



232620

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/26/2023	.	
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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



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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



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



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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



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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



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.



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



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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



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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.