvement, which is the  
 166 installation of any system in which the electrical, mechanical,  
 167 or thermal energy is produced from a method that uses one or  
 168 more of the following fuels or energy sources: hydrogen, solar  
 169 energy, geothermal energy, bioenergy, and wind energy.

170 c.3. Wind resistance improvement, which includes, but is  
 171 not limited to:

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

173 (II)b. Creating a secondary water barrier to prevent water  
 174 intrusion;

175 (III)c. Installing wind-resistant shingles;

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

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

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

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

180        d. Wastewater improvement, which includes, but is not

181 limited to:

182        (I) The removal, replacement, or improvement of an onsite

183 sewage treatment and disposal system with a secondary or

184 advanced onsite sewage treatment and disposal system or

185 technology;

186        (II) The replacement or conversion of an onsite sewage

187 treatment and disposal system to a central sewerage system or

188 distributed sewerage system, including, but not limited to, the

189 installation of a sewer lateral and anything necessary to

190 connect the onsite sewage treatment and disposal system or the

191 building's plumbing to a central sewerage system or distributed

192 sewerage system; or

193        (III) Any removal, repairs, or modifications made to an

194 onsite sewage treatment and disposal system, including any

195 repair, modification, or replacement of a system required under

196 a local ordinance enacted pursuant to ss. 381.0065 and

197 381.00651.

198        2. For commercial property, includes any:

199        a. Energy conservation and efficiency improvement, which

200 is a measure to reduce consumption through conservation or a



201 more efficient use of electricity, natural gas, propane, or  
 202 other forms of energy on the property, including, but not  
 203 limited to, air sealing; installation of insulation;  
 204 installation of energy-efficient heating, cooling, or  
 205 ventilation systems; building modifications to increase the use  
 206 of daylight; replacement of windows; installation of energy  
 207 controls or energy recovery systems; installation of electric  
 208 vehicle charging equipment; installation of efficient lighting  
 209 equipment; or any other improvements necessary to achieve a  
 210 sustainable building rating or compliance with a national model  
 211 green building code.

212 b. Renewable energy improvement, which is the installation  
 213 of any system in which the electrical, mechanical, or thermal  
 214 energy is produced from a method that uses one or more of the  
 215 following fuels or energy sources: hydrogen, solar energy,  
 216 geothermal energy, bioenergy, and wind energy.

217 c. Resiliency improvement, which includes, but is not  
 218 limited to:

- 219 (I) Improving the strength of the roof deck attachment;
- 220 (II) Creating a secondary water barrier to prevent water  
 221 intrusion;
- 222 (III) Installing wind-resistant shingles;
- 223 (IV) Installing gable-end bracing;
- 224 (V) Reinforcing roof-to-wall connections;
- 225 (VI) Installing storm shutters;

226        (VII) Installing opening protections;  
 227        (VIII) Creating or improving stormwater and flood  
 228 resiliency, including shoreline improvements; or  
 229        (IX) Making any other improvements necessary to achieve a  
 230 sustainable building rating or compliance with a national model  
 231 resiliency standard and any improvements to a structure to  
 232 achieve wind or flood insurance rate reductions, including  
 233 building elevation.

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

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

239        (4) Subject to local government ordinance or resolution, a  
 240 residential or commercial property owner may apply to a  
 241 qualifying improvement program ~~the local government~~ for funding  
 242 to finance a qualifying improvement and enter into a financing  
 243 agreement with the local government or program administrator.  
 244 Costs incurred by the local government for such purpose may be  
 245 collected as a non-ad valorem assessment. A non-ad valorem  
 246 assessment must ~~shall~~ be collected pursuant to s. 197.3632 and,  
 247 notwithstanding s. 197.3632 (8) (a), is ~~shall~~ not ~~be~~ subject to  
 248 discount for early payment. However, the notice and adoption  
 249 requirements of s. 197.3632 (4) do not apply if this section is  
 250 used and complied with, and the intent resolution, publication

251 of notice, and mailed notices to the property appraiser, tax  
 252 collector, and Department of Revenue required by s.  
 253 197.3632(3)(a) may be provided on or before August 15 in  
 254 conjunction with any non-ad valorem assessment authorized by  
 255 this section, if the property appraiser, tax collector, and  
 256 local government agree. A non-ad valorem assessment on a  
 257 commercial property securing financing for a qualifying  
 258 improvement, notwithstanding ss. 192.091(2)(b) and  
 259 197.3632(8)(c), is subject to a maximum annual fee of 1 percent  
 260 of the annual non-ad valorem assessment collected or \$5,000,  
 261 whichever is less.

