

By the Committee on Community Affairs; and Senator Martin

578-02372-24

2024770c1

1 A bill to be entitled
2 An act relating to improvements to real property;
3 amending s. 163.08, F.S.; deleting provisions relating
4 to legislative findings and intent; defining terms and
5 revising definitions; creating ss. 163.081 and
6 163.082, F.S.; allowing a program administrator to
7 offer a program for financing qualifying improvements
8 for residential or commercial property when authorized
9 by a county or municipality; requiring an authorized
10 program administrator that administers an authorized
11 program to meet certain requirements; authorizing a
12 county or municipality to enter into an interlocal
13 agreement to implement a program; authorizing a
14 program administrator to contract with third-party
15 administrators to implement the program; authorizing a
16 program administrator to levy non-ad valorem
17 assessments for a certain purpose; authorizing a
18 program administrator to incur debt for the purpose of
19 providing financing for qualifying improvements;
20 authorizing the owner of the residential property or
21 commercial property or certain nongovernmental lessees
22 to apply to the program administrator to finance a
23 qualifying improvement; requiring the program
24 administrator to make certain findings before entering
25 into a financing agreement; requiring the program
26 administrator to ascertain certain financial
27 information from the property owner or nongovernmental
28 lessee before entering into a financing agreement;
29 requiring certain documentation; requiring certain

578-02372-24

2024770c1

30 financing agreement and contract provisions for change
31 orders if the property owner or nongovernmental lessee
32 and program administrator agree to allow change orders
33 to complete a qualifying improvement; prohibiting a
34 financing agreement from being entered into under
35 certain circumstances; requiring the program
36 administrator to provide certain information before a
37 financing agreement may be approved; requiring an
38 oral, recorded telephone call with the residential
39 property owner to confirm findings and disclosures
40 before the approval of a financing agreement;
41 requiring the residential property owner to provide
42 written notice to the holder or loan servicer of his
43 or her intent to enter into a financing agreement as
44 well as other financial information; requiring that
45 proof of such notice be provided to the program
46 administrator; providing that a certain acceleration
47 provision in an agreement between the residential
48 property owner and mortgagor or lienholder is
49 unenforceable; providing that the lienholder or loan
50 servicer retains certain authority; requiring the
51 program administrator to receive the written consent
52 of certain lienholders on commercial property;
53 authorizing a residential property owner, under
54 certain circumstances and within a certain timeframe,
55 to cancel a financing agreement without financial
56 penalty; requiring recording of the financing
57 agreement in a specified timeframe; creating the
58 seller's disclosure statements for properties offered

578-02372-24

2024770c1

59 for sale which have assessments on them for qualifying
60 improvements; requiring the program administrator to
61 confirm that certain conditions are met before
62 disbursing final funds to a qualifying improvement
63 contractor for qualifying improvements on residential
64 property; requiring a program administrator to submit
65 a certain certificate to a county or municipality upon
66 final disbursement and completion of qualifying
67 improvements; creating s. 163.083, F.S.; requiring a
68 county or municipality to establish or approve a
69 process for the registration of a qualifying
70 improvement contractor to install qualifying
71 improvements; requiring certain conditions for a
72 qualifying improvement contractor to participate in a
73 program; prohibiting a third-party administrator from
74 registering as a qualifying improvement contractor;
75 requiring the program administrator to monitor
76 qualifying improvement contractors, enforce certain
77 penalties for a finding of violation, and post certain
78 information online; creating s. 163.084, F.S.;

79 authorizing the program administrator to contract with
80 entities to administer an authorized program;
81 providing certain requirements for a third-party
82 administrator; prohibiting a program administrator
83 from contracting with a third-party administrator
84 under certain circumstances; requiring the program
85 administrator to include in its contract with the
86 third-party administrator the right to perform annual
87 reviews of the administrator; authorizing the program

578-02372-24

2024770c1

88 administrator to take certain actions if the program
89 administrator finds that the third-party administrator
90 has committed a violation of its contract; authorizing
91 a program administrator to terminate an agreement with
92 a third-party administrator under certain
93 circumstances; providing for the continuation of
94 certain financing agreements after the termination or
95 suspension of the third-party administrator; creating
96 s. 163.085, F.S.; requiring that, in communicating
97 with the property owner or nongovernmental lessee, the
98 program administrator, qualifying improvement
99 contractor, or third-party administrator comply with
100 certain requirements; prohibiting the program
101 administrator or third-party administrator from
102 disclosing certain financing information to a
103 qualifying improvement contractor; prohibiting a
104 qualifying improvement contractor from making certain
105 advertisements or solicitations; providing exceptions;
106 prohibiting a program administrator or third-party
107 administrator from providing certain payments, fees,
108 or kickbacks to a qualifying improvement contractor;
109 authorizing a program administrator or third-party
110 administrator to reimburse a qualifying improvement
111 contractor for certain expenses; prohibiting a
112 qualifying improvement contractor from providing
113 different prices for a qualifying improvement;
114 requiring a contract between a property owner or
115 nongovernmental lessee and a qualifying improvement
116 contractor to include certain provisions; prohibiting

