

By Senator Latvala

19-1543-99

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A bill to be entitled  
An act relating to brownfields redevelopment;  
amending s. 376.79, F.S.; redefining terms and  
defining the term "contaminant"; revising the  
application of definitions; amending s. 376.80,  
F.S.; clarifying that the person responsible  
for brownfield site rehabilitation must enter  
into a brownfield site rehabilitation agreement  
only if actual environmental contamination  
exists at the brownfield site; amending s.  
376.81, F.S.; providing clarification that  
cleanup criteria do not constitute disposal or  
reuse criteria; providing an effective date.

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

Section 1. Section 376.79, Florida Statutes, 1998  
Supplement, is amended to read:

376.79 Definitions.--As used in ss. 376.77-376.875 ~~ss.~~  
~~376.77-376.85~~, the term:

(1) "Additive effects" means a scientific principle  
that the toxicity that occurs as a result of exposure is the  
sum of the toxicities of the individual chemicals to which the  
individual is exposed.

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

(3) "Brownfield sites" means sites that are generally  
abandoned, idled, or underused industrial and commercial

1 properties where expansion or redevelopment is complicated by  
2 actual or perceived environmental contamination.

3 (4) "Brownfield area" means a contiguous area of one  
4 or more brownfield sites, some of which may not be  
5 contaminated, and which has been designated by a local  
6 government by resolution. Such areas may include all or  
7 portions of community redevelopment areas, enterprise zones,  
8 empowerment zones, other such designated economically deprived  
9 communities and areas, and Environmental Protection  
10 Agency-designated brownfield pilot projects.

11 (5) "Contaminant" means any physical, chemical,  
12 biological, or radiological substance present in any medium  
13 which may result in adverse effects to human health or the  
14 environment or which creates an adverse nuisance or an  
15 organoleptic or aesthetic condition in groundwater.

16 ~~(6)~~(5) "Contaminated site" means any contiguous land,  
17 sediment, surface water, or groundwater areas that contain  
18 contaminants that may be harmful to human health or the  
19 environment.

20 ~~(7)~~(6) "Department" means the Department of  
21 Environmental Protection.

22 ~~(8)~~(7) "Engineering controls" means modifications to a  
23 site to reduce or eliminate the potential for exposure to  
24 contaminants. Such modifications may include, but are not  
25 limited to, physical or hydraulic control measures, capping,  
26 point of use treatments, or slurry walls.

27 ~~(9)~~(8) "Environmental justice" means the fair  
28 treatment of all people of all races, cultures, and incomes  
29 with respect to the development, implementation, and  
30 enforcement of environmental laws, regulations, and policies.

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1           (10)~~(9)~~ "Institutional controls" means the restriction  
2 on use of or access to a site to eliminate or minimize  
3 exposure to contaminants. Such restrictions may include, but  
4 are not limited to, deed restrictions, use restrictions, or  
5 restrictive zoning.

6           (11)~~(10)~~ "Local pollution control program" means a  
7 local pollution control program that has received delegated  
8 authority from the Department of Environmental Protection  
9 under ss. 376.80(11) and 403.182.

10           (12)~~(11)~~ "Natural attenuation" means an approach to  
11 site rehabilitation which allows natural processes to contain  
12 the spread of contamination and reduce the concentrations of  
13 contaminants in contaminated groundwater and soil. Natural  
14 attenuation processes may include the following: sorption,  
15 biodegradation, chemical reactions with subsurface materials,  
16 diffusion, dispersion, and volatilization ~~the verifiable~~  
17 ~~reduction of contaminants through natural processes, which may~~  
18 ~~include diffusion, dispersion, adsorption, and biodegradation.~~

19           (13)~~(12)~~ "Person responsible for brownfield site  
20 rehabilitation" means the individual or entity that is  
21 designated by the local government to enter into the  
22 brownfield site rehabilitation agreement with the department  
23 or an approved local pollution control program and enters into  
24 an agreement with the local government for redevelopment of  
25 the site.

26           (14)~~(13)~~ "Person" means any individual, partner, joint  
27 venture, or corporation; any group of the foregoing, organized  
28 or united for a business purpose; or any governmental entity.

29           (15)~~(14)~~ "Secretary" means the secretary of the  
30 Department of Environmental Protection.

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1           ~~(16)~~~~(15)~~ "Site rehabilitation" means the assessment of  
2 site contamination and the remediation activities that reduce  
3 the levels of contaminants at a site through accepted  
4 treatment methods to meet the cleanup target levels  
5 established for that site.

6           ~~(17)~~~~(16)~~ "Source removal" means the removal of free  
7 product, or the removal of contaminants from soil or sediment  
8 that has been contaminated to the extent that leaching to  
9 groundwater or surface water has occurred or is occurring.

10           ~~(18)~~~~(17)~~ "Synergistic effects" means a scientific  
11 principle that the toxicity that occurs as a result of  
12 exposure is more than the sum of the toxicities of the  
13 individual chemicals to which the individual is exposed.

14           Section 2. Subsection (5) of section 376.80, Florida  
15 Statutes, 1998 Supplement, is amended to read:

16           376.80 Brownfield program administration process.--

17           (5) The person responsible for brownfield site  
18 rehabilitation must enter into a brownfield site  
19 rehabilitation agreement with the department or an approved  
20 local pollution control program if actual environmental  
21 contamination exists at the brownfield site. 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 program to all  
28 brownfield sites within the eligible brownfield area for  
29 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. 376.77-376.85, and that will  
2 improve or enhance the brownfield site rehabilitation process;

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

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

17 Section 3. Subsection (3) is added to section 376.81,  
18 Florida Statutes, 1998 Supplement, to read:

19 376.81 Brownfield site and brownfield areas  
20 contamination cleanup criteria.--

21 (3) The cleanup criteria specified in this section do  
22 not constitute disposal or reuse criteria. Offsite disposal or  
23 relocation must be in accordance with all applicable federal,  
24 state, and local laws and rules.

25 Section 4. This act shall take effect July 1, 1999.  
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SENATE SUMMARY

Defines the term "contaminant" and redefines other terms for purposes of laws governing brownfields redevelopment. Requires that a person rehabilitating a brownfield site enter into an agreement with the Department of Environmental Protection if actual environmental contamination exists at the site. Provides that cleanup criteria for brownfield contamination do not constitute disposal or reuse criteria.