

By Senator Martin

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1 A bill to be entitled
2 An act relating to improvements to real property;
3 amending s. 163.08, F.S.; revising legislative
4 findings and intent; defining terms and revising
5 definitions; authorizing a residential or commercial
6 property owner to apply to a qualifying improvement
7 program for funding to finance an improvement and to
8 enter into a financing agreement with the local
9 government, subject to a local government ordinance or
10 resolution regarding the program; requiring the local
11 government to perform annual reviews of the program
12 administrator to confirm compliance with the
13 qualifying improvement program; providing certain
14 consequences for a substantial violation by a program
15 administrator; authorizing a local government to incur
16 debt for the purpose of providing financing for
17 qualifying improvements; authorizing a local
18 government to enter into a financing agreement with
19 the property owner to finance or refinance a
20 qualifying improvement; providing that the financing
21 agreement for government commercial property must meet
22 specified conditions; revising and specifying public
23 recording requirements for assessment financing
24 agreements and notices of lien; providing that a
25 financing agreement for a residential property may not
26 be approved unless the local government, or the
27 program administrator acting on its behalf, determines
28 that certain conditions are met; providing that a
29 financing agreement for a commercial property may not

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30 be approved unless the local government, or the
31 program administrator acting on its behalf, reasonably
32 determines that specified conditions have been met;
33 requiring the local government or program
34 administrator to use specified information and records
35 to determine whether the property owner has the
36 ability to pay the annual non-ad valorem assessment;
37 authorizing the local government or program
38 administrator to consider certain evidence and the
39 statements by the property owner regarding his or her
40 income in confirming the property owner's ability to
41 pay; authorizing a reduction in the annual assessment
42 payment under certain circumstances; providing that a
43 property owner's failure to disclose certain
44 information does not invalidate a financing agreement;
45 requiring the use of generally accepted underwriting
46 criteria for businesses in determining a property
47 owner's ability pay, under certain circumstances;
48 specifying certain requirements for a local government
49 or program administrator that offers a qualifying
50 improvement program for residential properties;
51 requiring the local government or program
52 administrator to perform certain tasks if a change
53 order or proposed change order significantly impacts
54 an improvement project in certain ways; requiring the
55 local government or program administrator to include
56 certain statements in a written disclosure form to the
57 property owner, which the property owner must agree to
58 in writing; requiring the local government or program

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59 administrator to provide a printed electronic
60 cancellation form to the residential property owner by
61 a certain date; requiring an oral, recorded telephone
62 call with the residential property owner to review the
63 details of the financing agreement; authorizing a
64 residential real property owner, under certain
65 circumstances and within a certain timeframe, to
66 cancel a financing agreement without financial
67 penalty; providing that certain contracts are
68 unenforceable and prohibiting a qualifying improvement
69 contractor from initiating work under such contracts;
70 specifying certain requirements if a qualifying
71 improvement contractor initiates work on a residential
72 property under an unenforceable contract; providing a
73 procedure that must be followed if a qualifying
74 improvement contractor has delivered chattel or
75 fixtures to a residential property pursuant to an
76 unenforceable contract; authorizing a residential
77 property owner to retain such chattel or fixtures in a
78 certain circumstance; providing that an otherwise
79 unenforceable contract is enforceable under certain
80 circumstances; prohibiting wind-resistance
81 improvements in certain buildings or facilities in a
82 financing agreement between a local government and a
83 residential property owner; authorizing the execution
84 of a financing agreement for qualifying improvements
85 before the issuance of a certain certificate or
86 certain evidence; authorizing progress payments before
87 completion of a qualifying improvement on a commercial

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88 property if the property owner provides certain
89 information; providing that a financing agreement with
90 a commercial property owner may cover resiliency
91 improvements in certain buildings or facilities
92 requiring certain work to be performed by properly
93 certified or registered contractors; revising the
94 limit for a residential property's combined mortgage-
95 related debt and total non-ad valorem assessments
96 funded; providing construction; requiring the local
97 government or program administrator to have received
98 the written consent of the holders or loan servicers
99 of certain mortgages at a specified time; requiring
100 the property owner to provide written notice within a
101 specified timeframe to the holders or servicers of any
102 existing mortgages; revising the seller's disclosure
103 statements for residential and commercial properties
104 offered for sale which have assessments on them for
105 qualifying improvements; prohibiting certain items in
106 a financing agreement for residential property;
107 prohibiting a local government or program
108 administrator from enrolling a qualifying improvement
109 contractor that contracts with residential property
110 owners to install qualifying improvements unless
111 certain conditions are met; requiring a local
112 government or program administrator to maintain a
113 process to enroll new qualifying improvement
114 contractors which includes certain factors; requiring
115 the local government or program administrator to
116 monitor qualifying improvement contractors and enforce

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117 certain sanctions on unscrupulous behavior;
118 prohibiting a program administrator from being
119 enrolled as a qualifying improvement contractor;
120 requiring the local government or program
121 administrator to confirm that certain work or service
122 has been completed before disbursing final funds to
123 the contractor; prohibiting a local government or
124 program administrator from disclosing maximum
125 financing amounts to certain persons; requiring that,
126 in communicating with residential property owners, the
127 local government, program administrator, or qualifying
128 improvement contractor comply with certain marketing
129 and communications guidelines; prohibiting such
130 entities from certain communication and making certain
131 statements; prohibiting a qualifying improvement
132 contractor from advertising the availability of
133 assessment financing agreements unless certain
134 exceptions apply; prohibiting a local government or
135 program administrator from providing certain payments,
136 fees, or kickbacks; authorizing a local government or
137 program administrator to provide information or
138 services to a qualifying improvement contractor to
139 facilitate certain installations; authorizing a local
140 government or program administrator to reimburse a
141 qualifying improvement contractor or third party for
142 certain expenses; prohibiting a local government or
143 program administrator from providing certain financial
144 information to a qualifying improvement contractor;
145 prohibiting a qualifying improvement contractor from

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146 providing certain prices for a qualifying improvement;
147 prohibiting a local government or program
148 administrator from providing any cash payment or
149 anything of material value to a residential property
150 owner which is explicitly conditioned on a financing
151 agreement; authorizing a local government or program
152 administrator to offer certain programs or promotions;
153 requiring a local government or program administrator
154 to conduct regular reviews of qualifying improvement
155 contractors to confirm their compliance with
156 requirements; requiring each local government and
157 program administrator to develop and implement certain
158 policies and procedures; requiring a local government
159 that has authorized a residential program to post on
160 its website an annual report; specifying requirements
161 for the report; authorizing a local government or
162 program administrator that offers a qualifying
163 improvement program for residential property to
164 finance improvements on commercial property if certain
165 requirements are met; deleting construction; providing
166 an effective date.

