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CS/HB 7179, Engrossed 3

2010 Legislature

1 A bill to be entitled
2 An act relating to qualifying improvements to real
3 property; creating s. 163.08, F.S.; providing legislative
4 purposes and findings and intent; providing definitions;
5 authorizing a local government to levy non-ad valorem
6 assessments to fund certain improvements; authorizing a
7 property owner to apply for funding and enter into a
8 financing agreement with a local government to finance
9 certain improvements; authorizing a local government to
10 collect moneys for such purposes through non-ad valorem
11 assessments; providing collection requirements;
12 authorizing local governments to partner with other local
13 governments to provide and finance certain improvements;
14 authorizing a qualifying improvement program to be
15 administered by a for-profit entity or not-for-profit
16 organization under certain circumstances; authorizing a
17 local government to incur debt payable from revenues
18 received from the improved property; providing a financing
19 restriction for local governments; requiring a financial
20 agreement to be recorded in a county's public records
21 within 5 days after execution of the agreement; specifying
22 responsibilities for local governments before entering
23 into financing agreements; requiring qualifying
24 improvements to be affixed to a building or facility on
25 the property and be performed by a properly certified or
26 registered contractor; excluding certain projects from
27 financing agreement coverage; limiting the amount of the
28 non-ad valorem assessment to a percentage of the just

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29 value of the property; providing exceptions; specifying
30 information provision requirements for property owners
31 before entering into financing agreements; prohibiting
32 acceleration of a mortgage under certain circumstances;
33 providing assessment disclosure requirements; specifying
34 unenforceability of certain agreement provisions;
35 providing construction preserving a local government's
36 home rule authority; amending ss. 288.9602 and 288.9603,
37 F.S.; revising legislative findings and declarations and
38 definitions for purposes of the Florida Development
39 Finance Corporation Act; amending s. 288.9604, F.S.;
40 revising requirements for the establishment and
41 organization of the Florida Development Finance
42 Corporation; amending s. 288.9605, F.S.; revising the
43 powers of the corporation; amending s. 288.9606, F.S.;
44 revising requirements for the corporation's issuance of
45 revenue bonds; amending s. 288.9607, F.S.; limiting the
46 corporation's approval of guaranties for debt service for
47 bonds or other indebtedness for any one capital project;
48 deleting provisions for the corporation's investment of
49 certain funds in the State Transportation Trust Fund;
50 authorizing guarantees to be used in conjunction with
51 federal guaranty programs; amending s. 288.9608, F.S.;
52 creating the Energy, Technology, and Economic Development
53 Guaranty Fund; providing for the deposit and use of
54 certain moneys in the fund; deleting requirements for the
55 corporation's debt service reserve account and Revenue
56 Bond Guaranty Reserve Account; amending ss. 288.9609,

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57 288.9610, 206.46, 215.47, 339.08, and 339.135, F.S.;

58 conforming provisions to changes made by the act;

59 providing legislative findings; requiring the Department

60 of Community Affairs and the Office of Tourism, Trade, and

61 Economic Development, in consultation with the Florida

62 Energy and Climate Commission, to submit recommendations

63 to the Governor and Legislature relating to the Energy

64 Economic Zone Pilot Program; requiring coordination with

65 the pilot communities and clean technology industries in

66 identifying certain incentives and strategies; amending s.

67 366.91, F.S.; revising the definition of the term

68 "renewable energy"; providing an effective date.

69

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

71

72 Section 1. Section 163.08, Florida Statutes, is created to

73 read:

74 163.08 Supplemental authority for improvements to real

75 property.-

76 (1) (a) In chapter 2008-227, Laws of Florida, the

77 Legislature amended the energy goal of the state comprehensive

78 plan to provide, in part, that the state shall reduce its energy

79 requirements through enhanced conservation and efficiency

80 measures in all end-use sectors and reduce atmospheric carbon

81 dioxide by promoting an increased use of renewable energy

82 resources. That act also declared it the public policy of the

83 state to play a leading role in developing and instituting

84 energy management programs that promote energy conservation,

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85 energy security, and the reduction of greenhouse gases. In
86 addition to establishing policies to promote the use of
87 renewable energy, the Legislature provided for a schedule of
88 increases in energy performance of buildings subject to the
89 Florida Energy Efficiency Code for Building Construction. In
90 chapter 2008-191, Laws of Florida, the Legislature adopted new
91 energy conservation and greenhouse gas reduction comprehensive
92 planning requirements for local governments. In the 2008 general
93 election, the voters of this state approved a constitutional
94 amendment authorizing the Legislature, by general law, to
95 prohibit consideration of any change or improvement made for the
96 purpose of improving a property's resistance to wind damage or
97 the installation of a renewable energy source device in the
98 determination of the assessed value of residential real
99 property.

100 (b) The Legislature finds that all energy-consuming-
101 improved properties that are not using energy conservation
102 strategies contribute to the burden affecting all improved
103 property resulting from fossil fuel energy production. Improved
104 property that has been retrofitted with energy-related
105 qualifying improvements receives the special benefit of
106 alleviating the property's burden from energy consumption. All
107 improved properties not protected from wind damage by wind
108 resistance qualifying improvements contribute to the burden
109 affecting all improved property resulting from potential wind
110 damage. Improved property that has been retrofitted with wind
111 resistance qualifying improvements receives the special benefit
112 of reducing the property's burden from potential wind damage.

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113 Further, the installation and operation of qualifying
 114 improvements not only benefit the affected properties for which
 115 the improvements are made, but also assist in fulfilling the
 116 goals of the state's energy and hurricane mitigation policies.
 117 In order to make qualifying improvements more affordable and
 118 assist property owners who wish to undertake such improvements,
 119 the Legislature finds that there is a compelling state interest
 120 in enabling property owners to voluntarily finance such
 121 improvements with local government assistance.

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

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

130 (a) "Local government" means a county, a municipality, or
 131 a dependent special district as defined in s. 189.403.

132 (b) "Qualifying improvement" includes any:

133 1. Energy conservation and efficiency improvement, which
 134 is a measure to reduce consumption through conservation or a
 135 more efficient use of electricity, natural gas, propane, or
 136 other forms of energy on the property, including, but not
 137 limited to, air sealing; installation of insulation;
 138 installation of energy-efficient heating, cooling, or
 139 ventilation systems; building modifications to increase the use
 140 of daylight; replacement of windows; installation of energy

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141 controls or energy recovery systems; installation of electric
 142 vehicle charging equipment; and installation of efficient
 143 lighting equipment.

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

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

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

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

154 c. Installing wind-resistant shingles;

155 d. Installing gable-end bracing;

156 e. Reinforcing roof-to-wall connections;

157 f. Installing storm shutters; or

158 g. Installing opening protections.

