

CHAPTER 2024-273

Committee Substitute for Committee Substitute for Senate Bill No. 770

An act relating to improvements to real property; amending s. 163.08, F.S.; deleting provisions relating to legislative findings and intent; defining terms and revising definitions; creating s. 163.081, F.S.; authorizing a program administrator to offer a program for financing qualifying improvements for residential property when authorized by a county or municipality; requiring an authorized program administrator that administers an authorized program to meet certain requirements; authorizing a county or municipality to enter into an interlocal agreement to implement a program; authorizing a county or municipality to deauthorize a program administrator through certain measures; allowing a recorded financing agreement at the time of deauthorization to continue, with an exception; authorizing a program administrator to contract with third-party administrators to implement the program; authorizing a program administrator to levy non-ad valorem assessments for a certain purpose; providing for compensation for tax collectors for actual costs incurred to collect non-ad valorem assessments; authorizing a program administrator to incur debt for the purpose of providing financing for qualifying improvements; authorizing the owner of record of the residential property to apply to the program administrator to finance a qualifying improvement; requiring the program administrator to make certain findings before entering into a financing agreement; requiring the program administrator to ascertain certain financial information from the property owner before entering into a financing agreement; requiring certain documentation before the financing agreement is approved and recorded; requiring an advisement and notification for certain qualifying improvements; requiring certain financing agreement and contract provisions for change orders under certain circumstances; prohibiting a financing agreement from being entered into under certain circumstances; requiring the program administrator to provide certain information before a financing agreement may be executed; requiring an oral, recorded telephone call with the residential property owner to confirm findings and disclosures before the approval of a financing agreement; requiring the residential property owner to provide written notice to the holder or loan servicer of his or her intent to enter into a financing agreement as well as other financial information; requiring that proof of such notice be provided to the program administrator; providing that a certain acceleration provision in an agreement between the residential property owner and mortgagor or lienholder is unenforceable; providing that the lienholder or loan servicer retains certain authority; authorizing a residential property owner, under certain circumstances and within a certain timeframe, to cancel a financing agreement without financial penalty; requiring recording of the financing agreement in a specified timeframe; creating the seller's disclosure statements for properties offered for sale which have assessments on

them for qualifying improvements; requiring the program administrator to confirm that certain conditions are met before disbursing final funds to a qualifying improvement contractor for qualifying improvements on residential property; requiring a program administrator to confirm that the applicable work service has been completed or the final permit for the qualifying improvement has been closed and evidence of substantial completion of construction or improvement has been issued; creating s. 163.082, F.S.; authorizing a program administrator to offer a program for financing qualifying improvements for commercial property when authorized by a county or municipality; requiring an authorized program administrator that administers an authorized program to meet certain requirements; authorizing a county or municipality to enter into an interlocal agreement to implement a program; authorizing a county or municipality to deauthorize a program administrator through certain measures; authorizing a recorded financing agreement at the time of deauthorization to continue, with an exception; authorizing a program administrator to contract with third-party administrators to implement the program; authorizing a program administrator to levy non-ad valorem assessments for a certain purpose; providing for compensation for tax collectors for actual costs incurred to collect non-ad valorem assessments; authorizing a program administrator to incur debt for the purpose of providing financing for qualifying improvements; authorizing the owner of record of the commercial property to apply to the program administrator to finance a qualifying improvement; requiring the program administrator to receive the written consent of current holders or loan servicers of certain mortgages encumbering or secured by commercial property; requiring a program administrator offering a program for financing qualifying improvements to commercial property to certain underwriting criteria; requiring the program administrator to make certain findings before entering into a financing agreement; requiring the program administrator to ascertain certain financial information from the property owner before entering into a financing agreement; requiring the program administrator to document and retain certain findings; requiring certain financing agreement and contract provisions for change orders under certain circumstances; prohibiting a financing agreement from being entered into under certain circumstances; requiring the program administrator to provide certain information before a financing agreement may be executed; requiring any financing agreement executed pursuant to this section be submitted for recording in the public records of the county where the commercial property is located in a specified timeframe; requiring that the recorded agreement provide constructive notice that the non-ad valorem assessment levied on the property is a lien of equal dignity; providing that a lien with a certain acceleration provision is unenforceable; creating the seller's disclosure statements for properties offered for sale which have assessments on them for qualifying improvements; requiring the program administrator to confirm that certain conditions are met before disbursing final funds to a qualifying improvement contractor for qualifying improvements on commercial property; providing construction; creating s. 163.083, F.S.; requiring a county or

