

By Representative Crow

1 A bill to be entitled
2 An act relating to brownfields redevelopment;
3 creating s. 376.77, F.S.; providing a short
4 title; creating s. 376.78, F.S.; providing
5 legislative intent; creating s. 376.79, F.S.;
6 defining terms; creating s. 376.80, F.S.;
7 providing for a brownfield program
8 administration process; creating s. 376.81,
9 F.S.; providing for brownfield site
10 contamination cleanup criteria; creating s.
11 376.82, F.S.; providing for eligibility
12 criteria and liability protection; creating s.
13 376.83, F.S.; providing penalties; providing
14 for pilot projects; providing appropriations;
15 providing an effective date.

16
17 Be It Enacted by the Legislature of the State of Florida:

18
19 Section 1. Section 376.77, Florida Statutes, is
20 created to read:

21 376.77 Short title.--Sections 376.77-376.83, may be
22 cited as the "Brownfields Redevelopment Act."

23 Section 2. Section 376.78, Florida Statutes, is
24 created to read:

25 376.78 Legislative Intent.--The Legislature finds and
26 declares the following:

27 (1) The reduction of public health and environmental
28 hazards on existing commercial and industrial sites is vital
29 to their use and reuse as sources of employment, housing,
30 recreation, and open-space areas. The reuse of industrial land
31 is an important component of sound land-use policy for

1 productive urban purposes that will help prevent the premature
2 development of farmland, open-space areas, and natural areas,
3 and reduce public costs for installing new water, sewer, and
4 highway infrastructure;

5 (2) The abandonment or underuse of brownfield sites
6 also results in the inefficient use of public facilities and
7 services, as well as land and other natural resources, extends
8 conditions of blight in local communities, and contributes to
9 concerns about environmental equity and the distribution of
10 environmental risks across population groups;

11 (3) Incentives should be put in place to encourage
12 responsible persons to voluntarily develop and implement
13 cleanup plans without the use of taxpayer funds or the need
14 for enforcement actions by state and local governments;

15 (4) Environmental and public health hazards cannot be
16 eliminated without clear, predictable remediation standards
17 that provide for the protection of the environment and public
18 health;

19 (5) Cleanup plans should be based on the actual risk
20 that contamination on a site may pose to the environment and
21 public health, taking into account its current and future use
22 and the degree to which contamination can spread offsite and
23 expose the public or the environment to risk.

24 (6) Cooperation among federal, state, and local
25 agencies, local community development organizations, current
26 owners, and prospective purchasers of brownfield sites is
27 required to accomplish timely cleanup activities and the
28 redevelopment or reuse of brownfield sites.

29 Section 3. Section 376.79, Florida Statutes, is
30 created to read:

31

1 376.79 Definitions.--As used in ss. 376.77-376.83, the
2 term:

3 (1) "Brownfield sites" means sites that are generally
4 abandoned, idled, or under-used industrial and commercial
5 properties where expansion or redevelopment is complicated by
6 actual or perceived environmental contamination.

7 (2) "Brownfield area" means a contiguous area of one
8 or more brownfield sites, some of which may not be
9 contaminated, and which has been designated by a local
10 government by resolution. Such areas may include all or
11 portions of Community Redevelopment Areas, Enterprise Zones,
12 Empowerment Zones, other such designated economically-deprived
13 communities and areas, and Environmental Protection
14 Agency-designated Brownfield Pilot Projects.

15 (3) "Department" means the Department of Environmental
16 Protection.

17 (4) "Local pollution control program" means local
18 pollution control programs that have received delegated
19 authority from the Department of Environmental Protection
20 under s. 403.182.

