

Amendment No.

CHAMBER ACTION

Senate

House

.



1 Representative Trabulsy offered the following:

2

3 **Amendment**

4 Remove lines 408-1079 and insert:

5 3. The financing agreement does not utilize a negative  
6 amortization schedule, a balloon payment, or prepayment fees or  
7 finances other than nominal administrative costs. Capitalized  
8 interest included in the original balance of the assessment  
9 financing agreement does not constitute negative amortization.

10 4. All property taxes and any other assessments, including  
11 non-ad valorem assessments, levied on the same bill as the  
12 property taxes are current and have not been delinquent for the

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13 preceding 3 years, or the property owner's period of ownership,  
14 whichever is less.

15 5. There are no outstanding fines or fees related to  
16 zoning or code enforcement violations issued by a county or  
17 municipality, unless the qualifying improvement will remedy the  
18 zoning or code violation.

19 6. There are no involuntary liens, including, but not  
20 limited to, construction liens on the residential property.

21 7. No notices of default or other evidence of property-  
22 based debt delinquency have been recorded and not released  
23 during the preceding 3 years or the property owner's period of  
24 ownership, whichever is less.

25 8. The property owner is current on all mortgage debt on  
26 the residential property.

27 9. The property owner has not been subject to a bankruptcy  
28 proceeding within the last 5 years unless it was discharged or  
29 dismissed more than 2 years before the date on which the  
30 property owner applied for financing.

31 10. The residential property is not subject to an existing  
32 home equity conversion mortgage or reverse mortgage product.

33 11. The term of the financing agreement does not exceed  
34 the weighted average useful life of the qualified improvements  
35 to which the greatest portion of funds disbursed under the  
36 assessment contract is attributable, not to exceed 20 years. The  
37 program administrator shall determine the useful life of a

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38 qualifying improvement using established standards, including  
39 certification criteria from government agencies or nationally  
40 recognized standards and testing organizations.

41 12. The total estimated annual payment amount for all  
42 financing agreements entered into under this section on the  
43 residential property does not exceed 10 percent of the property  
44 owner's annual household income. Income must be confirmed using  
45 reasonable evidence and not solely by a property owner's  
46 statement.

47 13. If the qualifying improvement is for the conversion of  
48 an onsite sewage treatment and disposal system to a central  
49 sewerage system, the property owner has utilized all available  
50 local government funding for such conversions and is unable to  
51 obtain financing for the improvement on more favorable terms  
52 through a local government program designed to support such  
53 conversions.

54 (b) Before entering into a financing agreement, the  
55 program administrator must determine if there are any current  
56 financing agreements on the residential property and if the  
57 property owner has obtained or sought to obtain additional  
58 qualifying improvements on the same property which have not yet  
59 been recorded. The existence of a prior qualifying improvement  
60 non-ad valorem assessment or a prior financing agreement is not  
61 evidence that the financing agreement under consideration is  
62 affordable or meets other program requirements.

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63 (c) Findings satisfying paragraphs (a) and (b) must be  
64 documented, including supporting evidence relied upon, and  
65 provided to the property owner prior to a financing agreement  
66 being approved and recorded. The program administrator must  
67 retain the documentation for the duration of the financing  
68 agreement.

69 (d) If the qualifying improvement is estimated to cost  
70 \$10,000 or more, before entering into a financing agreement the  
71 program administrator must advise the property owner in writing  
72 that the best practice is to obtain estimates from more than one  
73 unaffiliated, registered qualifying improvement contractor for  
74 the qualifying improvement and notify the property owner in  
75 writing of the advertising and solicitation requirements of s.  
76 163.085.

77 (e) A property owner and the program administrator may  
78 agree to include in the financing agreement provisions for  
79 allowing change orders necessary to complete the qualifying  
80 improvement. Any financing agreement or contract for qualifying  
81 improvements which includes such provisions must meet the  
82 requirements of this paragraph. If a proposed change order on a  
83 qualifying improvement will increase the original cost of the  
84 qualifying improvement by 20 percent or more or will expand the  
85 scope of the qualifying improvement by more than 20 percent,  
86 before the change order may be executed which would result in an  
87 increase in the amount financed through the program

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88 administrator for the qualifying improvement, the program  
89 administrator must notify the property owner, provide an updated  
90 written disclosure form as described in subsection (4) to the  
91 property owner, and obtain written approval of the change from  
92 the property owner.

