

By the Committee on Natural Resources and Senator Latvala

312-1706-98

1                                   A bill to be entitled  
2           An act relating to brownfields redevelopment;  
3           amending s. 376.77, F.S.; correcting a  
4           cross-reference; amending s. 376.79, F.S.;  
5           redefining terms and defining the term  
6           "secretary"; amending s. 376.80, F.S.;  
7           providing that closed military bases may be  
8           designated as brownfield areas; clarifying the  
9           job-creation criteria for the designation of a  
10          brownfield site; clarifying certain terms;  
11          amending s. 376.81, F.S.; deleting a  
12          duplicative provision relating to the issuance  
13          of no-further-action orders; amending s.  
14          376.82, F.S.; providing clarification regarding  
15          the eligibility of certain brownfield sites;  
16          clarifying the provisions relating to the job  
17          creation eligibility criteria; providing  
18          liability protection for properties acquired by  
19          local or state governments under certain  
20          conditions; amending s. 376.83, F.S.;  
21          correcting a cross-reference; amending s.  
22          288.106, F.S.; providing that the wage  
23          requirement criteria may be waived for a  
24          designated brownfield area; requiring the  
25          Director of the Office of Tourism, Trade, and  
26          Economic Development to approve certain wage  
27          requirement waiver requests; amending s.  
28          288.107, F.S.; defining the terms "brownfield  
29          area" and "brownfield site"; providing  
30          legislative intent regarding the inefficient  
31          use of public facilities and services in

1           brownfield areas; creating the Brownfield Areas  
2           Loan Guarantee Program; creating the Brownfield  
3           Areas Loan Guarantee Council; providing duties  
4           and membership; providing that not more than \$5  
5           million of the investment earnings on the  
6           investment of the minimum balance of the  
7           Nonmandatory Land Reclamation Trust Fund in a  
8           fiscal year shall be at risk at any time on one  
9           or more loan guarantees, or as loan loss  
10          reserves; requiring lenders seeking loan  
11          guarantees from the council to follow certain  
12          specified procedures; limiting the  
13          circumstances under which a lender may file a  
14          claim for a loss pursuant to the guaranty;  
15          providing the council with certain rulemaking  
16          authority; authorizing the council to receive  
17          certain funds; requiring the council to file an  
18          annual report to the Legislature; providing for  
19          future legislative review; amending s.  
20          288.9602, F.S.; providing for the redevelopment  
21          of brownfield areas to be included in the  
22          declaration of findings regarding economic  
23          development; amending s. 288.9605, F.S.;

24          expanding the powers and duties of the Florida  
25          Development Finance Corporation to authorize  
26          the corporation to make determinations  
27          regarding participation in certain partnerships  
28          and agreements concerning the redevelopment of  
29          brownfield areas and the guaranty of revenue  
30          bonds, loan guarantees, or loan loss reserves;  
31          requiring the Board of Regents to establish a

1 Center for Brownfield Rehabilitation Assistance  
2 in the Environmental Sciences and Policy  
3 Program in the College of Arts and Sciences at  
4 the University of South Florida; specifying the  
5 purpose and duties of the center; amending s.  
6 163.3187, F.S.; providing that local government  
7 comprehensive plan amendments directly related  
8 to proposed redevelopment of designated  
9 brownfield areas may be approved without regard  
10 to certain statutory limits on the frequency of  
11 amendments to the local comprehensive plan;  
12 providing legislative findings and intent  
13 regarding lienholders on brownfield property;  
14 providing that certain counties and  
15 municipalities may apply for designation of an  
16 enterprise zone encompassing a brownfield pilot  
17 project under certain circumstances; providing  
18 an effective date.

19  
20 Be It Enacted by the Legislature of the State of Florida:

21  
22 Section 1. Section 376.77, Florida Statutes, is  
23 amended to read:

24 376.77 Short title.--Sections 376.77-376.85 ~~376.83~~ may  
25 be cited as the "Brownfields Redevelopment Act."

26 Section 2. Section 376.79, Florida Statutes, is  
27 amended to read:

28 376.79 Definitions.--As used in ss. 376.77-376.85, the  
29 term:

30 (1) "Additive effects" means a scientific principle  
31 that the toxicity that occurs as a result of exposure is the

1 sum of the toxicities of the individual chemicals to which the  
2 individual is exposed.

3 (2) "Antagonistic effects" means a scientific  
4 principle that the toxicity that occurs as a result of  
5 exposure is less than the sum of the toxicities of the  
6 individual chemicals to which the individual is exposed.

7 (3) "Brownfield sites" means sites that are generally  
8 abandoned, idled, or underused industrial and commercial  
9 properties where expansion or redevelopment is complicated by  
10 actual or perceived environmental contamination.

11 (4) "Brownfield area" means a contiguous area of one  
12 or more brownfield sites, some of which may not be  
13 contaminated, and which has been designated by a local  
14 government by resolution. Such areas may include all or  
15 portions of community redevelopment areas, enterprise zones,  
16 empowerment zones, other such designated economically deprived  
17 communities and areas, and Environmental Protection  
18 Agency-designated brownfield pilot projects.

19 (5) "Contaminated site" means any contiguous land,  
20 surface water, or groundwater areas that contain contaminants  
21 that may be harmful to human health or the environment.

22 (6) "Department" means the Department of Environmental  
23 Protection.

24 (7) "Engineering controls" means modifications to a  
25 site to reduce or eliminate the potential for exposure to  
26 contaminants. Such modifications may include, but are not  
27 limited to, physical or hydraulic control measures, capping,  
28 point of use treatments, or slurry walls.

29 (8) "Environmental justice" means the fair treatment  
30 of all people of all races, cultures, and incomes with respect  
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1 to the development, implementation, and enforcement of  
2 environmental laws, regulations, and policies.

3 (9) "Institutional controls" means the restriction on  
4 use of or access to a site to eliminate or minimize exposure  
5 to contaminants. Such restrictions may include, but are not  
6 limited to, deed restrictions, use restrictions, or  
7 restrictive zoning.

8 (10) "Local pollution control program" means a local  
9 pollution control program that has received delegated  
10 authority from the Department of Environmental Protection  
11 under s. 403.182 and s. 376.80(11).

12 (11) "Natural attenuation" means the verifiable  
13 reduction of contaminants through natural processes, which may  
14 include diffusion, dispersion, adsorption ~~absorption~~, and  
15 biodegradation.

16 (12) "Person responsible for brownfield site  
17 rehabilitation" means the individual or entity that is  
18 designated by the local government ~~in its resolution~~  
19 ~~establishing a brownfield area~~ to enter into the brownfield  
20 site rehabilitation agreement with the department or an  
21 approved local pollution control program and enters into an  
22 agreement with the local government for redevelopment of the  
23 site.

24 (13) "Person" means any individual, partner, joint  
25 venture, or corporation; any group of the foregoing, organized  
26 or united for a business purpose; or any governmental entity.

27 (14) "Secretary" means the Secretary of the Department  
28 of Environmental Protection.

29 ~~(15)~~(14) "Site rehabilitation" means the assessment of  
30 site contamination and the remediation activities that reduce  
31 the levels of contaminants at a site through accepted

1 treatment methods to meet the cleanup target levels  
2 established for that site.

3 (16)~~(15)~~ "Source removal" means the removal of free  
4 product or contaminants from soil that has been contaminated  
5 to the extent that leaching to groundwater has or is  
6 occurring.

7 (17)~~(16)~~ "Synergistic effects" means a scientific  
8 principle that the toxicity that occurs as a result of  
9 exposure is more than the sum of the toxicities of the  
10 individual chemicals to which the individual is exposed.

