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LEGISLATIVE ACTION

Senate	.	House
Comm: RS	.	
01/24/2024	.	
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The Committee on Community Affairs (Martin) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

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

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

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



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11 (1) "Commercial property" means real property other than
12 residential property. The term includes, but is not limited to,
13 a property zoned multifamily residential which is composed of
14 five or more dwelling units, and government commercial property.

15 (2) "Government commercial property" means real property
16 owned by a local government and leased to a nongovernmental
17 lessee. The term does not include residential property.

18 (3) "Local government" means a county or a municipality.

19 (4) "Nongovernmental lessee" means a person or an entity
20 other than a local government which leases government commercial
21 property.

22 (5) "Property owner" means the owner or owners of record of
23 real property within the jurisdiction of the local government.
24 The term includes real property held in trust for the benefit of
25 one or more individuals, in which case the individual or
26 individuals may be considered as the property owner or owners,
27 provided that the trustee provides written consent. The term
28 does not include persons renting, using, living, or otherwise
29 occupying real property, except for a nongovernmental lessee.

30 (6) "Qualifying improvement" means the following permanent
31 improvements located on real property within the jurisdiction of
32 the local government:

33 (a) For improvements on residential property:

34 1. Repairing, replacing, or improving a central sewerage
35 system, converting an onsite sewage treatment and disposal
36 system to a central sewerage system, or, if no central sewerage
37 system is available, removing, repairing, replacing, or
38 improving an onsite sewage treatment and disposal system to an
39 advanced system or technology.



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40 2. Repairing, replacing, or improving a roof, including
41 improvements that strengthen the roof deck attachment; create a
42 secondary water barrier to prevent water intrusion; install
43 wind-resistant shingles or gable-end bracing; or reinforce roof-
44 to-wall connections.

45 3. Providing flood and water damage mitigation and
46 resiliency improvements, prioritizing repairs, replacement, or
47 improvements that qualify for reductions in flood insurance
48 premiums, including raising a structure above the base flood
49 elevation to reduce flood damage; constructing a flood diversion
50 apparatus, drainage gate, or seawall improvement, including
51 seawall repairs and seawall replacements; purchasing flood-
52 damage-resistant building materials; or making electrical,
53 mechanical, plumbing, or other system improvements that reduce
54 flood damage.

55 4. Replacing windows or doors, including garage doors, with
56 energy-efficient windows or doors.

57 5. Installing energy-efficient heating, cooling, or
58 ventilation systems.

59 6. Replacing or installing insulation.

60 7. Replacing or installing energy-efficient water heaters.

61 8. Installing and affixing a permanent generator.

62 (b) For improvements on commercial property:

63 1. Repairing, replacing, or improving a central sewerage
64 system, converting an onsite sewage treatment and disposal
65 system to a central sewerage system, or, if no central sewerage
66 system is available, removing, repairing, replacing, or
67 improving an onsite sewage treatment and disposal system to an
68 advanced system or technology.



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69 2. Repairing, replacing, or improving a roof, including
70 improvements that strengthen the roof deck attachment; create a
71 secondary water barrier to prevent water intrusion; install
72 wind-resistant shingles or gable-end bracing; or reinforce roof-
73 to-wall connections.

74 3. Providing flood and water damage mitigation and
75 resiliency improvements, prioritizing repairs, replacement, or
76 improvements that qualify for reductions in flood insurance
77 premiums, including raising a structure above the base flood
78 elevation to reduce flood damage; creating or improving
79 stormwater and flood resiliency, including flood diversion
80 apparatus, drainage gates, or shoreline improvements; purchasing
81 flood-damage-resistant building materials; or making any other
82 improvements necessary to achieve a sustainable building rating
83 or compliance with a national model resiliency standard and any
84 improvements to a structure to achieve wind or flood insurance
85 rate reductions, including building elevation.

86 4. Replacing windows or doors, including garage doors, with
87 energy-efficient windows or doors.

88 5. Installing energy-efficient heating, cooling, or
89 ventilation systems.

90 6. Replacing or installing insulation.

91 7. Replacing or installing energy-efficient water heaters.

92 8. Installing and affixing a permanent generator.

93 9. Installing energy controls or energy recovery systems.

94 10. Installing electric vehicle charging equipment.

95 11. Installing efficient lighting equipment or any other
96 improvements necessary to achieve a sustainable building rating
97 or compliance with a national model green building code.



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98 (7) "Qualifying improvement contractor" means a licensed or
99 registered contractor who has been approved to participate by a
100 local government pursuant to s. 163.083 to install or otherwise
101 perform work to make qualifying improvements on residential
102 property or commercial property financed pursuant to a program
103 adopted by the local government under s. 163.081 or s. 163.082.

104 (8) "Residential property" means real property zoned as
105 residential or multifamily residential and composed of four or
106 fewer dwelling units.

107 Section 2. Section 163.081, Florida Statutes, is created to
108 read:

109 163.081 Financing qualifying improvements to residential
110 property.—

111 (1) RESIDENTIAL PROPERTY PROGRAM CREATION AND LOCAL
112 GOVERNMENT AUTHORITY.—

113 (a) A local government that elects to administer a program
114 for financing qualifying improvements to residential property
115 within its jurisdiction must adopt by ordinance or resolution a
116 program that, at a minimum, meets the requirements of this
117 section. Pursuant to this section or as otherwise provided by
118 law or pursuant to a local government's home rule power, a local
119 government may enter into an interlocal agreement providing for
120 a partnership between one or more local governments for the
121 purpose of financing qualifying improvements to residential
122 property located within the jurisdiction of the local
123 governments party to the agreement. A local government may
124 contract with one or more third-party administrators to
125 implement the program as provided in s. 163.084.

