Disclosure Information and Background Materials

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Introduction

The Florida PACE Funding Agency (the "Agency") offers to local governments a uniform and scalable statewide platform for the funding and financing of energy conservation, renewable energy and wind resistance improvements repaid through the imposition of voluntary special assessments against the real property benefitted by the improvements. This type of financing program has become known nationally by the acronym PACE which stands for "property assessed clean energy." Unlike legislation authorizing PACE programs in other states, the Florida statute also allows for the financing of wind resistance improvements.

The following materials include a PACE overview and a description of the Florida legislation authorizing PACE, the role of and advantages offered by the Florida PACE Funding Agency to counties and cities, the collection and enforcement mechanism for PACE assessments, current issues facing PACE programs in Florida and elsewhere, and a description of the simplified subscription process being made available to interested local governments who desire to make this statutorily authorized funding and financing alternatives to their property-owning constituents.

PACE Overview

PACE programs offer a wide range of benefits, not only for the property owner who obtains financing for qualifying improvements at favorable terms but also for the broader public and the state and local governments involved. PACE programs can play an important role in hardening Florida buildings against hurricane events, reducing local greenhouse gas emissions, promoting energy efficiency improvements in its buildings, making the shift to renewable sources of energy more affordable, reducing energy costs for residents and businesses, and, perhaps most notably, encouraging local private sector economic activity and job creation.

Since development and attempted implementation of early PACE programs by the City of Berkeley, California, Sonoma County, California and Boulder County, Colorado, the concept gained widespread attention and has been accepted at all levels of government with at least 31 states, including Florida, adopting legislation expressly authorizing PACE financing. However, programs have not been robust for many reasons, as discussed subsequently herein. The primary reason for program stagnation has been a lack of long term funding availability. The Florida PACE Funding Agency has uniquely now overcome that hurdle.

While each of the PACE programs established to date differ in various respects, the basic premise involves a local government making funding available to commercial and residential property owners as a means to finance the costs of installing qualifying improvements. In Florida, qualifying improvements include renewable energy, energy efficiency and wind resistance improvements for buildings located on property within the boundaries of the local government. The funding is repaid in annual installments over a period of years (which should not exceed the useful life of the improvements) through a special assessment collected on the annual property tax bill. The acquisition of the improvements and the financing thereof through a special assessment is completely voluntary and only initiated upon the application and written consent of interested property owners. The yearly savings in utility costs resulting from energy-related improvements can exceed the amount of the annual assessment payment which incentivizes property owners to seek the improvements. Wind resistance improvements may be an attractive means to avoid wind storm repair costs or lower casualty insurance premiums. Rebates and credits may also be available which reduce the overall cost and increase the appeal of making the improvements.

The fact that the amount financed is repaid through a special assessment is fundamental for several reasons. The assessment is secured by the property and is not subject to acceleration upon sale or transfer of the property, which enables the new property owner to merely step into the place of the previous owner and assume responsibility for making the annual payment. This can be a vital consideration since many property owners might not undertake the improvements if the full balance had to be due upon sale of the property and they did not intend to own the property long

enough to recover the capital investment. Special assessments are on parity with property taxes. The lien arising by virtue of the assessment is by general law co-equal with the lien of city and county property taxes and senior to all other liens and titles, including mortgages. This seniority status diminishes the risk of non-payment to the local government involved, and is therefore attractive to the credit markets.

In a typical special assessment financing, the local government charges for interest and costs associated with the amount financed to offset its borrowing costs and expenses incurred in administering the financing. With respect to a PACE assessment, the interest rate may be higher or lower than one otherwise available from a bank or commercial lending institution. More importantly, an interested property owner may simply be unable to find residential or commercial financing at all in a tightened credit market, or the retail rates available may be such that the improvements are not economically feasible.

Florida local governments arguably possess home rule authority to develop and offer PACE programs, in the same way they possess home rule authority to levy and collect any other special assessment (e.g. assessments imposed to fund infrastructure and services related to roads, stormwater, water, sewer, fire protection, etc.). The Florida legislature has nonetheless adopted supplemental enabling legislation which by general law expressly authorizes PACE financing and intentionally addresses and resolves the issues and mechanics which have hampered the success of programs in other states. Nevertheless, adoption of PACE programs has been slow due to the reluctance of capital markets to embrace the credit. This funding hurdle requires careful education of securitization markets that typically do not interface with the municipal bond market local governments are familiar with. In March of 2014, the Florida PACE Agency became the first PACE Program in Florida to actually obtain such financing availability.

Florida PACE Legislation

In 2010, Florida enacted Section 163.08, Florida Statutes (the "Supplemental Act"), to provide general law authority to use special assessments to finance "qualifying improvements" to real property. The text of the Supplemental Act is included in

Appendix A. The Supplemental Act sets forth a number of state policy objectives related to energy efficiency and wind resistance improvements, and provides legislative determinations concerning the burdens relieved or special benefits conveyed to the assessed property by the delivery and financing of qualifying improvements. The act is by its terms "additional and supplemental to county and municipal home rule authority and not in derogation of such authority or a limitation upon such authority." Section 163.08(16), Florida Statutes. The exemplary list of qualifying improvements set forth in the Supplemental Act is extensive (not exhaustive) and includes not only energy efficiency and renewable energy improvements but also wind resistance improvements in recognition of the heightened risk of property damage presented by the state's high wind potential. Section 163.08(2), Florida Statutes. In essence, the Supplemental Act created and authorized the opportunity for a uniform, scalable and statewide program pursuant to general law which may be accessed by cities and counties within their respective boundaries.

The drafters of the Supplemental Act undertook a careful analysis of PACE programs elsewhere around the country in order to capitalize on successes and avoid missteps in other jurisdictions. The text of the Supplemental Act includes a number of important and unique features and safeguards for the Florida program:

- Provides that special assessments imposed thereunder are by definition "non-ad valorem assessments" which may only be collected on the annual property tax bill in accordance with Section 197.3632, Florida Statutes.
- Provides for the execution of financing agreements with property owners which evidence due process and provide constructive recorded notice and document both the terms and conditions pursuant to which qualifying improvements are financed and the property owner's consent to the imposition of the assessment.
- Establishes specific eligibility and credit limits and imposes limits for assessment amounts which cannot be exceeded without an energy audit demonstrating energy savings commensurate with the increased assessment amount.

