

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. 376.301,
 25 F.S.; amending the definition of facility;
 26 amending s. 376.313, F.S.; correcting
 27 references to the Florida Administrative Code;
 28 repealing s. 21, ch. 86-159, Laws of Florida,
 29 relating to the scheduled repeal of s.
 30 376.313(4), F.S.; providing an effective date.
 31

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

2

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

5 376.77 Short title.--Sections 376.77-376.85 ~~376.83~~ may
6 be cited as the "Brownfields Redevelopment Act."

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

12 376.79 Definitions.--As used in ss. 376.77-376.85, the
13 term:

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

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

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

30 (14) "Secretary" means the secretary of the Department
31 of Environmental Protection.

1 Section 3. Section 376.80, Florida Statutes, is
2 amended to read:

3 376.80 Brownfield program administration process.--

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

25 (2)(a) If a local government proposes to designate a
26 brownfield area that is outside community redevelopment areas,
27 enterprise zones, empowerment zones, closed military bases, or
28 designated brownfield pilot project areas, the local
29 government must conduct at least one public hearing in the
30 area to be designated to provide an opportunity for public
31 input on the size of the area, the objectives for

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

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

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

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

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

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

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

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

1 agreement or an agreement, between the person responsible for
2 site rehabilitation and the local government with
3 jurisdiction, which contains terms for the redevelopment of
4 the brownfield site or brownfield area;

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

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

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

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

28 (3) When there is a person responsible for brownfield
29 site rehabilitation, then the local government must ~~at the~~
30 ~~time of the adoption of the resolution~~ notify the department
31 of that ~~the entity that it is designating as the person~~

1 ~~responsible for brownfield site rehabilitation~~. If the agency
2 or person who will be responsible for the coordination changes
3 during the approval process specified in subsections (4), (5),
4 and (6), the department or the affected approved local
5 pollution control program must notify the affected local
6 government when the change occurs.

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

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

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

29 (b) A commitment to conduct site rehabilitation
30 activities under the observation of professional engineers or
31 geologists who are registered in accordance with the

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

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

18 (d) A commitment to conduct site rehabilitation
19 consistent with state, federal, and local laws and consistent
20 with the brownfield site contamination cleanup criteria in s.
21 376.81, including any applicable requirements for risk-based
22 corrective action.†

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

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

1 (g) Other provisions that the person responsible for
2 brownfield site rehabilitation and the department agree upon,
3 that are consistent with ss. 376.77-376.84, and that will
4 improve or enhance the brownfield site rehabilitation
5 process.~~†~~

6 (h) A commitment to consider appropriate pollution
7 prevention measures and to implement those that the person
8 responsible for brownfield site rehabilitation determines are
9 reasonable and cost-effective, taking into account the
10 ultimate use or uses of the brownfield site. Such measures
11 may include improved inventory or production controls and
12 procedures for preventing loss, spills, and leaks of hazardous
13 waste and materials, and include goals for the reduction of
14 releases of toxic materials.~~†~~

15 (i) Certification that an agreement exists between the
16 person responsible for brownfield site rehabilitation and the
17 local government with jurisdiction over the brownfield area.
18 Such agreement shall contain terms for the redevelopment of
19 the brownfield area.

20 (6) Any contractor performing site rehabilitation
21 program tasks must demonstrate to the department that the
22 contractor:

23 (a) Meets all certification and license requirements
24 imposed by law; and

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

27 (7) The contractor must certify to the department that
28 the contractor:

29 (a) Complies with applicable OSHA regulations.
30
31

1 (b) Maintains workers' compensation insurance for all
2 employees as required by the Florida Workers' Compensation
3 Law.

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

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

15 (e) Has the capacity to perform or directly supervise
16 the majority of the work at a site in accordance with s.
17 489.113(9).

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

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

1 "monitoring only proposals," and feasibility studies, which
2 must be approved prior to implementation.

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

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

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

30 (b) Provide for the enforcement of the requirements of
31 the delegated brownfields program, and for notice and a right

1 to challenge governmental action, by appropriate
2 administrative and judicial process, which shall be specified
3 in the delegation.

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

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

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

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

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

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

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

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

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

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

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

1 the environment. The use of controls must be preapproved by
 2 the department and only after constructive notice and
 3 opportunity to comment within 30 days from receipt of notice
 4 is provided to local governments, to owners of any property
 5 into which the point of compliance is allowed to extend, and
 6 to residents on any property into which the point of
 7 compliance is allowed to extend. 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 additive effects of contaminants.
 14 The synergistic and antagonistic effects shall also be
 15 considered when the scientific data become available.