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

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

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

274 (8) (a) A local government may enter into a financing  
 275 agreement to finance or refinance a qualifying improvement only

276 | with the record owner of the affected property. For government  
 277 | commercial property, the financing agreement must be executed by  
 278 | the nongovernmental lessee with the written consent of the  
 279 | governmental lessor. Evidence of such consent must be provided  
 280 | to the local government. The financing agreement with a  
 281 | nongovernmental lessee must provide that the nongovernmental  
 282 | lessee is the only party obligated to pay the assessment.

283 |       (b) Any financing agreement entered into pursuant to this  
 284 | section or a summary memorandum of such agreement must ~~shall~~ be  
 285 | submitted for recording ~~recorded~~ in the public records of the  
 286 | county within which the property is located by the sponsoring  
 287 | unit of local government within 10 ~~5~~ days after execution of the  
 288 | agreement. The recorded agreement provides ~~shall provide~~  
 289 | constructive notice that the non-ad valorem assessment to be  
 290 | levied on the property constitutes a lien of equal dignity to  
 291 | county taxes and assessments from the date of recordation. A  
 292 | notice of lien for the full amount of the financing may be  
 293 | recorded in the public records of the county where the property  
 294 | is located. Such lien shall not be enforceable in a manner that  
 295 | results in the acceleration of the remaining nondelinquent  
 296 | unpaid balance under the assessment financing agreement.

297 |       (9)(a) ~~Before entering into~~ A financing agreement for a  
 298 | residential property may not be approved unless, the local  
 299 | government, or the program administrator acting on its behalf,  
 300 | has ~~shall~~ reasonably determined ~~determine~~ that all of the

301 following conditions have been met:

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

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

308 3. No notices of default or other evidence of property-  
309 based debt delinquency have been recorded during the preceding 3  
310 years or the property owner's period of ownership, whichever is  
311 less.~~;~~ ~~and that~~

312 4. The property owner is current on all mortgage debt on  
313 the property and has had no more than one late payment exceeding  
314 30 days during the 12 months immediately preceding the  
315 application date.

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

318 6. The property is located within the geographic  
319 boundaries of the applicable qualifying improvement program.

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

321 a. For a single qualifying improvement, the estimated  
322 useful life of the qualifying improvement.

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

324 (I) Thirty years; or

325 (II) The greater of either the weighted average estimated

326 useful life of all qualifying improvements being financed or the  
327 estimated useful life of the qualifying improvements to which  
328 the greatest portion of funds is disbursed.

329  
330 The local government or program administrator, as applicable,  
331 shall determine the useful life of a qualifying improvement  
332 using established third-party standards, including certification  
333 criteria from government agencies or nationally recognized  
334 standards and testing organizations.

335 8. The property owner has not been subject to a bankruptcy  
336 proceeding within the last 5 years unless it was discharged or  
337 dismissed more than 2 years before the date on which the  
338 property owner applied for funding as set forth in subsection  
339 (4).

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

342 10. The property is not currently a residential property  
343 gifted to a homeowner for free by a nonprofit entity as may be  
344 disclosed by the property owner. The failure of a property owner  
345 to disclose information set forth in this paragraph does not  
346 invalidate a financing agreement or any obligation thereunder.

347 11. The property owner has obtained estimates from at  
348 least two unaffiliated, competitive entities, one of which is a  
349 qualifying improvement contractor, for the qualifying  
350 improvement to be financed.