- Renders unenforceable, as a matter of public policy, any provision in any agreement between a mortgagee and a property owner which allows for acceleration of payment of the mortgage or other unilateral modification solely as a result of entering into a financing agreement for a qualifying improvement.
- Provides that the mortgage escrow, if any, can be increased to include the annual assessment as part of the owner's monthly mortgage payment, which effectively converts the annual cost to a monthly cost.
- Property owner eligibility for financing requires (1) a record of on-time payment of property taxes, (2) no involuntary liens, judgments or similar involuntary liens, (3) demonstration that all mortgages have been paid timely and are current, (4) a 30-day prior notice to the mortgage holder (so the mortgage holder could increase the escrow, if applicable), and (5) the execution and recording of a financing agreement which evidences details and the existence of the assessment in the Official Records.
- Authorizes the issuance of bonds or other forms of indebtedness for the purpose of funding qualifying improvements, payable from revenues received from the improved property, or any other available revenue source authorized by law.
- Allows for partnership with one or more local governments for the purpose of providing and financing qualifying improvements.
- Authorizes administration by a for-profit entity or a not-for-profit organization on behalf of and at the discretion of the local government.

The express authority to collaborate with other local governments and to engage third party administration expertise allows the Florida program to avoid various practical and economic disadvantages experienced by cities and counties around the country which have undertaken individual, localized programs with less than robust success. To date no individualized or local PACE program in Florida has been able to be successfully implemented and attract financing availability.

Local Advantages Associated with Uniform and Scalable Approach

To date, throughout the nation, relatively few PACE programs have been implemented. Several have been desired on a local or community-wide basis, but find the means for success elusive. Those programs generally suffer from lack of subject matter expertise, inadequate available funding and a lack of the uniformity demanded by capital markets. The level of commitment and effort needed to succeed is often underestimated. The sheer cost of program development is a significant hurdle because local governments must typically rely on their own resources for startup funding. Notwithstanding a strong desire on the part of local officials to make PACE financing available to constituents, local governments may simply lack all or a combination of adequate funding resources, expertise and focus. An ad hoc, jurisdiction-by-jurisdiction approach has resulted in a lack of uniformity of standards from one local government to another, redundant expenditures of resources for startup and implementation costs and, depending on the size, population and interest level of property owners in a given community, an inability to create sufficient demand to attract significant funding at favorable and cost efficient terms. Accordingly, individual local or small regional PACE programs have experienced very limited success.

An entity with authority to operate throughout the state allows for establishment of uniform standards and procedures and offers unique advantages with respect to attracting substantial and immediate financial resources to adequately fund growing demand. A centralized administration provides efficiencies, economies of scale and resulting cost savings. A single entity with statewide authority is better positioned to address any concerns in the residential mortgage market and to limit liability exposure for local government participants. As well, in the case of the Florida PACE Funding Agency, it has been learned that the use of a redundant investor servicer presents a means to not only protect interested capital, but is advantageous in protecting the property owner, contractors, the subscribing local government, and the Agency from inappropriate program use, fraud or abuse of the advantages of the PACE program. This advantage is simply not available on a small scale basis, and has proven fundamental to attracting capital.

A statewide program is likely more advantageous for and attractive to potential vendor participants because it offers a uniform set of standards with respect to construction of the improvements and program administration. The breadth and scope of a statewide program can more effectively attract capital markets and large scale private sector administration, foster partnerships among commercial and industrial groups, educators, energy auditors, contractors, suppliers and installers – and naturally facilitate the creation of local private sector jobs and economic activity.

Even where a local government believes that subsidizing a program or its costs is advisable for policy reasons, a program like the Florida PACE Funding Agency provides a means to better assist and more economically achieve the local government's objectives. In such instance, instead of subsidizing the stand-up and implementation of a singular local program, the local government can subscribe to the uniform and scalable Agency program, and directly use and better leverage any subsidy monies it desires to contribute to locally incentivize or encourage participation by local property owners (which both lowers cost to the property owners and advances the energy and wind-resistance policies innate in the PACE concept). In other words, all local resources can be targeted to advancing the PACE program locally, or for other local purposes.

Recognizing these advantages, the Florida PACE Funding Agency was specifically structured to take advantage of general law provisions to remove liability from local governments for implementation, provide uniform program parameters which are designed to be attractive to national credit markets and improvement vendors alike, develop economies of scale and scalable program attributes that allow for easy subscription by local governments so that property owners desiring to avail themselves of PACE programs efficiently underwrite the entire cost of those programs as opposed to the general taxpayers. The Agency also provides an avenue to carefully implement the Supplemental Act and advance the 'compelling state interests' and statewide policy objectives set forth therein.

Florida PACE Funding Agency

The Florida PACE Funding Agency was created in June 2011 through an interlocal agreement between Flagler County and the City of Kissimmee (the "Charter Agreement") for purposes of capitalizing on the advantages of a statewide approach to PACE financing. The Agency and its statewide platform is the result of the effort by local governments with the needs of local governments in mind. A copy of the Charter Agreement is included in Appendix B. Flagler County and the City of Kissimmee effectively acted as 'incorporators' of a separate and focused legal entity. Creation of an entity of this nature is expressly authorized by Section 163.01, Florida Statutes, the Florida Interlocal Cooperation Act. The Agency's mission is to facilitate the implementation, planning, development, funding, financing, marketing and management of a uniform statewide platform so that counties and cities can easily and economically take advantage of a scalable program for their residential and commercial property-owning constituents. The Agency is authorized to and has entered into an indenture to issue bonds to provide funds with which to finance qualifying improvements and to make available its funding program throughout Florida to interested local government participants as program 'subscribers'.

