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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/25/2023	.	
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The Committee on Fiscal Policy (Rodriguez) recommended the following:

**Senate Amendment (with title amendment)**

Delete everything after the enacting clause  
and insert:

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

163.08 Supplemental authority for improvements to real  
property.—

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



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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  
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



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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 commercial property constructed or that has  
44 ~~been~~ retrofitted with resiliency qualifying improvements and  
45 improved residential property retrofitted with wind resistance  
46 qualifying improvements receive ~~receives~~ the special benefit of  
47 reducing the property's burden from potential ~~wind~~ damage.  
48 Further, the installation and operation of qualifying  
49 improvements not only benefit the affected properties for which  
50 the improvements are made, but also assist in fulfilling the  
51 goals of the state's energy and hurricane mitigation policies.  
52 Residential properties that do not use advanced technologies for  
53 wastewater removal contribute to the water quality problems  
54 affecting this state, particularly in the coastal areas.  
55 Improved residential property that has been retrofitted with an  
56 advanced onsite sewage treatment and disposal system or has been  
57 converted to central sewerage significantly benefits the quality  
58 of water that may enter streams, lakes, rivers, aquifers, or  
59 coastal areas.

60 (c) In order to make qualifying improvements more  
61 affordable and assist property owners who wish to undertake such  
62 improvements, the Legislature finds that there is a compelling  
63 state interest in enabling property owners to voluntarily  
64 finance such improvements with local government assistance.

65 (d) ~~(e)~~ The Legislature determines that the actions  
66 authorized under this section, including, but not limited to,  
67 the financing of qualifying improvements through the execution  
68 of financing agreements and the related imposition of voluntary



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69 assessments are reasonable and necessary to serve and achieve a  
70 compelling state interest and are necessary for the prosperity  
71 and welfare of the state and its property owners and  
72 inhabitants.

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

74 (a) "Commercial property" means real property not defined  
75 as residential property which will be or has been improved by a  
76 qualifying improvement, including, but not limited to, the  
77 following:

78 1. A multifamily residential property composed of five or  
79 more dwelling units;

80 2. A commercial real property;

81 3. An industrial building or property;

82 4. An agricultural property;

83 5. A nonprofit-owned property;

84 6. A long-term care facility, including a nursing home or  
85 an assisted living facility; or

86 7. A government commercial property.

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

90 (c) "Government commercial property" means real property  
91 owned by a local government and leased to a nongovernmental  
92 lessee where the usage by the lessee meets the definition of  
93 commercial property.

94 (d) ~~(a)~~ "Local government" means a county, a municipality, a  
95 dependent special district as defined in s. 189.012, or a  
96 separate legal entity created pursuant to s. 163.01(7).

97 (e) "Nongovernmental lessee" means a person or an entity



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98 other than a local government which leases government commercial  
99 property.

100 (f) "Program administrator" means an entity, including, but  
101 not limited to, a for-profit or not-for-profit entity, with  
102 which a local government has contracted to administer a  
103 qualifying improvement program.

104 (g) "Qualifying improvement contractor" means an  
105 independent contractor who has been enrolled under a qualifying  
106 improvement program to install or otherwise perform work on  
107 qualifying improvements financed through the program.

108 (h) "Qualifying improvement program" means a program  
109 established by a local government, alone or in partnership with  
110 other local governments or a program administrator, to finance  
111 qualifying improvements on residential or commercial real  
112 property.

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

114 1. For residential property, includes any:

115 a. ~~1~~. Energy conservation and efficiency improvement, which  
116 is a measure to reduce consumption through conservation or a  
117 more efficient use of electricity, natural gas, propane, or  
118 other forms of energy on the property, including, but not  
119 limited to, air sealing; installation of insulation;  
120 installation of energy-efficient heating, cooling, or  
121 ventilation systems; building modifications to increase the use  
122 of daylight; replacement of windows; installation of energy  
123 controls or energy recovery systems; installation of electric  
124 vehicle charging equipment; and installation of efficient  
125 lighting equipment.

126 b. ~~2~~. Renewable energy improvement, which is the



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127 installation of any system in which the electrical, mechanical,  
128 or thermal energy is produced from a method that uses one or  
129 more of the following fuels or energy sources: hydrogen, solar  
130 energy, geothermal energy, bioenergy, and wind energy.

131 c.3. Wind resistance improvement, which includes, but is  
132 not limited to:

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

134 (II)b. Creating a secondary water barrier to prevent water  
135 intrusion;

136 (III)e. Installing wind-resistant shingles;

137 (IV)d. Installing gable-end bracing;

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

139 (VI)f. Installing storm shutters; or

140 (VII)g. Installing opening protections.