93 (f) A financing agreement may not be entered into if the  
94 total cost of the qualifying improvement, including program fees  
95 and interest, is less than \$2,500.

96 (g) A financing agreement may not be entered into for  
97 qualifying improvements in buildings or facilities under new  
98 construction or construction for which a certificate of  
99 occupancy or similar evidence of substantial completion of new  
100 construction or improvement has not been issued.

101 (4) DISCLOSURES.—

102 (a) In addition to the requirements imposed in subsection  
103 (3), a financing agreement may not be executed unless the  
104 program administrator first provides, including via electronic  
105 means, a written financing estimate and disclosure to the  
106 property owner which includes all of the following, each of  
107 which must be individually acknowledged in writing by the  
108 property owner:

109 1. The estimated total amount to be financed, including  
110 the total and itemized cost of the qualifying improvement,  
111 program fees, and capitalized interest;

112 2. The estimated annual non-ad valorem assessment;

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- 113       3. The term of the financing agreement and the schedule  
114 for the non-ad valorem assessments;
- 115       4. The interest charged and estimated annual percentage  
116 rate;
- 117       5. A description of the qualifying improvement;
- 118       6. The total estimated annual costs that will be required  
119 to be paid under the assessment contract, including program  
120 fees;
- 121       7. The total estimated average monthly equivalent amount  
122 of funds that would need to be saved in order to pay the annual  
123 costs of the non-ad valorem assessment, including program fees;
- 124       8. The estimated due date of the first payment that  
125 includes the non-ad valorem assessment;
- 126       9. A disclosure that the financing agreement may be  
127 canceled within 3 business days after signing the financing  
128 agreement without any financial penalty for doing so;
- 129       10. A disclosure that the property owner may repay any  
130 remaining amount owed, at any time, without penalty or  
131 imposition of additional prepayment fees or fines other than  
132 nominal administrative costs;
- 133       11. A disclosure that if the property owner sells or  
134 refinances the residential property, the property owner may be  
135 required by a mortgage lender to pay off the full amount owed  
136 under each financing agreement under this section;

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137        12. A disclosure that the assessment will be collected  
138 along with the property owner's property taxes, and will result  
139 in a lien on the property from the date the financing agreement  
140 is recorded;

141        13. A disclosure that potential utility or insurance  
142 savings are not guaranteed, and will not reduce the assessment  
143 amount; and

144        14. A disclosure that failure to pay the assessment may  
145 result in penalties, fees, including attorney fees, court costs,  
146 and the issuance of a tax certificate that could result in the  
147 property owner losing the property and a judgment against the  
148 property owner, and may affect the property owner's credit  
149 rating.

150        (b) Prior to the financing agreement being approved, the  
151 program administrator must conduct an oral, recorded telephone  
152 call with the property owner during which the program  
153 administrator must confirm each finding or disclosure required  
154 in subsection (3) and this section.

155        (5) NOTICE TO LIENHOLDERS AND SERVICERS.--At least 5  
156 business days before entering into a financing agreement, the  
157 property owner must provide to the holders or loan servicers of  
158 any existing mortgages encumbering or otherwise secured by the  
159 residential property a written notice of the owner's intent to  
160 enter into a financing agreement together with the maximum  
161 amount to be financed, including the amount of any fees and

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162 interest, and the maximum annual assessment necessary to repay  
163 the total. A verified copy or other proof of such notice must be  
164 provided to the program administrator. A provision in any  
165 agreement between a mortgagor or other lienholder and a property  
166 owner, or otherwise now or hereafter binding upon a property  
167 owner, which allows for acceleration of payment of the mortgage,  
168 note, or lien or other unilateral modification solely as a  
169 result of entering into a financing agreement as provided for in  
170 this section is unenforceable. This subsection does not limit  
171 the authority of the holder or loan servicer to increase the  
172 required monthly escrow by an amount necessary to pay the annual  
173 assessment.