The Agency has been designed to encourage local governments to individually subscribe to its immediately available, uniform program which can immediately provide positive local impact. The intended constituency of the Agency is local governments. The subscription approach is attractive to similarly create local markets with little or no cost to local government treasuries. This unique platform allows local governments to participate in the advantages of a PACE program and access capital markets without having to assemble extensive subject matter expertise, implement or deploy individual programs or individually seek or back-stop capital for their constituents. Respectful of the State Constitution and local home rule, the charter of the Agency respects the autonomy of general purpose local governments, and will only allow the Agency to provide its services within the boundaries of a local government that desires and requests to cooperatively enter into a short standard interlocal subscription agreement. As well, the Agency embraces an open or non-exclusive approach, and will provide its services and functions along with one or several other PACE programs in any

jurisdiction. The objective is to be the best and lowest cost PACE program available. The use, form and purpose of the subscription agreement approach by the Agency have been judicially validated and approved.

One of the most important advantages of the program offered by the Agency is limited liability for the local governments subscribing to the program. Both the Charter Agreement of the Agency and any subscription agreement make it clear that any subscribing local government is not responsible for actions or liabilities incurred by the Florida PACE Funding Agency or any other local government. As well, the insulation of liability is provided pursuant to general law, and any subscribing local government and the Florida PACE Funding Agency both also possess sovereign immunity. All parties dealing with the Florida PACE Funding Agency will be notified in writing that the actions, debts, obligations and responsibilities of the Florida PACE Funding Agency are those of the Agency and no other local government. This limitation of liability has also been expressly judicially validated and confirmed.

The Agency has been established by a charter, adopted a master bond resolution and successfully validated its ability to issue bonds to fund the various voluntary financing agreements entered into pursuant to the general law authority of the Supplemental Act, together with a litany of matters and issues associated with the statutorily authorized non-ad valorem assessments which will comprise all or substantially all of the revenues to repay any bonds issued by the Agency.

As of March 13, 2014, the Florida PACE Funding Agency has up to $200 million available to immediately fund improvements in Florida communities. This has actually taken some time to carefully accomplish, and represents a national break-through in stable long term funding for programs of this nature. The Agency has separated administration and funding to achieve better and more transparent funding availability and financing for property owners.

Implementation

Implementation of the Agency's program necessarily requires the appointment and selection of officials and consultants with a wide range of professional backgrounds.

Board of Directors: On November 7, 2011, the incorporators of the Agency appointed Cheryl Grieb, Barbara Revels, and Edward Marquez to serve on the Board of Directors for the Agency, each of whom possesses a wealth of local government, real estate and financial experience. Mr. Marquez has since resigned to avoid any conflict.

Cheryl L. Grieb then served the Vice Mayor and Commissioner of the City of Kissimmee City Commission, and was subsequently elected to the Osceola County Commission. Concurrently since 2000, Ms. Grieb has been the Owner/Manager of Olde Kissimmee Investments, Inc., specializing in commercial and residential real estate.

Barbara S. Revels also currently serves as a Commissioner on the Flagler County Board of County Commissioners. She is a general contractor who serves as the president and owner of Coquina Real Estate & Construction, Inc., a full service real estate company and general contracting firm. Ms. Revels has previously served as the President of the Florida Homebuilders Association.

Edward Marquez was appointed as Deputy Mayor of Miami-Dade County Government in August 2011 by the Honorable Mayor Carlos A. Gimenez. As Deputy Mayor, Mr. Marquez is responsible for overseeing the internal management functions of the County, which include the County's Management and Budget, Internal Services, Finance, Audit and Management, and Information Technology Departments. In that the Agency has expressed an interest in seeking the opportunity to serve Miami-Dade County, Mr. Marquez accordingly then appropriately resigned from further service to the Agency, and his seat is presently vacant. His initial guidance and contribution in the establishment of the Agency is greatly appreciated.

Executive Director and General Counsel: Mike Steigerwald serves as Executive Director and Don Smallwood serves as General Counsel and Assistant Secretary to the Agency. Mike Steigerwald is the City Manager of the City of Kissimmee, and Don Smallwood is the City Attorney for the City of Kissimmee.

Special Counsel: The Agency has engaged Mark G. Lawson, P.A., to provide special or program counsel services to the Agency, and Akerman LLP to provide bond counsel services to the Agency.

Financial Advisors: The Agency, through a public procurement process, has selected the PFM Group and FirstSouthwest and Southeastern Investments Securities, LLC to serve as co-financial advisors to the Agency.

Third Party Administrator and Financial Services Provider: In October, 2011, the Agency issued its Request for Information from Providers of Third Party Administration and/or Investment Banking and Program Finance Services (the “RFI”). Responses to the RFI were due on November 15, 2011.

The Board of Directors at its December 7, 2011 meeting refined the parameters for the Agency’s Program and directed that a formal Request for Proposals for Third Party Administration and/or Investment Banking and Program Finance Services (the "RFP") be issued.

On January 9, 2012, the RFP was issued with a February 2, 2012 response date; on February 24, 2012 short-listed firms were selected for contemporaneous negotiation. At its April 12, 2012 meeting, the Board approved the engagement of SAIC Energy, Environmental & Infrastructure, LLC, a wholly owned subsidiary of SAIC, which later changed its name to Leidos to serve the Agency as its administrator.

Third Party Administrator: Since April 12, 2012, Leidos has steadfastly assisted the Agency, notwithstanding, an inability to attract capital as quickly as anticipated and as contracted. Leidos recognizes the Agency program is the only statewide program in the country designed for local governments to easily subscribe to in order to encourage property owners to voluntarily seek financing for certain energy efficiency, renewable energy, or wind resistance improvements. Work will be performed through its wholly owned subsidiary Leidos Engineering, LLC. For more information, please visit www.leidos.com/about/companies [NYSE: LDOS].

The Leidos organization was selected because it had approximately 20,000 employees world-wide, numerous offices in Florida, and based upon its full disclosures and successful management of large governmental programs and experience with outreach to residential and commercial customers. Leidos will oversee the design, development, implementation and management of the program.

