

Amendment No. 1

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	<u>      </u>	(Y/N)
ADOPTED AS AMENDED	<u>      </u>	(Y/N)
ADOPTED W/O OBJECTION	<u>      </u>	(Y/N)
FAILED TO ADOPT	<u>      </u>	(Y/N)
WITHDRAWN	<u>      </u>	(Y/N)
OTHER	<u>      </u>	

1 Committee/Subcommittee hearing bill: Energy, Communications &  
 2 Cybersecurity Subcommittee  
 3 Representative Trabulsy offered the following:

**Amendment (with title amendment)**

Remove everything after the enacting clause and insert:

7 Section 1. Section 163.08, Florida Statutes, is amended to  
 8 read:

9 (Substantial rewording of section. See s. 163.08, F.S., for  
 10 present text.)

11 163.08 Definitions.—As used in ss. 163.081-163.087, the  
 12 term:

13 (1) "Commercial property" means real property other than  
 14 residential property. The term includes, but is not limited to,  
 15 a property zoned multifamily residential which is composed of  
 16 five or more dwelling units; a long-term care or assisted living

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17 facility; real property owned by a nonprofit; government  
18 commercial property; and real property used for commercial,  
19 industrial, or agricultural purposes.

20 (2) "Government commercial property" means real property  
21 owned by a local government and leased to a nongovernmental  
22 lessee for commercial use. The term does not include residential  
23 property.

24 (3) "Nongovernmental lessee" means a person or an entity  
25 other than a local government which leases government commercial  
26 property.

27 (4) "Program administrator" means a county, a  
28 municipality, a dependent special district as defined in s.  
29 189.012, or a separate legal entity created pursuant to s.  
30 163.01(7).

31 (5) "Property owner" means the owner or owners of record  
32 of real property. The term includes real property held in trust  
33 for the benefit of one or more individuals, in which case the  
34 individual or individuals may be considered as the property  
35 owner or owners, provided that the trustee provides written  
36 consent. The term does not include persons renting, using,  
37 living, or otherwise occupying real property, except for a  
38 nongovernmental lessee.

39 (6) "Qualifying improvement" means the following permanent  
40 improvements located on real property within the jurisdiction of  
41 an authorized financing program:

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42 (a) For improvements on residential property:

43 1. Repairing, replacing, or improving a central sewerage  
44 system, converting an onsite sewage treatment and disposal  
45 system to a central sewerage system, or, if no central sewerage  
46 system is available, removing, repairing, replacing, or  
47 improving an onsite sewage treatment and disposal system to an  
48 advanced system or technology.

49 2. Repairing, replacing, or improving a roof, including  
50 improvements that strengthen the roof deck attachment; create a  
51 secondary water barrier to prevent water intrusion; install  
52 wind-resistant shingles or gable-end bracing; or reinforce roof-  
53 to-wall connections.

54 3. Replacing windows or doors, including garage doors,  
55 with energy-efficient windows or doors.

56 4. Installing energy-efficient heating, cooling, or  
57 ventilation systems.

58 5. Replacing or installing insulation.

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

60 (b) For installing or constructing improvements on  
61 commercial property:

62 1. Waste system improvements, which consists of repairing,  
63 replacing, improving, or constructing a central sewerage system,  
64 converting an onsite sewage treatment and disposal system to a  
65 central sewerage system, or, if no central sewerage system is  
66 available, removing, repairing, replacing, or improving an

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67 onsite sewage treatment and disposal system to an advanced  
68 system or technology.

69 2. Making resiliency improvements, which includes but is  
70 not limited to:

71 a. Repairing, replacing, improving, or constructing a  
72 roof, including improvements that strengthen the roof deck  
73 attachment;

74 b. Creating a secondary water barrier to prevent water  
75 intrusion;

76 c. Installing wind-resistant shingles or gable-end  
77 bracing; or

78 d. Reinforcing roof-to-wall connections.

79 e. Providing flood and water damage mitigation and  
80 resiliency improvements, prioritizing repairs, replacement, or  
81 improvements that qualify for reductions in flood insurance  
82 premiums, including raising a structure above the base flood  
83 elevation to reduce flood damage; creating or improving  
84 stormwater and flood resiliency, including flood diversion  
85 apparatus, drainage gates, or shoreline improvements; purchasing  
86 flood-damage-resistant building materials; or making any other  
87 improvements necessary to achieve a sustainable building rating  
88 or compliance with a national model resiliency standard and any  
89 improvements to a structure to achieve wind or flood insurance  
90 rate reductions, including building elevation.

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91       3. Energy conservation and efficiency improvements, which  
92 are measures to reduce consumption through efficient use or  
93 conservation of electricity, natural gas, propane, or other  
94 formers of energy, including but not limited to, air sealing;  
95 installation of insulation; installation of energy-efficient  
96 heating, cooling, or ventilation systems; building modification  
97 to increase the use of daylight; window replacement; windows;  
98 energy controls or energy recovery systems; installation of  
99 electric vehicle charging equipment; installation of efficient  
100 lighting equipment; or any other improvements necessary to  
101 achieve a sustainable building rating or compliance with a  
102 national model green building code.

103       4. Renewable energy improvements, which is the  
104 installation of any system in which the electrical, mechanical,  
105 or thermal energy is produced from a method that uses solar,  
106 geothermal, bioenergy, wind, or hydrogen.

107       5. Water conservation efficiency improvements, which are  
108 measures to reduce consumption through efficient use or  
109 conservation of water.

