



673866

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
01/24/2024	.	
	.	
	.	
	.	

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

1 **Senate Substitute for Amendment (959872) (with title**
2 **amendment)**

3
4 Delete everything after the enacting clause
5 and insert:

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

8 (Substantial rewording of section. See
9 s. 163.08, F.S., for present text.)

10 163.08 Definitions.—As used in ss. 163.081-163.087, the



673866

11 term:

12 (1) "Commercial property" means real property other than
13 residential property. The term includes, but is not limited to,
14 a property zoned multifamily residential which is composed of
15 five or more dwelling units; a long-term care or assisted living
16 facility; real property owned by a nonprofit; government
17 commercial property; and real property used for commercial,
18 industrial, or agricultural purposes.

19 (2) "Government commercial property" means real property
20 owned by a local government and leased to a nongovernmental
21 lessee for commercial use. The term does not include residential
22 property.

23 (3) "Nongovernmental lessee" means a person or an entity
24 other than a local government which leases government commercial
25 property.

26 (4) "Program administrator" means a county, a municipality,
27 a dependent special district as defined in s. 189.012, or a
28 separate legal entity created pursuant to s. 163.01(7).

29 (5) "Property owner" means the owner or owners of record of
30 real property. The term includes real property held in trust for
31 the benefit of one or more individuals, in which case the
32 individual or individuals may be considered as the property
33 owner or owners, provided that the trustee provides written
34 consent. The term does not include persons renting, using,
35 living, or otherwise occupying real property, except for a
36 nongovernmental lessee.

37 (6) "Qualifying improvement" means the following permanent
38 improvements located on real property within the jurisdiction of
39 an authorized financing program:



673866

- 40 (a) For improvements on residential property:
- 41 1. Repairing, replacing, or improving a central sewerage
42 system, converting an onsite sewage treatment and disposal
43 system to a central sewerage system, or, if no central sewerage
44 system is available, removing, repairing, replacing, or
45 improving an onsite sewage treatment and disposal system to an
46 advanced system or technology.
- 47 2. Repairing, replacing, or improving a roof, including
48 improvements that strengthen the roof deck attachment; create a
49 secondary water barrier to prevent water intrusion; install
50 wind-resistant shingles or gable-end bracing; or reinforce roof-
51 to-wall connections.
- 52 3. Providing flood and water damage mitigation and
53 resiliency improvements, prioritizing repairs, replacement, or
54 improvements that qualify for reductions in flood insurance
55 premiums, including raising a structure above the base flood
56 elevation to reduce flood damage; constructing a flood diversion
57 apparatus, drainage gate, or seawall improvement, including
58 seawall repairs and seawall replacements; purchasing flood-
59 damage-resistant building materials; or making electrical,
60 mechanical, plumbing, or other system improvements that reduce
61 flood damage.
- 62 4. Replacing windows or doors, including garage doors, with
63 energy-efficient windows or doors.
- 64 5. Installing energy-efficient heating, cooling, or
65 ventilation systems.
- 66 6. Replacing or installing insulation.
- 67 7. Replacing or installing energy-efficient water heaters.
- 68 8. Installing and affixing a permanent generator.



673866

69 (b) For installing or constructing improvements on
70 commercial property:
71 1. Waste system improvements, which consists of repairing,
72 replacing, improving, or constructing a central sewerage system,
73 converting an onsite sewage treatment and disposal system to a
74 central sewerage system, or, if no central sewerage system is
75 available, removing, repairing, replacing, or improving an
76 onsite sewage treatment and disposal system to an advanced
77 system or technology.
78 2. Making resiliency improvements, which includes but is
79 not limited to:
80 a. Repairing, replacing, improving, or constructing a roof,
81 including improvements that strengthen the roof deck attachment;
82 b. Creating a secondary water barrier to prevent water
83 intrusion;
84 c. Installing wind-resistant shingles or gable-end bracing;
85 or
86 d. Reinforcing roof-to-wall connections.
87 e. Providing flood and water damage mitigation and
88 resiliency improvements, prioritizing repairs, replacement, or
89 improvements that qualify for reductions in flood insurance
90 premiums, including raising a structure above the base flood
91 elevation to reduce flood damage; creating or improving
92 stormwater and flood resiliency, including flood diversion
93 apparatus, drainage gates, or shoreline improvements; purchasing
94 flood-damage-resistant building materials; or making any other
95 improvements necessary to achieve a sustainable building rating
96 or compliance with a national model resiliency standard and any
97 improvements to a structure to achieve wind or flood insurance



673866

98 rate reductions, including building elevation.

99 3. Energy conservation and efficiency improvements, which
100 are measures to reduce consumption through efficient use or
101 conservation of electricity, natural gas, propane, or other
102 formers of energy, including but not limited to, air sealing;
103 installation of insulation; installation of energy-efficient
104 heating, cooling, or ventilation systems; building modification
105 to increase the use of daylight; window replacement; windows;
106 energy controls or energy recovery systems; installation of
107 electric vehicle charging equipment; installation of efficient
108 lighting equipment; or any other improvements necessary to
109 achieve a sustainable building rating or compliance with a
110 national model green building code.

111 4. Renewable energy improvements, which is the installation
112 of any system in which the electrical, mechanical, or thermal
113 energy is produced from a method that uses solar, geothermal,
114 bioenergy, wind, or hydrogen.

115 5. Water conservation efficiency improvements, which are
116 measures to reduce consumption through efficient use or
117 conservation of water.

118 (7) "Qualifying improvement contractor" means a licensed or
119 registered contractor who has been registered to participate by
120 a program administrator pursuant to s. 163.083 to install or
121 otherwise perform work to make qualifying improvements on
122 residential property financed pursuant to a program authorized
123 under s. 163.081.

124 (8) "Residential property" means real property zoned as
125 residential or multifamily residential and composed of four or
126 fewer dwelling units.



