

By Representative Eggelletion

1 A bill to be entitled
2 An act relating to environmental equity;
3 creating the "Brownfields Community
4 Revitalization Act"; providing legislative
5 findings; providing definitions; creating the
6 Brownfields Community Revitalization
7 Interagency Coordinating Council; providing
8 purposes and membership of the council;
9 establishing the Brownfields Community
10 Revitalization Program; providing program
11 requirements; providing criteria for
12 eligibility; creating s. 220.185, F.S.;
13 authorizing a credit against the corporate
14 income tax for developers of brownfield sites;
15 providing for carryover of the credit; amending
16 s. 220.02, F.S.; providing order of credits
17 against the tax; providing an effective.

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

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21 Section 1. Short title.--This act shall be known and
22 may be cited as the "Brownfields Community Revitalization
23 Act."

24 Section 2. Legislative findings.--It is the finding of
25 the Legislature of the State of Florida that, based upon the
26 findings of the Florida Environmental Equity and Justice
27 Commission, minority and low-income communities are
28 disproportionately impacted by targeted environmentally
29 hazardous sites in Florida, and citizens living in communities
30 near these sites lack access to health care which is needed or
31 may be needed as a possible consequence of exposure to

1 pollution. The Legislature further finds that community
2 revitalization which incorporates environmental justice can
3 stem the ecologically untenable, environmentally damaging,
4 socially costly, and racially divisive phenomenon of urban
5 sprawl and greenfields development by providing opportunities
6 for building partnerships between government, developers, and
7 environmentally overburdened communities.

8 Section 3. Definitions.--For purposes of this section,
9 the term:

10 (1) "Brownfield" means a land area that contains one
11 or more contaminated sites, that was last used for
12 nonagricultural purposes, is currently undeveloped, abandoned,
13 or underutilized, and is located within a planned urban
14 development area, community redevelopment area, enterprise
15 zone, or federally designated brownfield pilot project area.

16 (2) "Contaminated site" means property that contains,
17 in the soil or in the surface water or groundwater in contact
18 with the site, physical, chemical, or biological contaminants
19 which may be harmful to human health or the environment.

20 (3) "Environmental justice" means the fair treatment
21 of people of all races, cultures, and income levels with
22 respect to the development, implementation, and enforcement of
23 environmental laws, regulations, and policies, and the right
24 of all people, regardless of race or income, to have the right
25 to live in a healthy community.

26 (4) "Fair treatment" means that no racial, ethnic, or
27 socioeconomic group bears a disproportionate share of negative
28 environmental consequences resulting from the operation of
29 industrial, municipal, or commercial enterprises or from the
30 execution of federal, state, local, or tribal programs and
31 policies.

1 Section 4. Brownfields Community Revitalization
2 Interagency Coordinating Council.--

3 (1) There is created within the Department of
4 Community Affairs the Brownfields Community Revitalization
5 Interagency Coordinating Council. The council shall be
6 composed of the Secretary of Community Affairs, the Secretary
7 of Environmental Protection, the Secretary of Health, or their
8 respective designees, and the Attorney General or the Attorney
9 General's designee.

10 (2) The purpose of the Brownfields Community
11 Revitalization Interagency Coordinating Council is to:

12 (a) Administer the Brownfields Community
13 Revitalization Program pursuant to sections 5 and 6 of this
14 act.

15 (b) Create an ombudsman to serve as an intermediary
16 between property owners, parties responsible for
17 contamination, lenders associated with contaminated property,
18 prospective purchasers of contaminated property, state and
19 local government, the Federal Government, and affected
20 citizens and community organizations.

21 (c) Facilitate site assessments through acquisition of
22 financial and technical assistance from the United States
23 Environmental Protection Agency and the Department of
24 Environmental Protection by prioritizing sites participating
25 in the Brownfields Community Revitalization Program.

26 (d) Provide technical assistance to local governments,
27 potential developers, lending institutions, and affected
28 communities participating in the program.

29 (e) Coordinate efforts to ensure the delivery of
30 health services to low-income individuals living in or
31 adjacent to contaminated sites.

1 (f) Ensure effective participation by individuals
2 living adjacent to or near a contaminated site in decisions
3 affecting revitalization of the site, including, but not
4 limited to, remediation and future land use.

5 (g) Promote the use of pollution prevention measures
6 to address pollution sources operating in the community and
7 ensure utilization of state-of-the-art pollution prevention
8 measures for new facilities located in the community.

9 Section 5. Brownfields Community Revitalization
10 Program; eligibility.--Contaminated sites eligible for
11 participation in the Brownfields Community Revitalization
12 Program are sites:

13 (1) That are not listed on the Superfund National
14 Priority List.

15 (2) That are not petroleum sites or dry-cleaning
16 sites.

17 (3) That are not subject to a consent order.

18 (4) At which the parties responsible for contamination
19 are not financially able to undertake remediation under
20 current regulatory criteria.

21 (5) That are located in urban areas with significant
22 deterioration.

23 (6) That are an integral part of a local development
24 plan, with commitments of municipal resources for other
25 components of the project.

26 (7) At which the current owners have the ability to
27 execute a remediation plan with sufficient resources for site
28 rehabilitation and redevelopment, including consideration of
29 community safety, environmental justice, and local employment
30 opportunities.

