

By Representative Constantine

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

1 defining the terms "brownfield area" and
2 "brownfield sites"; providing legislative
3 intent regarding the inefficient use of public
4 facilities and services in brownfield areas;
5 creating the Brownfield Areas Loan Guarantee
6 Program; creating the Brownfield Areas Loan
7 Guarantee Council; providing duties and
8 membership; providing that not more than \$5
9 million of the investment earnings on the
10 investment of the minimum balance of the
11 Nonmandatory Land Reclamation Trust Fund in a
12 fiscal year shall be at risk at any time on one
13 or more loan guarantees, or as loan loss
14 reserves; requiring lenders seeking loan
15 guarantees from the council to follow certain
16 specified procedures; limiting the
17 circumstances under which a lender may file a
18 claim for a loss pursuant to the guarantee;
19 providing the council with certain rulemaking
20 authority; authorizing the council to receive
21 certain funds; requiring the council to file an
22 annual report to the Legislature; providing for
23 future legislative review; amending s.
24 288.9602, F.S.; providing for the redevelopment
25 of brownfield areas to be included in the
26 declaration of findings regarding economic
27 development; amending s. 288.9605, F.S.;
28 expanding the powers and duties of the Florida
29 Development Finance Corporation to authorize
30 the corporation to make determinations
31 regarding participation in certain partnerships

1 and agreements concerning the redevelopment of
2 brownfield areas and the guarantee of revenue
3 bonds, loan guarantees, or loan loss reserves;
4 requiring the Board of Regents to establish a
5 Center for Brownfield Rehabilitation Assistance
6 in the Environmental Sciences and Policy
7 Program in the College of Arts and Sciences at
8 the University of South Florida; specifying the
9 purpose and duties of the center; amending s.
10 163.3187, F.S.; providing that local government
11 comprehensive plan amendments directly related
12 to proposed redevelopment of designated
13 brownfield areas may be approved without regard
14 to certain statutory limits on the frequency of
15 amendments to the local comprehensive plan;
16 providing legislative findings and intent
17 regarding lienholders on brownfield property;
18 providing an appropriation for the Brownfield
19 Property Ownership Clearance Assistance
20 Revolving Loan Trust Fund; providing that
21 certain counties and municipalities may apply
22 for designation of an enterprise zone
23 encompassing a brownfield pilot project under
24 certain circumstances; amending s. 376.313,
25 F.S.; correcting references to the Florida
26 Administrative Code; repealing s. 21, ch.
27 86-159, Laws of Florida, relating to the
28 scheduled repeal of s. 376.313(4), F.S.;

29 providing an effective date.
30
31 Be It Enacted by the Legislature of the State of Florida:

1 Section 1. Section 376.77, Florida Statutes, is
2 amended to read:

3 376.77 Short title.--Sections 376.77-376.85 ~~376.83~~ may
4 be cited as the "Brownfields Redevelopment Act."

5 Section 2. Subsections (10), (11), and (12) of section
6 376.79, Florida Statutes, are amended, subsections (14), (15),
7 and (16) are redesignated as subsections (15), (16), and (17)
8 respectively, and a new subsection (14) is added to said
9 section, to read:

10 376.79 Definitions.--As used in ss. 376.77-376.85, the
11 term:

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

16 (11) "Natural attenuation" means the verifiable
17 reduction of contaminants through natural processes, which may
18 include diffusion, dispersion, adsorption ~~absorption~~, and
19 biodegradation.

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

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

30 Section 3. Section 376.80, Florida Statutes, is
31 amended to read:

1 376.80 Brownfield program administration process.--
2 (1) A local government with jurisdiction over the
3 brownfield area must notify the department of its decision to
4 designate a brownfield area for rehabilitation for the
5 purposes of ss. 376.77-376.85 ~~376.84~~. The notification must
6 include a resolution, by the local government body, to which
7 is attached a map adequate to clearly delineate exactly which
8 parcels are to be included in the brownfield area or
9 alternatively a less-detailed map accompanied by a detailed
10 legal description of the brownfield area. If a property owner
11 within the area proposed for designation by the local
12 government requests in writing to have his or her property
13 removed from the proposed designation, the local government
14 shall grant the request. For municipalities, the governing
15 body shall adopt the resolution in accordance with the
16 procedures outlined in s. 166.041, except that the notice for
17 the public hearings on the proposed resolution must be in the
18 form established in s. 166.041(3)(c)2. For counties, the
19 governing body shall adopt the resolution in accordance with
20 the procedures outlined in s. 125.66, except that the notice
21 for the public hearings on the proposed resolution shall be in
22 the form established in s. 125.66(4)(b)2.

23 (2)(a) If a local government proposes to designate a
24 brownfield area that is outside community redevelopment areas,
25 enterprise zones, empowerment zones, closed military bases, or
26 designated brownfield pilot project areas, the local
27 government must conduct at least one public hearing in the
28 area to be designated to provide an opportunity for public
29 input on the size of the area, the objectives for
30 rehabilitation, job opportunities and economic developments
31 anticipated, neighborhood residents' considerations, and other

1 relevant local concerns. Notice of the public hearing must be
2 made in a newspaper of general circulation in the area and the
3 notice must be at least 16 square inches in size, must be in
4 ethnic newspapers or local community bulletins, must be posted
5 in the affected area, and must be announced at a scheduled
6 meeting of the local governing body before the actual public
7 hearing. In determining the areas to be designated, the local
8 government must consider:

9 1. Whether the brownfield area warrants economic
10 development and has a reasonable potential for such
11 activities;

12 2. Whether the proposed area to be designated
13 represents a reasonably focused approach and is not overly
14 large in geographic coverage;

15 3. Whether the area has potential to interest the
16 private sector in participating in rehabilitation; and

17 4. Whether the area contains sites or parts of sites
18 suitable for limited recreational open space, cultural, or
19 historical preservation purposes.