578-02372-24

2024770c1

117 a program administrator, third-party administrator, or
118 qualifying improvement contractor from providing any
119 cash payment or anything of material value to a
120 property owner or nongovernmental lessee which is
121 explicitly conditioned on a financing agreement;
122 creating s. 163.086, F.S.; prohibiting a recorded
123 financing agreement from being removed from attachment
124 to a property under certain circumstances; providing
125 for the unenforceability of a financing agreement
126 under certain circumstances; providing provisions for
127 when a qualifying improvement contractor initiates
128 work on an unenforceable contract; providing that a
129 qualifying improvement contractor may retrieve chattel
130 or fixtures delivered pursuant to an unenforceable
131 contract if certain conditions are met; providing that
132 an unenforceable contract will remain unenforceable
133 under certain circumstances; creating s. 163.087,
134 F.S.; requiring a program administrator authorized to
135 administer a program for financing a qualifying
136 improvement to post on its website an annual report;
137 specifying requirements for the report; requiring the
138 auditor general to conduct an operational audit of
139 each authorized program; providing an effective date.

140

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

142

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

145 (Substantial rewording of section. See

578-02372-24

2024770c1

146 s. 163.08, F.S., for present text.)
147 163.08 Definitions.—As used in ss. 163.081-163.087, the
148 term:

149 (1) "Commercial property" means real property other than
150 residential property. The term includes, but is not limited to,
151 a property zoned multifamily residential which is composed of
152 five or more dwelling units; a long-term care or assisted living
153 facility; real property owned by a nonprofit; government
154 commercial property; and real property used for commercial,
155 industrial, or agricultural purposes.

156 (2) "Government commercial property" means real property
157 owned by a local government and leased to a nongovernmental
158 lessee for commercial use. The term does not include residential
159 property.

160 (3) "Nongovernmental lessee" means a person or an entity
161 other than a local government which leases government commercial
162 property.

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

166 (5) "Property owner" means the owner or owners of record of
167 real property. The term includes real property held in trust for
168 the benefit of one or more individuals, in which case the
169 individual or individuals may be considered as the property
170 owner or owners, provided that the trustee provides written
171 consent. The term does not include persons renting, using,
172 living, or otherwise occupying real property, except for a
173 nongovernmental lessee.

174 (6) "Qualifying improvement" means the following permanent

578-02372-24

2024770c1

175 improvements located on real property within the jurisdiction of
176 an authorized financing program:

177 (a) For improvements on residential property:

178 1. Repairing, replacing, or improving a central sewerage
179 system, converting an onsite sewage treatment and disposal
180 system to a central sewerage system, or, if no central sewerage
181 system is available, removing, repairing, replacing, or
182 improving an onsite sewage treatment and disposal system to an
183 advanced system or technology.

184 2. Repairing, replacing, or improving a roof, including
185 improvements that strengthen the roof deck attachment; create a
186 secondary water barrier to prevent water intrusion; install
187 wind-resistant shingles or gable-end bracing; or reinforce roof-
188 to-wall connections.

189 3. Providing flood and water damage mitigation and
190 resiliency improvements, prioritizing repairs, replacement, or
191 improvements that qualify for reductions in flood insurance
192 premiums, including raising a structure above the base flood
193 elevation to reduce flood damage; constructing a flood diversion
194 apparatus, drainage gate, or seawall improvement, including
195 seawall repairs and seawall replacements; purchasing flood-
196 damage-resistant building materials; or making electrical,
197 mechanical, plumbing, or other system improvements that reduce
198 flood damage.

199 4. Replacing windows or doors, including garage doors, with
200 energy-efficient windows or doors.

201 5. Installing energy-efficient heating, cooling, or
202 ventilation systems.

203 6. Replacing or installing insulation.

578-02372-24

2024770c1

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

205 8. Installing and affixing a permanent generator.

206 (b) For installing or constructing improvements on
207 commercial property:

208 1. Waste system improvements, which consists of repairing,
209 replacing, improving, or constructing a central sewerage system,
210 converting an onsite sewage treatment and disposal system to a
211 central sewerage system, or, if no central sewerage system is
212 available, removing, repairing, replacing, or improving an
213 onsite sewage treatment and disposal system to an advanced
214 system or technology.

215 2. Making resiliency improvements, which includes but is
216 not limited to:

217 a. Repairing, replacing, improving, or constructing a roof,
218 including improvements that strengthen the roof deck attachment;

219 b. Creating a secondary water barrier to prevent water
220 intrusion;

221 c. Installing wind-resistant shingles or gable-end bracing;
222 or

223 d. Reinforcing roof-to-wall connections.

224 e. Providing flood and water damage mitigation and
225 resiliency improvements, prioritizing repairs, replacement, or
226 improvements that qualify for reductions in flood insurance
227 premiums, including raising a structure above the base flood
228 elevation to reduce flood damage; creating or improving
229 stormwater and flood resiliency, including flood diversion
230 apparatus, drainage gates, or shoreline improvements; purchasing
231 flood-damage-resistant building materials; or making any other
232 improvements necessary to achieve a sustainable building rating

578-02372-24

2024770c1

233 or compliance with a national model resiliency standard and any
234 improvements to a structure to achieve wind or flood insurance
235 rate reductions, including building elevation.

