

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, municipal or county liens, or other lawful
12 methods; providing collection requirements; providing for
13 discontinuance of utility service under certain
14 circumstances; authorizing local governments to partner
15 with other local governments to provide and finance
16 certain improvements; authorizing a qualifying improvement
17 program to be administered by a for-profit entity or not-
18 for-profit organization under certain circumstances;
19 authorizing a local government to incur debt payable from
20 revenues received from the improved property; providing a
21 financing restriction for local governments; specifying
22 responsibilities for local governments before entering
23 into financing agreements; requiring qualifying
24 improvements to be affixed to an existing building or
25 facility on the property and be performed by a properly
26 certified or registered contractor; excluding certain
27 projects from financing agreement coverage; limiting the
28 amount the just value of the property subject to non-ad

29 | valorem assessments or municipal or county liens;
 30 | providing exceptions; specifying information provision
 31 | requirements for property owners before entering into
 32 | financing agreements; prohibiting acceleration of a
 33 | mortgage under certain circumstances; 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

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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 or charges, are reasonable and necessary to serve and achieve a
 93 compelling state interest and are necessary for the prosperity
 94 and welfare of the state and its property owners and
 95 inhabitants.

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

97 (a) "Local government" means a county, municipality, or
 98 special district.

99 (b) "Qualifying improvement" includes any:

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

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

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113 of the following fuels or energy sources: hydrogen, solar
114 energy, geothermal energy, bioenergy, and wind energy.

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

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

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

120 c. Installing wind-resistant shingles;

121 d. Installing gable-end bracing;

122 e. Reinforcing roof-to-wall connections;

123 f. Installing storm shutters; or

124 g. Installing opening protections.

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

127 (4) Subject to local government ordinance or resolution, a
128 property owner may apply to the local government for funding to
129 finance a qualifying improvement and enter into a financing
130 agreement with the local government. Costs incurred by the local
131 government for such purpose may be collected as a non-ad valorem
132 assessment, by means of a municipal or county lien, or by any
133 other lawful method.

134 (a) A non-ad valorem assessment shall be collected
135 pursuant s. 197.3632. However, the notice and adoption
136 requirements of s. 197.3632(4) do not apply if this section is
137 used and complied with, and the initial resolution, publication
138 of notice, and mailed notices to the property appraiser, tax
139 collector, and Department of Revenue required by s.
140 197.3632(3) (a) may be provided on or before August 15 in

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141 conjunction with any non-ad valorem assessment authorized by
142 this section, if the property appraiser, tax collector, and
143 local government agree.

144 (b) If the financing agreement provides for repayment
145 through a surcharge on a utility or other municipal service bill
146 in the form of a municipal lien, the utility provider may
147 discontinue the delivery of all utility service for nonpayment
148 of the surcharge. However, the financing agreement must set
149 forth the terms and costs of such discontinuance of service,
150 including the period of time of nonpayment of the surcharge
151 after which the discontinuance of service will be imposed.

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

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

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

163 (8) A local government may enter into a financing
164 agreement only with the record owner of the affected property.

165 (9) Before entering into a financing agreement, the local
166 government shall reasonably determine that all property taxes
167 and any other assessments levied on the same bill as property
168 taxes are paid and have not been delinquent for the preceding 3

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169 years or the property owner's period of ownership, whichever is
170 less; that there are no involuntary liens, including, but not
171 limited to, construction liens on the property; that no notices
172 of default or other evidence of property-based debt delinquency
173 have been recorded during the preceding 3 years or the property
174 owner's period of ownership, whichever is less; and that the
175 property owner is current on all mortgage debt on the property.

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

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

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

195 (b) Notwithstanding paragraph (a), a non-ad valorem
196 assessment or municipal or county lien for a qualifying

197 improvement defined in subparagraph (2)(b)1. or subparagraph
 198 (2)(b)2. that is supported by an energy audit is not subject to
 199 the limits in this subsection if the audit demonstrates that the
 200 annual energy savings from the qualified improvement equals or
 201 exceeds the annual repayment amount of the non-ad valorem
 202 assessment or municipal or county lien.

203 (c) A local government may adopt alternate parameters to
 204 those specified in this subsection to conform to local needs and
 205 conditions after a public hearing and the finding of the need
 206 for such changes due to local needs and conditions.

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

223 (14) A provision in any agreement between a local
 224 government and a public or private power or energy provider or

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225 other utility provider is not enforceable to limit or prohibit
 226 any local government from exercising its authority under this
 227 section.

228 (15) This section is additional and supplemental to county
 229 and municipal home rule authority and not in derogation of such
 230 authority or a limitation upon such authority.

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