

1 A bill to be entitled
2 An act relating to state regulation of lands;
3 amending s. 190.012, F.S.; authorizing
4 community development districts to fund certain
5 environmental costs under certain
6 circumstances; amending s. 197.432, F.S.;
7 conforming statutory cross-references; amending
8 s. 197.502, F.S.; authorizing local governments
9 to file tax deed applications in a specified
10 manner; amending s. 197.522, F.S.; conforming a
11 statutory cross-reference; amending s.
12 199.1055, F.S.; broadening the contaminated
13 site rehabilitation tax credit against the
14 intangible personal property tax to include in
15 the preapproved advanced cleanup program
16 petroleum-contaminated sites and other
17 contaminated sites at which cleanup is
18 undertaken pursuant to a voluntary
19 rehabilitation agreement with the Department of
20 Environmental Protection under certain
21 circumstances; amending s. 212.08, F.S.;
22 providing an exemption from the sales and use
23 tax for building materials used in the
24 rehabilitation of real property located in a
25 designated brownfield area; providing an
26 exemption from the sales and use tax for
27 business property purchased for use by
28 businesses located in a designated brownfield
29 area; amending s. 212.096, F.S.; providing for
30 a brownfield area jobs credit against the sales
31 and use tax; amending s. 212.20, F.S.;

1 providing for distribution of funds; amending
2 s. 220.181, F.S.; providing for a designated
3 brownfield area jobs credit against the
4 corporate income tax; amending s. 220.182,
5 F.S.; providing for a designated brownfield
6 area property tax credit against the corporate
7 income tax; amending s. 220.183, F.S.;
8 providing a partial credit against the
9 corporate income tax for community
10 contributions that benefit designated
11 brownfield areas; amending s. 220.1845, F.S.;
12 broadening the contaminated site rehabilitation
13 tax credit against the corporate income tax to
14 include in the preapproved advanced cleanup
15 program petroleum-contaminated sites and other
16 contaminated sites at which cleanup is
17 undertaken pursuant to a voluntary
18 rehabilitation agreement with the Department of
19 Environmental Protection under certain
20 circumstances; amending s. 252.87, F.S.;
21 revising reporting requirements under the
22 Hazardous Materials Emergency Response and
23 Community Right-to-Know Act; amending s.
24 288.047, F.S.; requiring Enterprise Florida,
25 Inc., to set aside each fiscal year a certain
26 amount of the appropriation for the Quick
27 Response Training Program for businesses
28 located in a brownfield area; amending s.
29 288.107, F.S.; redefining the term "eligible
30 business"; providing for bonus refunds for
31 businesses that can demonstrate a fixed capital

1 investment in certain mixed use activities in
2 the brownfield area; amending s. 288.905, F.S.;
3 requiring Enterprise Florida, Inc., to develop
4 comprehensive marketing strategies for
5 redevelopment of brownfield areas; amending s.
6 290.007, F.S.; providing for state incentives
7 in designated brownfield areas; amending s.
8 376.301, F.S.; redefining the terms
9 "antagonistic effects," "discharge,"
10 "institutional controls," and "site
11 rehabilitation"; amending s. 376.3078, F.S.;
12 providing for rehabilitation criteria; amending
13 s. 376.30781, F.S.; broadening the partial tax
14 credits for the rehabilitation of certain
15 contaminated sites; clarifying provisions
16 regarding the filing for the tax credits;
17 amending s. 376.79, F.S.; defining the terms
18 "contaminant" and "risk reduction"; redefining
19 the terms "natural attenuation," "institutional
20 control," and "source removal"; amending s.
21 376.80, F.S.; allowing local governments or
22 persons responsible for brownfield area
23 rehabilitation and redevelopment to use an
24 existing advisory committee; deleting the
25 requirement that the advisory committee must
26 review and provide recommendations to the local
27 government with jurisdiction on the proposed
28 brownfield site rehabilitation agreement;
29 providing that the person responsible for site
30 rehabilitation must notify the advisory
31 committee of the intent to rehabilitate and

1 redevelop the site before executing the
2 brownfield site rehabilitation agreement;
3 requiring the person responsible for site
4 rehabilitation to hold a meeting or attend a
5 regularly scheduled meeting of the advisory
6 committee to inform the advisory committee of
7 the outcome of the environmental assessment;
8 requiring the person responsible for site
9 rehabilitation to enter into a brownfield site
10 rehabilitation agreement only if actual
11 contamination exists; clarifying provisions
12 relating to the required comprehensive general
13 liability and comprehensive automobile
14 liability insurance; amending s. 376.81, F.S.;
15 providing direction regarding the risk-based
16 corrective action rule; requiring the
17 department to establish alternative cleanup
18 levels under certain circumstances; amending s.
19 376.82, F.S.; providing immunity for liability
20 regarding contaminated site remediation under
21 certain circumstances; amending s. 376.84,
22 F.S.; authorizing entities approved by the
23 local government for the purpose of
24 redeveloping brownfield areas to use tax
25 increment financing; amending s. 376.86, F.S.;
26 increasing the limits of the state loan
27 guaranty in brownfield areas; creating s.
28 376.876, F.S.; providing for a Brownfield
29 Redevelopment Grants Program in the Department
30 of Environmental Protection; specifying the
31 uses of grant funds; requiring matching funds;

1 authorizing the department to adopt rules;
2 providing for interim application requirements;
3 creating s. 376.88, F.S.; providing for the
4 Brownfield Program Review Advisory Council;
5 providing duties and responsibilities; amending
6 s. 403.973, F.S.; providing that projects
7 located in a designated brownfield area are
8 eligible for the expedited permitting process;
9 amending ss. 712.01, 712.03, F.S.; prohibiting
10 subsequent property owners from removing
11 certain deed restrictions under other
12 provisions of the Marketable Record Title Act;
13 providing for implementation to the extent
14 funds are appropriated; repealing s.
15 211.3103(9), F.S.; deleting requirements for a
16 county that accepts real property of mined or
17 reclaimed land from phosphate mining companies
18 to forfeit a portion of its share of severance
19 tax equal to the value of property donated;
20 amending s. 376.051, F.S.; authorizing the
21 Department of Environmental Protection to
22 utilize certain criteria in conducting cleanups
23 on lands owned by the state university system;
24 providing an effective date.

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

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28 Section 1. Subsection (1) of section 190.012, Florida
29 Statutes, is amended to read:

30 190.012 Special powers; public improvements and
31 community facilities.--The district shall have, and the board

1 may exercise, subject to the regulatory jurisdiction and
2 permitting authority of all applicable governmental bodies,
3 agencies, and special districts having authority with respect
4 to any area included therein, any or all of the following
5 special powers relating to public improvements and community
6 facilities authorized by this act:

7 (1) To finance, fund, plan, establish, acquire,
8 construct or reconstruct, enlarge or extend, equip, operate,
9 and maintain systems, facilities, and basic infrastructures
10 for the following:

11 (a) Water management and control for the lands within
12 the district and to connect some or any of such facilities
13 with roads and bridges.

