

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.; authorizing 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
 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
59 for sale which have assessments 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
 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
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 for when a
 127 qualifying improvement contractor initiates work on an
 128 unenforceable contract; providing that a qualifying
 129 improvement contractor may retrieve chattel or
 130 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
 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
 164 municipality, a dependent special district as defined in s.
 165 189.012, or a separate legal entity created pursuant to s.
 166 163.01(7).

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

175 (6) "Qualifying improvement" means the following permanent
 176 improvements located on real property within the jurisdiction of
 177 an authorized financing program:

178 (a) For improvements on residential property:

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

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

190 3. Replacing windows or doors, including garage doors,
 191 with energy-efficient windows or doors.

192 4. Installing energy-efficient heating, cooling, or
 193 ventilation systems.

194 5. Replacing or installing insulation.

195 6. Replacing or installing energy-efficient water heaters.

196 (b) For installing or constructing improvements on
 197 commercial property:

198 1. Waste system improvements, which consists of repairing,
 199 replacing, improving, or constructing a central sewerage system,

200 converting an onsite sewage treatment and disposal system to a
 201 central sewerage system, or, if no central sewerage system is
 202 available, removing, repairing, replacing, or improving an
 203 onsite sewage treatment and disposal system to an advanced
 204 system or technology.

205 2. Making resiliency improvements, which includes, but is
 206 not limited to:

207 a. Repairing, replacing, improving, or constructing a
 208 roof, including improvements that strengthen the roof deck
 209 attachment;

210 b. Creating a secondary water barrier to prevent water
 211 intrusion;

212 c. Installing wind-resistant shingles or gable-end
 213 bracing; or

214 d. Reinforcing roof-to-wall connections.

215 e. Providing flood and water damage mitigation and
 216 resiliency improvements, prioritizing repairs, replacement, or
 217 improvements that qualify for reductions in flood insurance
 218 premiums, including raising a structure above the base flood
 219 elevation to reduce flood damage; creating or improving
 220 stormwater and flood resiliency, including flood diversion
 221 apparatus, drainage gates, or shoreline improvements; purchasing
 222 flood-damage-resistant building materials; or making any other
 223 improvements necessary to achieve a sustainable building rating
 224 or compliance with a national model resiliency standard and any

225 improvements to a structure to achieve wind or flood insurance
226 rate reductions, including building elevation.

227 3. Energy conservation and efficiency improvements, which
228 are measures to reduce consumption through efficient use or
229 conservation of electricity, natural gas, propane, or other
230 formers of energy, including but not limited to, air sealing;
231 installation of insulation; installation of energy-efficient
232 heating, cooling, or ventilation systems; building modification
233 to increase the use of daylight; window replacement; windows;
234 energy controls or energy recovery systems; installation of
235 electric vehicle charging equipment; installation of efficient
236 lighting equipment; or any other improvements necessary to
237 achieve a sustainable building rating or compliance with a
238 national model green building code.

239 4. Renewable energy improvements, which is the
240 installation of any system in which the electrical, mechanical,
241 or thermal energy is produced from a method that uses solar,
242 geothermal, bioenergy, wind, or hydrogen.

243 5. Water conservation efficiency improvements, which are
244 measures to reduce consumption through efficient use or
245 conservation of water.

246 (7) "Qualifying improvement contractor" means a licensed
247 or registered contractor who has been registered to participate
248 by a program administrator pursuant to s. 163.083 to install or
249 otherwise perform work to make qualifying improvements on

250 residential property financed pursuant to a program authorized
 251 under s. 163.081.

252 (8) "Residential property" means real property zoned as
 253 residential or multifamily residential and composed of four or
 254 fewer dwelling units.

255 Section 2. Section 163.081, Florida Statutes, is created
 256 to read:

257 163.081 Financing qualifying improvements to residential
 258 property.—

259 (1) RESIDENTIAL PROPERTY PROGRAM AUTHORIZATION.—

260 (a) Subject to local government ordinance or resolution, a
 261 residential property owner may apply to a program administrator
 262 for funding to finance a qualifying improvement and enter into a
 263 financing agreement with the program administrator. An
 264 authorized program to fund qualifying improvements must, at a
 265 minimum, meet the requirements of this section. Pursuant to this
 266 section or as otherwise provided by law, or pursuant to a
 267 county's or municipality's home rule power, a local government
 268 may enter into a partnership with one or more local governments
 269 for the purpose of providing and financing qualifying
 270 improvements. A program administrator may contract with one or
 271 more third-party administrators to implement the program as
 272 provided in s. 163.084.