673866

127 Section 2. Section 163.081, Florida Statutes, is created to
128 read:

129 163.081 Financing qualifying improvements to residential
130 property.-

131 (1) RESIDENTIAL PROPERTY PROGRAM AUTHORIZATION.-

132 (a) A program administrator may only offer a program for
133 financing qualifying improvements to residential property within
134 the jurisdiction of a county or municipality if the county or
135 municipality has authorized by ordinance or resolution the
136 program administrator to administer the program for financing
137 qualifying improvements to residential property. The authorized
138 program must, at a minimum, meet the requirements of this
139 section. Pursuant to this section or as otherwise provided by
140 law or pursuant to a county's or municipality's home rule power,
141 a county or municipality may enter into an interlocal agreement
142 providing for a partnership between one or more local
143 governments for the purpose of facilitating a program to finance
144 qualifying improvements to residential property located within
145 the jurisdiction of the local governments party to the
146 agreement. A program administrator may contract with one or more
147 third-party administrators to implement the program as provided
148 in s. 163.084.

149 (b) An authorized program administrator may levy non-ad
150 valorem assessments to facilitate repayment of financing
151 qualifying improvements. Costs incurred by the program
152 administrator for such purpose may be collected as a non-ad
153 valorem assessment. A non-ad valorem assessment shall be
154 collected pursuant to s. 197.3632 and, notwithstanding s.
155 197.3632(8)(a), shall not be subject to discount for early



673866

156 payment. However, the notice and adoption requirements of s.
157 197.3632(4) do not apply if this section is used and complied
158 with, and the intent resolution, publication of notice, and
159 mailed notices to the property appraiser, tax collector, and
160 Department of Revenue required by s. 197.3632(3) (a) may be
161 provided on or before August 15 of each year in conjunction with
162 any non-ad valorem assessment authorized by this section, if the
163 property appraiser, tax collector, and program administrator
164 agree.

165 (c) A program administrator may incur debt for the purpose
166 of providing financing for qualifying improvements, which debt
167 is payable from revenues received from the improved property or
168 any other available revenue source authorized by law.

169 (2) APPLICATION.—The owner of record of the residential
170 property within the jurisdiction of an authorized program may
171 apply to the authorized program administrator to finance a
172 qualifying improvement. The program administrator may only enter
173 into a financing agreement with the property owner.

174 (3) FINANCING AGREEMENTS.—

175 (a) Before entering into a financing agreement, the program
176 administrator must review the residential property owner's
177 public records derived from a commercially accepted source and
178 the property owner's statements, records, and credit reports and
179 make each of the following findings:

180 1. There are sufficient resources to complete the project.

181 2. The total amount of any non-ad valorem assessment for a
182 residential property under this section does not exceed 20
183 percent of the just value of the property as determined by the
184 property appraiser. The total amount may exceed this limitation



673866

185 upon written consent of the holders or loan servicers of any
186 mortgage encumbering or otherwise secured by the residential
187 property.

188 3. The combined mortgage-related debt and total amount of
189 any non-ad valorem assessments under the program for the
190 residential property does not exceed 97 percent of the just
191 value of the property as determined by the property appraiser.

192 4. The financing agreement does not utilize a negative
193 amortization schedule, a balloon payment, or prepayment fees or
194 finances other than nominal administrative costs. Capitalized
195 interest included in the original balance of the assessment
196 financing agreement does not constitute negative amortization.

197 5. All property taxes and any other assessments, including
198 non-ad valorem assessments, levied on the same bill as the
199 property taxes are current and have not been delinquent for the
200 preceding 3 years, or the property owner's period of ownership,
201 whichever is less.

202 6. There are no outstanding fines or fees related to zoning
203 or code enforcement violations issued by a county or
204 municipality, unless the qualifying improvement will remedy the
205 zoning or code violation.

206 7. There are no involuntary liens, including, but not
207 limited to, construction liens on the residential property.

208 8. No notices of default or other evidence of property-
209 based debt delinquency have been recorded and not released
210 during the preceding 3 years or the property owner's period of
211 ownership, whichever is less.

212 9. The property owner is current on all mortgage debt on
213 the residential property.



673866

214 10. The property owner has not been subject to a bankruptcy
215 proceeding within the last 5 years unless it was discharged or
216 dismissed more than 2 years before the date on which the
217 property owner applied for financing.

218 11. The residential property is not subject to an existing
219 home equity conversion mortgage or reverse mortgage product.

220 12. The term of the financing agreement does not exceed the
221 weighted average useful life of the qualified improvements to
222 which the greatest portion of funds disbursed under the
223 assessment contract is attributable, not to exceed 20 years. The
224 program administrator shall determine the useful life of a
225 qualifying improvement using established standards, including
226 certification criteria from government agencies or nationally
227 recognized standards and testing organizations.

228 13. The total estimated annual payment amount for all
229 financing agreements entered into under this section on the
230 residential property does not exceed 10 percent of the property
231 owner's annual household income. Income must be confirmed using
232 reasonable evidence and not solely by a property owner's
233 statement.

234 14. If the qualifying improvement is estimated to cost
235 \$5,000 or more, the property owner has obtained estimates from
236 at least two unaffiliated, registered qualifying improvement
237 contractors for the qualifying improvement to be financed.

238 (b) Before entering into a financing agreement, the
239 property administrator must determine if there are any current
240 financing agreements on the residential property and if the
241 property owner has obtained or sought to obtain additional
242 qualifying improvements on the same property which have not yet



673866

243 been recorded. The failure to disclose information related to
244 not yet recorded financing agreements does not invalidate a
245 financing agreement or any obligation thereunder, even if the
246 total financed amount of the qualifying improvement exceeds the
247 amount that would otherwise be authorized under this section.
248 The existence of a prior qualifying improvement non-ad valorem
249 assessment or a prior financing agreement is not evidence that
250 the financing agreement under consideration is affordable or
251 meets other program requirements.