174 (6) CANCELLATION.—A property owner may cancel a financing  
175 agreement on a form established by the program administrator  
176 within 3 business days after signing the financing agreement  
177 without any financial penalty for doing so.

178 (7) RECORDING.—Any financing agreement executed pursuant  
179 to this section, or a summary memorandum of such agreement,  
180 shall be submitted for recording in the public records of the  
181 county within which the residential property is located by the  
182 program administrator within 10 business days after execution of  
183 the agreement and the 3-day cancellation period. The recorded  
184 agreement must provide constructive notice that the non-ad  
185 valorem assessment to be levied on the property constitutes a  
186 lien of equal dignity to county taxes and assessments from the

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187 date of recordation. A notice of lien for the full amount of the  
188 financing may be recorded in the public records of the county  
189 where the property is located. Such lien is not enforceable in a  
190 manner that results in the acceleration of the remaining  
191 nondelinquent unpaid balance under the assessment financing  
192 agreement.

193 (8) SALE OF RESIDENTIAL PROPERTY.—At or before the time a  
194 seller executes a contract for the sale of any residential  
195 property for which a non-ad valorem assessment has been levied  
196 under this section and has an unpaid balance due, the seller  
197 shall give the prospective purchaser a written disclosure  
198 statement in the following form, which must be set forth in the  
199 contract or in a separate writing:

201 QUALIFYING IMPROVEMENTS.—The property being purchased  
202 is subject to an assessment on the property pursuant  
203 to s. 163.081, Florida Statutes. The assessment is for  
204 a qualifying improvement to the property and is not  
205 based on the value of the property. You are encouraged  
206 to contact the property appraiser's office to learn  
207 more about this and other assessments that may be  
208 provided by law.

209  
210 (9) DISBURSEMENTS.—Before disbursing final funds to a  
211 qualifying improvement contractor for a qualifying improvement

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212 on residential property, the program administrator shall confirm  
213 that the applicable work or service has been completed or, as  
214 applicable, that the final permit for the qualifying improvement  
215 has been closed with all permit requirements satisfied or a  
216 certificate of occupancy or similar evidence of substantial  
217 completion of construction or improvement has been issued.

218 (10) CONSTRUCTION.—This section is additional and  
219 supplemental to county and municipal home rule authority and not  
220 in derogation of such authority or a limitation upon such  
221 authority.

222 Section 3. Section 163.082, Florida Statutes, is created  
223 to read:

224 163.082 Financing qualifying improvements to commercial  
225 property.—

226 (1) COMMERCIAL PROPERTY PROGRAM AUTHORIZATION.—

227 (a) A program administrator may only offer a program for  
228 financing qualifying improvements to commercial property within  
229 the jurisdiction of a county or municipality if the county or  
230 municipality has authorized by ordinance or resolution the  
231 program administrator to administer the program for financing  
232 qualifying improvements to commercial property. The authorized  
233 program must, at a minimum, meet the requirements of this  
234 section.

235 (b) Pursuant to this section or as otherwise provided by  
236 law or pursuant to a county's or municipality's home rule power,

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237 a county or municipality may enter into an interlocal agreement  
238 providing for a partnership between one or more counties or  
239 municipalities for the purpose of facilitating a program for  
240 financing qualifying improvements to commercial property located  
241 within the jurisdiction of the counties or municipalities that  
242 are party to the agreement.

243 (c) A county or municipality may deauthorize a program  
244 administrator through repeal of the ordinance or resolution  
245 adopted pursuant to paragraph (a) or other action. Any recorded  
246 financing agreements at the time of deauthorization shall  
247 continue, except any financing agreement for which the  
248 provisions of s. 163.086 apply.

249 (d) A program administrator may contract with one or more  
250 third-party administrators to implement the program as provided  
251 in s. 163.084.