11 Section 3. Section 376.80, Florida Statutes, is  
12 amended to read:

13 376.80 Brownfield program administration process.--

14 (1) A local government with jurisdiction over the  
15 brownfield area must notify the department of its decision to  
16 designate a brownfield area for rehabilitation for the  
17 purposes of ss. 376.77-376.85 ~~ss. 376.77-376.84~~. The  
18 notification must include a resolution, by the local  
19 government body, to which is attached a map adequate to  
20 clearly delineate exactly which parcels are to be included in  
21 the brownfield area or alternatively a less-detailed map  
22 accompanied by a detailed legal description of the brownfield  
23 area. If a property owner within the area proposed for  
24 designation by the local government requests in writing to  
25 have his or her property removed from the proposed  
26 designation, the local government shall grant the request. For  
27 municipalities, the governing body shall adopt the resolution  
28 in accordance with the procedures outlined in s. 166.041,  
29 except that the notice for the public hearings on the proposed  
30 resolution must be in the form established in s.  
31 166.041(3)(c)2. For counties, the governing body shall adopt

1 the resolution in accordance with the procedures outlined in  
2 s. 125.66, except that the notice for the public hearings on  
3 the proposed resolution shall be in the form established in s.  
4 125.66(4)(b)2.

5 (2)(a) If a local government proposes to designate a  
6 brownfield area that is outside community redevelopment areas,  
7 enterprise zones, empowerment zones, closed military bases, or  
8 designated brownfield pilot project areas, the local  
9 government must conduct at least one public hearing in the  
10 area to be designated to provide an opportunity for public  
11 input on the size of the area, the objectives for  
12 rehabilitation, job opportunities and economic developments  
13 anticipated, neighborhood residents' considerations, and other  
14 relevant local concerns. Notice of the public hearing must be  
15 made in a newspaper of general circulation in the area and the  
16 notice must be at least 16 square inches in size, must be in  
17 ethnic newspapers or local community bulletins, must be posted  
18 in the affected area, and must be announced at a scheduled  
19 meeting of the local governing body before the actual public  
20 hearing. In determining the areas to be designated, the local  
21 government must consider:

22 1. Whether the brownfield area warrants economic  
23 development and has a reasonable potential for such  
24 activities;

25 2. Whether the proposed area to be designated  
26 represents a reasonably focused approach and is not overly  
27 large in geographic coverage;

28 3. Whether the area has potential to interest the  
29 private sector in participating in rehabilitation; and  
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1           4. Whether the area contains sites or parts of sites  
2 suitable for limited recreational open space, cultural, or  
3 historical preservation purposes.

4           (b) A local government shall designate a brownfield  
5 area under the provisions of this act provided that:

6           1. A person who owns or controls a potential  
7 brownfield site is requesting the designation and has agreed  
8 to rehabilitate and redevelop the brownfield site;

9           2. The rehabilitation and redevelopment of the  
10 proposed brownfield site will result in economic productivity  
11 of the area, along with the creation of at least 10 new  
12 permanent jobs, whether full-time or part-time, which are not  
13 associated with the implementation of the rehabilitation  
14 agreement or an agreement, between the person responsible for  
15 site rehabilitation and the local government with  
16 jurisdiction, which contains terms for the redevelopment of  
17 the brownfield site or brownfield area;

18           3. The redevelopment of the proposed brownfield site  
19 is consistent with the local comprehensive plan and is a  
20 permissible use under the applicable local land development  
21 regulations;

22           4. Notice of the proposed rehabilitation of the  
23 brownfield area has been provided to neighbors and nearby  
24 residents of the proposed area to be designated, and the  
25 person proposing the area for designation has afforded to  
26 those receiving notice the opportunity for comments and  
27 suggestions about rehabilitation. Notice pursuant to this  
28 subsection must be made in a newspaper of general circulation  
29 in the area, at least 16 square inches in size, and the notice  
30 must be posted in the affected area; and

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1           5. The person proposing the area for designation has  
2 provided reasonable assurance that he or she has sufficient  
3 financial resources to implement and complete the  
4 rehabilitation agreement and redevelopment plan.

5           (c) The designation of a brownfield area and the  
6 identification of a person responsible for brownfield site  
7 rehabilitation simply entitles the identified person to  
8 negotiate a brownfield site rehabilitation agreement with the  
9 department or approved local pollution control program  
10 government.

11           (3) When there is a person responsible for brownfield  
12 site rehabilitation, the local government must notify the  
13 department of the identity of that person.~~The local~~  
14 ~~government must at the time of the adoption of the resolution~~  
15 ~~notify the department of the entity that it is designating as~~  
16 ~~the person responsible for brownfield site rehabilitation.~~If  
17 the agency or person who will be responsible for the  
18 coordination changes during the approval process specified in  
19 subsections (4), (5), and (6), the department or the affected  
20 approved local pollution control program must notify the  
21 affected local government when the change occurs.

22           (4) Local governments or persons responsible for  
23 rehabilitation and redevelopment of brownfield areas must  
24 establish an advisory committee for the purpose of improving  
25 public participation and receiving public comments on  
26 rehabilitation and redevelopment of the brownfield area,  
27 future land use, local employment opportunities, community  
28 safety, and environmental justice. Such advisory committee  
29 should include residents within or adjacent to the brownfield  
30 area, businesses operating within the brownfield area, and  
31 others deemed appropriate. The advisory committee must review

1 and provide recommendations to the board of the local  
2 government with jurisdiction on the proposed site  
3 rehabilitation agreement provided in subsection (5).

4 (5) The person responsible for brownfield site  
5 rehabilitation must enter into a brownfield site  
6 rehabilitation agreement with the department or an approved  
7 local pollution control ~~environmental~~ program. The brownfield  
8 site rehabilitation agreement must include:

9 (a) A brownfield site rehabilitation schedule,  
10 including milestones for completion of site rehabilitation  
11 tasks and submittal of technical reports and rehabilitation  
12 plans as agreed upon by the parties to the agreement;

13 (b) A commitment to conduct site rehabilitation  
14 activities under the observation of professional engineers or  
15 geologists who are registered in accordance with the  
16 requirements of chapter 471 or chapter 492, respectively.  
17 Submittals provided by the person responsible for brownfield  
18 site rehabilitation must be signed and sealed by a  
19 professional engineer registered under chapter 471, or a  
20 professional geologist registered under chapter 492,  
21 certifying that the submittal and associated work comply with  
22 the law and rules of the department and those governing the  
23 profession. In addition, upon completion of the approved  
24 remedial action, the department shall require a professional  
25 engineer registered under chapter 471 or a professional  
26 geologist registered under chapter 492 to certify that the  
27 corrective action was, to the best of his or her knowledge,  
28 completed in substantial conformance with the plans and  
29 specifications approved by the department;

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1 (c) A commitment to conduct site rehabilitation in  
2 accordance with an approved comprehensive quality assurance  
3 plan under department rules;

4 (d) A commitment to conduct site rehabilitation  
5 consistent with state, federal, and local laws and consistent  
6 with the brownfield site contamination cleanup criteria in s.  
7 376.81, including any applicable requirements for risk-based  
8 corrective action;

9 (e) Timeframes for the department's review of  
10 technical reports and plans submitted in accordance with the  
11 agreement. The department shall make every effort to adhere  
12 to established agency goals for reasonable timeframes for  
13 review of such documents;

14 (f) A commitment to secure site access for the  
15 department or approved local pollution control ~~environmental~~  
16 program to all brownfield sites within the eligible brownfield  
17 area for activities associated with site rehabilitation;

18 (g) Other provisions that the person responsible for  
19 brownfield site rehabilitation and the department agree upon,  
20 that are consistent with ss. 376.77-376.85 ~~ss. 376.77-376.84~~,  
21 and that will improve or enhance the brownfield site  
22 rehabilitation process;

23 (h) A commitment to consider appropriate pollution  
24 prevention measures and to implement those that the person  
25 responsible for brownfield site rehabilitation determines are  
26 reasonable and cost-effective, taking into account the  
27 ultimate use or uses of the brownfield site. Such measures  
28 may include improved inventory or production controls and  
29 procedures for preventing loss, spills, and leaks of hazardous  
30 waste and materials, and include goals for the reduction of  
31 releases of toxic materials; and

1           (i) Certification that an agreement exists between the  
2 person responsible for brownfield site rehabilitation and the  
3 local government with jurisdiction over the brownfield area.  
4 Such agreement shall contain terms for the redevelopment of  
5 the brownfield area.