351 12. The local government or program administrator, as  
 352 applicable, has asked if the property owner has obtained or  
 353 sought to obtain additional qualifying improvements on the same  
 354 property that have not yet been recorded. The failure of a  
 355 property owner to disclose information set forth in this  
 356 subparagraph does not invalidate a financing agreement or any  
 357 obligation thereunder, even if the total financed amount of the  
 358 qualifying improvement exceeds the amount that would otherwise  
 359 be authorized under paragraph (15) (a).

360  
 361 The existence of a prior qualifying improvement non-ad valorem  
 362 assessment or a prior financing agreement is not evidence that  
 363 the financing agreement under consideration is affordable or  
 364 meets other program requirements.

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

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

371 2. There are no involuntary liens greater than \$10,000,  
 372 including, but not limited to, construction liens on the  
 373 property.

374 3. No notices of default or other evidence of property-  
 375 based debt delinquency have been recorded and not released

376 during the preceding 3 years or the property owner's period of  
377 ownership, whichever is less.

378 4. The property owner is current on all mortgage debt on  
379 the property.

380 (10) In addition to obtaining the information in paragraph  
381 (9) (a), and before a local government or program administrator,  
382 as applicable, approves a qualifying improvement on residential  
383 property, the local government or program administrator, as  
384 applicable, must use information contained in the property  
385 owner's application, reasonably reliable third-party records, or  
386 an automated verification system to reasonably determine whether  
387 the property owner has the ability to pay the annual non-ad  
388 valorem assessment for the qualifying improvement. The local  
389 government or program administrator, as applicable, must review  
390 the property owner's household income, housing expenses, assets,  
391 and other debt obligations. If the local government or program  
392 administrator, as applicable, uses an automated verification  
393 system, it must be a system that can verify the property owner's  
394 income, is not based on predictive or estimation methodologies,  
395 and has been determined sufficient for such verification  
396 purposes by a federal mortgage lending authority or regulator.  
397 In reviewing the property owner's ability to pay, the local  
398 government or program administrator, as applicable:

399 (a) When determining the household income, may include the  
400 income of any property owner aged 18 years old or older whose



401 name is on the property title. If a person's income is  
 402 considered, that person's debt obligations must also be  
 403 considered.

404 (b) May not consider the equity in the property that will  
 405 secure the non-ad valorem assessment.

406 (c) Shall determine the property owner's debt obligations  
 407 using reasonably reliable third-party records, including, at a  
 408 minimum, one consumer credit report from an agency that meets  
 409 the requirements of 15 U.S.C. s. 1681a(p). Debt obligations to  
 410 be reviewed include:

411 1. Secured and unsecured debt.

412 2. Housing expenses. The local government or program  
 413 administrator, as applicable, shall make a reasonable estimate  
 414 of the basic housing expenses based on the number of persons in  
 415 the household.

416 3. Stated alimony or child support obligations.

417 (d) Shall determine whether the property owner has  
 418 sufficient income to pay the annual non-ad valorem assessment  
 419 and that he or she has sufficient residual income to meet his or  
 420 her household living expenses. To participate in a qualifying  
 421 improvement program, a residential property owner must have a  
 422 total debt-to-income ratio no higher than 49 percent.

423 (11) Each local government or program administrator that  
 424 offers a qualifying improvement program for residential  
 425 properties must:

426        (a) Develop a written disclosure form, which may be  
427 presented in electronic format, that must be provided to the  
428 residential property owner before the property owner executes  
429 the financing agreement and which contains the key terms of the  
430 agreement, including:

- 431        1. A description of the qualifying improvement;
- 432        2. The estimated total financed amount, including the cost  
433 of the qualifying improvement, ancillary work, program fees, and  
434 prepaid interest, if any;
- 435        3. The annual non-ad valorem assessment process and  
436 estimated annual payment schedule;
- 437        4. The estimated amount of the annual non-ad valorem  
438 assessment;
- 439        5. The term of the total financed amount;
- 440        6. The interest rate for the financed amount;
- 441        7. The estimated annual percentage rate;
- 442        8. The total estimated annual costs that the residential  
443 property owner will have to pay under the assessment contract,  
444 including program fees;
- 445        9. The total estimated average monthly equivalent amount  
446 of funds that the residential property owner would have to save  
447 in order to pay the annual costs of the non-ad valorem  
448 assessment, including program fees; and
- 449        10. The estimated due date of the residential property  
450 owner's first property tax payment that includes the non-ad

451 valorem assessment.

