

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 include in certain contracts the right
12 to perform annual reviews of the program
13 administrator; providing certain consequences for a
14 substantial violation by a program administrator;
15 authorizing a local government to incur debt for the
16 purpose of providing financing for qualifying
17 improvements; authorizing a local government to enter
18 into a financing agreement with the property owner to
19 finance or refinance a qualifying improvement;
20 providing that the financing agreement for government
21 commercial property must meet specified conditions;
22 revising and specifying public recording requirements
23 for assessment financing agreements and notices of
24 lien; providing that a financing agreement for a
25 residential property may not be approved unless the

26 | local government, or the program administrator acting
27 | on its behalf, determines that certain conditions are
28 | met; providing that a financing agreement for a
29 | commercial property may not be approved unless the
30 | local government, or the program administrator acting
31 | on its behalf, reasonably determines that specified
32 | conditions have been met; requiring the local
33 | government or program administrator to use specified
34 | information and records to determine whether the
35 | property owner has the ability to pay the annual non-
36 | ad valorem assessment; authorizing the local
37 | government or program administrator to consider
38 | certain evidence and the statements by the property
39 | owner regarding his or her income in confirming the
40 | property owner's ability to pay; authorizing a
41 | reduction in the annual assessment payment under
42 | certain circumstances; providing that a property
43 | owner's failure to disclose certain information does
44 | not invalidate a financing agreement; requiring the
45 | use of generally accepted underwriting criteria for
46 | businesses in determining a property owner's ability
47 | pay, under certain circumstances; specifying certain
48 | requirements for a local government or program
49 | administrator that offers a qualifying improvement
50 | program for residential properties; requiring the

51 local government or program administrator to perform
52 certain tasks if a change order or proposed change
53 order significantly impacts an improvement project in
54 certain ways; requiring the local government or
55 program administrator to include certain statements in
56 a written disclosure form to the property owner, which
57 the property owner must agree to in writing; requiring
58 the local government or program administrator to
59 provide a printed electronic cancellation form to the
60 residential property owner by a certain date;
61 requiring an oral, recorded telephone call with the
62 residential property owner to review the details of
63 the financing agreement; authorizing a residential
64 real property owner, under certain circumstances and
65 within a certain timeframe, to cancel a financing
66 agreement without financial penalty; providing that
67 certain contracts are unenforceable and prohibiting a
68 qualifying improvement contractor from initiating work
69 under such contracts; specifying certain requirements
70 if a qualifying improvement contractor initiates work
71 on a residential property under an unenforceable
72 contract; providing a procedure that must be followed
73 if a qualifying improvement contractor has delivered
74 chattel or fixtures to a residential property pursuant
75 to an unenforceable contract; authorizing a

76 residential property owner to retain such chattel or
 77 fixtures in a certain circumstance; providing that an
 78 otherwise unenforceable contract is enforceable under
 79 certain circumstances; prohibiting wind-resistance
 80 improvements in certain buildings or facilities in a
 81 financing agreement between a local government and a
 82 residential property owner; authorizing the execution
 83 of a financing agreement for qualifying improvements
 84 before the issuance of a certain certificate or
 85 certain evidence; authorizing progress payments before
 86 completion of a qualifying improvement on a commercial
 87 property if the property owner provides certain
 88 information; providing that a financing agreement with
 89 a commercial property owner may cover resiliency
 90 improvements in certain buildings or facilities
 91 requiring certain work to be performed by properly
 92 certified or registered contractors; revising the
 93 limit for a residential property's combined mortgage-
 94 related debt and total non-ad valorem assessments
 95 funded; providing construction; requiring the local
 96 government or program administrator to have received
 97 the written consent of the holders or loan servicers
 98 of certain mortgages at a specified time; requiring
 99 the property owner to provide written notice within a
 100 specified timeframe to the holders or servicers of any

101 existing mortgages; revising the seller's disclosure
102 statements for residential and commercial properties
103 offered for sale which have assessments on them for
104 qualifying improvements; prohibiting certain items in
105 a financing agreement for residential property;
106 prohibiting a local government or program
107 administrator from enrolling a qualifying improvement
108 contractor that contracts with residential property
109 owners to install qualifying improvements unless
110 certain conditions are met; requiring a local
111 government or program administrator to maintain a
112 process to enroll new qualifying improvement
113 contractors which includes certain factors; requiring
114 the local government or program administrator to
115 monitor qualifying improvement contractors and enforce
116 certain sanctions on unscrupulous behavior;
117 prohibiting a program administrator from being
118 enrolled as a qualifying improvement contractor;
119 requiring the local government or program
120 administrator to confirm that certain work or service
121 has been completed before disbursing final funds to
122 the contractor; prohibiting a local government or
123 program administrator from disclosing maximum
124 financing amounts to certain persons; requiring that,
125 in communicating with residential property owners, the