6           (6) Any contractor performing site rehabilitation  
7 program tasks must demonstrate to the department that the  
8 contractor:

9           (a) Meets all certification and license requirements  
10 imposed by law; and

11           (b) Has obtained approval for the comprehensive  
12 quality-assurance plan prepared under department rules.

13           (7) The contractor must certify to the department that  
14 the contractor:

15           (a) Complies with applicable OSHA regulations.

16           (b) Maintains workers' compensation insurance for all  
17 employees as required by the Florida Workers' Compensation  
18 Law.

19           (c) Maintains comprehensive general liability and  
20 comprehensive automobile liability insurance with minimum  
21 limits of at least \$1 million per occurrence and \$1 million  
22 annual aggregate, sufficient to protect it from claims for  
23 damage for personal injury, including accidental death, as  
24 well as claims for property damage which may arise from  
25 performance of work under the program, designating the state  
26 as an additional insured party.

27           (d) Maintains professional liability insurance of at  
28 least \$1 million per occurrence and \$1 million annual  
29 aggregate.

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1           (e) Has the capacity to perform or directly supervise  
2 the majority of the work at a site in accordance with s.  
3 489.113(9).

4           (8) Any professional engineer or geologist providing  
5 professional services relating to site rehabilitation program  
6 tasks must carry professional liability insurance with a  
7 coverage limit of at least \$1 million.

8           (9) During the cleanup process, if the department or  
9 local program fails to complete review of a technical document  
10 within the timeframe specified in the brownfield site  
11 rehabilitation agreement, the person responsible for  
12 brownfield site rehabilitation may proceed to the next site  
13 rehabilitation task. However, the person responsible for  
14 brownfield site rehabilitation does so at its own risk and may  
15 be required by the department or local program to complete  
16 additional work on a previous task. Exceptions to this  
17 subsection include requests for "no further action,"  
18 "monitoring only proposals," and feasibility studies, which  
19 must be approved prior to implementation.

20           (10) If the person responsible for brownfield site  
21 rehabilitation fails to comply with the brownfield site  
22 rehabilitation agreement, the department shall allow 90 days  
23 for the person responsible for brownfield site rehabilitation  
24 to return to compliance with the provision at issue or to  
25 negotiate a modification to the brownfield site rehabilitation  
26 agreement with the department for good cause shown. If an  
27 imminent hazard exists, the 90-day grace period shall not  
28 apply. If the project is not returned to compliance with the  
29 brownfield site rehabilitation agreement and a modification  
30 cannot be negotiated, the immunity provisions of s. 376.82 are  
31 revoked.

1           (11) The department is specifically authorized and  
2 encouraged to enter into delegation agreements with local  
3 pollution control programs approved under s. 403.182 to  
4 administer the brownfield program within their jurisdictions,  
5 thereby maximizing the integration of this process with the  
6 other local development processes needed to facilitate  
7 redevelopment of a brownfield area. When determining whether  
8 a delegation pursuant to this subsection of all or part of the  
9 brownfields program to a local pollution control program is  
10 appropriate, the department shall consider the following. The  
11 local pollution control program must:

12           (a) Have and maintain the administrative organization,  
13 staff, and financial and other resources to effectively and  
14 efficiently implement and enforce the statutory requirements  
15 of the delegated brownfields program; and

16           (b) Provide for the enforcement of the requirements of  
17 the delegated brownfields program, and for notice and a right  
18 to challenge governmental action, by appropriate  
19 administrative and judicial process, which shall be specified  
20 in the delegation.

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22 The local pollution control program shall not be delegated  
23 authority to take action on or to make decisions regarding any  
24 brownfield site on land owned by the local government. Any  
25 delegation agreement entered into pursuant to this subsection  
26 shall contain such terms and conditions necessary to ensure  
27 the effective and efficient administration and enforcement of  
28 the statutory requirements of the brownfields program as  
29 established by the act and the relevant rules and other  
30 criteria of the department.

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1           (12) Local governments are encouraged to use the full  
2 range of economic and tax incentives available to facilitate  
3 and promote the rehabilitation of brownfield areas, to help  
4 eliminate the public health and environmental hazards, and to  
5 promote the creation of jobs and economic development in these  
6 previously run-down, blighted, and underutilized areas.

7           Section 4. Section 376.81, Florida Statutes, is  
8 amended to read:

9           376.81 Brownfield site and brownfield areas  
10 contamination cleanup criteria.--

11           (1) It is the intent of the Legislature to protect the  
12 health of all people under actual circumstances of exposure.  
13 By July 1, 1998, the secretary of the department shall  
14 establish criteria by rule for the purpose of determining, on  
15 a site-specific basis, the rehabilitation program tasks that  
16 comprise a site rehabilitation program and the level at which  
17 a rehabilitation program task and a site rehabilitation  
18 program may be deemed completed. In establishing the rule,  
19 the department shall incorporate, to the maximum extent  
20 feasible, risk-based corrective action principles to achieve  
21 protection of human health and safety and the environment in a  
22 cost-effective manner as provided in this subsection. The  
23 rule shall also include protocols for the use of natural  
24 attenuation and the issuance of "no further action" letters.  
25 The criteria for determining what constitutes a rehabilitation  
26 program task or completion of a site rehabilitation program  
27 task or site rehabilitation program must:

28           (a) Consider the current exposure and potential risk  
29 of exposure to humans and the environment, including multiple  
30 pathways of exposure. The physical, chemical, and biological  
31 characteristics of each contaminant must be considered in

1 order to determine the feasibility of risk-based corrective  
2 action assessment.

3 (b) Establish the point of compliance at the source of  
4 the contamination. However, the department is authorized to  
5 temporarily move the point of compliance to the boundary of  
6 the property, or to the edge of the plume when the plume is  
7 within the property boundary, while cleanup, including cleanup  
8 through natural attenuation processes in conjunction with  
9 appropriate monitoring, is proceeding. The department also is  
10 authorized, pursuant to criteria provided for in this section,  
11 to temporarily extend the point of compliance beyond the  
12 property boundary with appropriate monitoring, if such  
13 extension is needed to facilitate natural attenuation or to  
14 address the current conditions of the plume, provided human  
15 health, public safety, and the environment are protected.  
16 When temporarily extending the point of compliance beyond the  
17 property boundary, it cannot be extended further than the  
18 lateral extent of the plume at the time of execution of the  
19 brownfield site rehabilitation agreement, if known, or the  
20 lateral extent of the plume as defined at the time of site  
21 assessment. Temporary extension of the point of compliance  
22 beyond the property boundary, as provided in this paragraph,  
23 must include actual notice by the person responsible for  
24 brownfield site rehabilitation to local governments and the  
25 owners of any property into which the point of compliance is  
26 allowed to extend and constructive notice to residents and  
27 business tenants of the property into which the point of  
28 compliance is allowed to extend. Persons receiving notice  
29 pursuant to this paragraph shall have the opportunity to  
30 comment within 30 days of receipt of the notice.

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1           (c) Ensure that the site-specific cleanup goal is that  
2 all contaminated brownfield sites and brownfield areas  
3 ultimately achieve the applicable cleanup target levels  
4 provided in this section. In the circumstances provided below,  
5 and after constructive notice and opportunity to comment  
6 within 30 days from receipt of the notice to local government,  
7 to owners of any property into which the point of compliance  
8 is allowed to extend, and to residents on any property into  
9 which the point of compliance is allowed to extend, the  
10 department may allow concentrations of contaminants to  
11 temporarily exceed the applicable cleanup target levels while  
12 cleanup, including cleanup through natural attenuation  
13 processes in conjunction with appropriate monitoring, is  
14 proceeding, if human health, public safety, and the  
15 environment are protected.

16           (d) Allow brownfield site and brownfield area  
17 rehabilitation programs to include the use of institutional or  
18 engineering controls, where appropriate, to eliminate or  
19 control the potential exposure to contaminants of humans or  
20 the environment. The use of controls must be preapproved by  
21 the department and only after constructive notice and  
22 opportunity to comment within 30 days from receipt of notice  
23 is provided to local governments, to owners of any property  
24 into which the point of compliance is allowed to extend, and  
25 to residents on any property into which the point of  
26 compliance is allowed to extend. When institutional or  
27 engineering controls are implemented to control exposure, the  
28 removal of the controls must have prior department approval  
29 and must be accompanied by the resumption of active cleanup,  
30 or other approved controls, unless cleanup target levels under  
31 this section have been achieved.