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

22 1. A person who owns or controls a potential
23 brownfield site is requesting the designation and has agreed
24 to rehabilitate and redevelop the brownfield site;

25 2. The rehabilitation and redevelopment of the
26 proposed brownfield site will result in economic productivity
27 of the area, along with the creation of at least 10 new
28 permanent jobs, whether full-time or part-time, which are not
29 associated with the implementation of the rehabilitation
30 agreement or an agreement, between the person responsible for
31 site rehabilitation and the local government with

1 jurisdiction, which contains terms for the redevelopment of
2 the brownfield site or brownfield area;

3 3. The redevelopment of the proposed brownfield site
4 is consistent with the local comprehensive plan and is a
5 permittable use under the applicable local land development
6 regulations;

7 4. Notice of the proposed rehabilitation of the
8 brownfield area has been provided to neighbors and nearby
9 residents of the proposed area to be designated, and the
10 person proposing the area for designation has afforded to
11 those receiving notice the opportunity for comments and
12 suggestions about rehabilitation. Notice pursuant to this
13 subsection must be made in a newspaper of general circulation
14 in the area, at least 16 square inches in size, and the notice
15 must be posted in the affected area; and

16 5. The person proposing the area for designation has
17 provided reasonable assurance that he or she has sufficient
18 financial resources to implement and complete the
19 rehabilitation agreement and redevelopment plan.

20 (c) The designation of a brownfield area and the
21 identification of a person responsible for brownfield site
22 rehabilitation simply entitles the identified person to
23 negotiate a brownfield site rehabilitation agreement with the
24 department or approved local pollution control program
25 government.

26 (3) When there is a person responsible for brownfield
27 site rehabilitation, then the local government must ~~at the~~
28 ~~time of the adoption of the resolution~~ notify the department
29 of ~~that the entity that it is designating as the~~ person
30 ~~responsible for brownfield site rehabilitation~~. If the agency
31 or person who will be responsible for the coordination changes

1 during the approval process specified in subsections (4), (5),
2 and (6), the department or the affected approved local
3 pollution control program must notify the affected local
4 government when the change occurs.

5 (4) Local governments or persons responsible for
6 rehabilitation and redevelopment of brownfield areas must
7 establish an advisory committee for the purpose of improving
8 public participation and receiving public comments on
9 rehabilitation and redevelopment of the brownfield area,
10 future land use, local employment opportunities, community
11 safety, and environmental justice. Such advisory committee
12 should include residents within or adjacent to the brownfield
13 area, businesses operating within the brownfield area, and
14 others deemed appropriate. The advisory committee must review
15 and provide recommendations to the board of the local
16 government with jurisdiction on the proposed site
17 rehabilitation agreement provided in subsection (5).

18 (5) The person responsible for brownfield site
19 rehabilitation must enter into a brownfield site
20 rehabilitation agreement with the department or an approved
21 local pollution control ~~environmental~~ program. The brownfield
22 site rehabilitation agreement must include:

23 (a) A brownfield site rehabilitation schedule,
24 including milestones for completion of site rehabilitation
25 tasks and submittal of technical reports and rehabilitation
26 plans as agreed upon by the parties to the agreement.†

27 (b) A commitment to conduct site rehabilitation
28 activities under the observation of professional engineers or
29 geologists who are registered in accordance with the
30 requirements of chapter 471 or chapter 492, respectively.
31 Submittals provided by the person responsible for brownfield

1 site rehabilitation must be signed and sealed by a
2 professional engineer registered under chapter 471, or a
3 professional geologist registered under chapter 492,
4 certifying that the submittal and associated work comply with
5 the law and rules of the department and those governing the
6 profession. In addition, upon completion of the approved
7 remedial action, the department shall require a professional
8 engineer registered under chapter 471 or a professional
9 geologist registered under chapter 492 to certify that the
10 corrective action was, to the best of his or her knowledge,
11 completed in substantial conformance with the plans and
12 specifications approved by the department.†

13 (c) A commitment to conduct site rehabilitation in
14 accordance with an approved comprehensive quality assurance
15 plan under department rules.†

16 (d) A commitment to conduct site rehabilitation
17 consistent with state, federal, and local laws and consistent
18 with the brownfield site contamination cleanup criteria in s.
19 376.81, including any applicable requirements for risk-based
20 corrective action.†

21 (e) Timeframes for the department's review of
22 technical reports and plans submitted in accordance with the
23 agreement. The department shall make every effort to adhere
24 to established agency goals for reasonable timeframes for
25 review of such documents.†

26 (f) A commitment to secure site access for the
27 department or approved local pollution control ~~environmental~~
28 program to all brownfield sites within the eligible brownfield
29 area for activities associated with site rehabilitation.†

30 (g) Other provisions that the person responsible for
31 brownfield site rehabilitation and the department agree upon,

1 that are consistent with ss. 376.77-376.84, and that will
2 improve or enhance the brownfield site rehabilitation
3 process.~~†~~
4 (h) A commitment to consider appropriate pollution
5 prevention measures and to implement those that the person
6 responsible for brownfield site rehabilitation determines are
7 reasonable and cost-effective, taking into account the
8 ultimate use or uses of the brownfield site. Such measures
9 may include improved inventory or production controls and
10 procedures for preventing loss, spills, and leaks of hazardous
11 waste and materials, and include goals for the reduction of
12 releases of toxic materials.~~†~~
13 (i) Certification that an agreement exists between the
14 person responsible for brownfield site rehabilitation and the
15 local government with jurisdiction over the brownfield area.
16 Such agreement shall contain terms for the redevelopment of
17 the brownfield area.
18 (6) Any contractor performing site rehabilitation
19 program tasks must demonstrate to the department that the
20 contractor:
21 (a) Meets all certification and license requirements
22 imposed by law; and
23 (b) Has obtained approval for the comprehensive
24 quality-assurance plan prepared under department rules.
25 (7) The contractor must certify to the department that
26 the contractor:
27 (a) Complies with applicable OSHA regulations.
28 (b) Maintains workers' compensation insurance for all
29 employees as required by the Florida Workers' Compensation
30 Law.
31

1 (c) Maintains comprehensive general liability and
2 comprehensive automobile liability insurance with minimum
3 limits of at least \$1 million per occurrence and \$1 million
4 annual aggregate, sufficient to protect it from claims for
5 damage for personal injury, including accidental death, as
6 well as claims for property damage which may arise from
7 performance of work under the program, designating the state
8 as an additional insured party.

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

12 (e) Has the capacity to perform or directly supervise
13 the majority of the work at a site in accordance with s.
14 489.113(9).

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

19 (9) During the cleanup process, if the department or
20 local program fails to complete review of a technical document
21 within the timeframe specified in the brownfield site
22 rehabilitation agreement, the person responsible for
23 brownfield site rehabilitation may proceed to the next site
24 rehabilitation task. However, the person responsible for
25 brownfield site rehabilitation does so at its own risk and may
26 be required by the department or local program to complete
27 additional work on a previous task. Exceptions to this
28 subsection include requests for "no further action,"
29 "monitoring only proposals," and feasibility studies, which
30 must be approved prior to implementation.