141 d. Wastewater improvement, which includes, but is not  
142 limited to:

143 (I) Removing, replacing, or improving an onsite sewage  
144 treatment and disposal system with a secondary or advanced  
145 onsite sewage treatment and disposal system or technology;

146 (II) Replacing or converting an onsite sewage treatment and  
147 disposal system to a central sewerage system or distributed  
148 sewerage system, including, but not limited to, installing a  
149 sewer lateral and anything necessary to connect the onsite  
150 sewage treatment and disposal system or the building's plumbing  
151 to a central sewerage system or distributed sewerage system; or

152 (III) Any removal, repairs, or modifications made to an  
153 onsite sewage treatment and disposal system, including any  
154 repair, modification, or replacement of a system required under  
155 a local ordinance enacted pursuant to ss. 381.0065 and



156 381.00651.  
157 e. Flood and water damage mitigation and resiliency  
158 improvement, which includes, but is not limited to, projects and  
159 installation for:  
160 (I) Raising a structure above the base flood elevation to  
161 reduce flood damage;  
162 (II) A flood diversion apparatus or seawall improvement,  
163 which includes seawall repairs and seawall replacements;  
164 (III) Flood-damage-resistant building materials;  
165 (IV) Electrical, mechanical, plumbing, or other system  
166 improvements that reduce flood damage; or  
167 (V) Other improvements that qualify for reductions in flood  
168 insurance premiums.  
169 2. For commercial property, includes any:  
170 a. Energy conservation and efficiency improvement, which is  
171 a measure to reduce consumption through conservation or a more  
172 efficient use of electricity, natural gas, propane, or other  
173 forms of energy on the property, including, but not limited to,  
174 air sealing; installation of insulation; installation of energy-  
175 efficient heating, cooling, or ventilation systems; building  
176 modifications to increase the use of daylight; replacement of  
177 windows; installation of energy controls or energy recovery  
178 systems; installation of electric vehicle charging equipment;  
179 installation of efficient lighting equipment; or any other  
180 improvements necessary to achieve a sustainable building rating  
181 or compliance with a national model green building code.  
182 b. Renewable energy improvement, which is the installation  
183 of any system in which the electrical, mechanical, or thermal  
184 energy is produced from a method that uses one or more of the



185 following fuels or energy sources: hydrogen, solar energy,  
186 geothermal energy, bioenergy, or wind energy.

187 c. Resiliency improvement, which includes, but is not  
188 limited to:

189 (I) Improving the strength of the roof deck attachment;

190 (II) Creating a secondary water barrier to prevent water  
191 intrusion;

192 (III) Installing wind-resistant shingles;

193 (IV) Installing gable-end bracing;

194 (V) Reinforcing roof-to-wall connections;

195 (VI) Installing storm shutters;

196 (VII) Installing opening protections;

197 (VIII) Creating or improving stormwater and flood  
198 resiliency, including shoreline improvements; or

199 (IX) Making any other improvements necessary to achieve a  
200 sustainable building rating or compliance with a national model  
201 resiliency standard and any improvements to a structure to  
202 achieve wind or flood insurance rate reductions, including  
203 building elevation.

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

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

209 (4) Subject to local government ordinance or resolution, a  
210 residential or commercial property owner may apply to the  
211 qualifying improvement program ~~local government~~ for funding to  
212 finance a qualifying improvement and enter into a financing  
213 agreement with the local government. Costs incurred by the local





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214 government for such purpose may be collected as a non-ad valorem  
215 assessment. A non-ad valorem assessment must ~~shall~~ be collected  
216 pursuant to s. 197.3632 and, notwithstanding s. 197.3632(8)(a),  
217 is ~~shall~~ not ~~be~~ subject to discount for early payment. However,  
218 the notice and adoption requirements of s. 197.3632(4) do not  
219 apply if this section is used and complied with, and the intent  
220 resolution, publication of notice, and mailed notices to the  
221 property appraiser, tax collector, and Department of Revenue  
222 required by s. 197.3632(3)(a) may be provided on or before  
223 August 15 in conjunction with any non-ad valorem assessment  
224 authorized by this section, if the property appraiser, tax  
225 collector, and local government agree. A non-ad valorem  
226 assessment on a commercial property securing financing for a  
227 qualifying improvement, notwithstanding ss. 192.091(2)(b) and  
228 197.3632(8)(c), is subject to a maximum annual fee of 1 percent  
229 of the annual non-ad valorem assessment collected or \$5,000,  
230 whichever is less.

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

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

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



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243           (8) (a) A local government may enter into a financing  
244 agreement to finance or refinance a qualifying improvement only  
245 with the record owner of the affected property. For government  
246 commercial property, the financing agreement must be executed by  
247 the nongovernmental lessee with the written consent of the  
248 governmental lessor. Evidence of such consent must be provided  
249 to the local government. The financing agreement with the  
250 nongovernmental lessee must provide that the nongovernmental  
251 lessee is the only party obligated to pay the assessment.

252           (b) Any financing agreement entered into pursuant to this  
253 section or a summary memorandum of such agreement must ~~shall~~ be  
254 submitted for recording ~~recorded~~ in the public records of the  
255 county within which the property is located by the sponsoring  
256 unit of local government within 10 ~~5~~ days after execution of the  
257 agreement. The recorded agreement provides ~~shall provide~~  
258 constructive notice that the non-ad valorem assessment to be  
259 levied on the property constitutes a lien of equal dignity to  
260 county taxes and assessments from the date of recordation. A  
261 notice of lien for the full amount of the financing may be  
262 recorded in the public records of the county where the property  
263 is located. Such lien is not enforceable in a manner that  
264 results in the acceleration of the remaining nondelinquent  
265 unpaid balance under the assessment financing agreement.