1           (e) Consider the additive effects of contaminants.  
2 The synergistic and antagonistic effects shall also be  
3 considered when the scientific data become available.

4           (f) Take into consideration individual site  
5 characteristics, which shall include, but not be limited to,  
6 the current and projected use of the affected groundwater and  
7 surface water in the vicinity of the site, current and  
8 projected land uses of the area affected by the contamination,  
9 the exposed population, the degree and extent of  
10 contamination, the rate of contaminant migration, the apparent  
11 or potential rate of contaminant degradation through natural  
12 attenuation processes, the location of the plume, and the  
13 potential for further migration in relation to site property  
14 boundaries.

15           (g) Apply state water quality standards as follows:

16           1. Cleanup target levels for each contaminant found in  
17 groundwater shall be the applicable state water quality  
18 standards. Where such standards do not exist, the cleanup  
19 target levels for groundwater shall be based on the minimum  
20 criteria specified in department rule. The department shall  
21 consider the following, as appropriate, in establishing the  
22 applicable minimum criteria: calculations using a lifetime  
23 cancer risk level of 1.0E-6; a hazard index of 1 or less; the  
24 best achievable detection limit; the naturally occurring  
25 background concentration; or nuisance, organoleptic, and  
26 aesthetic considerations.

27           2. Where surface waters are exposed to contaminated  
28 groundwater, the cleanup target levels for the contaminants  
29 shall be based on the surface water standards as established  
30 by department rule. The point of measuring compliance with  
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1 the surface water standards shall be in the groundwater  
2 immediately adjacent to the surface water body.

3           3. The department may set alternative cleanup target  
4 levels based upon an applicant's demonstration, using  
5 site-specific modeling and risk assessment studies, that human  
6 health, public safety, and the environment are protected to  
7 the same degree as provided in subparagraphs 1. and 2. Where  
8 a state water quality standard is applicable, a deviation may  
9 not result in the application of cleanup target levels more  
10 stringent than the standard. In determining whether it is  
11 appropriate to establish alternative cleanup target levels at  
12 a site, the department must consider the effectiveness of  
13 source removal that has been completed at the site and the  
14 practical likelihood of the use of low yield or poor quality  
15 groundwater, the use of groundwater near marine surface water  
16 bodies, the current and projected use of the affected  
17 groundwater in the vicinity of the site, or the use of  
18 groundwater in the immediate vicinity of the contaminated  
19 area, where it has been demonstrated that the groundwater  
20 contamination is not migrating away from such localized  
21 source, provided human health, public safety, and the  
22 environment are protected.

23           ~~(h) Provide for the department to issue a "no further~~  
24 ~~action order" when alternative cleanup target levels~~  
25 ~~established pursuant to subparagraph (g)3. have been achieved.~~

26           (h)(i) Provide for the department to issue a "no  
27 further action order," with conditions, where appropriate,  
28 when alternative cleanup target levels established pursuant to  
29 subparagraph (g)3. have been achieved, or when the person  
30 responsible for brownfield site rehabilitation can demonstrate  
31 that the cleanup target level is unachievable within available

1 technologies. Prior to issuing such an order, the department  
2 shall consider the feasibility of an alternative site  
3 rehabilitation technology in the brownfield area.

4 (i)~~(j)~~ Establish appropriate cleanup target levels for  
5 soils.

6 1. In establishing soil cleanup target levels for  
7 human exposure to each contaminant found in soils from the  
8 land surface to 2 feet below land surface, the department  
9 shall consider the following, as appropriate: calculations  
10 using a lifetime cancer risk level of 1.0E-6; a hazard index  
11 of 1 or less; the best achievable detection limit; or the  
12 naturally occurring background concentration. Institutional  
13 controls or other methods shall be used to prevent human  
14 exposure to contaminated soils more than 2 feet below the land  
15 surface. Any removal of such institutional controls shall  
16 require such contaminated soils to be remediated.

17 2. Leachability-based soil target levels shall be  
18 based on protection of the groundwater cleanup target levels  
19 or the alternate cleanup target levels for groundwater  
20 established pursuant to this paragraph, as appropriate. Source  
21 removal and other cost-effective alternatives that are  
22 technologically feasible shall be considered in achieving the  
23 leachability soil target levels established by the department.  
24 The leachability goals shall not be applicable if the  
25 department determines, based upon individual site  
26 characteristics, that contaminants will not leach into the  
27 groundwater at levels which pose a threat to human health,  
28 public safety, and the environment.

29 3. The department may set alternative cleanup target  
30 levels based upon an applicant's demonstration, using  
31

1 site-specific modeling and risk assessment studies, that human  
2 health, public safety, and the environment are protected.

3 (2) The department shall require source removal, if  
4 warranted and cost-effective. Once source removal at a site  
5 is complete, the department shall reevaluate the site to  
6 determine the degree of active cleanup needed to continue.  
7 Further, the department shall determine if the reevaluated  
8 site qualifies for monitoring only or if no further action is  
9 required to rehabilitate the site. If additional site  
10 rehabilitation is necessary to reach "no further action"  
11 status, the department is encouraged to utilize natural  
12 attenuation and monitoring where site conditions warrant.

13 Section 5. Section 376.82, Florida Statutes, is  
14 amended to read:

15 376.82 Eligibility criteria and liability  
16 protection.--

17 (1) ELIGIBILITY.--Any person who has not caused or  
18 contributed to the contamination of a brownfield site on or  
19 after July 1, 1997, is eligible to participate in the  
20 brownfield rehabilitation program established in ss.

21 376.77-376.85 ~~ss. 376.77-376.84~~, subject to the following:

22 (a) Potential brownfield sites that are subject to an  
23 ongoing formal judicial or administrative enforcement action  
24 or corrective action pursuant to federal authority, including,  
25 but not limited to, the Comprehensive Environmental Response  
26 Compensation and Liability Act, 42 U.S.C. ss. 9601, et seq.,  
27 as amended; the Safe Drinking Water Act, 42 U.S.C. ss.  
28 300f-300i, as amended; the Clean Water Act, 33 U.S.C. ss.  
29 1251-1387, as amended; or under an order from the United  
30 States Environmental Protection Agency pursuant to s. 3008(h)  
31 of the Resource Conservation and Recovery Act, as amended (42

1 U.S.C.A. s. 6928(h)); or that have obtained or are required to  
2 obtain a permit for the operation of a hazardous waste  
3 treatment, storage, or disposal facility; a postclosure  
4 permit; or a permit pursuant to the federal Hazardous and  
5 Solid Waste Amendments of 1984, are not eligible for  
6 participation unless specific exemptions are secured by a  
7 memorandum of agreement with the United States Environmental  
8 Protection Agency pursuant to paragraph (2)(e). A brownfield  
9 site within an eligible brownfield area that subsequently  
10 becomes subject to formal judicial or administrative  
11 enforcement action or corrective action under such federal  
12 authority shall have its eligibility revoked unless specific  
13 exemptions are secured by a memorandum of agreement with the  
14 United States Environmental Protection Agency pursuant to  
15 paragraph (2)(g).

16 (b) Persons who have not caused or contributed to the  
17 contamination of a brownfield site on or after July 1, 1997,  
18 and who, prior to the department's approval of a brownfield  
19 site rehabilitation agreement, are subject to ongoing  
20 corrective action or enforcement under state authority  
21 established in this chapter or chapter 403, including those  
22 persons subject to a pending consent order with the state, are  
23 eligible for participation in a brownfield corrective action  
24 if:

25 1. The proposed brownfield site is currently idle or  
26 underutilized as a result of the contamination, and  
27 participation in the brownfield program will immediately,  
28 after cleanup or sooner, result in increased economic  
29 productivity at the site, including at a minimum the creation  
30 of 10 new permanent jobs, whether full-time ~~permanent~~ or  
31

1 part-time, which are not associated with implementation of the  
2 brownfield site corrective action plan; and

3 2. The person is complying in good faith with the  
4 terms of an existing consent order or department-approved  
5 corrective action plan, or responding in good faith to an  
6 enforcement action, as evidenced by a determination issued by  
7 the department or an approved local pollution control program.