126 | local government, program administrator, or qualifying
 127 | improvement contractor comply with certain marketing
 128 | and communications guidelines; prohibiting such
 129 | entities from certain communication and making certain
 130 | statements; prohibiting a qualifying improvement
 131 | contractor from advertising the availability of
 132 | assessment financing agreements unless certain
 133 | exceptions apply; prohibiting a local government or
 134 | program administrator from providing certain payments,
 135 | fees, or kickbacks; authorizing a local government or
 136 | program administrator to provide information or
 137 | services to a qualifying improvement contractor to
 138 | facilitate certain installations; authorizing a local
 139 | government or program administrator to reimburse a
 140 | qualifying improvement contractor or third party for
 141 | certain expenses; prohibiting a local government or
 142 | program administrator from providing certain financial
 143 | information to a qualifying improvement contractor;
 144 | prohibiting a qualifying improvement contractor from
 145 | providing certain prices for a qualifying improvement;
 146 | prohibiting a local government or program
 147 | administrator from providing any cash payment or
 148 | anything of material value to a residential property
 149 | owner which is explicitly conditioned on a financing
 150 | agreement; authorizing a local government or program

151 administrator to offer certain programs or promotions;
 152 requiring a local government or program administrator
 153 to conduct regular reviews of qualifying improvement
 154 contractors to confirm their compliance with
 155 requirements; requiring each local government and
 156 program administrator to develop and implement certain
 157 policies and procedures; requiring a local government
 158 that has authorized a residential program to post on
 159 its website an annual report; specifying requirements
 160 for the report; authorizing a local government or
 161 program administrator that offers a qualifying
 162 improvement program for residential property to
 163 finance improvements on commercial property if certain
 164 requirements are met; deleting construction; providing
 165 an effective date.

166
 167 Be It Enacted by the Legislature of the State of Florida:

168
 169 Section 1. Section 163.08, Florida Statutes, is amended to
 170 read:

171 163.08 Supplemental authority for improvements to real
 172 property.—

173 (1) (a) In chapter 2008-227, Laws of Florida, the
 174 Legislature amended the energy goal of the state comprehensive
 175 plan to provide, in part, that the state shall reduce its energy

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

197 (b) The Legislature finds that all energy-consuming-
198 improved properties that are not using energy conservation
199 strategies contribute to the burden affecting all improved
200 property resulting from fossil fuel energy production. Improved

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

224 (c) In order to make qualifying improvements more
225 affordable and assist property owners who wish to undertake such

226 improvements, the Legislature finds that there is a compelling
 227 state interest in enabling property owners to voluntarily
 228 finance such improvements with local government assistance.

229 (d)~~(e)~~ The Legislature determines that the actions
 230 authorized under this section, including, but not limited to,
 231 the financing of qualifying improvements through the execution
 232 of financing agreements and the related imposition of voluntary
 233 assessments are reasonable and necessary to serve and achieve a
 234 compelling state interest and are necessary for the prosperity
 235 and welfare of the state and its property owners and
 236 inhabitants.

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

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

- 242 1. A multifamily residential property composed of five or
- 243 more dwelling units;
- 244 2. A commercial real property;
- 245 3. An industrial building or property;
- 246 4. An agricultural property;
- 247 5. A nonprofit-owned property;
- 248 6. A long-term care facility, including a nursing home or
- 249 an assisted living facility; or
- 250 7. A government commercial property.

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

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

259 (d)-(a) "Local government" means a county, a municipality,
260 a dependent special district as defined in s. 189.012, or a
261 separate legal entity created pursuant to s. 163.01(7) which has
262 jurisdiction only within the boundaries of the participating
263 members of an interlocal agreement.