167

168 Be It Enacted by the Legislature of the State of Florida:

169

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

172 163.08 Supplemental authority for improvements to real
173 property.—

174 (1) (a) In chapter 2008-227, Laws of Florida, the

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175 Legislature amended the energy goal of the state comprehensive
176 plan to provide, in part, that the state shall reduce its energy
177 requirements through enhanced conservation and efficiency
178 measures in all end-use sectors and reduce atmospheric carbon
179 dioxide by promoting an increased use of renewable energy
180 resources. That act also declared it the public policy of the
181 state to play a leading role in developing and instituting
182 energy management programs that promote energy conservation,
183 energy security, and the reduction of greenhouse gases. In
184 addition to establishing policies to promote the use of
185 renewable energy, the Legislature provided for a schedule of
186 increases in energy performance of buildings subject to the
187 Florida Energy Efficiency Code for Building Construction. In
188 chapter 2008-191, Laws of Florida, the Legislature adopted new
189 energy conservation and greenhouse gas reduction comprehensive
190 planning requirements for local governments. In the 2008 general
191 election, the voters of this state approved a constitutional
192 amendment authorizing the Legislature, by general law, to
193 prohibit consideration of any change or improvement made for the
194 purpose of improving a property's resistance to wind damage or
195 the installation of a renewable energy source device in the
196 determination of the assessed value of residential real
197 property.

198 (b) The Legislature finds that all energy-consuming-
199 improved properties that are not using energy conservation
200 strategies contribute to the burden affecting all improved
201 property resulting from fossil fuel energy production. Improved
202 property that has been retrofitted with energy-related
203 qualifying improvements receives the special benefit of

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204 alleviating the property's burden from energy consumption. All
205 improved properties not protected from wind damage by wind
206 resistance qualifying improvements contribute to the burden
207 affecting all improved property resulting from potential wind
208 damage. An improved commercial property constructed or that has
209 ~~been~~ retrofitted with qualifying improvements and an improved
210 residential property retrofitted with wind resistance-qualifying
211 improvements receive ~~receives~~ the special benefit of reducing
212 the properties' ~~property's~~ burden from potential wind damage.
213 Further, the installation and operation of qualifying
214 improvements not only benefit the affected properties for which
215 the improvements are made, but also assist in fulfilling the
216 goals of the state's energy and hurricane mitigation policies.
217 Residential properties that do not use advanced technologies for
218 wastewater removal contribute to the water quality problems
219 affecting this state, particularly in coastal areas. Improved
220 residential property that has been retrofitted with an advanced
221 onsite sewage treatment and disposal system or that has been
222 converted to central sewerage significantly improves the quality
223 of water that may enter streams, lakes, rivers, aquifers, or
224 coastal areas.

225 (c) In order to make qualifying improvements more
226 affordable and assist property owners who wish to undertake such
227 improvements, the Legislature finds that there is a compelling
228 state interest in enabling property owners to voluntarily
229 finance such improvements with local government assistance.

230 (d) ~~(e)~~ The Legislature determines that the actions
231 authorized under this section, including, but not limited to,
232 the financing of qualifying improvements through the execution

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233 of financing agreements and the related imposition of voluntary
234 assessments are reasonable and necessary to serve and achieve a
235 compelling state interest and are necessary for the prosperity
236 and welfare of the state and its property owners and
237 inhabitants.

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

239 (a) "Commercial property" means real property, other than
240 residential property, which will be or has been improved by a
241 qualifying improvement. The term includes, but is not limited
242 to, the following:

243 1. A multifamily residential property composed of five or
244 more dwelling units;

245 2. A commercial real property;

246 3. An industrial building or property;

247 4. An agricultural property;

248 5. A nonprofit-owned property;

249 6. A long-term care facility, including a nursing home or
250 an assisted living facility; or

251 7. A government commercial property.

252 (b) "Facility" means all or any portion of a building,
253 structure, or site improvement, element, or pedestrian or
254 vehicular route located on a site as defined in s. 202 of the
255 2020 Florida Building Code.

256 (c) "Government commercial property" means real property
257 owned by a local government and leased to a nongovernmental
258 lessee when the usage by the lessee meets the definition of
259 commercial property.

260 (d)~~(a)~~ "Local government" means a county, a municipality, a
261 dependent special district as defined in s. 189.012, or a

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262 separate legal entity created pursuant to s. 163.01(7).

263 (e) "Nongovernmental lessee" means a person or an entity
264 other than a local government which leases government commercial
265 property.

266 (f) "Program administrator" means an entity, including, but
267 not limited to, a for-profit or not-for-profit entity, with
268 which a local government has contracted to administer a
269 qualifying improvement program.

270 (g) "Qualifying improvement contractor" means an
271 independent contractor who has been enrolled under a qualifying
272 improvement program to install or otherwise perform work on
273 qualifying improvements on residential property which are
274 financed through the program.

275 (h) "Qualifying improvement program" means a program
276 established by a local government, alone or in partnership with
277 other local governments or a program administrator, to finance
278 qualifying improvements on residential or commercial real
279 property.