110       (7) "Qualifying improvement contractor" means a licensed  
111 or registered contractor who has been registered to participate  
112 by a program administrator pursuant to s. 163.083 to install or  
113 otherwise perform work to make qualifying improvements on  
114 residential property financed pursuant to a program authorized  
115 under s. 163.081.

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116 (8) "Residential property" means real property zoned as  
117 residential or multifamily residential and composed of four or  
118 fewer dwelling units.

119 Section 2. Section 163.081, Florida Statutes, is created  
120 to read:

121 163.081 Financing qualifying improvements to residential  
122 property.—

123 (1) RESIDENTIAL PROPERTY PROGRAM AUTHORIZATION.—

124 (a) Subject to local government ordinance or resolution, a  
125 residential property owner may apply to a program administrator  
126 for funding to finance a qualifying improvement and enter into a  
127 financing agreement with the program administrator. An  
128 authorized program to fund qualifying improvements must, at a  
129 minimum, meet the requirements of this section. Pursuant to this  
130 section or as otherwise provided by law or pursuant to a  
131 county's or municipality's home rule power, a local government  
132 may enter into a partnership with one or more local governments  
133 for the purpose of providing and financing qualifying  
134 improvements. A program administrator may contract with one or  
135 more third-party administrators to implement the program as  
136 provided in s. 163.084.

137 (b) An authorized program administrator may levy non-ad  
138 valorem assessments to facilitate repayment of financing  
139 qualifying improvements. Costs incurred by the program  
140 administrator for such purpose may be collected as a non-ad

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141 valorem assessment. A non-ad valorem assessment shall be  
142 collected pursuant to s. 197.3632 and, notwithstanding s.  
143 197.3632(8)(a), shall not be subject to discount for early  
144 payment. However, the notice and adoption requirements of s.  
145 197.3632(4) do not apply if this section is used and complied  
146 with, and the intent resolution, publication of notice, and  
147 mailed notices to the property appraiser, tax collector, and  
148 Department of Revenue required by s. 197.3632(3)(a) may be  
149 provided on or before August 15 of each year in conjunction with  
150 any non-ad valorem assessment authorized by this section, if the  
151 property appraiser, tax collector, and program administrator  
152 agree.

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

157 (2) APPLICATION.—The owner of record of the residential  
158 property may apply to the authorized program administrator to  
159 finance a qualifying improvement. The program administrator may  
160 only enter into a financing agreement with the property owner.

161 (3) FINANCING AGREEMENTS.—

162 (a) Before entering into a financing agreement, the  
163 program administrator must review the residential property  
164 owner's public records derived from a commercially accepted

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165 source and the property owner's statements, records, and credit  
166 reports and make each of the following findings:

167 1. The total amount of any non-ad valorem assessment for a  
168 residential property under this section does not exceed 20  
169 percent of the just value of the property as determined by the  
170 property appraiser. The total amount may exceed this limitation  
171 upon written consent of the holders or loan servicers of any  
172 mortgage encumbering or otherwise secured by the residential  
173 property.

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

178 3. The financing agreement does not utilize a negative  
179 amortization schedule, a balloon payment, or prepayment fees or  
180 finances other than nominal administrative costs. Capitalized  
181 interest included in the original balance of the assessment  
182 financing agreement does not constitute negative amortization.

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

188 5. There are no outstanding fines or fees related to  
189 zoning or code enforcement violations issued by a county or



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190 municipality, unless the qualifying improvement will remedy the  
191 zoning or code violation.

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

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

198 8. The property owner is current on all mortgage debt on  
199 the residential property.

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

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

206 11. The term of the financing agreement does not exceed  
207 the weighted average useful life of the qualified improvements  
208 to which the greatest portion of funds disbursed under the  
209 assessment contract is attributable, not to exceed 20 years. The  
210 program administrator shall determine the useful life of a  
211 qualifying improvement using established standards, including  
212 certification criteria from government agencies or nationally  
213 recognized standards and testing organizations.

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214 12. If the qualifying improvement is estimated to cost  
215 \$10,000 or more, the property owner has obtained estimates from  
216 at least two unaffiliated, registered qualifying improvement  
217 contractors for the qualifying improvement to be financed.

218 13. If the qualifying improvement is for the conversion of  
219 an onsite sewage treatment and disposal system to a central  
220 sewerage system, the property owner has utilized all available  
221 local government funding for such conversions and is unable to  
222 obtain financing for the improvement on more favorable terms  
223 through a local government program designed to support such  
224 conversions.

225 (b) Before entering into a financing agreement, the  
226 property administrator must determine if there are any current  
227 financing agreements on the residential property and if the  
228 property owner has obtained or sought to obtain additional  
229 qualifying improvements on the same property which have not yet  
230 been recorded. The failure to disclose information related to  
231 not yet recorded financing agreements does not invalidate a  
232 financing agreement or any obligation thereunder, even if the  
233 total financed amount of the qualifying improvement exceeds the  
234 amount that would otherwise be authorized under this section.  
235 The existence of a prior qualifying improvement non-ad valorem  
236 assessment or a prior financing agreement is not evidence that  
237 the financing agreement under consideration is affordable or  
238 meets other program requirements.

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239       (c) In addition, before a program administrator approves a  
240 qualifying improvement under this section, the program  
241 administrator must use information contained in the property  
242 owner's application, reasonably reliable third-party records, or  
243 an automated verification system to reasonably determine whether  
244 the property owner has the ability to pay the annual non-ad  
245 valorem assessment for the qualifying improvement. The program  
246 administrator must review the property owner's household income,  
247 housing expenses, assets, and other debt obligations. If the  
248 program administrator uses an automated verification system, it  
249 must be a system that can verify the property owner's income, is  
250 not based on predictive or estimation methodologies, and has  
251 been determined sufficient for such verification purposes by a  
252 federal mortgage lending authority or regulator. In reviewing  
253 the property owner's ability to pay, the program administrator:

254       1. When determining the household income, may include the  
255 income of any property owner aged 18 years old or older whose  
256 name is on the property title. If a person's income is  
257 considered, that person's debt obligations must also be  
258 considered.