273 (b) An authorized program administrator may levy non-ad
 274 valorem assessments to facilitate repayment of financing

275 qualifying improvements. Costs incurred by the program
 276 administrator for such purpose may be collected as a non-ad
 277 valorem assessment. A non-ad valorem assessment shall be
 278 collected pursuant to s. 197.3632 and, notwithstanding s.
 279 197.3632(8) (a), shall not be subject to discount for early
 280 payment. However, the notice and adoption requirements of s.
 281 197.3632(4) do not apply if this section is used and complied
 282 with, and the intent resolution, publication of notice, and
 283 mailed notices to the property appraiser, tax collector, and
 284 Department of Revenue required by s. 197.3632(3) (a) may be
 285 provided on or before August 15 of each year in conjunction with
 286 any non-ad valorem assessment authorized by this section if the
 287 property appraiser, tax collector, and program administrator
 288 agree.

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

293 (2) APPLICATION.—The owner of record of the residential
 294 property may apply to the authorized program administrator to
 295 finance a qualifying improvement. The program administrator may
 296 only enter into a financing agreement with the property owner.

297 (3) FINANCING AGREEMENTS.—

298 (a) Before entering into a financing agreement, the
 299 program administrator must review the residential property

300 owner's public records derived from a commercially accepted
 301 source and the property owner's statements, records, and credit
 302 reports and make each of the following findings:

303 1. The total amount of any non-ad valorem assessment for a
 304 residential property under this section does not exceed 20
 305 percent of the just value of the property as determined by the
 306 property appraiser. The total amount may exceed this limitation
 307 upon written consent of the holders or loan servicers of any
 308 mortgage encumbering or otherwise secured by the residential
 309 property.

310 2. The combined mortgage-related debt and total amount of
 311 any non-ad valorem assessments under the program for the
 312 residential property does not exceed 97 percent of the just
 313 value of the property as determined by the property appraiser.

314 3. The financing agreement does not utilize a negative
 315 amortization schedule, a balloon payment, or prepayment fees or
 316 finances other than nominal administrative costs. Capitalized
 317 interest included in the original balance of the assessment
 318 financing agreement does not constitute negative amortization.

319 4. All property taxes and any other assessments, including
 320 non-ad valorem assessments, levied on the same bill as the
 321 property taxes are current and have not been delinquent for the
 322 preceding 3 years, or the property owner's period of ownership,
 323 whichever is less.

324 5. There are no outstanding fines or fees related to
325 zoning or code enforcement violations issued by a county or
326 municipality, unless the qualifying improvement will remedy the
327 zoning or code violation.

328 6. There are no involuntary liens, including, but not
329 limited to, construction liens on the residential property.

330 7. No notices of default or other evidence of property-
331 based debt delinquency have been recorded and not released
332 during the preceding 3 years or the property owner's period of
333 ownership, whichever is less.

334 8. The property owner is current on all mortgage debt on
335 the residential property.

336 9. The property owner has not been subject to a bankruptcy
337 proceeding within the last 5 years unless it was discharged or
338 dismissed more than 2 years before the date on which the
339 property owner applied for financing.

340 10. The residential property is not subject to an existing
341 home equity conversion mortgage or reverse mortgage product.

342 11. The term of the financing agreement does not exceed
343 the weighted average useful life of the qualified improvements
344 to which the greatest portion of funds disbursed under the
345 assessment contract is attributable, not to exceed 20 years. The
346 program administrator shall determine the useful life of a
347 qualifying improvement using established standards, including

348 certification criteria from government agencies or nationally
349 recognized standards and testing organizations.

350 12. If the qualifying improvement is estimated to cost
351 \$10,000 or more, the property owner has obtained estimates from
352 at least two unaffiliated, registered qualifying improvement
353 contractors for the qualifying improvement to be financed.

354 13. If the qualifying improvement is for the conversion of
355 an onsite sewage treatment and disposal system to a central
356 sewerage system, the property owner has utilized all available
357 local government funding for such conversions and is unable to
358 obtain financing for the improvement on more favorable terms
359 through a local government program designed to support such
360 conversions.

361 (b) Before entering into a financing agreement, the
362 property administrator must determine if there are any current
363 financing agreements on the residential property and if the
364 property owner has obtained or sought to obtain additional
365 qualifying improvements on the same property which have not yet
366 been recorded. The failure to disclose information related to
367 not yet recorded financing agreements does not invalidate a
368 financing agreement or any obligation thereunder, even if the
369 total financed amount of the qualifying improvement exceeds the
370 amount that would otherwise be authorized under this section.
371 The existence of a prior qualifying improvement non-ad valorem
372 assessment or a prior financing agreement is not evidence that

373 the financing agreement under consideration is affordable or
374 meets other program requirements.