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

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

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

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

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

282 1. For residential property, includes any:

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

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

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

301 ~~(I)a.~~ Improving the strength of the roof deck attachment;
 302 ~~(II)b.~~ Creating a secondary water barrier to prevent water
 303 intrusion;
 304 ~~(III)c.~~ Installing wind-resistant shingles;
 305 ~~(IV)d.~~ Installing gable-end bracing;
 306 ~~(V)e.~~ Reinforcing roof-to-wall connections;
 307 ~~(VI)f.~~ Installing storm shutters; or
 308 ~~(VII)g.~~ Installing opening protections.
 309 d. Wastewater improvement, which includes, but is not
 310 limited to:
 311 (I) Removing, replacing, or improving an onsite sewage
 312 treatment and disposal system with a secondary or advanced
 313 onsite sewage treatment and disposal system or technology;
 314 (II) Replacing or converting an onsite sewage treatment
 315 and disposal system to a central sewerage system or distributed
 316 sewerage system, including, but not limited to, installing a
 317 sewer lateral and any components necessary to connect the onsite
 318 sewage treatment and disposal system or the building's plumbing
 319 to a central sewerage system or distributed sewerage system; or
 320 (III) Performing any removal, repairs, or modifications to
 321 an onsite sewage treatment and disposal system, including any
 322 repair, modification, or replacement of a system required under
 323 a local ordinance enacted pursuant to ss. 381.0065 and
 324 381.00651.
 325 e. Flood and water damage mitigation and resiliency

326 improvement, which includes, but is not limited to, projects and
 327 installation for:

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

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

333 (III) Purchasing flood-damage-resistant building
 334 materials;

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

337 (V) Making other improvements that qualify for reductions
 338 in flood insurance premiums.

339 2. For commercial property, includes any:

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

351 sustainable building rating or compliance with a national model
 352 green building code.

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

358 c. Resiliency improvement, which includes, but is not
 359 limited to:

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

361 (II) Creating a secondary water barrier to prevent water
 362 intrusion;

363 (III) Installing wind-resistant shingles;

364 (IV) Installing gable-end bracing;

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

366 (VI) Installing storm shutters;

367 (VII) Installing opening protections;

368 (VIII) Creating or improving stormwater and flood

369 resiliency, including shoreline improvements; or

370 (IX) Making any other improvements necessary to achieve a
 371 sustainable building rating or compliance with a national model
 372 resiliency standard and any improvements to a structure to
 373 achieve wind or flood insurance rate reductions, including
 374 building elevation.

375 (j) "Residential property" means a residential real

376 property composed of four or fewer dwelling units which has been
 377 or will be improved by a qualifying improvement.

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

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

401 (b) Notwithstanding ss. 192.091(2)(b) and 197.3632(8)(c),
 402 a non-ad valorem assessment on a commercial property securing
 403 financing for a qualifying improvement may not exceed a maximum
 404 annual fee of 1 percent of the annual non-ad valorem assessment
 405 collected or \$5,000, whichever is less.

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

411 (6) A qualifying improvement program may be administered
 412 by a for-profit entity or a not-for-profit organization on
 413 behalf of and at the discretion of the local government. The
 414 local government must include, in any contract with the program
 415 administrator, the right to perform annual reviews of the
 416 program administrator to confirm compliance with qualifying
 417 improvement programs for residential properties. In the event
 418 the local government determines that there is a substantial
 419 violation by a program administrator, the local government must
 420 provide the program administrator with notice of the violation
 421 and place the program administrator in a probationary program.

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

426 (8) (a) A local government may enter into a financing
 427 agreement to finance or refinance a qualifying improvement only
 428 with the record owner of the affected property. For government
 429 commercial property, the financing agreement must be executed by
 430 the nongovernmental lessee with the written consent of the
 431 governmental lessor. Evidence of such consent must be provided
 432 to the local government. The financing agreement with the
 433 nongovernmental lessee must provide that the nongovernmental
 434 lessee is the only party obligated to pay the assessment.

435 (b) Any financing agreement entered into pursuant to this
 436 section or a summary memorandum of such agreement must ~~shall~~ be
 437 submitted for recording ~~recorded~~ in the public records of the
 438 county within which the property is located by the sponsoring
 439 unit of local government within 10 ~~5~~ days after execution of the
 440 agreement. The recorded agreement provides ~~shall provide~~
 441 constructive notice that the non-ad valorem assessment to be
 442 levied on the property constitutes a lien of equal dignity to
 443 county taxes and assessments from the date of recordation. A
 444 notice of lien for the full amount of the financing may be
 445 recorded in the public records of the county where the property
 446 is located. Such lien is not enforceable in a manner that
 447 results in the acceleration of the remaining nondelinquent
 448 unpaid balance under the assessment financing agreement.