31

1 (10) If the person responsible for brownfield site
2 rehabilitation fails to comply with the brownfield site
3 rehabilitation agreement, the department shall allow 90 days
4 for the person responsible for brownfield site rehabilitation
5 to return to compliance with the provision at issue or to
6 negotiate a modification to the brownfield site rehabilitation
7 agreement with the department for good cause shown. If an
8 imminent hazard exists, the 90-day grace period shall not
9 apply. If the project is not returned to compliance with the
10 brownfield site rehabilitation agreement and a modification
11 cannot be negotiated, the immunity provisions of s. 376.82 are
12 revoked.

13 (11) The department is specifically authorized and
14 encouraged to enter into delegation agreements with local
15 pollution control programs approved under s. 403.182 to
16 administer the brownfield program within their jurisdictions,
17 thereby maximizing the integration of this process with the
18 other local development processes needed to facilitate
19 redevelopment of a brownfield area. When determining whether
20 a delegation pursuant to this subsection of all or part of the
21 brownfields program to a local pollution control program is
22 appropriate, the department shall consider the following. The
23 local pollution control program must:

24 (a) Have and maintain the administrative organization,
25 staff, and financial and other resources to effectively and
26 efficiently implement and enforce the statutory requirements
27 of the delegated brownfields program; and

28 (b) Provide for the enforcement of the requirements of
29 the delegated brownfields program, and for notice and a right
30 to challenge governmental action, by appropriate

31

1 administrative and judicial process, which shall be specified
2 in the delegation.

3
4 The local pollution control program shall not be delegated
5 authority to take action on or to make decisions regarding any
6 brownfield site on land owned by the local government. Any
7 delegation agreement entered into pursuant to this subsection
8 shall contain such terms and conditions necessary to ensure
9 the effective and efficient administration and enforcement of
10 the statutory requirements of the brownfields program as
11 established by this ~~the~~ act and the relevant rules and other
12 criteria of the department.

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

19 Section 4. Section 376.81, Florida Statutes, is
20 amended to read:

21 376.81 Brownfield site and brownfield areas
22 contamination cleanup criteria.--

23 (1) It is the intent of the Legislature to protect the
24 health of all people under actual circumstances of exposure.
25 By July 1, 1998, the secretary ~~of the department~~ shall
26 establish criteria by rule for the purpose of determining, on
27 a site-specific basis, the rehabilitation program tasks that
28 comprise a site rehabilitation program and the level at which
29 a rehabilitation program task and a site rehabilitation
30 program may be deemed completed. In establishing the rule,
31 the department shall incorporate, to the maximum extent

1 feasible, risk-based corrective action principles to achieve
2 protection of human health and safety and the environment in a
3 cost-effective manner as provided in this subsection. The
4 rule shall also include protocols for the use of natural
5 attenuation and the issuance of "no further action" letters.
6 The criteria for determining what constitutes a rehabilitation
7 program task or completion of a site rehabilitation program
8 task or site rehabilitation program must:

9 (a) Consider the current exposure and potential risk
10 of exposure to humans and the environment, including multiple
11 pathways of exposure. The physical, chemical, and biological
12 characteristics of each contaminant must be considered in
13 order to determine the feasibility of risk-based corrective
14 action assessment.

15 (b) Establish the point of compliance at the source of
16 the contamination. However, the department is authorized to
17 temporarily move the point of compliance to the boundary of
18 the property, or to the edge of the plume when the plume is
19 within the property boundary, while cleanup, including cleanup
20 through natural attenuation processes in conjunction with
21 appropriate monitoring, is proceeding. The department also is
22 authorized, pursuant to criteria provided for in this section,
23 to temporarily extend the point of compliance beyond the
24 property boundary with appropriate monitoring, if such
25 extension is needed to facilitate natural attenuation or to
26 address the current conditions of the plume, provided human
27 health, public safety, and the environment are protected.
28 When temporarily extending the point of compliance beyond the
29 property boundary, it cannot be extended further than the
30 lateral extent of the plume at the time of execution of the
31 brownfield site rehabilitation agreement, if known, or the

1 lateral extent of the plume as defined at the time of site
2 assessment. Temporary extension of the point of compliance
3 beyond the property boundary, as provided in this paragraph,
4 must include actual notice by the person responsible for
5 brownfield site rehabilitation to local governments and the
6 owners of any property into which the point of compliance is
7 allowed to extend and constructive notice to residents and
8 business tenants of the property into which the point of
9 compliance is allowed to extend. Persons receiving notice
10 pursuant to this paragraph shall have the opportunity to
11 comment within 30 days of receipt of the notice.

12 (c) Ensure that the site-specific cleanup goal is that
13 all contaminated brownfield sites and brownfield areas
14 ultimately achieve the applicable cleanup target levels
15 provided in this section. In the circumstances provided below,
16 and after constructive notice and opportunity to comment
17 within 30 days from receipt of the notice to local government,
18 to owners of any property into which the point of compliance
19 is allowed to extend, and to residents on any property into
20 which the point of compliance is allowed to extend, the
21 department may allow concentrations of contaminants to
22 temporarily exceed the applicable cleanup target levels while
23 cleanup, including cleanup through natural attenuation
24 processes in conjunction with appropriate monitoring, is
25 proceeding, if human health, public safety, and the
26 environment are protected.

27 (d) Allow brownfield site and brownfield area
28 rehabilitation programs to include the use of institutional or
29 engineering controls, where appropriate, to eliminate or
30 control the potential exposure to contaminants of humans or
31 the environment. The use of controls must be preapproved by

1 the department and only after constructive notice and
2 opportunity to comment within 30 days from receipt of notice
3 is provided to local governments, to owners of any property
4 into which the point of compliance is allowed to extend, and
5 to residents on any property into which the point of
6 compliance is allowed to extend. When institutional or
7 engineering controls are implemented to control exposure, the
8 removal of the controls must have prior department approval
9 and must be accompanied by the resumption of active cleanup,
10 or other approved controls, unless cleanup target levels under
11 this section have been achieved.

12 (e) Consider the additive effects of contaminants.
13 The synergistic and antagonistic effects shall also be
14 considered when the scientific data become available.

