

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WITHDRAWN	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 Amesty offered the following:

Amendment (with title amendment)

Remove lines 53-297 and insert:

7 damage. Improved commercial property constructed or that has
 8 ~~been~~ retrofitted with resiliency qualifying improvements and
 9 improved residential property retrofitted with wind ~~resistance~~
 10 qualifying improvements receive ~~receives~~ the special benefit of
 11 reducing the property's burden from potential ~~wind~~ damage.
 12 Further, the installation and operation of qualifying
 13 improvements not only benefit the affected properties for which
 14 the improvements are made, but also assist in fulfilling the
 15 goals of the state's energy and hurricane mitigation policies.
 16 In order to make qualifying improvements more affordable and

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17 assist property owners who wish to undertake such improvements,
18 the Legislature finds that there is a compelling state interest
19 in enabling property owners to voluntarily finance such
20 improvements with local government assistance.

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

22 (a) "Commercial property" means real property not defined
23 as residential property which will be or has been improved by a
24 qualifying improvement, including, but not limited to, the
25 following:

26 1. A multifamily residential property composed of five or
27 more dwelling units;

28 2. A commercial real property;

29 3. An industrial building or property;

30 4. An agricultural property;

31 5. A nonprofit-owned property;

32 6. A long-term care facility, including nursing homes and
33 assisted living facilities; or

34 7. A government commercial property.

35 (b) "Government commercial property" means real property
36 owned by a local government and leased to a nongovernmental
37 lessee where the usage by the lessee meets the definition of
38 commercial property.

39 (c) "Local government" means a county, a municipality, a
40 dependent special district as defined in s. 189.012, or a
41 separate legal entity created pursuant to s. 163.01(7).

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42 (d) "Nongovernmental lessee" means a person or an entity
43 other than a local government which leases government commercial
44 property.

45 (e)-(b) "Qualifying improvements": improvement"

46 1. For residential property, includes any:

47 a.1. Energy conservation and efficiency improvement, which
48 is a measure to reduce consumption through conservation or a
49 more efficient use of electricity, natural gas, propane, or
50 other forms of energy on the property, including, but not
51 limited to, air sealing; installation of insulation;
52 installation of energy-efficient heating, cooling, or
53 ventilation systems; building modifications to increase the use
54 of daylight; replacement of windows; installation of energy
55 controls or energy recovery systems; installation of electric
56 vehicle charging equipment; and installation of efficient
57 lighting equipment.

58 b.2. Renewable energy improvement, which is the
59 installation of any system in which the electrical, mechanical,
60 or thermal energy is produced from a method that uses one or
61 more of the following fuels or energy sources: hydrogen, solar
62 energy, geothermal energy, bioenergy, and wind energy.

63 c.3. Wind resistance improvement, which includes, but is
64 not limited to:

65 (I) Improving the strength of the roof deck attachment;

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66 (II) Creating a secondary water barrier to prevent water
67 intrusion;

68 (III) Installing wind-resistant shingles;

69 (IV) Installing gable-end bracing;

70 (V) Reinforcing roof-to-wall connections;

71 (VI) Installing storm shutters; or

72 (VII) Installing opening protections.

73 2. For commercial property, includes any:

74 a. Energy conservation and efficiency improvement, which
75 is a measure to reduce consumption through conservation or a
76 more efficient use of electricity, natural gas, propane, or
77 other forms of energy on the property, including, but not
78 limited to, air sealing; installation of insulation;
79 installation of energy-efficient heating, cooling, or
80 ventilation systems; building modifications to increase the use
81 of daylight; replacement of windows; installation of energy
82 controls or energy recovery systems; installation of electric
83 vehicle charging equipment; installation of efficient lighting
84 equipment; or any other improvements necessary to achieve a
85 sustainable building rating or compliance with a national model
86 green building code.

87 b. Renewable energy improvement, which is the
88 installation of any system in which the electrical, mechanical,
89 or thermal energy is produced from a method that uses one or

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90 more of the following fuels or energy sources: hydrogen, solar
91 energy, geothermal energy, bioenergy, and wind energy.

92 c. Resiliency improvement, which includes, but is not
93 limited to:

94 (I) Improving the strength of the roof deck attachment;

95 (II) Creating a secondary water barrier to prevent water
96 intrusion;

97 (III) Installing wind-resistant shingles;

98 (IV) Installing gable-end bracing;

99 (V) Reinforcing roof-to-wall connections;

100 (VI) Installing storm shutters; ~~or~~

101 (VII) Installing opening protections;

102 (VIII) Creating or improving stormwater and flood
103 resiliency, including shoreline improvements; or

104 (IX) Making any other improvements necessary to achieve a
105 sustainable building rating or compliance with a national model
106 resiliency standard and any improvements to a structure to
107 achieve wind or flood insurance rate reductions, including
108 building elevation.