21 Section 4. Section 376.80, Florida Statutes, is
22 created to read:

23 376.80 Brownfield program administration process.--

24 (1) A local government with jurisdiction over the
25 brownfield area must notify the department of its decision to
26 designate a brownfield area for rehabilitation for the
27 purposes of ss. 376.77-376.83. The notification must include a
28 resolution by the local government body to which is attached a
29 map adequate to clearly delineate exactly which parcels are to
30 be included in the brownfield area or alternatively a less
31 detailed map accompanied by a detailed legal description of

1 the brownfield area. If a property owner within the area
2 proposed for designation by the local government requests in
3 writing to have his or her property removed from the proposed
4 designation, the local government shall grant the request. For
5 municipalities, the governing body shall adopt the resolution
6 in accordance with the procedures outlined in s. 166.041,
7 except that the notice for the public hearings on the proposed
8 resolution must be in the form established in s.
9 166.041(3)(c)2. For counties, the governing body shall adopt
10 the resolution in accordance with the procedures outlined in
11 s. 125.66, except that the notice for the public hearings on
12 the proposed resolution shall be in the form established in s.
13 125.66(4)(b)2.

14 (2) If a local government proposes to designate a
15 brownfield area that is outside community redevelopment areas,
16 enterprise zones, empowerment zones, or designated brownfield
17 pilot project areas, the local government must conduct at
18 least one public hearing in the area to be designated to
19 provide an opportunity for public input on the size of the
20 area, the objectives for rehabilitation, job opportunities and
21 economic developments anticipated, neighborhood residents'
22 considerations, and other relevant local concerns. Notice of
23 the public hearing must be made in a newspaper of general
24 circulation in the area and the notice must be at least 6
25 inches square in size, must be in ethnic newspapers or local
26 community bulletins, must be posted in the affected area, and
27 must be announced at a scheduled meeting of the local
28 governing body before the actual public hearing. In
29 determining the areas to be designated, the local government
30 must consider:
31

1 (a) Whether the brownfield area warrants economic
2 development and has a reasonable potential for such
3 activities;

4 (b) Whether the proposed area to be designated
5 represents a reasonably focused approach and is not overly
6 large in geographic coverage; and

7 (c) Whether the area has potential to interest the
8 private sector in participating in rehabilitation.

9
10 The local government shall designate a brownfield area for
11 rehabilitation under the provisions of this act if requested
12 to do so by a person who has agreed to participate in the
13 rehabilitation who demonstrates that the brownfield program
14 will result in increased economic productivity at the site,
15 including the creation of at least ten new jobs, whether
16 permanent or part-time, which are not associated with the
17 implementation of the brownfield site corrective action plan.

18 (3) The local government must at the time of the
19 adoption of the resolution notify the department of the entity
20 that it is designating as the "person responsible for
21 brownfield site rehabilitation." If the agency or person who
22 will be responsible for the coordination changes during the
23 approval process specified in subsections (4), (5), and (6),
24 the department or the affected approved local pollution
25 control program must notify the affected local government when
26 the change occurs.

27 (4) The person responsible for brownfield site
28 rehabilitation must enter into a brownfield site
29 rehabilitation agreement with the department or an approved
30 local environmental program. The brownfield site
31 rehabilitation agreement must include:

1 (a) A brownfield site rehabilitation schedule,
2 including milestones for completion of site rehabilitation
3 tasks and submittal of technical reports and rehabilitation
4 plans as agreed upon by the parties to the agreement;

5 (b) A commitment to conduct site rehabilitation
6 activities under the supervision of professional engineers or
7 geologists who are registered in accordance with the
8 requirements of chapter 471 or chapter 492, and who are
9 familiar with the principles of risk-based corrective action.

10 (c) A commitment to conduct site rehabilitation in
11 accordance with an approved comprehensive quality assurance
12 plan under department rules. In addition to a comprehensive
13 quality assurance plan prepared in accordance with the rules
14 of the department, submittals provided by the eligible party
15 must be signed and sealed by a professional engineer
16 registered under chapter 471, or a professional geologist
17 registered under chapter 492, certifying that the proposed
18 activity is designed in accordance with applicable law and
19 rules of the department and in conformity with proper design
20 principles. In addition, upon completion of the permitted
21 activity the department shall require a professional engineer
22 registered under chapter 471, or a professional geologist
23 registered under 492, to certify that the corrective action
24 was, to the best of his knowledge, completed in substantial
25 conformance with the plans and specifications approved by the
26 department.

