



784304

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/23/2023	.	
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	.	

The Committee on Community Affairs (Rodriguez) recommended the following:

Senate Amendment (with directory and title amendments)

Delete lines 89 - 471
and insert:
goals of the state's energy and hurricane mitigation policies.
All properties that are not using advanced technologies for
wastewater removal contribute to the water quality problems
affecting this state, particularly the coastal areas. Improved
property that has been retrofitted with an advanced onsite
sewage treatment and disposal system or has been converted to



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11 central sewerage significantly benefits the quality of water
12 that may enter streams, lakes, rivers, aquifers, or coastal
13 areas. All properties that are not protected from harmful
14 environmental health hazards contribute to the environmental
15 health burden affecting this state. Property that has been
16 improved to mitigate against environmental health hazards
17 benefits the general environmental health of people within this
18 state.

19 (c) In order to make qualifying improvements more
20 affordable and assist property owners who wish to undertake such
21 improvements, the Legislature finds that there is a compelling
22 state interest in enabling property owners to voluntarily
23 finance such improvements with local government assistance.

24 ~~(d)~~ (e) The Legislature determines that the actions
25 authorized under this section, including, but not limited to,
26 the financing of qualifying improvements through the execution
27 of assessment financing agreements and the related imposition of
28 voluntary assessments, are reasonable and necessary to serve and
29 achieve a compelling state interest and are necessary for the
30 prosperity and welfare of the state and its property owners and
31 inhabitants.

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

33 (a) "Assessment financing agreement" means the financing
34 agreement, under a REEF program, between a local government and
35 a property owner for the acquisition or installation of
36 qualifying improvements.

37 (b) "Financing agreement" means an agreement, under a
38 qualifying improvement program, between a local government and a
39 property owner to finance the acquisition or installation of



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40 qualifying improvements through a non-ad valorem assessment.

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

44 (d) "Non-ad valorem assessment" or "assessment" has the
45 same meaning as the term "non-ad valorem assessment" as defined
46 in s. 197.3632(1) (d).

47 (e) "Nonresidential real property" means any property not
48 defined as residential real property, including, but not limited
49 to:

50 1. Agricultural real property.

51 2. Commercial real property.

52 3. Industrial real property.

53 4. Office real property.

54 5. Multifamily residential real property composed of five
55 or more dwelling units.

56 (f) "Program administrator" means an entity, including, but
57 not limited to, a for-profit or not-for-profit entity, with
58 which a local government may contract to administer all or part
59 of a qualifying improvement program under this section.

60 (g) ~~(b)~~ "Qualifying improvement" means a program established
61 under this section by a local government, alone or in
62 partnership with other local governments or a program
63 administrator, to finance qualifying improvements on real
64 property and includes any:

65 1. Energy conservation and efficiency improvement, which is
66 a measure to reduce consumption through conservation or a more
67 efficient use of electricity, natural gas, propane, or other
68 forms of energy on the property, including, but not limited to,



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69 air sealing; installation of insulation; installation of energy-
70 efficient heating, cooling, or ventilation systems; building
71 modifications to increase the use of daylight; replacement of
72 windows; installation of energy controls or energy recovery
73 systems; installation of electric vehicle charging equipment;
74 and installation of efficient lighting equipment.

75 2. Renewable energy improvement, which is the installation
76 of any system in which the electrical, mechanical, or thermal
77 energy is produced from a method that uses one or more of the
78 following fuels or energy sources: hydrogen, solar energy,
79 geothermal energy, bioenergy, and wind energy.

80 3. Wind resistance improvement, which includes, but is not
81 limited to:

- 82 a. Improving the strength of the roof deck attachment;
- 83 b. Creating a secondary water barrier to prevent water
84 intrusion;
- 85 c. Installing wind-resistant shingles;
- 86 d. Installing gable-end bracing;
- 87 e. Reinforcing roof-to-wall connections;
- 88 f. Installing storm shutters; or
- 89 g. Installing opening protections.

90 4. Wastewater improvement, which includes, but is not
91 limited to:

92 a. The removal, replacement, or improvement of an onsite
93 sewage treatment and disposal system with a secondary or
94 advanced onsite sewage treatment and disposal system or
95 technology;

96 b. The replacement or conversion of an onsite sewage
97 treatment and disposal system to a central sewerage system or



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98 distributed sewerage system, including, but not limited to, the
99 installation of a sewer lateral and anything necessary to
100 connect the onsite sewage treatment and disposal system or the
101 building's plumbing to a central sewerage system or distributed
102 sewerage system; or

103 c. Any removal, repairs, or modifications made to an onsite
104 sewage treatment and disposal system, including any repair,
105 modification, or replacement of a system required under a local
106 ordinance enacted pursuant to ss. 381.0065 and 381.00651.