266           (9) (a) ~~Before entering into~~ A financing agreement for a  
267 residential property may not be approved unless, the local  
268 government, or the program administrator acting on its behalf,  
269 has ~~shall~~ reasonably determined ~~determine~~ that all of the  
270 following conditions have been met:

271           1. All property taxes and any other assessments levied on



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272 the same bill as property taxes are current ~~paid~~ and have not  
273 been delinquent for the preceding 3 years or the property  
274 owner's period of ownership, whichever is less. ~~;~~ ~~that~~

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

277 3. There are no notices of default or other evidence of  
278 property-based debt delinquency which have been recorded during  
279 the preceding 3 years or the property owner's period of  
280 ownership, whichever is less. ~~;~~ ~~and that~~

281 4. The property owner is current on all mortgage debt on  
282 the property.

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

285 6. The property is within the geographic boundaries of the  
286 applicable qualifying improvement program.

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

288 a. For a single qualifying improvement, the estimated  
289 useful life of the qualifying improvement.

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

291 (I) Thirty years; or

292 (II) The greater of either the weighted average estimated  
293 useful life of all qualifying improvements being financed or the

294 estimated useful life of the qualifying improvements to which  
295 the greatest portion of funds is disbursed. The local government

296 or program administrator, as applicable, shall determine the

297 useful life of a qualifying improvement using established third-  
298 party standards, including certification criteria from

299 government agencies or nationally recognized standards and  
300 testing organizations.



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301 8. The property owner is not currently the subject to  
302 bankruptcy proceedings.

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

305 10. The property is not a residential property gifted to a  
306 homeowner for free by a nonprofit entity as may be disclosed by  
307 the property owner. The failure of a property owner to disclose  
308 the gift does not invalidate a financing agreement or any  
309 obligation thereunder.

310 11. The property owner has obtained estimates from at least  
311 two unaffiliated, competitive entities, one of which is a  
312 qualifying improvement contractor, for the qualifying  
313 improvement to be financed.

314 12. The local government or program administrator, as  
315 applicable, has asked if the property owner has obtained or  
316 sought to obtain additional qualifying improvements on the same  
317 property which have not yet been recorded. The failure of a  
318 property owner to disclose such information does not invalidate  
319 a financing agreement or any obligation thereunder, even if the  
320 total financed amount of the qualifying improvement exceeds the  
321 amount that would otherwise be authorized under paragraph  
322 (15) (a). The existence of a prior qualifying improvement non-ad  
323 valorem assessment or a prior financing agreement is not  
324 evidence that the financing agreement under consideration is  
325 affordable or meets other program requirements.

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



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

332 2. There are no involuntary liens greater than \$10,000,  
333 including, but not limited to, construction liens, on the  
334 property.

335 3. No notices of default or other evidence of property-  
336 based debt delinquency have been recorded and not released  
337 during the preceding 3 years or the property owner's period of  
338 ownership, whichever is less.

339 4. The property owner is current on all mortgage debt on  
340 the property.

341 (10) In addition to obtaining the information in subsection  
342 (9) (a), and before a local government or program administrator,  
343 as applicable, approves a qualifying improvement on residential  
344 property, the local government or program administrator must use  
345 information contained in the property owner's application,  
346 reasonably reliable third-party records, or an automated  
347 verification system to reasonably determine whether the property  
348 owner has the ability to pay the annual non-ad valorem  
349 assessment for the qualifying improvement. The local government  
350 or program administrator, as applicable, must review the  
351 property owner's household income. To do so, the program  
352 administrator shall, at a minimum, use the underwriting  
353 requirements in subsection (9), confirm that the property owner  
354 is not in bankruptcy, and determine that the total estimated  
355 annual payment amount for all financing agreements funded under  
356 this section on the property does not exceed 10 percent of the  
357 property owner's annual household income. In reviewing the  
358 property owner's ability to pay, the local government or program



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359 administrator, as applicable, when determining the household  
360 income:

361 (a) May include the income of any non-property owners who  
362 reside on the property.

363 (b) May not consider the equity in the property which will  
364 secure the non-ad valorem assessment.

365 (c) May confirm income by use of any of the following:

366 1. Information or income models gathered from and prepared  
367 by reputable third parties which provide reasonably reliable  
368 evidence of the property owner's household income.

369 2. Federal and state tax returns.

370 3. Statements prepared by a certified public accountant.

371 4. Bank statements.

372 5. Credit reports.

373 6. Retirement accounts.

374 7. Social security statements.

375 8. Trust documents.

376 9. Any other reputable sources of financial information.

377  
378 The local government or program administrator may consider  
379 statements by the property owner regarding the property owner's  
380 income, but income may not be confirmed solely by a property  
381 owner's statements.

382 (d) In the event that a court or tribunal determines, by  
383 clear and convincing evidence, that the program administrator's  
384 determination of the property owner's ability to pay was not  
385 objectively reasonable based on the information provided by the  
386 property owner, the yearly assessment payment must be reduced by  
387 an amount that is within the property owner's ability to pay.



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388 This paragraph does not require or authorize the administrator  
389 to reduce the amount owed on the assessment.

390 (e) The failure of a property owner to disclose information  
391 specified in subsection (9) does not invalidate a financing  
392 agreement or any obligation thereunder, even if the total  
393 estimated annual payment amount exceeds the amount that would  
394 otherwise be authorized under this subsection.

