

1 A bill to be entitled

2 An act relating to improvements to real property;
3 amending s. 163.08, F.S.; revising legislative intent;
4 defining and revising terms; authorizing a residential
5 or commercial property owner to apply to a qualifying
6 improvement program for funding to finance an
7 improvement and to enter into a financing agreement
8 with the local government or program administrator;
9 providing that a non-ad valorem assessment on certain
10 commercial property is subject to a certain fee;
11 specifying requirements of a financing agreement for
12 government commercial property; revising and
13 specifying public recording requirements for
14 assessment financing agreements and notices of lien;
15 revising requirements that apply to local governments
16 and program administrators in determining eligibility
17 for assessment financing; revising requirements for
18 qualifying improvements; revising the calculation of
19 non-ad valorem assessment limits; providing
20 construction; specifying underwriting, financing
21 estimate, disclosure, and confirmation requirements
22 for program administrators; restricting what
23 improvements may be covered in certain agreements
24 between local governments and commercial property
25 owners; revising notice and consent requirements

26 regarding a property owner's intent to enter into a
 27 financing agreement; revising the seller's disclosure
 28 statement for residential and commercial properties
 29 offered for sale; authorizing a residential real
 30 property owner, under certain circumstances and within
 31 a certain timeframe, to cancel a financing agreement
 32 without financial penalty; specifying limitations on
 33 financing agreement terms for residential real
 34 property; prohibiting certain financing terms for
 35 residential real property; specifying requirements
 36 for, and certain prohibited acts by, program
 37 administrators relating to financing agreements and
 38 contractors for qualifying improvements to residential
 39 real property; specifying annual reporting
 40 requirements for local governments; providing
 41 construction; providing an effective date.

42

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

44

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

47 163.08 Supplemental authority for improvements to real
 48 property.—

49 (1) (a) In chapter 2008-227, Laws of Florida, the
 50 Legislature amended the energy goal of the state comprehensive

51 | plan to provide, in part, that the state shall reduce its energy
52 | requirements through enhanced conservation and efficiency
53 | measures in all end-use sectors and reduce atmospheric carbon
54 | dioxide by promoting an increased use of renewable energy
55 | resources. That act also declared it the public policy of the
56 | state to play a leading role in developing and instituting
57 | energy management programs that promote energy conservation,
58 | energy security, and the reduction of greenhouse gases. In
59 | addition to establishing policies to promote the use of
60 | renewable energy, the Legislature provided for a schedule of
61 | increases in energy performance of buildings subject to the
62 | Florida Energy Efficiency Code for Building Construction. In
63 | chapter 2008-191, Laws of Florida, the Legislature adopted new
64 | energy conservation and greenhouse gas reduction comprehensive
65 | planning requirements for local governments. In the 2008 general
66 | election, the voters of this state approved a constitutional
67 | amendment authorizing the Legislature, by general law, to
68 | prohibit consideration of any change or improvement made for the
69 | purpose of improving a property's resistance to wind damage or
70 | the installation of a renewable energy source device in the
71 | determination of the assessed value of residential real
72 | property.

73 | (b) The Legislature finds that all energy-consuming-
74 | improved properties that are not using energy conservation
75 | strategies contribute to the burden affecting all improved

76 | property resulting from fossil fuel energy production. Improved
77 | property that has been retrofitted with energy-related
78 | qualifying improvements receives the special benefit of
79 | alleviating the property's burden from energy consumption. All
80 | improved properties not protected from wind damage by wind
81 | resistance qualifying improvements contribute to the burden
82 | affecting all improved property resulting from potential wind
83 | damage. Improved commercial property constructed or that has
84 | ~~been~~ retrofitted with resiliency qualifying improvements and
85 | improved residential property retrofitted with wind ~~resistance~~
86 | qualifying improvements receive ~~receives~~ the special benefit of
87 | reducing the property's burden from potential ~~wind~~ damage.
88 | Further, the installation and operation of qualifying
89 | improvements not only benefit the affected properties for which
90 | the improvements are made, but also assist in fulfilling the
91 | goals of the state's energy and hurricane mitigation policies.
92 | Residential properties that do not use advanced technologies for
93 | wastewater removal contribute to the water quality problems
94 | affecting this state, particularly the coastal areas. Improved
95 | residential property that has been retrofitted with an advanced
96 | onsite sewage treatment and disposal system or has been
97 | converted to central sewerage significantly benefits the quality
98 | of water that may enter streams, lakes, rivers, aquifers, or
99 | coastal areas.

100 | (c) In order to make qualifying improvements more

101 affordable and assist property owners who wish to undertake such
 102 improvements, the Legislature finds that there is a compelling
 103 state interest in enabling property owners to voluntarily
 104 finance such improvements with local government assistance.

105 ~~(d)-(e)~~ The Legislature determines that the actions
 106 authorized under this section, including, but not limited to,
 107 the financing of qualifying improvements through the execution
 108 of financing agreements and the related imposition of voluntary
 109 assessments are reasonable and necessary to serve and achieve a
 110 compelling state interest and are necessary for the prosperity
 111 and welfare of the state and its property owners and
 112 inhabitants.