252 (e) An authorized program administrator may levy non-ad  
253 valorem assessments to facilitate repayment of financing or  
254 refinancing qualifying improvements. Costs incurred by the  
255 program administrator for such purpose may be collected as a  
256 non-ad valorem assessment. A non-ad valorem assessment shall be  
257 collected pursuant to s. 197.3632 and, notwithstanding s.  
258 197.3632(8)(a), is not subject to discount for early payment.  
259 However, the notice and adoption requirements of s. 197.3632(4)  
260 do not apply if this section is used and complied with, and the  
261 intent resolution, publication of notice, and mailed notices to

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262 the property appraiser, tax collector, and Department of Revenue  
263 required by s. 197.3632(3)(a) may be provided on or before  
264 August 15 of each year in conjunction with any non-ad valorem  
265 assessment authorized by this section, if the property  
266 appraiser, tax collector, and program administrator agree. The  
267 program administrator shall only compensate the tax collector  
268 for the actual cost of collecting non-ad valorem assessments,  
269 not to exceed 2 percent of the amount collected and remitted.

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

274 (2) APPLICATION.—The owner of record of the commercial  
275 property within the jurisdiction of the authorized program may  
276 apply to the program administrator to finance a qualifying  
277 improvement and enter into a financing agreement with the  
278 program administrator to make such improvement. The program  
279 administrator may only enter into a financing agreement with a  
280 property owner.

281 (3) CONSENT OF LIENHOLDERS AND SERVICERS.—The program  
282 administrator must receive the written consent of the current  
283 holders or loan servicers of any mortgage that encumbers or is  
284 otherwise secured by the commercial property or that will  
285 otherwise be secured by the property before a financing  
286 agreement may be executed.

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287       (4) FINANCING AGREEMENTS.-  
288       (a) A program administrator offering a program for  
289 financing qualifying improvements to commercial property must  
290 maintain underwriting criteria sufficient to determine the  
291 financial feasibility of entering into a financing agreement. To  
292 enter into a financing agreement, the program administrator  
293 must, at a minimum, make each of the following findings based on  
294 a review of public records derived from a commercially accepted  
295 source and the statements, records, and credit reports of the  
296 commercial property owner:  
297       1. There are sufficient resources to complete the project.  
298       2. The combined mortgage-related debt and total amount of  
299 any non-ad valorem assessments under the program for the  
300 commercial property does not exceed 97 percent of the just value  
301 of the property as determined by the property appraiser.  
302       3. All property taxes and any other assessments, including  
303 non-ad valorem assessments, levied on the same bill as the  
304 property taxes are current.  
305       4. There are no involuntary liens greater than \$5,000,  
306 including, but not limited to, construction liens on the  
307 commercial property.  
308       5. No notices of default or other evidence of property-  
309 based debt delinquency have been recorded and not been released  
310 during the preceding 3 years or the property owner's period of  
311 ownership, whichever is less.

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312 6. The property owner is current on all mortgage debt on  
313 the commercial property.

314 7. The term of the financing agreement does not exceed the  
315 weighted average useful life of the qualified improvements to  
316 which the greatest portion of funds disbursed under the  
317 assessment contract is attributable, not to exceed 30 years. The  
318 program administrator shall determine the useful life of a  
319 qualifying improvement using established standards, including  
320 certification criteria from government agencies or nationally  
321 recognized standards and testing organizations.

322 8. The property owner is not currently the subject of a  
323 bankruptcy proceeding.

324 (b) Before entering into a financing agreement, the  
325 program administrator shall determine if there are any current  
326 financing agreements on the commercial property and whether the  
327 property owner has obtained or sought to obtain additional  
328 qualifying improvements on the same property which have not yet  
329 been recorded. The existence of a prior qualifying improvement  
330 non-ad valorem assessment or a prior financing agreement is not  
331 evidence that the financing agreement under consideration is  
332 affordable or meets other program requirements.

333 (c) The program administrator shall document and retain  
334 findings satisfying paragraphs (a) and (b), including supporting  
335 evidence relied upon, which were made prior to the financing

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336 agreement being approved and recorded, for the duration of the  
337 financing agreement.