236 3. Energy conservation and efficiency improvements, which
237 are measures to reduce consumption through efficient use or
238 conservation of electricity, natural gas, propane, or other
239 formers of energy, including but not limited to, air sealing;
240 installation of insulation; installation of energy-efficient
241 heating, cooling, or ventilation systems; building modification
242 to increase the use of daylight; window replacement; windows;
243 energy controls or energy recovery systems; installation of
244 electric vehicle charging equipment; installation of efficient
245 lighting equipment; or any other improvements necessary to
246 achieve a sustainable building rating or compliance with a
247 national model green building code.

248 4. Renewable energy improvements, which is the installation
249 of any system in which the electrical, mechanical, or thermal
250 energy is produced from a method that uses solar, geothermal,
251 bioenergy, wind, or hydrogen.

252 5. Water conservation efficiency improvements, which are
253 measures to reduce consumption through efficient use or
254 conservation of water.

255 (7) "Qualifying improvement contractor" means a licensed or
256 registered contractor who has been registered to participate by
257 a program administrator pursuant to s. 163.083 to install or
258 otherwise perform work to make qualifying improvements on
259 residential property financed pursuant to a program authorized
260 under s. 163.081.

261 (8) "Residential property" means real property zoned as

578-02372-24

2024770c1

262 residential or multifamily residential and composed of four or
263 fewer dwelling units.

264 Section 2. Section 163.081, Florida Statutes, is created to
265 read:

266 163.081 Financing qualifying improvements to residential
267 property.—

268 (1) RESIDENTIAL PROPERTY PROGRAM AUTHORIZATION.—

269 (a) A program administrator may only offer a program for
270 financing qualifying improvements to residential property within
271 the jurisdiction of a county or municipality if the county or
272 municipality has authorized by ordinance or resolution the
273 program administrator to administer the program for financing
274 qualifying improvements to residential property. The authorized
275 program must, at a minimum, meet the requirements of this
276 section. Pursuant to this section or as otherwise provided by
277 law or pursuant to a county's or municipality's home rule power,
278 a county or municipality may enter into an interlocal agreement
279 providing for a partnership between one or more local
280 governments for the purpose of facilitating a program to finance
281 qualifying improvements to residential property located within
282 the jurisdiction of the local governments party to the
283 agreement. A program administrator may contract with one or more
284 third-party administrators to implement the program as provided
285 in s. 163.084.

286 (b) An authorized program administrator may levy non-ad
287 valorem assessments to facilitate repayment of financing
288 qualifying improvements. Costs incurred by the program
289 administrator for such purpose may be collected as a non-ad
290 valorem assessment. A non-ad valorem assessment shall be

578-02372-24

2024770c1

291 collected pursuant to s. 197.3632 and, notwithstanding s.
292 197.3632(8) (a), shall not be subject to discount for early
293 payment. However, the notice and adoption requirements of s.
294 197.3632(4) do not apply if this section is used and complied
295 with, and the intent resolution, publication of notice, and
296 mailed notices to the property appraiser, tax collector, and
297 Department of Revenue required by s. 197.3632(3) (a) may be
298 provided on or before August 15 of each year in conjunction with
299 any non-ad valorem assessment authorized by this section, if the
300 property appraiser, tax collector, and program administrator
301 agree.

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

306 (2) APPLICATION.—The owner of record of the residential
307 property within the jurisdiction of an authorized program may
308 apply to the authorized program administrator to finance a
309 qualifying improvement. The program administrator may only enter
310 into a financing agreement with the property owner.

311 (3) FINANCING AGREEMENTS.—

312 (a) Before entering into a financing agreement, the program
313 administrator must review the residential property owner's
314 public records derived from a commercially accepted source and
315 the property owner's statements, records, and credit reports and
316 make each of the following findings:

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

318 2. The total amount of any non-ad valorem assessment for a
319 residential property under this section does not exceed 20

578-02372-24

2024770c1

320 percent of the just value of the property as determined by the
321 property appraiser. The total amount may exceed this limitation
322 upon written consent of the holders or loan servicers of any
323 mortgage encumbering or otherwise secured by the residential
324 property.

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

329 4. The financing agreement does not utilize a negative
330 amortization schedule, a balloon payment, or prepayment fees or
331 finances other than nominal administrative costs. Capitalized
332 interest included in the original balance of the assessment
333 financing agreement does not constitute negative amortization.

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

339 6. There are no outstanding fines or fees related to zoning
340 or code enforcement violations issued by a county or
341 municipality, unless the qualifying improvement will remedy the
342 zoning or code violation.

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

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

578-02372-24

2024770c1

349 9. The property owner is current on all mortgage debt on
350 the residential property.

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

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

357 12. The term of the financing agreement does not exceed the
358 weighted average useful life of the qualified improvements to
359 which the greatest portion of funds disbursed under the
360 assessment contract is attributable, not to exceed 20 years. The
361 program administrator shall determine the useful life of a
362 qualifying improvement using established standards, including
363 certification criteria from government agencies or nationally
364 recognized standards and testing organizations.

365 13. The total estimated annual payment amount for all
366 financing agreements entered into under this section on the
367 residential property does not exceed 10 percent of the property
368 owner's annual household income. Income must be confirmed using
369 reasonable evidence and not solely by a property owner's
370 statement.

371 14. If the qualifying improvement is estimated to cost
372 \$5,000 or more, the property owner has obtained estimates from
373 at least two unaffiliated, registered qualifying improvement
374 contractors for the qualifying improvement to be financed.