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

114 (a) "Commercial property" means real property not defined
 115 as residential property which will be or has been improved by a
 116 qualifying improvement, including, but not limited to, the
 117 following:

- 118 1. A multifamily residential property composed of five or
 119 more dwelling units;
- 120 2. A commercial real property;
- 121 3. An industrial building or property;
- 122 4. An agricultural property;
- 123 5. A nonprofit-owned property;
- 124 6. A long-term care facility, including nursing homes and
 125 assisted living facilities; or

126 7. A government commercial property.
 127 (b) "Facility" means any portion of a building, structure,
 128 or site improvement located on a site as defined in s. 202 of
 129 the 2020 Florida Building Code.
 130 (c) "Government commercial property" means real property
 131 owned by a local government and leased to a nongovernmental
 132 lessee where the usage by the lessee meets the definition of
 133 commercial property.
 134 (d)~~(a)~~ "Local government" means a county, a municipality,
 135 a dependent special district as defined in s. 189.012, or a
 136 separate legal entity created pursuant to s. 163.01(7).
 137 (e) "Nongovernmental lessee" means a person or an entity
 138 other than a local government which leases government commercial
 139 property.
 140 (f) "Program administrator" means an entity, including,
 141 but not limited to, a for-profit or not-for-profit entity, with
 142 which a local government has contracted to administer a
 143 qualifying improvement program.
 144 (g) "Qualifying improvement contractor" means an
 145 independent contractor who has been enrolled under a qualifying
 146 improvement program to install or otherwise perform work on
 147 qualifying improvements financed through the program.
 148 (h) "Qualifying improvement program" means a program
 149 established by a local government, alone or in partnership with
 150 other local governments or a program administrator, to finance

151 qualifying improvements on residential or commercial real
 152 property.

153 (i)-(b) "Qualifying improvements": ~~improvement~~"

154 1. For residential property, includes any:

155 a.1. Energy conservation and efficiency improvement, which
 156 is a measure to reduce consumption through conservation or a
 157 more efficient use of electricity, natural gas, propane, or
 158 other forms of energy on the property, including, but not
 159 limited to, air sealing; installation of insulation;
 160 installation of energy-efficient heating, cooling, or
 161 ventilation systems; building modifications to increase the use
 162 of daylight; replacement of windows; installation of energy
 163 controls or energy recovery systems; installation of electric
 164 vehicle charging equipment; and installation of efficient
 165 lighting equipment.

166 b.2. Renewable energy improvement, which is the
 167 installation of any system in which the electrical, mechanical,
 168 or thermal energy is produced from a method that uses one or
 169 more of the following fuels or energy sources: hydrogen, solar
 170 energy, geothermal energy, bioenergy, and wind energy.

171 c.3. Wind resistance improvement, which includes, but is
 172 not limited to:

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

174 (II)b. Creating a secondary water barrier to prevent water
 175 intrusion;

176 (III)e. Installing wind-resistant shingles;
 177 (IV)d. Installing gable-end bracing;
 178 (V)e. Reinforcing roof-to-wall connections;
 179 (VI)f. Installing storm shutters; or
 180 (VII)g. Installing opening protections.
 181 d. Wastewater improvement, which includes, but is not
 182 limited to:
 183 (I) The removal, replacement, or improvement of an onsite
 184 sewage treatment and disposal system with a secondary or
 185 advanced onsite sewage treatment and disposal system or
 186 technology;
 187 (II) The replacement or conversion of an onsite sewage
 188 treatment and disposal system to a central sewerage system or
 189 distributed sewerage system, including, but not limited to, the
 190 installation of a sewer lateral and anything necessary to
 191 connect the onsite sewage treatment and disposal system or the
 192 building's plumbing to a central sewerage system or distributed
 193 sewerage system; or
 194 (III) Any removal, repairs, or modifications made to an
 195 onsite sewage treatment and disposal system, including any
 196 repair, modification, or replacement of a system required under
 197 a local ordinance enacted pursuant to ss. 381.0065 and
 198 381.00651.
 199 2. For commercial property, includes any:
 200 a. Energy conservation and efficiency improvement, which

201 is a measure to reduce consumption through conservation or a
 202 more efficient use of electricity, natural gas, propane, or
 203 other forms of energy on the property, including, but not
 204 limited to, air sealing; installation of insulation;
 205 installation of energy-efficient heating, cooling, or
 206 ventilation systems; building modifications to increase the use
 207 of daylight; replacement of windows; installation of energy
 208 controls or energy recovery systems; installation of electric
 209 vehicle charging equipment; installation of efficient lighting
 210 equipment; or any other improvements necessary to achieve a
 211 sustainable building rating or compliance with a national model
 212 green building code.

213 b. Renewable energy improvement, which is the installation
 214 of any system in which the electrical, mechanical, or thermal
 215 energy is produced from a method that uses one or more of the
 216 following fuels or energy sources: hydrogen, solar energy,
 217 geothermal energy, bioenergy, and wind energy.