338 (d) A property owner and the program administrator may  
339 agree to include in the financing agreement provisions for  
340 allowing change orders necessary to complete the qualifying  
341 improvement. Any financing agreement or contract for qualifying  
342 improvements which includes such provisions must meet the  
343 requirements of this paragraph. If a proposed change order on a  
344 qualifying improvement will increase the original cost of the  
345 qualifying improvement by 20 percent or more or will expand the  
346 scope of the qualifying improvement by 20 percent or more,  
347 before the change order may be executed which would result in an  
348 increase in the amount financed through the program  
349 administrator for the qualifying improvement, the program  
350 administrator must notify the property owner, provide an updated  
351 written disclosure form as described in subsection (5) to the  
352 property owner, and obtain written approval of the change from  
353 the property owner.

354 (e) A financing agreement may not be entered into if the  
355 total cost of the qualifying improvement, including program fees  
356 and interest, is less than \$2,500.

357 (5) DISCLOSURES.—In addition to the requirements imposed  
358 in subsection (4), a financing agreement may not be executed  
359 unless the program administrator provides, whether on a separate  
360 document or included with other disclosures or forms, a

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361 financing estimate and disclosure to the property owner which  
362 includes all of the following:

363 (a) The estimated total amount to be financed, including  
364 the total and itemized cost of the qualifying improvement,  
365 program fees, and capitalized interest;

366 (b) The estimated annual non-ad valorem assessment;

367 (c) The term of the financing agreement and the schedule  
368 for the non-ad valorem assessments;

369 (d) The interest charged and estimated annual percentage  
370 rate;

371 (e) A description of the qualifying improvement;

372 (f) The total estimated annual costs that will be required  
373 to be paid under the assessment contract, including program  
374 fees;

375 (g) The estimated due date of the first payment that  
376 includes the non-ad valorem assessment; and

377 (h) A disclosure of any prepayment penalties, fees, or  
378 finances as set forth in the financing agreement.

379 (6) RECORDING.—Any financing agreement executed pursuant  
380 to this section or a summary memorandum of such agreement must  
381 be submitted for recording in the public records of the county  
382 within which the commercial property is located by the program  
383 administrator within 10 business days after execution of the  
384 agreement. The recorded agreement must provide constructive  
385 notice that the non-ad valorem assessment to be levied on the

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386 property constitutes a lien of equal dignity to county taxes and  
387 assessments from the date of recordation. A notice of lien for  
388 the full amount of the financing may be recorded in the public  
389 records of the county where the property is located. Such lien  
390 is not enforceable in a manner that results in the acceleration  
391 of the remaining nondelinquent unpaid balance under the  
392 assessment financing agreement.

393 (7) SALE OF COMMERCIAL PROPERTY.—At or before the time a  
394 seller executes a contract for the sale of any commercial  
395 property for which a non-ad valorem assessment has been levied  
396 under this section and has an unpaid balance due, the seller  
397 shall give the prospective purchaser a written disclosure  
398 statement in the following form, which must be set forth in the  
399 contract or in a separate writing:

400  
401 QUALIFYING IMPROVEMENTS.—The property being purchased  
402 is subject to an assessment on the property pursuant  
403 to s. 163.082, Florida Statutes. The assessment is for  
404 a qualifying improvement to the property and is not  
405 based on the value of the property. You are encouraged  
406 to contact the property appraiser's office to learn  
407 more about this and other assessments that may be  
408 provided for by law.  
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410       (8) COMPLETION CERTIFICATE.—Upon disbursement of all  
411 financing and completion of installation of qualifying  
412 improvements financed, the program administrator shall retain a  
413 certificate that the qualifying improvements have been installed  
414 and are in good working order.

415       (9) CONSTRUCTION.—This section is additional and  
416 supplemental to county and municipal home rule authority and not  
417 in derogation of such authority or a limitation upon such  
418 authority.