Financial Services Provider: From December 2011 through most of 2013, the Agency and its financial advisors investigated, solicited, considered and received numerous financing and funding proposals and options from every reasonably imaginable source. On October 4, 2013, the Agency engaged in formal discussions and negotiations with Partner Reinsurance Company and its servicer Counterpointe Energy Solutions to provide the initial funding services to the Agency to fund its Program. Partner Reinsurance Company (PartnerRe) [NYSE: PRE] is a premier international financial innovator, originator, and asset manager of structured products. The company principals have demonstrated to the Agency experience in asset-backed securities origination, trading, and securitization. PartnerRe provides innovative financing solutions and origination processes by structuring financial products that bridge the gap to the capital markets. Its abilities include employing securitization and issuer methodologies to fund and invest in stable and predictable long-term cash flows. The strong PACE program put in place by the Agency, coupled with the funding solution provided by PartnerRe, promises to open an exciting new market that will immediately spur local economic activity in each subscribing community. For more information, please visit www.partnerre.com. Counterpointe Energy Solutions is working with PartnerRe as structuring agent for these financings. The bond indenture and overall financing closed on March 13, 2014.

With the appointment and selection of necessary officials and program consultants and professionals essentially complete, the Agency is in a position to share and engage in standard and brief subscription agreements with interested local governments and commence operation of its PACE program immediately. This is done by simple resolution of the governing body of any interested city or county government.

Validation

The Agency, as one of its initial fundamental actions, filed its Validation Complaint in July 2011 seeking judicial approval to issue as much as 2 billion dollars in bonds to be issued from time to time as funds are needed. The dollar amount was premised upon a conservative economic analysis that there are at least 3,132,600 buildings which are over twenty (20) years old in Florida and likely candidates for retrofit

or energy-related or wind resistant improvements. The economic analysis was performed by Real Estate Research Consultants, Inc., of Orlando, Florida, and was based on the assumption that if only five percent (5%) of the owners of such estimated number of buildings voluntarily apply for such retrofit improvements over the next several years, the necessity for potential aggregate of bonds issued in several series on an as needed basis could easily equal or exceed 2.35 billion dollars.

At the conclusion of the bond validation proceeding on August 25, 2011, the Circuit Court in and for Leon County, Florida, issued its Final Judgment validating and confirming the authority of the Agency to issue the bonds, the Charter Agreement creating the Agency, the validity of the financing agreements entered into with property owners, the Supplemental Act and the non-ad valorem assessments imposed thereunder, the execution and validity of the contemplated subscription agreements with local governments throughout Florida and all matters connected therewith. A copy of the Final Judgment is included in Appendix C. The validation process has resolved with finality the Agency's authority to administer its statewide program and clarified the unique prerequisites and provisions in the Supplemental Act that more closely follow guidelines then provided by the Office of the Controller of the Currency, which had suggested pragmatic guidance to its regulated banks for PACE related programs nationwide. The validation was not appealed and is final. Its affect is statewide, but only as to the Agency's program upon subscription by local governments and recording locally, and is binding on all interested parties throughout the State.

Subsequently other groups or organizations have attempted to emulate the validation process in Florida. All five were validated, but four exhibit flaws that have resulted in taxpayers filing a total of five appeals (one of which has since been dismissed) related to the statute under which the Agency's program is authorized. Only one of those appeals directly addresses the validity of the statute, and the other three pending appeals are unlikely to address any issue relevant to the Agency.[1] It is unlikely

[1] These appeals concern the unlawful use of judicial foreclosure to enforce the assessment, which the Agency does not do, the authority of a state entity (rather than a local government) to impose non-ad valorem assessments, and several procedural issues related to the bond validation process. None of these issues is likely to affect the

that any result will be forthcoming from the Florida Supreme Court before the autumn of 2015, as the final case was not orally argued until May and the Florida Supreme begins its annual summer recess in July.

The Agency is not involved in the appeals, and while the high court does have the ability to strike down the statute authorizing PACE programs, this result is highly unlikely. Even in that eventuality, however, the Agency's assessments imposed prior to the ruling would be undisturbed. Florida law prohibits refunds to assessment-payers, even when the assessment is deemed invalid, when the assessing agency acted in good faith and where issuance of a refund imposes substantial hardship on the assessing agency. By relying on a presumptively valid statute (even if later invalidated) or obtaining a judgment of validation on the issue later determined adversely, the Agency has acted in good faith as a matter of law, and therefore is not subject to refunds even if the PACE Act is declared invalid.

Enforcement and Collection of Assessments

The following material provides a detailed description of the enforcement mechanism for special assessments (including those levied under the authority of the Supplemental Act) which are collected pursuant to the uniform method set forth in Section 197.3632, Florida Statutes. Assessments collected thereunder are not enforced through foreclosure or similar courtroom proceedings, but rather through the statutory tax certificate/tax deed process administered by the county tax collector on behalf of the local government (in this case, the Agency) imposing the assessment.

The Supplemental Act provides that special assessments imposed thereunder shall be collected by the uniform method set forth in Section 197.3632, Florida Statutes, which provides that the assessments must be collected in the same manner and at the

Agency's operations. One of these entrants, the small state entity otherwise required to operate pursuant to interlocal invitation, attempted to fundamentally change the general law in the 2015 Legislative Session to (1) grant it the power to impose special assessments, and (2) to avoid seeking local city or county approval before setting up its PACE-related program in local jurisdictions, or impose a 'cram-down' if local governments choose not to offer a PACE program. Those bills did not pass.

same time as county and municipal ad valorem taxes.[2] The statutes in Chapter 197 relating to enforcement of property taxes provide that such taxes become due and payable on November 1 of the year when assessed and constitute a lien upon the land from the previous January 1 of such year. The county tax collector is to bill such taxes together with all other ad valorem taxes and non-ad valorem assessments and landowners are required to pay all such taxes without preference in payment of any particular increment of the tax bill, such as the increment owing for the special assessments. Upon receipt of moneys from the tax collector, such moneys are typically deposited into whatever account or fund has been established to ensure timely repayment of any bonds or loans secured by the special assessments.

All county, municipal, school and special district taxes, assessments and voter-approved ad valorem taxes levied to pay principal of and interest on bonds, including any PACE-related special assessments, are payable at one time. If a taxpayer does not make complete payment, he cannot designate specific line items on his tax bill as deemed paid in full. In such cases, the tax collector cannot by law accept such partial payment and the partial payment is returned to the taxpayer. Accordingly, in order to pay the property taxes when due, a property owner must by law also pay all non-ad valorem assessments due. This feature is obviously attractive to credit markets who seek pledged revenues in the form of non-ad valorem assessments.