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

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

27 1. Cleanup target levels for each contaminant found in
28 groundwater shall be the applicable state water quality
29 standards. Where such standards do not exist, the cleanup
30 target levels for groundwater shall be based on the minimum
31 criteria specified in department rule. The department shall

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

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

13 3. The department may set alternative cleanup target
14 levels based upon an applicant's demonstration, using
15 site-specific modeling and risk assessment studies, that human
16 health, public safety, and the environment are protected to
17 the same degree as provided in subparagraphs 1. and 2. Where
18 a state water quality standard is applicable, a deviation may
19 not result in the application of cleanup target levels more
20 stringent than the standard. In determining whether it is
21 appropriate to establish alternative cleanup target levels at
22 a site, the department must consider the effectiveness of
23 source removal that has been completed at the site and the
24 practical likelihood of the use of low yield or poor quality
25 groundwater, the use of groundwater near marine surface water
26 bodies, the current and projected use of the affected
27 groundwater in the vicinity of the site, or the use of
28 groundwater in the immediate vicinity of the contaminated
29 area, where it has been demonstrated that the groundwater
30 contamination is not migrating away from such localized
31

1 source, provided human health, public safety, and the
2 environment are protected.

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

6 (h)(i) Provide for the department to issue a "no
7 further action order," with conditions, where appropriate,
8 when alternative cleanup target levels established pursuant to
9 subparagraph (g)3. have been achieved, or when the person
10 responsible for brownfield site rehabilitation can demonstrate
11 that the cleanup target level is unachievable within available
12 technologies. Prior to issuing such an order, the department
13 shall consider the feasibility of an alternative site
14 rehabilitation technology in the brownfield area.

15 (i)(j) Establish appropriate cleanup target levels for
16 soils.

17 1. In establishing soil cleanup target levels for
18 human exposure to each contaminant found in soils from the
19 land surface to 2 feet below land surface, the department
20 shall consider the following, as appropriate: calculations
21 using a lifetime cancer risk level of 1.0E-6; a hazard index
22 of 1 or less; the best achievable detection limit; or the
23 naturally occurring background concentration. Institutional
24 controls or other methods shall be used to prevent human
25 exposure to contaminated soils more than 2 feet below the land
26 surface. Any removal of such institutional controls shall
27 require such contaminated soils to be remediated.

28 2. Leachability-based soil target levels shall be
29 based on protection of the groundwater cleanup target levels
30 or the alternate cleanup target levels for groundwater
31 established pursuant to this paragraph, as appropriate. Source

1 removal and other cost-effective alternatives that are
2 technologically feasible shall be considered in achieving the
3 leachability soil target levels established by the department.
4 The leachability goals shall not be applicable if the
5 department determines, based upon individual site
6 characteristics, that contaminants will not leach into the
7 groundwater at levels which pose a threat to human health,
8 public safety, and the environment.

9 3. The department may set alternative cleanup target
10 levels based upon an applicant's demonstration, using
11 site-specific modeling and risk assessment studies, that human
12 health, public safety, and the environment are protected.

13 (2) The department shall require source removal, if
14 warranted and cost-effective. Once source removal at a site
15 is complete, the department shall reevaluate the site to
16 determine the degree of active cleanup needed to continue.
17 Further, the department shall determine if the reevaluated
18 site qualifies for monitoring only or if no further action is
19 required to rehabilitate the site. If additional site
20 rehabilitation is necessary to reach "no further action"
21 status, the department is encouraged to utilize natural
22 attenuation and monitoring where site conditions warrant.

23 Section 5. Section 376.82, Florida Statutes, is
24 amended to read:

25 376.82 Eligibility criteria and liability
26 protection.--

27 (1) ELIGIBILITY.--Any person who has not caused or
28 contributed to the contamination of a brownfield site on or
29 after July 1, 1997, is eligible to participate in the
30 brownfield rehabilitation program established in ss.
31 376.77-376.84, subject to the following:

1 (a) Potential brownfield sites that are subject to an
2 ongoing formal judicial or administrative enforcement action
3 or corrective action pursuant to federal authority, including,
4 but not limited to, the Comprehensive Environmental Response
5 Compensation and Liability Act, 42 U.S.C. ss. 9601, et seq.,
6 as amended; the Safe Drinking Water Act, 42 U.S.C. ss.
7 300f-300i, as amended; the Clean Water Act, 33 U.S.C. ss.
8 1251-1387, as amended; or under an order from the United
9 States Environmental Protection Agency pursuant to s. 3008(h)
10 of the Resource Conservation and Recovery Act, as amended (42
11 U.S.C.A. s. 6928(h)); or that have obtained or are required to
12 obtain a permit for the operation of a hazardous waste
13 treatment, storage, or disposal facility; a postclosure
14 permit; or a permit pursuant to the federal Hazardous and
15 Solid Waste Amendments of 1984, are not eligible for
16 participation unless specific exemptions are secured by a
17 memorandum of agreement with the United States Environmental
18 Protection Agency pursuant to paragraph (2)(e). A brownfield
19 site within an eligible brownfield area that subsequently
20 becomes subject to formal judicial or administrative
21 enforcement action or corrective action under such federal
22 authority shall have its eligibility revoked unless specific
23 exemptions are secured by a memorandum of agreement with the
24 United States Environmental Protection Agency pursuant to
25 paragraph (2)(g).

26 (b) Persons who have not caused or contributed to the
27 contamination of a brownfield site on or after July 1, 1997,
28 and who, prior to the department's approval of a brownfield
29 site rehabilitation agreement, are subject to ongoing
30 corrective action or enforcement under state authority
31 established in this chapter or chapter 403, including those

1 persons subject to a pending consent order with the state, are
2 eligible for participation in a brownfield corrective action
3 if:

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

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

17 (c) Potential brownfield sites owned by the state or a
18 local government which contain contamination for which a
19 governmental entity is potentially responsible and which are
20 already designated as federal brownfield pilot projects or
21 have filed an application for designation to the United States
22 Environmental Protection Agency are eligible for participation
23 in a brownfield corrective action.

24 (d) After July 1, 1997, petroleum and drycleaning
25 contamination sites shall not receive both restoration funding
26 assistance available for the discharge under this chapter and
27 any state assistance available under s. 288.107. Nothing in
28 this act shall affect the cleanup criteria, priority ranking,
29 and other rights and obligations inherent in petroleum
30 contamination and drycleaning contamination site

31

1 rehabilitation under ss. 376.30-376.319, or the availability
2 of economic incentives otherwise provided for by law.