375 (c) Before a program administrator approves a qualifying
376 improvement under this section, the program administrator must
377 use information contained in the property owner's application,
378 reasonably reliable third-party records, or an automated
379 verification system to reasonably determine whether the property
380 owner has the ability to pay the annual non-ad valorem
381 assessment for the qualifying improvement. The program
382 administrator must review the property owner's household income,
383 housing expenses, assets, and other debt obligations. If the
384 program administrator uses an automated verification system, it
385 must be a system that can verify the property owner's income, is
386 not based on predictive or estimation methodologies, and has
387 been determined sufficient for such verification purposes by a
388 federal mortgage lending authority or regulator. In reviewing
389 the property owner's ability to pay, the program administrator:

390 1. When determining the household income, may include the
391 income of any property owner aged 18 years old or older whose
392 name is on the property title. If a person's income is
393 considered, that person's debt obligations must also be
394 considered.

395 2. May not consider the equity in the property that will
396 secure the non-ad valorem assessment.

397 3. Shall determine the property owner's debt obligations
398 using reasonably reliable third-party records, including, at a
399 minimum, one consumer credit report from an agency that meets
400 the requirements of 15 U.S.C. s. 1681a(p). Debt obligations to
401 be reviewed include:

402 a. Secured and unsecured debt.

403 b. Housing expenses. The program administrator shall make
404 a reasonable estimate of the basic housing expenses based on the
405 number of persons in the household.

406 c. Stated alimony or child support obligations.

407 4. Shall determine whether the property owner has
408 sufficient income to pay the annual non-ad valorem assessment
409 and that he or she has sufficient residual income to meet his or
410 her household living expenses. To participate in a qualifying
411 improvement program, a residential property owner must have a
412 total debt-to-income ratio no higher than 49 percent.

413 (d) Findings satisfying paragraphs (a), (b), and (c) must
414 be documented, including supporting evidence relied upon, and
415 provided to the property owner prior to a financing agreement
416 being approved and recorded.

417 (e) A property owner and the program administrator may
418 agree to include in the financing agreement provisions for
419 allowing change orders necessary to complete the qualifying
420 improvement. Any financing agreement or contract for qualifying
421 improvements which includes such provisions must meet the

422 requirements of this paragraph. If a proposed change order on a
423 qualifying improvement will significantly increase the original
424 cost of the qualifying improvement or significantly expand the
425 scope of the qualifying improvement, before the change order may
426 be executed which would result in an increase in the amount
427 financed through the program administrator for the qualifying
428 improvement, the program administrator must notify the property
429 owner, provide an updated written disclosure form as described
430 in subsection (4) to the property owner, and obtain written
431 approval of the change from the property owner.

432 (f) A financing agreement may not be entered into if the
433 total cost of the qualifying improvement, including program fees
434 and interest, is less than \$2,500.

435 (g) A financing agreement may not be entered into for
436 qualifying improvements in buildings or facilities under new
437 construction or construction for which a certificate of
438 occupancy or similar evidence of substantial completion of new
439 construction or improvement has not been issued.

440 (4) DISCLOSURES.—

441 (a) In addition to the requirements in subsection (3), a
442 financing agreement may not be approved unless the program
443 administrator first provides, including via electronic means, a
444 written financing estimate and disclosure to the property owner
445 which includes all of the following, each of which must be
446 individually acknowledged in writing by the property owner:

- 447 1. The estimated total amount to be financed, including
448 the total and itemized cost of the qualifying improvement,
449 program fees, and capitalized interest, if any.
- 450 2. The estimated annual non-ad valorem assessment.
- 451 3. The term of the financing agreement and the schedule
452 for the non-ad valorem assessments.
- 453 4. The interest charged and estimated annual percentage
454 rate.
- 455 5. A description of the qualifying improvement.
- 456 6. The total estimated annual costs that will be required
457 to be paid under the assessment contract, including program
458 fees.
- 459 7. The total estimated average monthly equivalent amount
460 of funds that would need to be saved in order to pay the annual
461 costs of the non-ad valorem assessment, including program fees.
- 462 8. The estimated due date of the first payment that
463 includes the non-ad valorem assessment.
- 464 9. A disclosure that the financing agreement may be
465 canceled within 3 business days after signing the financing
466 agreement without any financial penalty for doing so.
- 467 10. A disclosure that the property owner may repay any
468 remaining amount owed, at any time, without penalty or
469 imposition of additional prepayment fees or fines other than
470 nominal administrative costs.

471 11. A disclosure that if the property owner sells or
472 refinances the residential property, the property owner may be
473 required by a mortgage lender to pay off the full amount owed
474 under each financing agreement under this section.

475 12. A disclosure that the assessment will be collected
476 along with the property owner's property taxes, and will result
477 in a lien on the property from the date the financing agreement
478 is recorded.

479 13. A disclosure that potential utility or insurance
480 savings are not guaranteed, and will not reduce the assessment
481 amount.