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

261       3. Shall determine the property owner's debt obligations  
262 using reasonably reliable third-party records, including, at a  
263 minimum, one consumer credit report from an agency that meets

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264 the requirements of 15 U.S.C. s. 1681a(p). Debt obligations to  
265 be reviewed include:

266 a. Secured and unsecured debt.

267 b. Housing expenses. The program administrator shall make  
268 a reasonable estimate of the basic housing expenses based on the  
269 number of persons in the household.

270 c. Stated alimony or child support obligations.

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

277 (d) Findings satisfying paragraphs (a), (b), and (c) must  
278 be documented, including supporting evidence relied upon, and  
279 provided to the property owner prior to a financing agreement  
280 being approved and recorded.

281 (e) A property owner and the program administrator may  
282 agree to include in the financing agreement provisions for  
283 allowing change orders necessary to complete the qualifying  
284 improvement. Any financing agreement or contract for qualifying  
285 improvements which includes such provisions must meet the  
286 requirements of this paragraph. If a proposed change order on a  
287 qualifying improvement will significantly increase the original  
288 cost of the qualifying improvement or significantly expand the

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289 scope of the qualifying improvement, before the change order may  
290 be executed which would result in an increase in the amount  
291 financed through the program administrator for the qualifying  
292 improvement, the program administrator must notify the property  
293 owner, provide an updated written disclosure form as described  
294 in subsection (4) to the property owner, and obtain written  
295 approval of the change from the property owner.

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

299 (g) A financing agreement may not be entered into for  
300 qualifying improvements in buildings or facilities under new  
301 construction or construction for which a certificate of  
302 occupancy or similar evidence of substantial completion of new  
303 construction or improvement has not been issued.

304 (4) DISCLOSURES.—

305 (a) In addition to the requirements in subsection (3), a  
306 financing agreement may not be approved unless the program  
307 administrator first provides, including via electronic means, a  
308 written financing estimate and disclosure to the property owner  
309 which includes all of the following, each of which must be  
310 individually acknowledged in writing by the property owner:

311 1. The estimated total amount to be financed, including  
312 the total and itemized cost of the qualifying improvement,  
313 program fees, and capitalized interest, if any;

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- 314        2. The estimated annual non-ad valorem assessment;  
315        3. The term of the financing agreement and the schedule  
316 for the non-ad valorem assessments;  
317        4. The interest charged and estimated annual percentage  
318 rate;  
319        5. A description of the qualifying improvement;  
320        6. The total estimated annual costs that will be required  
321 to be paid under the assessment contract, including program  
322 fees;  
323        7. The total estimated average monthly equivalent amount  
324 of funds that would need to be saved in order to pay the annual  
325 costs of the non-ad valorem assessment, including program fees;  
326        8. The estimated due date of the first payment that  
327 includes the non-ad valorem assessment;  
328        9. A disclosure that the financing agreement may be  
329 canceled within 3 business days after signing the financing  
330 agreement without any financial penalty for doing so;  
331        10. A disclosure that the property owner may repay any  
332 remaining amount owed, at any time, without penalty or  
333 imposition of additional prepayment fees or fines other than  
334 nominal administrative costs;  
335        11. A disclosure that if the property owner sells or  
336 refinances the residential property, the property owner may be  
337 required by a mortgage lender to pay off the full amount owed  
338 under each financing agreement under this section;

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339 12. A disclosure that the assessment will be collected  
340 along with the property owner's property taxes, and will result  
341 in a lien on the property from the date the financing agreement  
342 is recorded;

343 13. A disclosure that potential utility or insurance  
344 savings are not guaranteed, and will not reduce the assessment  
345 amount; and

346 14. A disclosure that failure to pay the assessment may  
347 result in penalties, fees, including attorney fees, court costs,  
348 and the issuance of a tax certificate that could result in the  
349 property owner losing the property and a judgment against the  
350 property owner, and may affect the property owner's credit  
351 rating.

352 (b) Prior to the financing agreement being approved, the  
353 program administrator must conduct an oral, recorded telephone  
354 call with the property owner during which the program  
355 administrator must confirm each finding or disclosure required  
356 in subsection (3) and this section.

357 (5) NOTICE TO LIENHOLDERS AND SERVICERS.--At least 30 days  
358 before entering into a financing agreement, the property owner  
359 must provide to the holders or loan servicers of any existing  
360 mortgages encumbering or otherwise secured by the residential  
361 property a written notice of the owner's intent to enter into a  
362 financing agreement together with the maximum amount to be  
363 financed, including the amount of any fees and interest, and the

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364 maximum annual assessment necessary to repay the total. A  
365 verified copy or other proof of such notice must be provided to  
366 the program administrator. A provision in any agreement between  
367 a mortgagor or other lienholder and a property owner, or  
368 otherwise now or hereafter binding upon a property owner, which  
369 allows for acceleration of payment of the mortgage, note, or  
370 lien or other unilateral modification solely as a result of  
371 entering into a financing agreement as provided for in this  
372 section is unenforceable. This subsection does not limit the  
373 authority of the holder or loan servicer to increase the  
374 required monthly escrow by an amount necessary to pay the annual  
375 assessment.