126 (b) A local government may levy non-ad valorem assessments



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127 to facilitate repayment of financing qualifying improvements.
128 Costs incurred by the local government for such purpose may be
129 collected as a non-ad valorem assessment. A non-ad valorem
130 assessment shall be collected pursuant to s. 197.3632 and,
131 notwithstanding s. 197.3632(8)(a), shall not be subject to
132 discount for early payment. However, the notice and adoption
133 requirements of s. 197.3632(4) do not apply if this section is
134 used and complied with, and the intent resolution, publication
135 of notice, and mailed notices to the property appraiser, tax
136 collector, and Department of Revenue required by s.
137 197.3632(3)(a) may be provided on or before August 15 of each
138 year in conjunction with any non-ad valorem assessment
139 authorized by this section, if the property appraiser, tax
140 collector, and local government agree.

141 (c) A local government may incur debt for the purpose of
142 providing financing for qualifying improvements, which debt is
143 payable from revenues received from the improved property or any
144 other available revenue source authorized by law.

145 (2) APPLICATION.—The owner of record of the residential
146 property within the jurisdiction of the local government may
147 apply to the local government to finance a qualifying
148 improvement. The local government may only enter into a
149 financing agreement with the property owner.

150 (3) FINANCING AGREEMENTS.—

151 (a) Before entering into a financing agreement, the local
152 government must review the residential property owner's public
153 records derived from a commercially accepted source and the
154 property owner's statements, records, and credit reports and
155 make each of the following findings:



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- 156 1. There are sufficient resources to complete the project.
157 2. The estimated benefit to the owner from the project
158 during the financing period is equal to or greater than the cost
159 of the project, including interest and fees. The estimated
160 benefit must take into account anticipated reduced utility
161 costs, any potential insurance savings, and any increase in the
162 value of the residential property due to the improvements as
163 compared to the total financing cost.
164 3. The total amount of any non-ad valorem assessment for a
165 residential property under this section does not exceed 20
166 percent of the just value of the property as determined by the
167 property appraiser. The total amount may exceed this limitation
168 upon written consent of the holders or loan servicers of any
169 mortgage encumbering or otherwise secured by the residential
170 property.
171 4. The combined mortgage-related debt and total amount of
172 any non-ad valorem assessments under the program for the
173 residential property does not exceed 97 percent of the just
174 value of the property as determined by the property appraiser.
175 5. The financing agreement does not utilize a negative
176 amortization schedule, a balloon payment, or prepayment fees or
177 finances other than nominal administrative costs. Capitalized
178 interest included in the original balance of the assessment
179 financing agreement does not constitute negative amortization.
180 6. The residential property is located within the
181 geographic boundaries of the local government.
182 7. All property taxes and any other assessments, including
183 non-ad valorem assessments, levied on the same bill as the
184 property taxes are current and have not been delinquent for the



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

187 8. There are no outstanding fines or fees related to zoning
188 or code enforcement violations issued by the local government.

189 9. There are no involuntary liens, including, but not
190 limited to, construction liens on the residential property.

191 10. No notices of default or other evidence of property-
192 based debt delinquency have been recorded and not released
193 during the preceding 3 years or the property owner's period of
194 ownership, whichever is less.

195 11. The property owner is current on all mortgage debt on
196 the property and has had no more than one late payment exceeding
197 30 days during the 12 months immediately preceding the
198 application date.

199 12. The property owner has not been subject to a bankruptcy
200 proceeding within the last 5 years unless it was discharged or
201 dismissed more than 2 years before the date on which the
202 property owner applied for financing.

203 13. The residential property is not subject to an existing
204 home equity conversion mortgage or reverse mortgage product.

205 14. The term of the financing agreement does not exceed the
206 weighted average useful life of the qualified improvements to
207 which the greatest portion of funds disbursed under the
208 assessment contract is attributable, not to exceed 20 years. The
209 local government shall determine the useful life of a qualifying
210 improvement using established standards, including certification
211 criteria from government agencies or nationally recognized
212 standards and testing organizations.

213 15. The total estimated annual payment amount for all



214 financing agreements entered into under this section on the
215 residential property does not exceed 10 percent of the property
216 owner's annual household income. Income must be confirmed using
217 reasonable evidence and not solely by a property owner's
218 statement.

219 16. The property owner has obtained estimates from at least
220 two unaffiliated, competitive entities for the qualifying
221 improvement to be financed.

222 (b) Before entering into a financing agreement, the local
223 government must ascertain the status of any current financing
224 agreements on the residential property and if the property owner
225 has obtained or sought to obtain additional qualifying
226 improvements on the same property which have not yet been
227 recorded. The failure to disclose information related to not yet
228 recorded financing agreements does not invalidate a financing
229 agreement or any obligation thereunder, even if the total
230 financed amount of the qualifying improvement exceeds the amount
231 that would otherwise be authorized under this section. The
232 existence of a prior qualifying improvement non-ad valorem
233 assessment or a prior financing agreement is not evidence that
234 the financing agreement under consideration is affordable or
235 meets other program requirements.