218 c. Resiliency improvement, which includes, but is not
 219 limited to:

- 220 (I) Improving the strength of the roof deck attachment;
- 221 (II) Creating a secondary water barrier to prevent water
 222 intrusion;
- 223 (III) Installing wind-resistant shingles;
- 224 (IV) Installing gable-end bracing;
- 225 (V) Reinforcing roof-to-wall connections;

226 (VI) Installing storm shutters;
 227 (VII) Installing opening protections;
 228 (VIII) Creating or improving stormwater and flood
 229 resiliency, including shoreline improvements; or
 230 (IX) Making any other improvements necessary to achieve a
 231 sustainable building rating or compliance with a national model
 232 resiliency standard and any improvements to a structure to
 233 achieve wind or flood insurance rate reductions, including
 234 building elevation.

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

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

240 (4) Subject to local government ordinance or resolution, a
 241 residential or commercial property owner may apply to the
 242 qualifying improvement program ~~local government~~ for funding to
 243 finance a qualifying improvement and enter into a financing
 244 agreement with the local government. Costs incurred by the local
 245 government for such purpose may be collected as a non-ad valorem
 246 assessment. A non-ad valorem assessment must ~~shall~~ be collected
 247 pursuant to s. 197.3632 and, notwithstanding s. 197.3632(8)(a),
 248 is ~~shall~~ not ~~be~~ subject to discount for early payment. However,
 249 the notice and adoption requirements of s. 197.3632(4) do not
 250 apply if this section is used and complied with, and the intent

251 resolution, publication of notice, and mailed notices to the
 252 property appraiser, tax collector, and Department of Revenue
 253 required by s. 197.3632(3)(a) may be provided on or before
 254 August 15 in conjunction with any non-ad valorem assessment
 255 authorized by this section, if the property appraiser, tax
 256 collector, and local government agree. A non-ad valorem
 257 assessment on a commercial property securing financing for a
 258 qualifying improvement, notwithstanding ss. 192.091(2)(b) and
 259 197.3632(8)(c), is subject to a maximum annual fee of 1 percent
 260 of the annual non-ad valorem assessment collected or \$5,000,
 261 whichever is less.

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

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

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

274 (8) (a) A local government may enter into a financing
 275 agreement to finance or refinance a qualifying improvement only

276 with the record owner of the affected property. For government
 277 commercial property, the financing agreement must be executed by
 278 the nongovernmental lessee with the written consent of the
 279 governmental lessor. Evidence of such consent must be provided
 280 to the local government. The financing agreement with a
 281 nongovernmental lessee must provide that the nongovernmental
 282 lessee is the only party obligated to pay the assessment.

283 (b) Any financing agreement entered into pursuant to this
 284 section or a summary memorandum of such agreement ~~must~~ shall be
 285 submitted for recording ~~recorded~~ in the public records of the
 286 county within which the property is located by the sponsoring
 287 unit of local government within 10 ~~5~~ days after execution of the
 288 agreement. The recorded agreement provides ~~shall provide~~
 289 constructive notice that the non-ad valorem assessment to be
 290 levied on the property constitutes a lien of equal dignity to
 291 county taxes and assessments from the date of recordation. A
 292 notice of lien for the full amount of the financing may be
 293 recorded in the public records of the county where the property
 294 is located. Such lien shall not be enforceable in a manner that
 295 results in the acceleration of the remaining nondelinquent
 296 unpaid balance under the assessment financing agreement.

297 (9)(a) ~~Before entering into~~ A financing agreement for a
 298 residential property may not be approved unless, the local
 299 government, or the program administrator acting on its behalf,
 300 has ~~shall~~ reasonably determined ~~determine~~ that all of the

301 following conditions have been met:

302 1. All property taxes and any other assessments levied on
 303 the same bill as property taxes are ~~current paid~~ and have not
 304 been delinquent for the preceding 3 years or the property
 305 owner's period of ownership, whichever is less.~~;~~ ~~that~~

306 2. There are no involuntary liens, including, but not
 307 limited to, construction liens on the property.~~;~~ ~~that~~

308 3. No notices of default or other evidence of property-
 309 based debt delinquency have been recorded during the preceding 3
 310 years or the property owner's period of ownership, whichever is
 311 less.~~;~~ ~~and that~~

312 4. The property owner is current on all mortgage debt on
 313 the property and has had no more than one late payment exceeding
 314 30 days during the 12 months immediately preceding the
 315 application date.

316 5. The property owner has acknowledged in writing the
 317 disclosure statements required by paragraph (12) (b) .

318 6. The property is within the geographic boundaries of the
 319 applicable qualifying improvement program.

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

321 a. For a single qualifying improvement, the estimated
 322 useful life of the qualifying improvement.

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

324 (I) Thirty years; or

325 (II) The greater of either the weighted average estimated

326 useful life of all qualifying improvements being financed or the
327 estimated useful life of the qualifying improvements to which
328 the greatest portion of funds is disbursed.