482 14. A disclosure that failure to pay the assessment may
483 result in penalties, fees, including attorney fees, court costs,
484 and the issuance of a tax certificate that could result in the
485 property owner losing the property and a judgment against the
486 property owner, and may affect the property owner's credit
487 rating.

488 (b) Prior to the financing agreement being approved, the
489 program administrator must conduct an oral, recorded telephone
490 call with the property owner during which the program
491 administrator must confirm each finding or disclosure required
492 in subsection (3) and this section.

493 (5) NOTICE TO LIENHOLDERS AND SERVICERS.—At least 30 days
494 before entering into a financing agreement, the property owner
495 must provide to the holders or loan servicers of any existing

496 mortgages encumbering or otherwise secured by the residential
497 property a written notice of the owner's intent to enter into a
498 financing agreement together with the maximum amount to be
499 financed, including the amount of any fees and interest, and the
500 maximum annual assessment necessary to repay the total. A
501 verified copy or other proof of such notice must be provided to
502 the program administrator. A provision in any agreement between
503 a mortgagor or other lienholder and a property owner, or
504 otherwise now or hereafter binding upon a property owner, which
505 allows for acceleration of payment of the mortgage, note, or
506 lien or other unilateral modification solely as a result of
507 entering into a financing agreement as provided for in this
508 section is unenforceable. This subsection does not limit the
509 authority of the holder or loan servicer to increase the
510 required monthly escrow by an amount necessary to pay the annual
511 assessment.

512 (6) CANCELLATION.—A property owner may cancel a financing
513 agreement on a form established by the program administrator
514 within 3 business days after signing the financing agreement
515 without any financial penalty for doing so.

516 (7) RECORDING.—Any financing agreement approved and
517 entered into pursuant to this section, or a summary memorandum
518 of such agreement, shall be submitted for recording in the
519 public records of the county within which the residential
520 property is located by the program administrator within 10

521 business days after execution of the agreement. The recorded
522 agreement must provide constructive notice that the non-ad
523 valorem assessment to be levied on the property constitutes a
524 lien of equal dignity to county taxes and assessments from the
525 date of recordation. A notice of lien for the full amount of the
526 financing may be recorded in the public records of the county
527 where the property is located. Such lien is not enforceable in a
528 manner that results in the acceleration of the remaining
529 nondelinquent unpaid balance under the assessment financing
530 agreement.

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

538
539 QUALIFYING IMPROVEMENTS.—The property being purchased
540 is subject to an assessment on the property pursuant
541 to s. 163.081, Florida Statutes. The assessment is for
542 a qualifying improvement to the property and is not
543 based on the value of the property. You are encouraged
544 to contact the property appraiser's office to learn

545 more about this and other assessments that may be
 546 provided by law.

548 (9) DISBURSEMENTS.—Before disbursing final funds to a
 549 qualifying improvement contractor for a qualifying improvement
 550 on residential property, the program administrator shall confirm
 551 that the applicable work or service has been completed or, as
 552 applicable, that the final permit for the qualifying improvement
 553 has been closed with all permit requirements satisfied or a
 554 certificate of occupancy or similar evidence of substantial
 555 completion of construction or improvement has been issued.

556 (10) CONSTRUCTION.—This section is additional and
 557 supplemental to county and municipal home rule authority and not
 558 in derogation of such authority or a limitation upon such
 559 authority.

560 Section 3. Section 163.082, Florida Statutes, is created
 561 to read:

562 163.082 Financing qualifying improvements to commercial
 563 property.—

564 (1) COMMERCIAL PROPERTY PROGRAM AUTHORIZATION.—

565 (a) Subject to local government ordinance or resolution, a
 566 commercial property owner may apply to a program administrator
 567 for funding to finance a qualifying improvement and enter into a
 568 financing agreement with the program administrator. An
 569 authorized program to fund qualifying improvements must, at a

570 minimum, meet the requirements of this section. Pursuant to this
571 section or as otherwise provided by law or pursuant to a
572 county's or municipality's home rule power, a local government
573 may enter into a partnership with one or more local governments
574 for the purpose of providing and financing qualifying
575 improvements. A program administrator may contract with one or
576 more third-party administrators to implement the program as
577 provided in s. 163.084.