375 (b) Before entering into a financing agreement, the
376 property administrator must determine if there are any current
377 financing agreements on the residential property and if the

578-02372-24

2024770c1

378 property owner has obtained or sought to obtain additional
379 qualifying improvements on the same property which have not yet
380 been recorded. The failure to disclose information related to
381 not yet recorded financing agreements does not invalidate a
382 financing agreement or any obligation thereunder, even if the
383 total financed amount of the qualifying improvement exceeds the
384 amount that would otherwise be authorized under this section.
385 The existence of a prior qualifying improvement non-ad valorem
386 assessment or a prior financing agreement is not evidence that
387 the financing agreement under consideration is affordable or
388 meets other program requirements.

389 (c) Findings satisfying paragraphs (a) and (b) must be
390 documented, including supporting evidence relied upon, and
391 provided to the property owner prior to a financing agreement
392 being approved and recorded.

393 (d) A property owner and the program administrator may
394 agree to include in the financing agreement provisions for
395 allowing change orders necessary to complete the qualifying
396 improvement. Any financing agreement or contract for qualifying
397 improvements which includes such provisions must meet the
398 requirements of this paragraph. If a proposed change order on a
399 qualifying improvement will significantly increase the original
400 cost of the qualifying improvement or significantly expand the
401 scope of the qualifying improvement, before the change order may
402 be executed which would result in an increase in the amount
403 financed through the program administrator for the qualifying
404 improvement, the program administrator must notify the property
405 owner, provide an updated written disclosure form as described
406 in subsection (4) to the property owner, and obtain written

578-02372-24

2024770c1

407 approval of the change from the property owner.

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

411 (f) A financing agreement may not be entered into for
412 qualifying improvements in buildings or facilities under new
413 construction or construction for which a certificate of
414 occupancy or similar evidence of substantial completion of new
415 construction or improvement has not been issued.

416 (4) DISCLOSURES.—

417 (a) In addition to the requirements in subsection (3), a
418 financing agreement may not be approved unless the program
419 administrator first provides, including via electronic means, a
420 written financing estimate and disclosure to the property owner
421 which includes all of the following:

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

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

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

428 4. The interest charged and estimated annual percentage
429 rate;

430 5. A description of the qualifying improvement;

431 6. The total estimated annual costs that will be required
432 to be paid under the assessment contract, including program
433 fees;

434 7. The total estimated average monthly equivalent amount of
435 funds that would need to be saved in order to pay the annual

578-02372-24

2024770c1

436 costs of the non-ad valorem assessment, including program fees;

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

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

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

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

450 12. A disclosure that the assessment will be collected
451 along with the property owner's property taxes, and will result
452 in a lien on the property from the date the financing agreement
453 is recorded;

454 13. A disclosure that potential utility or insurance
455 savings are not guaranteed, and will not reduce the assessment
456 amount; and

457 14. A disclosure that failure to pay the assessment may
458 result in penalties, fees, including attorney fees, court costs,
459 and the issuance of a tax certificate that could result in the
460 property owner losing the property and a judgment against the
461 property owner, and may affect the property owner's credit
462 rating.

463 (b) Prior to the financing agreement being approved, the
464 program administrator must conduct an oral, recorded telephone

578-02372-24

2024770c1

465 call with the property owner during which the program
466 administrator must confirm each finding or disclosure required
467 in subsection (3) and this section.

468 (5) NOTICE TO LIENHOLDERS AND SERVICERS.—At least 30 days
469 before entering into a financing agreement, the property owner
470 must provide to the holders or loan servicers of any existing
471 mortgages encumbering or otherwise secured by the residential
472 property a written notice of the owner's intent to enter into a
473 financing agreement together with the maximum amount to be
474 financed, including the amount of any fees and interest, and the
475 maximum annual assessment necessary to repay the total. A
476 verified copy or other proof of such notice must be provided to
477 the program administrator. A provision in any agreement between
478 a mortgagor or other lienholder and a property owner, or
479 otherwise now or hereafter binding upon a property owner, which
480 allows for acceleration of payment of the mortgage, note, or
481 lien or other unilateral modification solely as a result of
482 entering into a financing agreement as provided for in this
483 section is unenforceable. This subsection does not limit the
484 authority of the holder or loan servicer to increase the
485 required monthly escrow by an amount necessary to pay the annual
486 assessment.

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

491 (7) RECORDING.—Any financing agreement approved and entered
492 into pursuant to this section, or a summary memorandum of such
493 agreement, shall be submitted for recording in the public

578-02372-24

2024770c1

494 records of the county within which the residential property is
495 located by the program administrator within 10 business days
496 after execution of the agreement. The recorded agreement must
497 provide constructive notice that the non-ad valorem assessment
498 to be levied on the property constitutes a lien of equal dignity
499 to county taxes and assessments from the date of recordation. A
500 notice of lien for the full amount of the financing may be
501 recorded in the public records of the county where the property
502 is located. Such lien is not enforceable in a manner that
503 results in the acceleration of the remaining nondelinquent
504 unpaid balance under the assessment financing agreement.

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

512
513 QUALIFYING IMPROVEMENTS.—The property being purchased
514 is subject to an assessment on the property pursuant
515 to s. 163.081, Florida Statutes. The assessment is for
516 a qualifying improvement to the property and is not
517 based on the value of the property. You are encouraged
518 to contact the property appraiser's office to learn
519 more about this and other assessments that may be
520 provided by law.