8 (c) Potential brownfield sites owned by the state or a  
9 local government which contain contamination for which a  
10 governmental entity is potentially responsible and which are  
11 already designated as federal brownfield pilot projects or  
12 have filed an application for designation to the United States  
13 Environmental Protection Agency are eligible for participation  
14 in a brownfield corrective action.

15 (d) After July 1, 1997, petroleum and drycleaning  
16 contamination sites shall not receive both restoration funding  
17 assistance available for the discharge under this chapter and  
18 any state assistance available under s. 288.107. Nothing in  
19 this act shall affect the cleanup criteria, priority ranking,  
20 and other rights and obligations inherent in petroleum  
21 contamination and drycleaning contamination site  
22 rehabilitation under ss. 376.30-376.319, or the availability  
23 of economic incentives otherwise provided for by law.

24 (2) LIABILITY PROTECTION.--

25 (a) Any person, including his or her successors and  
26 assigns, who executes and implements to successful completion  
27 a brownfield site rehabilitation agreement, shall be relieved  
28 of further liability for remediation of the contaminated site  
29 or sites to the state and to third parties and of liability in  
30 contribution to any other party who has or may incur cleanup  
31 liability for the contaminated site or sites.

1           (b) This section shall not be construed as a  
2 limitation on the right of a third party other than the state  
3 to pursue an action for damages to property or person;  
4 however, such an action may not compel site rehabilitation in  
5 excess of that required in the approved brownfield site  
6 rehabilitation agreement or otherwise required by the  
7 department or approved local pollution control program.

8           (c) This section shall not affect the ability or  
9 authority to seek contribution from any person who may have  
10 liability with respect to the contaminated site and who did  
11 not receive cleanup liability protection under this act.

12           (d) The liability protection provided under this  
13 section shall become effective upon execution of a brownfield  
14 site rehabilitation agreement and shall remain effective,  
15 provided the person responsible for brownfield site  
16 rehabilitation complies with the terms of the site  
17 rehabilitation agreement. Any statute of limitations that  
18 would bar the department from pursuing relief in accordance  
19 with its existing authority is tolled from the time the  
20 agreement is executed until site rehabilitation is completed  
21 or immunity is revoked pursuant to s. 376.80(10).

22           (e) Completion of the performance of the remediation  
23 obligations at the brownfield site shall be evidenced by a  
24 site rehabilitation completion letter or a "no further action"  
25 letter issued by the department or the approved local  
26 pollution control program, which letter shall include the  
27 following statement: "Based upon the information provided by  
28 (property owner) concerning property located at (address), it  
29 is the opinion of (the Florida Department of Environmental  
30 Protection or approved local pollution control program) that  
31 (party) has successfully and satisfactorily implemented the



1 approved brownfield site rehabilitation agreement schedule  
2 and, accordingly, no further action is required to assure that  
3 any land use identified in the brownfield site rehabilitation  
4 agreement is consistent with existing and proposed uses."

5 (f) Compliance with the agreement referenced in s.  
6 376.80(5)(i) must be evidenced by a finding by the local  
7 government with jurisdiction over the brownfield area that the  
8 terms of the agreement have been met.

9 (g) The Legislature recognizes its limitations in  
10 addressing cleanup liability under federal pollution control  
11 programs. In an effort to secure federal liability protection  
12 for persons willing to undertake remediation responsibility at  
13 a brownfield site, the department shall attempt to negotiate a  
14 memorandum of agreement or similar document with the United  
15 States Environmental Protection Agency, whereby the United  
16 States Environmental Protection Agency agrees to forego  
17 enforcement of federal corrective action authority at  
18 brownfield sites ~~brownfields~~ that have received a site  
19 rehabilitation completion or "no further action" determination  
20 from the department or the approved local pollution control  
21 program or that are in the process of implementing a  
22 brownfield site rehabilitation agreement in accordance with  
23 this act.

24 (h) No unit of state or local government may be held  
25 liable for implementing corrective actions at a contaminated  
26 site within an eligible brownfield area as a result of the  
27 involuntary ownership of the site through bankruptcy, tax  
28 delinquency, abandonment, or other circumstances in which the  
29 state or local government involuntarily acquires title by  
30 virtue of its function as a sovereign, or as a result of  
31 ownership from donation, ~~or~~ gift, or foreclosure unless the

1 state or local government has otherwise caused or contributed  
2 to a release of a contaminant at the brownfield site.

3 (i) The Legislature finds and declares that certain  
4 brownfield sites ~~brownfields~~ may be redeveloped for open  
5 space, or limited recreational, cultural, or historical  
6 preservation purposes, and that such facilities enhance the  
7 redeveloped environment, attract visitors, and provide  
8 wholesome activities for employees and residents of the area.  
9 Further, the Legislature finds that purchasers of contaminated  
10 sites who are nonprofit conservation organizations acting for  
11 the public interest and who did not cause or contribute to the  
12 release of contamination on the site warrant protection from  
13 liability.

14 (j) Notwithstanding any provision of this chapter,  
15 chapter 403, other laws, or ordinances of local governments, a  
16 nonprofit, charitable, federal tax-exempt, s. 501(c)(3)  
17 national land conservation corporation which purchases title  
18 to property in the state for the purpose of conveying such  
19 land to any governmental entity for conservation, historical  
20 preservation or cultural resource, park, greenway, or other  
21 similar uses shall not be liable to the state, local  
22 government, or any third party for penalties or remediation  
23 costs in connection with environmental contamination found in  
24 the soil or groundwater of such property, provided that such  
25 corporation did not cause the original deposit or release of  
26 the environmental contaminants, and provided the department  
27 and local pollution control program and responsible parties  
28 have access to the land for investigation, remediation, or  
29 monitoring purposes.

30 (3) REOPENERS.--Upon completion of site rehabilitation  
31 in compliance with ss. 376.77-376.85 ~~ss. 376.77-376.84~~, no

1 additional site rehabilitation shall be required unless it is  
2 demonstrated:

3 (a) That fraud was committed in demonstrating site  
4 conditions or completion of site rehabilitation;

5 (b) That new information confirms the existence of an  
6 area of previously unknown contamination which exceeds the  
7 site-specific rehabilitation levels established in accordance  
8 with s. 376.81, or which otherwise poses the threat of real  
9 and substantial harm to public health, safety, or the  
10 environment in violation of the terms of ss. 376.77-376.85 ~~ss.~~  
11 ~~376.77-376.84~~;

12 (c) That the remediation efforts failed to achieve the  
13 site rehabilitation criteria established under s. 376.81;

14 (d) That the level of risk is increased beyond the  
15 acceptable risk established under s. 376.81 due to substantial  
16 changes in exposure conditions, such as a change in land use  
17 from nonresidential to residential use. Any person who changes  
18 the land use of the brownfield site thus causing the level of  
19 risk to increase beyond the acceptable risk level may be  
20 required by the department to undertake additional remediation  
21 measures to assure that human health, public safety, and the  
22 environment are protected to levels consistent with s. 376.81;  
23 or

24 (e) That a new release occurs at the brownfield site  
25 subsequent to a determination of eligibility for participation  
26 in the brownfield program established under s. 376.80.

27 (4) ADDITIONAL LIABILITY PROTECTION FOR LENDERS.--

28 (a) The Legislature declares that, in order to achieve  
29 the economic redevelopment and site rehabilitation of  
30 brownfield sites ~~brownfields~~ in accordance with this act, it  
31 is imperative to encourage financing of real property

1 transactions involving brownfield site rehabilitation plans.  
2 Accordingly, lenders, including those serving as a trustee,  
3 personal representative, or in any other fiduciary capacity,  
4 in connection with a loan, are entitled to the liability  
5 protection established in subsection (2) if they have not  
6 caused or contributed to a release of a contaminant at the  
7 brownfield site.