109 (f) "Residential property" means a residential real
110 property of four or fewer dwelling units which will be or has
111 been improved by a qualifying improvement.

112 (4) Subject to local government ordinance or resolution, a
113 residential or commercial property owner may apply to the local
114 government for funding to finance a qualifying improvement and

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115 enter into a financing agreement with the local government.
116 Costs incurred by the local government for such purpose may be
117 collected as a non-ad valorem assessment. A non-ad valorem
118 assessment must ~~shall~~ be collected pursuant to s. 197.3632 and,
119 notwithstanding s. 197.3632 (8) (a), is ~~shall~~ not ~~be~~ subject to
120 discount for early payment. However, the notice and adoption
121 requirements of s. 197.3632 (4) do not apply if this section is
122 used and complied with, and the intent resolution, publication
123 of notice, and mailed notices to the property appraiser, tax
124 collector, and Department of Revenue required by s.
125 197.3632(3) (a) may be provided on or before August 15 in
126 conjunction with any non-ad valorem assessment authorized by
127 this section, if the property appraiser, tax collector, and
128 local government agree. A non-ad valorem assessment on a
129 commercial property securing financing for a qualifying
130 improvement, notwithstanding ss. 192.091(2) (b) and
131 197.3632(8) (c), is subject to a maximum annual fee of 1 percent
132 of the annual non-ad valorem assessment collected or \$5,000,
133 whichever is less. Notwithstanding this subsection, a delinquent
134 assessment pursuant to a financing agreement with a
135 nongovernmental lessee must be enforced in the manner provided
136 by law for taxes and assessments on property owned by
137 nongovernmental lessees of government commercial property.
138 (8) A local government may enter into a financing
139 agreement to finance or refinance a qualifying improvement only

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140 with the record owner of the affected property. For government
141 commercial property, the financing agreement must be executed by
142 the nongovernmental lessee with the written consent of the
143 governmental lessor. Evidence of such consent must be provided
144 to the local government. The financing agreement with a
145 nongovernmental lessee must provide that the nongovernmental
146 lessee is the only party obligated to pay the assessment. Any
147 financing agreement entered into pursuant to this section or a
148 summary memorandum of such agreement must ~~shall~~ be recorded in
149 the public records of the county within which the property is
150 located by the sponsoring unit of local government within 5 days
151 after execution of the agreement. The recorded agreement
152 provides ~~shall provide~~ constructive notice that the assessment
153 to be levied on the property constitutes a lien of equal dignity
154 to county taxes and assessments from the date of recordation.

155 (9) (a) Before entering into a financing agreement for a
156 residential property, the local government shall reasonably
157 determine that all of the following conditions have been met:

158 1. ~~that~~ All property taxes and any other assessments
159 levied on the same bill as property taxes are paid and have not
160 been delinquent for the preceding 3 years or the property
161 owner's period of ownership, whichever is less. †

162 2. ~~that~~ There are no involuntary liens, including, but not
163 limited to, construction liens on the property. †

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164 3. ~~that~~ No notices of default or other evidence of
165 property-based debt delinquency have been recorded during the
166 preceding 3 years or the property owner's period of ownership,
167 whichever is less.†

168 4. ~~and that~~ The property owner is current on all mortgage
169 debt on the property.

170 (b) Before entering into a financing agreement for a
171 commercial property, the local government shall reasonably
172 determine that all of the following conditions have been met:

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

175 2. There are no involuntary liens greater than \$10,000,
176 including, but not limited to, construction liens on the
177 property.

178 3. No notices of default or other evidence of property-
179 based debt delinquency have been recorded and not released
180 during the preceding 3 years or the property owner's period of
181 ownership, whichever is less.

182 4. The property owner is current on all mortgage debt on
183 the property.

184 (10) To constitute an improvement to the building or
185 facility, a qualifying improvement must be ~~shall be~~ affixed to a
186 building or facility that is part of the property ~~and shall~~
187 ~~constitute an improvement to the building or facility~~ or a
188 fixture attached to the building or facility. A financing

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189 agreement may be executed for qualifying improvements in the
190 construction of a commercial property before a certificate of
191 occupancy or similar evidence of substantial completion of new
192 construction or improvement is issued. Progress payments, or
193 payments made before completion, are allowed for commercial
194 properties, provided that the property owner subsequently
195 provides, upon request for a final progress payment
196 disbursement, written verification to the local government
197 confirming that the qualifying improvements are completed and
198 operating as intended. An agreement between a local government
199 and a qualifying residential property owner may not cover wind-
200 resistant ~~wind-resistance~~ improvements in buildings or
201 facilities under new construction or construction for which a
202 certificate of occupancy or similar evidence of substantial
203 completion of new construction or improvement has not been
204 issued.