329
330 The local government or program administrator, as applicable,
331 shall determine the useful life of a qualifying improvement
332 using established third-party standards, including certification
333 criteria from government agencies or nationally recognized
334 standards and testing organizations.

335 8. The property owner has not been subject to a bankruptcy
336 proceeding within the last 5 years unless it was discharged or
337 dismissed more than 2 years before the date on which the
338 property owner applied for funding as set forth in subsection
339 (4);

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

342 10. The property is not currently a residential property
343 gifted to a homeowner for free by a nonprofit entity as may be
344 disclosed by the property owner. The failure of a property owner
345 to disclose information set forth in this paragraph does not
346 invalidate a financing agreement or any obligation thereunder.

347 11. The property owner has obtained estimates from at
348 least two unaffiliated, competitive entities, one of which is a
349 qualifying improvement contractor, for the qualifying
350 improvement to be financed.

351 12. The local government or program administrator, as
352 applicable, has asked if the property owner has obtained or
353 sought to obtain additional qualifying improvements on the same
354 property that have not yet been recorded. The failure of a
355 property owner to disclose information set forth in this
356 subsection does not invalidate a financing agreement or any
357 obligation thereunder, even if the total financed amount of the
358 qualifying improvement exceeds the amount that would otherwise
359 be authorized under paragraph (15) (a).

360
361 The existence of a prior qualifying improvement non-ad valorem
362 assessment or a prior financing agreement is not evidence that
363 the financing agreement under consideration is affordable or
364 meets other program requirements.

365 (b) A financing agreement for a commercial property may
366 not be approved unless the local government, or the program
367 administrator acting on its behalf, has reasonably determined
368 that all of the following conditions have been met:

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

371 2. There are no involuntary liens greater than \$10,000,
372 including, but not limited to, construction liens on the
373 property.

374 3. No notices of default or other evidence of property-
375 based debt delinquency have been recorded and not released

376 during the preceding 3 years or the property owner's period of
 377 ownership, whichever is less.

378 4. The property owner is current on all mortgage debt on
 379 the property.

380 (10) In addition to obtaining the information in
 381 subsection (9) (a), and before a local government or program
 382 administrator, as applicable, approves a qualifying improvement
 383 on residential property, the local government or program
 384 administrator must use information contained in the property
 385 owner's application, reasonably reliable third-party records, or
 386 an automated verification system to reasonably determine whether
 387 the property owner has the ability to pay the annual non-ad
 388 valorem assessment for the qualifying improvement. The local
 389 government or program administrator, as applicable, must review
 390 the property owner's household income, housing expenses, assets,
 391 and other debt obligations. If the local government or program
 392 administrator, as applicable, uses an automated verification
 393 system, it must be a system that can verify the property owner's
 394 income, is not based on predictive or estimation methodologies,
 395 and has been determined sufficient for such verification
 396 purposes by a federal mortgage lending authority or regulator.
 397 In reviewing the property owner's ability to pay, the local
 398 government or program administrator, as applicable:

399 (a) When determining the household income, may include the
 400 income of any property owner aged 18 years old or older whose

401 name is on the property title. If a person's income is
 402 considered, that person's debt obligations must also be
 403 considered.

404 (b) May not consider the equity in the property that will
 405 secure the non-ad valorem assessment.

406 (c) Shall determine the property owner's debt obligations
 407 using reasonably reliable third-party records, including, at a
 408 minimum, one consumer credit report from an agency that meets
 409 the requirements of 15 U.S.C. s. 1681a(p). Debt obligations to
 410 be reviewed include:

411 1. Secured and unsecured debt.

412 2. Housing expenses. The local government or program
 413 administrator, as applicable, shall make a reasonable estimate
 414 of the basic housing expenses based on the number of persons in
 415 the household.

416 3. Stated alimony or child support obligations.

417 (d) Shall determine whether the property owner has
 418 sufficient income to pay the annual non-ad valorem assessment
 419 and that he or she has sufficient residual income to meet his or
 420 her household living expenses. To participate in a qualifying
 421 improvement program, a residential property owner must have a
 422 total debt-to-income ratio no higher than 49 percent.

423 (11) Each local government or program administrator that
 424 offers a qualifying improvement program for residential
 425 properties must:

426 (a) Develop a written disclosure form, which may be
427 presented in electronic format, that must be provided to the
428 residential property owner before the property owner executes
429 the financing agreement and which contains the key terms of the
430 agreement, including:

- 431 1. A description of the qualifying improvement;
- 432 2. The estimated total financed amount, including the cost
433 of the qualifying improvement, ancillary work, program fees, and
434 prepaid interest, if any;
- 435 3. The annual non-ad valorem assessment process and
436 estimated annual payment schedule;
- 437 4. The estimated amount of the annual non-ad valorem
438 assessment;
- 439 5. The term of the total financed amount;
- 440 6. The interest rate for the financed amount;
- 441 7. The estimated annual percentage rate;
- 442 8. The total estimated annual costs that the residential
443 real property owner will have to pay under the assessment
444 contract, including program fees;
- 445 9. The total estimated average monthly equivalent amount
446 of funds the residential real property owner would have to save
447 in order to pay the annual costs of the non-ad valorem
448 assessment, including program fees; and
- 449 10. The estimated due date of the residential property
450 owner's first property tax payment that includes the non-ad

451 valorem assessment.