395 (11) Each local government or program administrator that  
396 offers a qualifying improvement program for residential  
397 properties shall:

398 (a) Develop a written disclosure form, which may be  
399 presented in electronic format, which must be provided to a  
400 residential property owner before he or she executes the  
401 financing agreement and which contains the key terms of the  
402 agreement, including:

403 1. A description of the qualifying improvement;  
404 2. The estimated total financed amount, including the cost  
405 of the qualifying improvement, ancillary work, program fees, and  
406 prepaid interest, if any;

407 3. The annual non-ad valorem assessment process and  
408 estimated yearly payment schedule;

409 4. The estimated amount of the annual non-ad valorem  
410 assessment;

411 5. The term of the total financed amount;

412 6. The interest rate for the financed amount;

413 7. The estimated annual percentage rate;

414 8. The total estimated annual costs that the residential  
415 property owner will be required to pay under the assessment  
416 contract, including program fees;



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417 9. The total estimated average monthly equivalent amount of  
418 funds that the residential property owner would have to save in  
419 order to pay the annual costs of the non-ad valorem assessment,  
420 including program fees; and

421 10. The estimated due date of the residential property  
422 owner's first property tax payment that includes the non-ad  
423 valorem assessment.

424 (b) Include the following statements verbatim and in the  
425 following order in the written disclosure form, each of which  
426 must be individually acknowledged in writing by the property  
427 owner:

428 1. I UNDERSTAND THAT IF I SELL OR REFINANCE THE PROPERTY, I  
429 MAY BE REQUIRED TO PAY OFF THE OUTSTANDING FINANCED AMOUNT AS A  
430 CONDITION OF THE SALE OR THE REFINANCE OF THE PROPERTY. The  
431 previous statement must be made in at least 24-point boldfaced  
432 type.

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

436 3. I understand that the annual non-ad valorem assessment  
437 will be added to my property tax bill and that if I pay my  
438 property taxes through my mortgage payment using an escrow  
439 account, I must notify my mortgage lender.

440 4. I understand that if I fail to pay the annual non-ad  
441 valorem assessment, I may incur penalties and fees and the local  
442 government could issue a tax certificate that might result in  
443 the loss of my property.

444 5. I understand that any potential utility or insurance  
445 savings are not guaranteed and will not reduce the annual non-ad





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446 valorem assessment or total assessment amount.

447 6. I understand that I have 5 days to cancel the financing  
448 agreement. The 5-day right expires at midnight on the 5th  
449 business day after I sign the agreement.

450 7. I understand that the local government, program  
451 administrator, or qualifying improvement contractor does not  
452 provide tax advice and that I should seek professional tax  
453 advice if I have questions regarding tax credits, tax  
454 deductibility, or other tax impacts of the qualifying  
455 improvement or the assessment contract.

456 8. I understand that I cannot be assessed a penalty if I  
457 prepay the outstanding financed amount.

458 (c) Provide a printed or electronic cancellation form to  
459 the residential property owner no later than the date that the  
460 property owner signs the financing agreement, which allows the  
461 property owner to cancel the contract within the 5-day period  
462 specified in subparagraph (b) 6.

463 (d) Before a notice to proceed is issued, conduct, with at  
464 least one residential property owner or an individual who is not  
465 affiliated or associated with the local government, program  
466 administrator, or qualifying improvement contractor and who is  
467 legally authorized to act on behalf of the property owner, an  
468 oral, recorded telephone call, during which the local government  
469 or program administrator must use plain language. The local  
470 government or program administrator, as applicable, shall ask  
471 the residential property owner or authorized representative if  
472 he or she would like to communicate primarily in a language  
473 other than English. A local government or program administrator,  
474 as applicable, may not leave a voicemail for the residential



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475 property owner or authorized representative to satisfy this  
476 requirement. A local government or program administrator, as  
477 applicable, as part of this telephone call, must confirm with  
478 the residential property owner or authorized representative:

479 1. That at least one residential property owner has access  
480 to a copy of the financing agreement and financing estimates and  
481 disclosures.

482 2. The qualifying improvement that is being financed.

483 3. The total estimated annual costs that the residential  
484 property owner will have to pay under the financing agreement,  
485 including program fees.

486 4. The total estimated average monthly equivalent amount of  
487 funds that the residential property owner would have to save in  
488 order to pay the annual costs of the non-ad valorem assessment,  
489 including program fees.

490 5. The estimated due date of the residential property  
491 owner's first property tax payment that includes the non-ad  
492 valorem assessment.

493 6. The term of the financing agreement.

494 7. That payments for the financing agreement will cause the  
495 residential property owner's annual tax bill to increase and  
496 that payments will be made through an additional annual non-ad  
497 valorem assessment on the property and will be paid either  
498 directly to the county tax collector's office as part of the  
499 total annual secured property tax bill or may be paid through  
500 the residential property owner's mortgage escrow account.

501 8. That the qualifying residential property owner has  
502 disclosed whether the property has received or is seeking  
503 additional non-ad valorem assessments and has disclosed all



504 other assessments or special taxes that are or are projected to  
505 be placed on the property.

506 9. That the property will be subject to a lien during the  
507 term of the financing agreement and that the obligations under  
508 the agreement may be required to be paid in full before the  
509 residential property owner sells or refinances the property.

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

513 11. That the local government, program administrator, or  
514 qualifying improvement contractor does not provide tax advice  
515 and that the residential property owner should seek professional  
516 tax advice if he or she has questions regarding tax credits, tax  
517 deductibility, or other tax impacts of the qualifying  
518 improvement or the financing agreement.