280 (i) ~~(b)~~ "Qualifying improvement": ~~improvement~~

281 1. For residential property, includes any:

282 a. ~~1.~~ Energy conservation and efficiency improvement, which
283 is a measure to reduce consumption through conservation or a
284 more efficient use of electricity, natural gas, propane, or
285 other forms of energy on the property, including, but not
286 limited to, air sealing; installation of insulation;
287 installation of energy-efficient heating, cooling, or
288 ventilation systems; building modifications to increase the use
289 of daylight; replacement of windows; installation of energy
290 controls or energy recovery systems; installation of electric

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291 vehicle charging equipment; and installation of efficient
292 lighting equipment.

293 b.2. Renewable energy improvement, which is the
294 installation of any system in which the electrical, mechanical,
295 or thermal energy is produced from a method that uses one or
296 more of the following fuels or energy sources: hydrogen, solar
297 energy, geothermal energy, bioenergy, and wind energy.

298 c.3. Wind resistance improvement, which includes, but is
299 not limited to:

300 (I)a. Improving the strength of the roof deck attachment;

301 (II)b. Creating a secondary water barrier to prevent water
302 intrusion;

303 (III)e. Installing wind-resistant shingles;

304 (IV)d. Installing gable-end bracing;

305 (V)e. Reinforcing roof-to-wall connections;

306 (VI)f. Installing storm shutters; or

307 (VII)g. Installing opening protections.

308 d. Wastewater improvement, which includes, but is not
309 limited to:

310 (I) Removing, replacing, or improving an onsite sewage
311 treatment and disposal system with a secondary or advanced
312 onsite sewage treatment and disposal system or technology;

313 (II) Replacing or converting an onsite sewage treatment and
314 disposal system to a central sewerage system or distributed
315 sewerage system, including, but not limited to, installing a
316 sewer lateral and any components necessary to connect the onsite
317 sewage treatment and disposal system or the building's plumbing
318 to a central sewerage system or distributed sewerage system; or

319 (III) Performing any removal, repairs, or modifications to

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320 an onsite sewage treatment and disposal system, including any
321 repair, modification, or replacement of a system required under
322 a local ordinance enacted pursuant to ss. 381.0065 and
323 381.00651.

324 e. Flood and water damage mitigation and resiliency
325 improvement, which includes, but is not limited to, projects and
326 installation for:

327 (I) Raising a structure above the base flood elevation to
328 reduce flood damage;

329 (II) Constructing a flood diversion apparatus or seawall
330 improvement that includes seawall repairs and seawall
331 replacements;

332 (III) Purchasing flood-damage-resistant building materials;

333 (IV) Making electrical, mechanical, plumbing, or other
334 system improvements that reduce flood damage; or

335 (V) Making other improvements that qualify for reductions
336 in flood insurance premiums.

337 2. For commercial property, includes any:

338 a. Energy conservation and efficiency improvement, which is
339 a measure designed to reduce consumption through conservation or
340 a more efficient use of electricity, natural gas, propane, or
341 other forms of energy on the property, including, but not
342 limited to, air sealing; installation of insulation;
343 installation of energy-efficient heating, cooling, or
344 ventilation systems; building modifications to increase the use
345 of daylight; replacement of windows; installation of energy
346 controls or energy recovery systems; installation of electric
347 vehicle charging equipment; installation of efficient lighting
348 equipment; or any other improvements necessary to achieve a

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349 sustainable building rating or compliance with a national model
350 green building code.

351 b. Renewable energy improvement, which is the installation
352 of any system in which the electrical, mechanical, or thermal
353 energy is produced from a method that uses one or more of the
354 following fuels or energy sources: hydrogen, solar energy,
355 geothermal energy, bioenergy, or wind energy.

356 c. Resiliency improvement, which includes, but is not
357 limited to:

358 (I) Improving the strength of the roof deck attachment;

359 (II) Creating a secondary water barrier to prevent water
360 intrusion;

361 (III) Installing wind-resistant shingles;

362 (IV) Installing gable-end bracing;

363 (V) Reinforcing roof-to-wall connections;

364 (VI) Installing storm shutters;

365 (VII) Installing opening protections;

366 (VIII) Creating or improving stormwater and flood

367 resiliency, including shoreline improvements; or

368 (IX) Making any other improvements necessary to achieve a
369 sustainable building rating or compliance with a national model

370 resiliency standard and any improvements to a structure to

371 achieve wind or flood insurance rate reductions, including

372 building elevation.

373 (j) "Residential property" means a residential real
374 property composed of four or fewer dwelling units which has been
375 or will be improved by a qualifying improvement.

376 (3) A local government may levy non-ad valorem assessments
377 to fund qualifying improvements.

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378 (4) Subject to a local government ordinance or resolution
379 authorizing a local government to offer a qualifying improvement
380 program for residential property or a qualifying improvement
381 program for commercial property in that county or municipality,
382 a residential or commercial property owner located in that
383 county or municipality may apply to the appropriate qualifying
384 improvement program ~~local government~~ for funding to finance a
385 qualifying improvement and enter into a financing agreement with
386 the local government. Costs incurred by the local government for
387 such purpose may be collected as a non-ad valorem assessment. A
388 non-ad valorem assessment must ~~shall~~ be collected pursuant to s.
389 197.3632 and, notwithstanding s. 197.3632(8)(a), is ~~shall~~ not be
390 subject to discount for early payment. However, the notice and
391 adoption requirements of s. 197.3632(4) do not apply if this
392 section is used and complied with, and the intent resolution,
393 publication of notice, and mailed notices to the property
394 appraiser, tax collector, and Department of Revenue required by
395 s. 197.3632(3)(a) may be provided on or before August 15 in
396 conjunction with any non-ad valorem assessment authorized by
397 this section, if the property appraiser, tax collector, and
398 local government agree.

399 (5) Pursuant to this section or as otherwise provided by
400 law or pursuant to a local government's home rule power, a local
401 government may enter into a partnership with one or more local
402 governments for the purpose of providing and financing
403 qualifying improvements.

404 (6) A qualifying improvement program may be administered by
405 a for-profit entity or a not-for-profit organization on behalf
406 of and at the discretion of the local government. The local

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407 government must include in any contract with the program
408 administrator the right to perform annual reviews of the program
409 administrator to confirm compliance with qualifying improvement
410 programs for residential properties. In the event the local
411 government determines that there is a substantial violation by a
412 program administrator, the local government must provide the
413 program administrator with notice of the violation and place the
414 program administrator in a probationary program.