205 (12) (a) Without the consent of the holders or loan
206 servicers of any mortgage encumbering or otherwise secured by
207 the residential property, the total amount of any non-ad valorem
208 assessment for a property under this section may not exceed 20
209 percent of the just value of the property as determined by the
210 county property appraiser.

211 (b) Notwithstanding paragraph (a), a non-ad valorem
212 assessment for a qualifying improvement defined in sub-
213 subparagraph (2) (e) 1.a. or sub-subparagraph (2) (e) 1.b. on a

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214 residential property subparagraph (2) (b) 1. or subparagraph
215 (2) (b) 2. that is supported by an energy audit is not subject to
216 the limits in this subsection if the audit demonstrates that the
217 annual energy savings from the qualified improvement equals or
218 exceeds the annual repayment amount of the non-ad valorem
219 assessment.

220 (c) Before entering into a financing agreement with a
221 commercial property owner, the local government must be in
222 receipt of the written consent of the current holders or loan
223 servicers of any mortgage that encumbers or is otherwise secured
224 by the commercial property or that will otherwise be secured by
225 the property at the time the financing agreement is executed by
226 the local government.

227 (13) At least 30 days before entering into a financing
228 agreement, the property owner shall provide to the holders or
229 loan servicers of any existing mortgages that encumber the
230 property, encumbering or that will otherwise be otherwise
231 secured by the property at the time the financing agreement is
232 executed by the local government, a notice of the owner's intent
233 to enter into a financing agreement together with the maximum
234 principal amount to be financed and the maximum annual
235 assessment necessary to repay that amount. A verified copy or
236 other proof of such notice must ~~shall~~ be provided to the local
237 government. A provision in any agreement between a mortgagee or
238 other lienholder and a property owner, or otherwise now or

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239 hereafter binding upon a property owner, which allows for
240 acceleration of payment of the mortgage, note, or lien or other
241 unilateral modification solely as a result of entering into a
242 financing agreement as provided for in this section is not
243 enforceable. This subsection does not limit the authority of the
244 holder or loan servicer to increase the required monthly escrow
245 by an amount necessary to ~~annually~~ pay the annual ~~qualifying~~
246 ~~improvement~~ assessment.

247 (14) At or before the time a purchaser executes a contract
248 for the sale and purchase of any property for which a non-ad
249 valorem assessment has been levied under this section and has an
250 unpaid balance due, the seller shall give the prospective
251 purchaser a written disclosure statement in either of the
252 following forms ~~form~~, which must ~~shall~~ be set forth in the
253 contract or in a separate writing.

254 (a) For a residential property:

255
256 QUALIFYING IMPROVEMENTS FOR ENERGY EFFICIENCY,
257 RENEWABLE ENERGY, OR WIND RESISTANCE.—The property
258 being purchased is located within the jurisdiction of
259 a local government that has placed an assessment on
260 the property pursuant to s. 163.08, Florida Statutes.
261 The assessment is for a qualifying improvement to the
262 property relating to energy efficiency, renewable
263 energy, or wind resistance, and is not based on the

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264 value of property. You are encouraged to contact the
265 county property appraiser's office to learn more about
266 this and other assessments that may be provided by
267 law.

268
269 (b) For a commercial property:

270
271 QUALIFYING IMPROVEMENTS FOR ENERGY EFFICIENCY,
272 RENEWABLE ENERGY, OR RESILIENCY.—The property being
273 purchased is located within the jurisdiction of a
274 local government that has placed an assessment on the
275 property pursuant to s. 163.08, Florida Statutes. The
276 assessment is for a qualifying improvement to the
277 property relating to energy efficiency, renewable
278 energy, or resiliency, and is not based on the value
279 of property. You are encouraged to contact the county
280 property appraiser's office to learn more about this
281 and other assessments that may be provided by law.

282
283 -----

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

285 Remove lines 16-30 and insert:
286 financing agreement for commercial properties;
287 authorizing a financing agreement to be executed for
288 commercial property under certain circumstances;

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289 | restricting what improvements may be covered in
290 | certain agreements between local governments and
291 | commercial property owners; specifying requirements
292 | for a local government before entering into a
293 | financing agreement; revising notice requirements
294 | regarding an owner's intent to enter into a financing
295 | agreement; revising the seller's disclosure statement
296 | for commercial properties offered