236 (c) Findings satisfying paragraphs (a) and (b) must be
237 documented, including supporting evidence relied upon, and
238 provided to the property owner prior to a financing agreement
239 being approved and recorded.

240 (d) When a proposed change order on a project will
241 significantly increase the cost of the original project or
242 significantly expand the scope of the original project, before



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243 the change order may be executed, the local government must
244 notify the property owner, provide an updated written disclosure
245 form as described in subsection (4) to the property owner, and
246 obtain written approval of the change from the property owner.
247 The financing agreement and any contract for the qualifying
248 improvements must include provisions for change orders that meet
249 the requirements of this paragraph.

250 (e) A financing agreement may not be entered into if the
251 total cost of the qualifying improvement is less than \$2,500.

252 (f) A financing agreement may not be entered into for
253 qualifying improvements in buildings or facilities under new
254 construction or construction for which a certificate of
255 occupancy or similar evidence of substantial completion of new
256 construction or improvement has not been issued.

257 (4) DISCLOSURES.—

258 (a) In addition to the requirements in subsection (3), a
259 financing agreement may not be approved unless the local
260 government first provides, including via electronic means, a
261 written financing estimate and disclosure to the property owner
262 which includes all of the following:

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

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

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

269 4. The interest charged and estimated annual percentage
270 rate;

271 5. A description of the qualifying improvement;



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272 6. The total estimated annual costs that will be required
273 to be paid under the assessment contract, including program
274 fees;

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

278 8. The estimated due date of the first payment that
279 includes the non-ad valorem assessment;

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

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

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

291 12. A disclosure that the assessment will be collected
292 along with the property owner's property taxes, and will result
293 in a lien on the property from the date the financing agreement
294 is recorded;

295 13. A disclosure that potential utility or insurance
296 savings are not guaranteed, and will not reduce the assessment
297 amount; and

298 14. A disclosure that failure to pay the assessment may
299 result in penalties, fees, including attorney fees, court costs,
300 and the issuance of a tax certificate that could result in the



301 property owner losing the property and a judgment against the
302 property owner, and may affect the property owner's credit
303 rating.

304 (b) Prior to the financing agreement being approved, the
305 local government must conduct an oral, recorded telephone call
306 with the property owner during which the local government must
307 confirm each finding or disclosure required in subsection (3)
308 and this section.

309 (5) NOTICE TO LIENHOLDERS AND SERVICERS.—At least 30 days
310 before entering into a financing agreement, the property owner
311 must provide to the holders or loan servicers of any existing
312 mortgages encumbering or otherwise secured by the residential
313 property a written notice of the owner's intent to enter into a
314 financing agreement together with the maximum amount to be
315 financed, including the amount of any fees and interest, and the
316 maximum annual assessment necessary to repay the total. A
317 verified copy or other proof of such notice must be provided to
318 the local government. A provision in any agreement between a
319 mortgagor or other lienholder and a property owner, or otherwise
320 now or hereafter binding upon a property owner, which allows for
321 acceleration of payment of the mortgage, note, or lien or other
322 unilateral modification solely as a result of entering into a
323 financing agreement as provided for in this section is
324 unenforceable. This subsection does not limit the authority of
325 the holder or loan servicer to increase the required monthly
326 escrow by an amount necessary to pay the annual assessment.

327 (6) CANCELLATION.—A property owner may cancel a financing
328 agreement on a form established by the local government within 5
329 business days after signing the financing agreement without any



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330 financial penalty for doing so.

331 (7) RECORDING.—Any financing agreement approved and entered
332 into pursuant to this section, or a summary memorandum of such
333 agreement, shall be submitted for recording in the public
334 records of the county within which the residential property is
335 located by the local government within 10 business days after
336 execution of the agreement. The recorded agreement must provide
337 constructive notice that the non-ad valorem assessment to be
338 levied on the property constitutes a lien of equal dignity to
339 county taxes and assessments from the date of recordation. A
340 notice of lien for the full amount of the financing may be
341 recorded in the public records of the county where the property
342 is located. Such lien is not enforceable in a manner that
343 results in the acceleration of the remaining nondelinquent
344 unpaid balance under the assessment financing agreement.

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

352
353 QUALIFYING IMPROVEMENTS.—The property being purchased
354 is located within the jurisdiction of a local
355 government that has placed an assessment on the
356 property pursuant to s. 163.081, Florida Statutes. The
357 assessment is for a qualifying improvement to the
358 property and is not based on the value of the



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359 property. You are encouraged to contact the property
360 appraiser's office to learn more about this and other
361 assessments that may be provided by law.

362
363 (9) DISBURSEMENTS.—Before disbursing final funds to a
364 qualifying improvement contractor for a qualifying improvement
365 on residential property, the local government shall confirm that
366 the applicable work or service has been completed or, as
367 applicable, that the final permit for the qualifying improvement
368 has been closed with all permit requirements satisfied or a
369 certificate of occupancy or similar evidence of substantial
370 completion of construction or improvement has been issued.

371 (10) CONSTRUCTION.—This section is additional and
372 supplemental to county and municipal home rule authority and not
373 in derogation of such authority or a limitation upon such
374 authority.