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

161 (4) Subject to local government ordinance or resolution, a
 162 property owner may apply to the local government for funding to
 163 finance a qualifying improvement and enter into a financing
 164 agreement with the local government. Costs incurred by the local
 165 government for such purpose may be collected as a non-ad valorem
 166 assessment. A non-ad valorem assessment shall be collected
 167 pursuant to s. 197.3632 and, notwithstanding s. 197.3632(8)(a),
 168 shall not be subject to discount for early payment. However, the

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169 notice and adoption requirements of s. 197.3632(4) do not apply
 170 if this section is used and complied with, and the intent
 171 resolution, publication of notice, and mailed notices to the
 172 property appraiser, tax collector, and Department of Revenue
 173 required by s. 197.3632(3) (a) may be provided on or before
 174 August 15 in conjunction with any non-ad valorem assessment
 175 authorized by this section, if the property appraiser, tax
 176 collector, and local government agree.

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

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

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

189 (8) A local government may enter into a financing
 190 agreement only with the record owner of the affected property.
 191 Any financing agreement entered into pursuant to this section or
 192 a summary memorandum of such agreement shall be recorded in the
 193 public records of the county within which the property is
 194 located by the sponsoring unit of local government within 5 days
 195 after execution of the agreement. The recorded agreement shall
 196 provide constructive notice that the assessment to be levied on

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197 the property constitutes a lien of equal dignity to county taxes
 198 and assessments from the date of recordation.

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

210 (10) A qualifying improvement shall be affixed to a
 211 building or facility that is part of the property and shall
 212 constitute an improvement to the building or facility or a
 213 fixture attached to the building or facility. An agreement
 214 between a local government and a qualifying property owner may
 215 not cover wind-resistance improvements in buildings or
 216 facilities under new construction or construction for which a
 217 certificate of occupancy or similar evidence of substantial
 218 completion of new construction or improvement has not been
 219 issued.

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

224 (12) (a) Without the consent of the holders or loan

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225 servicers of any mortgage encumbering or otherwise secured by
 226 the property, the total amount of any non-ad valorem assessment
 227 for a property under this section may not exceed 20 percent of
 228 the just value of the property as determined by the county
 229 property appraiser.

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

237 (13) At least 30 days before entering into a financing
 238 agreement, the property owner shall provide to the holders or
 239 loan servicers of any existing mortgages encumbering or
 240 otherwise secured by the property a notice of the owner's intent
 241 to enter into a financing agreement together with the maximum
 242 principal amount to be financed and the maximum annual
 243 assessment necessary to repay that amount. A verified copy or
 244 other proof of such notice shall be provided to the local
 245 government. A provision in any agreement between a mortgagee or
 246 other lienholder and a property owner, or otherwise now or
 247 hereafter binding upon a property owner, which allows for
 248 acceleration of payment of the mortgage, note, or lien or other
 249 unilateral modification solely as a result of entering into a
 250 financing agreement as provided for in this section is not
 251 enforceable. This subsection does not limit the authority of the
 252 holder or loan servicer to increase the required monthly escrow

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253 by an amount necessary to annually pay the qualifying
 254 improvement assessment.

255 (14) At or before the time a purchaser executes a contract
 256 for the sale and purchase of any property for which a non-ad
 257 valorem assessment has been levied under this section and has an
 258 unpaid balance due, the seller shall give the prospective
 259 purchaser a written disclosure statement in the following form,
 260 which shall be set forth in the contract or in a separate
 261 writing:

262
 263 QUALIFYING IMPROVEMENTS FOR ENERGY EFFICIENCY,
 264 RENEWABLE ENERGY, OR WIND RESISTANCE.—The property
 265 being purchased is located within the jurisdiction of
 266 a local government that has placed an assessment on
 267 the property pursuant to s. 163.08, Florida Statutes.
 268 The assessment is for a qualifying improvement to the
 269 property relating to energy efficiency, renewable
 270 energy, or wind resistance, and is not based on the
 271 value of property. You are encouraged to contact the
 272 county property appraiser's office to learn more about
 273 this and other assessments that may be provided by
 274 law.

275
 276 (15) A provision in any agreement between a local
 277 government and a public or private power or energy provider or
 278 other utility provider is not enforceable to limit or prohibit
 279 any local government from exercising its authority under this
 280 section.

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281 (16) This section is additional and supplemental to county
 282 and municipal home rule authority and not in derogation of such
 283 authority or a limitation upon such authority.

284 Section 2. Section 288.9602, Florida Statutes, is amended
 285 to read:

286 288.9602 Findings and declarations of necessity.—The
 287 Legislature finds and declares that:

288 (1) There is a need to enhance economic activity in the
 289 ~~eities and counties of the~~ state by attracting manufacturing,
 290 development, redevelopment of brownfield areas, business
 291 enterprise management, and other activities conducive to
 292 economic promotion in order to provide a stronger, more
 293 balanced, and stable economy in the ~~eities and counties of the~~
 294 state.

295 (2) A significant portion of businesses located in the
 296 ~~eities and counties of the~~ state or desiring to locate in the
 297 ~~eities and counties of the~~ state encounter difficulty in
 298 obtaining financing on terms competitive with those available to
 299 businesses located in other states and nations or are unable to
 300 obtain such financing at all.

301 (3) The difficulty in obtaining such financing impairs the
 302 expansion of economic activity and the creation of jobs and
 303 income in communities throughout the state.

304 (4) The businesses most often affected by these financing
 305 difficulties are small businesses critical to the economic
 306 development of the state ~~eities and counties of Florida~~.

307 (5) The economic well-being of the people in, and the
 308 commercial and industrial resources of, ~~the eities and counties~~

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309 ~~of~~ the state would be enhanced by the provision of financing to
 310 businesses on terms competitive with those available in the most
 311 developed financial markets worldwide.

312 (6) In order to improve the prosperity and welfare of ~~the~~
 313 ~~cities and counties of~~ this state and its inhabitants, to
 314 improve and promote the financing of projects related to the
 315 economic development of ~~the cities and counties of~~ this state,
 316 including redevelopment of brownfield areas, and to increase the
 317 purchasing power and opportunities for gainful employment of
 318 citizens of ~~the cities and counties of~~ this state, it is
 319 necessary and in the public interest to facilitate the financing
 320 of such projects as provided for in this act and to do so
 321 without regard to the boundaries between counties,
 322 municipalities, special districts, and other local governmental
 323 bodies or agencies in order to more effectively and efficiently
 324 serve the interests of the greatest number of people in the
 325 widest area practicable.

326 (7) In order to promote and stimulate development and
 327 advance the business prosperity and economic welfare of ~~the~~
 328 ~~cities and counties of~~ this state and its inhabitants; to
 329 encourage and assist new business and industry in this state
 330 through loans, investments, or other business transactions; to
 331 rehabilitate and assist existing businesses; to stimulate and
 332 assist in the expansion of all kinds of for-profit and not-for-
 333 profit business activity; and to create maximum opportunities
 334 for employment, encouragement of thrift, and improvement of the
 335 standard of living of the citizens of Florida, it is necessary
 336 and in the public interest to facilitate the cooperation and

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337 | action between organizations, public and private, in the
 338 | promotion, development, and conduct of all kinds of for-profit
 339 | and not-for-profit business activity in the state.