521
522 (9) DISBURSEMENTS.—Before disbursing final funds to a

578-02372-24

2024770c1

523 qualifying improvement contractor for a qualifying improvement
524 on residential property, the program administrator shall confirm
525 that the applicable work or service has been completed or, as
526 applicable, that the final permit for the qualifying improvement
527 has been closed with all permit requirements satisfied or a
528 certificate of occupancy or similar evidence of substantial
529 completion of construction or improvement has been issued.

530 (10) CONSTRUCTION.—This section is additional and
531 supplemental to county and municipal home rule authority and not
532 in derogation of such authority or a limitation upon such
533 authority.

534 Section 3. Section 163.082, Florida Statutes, is created to
535 read:

536 163.082 Financing qualifying improvements to commercial
537 property.—

538 (1) COMMERCIAL PROPERTY PROGRAM AUTHORIZATION.—

539 (a) A program administrator may only offer a program for
540 financing qualifying improvements to commercial property within
541 the jurisdiction of a county or municipality if the county or
542 municipality has authorized by ordinance or resolution the
543 program administrator to administer the program for financing
544 qualifying improvements. The authorized program must, at a
545 minimum, meet the requirements of this section. Pursuant to this
546 section or as otherwise provided by law or pursuant to a
547 county's or municipality's home rule power, a county or
548 municipality may enter into an interlocal agreement providing
549 for a partnership between one or more local governments for the
550 purpose of facilitating a program for financing qualifying
551 improvements to commercial property located within the

578-02372-24

2024770c1

552 jurisdiction of the local governments party to the agreement. A
553 program administrator may contract with one or more third-party
554 administrators to implement the program as provided in s.
555 163.084.

556 (b) An authorized program administrator may levy non-ad
557 valorem assessments to facilitate repayment of financing or
558 refinancing qualifying improvements. Costs incurred by the
559 program administrator for such purpose may be collected as a
560 non-ad valorem assessment. A non-ad valorem assessment shall be
561 collected pursuant to s. 197.3632 and, notwithstanding s.
562 197.3632(8)(a), is not subject to discount for early payment.
563 However, the notice and adoption requirements of s. 197.3632(4)
564 do not apply if this section is used and complied with, and the
565 intent resolution, publication of notice, and mailed notices to
566 the property appraiser, tax collector, and Department of Revenue
567 required by s. 197.3632(3)(a) may be provided on or before
568 August 15 of each year in conjunction with any non-ad valorem
569 assessment authorized by this section, if the property
570 appraiser, tax collector, and program administrator agree.

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

575 (2) APPLICATION.—The owner of record of the commercial
576 property within the jurisdiction of the authorized program may
577 apply to the program administrator to finance a qualifying
578 improvement and enter into a financing agreement with the
579 program administrator to make such improvement. The program
580 administrator may only enter into a financing agreement with a

578-02372-24

2024770c1

581 property owner. However, a nongovernmental lessee may apply to
582 finance a qualifying improvement if the nongovernmental lessee
583 provides the program administrator with written consent of the
584 government lessor. Any financing agreement with the
585 nongovernmental lessee must provide that the nongovernmental
586 lessee is the only party obligated to pay the assessment.

587 (3) FINANCING AGREEMENTS.—

588 (a) Before entering into a financing agreement, the program
589 administrator must make each of the following findings based on
590 a review of public records derived from a commercially accepted
591 source and the statements, records, and credit reports of the
592 commercial property owner or nongovernmental lessee:

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

594 2. The total amount of any non-ad valorem assessment for a
595 commercial property under this section does not exceed 20
596 percent of the just value of the property as determined by the
597 property appraiser. The total amount may exceed this limitation
598 upon written consent of the holders or loan servicers of any
599 mortgage encumbering or otherwise secured by the commercial
600 property.

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

605 4. All property taxes and any other assessments, including
606 non-ad valorem assessments, levied on the same bill as the
607 property taxes are current.

608 5. There are no involuntary liens greater than \$5,000,
609 including, but not limited to, construction liens on the

578-02372-24

2024770c1

610 commercial property.

611 6. No notices of default or other evidence of property-
612 based debt delinquency have been recorded and not been released
613 during the preceding 3 years or the property owner's period of
614 ownership, whichever is less.

615 7. The property owner is current on all mortgage debt on
616 the commercial property.

617 8. The term of the financing agreement does not exceed the
618 weighted average useful life of the qualified improvements to
619 which the greatest portion of funds disbursed under the
620 assessment contract is attributable, not to exceed 30 years. The
621 program administrator shall determine the useful life of a
622 qualifying improvement using established standards, including
623 certification criteria from government agencies or nationally
624 recognized standards and testing organizations.

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

627 (b) Before entering into a financing agreement, the program
628 administrator shall determine if there are any current financing
629 agreements on the commercial property and whether the property
630 owner or nongovernmental lessee has obtained or sought to obtain
631 additional qualifying improvements on the same property which
632 have not yet been recorded. The failure to disclose information
633 related to not yet recorded financing agreements does not
634 invalidate a financing agreement or any obligation thereunder,
635 even if the total financed amount of the qualifying improvement
636 exceeds the amount that would otherwise be authorized under this
637 section. The existence of a prior qualifying improvement non-ad
638 valorem assessment or a prior financing agreement is not

578-02372-24

2024770c1

639 evidence that the financing agreement under consideration is
640 affordable or meets other program requirements.