375 Section 3. Section 163.082, Florida Statutes, is created to
376 read:

377 163.082 Financing qualifying improvements to commercial
378 property.—

379 (1) COMMERCIAL PROPERTY PROGRAM CREATION AND LOCAL
380 GOVERNMENT AUTHORITY.—

381 (a) A local government that elects to administer a program
382 for financing qualifying improvements to commercial property
383 within its jurisdiction shall adopt by ordinance or resolution a
384 program that, at a minimum, meets the requirements of this
385 section. Pursuant to this section or as otherwise provided by
386 law or pursuant to a local government's home rule power, a local
387 government may enter into an interlocal agreement providing for



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388 a partnership between one or more local governments for the
389 purpose of financing qualifying improvements to commercial
390 property located within the jurisdiction of the local
391 governments party to the agreement. A local government may
392 contract with one or more third-party administrators to
393 implement the program as provided in s. 163.084.

394 (b) A local government may levy non-ad valorem assessments
395 to facilitate repayment of financing qualifying improvements.
396 Costs incurred by the local government for such purpose may be
397 collected as a non-ad valorem assessment. A non-ad valorem
398 assessment shall be collected pursuant to s. 197.3632 and,
399 notwithstanding s. 197.3632 (8) (a), is not subject to discount
400 for early payment. However, the notice and adoption requirements
401 of s. 197.3632(4) do not apply if this section is used and
402 complied with, and the intent resolution, publication of notice,
403 and mailed notices to the property appraiser, tax collector, and
404 Department of Revenue required by s. 197.3632(3) (a) may be
405 provided on or before August 15 of each year in conjunction with
406 any non-ad valorem assessment authorized by this section, if the
407 property appraiser, tax collector, and local government agree.

408 (c) A local government may incur debt for the purpose of
409 providing financing for qualifying improvements, which debt is
410 payable from revenues received from the improved property or any
411 other available revenue source authorized by law.

412 (2) APPLICATION.—The owner of record of the commercial
413 property within the jurisdiction of the local government may
414 apply to the local government to finance a qualifying
415 improvement. The local government may only enter into a
416 financing agreement with a property owner. However, if the



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417 commercial property is leased from the government, then the
418 lessee may apply to finance a qualifying improvement if the
419 nongovernmental lessee provides the local government with
420 written consent of the government lessor. Any financing
421 agreement with the nongovernmental lessee must provide that the
422 nongovernmental lessee is the only party obligated to pay the
423 assessment.

424 (3) FINANCING AGREEMENTS.—

425 (a) Before entering into a financing agreement, the local
426 government must make each of the following findings based on a
427 review of public records derived from a commercially accepted
428 source and the statements, records, and credit reports of the
429 commercial property owner or nongovernmental lessee:

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

431 2. The estimated benefit to the owner from the project
432 during the financing period is equal to or greater than the cost
433 of the project, including interest and fees. The estimated
434 benefit must take into account anticipated reduced utility
435 costs, any potential insurance savings, and any increase in the
436 value of the commercial property due to the improvements as
437 compared to the total financing cost.

438 3. The total amount of any non-ad valorem assessment for a
439 commercial property under this section does not exceed 20
440 percent of the just value of the property as determined by the
441 property appraiser. The total amount may exceed this limitation
442 upon written consent of the holders or loan servicers of any
443 mortgage encumbering or otherwise secured by the commercial
444 property.

445 4. The combined mortgage-related debt and total amount of



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446 any non-ad valorem assessments under the program for the
447 commercial property does not exceed 97 percent of the just value
448 of the property as determined by the property appraiser.

449 5. The financing agreement does not utilize a negative
450 amortization schedule, a balloon payment, or prepayment fees or
451 finances other than nominal administrative costs. Capitalized
452 interest included in the original balance of the assessment
453 financing agreement does not constitute negative amortization.

454 6. The commercial property is located within the geographic
455 boundaries of the local government.

456 7. All property taxes and any other assessments, including
457 non-ad valorem assessments, levied on the same bill as the
458 property taxes are current.

459 8. There are no involuntary liens greater than \$5,000,
460 including, but not limited to, construction liens on the
461 commercial property.

462 9. No notices of default or other evidence of property-
463 based debt delinquency have been recorded and not been released
464 during the preceding 3 years or the property owner's period of
465 ownership, whichever is less.

466 10. The property owner is current on all mortgage debt on
467 the commercial property.

468 11. The term of the financing agreement does not exceed the
469 weighted average useful life of the qualified improvements to
470 which the greatest portion of funds disbursed under the
471 assessment contract is attributable, not to exceed 20 years. The
472 local government shall determine the useful life of a qualifying
473 improvement using established standards, including certification
474 criteria from government agencies or nationally recognized



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475 standards and testing organizations.

476 12. The property owner or nongovernmental lessee is not
477 currently the subject of a bankruptcy proceeding.

478 (b) Before entering into a financing agreement, the local
479 government shall determine the status of any current financing
480 agreements on the commercial property and whether the property
481 owner or nongovernmental lessee has obtained or sought to obtain
482 additional qualifying improvements on the same property which
483 have not yet been recorded. The failure to disclose information
484 related to not yet recorded financing agreements does not
485 invalidate a financing agreement or any obligation thereunder,
486 even if the total financed amount of the qualifying improvement
487 exceeds the amount that would otherwise be authorized under this
488 section. The existence of a prior qualifying improvement non-ad
489 valorem assessment or a prior financing agreement is not
490 evidence that the financing agreement under consideration is
491 affordable or meets other program requirements.