252 (c) Findings satisfying paragraphs (a) and (b) must be
253 documented, including supporting evidence relied upon, and
254 provided to the property owner prior to a financing agreement
255 being approved and recorded.

256 (d) A property owner and the program administrator may
257 agree to include in the financing agreement provisions for
258 allowing change orders necessary to complete the qualifying
259 improvement. Any financing agreement or contract for qualifying
260 improvements which includes such provisions must meet the
261 requirements of this paragraph. If a proposed change order on a
262 qualifying improvement will significantly increase the original
263 cost of the qualifying improvement or significantly expand the
264 scope of the qualifying improvement, before the change order may
265 be executed which would result in an increase in the amount
266 financed through the program administrator for the qualifying
267 improvement, the program administrator must notify the property
268 owner, provide an updated written disclosure form as described
269 in subsection (4) to the property owner, and obtain written
270 approval of the change from the property owner.

271 (e) A financing agreement may not be entered into if the



673866

272 total cost of the qualifying improvement, including program fees
273 and interest, is less than \$2,500.

274 (f) A financing agreement may not be entered into for
275 qualifying improvements in buildings or facilities under new
276 construction or construction for which a certificate of
277 occupancy or similar evidence of substantial completion of new
278 construction or improvement has not been issued.

279 (4) DISCLOSURES.—

280 (a) In addition to the requirements in subsection (3), a
281 financing agreement may not be approved unless the program
282 administrator first provides, including via electronic means, a
283 written financing estimate and disclosure to the property owner
284 which includes all of the following:

285 1. The estimated total amount to be financed, including the
286 total and itemized cost of the qualifying improvement, program
287 fees, and capitalized interest, if any;

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

289 3. The term of the financing agreement and the schedule for
290 the non-ad valorem assessments;

291 4. The interest charged and estimated annual percentage
292 rate;

293 5. A description of the qualifying improvement;

294 6. The total estimated annual costs that will be required
295 to be paid under the assessment contract, including program
296 fees;

297 7. The total estimated average monthly equivalent amount of
298 funds that would need to be saved in order to pay the annual
299 costs of the non-ad valorem assessment, including program fees;

300 8. The estimated due date of the first payment that



673866

301 includes the non-ad valorem assessment;

302 9. A disclosure that the financing agreement may be
303 canceled within 5 business days after signing the financing
304 agreement without any financial penalty for doing so;

305 10. A disclosure that the property owner may repay any
306 remaining amount owed, at any time, without penalty or
307 imposition of additional prepayment fees or fines other than
308 nominal administrative costs;

309 11. A disclosure that if the property owner sells or
310 refinances the residential property, the property owner may be
311 required by a mortgage lender to pay off the full amount owed
312 under each financing agreement under this section;

313 12. A disclosure that the assessment will be collected
314 along with the property owner's property taxes, and will result
315 in a lien on the property from the date the financing agreement
316 is recorded;

317 13. A disclosure that potential utility or insurance
318 savings are not guaranteed, and will not reduce the assessment
319 amount; and

320 14. A disclosure that failure to pay the assessment may
321 result in penalties, fees, including attorney fees, court costs,
322 and the issuance of a tax certificate that could result in the
323 property owner losing the property and a judgment against the
324 property owner, and may affect the property owner's credit
325 rating.

326 (b) Prior to the financing agreement being approved, the
327 program administrator must conduct an oral, recorded telephone
328 call with the property owner during which the program
329 administrator must confirm each finding or disclosure required



673866

330 in subsection (3) and this section.

331 (5) NOTICE TO LIENHOLDERS AND SERVICERS.—At least 30 days
332 before entering into a financing agreement, the property owner
333 must provide to the holders or loan servicers of any existing
334 mortgages encumbering or otherwise secured by the residential
335 property a written notice of the owner’s intent to enter into a
336 financing agreement together with the maximum amount to be
337 financed, including the amount of any fees and interest, and the
338 maximum annual assessment necessary to repay the total. A
339 verified copy or other proof of such notice must be provided to
340 the program administrator. A provision in any agreement between
341 a mortgagor or other lienholder and a property owner, or
342 otherwise now or hereafter binding upon a property owner, which
343 allows for acceleration of payment of the mortgage, note, or
344 lien or other unilateral modification solely as a result of
345 entering into a financing agreement as provided for in this
346 section is unenforceable. This subsection does not limit the
347 authority of the holder or loan servicer to increase the
348 required monthly escrow by an amount necessary to pay the annual
349 assessment.

350 (6) CANCELLATION.—A property owner may cancel a financing
351 agreement on a form established by the program administrator
352 within 5 business days after signing the financing agreement
353 without any financial penalty for doing so.

354 (7) RECORDING.—Any financing agreement approved and entered
355 into pursuant to this section, or a summary memorandum of such
356 agreement, shall be submitted for recording in the public
357 records of the county within which the residential property is
358 located by the program administrator within 10 business days



673866

359 after execution of the agreement. The recorded agreement must
360 provide constructive notice that the non-ad valorem assessment
361 to be levied on the property constitutes a lien of equal dignity
362 to county taxes and assessments from the date of recordation. A
363 notice of lien for the full amount of the financing may be
364 recorded in the public records of the county where the property
365 is located. Such lien is not enforceable in a manner that
366 results in the acceleration of the remaining nondelinquent
367 unpaid balance under the assessment financing agreement.

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

375
376 QUALIFYING IMPROVEMENTS.—The property being purchased
377 is subject to an assessment on the property pursuant
378 to s. 163.081, Florida Statutes. The assessment is for
379 a qualifying improvement to the property and is not
380 based on the value of the property. You are encouraged
381 to contact the property appraiser's office to learn
382 more about this and other assessments that may be
383 provided by law.