452 (b) Include the following statements in the written  
453 disclosure form, using the same order as listed in this  
454 paragraph, each of which must be individually acknowledged in  
455 writing by the residential property owner:

456 1. "I UNDERSTAND THAT IF I SELL OR REFINANCE THE PROPERTY,  
457 I MAY BE REQUIRED TO PAY OFF THE OUTSTANDING FINANCED AMOUNT AS  
458 A CONDITION OF THE SALE OR THE REFINANCE OF THE PROPERTY."

459  
460 The statement in this subparagraph must be made in at least 24-  
461 point boldfaced type.

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

465 3. "I understand that the annual non-ad valorem assessment  
466 will be added to my property tax bill, and if I pay my property  
467 taxes through my mortgage payment using an escrow account, I  
468 must notify my mortgage lender."

469 4. "I understand that if I fail to pay the annual non-ad  
470 valorem assessment, I may incur penalties and fees, and the  
471 local government could issue a tax certificate which might  
472 result in the loss of my property."

473 5. "I understand that any potential utility or insurance  
474 savings are not guaranteed and will not reduce the annual non-ad  
475 valorem assessment or total assessment amount."

476       6. "I understand that I have 5 days to cancel the  
477 financing agreement. The 5-day right expires at midnight of the  
478 fifth business day after I sign the agreement."

479       7. "I understand that the local government, program  
480 administrator, or qualifying improvement contractor do not  
481 provide tax advice and that I should seek professional tax  
482 advice if I have questions regarding tax credits, tax  
483 deductibility, or other tax impacts of the qualifying  
484 improvement or the assessment contract."

485       8. "I understand that I cannot be assessed a penalty if I  
486 prepay the outstanding financed amount."

487       (c) Provide a printed or electronic cancellation form to  
488 the residential property owner no later than the date on which  
489 the property owner signs the financing agreement which allows  
490 the property owner to cancel the contract within the 5-day  
491 period specified in subparagraph (b)6.

492       (d) Before a notice to proceed is issued, conduct, with at  
493 least one residential property owner or an individual legally  
494 authorized to act on behalf of the property owner, who is not  
495 affiliated or associated with the local government, program  
496 administrator, or qualifying improvement contractor, an oral,  
497 recorded telephone call during which time the local government  
498 or program administrator, as applicable, must use plain  
499 language. The local government or program administrator, as  
500 applicable, must ask the residential property owner or

501 authorized representative if he or she would like to communicate  
502 primarily in a language other than English and, if so, must  
503 conduct the telephone call in the owner's or representative's  
504 preferred language. A local government or program administrator,  
505 as applicable, may not leave a voicemail for the residential  
506 property owner or authorized representative to satisfy this  
507 requirement. A local government or program administrator, as  
508 applicable, as part of this telephone call, must confirm with  
509 the residential property owner or authorized representative:

- 510 1. That at least one residential property owner has access  
511 to a copy of the assessment contract and financing estimates and  
512 disclosures.
- 513 2. The qualifying improvement that is being financed.
- 514 3. The total estimated annual costs that the residential  
515 property owner will have to pay under the assessment contract,  
516 including program fees.
- 517 4. The total estimated average monthly equivalent amount  
518 of funds the residential property owner would have to save in  
519 order to pay the annual costs of the non-ad valorem assessment,  
520 including program fees.
- 521 5. The estimated due date of the residential property  
522 owner's first property tax payment that includes the non-ad  
523 valorem assessment.
- 524 6. The term of the assessment contract.
- 525 7. That payments for the assessment contract will cause

526 the residential property owner's annual tax bill to increase and  
527 that payments will be made through an additional annual non-ad  
528 valorem assessment on the property and will be paid either  
529 directly to the county tax collector's office as part of the  
530 total annual secured property tax bill or may be paid through  
531 the residential property owner's mortgage escrow account.

532 8. That the qualifying residential property owner has  
533 disclosed whether the property has received or is seeking  
534 additional non-ad valorem assessments and has disclosed all  
535 other assessments or special taxes that are or will be placed on  
536 the property.