415 (7) A local government may incur debt for the purpose of
416 providing financing for qualifying ~~such~~ improvements, which debt
417 is payable from revenues received from the improved property, or
418 any other available revenue source authorized by law.

419 (8) (a) A local government may enter into a financing
420 agreement to finance or refinance a qualifying improvement only
421 with the record owner of the affected property. For government
422 commercial property, the financing agreement must be executed by
423 the nongovernmental lessee with the written consent of the
424 governmental lessor. Evidence of such consent must be provided
425 to the local government. The financing agreement with the
426 nongovernmental lessee must provide that the nongovernmental
427 lessee is the only party obligated to pay the assessment.

428 (b) Any financing agreement entered into pursuant to this
429 section or a summary memorandum of such agreement must ~~shall~~ be
430 submitted for recording ~~recorded~~ in the public records of the
431 county within which the property is located by the sponsoring
432 unit of local government within 10 ~~5~~ days after execution of the
433 agreement. The recorded agreement provides ~~shall provide~~
434 constructive notice that the non-ad valorem assessment to be
435 levied on the property constitutes a lien of equal dignity to

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436 county taxes and assessments from the date of recordation. A
437 notice of lien for the full amount of the financing may be
438 recorded in the public records of the county where the property
439 is located. Such lien is not enforceable in a manner that
440 results in the acceleration of the remaining nondelinquent
441 unpaid balance under the assessment financing agreement.

442 (9) (a) Before entering into A financing agreement for a
443 residential property may not be approved unless, the local
444 government, or a program administrator acting on its behalf,
445 determines, based on a review of public records derived from a
446 commercially accepted source, and the statements and records of
447 the property owner or the property owner's credit reports, shall
448 reasonably determine that all of the following conditions have
449 been met:

450 1. All property taxes and any other assessments levied on
451 the same bill as property taxes are current ~~paid~~ and have not
452 been delinquent for the preceding 3 years or the property
453 owner's period of ownership, whichever is less. ~~.~~

454 2. ~~That~~ There are no involuntary liens, including, but not
455 limited to, construction liens on the property. ~~.~~

456 3. There are ~~that~~ no notices of default or other evidence
457 of property-based debt delinquency which have been recorded
458 during the preceding 3 years or the property owner's period of
459 ownership, whichever is less. ~~.~~ ~~and that~~

460 4. The property owner is current on all mortgage debt on
461 the property.

462 5. The property owner agrees in writing to receive the
463 disclosure statements required by paragraph (11) (c).

464 6. The property is within the geographic boundaries of the

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465 applicable qualifying improvement program.

466 7. The term of the financing agreement does not exceed:

467 a. For a single qualifying improvement, the estimated
468 useful life of the qualifying improvement.

469 b. For multiple qualifying improvements, the lesser of:

470 (I) Thirty years; or

471 (II) The greater of either the weighted average estimated
472 useful life of all qualifying improvements being financed or the
473 estimated useful life of the qualifying improvements to which
474 the greatest portion of funds is disbursed. The local government
475 or program administrator, as applicable, shall determine the
476 useful life of a qualifying improvement using established third-
477 party standards, including certification criteria from
478 government agencies or nationally recognized standards and
479 testing organizations.

480 8. The property owner is not currently the subject of
481 bankruptcy proceedings.

482 9. The property is not subject to an existing home equity
483 conversion mortgage or a reverse mortgage product.

484 10. The property is not a residential property gifted to a
485 homeowner for free by a nonprofit entity as may be disclosed by
486 the property owner. The failure of a property owner to disclose
487 the gift does not invalidate a financing agreement or any
488 obligation thereunder.

489 11. For qualifying improvements for solar energy, the
490 property owner has obtained estimates from at least two
491 unaffiliated, competitive entities, one of which is a qualifying
492 improvement contractor, for the qualifying improvement to be
493 financed. This requirement may be waived by the property owner

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494 through a separately signed written disclosure.

495 12. The local government or program administrator, as
496 applicable, has asked if the property owner has obtained or
497 sought to obtain additional qualifying improvements on the same
498 property which have not yet been recorded. The failure of a
499 property owner to disclose such information does not invalidate
500 a financing agreement or any obligation thereunder, even if the
501 total financed amount of the qualifying improvement exceeds the
502 amount that would otherwise be authorized under paragraph
503 (15) (a). The existence of a prior qualifying improvement non-ad
504 valorem assessment or a prior financing agreement is not
505 evidence that the financing agreement under consideration is
506 affordable or meets other program requirements.

507 (b) A financing agreement for a commercial property may not
508 be approved unless the local government, or the program
509 administrator acting on its behalf, determines, based on a
510 review of public records derived from a commercially accepted
511 source and the statements and records of the property owner,
512 that all of the following conditions have been met:

513 1. All property taxes and any other assessments levied on
514 the same bill as the property taxes are current.

515 2. There are no involuntary liens greater than \$10,000,
516 including, but not limited to, construction liens, on the
517 property.

518 3. No notices of default or other evidence of property-
519 based debt delinquency have been recorded and not released
520 during the preceding 3 years or the property owner's period of
521 ownership, whichever is less.

522 4. The property owner is current on all mortgage debt on

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523 the property.