384
385 (9) DISBURSEMENTS.—Before disbursing final funds to a
386 qualifying improvement contractor for a qualifying improvement
387 on residential property, the program administrator shall confirm



673866

388 that the applicable work or service has been completed or, as
389 applicable, that the final permit for the qualifying improvement
390 has been closed with all permit requirements satisfied or a
391 certificate of occupancy or similar evidence of substantial
392 completion of construction or improvement has been issued.

393 (10) CONSTRUCTION.—This section is additional and
394 supplemental to county and municipal home rule authority and not
395 in derogation of such authority or a limitation upon such
396 authority.

397 Section 3. Section 163.082, Florida Statutes, is created to
398 read:

399 163.082 Financing qualifying improvements to commercial
400 property.—

401 (1) COMMERCIAL PROPERTY PROGRAM AUTHORIZATION.—

402 (a) A program administrator may only offer a program for
403 financing qualifying improvements to commercial property within
404 the jurisdiction of a county or municipality if the county or
405 municipality has authorized by ordinance or resolution the
406 program administrator to administer the program for financing
407 qualifying improvements. The authorized program must, at a
408 minimum, meet the requirements of this section. Pursuant to this
409 section or as otherwise provided by law or pursuant to a
410 county's or municipality's home rule power, a county or
411 municipality may enter into an interlocal agreement providing
412 for a partnership between one or more local governments for the
413 purpose of facilitating a program for financing qualifying
414 improvements to commercial property located within the
415 jurisdiction of the local governments party to the agreement. A
416 program administrator may contract with one or more third-party



673866

417 administrators to implement the program as provided in s.
418 163.084.

419 (b) An authorized program administrator may levy non-ad
420 valorem assessments to facilitate repayment of financing or
421 refinancing qualifying improvements. Costs incurred by the
422 program administrator for such purpose may be collected as a
423 non-ad valorem assessment. A non-ad valorem assessment shall be
424 collected pursuant to s. 197.3632 and, notwithstanding s.
425 197.3632(8) (a), is not subject to discount for early payment.
426 However, the notice and adoption requirements of s. 197.3632(4)
427 do not apply if this section is used and complied with, and the
428 intent resolution, publication of notice, and mailed notices to
429 the property appraiser, tax collector, and Department of Revenue
430 required by s. 197.3632(3) (a) may be provided on or before
431 August 15 of each year in conjunction with any non-ad valorem
432 assessment authorized by this section, if the property
433 appraiser, tax collector, and program administrator agree.

434 (c) A program administrator may incur debt for the purpose
435 of providing financing for qualifying improvements, which debt
436 is payable from revenues received from the improved property or
437 any other available revenue source authorized by law.

438 (2) APPLICATION.—The owner of record of the commercial
439 property within the jurisdiction of the authorized program may
440 apply to the program administrator to finance a qualifying
441 improvement and enter into a financing agreement with the
442 program administrator to make such improvement. The program
443 administrator may only enter into a financing agreement with a
444 property owner. However, a nongovernmental lessee may apply to
445 finance a qualifying improvement if the nongovernmental lessee



673866

446 provides the program administrator with written consent of the
447 government lessor. Any financing agreement with the
448 nongovernmental lessee must provide that the nongovernmental
449 lessee is the only party obligated to pay the assessment.

450 (3) FINANCING AGREEMENTS.—

451 (a) Before entering into a financing agreement, the program
452 administrator must make each of the following findings based on
453 a review of public records derived from a commercially accepted
454 source and the statements, records, and credit reports of the
455 commercial property owner or nongovernmental lessee:

456 1. There are sufficient resources to complete the project.

457 2. The total amount of any non-ad valorem assessment for a
458 commercial property under this section does not exceed 20
459 percent of the just value of the property as determined by the
460 property appraiser. The total amount may exceed this limitation
461 upon written consent of the holders or loan servicers of any
462 mortgage encumbering or otherwise secured by the commercial
463 property.

464 3. The combined mortgage-related debt and total amount of
465 any non-ad valorem assessments under the program for the
466 commercial property does not exceed 97 percent of the just value
467 of the property as determined by the property appraiser.

468 4. All property taxes and any other assessments, including
469 non-ad valorem assessments, levied on the same bill as the
470 property taxes are current.

471 5. There are no involuntary liens greater than \$5,000,
472 including, but not limited to, construction liens on the
473 commercial property.

474 6. No notices of default or other evidence of property-



673866

475 based debt delinquency have been recorded and not been released
476 during the preceding 3 years or the property owner's period of
477 ownership, whichever is less.

478 7. The property owner is current on all mortgage debt on
479 the commercial property.

480 8. The term of the financing agreement does not exceed the
481 weighted average useful life of the qualified improvements to
482 which the greatest portion of funds disbursed under the
483 assessment contract is attributable, not to exceed 30 years. The
484 program administrator shall determine the useful life of a
485 qualifying improvement using established standards, including
486 certification criteria from government agencies or nationally
487 recognized standards and testing organizations.

488 9. The property owner or nongovernmental lessee is not
489 currently the subject of a bankruptcy proceeding.

490 (b) Before entering into a financing agreement, the program
491 administrator shall determine if there are any current financing
492 agreements on the commercial property and whether the property
493 owner or nongovernmental lessee has obtained or sought to obtain
494 additional qualifying improvements on the same property which
495 have not yet been recorded. The failure to disclose information
496 related to not yet recorded financing agreements does not
497 invalidate a financing agreement or any obligation thereunder,
498 even if the total financed amount of the qualifying improvement
499 exceeds the amount that would otherwise be authorized under this
500 section. The existence of a prior qualifying improvement non-ad
501 valorem assessment or a prior financing agreement is not
502 evidence that the financing agreement under consideration is
503 affordable or meets other program requirements.