3 (2) LIABILITY PROTECTION.--

4 (a) Any person, including his or her successors and
5 assigns, who executes and implements to successful completion
6 a brownfield site rehabilitation agreement, shall be relieved
7 of further liability for remediation of the contaminated site
8 or sites to the state and to third parties and of liability in
9 contribution to any other party who has or may incur cleanup
10 liability for the contaminated site or sites.

11 (b) This section shall not be construed as a
12 limitation on the right of a third party other than the state
13 to pursue an action for damages to property or person;
14 however, such an action may not compel site rehabilitation in
15 excess of that required in the approved brownfield site
16 rehabilitation agreement or otherwise required by the
17 department or approved local pollution control program.

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

22 (d) The liability protection provided under this
23 section shall become effective upon execution of a brownfield
24 site rehabilitation agreement and shall remain effective,
25 provided the person responsible for brownfield site
26 rehabilitation complies with the terms of the site
27 rehabilitation agreement. Any statute of limitations that
28 would bar the department from pursuing relief in accordance
29 with its existing authority is tolled from the time the
30 agreement is executed until site rehabilitation is completed
31 or immunity is revoked pursuant to s. 376.80(10).

1 (e) Completion of the performance of the remediation
2 obligations at the brownfield site shall be evidenced by a
3 site rehabilitation completion letter or a "no further action"
4 letter issued by the department or the approved local
5 pollution control program, which letter shall include the
6 following statement: "Based upon the information provided by
7 (property owner) concerning property located at (address), it
8 is the opinion of (the Florida Department of Environmental
9 Protection or approved local pollution control program) that
10 (party) has successfully and satisfactorily implemented the
11 approved brownfield site rehabilitation agreement schedule
12 and, accordingly, no further action is required to assure that
13 any land use identified in the brownfield site rehabilitation
14 agreement is consistent with existing and proposed uses."

15 (f) Compliance with the agreement referenced in s.
16 376.80(5)(i) must be evidenced by a finding by the local
17 government with jurisdiction over the brownfield area that the
18 terms of the agreement have been met.

19 (g) The Legislature recognizes its limitations in
20 addressing cleanup liability under federal pollution control
21 programs. In an effort to secure federal liability protection
22 for persons willing to undertake remediation responsibility at
23 a brownfield site, the department shall attempt to negotiate a
24 memorandum of agreement or similar document with the United
25 States Environmental Protection Agency, whereby the United
26 States Environmental Protection Agency agrees to forego
27 enforcement of federal corrective action authority at
28 brownfield sites ~~brownfields~~ that have received a site
29 rehabilitation completion or "no further action" determination
30 from the department or the approved local pollution control
31 program or that are in the process of implementing a

1 brownfield site rehabilitation agreement in accordance with
2 this act.

3 (h) No unit of state or local government may be held
4 liable for implementing corrective actions at a contaminated
5 site within an eligible brownfield area as a result of the
6 involuntary ownership of the site through bankruptcy, tax
7 delinquency, abandonment, or other circumstances in which the
8 state or local government involuntarily acquires title by
9 virtue of its function as a sovereign, or as a result of
10 ownership from donation, or gift, or foreclosure, unless the
11 state or local government has otherwise caused or contributed
12 to a release of a contaminant at the brownfield site.

13 (i) The Legislature finds and declares that certain
14 brownfield sites ~~brownfields~~ may be redeveloped for open
15 space, or limited recreational, cultural, or historical
16 preservation purposes, and that such facilities enhance the
17 redeveloped environment, attract visitors, and provide
18 wholesome activities for employees and residents of the area.
19 Further, the Legislature finds that purchasers of contaminated
20 sites who are nonprofit conservation organizations acting for
21 the public interest and who did not cause or contribute to the
22 release of contamination on the site warrant protection from
23 liability.

24 (j) Notwithstanding any provision of this chapter,
25 chapter 403, other laws, or ordinances of local governments, a
26 nonprofit, charitable, federal tax-exempt, s. 501(c)(3)
27 national land conservation corporation which purchases title
28 to property in the state for the purpose of conveying such
29 land to any governmental entity for conservation, historical
30 preservation or cultural resource, park, greenway, or other
31 similar uses shall not be liable to the state, local

1 government, or any third party for penalties or remediation
2 costs in connection with environmental contamination found in
3 the soil or groundwater of such property, provided that such
4 corporation did not cause the original deposit or release of
5 the environmental contaminants, and provided the department
6 and local pollution control program and responsible parties
7 have access to the land for investigation, remediation, or
8 monitoring purposes.

9 (3) REOPENERS.--Upon completion of site rehabilitation
10 in compliance with ss. 376.77-376.84, no additional site
11 rehabilitation shall be required unless it is demonstrated:

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

14 (b) That new information confirms the existence of an
15 area of previously unknown contamination which exceeds the
16 site-specific rehabilitation levels established in accordance
17 with s. 376.81, or which otherwise poses the threat of real
18 and substantial harm to public health, safety, or the
19 environment in violation of the terms of ss. 376.77-376.84;

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

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

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

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

5 (a) The Legislature declares that, in order to achieve
6 the economic redevelopment and site rehabilitation of
7 brownfield sites ~~brownfields~~ in accordance with this act, it
8 is imperative to encourage financing of real property
9 transactions involving brownfield site rehabilitation plans.
10 Accordingly, lenders, including those serving as a trustee,
11 personal representative, or in any other fiduciary capacity,
12 in connection with a loan, are entitled to the liability
13 protection established in subsection (2) if they have not
14 caused or contributed to a release of a contaminant at the
15 brownfield site.

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

1 faith effort to sell the site as soon as practicable and when
2 an act or omission of the lender has not otherwise caused or
3 contributed to a release of a contaminant at the brownfield
4 site.

5 (c) The economic incentives that were granted to a
6 person responsible for site rehabilitation by state or local
7 governments shall not accrue to a lender who obtains ownership
8 of the brownfield site by one of the methods described in this
9 subsection. The economic incentives are abated during the
10 lender's ownership, but they may be transferred and reinstated
11 upon the sale of the brownfield site.

12 Section 6. Section 376.83, Florida Statutes, is
13 amended to read:

14 376.83 Violation; penalties.--

15 (1) It is a violation of ss. 376.77-376.85 ~~376.82~~, and
16 it is prohibited for any person, to knowingly make any false
17 statement, representation, or certification in any
18 application, record, report, plan, or other document filed or
19 required to be maintained, or to falsify, tamper with, or
20 knowingly render inaccurate any monitoring device or method
21 required to be maintained under ss. 376.77-376.85 ~~376.82~~, or
22 by any permit, rule, or order issued under this chapter or
23 chapter 403.