452 (b) Include the following statements in the written
453 disclosure form, using the same order as listed in this
454 paragraph, each of which must be individually acknowledged in
455 writing by the residential property owner:

456 1. "I UNDERSTAND THAT IF I SELL OR REFINANCE THE PROPERTY,
457 I MAY BE REQUIRED TO PAY OFF THE OUTSTANDING FINANCED AMOUNT AS
458 A CONDITION OF THE SALE OR THE REFINANCE OF THE PROPERTY."

459
460 The previous statement must be made in at least 24-point
461 boldfaced type.

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

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

469 4. "I understand that if I fail to pay the annual non-ad
470 valorem assessment, I may incur penalties and fees, and the
471 local government could issue a tax certificate which might
472 result in the loss of my property."

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

476 6. "I understand that I have 5 days to cancel the
477 financing agreement. The 5-day right expires at midnight of the
478 third business day after I sign the agreement."

479 7. "I understand that the local government, program
480 administrator, or qualifying improvement contractor do not
481 provide tax advice and that I should seek professional tax
482 advice if I have questions regarding tax credits, tax
483 deductibility, or other tax impacts of the qualifying
484 improvement or the assessment contract.

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

487 (c) Provide a printed or electronic cancellation form to
488 the residential property owner no later than the date on which
489 the property owner signs the financing agreement which allows
490 the property owner to cancel the contract, within the 5-day
491 period specified in subparagraph (b)6.

492 (d) Before a notice to proceed is issued, conduct, with at
493 least one residential property owner or an individual legally
494 authorized to act on behalf of the property owner, who is not
495 affiliated or associated with the local government, program
496 administrator, or qualifying improvement contractor, an oral,
497 recorded telephone call during which time the local government
498 or program administrator, as applicable, must use plain
499 language. The local government or program administrator, as
500 applicable, must ask the residential property owner or

501 authorized representative if he or she would like to communicate
 502 primarily in a language other than English and, if so, must
 503 conduct the call in the owner's or representative's preferred
 504 language. A local government or program administrator, as
 505 applicable, may not leave a voicemail for the residential
 506 property owner or authorized representative to satisfy this
 507 requirement. A local government or program administrator, as
 508 applicable, as part of this telephone call, must confirm with
 509 the residential property owner or authorized representative:

- 510 1. That at least one residential property owner has access
 511 to a copy of the assessment contract and financing estimates and
 512 disclosures.
- 513 2. The qualifying improvement that is being financed.
- 514 3. The total estimated annual costs that the residential
 515 property owner will have to pay under the assessment contract,
 516 including program fees.
- 517 4. The total estimated average monthly equivalent amount
 518 of funds the residential property owner would have to save in
 519 order to pay the annual costs of the non-ad valorem assessment,
 520 including program fees.
- 521 5. The estimated due date of the residential property
 522 owner's first property tax payment that includes the non-ad
 523 valorem assessment.
- 524 6. The term of the assessment contract.
- 525 7. That payments for the assessment contract will cause

526 the residential property owner's annual tax bill to increase and
527 that payments will be made through an additional annual non-ad
528 valorem assessment on the property and will be paid either
529 directly to the county tax collector's office as part of the
530 total annual secured property tax bill or may be paid through
531 the residential property owner's mortgage escrow account.

532 8. That the qualifying residential property owner has
533 disclosed whether the property has received or is seeking
534 additional non-ad valorem assessments and has disclosed all
535 other assessments or special taxes that are or will be placed on
536 the property.

537 9. That the property will be subject to a lien during the
538 term of the assessment contract and that the obligations under
539 the contract may be required to be paid in full before the
540 residential property owner sells or refinances the property.

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

544 11. That the local government, program administrator, or
545 qualifying improvement contractor does not provide tax advice
546 and that the residential property owner should seek professional
547 tax advice regarding questions about tax credits, tax
548 deductibility, or other tax impacts of the qualifying
549 improvement or the assessment contract.

550 (12) (a) A residential property owner may cancel a

551 financing agreement within 5 business days after signing the
552 financing agreement without any financial penalty from the
553 program administrator for doing so.

554 (b) A contract to sell or install a qualifying improvement
555 that is related to an application for financing in a qualifying
556 improvement program for a residential property is unenforceable,
557 and a qualifying improvement contractor may not begin work under
558 such a contract, if the property owner applied for, accepted,
559 and canceled a qualifying improvement financing agreement within
560 the 5-day right-to-cancel period set forth in paragraph (a).

561 (c) If a qualifying improvement contractor has initiated
562 work on a residential property under a contract deemed
563 unenforceable under this subsection, the qualifying improvement
564 contractor:

565 1. May not receive compensation for that work under the
566 financing agreement.

567 2. Must restore the property to its original condition at
568 no cost to the property owner.