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

380 (7) RECORDING.—Any financing agreement approved and  
381 entered into pursuant to this section, or a summary memorandum  
382 of such agreement, shall be submitted for recording in the  
383 public records of the county within which the residential  
384 property is located by the program administrator within 10  
385 business days after execution of the agreement. The recorded  
386 agreement must provide constructive notice that the non-ad  
387 valorem assessment to be levied on the property constitutes a  
388 lien of equal dignity to county taxes and assessments from the

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389 date of recordation. A notice of lien for the full amount of the  
390 financing may be recorded in the public records of the county  
391 where the property is located. Such lien is not enforceable in a  
392 manner that results in the acceleration of the remaining  
393 nondelinquent unpaid balance under the assessment financing  
394 agreement.

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

402  
403 QUALIFYING IMPROVEMENTS.—The property being purchased  
404 is subject to an assessment on the property pursuant  
405 to s. 163.081, Florida Statutes. The assessment is for  
406 a qualifying improvement to the property and is not  
407 based on the value of the property. You are encouraged  
408 to contact the property appraiser's office to learn  
409 more about this and other assessments that may be  
410 provided by law.

411  
412 (9) DISBURSEMENTS.—Before disbursing final funds to a  
413 qualifying improvement contractor for a qualifying improvement

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414 on residential property, the program administrator shall confirm  
415 that the applicable work or service has been completed or, as  
416 applicable, that the final permit for the qualifying improvement  
417 has been closed with all permit requirements satisfied or a  
418 certificate of occupancy or similar evidence of substantial  
419 completion of construction or improvement has been issued.

420 (10) CONSTRUCTION.—This section is additional and  
421 supplemental to county and municipal home rule authority and not  
422 in derogation of such authority or a limitation upon such  
423 authority.

424 Section 3. Section 163.082, Florida Statutes, is created  
425 to read:

426 163.082 Financing qualifying improvements to commercial  
427 property.—

428 (1) COMMERCIAL PROPERTY PROGRAM AUTHORIZATION.—

429 (a) Subject to local government ordinance or resolution, a  
430 commercial property owner may apply to a program administrator  
431 for funding to finance a qualifying improvement and enter into a  
432 financing agreement with the program administrator. An  
433 authorized program to fund qualifying improvements must, at a  
434 minimum, meet the requirements of this section. Pursuant to this  
435 section or as otherwise provided by law or pursuant to a  
436 county's or municipality's home rule power, a local government  
437 may enter into a partnership with one or more local governments  
438 for the purpose of providing and financing qualifying

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439 improvements. A program administrator may contract with one or  
440 more third-party administrators to implement the program as  
441 provided in s. 163.084.

442 (b) An authorized program administrator may levy non-ad  
443 valorem assessments to facilitate repayment of financing or  
444 refinancing qualifying improvements. Costs incurred by the  
445 program administrator for such purpose may be collected as a  
446 non-ad valorem assessment. A non-ad valorem assessment shall be  
447 collected pursuant to s. 197.3632 and, notwithstanding s.  
448 197.3632(8)(a), is not subject to discount for early payment.  
449 However, the notice and adoption requirements of s. 197.3632(4)  
450 do not apply if this section is used and complied with, and the  
451 intent resolution, publication of notice, and mailed notices to  
452 the property appraiser, tax collector, and Department of Revenue  
453 required by s. 197.3632(3)(a) may be provided on or before  
454 August 15 of each year in conjunction with any non-ad valorem  
455 assessment authorized by this section, if the property  
456 appraiser, tax collector, and program administrator agree.  
457 Notwithstanding ss. 192.091(2)(b) and 197.3632(8)(c), F.S., a  
458 non-ad valorem assessment under this section is subject to a  
459 maximum annual fee of 1 percent of the annual non-ad valorem  
460 assessment collected or \$5,000, whichever is less.

461 (c) A program administrator may incur debt for the purpose  
462 of providing financing for qualifying improvements, which debt

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463 is payable from revenues received from the improved property or  
464 any other available revenue source authorized by law.

465 (2) APPLICATION.—The owner of record of the commercial  
466 property may apply to the program administrator to finance a  
467 qualifying improvement and enter into a financing agreement with  
468 the program administrator to make such improvement. The program  
469 administrator may only enter into a financing agreement with a  
470 property owner. However, a nongovernmental lessee may apply to  
471 finance a qualifying improvement if the nongovernmental lessee  
472 provides the program administrator with written consent of the  
473 government lessor. Any financing agreement with the  
474 nongovernmental lessee must provide that the nongovernmental  
475 lessee is the only party obligated to pay the assessment.

476 (3) FINANCING AGREEMENTS.—

477 (a) Before entering into a financing agreement, the  
478 program administrator must make each of the following findings  
479 based on a review of public records derived from a commercially  
480 accepted source and the statements, records, and credit reports  
481 of the commercial property owner or nongovernmental lessee:

482 1. The combined mortgage-related debt and total amount of  
483 any non-ad valorem assessments under the program for the  
484 commercial property does not exceed 97 percent of the just value  
485 of the property as determined by the property appraiser.

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486 2. All property taxes and any other assessments, including  
487 non-ad valorem assessments, levied on the same bill as the  
488 property taxes are current.

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

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

496 5. The property owner is current on all mortgage debt on  
497 the commercial property.

498 6. The term of the financing agreement does not exceed the  
499 weighted average useful life of the qualified improvements to  
500 which the greatest portion of funds disbursed under the  
501 assessment contract is attributable, not to exceed 30 years. The  
502 program administrator shall determine the useful life of a  
503 qualifying improvement using established standards, including  
504 certification criteria from government agencies or nationally  
505 recognized standards and testing organizations.