8 (b) Lenders who hold indicia of ownership of a parcel  
9 within a brownfield area primarily to protect a security  
10 interest or who own a parcel within a brownfield area as a  
11 result of foreclosure or a deed in lieu of foreclosure of a  
12 security interest and who seek to sell, transfer, or otherwise  
13 divest the parcel via sale at the earliest practicable time  
14 are not liable for the release or discharge of a contaminant  
15 from the parcel; for the failure of the person responsible for  
16 brownfield site rehabilitation to comply with the brownfield  
17 site rehabilitation agreement; or for future site  
18 rehabilitation activities required pursuant to a reopener  
19 provision established in subsection (3) where the lender has  
20 not divested the borrower of, or otherwise engaged in,  
21 decisionmaking control of the site rehabilitation or site  
22 operations or undertaken management activities beyond those  
23 required to protect its financial interest while making a good  
24 faith effort to sell the site as soon as practicable and when  
25 an act or omission of the lender has not otherwise caused or  
26 contributed to a release of a contaminant at the brownfield  
27 site.

28 (c) The economic incentives that were granted to a  
29 person responsible for site rehabilitation by state or local  
30 governments shall not accrue to a lender who obtains ownership  
31 of the brownfield site by one of the methods described in this

1 subsection. The economic incentives are abated during the  
2 lender's ownership, but they may be transferred and reinstated  
3 upon the sale of the brownfield site.

4 Section 6. Section 376.83, Florida Statutes, is  
5 amended to read:

6 376.83 Violation; penalties.--

7 (1) It is a violation of ss. 376.77-376.85 ~~ss.~~  
8 ~~376.77-376.82~~, and it is prohibited for any person, to  
9 knowingly make any false statement, representation, or  
10 certification in any application, record, report, plan, or  
11 other document filed or required to be maintained, or to  
12 falsify, tamper with, or knowingly render inaccurate any  
13 monitoring device or method required to be maintained under  
14 ss. 376.77-376.85 ~~ss. 376.77-376.82~~, or by any permit, rule,  
15 or order issued under this chapter or chapter 403.

16 (2) Any person who willfully commits a violation  
17 specified in subsection (1) is guilty of a misdemeanor of the  
18 first degree, punishable by a fine of not more than \$10,000 or  
19 by 6 months in jail, or by both, for each offense. Each day  
20 during any portion of which such violation occurs constitutes  
21 a separate offense.

22 Section 7. Subsection (4) of section 288.106, Florida  
23 Statutes, is amended to read:

24 288.106 Tax refund program for qualified target  
25 industry businesses.--

26 (4) APPLICATION AND APPROVAL PROCESS.--

27 (a) To apply for certification as a qualified target  
28 industry business under this section, the business must file  
29 an application with the office before the business has made  
30 the decision to locate a new business in this state or before  
31 the business had made the decision to expand an existing

1 business in this state. The application shall include, but is  
2 not limited to, the following information:

3 1. The applicant's federal employer identification  
4 number and the applicant's state sales tax registration  
5 number.

6 2. The permanent location of the applicant's facility  
7 in this state at which the project is or is to be located.

8 3. A description of the type of business activity or  
9 product covered by the project, including four-digit SIC codes  
10 for all activities included in the project.

11 4. The number of full-time equivalent jobs in this  
12 state that are or will be dedicated to the project and the  
13 average wage of those jobs. If more than one type of business  
14 activity or product is included in the project, the number of  
15 jobs and average wage for those jobs must be separately stated  
16 for each type of business activity or product.

17 5. The total number of full-time equivalent employees  
18 employed by the applicant in this state.

19 6. The anticipated commencement date of the project.

20 7. The amount of:

21 a. Taxes on sales, use, and other transactions paid  
22 under chapter 212;

23 b. Corporate income taxes paid under chapter 220;

24 c. Intangible personal property taxes paid under  
25 chapter 199;

26 d. Emergency excise taxes paid under chapter 221; and

27 e. Excise taxes on documents paid under chapter 201.

28 8. The estimated amount of tax refunds to be claimed  
29 in each fiscal year.

30  
31

1           9. A brief statement concerning the role that the tax  
2 refunds requested will play in the decision of the applicant  
3 to locate or expand in this state.

4           10. An estimate of the proportion of the sales  
5 resulting from the project that will be made outside this  
6 state.

7           11. A resolution adopted by the governing board of the  
8 county or municipality in which the project will be located,  
9 which resolution recommends that certain types of businesses  
10 be approved as a qualified target industry business and states  
11 that the commitments of local financial support necessary for  
12 the target industry business exist. Before adoption of the  
13 resolution, the governing board may review the proposed public  
14 or private sources of such support and determine whether the  
15 proposed sources of local financial support can be provided.

16           12. Any additional information requested by the  
17 office.

18           (b) To qualify for review by the office, the  
19 application of a target industry business must, at a minimum,  
20 establish the following to the satisfaction of the office:

21           1. The jobs proposed to be provided under the  
22 application, pursuant to subparagraph (a)4., must pay an  
23 estimated annual average wage equaling at least 115 percent of  
24 the average private sector wage in the area where the business  
25 is to be located or the statewide private sector average wage.  
26 The office may waive this average wage requirement at the  
27 request of the local governing body recommending the project  
28 and Enterprise Florida, Inc. The wage requirement may only be  
29 waived for a project located in a brownfield area designated  
30 under s. 376.80 or in a rural city or county or in an  
31 enterprise zone and only when the merits of the individual

1 project or the specific circumstances in the community in  
2 relationship to the project warrant such action. If the local  
3 governing body and Enterprise Florida, Inc., make such a  
4 recommendation, it must be transmitted in writing and the  
5 specific justification for the waiver recommendation must be  
6 explained. If the director elects to waive the wage  
7 requirement, the waiver must be stated in writing and the  
8 reasons for granting the waiver must be explained.

9         2. The target industry business's project must result  
10 in the creation of at least 10 jobs at such project.

11         3. The business activity or product for the  
12 applicant's project is within an industry or industries that  
13 have been identified by the office to be high-value-added  
14 industries that contribute to the area and to the economic  
15 growth of the state and that produce a higher standard of  
16 living for citizens of this state in the new global economy or  
17 that can be shown to make an equivalent contribution to the  
18 area and state's economic progress. The director must approve  
19 requests to waive the wage requirement for brownfield areas  
20 designated under s. 376.80 unless it is demonstrated that such  
21 action is not in the public interest.

22         (c) Each application meeting the requirements of  
23 paragraph (b) must be submitted to the office for  
24 determination of eligibility. The office shall review and  
25 evaluate each application based on, but not limited to, the  
26 following criteria:

27         1. Expected contributions to the state strategic  
28 economic development plan adopted by Enterprise Florida, Inc.,  
29 taking into account the long-term effects of the project and  
30 of the applicant on the state economy.

31



1           2. The economic benefit of the jobs created by the  
2 project in this state, taking into account the cost and  
3 average wage of each job created.

4           3. The amount of capital investment to be made by the  
5 applicant in this state.

6           4. The local commitment and support for the project.

7           5. The effect of the project on the local community,  
8 taking into account the unemployment rate for the county where  
9 the project will be located.

10          6. The effect of any tax refunds granted pursuant to  
11 this section on the viability of the project and the  
12 probability that the project will be undertaken in this state  
13 if such tax refunds are granted to the applicant, taking into  
14 account the expected long-term commitment of the applicant to  
15 economic growth and employment in this state.

16          7. The expected long-term commitment to this state  
17 resulting from the project.

18          8. A review of the business's past activities in this  
19 state or other states, including whether such business has  
20 been subjected to criminal or civil fines and penalties.  
21 Nothing in this subparagraph shall require the disclosure of  
22 confidential information.