673866

504 (c) Findings satisfying paragraphs (a) and (b) must be
505 documented, including supporting evidence relied upon, and
506 provided to the property owner or nongovernmental lessee prior
507 to a financing agreement being approved and recorded.

508 (d) A property owner or nongovernmental lessee and the
509 program administrator may agree to include in the financing
510 agreement provisions for allowing change orders necessary to
511 complete the qualifying improvement. Any financing agreement or
512 contract for qualifying improvements which includes such
513 provisions must meet the requirements of this paragraph. If a
514 proposed change order on a qualifying improvement will
515 significantly increase the original cost of the qualifying
516 improvement or significantly expand the scope of the qualifying
517 improvement, before the change order may be executed which would
518 result in an increase in the amount financed through the program
519 administrator for the qualifying improvement, the program
520 administrator must notify the property owner or nongovernmental
521 lessee, provide an updated written disclosure form as described
522 in subsection (4) to the property owner or nongovernmental
523 lessee, and obtain written approval of the change from the
524 property owner or nongovernmental lessee.

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

528 (4) DISCLOSURES.—In addition to the requirements in
529 subsection (3), a financing agreement may not be approved unless
530 the program administrator provides, whether on a separate
531 document or included with other disclosures or forms, a
532 financing estimate and disclosure to the property owner or



673866

533 nongovernmental lessee which includes all of the following:
534 (a) The estimated total amount to be financed, including
535 the total and itemized cost of the qualifying improvement,
536 program fees, and capitalized interest, if any;
537 (b) The estimated annual non-ad valorem assessment;
538 (c) The term of the financing agreement and the schedule
539 for the non-ad valorem assessments;
540 (d) The interest charged and estimated annual percentage
541 rate;
542 (e) A description of the qualifying improvement;
543 (f) The total estimated annual costs that will be required
544 to be paid under the assessment contract, including program
545 fees;
546 (g) The total estimated average monthly equivalent amount
547 of funds that would need to be saved in order to pay the annual
548 costs of the non-ad valorem assessment, including program fees;
549 (h) The estimated due date of the first payment that
550 includes the non-ad valorem assessment; and
551 (i) A disclosure that the property owner or nongovernmental
552 lessee may repay any remaining amount owed, at any time, without
553 penalty or imposition of additional prepayment fees or fines
554 other than nominal administrative costs.
555 (5) CONSENT OF LIENHOLDERS AND SERVICERS.—Before entering
556 into a financing agreement with a property owner, the program
557 administrator must have received the written consent of the
558 current holders or loan servicers of any mortgage that encumbers
559 or is otherwise secured by the commercial property or that will
560 otherwise be secured by the property at the time the financing
561 agreement is executed.



673866

562 (6) RECORDING.—Any financing agreement approved and entered
563 into pursuant to this section or a summary memorandum of such
564 agreement must be submitted for recording in the public records
565 of the county within which the commercial property is located by
566 the program administrator within 10 business days after
567 execution of the agreement. The recorded agreement must provide
568 constructive notice that the non-ad valorem assessment to be
569 levied on the property constitutes a lien of equal dignity to
570 county taxes and assessments from the date of recordation. A
571 notice of lien for the full amount of the financing may be
572 recorded in the public records of the county where the property
573 is located. Such lien is not enforceable in a manner that
574 results in the acceleration of the remaining nondelinquent
575 unpaid balance under the assessment financing agreement.

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

583
584 QUALIFYING IMPROVEMENTS.—The property being purchased
585 is subject to an assessment on the property pursuant
586 to s. 163.082, Florida Statutes. The assessment is for
587 a qualifying improvement to the property and is not
588 based on the value of the property. You are encouraged
589 to contact the property appraiser's office to learn
590 more about this and other assessments that may be



673866

591 provided for by law.

592

593 (8) COMPLETION CERTIFICATE.—Upon disbursement of all
594 financing and completion of installation of qualifying
595 improvements financed, the program administrator shall file with
596 the applicable county or municipality a certificate that the
597 qualifying improvements have been installed and are in good
598 working order.

599 (9) CONSTRUCTION.—This section is additional and
600 supplemental to county and municipal home rule authority and not
601 in derogation of such authority or a limitation upon such
602 authority.

603 Section 4. Section 163.083, Florida Statutes, is created to
604 read:

605 163.083 Qualifying improvement contractors.—

606 (1) A county or municipality shall establish a process, or
607 approve a process established by a program administrator, to
608 register contractors for participation in a program authorized
609 by a county or municipality pursuant to s. 163.081. A qualifying
610 improvement contractor may only perform such work that the
611 contractor is appropriately licensed, registered, and permitted
612 to conduct. At the time of application to participate and during
613 participation in the program, contractors must:

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

618 (b) Comply with all applicable federal, state, and local
619 laws and regulations, including obtaining and maintaining any



673866

620 other permits, licenses, or registrations required for engaging
621 in business in the jurisdiction in which it operates and
622 maintaining all state-required bond and insurance coverage.

623 (c) File with the program administrator a written statement
624 in a form approved by the county or municipality that the
625 contractor will comply with applicable laws and rules and
626 qualifying improvement program policies and procedures,
627 including those on advertising and marketing.

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

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

632 (a) A process to monitor qualifying improvement contractors
633 for performance and compliance with requirements of the program
634 and must conduct regular reviews of qualifying improvement
635 contractors to confirm that each qualifying improvement
636 contractor is in good standing.

637 (b) Procedures for notice and imposition of penalties upon
638 a finding of violation, which may consist of placement of the
639 qualifying improvement contractor in a probationary status that
640 places conditions for continued participation, payment of fines
641 or sanctions, suspension, or termination from participation in
642 the program.

643 (c) An easily accessible page on its website that provides
644 information on the status of registered qualifying improvement
645 contractors, including any imposed penalties, and the names of
646 any qualifying improvement contractors currently on probationary
647 status or that are suspended or terminated from participation in
648 the program.