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

496 (d) When a proposed change order on a project will
497 significantly increase the cost of the original project or
498 significantly expand the scope of the original project, before
499 the change order may be executed, the local government must
500 notify the property owner or nongovernmental lessee, provide an
501 updated written disclosure form as described in subsection (4)
502 to the property owner or nongovernmental lessee, and obtain
503 written approval of the change from the property owner or



504 nongovernmental lessee. The financing agreement and any contract
505 for the qualifying improvements must include provisions for
506 change orders that meet the requirements of this paragraph.

507 (e) A financing agreement may not be entered into if the
508 total cost of the qualifying improvement is less than \$2,500.

509 (f) A financing agreement may not be entered into for
510 qualifying improvements in buildings or facilities under new
511 construction or construction for which a certificate of
512 occupancy or similar evidence of substantial completion of new
513 construction or improvement has not been issued.

514 (4) DISCLOSURES.—In addition to the requirements in
515 subsection (3), a financing agreement may not be approved unless
516 the local government first provides, including through
517 electronic means, a written financing estimate and disclosure to
518 the property owner or nongovernmental lessee which includes all
519 of the following:

520 (a) The estimated total amount to be financed, including
521 the total and itemized cost of the qualifying improvement,
522 program fees, and capitalized interest, if any;

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

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

526 (d) The interest charged and estimated annual percentage
527 rate;

528 (e) A description of the qualifying improvement;

529 (f) The total estimated annual costs that will be required
530 to be paid under the assessment contract, including program
531 fees;

532 (g) The total estimated average monthly equivalent amount



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533 of funds that would need to be saved in order to pay the annual
534 costs of the non-ad valorem assessment, including program fees;
535 (h) The estimated due date of the first payment that
536 includes the non-ad valorem assessment;
537 (i) A disclosure that the financing agreement may be
538 canceled within 5 business days after signing the financing
539 agreement without any financial penalty for doing so; and
540 (j) A disclosure that the property owner or nongovernmental
541 lessee may repay any remaining amount owed, at any time, without
542 penalty or imposition of additional prepayment fees or fines
543 other than nominal administrative costs.
544 (5) NOTICE TO LIENHOLDERS AND SERVICERS.—
545 (a) At least 30 days before entering into a financing
546 agreement, the property owner must provide to the holders or
547 loan servicers of any existing mortgages encumbering or
548 otherwise secured by the commercial property a written notice of
549 the owner's intent to enter into a financing agreement together
550 with the maximum amount to be financed, including the amount of
551 any fees and interest, and the maximum annual assessment
552 necessary to repay the total. A verified copy or other proof of
553 such notice must be provided to the local government. A
554 provision in any agreement between a mortgagor or other
555 lienholder and a property owner, or otherwise now or hereafter
556 binding upon a property owner, which allows for acceleration of
557 payment of the mortgage, note, or lien or other unilateral
558 modification solely as a result of entering into a financing
559 agreement as provided for in this section is not enforceable.
560 This paragraph does not limit the authority of the holder or
561 loan servicer to increase the required monthly escrow by an



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562 amount necessary to pay the annual assessment.

563 (b) Before entering into a financing agreement with a
564 property owner, the local government must have received the
565 written consent of the current holders or loan servicers of any
566 mortgage that encumbers or is otherwise secured by the
567 commercial property or that will otherwise be secured by the
568 property at the time the financing agreement is executed.

569 (6) CANCELLATION.—A property owner or nongovernmental
570 lessee may cancel a financing agreement on a form established by
571 the local government within 5 business days after signing the
572 financing agreement without any financial penalty for doing so.

573 (7) RECORDING.—Any financing agreement approved and entered
574 into pursuant to this section or a summary memorandum of such
575 agreement must be submitted for recording in the public records
576 of the county within which the commercial property is located by
577 the local government within 10 business days after execution of
578 the agreement. The recorded agreement must provide constructive
579 notice that the non-ad valorem assessment to be levied on the
580 property constitutes a lien of equal dignity to county taxes and
581 assessments from the date of recordation. A notice of lien for
582 the full amount of the financing may be recorded in the public
583 records of the county where the property is located. Such lien
584 is not enforceable in a manner that results in the acceleration
585 of the remaining nondelinquent unpaid balance under the
586 assessment financing agreement.

587 (8) SALE OF COMMERCIAL PROPERTY.—At or before the time a
588 seller executes a contract for the sale of any commercial
589 property for which a non-ad valorem assessment has been levied
590 under this section and has an unpaid balance due, the seller



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591 shall give the prospective purchaser a written disclosure
592 statement in the following form, which must be set forth in the
593 contract or in a separate writing:

594
595 QUALIFYING IMPROVEMENTS.—The property being purchased
596 is located within the jurisdiction of a local
597 government that has placed an assessment on the
598 property pursuant to s. 163.082, Florida Statutes. The
599 assessment is for a qualifying improvement to the
600 property and is not based on the value of the
601 property. You are encouraged to contact the property
602 appraiser's office to learn more about this and other
603 assessments that may be provided for by law.