municipality to establish or approve a process for the registration of a qualifying improvement contractor to install qualifying improvements; requiring certain conditions for a qualifying improvement contractor to participate in a program; prohibiting a third-party administrator from registering as a qualifying improvement contractor; requiring the program administrator to monitor qualifying improvement contractors, enforce certain penalties for a finding of violation, and post certain information online; creating s. 163.084, F.S.; authorizing the program administrator to contract with entities to administer an authorized program; providing certain requirements for a third-party administrator; prohibiting a program administrator from acting as a third-party administrator under certain circumstances; providing an exception; requiring the program administrator to include in its contract with the third-party administrator the right to perform annual reviews of the administrator; authorizing the program administrator to take certain actions if the program administrator finds that the third-party administrator has committed a violation of its contract; authorizing a program administrator to terminate an agreement with a third-party administrator under certain circumstances; providing for the continuation of certain financing agreements after the termination or suspension of the third-party administrator, with an exception; creating s. 163.085, F.S.; requiring that, in communicating with the property owner, the program administrator, qualifying improvement contractor, or third-party administrator comply with certain requirements; prohibiting the program administrator or third-party administrator from disclosing certain financing information to a qualifying improvement contractor; prohibiting a qualifying improvement contractor from making certain advertisements or solicitations; providing exceptions; prohibiting a program administrator or third-party administrator from providing certain payments, fees, or kickbacks to a qualifying improvement contractor; prohibiting a program administrator or third-party administrator from reimbursing a qualifying improvement contractor for certain expenses; prohibiting a qualifying improvement contractor from providing different prices for a qualifying improvement; requiring a contract between a property owner and a qualifying improvement contractor to include certain provisions; prohibiting a program administrator, qualifying improvement contractor, or third-party administrator from providing any cash payment or anything of material value to a property owner which is explicitly conditioned on a financing agreement; providing exceptions; creating s. 163.086, F.S.; prohibiting a recorded financing agreement from being removed from attachment to a property under certain circumstances; providing for the unenforceability of a financing agreement under certain circumstances; providing provisions for when a qualifying improvement contractor initiates work on an unenforceable contract; providing that a qualifying improvement contractor may retrieve chattel or fixtures delivered pursuant to an unenforceable contract if certain conditions are met; providing that an unenforceable contract will remain unenforceable under certain circumstances; creating s. 163.087, F.S.; requiring a program administrator authorized to administer a program for financing a

qualifying improvement to post on its website an annual report; specifying requirements for the report; requiring the Auditor General to conduct an operational audit of each program administrator; requiring the Auditor General to adopt certain rules requiring certain reporting from the program administrator; requiring program administrators and, if applicable, third-party administrators to post the report on its website; providing that a contract, agreement, authorization, or interlocal agreement entered into before a certain date may continue without additional action by the county or municipality; requiring that the program administrator comply with the act and that any related contracts, agreements, authorizations, or interlocal agreements be amended to comply with the act; providing an effective date.

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

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

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

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

(1) “Commercial property” means real property other than residential property. The term includes, but is not limited to, a property zoned multifamily residential which is composed of five or more dwelling units; and real property used for commercial, industrial, or agricultural purposes.

(2) “Program administrator” means a county, a municipality, a dependent special district as defined in s. 189.012, or a separate legal entity created pursuant to s. 163.01(7) which directly operates a program for financing qualifying improvements and is authorized pursuant to s. 163.081 or s. 163.082.