569 3. Must immediately return any money, property, and other
570 consideration given by the property owner. If the property owner
571 provided any property and the qualifying improvement contractor
572 does not or cannot return it, the qualifying improvement
573 contractor shall immediately return the fair market value of the
574 property or its value as designated in the contract, whichever
575 is greater.

576 (d) If the qualifying improvement contractor has delivered
577 chattel or fixtures to the residential property pursuant to a
578 contract deemed unenforceable under this subsection, the
579 qualifying improvement contractor shall have 90 days from the
580 date on which the contract was executed to retrieve the chattel
581 or fixtures, provided that:

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

584 2. The chattel and fixtures can be removed at the
585 qualifying improvement contractor's expense without damaging the
586 property owner's property and practically returned.

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

591 (f) A contract which is otherwise unenforceable under this
592 subsection remains enforceable if the residential property owner
593 waives his or her right to cancel the contract, allows the
594 qualifying improvement contractor to proceed with the
595 installation of the qualifying improvement, and cancels the
596 financing agreement.

597 (13)-(10) To constitute an improvement to a building or
598 facility, a qualifying improvement must ~~shall~~ be affixed to a
599 building or facility that is part of the property and ~~shall~~
600 constitute an improvement to the building or facility or a

601 fixture attached to the building or facility.

602 (a) A financing an agreement between a local government
 603 and a residential ~~qualifying~~ property owner may not cover wind-
 604 resistance improvements in buildings or facilities under new
 605 construction or construction for which a certificate of
 606 occupancy or similar evidence of substantial completion of new
 607 construction or improvement has not been issued.

608 (b) A financing agreement may be executed for qualifying
 609 improvements in the construction of a commercial property before
 610 a certificate of occupancy or similar evidence of substantial
 611 completion of new construction or improvement is issued.
 612 Progress payments, or payments made before completion, are
 613 allowed for commercial properties, provided that the property
 614 owner subsequently provides, upon request for a final progress
 615 payment disbursement, written verification to the local
 616 government confirming that the qualifying improvements are
 617 completed and operating as intended. A financing agreement with
 618 a commercial property owner may cover wind-resistance
 619 improvements in buildings or facilities under new construction
 620 or construction for which a certificate of occupancy or similar
 621 evidence of substantial completion of new construction or
 622 improvement has not been issued.

623 (14)-(11) Any work requiring a license under any applicable
 624 law to make a qualifying improvement shall be performed by a
 625 contractor properly certified or registered pursuant to ~~part I~~

626 ~~or part II of chapter 489, as applicable.~~

627 (15)-(12)(a) Without the consent of the holders or loan
 628 servicers of any mortgage encumbering or otherwise secured by
 629 residential the property:

630 1. The total amount of any non-ad valorem assessment for a
 631 residential property under this section may not exceed 20
 632 percent of the fair market ~~just~~ value of the real property ~~as~~
 633 ~~determined by the county property appraiser.~~

634 2. The combined mortgage-related debt and total amount of
 635 any non-ad valorem assessments funded under this section for
 636 residential property may not exceed 97 percent of the fair
 637 market value of the residential real property.

638
 639 The failure of a property owner to disclose information set
 640 forth in subparagraph (9) (a) 12. does not invalidate a financing
 641 agreement or any obligation thereunder, even if the total
 642 financed amount of the qualifying improvements exceeds the
 643 amount that would otherwise be authorized under this paragraph.
 644 For purposes of this paragraph, fair market value shall be
 645 established by a written appraisal report prepared by a
 646 certified residential appraiser under chapter 475.

647 (b) Before entering into a financing agreement with the
 648 owner of a commercial property, the local government or program
 649 administrator, as applicable, must be in receipt of the written
 650 consent of the current holders or loan servicers of any mortgage

651 that encumbers or is otherwise secured by the property or that
652 will otherwise be secured by the property at the time the
653 financing agreement is executed by the local government or
654 program administrator. ~~Notwithstanding paragraph (a), a non-ad~~
655 ~~valorem assessment for a qualifying improvement defined in~~
656 ~~subparagraph (2)(b)1. or subparagraph (2)(b)2. that is supported~~
657 ~~by an energy audit is not subject to the limits in this~~
658 ~~subsection if the audit demonstrates that the annual energy~~
659 ~~savings from the qualified improvement equals or exceeds the~~
660 ~~annual repayment amount of the non-ad valorem assessment.~~

661 (16)-(13) At least 30 days before entering into a financing
662 agreement, the property owner must ~~shall~~ provide to the holders
663 or loan servicers of any existing mortgages encumbering or
664 otherwise secured by the property a written notice of the
665 owner's intent to enter into a financing agreement together with
666 the maximum principal amount to be financed and the maximum
667 annual assessment necessary to repay that amount. A verified
668 copy or other proof of such notice must ~~shall~~ be provided to the
669 local government or program administrator, as applicable. A
670 provision in any agreement between a mortgagee or other
671 lienholder and a property owner, or otherwise now or hereafter
672 binding upon a property owner, which allows for acceleration of
673 payment of the mortgage, note, or lien or other unilateral
674 modification solely as a result of entering into a financing
675 agreement as provided for in this section is not enforceable.

