

1 A bill to be entitled
2 An act relating to qualifying improvements to real
3 property; creating s. 163.08, F.S.; providing legislative
4 purposes and findings and intent; providing definitions;
5 authorizing a local government to levy non-ad valorem
6 assessments to fund certain improvements; authorizing a
7 property owner to apply for funding and enter into a
8 financing agreement with a local government to finance
9 certain improvements; authorizing a local government to
10 collect moneys for such purposes through non-ad valorem
11 assessments; providing collection requirements;
12 authorizing local governments to partner with other local
13 governments to provide and finance certain improvements;
14 authorizing a qualifying improvement program to be
15 administered by a for-profit entity or not-for-profit
16 organization under certain circumstances; authorizing a
17 local government to incur debt payable from revenues
18 received from the improved property; providing a financing
19 restriction for local governments; requiring a financial
20 agreement to be recorded in a county's public records
21 within 5 days after execution of the agreement; specifying
22 responsibilities for local governments before entering
23 into financing agreements; requiring qualifying
24 improvements to be affixed to a building or facility on
25 the property and be performed by a properly certified or
26 registered contractor; excluding certain projects from
27 financing agreement coverage; limiting the amount of the
28 non-ad valorem assessment to a percentage of the just

29 value of the property; providing exceptions; specifying
30 information provision requirements for property owners
31 before entering into financing agreements; prohibiting
32 acceleration of a mortgage under certain circumstances;
33 providing assessment disclosure requirements; specifying
34 unenforceability of certain agreement provisions;
35 providing construction preserving a local government's
36 home rule authority; providing an effective date.

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

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40 Section 1. Section 163.08, Florida Statutes, is created to
41 read:

42 163.08 Supplemental authority for improvements to real
43 property.-

44 (1) (a) In chapter 2008-227, Laws of Florida, the
45 Legislature amended the energy goal of the state comprehensive
46 plan to provide, in part, that the state shall reduce its energy
47 requirements through enhanced conservation and efficiency
48 measures in all end-use sectors and shall reduce atmospheric
49 carbon dioxide by promoting an increased use of renewable energy
50 resources. That act also declared it the public policy of the
51 state to play a leading role in developing and instituting
52 energy management programs that promote energy conservation,
53 energy security, and reduction of greenhouse gases. In addition
54 to establishing policies to promote the use of renewable energy,
55 the Legislature provided for a schedule of increases in energy
56 performance of buildings subject to the Florida Energy

57 Efficiency Code for Building Construction. In chapter 2008-191,
58 Laws of Florida, the Legislature adopted new energy conservation
59 and greenhouse gas reduction comprehensive planning requirements
60 for local governments. In the 2008 general election, the voters
61 of this state approved a constitutional amendment authorizing
62 the Legislature, by general law, to prohibit consideration of
63 any change or improvement made for the purpose of improving a
64 property's resistance to wind damage or the installation of a
65 renewable energy source device in the determination of the
66 assessed value of residential real property.

67 (b) The Legislature finds that all energy-consuming-
68 improved properties not using energy conservation strategies
69 contribute to the burden affecting all improved property
70 resulting from fossil fuel energy production. Improved property
71 that has been retrofitted with energy-related qualifying
72 improvements receives the special benefit of alleviating the
73 property's burden from energy consumption. All improved
74 properties not protected from wind damage by wind resistance
75 qualifying improvements contribute to the burden affecting all
76 improved property resulting from potential wind damage. Improved
77 property that has been retrofitted with wind resistance
78 qualifying improvements receives the special benefit of reducing
79 the property's burden from potential wind damage. Further, the
80 installation and operation of qualifying improvements not only
81 benefit the affected properties for which the improvements are
82 made, but also assist in fulfilling the goals of the state's
83 energy and hurricane mitigation policies. To make qualifying
84 improvements more affordable and assist property owners who wish

85 to undertake such improvements, there is a compelling state
86 interest in enabling property owners, on a voluntary basis, to
87 finance such improvements with local government assistance.

88 (c) The Legislature determines that the actions authorized
89 under this section, including, but not limited to, the financing
90 of qualifying improvements through the execution of financing
91 agreements and the related imposition of voluntary assessments
92 are reasonable and necessary to serve and achieve a compelling
93 state interest and are necessary for the prosperity and welfare
94 of the state and its property owners and inhabitants.

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

96 (a) "Local government" means a county or municipality.

97 (b) "Qualifying improvement" includes any:

98 1. "Energy conservation and efficiency improvement," which
99 means a measure to reduce consumption, through conservation or
100 more efficient use, of electricity, natural gas, propane, or
101 other forms of energy on the property, including, but not
102 limited to, air sealing; installation of insulation;
103 installation of energy-efficient heating, cooling, or
104 ventilation systems; building modifications to increase the use
105 of daylight; replacement of windows; installation of energy
106 controls or energy recovery systems; installation of electric
107 vehicle charging equipment; and installation of efficient
108 lighting equipment.

109 2. "Renewable energy improvement," which means the
110 installation of any system whose electrical, mechanical, or
111 thermal energy is produced from a method that uses one or more
112 of the following fuels or energy sources: hydrogen, solar

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113 energy, geothermal energy, bioenergy, and wind energy.

114 3. "Wind resistance improvement," which includes, but is
115 not limited to:

116 a. Improving the strength of the roof deck attachment;

117 b. Creating a secondary water barrier to prevent water
118 intrusion;

119 c. Installing wind-resistant shingles;

120 d. Installing gable-end bracing;

121 e. Reinforcing roof-to-wall connections;

122 f. Installing storm shutters; or

123 g. Installing opening protections.