(3) “Property owner” means the owner or owners of record of real property. The term includes real property held in trust for the benefit of one or more individuals, in which case the individual or individuals may be considered as the property owner or owners, provided that the trustee provides written consent. The term does not include persons renting, using, living, or otherwise occupying real property.

(4) “Qualifying improvement” means the following permanent improvements located on real property within the jurisdiction of an authorized financing program:

(a) For improvements on residential property:

1. Repairing, replacing, or improving a central sewerage system, converting an onsite sewage treatment and disposal system to a central sewerage system, or, if no central sewerage system is available, removing,

repairing, replacing, or improving an onsite sewage treatment and disposal system to an advanced system or technology.

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

3. Providing flood and water damage mitigation and resiliency improvements, prioritizing repairs, replacement, or improvements that qualify for reductions in flood insurance premiums, including raising a structure above the base flood elevation to reduce flood damage; constructing a flood diversion apparatus, drainage gate, or seawall improvement, including seawall repairs and seawall replacements; purchasing flood-damage-resistant building materials; or making electrical, mechanical, plumbing, or other system improvements that reduce flood damage.

4. Replacing windows or doors, including garage doors, with energy-efficient, impact-resistant, wind-resistant, or hurricane windows or doors or installing storm shutters.

5. Installing energy-efficient heating, cooling, or ventilation systems.

6. Replacing or installing insulation.

7. Replacing or installing energy-efficient water heaters.

8. Installing and affixing a permanent generator.

9. Providing a renewable energy improvement, including the installation of any system in which the electrical, mechanical, or thermal energy is produced from a method that uses solar, geothermal, bioenergy, wind, or hydrogen.

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

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

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

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

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

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

d. Reinforcing roof-to-wall connections; or

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

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

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

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

(5) “Qualifying improvement contractor” means a licensed or registered contractor who has been registered to participate by a program administrator pursuant to s. 163.083 to install or otherwise perform work to make qualifying improvements on residential property financed pursuant to a program authorized under s. 163.081.

(6) “Residential property” means real property zoned as residential or multifamily residential and composed of four or fewer dwelling units.

(7) “Third-party administrator” means an entity under contract with a program administrator pursuant to s. 163.084.

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

163.081 Financing qualifying improvements to residential property.—

(1) RESIDENTIAL PROPERTY PROGRAM AUTHORIZATION.—

(a) A program administrator may only offer a program for financing qualifying improvements to residential property within the jurisdiction of a

county or municipality if the county or municipality has authorized by ordinance or resolution the program administrator to administer the program for financing qualifying improvements to residential property. The authorized program must, at a minimum, meet the requirements of this section.

(b) Pursuant to this section or as otherwise provided by law or pursuant to a county's or municipality's home rule power, a county or municipality may enter into an interlocal agreement providing for a partnership between one or more counties or municipalities for the purpose of facilitating a program to finance qualifying improvements to residential property located within the jurisdiction of the counties or municipalities that are party to the agreement.

(c) A county or municipality may deauthorize a program administrator through repeal of the ordinance or resolution adopted pursuant to paragraph (a) or other action. Any recorded financing agreements at the time of deauthorization shall continue, except any financing agreement for which the provisions of s. 163.086 apply.

(d) An authorized program administrator may contract with one or more third-party administrators to implement the program as provided in s. 163.084.

(e) An authorized program administrator may levy non-ad valorem assessments to facilitate repayment of financing qualifying improvements. Costs incurred by the program administrator for such purpose may be collected as a non-ad valorem assessment. A non-ad valorem assessment shall be collected pursuant to s. 197.3632 and, notwithstanding s. 197.3632(8)(a), shall not be subject to discount for early payment. However, the notice and adoption requirements of s. 197.3632(4) do not apply if this section is used and complied with, and the intent resolution, publication of notice, and mailed notices to the property appraiser, tax collector, and Department of Revenue required by s. 197.3632(3)(a) may be provided on or before August 15 of each year in conjunction with any non-ad valorem assessment authorized by this section, if the property appraiser, tax collector, and program administrator agree. The program administrator shall only compensate the tax collector for the actual cost of collecting non-ad valorem assessments, not to exceed 2 percent of the amount collected and remitted.