107 5. Flood and water damage mitigation and resiliency
108 improvement, which includes, but is not limited to, projects and
109 installation for:

110 a. The raising of a structure above the base flood
111 elevation to reduce flood damage;

112 b. A flood diversion apparatus or sea wall improvement,
113 which includes seawall repairs and seawall replacements;

114 c. Flood-damage-resistant building materials;

115 d. Electrical, mechanical, plumbing, or other system
116 improvements that reduce flood damage; or

117 e. Other improvements that qualify for reductions in flood
118 insurance premiums.

119 6. Environmental health improvement, which is an
120 improvement or measure intended to mitigate harmful
121 environmental health effects to property occupants, including,
122 but not limited to, measures that do any of the following:

123 a. Mitigate the presence of lead, heavy metals,
124 polyfluoroalkyl substance contamination, or other harmful
125 contaminants in potable water systems, such as conversion of
126 well water to municipal water systems, replacing lead water



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127 service lines, or installing water filters;
128 b. Mitigate lead paint contamination in housing built
129 before 1978; or
130 c. Mitigate indoor air pollution or contaminants, such as
131 particulate matter, viruses, bacteria, and mold.
132 (h) "Residential real property" means a residential real
133 property composed of four or fewer dwelling units.
134 (i) "Resiliency Energy Environment Florida (REEF) program"
135 means a program established by a local government, alone or in
136 partnership with other local governments or a program
137 administrator, to finance qualifying improvements on
138 nonresidential real property or residential real property.
139 (4) Subject to local government ordinance or resolution, a
140 property owner may apply to the REEF program ~~local government~~
141 for funding to finance a qualifying improvement and enter into
142 an assessment ~~a~~ financing agreement with the local government.
143 Costs incurred by the REEF program ~~local government~~ for such
144 purpose may be collected as a non-ad valorem assessment. A non-
145 ad valorem assessment shall be collected pursuant to s. 197.3632
146 and, notwithstanding s. 197.3632(8)(a), shall not be subject to
147 discount for early payment. However, the notice and adoption
148 requirements of s. 197.3632(4) do not apply if this section is
149 used and complied with, and the intent resolution, publication
150 of notice, and mailed notices to the property appraiser, tax
151 collector, and Department of Revenue required by s.
152 197.3632(3)(a) may be provided on or before August 15 in
153 conjunction with any non-ad valorem assessment authorized by
154 this section, if the property appraiser, tax collector, and
155 local government agree.



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156 (6) A local government may enter into an agreement with a
157 program administrator to administer a REEF program on behalf of
158 the local government ~~A qualifying improvement program may be~~
159 ~~administered by a for-profit entity or a not-for-profit~~
160 ~~organization on behalf of and at the discretion of the local~~
161 ~~government.~~

162 (7) A local government may incur debt for the purpose of
163 providing financing for qualifying ~~such~~ improvements, which debt
164 is payable from revenues received from the improved property, or
165 from any other available revenue source authorized under this
166 section or by other law.

167 (8) A local government may enter into an assessment ~~a~~
168 financing agreement to finance or refinance a qualifying
169 improvement only with the record owner of the affected property.
170 Any assessment financing agreement entered into pursuant to this
171 section or a summary memorandum of such agreement shall be
172 submitted for recording ~~recorded~~ in the public records of the
173 county within which the property is located by the ~~sponsoring~~
174 ~~unit of~~ local government within 10 ~~5~~ days after execution of the
175 agreement. The recorded agreement shall provide constructive
176 notice that the assessment to be levied on the property
177 constitutes a lien of equal dignity to county taxes and
178 assessments from the date of recordation. A notice of lien for
179 the full amount of the financing may be recorded in the public
180 records of the county where the property is located. Such lien
181 is not enforceable in a manner that results in the acceleration
182 of the remaining nondelinquent unpaid balance under the
183 assessment financing agreement.

184 (9) Before entering into an assessment ~~a~~ financing



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185 agreement, the local government, or the program administrator
186 acting on its behalf, shall reasonably determine that all of the
187 following conditions are met:

188 (a) All property taxes and any other assessments levied on
189 the same bill as property taxes are current paid and have not
190 been delinquent for more than 30 days for the preceding 3 years
191 or the property owner's period of ownership, whichever is less.

192 (b) ~~that~~ There are no involuntary liens greater than
193 \$1,000, including, but not limited to, construction liens on the
194 property.