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

645 (d) A property owner or nongovernmental lessee and the
646 program administrator may agree to include in the financing
647 agreement provisions for allowing change orders necessary to
648 complete the qualifying improvement. Any financing agreement or
649 contract for qualifying improvements which includes such
650 provisions must meet the requirements of this paragraph. If a
651 proposed change order on a qualifying improvement will
652 significantly increase the original cost of the qualifying
653 improvement or significantly expand the scope of the qualifying
654 improvement, before the change order may be executed which would
655 result in an increase in the amount financed through the program
656 administrator for the qualifying improvement, the program
657 administrator must notify the property owner or nongovernmental
658 lessee, provide an updated written disclosure form as described
659 in subsection (4) to the property owner or nongovernmental
660 lessee, and obtain written approval of the change from the
661 property owner or nongovernmental lessee.

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

665 (4) DISCLOSURES.—In addition to the requirements in
666 subsection (3), a financing agreement may not be approved unless
667 the program administrator provides, whether on a separate

578-02372-24

2024770c1

668 document or included with other disclosures or forms, a
669 financing estimate and disclosure to the property owner or
670 nongovernmental lessee which includes all of the following:

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

674 (b) The estimated annual non-ad valorem assessment;
675 (c) The term of the financing agreement and the schedule
676 for the non-ad valorem assessments;

677 (d) The interest charged and estimated annual percentage
678 rate;

679 (e) A description of the qualifying improvement;
680 (f) The total estimated annual costs that will be required
681 to be paid under the assessment contract, including program
682 fees;

683 (g) The total estimated average monthly equivalent amount
684 of funds that would need to be saved in order to pay the annual
685 costs of the non-ad valorem assessment, including program fees;

686 (h) The estimated due date of the first payment that
687 includes the non-ad valorem assessment; and

688 (i) A disclosure that the property owner or nongovernmental
689 lessee may repay any remaining amount owed, at any time, without
690 penalty or imposition of additional prepayment fees or fines
691 other than nominal administrative costs.

692 (5) CONSENT OF LIENHOLDERS AND SERVICERS.—Before entering
693 into a financing agreement with a property owner, the program
694 administrator must have received the written consent of the
695 current holders or loan servicers of any mortgage that encumbers
696 or is otherwise secured by the commercial property or that will

578-02372-24

2024770c1

697 otherwise be secured by the property at the time the financing
698 agreement is executed.

699 (6) RECORDING.—Any financing agreement approved and entered
700 into pursuant to this section or a summary memorandum of such
701 agreement must be submitted for recording in the public records
702 of the county within which the commercial property is located by
703 the program administrator within 10 business days after
704 execution of the agreement. The recorded agreement must provide
705 constructive notice that the non-ad valorem assessment to be
706 levied on the property constitutes a lien of equal dignity to
707 county taxes and assessments from the date of recordation. A
708 notice of lien for the full amount of the financing may be
709 recorded in the public records of the county where the property
710 is located. Such lien is not enforceable in a manner that
711 results in the acceleration of the remaining nondelinquent
712 unpaid balance under the assessment financing agreement.

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

720
721 QUALIFYING IMPROVEMENTS.—The property being purchased
722 is subject to an assessment on the property pursuant
723 to s. 163.082, Florida Statutes. The assessment is for
724 a qualifying improvement to the property and is not
725 based on the value of the property. You are encouraged

578-02372-24

2024770c1

726 to contact the property appraiser's office to learn
727 more about this and other assessments that may be
728 provided for by law.

729
730 (8) COMPLETION CERTIFICATE.—Upon disbursement of all
731 financing and completion of installation of qualifying
732 improvements financed, the program administrator shall file with
733 the applicable county or municipality a certificate that the
734 qualifying improvements have been installed and are in good
735 working order.

736 (9) CONSTRUCTION.—This section is additional and
737 supplemental to county and municipal home rule authority and not
738 in derogation of such authority or a limitation upon such
739 authority.

740 Section 4. Section 163.083, Florida Statutes, is created to
741 read:

742 163.083 Qualifying improvement contractors.—

743 (1) A county or municipality shall establish a process, or
744 approve a process established by a program administrator, to
745 register contractors for participation in a program authorized
746 by a county or municipality pursuant to s. 163.081. A qualifying
747 improvement contractor may only perform such work that the
748 contractor is appropriately licensed, registered, and permitted
749 to conduct. At the time of application to participate and during
750 participation in the program, contractors must:

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

578-02372-24

2024770c1

755 (b) Comply with all applicable federal, state, and local
756 laws and regulations, including obtaining and maintaining any
757 other permits, licenses, or registrations required for engaging
758 in business in the jurisdiction in which it operates and
759 maintaining all state-required bond and insurance coverage.

760 (c) File with the program administrator a written statement
761 in a form approved by the county or municipality that the
762 contractor will comply with applicable laws and rules and
763 qualifying improvement program policies and procedures,
764 including those on advertising and marketing.

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

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

769 (a) A process to monitor qualifying improvement contractors
770 for performance and compliance with requirements of the program
771 and must conduct regular reviews of qualifying improvement
772 contractors to confirm that each qualifying improvement
773 contractor is in good standing.