578 (b) An authorized program administrator may levy non-ad
579 valorem assessments to facilitate repayment of financing or
580 refinancing qualifying improvements. Costs incurred by the
581 program administrator for such purpose may be collected as a
582 non-ad valorem assessment. A non-ad valorem assessment shall be
583 collected pursuant to s. 197.3632 and, notwithstanding s.
584 197.3632(8)(a), is not subject to discount for early payment.
585 However, the notice and adoption requirements of s. 197.3632(4)
586 do not apply if this section is used and complied with, and the
587 intent resolution, publication of notice, and mailed notices to
588 the property appraiser, tax collector, and Department of Revenue
589 required by s. 197.3632(3)(a) may be provided on or before
590 August 15 of each year in conjunction with any non-ad valorem
591 assessment authorized by this section, if the property
592 appraiser, tax collector, and program administrator agree.
593 Notwithstanding ss. 192.091(2)(b) and 197.3632(8)(c), a non-ad
594 valorem assessment under this section is subject to a maximum

595 annual fee of 1 percent of the annual non-ad valorem assessment
596 collected or \$5,000, whichever is less.

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

601 (2) APPLICATION.—The owner of record of the commercial
602 property may apply to the program administrator to finance a
603 qualifying improvement and enter into a financing agreement with
604 the program administrator to make such improvement. The program
605 administrator may only enter into a financing agreement with a
606 property owner. However, a nongovernmental lessee may apply to
607 finance a qualifying improvement if the nongovernmental lessee
608 provides the program administrator with written consent of the
609 government lessor. Any financing agreement with the
610 nongovernmental lessee must provide that the nongovernmental
611 lessee is the only party obligated to pay the assessment.

612 (3) FINANCING AGREEMENTS.—

613 (a) Before entering into a financing agreement, the
614 program administrator must make each of the following findings
615 based on a review of public records derived from a commercially
616 accepted source and the statements, records, and credit reports
617 of the commercial property owner or nongovernmental lessee:

618 1. The combined mortgage-related debt and total amount of
619 any non-ad valorem assessments under the program for the

620 commercial property does not exceed 97 percent of the just value
621 of the property as determined by the property appraiser.

622 2. All property taxes and any other assessments, including
623 non-ad valorem assessments, levied on the same bill as the
624 property taxes are current.

625 3. There are no involuntary liens greater than \$5,000,
626 including, but not limited to, construction liens on the
627 commercial property.

628 4. No notices of default or other evidence of property-
629 based debt delinquency have been recorded and not been released
630 during the preceding 3 years or the property owner's period of
631 ownership, whichever is less.

632 5. The property owner is current on all mortgage debt on
633 the commercial property.

634 6. The term of the financing agreement does not exceed the
635 weighted average useful life of the qualified improvements to
636 which the greatest portion of funds disbursed under the
637 assessment contract is attributable, not to exceed 30 years. The
638 program administrator shall determine the useful life of a
639 qualifying improvement using established standards, including
640 certification criteria from government agencies or nationally
641 recognized standards and testing organizations.

642 7. The property owner or nongovernmental lessee is not
643 currently the subject of a bankruptcy proceeding.

644 (b) Before entering into a financing agreement, the
645 program administrator shall determine if there are any current
646 financing agreements on the commercial property and whether the
647 property owner or nongovernmental lessee has obtained or sought
648 to obtain additional qualifying improvements on the same
649 property which have not yet been recorded. The failure to
650 disclose information related to not yet recorded financing
651 agreements does not invalidate a financing agreement or any
652 obligation thereunder, even if the total financed amount of the
653 qualifying improvement exceeds the amount that would otherwise
654 be authorized under this section. The existence of a prior
655 qualifying improvement non-ad valorem assessment or a prior
656 financing agreement is not evidence that the financing agreement
657 under consideration is affordable or meets other program
658 requirements.

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

663 (d) A property owner or nongovernmental lessee and the
664 program administrator may agree to include in the financing
665 agreement provisions for allowing change orders necessary to
666 complete the qualifying improvement. Any financing agreement or
667 contract for qualifying improvements which includes such
668 provisions must meet the requirements of this paragraph. If a

669 proposed change order on a qualifying improvement will
670 significantly increase the original cost of the qualifying
671 improvement or significantly expand the scope of the qualifying
672 improvement, before the change order may be executed which would
673 result in an increase in the amount financed through the program
674 administrator for the qualifying improvement, the program
675 administrator must notify the property owner or nongovernmental
676 lessee, provide an updated written disclosure form as described
677 in subsection (4) to the property owner or nongovernmental
678 lessee, and obtain written approval of the change from the
679 property owner or nongovernmental lessee.

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

683 (4) DISCLOSURES.—In addition to the requirements in
684 subsection (3), a financing agreement may not be approved unless
685 the program administrator provides, whether on a separate
686 document or included with other disclosures or forms, a
687 financing estimate and disclosure to the property owner or
688 nongovernmental lessee which includes all of the following:

689 (a) The estimated total amount to be financed, including
690 the total and itemized cost of the qualifying improvement,
691 program fees, and capitalized interest, if any.

692 (b) The estimated annual non-ad valorem assessment.

693 (c) The term of the financing agreement and the schedule
 694 for the non-ad valorem assessments.