673866

649 Section 5. Section 163.084, Florida Statutes, is created to
650 read:

651 163.084 Third-party administrator for financing qualifying
652 improvements programs.-

653 (1) (a) A program administrator may contract with one or
654 more entities to administer a program authorized by a county or
655 municipality pursuant to s. 163.081 or s. 163.082 on behalf of
656 and at the discretion of the program administrator.

657 (b) The third-party administrator must be independent of
658 the program administrator and have no conflicts of interest
659 between managers or owners of the third-party administrator and
660 program administrator managers, owners, officials, or employees
661 with oversight over the contract. The contract must provide for
662 the entity to administer the program according to the
663 requirements of s. 163.081 or s. 163.082 and the ordinance or
664 resolution adopted by the county or municipality authorizing the
665 program. However, only the program administrator may levy or
666 administer non-ad valorem assessments.

667 (2) A program administrator may not contract with a third-
668 party administrator that, within the last 3 years, has been
669 prohibited from serving as a third-party administrator for
670 another program administrator for program or contract violations
671 or has been found by a court of competent jurisdiction to have
672 violated state or federal laws related to the administration of
673 ss. 163.081-163.086 or a similar program in another
674 jurisdiction.

675 (3) The program administrator must include in any contract
676 with the third-party administrator the right to perform annual
677 reviews of the administrator to confirm compliance with ss.



673866

678 163.081-163.086, the ordinance or resolution adopted by the
679 county or municipality, and the contract with the program
680 administrator. If the program administrator finds that the
681 third-party administrator has committed a violation of ss.
682 163.081-163.086, the adopted ordinance or resolution, or the
683 contract with the program administrator, the program
684 administrator shall provide the third-party administrator with
685 notice of the violation and may, as set forth in the adopted
686 ordinance or resolution or the contract with the third-party
687 administrator:

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

690 (b) Impose any fines or sanctions.

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

693 (d) Terminate the agreement with the third-party
694 administrator.

695 (4) A program administrator may terminate the agreement
696 with a third-party administrator, as set forth by the county or
697 municipality in its adopted ordinance or resolution or the
698 contract with the third-party administrator, if the program
699 administrator makes a finding that:

700 (a) The third-party administrator has violated the contract
701 with the program administrator. The contract may set forth
702 substantial violations that may result in contract termination
703 and other violations that may provide for a period of time for
704 correction before the contract may be terminated.

705 (b) The third-party administrator, or an officer, a
706 director, a manager or a managing member, or a control person of



673866

707 the third-party administrator, has been found by a court of
708 competent jurisdiction to have violated state or federal laws
709 related to the administration a program authorized of the
710 provisions of ss. 163.081-163.086 or a similar program in
711 another jurisdiction within the last 5 years.

712 (c) Any officer, director, manager or managing member, or
713 control person of the third-party administrator has been
714 convicted of, or has entered a plea of guilty or nolo contendere
715 to, regardless of whether adjudication has been withheld, a
716 crime related to administration of a program authorized of the
717 provisions of ss. 163.081-163.086 or a similar program in
718 another jurisdiction within the last 10 years.

719 (d) An annual performance review reveals a substantial
720 violation or a pattern of violations by the third-party
721 administrator.

722 (5) Any recorded financing agreements at the time of
723 termination or suspension by the program administrator shall
724 continue.

725 Section 6. Section 163.085, Florida Statutes, is created to
726 read:

727 163.085 Advertisement and solicitation for financing
728 qualifying improvements programs under s. 163.081 or s.
729 163.082.—

730 (1) When communicating with a property owner or a
731 nongovernmental lessee, a program administrator, qualifying
732 improvement contractor, or third-party administrator may not:

733 (a) Suggest or imply:

734 1. That a non-ad valorem assessment authorized under s.
735 163.081 or s. 163.082 is a government assistance program;



673866

736 2. That qualifying improvements are free or provided at no
737 cost, or that the financing related to a non-ad valorem
738 assessment authorized under s. 163.081 or s. 163.082 is free or
739 provided at no cost; or

740 3. That the financing of a qualifying improvement using the
741 program authorized pursuant to s. 163.081 or s. 163.082 does not
742 require repayment of the financial obligation.

743 (b) Make any representation as to the tax deductibility of
744 a non-ad valorem assessment. A program administrator, qualifying
745 improvement contractor, or third-party administrator may
746 encourage a property owner or nongovernmental lessee to seek the
747 advice of a tax professional regarding tax matters related to
748 assessments.

749 (2) A program administrator or third-party administrator
750 may not provide to a qualifying improvement contractor any
751 information that discloses the amount of financing for which a
752 property owner or nongovernmental lessee is eligible for
753 qualifying improvements or the amount of equity in a residential
754 property or commercial property.

755 (3) A qualifying improvement contractor may not advertise
756 the availability of financing agreements for, or solicit program
757 participation on behalf of, the program administrator unless the
758 contractor is registered by the program administrator to
759 participate in the program and is in good standing with the
760 program administrator.

761 (4) A program administrator or third-party administrator
762 may not provide any payment, fee, or kickback to a qualifying
763 improvement contractor for referring property owners or
764 nongovernmental lessees to the program administrator or third-



673866

765 party administrator. However, a program administrator or third-
766 party administrator may provide information to a qualifying
767 improvement contractor to facilitate the installation of a
768 qualifying improvement for a property owner or nongovernmental
769 lessee.

770 (5) A program administrator or third-party administrator
771 may reimburse a qualifying improvement contractor for its
772 expenses in advertising and marketing campaigns and materials.