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

508 (b) Before entering into a financing agreement, the  
509 program administrator shall determine if there are any current  
510 financing agreements on the commercial property and whether the

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511 property owner or nongovernmental lessee has obtained or sought  
512 to obtain additional qualifying improvements on the same  
513 property which have not yet been recorded. The failure to  
514 disclose information related to not yet recorded financing  
515 agreements does not invalidate a financing agreement or any  
516 obligation thereunder, even if the total financed amount of the  
517 qualifying improvement exceeds the amount that would otherwise  
518 be authorized under this section. The existence of a prior  
519 qualifying improvement non-ad valorem assessment or a prior  
520 financing agreement is not evidence that the financing agreement  
521 under consideration is affordable or meets other program  
522 requirements.

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

527 (d) A property owner or nongovernmental lessee and the  
528 program administrator may agree to include in the financing  
529 agreement provisions for allowing change orders necessary to  
530 complete the qualifying improvement. Any financing agreement or  
531 contract for qualifying improvements which includes such  
532 provisions must meet the requirements of this paragraph. If a  
533 proposed change order on a qualifying improvement will  
534 significantly increase the original cost of the qualifying  
535 improvement or significantly expand the scope of the qualifying

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536 improvement, before the change order may be executed which would  
537 result in an increase in the amount financed through the program  
538 administrator for the qualifying improvement, the program  
539 administrator must notify the property owner or nongovernmental  
540 lessee, provide an updated written disclosure form as described  
541 in subsection (4) to the property owner or nongovernmental  
542 lessee, and obtain written approval of the change from the  
543 property owner or nongovernmental lessee.

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

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

553 (a) The estimated total amount to be financed, including  
554 the total and itemized cost of the qualifying improvement,  
555 program fees, and capitalized interest, if any;

556 (b) The estimated annual non-ad valorem assessment;

557 (c) The term of the financing agreement and the schedule  
558 for the non-ad valorem assessments;

559 (d) The interest charged and estimated annual percentage  
560 rate;

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- 561       (e) A description of the qualifying improvement;  
562       (f) The total estimated annual costs that will be required  
563 to be paid under the assessment contract, including program  
564 fees; and  
565       (g) The estimated due date of the first payment that  
566 includes the non-ad valorem assessment.
- 567       (5) CONSENT OF LIENHOLDERS AND SERVICERS.—Before entering  
568 into a financing agreement with a property owner, the program  
569 administrator must have received the written consent of the  
570 current holders or loan servicers of any mortgage that encumbers  
571 or is otherwise secured by the commercial property or that will  
572 otherwise be secured by the property at the time the financing  
573 agreement is executed.
- 574       (6) RECORDING.—Any financing agreement approved and  
575 entered into pursuant to this section or a summary memorandum of  
576 such agreement must be submitted for recording in the public  
577 records of the county within which the commercial property is  
578 located by the program administrator within 10 business days  
579 after execution of the agreement. The recorded agreement must  
580 provide constructive notice that the non-ad valorem assessment  
581 to be levied on the property constitutes a lien of equal dignity  
582 to county taxes and assessments from the date of recordation. A  
583 notice of lien for the full amount of the financing may be  
584 recorded in the public records of the county where the property  
585 is located. Such lien is not enforceable in a manner that

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586 results in the acceleration of the remaining nondelinquent  
587 unpaid balance under the assessment financing agreement.

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

595  
596 QUALIFYING IMPROVEMENTS.—The property being purchased  
597 is subject to an assessment on the property pursuant  
598 to s. 163.082, Florida Statutes. The assessment is for  
599 a qualifying improvement to the property and is not  
600 based on the value of the property. You are encouraged  
601 to contact the property appraiser's office to learn  
602 more about this and other assessments that may be  
603 provided for by law.

604  
605 (8) COMPLETION CERTIFICATE.—Upon disbursement of all  
606 financing and completion of installation of qualifying  
607 improvements financed, the program administrator shall file with  
608 the applicable county or municipality a certificate that the  
609 qualifying improvements have been installed and are in good  
610 working order.

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611 (9) CONSTRUCTION.—This section is additional and  
612 supplemental to county and municipal home rule authority and not  
613 in derogation of such authority or a limitation upon such  
614 authority.

615 Section 4. Section 163.083, Florida Statutes, is created  
616 to read:

617 163.083 Qualifying improvement contractors.—

618 (1) A county or municipality shall establish a process, or  
619 approve a process established by a program administrator, to  
620 register contractors for participation in a program authorized  
621 by a county or municipality pursuant to s. 163.081. A qualifying  
622 improvement contractor may only perform such work that the  
623 contractor is appropriately licensed, registered, and permitted  
624 to conduct. At the time of application to participate and during  
625 participation in the program, contractors must:

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

630 (b) Comply with all applicable federal, state, and local  
631 laws and regulations, including obtaining and maintaining any  
632 other permits, licenses, or registrations required for engaging  
633 in business in the jurisdiction in which it operates and  
634 maintaining all state-required bond and insurance coverage.

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635 (c) File with the program administrator a written  
636 statement in a form approved by the county or municipality that  
637 the contractor will comply with applicable laws and rules and  
638 qualifying improvement program policies and procedures,  
639 including those on advertising and marketing.

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

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

644 (a) A process to monitor qualifying improvement  
645 contractors for performance and compliance with requirements of  
646 the program and must conduct regular reviews of qualifying  
647 improvement contractors to confirm that each qualifying  
648 improvement contractor is in good standing.

649 (b) Procedures for notice and imposition of penalties upon  
650 a finding of violation, which may consist of placement of the  
651 qualifying improvement contractor in a probationary status that  
652 places conditions for continued participation, payment of fines  
653 or sanctions, suspension, or termination from participation in  
654 the program.