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

(2) APPLICATION.—The owner of record of the residential property within the jurisdiction of an authorized program may apply to the authorized program administrator to finance a qualifying improvement.

The program administrator may only enter into a financing agreement with the property owner.

(3) FINANCING AGREEMENTS.—

(a) Before entering into a financing agreement, the program administrator must make each of the following findings based on a review of public records derived from a commercially accepted source and the property owner's statements, records, and credit reports:

1. There are sufficient resources to complete the project.
2. The total amount of any non-ad valorem assessment for a residential property under this section does not exceed 20 percent of the just value of the property as determined by the property appraiser. The total amount may exceed this limitation upon written consent of the holders or loan servicers of any mortgage encumbering or otherwise secured by the residential property.
3. The financing agreement does not utilize a negative amortization schedule, a balloon payment, or prepayment fees or fines other than nominal administrative costs. Capitalized interest included in the original balance of the assessment financing agreement does not constitute negative amortization.
4. All property taxes and any other assessments, including non-ad valorem assessments, levied on the same bill as the property taxes are current and have not been delinquent for the preceding 3 years, or the property owner's period of ownership, whichever is less.
5. There are no outstanding fines or fees related to zoning or code enforcement violations issued by a county or municipality, unless the qualifying improvement will remedy the zoning or code violation.
6. There are no involuntary liens, including, but not limited to, construction liens on the residential property.
7. No notices of default or other evidence of property-based debt delinquency have been recorded and not released during the preceding 3 years or the property owner's period of ownership, whichever is less.
8. The property owner is current on all mortgage debt on the residential property.
9. The property owner has not been subject to a bankruptcy proceeding within the last 5 years unless it was discharged or dismissed more than 2 years before the date on which the property owner applied for financing.
10. The residential property is not subject to an existing home equity conversion mortgage or reverse mortgage product.

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

12. The total estimated annual payment amount for all financing agreements entered into under this section on the residential property does not exceed 10 percent of the property owner's annual household income. Income must be confirmed using reasonable evidence and not solely by a property owner's statement.

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

(b) Before entering into a financing agreement, the program administrator must determine if there are any current financing agreements on the residential property and if the property owner has obtained or sought to obtain additional qualifying improvements on the same property which have not yet been recorded. The existence of a prior qualifying improvement non-ad valorem assessment or a prior financing agreement is not evidence that the financing agreement under consideration is affordable or meets other program requirements.

(c) Findings satisfying paragraphs (a) and (b) must be documented, including supporting evidence relied upon, and provided to the property owner prior to a financing agreement being approved and recorded. The program administrator must retain the documentation for the duration of the financing agreement.

(d) If the qualifying improvement is estimated to cost \$10,000 or more, before entering into a financing agreement the program administrator must advise the property owner in writing that the best practice is to obtain estimates from more than one unaffiliated, registered qualifying improvement contractor for the qualifying improvement and notify the property owner in writing of the advertising and solicitation requirements of s. 163.085.

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

qualifying improvement by 20 percent or more or will expand the scope of the qualifying improvement by more than 20 percent, before the change order may be executed which would result in an increase in the amount financed through the program administrator for the qualifying improvement, the program administrator must notify the property owner, provide an updated written disclosure form as described in subsection (4) to the property owner, and obtain written approval of the change from the property owner.

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

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

(4) DISCLOSURES.—

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

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

2. The estimated annual non-ad valorem assessment;

3. The term of the financing agreement and the schedule for the non-ad valorem assessments;

4. The interest charged and estimated annual percentage rate;

5. A description of the qualifying improvement;

6. The total estimated annual costs that will be required to be paid under the assessment contract, including program fees;

7. The total estimated average monthly equivalent amount of funds that would need to be saved in order to pay the annual costs of the non-ad valorem assessment, including program fees;

8. The estimated due date of the first payment that includes the non-ad valorem assessment;

9. A disclosure that the financing agreement may be canceled within 3 business days after signing the financing agreement without any financial penalty for doing so;