695 (d) The interest charged and estimated annual percentage
 696 rate.

697 (e) A description of the qualifying improvement.

698 (f) The total estimated annual costs that will be required
 699 to be paid under the assessment contract, including program
 700 fees.

701 (g) The estimated due date of the first payment that
 702 includes the non-ad valorem assessment.

703 (5) CONSENT OF LIENHOLDERS AND SERVICERS.—Before entering
 704 into a financing agreement with a property owner, the program
 705 administrator must have received the written consent of the
 706 current holders or loan servicers of any mortgage that encumbers
 707 or is otherwise secured by the commercial property or that will
 708 otherwise be secured by the property at the time the financing
 709 agreement is executed.

710 (6) RECORDING.—Any financing agreement approved and
 711 entered into pursuant to this section or a summary memorandum of
 712 such agreement must be submitted for recording in the public
 713 records of the county within which the commercial property is
 714 located by the program administrator within 10 business days
 715 after execution of the agreement. The recorded agreement must
 716 provide constructive notice that the non-ad valorem assessment
 717 to be levied on the property constitutes a lien of equal dignity

718 to county taxes and assessments from the date of recordation. A
 719 notice of lien for the full amount of the financing may be
 720 recorded in the public records of the county where the property
 721 is located. Such lien is not enforceable in a manner that
 722 results in the acceleration of the remaining nondelinquent
 723 unpaid balance under the assessment financing agreement.

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

732 QUALIFYING IMPROVEMENTS.—The property being purchased
 733 is subject to an assessment on the property pursuant
 734 to s. 163.082, Florida Statutes. The assessment is for
 735 a qualifying improvement to the property and is not
 736 based on the value of the property. You are encouraged
 737 to contact the property appraiser's office to learn
 738 more about this and other assessments that may be
 739 provided for by law.

741 (8) COMPLETION CERTIFICATE.—Upon disbursement of all
 742 financing and completion of installation of qualifying

743 improvements financed, the program administrator shall file with
 744 the applicable county or municipality a certificate that the
 745 qualifying improvements have been installed and are in good
 746 working order.

747 (9) CONSTRUCTION.—This section is additional and
 748 supplemental to county and municipal home rule authority and not
 749 in derogation of such authority or a limitation upon such
 750 authority.

751 Section 4. Section 163.083, Florida Statutes, is created
 752 to read:

753 163.083 Qualifying improvement contractors.—

754 (1) A county or municipality shall establish a process, or
 755 approve a process established by a program administrator, to
 756 register contractors for participation in a program authorized
 757 by a county or municipality pursuant to s. 163.081. A qualifying
 758 improvement contractor may only perform such work that the
 759 contractor is appropriately licensed, registered, and permitted
 760 to conduct. At the time of application to participate and during
 761 participation in the program, contractors must:

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

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

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

771 (c) File with the program administrator a written
772 statement in a form approved by the county or municipality that
773 the contractor will comply with applicable laws and rules and
774 qualifying improvement program policies and procedures,
775 including those on advertising and marketing.

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

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

780 (a) A process to monitor qualifying improvement
781 contractors for performance and compliance with requirements of
782 the program and must conduct regular reviews of qualifying
783 improvement contractors to confirm that each qualifying
784 improvement contractor is in good standing.

785 (b) Procedures for notice and imposition of penalties upon
786 a finding of violation, which may consist of placement of the
787 qualifying improvement contractor in a probationary status that
788 places conditions for continued participation, payment of fines
789 or sanctions, suspension, or termination from participation in
790 the program.

791 (c) An easily accessible page on its website that provides
792 information on the status of registered qualifying improvement

793 contractors, including any imposed penalties, and the names of
794 any qualifying improvement contractors currently on probationary
795 status or that are suspended or terminated from participation in
796 the program.

797 Section 5. Section 163.084, Florida Statutes, is created
798 to read:

799 163.084 Third-party administrator for financing qualifying
800 improvements programs.-

801 (1) (a) A program administrator may contract with one or
802 more entities to administer a program authorized pursuant to s.
803 163.081 or s. 163.082 on behalf of and at the discretion of the
804 program administrator.

805 (b) The third-party administrator must be independent of
806 the program administrator and have no conflicts of interest
807 between managers or owners of the third-party administrator and
808 program administrator managers, owners, officials, or employees
809 with oversight over the contract. The contract must provide for
810 the entity to administer the program according to the
811 requirements of s. 163.081 or s. 163.082 and the ordinance or
812 resolution adopted by the county or municipality authorizing the
813 program. However, only the program administrator may levy or
814 administer non-ad valorem assessments.