14 (b) Water supply, sewer, and wastewater management,
15 reclamation, and reuse or any combination thereof, and to
16 construct and operate connecting intercepting or outlet sewers
17 and sewer mains and pipes and water mains, conduits, or
18 pipelines in, along, and under any street, alley, highway, or
19 other public place or ways, and to dispose of any effluent,
20 residue, or other byproducts of such system or sewer system.

21 (c) Bridges or culverts that may be needed across any
22 drain, ditch, canal, floodway, holding basin, excavation,
23 public highway, tract, grade, fill, or cut and roadways over
24 levees and embankments, and to construct any and all of such
25 works and improvements across, through, or over any public
26 right-of-way, highway, grade, fill, or cut.

27 (d)1. District roads equal to or exceeding the
28 specifications of the county in which such district roads are
29 located, and street lights.

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1 2. Buses, trolleys, transit shelters, ridesharing
2 facilities and services, parking improvements, and related
3 signage.

4 (e) Investigation and remediation costs associated
5 with the cleanup of actual or perceived environmental
6 contamination within the district under the supervision or
7 direction of a competent governmental authority unless the
8 covered costs benefit any person who is a landowner within the
9 district and who caused or contributed to the contamination.

10 ~~(f)(e)~~ Conservation areas, mitigation areas, and
11 wildlife habitat, including the maintenance of any plant or
12 animal species, and any related interest in real or personal
13 property.

14 ~~(g)(f)~~ Any other project within or without the
15 boundaries of a district when a local government issued a
16 development order pursuant to s. 380.06 or s. 380.061
17 approving or expressly requiring the construction or funding
18 of the project by the district, or when the project is the
19 subject of an agreement between the district and a
20 governmental entity and is consistent with the local
21 government comprehensive plan of the local government within
22 which the project is to be located.

23 Section 2. Subsection (4) of section 197.432, Florida
24 Statutes, is amended to read:

25 197.432 Sale of tax certificates for unpaid taxes.--

26 (4) A tax certificate representing less than \$100 in
27 delinquent taxes on property that has been granted a homestead
28 exemption for the year in which the delinquent taxes were
29 assessed may not be sold at public auction but shall be issued
30 by the tax collector to the county at the maximum rate of
31 interest allowed by this chapter. The provisions of s.

1 197.502(4)~~s. 197.502(3)~~ shall not be invoked as long as the
2 homestead exemption is granted to the person who received the
3 homestead exemption for the year in which the tax certificate
4 was issued. However, when all such tax certificates and
5 accrued interest thereon represent an amount of \$100 or more,
6 the provisions of s. 197.502(4)~~s. 197.502(3)~~ shall be
7 invoked.

8 Section 3. Present subsections (2), (3), (4), (5),
9 (6), (7), (8), (9), (10), and (11) of section 197.502, Florida
10 Statutes, are redesignated as subsections (3), (4), (5), (6),
11 (7), (8), (9), (10), (11), and (12), respectively, and a new
12 subsection (2) is added to that section to read:

13 197.502 Application for obtaining tax deed by holder
14 of tax sale certificate; fees.--

15 (2) When a tax certificate that is 2 years old or
16 older exists against a parcel that is located within a
17 designated brownfield area under s. 376.80, the municipality
18 or county may file a tax deed application in the same manner
19 in which an application on a county-held tax certificate is
20 filed and processed under chapter 197.

21 Section 4. Paragraph (a) of subsection (1) of section
22 197.522, Florida Statutes, is amended to read:

23 197.522 Notice to owner when application for tax deed
24 is made.--

25 (1)(a) The clerk of the circuit court shall notify, by
26 certified mail with return receipt requested or by registered
27 mail if the notice is to be sent outside the continental
28 United States, the persons listed in the tax collector's
29 statement pursuant to s. 197.502(5)~~s. 197.502(4)~~ that an
30 application for a tax deed has been made. Such notice shall
31 be mailed at least 20 days prior to the date of sale. If no

1 address is listed in the tax collector's statement, then no
2 notice shall be required.

3 Section 5. Subsection (1) of section 199.1055, Florida
4 Statutes, is amended to read:

5 199.1055 Contaminated site rehabilitation tax
6 credit.--

7 (1) AUTHORIZATION FOR TAX CREDIT; LIMITATIONS.--

8 (a) A credit in the amount of 35 percent of the costs
9 of voluntary cleanup activity that is integral to site
10 rehabilitation at the following sites is allowed against any
11 tax due for a taxable year under s. 199.032, less any credit
12 allowed by s. 220.68 for that year:

13 1. A drycleaning-solvent-contaminated site eligible
14 for state-funded site rehabilitation under s. 376.3078(3);

15 2. A drycleaning-solvent-contaminated site at which
16 cleanup is undertaken by the real property owner pursuant to
17 s. 376.3078(11), if the real property owner is not also, and
18 has never been, the owner or operator of the drycleaning
19 facility where the contamination exists; ~~or~~

20 3. A brownfield site in a designated brownfield area
21 under s. 376.80; ~~or~~

22 4. Any other contaminated site at which cleanup is
23 undertaken by a person pursuant to a voluntary cleanup
24 agreement approved by the Department of Environmental
25 Protection, if the person did not cause or contribute to the
26 contamination at the site.

27 (b) For all applications received by the Department of
28 Environmental Protection by January 15, if, as of the
29 following March 1, the credits granted under paragraph (a) do
30 not exhaust the annual maximum allowable credits under
31 paragraph (g), any remaining credits may be granted for

1 petroleum-contaminated sites at which site rehabilitation is
2 being conducted pursuant to the preapproved advanced cleanup
3 program authorized in s. 376.30713, but tax credits may be
4 granted only for 35 percent of the amount of the cost-share
5 percentage of site rehabilitation costs paid for with private
6 funding. Tax credit applications submitted for preapproved
7 advanced cleanup sites shall not be included in the
8 carry-forward provision of s. 376.30781(9), which otherwise
9 allows applications that do not receive credits due to an
10 exhaustion of the annual tax credit authorization to be
11 carried forward in the same order for the next year's annual
12 tax credit allocation, if any, based on the prior year
13 application.

14 (c)~~(b)~~ A taxpayer, or multiple taxpayers working
15 jointly to clean up a single site, may not receive more than
16 \$250,000 per year in tax credits for each site voluntarily
17 rehabilitated. Multiple taxpayers shall receive tax credits in
18 the same proportion as their contribution to payment of
19 cleanup costs. Subject to the same conditions and limitations
20 as provided in this section, a municipality or county which
21 voluntarily rehabilitates a site may receive not more than
22 \$250,000 per year in tax credits which it can subsequently
23 transfer subject to the provisions in paragraph~~(h)~~~~(g)~~.