If the tax bill is paid during November when due or during the following three months, the taxpayer is granted a variable discount equal to 4% in November and decreasing 1% per month to 1% in February. All unpaid taxes become delinquent on April 1 of the year following assessment, and the tax collector is required to collect taxes prior to April 1 and after that date to institute statutory procedures upon delinquency to collect assessed taxes. Delay in the mailing of tax notices to taxpayers may result in a delay throughout this process. It is important to note that assessments imposed

[2] While some Tax Collectors and Property Appraisers in the various counties have suggested that they may disagree with the PACE concept on a policy basis, the validity of a non-ad valorem assessment is exclusively the responsibility of the local government imposing the assessment. Local Tax Collectors and Property Appraisers have a ministerial duty to collect the assessment, regardless of their individual view on the policy behind the assessment. *Escambia Cnty. v. Bell,* 717 So. 2d 85 (Fla. 1st DCA 1998). The Florida Department of Revenue has also confirmed this in axiom in informal advisories.

pursuant to the Supplemental Act are not subject to the early payment discount. See Section 163.08(4), Florida Statutes.

Collection of delinquent taxes is, in essence, based upon the sale by the tax collector of "tax certificates" and remittance of the proceeds of such sale to the local government for payment of the amounts due. In the event of a delinquency in the payment of taxes, the landowner may, prior to the sale of tax certificates, pay delinquent taxes plus an interest charge of 18% per annum on the amount of delinquent taxes. If the landowner does not act, the tax collector is to sell tax certificates to the person who pays the taxes owing and interest thereon and certain costs, and who accepts the lowest interest rate to be borne by the certificates (but not more than 18%). If there are no bidders, the county is to hold, but not pay for, tax certificates with respect to the property, bearing interest at the maximum legal rate of interest. The county may sell such certificates to the public at any time at the principal amount thereof plus interest at the rate of not more than 18% per annum and a fee. The demand for such certificates is dependent upon various factors which include the rate of interest which can be earned by ownership of such certificates and the value of the land which is the subject of such certificates and which may be subject to sale at the demand of the certificate holder.

Any tax certificate in the hands of a person other than the county may be redeemed and canceled by the person owning or claiming an interest in the underlying land, or a creditor thereof, so long as such redemption occurs prior to the time a tax deed is issued. The person effecting such redemption must pay the face amount of the certificate and interest at the rate borne by the certificate plus costs and other charges. Regardless of the interest rate actually borne by the certificates, persons redeeming tax certificates must pay a minimum interest rate of 5%, unless the rate borne by the certificates is zero percent. The proceeds of such redemption are paid to the tax collector who transmits to the holder of the tax sale certificate such proceeds less services charges, and the certificate is canceled. Redemption of tax sales certificates held by the county is effectuated by purchase of such certificates from the county, as described in the preceding paragraph.

The private holder of a tax sale certificate which has not been redeemed has seven years from the date of issuance in which to act against the property. After an initial period of two years has passed, during which time action against the land is held in abeyance to allow for sales and redemptions of tax sale certificates, such holders may apply for a tax deed. The applicant is required to pay to the tax collector all amounts required to redeem outstanding tax certificates covering the land not held by him, and any omitted taxes or delinquent taxes, plus interest. If the county holds a tax certificate and has not succeeded in selling it, the county must apply for a tax deed after the county's ownership of such certificate for two years. The county pays costs and fees to the tax collector but not any amount to redeem other outstanding certificates covering the land. Thereafter, the property is advertised for public sale.

In any such public sale, the private holder of the tax certificate who is seeking a tax deed for non-homestead property is deemed to submit a minimum bid equal to the amount required to redeem the tax certificate, and charges for cost of sale, redemption or other tax certificates on the land, and the amounts paid by such holder in applying for the tax deed, plus interest thereon. In the case of homestead property, the minimum bid must include, in addition to the amount of money required for the opening bid on non-homestead property, an amount equal to one-half of the assessed value of the homestead. If there are no other bidders, the holder receives title to the land, and the amounts paid for the certificate and in applying for a tax deed are credited toward the purchase price. If there are other bidders, the holder may enter the bidding. The highest bidder is awarded title to the land. If there are no bidders, the county may purchase the land within ninety (90) days of the offering for public sale for the minimum bid. After ninety (90) days have passed, any person may purchase the land by paying the minimum bid to the county. Taxes and assessments accruing after the date of public sale do not require repetition of this process but are added to the minimum bid. The portion of proceeds of such sale needed to redeem the tax sale certificate (and all other amounts paid by such person in applying for a tax deed) are forwarded to the holder thereof or credited to such holder if he is the successful bidder. Excess proceeds are distributed first to satisfy governmental liens against the property and then to the former titleholder of the property (less service charges). Seven (7) years after the

date of public sale of the tax certificate, unsold lands escheat to the county in which they are located and all tax certificates and liens against the property are canceled and a deed is executed vesting title in the county commissioners.

The Agency does not give any assurance to the holders of the bonds (1) that past experience in a particular county with regard to tax and special assessment delinquencies is applicable in any way to special assessments levied pursuant to financing agreements, (2) that landowners who have executed financing agreements will pay or timely pay the special assessments, (3) that a market may exist in the future for the aforementioned tax certificates in the event of sale of such certificates, and (4) that eventual sale of tax certificates for real property subject to a financing agreement will be for an amount sufficient to pay amounts due under the financing agreement to discharge the lien of special assessments and all other liens that are coequal therewith. However, because of the nature of qualifying improvements (substantial improvements to existing improved properties, likely wide dispersal of participating properties, statutory underwriting guidelines, and required constructive notice), the uniform collection process should be quite attractive to mortgage and credit markets alike.

Current Issues Affecting PACE

In late 2009, with traditional lending for energy related improvements at a standstill, the concept of property assessed clean energy gained substantial national attention. As the concept gained in popularity, Fannie Mae and Freddie Mac and ultimately their conservator, the Federal Housing Finance Authority (collectively, "FHFA" hereafter), became concerned about the impact of diverse and non-uniform PACE programs on the security of mortgage loans they either owned or guaranteed.