655 (c) An easily accessible page on its website that provides  
656 information on the status of registered qualifying improvement  
657 contractors, including any imposed penalties, and the names of  
658 any qualifying improvement contractors currently on probationary

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659 status or that are suspended or terminated from participation in  
660 the program.

661 Section 5. Section 163.084, Florida Statutes, is created  
662 to read:

663 163.084 Third-party administrator for financing qualifying  
664 improvements programs.-

665 (1)(a) A program administrator may contract with one or  
666 more entities to administer a program authorized pursuant to s.  
667 163.081 or s. 163.082 on behalf of and at the discretion of the  
668 program administrator.

669 (b) The third-party administrator must be independent of  
670 the program administrator and have no conflicts of interest  
671 between managers or owners of the third-party administrator and  
672 program administrator managers, owners, officials, or employees  
673 with oversight over the contract. The contract must provide for  
674 the entity to administer the program according to the  
675 requirements of s. 163.081 or s. 163.082 and the ordinance or  
676 resolution adopted by the county or municipality authorizing the  
677 program. However, only the program administrator may levy or  
678 administer non-ad valorem assessments.

679 (2) A program administrator may not contract with a third-  
680 party administrator that, within the last 3 years, has been  
681 prohibited from serving as a third-party administrator for  
682 another program administrator for program or contract violations  
683 or has been found by a court of competent jurisdiction to have

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684 violated state or federal laws related to the administration of  
685 ss. 163.081-163.086 or a similar program in another  
686 jurisdiction.

687 (3) The program administrator must include in any contract  
688 with the third-party administrator the right to perform annual  
689 reviews of the administrator to confirm compliance with ss.  
690 163.081-163.086, the ordinance or resolution adopted by the  
691 county or municipality, and the contract with the program  
692 administrator. If the program administrator finds that the  
693 third-party administrator has committed a violation of ss.  
694 163.081-163.086, the adopted ordinance or resolution, or the  
695 contract with the program administrator, the program  
696 administrator shall provide the third-party administrator with  
697 notice of the violation and may, as set forth in the adopted  
698 ordinance or resolution or the contract with the third-party  
699 administrator:

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

702 (b) Impose any fines or sanctions.

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

705 (d) Terminate the agreement with the third-party  
706 administrator.

707 (4) A program administrator may terminate the agreement  
708 with a third-party administrator, as set forth by the county or

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709 municipality in its adopted ordinance or resolution or the  
710 contract with the third-party administrator, if the program  
711 administrator makes a finding that:

712 (a) The third-party administrator has violated the  
713 contract with the program administrator. The contract may set  
714 forth substantial violations that may result in contract  
715 termination and other violations that may provide for a period  
716 of time for correction before the contract may be terminated.

717 (b) The third-party administrator, or an officer, a  
718 director, a manager or a managing member, or a control person of  
719 the third-party administrator, has been found by a court of  
720 competent jurisdiction to have violated state or federal laws  
721 related to the administration a program authorized of the  
722 provisions of ss. 163.081-163.086 or a similar program in  
723 another jurisdiction within the last 5 years.

724 (c) Any officer, director, manager or managing member, or  
725 control person of the third-party administrator has been  
726 convicted of, or has entered a plea of guilty or nolo contendere  
727 to, regardless of whether adjudication has been withheld, a  
728 crime related to administration of a program authorized of the  
729 provisions of ss. 163.081-163.086 or a similar program in  
730 another jurisdiction within the last 10 years.

731 (d) An annual performance review reveals a substantial  
732 violation or a pattern of violations by the third-party  
733 administrator.

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734 (5) Any recorded financing agreements at the time of  
735 termination or suspension by the program administrator shall  
736 continue.

737 Section 6. Section 163.085, Florida Statutes, is created  
738 to read:

739 163.085 Advertisement and solicitation for financing  
740 qualifying improvements programs under s. 163.081 or s.  
741 163.082.—

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

745 (a) Suggest or imply:

746 1. That a non-ad valorem assessment authorized under s.  
747 163.081 or s. 163.082 is a government assistance program;

748 2. That qualifying improvements are free or provided at no  
749 cost, or that the financing related to a non-ad valorem  
750 assessment authorized under s. 163.081 or s. 163.082 is free or  
751 provided at no cost; or

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

755 (b) Make any representation as to the tax deductibility of  
756 a non-ad valorem assessment. A program administrator, qualifying  
757 improvement contractor, or third-party administrator may  
758 encourage a property owner or nongovernmental lessee to seek the

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759 advice of a tax professional regarding tax matters related to  
760 assessments.

761 (2) A program administrator or third-party administrator  
762 may not provide to a qualifying improvement contractor any  
763 information that discloses the amount of financing for which a  
764 property owner or nongovernmental lessee is eligible for  
765 qualifying improvements or the amount of equity in a residential  
766 property or commercial property.

767 (3) A qualifying improvement contractor may not advertise  
768 the availability of financing agreements for, or solicit program  
769 participation on behalf of, the program administrator unless the  
770 contractor is registered by the program administrator to  
771 participate in the program and is in good standing with the  
772 program administrator.

773 (4) A program administrator or third-party administrator  
774 may not provide any payment, fee, or kickback to a qualifying  
775 improvement contractor for referring property owners or  
776 nongovernmental lessees to the program administrator or third-  
777 party administrator. However, a program administrator or third-  
778 party administrator may provide information to a qualifying  
779 improvement contractor to facilitate the installation of a  
780 qualifying improvement for a property owner or nongovernmental  
781 lessee.