773 (6) A qualifying improvement contractor may not provide a
774 different price for a qualifying improvement financed under s.
775 163.081 than the price that the qualifying improvement
776 contractor would otherwise provide if the qualifying improvement
777 was not being financed through a financing agreement. Any
778 contract between a property owner or nongovernmental lessee and
779 a qualifying improvement contractor must clearly state all
780 pricing and cost provisions, including any process for change
781 orders which meet the requirements of s. 163.081(3)(d).

782 (7) A program administrator, qualifying improvement
783 contractor, or third-party administrator may not provide any
784 direct cash payment or other thing of material value to a
785 property owner or nongovernmental lessee which is explicitly
786 conditioned upon the property owner or nongovernmental lessee
787 entering into a financing agreement. However, a program
788 administrator or third-party administrator may offer programs or
789 promotions that provide reduced fees or interest rates if the
790 reduced fees or interest rates are reflected in the financing
791 agreements and are not provided to the property owner or
792 nongovernmental lessee as cash consideration.

793 Section 7. Section 163.086, Florida Statutes, is created to



673866

794 read:

795 163.086 Unenforceable financing agreements for qualifying
796 improvements programs under s. 163.081 or s. 163.082;
797 attachment; fraud.-

798 (1) A recorded financing agreement may not be removed from
799 attachment to a residential property or commercial property if
800 the property owner or nongovernmental lessee fraudulently
801 obtained funding pursuant to s. 163.081 or s. 163.082.

802 (2) A financing agreement may not be enforced, and a
803 recorded financing agreement may be removed from attachment to a
804 residential property or commercial property and deemed null and
805 void, if:

806 (a) The property owner or nongovernmental lessee applied
807 for, accepted, and canceled a financing agreement within the 5-
808 business-day period pursuant to s. 163.081(6). A qualifying
809 improvement contractor may not begin work under a canceled
810 contract.

811 (b) A person other than the property owner or
812 nongovernmental lessee obtained the recorded financing
813 agreement. The court may enter an order which holds that person
814 or persons personally liable for the debt.

815 (c) The program administrator, third-party administrator,
816 or qualifying improvement contractor approved or obtained
817 funding through fraudulent means and in violation of s. 163.081,
818 s. 163.082, s. 163.083, s. 163.084, s. 163.085, or this section
819 for qualifying improvements on the residential property or
820 commercial property.

821 (3) If a qualifying improvement contractor has initiated
822 work on residential property or commercial property under a



673866

823 contract deemed unenforceable under this section, the qualifying
824 improvement contractor:

825 (a) May not receive compensation for that work under the
826 financing agreement.

827 (b) Must restore the residential property or commercial
828 property to its original condition at no cost to the property
829 owner or nongovernmental lessee.

830 (c) Must immediately return any funds, property, and other
831 consideration given by the property owner or nongovernmental
832 lessee. If the property owner or nongovernmental lessee provided
833 any property and the qualifying improvement contractor does not
834 or cannot return it, the qualifying improvement contractor must
835 immediately return the fair market value of the property or its
836 value as designated in the contract, whichever is greater.

837 (4) If the qualifying improvement contractor has delivered
838 chattel or fixtures to residential property or commercial
839 property pursuant to a contract deemed unenforceable under this
840 section, the qualifying improvement contractor has 90 days after
841 the date on which the contract was executed to retrieve the
842 chattel or fixtures, provided that:

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

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

848 (5) If a qualifying improvement contractor fails to comply
849 with this section, the property owner or nongovernmental lessee
850 may retain any chattel or fixtures provided pursuant to a
851 contract deemed unenforceable under this section.



673866

852 (6) A contract that is otherwise unenforceable under this
853 section remains enforceable if the property owner or
854 nongovernmental lessee waives his or her right to cancel the
855 contract or cancels the financing agreement pursuant to s.
856 163.081(6) or s. 163.082(6) but allows the qualifying
857 improvement contractor to proceed with the installation of the
858 qualifying improvement.

859 Section 8. Section 163.087, Florida Statutes, is created to
860 read:

861 163.087 Reporting for financing qualifying improvements
862 programs under s. 163.081 or s. 163.082.—

863 (1) Each program administrator that is authorized to
864 administer a program for financing qualifying improvements to
865 residential property or commercial property under s. 163.081 or
866 s. 163.082 shall post on its website an annual report within 45
867 days after the end of its fiscal year containing the following
868 information from the previous year for each program authorized
869 under s. 163.081 or s. 163.082:

870 (a) The number and types of qualifying improvements funded.

871 (b) The aggregate, average, and median dollar amounts of
872 annual non-ad valorem assessments and the total number of non-ad
873 valorem assessments collected pursuant to financing agreements
874 for qualifying improvements.

875 (c) The total number of defaulted non-ad valorem
876 assessments, including the total defaulted amount, the number
877 and dates of missed payments, and the total number of parcels in
878 default and the length of time in default.

879 (d) A summary of all reported complaints received by the
880 program administrator related to the program, including the



881 names of the third-party administrator, if applicable, and
882 qualifying improvement contractors and the resolution of each
883 complaint.

884 (2) The Auditor General must conduct an operational audit
885 of each program authorized under s. 163.081 or s. 163.082,
886 including any third-party administrators, for compliance with
887 the provisions of ss. 163.08-163.086 and any adopted ordinance
888 at least once every 24 months. The Auditor General may stagger
889 evaluations such that a portion of all programs are evaluated in
890 1 year; however, every program must be evaluated at least once
891 by September 1, 2027. Each program administrator, and third-
892 party administrator if applicable, must post the most recent
893 report on its website.