815 (2) A program administrator may not contract with a third-
816 party administrator that, within the last 3 years, has been
817 prohibited from serving as a third-party administrator for

818 another program administrator for program or contract violations
819 or has been found by a court of competent jurisdiction to have
820 violated state or federal laws related to the administration of
821 ss. 163.081-163.086 or a similar program in another
822 jurisdiction.

823 (3) The program administrator must include in any contract
824 with the third-party administrator the right to perform annual
825 reviews of the administrator to confirm compliance with ss.
826 163.081-163.086, the ordinance or resolution adopted by the
827 county or municipality, and the contract with the program
828 administrator. If the program administrator finds that the
829 third-party administrator has committed a violation of ss.
830 163.081-163.086, the adopted ordinance or resolution, or the
831 contract with the program administrator, the program
832 administrator shall provide the third-party administrator with
833 notice of the violation and may, as set forth in the adopted
834 ordinance or resolution or the contract with the third-party
835 administrator:

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

838 (b) Impose any fines or sanctions.

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

841 (d) Terminate the agreement with the third-party
842 administrator.

843 (4) A program administrator may terminate the agreement
844 with a third-party administrator, as set forth by the county or
845 municipality in its adopted ordinance or resolution or the
846 contract with the third-party administrator, if the program
847 administrator makes a finding that:

848 (a) The third-party administrator has violated the
849 contract with the program administrator. The contract may set
850 forth substantial violations that may result in contract
851 termination and other violations that may provide for a period
852 of time for correction before the contract may be terminated.

853 (b) The third-party administrator, or an officer, a
854 director, a manager or a managing member, or a control person of
855 the third-party administrator, has been found by a court of
856 competent jurisdiction to have violated state or federal laws
857 related to the administration a program authorized of the
858 provisions of ss. 163.081-163.086 or a similar program in
859 another jurisdiction within the last 5 years.

860 (c) Any officer, director, manager or managing member, or
861 control person of the third-party administrator has been
862 convicted of, or has entered a plea of guilty or nolo contendere
863 to, regardless of whether adjudication has been withheld, a
864 crime related to administration of a program authorized of the
865 provisions of ss. 163.081-163.086 or a similar program in
866 another jurisdiction within the last 10 years.

867 (d) An annual performance review reveals a substantial
 868 violation or a pattern of violations by the third-party
 869 administrator.

870 (5) Any recorded financing agreements at the time of
 871 termination or suspension by the program administrator shall
 872 continue.

873 Section 6. Section 163.085, Florida Statutes, is created
 874 to read:

875 163.085 Advertisement and solicitation for financing
 876 qualifying improvements programs under s. 163.081 or s.
 877 163.082.-

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

881 (a) Suggest or imply:

882 1. That a non-ad valorem assessment authorized under s.
 883 163.081 or s. 163.082 is a government assistance program;

884 2. That qualifying improvements are free or provided at no
 885 cost, or that the financing related to a non-ad valorem
 886 assessment authorized under s. 163.081 or s. 163.082 is free or
 887 provided at no cost; or

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

891 (b) Make any representation as to the tax deductibility of
892 a non-ad valorem assessment. A program administrator, qualifying
893 improvement contractor, or third-party administrator may
894 encourage a property owner or nongovernmental lessee to seek the
895 advice of a tax professional regarding tax matters related to
896 assessments.

897 (2) A program administrator or third-party administrator
898 may not provide to a qualifying improvement contractor any
899 information that discloses the amount of financing for which a
900 property owner or nongovernmental lessee is eligible for
901 qualifying improvements or the amount of equity in a residential
902 property or commercial property.

903 (3) A qualifying improvement contractor may not advertise
904 the availability of financing agreements for, or solicit program
905 participation on behalf of, the program administrator unless the
906 contractor is registered by the program administrator to
907 participate in the program and is in good standing with the
908 program administrator.

909 (4) A program administrator or third-party administrator
910 may not provide any payment, fee, or kickback to a qualifying
911 improvement contractor for referring property owners or
912 nongovernmental lessees to the program administrator or third-
913 party administrator. However, a program administrator or third-
914 party administrator may provide information to a qualifying
915 improvement contractor to facilitate the installation of a

916 qualifying improvement for a property owner or nongovernmental
917 lessee.

918 (5) A program administrator or third-party administrator
919 may not reimburse a qualifying improvement contractor for its
920 expenses in advertising and marketing campaigns and materials.

921 (6) A qualifying improvement contractor may not provide a
922 different price for a qualifying improvement financed under s.
923 163.081 than the price that the qualifying improvement
924 contractor would otherwise provide if the qualifying improvement
925 was not being financed through a financing agreement. Any
926 contract between a property owner or nongovernmental lessee and
927 a qualifying improvement contractor must clearly state all
928 pricing and cost provisions, including any process for change
929 orders which meet the requirements of s. 163.081(3)(a)-(d).