676 This subsection does not limit the authority of the holder or
 677 loan servicer to increase the required monthly escrow by an
 678 amount necessary to ~~annually~~ pay the annual ~~qualifying~~
 679 ~~improvement~~ assessment.

680 ~~(17)-(14)~~ At or before the time a seller ~~purchaser~~ executes
 681 a contract for the sale ~~and purchase~~ of any property for which a
 682 non-ad valorem assessment has been levied under this section and
 683 has an unpaid balance due, the seller must ~~shall~~ give the
 684 prospective purchaser a written disclosure statement in either
 685 of the following forms ~~form~~, which must ~~shall~~ be set forth in
 686 the contract or in a separate writing.

687 (a) For a residential property:

688
 689 QUALIFYING IMPROVEMENTS FOR ENERGY EFFICIENCY,
 690 RENEWABLE ENERGY, ADVANCED TECHNOLOGIES FOR WASTEWATER
 691 REMOVAL, OR WIND RESISTANCE.—The property being
 692 purchased is located within the jurisdiction of a
 693 local government that has placed an assessment on the
 694 property pursuant to s. 163.08, Florida Statutes. The
 695 assessment is for a qualifying improvement to the
 696 property relating to energy efficiency, renewable
 697 energy, advanced technologies for wastewater removal,
 698 or wind resistance, and is not based on the value of
 699 property. You are encouraged to contact the county
 700 property appraiser's office to learn more about this

701 and other assessments that may be provided by law.

702

703 (b) For a commercial property:

704

705 QUALIFYING IMPROVEMENTS FOR ENERGY EFFICIENCY,

706 RENEWABLE ENERGY, OR RESILIENCY.—The property being

707 purchased is located within the jurisdiction of a

708 local government that has placed an assessment on the

709 property pursuant to s. 163.08, Florida Statutes. The

710 assessment is for a qualifying improvement to the

711 property relating to energy efficiency, renewable

712 energy, or resiliency, and is not based on the value

713 of property. You are encouraged to contact the county

714 property appraiser's office to learn more about this

715 and other assessments that may be provided by law.

716

717 (18) A financing agreement authorized under this section

718 on residential property may not include any of the following

719 financing terms:

720 (a) A negative amortization schedule. Capitalized interest

721 included in the original balance of the assessment financing

722 agreement does not constitute negative amortization.

723 (b) A balloon payment.

724 (c) Prepayment fees, other than nominal administrative

725 costs.

726 (19) For residential property, a local government or
 727 program administrator, as applicable:

728 (a) May not enroll a qualifying improvement contractor who
 729 contracts with residential property owners to install qualifying
 730 improvements unless:

731 1. The local government or program administrator, as
 732 applicable, determines that the qualifying improvement
 733 contractor maintains in good standing an appropriate license
 734 from the state, if applicable, as well as any other permits,
 735 licenses, or registrations required for engaging in its business
 736 in the jurisdiction in which it operates and maintains all
 737 state-required bond and insurance coverage.

738 2. The local government or program administrator, as
 739 applicable, obtains the qualifying improvement contractor's
 740 written agreement that the qualifying improvement contractor
 741 will comply with all applicable laws, including applicable
 742 advertising and marketing laws and regulations and the
 743 requirements of this section.

744 (b) Must maintain a process to enroll new qualifying
 745 improvement contractors that includes reasonable review of the
 746 following for each contractor:

- 747 1. Relevant work or project history.
 748 2. Financial and reputational background checks, including
 749 a criminal background check.
 750 3. The contractor's status on the Better Business Bureau

751 platform or other online platforms that track contractor
752 reviews.

753 (c) Must establish and maintain a process for monitoring
754 qualifying improvement contractors with regard to performance
755 and compliance with program policies and must implement policies
756 for suspending, reinstating, and terminating qualifying
757 improvement contractors based on violations of program policies
758 or unscrupulous behavior.

759
760 A program administrator, either directly or through an
761 affiliate, may not be enrolled as a qualifying improvement
762 contractor.

763 (20) (a) Before disbursing funds to a qualifying
764 improvement contractor for a qualifying improvement on
765 residential property, the local government or program
766 administrator, as applicable, must confirm that the applicable
767 work or service has been completed and that the final permit for
768 the qualifying improvement has been closed with all permit
769 requirements satisfied.

770 (b) A local government or program administrator, as
771 applicable, may not disclose the maximum financing amount for
772 which a residential property owner is eligible to a qualifying
773 improvement contractor or to a third party engaged in soliciting
774 assessment contracts financed pursuant to this section.