449 (9) (a) ~~Before entering into~~ A financing agreement for a
 450 residential property may not be approved unless, the local

451 government, or a program administrator acting on its behalf,
 452 determines, based on a review of public records derived from a
 453 commercially accepted source, and the statements and records of
 454 the property owner or the property owner's credit reports, shall
 455 reasonably determine that all of the following conditions have
 456 been met:

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

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

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

467 4. The property owner is current on all mortgage debt on
 468 the property.

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

471 6. The property is within the geographic boundaries of the
 472 applicable qualifying improvement program.

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

474 a. For a single qualifying improvement, the estimated
 475 useful life of the qualifying improvement.

476 b. For multiple qualifying improvements, the lesser of:
477 (I) Thirty years; or
478 (II) The greater of either the weighted average estimated
479 useful life of all qualifying improvements being financed or the
480 estimated useful life of the qualifying improvements to which
481 the greatest portion of funds is disbursed. The local government
482 or program administrator, as applicable, shall determine the
483 useful life of a qualifying improvement using established third-
484 party standards, including certification criteria from
485 government agencies or nationally recognized standards and
486 testing organizations.

487 8. The property owner is not currently the subject of
488 bankruptcy proceedings.

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

491 10. The property is not a residential property gifted to a
492 homeowner for free by a nonprofit entity as may be disclosed by
493 the property owner. The failure of a property owner to disclose
494 the gift does not invalidate a financing agreement or any
495 obligation thereunder.

496 11. For qualifying improvements for solar energy, the
497 property owner has obtained estimates from at least two
498 unaffiliated, competitive entities, one of which is a qualifying
499 improvement contractor, for the qualifying improvement to be
500 financed. This requirement may be waived by the property owner

501 through a separately signed written disclosure.

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

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

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

522 2. There are no involuntary liens greater than \$10,000,
523 including, but not limited to, construction liens, on the
524 property.

525 3. Notices of default or other evidence of property-based

526 debt delinquency have not been recorded and have not been
527 released during the preceding 3 years or the property owner's
528 period of ownership, whichever is less.

529 4. The property owner is current on all mortgage debt on
530 the property.

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

551 local government or program administrator, as applicable, when
552 determining the household income:

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

555 (b) May consider statements by the property owner
556 regarding the property owner's income, but income may not be
557 confirmed solely by such statements;

558 (c) May not consider the equity in the property that will
559 secure the non-ad valorem assessment; and

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

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

564 2. Federal and state tax returns.

565 3. Statements prepared by a certified public accountant.

566 4. Bank statements.

567 5. Credit reports.

568 6. Retirement accounts.

569 7. Social security statements.

570 8. Trust documents.

571 9. Any other reputable sources of financial information.

572 (e) If a court or tribunal determines, by clear and
573 convincing evidence, that the program administrator's
574 determination of the property owner's ability to pay was not
575 objectively reasonable based on the information provided by the

576 property owner, the annual assessment payment must be reduced by
577 an amount that is within the property owner's ability to pay.
578 This paragraph does not require or authorize the administrator
579 to reduce the amount owed on the assessment.

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

585 (g) In determining the property owner's ability to pay the
586 estimated annual assessment amount, when either annual household
587 income is not applicable to a commercial property specified in
588 subsection (25) or the ownership of residential property is
589 vested in a corporate entity or form, if the estimated amount of
590 financing is less than \$750,000, the local government or program
591 administrator, as applicable, must use generally accepted
592 underwriting criteria for businesses.