930 (7) A program administrator, qualifying improvement
931 contractor, or third-party administrator may not provide any
932 direct cash payment or other thing of material value to a
933 property owner or nongovernmental lessee which is explicitly
934 conditioned upon the property owner or nongovernmental lessee
935 entering into a financing agreement. However, a program
936 administrator or third-party administrator may offer programs or
937 promotions on a nondiscriminatory basis that provide reduced
938 fees or interest rates if the reduced fees or interest rates are
939 reflected in the financing agreements and are not provided to
940 the property owner or nongovernmental lessee as cash

941 consideration.

942 Section 7. Section 163.086, Florida Statutes, is created
943 to read:

944 163.086 Unenforceable financing agreements for qualifying
945 improvements programs under s. 163.081 or s. 163.082;
946 attachment; fraud.-

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

951 (2) A financing agreement may not be enforced, and a
952 recorded financing agreement may be removed from attachment to a
953 residential property or commercial property and deemed null and
954 void, if:

955 (a) The property owner or nongovernmental lessee applied
956 for, accepted, and canceled a financing agreement within the 3-
957 business-day period pursuant to s. 163.081(6). A qualifying
958 improvement contractor may not begin work under a canceled
959 contract.

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

964 (c) The program administrator, third-party administrator,
965 or qualifying improvement contractor approved or obtained

966 funding through fraudulent means and in violation of ss.
967 163.081-163.085, or this section for qualifying improvements on
968 the residential property or commercial property.

969 (3) If a qualifying improvement contractor has initiated
970 work on residential property or commercial property under a
971 contract deemed unenforceable under this section, the qualifying
972 improvement contractor:

973 (a) May not receive compensation for that work under the
974 financing agreement.

975 (b) Must restore the residential property or commercial
976 property to its original condition at no cost to the property
977 owner or nongovernmental lessee.

978 (c) Must immediately return any funds, property, and other
979 consideration given by the property owner or nongovernmental
980 lessee. If the property owner or nongovernmental lessee provided
981 any property and the qualifying improvement contractor does not
982 or cannot return it, the qualifying improvement contractor must
983 immediately return the fair market value of the property or its
984 value as designated in the contract, whichever is greater.

985 (4) If the qualifying improvement contractor has delivered
986 chattel or fixtures to residential property or commercial
987 property pursuant to a contract deemed unenforceable under this
988 section, the qualifying improvement contractor has 90 days after
989 the date on which the contract was executed to retrieve the
990 chattel or fixtures, provided that:

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

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

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

1000 (6) A contract that is otherwise unenforceable under this
 1001 section remains enforceable if the property owner or
 1002 nongovernmental lessee waives his or her right to cancel the
 1003 contract or cancels the financing agreement pursuant to s.
 1004 163.081(6) but allows the qualifying improvement contractor to
 1005 proceed with the installation of the qualifying improvement.

1006 Section 8. Section 163.087, Florida Statutes, is created
 1007 to read:

1008 163.087 Reporting for financing qualifying improvements
 1009 programs under s. 163.081 or s. 163.082.-

1010 (1) Each program administrator that is authorized to
 1011 administer a program for financing qualifying improvements to
 1012 residential property or commercial property under s. 163.081 or
 1013 s. 163.082 shall post on its website an annual report within 45
 1014 days after the end of its fiscal year containing the following
 1015 information from the previous year for each program authorized

1016 | under s. 163.081 or s. 163.082:

1017 | (a) The number and types of qualifying improvements

1018 | funded.

1019 | (b) The aggregate, average, and median dollar amounts of

1020 | annual non-ad valorem assessments and the total number of non-ad

1021 | valorem assessments collected pursuant to financing agreements

1022 | for qualifying improvements.

1023 | (c) The total number of defaulted non-ad valorem

1024 | assessments, including the total defaulted amount, the number

1025 | and dates of missed payments, and the total number of parcels in

1026 | default and the length of time in default.

1027 | (d) A summary of all reported complaints received by the

1028 | program administrator related to the program, including the

1029 | names of the third-party administrator, if applicable, and

1030 | qualifying improvement contractors and the resolution of each

1031 | complaint.

1032 | (2) The Auditor General must conduct an operational audit

1033 | of each program authorized under s. 163.081 or s. 163.082,

1034 | including any third-party administrators, for compliance with

1035 | the provisions of ss. 163.081-163.086 and any adopted ordinance

1036 | at least once every 24 months. The Auditor General may stagger

1037 | evaluations such that a portion of all programs are evaluated in

1038 | 1 year; however, every program must be evaluated at least once

1039 | by September 1, 2027. Each program administrator, and third-

1040 | party administrator if applicable, must post the most recent

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2024

1041 | report on its website.

1042 | Section 9. This act shall take effect July 1, 2024.