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

30 Section 7. Paragraph (b) of subsection (4) of section
31 288.106, Florida Statutes, is amended to read:

1 288.106 Tax refund program for qualified target
2 industry businesses.--

3 (4) APPLICATION AND APPROVAL PROCESS.--

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

7 1. The jobs proposed to be provided under the
8 application, pursuant to subparagraph (a)4., must pay an
9 estimated annual average wage equaling at least 115 percent of
10 the average private sector wage in the area where the business
11 is to be located or the statewide private sector average wage.
12 The office may waive this average wage requirement at the
13 request of the local governing body recommending the project
14 and Enterprise Florida, Inc. The wage requirement may only be
15 waived for a project located in a brownfield area designated
16 under s. 376.80 or in a rural city or county or in an
17 enterprise zone and only when the merits of the individual
18 project or the specific circumstances in the community in
19 relationship to the project warrant such action. If the local
20 governing body and Enterprise Florida, Inc., make such a
21 recommendation, it must be transmitted in writing and the
22 specific justification for the waiver recommendation must be
23 explained. If the director elects to waive the wage
24 requirement, the waiver must be stated in writing and the
25 reasons for granting the waiver must be explained. The
26 director must approve requests to waive the wage requirement
27 for brownfield areas designated under s. 376.80 unless it is
28 demonstrated that such action is not in the public interest.

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

31

1 3. The business activity or product for the
2 applicant's project is within an industry or industries that
3 have been identified by the office to be high-value-added
4 industries that contribute to the area and to the economic
5 growth of the state and that produce a higher standard of
6 living for citizens of this state in the new global economy or
7 that can be shown to make an equivalent contribution to the
8 area and state's economic progress.

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

11 288.107 Brownfield redevelopment bonus refunds.--

12 (1) DEFINITIONS.--As used in this section:

13 (a) "Account" means the Economic Development
14 Incentives Account as authorized in s. 288.095.

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

23 **(c) "Brownfield sites" means sites that are generally**
24 **abandoned, idled, or underused industrial and commercial**
25 **properties where expansion or redevelopment is complicated by**
26 **actual or perceived environmental contamination.**

27 ~~(b) "Brownfield" or "brownfield site" means a parcel~~
28 ~~or a contiguous area of one or more parcels, which have been~~
29 ~~designated by local government by resolution, that are~~
30 ~~generally abandoned, idled, or underused industrial and~~
31 ~~commercial properties where expansion or redevelopment is~~

1 ~~complicated by actual or perceived environmental~~
2 ~~contamination. Such areas may include, but are not limited~~
3 ~~to, portions of community redevelopment areas, enterprise~~
4 ~~zones, empowerment zones, other such designated economically~~
5 ~~deprived communities and areas, and United States~~
6 ~~Environmental Protection Agency designated brownfield pilot~~
7 ~~projects.~~

8 (d)~~(c)~~ "Director" means the director of the Office of
9 Tourism, Trade, and Economic Development.

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

12 (f)~~(e)~~ "Jobs" means full-time equivalent positions,
13 consistent with the use of such terms by the Department of
14 Labor and Employment Security for the purpose of unemployment
15 compensation tax, resulting directly from a project in this
16 state. This number does not include temporary construction
17 jobs involved with the construction of facilities for the
18 project and which are not associated with the implementation
19 of the site rehabilitation as provided in s. 376.80.

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

22 (h)~~(g)~~ "Project" means the creation of a new business
23 or the expansion of an existing business as defined in s.
24 288.106.

25 Section 9. Legislative findings.--

26 (1) The Legislature finds that the underuse of
27 brownfield areas results in the inefficient use of public
28 facilities and services, as well as land and other natural
29 resources, extends conditions of blight in local communities,
30 and contributes to concerns about environmental equity and the
31 distribution of environmental risks across population groups.

1 (2) The reuse and redevelopment of brownfield areas is
2 an important component of sound land use policy for productive
3 urban purposes which will help prevent the premature
4 development of farm land, open space areas, and natural areas
5 and reduce public costs for installing new water, sewer, and
6 highway infrastructure.

7 (3) The Legislature finds that providing economic and
8 financial incentives to promote the redevelopment of
9 brownfield areas is an important and appropriate public
10 purpose.

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

12 (1) The Brownfield Areas Loan Guarantee Council is
13 created to review and approve or deny, by a majority vote of
14 its membership, the situations and circumstances for
15 participation in partnerships by agreements 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 guarantee of
19 up to 5 years of loan guarantees or loan loss reserves issued
20 pursuant to law. The limited state loan guarantee applies only
21 to 10 percent of the primary lenders' loans for redevelopment
22 projects in brownfield areas. A limited state guarantee of
23 private loans or a loan loss reserve is authorized for lenders
24 licensed to operate in the state upon a determination by the
25 council that such an arrangement would be in the public
26 interest and the likelihood of the success of the loan is
27 great.

28 (2) The council shall consist of the secretary of the
29 Department of Environmental Protection or the secretary's
30 designee, the Secretary of Community Affairs or the
31 secretary's designee, the executive director of the State

1 Board of Administration or the executive director's designee,
2 the executive director of the Florida Housing Finance Agency
3 or the executive director's designee, and the director of the
4 Office of Tourism, Trade, and Economic Development or the
5 director's designee. The chair of the council shall be the
6 director of the Office of Tourism, Trade, and Economic
7 Development. Staff services for activities of the council
8 shall be provided as needed by the member agencies.

9 (3) The council may enter into an investment agreement
10 with the Department of Environmental Protection and the State
11 Board of Administration concerning the investment of the
12 earnings accrued and collected upon the investment of the
13 balance of funds maintained in the Nonmandatory Land
14 Reclamation Trust Fund. The investment must be limited as
15 follows:

16 (a) Not more than \$5 million of the investment
17 earnings earned on the investment of the minimum balance of
18 the Nonmandatory Land Reclamation Trust Fund in a fiscal year
19 may be at risk at any time on loan guarantees or as loan loss
20 reserves.

21 (b) The investment earnings may not be used to
22 guarantee any loan guarantee or loan loss reserve agreement
23 for a period longer than 5 years.