24 (d)~~(c)~~ If the credit granted under this section is not
25 fully used in any one year because of insufficient tax
26 liability on the part of the taxpayer, the unused amount may
27 be carried forward for a period not to exceed 5 years.

28 (e)~~(d)~~ A taxpayer that receives a credit under s.
29 220.1845 is ineligible to receive credit under this section in
30 a given tax year.

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1 (f)~~(e)~~ A taxpayer that receives state-funded site
2 rehabilitation pursuant to s. 376.3078(3) for rehabilitation
3 of a drycleaning-solvent-contaminated site is ineligible to
4 receive credit under this section for costs incurred by the
5 taxpayer in conjunction with the rehabilitation of that site
6 during the same time period that state-administered site
7 rehabilitation was underway.

8 (g)~~(f)~~ The total amount of the tax credits which may
9 be granted under this section and s. 220.1845 is \$2 million
10 annually.

11 (h)~~(g)~~1. Tax credits that may be available under this
12 section to an entity eligible under s. 376.30781 may be
13 transferred after a merger or acquisition to the surviving or
14 acquiring entity and used in the same manner with the same
15 limitations.

16 2. The entity or its surviving or acquiring entity as
17 described in subparagraph 1., may transfer any unused credit
18 in whole or in units of no less than 25 percent of the
19 remaining credit. The entity acquiring such credit may use it
20 in the same manner and with the same limitation as described
21 in this section. Such transferred credits may not be
22 transferred again although they may succeed to a surviving or
23 acquiring entity subject to the same conditions and
24 limitations as described in this section.

25 3. In the event the credit provided for under this
26 section is reduced either as a result of a determination by
27 the Department of Environmental Protection or an examination
28 or audit by the Department of Revenue, such tax deficiency
29 shall be recovered from the first entity, or the surviving or
30 acquiring entity, to have claimed such credit up to the amount
31 of credit taken. Any subsequent deficiencies shall be

1 assessed against any entity acquiring and claiming such
2 credit, or in the case of multiple succeeding entities in the
3 order of credit succession.

4 ~~(i)(h)~~ In order to encourage completion of site
5 rehabilitation at contaminated sites being voluntarily cleaned
6 up and eligible for a tax credit under this section, the
7 taxpayer may claim an additional 10 percent of the total
8 cleanup costs, not to exceed \$50,000, in the final year of
9 cleanup as evidenced by the Department of Environmental
10 Protection issuing a "No Further Action" order for that site.

11 Section 6. Paragraphs (g) and (h) of subsection (5) of
12 section 212.08, Florida Statutes, are amended to read:

13 212.08 Sales, rental, use, consumption, distribution,
14 and storage tax; specified exemptions.--The sale at retail,
15 the rental, the use, the consumption, the distribution, and
16 the storage to be used or consumed in this state of the
17 following are hereby specifically exempt from the tax imposed
18 by this chapter.

19 (5) EXEMPTIONS; ACCOUNT OF USE.--

20 (g) Building materials used in the rehabilitation of
21 real property located in an enterprise zone or designated
22 brownfield area.--

23 1. Beginning July 1, 1995, building materials used in
24 the rehabilitation of real property located in an enterprise
25 zone, and, after July 1, 1997, in a designated brownfield area
26 under s. 376.80, shall be exempt from the tax imposed by this
27 chapter upon an affirmative showing to the satisfaction of the
28 department that the items have been used for the
29 rehabilitation of real property located in an enterprise zone
30 or designated brownfield area. Except as provided in
31 subparagraph 2., this exemption inures to the owner, lessee,

1 or lessor of the rehabilitated real property located in an
2 enterprise zone or designated brownfield area only through a
3 refund of previously paid taxes. To receive a refund pursuant
4 to this paragraph, the owner, lessee, or lessor of the
5 rehabilitated real property located in an enterprise zone or
6 designated brownfield area must file an application under oath
7 with the governing body or enterprise zone development agency
8 having jurisdiction over the enterprise zone or designated
9 brownfield area where the business is located, as applicable,
10 which includes:

11 a. The name and address of the person claiming the
12 refund.

13 b. An address and assessment roll parcel number of the
14 rehabilitated real property in an enterprise zone or
15 designated brownfield area for which a refund of previously
16 paid taxes is being sought.

17 c. A description of the improvements made to
18 accomplish the rehabilitation of the real property.

19 d. A copy of the building permit issued for the
20 rehabilitation of the real property.

21 e. A sworn statement, under the penalty of perjury,
22 from the general contractor licensed in this state with whom
23 the applicant contracted to make the improvements necessary to
24 accomplish the rehabilitation of the real property, which
25 statement lists the building materials used in the
26 rehabilitation of the real property, the actual cost of the
27 building materials, and the amount of sales tax paid in this
28 state on the building materials. In the event that a general
29 contractor has not been used, the applicant shall provide this
30 information in a sworn statement, under the penalty of
31 perjury. Copies of the invoices which evidence the purchase of

1 the building materials used in such rehabilitation and the
2 payment of sales tax on the building materials shall be
3 attached to the sworn statement provided by the general
4 contractor or by the applicant. Unless the actual cost of
5 building materials used in the rehabilitation of real property
6 and the payment of sales taxes due thereon is documented by a
7 general contractor or by the applicant in this manner, the
8 cost of such building materials shall be an amount equal to 40
9 percent of the increase in assessed value for ad valorem tax
10 purposes.

11 f. The identifying number assigned pursuant to s.
12 290.0065 to the enterprise zone or designated brownfield area
13 in which the rehabilitated real property is located.

14 g. A certification by the local building inspector
15 that the improvements necessary to accomplish the
16 rehabilitation of the real property are substantially
17 completed.

18 h. Whether the business is a small business as defined
19 by s. 288.703(1).

20 i. If applicable, the name and address of each
21 permanent employee of the business, including, for each
22 employee who is a resident of an enterprise zone or designated
23 brownfield area, the identifying number assigned pursuant to
24 s. 290.0065 to the enterprise zone in which the employee
25 resides.

26 2. This exemption inures to a city, county, or other
27 governmental agency through a refund of previously paid taxes
28 if the building materials used in the rehabilitation of real
29 property located in an enterprise zone or designated
30 brownfield area are paid for from the funds of a community
31 development block grant or similar grant or loan program. To

1 receive a refund pursuant to this paragraph, a city, county,
2 or other governmental agency must file an application which
3 includes the same information required to be provided in
4 subparagraph 1. by an owner, lessee, or lessor of
5 rehabilitated real property. In addition, the application must
6 include a sworn statement signed by the chief executive
7 officer of the city, county, or other governmental agency
8 seeking a refund which states that the building materials for
9 which a refund is sought were paid for from the funds of a
10 community development block grant or similar grant or loan
11 program.