340 | (8) In order to efficiently and effectively achieve the
 341 | purposes of this act, it is necessary and in the public interest
 342 | to create a special development finance authority to cooperate
 343 | and act in conjunction with public agencies of this state and
 344 | local governments of this state, through interlocal agreements
 345 | pursuant to the Florida Interlocal Cooperation Act of 1969, in
 346 | the promotion and advancement of projects related to economic
 347 | development, including redevelopment of brownfield areas,
 348 | throughout the state.

349 | (9) The purposes to be achieved by the special development
 350 | finance authority through such projects and such financings of
 351 | business and industry in compliance with the criteria and the
 352 | requirements of this act are predominantly the public purposes
 353 | stated in this section, and such purposes implement the
 354 | governmental purposes under the State Constitution of providing
 355 | for the health, safety, and welfare of the people of the state,
 356 | ~~including implementing the purpose of s. 10(c), Art. VII of the~~
 357 | ~~State Constitution and simultaneously provide new and innovative~~
 358 | ~~means for the investment of public trust funds in accordance~~
 359 | ~~with s. 10(a), Art. VII of the State Constitution.~~

360 | Section 3. Subsections (6), (11), and (12) of section
 361 | 288.9603, Florida Statutes, are amended to read:

362 | 288.9603 Definitions.—

363 | (6) "Debt service" shall mean for any bonds issued by the
 364 | corporation or for any bonds or other form of indebtedness ~~and~~

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365 for which a guaranty has been issued pursuant to ss. 288.9606,
 366 288.9607, and 288.9608, for any period for which such
 367 determination is to be made, the aggregate amount of all
 368 interest charges due or which shall become due on or with
 369 respect to such bonds or indebtedness during the period for
 370 which such determination is being made, plus the aggregate
 371 amount of scheduled principal payments due or which shall become
 372 due on or with respect to such bonds or indebtedness during the
 373 period for which such determination is being made. Scheduled
 374 principal payments may include only principal payments that are
 375 scheduled as part of the terms of the original bond or
 376 indebtedness issue and that result in the reduction of the
 377 outstanding principal balance of the bonds or indebtedness.

378 (11) "Guaranty agreement" means an agreement by and between
 379 the corporation and an applicant ~~a public agency~~ pursuant to the
 380 provisions of s. 288.9607.

381 (12) "Guaranty agreement fund" means the Energy,
 382 Technology, and Economic Development Revenue Bond Guaranty Fund
 383 ~~Reserve Account~~ established by the corporation pursuant to s.
 384 288.9608.

385 Section 4. Section 288.9604, Florida Statutes, is amended
 386 to read:

387 288.9604 Creation of the authority.—

388 (1) ~~Upon a finding of necessity by a city or county of this~~
 389 ~~state, selected pursuant to subsection (2),~~ There is created a
 390 public body corporate and politic known as the "Florida
 391 Development Finance Corporation." The corporation shall be
 392 constituted as a public instrumentality ~~of local government,~~ and

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393 the exercise by the corporation of the powers conferred by this
394 act shall be deemed and held to be the performance of an
395 essential public function. The corporation has the power to
396 function within the corporate limits of any public agency with
397 which it has entered into an interlocal agreement for any of the
398 purposes of this act.

399 ~~(2) A city or county of Florida shall be selected by a~~
400 ~~search committee of Enterprise Florida, Inc. This city or county~~
401 ~~shall be authorized to activate the corporation. The search~~
402 ~~committee shall be composed of two commercial banking~~
403 ~~representatives, the Senate member of the partnership, the House~~
404 ~~of Representatives member of the partnership, and a member who~~
405 ~~is an industry or economic development professional.~~

406 (2) ~~(3)~~ Upon activation of the corporation, The Governor,
407 subject to confirmation by the Senate, shall appoint the board
408 of directors of the corporation, who shall be five in number.
409 The terms of office for the directors shall be for 4 years from
410 the date of their appointment. A vacancy occurring during a term
411 shall be filled for the unexpired term. A director shall be
412 eligible for reappointment. At least three of the directors of
413 the corporation shall be bankers who have been selected by the
414 Governor from a list of bankers who were nominated by Enterprise
415 Florida, Inc., and one of the directors shall be an economic
416 development specialist. The chairperson of the Florida Black
417 Business Investment Board shall be an ex officio member of the
418 board of the corporation.

419 (3) ~~(4)~~ (a) A director shall receive no compensation for his
420 or her services, but is entitled to the necessary expenses,

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421 including travel expenses, incurred in the discharge of his or
422 her duties. Each director shall hold office until his or her
423 successor has been appointed.

424 (b) The powers of the corporation shall be exercised by the
425 directors thereof. A majority of the directors constitutes a
426 quorum for the purposes of conducting business and exercising
427 the powers of the corporation and for all other purposes. Action
428 may be taken by the corporation upon a vote of a majority of the
429 directors present, unless in any case the bylaws require a
430 larger number. Any person may be appointed as director if he or
431 she resides, or is engaged in business, which means owning a
432 business, practicing a profession, or performing a service for
433 compensation or serving as an officer or director of a
434 corporation or other business entity so engaged, within the
435 state.

436 (c) The directors of the corporation shall annually elect
437 one of their members as chair and one as vice chair. The
438 corporation may employ a president, technical experts, and such
439 other agents and employees, permanent and temporary, as it
440 requires and determine their qualifications, duties, and
441 compensation. For such legal services as it requires, the
442 corporation may employ or retain its own counsel and legal
443 staff. The corporation shall file with the governing body of
444 each public agency with which it has entered into an interlocal
445 agreement and with the Governor, the Speaker of the House of
446 Representatives, the President of the Senate, the Minority
447 Leaders of the Senate and House of Representatives, and the
448 Auditor General, on or before 90 days after the close of the

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449 | fiscal year of the corporation, a report of its activities for
 450 | the preceding fiscal year, which report shall include a complete
 451 | financial statement setting forth its assets, liabilities,
 452 | income, and operating expenses as of the end of such fiscal
 453 | year.

454 | (4)~~(5)~~ The board may remove a director for inefficiency,
 455 | neglect of duty, or misconduct in office only after a hearing
 456 | and only if he or she has been given a copy of the charges at
 457 | least 10 days before ~~prior to~~ such hearing and has had an
 458 | opportunity to be heard in person or by counsel. The removal of
 459 | a director shall create a vacancy on the board which shall be
 460 | filled pursuant to subsection (4) ~~(3)~~.

461 | Section 5. Section 288.9605, Florida Statutes, is amended
 462 | to read:

463 | 288.9605 Corporation powers.—

464 | (1) The powers of the corporation created by s. 288.9604
 465 | shall include all the powers necessary or convenient to carry
 466 | out and effectuate the purposes and provisions of this act.

467 | (2) The corporation is authorized and empowered to:

468 | (a) Have perpetual succession as a body politic and
 469 | corporate and adopt bylaws for the regulation of its affairs and
 470 | the conduct of its business.

471 | (b) Adopt an official seal and alter the same at its
 472 | pleasure.