419       Section 4. Section 163.083, Florida Statutes, is created  
420 to read:

421       163.083 Qualifying improvement contractors.—

422       (1) A county or municipality shall establish a process, or  
423 approve a process established by a program administrator, to  
424 register contractors for participation in a program authorized  
425 by a county or municipality pursuant to s. 163.081. A qualifying  
426 improvement contractor may only perform such work that the  
427 contractor is appropriately licensed, registered, and permitted  
428 to conduct. At the time of application to participate and during  
429 participation in the program, contractors must:

430       (a) Hold all necessary licenses or registrations for the  
431 work to be performed which are in good standing. Good standing  
432 includes no outstanding complaints with the state or local  
433 government which issues such licenses or registrations.

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434 (b) Comply with all applicable federal, state, and local  
435 laws and regulations, including obtaining and maintaining any  
436 other permits, licenses, or registrations required for engaging  
437 in business in the jurisdiction in which it operates and  
438 maintaining all state-required bond and insurance coverage.

439 (c) File with the program administrator a written  
440 statement in a form approved by the county or municipality that  
441 the contractor will comply with applicable laws and rules and  
442 qualifying improvement program policies and procedures,  
443 including those on advertising and marketing.

444 (2) A third-party administrator or a program  
445 administrator, either directly or through an affiliate, may not  
446 be registered as a qualifying improvement contractor.

447 (3) A program administrator shall establish and maintain:

448 (a) A process to monitor qualifying improvement  
449 contractors for performance and compliance with requirements of  
450 the program and must conduct regular reviews of qualifying  
451 improvement contractors to confirm that each qualifying  
452 improvement contractor is in good standing.

453 (b) Procedures for notice and imposition of penalties upon  
454 a finding of violation, which may consist of placement of the  
455 qualifying improvement contractor in a probationary status that  
456 places conditions for continued participation, suspension, or  
457 termination from participation in the program.

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458 (c) An easily accessible page on its website that provides  
459 information on the status of registered qualifying improvement  
460 contractors, including any imposed penalties, and the names of  
461 any qualifying improvement contractors currently on probationary  
462 status or that are suspended or terminated from participation in  
463 the program.

464 Section 5. Section 163.084, Florida Statutes, is created  
465 to read:

466 163.084 Third-party administrator for financing qualifying  
467 improvements programs.-

468 (1) (a) A program administrator may contract with one or  
469 more third-party administrators to administer a program  
470 authorized by a county or municipality pursuant to s. 163.081 or  
471 s. 163.082 on behalf of and at the discretion of the program  
472 administrator.

473 (b) The third-party administrator must be independent of  
474 the program administrator and have no conflicts of interest  
475 between managers or owners of the third-party administrator and  
476 program administrator managers, owners, officials, or employees  
477 with oversight over the contract. A program administrator,  
478 either directly or through an affiliate, may not act as a third-  
479 party administrator for itself or for another program  
480 administrator. However, this paragraph does not apply to a  
481 third-party administrator created by an entity authorized in law  
482 pursuant to s. 288.9604.

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483 (c) The contract must provide for the entity to administer  
484 the program according to the requirements of s. 163.081 or s.  
485 163.082 and the ordinance or resolution adopted by the county or  
486 municipality authorizing the program. However, only the program  
487 administrator may levy or administer non-ad valorem assessments.

488 (2) A program administrator may not contract with a third-  
489 party administrator that, within the last 3 years, has been:

490 (a) Prohibited, after notice and a hearing, from serving  
491 as a third-party administrator for another program administrator  
492 for program or contract violations in this state; or

493 (b) Found by a court of competent jurisdiction to have  
494 substantially violated state or federal laws related to the  
495 administration of ss. 163.081-163.086 or a similar program in  
496 another jurisdiction.

497 (3) The program administrator must include in any contract  
498 with the third-party administrator the right to perform annual  
499 reviews of the administrator to confirm compliance with ss.  
500 163.081-163.086, the ordinance or resolution adopted by the  
501 county or municipality, and the contract with the program  
502 administrator. If the program administrator finds that the  
503 third-party administrator has committed a violation of ss.  
504 163.081-163.086, the adopted ordinance or resolution, or the  
505 contract with the program administrator, the program  
506 administrator shall provide the third-party administrator with  
507 notice of the violation and may, as set forth in the adopted

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508 ordinance or resolution or the contract with the third-party  
509 administrator:

510 (a) Place the third-party administrator in a probationary  
511 status that places conditions for continued operations.