774 (b) Procedures for notice and imposition of penalties upon
775 a finding of violation, which may consist of placement of the
776 qualifying improvement contractor in a probationary status that
777 places conditions for continued participation, payment of fines
778 or sanctions, suspension, or termination from participation in
779 the program.

780 (c) An easily accessible page on its website that provides
781 information on the status of registered qualifying improvement
782 contractors, including any imposed penalties, and the names of
783 any qualifying improvement contractors currently on probationary

578-02372-24

2024770c1

784 status or that are suspended or terminated from participation in
785 the program.

786 Section 5. Section 163.084, Florida Statutes, is created to
787 read:

788 163.084 Third-party administrator for financing qualifying
789 improvements programs.—

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

794 (b) The third-party administrator must be independent of
795 the program administrator and have no conflicts of interest
796 between managers or owners of the third-party administrator and
797 program administrator managers, owners, officials, or employees
798 with oversight over the contract. The contract must provide for
799 the entity to administer the program according to the
800 requirements of s. 163.081 or s. 163.082 and the ordinance or
801 resolution adopted by the county or municipality authorizing the
802 program. However, only the program administrator may levy or
803 administer non-ad valorem assessments.

804 (2) A program administrator may not contract with a third-
805 party administrator that, within the last 3 years, has been
806 prohibited from serving as a third-party administrator for
807 another program administrator for program or contract violations
808 or has been found by a court of competent jurisdiction to have
809 violated state or federal laws related to the administration of
810 ss. 163.081-163.086 or a similar program in another
811 jurisdiction.

812 (3) The program administrator must include in any contract

578-02372-24

2024770c1

813 with the third-party administrator the right to perform annual
814 reviews of the administrator to confirm compliance with ss.
815 163.081-163.086, the ordinance or resolution adopted by the
816 county or municipality, and the contract with the program
817 administrator. If the program administrator finds that the
818 third-party administrator has committed a violation of ss.
819 163.081-163.086, the adopted ordinance or resolution, or the
820 contract with the program administrator, the program
821 administrator shall provide the third-party administrator with
822 notice of the violation and may, as set forth in the adopted
823 ordinance or resolution or the contract with the third-party
824 administrator:

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

827 (b) Impose any fines or sanctions.

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

830 (d) Terminate the agreement with the third-party
831 administrator.

832 (4) A program administrator may terminate the agreement
833 with a third-party administrator, as set forth by the county or
834 municipality in its adopted ordinance or resolution or the
835 contract with the third-party administrator, if the program
836 administrator makes a finding that:

837 (a) The third-party administrator has violated the contract
838 with the program administrator. The contract may set forth
839 substantial violations that may result in contract termination
840 and other violations that may provide for a period of time for
841 correction before the contract may be terminated.

578-02372-24

2024770c1

842 (b) The third-party administrator, or an officer, a
843 director, a manager or a managing member, or a control person of
844 the third-party administrator, has been found by a court of
845 competent jurisdiction to have violated state or federal laws
846 related to the administration a program authorized of the
847 provisions of ss. 163.081-163.086 or a similar program in
848 another jurisdiction within the last 5 years.

849 (c) Any officer, director, manager or managing member, or
850 control person of the third-party administrator has been
851 convicted of, or has entered a plea of guilty or nolo contendere
852 to, regardless of whether adjudication has been withheld, a
853 crime related to administration of a program authorized of the
854 provisions of ss. 163.081-163.086 or a similar program in
855 another jurisdiction within the last 10 years.

856 (d) An annual performance review reveals a substantial
857 violation or a pattern of violations by the third-party
858 administrator.

859 (5) Any recorded financing agreements at the time of
860 termination or suspension by the program administrator shall
861 continue.

862 Section 6. Section 163.085, Florida Statutes, is created to
863 read:

864 163.085 Advertisement and solicitation for financing
865 qualifying improvements programs under s. 163.081 or s.
866 163.082.—

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

870 (a) Suggest or imply:

578-02372-24

2024770c1

871 1. That a non-ad valorem assessment authorized under s.
872 163.081 or s. 163.082 is a government assistance program;

873 2. That qualifying improvements are free or provided at no
874 cost, or that the financing related to a non-ad valorem
875 assessment authorized under s. 163.081 or s. 163.082 is free or
876 provided at no cost; or

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

880 (b) Make any representation as to the tax deductibility of
881 a non-ad valorem assessment. A program administrator, qualifying
882 improvement contractor, or third-party administrator may
883 encourage a property owner or nongovernmental lessee to seek the
884 advice of a tax professional regarding tax matters related to
885 assessments.

886 (2) A program administrator or third-party administrator
887 may not provide to a qualifying improvement contractor any
888 information that discloses the amount of financing for which a
889 property owner or nongovernmental lessee is eligible for
890 qualifying improvements or the amount of equity in a residential
891 property or commercial property.

892 (3) A qualifying improvement contractor may not advertise
893 the availability of financing agreements for, or solicit program
894 participation on behalf of, the program administrator unless the
895 contractor is registered by the program administrator to
896 participate in the program and is in good standing with the
897 program administrator.

898 (4) A program administrator or third-party administrator
899 may not provide any payment, fee, or kickback to a qualifying

578-02372-24

2024770c1

900 improvement contractor for referring property owners or
901 nongovernmental lessees to the program administrator or third-
902 party administrator. However, a program administrator or third-
903 party administrator may provide information to a qualifying
904 improvement contractor to facilitate the installation of a
905 qualifying improvement for a property owner or nongovernmental
906 lessee.