27 (d) A commitment to conduct site rehabilitation
28 consistent with state, federal, and local laws and consistent
29 with the brownfield site contamination cleanup criteria in s.
30 376.81, including any applicable requirements for risk-based
31 corrective action; and

1 (e) Timeframes for the department's review of
2 technical reports and plans submitted in accordance with the
3 agreement. The department shall make every effort to adhere
4 to established agency goals for reasonable timeframes for
5 review of such documents;

6 (f) Other provisions that the person responsible for
7 brownfield site rehabilitation and the department agree upon
8 that are consistent with ss. 376.77-376.83 and that will
9 improve or enhance the brownfield site rehabilitation process.

10 (5) Any contractor performing site rehabilitation
11 program tasks must demonstrate to the department that:

12 (a) The contractor meets all certification and license
13 requirements imposed by law.

14 (b) The contractor has obtained approval for the
15 comprehensive quality assurance plan prepared under department
16 rules.

17 (6) The contractor shall certify to the department
18 that the contractor:

19 (a) Complies with applicable OSHA regulations.

20 (b) Maintains workers' compensation insurance for all
21 employees as required by the Florida Workers' Compensation
22 Law.

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

31

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

4 (e) Has the capacity to perform or directly supervise
5 the majority of the work at a site in accordance with s.
6 489.113(9).

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

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

23 (9) If the person responsible for brownfield site
24 rehabilitation fails to comply with the brownfield site
25 rehabilitation agreement, the department shall allow 90 days
26 for the person responsible for brownfield site rehabilitation
27 to return to compliance with the provision at issue or to
28 negotiate a modification to the brownfield site rehabilitation
29 agreement with the department for good cause shown. If the
30 project is not returned to compliance with the brownfield site
31

1 rehabilitation agreement and a modification cannot be
2 negotiated, the immunity provisions of s. 376.82 are revoked.

3 (10) The department is specifically authorized and
4 encouraged to enter into delegation agreements with local
5 pollution control programs approved under s. 403.182 to
6 administer the brownfield program within their jurisdictions,
7 thereby maximizing the integration of this process with the
8 other local development processes needed to facilitate
9 redevelopment of a brownfield area.

10 (11) Local governments are encouraged to use the full
11 range of economic and tax incentives available to facilitate
12 and promote the rehabilitation of brownfield areas, to help
13 eliminate the public health and environmental hazards, and to
14 promote the creation of jobs and economic development in these
15 previously run-down, blighted, and underutilized areas.

16 Section 5. Section 376.81, Florida Statutes, is
17 created to read:

18 376.81 Brownfield Site and Brownfield Areas
19 Contamination Cleanup Criteria.--

20 (1) It is the intent of the Legislature to protect the
21 health of all people under actual circumstances of exposure.
22 By January 1, 1998, the secretary shall establish criteria by
23 rule for the purpose of determining, on a site-specific basis,
24 the rehabilitation program tasks that comprise a site
25 rehabilitation program and the level at which a rehabilitation
26 program task and a site rehabilitation program may be deemed
27 completed. In establishing the rule, the department shall
28 incorporate, to the maximum extent feasible, risk-based
29 corrective action principles to achieve protection of human
30 health and safety and the environment in a cost-effective
31 manner as provided in this subsection. The criteria for

1 determining what constitutes a rehabilitation program task or
2 completion of a site rehabilitation program task or site
3 rehabilitation program must:

4 (a) Consider the current exposure and potential risk
5 of exposure to humans and the environment, including multiple
6 pathways of exposure.

7 (b) Establish the point of compliance at the source of
8 the contamination. However, the department may temporarily
9 move the point of compliance to the boundary of the property,
10 or to the edge of the plume when the plume is within the
11 property boundary, while cleanup, including cleanup through
12 natural attenuation processes in conjunction with appropriate
13 monitoring, is proceeding. The department also may, under
14 criteria provided for in this section, temporarily extend the
15 point of compliance beyond the property boundary with
16 appropriate monitoring, if the extension is needed to
17 facilitate natural attenuation or to address the current
18 conditions of the plume and if human health, public safety,
19 and the environment are adequately protected. Temporary
20 extension of the point of compliance beyond the property
21 boundary, as provided in this paragraph, must include notice
22 to local governments and owners of any property into which the
23 point of compliance is allowed to extend.