519 (12) (a) A residential property owner may cancel a financing  
520 agreement within 5 business days after signing the financing  
521 agreement without being assessed a financial penalty by the  
522 local government or program administrator, as applicable.

523 (b) A contract to sell or install a qualifying improvement  
524 that is related to an application for financing in a qualifying  
525 improvement program for a residential property is unenforceable,  
526 and a qualifying improvement contractor may not begin work under  
527 such a contract, if the property owner applied for, accepted,  
528 and canceled a qualifying improvement financing agreement within  
529 the 5-business-day right-to-cancel period set forth in paragraph  
530 (a).

531 (c) If a qualifying improvement contractor has initiated  
532 work on a residential property under a contract deemed



533 unenforceable under this subsection, the qualifying improvement  
534 contractor:

535 1. May not receive compensation for that work under the  
536 financing agreement.

537 2. Must restore the property to its original condition at  
538 no cost to the property owner.

539 3. Must immediately return any money, property, and other  
540 consideration given by the property owner. If the property owner  
541 provided any property and the qualifying improvement contractor  
542 does not or cannot return it, the qualifying improvement  
543 contractor shall immediately return the fair market value of the  
544 property or its value as designated in the contract, whichever  
545 is greater.

546 (d) If the qualifying improvement contractor has delivered  
547 chattel or fixtures to the residential property pursuant to a  
548 contract deemed unenforceable under this subsection, the  
549 qualifying improvement contractor has 90 days after the date on  
550 which the contract was executed to retrieve the chattel or  
551 fixtures, provided that:

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

554 2. The chattel and fixtures can be removed at the  
555 qualifying improvement contractor's expense without damaging the  
556 property owner's property.

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

561 (f) A contract which is otherwise unenforceable under this



562 subsection remains enforceable if the residential property owner  
563 waives his or her right to cancel the contract or cancels the  
564 financing agreement under paragraph (b) but allows the  
565 qualifying improvement contractor to proceed with the  
566 installation of the qualifying improvement.

567 (13) To constitute an improvement to a building or  
568 facility, a qualifying improvement ~~shall~~ must be affixed to a  
569 building or facility that is part of the property ~~and shall~~  
570 ~~constitute an improvement to the building or facility~~ or a  
571 fixture attached to the building or facility.

572 (a) A financing ~~an~~ agreement between a local government and  
573 a residential ~~qualifying~~ property owner may not cover wind-  
574 resistance improvements in buildings or facilities under new  
575 construction or construction for which a certificate of  
576 occupancy or similar evidence of substantial completion of new  
577 construction or improvement has not been issued.

578 (b) A financing agreement may be executed for qualifying  
579 improvements in the construction of a commercial property before  
580 a certificate of occupancy or similar evidence of substantial  
581 completion of new construction or improvement is issued.  
582 Progress payments, or payments made before completion, are  
583 allowed for commercial properties, provided that the property  
584 owner subsequently provides, upon request for a final progress  
585 payment disbursement, written verification to the local  
586 government confirming that the qualifying improvements are  
587 completed and operating as intended. A financing agreement with  
588 a commercial property owner may cover wind-resistance  
589 improvements in buildings or facilities under new construction  
590 or construction for which a certificate of occupancy or similar



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591 evidence of substantial completion of new construction or  
592 improvement has not been issued.

593 (14)~~(11)~~ Any work requiring a license under any applicable  
594 law to make a qualifying improvement must ~~shall~~ be performed by  
595 a contractor properly certified or registered pursuant to ~~part I~~  
596 ~~or part II of~~ chapter 489.

597 (15)~~(12)~~ (a) Without the consent of the holders or loan  
598 servicers of any mortgage encumbering or otherwise secured by  
599 the residential property:

600 1. The total amount of any non-ad valorem assessment for a  
601 residential property under this section may not exceed 20  
602 percent of the fair market ~~just~~ value of the property ~~as~~  
603 ~~determined by the county property appraiser.~~

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

608  
609 The failure of a property owner to disclose information set  
610 forth in paragraph (9) (a) does not invalidate a financing  
611 agreement or any obligation thereunder, even if the total  
612 financed amount of the qualifying improvements exceeds the  
613 amount that would otherwise be authorized under this paragraph.  
614 For purposes of this paragraph, fair market value may be  
615 determined using third party valuations based on reputable  
616 methodologies.

617 (b) Before entering into a financing agreement with the  
618 owner of a commercial property, the local government or program  
619 administrator, as applicable, must be in receipt of the written



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620 consent of the current holders or loan servicers of any mortgage  
621 that encumbers or is otherwise secured by the property or that  
622 will otherwise be secured by the property at the time the  
623 financing agreement is executed by the local government or  
624 program administrator ~~Notwithstanding paragraph (a), a non-ad~~  
625 ~~valorem assessment for a qualifying improvement defined in~~  
626 ~~subparagraph (2) (b)1. or subparagraph (2) (b)2. that is supported~~  
627 ~~by an energy audit is not subject to the limits in this~~  
628 ~~subsection if the audit demonstrates that the annual energy~~  
629 ~~savings from the qualified improvement equals or exceeds the~~  
630 ~~annual repayment amount of the non-ad valorem assessment.~~