In late spring of 2010, FHFA and the Office of the Comptroller of the Currency (which oversees banking institutions) issued statements of concern about PACE programs. Guidance from the Office of the Comptroller of the Currency was pragmatic, essentially reminding regulated banks that PACE assessments may require additional underwriting guidelines and urged, among other things, inclusion of such assessments within the monthly escrow for payment of all taxes. On July 6, 2010, FHFA issued a

"Statement on Certain Energy Retrofit Loan Programs." In this statement, FHFA sought to characterize PACE "loans" as fundamentally different from customary governmental assessments and taxes, and directed Fannie Mae and Freddie Mac to: (1) adjust loan-to-value ratios to reflect the maximum permissible PACE loan amount available to homeowners in PACE jurisdictions; (2) ensure loan covenants require approval/consent for any PACE loan; (3) tighten borrower debt-to-income ratios to account for additional obligations that could be associated with possible future PACE loans; and (4) ensure that mortgages on properties in a jurisdiction offering PACE-like programs satisfy all applicable federal and state lending regulations and guidance. On August 31, 2010, Freddie Mac and Fannie Mae issued letters to lenders stating that they would cease purchasing mortgage loans secured by property with an outstanding PACE loan originating on or after July 6, 2010. Each enterprise further indicated that in order to refinance a PACE encumbered property, the owner must generally pay off the entire outstanding PACE assessment. In response to these statements, the State of California and several local governments proceeded to challenge such pronouncements by FHFA in federal courts (hereinafter the "federal lawsuits"). The actions by FHFA served to chill the development of residential PACE funding programs and the federal lawsuits in response to these actions became protracted.

All of the federal lawsuits were substantially similar in theme in that they generally alleged that (1) the positions or directives of FHFA unfairly, improperly or unlawfully attempt to secure an unlawful lien priority over special assessments, (2) FHFA has unlawfully or improperly implemented rulemaking in violation of federal administrative procedures and national environmental policy, (3) FHFA has engaged in unfair business practices, (4) FHFA has violated the Tenth Amendment of the Federal Constitution by interfering with the power of the several states to regulate and define local taxation and assessment matters, and/or (5) FHFA has violated the commerce clause of the Federal Constitution. Each of the actions generally sought, in some form or another, a declaration as to the status of PACE assessments vis-à-vis residential mortgages owned, held or guaranteed by FHFA generally. FHFA responded in kind by seeking dismissals of each of these federal lawsuits. All of the federal lawsuits

exhibited a general theme of asking the federal court system to somehow force FHFA to change its business or underwriting position.

Ultimately, both the Second Circuit in *Town of Babylon v. FHFA* and the Eleventh Circuit in *Leon County, Florida v. FHFA* held that the federal courts did not have jurisdiction to review the actions of the FHFA under applicable federal law. On March 19, 2013, the Ninth Circuit, in the only remaining pending federal lawsuit, *People v. State of California v. FHFA, et al.*, joined the Second Circuit and the Eleventh Circuit in dismissing and vacating the prior District Court order for lack of jurisdiction. In none of these cases were the underlying merits of the actions of the FHFA resolved or addressed. Pursuant to the now vacated District Court order in *People v. State of California v. FHFA, et al.* FHFA had been required to implement a formal rulemaking procedure. Initially FHFA issued a Notice of Advance Rulemaking, soliciting responses to the FHFA position on PACE assessments. Numerous responses were filed, mostly in support of PACE assessments and against the FHFA position. In June, 2012, FHFA issued a Notice of Rulemaking proposing alternatively a ban on purchasing mortgages with a PACE assessment on the property and three alternate approaches which allowed for a PACE assessment program. The FHFA received thousands of responses, and a new set of targeted studies clearly undermined the FHFA position. As a part of the federal rulemaking process, FHFA is obligated to address all of these concerns and comments in issuing new regulations or the regulations can be challenged. The FHFA had previously filed a notice with the federal court in California stating that due to the volume of responses and new information, FHFA would not make their April, 2013 rulemaking deadline and would be asking for an extension of time (but at this point, FHFA does not know how much additional time they will need). The order, as modified on March 5, 2013, directed FHFA to complete the process by September 16, 2013. This order was vacated by the Eleventh Circuit, and FHFA has not continued with the rulemaking process; no new action has been taken since the 2013 ruling. However, a bipartisan group of members of Congress introduced a bill on March 24, 2014, that seeks to legislatively deprive FHFA of the authority to impose restrictions on mortgages based on PACE assessments. The bill was never brought to the floor for debate. To date, the FHFA has not exercised the inherent threat of “red-lining”, which would entail

the refusal to purchase any mortgages in a PACE jurisdiction, in any community—despite millions of dollars of outstanding PACE assessments in California and other jurisdictions, in addition to the Florida assessments.

The Florida PACE Funding Agency, instead of pursuing its own federal lawsuit in light of the federal law which created the FHFA and deprived federal courts of jurisdiction to review the actions of FHFA as conservator, sought judicial validation of its actions and authority under Florida law. The validation proceeding addressed the core aspects of the issues raised by FHFA, and resulted in a final judgment declaring that the non-ad valorem assessments levied in Florida by the Agency meet all state law and judicial precedence to qualify as "special assessments" within the meaning of the Florida Constitution, and as such must be construed as indistinguishable and fully equivalent to all other non-ad valorem assessments for capital projects, improvements, and/or essential services (e.g. infrastructure and services related to roads, stormwater, water, sewer, fire protection, etc.).

The Florida PACE Funding Agency's validation of its program also secured a state law determination on a statewide basis as to the effectiveness of Florida's Legislation which prohibits acceleration of a mortgage merely because a property owner chooses to enter into a financing agreement for energy efficiency, renewable energy and/or wind resistant improvements which results in a non-ad valorem assessment. This judgment, now final, is binding on all interested parties in Florida wherever the Florida PACE Funding Agency operates pursuant to a subscription agreement with a local government, including mortgage lenders.