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1 Section 6. Brownfields Community Revitalization
2 Program; requirements.--Contaminated sites eligible for
3 participation in the Brownfields Community Revitalization
4 Program shall meet the following requirements:

5 (1) Cleanup levels for contaminants in soils and water
6 shall be a cancer risk level of 1.0 E-6 and a hazard index of
7 less than 1.

8 (2) Sites eligible for the Brownfields Community
9 Revitalization Program must provide to the Department of
10 Environmental Protection notice of intent to initiate cleanup
11 activities and an approximate timeframe for the commencement
12 of work tasks. Monthly reports describing the remediation
13 shall be provided to the department. The administration and
14 supervision of this responsibility may be delegated to an
15 approved local environmental program.

16 (3) Pollution prevention measures shall be
17 incorporated by requiring that existing and new facilities
18 built on a brownfield site employ pollution prevention, such
19 as the use of improved inventory and production controls and
20 procedures for preventing loss, spills, and leaks of hazardous
21 wastes.

22 (4) Participation by persons living and working in the
23 affected community in the development, implementation, and
24 monitoring of the revitalization of the contaminated site must
25 be ensured through the preparation and implementation of a
26 community participation plan. The plan shall propose measures
27 to involve the public in the development and review of the
28 remedial investigation analysis, risk assessment analysis,
29 cleanup plan, and final action plan. Measures to ensure
30 effective community involvement shall include:

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1 (a) The development of a proactive community
2 information and consultation program which includes notice of
3 activities related to remediation, public meetings and
4 roundtable discussions, convenient locations where documents
5 related to remediation can be made available to the public,
6 and designation of a single contact person to whom community
7 residents can direct questions.

8 (b) The formation of a community-based group for the
9 purpose of soliciting suggestions and comments on the various
10 analyses performed.

11 (c) The establishment of a fund for technical and
12 financial assistance to community groups evaluating the
13 proposed brownfields revitalization plan.

14 (d) The retention of trained, independent third
15 parties to facilitate meetings and discussions and perform
16 mediation services, if needed.

17 (5) Notice to the public via local media in an area
18 affected by community revitalization shall be provided to
19 apprise citizens in the area of any government action
20 regarding a brownfield site.

21 Section 7. Section 220.185, Florida Statutes, is
22 created to read:

23 220.185 Brownfield site development tax credit.--

24 (1) A credit against the tax imposed by this chapter
25 shall be allowed to any developer of a brownfield site
26 administered by the Brownfields Community Revitalization
27 Program, which credit shall be equal to 10 percent of costs
28 paid for demolition, construction, restoration, alteration,
29 and renovation of a brownfield site.

30 (2) If the tax credit granted pursuant to this section
31 is not fully used in any one year because of insufficient tax

1 liability on the part of the taxpayer, the unused portion may
2 be carried forward for a period not to exceed 5 years. The
3 carryover credit may be used in a subsequent year when the tax
4 imposed by this chapter for such year exceeds the credit for
5 such year under this section after applying the other credits
6 and unused credit carryovers in the order provided in s.
7 220.02(10).

8 Section 8. Subsection (10) of section 220.02, Florida
9 Statutes, is amended to read:

10 220.02 Legislative intent.--

11 (10) It is the intent of the Legislature that credits
12 against either the corporate income tax or the franchise tax
13 be applied in the following order: those enumerated in s.
14 220.68, those enumerated in s. 631.719(1), those enumerated in
15 s. 631.705, those enumerated in s. 220.18, those enumerated in
16 s. 631.828, those enumerated in s. 220.181, those enumerated
17 in s. 220.183, those enumerated in s. 220.182, those
18 enumerated in s. 221.02, those enumerated in s. 220.184, those
19 enumerated in s. 220.186, ~~and~~ those enumerated in s. 220.188,
20 and those enumerated in s. 220.185.

21 Section 9. This act shall take effect upon becoming a
22 law.

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HOUSE SUMMARY

Creates the "Brownfields Community Revitalization Act" for the purpose of addressing and correcting disproportionate impact upon minority and low-income communities located in or near contaminated, environmentally hazardous sites within the state, and lack of access to health care which is needed or may be needed as a possible consequence of exposure to pollution or contamination existing at or adjacent to such sites.

Defines "brownfield" for the purposes of the act as a land area containing one or more contaminated sites, which was last used for nonagricultural purposes, is currently undeveloped, abandoned, or underutilized, and is located within a planned urban development area, community redevelopment area, enterprise zone, or federally designated brownfield pilot project area. Defines "contaminated site" for purposes of the act.

Creates the Brownfields Community Revitalization Interagency Coordinating Council within the Department of Community Affairs for the purposes of:

1. Administering the Brownfields Community Revitalization Program.
2. Serving as an intermediary between citizens, relevant parties, government entities, and community organizations.
3. Facilitating site assessments through acquisition of financial and technical assistance.
4. Providing technical assistance to program participants.
5. Coordinating efforts to ensure the delivery of health services to low-income individuals living in or adjacent to contaminated sites.
6. Promoting the use of pollution prevention measures.

Provides standards of eligibility for participation in the Brownfields Community Revitalization Program and requirements for participating sites.

Provides a credit against the corporate income tax to any developer of a brownfield site administered by the Brownfields Community Revitalization Program in the amount of 10 percent of costs paid for demolition, construction, restoration, alteration, and renovation of a brownfield site. Provides for carryover of the credit.