631 (16) ~~(13)~~ At least 30 days before entering into a financing  
632 agreement, the property owner shall provide to the holders or  
633 loan servicers of any existing mortgages encumbering or  
634 otherwise secured by the property a written notice of the  
635 owner's intent to enter into a financing agreement together with  
636 the maximum principal amount to be financed and the maximum  
637 annual assessment necessary to repay that amount. A verified  
638 copy or other proof of such notice must ~~shall~~ be provided to the  
639 local government or program administrator, as applicable. A  
640 provision in any agreement between a mortgagee or other  
641 lienholder and a property owner, or otherwise now or hereafter  
642 binding upon a property owner, which allows for acceleration of  
643 payment of the mortgage, note, or lien or other unilateral  
644 modification solely as a result of entering into a financing  
645 agreement as provided for in this section is not enforceable.  
646 This subsection does not limit the authority of the holder or  
647 loan servicer to increase the required monthly escrow by an  
648 amount necessary to ~~annually~~ pay the annual ~~qualifying~~



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649 ~~improvement~~ assessment.

650 ~~(17)(14)~~ At or before the time a seller ~~purchaser~~ executes  
651 a contract for the sale ~~and purchase~~ of any property for which a  
652 non-ad valorem assessment has been levied under this section and  
653 has an unpaid balance due, the seller must ~~shall~~ give the  
654 prospective purchaser a written disclosure statement in either  
655 of the following forms form, which must ~~shall~~ be set forth in  
656 the contract or in a separate writing.

657 (a) For a residential property:

658  
659 QUALIFYING IMPROVEMENTS FOR ENERGY EFFICIENCY,  
660 RENEWABLE ENERGY, ADVANCED TECHNOLOGIES FOR WASTEWATER  
661 REMOVAL, OR WIND RESISTANCE.—The property being  
662 purchased is located within the jurisdiction of a  
663 local government that has placed an assessment on the  
664 property pursuant to s. 163.08, Florida Statutes. The  
665 assessment is for a qualifying improvement to the  
666 property relating to energy efficiency, renewable  
667 energy, advanced technologies for wastewater removal,  
668 or wind resistance, and is not based on the value of  
669 property. You are encouraged to contact the county  
670 property appraiser's office to learn more about this  
671 and other assessments that may be provided by law.

672 (b) For a commercial property:

673  
674 QUALIFYING IMPROVEMENTS FOR ENERGY EFFICIENCY,  
675 RENEWABLE ENERGY, OR RESILIENCY.—The property being  
676 purchased is located within the jurisdiction of a  
677 local government that has placed an assessment on the





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678 property pursuant to s. 163.08, Florida Statutes. The  
679 assessment is for a qualifying improvement to the  
680 property relating to energy efficiency, renewable  
681 energy, or resiliency, and is not based on the value  
682 of property. You are encouraged to contact the county  
683 property appraiser's office to learn more about this  
684 and other assessments that may be provided by law.

685  
686 (18) A financing agreement authorized under this section on  
687 residential property may not include any of the following:

688 (a) A negative amortization schedule. Capitalized interest  
689 included in the original balance of the financing agreement does  
690 not constitute negative amortization.

691 (b) A balloon payment.

692 (c) Prepayment fees, other than nominal administrative  
693 costs.

694 (19) For residential property, a local government or  
695 program administrator:

696 (a) May not enroll a qualifying improvement contractor who  
697 contracts with residential property owners to install qualifying  
698 improvements unless:

699 1. The local government or program administrator, as  
700 applicable, determines that the qualifying improvement  
701 contractor maintains in good standing an appropriate license  
702 from the state, if applicable, as well as any other permits,  
703 licenses, or registrations required for engaging in its business  
704 in the jurisdiction in which it operates and maintains all  
705 state-required bond and insurance coverage.

706 2. The local government or program administrator, as



707 applicable, obtains the qualifying improvement contractor's  
708 written agreement that the qualifying improvement contractor  
709 will comply with all applicable laws, including applicable  
710 advertising and marketing laws and regulations and the  
711 requirements of this section.

712 (b) Must maintain a process to enroll new qualifying  
713 improvement contractors which includes reasonable review of the  
714 following for each contractor:

715 1. Relevant work or project history.

716 2. Financial and reputational background checks, including  
717 a criminal background check.

718 3. The contractor's status on the Better Business Bureau  
719 platform or other online platform that tracks contractor  
720 reviews.

721 (c) Must establish and maintain a process for monitoring  
722 qualifying improvement contractors with regard to performance  
723 and compliance with program policies and must implement policies  
724 for suspending, reinstating, and terminating qualifying  
725 improvement contractors based on violations of program policies  
726 or unscrupulous behavior.

727  
728 A program administrator, either directly or through an  
729 affiliate, may not be enrolled as a qualifying improvement  
730 contractor.

731 (20) (a) Before disbursing final funds to a qualifying  
732 improvement contractor for a qualifying improvement on  
733 residential property, the local government or program  
734 administrator, as applicable, must confirm that the applicable  
735 work or service has been completed or that the final permit for



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736 the qualifying improvement has been closed with all permit  
737 requirements satisfied.

738 (b) A local government or program administrator, as  
739 applicable, may not disclose the maximum financing amount for  
740 which a residential property owner is eligible to a qualifying  
741 improvement contractor or to a third party engaged in soliciting  
742 financing agreements financed pursuant to this section.