524 (10) In addition to reviewing public records derived from a
525 commercially accepted source, the statements and records of the
526 property owner, or the property owner's credit reports, and
527 before a local government or program administrator, as
528 applicable, approves the financing of a qualifying improvement
529 on residential property, the local government or program
530 administrator must use information contained in the property
531 owner's application, commercially accepted third-party records,
532 or an automated verification system to determine whether the
533 property owner has the ability to pay the annual non-ad valorem
534 assessment for the qualifying improvement. The local government
535 or program administrator, as applicable, must review the
536 property owner's household income. To do so, the program
537 administrator shall, at a minimum, use the underwriting
538 requirements specified in subsection (9), confirm that the
539 property owner is not in bankruptcy, and determine that the
540 total estimated annual payment amount for all financing
541 agreements funded under this section on the property does not
542 exceed 10 percent of the property owner's annual household
543 income. In reviewing the property owner's ability to pay, the
544 local government or program administrator, as applicable, when
545 determining the household income:

546 (a) May include the income of any persons who reside on the
547 property but who are not property owners;

548 (b) May consider statements by the property owner regarding
549 the property owner's income, but income may not be confirmed
550 solely by such statements;

551 (c) May not consider the equity in the property that will

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552 secure the non-ad valorem assessment; and

553 (d) May confirm income by use of any of the following:

554 1. Information or income models gathered from and prepared
555 by reputable third parties which provide commercially acceptable
556 evidence of the property owner's household income.

557 2. Federal and state tax returns.

558 3. Statements prepared by a certified public accountant.

559 4. Bank statements.

560 5. Credit reports.

561 6. Retirement accounts.

562 7. Social security statements.

563 8. Trust documents.

564 9. Any other reputable sources of financial information.

565 (e) If a court or tribunal determines, by clear and
566 convincing evidence, that the program administrator's
567 determination of the property owner's ability to pay was not
568 objectively reasonable based on the information provided by the
569 property owner, the annual assessment payment must be reduced by
570 an amount that is within the property owner's ability to pay.
571 This paragraph does not require or authorize the administrator
572 to reduce the amount owed on the assessment.

573 (f) The failure of a property owner to disclose public
574 records, statements, or a credit report does not invalidate a
575 financing agreement or any obligation thereunder, even if the
576 total estimated annual payment amount exceeds the amount that
577 would otherwise be authorized under this subsection.

578 (g) In determining the property owner's ability to pay the
579 estimated annual assessment amount, when either annual household
580 income is not applicable to a commercial property specified in

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581 subsection (25) or the ownership of residential property is
582 vested in a corporate entity or form, if the estimated amount of
583 financing is less than \$750,000, the local government or program
584 administrator, as applicable, must use generally accepted
585 underwriting criteria for businesses.

586 (11) Each local government or program administrator that
587 offers a qualifying improvement program for residential
588 properties shall:

589 (a) Develop a written disclosure form, which may be
590 presented in electronic format, which must be provided to a
591 residential property owner before he or she executes the
592 financing agreement and which contains the key terms of the
593 agreement, including:

594 1. A description of the qualifying improvement;
595 2. The estimated total financed amount, including the
596 itemized cost of the qualifying improvement, ancillary work,
597 program fees, and prepaid interest, if any;

598 3. The annual non-ad valorem assessment process and
599 estimated annual payment schedule;

600 4. The estimated amount of the annual non-ad valorem
601 assessment;

602 5. The term of the total financed amount;

603 6. The interest rate for the financed amount;

604 7. The estimated annual percentage rate;

605 8. The total estimated annual costs that the residential
606 property owner will be required to pay under the assessment
607 contract, including program fees;

608 9. The total estimated average monthly equivalent amount of
609 funds that the residential property owner would have to save in

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610 order to pay the annual costs of the non-ad valorem assessment,
611 including program fees; and

612 10. The estimated due date of the residential property
613 owner's first property tax payment that includes the non-ad
614 valorem assessment.

615 (b) When a change order or proposed change order on a
616 project significantly increases the cost of the original project
617 or significantly expands the scope of the original project,
618 notify the property owner, confirm the change with the property
619 owner, and provide an updated written disclosure form as
620 described in paragraph (a) to the property owner.

621 (c) Include the following statements verbatim and in the
622 following order in the written disclosure form, each of which
623 must be individually agreed to in writing by the property owner:

624 1. "I understand that if I sell or refinance the property,
625 I may be required to pay off the outstanding financed amount as
626 a condition of the sale or the refinance of the property." This
627 statement must be in at least 24-point boldfaced type.

628 2. "I understand that the annual non-ad valorem assessment
629 will be paid when property taxes are paid and will result in a
630 lien being placed on my property."

631 3. "I understand that the annual non-ad valorem assessment
632 will be added to my property tax bill and that if I pay my
633 property taxes through my mortgage payment using an escrow
634 account, I must notify my mortgage lender."

635 4. "I understand that if I fail to pay the annual non-ad
636 valorem assessment, I may incur penalties and fees and the local
637 government may issue a tax certificate that might result in the
638 loss of my property."

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639 5. "I understand that any potential utility or insurance
640 savings are not guaranteed and will not reduce the annual non-ad
641 valorem assessment or total assessment amount."

642 6. "I understand that I have 5 days to cancel the financing
643 agreement and that this 5-day period expires at midnight on the
644 5th business day after I sign the agreement."

645 7. "I understand that the local government, program
646 administrator, or qualifying improvement contractor does not
647 provide tax advice and that I should seek professional tax
648 advice if I have questions regarding tax credits, tax
649 deductibility, or other tax impacts of the qualifying
650 improvement or the assessment contract."

651 8. "I understand that I cannot be assessed a penalty if I
652 prepay the outstanding financed amount."

653 (d) Provide a printed or electronic cancellation form to
654 the residential property owner no later than the date that the
655 property owner signs the financing agreement. The cancellation
656 form must allow the property owner to cancel the contract within
657 the 5-day period specified in subparagraph (c)6.

658 (e) Before a notice to proceed is issued, conduct, with at
659 least one residential property owner or an individual who is not
660 affiliated or associated with the local government, program
661 administrator, or qualifying improvement contractor and who is
662 legally authorized to act on behalf of the property owner, an
663 oral, recorded telephone call, during which the local government
664 or program administrator must use plain language. The local
665 government or program administrator, as applicable, shall ask
666 the residential property owner or authorized representative if
667 he or she would like to communicate primarily in a language

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668 other than English. A local government or program administrator,
669 as applicable, may not leave a voicemail for the residential
670 property owner or authorized representative to satisfy this
671 requirement. A local government or program administrator, as
672 applicable, as part of this telephone call, must confirm with
673 the residential property owner or authorized representative all
674 of the following:

675 1. That at least one residential property owner has access
676 to a copy of the financing agreement and financing estimates and
677 disclosures.