10. A disclosure that the property owner may repay any remaining amount owed, at any time, without penalty or imposition of additional prepayment fees or fines other than nominal administrative costs;

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

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

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

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

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

(5) NOTICE TO LIENHOLDERS AND SERVICERS.—At least 5 business days before entering into a financing agreement, the property owner must provide to the holders or loan servicers of any existing mortgages encumbering or otherwise secured by the residential property a written notice of the owner's intent to enter into a financing agreement together with the maximum amount to be financed, including the amount of any fees and interest, and the maximum annual assessment necessary to repay the total. A verified copy or other proof of such notice must be provided to the program administrator. A provision in any agreement between a mortgagor or other lienholder and a property owner, or otherwise now or hereafter binding upon a property owner, which allows for acceleration of payment of the mortgage, note, or lien or other unilateral modification solely as a result of entering into a financing agreement as provided for in this section is unenforceable. This subsection does not limit the authority of the holder or loan servicer to increase the required monthly escrow by an amount necessary to pay the annual assessment.

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

(7) RECORDING.—Any financing agreement executed pursuant to this section, or a summary memorandum of such agreement, shall be submitted for recording in the public records of the county within which the residential property is located by the program administrator within 10 business days after execution of the agreement and the 3-day cancellation period. The recorded agreement must provide constructive notice that the non-ad valorem assessment to be levied on the property constitutes a lien of equal dignity to county taxes and assessments from the date of recordation. A notice of lien for the full amount of the financing may be recorded in the public records of the county where the property is located. Such lien is not enforceable in a manner that results in the acceleration of the remaining nondelinquent unpaid balance under the assessment financing agreement.

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

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

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

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

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

163.082 Financing qualifying improvements to commercial property.—

(1) COMMERCIAL PROPERTY PROGRAM AUTHORIZATION.—

(a) A program administrator may only offer a program for financing qualifying improvements to commercial property within the jurisdiction of a county or municipality if the county or municipality has authorized by ordinance or resolution the program administrator to administer the program for financing qualifying improvements to commercial property.

The authorized program must, at a minimum, meet the requirements of this section.

(b) Pursuant to this section or as otherwise provided by law or pursuant to a county's or municipality's home rule power, a county or municipality may enter into an interlocal agreement providing for a partnership between one or more counties or municipalities for the purpose of facilitating a program for financing qualifying improvements to commercial property located within the jurisdiction of the counties or municipalities that are party to the agreement.

(c) A county or municipality may deauthorize a program administrator through repeal of the ordinance or resolution adopted pursuant to paragraph (a) or other action. Any recorded financing agreements at the time of deauthorization shall continue, except any financing agreement for which the provisions of s. 163.086 apply.

(d) A program administrator may contract with one or more third-party administrators to implement the program as provided in s. 163.084.

(e) An authorized program administrator may levy non-ad valorem assessments to facilitate repayment of financing or refinancing qualifying improvements. Costs incurred by the program administrator for such purpose may be collected as a non-ad valorem assessment. A non-ad valorem assessment shall be collected pursuant to s. 197.3632 and, notwithstanding s. 197.3632(8)(a), is not subject to discount for early payment. However, the notice and adoption requirements of s. 197.3632(4) do not apply if this section is used and complied with, and the intent resolution, publication of notice, and mailed notices to the property appraiser, tax collector, and Department of Revenue required by s. 197.3632(3)(a) may be provided on or before August 15 of each year in conjunction with any non-ad valorem assessment authorized by this section, if the property appraiser, tax collector, and program administrator agree. The program administrator shall only compensate the tax collector for the actual cost of collecting non-ad valorem assessments, not to exceed 2 percent of the amount collected and remitted.

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

(2) APPLICATION.—The owner of record of the commercial property within the jurisdiction of the authorized program may apply to the program administrator to finance a qualifying improvement and enter into a financing agreement with the program administrator to make such improvement. The program administrator may only enter into a financing agreement with a property owner.