The approach undertaken by the Florida PACE Funding Agency was focused on the Agency's activities as a statewide platform and as a statewide program deprives the FHFA of its apparent position of market control so that it will not as easily be able to intimidate any one local jurisdiction. Dealing with the Florida PACE Funding Agency is equivalent to having the FHFA deal with the State of Florida in its entirety rather than isolated local governments. This approach takes advantage of the careful requirements set forth in the Supplemental Act which follow more closely the pragmatic guidance from

the Office of Comptroller of the Currency, to wit (1) a record of on-time payment of property taxes, (2) no involuntary liens, judgments or similar involuntary liens, (3) demonstration that all mortgages have been paid timely and are current, (4) that the amount of the PACE assessment not exceed twenty percent (20%) of the just value of the property (as determined by the local property appraiser pursuant to general law) or that an energy audit has been provided which demonstrates that the annual energy savings from the improvement would equal or exceed the annual repayment amount for the assessment, (5) notice to the mortgage holder (so the mortgage holder could increase the escrow, if applicable), (6) the execution and recording of a financing agreement which evidences details of the existence of the non-ad valorem assessment in the Official Records, and (7) required collection as a non-ad valorem assessment on the same bill as for property taxes.

During the process of crafting and adopting the PACE Act, due consideration was given the stated concerns of the Florida Bankers Association (FBA). Unlike the recalcitrance of the federal bureaucracy (who want to generally argue nationally that property assessed clean energy is NOT on parity with taxes, but rather on par with a mortgage), the FBA representatives understood the desire of Florida's legislature to carefully unleash the economic power of this concept in Florida. They, in turn, were instrumental in receiving advance notice provisions written into the Florida general law legislation so they could properly increase escrows, and were satisfied that the 'sole' collection method being on the tax bill made the impacts of this type of concept more tolerable. Such provisions assures a mortgagee that it can increase the monthly escrow provision to make sure adequate funds are collected to pay the PACE assessment along with property taxes, and, that if for some reason the taxes were not paid, they will have absolute confidence that by stepping in and paying the taxes (which cannot by law be paid without also paying the PACE assessment) they can control and protect both the amount and priority of their lien.

Each state will likely have differing processes and procedures to implement PACE programs. However, the Florida PACE Funding Agency program was designed to create a comprehensive, uniform and scalable approach throughout the entire State

of Florida designed to serve local governments and which is acceptable both to credit markets and the mortgage lending industry. Whether or not FHFA and the enterprises for which it acts as a conservator decide they will continue to operate in Florida or limit operations as they relate to properties subject to PACE assessments will ultimately be a business decision. Florida is a significant part of the national real estate market, and as more lenders become cognizant of and comfortable with the uniform statewide approach of the Florida PACE Funding Agency, it is believed that mortgage lenders generally will see property owners who can qualify for PACE assessments as conscientious property owners with a demonstrated on time payment history. Accordingly, the Florida PACE Funding Agency's approach is to communicate with lenders, first to meet the statutory notice provisions, and then, additionally to provide exact information as each financing agreement is recorded and funded. The ultimate goal is to make limited credit available to achieve a public purpose that mortgagees might not, and help mortgagees better understand that PACE assessments in Florida are not a threat to the mortgage industry, but rather generally represent a credit enhancement to properties owned by conscientious property owners.

Fannie Mae and Freddie Mac do not buy or originate commercial loans.

Subscription

Any local government (city or county) desiring to make available a PACE funding program to properties within its boundaries can easily subscribe to the uniform program offered by the Florida PACE Funding Agency by interlocal agreement. This subscription is necessarily in the form of an interlocal agreement which sets forth the details involved. The Agency is authorized by general law to levy the assessments directly and enter into the financing agreements with participating property owners. The very limited role for the subscribing local government is to adopt a resolution authorizing the execution of a standardized subscription agreement. Both of which can be prepared and shared with any interested community by contacting the Agency. All the other ministerial actions and activities and documentation (e.g. interface between interested property owners and qualified vendors, determining compliance with all legal requirements for a valid financing agreement, recording, assessment roll extension,

etc.) will be handled by the Agency through its third party administrator. A subscribing local government may choose to provide additional marketing, public relations, or even seek to buy down or to fund assessments or program aspects within their communities, but is not required to do so.

This approach is designed to allow local governments to participate in the advantages of PACE programs locally and access capital markets, without having to assemble subject matter expertise, open themselves to liability, and expend resources to implement or deploy individual programs or individually seek capital for their constituents. The Agency's redundant investor servicer feature provides additional comfort to local communities in that it avoids program misuse, fraud, or program abuse many local governments are and should be concerned about.

Subscription agreements confirm or provide for (a) the authority of the Agency to act, provide its funding and associated financing services, and conduct its affairs within the Subscriber's boundaries; (b) work with interested property owners and vendors; (c) execute financing agreements which impose and provide for the collection of non-ad valorem assessments pursuant to general law; (d) the issuance of bonds of the Agency (not the local government) to fund and finance qualifying improvements; (e) the proceeds of such non-ad valorem assessments and collection of the non-ad valorem assessments to be handled by the Agency's Trustee (an independent banking institution with trust powers and duties); (f) the withdrawal from, discontinuance of or termination of the subscription agreement by either party upon reasonable notice in a manner not detrimental to the holders of any bonds of the Agency or inconsistent with any financing documents related to such bonds; (g) such disclosures, consents or waivers reasonably necessary to use or employ the services and activities of the Agency; and (h) such other covenants or provisions deemed necessary and mutually agreed to by the parties to carry out the purpose and mission of the Agency.

Important features of the subscription approach are summarized as follows:

- No subscription activity within the boundary of a county or local government or provision of assessments to willing property owners will take place unless and

until the county or local government enters into a subscription agreement in the form of an interlocal agreement with the Agency.