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

910 (6) A qualifying improvement contractor may not provide a
911 different price for a qualifying improvement financed under s.
912 163.081 than the price that the qualifying improvement
913 contractor would otherwise provide if the qualifying improvement
914 was not being financed through a financing agreement. Any
915 contract between a property owner or nongovernmental lessee and
916 a qualifying improvement contractor must clearly state all
917 pricing and cost provisions, including any process for change
918 orders which meet the requirements of s. 163.081(3)(d).

919 (7) A program administrator, qualifying improvement
920 contractor, or third-party administrator may not provide any
921 direct cash payment or other thing of material value to a
922 property owner or nongovernmental lessee which is explicitly
923 conditioned upon the property owner or nongovernmental lessee
924 entering into a financing agreement. However, a program
925 administrator or third-party administrator may offer programs or
926 promotions that provide reduced fees or interest rates if the
927 reduced fees or interest rates are reflected in the financing
928 agreements and are not provided to the property owner or

578-02372-24

2024770c1

929 nongovernmental lessee as cash consideration.

930 Section 7. Section 163.086, Florida Statutes, is created to
931 read:

932 163.086 Unenforceable financing agreements for qualifying
933 improvements programs under s. 163.081 or s. 163.082;
934 attachment; fraud.—

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

939 (2) A financing agreement may not be enforced, and a
940 recorded financing agreement may be removed from attachment to a
941 residential property or commercial property and deemed null and
942 void, if:

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

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

952 (c) The program administrator, third-party administrator,
953 or qualifying improvement contractor approved or obtained
954 funding through fraudulent means and in violation of ss.
955 163.081-163.085, or this section for qualifying improvements on
956 the residential property or commercial property.

957 (3) If a qualifying improvement contractor has initiated

578-02372-24

2024770c1

958 work on residential property or commercial property under a
959 contract deemed unenforceable under this section, the qualifying
960 improvement contractor:

961 (a) May not receive compensation for that work under the
962 financing agreement.

963 (b) Must restore the residential property or commercial
964 property to its original condition at no cost to the property
965 owner or nongovernmental lessee.

966 (c) Must immediately return any funds, property, and other
967 consideration given by the property owner or nongovernmental
968 lessee. If the property owner or nongovernmental lessee provided
969 any property and the qualifying improvement contractor does not
970 or cannot return it, the qualifying improvement contractor must
971 immediately return the fair market value of the property or its
972 value as designated in the contract, whichever is greater.

973 (4) If the qualifying improvement contractor has delivered
974 chattel or fixtures to residential property or commercial
975 property pursuant to a contract deemed unenforceable under this
976 section, the qualifying improvement contractor has 90 days after
977 the date on which the contract was executed to retrieve the
978 chattel or fixtures, provided that:

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

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

984 (5) If a qualifying improvement contractor fails to comply
985 with this section, the property owner or nongovernmental lessee
986 may retain any chattel or fixtures provided pursuant to a

578-02372-24

2024770c1

987 contract deemed unenforceable under this section.

988 (6) A contract that is otherwise unenforceable under this
989 section remains enforceable if the property owner or
990 nongovernmental lessee waives his or her right to cancel the
991 contract or cancels the financing agreement pursuant to s.
992 163.081(6) or s. 163.082(6) but allows the qualifying
993 improvement contractor to proceed with the installation of the
994 qualifying improvement.

995 Section 8. Section 163.087, Florida Statutes, is created to
996 read:

997 163.087 Reporting for financing qualifying improvements
998 programs under s. 163.081 or s. 163.082.—

999 (1) Each program administrator that is authorized to
1000 administer a program for financing qualifying improvements to
1001 residential property or commercial property under s. 163.081 or
1002 s. 163.082 shall post on its website an annual report within 45
1003 days after the end of its fiscal year containing the following
1004 information from the previous year for each program authorized
1005 under s. 163.081 or s. 163.082:

1006 (a) The number and types of qualifying improvements funded.

1007 (b) The aggregate, average, and median dollar amounts of
1008 annual non-ad valorem assessments and the total number of non-ad
1009 valorem assessments collected pursuant to financing agreements
1010 for qualifying improvements.

1011 (c) The total number of defaulted non-ad valorem
1012 assessments, including the total defaulted amount, the number
1013 and dates of missed payments, and the total number of parcels in
1014 default and the length of time in default.

1015 (d) A summary of all reported complaints received by the

578-02372-24

2024770c1

1016 program administrator related to the program, including the
1017 names of the third-party administrator, if applicable, and
1018 qualifying improvement contractors and the resolution of each
1019 complaint.

1020 (2) The Auditor General must conduct an operational audit
1021 of each program authorized under s. 163.081 or s. 163.082,
1022 including any third-party administrators, for compliance with
1023 the provisions of ss. 163.08-163.086 and any adopted ordinance
1024 at least once every 24 months. The Auditor General may stagger
1025 evaluations such that a portion of all programs are evaluated in
1026 1 year; however, every program must be evaluated at least once
1027 by September 1, 2027. Each program administrator, and third-
1028 party administrator if applicable, must post the most recent
1029 report on its website.

1030 Section 9. This act shall take effect July 1, 2024.