24 (c) Ensure that the site-specific cleanup goal is that
25 all contaminated brownfield sites and brownfield areas
26 ultimately achieve the applicable cleanup target levels
27 provided in this section. However, the department may allow
28 concentrations of contaminants to temporarily exceed the
29 applicable cleanup target levels while cleanup, including
30 cleanup through natural attenuation processes in conjunction
31

1 with appropriate monitoring, is proceeding, if human health,
2 public safety, and the environment are adequately protected.

3 (d) Allow brownfield site and brownfield area
4 rehabilitation programs to include the use of institutional or
5 engineering controls to eliminate the potential exposure to
6 contaminants to humans or the environment. The use of controls
7 must be preapproved by the department. When institutional or
8 engineering controls are implemented to control exposure, the
9 removal of the controls must have prior department approval
10 and must be accompanied by the resumption of active cleanup,
11 or other approved controls, unless cleanup target levels under
12 this section have been achieved.

13 (e) Consider the synergistic, antagonistic, and
14 additive effects of contaminants when the scientific data
15 becomes available.

16 (f) Take into consideration individual site
17 characteristics that include, but are not limited to, the
18 current and projected use of the affected ground water and
19 surface water in the vicinity of the site, current and
20 projected land uses of the area affected by the contamination,
21 the exposed population, the degree and extent of
22 contamination, the rate of contaminant migration, the apparent
23 or potential rate of contaminant degradation through natural
24 attenuation processes, the location of the plume, and the
25 potential for further migration in relation to site property
26 boundaries.

27 (g) Apply water quality standards as follows:

28 1. Cleanup target levels for each contaminant found in
29 ground water must be the applicable state water quality
30 standards. Where the standards do not exist, the cleanup
31 target levels for ground water must be based on the minimum

1 criteria specified in department rule. The department shall
2 consider the following, as appropriate, in establishing the
3 applicable minimum criteria: calculations using a lifetime
4 cancer risk level of 1.0E-6; a hazard index of 1 or less; the
5 best achievable detection limit; the naturally occurring
6 background concentration; or nuisance, organoleptic, and
7 aesthetic considerations.

8 2. Where surface waters are exposed to contaminated
9 ground water, the cleanup target levels for the contaminants
10 must be based on the surface water standards as established by
11 department rule. The point of measuring compliance with the
12 surface water standards must be in the ground water
13 immediately adjacent to the surface water body.

14 3. The department may set alternative cleanup target
15 levels based upon an applicant's demonstration, using
16 site-specific modeling and risk assessment studies, that human
17 health, public safety, and the environment are adequately
18 protected.

19 (h) Provide for the department to issue a "no further
20 action order" based upon the degree to which the desired
21 cleanup target level is achievable and can be reasonably and
22 cost-effectively implemented within available technologies or
23 engineering and institutional control strategies. Where a
24 state water quality standard is applicable, a deviation may
25 not result in the application of cleanup target levels more
26 stringent than the standard. In determining whether it is
27 appropriate to establish alternate cleanup target levels at a
28 site, the department must consider the effectiveness of source
29 removal that has been completed at the site and the practical
30 likelihood of: the use of low yield or poor quality ground
31 water; the use of ground water near marine surfacewater

1 bodies; the current and projected use of the affected ground
2 water in the vicinity of the site; or the use of ground water
3 in the immediate vicinity of the contaminated area, where it
4 has been demonstrated that the groundwater contamination is
5 not migrating away from such localized source; adequate
6 protection of human health, public safety, and the
7 environment.

8 (i) Establish appropriate cleanup target levels for
9 soils.