604
605 (9) DISBURSEMENTS.—Before disbursing final funds to a
606 qualifying improvement contractor for a qualifying improvement
607 on commercial property, the local government shall confirm that
608 the applicable work or service has been completed or, as
609 applicable, that the final permit for the qualifying improvement
610 has been closed with all permit requirements satisfied or a
611 certificate of occupancy or similar evidence of substantial
612 completion of construction or improvement has been issued.

613 (10) CONSTRUCTION.—This section is additional and
614 supplemental to county and municipal home rule authority and not
615 in derogation of such authority or a limitation upon such
616 authority.

617 Section 4. Section 163.083, Florida Statutes, is created to
618 read:

619 163.083 Qualifying improvement contractors.—



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620 (1) A local government shall establish a process to approve
621 contractors for participation in a program adopted by the local
622 government pursuant to s. 163.081 or s. 163.082. A qualifying
623 improvement contractor may only perform such work that the
624 contractor is appropriately licensed, registered, and permitted
625 to conduct. At the time of application to participate and during
626 participation in the program, contractors must:

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

631 (b) Comply with all applicable federal, state, and local
632 laws and regulations, including obtaining and maintaining any
633 other permits, licenses, or registrations required for engaging
634 in business in the jurisdiction in which it operates and
635 maintaining all state-required bond and insurance coverage.

636 (c) File with the local government a written statement in a
637 form approved by the local government that the contractor will
638 comply with applicable laws and rules and qualifying improvement
639 program policies and procedures, including those on advertising
640 and marketing.

641 (2) A third-party administrator, either directly or through
642 an affiliate, may not be approved as a qualifying improvement
643 contractor.

644 (3) A local government shall establish and maintain:

645 (a) A process to monitor qualifying improvement contractors
646 for performance and compliance with requirements of the program
647 and must conduct regular reviews of qualifying improvement
648 contractors to confirm that each qualifying improvement



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649 contractor is in good standing.

650 (b) Procedures for notice and imposition of penalties upon
651 a finding of violation, which may consist of placement of the
652 qualifying improvement contractor in a probationary status that
653 places conditions for continued participation, payment of fines
654 or sanctions, suspension, or termination from participation in
655 the program.

656 Section 5. Section 163.084, Florida Statutes, is created to
657 read:

658 163.084 Third-party administrator for local government
659 financing qualifying improvements programs.-

660 (1) A local government may contract with one or more for-
661 profit or nonprofit entities to administer a program adopted by
662 the local government pursuant to s. 163.081 or s. 163.082 on
663 behalf of and at the discretion of the local government. The
664 third-party administrator must be independent of the local
665 government and have no conflicts of interest between managers or
666 owners of the third-party administrator and local government
667 officials or employees with oversight over the contract. The
668 contract must provide for the entity to administer the program
669 according to the requirements of s. 163.081 or s. 163.082 and
670 the ordinance or resolution adopted by the local government.
671 However, only the local government may levy or administer non-ad
672 valorem assessments.

673 (2) The local government may require the third-party
674 administrator to provide a statement in the financing agreement
675 that it is subject to approval and submit a financing agreement
676 to the local government for approval prior to recording, in
677 which case recording is required within 5 business days after



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678 local government approval.

679 (3) A local government may not contract with a third-party
680 administrator that has been prohibited from serving as a third-
681 party administrator for another local government or has been
682 found by a court of competent jurisdiction to have violated
683 state or federal laws related to the administration of ss.
684 163.081-163.086 or a similar program in another jurisdiction.

685 (4) The local government must include in any contract with
686 the third-party administrator the right to perform annual
687 reviews of the administrator to confirm compliance with ss.
688 163.081-163.086, the ordinance or resolution adopted by the
689 local government, and the contract with the local government. If
690 the local government finds that the third-party administrator
691 has committed a violation of ss. 163.081-163.086, the adopted
692 ordinance or resolution, or the contract with the local
693 government, the local government shall provide the third-party
694 administrator with notice of the violation and may, as set forth
695 by the local government in its adopted ordinance or resolution
696 or the contract with the third-party administrator:

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

699 (b) Impose any fines or sanctions.

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

702 (d) Terminate the agreement with the third-party
703 administrator.

704 (5) A local government may terminate the agreement with a
705 third-party administrator, as set forth by the local government
706 in its adopted ordinance or resolution or the contract with the



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707 third-party administrator, if the local government makes finding
708 that:

709 (a) The third-party administrator has violated the contract
710 with the local government. The contract may set forth
711 substantial violations that may result in contract termination
712 and other violations that may provide for a period of time for
713 correction before the contract may be terminated.

714 (b) The third-party administrator, or an officer, a
715 director, a manager or a managing member, or a control person of
716 the third-party administrator, has been found by a court of
717 competent jurisdiction to have violated state or federal laws
718 related to the administration a program authorized of the
719 provisions of ss. 163.081-163.086 or a similar program in
720 another jurisdiction within the last 5 years.

721 (c) Any officer, director, manager or managing member, or
722 control person of the third-party administrator has been
723 convicted of, or has entered a plea of guilty or nolo contendere
724 to, regardless of whether adjudication has been withheld, a
725 crime related to administration of a program authorized of the
726 provisions of ss. 163.081-163.086 or a similar program in
727 another jurisdiction within the last 10 years.

728 (d) An annual performance review reveals a substantial
729 violation or a pattern of violations by the third-party
730 administrator.