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

126 (4) Subject to local government ordinance or resolution, a
127 property owner may apply to the local government for funding to
128 finance a qualifying improvement and enter into a financing
129 agreement with the local government. Costs incurred by the local
130 government for such purpose may be collected as a non-ad valorem
131 assessment. A non-ad valorem assessment shall be collected
132 pursuant to s. 197.3632. However, the notice and adoption
133 requirements of s. 197.3632(4) do not apply if this section is
134 used and complied with, and the initial resolution, publication
135 of notice, and mailed notices to the property appraiser, tax
136 collector, and Department of Revenue required by s.
137 197.3632(3) (a) may be provided on or before August 15 in
138 conjunction with any non-ad valorem assessment authorized by
139 this section, if the property appraiser, tax collector, and
140 local government agree.

141 (5) Pursuant to this chapter or as otherwise provided by
 142 law or pursuant to a local government's home rule power, a local
 143 government may partner with one or more local governments for
 144 the purpose of providing and financing qualifying improvements.

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

148 (7) A local government may incur debt for the purpose of
 149 providing such improvements, payable from revenues received from
 150 the improved property, or any other available revenue source
 151 authorized by law.

152 (8) A local government may enter into a financing
 153 agreement only with the record owner of the affected property.
 154 Any financing agreement entered into pursuant to this section or
 155 a summary memorandum of such agreement shall be recorded in the
 156 public records of the county within which the property is
 157 located by the sponsoring unit of local government within 5 days
 158 after execution of the agreement. The recorded agreement shall
 159 provide constructive notice that the assessment to be levied on
 160 the property constitutes a lien of equal dignity to county taxes
 161 and assessments from the date of recordation.

162 (9) Before entering into a financing agreement, the local
 163 government shall reasonably determine that all property taxes
 164 and any other assessments levied on the same bill as property
 165 taxes are paid and have not been delinquent for the preceding 3
 166 years or the property owner's period of ownership, whichever is
 167 less; that there are no involuntary liens, including, but not
 168 limited to, construction liens on the property; that no notices

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169 of default or other evidence of property-based debt delinquency
170 have been recorded during the preceding 3 years or the property
171 owner's period of ownership, whichever is less; and that the
172 property owner is current on all mortgage debt on the property.

173 (10) A qualifying improvement shall be affixed to a
174 building or facility that is part of the property and shall
175 constitute an improvement to the building or facility or a
176 fixture attached to the building or facility. An agreement
177 between a local government and a qualifying property owner may
178 not cover wind-resistance improvements in buildings or
179 facilities under new construction or construction for which a
180 certificate of occupancy or similar evidence of substantial
181 completion of new construction or improvement has not been
182 issued.

183 (11) Any work requiring a license under any applicable law
184 to make a qualifying improvement shall be performed by a
185 contractor properly certified or registered pursuant to part I
186 or part II of chapter 489.

187 (12) (a) Without the consent of the holders or loan
188 servicers of any mortgage encumbering or otherwise secured by
189 the property, the total amount of any non-ad valorem assessment
190 for a property under this section may not exceed 20 percent of
191 the just value of the property as determined by the county
192 property appraiser.

193 (b) Notwithstanding paragraph (a), a non-ad valorem
194 assessment for a qualifying improvement defined in subparagraph
195 (2) (b) 1. or subparagraph (2) (b) 2. that is supported by an energy
196 audit is not subject to the limits in this subsection if the

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197 audit demonstrates that the annual energy savings from the
198 qualified improvement equals or exceeds the annual repayment
199 amount of the non-ad valorem assessment.

200 (13) At least 30 days before entering into a financing
201 agreement, the property owner shall provide to the holders or
202 loan servicers of any existing mortgages encumbering or
203 otherwise secured by the property a notice of the owner's intent
204 to enter into a financing agreement together with the maximum
205 principal amount to be financed and the maximum annual
206 assessment necessary to repay that amount. A verified copy or
207 other proof of such notice shall be provided to the local
208 government. A provision in any agreement between a mortgagee or
209 other lienholder and a property owner, or otherwise now or
210 hereafter binding upon a property owner, which allows for
211 acceleration of payment of the mortgage, note, or lien or other
212 unilateral modification solely as a result of entering into a
213 financing agreement as provided for in this section is not
214 enforceable. This subsection does not limit the authority of the
215 holder or loan servicer to increase the required monthly escrow
216 by an amount necessary to annually pay the qualifying
217 improvement assessment.

218 (14) Each contract for the initial sale of a parcel of
219 real property for which a non-ad valorem assessment has been
220 imposed under the authority of this section within the local
221 government shall include, immediately prior to the space
222 reserved in the contract for the signature of the purchaser, the
223 following disclosure statement in boldfaced and conspicuous type
224 that is larger than the type in the remaining text of the

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225 contract: "THE ...(name of local government)... HAS IMPOSED A
226 NON-AD VALOREM ASSESSMENT ON THIS PROPERTY. THIS ASSESSMENT IS
227 IN ADDITION TO OTHER LOCAL GOVERNMENTAL ASSESSMENTS AND ALL
228 OTHER ASSESSMENTS PROVIDED FOR BY LAW."

229 (15) A provision in any agreement between a local
230 government and a public or private power or energy provider or
231 other utility provider is not enforceable to limit or prohibit
232 any local government from exercising its authority under this
233 section.

234 (16) This section is additional and supplemental to county
235 and municipal home rule authority and not in derogation of such
236 authority or a limitation upon such authority.

237 Section 2. This act shall take effect upon becoming a law.