678 2. The qualifying improvement that is being financed.

679 3. The total estimated annual costs that the residential
680 property owner will have to pay under the financing agreement,
681 including program fees.

682 4. The total estimated average monthly equivalent amount of
683 funds that the residential property owner would have to save in
684 order to pay the annual costs of the non-ad valorem assessment,
685 including program fees.

686 5. The estimated due date of the residential property
687 owner's first property tax payment that includes the non-ad
688 valorem assessment.

689 6. The term of the financing agreement.

690 7. That payments for the financing agreement will cause the
691 residential property owner's annual tax bill to increase and
692 that payments will be made through an additional annual non-ad
693 valorem assessment on the property and will be paid either
694 directly to the county tax collector's office as part of the
695 total annual secured property tax bill or may be paid through
696 the residential property owner's mortgage escrow account.

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697 8. That the qualifying residential property owner has
698 disclosed whether he or she has received or is seeking
699 additional non-ad valorem assessments and has disclosed all
700 other assessments or special taxes that are or are projected to
701 be placed on the property.

702 9. That the property will be subject to a lien during the
703 term of the financing agreement and that the obligations under
704 the agreement may be required to be paid in full before the
705 residential property owner sells or refinances the property.

706 10. That any potential utility or insurance savings are not
707 guaranteed and will not reduce the annual non-ad valorem
708 assessment or total assessment amount.

709 11. That the local government, program administrator, or
710 qualifying improvement contractor does not provide tax advice
711 and that the residential property owner should seek professional
712 tax advice if he or she has questions regarding tax credits, tax
713 deductibility, or other tax impacts of the qualifying
714 improvement or the financing agreement.

715 (12) (a) A residential property owner may cancel a financing
716 agreement within 5 business days after signing the financing
717 agreement without being assessed a financial penalty by the
718 local government or program administrator, as applicable.

719 (b) A contract to sell or install a qualifying improvement
720 that is related to an application for financing in a qualifying
721 improvement program for a residential property is unenforceable,
722 and a qualifying improvement contractor may not begin work under
723 such a contract, if the property owner applied for, accepted,
724 and canceled a qualifying improvement financing agreement within
725 the 5-business-day right-to-cancel period set forth in paragraph

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726 (a).

727 (c) If a qualifying improvement contractor has initiated
728 work on a residential property under a contract deemed
729 unenforceable under this subsection, the qualifying improvement
730 contractor:

731 1. May not receive compensation for that work under the
732 financing agreement.

733 2. Must restore the property to its original condition at
734 no cost to the property owner.

735 3. Must immediately return any money, property, and other
736 consideration given by the property owner. If the property owner
737 provided any property and the qualifying improvement contractor
738 does not or cannot return it, the qualifying improvement
739 contractor must immediately return the fair market value of the
740 property or its value as designated in the contract, whichever
741 is greater.

742 (d) If the qualifying improvement contractor has delivered
743 chattel or fixtures to the residential property pursuant to a
744 contract deemed unenforceable under this subsection, the
745 qualifying improvement contractor has 90 days after the date on
746 which the contract was executed to retrieve the chattel or
747 fixtures, provided that:

748 1. The qualifying improvement contractor has fulfilled the
749 requirements of subparagraphs (c)2. and 3.

750 2. The chattel and fixtures can be removed at the
751 qualifying improvement contractor's expense without damaging the
752 property owner's property.

753 (e) If a qualifying improvement contractor fails to comply
754 with this subsection, the residential property owner may retain

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755 any chattel or fixtures provided pursuant to a contract deemed
756 unenforceable under this subsection.

757 (f) A contract that is otherwise unenforceable under this
758 subsection remains enforceable if the residential property owner
759 waives his or her right to cancel the contract or cancels the
760 financing agreement under paragraph (a) but allows the
761 qualifying improvement contractor to proceed with the
762 installation of the qualifying improvement.

763 (13)~~(10)~~ To constitute an improvement to a building or
764 facility, a qualifying improvement must ~~shall~~ be affixed to a
765 building or facility that is part of the property ~~and shall~~
766 ~~constitute an improvement to the building or facility~~ or a
767 fixture attached to the building or facility.

768 (a) A financing ~~An~~ agreement between a local government and
769 a residential ~~qualifying~~ property owner may not cover wind-
770 resistance improvements in buildings or facilities under new
771 construction or construction for which a certificate of
772 occupancy or similar evidence of substantial completion of new
773 construction or improvement has not been issued.

774 (b) A financing agreement may be executed for qualifying
775 improvements in the construction of a commercial property before
776 a certificate of occupancy or similar evidence of substantial
777 completion of new construction or improvement is issued.

778 Progress payments, or payments made before completion, are
779 allowed for commercial properties, provided that the property
780 owner subsequently provides, upon request for a final progress
781 payment disbursement, written verification to the local
782 government confirming that the qualifying improvements are
783 completed and operating as intended. A financing agreement with

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784 a commercial property owner may cover resiliency improvements in
785 buildings or facilities under new construction or construction
786 for which a certificate of occupancy or similar evidence of
787 substantial completion of new construction or improvement has
788 not been issued.

789 (14) ~~(11)~~ Any work requiring a license under any applicable
790 law to make a qualifying improvement must ~~shall~~ be performed by
791 a contractor properly certified or registered pursuant to ~~part I~~
792 ~~or part II~~ of chapter 489.

793 (15) (a) ~~(12) (a)~~ Without the consent of the holders or loan
794 servicers of any mortgage encumbering or otherwise secured by
795 the residential property:

796 1. The total amount of any non-ad valorem assessment for a
797 residential property under this section may not exceed 20
798 percent of the fair market ~~just~~ value of the property ~~as~~
799 ~~determined by the county property appraiser.~~

800 2. The combined mortgage-related debt and total amount of
801 any non-ad valorem assessments funded under this section for
802 residential property may not exceed 97 percent of the fair
803 market value of the residential property. The failure of a
804 property owner to disclose information set forth in paragraph
805 (9) (a) does not invalidate a financing agreement or any
806 obligation thereunder, even if the total financed amount of the
807 qualifying improvements exceeds the amount that would otherwise
808 be authorized under this paragraph. For purposes of this
809 paragraph, fair market value may be determined using third-party
810 valuations based on reputable methodologies.