731 (6) Any recorded financing agreements at the time of
732 termination or suspension by the local government shall
733 continue.

734 Section 4. Section 163.085, Florida Statutes, is created to
735 read:



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736 163.085 Advertisement and solicitation for financing
737 qualifying improvements programs under s. 163.081 or s.
738 163.082.—
739 (1) When communicating with a property owner or a
740 nongovernmental lessee, a local government or qualifying
741 improvement contractor may not:
742 (a) Suggest or imply:
743 1. That a non-ad valorem assessment authorized under s.
744 163.081 or s. 163.082 is a government assistance program;
745 2. That qualifying improvements are free or provided at no
746 cost, or that the financing related to a non-ad valorem
747 assessment authorized under s. 163.081 or s. 163.082 is free or
748 provided at no cost; or
749 3. That the financing of a qualifying improvement using the
750 program authorized pursuant to s. 163.081 or s. 163.082 does not
751 require repayment of the financial obligation.
752 (b) Make any representation as to the tax deductibility of
753 a non-ad valorem assessment. A local government or qualifying
754 improvement contractor may encourage a property owner or
755 nongovernmental lessee to seek the advice of a tax professional
756 regarding tax matters related to assessments.
757 (2) A local government may not provide to a qualifying
758 improvement contractor any information that discloses the amount
759 of financing for which a property owner or nongovernmental
760 lessee is eligible for qualifying improvements or the amount of
761 equity in a residential property or commercial property.
762 (3) A qualifying improvement contractor may not advertise
763 the availability of financing agreements for, or solicit program
764 participation on behalf of, the local government unless the



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765 contractor is approved by the local government to participate in
766 the program and is in good standing with the local government.

767 (4) A local government may not provide any payment, fee, or
768 kickback to a qualifying improvement contractor for referring
769 property owners or nongovernmental lessees to the local
770 government. However, a local government may provide information
771 to a qualifying improvement contractor to facilitate the
772 installation of a qualifying improvement for a property owner or
773 nongovernmental lessee.

774 (5) A local government may reimburse a qualifying
775 improvement contractor or third-party administrator for its
776 expenses in advertising and marketing campaigns and materials.

777 (6) A qualifying improvement contractor may not provide a
778 different price for a qualifying improvement financed under s.
779 163.081 or s. 163.082 than the price that the qualifying
780 improvement contractor would otherwise provide if the qualifying
781 improvement was not being financed through a financing
782 agreement. Any contract between a property owner or
783 nongovernmental lessee and a qualifying improvement contractor
784 must clearly state all pricing and cost provisions, including
785 any process for change orders which meet the requirements of s.
786 163.081(3)(d) or s. 163.082(3)(d).

787 (7) A local government may not provide any direct cash
788 payment or other thing of material value to a property owner or
789 nongovernmental lessee which is explicitly conditioned upon the
790 property owner or nongovernmental lessee entering into a
791 financing agreement. However, a local government may offer
792 programs or promotions that provide reduced fees or interest
793 rates if the reduced fees or interest rates are reflected in the



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794 financing agreements and are not provided to the property owner
795 or nongovernmental lessee as cash consideration.

796 Section 5. Section 163.086, Florida Statutes, is created to
797 read:

798 163.086 Unenforceable financing agreements for qualifying
799 improvements programs under s. 163.081 or s. 163.082;
800 attachment; fraud.-

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

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

809 (a) The property owner or nongovernmental lessee applied
810 for, accepted, and canceled a financing agreement within the 5-
811 business-day period pursuant to s. 163.081(6) or s. 163.082(6).
812 A qualifying improvement contractor may not begin work under a
813 canceled contract.

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

818 (c) The local government, third-party administrator, or
819 qualifying improvement contractor approved or obtained funding
820 through fraudulent means and in violation of s. 163.081, s.
821 163.082, s. 163.083, s. 163.084, s. 163.085, or this section for
822 qualifying improvements on the residential property or



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823 commercial property.

824 (3) If a qualifying improvement contractor has initiated
825 work on residential property or commercial property under a
826 contract deemed unenforceable under this section, the qualifying
827 improvement contractor:

828 (a) May not receive compensation for that work under the
829 financing agreement.

830 (b) Must restore the residential property or commercial
831 property to its original condition at no cost to the property
832 owner or nongovernmental lessee.

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

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

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

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

851 (5) If a qualifying improvement contractor fails to comply



852 with this section, the property owner or nongovernmental lessee
853 may retain any chattel or fixtures provided pursuant to a
854 contract deemed unenforceable under this section.

855 (6) A contract that is otherwise unenforceable under this
856 section remains enforceable if the property owner or
857 nongovernmental lessee waives his or her right to cancel the
858 contract or cancels the financing agreement pursuant to s.
859 163.081(6) or s. 163.082(6) but allows the qualifying
860 improvement contractor to proceed with the installation of the
861 qualifying improvement.

862 Section 6. Section 163.087, Florida Statutes, is created to
863 read:

864 163.087 Reporting for financing qualifying improvements
865 programs under s. 163.081 or s. 163.082.—

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

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

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

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



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881 (d) A summary of all reported complaints received by the
882 local government related to the program, including the names of
883 the third-party administrator, if applicable, and qualifying
884 improvement contractors and the resolution of each complaint.