894 Section 9. This act shall take effect July 1, 2024.

895
896 ===== T I T L E A M E N D M E N T =====

897 And the title is amended as follows:

898 Delete everything before the enacting clause
899 and insert:

900 A bill to be entitled
901 An act relating to improvements to real property;
902 amending s. 163.08, F.S.; deleting provisions relating
903 to legislative findings and intent; defining terms and
904 revising definitions; creating ss. 163.081 and
905 163.082, F.S.; allowing a program administrator to
906 offer a program for financing qualifying improvements
907 for residential or commercial property when authorized
908 by a county or municipality; requiring an authorized
909 program administrator that administers an authorized



673866

910 program to meet certain requirements; authorizing a
911 county or municipality to enter into an interlocal
912 agreement to implement a program; authorizing a
913 program administrator to contract with third-party
914 administrators to implement the program; authorizing a
915 program administrator to levy non-ad valorem
916 assessments for a certain purpose; authorizing a
917 program administrator to incur debt for the purpose of
918 providing financing for qualifying improvements;
919 authorizing the owner of the residential property or
920 commercial property or certain nongovernmental lessees
921 to apply to the program administrator to finance a
922 qualifying improvement; requiring the program
923 administrator to make certain findings before entering
924 into a financing agreement; requiring the program
925 administrator to ascertain certain financial
926 information from the property owner or nongovernmental
927 lessee before entering into a financing agreement;
928 requiring certain documentation; requiring certain
929 financing agreement and contract provisions for change
930 orders if the property owner or nongovernmental lessee
931 and program administrator agree to allow change orders
932 to complete a qualifying improvement; prohibiting a
933 financing agreement from being entered into under
934 certain circumstances; requiring the program
935 administrator to provide certain information before a
936 financing agreement may be approved; requiring an
937 oral, recorded telephone call with the residential
938 property owner to confirm findings and disclosures



673866

939 before the approval of a financing agreement;
940 requiring the residential property owner to provide
941 written notice to the holder or loan servicer of his
942 or her intent to enter into a financing agreement as
943 well as other financial information; requiring that
944 proof of such notice be provided to the program
945 administrator; providing that a certain acceleration
946 provision in an agreement between the residential
947 property owner and mortgagor or lienholder is
948 unenforceable; providing that the lienholder or loan
949 servicer retains certain authority; requiring the
950 program administrator to receive the written consent
951 of certain lienholders on commercial property;
952 authorizing a residential property owner, under
953 certain circumstances and within a certain timeframe,
954 to cancel a financing agreement without financial
955 penalty; requiring recording of the financing
956 agreement in a specified timeframe; creating the
957 seller's disclosure statements for properties offered
958 for sale which have assessments on them for qualifying
959 improvements; requiring the program administrator to
960 confirm that certain conditions are met before
961 disbursing final funds to a qualifying improvement
962 contractor for qualifying improvements on residential
963 property; requiring a program administrator to submit
964 a certain certificate to a county or municipality upon
965 final disbursement and completion of qualifying
966 improvements; creating s. 163.083, F.S.; requiring a
967 county or municipality to establish or approve a



673866

968 process for the registration of a qualifying
969 improvement contractor to install qualifying
970 improvements; requiring certain conditions for a
971 qualifying improvement contractor to participate in a
972 program; prohibiting a third-party administrator from
973 registration as a qualifying improvement contractor;
974 requiring the program administrator to monitor
975 qualifying improvement contractors, enforce certain
976 penalties for a finding of violation, and post certain
977 information online; creating s. 163.084, F.S.;

978 authorizing the program administrator to contract with
979 entities to administer an authorized program;
980 providing certain requirements for a third-party
981 administrator; prohibiting a program administrator
982 from contracting with a third-party administrator
983 under certain circumstances; requiring the program
984 administrator to include in its contract with the
985 third-party administrator the right to perform annual
986 reviews of the administrator; authorizing the program
987 administrator to take certain actions if the program
988 administrator finds that the third-party administrator
989 has committed a violation of its contract; authorizing
990 a program administrator to terminate an agreement with
991 a third-party administrator under certain
992 circumstances; providing for the continuation of
993 certain financing agreements after the termination or
994 suspension of the third-party administrator; creating
995 s. 163.085, F.S.; requiring that, in communicating
996 with the property owner or nongovernmental lessee, the



673866

997 program administrator, qualifying improvement
998 contractor, or third-party administrator comply with
999 certain requirements; prohibiting the program
1000 administrator or third-party administrator from
1001 disclosing certain financing information to a
1002 qualifying improvement contractor; prohibiting a
1003 qualifying improvement contractor from making certain
1004 advertisements or solicitations; providing exceptions;
1005 prohibiting a program administrator or third-party
1006 administrator from providing certain payments, fees,
1007 or kickbacks to a qualifying improvement contractor;
1008 authorizing a program administrator or third-party
1009 administrator to reimburse a qualifying improvement
1010 contractor for certain expenses; prohibiting a
1011 qualifying improvement contractor from providing
1012 different prices for a qualifying improvement;
1013 requiring a contract between a property owner or
1014 nongovernmental lessee and a qualifying improvement
1015 contractor to include certain provisions; prohibiting
1016 a program administrator, third-party administrator, or
1017 qualifying improvement contractor from providing any
1018 cash payment or anything of material value to a
1019 property owner or nongovernmental lessee which is
1020 explicitly conditioned on a financing agreement;
1021 creating s. 163.086, F.S.; prohibiting a recorded
1022 financing agreement from being removed from attachment
1023 to a property under certain circumstances; providing
1024 for the unenforceability of a financing agreement
1025 under certain circumstances; providing provisions for



673866

1026 when a qualifying improvement contractor initiates
1027 work on an unenforceable contract; providing that a
1028 qualifying improvement contractor may retrieve chattel
1029 or fixtures delivered pursuant to an unenforceable
1030 contract if certain conditions are met; providing that
1031 an unenforceable contract will remain unenforceable
1032 under certain circumstances; creating s. 163.087,
1033 F.S.; requiring a program administrator authorized to
1034 administer a program for financing a qualifying
1035 improvement to post on its website an annual report;
1036 specifying requirements for the report; requiring the
1037 auditor general to conduct an operational audit of
1038 each authorized program; providing an effective date.