593 (11) Each local government or program administrator that
594 offers a qualifying improvement program for residential
595 properties shall:

596 (a) Develop a written disclosure form, which may be
597 presented in electronic format, which must be provided to a
598 residential property owner before he or she executes the
599 financing agreement and which contains the key terms of the
600 agreement, including:

- 601 1. A description of the qualifying improvement;
602 2. The estimated total financed amount, including the
603 itemized cost of the qualifying improvement, ancillary work,
604 program fees, and prepaid interest, if any;
605 3. The annual non-ad valorem assessment process and
606 estimated annual payment schedule;
607 4. The estimated amount of the annual non-ad valorem
608 assessment;
609 5. The term of the total financed amount;
610 6. The interest rate for the financed amount;
611 7. The estimated annual percentage rate;
612 8. The total estimated annual costs that the residential
613 property owner will be required to pay under the assessment
614 contract, including program fees;
615 9. The total estimated average monthly equivalent amount
616 of funds that the residential property owner would have to save
617 in order to pay the annual costs of the non-ad valorem
618 assessment, including program fees; and
619 10. The estimated due date of the residential property
620 owner's first property tax payment that includes the non-ad
621 valorem assessment.
622 (b) When a change order or proposed change order on a
623 project significantly increases the cost of the original project
624 or significantly expands the scope of the original project,
625 notify the property owner, confirm the change with the property

626 owner, and provide an updated written disclosure form as
627 described in paragraph (a) to the property owner.

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

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

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

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

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

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

649 6. "I understand that I have 5 days to cancel the
650 financing agreement and that this 5-day period expires at

651 midnight on the 5th business day after I sign the agreement."

652 7. "I understand that the local government, program
653 administrator, or qualifying improvement contractor does not
654 provide tax advice and that I should seek professional tax
655 advice if I have questions regarding tax credits, tax
656 deductibility, or other tax impacts of the qualifying
657 improvement or the assessment contract."

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

660 (d) Provide a printed or electronic cancellation form to
661 the residential property owner no later than the date that the
662 property owner signs the financing agreement. The cancellation
663 form must allow the property owner to cancel the contract within
664 the 5-day period specified in subparagraph (c)6.

665 (e) Before a notice to proceed is issued, conduct, with at
666 least one residential property owner or an individual who is not
667 affiliated or associated with the local government, program
668 administrator, or qualifying improvement contractor and who is
669 legally authorized to act on behalf of the property owner, an
670 oral, recorded telephone call, during which the local government
671 or program administrator must use plain language. The local
672 government or program administrator, as applicable, shall ask
673 the residential property owner or authorized representative if
674 he or she would like to communicate primarily in a language
675 other than English. A local government or program administrator,

676 as applicable, may not leave a voicemail for the residential
677 property owner or authorized representative to satisfy this
678 requirement. A local government or program administrator, as
679 applicable, as part of this telephone call, must confirm with
680 the residential property owner or authorized representative all
681 of the following:

682 1. That at least one residential property owner has access
683 to a copy of the financing agreement and financing estimates and
684 disclosures.

685 2. The qualifying improvement that is being financed.

686 3. The total estimated annual costs that the residential
687 property owner will have to pay under the financing agreement,
688 including program fees.

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

693 5. The estimated due date of the residential property
694 owner's first property tax payment that includes the non-ad
695 valorem assessment.

696 6. The term of the financing agreement.

697 7. That payments for the financing agreement will cause
698 the residential property owner's annual tax bill to increase and
699 that payments will be made through an additional annual non-ad
700 valorem assessment on the property and will be paid either

701 directly to the county tax collector's office as part of the
702 total annual secured property tax bill or may be paid through
703 the residential property owner's mortgage escrow account.

704 8. That the qualifying residential property owner has
705 disclosed whether he or she has received or is seeking
706 additional non-ad valorem assessments and has disclosed all
707 other assessments or special taxes that are or are projected to
708 be placed on the property.

709 9. That the property will be subject to a lien during the
710 term of the financing agreement and that the obligations under
711 the agreement may be required to be paid in full before the
712 residential property owner sells or refinances the property.

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

716 11. That the local government, program administrator, or
717 qualifying improvement contractor does not provide tax advice
718 and that the residential property owner should seek professional
719 tax advice if he or she has questions regarding tax credits, tax
720 deductibility, or other tax impacts of the qualifying
721 improvement or the financing agreement.

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

726 (b) A contract to sell or install a qualifying improvement
727 that is related to an application for financing in a qualifying
728 improvement program for a residential property is unenforceable,
729 and a qualifying improvement contractor may not begin work under
730 such a contract, if the property owner applied for, accepted,
731 and canceled a qualifying improvement financing agreement within
732 the 5-business-day right-to-cancel period set forth in paragraph
733 (a).

734 (c) If a qualifying improvement contractor has initiated
735 work on a residential property under a contract deemed
736 unenforceable under this subsection, the qualifying improvement
737 contractor:

738 1. May not receive compensation for that work under the
739 financing agreement.