10 1. In establishing soil cleanup target levels for
11 human exposure to each contaminant found in soils from the
12 land surface to 2 feet below land surface, the department
13 shall consider the following, as appropriate: calculations
14 using a lifetime cancer risk level of 1.0E-6; a hazard index
15 of 1 or less; the best achievable detection limit; or the
16 naturally occurring background concentration.

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

28 3. The department may set alternative cleanup target
29 levels based upon an applicant's demonstration, using
30 site-specific modeling and risk assessment studies, that human
31

1 health, public safety, and the environment are adequately
2 protected.

3 (2) The department shall require source removal, if
4 warranted and cost-effective. Once source removal at a site is
5 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 use natural
12 attenuation and monitoring where site conditions warrant.

13 Section 6. Section 376.82, Florida Statutes, is
14 created to read:

15 376.82 Eligibility criteria and liability protection.

16 (1) Eligibility.--Any person or governmental entity
17 who has not caused or contributed to the contamination of a
18 brownfield site after July 1, 1997, is eligible to participate
19 in the brownfield rehabilitation program established in ss.
20 376.77-376.83, subject to the following:

21 (a) Potential brownfield sites currently subject to
22 ongoing corrective action or enforcement under federal
23 authority under the Solid Waste Disposal Act, 42 U.S.C. s.
24 6901, et seq., as amended; the Comprehensive Environmental
25 Response Compensation and Liability Act ("CERCLA"), 42 U.S.C.
26 9601, et seq., as amended; The Safe Drinking Water Act, 42
27 U.S.C. ss. 300f-300i, as amended; or the Clean Water Act, 33
28 U.S.C. ss. 1251-1387, as amended, are not eligible for
29 participation in a brownfield corrective action.

30 (b) Potential brownfield sites currently subject to
31 ongoing corrective action or enforcement under state authority

1 established in chapters 376 or 403, including those sites
2 currently subject to a pending consent order with the state,
3 are eligible for participation in a brownfield corrective
4 action if:

5 1. The proposed brownfield site is currently idle or
6 under-utilized as a result of the contamination, and
7 participation in the brownfield program will immediately,
8 after cleanup or sooner, result in increased economic
9 productivity at the site, including at a minimum the creation
10 of 10 new jobs, whether permanent or part-time, which are not
11 associated with implementation of the brownfield site
12 corrective action plan; and

13 2. The party is complying in good faith with the terms
14 of the existing consent order or corrective action plan, or
15 responding in good faith to an enforcement action, as
16 evidenced by a determination issued by the department or an
17 approved local pollution control program.

18 (2) Liability Protection.--Any person, including his
19 or her successors and assigns, who submits a brownfield site
20 corrective action rehabilitation schedule to the department or
21 an approved local pollution control program which schedule is
22 approved and implemented to successful completion is relieved
23 of further liability for remediation of the site to the state
24 and to third parties and for liability in contribution to any
25 other party who has or may incur cleanup liability for the
26 brownfield site.

27 (a) This section is not to be construed as a
28 limitation on the right of a third party other than the state
29 to pursue an action for damages to property or person;
30 however, such an action cannot compel site rehabilitation in
31 excess of that required in the approved corrective action

1 rehabilitation schedule or otherwise required by the
2 department or approved local pollution control program.

3 (b) This section does not affect the ability or
4 authority to seek contribution from any person who may have
5 liability with respect to the site and who did not receive
6 cleanup liability protection under this chapter.

7 (c) The liability protection provided under this
8 section is effective upon the approval of a brownfield site
9 corrective action rehabilitation schedule and remains
10 effective if the person implements and completes the approved
11 schedule.

12 (d) Completion of the performance of the remedial
13 obligations at the brownfield site must be evidenced by a site
14 rehabilitation completion letter or a "no further action"
15 letter issued by the department or the approved local
16 pollution control program, which letter must include the
17 following paragraph: "Based upon the information provided by
18 ... (property owner) ... concerning property located at ...
19 (address) ..., it is the opinion of ... (the Florida
20 Department of Environmental Protection or approved local
21 pollution control program) ... that ... (party) ... has
22 successfully and satisfactorily implemented the approved
23 brownfield site corrective action rehabilitation schedule and
24 accordingly no further action is required to assure that any
25 land-use identified in the corrective action schedule is
26 consistent with existing and proposed uses and does not pose
27 an unacceptable risk to human health or the environment."