195 (c) ~~that~~ No notices of default or other evidence of
196 property-based debt delinquency have been recorded and not
197 released during the preceding 3 years or the property owner's
198 period of ownership, whichever is less.

199 (d) The local government or program administrator has asked
200 the property owner whether any other assessments under this
201 section have been recorded or have been funded and not yet
202 recorded on the property. The failure of a property owner to
203 disclose information set forth in this paragraph does not
204 invalidate an assessment financing agreement or any obligation
205 thereunder, even if the total financed amount of the qualifying
206 improvements exceeds the amount that would otherwise be
207 authorized under paragraph (12) (a).

208 (e) ~~and that~~ The property owner is current on all mortgage
209 debt on the property.

210 (f) The residential property is not subject to an existing
211 home equity conversion mortgage or reverse mortgage product.
212 This paragraph does not apply to nonresidential real property.

213 (g) The property is not currently a residential property



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214 gifted to a homeowner for free by a nonprofit entity as may be
215 disclosed by the property owner. The failure of a property owner
216 to disclose information set forth in this paragraph does not
217 invalidate an assessment financing agreement or any obligation
218 thereunder. This paragraph does not apply to nonresidential real
219 property.

220 (10) Before final funding may be provided, a qualifying
221 improvement ~~must shall~~ be affixed or planned to be affixed to a
222 nonresidential real property or residential real ~~building or~~
223 facility that is part of the property and constitutes shall
224 constitute an improvement to that property ~~the building or~~
225 facility or a fixture attached to the building or facility. An
226 assessment financing agreement may ~~between a local government~~
227 and a qualifying property owner may not cover qualifying wind-
228 resistance improvements on nonresidential real property under
229 new construction or residential real property ~~in buildings or~~
230 facilities under new construction ~~or construction for which a~~
231 certificate of occupancy or similar evidence of substantial
232 completion of new construction or improvement has not been
233 issued.

234 (11) Any work requiring a license under any applicable law
235 to make a qualifying improvement shall be performed by a
236 contractor properly certified or registered pursuant to ~~part I~~
237 ~~or part II~~ of chapter 489, as applicable.

238 (12) (a) Without the consent of the holders or loan
239 servicers of any mortgage encumbering or otherwise secured by
240 the property, the total amount of any non-ad valorem assessment
241 for a property under this section may not exceed 20 percent of
242 the fair market ~~just~~ value of the real property ~~as determined by~~



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243 ~~the county property appraiser.~~ The combined mortgage-related
244 debt and total amount of any non-ad valorem assessments funded
245 under this section for residential real property may not exceed
246 100 percent of the fair market value of the residential real
247 property. However, the failure of a property owner to disclose
248 information set forth in paragraph (9)(d) does not invalidate an
249 assessment financing agreement or any obligation thereunder,
250 even if the total financed amount of the qualifying improvements
251 exceeds the amount that would otherwise be authorized under this
252 paragraph. For purposes of this paragraph, fair market value may
253 be determined using reputable third parties.

254 (b) Notwithstanding paragraph (a), a non-ad valorem
255 assessment for a qualifying improvement defined in subparagraph
256 (2)(g)1. ~~(2)(b)1.~~ or subparagraph (2)(g)2. which ~~(2)(b)2.~~ that
257 is supported by an energy audit is not subject to the limits in
258 this subsection if the audit demonstrates that the annual energy
259 savings from the qualified improvement equals or exceeds the
260 annual repayment amount of the non-ad valorem assessment.

261 (13) At least 30 days before entering into an assessment a
262 financing agreement, the property owner shall provide to the
263 holders or loan servicers of any existing mortgages encumbering
264 or otherwise secured by the property a notice of the owner's
265 intent to enter into an assessment a financing agreement
266 together with the maximum principal amount to be financed and
267 the maximum annual assessment necessary to repay that amount. A
268 verified copy or other proof of such notice shall be provided to
269 the local government. A provision in any agreement between a
270 mortgagee or other lienholder and a property owner, or otherwise
271 now or hereafter binding upon a property owner, which allows for



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272 acceleration of payment of the mortgage, note, or lien or other
273 unilateral modification solely as a result of entering into an
274 assessment ~~a~~ financing agreement as provided for in this section
275 is not enforceable. This subsection does not limit the authority
276 of the holder or loan servicer to increase the required monthly
277 escrow by an amount necessary to ~~annually~~ pay the annual
278 ~~qualifying improvement~~ assessment.