16 (f) Take into consideration individual site
 17 characteristics, which shall include, but not be limited to,
 18 the current and projected use of the affected groundwater 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 state water quality standards as follows:

28 1. Cleanup target levels for each contaminant found in
 29 groundwater shall be the applicable state water quality
 30 standards. Where such standards do not exist, the cleanup
 31 target levels for groundwater shall 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 groundwater, the cleanup target levels for the contaminants
10 shall be based on the surface water standards as established
11 by department rule. The point of measuring compliance with
12 the surface water standards shall be in the groundwater
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 protected to
18 the same degree as provided in subparagraphs 1. and 2. Where
19 a state water quality standard is applicable, a deviation may
20 not result in the application of cleanup target levels more
21 stringent than the standard. In determining whether it is
22 appropriate to establish alternative cleanup target levels at
23 a site, the department must consider the effectiveness of
24 source removal that has been completed at the site and the
25 practical likelihood of the use of low yield or poor quality
26 groundwater, the use of groundwater near marine surface water
27 bodies, the current and projected use of the affected
28 groundwater in the vicinity of the site, or the use of
29 groundwater in the immediate vicinity of the contaminated
30 area, where it has been demonstrated that the groundwater
31 contamination is not migrating away from such localized

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:

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 in-kind resources, local
17 financial incentives or local financial resources to the total
18 project cost.

19 (5) A lender covered by a limited state guarantee for
20 a loan is not entitled to file a claim for loss pursuant to
21 the guarantee unless all reasonable and normal remedies
22 available and customary for lending institutions for resolving
23 problems of loan repayments are exhausted. If the lender has
24 received collateral security in connection with the loan, the
25 lender must first exhaust all available remedies against the
26 collateral security.

27 (6) The guarantee shall not be a general obligation of
28 the council or of the state, but shall be a special
29 obligation, which constitutes the investment of a public trust
30 fund. In no event shall the guaranty constitute an
31 indebtedness of the council, the State of Florida, or any

1 political subdivision thereof within the meaning of any
 2 constitutional or statutory limitation. Each guaranty
 3 agreement shall have plainly stated on the face thereof that
 4 it has been entered into under the provisions of this section
 5 and that it does not constitute an indebtedness of the
 6 council, the state, or any political subdivision thereof
 7 within any constitutional or statutory limitation, and that
 8 neither the full faith and credit of the State of Florida nor
 9 any of its revenues is pledged to meet any of the obligations
 10 of the council under such guaranty agreement. Each such
 11 agreement shall state that the obligation of the council under
 12 the guaranty shall be limited to the funds available for
 13 guaranty as authorized by this section.

14 (6) The council may, by rule, establish requirements
 15 for the issuance of loan guarantees, including contractual
 16 provisions to foster reimbursement, in the event of default,
 17 to the guarantee fund.

18 (7) The council may receive public and private funds,
 19 federal grants, and private donations in carrying out its
 20 responsibilities.

21 (8) The council shall provide an annual report to the
 22 Speaker of the House of Representatives and the President of
 23 the Senate by February 1 of each year describing its
 24 activities and agreements approved relating to redevelopment
 25 of brownfield areas. This section shall be reviewed by the
 26 Legislature by October 1, 2003, and a determination made
 27 related to the need to continue or modify this section. New
 28 loan guarantees may not be approved in 2003 until the review
 29 by the Legislature has been completed and a determination has
 30 been made as to the feasibility of continuing the use of the
 31

1 Nonmandatory Land Reclamation Trust Fund to guarantee portions
2 of loans under this section.

3 Section 11. Subsections (1), (6), and (8) of section
4 288.9602, Florida Statutes, are amended to read:

5 288.9602 Findings and declarations of necessity.--The
6 Legislature finds and declares that:

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

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

28 (8) In order to efficiently and effectively achieve
29 the purposes of this act, it is necessary and in the public
30 interest to create a special development finance authority to
31 cooperate and act in conjunction with public agencies of this

1 state and local governments of this state, through interlocal
2 agreements pursuant to the Florida Interlocal Cooperation Act
3 of 1969, in the promotion and advancement of projects related
4 to economic development, including redevelopment of brownfield
5 areas, throughout the state.