473 | (c) Maintain an office at such place or places as it may
 474 | designate.

475 | (d) Sue and be sued in its own name and plead and be
 476 | impleaded.

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477 (e) Enter into interlocal agreements pursuant to s.
478 163.01(7) with public agencies of this state for the exercise of
479 any power, privilege, or authority consistent with the purposes
480 of this act.

481 (f) Issue, from time to time, revenue bonds, notes, or
482 other evidence of indebtedness, including, but not limited to,
483 taxable bonds and bonds the interest on which is exempt from
484 federal income taxation, for the purpose of financing and
485 refinancing any capital projects that promote economic
486 development within the state, thereby benefitting the citizens
487 of the state, ~~for applicants~~ and exercise all powers in
488 connection with the authorization, issuance, and sale of bonds,
489 subject to the provisions of s. 288.9606.

490 (g) Issue bond anticipation notes in connection with the
491 authorization, issuance, and sale of such bonds, pursuant to the
492 provisions of s. 288.9606.

493 (h) Make and execute contracts and other instruments
494 necessary or convenient to the exercise of its powers under the
495 act.

496 (i) Disseminate information about itself and its
497 activities.

498 (j) Acquire, by purchase, lease, option, gift, grant,
499 bequest, devise, or otherwise, real property, together with any
500 improvements thereon, or personal property for its
501 administrative purposes or in furtherance of the purposes of
502 this act, ~~together with any improvements thereon.~~

503 (k) Hold, improve, clear, or prepare for development any
504 such property.

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505 (l) Mortgage, pledge, hypothecate, or otherwise encumber or
 506 dispose of any real or personal property.

507 (m) Insure or provide for insurance of any real or personal
 508 property or operations of the corporation or any private
 509 enterprise against any risks or hazards, including the power to
 510 pay premiums on any such insurance.

511 (n) Establish and fund a guaranty fund in furtherance of
 512 the purposes of this act.

513 (o) Invest funds held in reserve or sinking funds or any
 514 such funds not required for immediate disbursement in property
 515 or securities in such manner as the board shall determine,
 516 subject to the authorizing resolution on any bonds issued, and
 517 to terms established in the investment agreement pursuant to ss.
 518 288.9606, 288.9607, and 288.9608, and redeem such bonds as have
 519 been issued pursuant to s. 288.9606 at the redemption price
 520 established therein or purchase such bonds at less than
 521 redemption price, all such bonds so redeemed or purchased to be
 522 canceled.

523 (p) Borrow money and apply for and accept advances, loans,
 524 grants, contributions, and any other form of financial
 525 assistance from the Federal Government or the state, county, or
 526 other public agency ~~body~~ or from any sources, public or private,
 527 for the purposes of this act and give such security as may be
 528 required and enter into and carry out contracts or agreements in
 529 connection therewith; and include in any contract for financial
 530 assistance with the Federal Government or the state, county, or
 531 other public agency for, or with respect to, any purposes under
 532 this act and related activities such conditions imposed pursuant

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533 to federal laws as the county or municipality or other public
534 agency deems reasonable and appropriate which are not
535 inconsistent with the provisions of this act.

536 (q) Make or have all surveys and plans necessary for the
537 carrying out of the purposes of this act, contract with any
538 person, public or private, in making and carrying out such
539 plans, and adopt, approve, modify, and amend such plans.

540 (r) Develop, test, and report methods and techniques and
541 carry out demonstrations and other activities for the promotion
542 of any of the purposes of this act.

543 (s) Apply for, accept, and utilize grants from the Federal
544 Government or the state, county, or other public agency
545 available for any of the purposes of this act.

546 (t) Make expenditures necessary to carry out the purposes
547 of this act.

548 (u) Exercise all or any part or combination of powers
549 granted in this act.

550 (v) Enter into investment agreements with the Florida Black
551 Business Investment Board concerning the issuance of bonds and
552 other forms of indebtedness and capital for the purposes of ss.
553 288.707-288.714.

554 (w) Determine the situations and circumstances for
555 participation in partnerships by agreement with local
556 governments, financial institutions, and others associated with
557 the redevelopment of brownfield areas pursuant to the
558 Brownfields Redevelopment Act for a limited state guaranty of
559 revenue bonds, loan guarantees, or loan loss reserves.

560 Section 6. Subsections (3) and (5) of section 288.9606,

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561 Florida Statutes, are amended, and subsection (7) is added to
 562 that section, to read:

563 288.9606 Issue of revenue bonds.—

564 (3) Bonds issued under this section shall be authorized by
 565 a public agency of this state pursuant to the terms of an
 566 interlocal agreement, unless such bonds are issued pursuant to
 567 subsection (7); may be issued in one or more series; and shall
 568 bear such date or dates, be payable upon demand or mature at
 569 such time or times, bear interest rate or rates, be in such
 570 denomination or denominations, be in such form either with or
 571 without coupon or registered, carry such conversion or
 572 registration privileges, have such rank or priority, be executed
 573 in such manner, be payable in such medium of payments at such
 574 place or places, be subject to such terms of redemption, with or
 575 without premium, be secured in such manner, and have such other
 576 characteristics as may be provided by the corporation ~~interlocal~~
 577 ~~agreement issued pursuant thereto~~. Bonds issued under this
 578 section may be sold in such manner, either at public or private
 579 sale, and for such price as the corporation may determine will
 580 effectuate the purpose of this act.

581 (5) In any suit, action, or proceeding involving the
 582 validity or enforceability of any bond issued under this act, or
 583 the security therefor, any such bond reciting in substance that
 584 it has been issued by the corporation in connection with any
 585 purpose of the act shall be conclusively deemed to have been
 586 issued for such purpose, and such purpose shall be conclusively
 587 deemed to have been carried out in accordance with the act. The
 588 complaint in any action to validate such bonds shall be filed

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589 only in the Circuit Court for Leon County. The notice required
 590 to be published by s. 75.06 shall be published only in Leon
 591 County, and the complaint and order of the circuit court shall
 592 be served only on the State Attorney of the Second Judicial
 593 Circuit and on the state attorney of each circuit in each county
 594 where the public agencies which were initially a party to the
 595 interlocal agreement are located. Notice of such proceedings
 596 shall be published in the manner and the time required by s.
 597 75.06, in Leon County and in each county where the public
 598 agencies which were initially a party to the interlocal
 599 agreement are located. Obligations of the corporation pursuant
 600 to a loan agreement as described in this subsection may be
 601 validated as provided in chapter 75. The validation of at least
 602 the first bonds approved by the corporation shall be appealed to
 603 the Florida Supreme Court. ~~The complaint in the validation~~
 604 ~~proceeding shall specifically address the constitutionality of~~
 605 ~~using the investment of the earnings accrued and collected upon~~
 606 ~~the investment of the minimum balance funds required to be~~
 607 ~~maintained in the State Transportation Trust Fund to guarantee~~
 608 ~~such bonds. If such proceeding results in an adverse ruling and~~
 609 ~~such bonds and guaranty are found to be unconstitutional,~~
 610 ~~invalid, or unenforceable, then the corporation shall no longer~~
 611 ~~be authorized to use the investment of the earnings accrued and~~
 612 ~~collected upon the investment of the minimum balance of the~~
 613 ~~State Transportation Trust Fund to guarantee any bonds.~~

614 (7) Notwithstanding any provision of this section, the
 615 corporation in its corporate capacity may, without authorization
 616 from a public agency under s. 163.01(7), issue revenue bonds or

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617 other evidence of indebtedness under this section to:

618 (a) Finance the undertaking of any project within the state
 619 that promotes renewable energy as defined in s. 377.803 or s.
 620 366.91;

621 (b) Finance the undertaking of any project within the state
 622 that is a project contemplated or allowed under s. 406 of the
 623 American Recovery and Reinvestment Act of 2009; or

624 (c) If permitted by federal law, finance qualifying
 625 improvement projects within the state under s. 163.08.