743 (21) When communicating with residential property owners, a  
744 local government or program administrator must comply with the  
745 following marketing and communication guidelines and may not:

746 (a) Suggest or imply:

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

749 2. That qualifying improvements are free or provided at no  
750 cost, or that the financing related to a non-ad valorem  
751 assessment authorized under this section is free or provided at  
752 no cost; or

753 3. That the financing of a qualifying improvement using the  
754 program authorized pursuant to this section does not require the  
755 property owner to repay the financial obligation.

756 (b) Make any representation as to the tax deductibility of  
757 a non-ad valorem assessment on residential property. A local  
758 government, program administrator, or qualifying improvement  
759 contractor, or a third party engaged in marketing on behalf of  
760 such entities, may encourage a property owner to seek the advice  
761 of a tax professional regarding tax matters related to  
762 assessments.

763 (22) (a) A qualifying improvement contractor may not  
764 advertise the availability of financing agreements for, or



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765 solicit property owners on behalf of, the local government or  
766 program administrator unless:

767 1. The qualifying improvement contractor maintains the  
768 appropriate registration or certification from the Construction  
769 Industry Licensing Board or any other permit, license, or  
770 registration required to conduct business in the jurisdiction in  
771 which it operates, and provides proof of having the required  
772 bond and insurance coverage amounts.

773 2. The local government or program administrator, as  
774 applicable, obtains the qualifying improvement contractor's  
775 written agreement that the qualifying improvement contractor or  
776 third party will comply with applicable laws and rules and  
777 qualifying improvement program policies and procedures,  
778 including those on advertising and marketing.

779 (b) A local government or program administrator may not  
780 provide any payment, fee, or kickback to a qualifying  
781 improvement contractor for referring financing business relating  
782 to a specific financing agreement on a residential property.  
783 However, a local government or program administrator may provide  
784 information or services to a qualifying improvement contractor  
785 to facilitate the installation of a qualifying improvement for a  
786 property owner.

787 (c) A local government or program administrator may  
788 reimburse a qualifying improvement contractor or third party for  
789 its expenses in advertising and marketing campaigns and  
790 materials.

791 (d) A local government or program administrator may not  
792 provide to a qualifying improvement contractor any information  
793 that discloses the amount of funds for which a property owner is



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794 eligible for qualifying improvements or the amount of equity in  
795 a property.

796 (e) For residential properties, a qualifying improvement  
797 contractor may not provide a different price for a qualifying  
798 improvement financed under this section than the price that the  
799 qualifying improvement contractor would otherwise reasonably  
800 provide if the qualifying improvement was not being financed  
801 through an assessment financing agreement.

802 (f) A local government or program administrator may not  
803 provide any direct cash payment or other thing of material value  
804 to a residential property owner explicitly conditioned upon the  
805 property owner entering into a financing agreement. However, a  
806 local government or program administrator may offer programs or  
807 promotions that provide reduced fees or interest rates if the  
808 reduced fees or interest rates are reflected in the financing  
809 agreements and are not provided to the property owners as cash  
810 consideration.

811 (23) Each local government and program administrator must  
812 develop and implement policies and procedures for responding to,  
813 tracking, and resolving questions and complaints about its  
814 qualifying improvement program.

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

819 (a) The number of qualifying improvements funded.

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



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823       (c) The percentage, number, and dollar value of non-ad  
824 valorem assessments that funded qualifying improvements,  
825 aggregated by the following category types: energy efficiency,  
826 renewable energy, wind resistance, residential property  
827 wastewater, commercial property resiliency, and other commercial  
828 property qualifying improvements.

829       (d) The number of defaulted non-ad valorem assessments,  
830 including the total number and defaulted amount, the number and  
831 dates of missed payments, the total number of parcels defaulted  
832 and the years in default, and the percentage of defaults by  
833 total assessments.

834       (e) A summary of all reported complaints received by the  
835 local government and its program administrators related to  
836 authorized qualifying improvements programs, including the  
837 resolution of each complaint.

838       (f) The estimated number of jobs created.

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

841  
842 This report must be posted no later than April 1 of the year  
843 following the calendar year covered by the report.

844       ~~(25)~~~~(15)~~ A provision in any agreement between a local  
845 government and a public or private power or energy provider or  
846 other utility provider is not enforceable to limit or prohibit  
847 any local government from exercising its authority under this  
848 section.

849       ~~(26)~~~~(16)~~ This section is additional and supplemental to  
850 county and municipal home rule authority and not in derogation  
851 of such authority or a limitation upon such authority.