(3) CONSENT OF LIENHOLDERS AND SERVICERS.—The program administrator must receive the written consent of the current holders or loan servicers of any mortgage that encumbers or is otherwise secured by the commercial property or that will otherwise be secured by the property before a financing agreement may be executed.

(4) FINANCING AGREEMENTS.—

(a) A program administrator offering a program for financing qualifying improvements to commercial property must maintain underwriting criteria sufficient to determine the financial feasibility of entering into a financing agreement. To enter into a financing agreement, the program administrator must, at a minimum, make each of the following findings based on a review of public records derived from a commercially accepted source and the statements, records, and credit reports of the commercial property owner:

1. There are sufficient resources to complete the project.
2. All property taxes and any other assessments, including non-ad valorem assessments, levied on the same bill as the property taxes are current.
3. There are no involuntary liens greater than \$5,000, including, but not limited to, construction liens on the commercial property.
4. No notices of default or other evidence of property-based debt delinquency have been recorded and not been released during the preceding 3 years or the property owner's period of ownership, whichever is less.
5. The property owner is current on all mortgage debt on the commercial property.
6. The term of the financing agreement does not exceed the weighted average useful life of the qualified improvements to which the greatest portion of funds disbursed under the assessment contract is attributable, not to exceed 30 years. The program administrator shall determine the useful life of a qualifying improvement using established standards, including certification criteria from government agencies or nationally recognized standards and testing organizations.
7. The property owner is not currently the subject of a bankruptcy proceeding.

(b) Before entering into a financing agreement, the program administrator shall determine if there are any current financing agreements on the commercial property and whether the property owner has obtained or sought to obtain additional qualifying improvements on the same property which have not yet been recorded. The existence of a prior qualifying improvement non-ad valorem assessment or a prior financing agreement is not evidence that the financing agreement under consideration is affordable or meets other program requirements.

(c) The program administrator shall document and retain findings satisfying paragraphs (a) and (b), including supporting evidence relied upon, which were made prior to the financing agreement being approved and recorded, for the duration of the financing agreement.

(d) A property owner and the program administrator may agree to include in the financing agreement provisions for allowing change orders necessary to complete the qualifying improvement. Any financing agreement or contract for qualifying improvements which includes such provisions must meet the requirements of this paragraph. If a proposed change order on a qualifying improvement will increase the original cost of the qualifying improvement by 20 percent or more or will expand the scope of the qualifying improvement by 20 percent or more, before the change order may be executed which would result in an increase in the amount financed through the program administrator for the qualifying improvement, the program administrator must notify the property owner, provide an updated written disclosure form as described in subsection (5) to the property owner, and obtain written approval of the change from the property owner.

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

(5) DISCLOSURES.—In addition to the requirements imposed in subsection (4), a financing agreement may not be executed unless the program administrator provides, whether on a separate document or included with other disclosures or forms, a financing estimate and disclosure to the property owner which includes all of the following:

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

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

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

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

(e) A description of the qualifying improvement;

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

(g) The estimated due date of the first payment that includes the non-ad valorem assessment; and

(h) A disclosure of any prepayment penalties, fees, or fines as set forth in the financing agreement.

(6) RECORDING.—Any financing agreement executed pursuant to this section or a summary memorandum of such agreement must be submitted for recording in the public records of the county within which the commercial property is located by the program administrator within 10 business days after execution of the agreement. The recorded agreement must provide constructive notice that the non-ad valorem assessment to be levied on the property constitutes a lien of equal dignity to county taxes and assessments from the date of recordation. A notice of lien for the full amount of the financing may be recorded in the public records of the county where the property is located. Such lien is not enforceable in a manner that results in the acceleration of the remaining nondelinquent unpaid balance under the assessment financing agreement.

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

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

(8) COMPLETION CERTIFICATE.—Upon disbursement of all financing and completion of installation of qualifying improvements financed, the program administrator shall retain a certificate that the qualifying improvements have been installed and are in good working order.