740 2. Must restore the property to its original condition at
741 no cost to the property owner.

742 3. Must immediately return any money, property, and other
743 consideration given by the property owner. If the property owner
744 provided any property and the qualifying improvement contractor
745 does not or cannot return it, the qualifying improvement
746 contractor must immediately return the fair market value of the
747 property or its value as designated in the contract, whichever
748 is greater.

749 (d) If the qualifying improvement contractor has delivered
750 chattel or fixtures to the residential property pursuant to a

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751 contract deemed unenforceable under this subsection, the
752 qualifying improvement contractor has 90 days after the date on
753 which the contract was executed to retrieve the chattel or
754 fixtures, provided that:

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

757 2. The chattel and fixtures can be removed at the
758 qualifying improvement contractor's expense without damaging the
759 property owner's property.

760 (e) If a qualifying improvement contractor fails to comply
761 with this subsection, the residential property owner may retain
762 any chattel or fixtures provided pursuant to a contract deemed
763 unenforceable under this subsection.

764 (f) A contract that is otherwise unenforceable under this
765 subsection remains enforceable if the residential property owner
766 waives his or her right to cancel the contract or cancels the
767 financing agreement under paragraph (a) but allows the
768 qualifying improvement contractor to proceed with the
769 installation of the qualifying improvement.

770 (13)-(10) To constitute an improvement to a building or
771 facility, a qualifying improvement must ~~shall~~ be affixed to a
772 building or facility that is part of the property ~~and shall~~
773 ~~constitute an improvement to the building or facility~~ or a
774 fixture attached to the building or facility.

775 (a) A financing ~~An~~ agreement between a local government

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776 and a residential ~~qualifying~~ property owner may not cover wind-
777 resistance improvements in buildings or facilities under new
778 construction or construction for which a certificate of
779 occupancy or similar evidence of substantial completion of new
780 construction or improvement has not been issued.

781 (b) A financing agreement may be executed for qualifying
782 improvements in the construction of a commercial property before
783 a certificate of occupancy or similar evidence of substantial
784 completion of new construction or improvement is issued.
785 Progress payments, or payments made before completion, are
786 allowed for commercial properties, provided that the property
787 owner subsequently provides, upon request for a final progress
788 payment disbursement, written verification to the local
789 government confirming that the qualifying improvements are
790 completed and operating as intended. A financing agreement with
791 a commercial property owner may cover resiliency improvements in
792 buildings or facilities under new construction or construction
793 for which a certificate of occupancy or similar evidence of
794 substantial completion of new construction or improvement has
795 not been issued.

796 (14)-(11) Any work requiring a license under any applicable
797 law to make a qualifying improvement must ~~shall~~ be performed by
798 a contractor properly certified or registered pursuant to ~~part I~~
799 ~~or part II~~ of chapter 489.

800 (15) (a)-(12)-(a) Without the consent of the holders or loan

801 servicers of any mortgage encumbering or otherwise secured by
 802 the residential property:⁷

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

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

818 (b) Before entering into a financing agreement with the
 819 owner of a commercial property, except those commercial
 820 properties specified in subsection (25), the local government or
 821 program administrator, as applicable, must have received the
 822 written consent of the current holders or loan servicers of any
 823 mortgage that encumbers or is otherwise secured by the property
 824 or that will otherwise be secured by the property at the time
 825 the financing agreement is executed by the local government or

826 program administrator ~~notwithstanding paragraph (a), a non-ad~~
827 ~~valorem assessment for a qualifying improvement defined in~~
828 ~~subparagraph (2)(b)1. or subparagraph (2)(b)2. that is supported~~
829 ~~by an energy audit is not subject to the limits in this~~
830 ~~subsection if the audit demonstrates that the annual energy~~
831 ~~savings from the qualified improvement equals or exceeds the~~
832 ~~annual repayment amount of the non-ad valorem assessment.~~

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

851 ~~improvement~~ assessment.