811 (b) Before entering into a financing agreement with the
812 owner of a commercial property, except those commercial

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813 properties specified in subsection (25), the local government or
814 program administrator, as applicable, must have received the
815 written consent of the current holders or loan servicers of any
816 mortgage that encumbers or is otherwise secured by the property
817 or that will otherwise be secured by the property at the time
818 the financing agreement is executed by the local government or
819 program administrator ~~notwithstanding paragraph (a), a non-ad~~
820 ~~valorem assessment for a qualifying improvement defined in~~
821 ~~subparagraph (2)(b)1. or subparagraph (2)(b)2. that is supported~~
822 ~~by an energy audit is not subject to the limits in this~~
823 ~~subsection if the audit demonstrates that the annual energy~~
824 ~~savings from the qualified improvement equals or exceeds the~~
825 ~~annual repayment amount of the non-ad valorem assessment.~~

826 ~~(16)(13)~~ At least 30 days before entering into a financing
827 agreement, the property owner shall provide to the holders or
828 loan servicers of any existing mortgages encumbering or
829 otherwise secured by the property a written notice of the
830 owner's intent to enter into a financing agreement together with
831 the maximum principal amount to be financed and the maximum
832 annual assessment necessary to repay that amount. A verified
833 copy or other proof of such notice must ~~shall~~ be provided to the
834 local government or program administrator, as applicable. A
835 provision in any agreement between a mortgagee or other
836 lienholder and a property owner, or otherwise now or hereafter
837 binding upon a property owner, which allows for acceleration of
838 payment of the mortgage, note, or lien or other unilateral
839 modification solely as a result of entering into a financing
840 agreement as provided for in this section is not enforceable.
841 This subsection does not limit the authority of the holder or

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842 loan servicer to increase the required monthly escrow by an
843 amount necessary to ~~annually~~ pay the annual ~~qualifying~~
844 ~~improvement~~ assessment.

845 ~~(17)-(14)~~ At or before the time a seller ~~purchaser~~ executes
846 a contract for the sale ~~and purchase~~ of any property for which a
847 non-ad valorem assessment has been levied under this section and
848 has an unpaid balance due, the seller shall give the prospective
849 purchaser a written disclosure statement in the following form,
850 which must ~~shall~~ be set forth in the contract or in a separate
851 writing.÷

852 (a) For residential property:

853
854 QUALIFYING IMPROVEMENTS FOR ENERGY EFFICIENCY, RENEWABLE
855 ENERGY, ADVANCED TECHNOLOGIES FOR WASTEWATER REMOVAL, OR WIND
856 RESISTANCE.—The property being purchased is located within the
857 jurisdiction of a local government that has placed an assessment
858 on the property pursuant to s. 163.08, Florida Statutes. The
859 assessment is for a qualifying improvement to the property
860 relating to energy efficiency, renewable energy, advanced
861 technologies for wastewater removal, or wind resistance, and is
862 not based on the value of the property. You are encouraged to
863 contact the county property appraiser's office to learn more
864 about this and other assessments that may be provided by law.

865 (b) For a commercial property:

866
867 QUALIFYING IMPROVEMENTS FOR ENERGY EFFICIENCY, RENEWABLE
868 ENERGY, OR RESILIENCY.—The property being purchased is located
869 within the jurisdiction of a local government that has placed an
870 assessment on the property pursuant to s. 163.08, Florida

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871 Statutes. The assessment is for a qualifying improvement to the
872 property relating to energy efficiency, renewable energy, or
873 resiliency, and is not based on the value of the property. You
874 are encouraged to contact the county property appraiser's office
875 to learn more about this and other assessments that may be
876 provided for by law.

877
878 (18) A financing agreement authorized under this section on
879 residential property may not include any of the following:

880 (a) A negative amortization schedule. Capitalized interest
881 included in the original balance of the financing agreement does
882 not constitute negative amortization.

883 (b) A balloon payment.

884 (c) Prepayment fees, other than nominal administrative
885 costs.

886 (19) For residential property, a local government or
887 program administrator:

888 (a) May not enroll a qualifying improvement contractor who
889 contracts with residential property owners to install qualifying
890 improvements unless:

891 1. The local government or program administrator, as
892 applicable, determines that the qualifying improvement
893 contractor maintains in good standing an appropriate license
894 from the state, if applicable, as well as any other permits,
895 licenses, or registrations required for engaging in its business
896 in the jurisdiction in which it operates and maintains all
897 state-required bond and insurance coverage.

898 2. The local government or program administrator, as
899 applicable, obtains the qualifying improvement contractor's

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900 written agreement that the qualifying improvement contractor
901 will comply with all applicable laws, including applicable
902 advertising and marketing laws and rules and the requirements of
903 this section.

904 (b) Must maintain a process to enroll new qualifying
905 improvement contractors which includes review of the following
906 for each contractor:

- 907 1. Relevant work or project history.
- 908 2. Financial and reputational background checks.
- 909 3. The contractor's status on the Better Business Bureau
910 platform or other online platform that tracks contractor
911 reviews.

912 (c) Must establish and maintain a process for monitoring
913 qualifying improvement contractors with regard to performance
914 and compliance with program policies and must implement policies
915 for suspending, reinstating, and terminating qualifying
916 improvement contractors based on violations of program policies
917 or unscrupulous behavior. A program administrator, either
918 directly or through an affiliate, may not be enrolled as a
919 qualifying improvement contractor.

920 (20) (a) Before disbursing final funds to a qualifying
921 improvement contractor for a qualifying improvement on
922 residential property, the local government or program
923 administrator, as applicable, must confirm that the applicable
924 work or service has been completed or that the final permit for
925 the qualifying improvement has been closed with all permit
926 requirements satisfied.