28 (e) The Legislature recognizes its limitations in
29 addressing cleanup liability under federal pollution control
30 programs. In an effort to secure federal liability protection
31 for persons willing to undertake remediation responsibility at

1 a brownfield site, the department shall attempt to negotiate a
2 memorandum of agreement or similar document with the United
3 States Environmental Protection Agency, whereby the United
4 States Environmental Protection Agency agrees to forego
5 enforcement of federal corrective action authority at
6 brownfield sites that have received a site rehabilitation
7 completion or "no further action" determination from the
8 department or which are in the process of implementing a
9 corrective action rehabilitation schedule in accordance with
10 ss. 376.77-376.83.

11 (f) No unit of state or local government may be held
12 liable for implementing corrective actions at a brownfield
13 site as a result of the involuntary ownership of the site
14 through bankruptcy, tax delinquency, abandonment, or other
15 circumstances in which the local government involuntarily
16 acquires title by virtue of its function as a sovereign, or as
17 a result of ownership from donation or gift, unless the local
18 government has otherwise caused or contributed to a release of
19 a contaminant at the brownfield site.

20 (3) Reopeners.--Any person who completes remediation
21 in compliance with ss. 376.77-376.83 is not required to
22 undertake additional remedial actions unless it is
23 demonstrated:

24 (a) That fraud was committed in demonstrating site
25 conditions or completion of the corrective action
26 rehabilitation schedule;

27 (b) That new information confirms the existence of an
28 area of previously unknown contamination which exceeds the
29 site-specific rehabilitation levels established in accordance
30 with s. 376.81, or which otherwise poses the threat of harm to
31 public health, safety, or the environment in violation of the

1 terms of ss. 376.77-376.83. This reopener may not be construed
2 to impose future remedial obligations when newly discovered
3 risks or contaminants at a site are the result of advancements
4 in science and technology such as improved detection limits,
5 comprehension of synergistic effects of contamination, or the
6 listing of a new contaminant;

7 (c) That the remediation efforts failed to achieve the
8 cleanup standards or protection levels established under s.
9 376.81;

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

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

23 (4) Additional liability protection for financial
24 institutions.

25 (a) The Legislature declares that in order to achieve
26 the economic redevelopment and site rehabilitation of
27 brownfield sites in accordance with ss. 376.77-376.83, it is
28 imperative to encourage financing of real property
29 transactions involving brownfield site corrective action
30 plans. Accordingly lenders, trustees, personal
31 representatives, or any other fiduciaries are entitled to the

1 liability protection established in subsection (2) if they
2 have not caused or contributed to a release of a contaminant
3 at the brownfield site.

4 (b) Lenders who hold indicia of ownership at a
5 brownfield site primarily to protect a security interest or
6 who own a brownfield site as a result of foreclosure of a
7 security interest and who seek to sell, transfer, or otherwise
8 divest the site via sale at the earliest possible time are not
9 liable for the release or discharge of a contaminant from a
10 brownfield site; for the failure of a brownfield site owner to
11 complete the corrective action rehabilitation program; or for
12 future site rehabilitation activities required under a
13 reopener provision established in subsection (3) when the
14 lender has not divested the borrower of, or otherwise engaged
15 in, decisionmaking control of the site rehabilitation or site
16 operations or undertaken management activities beyond those
17 required to protect its financial interest and when an act or
18 omission of the lender has not otherwise caused or contributed
19 to a release of a contaminant at the brownfield site.

20 Section 7. Section 376.83, Florida Statutes, is
21 created to read:

22 376.83 Violation, penalties.--

23 (1) It is a violation of ss. 376.77-376.82, and it is
24 prohibited for any person:

25 (a) To knowingly make any false statement,
26 representation, or certification in any application, record,
27 report, plan, or other document filed or required to be
28 maintained, or to falsify, tamper with, or knowingly render
29 inaccurate any monitoring device or method required to be
30 maintained under ss. 376.77-376.82, or by any permit, rule, or
31 order issued under this chapter or chapter 403.