- The Agency's program is 'open' or 'non-exclusive'. That means a subscribing local government can bring in another PACE funding provider, or start their own local program at any time. The Agency embraces competition, seeks to be the best program and best cost alternative for the local constituents, and is simply a transparent and accountable alternative available to a community to spur economic development, jobs, provide expertise in achieving the funding and financing of energy savings and wind resistant improvements for those property owners who choose to do so.
- This unique platform will allow for counties or local governments to participate in the scalable and uniform advantages of the Agency's PACE program and attract the attention of capital markets, without having to implement or deploy individual programs or individually seek or pay for capital for their constituents.
- A subscribing local government can take advantage of the Agency's subject matter expertise and program platform designed for local governments by local governments, giving any county or local government the opportunity to best leverage any desired contribution by incentivizing program participation rather than fund start-up costs.
- The Agency program immediately shares subject matter expertise and leverages the Agency's skill, innovation, and uniformity to the advantage of all Florida local governments in a collective fashion.
- The Charter Agreement and any subscription agreements with local governments make it clear that no local government is responsible for the actions or liabilities incurred by the Agency, thus providing and confirming the insulation of liability pursuant to general law to any participating or subscribing local government.
- After a rigorous public procurement process and search for informed capital, the Agency has selected a large and well qualified third party administrator to accomplish its Program objectives, and similarly selected Partner Reinsurance Company and its servicer Counterpointe Energy Solutions to provide the initial funding services to the Agency to fund its Program. Partner Reinsurance

Company (PartnerRe) [NYSE: PRE] has presently agreed to provide at least $200 and as much as $400 million in initial Program funding until early in 2016.

- The Florida PACE Funding Agency is ready to begin funding and has financing – right now. Upon execution of the Interlocal and recording, qualifying projects can begin immediately.

The validation expressly considered the form, purpose and context of the subscription agreement contemplated. A uniform draft (or specimen version for a specific local government) subscription resolution and agreement are included as Appendix D and Appendix E, respectively. Please understand the final language may change as program implementation occurs.

Appendix A – Section 163.08, Florida Statutes

163.08 Supplemental authority for improvements to real property.—

(1)(a) In chapter 2008-227, Laws of Florida, the Legislature amended the energy goal of the state comprehensive plan to provide, in part, that the state shall reduce its energy requirements through enhanced conservation and efficiency measures in all end-use sectors and reduce atmospheric carbon dioxide by promoting an increased use of renewable energy resources. That act also declared it the public policy of the state to play a leading role in developing and instituting energy management programs that promote energy conservation, energy security, and the reduction of greenhouse gases. In addition to establishing policies to promote the use of renewable energy, the Legislature provided for a schedule of increases in energy performance of buildings subject to the Florida Energy Efficiency Code for Building Construction. In chapter 2008-191, Laws of Florida, the Legislature adopted new energy conservation and greenhouse gas reduction comprehensive planning requirements for local governments. In the 2008 general election, the voters of this state approved a constitutional amendment authorizing the Legislature, by general law, to prohibit consideration of any change or improvement made for the purpose of improving a property's resistance to wind damage or the installation of a renewable energy source device in the determination of the assessed value of residential real property.

(b) The Legislature finds that all energy-consuming-improved properties that are not using energy conservation strategies contribute to the burden affecting all improved property resulting from fossil fuel energy production. Improved property that has been retrofitted with energy-related qualifying improvements receives the special benefit of alleviating the property's burden from energy consumption. All improved properties not protected from wind damage by wind resistance qualifying improvements contribute to the burden affecting all improved property resulting from potential wind damage. Improved property that has been retrofitted with wind resistance qualifying improvements receives the special benefit of reducing the property's burden from potential wind damage. Further, the installation and operation of qualifying improvements not only benefit the affected properties for which the improvements are made, but also assist in fulfilling the goals of the state's energy and hurricane mitigation policies. In order to make qualifying improvements more affordable and assist property owners who wish to undertake such improvements, the Legislature finds that there is a compelling state interest in enabling property owners to voluntarily finance such improvements with local government assistance.

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

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

(a) "Local government" means a county, a municipality, or a dependent special district as defined in s. 189.403, or a separate legal entity created pursuant to s. 163.01(7).

(b) "Qualifying improvement" includes any:

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

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

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

a. Improving the strength of the roof deck attachment;

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

c. Installing wind-resistant shingles;

d. Installing gable-end bracing;

e. Reinforcing roof-to-wall connections;

f. Installing storm shutters; or

g. Installing opening protections.

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

(4) Subject to local government ordinance or resolution, a property owner may apply to the local government for funding to finance a qualifying improvement and enter into a financing agreement with the local government. Costs incurred by the local government 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 in conjunction with any non-ad valorem assessment authorized by this section, if the property appraiser, tax collector, and local government agree.

(5) Pursuant to this section or as otherwise provided by law or pursuant to a local government's home rule power, a local government may enter into a partnership with one or more local governments for the purpose of providing and financing qualifying improvements.

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

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

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

(9) Before entering into a financing agreement, the local government shall reasonably determine that all property taxes and any other assessments levied on the same bill as property taxes are paid and have not been delinquent for the preceding 3 years or the property owner's period of ownership, whichever is less; that there are no involuntary liens, including, but not limited to, construction liens on the property; that no notices of default or other evidence of property-based debt delinquency have been recorded during the preceding 3 years or the property owner's period of ownership, whichever is less; and that the property owner is current on all mortgage debt on the property.

(10) A qualifying improvement shall be affixed to a building or facility that is part of the property and shall constitute an improvement to the building or facility or a fixture attached to the building or facility. An agreement between a local government and a qualifying property owner may not cover wind-resistance 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.

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

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

(b) Notwithstanding paragraph (a), a non-ad valorem assessment for a qualifying improvement defined in subparagraph (2)(b)1. or subparagraph (2)(b)2. that is supported by an energy audit is not subject to the limits in this subsection if the audit demonstrates that the annual energy savings from the qualified improvement equals or exceeds the annual repayment amount of the non-ad valorem assessment.

(13) At least 30 days before entering into a financing agreement, the property owner shall provide to the holders or loan servicers of any existing mortgages encumbering or otherwise secured by the property a notice of the owner's intent to enter into a financing agreement together with the maximum principal amount to be financed and the maximum annual assessment necessary to repay that amount. A verified copy or other proof of such notice shall be provided to the local government. A provision in any agreement between a mortgagee 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 not enforceable. This subsection does not limit the authority of the holder or loan servicer to increase the required monthly escrow by an amount necessary to annually pay the qualifying improvement assessment.

(14) At or before the time a purchaser executes a contract for the sale and purchase of any 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 shall be set forth in the contract or in a separate writing:

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

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

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

(16) 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.

History.—s. 1, ch. 2010-139; s. 1, ch. 2012-117.

Appendix B – Charter Agreement

Appendix C – Final Judgment

Appendix D – Form of Authorizing Resolution

Appendix E – Form of Subscription Agreement