12 3. Within 10 working days after receipt of an
13 application, the governing body or enterprise zone development
14 agency having jurisdiction over the enterprise zone or
15 designated brownfield area shall review the application to
16 determine if it contains all the information required pursuant
17 to subparagraph 1. or subparagraph 2. and meets the criteria
18 set out in this paragraph. The governing body or agency shall
19 certify all applications that contain the information required
20 pursuant to subparagraph 1. or subparagraph 2. and meet the
21 criteria set out in this paragraph as eligible to receive a
22 refund. If applicable, the governing body or agency shall also
23 certify if 20 percent of the employees of the business are
24 residents of an enterprise zone or designated brownfield area,
25 excluding temporary and part-time employees. The certification
26 shall be in writing, and a copy of the certification shall be
27 transmitted to the executive director of the Department of
28 Revenue. The applicant shall be responsible for forwarding a
29 certified application to the department within the time
30 specified in subparagraph 4.

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1 4. An application for a refund pursuant to this
2 paragraph must be submitted to the department within 6 months
3 after the rehabilitation of the property is deemed to be
4 substantially completed by the local building inspector.

5 5. The provisions of s. 212.095 do not apply to any
6 refund application made pursuant to this paragraph. No more
7 than one exemption through a refund of previously paid taxes
8 for the rehabilitation of real property shall be permitted for
9 any one parcel of real property. No refund shall be granted
10 pursuant to this paragraph unless the amount to be refunded
11 exceeds \$500. No refund granted pursuant to this paragraph
12 shall exceed the lesser of 97 percent of the Florida sales or
13 use tax paid on the cost of the building materials used in the
14 rehabilitation of the real property as determined pursuant to
15 sub-subparagraph 1.e. or \$5,000, or, if no less than 20
16 percent of the employees of the business are residents of an
17 enterprise zone or designated brownfield area, excluding
18 temporary and part-time employees, the amount of refund
19 granted pursuant to this paragraph shall not exceed the lesser
20 of 97 percent of the sales tax paid on the cost of such
21 building materials or \$10,000. A refund approved pursuant to
22 this paragraph shall be made within 30 days of formal approval
23 by the department of the application for the refund.

24 6. The department shall adopt rules governing the
25 manner and form of refund applications and may establish
26 guidelines as to the requisites for an affirmative showing of
27 qualification for exemption under this paragraph.

28 7. The department shall deduct an amount equal to 10
29 percent of each refund granted under the provisions of this
30 paragraph from the amount transferred into the Local
31 Government Half-cent Sales Tax Clearing Trust Fund pursuant to

1 s. 212.20 for the county area in which the rehabilitated real
2 property is located and shall transfer that amount to the
3 General Revenue Fund.

4 8. For the purposes of the exemption provided in this
5 paragraph:

6 a. "Building materials" means tangible personal
7 property that ~~which~~ becomes a component part of improvements
8 to real property.

9 b. "Real property" has the same meaning as provided in
10 s. 192.001(12).

11 c. "Rehabilitation of real property" means the
12 reconstruction, renovation, restoration, rehabilitation,
13 construction, or expansion of improvements to real property.

14 d. "Substantially completed" has the same meaning as
15 provided in s. 192.042(1).

16 9. The provisions of this paragraph shall expire and
17 be void on December 31, 2005.

18 (h) Business property used in an enterprise zone or
19 designated brownfield area--

20 1. Beginning July 1, 1995, business property purchased
21 for use by businesses located in an enterprise zone that ~~which~~
22 is subsequently used in an enterprise zone or, after July 1,
23 1997, in a designated brownfield area under s. 376.80, shall
24 be exempt from the tax imposed by this chapter. This exemption
25 inures to the business only through a refund of previously
26 paid taxes. A refund shall be authorized upon an affirmative
27 showing by the taxpayer to the satisfaction of the department
28 that the requirements of this paragraph have been met.

29 2. To receive a refund, the business must file under
30 oath with the governing body or enterprise zone development
31 agency having jurisdiction over the enterprise zone or

1 designated brownfield area where the business is located, as
2 applicable, an application which includes:

3 a. The name and address of the business claiming the
4 refund.

5 b. The identifying number assigned pursuant to s.
6 290.0065 to the enterprise zone or designated brownfield area
7 in which the business is located.

8 c. A specific description of the property for which a
9 refund is sought, including its serial number or other
10 permanent identification number.

11 d. The location of the property.

12 e. The sales invoice or other proof of purchase of the
13 property, showing the amount of sales tax paid, the date of
14 purchase, and the name and address of the sales tax dealer
15 from whom the property was purchased.

16 f. Whether the business is a small business as defined
17 by s. 288.703(1).

18 g. If applicable, the name and address of each
19 permanent employee of the business, including, for each
20 employee who is a resident of an enterprise zone or designated
21 brownfield area, the identifying number assigned pursuant to
22 s. 290.0065 to the enterprise zone or designated brownfield
23 area in which the employee resides.

24 3. Within 10 working days after receipt of an
25 application, the governing body or enterprise zone development
26 agency having jurisdiction over the enterprise zone or
27 designated brownfield area shall review the application to
28 determine if it contains all the information required pursuant
29 to subparagraph 2. and meets the criteria set out in this
30 paragraph. The governing body or agency shall certify all
31 applications that contain the information required pursuant to

1 subparagraph 2. and meet the criteria set out in this
2 paragraph as eligible to receive a refund. If applicable, the
3 governing body or agency shall also certify if 20 percent of
4 the employees of the business are residents of an enterprise
5 zone or designated brownfield area, excluding temporary and
6 part-time employees. The certification shall be in writing,
7 and a copy of the certification shall be transmitted to the
8 executive director of the Department of Revenue. The business
9 shall be responsible for forwarding a certified application to
10 the department within the time specified in subparagraph 4.

11 4. An application for a refund pursuant to this
12 paragraph must be submitted to the department within 6 months
13 after the business property is purchased.

14 5. The provisions of s. 212.095 do not apply to any
15 refund application made pursuant to this paragraph. The amount
16 refunded on purchases of business property under this
17 paragraph shall be the lesser of 97 percent of the sales tax
18 paid on such business property or \$5,000, or, if no less than
19 20 percent of the employees of the business are residents of
20 an enterprise zone or designated brownfield area, excluding
21 temporary and part-time employees, the amount refunded on
22 purchases of business property under this paragraph shall be
23 the lesser of 97 percent of the sales tax paid on such
24 business property or \$10,000. A refund approved pursuant to
25 this paragraph shall be made within 30 days of formal approval
26 by the department of the application for the refund. No refund
27 shall be granted under this paragraph unless the amount to be
28 refunded exceeds \$100 in sales tax paid on purchases made
29 within a 60-day time period.

30 6. The department shall adopt rules governing the
31 manner and form of refund applications and may establish

1 guidelines as to the requisites for an affirmative showing of
2 qualification for exemption under this paragraph.