537 9. That the property will be subject to a lien during the  
538 term of the assessment contract and that the obligations under  
539 the contract may be required to be paid in full before the  
540 residential property owner sells or refinances the property.

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

544 11. That the local government, program administrator, or  
545 qualifying improvement contractor does not provide tax advice  
546 and that the residential property owner should seek professional  
547 tax advice regarding questions about tax credits, tax  
548 deductibility, or other tax impacts of the qualifying  
549 improvement or the assessment contract.

550 (12) (a) A residential property owner may cancel a

551 financing agreement within 5 business days after signing the  
552 financing agreement without any financial penalty from the  
553 program administrator for doing so.

554 (b) A contract to sell or install a qualifying improvement  
555 that is related to an application for financing in a qualifying  
556 improvement program for a residential property is unenforceable,  
557 and a qualifying improvement contractor may not begin work under  
558 such a contract, if the property owner applied for, accepted,  
559 and canceled a qualifying improvement financing agreement within  
560 the 5-day right-to-cancel period set forth in paragraph (a).

561 (c) If a qualifying improvement contractor has initiated  
562 work on a residential property under a contract deemed  
563 unenforceable under this subsection, the qualifying improvement  
564 contractor:

565 1. May not receive compensation for that work under the  
566 financing agreement.

567 2. Must restore the property to its original condition at  
568 no cost to the property owner.

569 3. Must immediately return any money, property, and other  
570 consideration given by the property owner. If the property owner  
571 provided any property and the qualifying improvement contractor  
572 does not or cannot return it, the qualifying improvement  
573 contractor shall immediately return the fair market value of the  
574 property or its value as designated in the contract, whichever  
575 is greater.

576 (d) If the qualifying improvement contractor has delivered  
577 chattel or fixtures to the residential property pursuant to a  
578 contract deemed unenforceable under this subsection, the  
579 qualifying improvement contractor shall have 90 days from the  
580 date on which the contract was executed to retrieve the chattel  
581 or fixtures, provided that:

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

584 2. The chattel and fixtures can be removed at the  
585 qualifying improvement contractor's expense without damaging the  
586 property owner's property and practically returned.

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

591 (f) A contract which is otherwise unenforceable under this  
592 subsection remains enforceable if the residential property owner  
593 waives his or her right to cancel the contract, allows the  
594 qualifying improvement contractor to proceed with the  
595 installation of the qualifying improvement, and cancels the  
596 financing agreement.

597 (13)-(10) To constitute an improvement to a building or  
598 facility, a qualifying improvement must ~~shall~~ be affixed to a  
599 building or facility that is part of the property and ~~shall~~  
600 ~~constitute an improvement to the building or facility or a~~



601 fixture attached to the building or facility.

602 (a) A financing ~~An~~ agreement between a local government  
 603 and a residential ~~qualifying~~ property owner may not cover wind-  
 604 resistance improvements in buildings or facilities under new  
 605 construction or construction for which a certificate of  
 606 occupancy or similar evidence of substantial completion of new  
 607 construction or improvement has not been issued.

608 (b) A financing agreement may be executed for qualifying  
 609 improvements in the construction of a commercial property before  
 610 a certificate of occupancy or similar evidence of substantial  
 611 completion of new construction or improvement is issued.  
 612 Progress payments, or payments made before completion, are  
 613 allowed for commercial properties, provided that the property  
 614 owner subsequently provides, upon request for a final progress  
 615 payment disbursement, written verification to the local  
 616 government confirming that the qualifying improvements are  
 617 completed and operating as intended. A financing agreement with  
 618 a commercial property owner may cover wind-resistance  
 619 improvements in buildings or facilities under new construction  
 620 or construction for which a certificate of occupancy or similar  
 621 evidence of substantial completion of new construction or  
 622 improvement has not been issued.