512 (b) Impose any fines or sanctions.

513 (c) Suspend the activity of the third-party administrator  
514 for a period of time.

515 (d) Terminate the agreement with the third-party  
516 administrator.

517 (4) A program administrator may terminate the agreement  
518 with a third-party administrator, as set forth by the county or  
519 municipality in its adopted ordinance or resolution or the  
520 contract with the third-party administrator, if the program  
521 administrator makes a finding that:

522 (a) The third-party administrator has violated the  
523 contract with the program administrator. The contract may set  
524 forth substantial violations that may result in contract  
525 termination and other violations that may provide for a period  
526 of time for correction before the contract may be terminated.

527 (b) The third-party administrator, or an officer, a  
528 director, a manager or a managing member, or a control person of  
529 the third-party administrator, has been found by a court of  
530 competent jurisdiction to have violated state or federal laws  
531 related to the administration of a program authorized of the

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532 provisions of ss. 163.081-163.086 or a similar program in  
533 another jurisdiction within the last 5 years.

534 (c) Any officer, director, manager or managing member, or  
535 control person of the third-party administrator has been  
536 convicted of, or has entered a plea of guilty or nolo contendere  
537 to, regardless of whether adjudication has been withheld, a  
538 crime related to administration of a program authorized of the  
539 provisions of ss. 163.081-163.086 or a similar program in  
540 another jurisdiction within the last 10 years.

541 (d) An annual performance review reveals a substantial  
542 violation or a pattern of violations by the third-party  
543 administrator.

544 (5) Any recorded financing agreements at the time of  
545 termination or suspension by the program administrator shall  
546 continue, except any financing agreement for which the  
547 provisions of s. 163.086 apply.

548 Section 6. Section 163.085, Florida Statutes, is created  
549 to read:

550 163.085 Advertisement and solicitation for financing  
551 qualifying improvements programs under s. 163.081 or s.  
552 163.082.—

553 (1) When communicating with a property owner, a program  
554 administrator, qualifying improvement contractor, or third-party  
555 administrator may not:

556 (a) Suggest or imply:

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- 557       1. That a non-ad valorem assessment authorized under s.  
558 163.081 or s. 163.082 is a government assistance program;
- 559       2. That qualifying improvements are free or provided at no  
560 cost, or that the financing related to a non-ad valorem  
561 assessment authorized under s. 163.081 or s. 163.082 is free or  
562 provided at no cost; or
- 563       3. That the financing of a qualifying improvement using  
564 the program authorized pursuant to s. 163.081 or s. 163.082 does  
565 not require repayment of the financial obligation.
- 566       (b) Make any representation as to the tax deductibility of  
567 a non-ad valorem assessment. A program administrator, qualifying  
568 improvement contractor, or third-party administrator may  
569 encourage a property owner to seek the advice of a tax  
570 professional regarding tax matters related to assessments.
- 571       (2) A program administrator or third-party administrator  
572 may not provide to a qualifying improvement contractor any  
573 information that discloses the amount of financing for which a  
574 property owner is eligible for qualifying improvements or the  
575 amount of equity in a residential property or commercial  
576 property.
- 577       (3) A qualifying improvement contractor may not advertise  
578 the availability of financing agreements for, or solicit program  
579 participation on behalf of, the program administrator unless the  
580 contractor is registered by the program administrator to

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581 participate in the program and is in good standing with the  
582 program administrator.

583 (4) A program administrator or third-party administrator  
584 may not provide any payment, fee, or kickback to a qualifying  
585 improvement contractor for referring property owners to the  
586 program administrator or third-party administrator. However, a  
587 program administrator or third-party administrator may provide  
588 information to a qualifying improvement contractor to facilitate  
589 the installation of a qualifying improvement for a property  
590 owner.