626 Section 7. Section 288.9607, Florida Statutes, is amended
 627 to read:

628 288.9607 Guaranty of bond issues.—

629 (1) The corporation ~~may is hereby authorized to~~ approve or
 630 deny, by a majority vote of the membership of the directors, a
 631 guaranty of debt service payments for bonds or other
 632 indebtedness used to finance any capital project that promotes
 633 economic development in the state, including, but not limited
 634 to, those capital projects for which revenue bonds are the
 635 guaranty of any revenue bonds issued under pursuant to this act,
 636 if any such guaranty does not exceed 5 percent of the total
 637 aggregate principal amount of bonds or other indebtedness
 638 relating to any one capital project. The corporation may also
 639 use moneys deposited into the Energy, Technology, and Economic
 640 Development Guaranty Fund to satisfy requirements to obtain
 641 federal loan guarantees for capital projects authorized pursuant
 642 to this section. The guaranty may also be of the obligations of
 643 the corporation with respect to any letter of credit, bond
 644 insurance, or other form of credit enhancement provided by any

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645 ~~person with respect to any revenue bonds issued by the~~
646 ~~corporation pursuant to this act.~~

647 (2) Any applicant ~~for financing from the corporation,~~
648 requesting a guaranty of ~~the bonds issued by~~ the corporation
649 under this act must submit a guaranty application, in a form
650 acceptable to the corporation, together with supporting
651 documentation to the corporation as provided in this section.

652 (3) All applicants which have entered into a guaranty
653 agreement with the corporation shall pay a guaranty premium on
654 such terms and at such rates as the corporation shall determine
655 before ~~prior to~~ the issuance of the guaranty ~~bonds~~. The
656 corporation may adopt such guaranty premium structures as it
657 deems appropriate, including, without limitation, guaranty
658 premiums which are payable one time upon the issuance of the
659 guaranty ~~bonds~~ or annual premiums payable upon the outstanding
660 principal balance of bonds or other indebtedness that is
661 guaranteed from time to time. The premium payment may be
662 collected by the corporation from any ~~the~~ lessee of the project
663 involved, from the applicant, or from any other payee of any ~~the~~
664 loan agreement involved.

665 (4) All applications for a guaranty must acknowledge that
666 as a condition to the issuance of the guaranty, the corporation
667 may require that the financing must be secured by a mortgage or
668 security interest on the property acquired which will have such
669 priority over other liens on such property as may be required by
670 the corporation, and that the financing must be guaranteed by
671 such person or persons with such ownership interest in the
672 applicant as may be required by the corporation.

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673 (5) Personal financial records, trade secrets, or
 674 proprietary information of applicants delivered to or obtained
 675 by the corporation shall be confidential and exempt from the
 676 provisions of s. 119.07(1).

677 (6) If the application for a guaranty is approved by the
 678 corporation, the corporation and the applicant shall enter into
 679 a guaranty agreement. In accordance with the provisions of the
 680 guaranty agreement, the corporation guarantees to use the funds
 681 on deposit in its Energy, Technology, and Economic Development
 682 Guaranty Fund Revenue Bond Guaranty Reserve Account to meet debt
 683 service ~~amortization~~ payments on the bonds or indebtedness as
 684 they become due, in the event and to the extent that the
 685 applicant is unable to meet such payments ~~in accordance with the~~
 686 ~~terms of the bond indenture when called to do so by the trustee~~
 687 ~~of the bondholders,~~ or to make similar payments to reimburse any
 688 person which has provided credit enhancement for the bonds and
 689 which has advanced funds to meet such debt service ~~amortization~~
 690 payments as they become due, if such guaranty of the corporation
 691 is limited to 5 percent of the total aggregate principal amount
 692 of bonds or other indebtedness relating to any one capital
 693 project. The corporation may also use moneys deposited in the
 694 Energy, Technology, and Economic Development Guaranty Fund to
 695 satisfy requirements to obtain federal loan guarantees for
 696 capital projects authorized under this section. If the applicant
 697 defaults on debt service ~~bond amortization~~ payments, the
 698 corporation may use funds on deposit in the Energy, Technology,
 699 and Economic Development Guaranty Fund Revenue Bond Guaranty
 700 Reserve Account to pay insurance, maintenance, and other costs

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701 which may be required for the preservation of any capital
702 project or other collateral security for any bond or
703 indebtedness issued to finance a capital project for which debt
704 service payments are guaranteed by the corporation issued by the
705 corporation, or to otherwise protect the reserve account from
706 loss, or to minimize losses to the reserve account, in each case
707 in such manner as may be deemed necessary and advisable by the
708 corporation.

709 (7) ~~(a) The corporation is authorized to enter into an~~
710 ~~investment agreement with the Department of Transportation and~~
711 ~~the State Board of Administration concerning the investment of~~
712 ~~the earnings accrued and collected upon the investment of the~~
713 ~~minimum balance of funds required to be maintained in the State~~
714 ~~Transportation Trust Fund pursuant to s. 339.135(6) (b). Such~~
715 ~~investment shall be limited as follows:~~

716 1. ~~Not more than \$4 million of the investment earnings~~
717 ~~earned on the investment of the minimum balance of the State~~
718 ~~Transportation Trust Fund in a fiscal year shall be at risk at~~
719 ~~any time on one or more bonds or series of bonds issued by the~~
720 ~~corporation.~~

721 2. ~~The investment earnings shall not be used to guarantee~~
722 ~~any bonds issued after June 30, 1998, and in no event shall the~~
723 ~~investment earnings be used to guarantee any bond issued for a~~
724 ~~maturity longer than 15 years.~~

725 3. ~~The corporation shall pay a reasonable fee, set by the~~
726 ~~State Board of Administration, in return for the investment of~~
727 ~~such funds. The fee shall not be less than the comparable rate~~
728 ~~for similar investments in terms of size and risk.~~