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

8 288.9605 Exercise of powers by the corporation.--

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

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

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

26 (1) Conduct research relating to problems and
27 solutions associated with rehabilitation and restoration of
28 brownfield areas as defined in s. 376.79, Florida Statutes.
29 The research must include identifying innovative solutions to
30 removing contamination from brownfield sites to reduce the
31

1 threats to drinking water supplies and other potential public
2 health threats from contaminated sites.

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

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

10 (4) Develop a base of informational and financial
11 support from the private sector for the activities of the
12 center.

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

15 163.3187 Amendment of adopted comprehensive plan.--

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

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

24 Section 15. Brownfield property ownership clearance
25 assistance.--

26 (1) The Legislature recognizes that some brownfield
27 redevelopment projects are more difficult to redevelop due to
28 the existence of various types of liens on the property and
29 complications from previous ownership having declared
30 bankruptcy. Oftentimes lienholders on brownfield property are
31 reluctant to foreclose on the property out of concern for

1 liability questions and may be willing to settle for a reduced
2 value on their lien to clear up any of their rights to the
3 property and to clear the way for organized efforts by a
4 private and public partnership to revitalize and redevelop
5 brownfield areas.

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

13 (3) There shall annually be transferred from the
14 General Revenue Fund to the Brownfield Property Ownership
15 Clearance Assistance Revolving Loan Trust Fund that amount,
16 not to exceed \$5 million annually, as shall be necessary to
17 provide the assistance described in subsections (1) and (2),
18 as provided in the General Appropriations Act.

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

1 enterprise zones within a population category, the Office of
2 Tourism, Trade, and Economic Development shall designate one
3 enterprise zone under this section if the zone is consistent
4 with the limitations imposed under this section. The Office of
5 Tourism, Trade, and Economic Development shall establish the
6 initial effective date of the enterprise zone designated
7 pursuant to this section.

8 Section 17. Subsection (15) of section 376.301 is
9 amended to read:

10 376.301 Definitions of terms used in ss.
11 376.30-376.319, 376.70, and 376.75.--When used in ss.
12 376.30-376.319, 376.70, and 376.75, unless the context clearly
13 requires otherwise, the term:

14 (15) "Facility" means a nonresidential location
15 containing, or which contained, any underground stationary
16 tank or tanks which contain hazardous substances or pollutants
17 and have individual storage capacities greater than 110
18 gallons, or any aboveground stationary tank or tanks which
19 contain pollutants which are liquids at standard ambient
20 temperature and pressure and have individual storage
21 capacities greater than 550 gallons. A facility includes a
22 petroleum storage system at any location that is used
23 primarily for the generation of emergency electric power
24 during disruption of normal utility services.This subsection
25 shall not apply to facilities covered by chapter 377, or
26 containers storing solid or gaseous pollutants, and
27 agricultural tanks having storage capacities of less than 550
28 gallons.

29 Section 18. Subsection (4) of section 376.313, Florida
30 Statutes, is amended to read:

31

1 376.313 Nonexclusiveness of remedies and individual
2 cause of action for damages under ss. 376.30-376.319.--

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

8 (a) The alleged damages resulted solely from a
9 discharge from a petroleum storage system which was installed,
10 replaced, or retrofitted, and maintained, in a manner
11 consistent with the construction, operation, repair, and
12 maintenance standards established for such systems under
13 chapter 62-761 ~~17-61~~, Florida Administrative Code, as that
14 chapter may hereafter be amended. The requirement of
15 consistency with such standards may be satisfied only by being
16 in compliance with the standards at the time of the discharge,
17 regardless of the time specified for compliance under the
18 schedule provided in said chapter.

19 (b) A leak detection system or systems or a monitoring
20 well or wells were installed and operating in a manner
21 consistent with technical requirements of chapter 62-761
22 ~~17-61~~, Florida Administrative Code, as that chapter may
23 hereafter be amended; and

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

28
29 Any person bringing such an action must prove negligence to
30 recover damages under this subsection. For the purposes of
31 this subsection, noncompliance with this act, or any of the

1 rules promulgated pursuant hereto, as the same may hereafter
2 be amended, shall be prima facie evidence of negligence.

3 Section 19. Section 21 of chapter 86-159, Laws of
4 Florida, is repealed.

5 Section 20. This act shall take effect July 1 of the
6 year in which enacted.

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