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

894 Section 7. 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.; requiring a local government that
906 administers a program for financing qualifying
907 improvements for residential and commercial property
908 to meet certain requirements; authorizing a local
909 government to enter into an interlocal agreement and



910 to contract with third-party administrators to
911 implement the program; authorizing a local government
912 to levy non-ad valorem assessments for a certain
913 purpose; authorizing a local government to incur debt
914 for the purpose of providing financing for qualifying
915 improvements; authorizing the record owner of the
916 residential property to apply to the local government
917 to finance a qualifying improvement; requiring the
918 local government to make certain findings before
919 entering into a financing agreement; requiring the
920 local government to ascertain certain financial
921 information from the property owner before entering
922 into a financing agreement; requiring certain
923 documentation; requiring the local government to
924 perform certain tasks if a proposed change order will
925 significantly impact an improvement project in certain
926 ways; requiring certain financing agreement and
927 contract provisions for change orders; prohibiting a
928 financing agreement from being entered into under
929 certain circumstances; requiring the local government
930 to provide certain information before a financing
931 agreement may be approved; requiring an oral, recorded
932 telephone call with the residential property owner to
933 confirm findings and disclosures before the approval
934 of a financing agreement; requiring the property owner
935 to provide written notice to the holder or loan
936 servicer of his or her intent to enter into a
937 financing agreement as well as other financial
938 information; requiring that proof of such notice be



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939 provided to the local government; providing that a
940 certain acceleration provision in an agreement between
941 the property owner and mortgagor or lienholder is
942 unenforceable; providing that the holder or loan
943 servicer retain certain authority; requiring the local
944 government to receive the written consent of certain
945 lienholders on commercial property; authorizing a
946 property owner, under certain circumstances and within
947 a certain timeframe, to cancel a financing agreement
948 without financial penalty; requiring recording of the
949 financing agreement in a specified timeframe; creating
950 the seller's disclosure statements for residential
951 properties offered for sale which have assessments on
952 them for qualifying improvements; requiring the local
953 government to confirm that certain conditions are met
954 before disbursing final funds to a qualifying
955 improvement contractor; creating s. 163.083, F.S. ;
956 requiring a local government to establish a process
957 for the approval of a qualifying improvement
958 contractor to install qualifying improvements unless
959 certain conditions are met; prohibiting a third-party
960 administrator from approval as a qualifying
961 improvement contractor; requiring the local government
962 to monitor qualifying improvement contractors and
963 enforce certain penalties for a finding of violation;
964 creating s. 163.084, F.S. ; authorizing the local
965 government to contract with for-profit and non-profit
966 entities to administer the program; prohibiting for-
967 profit and non-profit entities from levying or



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968 administering non-ad valorem assessments; authorizing
969 the local government to require the third-party
970 administrator to provide a certain statement in the
971 financing agreement; requiring recording of the
972 financing agreement within a specified timeframe;
973 prohibiting a local government from contracting with a
974 third-party administrator under certain circumstances;
975 requiring the local government to include in its
976 contract with the third-party administrator the right
977 to perform annual reviews of the administrator;
978 authorizing the local government to take certain
979 actions if the local government finds that the third-
980 party administrator has committed a violation of its
981 contract; authorizing a local government to terminate
982 an agreement with a third-party administrator under
983 certain circumstances; providing for the continuation
984 of certain financing agreements after the termination
985 or suspension of the third-party administrator
986 administering the program; creating s. 163.085, F.S.;
987 requiring that, in communicating with the property
988 owner or nongovernmental lessee, the local government
989 or qualifying improvement contractor comply with
990 certain requirements; prohibiting the local government
991 from disclosing certain financing information to a
992 qualifying improvement contractor; prohibiting a
993 qualifying improvement contractor from making certain
994 advertisements or solicitations; providing exceptions;
995 prohibiting a local government from providing certain
996 payments, fees, or kickbacks to a qualifying



997 improvement contractor; authorizing a local government
998 to reimburse a qualifying improvement contractor for
999 certain expenses; prohibiting a local government from
1000 providing certain financial information to a
1001 qualifying improvement contractor; prohibiting a
1002 qualifying improvement contractor from providing
1003 certain prices for a qualifying improvement; requiring
1004 a contract between a property owner or nongovernmental
1005 lessee and a qualifying improvement contractor to
1006 include certain provisions; prohibiting a local
1007 government from providing any cash payment or anything
1008 of material value to a property owner or
1009 nongovernmental lessee which is explicitly conditioned
1010 on a financing agreement; creating s. 163.086, F.S.;
1011 prohibiting a recorded financing agreement from being
1012 removed from attachment to a property under certain
1013 circumstances; providing for the unenforceability of a
1014 financing agreement under certain circumstances;
1015 providing provisions for when a qualifying improvement
1016 contractor initiates work on an unenforceable
1017 contract; providing that a qualifying improvement
1018 contractor may retrieve chattel or fixtures delivered
1019 pursuant to an unenforceable contract if certain
1020 conditions are met; providing that an unenforceable
1021 contract will remain unenforceable under certain
1022 circumstances; creating s. 163.087, F.S.; requiring a
1023 local government that administers a program for
1024 financing a qualifying improvement to post on its
1025 website an annual report; specifying requirements for



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the report; requiring the auditor general to conduct
an operational audit of each local government program;
providing an effective date.