775 (21) When communicating with residential property owners,

776 a local government, program administrator, or qualifying
 777 improvement contractor, or a third party engaged in marketing on
 778 behalf of these entities, must comply with the following
 779 marketing and communications guidelines and may not:

780 (a) Suggest or imply:

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

783 2. That qualifying improvements are free or provided at no
 784 cost or that the financing related to a non-ad valorem
 785 assessment authorized under this section is free or provided at
 786 no cost; or

787 3. That the financing of a qualifying improvement using a
 788 qualifying improvement program authorized pursuant to this
 789 section does not require the property owner to repay the
 790 financial obligation.

791 (b) Make any representation as to the tax deductibility of
 792 a non-ad valorem assessment on residential real property. A
 793 local government, program administrator, or qualifying
 794 improvement contractor, or a third party engaged in marketing on
 795 behalf of these entities, may encourage a property owner to seek
 796 the advice of a tax professional regarding tax matters related
 797 to assessments.

798 (22) (a) A qualifying improvement contractor or third party
 799 engaged in marketing a qualifying improvement program may not
 800 advertise the availability of financing agreements or solicit

801 property owners on behalf of the local government or program
802 administrator unless:

803 1. The qualifying improvement contractor or third party
804 maintains the appropriate registration or certification from the
805 Construction Industry Licensing Board or any other permit,
806 license, or registration required to conduct business in the
807 jurisdiction in which it operates and provides proof of having
808 the required bond and insurance coverage amounts.

809 2. The local government or program administrator, as
810 applicable, obtains the qualifying improvement contractor's or
811 third party's written agreement that the qualifying improvement
812 contractor or third party will comply with applicable laws and
813 rules and qualifying improvement program policies and
814 procedures, including those on advertising and marketing.

815 (b) A local government or program administrator may not
816 provide any payment, fee, or kickback to a qualifying
817 improvement contractor for referring financing business relating
818 to any financing agreement on residential property. However, a
819 program administrator may provide information or services to a
820 qualifying improvement contractor to facilitate the installation
821 of a qualifying improvement for a property owner.

822 (c) A local government or program administrator may not
823 reimburse a qualifying improvement contractor or third party for
824 its expenses in advertising and marketing campaigns and
825 materials. A local government or program administrator, as

826 applicable, and a qualifying improvement contractor may share
827 expenses in connection with joint advertising and marketing
828 campaigns and materials if the expenses are shared on a
829 commercially reasonable basis.

830 (d) A local government or program administrator may not
831 provide to a qualifying improvement contractor any information
832 that discloses the amount of funds for which a property owner is
833 eligible for qualifying improvements or the amount of equity in
834 a property.

835 (e) For residential properties, a qualifying improvement
836 contractor may not provide a different price for a qualifying
837 improvement financed under this section than the qualifying
838 improvement contractor would otherwise reasonably provide if the
839 qualifying improvement was not being financed through a
840 financing agreement under this section.

841 (f) A program administrator may not provide any direct
842 cash payment or other thing of material value to a property
843 owner explicitly conditioned upon the property owner entering
844 into a financing agreement. However, a program administrator may
845 offer programs or promotions that provide reduced fees or
846 interest rates if the reduced fees or interest rates are
847 reflected in the financing agreements and are not provided to
848 the property owners as cash consideration.

849 (23) Each local government and program administrator must
850 develop and implement policies and procedures for responding to,

851 tracking, and resolving questions and complaints about its
852 qualifying improvement program.

853 (24) Each local government that has authorized a
854 qualifying improvement program shall post on its website an
855 annual report for the period ending December 31 each year
856 containing the following information:

857 (a) The number of qualifying improvements funded.

858 (b) The aggregate, average, and median dollar amounts of
859 annual non-ad valorem assessments and the total number of non-ad
860 valorem assessments that funded qualifying improvements.

861 (c) The percentage, number, and dollar value of non-ad
862 valorem assessments that funded qualifying improvements,
863 aggregated by the category types consisting of energy
864 efficiency, renewable energy, wind resistance, residential
865 property wastewater, commercial property resiliency, and other
866 commercial property qualifying improvements.

867 (d) The number of defaulted non-ad valorem assessments,
868 including the total number and defaulted amount, the number and
869 dates of missed payments, the total number of parcels defaulted
870 and the years in default, and the percentage of defaults by
871 total assessments.

872 (e) A summary of all reported complaints received by the
873 local government and its program administrators related to
874 authorized qualifying improvements programs, including the
875 resolution of each complaint.

876 (f) Estimated number of jobs created.

877 (g) The number and percentage of homeowners 60 years of
 878 age or older participating in a qualifying improvement program.

879
 880 This report shall be posted no later than April 1 of the year
 881 following the calendar year covered by the report.

882 ~~(25)-(15)~~ A provision in any agreement between a local
 883 government and a public or private power or energy provider or
 884 other utility provider is not enforceable to limit or prohibit
 885 any local government from exercising its authority under this
 886 section.

887 ~~(26)-(16)~~ This section is additional and supplemental to
 888 county and municipal home rule authority and not in derogation
 889 of such authority or a limitation upon such authority.

890 (27) This section is prospective only and does not affect
 891 or amend any existing non-ad valorem assessment or any existing
 892 interlocal agreement between local governments.

893 Section 2. This act shall take effect July 1, 2023.