3 7. If the department determines that the business
4 property is used outside an enterprise zone or designated
5 brownfield area within 3 years from the date of purchase, the
6 amount of taxes refunded to the business purchasing such
7 business property shall immediately be due and payable to the
8 department by the business, together with the appropriate
9 interest and penalty, computed from the date of purchase, in
10 the manner provided by this chapter. Notwithstanding this
11 subparagraph, business property used exclusively in:

- 12 a. Licensed commercial fishing vessels,
- 13 b. Fishing guide boats, or
- 14 c. Ecotourism guide boats

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16 that leave and return to a fixed location within an area
17 designated under s. 370.28 are eligible for the exemption
18 provided under this paragraph if all requirements of this
19 paragraph are met. Such vessels and boats must be owned by a
20 business that is eligible to receive the exemption provided
21 under this paragraph. This exemption does not apply to the
22 purchase of a vessel or boat.

23 8. The department shall deduct an amount equal to 10
24 percent of each refund granted under the provisions of this
25 paragraph from the amount transferred into the Local
26 Government Half-cent Sales Tax Clearing Trust Fund pursuant to
27 s. 212.20 for the county area in which the business property
28 is located and shall transfer that amount to the General
29 Revenue Fund.

30 9. For the purposes of this exemption, "business
31 property" means new or used property defined as "recovery

1 property" in s. 168(c) of the Internal Revenue Code of 1954,
2 as amended, except:

3 a. Property classified as 3-year property under s.
4 168(c)(2)(A) of the Internal Revenue Code of 1954, as amended;

5 b. Industrial machinery and equipment as defined in
6 sub-subparagraph (b)6.a. and eligible for exemption under
7 paragraph (b); and

8 c. Building materials as defined in sub-subparagraph
9 (g)8.a.

10 10. The provisions of this paragraph shall expire and
11 be void on December 31, 2005.

12 Section 7. Section 212.096, Florida Statutes, is
13 amended to read:

14 212.096 Sales, rental, storage, use tax; brownfield
15 area and enterprise zone jobs credit against sales tax.--

16 (1) For the purposes of the credit provided in this
17 section:

18 (a) "Eligible business" means any sole proprietorship,
19 firm, partnership, corporation, bank, savings association,
20 estate, trust, business trust, receiver, syndicate, or other
21 group or combination, or successor business, located in an
22 enterprise zone or a brownfield area designated under s.
23 376.80. An eligible business does not include any business
24 which has claimed the credit permitted under s. 220.181 for
25 any new business employee first beginning employment with the
26 business after July 1, 1995.

27 (b) "Month" means either a calendar month or the time
28 period from any day of any month to the corresponding day of
29 the next succeeding month or, if there is no corresponding day
30 in the next succeeding month, the last day of the succeeding
31 month.

1 (c) "New employee" means a person residing in an
2 enterprise zone or a designated brownfield area, a qualified
3 Job Training Partnership Act classroom training participant,
4 or a WAGES Program participant who begins employment with an
5 eligible business after July 1, 1995, and who has not been
6 previously employed within the preceding 12 months by the
7 eligible business, or a successor eligible business, claiming
8 the credit allowed by this section.

9
10 A person shall be deemed to be employed if the person performs
11 duties in connection with the operations of the business on a
12 regular, full-time basis, provided the person is performing
13 such duties for an average of at least 36 hours per week each
14 month, or a part-time basis, provided the person is performing
15 such duties for an average of at least 20 hours per week each
16 month throughout the year. The person must be performing such
17 duties at a business site located in the enterprise zone or
18 designated brownfield area.

19 (2)(a) It is the legislative intent to encourage the
20 provision of meaningful employment opportunities ~~that~~ ~~which~~
21 will improve the quality of life of those employed and to
22 encourage economic expansion of enterprise zones or designated
23 brownfield areas and the state. Therefore, beginning July 1,
24 1995, upon an affirmative showing by a business to the
25 satisfaction of the department that the requirements of this
26 section have been met, the business shall be allowed a credit
27 against the tax remitted under this chapter.

28 (b) The credit shall be computed as follows:

29 1. Ten percent of the monthly wages paid in this state
30 to each new employee whose wages do not exceed \$1,500 a month.
31 If no less than 20 percent of the employees of the business

1 are residents of an enterprise zone or a designated brownfield
2 area, excluding temporary and part-time employees, the credit
3 shall be computed as 15 percent of the monthly wages paid in
4 this state to each new employee;

5 2. Five percent of the first \$1,500 of actual monthly
6 wages paid in this state for each new employee whose wages
7 exceed \$1,500 a month; or

8 3. Fifteen percent of the first \$1,500 of actual
9 monthly wages paid in this state for each new employee who is
10 a WAGES Program participant pursuant to chapter 414.

11
12 For purposes of this paragraph, monthly wages shall be
13 computed as one-twelfth of the expected annual wages paid to
14 such employee. The amount paid as wages to a new employee is
15 the compensation paid to such employee that is subject to
16 unemployment tax. The credit shall be allowed for up to 12
17 consecutive months, beginning with the first tax return due
18 pursuant to s. 212.11 after approval by the department.

19 (3) In order to claim this credit, an eligible
20 business must file under oath with the governing body or
21 enterprise zone development agency having jurisdiction over
22 the enterprise zone or designated brownfield area where the
23 business is located, as applicable, a statement which
24 includes:

25 (a) For each new employee for whom this credit is
26 claimed, the employee's name and place of residence, including
27 the identifying number assigned pursuant to s. 290.0065 to the
28 enterprise zone or designated brownfield area in which the
29 employee resides if the new employee is a person residing in
30 an enterprise zone, and, if applicable, documentation that the
31

1 employee is a qualified Job Training Partnership Act classroom
2 training participant or a WAGES Program participant.

3 (b) If applicable, the name and address of each
4 permanent employee of the business, including, for each
5 employee who is a resident of an enterprise zone or a
6 designated brownfield area, the identifying number assigned
7 pursuant to s. 290.0065 to the enterprise zone or designated
8 brownfield area in which the employee resides.

9 (c) The name and address of the eligible business.

10 (d) The starting salary or hourly wages paid to the
11 new employee.

12 (e) The identifying number assigned pursuant to s.
13 290.0065 to the enterprise zone or designated brownfield area
14 in which the business is located.

15 (f) Whether the business is a small business as
16 defined by s. 288.703(1).

17 (g) Within 10 working days after receipt of an
18 application, the governing body or enterprise zone development
19 agency having jurisdiction over the enterprise zone or
20 designated brownfield area shall review the application to
21 determine if it contains all the information required pursuant
22 to this subsection and meets the criteria set out in this
23 section. The governing body or agency shall certify all
24 applications that contain the information required pursuant to
25 this subsection and meet the criteria set out in this section
26 as eligible to receive a credit. If applicable, the governing
27 body or agency shall also certify if 20 percent of the
28 employees of the business are residents of an enterprise zone
29 or a designated brownfield area, excluding temporary and
30 part-time employees. The certification shall be in writing,
31 and a copy of the certification shall be transmitted to the

1 executive director of the Department of Revenue. The business
2 shall be responsible for forwarding a certified application to
3 the department within the time specified in paragraph (h).