279 (14) At or before the time a seller ~~purchaser~~ executes a
280 contract for the sale ~~and purchase~~ of any property for which a
281 non-ad valorem assessment has been levied under this section and
282 has an unpaid balance due, the seller must ~~shall~~ give the
283 prospective purchaser a written disclosure statement in the
284 following form, which shall be set forth in the contract or in a
285 separate writing:

286
287 QUALIFYING IMPROVEMENTS FOR ENERGY EFFICIENCY,
288 RENEWABLE ENERGY, FLOOD MITIGATION, ADVANCED
289 TECHNOLOGIES FOR WASTEWATER REMOVAL, OR ENVIRONMENTAL
290 HEALTH OR WIND RESISTANCE.—The property being
291 purchased is located within the jurisdiction of a
292 local government that has placed an assessment on the
293 property pursuant to s. 163.08, Florida Statutes. The
294 assessment is for a qualifying improvement to the
295 property relating to energy efficiency, renewable
296 energy, or wind resistance, and is not based on the
297 value of property. This agreement uses a program
298 formerly referred to as Property Assessed Clean
299 Energy, or PACE. You are encouraged to contact the
300 county property appraiser's office to learn more about



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301 this and other assessments that may be provided by
302 law.

303
304 (16) (a) Before final approval of an assessment financing
305 agreement for a qualifying improvement on a residential real
306 property, a program administrator shall reasonably determine
307 that the property owner has the ability to pay the estimated
308 annual assessment. To do so, the program administrator shall, at
309 a minimum, use the underwriting requirements in subsection (9),
310 confirm that the property owner is not in bankruptcy, and
311 determine that the total estimated annual payment amount for all
312 assessment financing agreements funded under this section on the
313 property does not exceed 10 percent of the property owner's
314 annual household income. Income may be confirmed using
315 information gathered from reputable third parties that provide
316 reasonably reliable evidence of the property owner's household
317 income. Income may not be confirmed solely by a property owner's
318 statement.

319 (b) In the event that a court or tribunal determines, by
320 clear and convincing evidence, that the program administrator's
321 determination of the property owner's ability to pay was not
322 objectively reasonable based on the information provided by the
323 property owner, the yearly assessment payment shall be reduced
324 in the amount which is within the property owner's ability to
325 pay. This paragraph does not require or authorize the
326 administrator to reduce the amount owed on the assessment.

327 (c) The failure of a property owner to disclose information
328 set forth in paragraph (9) (d) does not invalidate an assessment
329 financing agreement or any obligation thereunder, even if the



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330 total estimated annual payment amount exceeds the amount that
331 would otherwise be authorized under this subsection.

332 (17) Before or contemporaneously with a property owner
333 signing an assessment financing agreement on a residential real
334 property, the program administrator shall provide a financing
335 estimate and disclosure to the residential real property owner
336 which includes all of the following:

337 (a) The total amount estimated to be funded, including the
338 cost of the qualifying improvements, program fees, and
339 capitalized interest, if any.

340 (b) The estimated annual assessment.

341 (c) The term of the assessment.

342 (d) The interest charged and estimated annual percentage
343 rate.

344 (e) A description of the qualifying improvement.

345 (f) A disclosure that if the property owner sells or
346 refinances the property, the property owner, as a condition of
347 the sale or the refinance, may be required by a mortgage lender
348 to pay off the full amount owed under each assessment financing
349 agreement.

350 (g) A disclosure that the assessment will be collected
351 along with the property owner's property taxes and will result
352 in a lien on the property from the date the assessment financing
353 agreement is recorded.

354 (h) A disclosure that failure to pay the assessment may
355 result in penalties and fees, along with the issuance of a tax
356 certificate that could result in the property owner losing the
357 real property.

358 (18) Before a notice to proceed is issued on residential



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359 real property, the program administrator shall conduct with the
360 residential real property owner or an authorized representative
361 an oral, recorded telephone call. The program administrator
362 shall ask the residential real property owner if he or she would
363 like to communicate primarily in a language other than English.
364 A program administrator may not leave a voicemail on the
365 residential real property owner's or authorized representative's
366 telephone to satisfy this requirement. A program administrator,
367 as part of such telephone call, shall confirm all of the
368 following with the residential real property owner:

369 (a) That at least one residential real property owner has
370 access to a copy of the assessment financing agreement and
371 financing estimates and disclosures.

372 (b) The qualifying improvements being financed.

373 (c) The total estimated annual costs that the residential
374 real property owner will have to pay under the assessment
375 financing agreement, including applicable fees.

376 (d) The total estimated average monthly equivalent amount
377 of funds the residential real property owner would have to save
378 in order to pay the annual costs of the assessment, including
379 applicable fees.