1 (2) Any person who willfully commits a violation
2 specified in paragraph (1)(a) is guilty of a misdemeanor of
3 the first degree punishable as provided in s. 775.082 and by a
4 fine of not more than \$10,000 or by 6 months in jail, or by
5 both, for each offense. Each day during any portion of which
6 such violation occurs constitutes a separate offense.

7 Section 8. (1) The Legislature recognizes that the
8 United States Environmental Protection Agency has created
9 several pilot projects for redevelopment of brownfield areas
10 to gather information on the best ways to return old
11 industrial and commercial sites to productive use in
12 situations where redevelopment is complicated by potential
13 environmental contamination. These pilot project areas will
14 perform initial work to seek developers to restore the sites,
15 and will also incorporate the efforts of lenders, regulators,
16 and other groups. The Environmental Protection Agency
17 initiative is flexible, allowing local governments to use a
18 variety of approaches to rehabilitate abandoned or under-used
19 sites, neighborhoods, and small regional areas.

20 (2)(a) The Legislature has determined that it would be
21 beneficial to provide similar incentives in this state for the
22 rehabilitation and redevelopment of brownfield areas. A series
23 of pilot projects in this state could help demonstrate a
24 variety of techniques and approaches to mobilize public and
25 private resources for the purposes of accelerating the
26 rehabilitation and redevelopment of brownfield areas. The
27 pilot projects could also help form partnerships with the
28 federal pilot projects in areas where opportunities are
29 available. Accordingly, the department shall establish five
30 pilot projects for rehabilitation of brownfield areas
31 including the two areas that are already pilot projects

1 designated by the United State Environmental Protection
2 Agency. The remaining three pilot projects shall be selected
3 based on the following criteria: one of the projects should
4 include multiple brownfield sites, including one or more sites
5 owned by the state or a local government, which contain
6 contamination for which a governmental entity is potentially
7 responsible and which have filed an application for
8 designation to the United States Environmental Protection
9 Agency; one project should be located in a rural area; and one
10 project should be a brownfield site owned by a private party.

11 (b) The department shall work with local officials in
12 the pilot project area to identify specific sites that should
13 be included in the brownfield area pilot project. The project
14 should demonstrate a commitment of public and private entities
15 and involve the local community. These pilot projects should
16 be undertaken with the objective of a fast-track approach to
17 demonstrate all phases of rehabilitation and what can be
18 accomplished using federal, state, local, and private
19 resources. The department is directed to employ risk-based
20 corrective action considerations specified in section 376.81,
21 Florida Statutes, in overseeing and evaluating the
22 site-rehabilitation plans for pilot project areas.

23 Section 9. The sum of \$5 million is appropriated from
24 the General Revenue Fund for fiscal year 1997-1998 to the
25 Department of Environmental Protection to carry out the
26 purposes of section 8 of this act relating to specified pilot
27 project areas. Of the \$5 million, \$1 million must be allocated
28 to each specified pilot project area. Of the amounts available
29 to each pilot project area, one-half must be available to
30 employers who participate in the WAGES Program and have
31 business locations in designated brownfield areas. These

1 amounts must be used for incentive payments to encourage
2 employers to employ program participants and may offset wage
3 costs for employees who are employed for longer than 6 months
4 and with wages greater than \$15,000 annually. Additionally,
5 the sum of \$275,000 is appropriated from the Water Quality
6 Assurance Trust Fund and seven positions are authorized for
7 fiscal year 1997-1998 for the Department of Environmental
8 Protection to carry out its responsibilities under this act.

9 Section 10. This act shall take effect July 1, 1997.

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12 SENATE SUMMARY

13 Provides for brownfield contamination site rehabilitation
14 through a process involving federal, state, and local
15 programs. Appropriates funds to the Department of
16 Environmental Protection to create several pilot projects
and to participate in some already designated pilot
17 projects of the United States Environmental Protection
18 Agency.
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