4 (h) All applications for a credit pursuant to this
5 section must be submitted to the department within 4 months
6 after the new employee is hired.

7 (4) In the event the application is insufficient to
8 support the credit authorized in this section, the department
9 shall deny the credit and notify the business of that fact.
10 The business may reapply for this credit.

11 (5) The credit provided in this section does not
12 apply:

13 (a) For any new employee who is an owner, partner, or
14 stockholder of an eligible business.

15 (b) For any new employee who is employed for any
16 period less than 3 full calendar months.

17 (6) The credit provided in this section shall not be
18 allowed for any month in which the tax due for such period or
19 the tax return required pursuant to s. 212.11 for such period
20 is delinquent.

21 (7) In the event an eligible business has a credit
22 larger than the amount owed the state on the tax return for
23 the time period in which the credit is claimed, the amount of
24 the credit for that time period shall be the amount owed the
25 state on that tax return.

26 (8) Any business which has claimed this credit shall
27 not be allowed any credit under the provisions of s. 220.181
28 for any new employee beginning employment after July 1, 1995.

29 (9) It shall be the responsibility of each business to
30 affirmatively demonstrate to the satisfaction of the
31 department that it meets the requirements of this section.

1 (10) Any person who fraudulently claims this credit is
2 liable for repayment of the credit plus a mandatory penalty of
3 100 percent of the credit plus interest at the rate provided
4 in this chapter, and such person is guilty of a misdemeanor of
5 the second degree, punishable as provided in s. 775.082 or s.
6 775.083.

7 (11) The provisions of this section, except for
8 subsection (10), shall expire and be void on December 31,
9 2005.

10 Section 8. Paragraph (f) of subsection (6) of section
11 212.20, Florida Statutes, is amended to read:

12 212.20 Funds collected, disposition; additional powers
13 of department; operational expense; refund of taxes
14 adjudicated unconstitutionally collected.--

15 (6) Distribution of all proceeds under this chapter
16 shall be as follows:

17 (f) The proceeds of all other taxes and fees imposed
18 pursuant to this chapter shall be distributed as follows:

19 1. In any fiscal year, the greater of \$500 million,
20 minus an amount equal to 4.6 percent of the proceeds of the
21 taxes collected pursuant to chapter 201, or 5 percent of all
22 other taxes and fees imposed pursuant to this chapter shall be
23 deposited in monthly installments into the General Revenue
24 Fund.

25 2. Two-tenths of one percent shall be transferred to
26 the Solid Waste Management Trust Fund.

27 3. After the distribution under subparagraphs 1. and
28 2., 9.653 percent of the amount remitted by a sales tax dealer
29 located within a participating county pursuant to s. 218.61
30 shall be transferred into the Local Government Half-cent Sales
31 Tax Clearing Trust Fund.

1 4. After the distribution under subparagraphs 1., 2.,
2 and 3., 0.054 percent shall be transferred to the Local
3 Government Half-cent Sales Tax Clearing Trust Fund and
4 distributed pursuant to s. 218.65.

5 5. Of the remaining proceeds:

6 a. Beginning July 1, 1992, \$166,667 shall be
7 distributed monthly by the department to each applicant that
8 has been certified as a "facility for a new professional
9 sports franchise" or a "facility for a retained professional
10 sports franchise" pursuant to s. 288.1162 and \$41,667 shall be
11 distributed monthly by the department to each applicant that
12 has been certified as a "new spring training franchise
13 facility" pursuant to s. 288.1162. Distributions shall begin
14 60 days following such certification and shall continue for 30
15 years. Nothing contained herein shall be construed to allow an
16 applicant certified pursuant to s. 288.1162 to receive more in
17 distributions than actually expended by the applicant for the
18 public purposes provided for in s. 288.1162(7). However, a
19 certified applicant shall receive distributions up to the
20 maximum amount allowable and undistributed under this section
21 for additional renovations and improvements to the facility
22 for the franchise without additional certification.

23 b. Beginning 30 days after notice by the Office of
24 Tourism, Trade, and Economic Development to the Department of
25 Revenue that an applicant has been certified as the
26 professional golf hall of fame pursuant to s. 288.1168 and is
27 open to the public, \$166,667 shall be distributed monthly, for
28 up to 300 months, to the applicant.

29 c. Beginning 30 days after notice by the Department of
30 Commerce to the Department of Revenue that the applicant has
31 been certified as the International Game Fish Association

1 World Center facility pursuant to s. 288.1169, and the
2 facility is open to the public, \$83,333 shall be distributed
3 monthly, for up to 180 months, to the applicant. This
4 distribution is subject to reduction pursuant to s. 288.1169.

5 d. Beginning 30 days after notice by the Office of
6 Tourism, Trade, and Economic Development to the Department of
7 Revenue that an applicant has been certified as a business
8 located and operated in an enterprise zone or designated
9 brownfield area pursuant to s. 376.80, an amount equal to the
10 tax rebate calculated pursuant to s. 290.007(9) shall be
11 distributed, on a monthly basis and within a 12 month period,
12 to the certified business by the Department of Revenue.

13 6. All other proceeds shall remain with the General
14 Revenue Fund.

15 Section 9. Section 220.181, Florida Statutes, is
16 amended to read:

17 220.181 Enterprise zone or designated brownfield area
18 jobs credit.--

19 (1)(a) ~~Beginning July 1, 1995,~~ There shall be allowed
20 a credit against the tax imposed by this chapter to any
21 business located in an enterprise zone or a brownfield area
22 designated under s. 376.80 which employs one or more new
23 employees. The credit shall be computed as follows:

24 1. Ten percent of the actual monthly wages paid in
25 this state to each new employee whose wages do not exceed
26 \$1,500 a month. If no less than 20 percent of the employees of
27 the business are residents of an enterprise zone or a
28 brownfield area designated under s. 376.80, excluding
29 temporary and part-time employees, the credit shall be
30 computed as 15 percent of the actual monthly wages paid in
31

1 this state to each new employee, for a period of up to 12
2 consecutive months;

3 2. Five percent of the first \$1,500 of actual monthly
4 wages paid in this state for each new employee whose wages
5 exceed \$1,500 a month; or

6 3. Fifteen percent of the first \$1,500 of actual
7 monthly wages paid in this state for each new employee who is
8 a WAGES Program participant pursuant to chapter 414.

9 (b) This credit applies only with respect to wages
10 subject to unemployment tax and does not apply for any new
11 employee who is employed for any period less than 3 full
12 months.