380 (e) The estimated due date of the residential real property
381 owner's first property tax payment that includes the assessment
382 will be due.

383 (f) The term of the assessment financing agreement.

384 (g) That payments for the assessment financing agreement
385 will cause the residential real property owner's annual property
386 tax bill to increase, and that payments will be made through an
387 additional annual assessment on the property and either will be



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388 paid directly to the county tax collector's office as part of
389 the total annual secured property tax bill or may be paid
390 through the residential real property owner's mortgage escrow
391 account.

392 (h) That the residential real property owner has disclosed
393 whether the property has received, or the owner is seeking,
394 additional assessments funded under this section and that the
395 owner has disclosed all other assessments funded under this
396 section which are or are about to be placed on the property.

397 (i) That the property will be subject to a lien during the
398 term of the assessment financing agreement and that the
399 obligations under the agreement may be required to be paid in
400 full before the residential real property owner sells or
401 refinances the property.

402 (j) That any potential utility or insurance savings are not
403 guaranteed and will not reduce the assessment or total
404 assessment amount.

405 (k) That the program administrator does not provide tax
406 advice, and the residential real property owner should seek
407 professional tax advice if he or she has questions regarding tax
408 credits, tax deductibility, or other tax impacts of the
409 qualifying improvement or the assessment financing agreement.

410 (19) A residential real property owner may cancel an
411 assessment financing agreement within 3 business days after
412 signing the assessment financing agreement without any financial
413 penalty from the program administrator for doing so.

414 (20) The term of an assessment financing agreement on
415 residential real property may not exceed the lesser of:

416 (a) Thirty years; or



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417 (b) The greater of either the weighted average estimated
418 useful life of all qualifying improvements being financed or the
419 estimated useful life of the qualifying improvements to which
420 the greatest portion of funds is disbursed.

421 (21) An assessment financing agreement authorized under
422 this section on residential real property may not include any of
423 the following financing terms:

424 (a) A negative amortization schedule. Capitalized interest
425 included in the original balance of the assessment financing
426 agreement does not constitute negative amortization.

427 (b) A balloon payment.

428 (c) Prepayment fees, other than nominal administrative
429 costs.

430 (22) For residential real property, a program
431 administrator:

432 (a) May not enroll a contractor who contracts with
433 residential real property owners to install qualifying
434 improvements unless:

435 1. The program administrator makes a reasonable effort to
436 review that the contractor maintains in good standing an
437 appropriate license from the state, if applicable, as well as
438 any other permit, license, or registration required for engaging
439 in business in the jurisdiction in which he or she operates and
440 that the contractor maintains all state-required bond and
441 insurance coverage; and

442 2. The program administrator obtains the contractor's
443 written agreement that the contractor will act in accordance
444 with all applicable laws, including applicable advertising and
445 marketing laws and regulations.



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446 (b) Shall maintain a process to enroll new contractors
447 which includes reasonable review of the following for each
448 contractor:

- 449 1. Relevant work or project history.
450 2. Financial and reputational background checks.
451 3. A criminal background check.
452 4. Status on the Better Business Bureau online platform or
453 another online platform that tracks contractor reviews.

454 (c) A program administrator may pay or reimburse
455 contractors for any expense allowable under applicable state law
456 and not otherwise prohibited under this section, including, but
457 not limited to, marketing, training, and promotions.

458 (d) A program administrator may not disclose to a
459 contractor or to a third party engaged in soliciting a financing
460 agreement the maximum financing amount for which a residential
461 real property owner is eligible.

462 (23) Before disbursing funds to a contractor for a
463 qualifying improvement on residential real property, a program
464 administrator must first confirm that the applicable work or
465 service has been completed through any of the following:

- 466 (a) A written certification from the property owner;
467 (b) A recorded telephone call with the property owner;
468 (c) A review of geotagged and time-stamped photographs;
469 (d) A review of a final permit; or
470 (e) A site inspection through third-party means.

471
472 ===== D I R E C T O R Y C L A U S E A M E N D M E N T =====

473 And the directory clause is amended as follows:

474 Delete lines 45 - 46



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475 and insert:
476 section, and subsections (1), (2), (4), and (6) though (14) are
477 amended, to read:

478
479 ===== T I T L E A M E N D M E N T =====

480 And the title is amended as follows:

481 Delete lines 3 - 4

482 and insert:

483 Florida programs; amending s. 163.08, F.S.; revising
484 legislative intent; defining and revising terms;
485 providing that a property owner may apply to a