24 (4) A lender seeking a limited state guarantee for a
25 loan from the Brownfield Areas Loan Guarantee Council must
26 first provide to the council a report demonstrating that the
27 lender has reviewed the project for redevelopment of the
28 brownfield area and determined its feasibility in accordance
29 with its standard procedures. The procedures include, but are
30 not limited to:

31

- 1 (a) Obtaining a satisfactory credit report from a
2 source deemed reliable by the lender.
- 3 (b) Reviewing a report of environmental conditions at
4 the project and determining that actions are underway to
5 comply with specific recommendations.
- 6 (c) Investigating the background and experience of the
7 entity to receive the loan and manage the project and
8 determining that the managing entity appears to possess the
9 experience, competence, and capacity to manage the project.
- 10 (d) Determining that conditions exist to establish a
11 financially sound redevelopment project that exposes the state
12 loan guarantee program to a reasonable or acceptable level of
13 risk.
- 14 (e) Determining that the local government with
15 jurisdiction over the area where the brownfield redevelopment
16 project is located has committed local financial resources to
17 the redevelopment project of at least 10 percent.
- 18 (5) A lender covered by a limited state guarantee for
19 a loan is not entitled to file a claim for loss pursuant to
20 the guarantee unless all reasonable and normal remedies
21 available and customary for lending institutions for resolving
22 problems of loan repayments are exhausted. If the lender has
23 received collateral security in connection with the loan, the
24 lender must first exhaust all available remedies against the
25 collateral security.
- 26 (6) The council may, by rule, establish requirements
27 for the issuance of loan guarantees, including contractual
28 provisions to foster reimbursement, in the event of default,
29 to the guarantee fund.
- 30
31

1 (7) The council may receive public and private funds,
2 federal grants, and private donations in carrying out its
3 responsibilities.

4 (8) The council shall provide an annual report to the
5 Speaker of the House of Representatives and the President of
6 the Senate by February 1 of each year describing its
7 activities and agreements approved relating to redevelopment
8 of brownfield areas. This section shall be reviewed by the
9 Legislature by October 1, 2003, and a determination made
10 related to the need to continue or modify this section. New
11 loan guarantees may not be approved in 2003 until the review
12 by the Legislature has been completed and a determination has
13 been made as to the feasibility of continuing the use of the
14 Nonmandatory Land Reclamation Trust Fund to guarantee portions
15 of loans under this section.

16 Section 11. Subsections (1), (6), and (8) of section
17 288.9602, Florida Statutes, are amended to read:

18 288.9602 Findings and declarations of necessity.--The
19 Legislature finds and declares that:

20 (1) There is a need to enhance economic activity in
21 the cities and counties of the state by attracting
22 manufacturing, development, redevelopment of brownfield areas,
23 business enterprise management, and other activities conducive
24 to economic promotion in order to provide a stronger, more
25 balanced, and stable economy in the cities and counties of the
26 state.

27 (6) In order to improve the prosperity and welfare of
28 the cities and counties of this state and its inhabitants, to
29 improve and promote the financing of projects related to the
30 economic development of the cities and counties of this state,
31 including redevelopment of brownfield areas, and to increase

1 the purchasing power and opportunities for gainful employment
2 of citizens of the cities and counties of this state, it is
3 necessary and in the public interest to facilitate the
4 financing of such projects as provided for in this act and to
5 do so without regard to the boundaries between counties,
6 municipalities, special districts, and other local
7 governmental bodies or agencies in order to more effectively
8 and efficiently serve the interests of the greatest number of
9 people in the widest area practicable.

10 (8) In order to efficiently and effectively achieve
11 the purposes of this act, it is necessary and in the public
12 interest to create a special development finance authority to
13 cooperate and act in conjunction with public agencies of this
14 state and local governments of this state, through interlocal
15 agreements pursuant to the Florida Interlocal Cooperation Act
16 of 1969, in the promotion and advancement of projects related
17 to economic development, including redevelopment of brownfield
18 areas, throughout the state.

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

21 288.9605 Exercise of powers by the corporation.--

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

23 (w) Determine the situations and circumstances for
24 participation in partnerships by agreement with local
25 governments, financial institutions, and others associated
26 with the redevelopment of brownfield areas pursuant to the
27 Brownfield Redevelopment Act for a limited state guarantee of
28 revenue bonds, loan guarantees, or loan loss reserves.

29 Section 13. Interdisciplinary Center for Brownfield
30 Rehabilitation Assistance.--The Board of Regents shall
31 establish a Center for Brownfield Rehabilitation Assistance in

1 the Environmental Sciences and Policy Program in the College
2 of Arts and Sciences at the University of South Florida with
3 the collaboration of other related disciplines such as
4 business administration, environmental science, and medicine.
5 The center shall work in conjunction with other colleges in
6 the State University System. The Center for Brownfield
7 Rehabilitation Assistance shall:

8 (1) Conduct research relating to problems and
9 solutions associated with rehabilitation and restoration of
10 brownfield areas as defined in s. 376.79, Florida Statutes.
11 The research must include identifying innovative solutions to
12 removing contamination from brownfield sites to reduce the
13 threats to drinking water supplies and other potential public
14 health threats from contaminated sites.

15 (2) Provide public service to local, regional, and
16 state agencies, units of government, and authorities by
17 helping them to create workable mechanisms, partnerships with
18 public and private sectors, and other techniques for
19 rehabilitating brownfield areas.

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

22 (4) Develop a base of informational and financial
23 support from the private sector for the activities of the
24 center.

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

27 163.3187 Amendment of adopted comprehensive plan.--

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

31

1 (g) Any local government comprehensive plan amendments
2 directly related to proposed redevelopment of brownfield areas
3 designated under s. 376.80 may be approved without regard to
4 statutory limits on the frequency of consideration of
5 amendments to the local comprehensive plan.

6 Section 15. Brownfield property ownership clearance
7 assistance.--

8 (1) The Legislature recognizes that some brownfield
9 redevelopment projects are more difficult to redevelop due to
10 the existence of various types of liens on the property and
11 complications from previous ownership having declared
12 bankruptcy. Oftentimes lienholders on brownfield property are
13 reluctant to foreclose on the property out of concern for
14 liability questions and may be willing to settle for a reduced
15 value on their lien to clear up any of their rights to the
16 property and to clear the way for organized efforts by a
17 private and public partnership to revitalize and redevelop
18 brownfield areas.