852 ~~(17)-(14)~~ At or before the time a seller ~~purchaser~~ executes
 853 a contract for the sale ~~and purchase~~ of any property for which a
 854 non-ad valorem assessment has been levied under this section and
 855 has an unpaid balance due, the seller shall give the prospective
 856 purchaser a written disclosure statement in the following form,
 857 which must ~~shall~~ be set forth in the contract or in a separate
 858 writing.÷

859 (a) For residential property:

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

872 (b) For a commercial property:

873
 874 QUALIFYING IMPROVEMENTS FOR ENERGY EFFICIENCY, RENEWABLE
 875 ENERGY, OR RESILIENCY.—The property being purchased is located

876 within the jurisdiction of a local government that has placed an
 877 assessment on the property pursuant to s. 163.08, Florida
 878 Statutes. The assessment is for a qualifying improvement to the
 879 property relating to energy efficiency, renewable energy, or
 880 resiliency, and is not based on the value of the property. You
 881 are encouraged to contact the county property appraiser's office
 882 to learn more about this and other assessments that may be
 883 provided for by law.

884
 885 (18) A financing agreement authorized under this section
 886 on residential property may not include any of the following:

887 (a) A negative amortization schedule. Capitalized interest
 888 included in the original balance of the financing agreement does
 889 not constitute negative amortization.

890 (b) A balloon payment.

891 (c) Prepayment fees, other than nominal administrative
 892 costs.

893 (19) For residential property, a local government or
 894 program administrator:

895 (a) May not enroll a qualifying improvement contractor who
 896 contracts with residential property owners to install qualifying
 897 improvements unless:

898 1. The local government or program administrator, as
 899 applicable, determines that the qualifying improvement
 900 contractor maintains in good standing an appropriate license

901 from the state, if applicable, as well as any other permits,
902 licenses, or registrations required for engaging in its business
903 in the jurisdiction in which it operates and maintains all
904 state-required bond and insurance coverage.

905 2. The local government or program administrator, as
906 applicable, obtains the qualifying improvement contractor's
907 written agreement that the qualifying improvement contractor
908 will comply with all applicable laws, including applicable
909 advertising and marketing laws and rules and the requirements of
910 this section.

911 (b) Must maintain a process to enroll new qualifying
912 improvement contractors which includes review of the following
913 for each contractor:

914 1. Relevant work or project history.

915 2. Financial and reputational background checks.

916 3. The contractor's status on the Better Business Bureau
917 platform or other online platform that tracks contractor
918 reviews.

919 (c) Must establish and maintain a process for monitoring
920 qualifying improvement contractors with regard to performance
921 and compliance with program policies and must implement policies
922 for suspending, reinstating, and terminating qualifying
923 improvement contractors based on violations of program policies
924 or unscrupulous behavior. A program administrator, either
925 directly or through an affiliate, may not be enrolled as a

926 qualifying improvement contractor.

927 (20) (a) Before disbursing final funds to a qualifying
928 improvement contractor for a qualifying improvement on
929 residential property, the local government or program
930 administrator, as applicable, must confirm that the applicable
931 work or service has been completed or that the final permit for
932 the qualifying improvement has been closed with all permit
933 requirements satisfied.

934 (b) A local government or program administrator, as
935 applicable, may not disclose the maximum financing amount for
936 which a residential property owner is eligible to a qualifying
937 improvement contractor or to a third party engaged in soliciting
938 financing agreements financed pursuant to this section.

939 (21) When communicating with residential property owners,
940 a local government, program administrator, or qualifying
941 improvement contractor may not:

942 (a) Suggest or imply:

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

945 2. That qualifying improvements are free or provided at no
946 cost, or that the financing related to a non-ad valorem
947 assessment authorized under this section is free or provided at
948 no cost; or

949 3. That the financing of a qualifying improvement using
950 the program authorized pursuant to this section does not require

951 the property owner to repay the financial obligation.

952 (b) Make any representation as to the tax deductibility of
953 a non-ad valorem assessment on residential property. A local
954 government, program administrator, or qualifying improvement
955 contractor, or a third party engaged in marketing on behalf of
956 such entities, may encourage a property owner to seek the advice
957 of a tax professional regarding tax matters related to
958 assessments.

959 (22) (a) A qualifying improvement contractor may not
960 advertise the availability of financing agreements for, or
961 solicit residential property owners on behalf of, the local
962 government or program administrator unless:

963 1. The qualifying improvement contractor maintains the
964 appropriate registration or certification from the Construction
965 Industry Licensing Board or any other permit, license, or
966 registration required to conduct business in the jurisdiction in
967 which it operates, and provides proof of having the required
968 bond and insurance coverage amounts.