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

855           Section 2. This act shall take effect January 1, 2024.

856

857 ===== T I T L E   A M E N D M E N T =====

858 And the title is amended as follows:

859           Delete everything before the enacting clause  
860 and insert:

861                           A bill to be entitled  
862           An act relating to improvements to real property;  
863           amending s. 163.08, F.S.; revising legislative  
864           findings and intent; defining terms and revising  
865           definitions; authorizing a residential or commercial  
866           property owner to apply to a qualifying improvement  
867           program for funding to finance an improvement and to  
868           enter into a financing agreement with the local  
869           government; providing that a non-ad valorem assessment  
870           on certain commercial property is subject to a certain  
871           fee; specifying requirements of a financing agreement  
872           for government commercial property; authorizing a  
873           local government to incur debt for the purpose of  
874           providing financing for qualifying improvements;  
875           authorizing a local government to enter into a  
876           financing agreement to finance or refinance a  
877           qualifying improvement; providing that, for government  
878           commercial property, the financing agreement must meet  
879           specified conditions; revising and specifying public  
880           recording requirements for assessment financing



881 agreements and notices of lien; providing that a  
882 financing agreement for a residential property may not  
883 be approved unless certain conditions are met;  
884 providing that a financing agreement for a commercial  
885 property may not be approved unless the local  
886 government, or the program administrator acting on its  
887 behalf, reasonably determine that that specified  
888 conditions have been met; authorizing certain  
889 determinations, considerations, and confirmations by  
890 the local government or program administrator, as  
891 applicable, regarding the owner's ability to pay;  
892 authorizing the local government or program  
893 administrator to consider certain statements by the  
894 property owner regarding his or her income, but  
895 requiring additional confirmation; authorizing a  
896 reduction in the annual assessment payment under  
897 certain circumstances; providing construction;  
898 specifying certain requirements for a local government  
899 or program administrator that offers a qualifying  
900 improvement program for residential properties;  
901 authorizing a residential real property owner, under  
902 certain circumstances and within a certain timeframe,  
903 to cancel a financing agreement without financial  
904 penalty; providing that certain contracts are  
905 unenforceable and prohibiting a qualifying improvement  
906 contractor from initiating work under such contracts;  
907 specifying certain requirements if a qualifying  
908 improvement contractor initiates work on a residential  
909 property under an unenforceable agreement; providing a





910 procedure that must be followed if a qualifying  
911 improvement contractor has delivered chattel or  
912 fixtures to a residential property pursuant to an  
913 unenforceable contract; providing that a residential  
914 property owner may retain such chattel or fixtures in  
915 a certain circumstance; providing that an  
916 unenforceable contract is enforceable under certain  
917 circumstances; providing that a financing agreement  
918 may be executed for qualifying improvements in the  
919 construction of a commercial property before a  
920 certificate of occupancy or similar evidence of  
921 substantial completion of new construction or  
922 improvement is issued; authorizing specified payments  
923 for commercial properties under certain circumstances;  
924 providing that a financing agreement with a commercial  
925 property owner may cover wind-resistance improvements  
926 in certain buildings or facilities; prohibiting wind-  
927 resistance improvements in certain buildings or  
928 facilities between a local government and a  
929 residential property owner; authorizing execution of  
930 an assessment financing agreement before a certificate  
931 of occupancy or certain evidence is issued;  
932 authorizing progress payments before completion of a  
933 qualifying improvement on a commercial property if the  
934 property owner provides certain information;  
935 authorizing an assessment financing agreement to cover  
936 certain qualifying improvements; requiring certain  
937 work to be performed by properly certified or  
938 registered contractors; revising the calculation of



939 non-ad valorem assessment limits; providing  
940 construction; requiring the local government or  
941 program administrator to be in receipt of the written  
942 consent of the holders or loan servicers of certain  
943 mortgages at a specified time; requiring the property  
944 owner to provide written notice within a specified  
945 timeframe to the holders or loan servicers of any  
946 existing mortgages; revising the seller's disclosure  
947 statement for residential and commercial properties  
948 offered for sale; prohibiting certain items in a  
949 financing agreement for residential property;  
950 prohibiting a local government or program  
951 administrator from enrolling a qualifying improvement  
952 contractor that contracts with residential property  
953 owners to install qualifying improvements; providing  
954 exceptions; prohibiting a program administrator from  
955 being enrolled as a qualifying improvement contractor;  
956 requiring the local government or program  
957 administrator to confirm certain information before  
958 disbursing funds financed under a residential program  
959 to a qualifying improvement contractor; prohibiting a  
960 local government or program administrator from  
961 disclosing maximum financing amounts to certain  
962 persons; requiring that, in communicating with  
963 residential property owners, the local government or  
964 program administrator comply with certain marketing  
965 and communications guidelines and prohibiting such  
966 entities from certain communication; prohibiting a  
967 qualifying improvement contractor from advertising the



968 availability of assessment financing agreements;  
969 providing exceptions; prohibiting a local government  
970 or program administrator from providing certain  
971 payments, fees, or kickbacks; authorizing a local  
972 government or program administrator to provide  
973 information or services to a qualifying improvement  
974 contractor to facilitate certain installations;  
975 authorizing a local government or program  
976 administrator to reimburse a qualifying improvement  
977 contractor or third party for certain expenses;  
978 prohibiting a local government or program  
979 administrator from providing certain information to a  
980 qualifying improvement contractor; prohibiting a  
981 qualifying improvement contractor from providing  
982 certain prices for a qualifying improvement;  
983 prohibiting a local government or program  
984 administrator from providing cash payment or anything  
985 of material value to a residential property owner  
986 explicitly on certain conditions; authorizing a local  
987 government or program administrator to offer certain  
988 programs or promotions; requiring each local  
989 government and program administrator to develop and  
990 implement certain policies and procedures; requiring a  
991 local government that has authorized a residential  
992 program to post on its website a certain report;  
993 specifying the requirements for such report; providing  
994 applicability and construction; providing an effective  
995 date.