19 (2) The Legislature recognizes that a revolving loan
20 fund could assist in the early stages of redeveloping
21 brownfields by helping to clear prior liens on the property
22 through a negotiated process. Such a revolving loan fund could
23 be repaid in later years from the resale of brownfield
24 properties following site rehabilitation and other activities
25 that will enhance the properties' ultimate value.

26 (3) There shall annually be transferred from the
27 General Revenue Fund to the Brownfield Property Ownership
28 Clearance Assistance Revolving Loan Trust Fund that amount,
29 not to exceed \$5 million annually, as shall be necessary to
30 provide the assistance described in subsections (1) and (2).

31

1 Section 16. Notwithstanding any provision of law to
2 the contrary, the governing body of a municipality or county
3 containing a United States Environmental Protection Agency
4 brownfield pilot project that was designated as of May 1,
5 1997, may apply to the Office of Tourism, Trade, and Economic
6 Development for designation of one enterprise zone
7 encompassing the brownfield pilot project, if the project is
8 located in a county with a population less than 1 million. The
9 application must be submitted by December 31, 1999, and must
10 comply with the requirements of s. 290.0055, Florida Statutes,
11 except s. 290.0055(3), Florida Statutes. Notwithstanding the
12 provisions of s. 290.0065, Florida Statutes, limiting the
13 total number of enterprise zones designated and the number of
14 enterprise zones within a population category, the Office of
15 Tourism, Trade, and Economic Development shall designate one
16 enterprise zone under this section if the zone is consistent
17 with the limitations imposed under this section. The Office of
18 Tourism, Trade, and Economic Development shall establish the
19 initial effective date of the enterprise zone designated
20 pursuant to this section.

21 Section 17. Subsection (4) of section 376.313, Florida
22 Statutes, is amended to read:

23 376.313 Nonexclusiveness of remedies and individual
24 cause of action for damages under ss. 376.30-376.319.--

25 (4) In any civil action brought after July 1, 1986,
26 against the owner or operator of a petroleum storage system
27 for damages arising from a petroleum storage system discharge,
28 the provisions of subsection (3) shall not apply if it can be
29 proven that, at the time of the discharge:

30 (a) The alleged damages resulted solely from a
31 discharge from a petroleum storage system which was installed,

1 replaced, or retrofitted, and maintained, in a manner
2 consistent with the construction, operation, repair, and
3 maintenance standards established for such systems under
4 chapter 62-761 ~~17-61~~, Florida Administrative Code, as that
5 chapter may hereafter be amended. The requirement of
6 consistency with such standards may be satisfied only by being
7 in compliance with the standards at the time of the discharge,
8 regardless of the time specified for compliance under the
9 schedule provided in said chapter.

10 (b) A leak detection system or systems or a monitoring
11 well or wells were installed and operating in a manner
12 consistent with technical requirements of chapter 62-761
13 ~~17-61~~, Florida Administrative Code, as that chapter may
14 hereafter be amended; and

15 (c) All inventory, recordkeeping, and reporting
16 requirements of chapter 62-761 ~~17-61~~, Florida Administrative
17 Code, as that chapter may hereafter be amended, have been and
18 are being complied with.

19
20 Any person bringing such an action must prove negligence to
21 recover damages under this subsection. For the purposes of
22 this subsection, noncompliance with this act, or any of the
23 rules promulgated pursuant hereto, as the same may hereafter
24 be amended, shall be prima facie evidence of negligence.

25 Section 18. Section 21 of chapter 86-159, Laws of
26 Florida, is repealed.

27 Section 19. This act shall take effect July 1 of the
28 year in which enacted.

29
30
31

HOUSE SUMMARY

Revises definitions under the Brownfields Redevelopment Act. Includes closed military bases in areas which do not require a public hearing prior to designation as a brownfield area. Revises the job-creation criterion for designation of a brownfield area. Revises provisions relating to designation of the person responsible for brownfield site rehabilitation and that person's agreement with the Department of Environmental Protection or a local pollution control program. Revises eligibility criteria for participation in a brownfield rehabilitation program. Clarifies references to brownfield sites and brownfield areas in provisions relating to liability protection. Extends the liability protection for state and local government to property acquired through foreclosure. Provides for application of penalty provisions to the entire act.

Provides for waiver of the average wage requirement for applicants for the tax refund program for qualified target industry businesses if the project is located in a brownfield area. Defines "brownfield area" and "brownfield site" for purposes of the brownfield redevelopment bonus refunds for qualified target industry businesses.

Provides legislative findings with respect to redevelopment of brownfield areas. Creates the Brownfield Areas Loan Guarantee Council and provides membership thereof. Authorizes the council to approve circumstances for participation in partnerships with entities associated with brownfield redevelopment for a limited state guarantee of loan guarantees or loan loss reserves issued pursuant to law. Provides conditions for application to private loans or loan loss reserves. Authorizes the council to enter into an investment agreement with respect to investment of certain earnings from the Nonmandatory Land Reclamation Trust Fund and provides limitations with respect to use of investment earnings. Provides duties of lenders seeking a limited state guarantee from the council. Provides restrictions on filing of claims by such lenders. Authorizes the council to establish requirements for issuance of a guarantee. Provides for annual reports and for legislative review.

Includes the need for redevelopment of brownfield areas in findings relating to establishment of the Florida Development Finance Corporation. Authorizes the corporation to determine circumstances for participation in partnerships with entities associated with brownfield redevelopment for a limited state guarantee of revenue bonds, loan guarantees, or loan loss reserves.

502-169A-98

1 Directs the Board of Regents to establish a Center for
 2 Brownfield Rehabilitation Assistance at the University of
 South Florida and provides duties of the center.

3
 4 Provides that local government comprehensive plan
 5 amendments related to brownfield redevelopment may be
 approved without regard to statutory limits on the
 frequency of consideration of plan amendments.

6
 7 Provides for an annual transfer of funds from the General
 8 Revenue Fund to the Brownfield Property Ownership
 Clearance Assistance Revolving Loan Trust Fund to provide
 9 assistance in clearing prior liens on brownfield
 property.

10 Provides for designation of an enterprise zone that
 11 encompasses a specified brownfield pilot project under
 specified conditions.

12
 13 Repeals a section of the Laws of Florida that provides
 14 for the October 1, 1998, repeal of a statutory provision
 relating to civil actions and damages involving a
 15 petroleum storage system discharge. Corrects a reference
 to the Florida Administrative Code.

16
 17
 18
 19
 20
 21
 22
 23
 24
 25
 26
 27
 28
 29
 30
 31