927 (b) A local government or program administrator, as
928 applicable, may not disclose the maximum financing amount for

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929 which a residential property owner is eligible to a qualifying
930 improvement contractor or to a third party engaged in soliciting
931 financing agreements financed pursuant to this section.

932 (21) When communicating with residential property owners, a
933 local government, program administrator, or qualifying
934 improvement contractor may not:

935 (a) Suggest or imply:

936 1. That a non-ad valorem assessment authorized under this
937 section is a government assistance program;

938 2. That qualifying improvements are free or provided at no
939 cost, or that the financing related to a non-ad valorem
940 assessment authorized under this section is free or provided at
941 no cost; or

942 3. That the financing of a qualifying improvement using the
943 program authorized pursuant to this section does not require the
944 property owner to repay the financial obligation.

945 (b) Make any representation as to the tax deductibility of
946 a non-ad valorem assessment on residential property. A local
947 government, program administrator, or qualifying improvement
948 contractor, or a third party engaged in marketing on behalf of
949 such entities, may encourage a property owner to seek the advice
950 of a tax professional regarding tax matters related to
951 assessments.

952 (22) (a) A qualifying improvement contractor may not
953 advertise the availability of financing agreements for, or
954 solicit residential property owners on behalf of, the local
955 government or program administrator unless:

956 1. The qualifying improvement contractor maintains the
957 appropriate registration or certification from the Construction

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958 Industry Licensing Board or any other permit, license, or
959 registration required to conduct business in the jurisdiction in
960 which it operates, and provides proof of having the required
961 bond and insurance coverage amounts.

962 2. The local government or program administrator, as
963 applicable, obtains the qualifying improvement contractor's
964 written agreement that the qualifying improvement contractor
965 will comply with applicable laws and rules and qualifying
966 improvement program policies and procedures, including those on
967 advertising and marketing.

968 (b) A local government or program administrator may not
969 provide any payment, fee, or kickback to a qualifying
970 improvement contractor for referring financing business relating
971 to a specific financing agreement on a residential property.
972 However, a local government or program administrator may provide
973 information or services to a qualifying improvement contractor
974 to facilitate the installation of a qualifying improvement for a
975 property owner.

976 (c) A local government or program administrator may
977 reimburse a qualifying improvement contractor or third party for
978 its expenses in advertising and marketing campaigns and
979 materials.

980 (d) A local government or program administrator may not
981 provide to a qualifying improvement contractor any information
982 that discloses the amount of funds for which a property owner is
983 eligible for qualifying improvements or the amount of equity in
984 a property.

985 (e) For residential properties, a qualifying improvement
986 contractor may not provide a different price for a qualifying

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987 improvement financed under this section than the price that the
988 qualifying improvement contractor would otherwise provide if the
989 qualifying improvement was not being financed through an
990 assessment financing agreement.

991 (f) A local government or program administrator may not
992 provide any direct cash payment or other thing of material value
993 to a residential property owner which is explicitly conditioned
994 upon the property owner entering into a financing agreement.
995 However, a local government or program administrator may offer
996 programs or promotions that provide reduced fees or interest
997 rates if the reduced fees or interest rates are reflected in the
998 financing agreements and are not provided to the property owners
999 as cash consideration.

1000 (g) A local government or program administrator must
1001 conduct regular reviews of qualifying improvement contractors to
1002 confirm ongoing compliance with this subsection. If the local
1003 government or program administrator determines that there is a
1004 substantial violation by a qualifying improvement contractor,
1005 the local government or program administrator must provide the
1006 contractor with notice of the violation and place the contractor
1007 in a probationary program.

1008 (23) Each local government and program administrator must
1009 develop and implement policies and procedures for responding to,
1010 tracking, and resolving questions and complaints about its
1011 qualifying improvement program for residential properties.

1012 (24) Each local government that has authorized a qualifying
1013 improvement program for residential properties shall post on its
1014 website an annual report for the period ending December 31 each
1015 year containing the following information:

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- 1016 (a) The number of qualifying improvements funded.
- 1017 (b) The aggregate, average, and median dollar amounts of
1018 annual non-ad valorem assessments and the total number of non-ad
1019 valorem assessments that funded qualifying improvements.
- 1020 (c) The percentage, number, and dollar value of non-ad
1021 valorem assessments that funded qualifying improvements,
1022 aggregated by the following category types: energy efficiency,
1023 renewable energy, wind resistance, residential property
1024 wastewater, commercial property resiliency, and other commercial
1025 property qualifying improvements.
- 1026 (d) The number of defaulted non-ad valorem assessments,
1027 including the total number and defaulted amount, the number and
1028 dates of missed payments, the total number of parcels in default
1029 and the years in default, and the percentage of defaults by
1030 total assessments.
- 1031 (e) A summary of all reported complaints received by the
1032 local government and its program administrators related to
1033 authorized qualifying improvements programs, including the
1034 resolution of each complaint.
- 1035 (f) The estimated number of jobs created.
- 1036 (g) The number and percentage of homeowners 60 years of age
1037 or older participating in a qualifying improvement program. This
1038 report must be posted no later than April 1 of the year
1039 following the calendar year covered by the report.
- 1040 (25) Each local government or program administrator that
1041 offers a qualifying improvement program for residential
1042 properties may finance qualifying improvements on commercial
1043 property if the estimated amount of financing on the commercial
1044 property does not exceed \$750,000, subject to paragraph (10) (g).

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1045 ~~(15) A provision in any agreement between a local~~
1046 ~~government and a public or private power or energy provider or~~
1047 ~~other utility provider is not enforceable to limit or prohibit~~
1048 ~~any local government from exercising its authority under this~~
1049 ~~section.~~

1050 ~~(16) This section is additional and supplemental to county~~
1051 ~~and municipal home rule authority and not in derogation of such~~
1052 ~~authority or a limitation upon such authority.~~

1053 Section 2. This act shall take effect July 1, 2024.