969 2. The local government or program administrator, as
970 applicable, obtains the qualifying improvement contractor's
971 written agreement that the qualifying improvement contractor
972 will comply with applicable laws and rules and qualifying
973 improvement program policies and procedures, including those on
974 advertising and marketing.

975 (b) A local government or program administrator may not

976 provide any payment, fee, or kickback to a qualifying
977 improvement contractor for referring financing business relating
978 to a specific financing agreement on a residential property.

979 However, a local government or program administrator may provide
980 information or services to a qualifying improvement contractor
981 to facilitate the installation of a qualifying improvement for a
982 property owner.

983 (c) A local government or program administrator may
984 reimburse a qualifying improvement contractor or third party for
985 its expenses in advertising and marketing campaigns and
986 materials.

987 (d) A local government or program administrator may not
988 provide to a qualifying improvement contractor any information
989 that discloses the amount of funds for which a property owner is
990 eligible for qualifying improvements or the amount of equity in
991 a property.

992 (e) For residential properties, a qualifying improvement
993 contractor may not provide a different price for a qualifying
994 improvement financed under this section than the price that the
995 qualifying improvement contractor would otherwise provide if the
996 qualifying improvement was not being financed through an
997 assessment financing agreement.

998 (f) A local government or program administrator may not
999 provide any direct cash payment or other thing of material value
1000 to a residential property owner which is explicitly conditioned

1001 upon the property owner entering into a financing agreement.
 1002 However, a local government or program administrator may offer
 1003 programs or promotions that provide reduced fees or interest
 1004 rates if the reduced fees or interest rates are reflected in the
 1005 financing agreements and are not provided to the property owners
 1006 as cash consideration.

1007 (g) A local government or program administrator must
 1008 conduct regular reviews of qualifying improvement contractors to
 1009 confirm ongoing compliance with this subsection. If the local
 1010 government or program administrator determines that there is a
 1011 substantial violation by a qualifying improvement contractor,
 1012 the local government or program administrator must provide the
 1013 contractor with notice of the violation and place the contractor
 1014 in a probationary program.

1015 (23) Each local government and program administrator must
 1016 develop and implement policies and procedures for responding to,
 1017 tracking, and resolving questions and complaints about its
 1018 qualifying improvement program for residential properties.

1019 (24) Each local government that has authorized a
 1020 qualifying improvement program for residential properties shall
 1021 post on its website an annual report for the period ending
 1022 December 31 each year containing the following information:

1023 (a) The number of qualifying improvements funded.

1024 (b) The aggregate, average, and median dollar amounts of
 1025 annual non-ad valorem assessments and the total number of non-ad

1026 valorem assessments that funded qualifying improvements.

1027 (c) The percentage, number, and dollar value of non-ad
1028 valorem assessments that funded qualifying improvements,
1029 aggregated by the following category types: energy efficiency,
1030 renewable energy, wind resistance, residential property
1031 wastewater, commercial property resiliency, and other commercial
1032 property qualifying improvements.

1033 (d) The number of defaulted non-ad valorem assessments,
1034 including the total number and defaulted amount, the number and
1035 dates of missed payments, the total number of parcels in default
1036 and the years in default, and the percentage of defaults by
1037 total assessments.

1038 (e) A summary of all reported complaints received by the
1039 local government and its program administrators related to
1040 authorized qualifying improvements programs, including the
1041 resolution of each complaint.

1042 (f) The estimated number of jobs created.

1043 (g) The number and percentage of homeowners 60 years of
1044 age or older participating in a qualifying improvement program.
1045 This report must be posted no later than April 1 of the year
1046 following the calendar year covered by the report.

1047 (25) Each local government or program administrator that
1048 offers a qualifying improvement program for residential
1049 properties may finance qualifying improvements on commercial
1050 property if the estimated amount of financing on the commercial

1051 property does not exceed \$750,000, subject to paragraph (10) (g).

1052 ~~(15) A provision in any agreement between a local~~
 1053 ~~government and a public or private power or energy provider or~~
 1054 ~~other utility provider is not enforceable to limit or prohibit~~
 1055 ~~any local government from exercising its authority under this~~
 1056 ~~section.~~

1057 ~~(16) This section is additional and supplemental to county~~
 1058 ~~and municipal home rule authority and not in derogation of such~~
 1059 ~~authority or a limitation upon such authority.~~

1060 Section 2. This act shall take effect July 1, 2024.