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

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

163.083 Qualifying improvement contractors.—

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

(a) Hold all necessary licenses or registrations for the work to be performed which are in good standing. Good standing includes no

outstanding complaints with the state or local government which issues such licenses or registrations.

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

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

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

(3) A program administrator shall establish and maintain:

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

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

(c) An easily accessible page on its website that provides information on the status of registered qualifying improvement contractors, including any imposed penalties, and the names of any qualifying improvement contractors currently on probationary status or that are suspended or terminated from participation in the program.

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

163.084 Third-party administrator for financing qualifying improvements programs.—

(1)(a) A program administrator may contract with one or more third-party administrators to administer a program authorized by a county or municipality pursuant to s. 163.081 or s. 163.082 on behalf of and at the discretion of the program administrator.

(b) The third-party administrator must be independent of the program administrator and have no conflicts of interest between managers or owners of the third-party administrator and program administrator managers, owners, officials, or employees with oversight over the contract. A program administrator, either directly or through an affiliate, may not act as a third-

party administrator for itself or for another program administrator. However, this paragraph does not apply to a third-party administrator created by an entity authorized in law pursuant to s. 288.9604.

(c) The contract must provide for the entity to administer the program according to the requirements of s. 163.081 or s. 163.082 and the ordinance or resolution adopted by the county or municipality authorizing the program. However, only the program administrator may levy or administer non-ad valorem assessments.

(2) A program administrator may not contract with a third-party administrator that, within the last 3 years, has been:

(a) Prohibited, after notice and a hearing, from serving as a third-party administrator for another program administrator for program or contract violations in this state; or

(b) Found by a court of competent jurisdiction to have substantially violated state or federal laws related to the administration of ss. 163.081-163.086 or a similar program in another jurisdiction.

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

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

(b) Impose any fines or sanctions.

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

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

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

(a) The third-party administrator has violated the contract with the program administrator. The contract may set forth substantial violations that may result in contract termination and other violations that may

provide for a period of time for correction before the contract may be terminated.

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

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

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

(5) Any recorded financing agreements at the time of termination or suspension by the program administrator shall continue, except any financing agreement for which the provisions of s. 163.086 apply.

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

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

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

(a) Suggest or imply:

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

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

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

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

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

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

(4) A program administrator or third-party administrator may not provide any payment, fee, or kickback to a qualifying improvement contractor for referring property owners to the program administrator or third-party administrator. However, a program administrator or third-party administrator may provide information to a qualifying improvement contractor to facilitate the installation of a qualifying improvement for a property owner.

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

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

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

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

163.086 Unenforceable financing agreements for qualifying improvements programs under s. 163.081 or s. 163.082; attachment; fraud.—

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

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

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

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

(c) The program administrator, third-party administrator, or qualifying improvement contractor approved or obtained funding through fraudulent means and in violation of ss. 163.081-163.085, or this section for qualifying improvements on the residential property or commercial property.

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

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

(b) Must restore the residential property or commercial property to its original condition at no cost to the property owner.

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

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

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

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

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

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

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

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

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

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

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

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

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

(2) The Auditor General must conduct an operational audit of each program administrator authorized under s. 163.081 or s. 163.082, including any third-party administrators, for compliance with the provisions of ss. 163.08-163.086 and any adopted ordinance at least once every 3 years. The Auditor General may stagger evaluations; however, every program must be evaluated at least once by September 1, 2028. The Auditor General shall adopt rules pursuant to s. 218.39 requiring each program administrator to report whether it offers a program authorized pursuant to s. 163.081 or s. 163.082, and other pertinent information. Each program administrator and, if applicable, third-party administrator, must post the most recent report on its website.

Section 9. A current contract, agreement, authorization, or interlocal agreement between a county or municipality and a program administrator

entered into before July 1, 2024, shall continue without additional action by the county or municipality. However, the program administrator must comply with this act, and any contract, agreement, authorization, or interlocal agreement must be amended to comply with this act.

Section 10. This act shall take effect July 1, 2024.

Approved by the Governor June 28, 2024.

Filed in Office Secretary of State June 28, 2024.