623 ~~(14)-(11)~~ Any work requiring a license under any applicable  
 624 law to make a qualifying improvement shall be performed by a  
 625 contractor properly certified or registered pursuant to ~~part I~~

626 ~~or part II of chapter 489, as applicable.~~

627 (15) (a) ~~(12) (a)~~ Without the consent of the holders or loan  
 628 servicers of any mortgage encumbering or otherwise secured by  
 629 residential ~~the~~ property:

630 1. The total amount of any non-ad valorem assessment for a  
 631 residential property under this section may not exceed 20  
 632 percent of the fair market ~~just~~ value of the real property ~~as~~  
 633 determined by the ~~county property appraiser.~~

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

638  
 639 The failure of a property owner to disclose information set  
 640 forth in subparagraph (9) (a) 12. does not invalidate a financing  
 641 agreement or any obligation thereunder, even if the total  
 642 financed amount of the qualifying improvements exceeds the  
 643 amount that would otherwise be authorized under this paragraph.  
 644 For purposes of this paragraph, fair market value shall be  
 645 established by a written appraisal report prepared by a  
 646 certified residential appraiser under chapter 475.

647 (b) Before entering into a financing agreement with the  
 648 owner of a commercial property, the local government or program  
 649 administrator, as applicable, must be in receipt of the written  
 650 consent of the current holders or loan servicers of any mortgage

651 that encumbers or is otherwise secured by the property or that  
652 will otherwise be secured by the property at the time the  
653 financing agreement is executed by the local government or  
654 program administrator. ~~Notwithstanding paragraph (a), a non-ad~~  
655 ~~valorem assessment for a qualifying improvement defined in~~  
656 ~~subparagraph (2)(b)1. or subparagraph (2)(b)2. that is supported~~  
657 ~~by an energy audit is not subject to the limits in this~~  
658 ~~subsection if the audit demonstrates that the annual energy~~  
659 ~~savings from the qualified improvement equals or exceeds the~~  
660 ~~annual repayment amount of the non-ad valorem assessment.~~

661 (16)~~(13)~~ At least 30 days before entering into a financing  
662 agreement, the property owner must ~~shall~~ provide to the holders  
663 or loan servicers of any existing mortgages encumbering or  
664 otherwise secured by the property a written notice of the  
665 owner's intent to enter into a financing agreement together with  
666 the maximum principal amount to be financed and the maximum  
667 annual assessment necessary to repay that amount. A verified  
668 copy or other proof of such notice must ~~shall~~ be provided to the  
669 local government or program administrator, as applicable. A  
670 provision in any agreement between a mortgagee or other  
671 lienholder and a property owner, or otherwise now or hereafter  
672 binding upon a property owner, which allows for acceleration of  
673 payment of the mortgage, note, or lien or other unilateral  
674 modification solely as a result of entering into a financing  
675 agreement as provided for in this section is not enforceable.

676 This subsection does not limit the authority of the holder or  
 677 loan servicer to increase the required monthly escrow by an  
 678 amount necessary to ~~annually~~ pay the annual ~~qualifying~~  
 679 ~~improvement~~ assessment.

680 ~~(17)-(14)~~ At or before the time a seller ~~purchaser~~ executes  
 681 a contract for the sale ~~and purchase~~ of any property for which a  
 682 non-ad valorem assessment has been levied under this section and  
 683 has an unpaid balance due, the seller must ~~shall~~ give the  
 684 prospective purchaser a written disclosure statement in either  
 685 of the following forms ~~form~~, which must ~~shall~~ be set forth in  
 686 the contract or in a separate writing.

687 (a) For residential property:

688  
 689 QUALIFYING IMPROVEMENTS FOR ENERGY EFFICIENCY,  
 690 RENEWABLE ENERGY, ADVANCED TECHNOLOGIES FOR WASTEWATER  
 691 REMOVAL, OR WIND RESISTANCE.—The property being  
 692 purchased is located within the jurisdiction of a  
 693 local government that has placed an assessment on the  
 694 property pursuant to s. 163.08, Florida Statutes. The  
 695 assessment is for a qualifying improvement to the  
 696 property relating to energy efficiency, renewable  
 697 energy, advanced technologies for wastewater removal,  
 698 or wind resistance, and is not based on the value of  
 699 property. You are encouraged to contact the county  
 700 property appraiser's office to learn more about this

701 and other assessments that may be provided by law.