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729 4. ~~The proceeds of bonds, or portions thereof, issued by~~
 730 ~~the corporation for which a guaranty has been or will be issued~~
 731 ~~pursuant to s. 288.9606, s. 288.9608, or this section used to~~
 732 ~~make loans to any one person, including any related interests,~~
 733 ~~as defined in s. 658.48, of such person, shall not exceed 20~~
 734 ~~percent of the principal of all such outstanding bonds of the~~
 735 ~~corporation issued prior to the first composite bond issue of~~
 736 ~~the corporation, or December 31, 1995, whichever comes first,~~
 737 ~~and shall not exceed 15 percent of the principal of all such~~
 738 ~~outstanding bonds of the corporation issued thereafter, in each~~
 739 ~~case determined as of the date of issuance of the bonds for~~
 740 ~~which such determination is being made and taking into account~~
 741 ~~the principal amount of such bonds to be issued. The provisions~~
 742 ~~of this subparagraph shall not apply when the total amount of~~
 743 ~~all such outstanding bonds issued by the corporation is less~~
 744 ~~than \$10 million. For the purpose of calculating the limits~~
 745 ~~imposed by the provisions of this subparagraph, the first \$10~~
 746 ~~million of bonds issued by the corporation shall be taken into~~
 747 ~~account.~~

748 5. ~~The corporation shall establish a debt service reserve~~
 749 ~~account which contains not less than 6 months' debt service~~
 750 ~~reserves from the proceeds of the sale of any bonds, or portions~~
 751 ~~thereof, guaranteed by the corporation.~~

752 6. ~~The corporation shall establish an account known as the~~
 753 ~~Revenue Bond Guaranty Reserve Account, the Guaranty Fund. The~~
 754 ~~corporation shall deposit a sum of money or other cash~~
 755 ~~equivalents into this fund and maintain a balance of money or~~
 756 ~~cash equivalents in this fund, from sources other than the~~

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757 ~~investment of earnings accrued and collected upon the investment~~
758 ~~of the minimum balance of funds required to be maintained in the~~
759 ~~State Transportation Trust Fund, not less than a sum equal to 1~~
760 ~~year of maximum debt service on all outstanding bonds, or~~
761 ~~portions thereof, of the corporation for which a guaranty has~~
762 ~~been issued pursuant to ss. 288.9606, 288.9607, and 288.9608. In~~
763 ~~the event the corporation fails to maintain the balance required~~
764 ~~pursuant to this subparagraph for any reason other than a~~
765 ~~default on a bond issue of the corporation guaranteed pursuant~~
766 ~~to this section or because of the use by the corporation of any~~
767 ~~such funds to pay insurance, maintenance, or other costs which~~
768 ~~may be required for the preservation of any project or other~~
769 ~~collateral security for any bond issued by the corporation, or~~
770 ~~to otherwise protect the Revenue Bond Guaranty Reserve Account~~
771 ~~from loss while the applicant is in default on amortization~~
772 ~~payments, or to minimize losses to the reserve account in each~~
773 ~~case in such manner as may be deemed necessary or advisable by~~
774 ~~the corporation, the corporation shall immediately notify the~~
775 ~~Department of Transportation of such deficiency. Any~~
776 ~~supplemental funding authorized by an investment agreement~~
777 ~~entered into with the Department of Transportation and the State~~
778 ~~Board of Administration concerning the use of investment~~
779 ~~earnings of the minimum balance of funds is void unless such~~
780 ~~deficiency of funds is cured by the corporation within 90 days~~
781 ~~after the corporation has notified the Department of~~
782 ~~Transportation of such deficiency.~~

783 ~~(b) Unless specifically prohibited in the General~~
784 ~~Appropriations Act, the earnings accrued and collected upon the~~

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785 ~~investment of the minimum balance of funds required to be~~
 786 ~~maintained in the State Transportation Trust Fund may continue~~
 787 ~~to be used pursuant to paragraph (a).~~

788 ~~(e)~~ The guaranty is ~~shall~~ not be a general obligation of
 789 the corporation or of the state, but is ~~shall~~ be a special
 790 obligation, which constitutes the investment of a public trust
 791 fund. In no event shall the guaranty constitute an indebtedness
 792 of the corporation, the state ~~of Florida~~, or any political
 793 subdivision thereof within the meaning of any constitutional or
 794 statutory limitation. Each guaranty agreement shall have plainly
 795 stated on the face thereof that it has been entered into under
 796 the provisions of this act and that it does not constitute an
 797 indebtedness of the corporation, the state, or any political
 798 subdivision thereof within any constitutional or statutory
 799 limitation, and that neither the full faith and credit of the
 800 state ~~of Florida~~ nor any of its revenues is pledged to meet any
 801 of the obligations of the corporation under such guaranty
 802 agreement. Each such agreement shall state that the obligation
 803 of the corporation under the guaranty shall be limited to the
 804 funds available in the Energy, Technology, and Economic
 805 Development Guaranty Fund Revenue Bond Guaranty Reserve Account
 806 as authorized by this section.

807
 808 ~~The corporation shall include, as part of the annual report~~
 809 ~~prepared pursuant to s. 288.9610, a detailed report concerning~~
 810 ~~the use of guaranteed bond proceeds for loans guaranteed or~~
 811 ~~issued pursuant to any agreement with the Florida Black Business~~
 812 ~~Investment Board, including the percentage of such loans~~

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813 ~~guaranteed or issued and the total volume of such loans~~
 814 ~~guaranteed or issued.~~

815 (8) In the event the corporation does not approve the
 816 application for a guaranty, the applicant shall be notified in
 817 writing of the corporation's determination that the application
 818 not be approved.

819 (9) The membership of the corporation is authorized and
 820 directed to conduct such investigation as it may deem necessary
 821 for promulgation of regulations to govern the operation of the
 822 guaranty program authorized by this section. The regulations may
 823 include such other additional provisions, restrictions, and
 824 conditions as the corporation, after its investigation referred
 825 to in this subsection, shall determine to be proper to achieve
 826 the most effective utilization of the guaranty program. This may
 827 include, without limitation, a detailing of the remedies that
 828 must be exhausted by ~~the~~ bondholders, ~~or~~ a trustee acting on
 829 their behalf, or other credit provided before ~~prior to~~ calling
 830 upon the corporation to perform under its guaranty agreement and
 831 the subrogation of other rights of the corporation with
 832 reference to the capital project and its operation or the
 833 financing in the event the corporation makes payment pursuant to
 834 the applicable guaranty agreement. The regulations promulgated
 835 by the corporation to govern the operation of the guaranty
 836 program may ~~shall~~ contain specific provisions with respect to
 837 the rights of the corporation to enter, take over, and manage
 838 all financed properties upon default. These regulations shall be
 839 submitted by ~~set forth the respective rights of~~ the corporation
 840 to the Florida Energy and Climate Commission for approval ~~and~~

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841 ~~the bondholders in regard thereto.~~

842 (10) The guaranty program described in this section may be
 843 used by the corporation in conjunction with any federal guaranty
 844 programs described in s. 406 of the American Recovery and
 845 Reinvestment Act of 2009. All policies, procedures, and
 846 regulations of the guaranty program adopted by the corporation,
 847 to the extent such guaranty program of the corporation is used
 848 in conjunction with a federal guaranty program described in s.
 849 406 of the American Recovery and Reinvestment Act of 2009, must
 850 be consistent with s. 406 of the American Recovery and
 851 Reinvestment Act of 2009.