591 (5) A program administrator or third-party administrator  
592 may not reimburse a qualifying improvement contractor for its  
593 expenses in advertising and marketing campaigns and materials.

594 (6) A qualifying improvement contractor may not provide a  
595 different price for a qualifying improvement financed under s.  
596 163.081 than the price that the qualifying improvement  
597 contractor would otherwise provide if the qualifying improvement  
598 was not being financed through a financing agreement. Any  
599 contract between a property owner and a qualifying improvement  
600 contractor must clearly state all pricing and cost provisions,  
601 including any process for change orders which meet the  
602 requirements of s. 163.081(3)(d).

603 (7) A program administrator, qualifying improvement  
604 contractor, or third-party administrator may not provide any  
605 direct cash payment or other thing of material value to a

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606 property owner which is explicitly conditioned upon the property  
607 owner entering into a financing agreement. However, a program  
608 administrator or third-party administrator may offer programs or  
609 promotions on a nondiscriminatory basis that provide reduced  
610 fees or interest rates if the reduced fees or interest rates are  
611 reflected in the financing agreements and are not provided to  
612 the property owner as cash consideration.

613 Section 7. Section 163.086, Florida Statutes, is created  
614 to read:

615 163.086 Unenforceable financing agreements for qualifying  
616 improvements programs under s. 163.081 or s. 163.082;  
617 attachment; fraud.—

618 (1) A recorded financing agreement may not be removed from  
619 attachment to a residential property or commercial property if  
620 the property owner fraudulently obtained funding pursuant to s.  
621 163.081 or s. 163.082.

622 (2) A financing agreement may not be enforced, and a  
623 recorded financing agreement may be removed from attachment to a  
624 residential property or commercial property and deemed null and  
625 void, if:

626 (a) The property owner applied for, accepted, and canceled  
627 a financing agreement within the 3-business-day period pursuant  
628 to s. 163.081(6). A qualifying improvement contractor may not  
629 begin work under a canceled contract.

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630       (b) A person other than the property owner obtained the  
631 recorded financing agreement. The court may enter an order which  
632 holds that person or persons personally liable for the debt.

633       (c) The program administrator, third-party administrator,  
634 or qualifying improvement contractor approved or obtained  
635 funding through fraudulent means and in violation of ss.  
636 163.081-163.085, or this section for qualifying improvements on  
637 the residential property or commercial property.

638       (3) If a qualifying improvement contractor has initiated  
639 work on residential property or commercial property under a  
640 contract deemed unenforceable under this section, the qualifying  
641 improvement contractor:

642       (a) May not receive compensation for that work under the  
643 financing agreement.

644       (b) Must restore the residential property or commercial  
645 property to its original condition at no cost to the property  
646 owner.

647       (c) Must immediately return any funds, property, and other  
648 consideration given by the property owner. If the property owner  
649 provided any property and the qualifying improvement contractor  
650 does not or cannot return it, the qualifying improvement  
651 contractor must immediately return the fair market value of the  
652 property or its value as designated in the contract, whichever  
653 is greater.

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654 (4) If the qualifying improvement contractor has delivered  
655 chattel or fixtures to residential property or commercial  
656 property pursuant to a contract deemed unenforceable under this  
657 section, the qualifying improvement contractor has 90 days after  
658 the date on which the contract was executed to retrieve the  
659 chattel or fixtures, provided that:

660 (a) The qualifying improvement contractor has fulfilled  
661 the requirements of paragraphs (3)(a) and (b).

662 (b) The chattel and fixtures can be removed at the  
663 qualifying improvement contractor's expense without damaging the  
664 residential property or commercial property.

665 (5) If a qualifying improvement contractor fails to comply  
666 with this section, the property owner may retain any chattel or  
667 fixtures provided pursuant to a contract deemed unenforceable  
668 under this section.

669 (6) A contract that is otherwise unenforceable under this  
670 section remains enforceable if the property owner waives his or  
671 her right to cancel the contract or cancels the financing  
672 agreement pursuant to s. 163.081(6) but allows

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