13 (c) If this credit is not fully used in any one year,
14 the unused amount may be carried forward for a period not to
15 exceed 5 years. The carryover credit may be used in a
16 subsequent year when the tax imposed by this chapter for such
17 year exceeds the credit for such year after applying the other
18 credits and unused credit carryovers in the order provided in
19 s. 220.02(10).

20 (2) When filing for an enterprise zone jobs credit or
21 a brownfield area jobs credit, a business must file under oath
22 with the governing body or enterprise zone development agency
23 having jurisdiction over the enterprise zone or the designated
24 brownfield area where the business is located, as applicable,
25 a statement which includes:

26 (a) For each new employee for whom this credit is
27 claimed, the employee's name and place of residence during the
28 taxable year, including the identifying number assigned
29 pursuant to s. 290.0065 to the enterprise zone, or to the
30 brownfield area designated under s. 376.80, in which the new
31 employee resides if the new employee is a person residing in

1 an enterprise zone or a designated brownfield area, and, if
2 applicable, documentation that the employee is a qualified Job
3 Training Partnership Act classroom training participant or a
4 WAGES Program participant.

5 (b) If applicable, the name and address of each
6 permanent employee of the business, including, for each
7 employee who is a resident of an enterprise zone or a
8 designated brownfield area, the identifying number assigned
9 pursuant to s. 290.0065 to the enterprise zone or designated
10 brownfield area in which the employee resides.

11 (c) The name and address of the business.

12 (d) The identifying number assigned pursuant to s.
13 290.0065 to the enterprise zone or designated brownfield area
14 in which the eligible business is located.

15 (e) The salary or hourly wages paid to each new
16 employee claimed.

17 (f) Whether the business is a small business as
18 defined by s. 288.703(1).

19 (3) Within 10 working days after receipt of an
20 application, the governing body or enterprise zone development
21 agency having jurisdiction over the enterprise zone or
22 designated brownfield area shall review the application to
23 determine if it contains all the information required pursuant to
24 subsection (2) and meets the criteria set out in this
25 section. The governing body or agency shall certify all
26 applications that contain the information required pursuant to
27 subsection (2) and meet the criteria set out in this section
28 as eligible to receive a credit. If applicable, the governing
29 body or agency shall also certify if 20 percent of the
30 employees of the business are residents of an enterprise zone
31 or designated brownfield area, excluding temporary and

1 part-time employees. The certification shall be in writing,
2 and a copy of the certification shall be transmitted to the
3 executive director of the Department of Revenue. The business
4 shall be responsible for forwarding a certified application to
5 the department.

6 (4) It shall be the responsibility of the taxpayer to
7 affirmatively demonstrate to the satisfaction of the
8 department that it meets the requirements of this act.

9 (5) For the purpose of this section, the term "month"
10 means either a calendar month or the time period from any day
11 of any month to the corresponding day of the next succeeding
12 month or, if there is no corresponding day in the next
13 succeeding month, the last day of the succeeding month.

14 (6) No business which files an amended return for a
15 taxable year shall be allowed any amount of credit or credit
16 carryforward pursuant to this section in excess of the amount
17 claimed by such business on its original return for the
18 taxable year. The provisions of this subsection do not apply
19 to increases in the amount of credit claimed under this
20 section on an amended return due to the use of any credit
21 amount previously carried forward for the taxable year on the
22 original return or any eligible prior year under paragraph
23 (1)(c).

24 (7) Any business which has claimed this credit shall
25 not be allowed any credit under the provision of s. 212.096
26 for any new employee beginning employment after July 1, 1995.
27 The provisions of this subsection shall not apply when a
28 corporation converts to an S corporation for purposes of
29 compliance with the Internal Revenue Code of 1986, as amended;
30 however, no corporation shall be allowed the benefit of this
31 credit and the credit under s. 212.096 either for the same new

1 employee or for the same taxable year. In addition, such a
2 corporation shall not be allowed any credit under s. 212.096
3 until it has filed notice of its intent to change its status
4 for tax purposes and until its final return under this chapter
5 for the taxable year prior to such change has been filed.

6 (8)(a) Any person who fraudulently claims this credit
7 is liable for repayment of the credit, plus a mandatory
8 penalty in the amount of 200 percent of the credit, plus
9 interest at the rate provided in s. 220.807, and commits a
10 felony of the third degree, punishable as provided in s.
11 775.082, s. 775.083, or s. 775.084.

12 (b) Any person who makes an underpayment of tax as a
13 result of a grossly overstated claim for this credit is guilty
14 of a felony of the third degree, punishable as provided in s.
15 775.082, s. 775.083, or s. 775.084. For purposes of this
16 paragraph, a grossly overstated claim means a claim in an
17 amount in excess of 100 percent of the amount of credit
18 allowable under this section.

19 (9) The provisions of this section, except paragraph
20 (1)(c) and subsection (8), shall expire and be void on June
21 30, 2005, and no business shall be allowed to begin claiming
22 such enterprise zone jobs credit after that date; however, the
23 expiration of this section shall not affect the operation of
24 any credit for which a business has qualified under this
25 section prior to June 30, 2005, or any carryforward of unused
26 credit amounts as provided in paragraph (1)(c).

27 Section 10. Section 220.182, Florida Statutes, is
28 amended to read:

29 220.182 Enterprise zone and brownfield area property
30 tax credit.--

31

1 (1)(a) ~~Beginning July 1, 1995,~~There shall be allowed
2 a credit against the tax imposed by this chapter to any
3 business which establishes a new business as defined in s.
4 220.03(1)(p)2., expands an existing business as defined in s.
5 220.03(1)(k)2., or rebuilds an existing business as defined in
6 s. 220.03(1)(u) in this state. The credit shall be computed
7 annually as ad valorem taxes paid in this state, in the case
8 of a new business; the additional ad valorem tax paid in this
9 state resulting from assessments on additional real or
10 tangible personal property acquired to facilitate the
11 expansion of an existing business; or the ad valorem taxes
12 paid in this state resulting from assessments on property
13 replaced or restored, in the case of a rebuilt business,
14 including pollution and waste control facilities, or any part
15 thereof, and including one or more buildings or other
16 structures, machinery, fixtures, and equipment.

17 (b) If the credit granted pursuant to this section is
18 not fully used in any one year, the unused amount may be
19 carried forward for a period not to exceed 5 years. The
20 carryover credit may be used in a subsequent year when the tax
21 imposed by this chapter for such year exceeds the credit for
22 such year under this section after applying the other credits
23 and unused credit carryovers in the order provided in s.
24 220.02(10). The amount of credit taken under this section in
25 any one year, however, shall not exceed \$25,000, or, if no
26 less than 20 percent of the employees of the business are
27 residents of an enterprise zone or a brownfield area
28 designated under s. 376.80, excluding temporary employees, the
29 amount shall not exceed \$50,000.