702 (b) For commercial property:

703

704 QUALIFYING IMPROVEMENTS FOR ENERGY EFFICIENCY,  
 705 RENEWABLE ENERGY, OR RESILIENCY.—The property being  
 706 purchased is located within the jurisdiction of a  
 707 local government that has placed an assessment on the  
 708 property pursuant to s. 163.08, Florida Statutes. The  
 709 assessment is for a qualifying improvement to the  
 710 property relating to energy efficiency, renewable  
 711 energy, or resiliency, and is not based on the value  
 712 of property. You are encouraged to contact the county  
 713 property appraiser's office to learn more about this  
 714 and other assessments that may be provided by law.

715

716 (18) A financing agreement authorized under this section  
 717 on residential property may not include any of the following  
 718 financing terms:

719 (a) A negative amortization schedule. Capitalized interest  
 720 included in the original balance of the assessment financing  
 721 agreement does not constitute negative amortization.

722 (b) A balloon payment.

723 (c) Prepayment fees, other than nominal administrative  
 724 costs.

725 (19) For residential property, a local government or

726 program administrator, as applicable:

727 (a) May not enroll a qualifying improvement contractor who  
728 contracts with residential property owners to install qualifying  
729 improvements unless:

730 1. The local government or program administrator, as  
731 applicable, determines that the qualifying improvement  
732 contractor maintains in good standing an appropriate license  
733 from the state, if applicable, as well as any other permits,  
734 licenses, or registrations required for engaging in its business  
735 in the jurisdiction in which it operates and maintains all  
736 state-required bond and insurance coverage.

737 2. The local government or program administrator, as  
738 applicable, obtains the qualifying improvement contractor's  
739 written agreement that the qualifying improvement contractor  
740 will comply with all applicable laws, including applicable  
741 advertising and marketing laws and regulations and the  
742 requirements of this section.

743 (b) Must maintain a process to enroll new qualifying  
744 improvement contractors that includes reasonable review of the  
745 following for each contractor:

746 1. Relevant work or project history.

747 2. Financial and reputational background checks, including  
748 a criminal background check.

749 3. The contractor's status on the Better Business Bureau  
750 online platform or other online platforms that track contractor

751 reviews.

752 (c) Must establish and maintain a process for monitoring  
753 qualifying improvement contractors with regard to performance  
754 and compliance with program policies and must implement policies  
755 for suspending, reinstating, and terminating qualifying  
756 improvement contractors based on violations of program policies  
757 or unscrupulous behavior.

758

759 A program administrator, either directly or through an  
760 affiliate, may not be enrolled as a qualifying improvement  
761 contractor.

762 (20) (a) Before disbursing funds to a qualifying  
763 improvement contractor for a qualifying improvement on  
764 residential property, the local government or program  
765 administrator, as applicable, must confirm that the applicable  
766 work or service has been completed and that the final permit for  
767 the qualifying improvement has been closed with all permit  
768 requirements satisfied.

769 (b) A local government or program administrator, as  
770 applicable, may not disclose the maximum financing amount for  
771 which a residential property owner is eligible to a qualifying  
772 improvement contractor or to a third party engaged in soliciting  
773 assessment contracts financed pursuant to this section.

774 (21) When communicating with residential property owners,  
775 a local government, program administrator, or qualifying

776 improvement contractor, or a third party engaged in marketing on  
777 behalf of these entities, must comply with the following  
778 marketing and communications guidelines and may not:

779 (a) Suggest or imply:

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

782 2. That qualifying improvements are free or provided at no  
783 cost or that the financing related to a non-ad valorem  
784 assessment authorized under this section is free or provided at  
785 no cost; or

786 3. That the financing of a qualifying improvement using a  
787 qualifying improvement program authorized under this section  
788 does not require the property owner to repay the financial  
789 obligation.

790 (b) Make any representation as to the tax deductibility of  
791 a non-ad valorem assessment on residential property. A local  
792 government, program administrator, or qualifying improvement  
793 contractor, or a third party engaged in marketing on behalf of  
794 these entities, may encourage a property owner to seek the  
795 advice of a tax professional regarding tax matters related to  
796 assessments.