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

785       (6) A qualifying improvement contractor may not provide a  
786 different price for a qualifying improvement financed under s.  
787 163.081 than the price that the qualifying improvement  
788 contractor would otherwise provide if the qualifying improvement  
789 was not being financed through a financing agreement. Any  
790 contract between a property owner or nongovernmental lessee and  
791 a qualifying improvement contractor must clearly state all  
792 pricing and cost provisions, including any process for change  
793 orders which meet the requirements of s. 163.081(3) (d).

794       (7) A program administrator, qualifying improvement  
795 contractor, or third-party administrator may not provide any  
796 direct cash payment or other thing of material value to a  
797 property owner or nongovernmental lessee which is explicitly  
798 conditioned upon the property owner or nongovernmental lessee  
799 entering into a financing agreement. However, a program  
800 administrator or third-party administrator may offer programs or  
801 promotions on a non-discriminatory basis that provide reduced  
802 fees or interest rates if the reduced fees or interest rates are  
803 reflected in the financing agreements and are not provided to  
804 the property owner or nongovernmental lessee as cash  
805 consideration.

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806 Section 7. Section 163.086, Florida Statutes, is created  
807 to read:

808 163.086 Unenforceable financing agreements for qualifying  
809 improvements programs under s. 163.081 or s. 163.082;  
810 attachment; fraud.-

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

815 (2) A financing agreement may not be enforced, and a  
816 recorded financing agreement may be removed from attachment to a  
817 residential property or commercial property and deemed null and  
818 void, if:

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

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

828 (c) The program administrator, third-party administrator,  
829 or qualifying improvement contractor approved or obtained  
830 funding through fraudulent means and in violation of ss.

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831 163.081-163.085, or this section for qualifying improvements on  
832 the residential property or commercial property.

833 (3) If a qualifying improvement contractor has initiated  
834 work on residential property or commercial property under a  
835 contract deemed unenforceable under this section, the qualifying  
836 improvement contractor:

837 (a) May not receive compensation for that work under the  
838 financing agreement.

839 (b) Must restore the residential property or commercial  
840 property to its original condition at no cost to the property  
841 owner or nongovernmental lessee.

842 (c) Must immediately return any funds, property, and other  
843 consideration given by the property owner or nongovernmental  
844 lessee. If the property owner or nongovernmental lessee provided  
845 any property and the qualifying improvement contractor does not  
846 or cannot return it, the qualifying improvement contractor must  
847 immediately return the fair market value of the property or its  
848 value as designated in the contract, whichever is greater.

849 (4) If the qualifying improvement contractor has delivered  
850 chattel or fixtures to residential property or commercial  
851 property pursuant to a contract deemed unenforceable under this  
852 section, the qualifying improvement contractor has 90 days after  
853 the date on which the contract was executed to retrieve the  
854 chattel or fixtures, provided that:

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

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

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

864 (6) A contract that is otherwise unenforceable under this  
865 section remains enforceable if the property owner or  
866 nongovernmental lessee waives his or her right to cancel the  
867 contract or cancels the financing agreement pursuant to s.  
868 163.081(6) or s. 163.082(6) but allows the qualifying  
869 improvement contractor to proceed with the installation of the  
870 qualifying improvement.

871 Section 8. Section 163.087, Florida Statutes, is created  
872 to read:

873 163.087 Reporting for financing qualifying improvements  
874 programs under s. 163.081 or s. 163.082.—

875 (1) Each program administrator that is authorized to  
876 administer a program for financing qualifying improvements to  
877 residential property or commercial property under s. 163.081 or  
878 s. 163.082 shall post on its website an annual report within 45  
879 days after the end of its fiscal year containing the following

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880 information from the previous year for each program authorized  
881 under s. 163.081 or s. 163.082:

882 (a) The number and types of qualifying improvements  
883 funded.

884 (b) The aggregate, average, and median dollar amounts of  
885 annual non-ad valorem assessments and the total number of non-ad  
886 valorem assessments collected pursuant to financing agreements  
887 for qualifying improvements.

888 (c) The total number of defaulted non-ad valorem  
889 assessments, including the total defaulted amount, the number  
890 and dates of missed payments, and the total number of parcels in  
891 default and the length of time in default.

892 (d) A summary of all reported complaints received by the  
893 program administrator related to the program, including the  
894 names of the third-party administrator, if applicable, and  
895 qualifying improvement contractors and the resolution of each  
896 complaint.

897 (2) The Auditor General must conduct an operational audit  
898 of each program authorized under s. 163.081 or s. 163.082,  
899 including any third-party administrators, for compliance with  
900 the provisions of ss. 163.08-163.086 and any adopted ordinance  
901 at least once every 24 months. The Auditor General may stagger  
902 evaluations such that a portion of all programs are evaluated in  
903 1 year; however, every program must be evaluated at least once  
904 by September 1, 2027. Each program administrator, and third-

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905 party administrator if applicable, must post the most recent  
906 report on its website.