23           (d) The office shall forward its written findings and  
24 evaluation concerning each application meeting the  
25 requirements of paragraph (b) to the director within 45  
26 calendar days after receipt of a complete application. The  
27 office shall notify each target industry business when its  
28 application is complete, and of the time when the 45-day  
29 period begins. In its written report to the director, the  
30 office shall specifically address each of the factors  
31 specified in paragraph (c) and shall make a specific

1 assessment with respect to the minimum requirements  
2 established in paragraph (b). The office shall include in its  
3 report projections of the tax refund claim that will be sought  
4 by the target industry business in each fiscal year based on  
5 the information submitted in the application.

6 (e)1. Within 30 days after receipt of the office's  
7 findings and evaluation, the director shall enter a final  
8 order that either approves or disapproves the application of  
9 the target industry business. The decision must be in writing  
10 and must provide the justifications for approval or  
11 disapproval.

12 2. If appropriate, the director shall enter into a  
13 written agreement with the qualified target industry business  
14 pursuant to subsection (5).

15 (f) The director may not enter a final order that  
16 certifies any target industry business as a qualified target  
17 industry business if the value of tax refunds to be included  
18 in that final order exceeds the available amount of authority  
19 to enter final orders as determined in s. 288.095(3). A final  
20 order that approves an application must specify the maximum  
21 amount of tax refund that will be available to the qualified  
22 industry business in each fiscal year and the total amount of  
23 tax refunds that will be available to the business for all  
24 fiscal years.

25 (g) Nothing in this section shall create a presumption  
26 that an applicant will receive any tax refunds under this  
27 section. However, the office may issue nonbinding opinion  
28 letters, upon the request of prospective applicants, as to the  
29 applicants' eligibility and the potential amount of refunds.

30 Section 8. Subsection (1) of section 288.107, Florida  
31 Statutes, is amended to read:

1           288.107 Brownfield redevelopment bonus refunds.--  
2           (1) DEFINITIONS.--As used in this section:  
3           (a) "Account" means the Economic Development  
4 Incentives Account as authorized in s. 288.095.  
5           (b) "Brownfield sites" means sites that are generally  
6 abandoned, idled, or underused industrial and commercial  
7 properties where expansion or redevelopment is complicated by  
8 actual or perceived environmental contamination.  
9           (c) "Brownfield area" means a contiguous area of one  
10 or more brownfield sites, some of which may not be  
11 contaminated, and which has been designated by a local  
12 government by resolution. Such areas may include all or  
13 portions of community redevelopment areas, enterprise zones,  
14 empowerment zones, other such designated economically deprived  
15 communities and areas, and  
16 Environmental-Protection-Agency-designated brownfield pilot  
17 projects. ~~"Brownfield" or "brownfield site" means a parcel or~~  
18 ~~a contiguous area of one or more parcels, which have been~~  
19 ~~designated by local government by resolution, that are~~  
20 ~~generally abandoned, idled, or underused industrial and~~  
21 ~~commercial properties where expansion or redevelopment is~~  
22 ~~complicated by actual or perceived environmental~~  
23 ~~contamination. Such areas may include, but are not limited~~  
24 ~~to, portions of community redevelopment areas, enterprise~~  
25 ~~zones, empowerment zones, other such designated economically~~  
26 ~~deprived communities and areas, and United States~~  
27 ~~Environmental Protection Agency designated brownfield pilot~~  
28 ~~projects.~~  
29           (d)(c) "Director" means the director of the Office of  
30 Tourism, Trade, and Economic Development.  
31

1           ~~(e)(d)~~ "Eligible business" means a qualified target  
2 industry business as defined in s. 288.106(2)(o).

3           ~~(f)(e)~~ "Jobs" means full-time equivalent positions,  
4 consistent with the use of such terms by the Department of  
5 Labor and Employment Security for the purpose of unemployment  
6 compensation tax, resulting directly from a project in this  
7 state. This number does not include temporary construction  
8 jobs involved with the construction of facilities for the  
9 project and which are not associated with the implementation  
10 of the site rehabilitation as provided in s. 376.80.

11           ~~(g)(f)~~ "Office" means the Office of Tourism, Trade,  
12 and Economic Development.

13           ~~(h)(g)~~ "Project" means the creation of a new business  
14 or the expansion of an existing business as defined in s.  
15 288.106.

16           Section 9. (1) The Legislature finds that the  
17 underuse of brownfield areas results in the inefficient use of  
18 public facilities and services, as well as of land and other  
19 natural resources, extends conditions of blight in local  
20 communities, and contributes to concerns about environmental  
21 equity and the distribution of environmental risks across  
22 population groups.

23           (2) The reuse and redevelopment of brownfield areas is  
24 an important component of sound land-use policy for productive  
25 urban purposes which will help prevent the premature  
26 development of farm land, open space areas, and natural areas  
27 and reduce public costs for installing new water, sewer, and  
28 highway infrastructure.

29           (3) The Legislature finds that providing economic and  
30 financial incentives to promote the redevelopment of  
31

1 brownfield areas is an important and appropriate public  
2 purpose.

3 Section 10. Brownfield Areas Loan Guarantee Program.--

4 (1) The Brownfield Areas Loan Guarantee Council is  
5 created to review and approve or deny by a majority vote of  
6 its membership, the situations and circumstances for  
7 participation in partnerships by agreements with local  
8 governments, financial institutions, and others associated  
9 with the redevelopment of brownfield areas pursuant to the  
10 Brownfield Redevelopment Act for a limited state guaranty of  
11 up to 5 years of loan guarantees or loan loss reserves issued  
12 pursuant to law. The limited state loan guaranty applies only  
13 to 10 percent of the primary lenders loans for redevelopment  
14 projects in brownfield areas. A limited state guaranty of  
15 private loans or a loan loss reserve is authorized for lenders  
16 licensed to operate in the state upon a determination by the  
17 council that such an arrangement would be in the public  
18 interest and the likelihood of the success of the loan is  
19 great.

20 (2) The Council shall consist of the Secretary of the  
21 Department of Environmental Protection or the secretary's  
22 designee, the Secretary of the Department of Community Affairs  
23 or the secretary's designee, the Executive Director of the  
24 State Board of Administration or the executive director's  
25 designee, the Executive Director of the Florida Housing  
26 Finance Agency or the executive director's designee, and the  
27 Director of the Governor's Office of Tourism, Trade, and  
28 Economic Development or the director's designee. The  
29 chairperson of the Council shall be the Director of the  
30 Governor's Office of Tourism, Trade, Economic Development.

31

1 Staff services for activities of the Council shall be provided  
2 as needed by the member agencies.

3 (3) The Council may enter into an investment agreement  
4 with the Department of Environmental Protection and the State  
5 Board of Administration concerning the investment of the  
6 earnings accrued and collected upon the investment of the  
7 balance of funds maintained in the Nonmandatory Land  
8 Reclamation Trust Fund. The investment must be limited as  
9 follows:

10 (a) Not more than \$5 million of the investment  
11 earnings earned on the investment of the minimum balance of  
12 the Nonmandatory Land Reclamation Trust Fund in a fiscal year  
13 may be at risk at any time on loan guarantees or as loan loss  
14 reserves.

15 (b) The investment earnings may not be used to  
16 guarantee any loan guaranty or loan loss reserve agreement for  
17 a period longer than 5 years.

18 (4) A lender seeking a limited state guaranty for a  
19 loan from the Brownfield Areas Loan Guaranty Council must  
20 first provide to the council a report demonstrating that the  
21 lender has reviewed the project for redevelopment of the  
22 brownfield area and determined its feasibility in accordance  
23 with its standard procedures. The procedures include, but are  
24 not limited to:

25 (a) Obtaining a satisfactory credit report from a  
26 source deemed reliable by the lender;

27 (b) Reviewing a report of environmental conditions at  
28 the project and determining that actions are underway to  
29 comply with specific recommendations;

30 (c) Investigating the background and experience of the  
31 entity to receive the loan and manage the project and

1 determining that the managing entity appears to possess the  
2 experience, competence, and capacity to manage the project;

3 (d) Determining that conditions exist to establish a  
4 financially sound redevelopment project that exposes the state  
5 loan guarantee program to a reasonable or acceptable level of  
6 risk; and

7 (e) Determining that the local government with  
8 jurisdiction over the area where the brownfield redevelopment  
9 project is located has committed local financial resources to  
10 the redevelopment project of at least 10 percent.