797 (22) (a) A qualifying improvement contractor or third party  
798 engaged in marketing a qualifying improvement program may not  
799 advertise the availability of financing agreements or solicit  
800 property owners on behalf of the local government or program



801 administrator, as applicable, unless:

802 1. The qualifying improvement contractor or third party  
 803 maintains the appropriate registration or certification from the  
 804 Construction Industry Licensing Board or any other permit,  
 805 license, or registration required to conduct business in the  
 806 jurisdiction where it operates and provides proof of having the  
 807 required bond and insurance coverage amounts.

808 2. The local government or program administrator, as  
 809 applicable, obtains the qualifying improvement contractor's or  
 810 third party's written agreement that the qualifying improvement  
 811 contractor or third party will comply with applicable laws and  
 812 rules and qualifying improvement program policies and  
 813 procedures, including those on advertising and marketing.

814 (b) A local government or program administrator, as  
 815 applicable, may not provide any payment, fee, or kickback to a  
 816 qualifying improvement contractor for referring financing  
 817 business relating to any financing agreement on residential  
 818 property. However, a program administrator may provide  
 819 information or services to a qualifying improvement contractor  
 820 to facilitate the installation of a qualifying improvement for a  
 821 property owner.

822 (c) A local government or program administrator, as  
 823 applicable, may not reimburse a qualifying improvement  
 824 contractor or third party for its expenses in advertising and  
 825 marketing campaigns and materials. A local government or program

826 administrator, as applicable, and a qualifying improvement  
827 contractor may share expenses in connection with joint  
828 advertising and marketing campaigns and materials if the  
829 expenses are shared on a commercially reasonable basis.

830 (d) A local government or program administrator, as  
831 applicable, may not provide to a qualifying improvement  
832 contractor any information that discloses the amount of funds  
833 for which a property owner is eligible for qualifying  
834 improvements or the amount of equity in a property.

835 (e) For residential properties, a qualifying improvement  
836 contractor may not provide a different price for a qualifying  
837 improvement financed under this section than the qualifying  
838 improvement contractor would otherwise reasonably provide if the  
839 qualifying improvement was not being financed through a  
840 financing agreement under this section.

841 (f) A program administrator may not provide any direct  
842 cash payment or other thing of material value to a property  
843 owner explicitly conditioned upon the property owner entering  
844 into a financing agreement. However, a program administrator may  
845 offer programs or promotions that provide reduced fees or  
846 interest rates if the reduced fees or interest rates are  
847 reflected in the financing agreements and are not provided to  
848 the property owners as cash consideration.

849 (23) Each local government and program administrator must  
850 develop and implement policies and procedures for responding to,

851 tracking, and resolving questions and complaints about its  
852 qualifying improvement program.

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

857 (a) The number of qualifying improvements funded.

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

861 (c) The percentage, number, and dollar value of non-ad  
862 valorem assessments that funded qualifying improvements,  
863 aggregated by the category types consisting of energy  
864 efficiency, renewable energy, wind resistance, residential  
865 property wastewater, commercial property resiliency, and other  
866 commercial property qualifying improvements.

867 (d) The number of defaulted non-ad valorem assessments,  
868 including the total number and defaulted amount, the number and  
869 dates of missed payments, the total number of parcels defaulted  
870 and the years in default, and the percentage of defaults by  
871 total assessments.

872 (e) A summary of all reported complaints received by the  
873 local government and its program administrators related to  
874 authorized qualifying improvements programs, including the  
875 resolution of each complaint.

876 (f) Estimated number of jobs created.

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

879  
 880 This report shall be posted no later than April 1 of the year  
 881 following the calendar year covered by the report.

882 ~~(25)-(15)~~ A provision in any agreement between a local  
 883 government and a public or private power or energy provider or  
 884 other utility provider is not enforceable to limit or prohibit  
 885 any local government from exercising its authority under this  
 886 section.

887 ~~(26)-(16)~~ This section is additional and supplemental to  
 888 county and municipal home rule authority and not in derogation  
 889 of such authority or a limitation upon such authority.

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

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