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

908

909

910 -----

911 **T I T L E A M E N D M E N T**

912 Remove everything before the enacting clause and insert:

913 An act relating to improvements to real property; amending s.  
914 163.08, F.S.; deleting provisions relating to legislative  
915 findings and intent; defining terms and revising definitions;  
916 creating ss. 163.081 and 163.082, F.S.; allowing a program  
917 administrator to offer a program for financing qualifying  
918 improvements for residential or commercial property when  
919 authorized by a county or municipality; requiring an authorized  
920 program administrator that administers an authorized program to  
921 meet certain requirements; authorizing a county or municipality  
922 to enter into an interlocal agreement to implement a program;  
923 authorizing a program administrator to contract with third-party  
924 administrators to implement the program; authorizing a program  
925 administrator to levy non-ad valorem assessments for a certain  
926 purpose; authorizing a program administrator to incur debt for  
927 the purpose of providing financing for qualifying improvements;  
928 authorizing the owner of the residential property or commercial  
929 property or certain nongovernmental lessees to apply to the

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930 program administrator to finance a qualifying improvement;  
931 requiring the program administrator to make certain findings  
932 before entering into a financing agreement; requiring the  
933 program administrator to ascertain certain financial information  
934 from the property owner or nongovernmental lessee before  
935 entering into a financing agreement; requiring certain  
936 documentation; requiring certain financing agreement and  
937 contract provisions for change orders if the property owner or  
938 nongovernmental lessee and program administrator agree to allow  
939 change orders to complete a qualifying improvement; prohibiting  
940 a financing agreement from being entered into under certain  
941 circumstances; requiring the program administrator to provide  
942 certain information before a financing agreement may be  
943 approved; requiring an oral, recorded telephone call with the  
944 residential property owner to confirm findings and disclosures  
945 before the approval of a financing agreement; requiring the  
946 residential property owner to provide written notice to the  
947 holder or loan servicer of his or her intent to enter into a  
948 financing agreement as well as other financial information;  
949 requiring that proof of such notice be provided to the program  
950 administrator; providing that a certain acceleration provision  
951 in an agreement between the residential property owner and  
952 mortgagor or lienholder is unenforceable; providing that the  
953 lienholder or loan servicer retains certain authority; requiring  
954 the program administrator to receive the written consent of

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955 certain lienholders on commercial property; authorizing a  
956 residential property owner, under certain circumstances and  
957 within a certain timeframe, to cancel a financing agreement  
958 without financial penalty; requiring recording of the financing  
959 agreement in a specified timeframe; creating the seller's  
960 disclosure statements for properties offered for sale which have  
961 assessments on them for qualifying improvements; requiring the  
962 program administrator to confirm that certain conditions are met  
963 before disbursing final funds to a qualifying improvement  
964 contractor for qualifying improvements on residential property;  
965 requiring a program administrator to submit a certain  
966 certificate to a county or municipality upon final disbursement  
967 and completion of qualifying improvements; creating s. 163.083,  
968 F.S.; requiring a county or municipality to establish or approve  
969 a process for the registration of a qualifying improvement  
970 contractor to install qualifying improvements; requiring certain  
971 conditions for a qualifying improvement contractor to  
972 participate in a program; prohibiting a third-party  
973 administrator from registering as a qualifying improvement  
974 contractor; requiring the program administrator to monitor  
975 qualifying improvement contractors, enforce certain penalties  
976 for a finding of violation, and post certain information online;  
977 creating s. 163.084, F.S.; authorizing the program administrator  
978 to contract with entities to administer an authorized program;  
979 providing certain requirements for a third-party administrator;

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980 prohibiting a program administrator from contracting with a  
981 third-party administrator under certain circumstances; requiring  
982 the program administrator to include in its contract with the  
983 third-party administrator the right to perform annual reviews of  
984 the administrator; authorizing the program administrator to take  
985 certain actions if the program administrator finds that the  
986 third-party administrator has committed a violation of its  
987 contract; authorizing a program administrator to terminate an  
988 agreement with a third-party administrator under certain  
989 circumstances; providing for the continuation of certain  
990 financing agreements after the termination or suspension of the  
991 third-party administrator; creating s. 163.085, F.S.; requiring  
992 that, in communicating with the property owner or  
993 nongovernmental lessee, the program administrator, qualifying  
994 improvement contractor, or third-party administrator comply with  
995 certain requirements; prohibiting the program administrator or  
996 third-party administrator from disclosing certain financing  
997 information to a qualifying improvement contractor; prohibiting  
998 a qualifying improvement contractor from making certain  
999 advertisements or solicitations; providing exceptions;  
1000 prohibiting a program administrator or third-party administrator  
1001 from providing certain payments, fees, or kickbacks to a  
1002 qualifying improvement contractor; authorizing a program  
1003 administrator or third-party administrator to reimburse a  
1004 qualifying improvement contractor for certain expenses;

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1005 prohibiting a qualifying improvement contractor from providing  
1006 different prices for a qualifying improvement; requiring a  
1007 contract between a property owner or nongovernmental lessee and  
1008 a qualifying improvement contractor to include certain  
1009 provisions; prohibiting a program administrator, third-party  
1010 administrator, or qualifying improvement contractor from  
1011 providing any cash payment or anything of material value to a  
1012 property owner or nongovernmental lessee which is explicitly  
1013 conditioned on a financing agreement; creating s. 163.086, F.S.;  
1014 prohibiting a recorded financing agreement from being removed  
1015 from attachment to a property under certain circumstances;  
1016 providing for the unenforceability of a financing agreement  
1017 under certain circumstances; providing provisions for when a  
1018 qualifying improvement contractor initiates work on an  
1019 unenforceable contract; providing that a qualifying improvement  
1020 contractor may retrieve chattel or fixtures delivered pursuant  
1021 to an unenforceable contract if certain conditions are met;  
1022 providing that an unenforceable contract will remain  
1023 unenforceable under certain circumstances; creating s. 163.087,  
1024 F.S.; requiring a program administrator authorized to administer  
1025 a program for financing a qualifying improvement to post on its  
1026 website an annual report; specifying requirements for the  
1027 report; requiring the auditor general to conduct an operational  
1028 audit of each authorized program; providing an effective date.  
1029

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