11 (5) A lender covered by a limited state guaranty for a  
12 loan is not entitled to file a claim for loss pursuant to the  
13 guaranty unless all reasonable and normal remedies available  
14 and customary for lending institutions for resolving problems  
15 of loan repayments are exhausted. If the lender has received  
16 collateral security in connection with the loan, the lender  
17 must first exhaust all available remedies against the  
18 collateral security.

19 (6) The council may, by rule, establish requirements  
20 for the issuance of loan guarantees, including contractual  
21 provisions to foster reimbursement, in the event of default,  
22 to the guarantee fund.

23 (7) The council may receive public and private funds,  
24 federal grants, and private donations in carrying out its  
25 responsibilities.

26 (8) The Council shall provide an annual report to the  
27 Legislature by February 1 of each year describing its  
28 activities and agreements approved relating to redevelopment  
29 of brownfield areas. This section shall be reviewed by the  
30 Legislature by October 1, 2003, and a determination made  
31 related to the need to continue or modify this section. New

1 loan guarantees may not be approved in 2003 until the review  
2 by the Legislature has been completed and a determination has  
3 been made as to the feasibility of continuing the use of the  
4 Nonmandatory Land Reclamation Trust Fund to guarantee portions  
5 of loans under this section.

6 Section 11. Subsections (1), (6), and (8) of section  
7 288.9602, Florida Statutes, are amended to read:

8 288.9602 Findings and declarations of necessity.--The  
9 Legislature finds and declares that:

10 (1) There is a need to enhance economic activity in  
11 the cities and counties of the state by attracting  
12 manufacturing, development, redevelopment of brownfield areas,  
13 business enterprise management, and other activities conducive  
14 to economic promotion in order to provide a stronger, more  
15 balanced, and stable economy in the cities and counties of the  
16 state.

17 (6) In order to improve the prosperity and welfare of  
18 the cities and counties of this state and its inhabitants, to  
19 improve and promote the financing of projects related to the  
20 economic development of the cities and counties of this state,  
21 including redevelopment of brownfield areas, and to increase  
22 the purchasing power and opportunities for gainful employment  
23 of citizens of the cities and counties of this state, it is  
24 necessary and in the public interest to facilitate the  
25 financing of such projects as provided for in this act and to  
26 do so without regard to the boundaries between counties,  
27 municipalities, special districts, and other local  
28 governmental bodies or agencies in order to more effectively  
29 and efficiently serve the interests of the greatest number of  
30 people in the widest area practicable.

31



1           (8) In order to efficiently and effectively achieve  
2 the purposes of this act, it is necessary and in the public  
3 interest to create a special development finance authority to  
4 cooperate and act in conjunction with public agencies of this  
5 state and local governments of this state, through interlocal  
6 agreements pursuant to the Florida Interlocal Cooperation Act  
7 of 1969, in the promotion and advancement of projects related  
8 to economic development, including redevelopment of brownfield  
9 areas, throughout the state.

10           Section 12. Paragraph (w) is added to subsection (2)  
11 of section 288.9605, Florida Statutes, to read:

12           288.9605 Exercise of powers by the corporation.--

13           (2) The corporation is authorized and empowered to:

14           (w) Determine the situations and circumstances for  
15 participation in partnerships by agreement with local  
16 governments, financial institutions, and others associated  
17 with the redevelopment of brownfield areas pursuant to the  
18 Brownfield Redevelopment Act for a limited state guaranty of  
19 revenue bonds, loan guarantees, or loan loss reserves.

20           Section 13. Interdisciplinary Center for Brownfield  
21 Rehabilitation Assistance.--The Board of Regents shall  
22 establish a Center for Brownfield Rehabilitation Assistance in  
23 the Environmental Sciences and Policy Program in the College  
24 of Arts and Sciences at the University of South Florida with  
25 the collaboration of other related disciplines such as  
26 business administration, environmental science, and medicine.  
27 The center shall work in conjunction with other colleges in  
28 the State University System. The Center for Brownfield  
29 Rehabilitation Assistance shall:

30           (1) Conduct research relating to problems and  
31 solutions associated with rehabilitation and restoration of

1 brownfield areas as defined in section 376.79, Florida  
2 Statutes. The research must include identifying innovative  
3 solutions to removing contamination from brownfield sites to  
4 reduce the threats to drinking water supplies and other  
5 potential public health threats from contaminated sites.

6 (2) Provide public service to local, regional, and  
7 state agencies, units of government, and authorities by  
8 helping them to create workable mechanisms, partnerships with  
9 public and private sectors and other techniques for  
10 rehabilitating brownfield areas.

11 (3) Conduct special research relating to risk-based  
12 corrective actions for rehabilitation of brownfield areas.

13 (4) Develop a base of informational and financial  
14 support from the private sector for the activities of the  
15 center.

16 Section 14. Paragraph (g) is added to subsection (1)  
17 of section 163.3187, Florida Statutes, to read:

18 163.3187 Amendment of adopted comprehensive plan.--

19 (1) Amendments to comprehensive plans adopted pursuant  
20 to this part may be made not more than two times during any  
21 calendar year, except:

22 (g) Any local government comprehensive plan amendments  
23 directly related to proposed redevelopment of brownfield areas  
24 designated under s. 376.80 may be approved without regard to  
25 statutory limits on the frequency of consideration of  
26 amendments to the local comprehensive plan.

27 Section 15. Brownfield Property Ownership Clearance  
28 Assistance.--

29 (1) The Legislature recognizes that some brownfield  
30 redevelopment projects are more difficult to redevelop due to  
31 the existence of various types of liens on the property and

1 complications from previous ownership having declared  
2 bankruptcy. Oftentimes lien holders on brownfield property are  
3 reluctant to foreclose on the property out of concern for  
4 liability questions and may be willing to settle for a reduced  
5 value on their lien to clear up any of their rights to the  
6 property and to clear the way for organized efforts by a  
7 private and public partnership to revitalize and redevelop  
8 brownfield areas.

9       (2) The Legislature recognizes that a revolving loan  
10 fund could assist in the early stages of redeveloping  
11 brownfields by helping to clear prior liens on the property  
12 through a negotiated process. Such a revolving loan fund could  
13 be repaid in later years from the resale of brownfield  
14 properties following site rehabilitation and other activities  
15 that will enhance the properties' ultimate value.

16       Section 16. Notwithstanding any provision of law to  
17 the contrary, the governing body of a municipality or county  
18 containing a United States Environmental Protection Agency  
19 brownfield pilot project that was designated as of May 1,  
20 1997, may apply to the Office of Tourism, Trade, and Economic  
21 Development for designation of one enterprise zone  
22 encompassing the brownfield pilot project, if the project is  
23 located in a county with a population less than 1 million. The  
24 application must be submitted by December 31, 1999, and must  
25 comply with the requirements of section 290.0055, Florida  
26 Statutes, except section 290.0055(3), Florida Statutes.  
27 Notwithstanding the provisions of section 290.0065, Florida  
28 Statutes, limiting the total number of enterprise zones  
29 designated and the number of enterprise zones within a  
30 population category, the Office of Tourism, Trade, and  
31 Economic Development shall designate one enterprise zone under

1 this section if the zone is consistent with the limitations  
2 imposed under this section. The Office of Tourism, Trade, and  
3 Economic Development shall establish the initial effective  
4 date of the enterprise zone designated pursuant to this  
5 section.

6 Section 17. This act shall take effect July 1, 1998.

7  
8 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN  
9 COMMITTEE SUBSTITUTE FOR  
10 SB 1202

11 The committee substitute amends the definitions of "brownfield  
12 sites" and "brownfield area" in s. 288.107, F.S., to conform  
with the definitions contained in s. 376.79, F.S.

13 Numerous technical amendments were made to clarify certain  
14 terms and to correct certain cross-references.

15 A local government would no longer be required to submit the  
16 name of the person responsible for brownfield site  
17 rehabilitation to the department at the time the local  
18 resolution designating the brownfield area is adopted. This  
19 can be done at a later time.  
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