852 Section 8. Section 288.9608, Florida Statutes, is amended
 853 to read:

854 288.9608 Creation and funding of the Energy, Technology,
 855 and Economic Development Guaranty Fund ~~guaranty account.~~

856 ~~(1) The corporation shall establish a debt service reserve~~
 857 ~~account which contains not less than 6 months' debt service~~
 858 ~~reserves from the proceeds of the sale of any bonds guaranteed~~
 859 ~~by the corporation. Funds in such debt service reserve account~~
 860 ~~shall be used prior to funds in the Revenue Bond Guaranty~~
 861 ~~Reserve Account established in subsection (2). The corporation~~
 862 ~~shall make best efforts to liquidate collateralized property and~~
 863 ~~draw upon personal guarantees, and shall utilize the Revenue~~
 864 ~~Bond Guaranty Reserve Account prior to use of supplemental~~
 865 ~~funding for the Guaranty Reserve Account under the provisions of~~
 866 ~~subsection (3).~~

867 ~~(2)(a)~~ The corporation shall establish an account known as
 868 the Energy, Technology, and Economic Development Guaranty Fund

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869 ~~Revenue Bond Guaranty Reserve Account, the Guaranty Fund. The~~
 870 ~~corporation may shall deposit moneys a sum of money or other~~
 871 ~~cash equivalents into the ~~this~~ fund and maintain a balance in~~
 872 ~~the ~~this~~ fund, from general revenue funds of the state as are~~
 873 ~~authorized for that purpose or any other designated funding~~
 874 ~~sources not inconsistent with state law ~~sources other than the~~~~
 875 ~~State Transportation Trust Fund, not less than a sum equal to 1~~
 876 ~~year of maximum debt service on all outstanding bonds, or~~
 877 ~~portions thereof, of the corporation for which a guaranty has~~
 878 ~~been issued pursuant to ss. 288.9606, 288.9607, and 288.9608.~~

879 ~~(2)~~ ~~(b)~~ If the corporation determines that the moneys in the
 880 guaranty agreement fund are not sufficient to meet the
 881 obligations of the guaranty agreement fund, the corporation is
 882 authorized to use the necessary amount of any available moneys
 883 that it may have which are not needed for, then or in the
 884 foreseeable future, or committed to other authorized functions
 885 and purposes of the corporation. Any such moneys so used may be
 886 reimbursed out of the guaranty agreement fund if and when there
 887 are moneys therein available for the purpose.

888 ~~(3)~~ ~~(e)~~ The determination of when additional moneys will be
 889 needed for the guaranty agreement fund, the amounts that will be
 890 needed, and the availability or unavailability of other moneys
 891 shall be made solely by the corporation in the exercise of its
 892 discretion. ~~However, supplemental funding for the Guaranty Fund~~
 893 ~~as described in subsection (3) shall be made in accordance with~~
 894 ~~the investment agreement of the corporation and the Department~~
 895 ~~of Transportation and the State Board of Administration.~~

896 ~~(3)~~ ~~(a)~~ If the corporation determines that the funds in the

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897 ~~Guaranty Fund will not be sufficient to meet the present or~~
898 ~~reasonably projected obligations of the Guaranty Fund, due to a~~
899 ~~default on a loan made by the corporation from the proceeds of a~~
900 ~~bond issued by the corporation which is guaranteed pursuant to~~
901 ~~s. 288.9607(7), no later than 90 days before amortization~~
902 ~~payments are due on such bonds, the corporation shall notify the~~
903 ~~Secretary of Transportation and the State Board of~~
904 ~~Administration of the amount of funds required to meet, as and~~
905 ~~when due, all amortization payments for which the Guaranty Fund~~
906 ~~is obligated. The Secretary of Transportation shall immediately~~
907 ~~notify the Speaker of the House of Representatives, the~~
908 ~~President of the Senate, and the chairs of the Senate and House~~
909 ~~Committees on Appropriations of the amount of funds required,~~
910 ~~and the projected impact on each affected year of the adopted~~
911 ~~work program of the Department of Transportation.~~

912 ~~(b) Within 30 days of the receipt of notification from the~~
913 ~~corporation, the Department of Transportation shall submit a~~
914 ~~budget amendment request to the Executive Office of the Governor~~
915 ~~pursuant to chapter 216, to increase budget authority to carry~~
916 ~~out the purposes of this section. Upon approval of said~~
917 ~~amendment, the department shall proceed to amend the adopted~~
918 ~~work program, if necessary, in accordance with the amendment.~~
919 ~~Within 60 days of the receipt of notification, and subject to~~
920 ~~approval of the budget authority, the Secretary of~~
921 ~~Transportation shall transfer, subject to the amount available~~
922 ~~from the source described in paragraph (c), the amount of funds~~
923 ~~requested by the corporation required to meet, as and when due,~~
924 ~~all amortization payments for which the Guaranty Fund is~~

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925 ~~obligated. Any moneys so transferred shall be reimbursed to the~~
 926 ~~Department of Transportation, with interest at the rate earned~~
 927 ~~on investment by the State Treasury, from the funds available in~~
 928 ~~the Guaranty Fund or as otherwise available to the corporation.~~

929 ~~(c) Pursuant to s. 288.9607(7), the Secretary of~~
 930 ~~Transportation and the State Board of Administration may make~~
 931 ~~available for transfer to the Guaranty Fund, earnings accrued~~
 932 ~~and collected upon the investment of the minimum balance of~~
 933 ~~funds required to be maintained in the State Transportation~~
 934 ~~Trust Fund. However, the earnings accrued and collected upon the~~
 935 ~~investment of the minimum balance of funds required to be~~
 936 ~~maintained in the State Transportation Trust Fund which shall be~~
 937 ~~subject to transfer shall be limited to those earnings accrued~~
 938 ~~and collected on the investment of the minimum balance of funds~~
 939 ~~required to be maintained in the State Transportation Trust Fund~~
 940 ~~for the fiscal year in which the notification is received by the~~
 941 ~~secretary and fiscal years thereafter.~~

942 ~~(4) If the corporation receives supplemental funding for~~
 943 ~~the Guaranty Fund under the provisions of this section, then any~~
 944 ~~proceeds received by the corporation with respect to a loan in~~
 945 ~~default, including proceeds from the sale of collateral for such~~
 946 ~~loan, enforcement of personal guarantees or other pledges to the~~
 947 ~~corporation to secure such loan, shall first be applied to the~~
 948 ~~obligation of the corporation to repay the Department of~~
 949 ~~Transportation pursuant to this section. Until such repayment is~~
 950 ~~complete, no new bonds may be guaranteed pursuant to this~~
 951 ~~section.~~

952 ~~(5) Prior to the use of the guaranty provided in this~~

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953 ~~section, and on an annual basis, the corporation must certify in~~
954 ~~writing to the State Board of Administration and the Secretary~~
955 ~~of Transportation that it has fully implemented the requirements~~
956 ~~of this section and s. 288.9607 and the regulations of the~~
957 ~~corporation.~~

958 Section 9. Section 288.9609, Florida Statutes, is amended
959 to read:

960 288.9609 Bonds as legal investments.—All banks, trust
961 companies, bankers, savings banks and institutions, building and
962 loan associations, savings and loan associations, investment
963 companies, and other persons carrying on a banking and
964 investment business; all insurance companies, insurance
965 associations, and other persons carrying on an insurance
966 business; and all executors, administrators, curators, trustees,
967 and other fiduciaries may legally invest any sinking funds,
968 moneys, or other funds belonging to them or within their control
969 in any bonds or other obligations issued by the corporation
970 ~~pursuant to an interlocal agreement with a public agency of this~~
971 ~~state.~~ Such bonds and obligations shall be authorized security
972 for all public deposits. It is the purpose of this section to
973 authorize all persons, political subdivisions, and officers,
974 public and private, to use any funds owned or controlled by them
975 for the purchase of any such bonds or other obligations. Nothing
976 contained in this section with regard to legal investments shall
977 be construed as relieving any person of any duty of exercising
978 reasonable care in selecting securities.

979 Section 10. Section 288.9610, Florida Statutes, is amended
980 to read:

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981 288.9610 Annual reports of Florida Development Finance
 982 Corporation.—By December 1 of each year, the Florida Development
 983 Finance Corporation shall submit to the Governor, the President
 984 of the Senate, the Speaker of the House of Representatives, the
 985 Senate Minority Leader, and the House Minority Leader, ~~and the~~
 986 ~~city or county activating the Florida Development Finance~~
 987 ~~Corporation~~ a complete and detailed report setting forth:

988 (1) The evaluation required in s. 11.45(3)(j).

989 (2) The operations and accomplishments of the Florida
 990 Development Finance Corporation, including the number of
 991 businesses assisted by the corporation.

992 (3) Its assets and liabilities at the end of its most
 993 recent fiscal year, including a description of all of its
 994 outstanding revenue bonds.

995 Section 11. Subsection (4) of section 206.46, Florida
 996 Statutes, is amended to read:

997 206.46 State Transportation Trust Fund.—

998 (4) The department may authorize the investment of the
 999 earnings accrued and collected upon the investment of the
 1000 minimum balance of funds required to be maintained in the State
 1001 Transportation Trust Fund pursuant to s. 339.135(6)(b). ~~Such~~
 1002 ~~investment shall be limited as provided in s. 288.9607(7).~~

1003 Section 12. Subsection (14) of section 215.47, Florida
 1004 Statutes, is amended to read:

1005 215.47 Investments; authorized securities; loan of
 1006 securities.—Subject to the limitations and conditions of the
 1007 State Constitution or of the trust agreement relating to a trust
 1008 fund, moneys available for investments under ss. 215.44-215.53

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1009 may be invested as follows:

1010 (14) The State Board of Administration, consistent with
 1011 sound investment policy, may invest the earnings accrued and
 1012 collected upon the investment of the minimum balance of funds
 1013 required to be maintained in the State Transportation Trust Fund
 1014 pursuant to s. 339.135(6) (b). ~~Such investment shall be limited~~
 1015 ~~as provided in s. 288.9607(7).~~

1016 Section 13. Subsection (3) of section 339.08, Florida
 1017 Statutes, is amended to read:

1018 339.08 Use of moneys in State Transportation Trust Fund.—

1019 (3) The department may authorize the investment of the
 1020 earnings accrued and collected upon the investment of the
 1021 minimum balance of funds required to be maintained in the State
 1022 Transportation Trust Fund pursuant to s. 339.135(6) (b). ~~Such~~
 1023 ~~investment shall be limited as provided in s. 288.9607(7).~~

1024 Section 14. Paragraph (f) of subsection (7) of section
 1025 339.135, Florida Statutes, is amended to read:

1026 339.135 Work program; legislative budget request;
 1027 definitions; preparation, adoption, execution, and amendment.—

1028 (7) AMENDMENT OF THE ADOPTED WORK PROGRAM.—

1029 (f) The department may authorize the investment of the
 1030 earnings accrued and collected upon the investment of the
 1031 minimum balance of funds required to be maintained in the State
 1032 Transportation Trust Fund pursuant to paragraph (b). ~~Such~~
 1033 ~~investment shall be limited as provided in s. 288.9607(7).~~

1034 Section 15. (1) The Legislature finds that the ability of
 1035 the pilot communities designated under the Energy Economic Zone
 1036 Pilot Program pursuant to s. 377.809, Florida Statutes, to

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1037 provide incentives is essential to these communities attracting
 1038 clean technology industries and investments to the state and
 1039 establishing the base information necessary to assess whether to
 1040 revise state policies and expand the pilot program to other
 1041 communities.

1042 (2) By February 1, 2011, the Department of Community
 1043 Affairs and the Office of Tourism, Trade, and Economic
 1044 Development, in consultation with the Florida Energy and Climate
 1045 Commission, shall submit recommendations to the Governor, the
 1046 President of the Senate, and the Speaker of the House of
 1047 Representatives of appropriate incentives and statutory
 1048 revisions necessary to provide the pilot communities with the
 1049 tools for accomplishing the goals of the pilot program. In
 1050 developing their recommendations, the Department of Community
 1051 Affairs and the Office of Tourism, Trade, and Economic
 1052 Development, at a minimum, shall consider:

1053 (a) Fiscal and regulatory incentives.

1054 (b) A jobs tax credit and corporate property tax credit
 1055 pursuant to chapter 220, Florida Statutes.

1056 (c) Refunds and exemptions from the sales and use tax in
 1057 chapter 212, Florida Statutes, for job creation, building
 1058 materials, business property, and products used for clean
 1059 technology industries and investments within the designated
 1060 energy economic zones.

1061 (3) The Department of Community Affairs and the Office of
 1062 Tourism, Trade, and Economic Development shall also coordinate
 1063 with the pilot communities and clean technology industries in
 1064 identifying incentives and strategies that will help attract

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1065 emerging clean technology industries and investments to the
 1066 state.

1067 Section 16. Paragraph (d) of subsection (2) of section
 1068 366.91, Florida Statutes, is amended to read:

1069 366.91 Renewable energy.—

1070 (2) As used in this section, the term:

1071 (d) "Renewable energy" means electrical energy produced
 1072 from a method that uses one or more of the following fuels or
 1073 energy sources: hydrogen produced from sources other than fossil
 1074 fuels, biomass, solar energy, geothermal energy, wind energy,
 1075 ocean energy, and hydroelectric power. The term includes the
 1076 alternative energy resource, waste heat, from sulfuric acid
 1077 manufacturing operations and electrical energy produced using
 1078 pipeline-quality synthetic gas produced from waste petroleum
 1079 coke with carbon capture and sequestration.

1080 Section 17. This act shall take effect upon becoming a
 1081 law.