30 (2) To be eligible to receive an expanded enterprise
31 zone or a designated brownfield area property tax credit of up

1 to \$50,000, the business must provide a statement, under oath,
2 on the form prescribed by the department for claiming the
3 credit authorized by this section, that no less than 20
4 percent of its employees, excluding temporary and part-time
5 employees, are residents of an enterprise zone or a designated
6 brownfield area. It shall be a condition precedent to the
7 granting of each annual tax credit that such employment
8 requirements be fulfilled throughout each year during the
9 5-year period of the credit. The statement shall set forth the
10 name and place of residence of each permanent employee on the
11 last day of business of the tax year for which the credit is
12 claimed or, if the employee is no longer employed or eligible
13 for the credit on that date, the last calendar day of the last
14 full calendar month the employee was employed or eligible for
15 the credit at the relevant site.

16 (3) The credit shall be available to a new business
17 for a period not to exceed the year in which ad valorem taxes
18 are first levied against the business and the 4 years
19 immediately thereafter. The credit shall be available to an
20 expanded existing business for a period not to exceed the year
21 in which ad valorem taxes are first levied on additional real
22 or tangible personal property acquired to facilitate the
23 expansion or rebuilding and the 4 years immediately
24 thereafter. No business shall be entitled to claim the credit
25 authorized by this section, except any amount attributable to
26 the carryover of a previously earned credit, for more than 5
27 consecutive years.

28 (4) To be eligible for an enterprise zone or a
29 designated brownfield area property tax credit, a new,
30 expanded, or rebuilt business shall file a notice with the
31 property appraiser of the county in which the business

1 property is located or to be located. The notice shall be
2 filed no later than April 1 of the year in which new or
3 additional real or tangible personal property acquired to
4 facilitate such new, expanded, or rebuilt facility is first
5 subject to assessment. The notice shall be made on a form
6 prescribed by the department and shall include separate
7 descriptions of:

8 (a) Real and tangible personal property owned or
9 leased by the business prior to expansion, if any.

10 (b) Net new or additional real and tangible personal
11 property acquired to facilitate the new, expanded, or rebuilt
12 facility.

13 (5) When filing for an enterprise zone or a designated
14 brownfield area property tax credit as a new business, a
15 business shall include a copy of its receipt indicating
16 payment of ad valorem taxes for the current year.

17 (6) When filing for an enterprise zone or a designated
18 brownfield area property tax credit as an expanded or rebuilt
19 business, a business shall include copies of its receipts
20 indicating payment of ad valorem taxes for the current year
21 for prior existing property and for expansion-related or
22 rebuilt property.

23 (7) The receipts described in subsections (5) and (6)
24 shall indicate the assessed value of the property, the
25 property taxes paid, a brief description of the property, and
26 an indication, if applicable, that the property was separately
27 assessed as expansion-related or rebuilt property.

28 (8) The department has authority to adopt rules
29 pursuant to ss. 120.536(1) and 120.54 to implement the
30 provisions of this act.

31

1 (9) It shall be the responsibility of the taxpayer to
2 affirmatively demonstrate to the satisfaction of the
3 department that he or she meets the requirements of this act.

4 (10) When filing for an enterprise zone or a
5 designated brownfield area property tax credit as an expansion
6 of an existing business or as a new business, it shall be a
7 condition precedent to the granting of each annual tax credit
8 that there have been, throughout each year during the 5-year
9 period, no fewer than five more employees than in the year
10 preceding the initial granting of the credit.

11 (11) To apply for an enterprise zone or a designated
12 brownfield area property tax credit, a new, expanded, or
13 rebuilt business must file under oath with the governing body
14 or enterprise zone development agency having jurisdiction over
15 the enterprise zone or the designated brownfield area where
16 the business is located, as applicable, an application
17 prescribed by the department for claiming the credit
18 authorized by this section. Within 10 working days after
19 receipt of an application, the governing body or enterprise
20 zone development agency shall review the application to
21 determine if it contains all the information required pursuant
22 to this section and meets the criteria set out in this
23 section. The governing body or agency shall certify all
24 applications that contain the information required pursuant to
25 this section and meet the criteria set out in this section as
26 eligible to receive a credit. If applicable, the governing
27 body or agency shall also certify if 20 percent of the
28 employees of the business are residents of an enterprise zone
29 or a designated brownfield area, excluding temporary and
30 part-time employees. The certification shall be in writing,
31 and a copy of the certification shall be transmitted to the

1 executive director of the Department of Revenue. The business
2 shall be responsible for forwarding all certified applications
3 to the department.

4 (12) When filing for an enterprise zone or a
5 designated brownfield area property tax credit, a business
6 shall include the identifying number assigned pursuant to s.
7 290.0065 to the enterprise zone in which the business is
8 located.

9 (13) When filing for an enterprise zone or a
10 designated brownfield area property tax credit, a business
11 shall indicate whether the business is a small business as
12 defined by s. 288.703(1).

13 (14) The provisions of this section shall expire and
14 be void on June 30, 2005, and no business shall be allowed to
15 begin claiming such enterprise zone or designated brownfield
16 area property tax credit after that date; however, the
17 expiration of this section shall not affect the operation of
18 any credit for which a business has qualified under this
19 section prior to June 30, 2005, or any carryforward of unused
20 credit amounts as provided in paragraph (1)(b).

21 Section 11. Subsections (1) and (2) and paragraph (d)
22 of subsection (4) of section 220.183, Florida Statutes, are
23 amended to read:

24 220.183 Community contribution tax credit.--

25 (1) LEGISLATIVE FINDINGS.--The Legislature finds that:

26 (a) There exist in the counties and municipalities
27 conditions of blight evidenced by extensive deterioration of
28 public and private facilities, abandonment of sound
29 structures, and high unemployment which conditions impede the
30 conservation and development of healthy, safe, and
31 economically viable communities.

1 (b) Deterioration of housing and industrial,
2 commercial, and public facilities contributes to the decline
3 of neighborhoods and communities and leads to the loss of
4 their historic character and the sense of community which this
5 inspires; reduces the value of property comprising the tax
6 base of local communities; discourages private investment; and
7 requires a disproportionate expenditure of public funds for
8 the social services, unemployment benefits, and police
9 protection required to combat the social and economic problems
10 found in slum communities.

11 (c) In order to ultimately restore social and economic
12 viability to enterprise zones and brownfield areas designated
13 under s. 376.80, it is necessary to renovate or construct new
14 housing, water and sewer infrastructure, and transportation
15 facilities and to specifically provide mechanisms to attract
16 and encourage private economic activity.

17 (d) The various local governments and other
18 redevelopment organizations now undertaking physical
19 revitalization projects are limited by tightly constrained
20 budgets and inadequate resources.

21 (e) In order to significantly improve revitalization
22 efforts by local governments and community development
23 organizations and to retain as much of the historic character
24 of our communities as possible, it is necessary to provide
25 additional resources, and the participation of private
26 enterprise in revitalization efforts is an effective means for
27 accomplishing that goal.

28 (2) POLICY AND PURPOSE.--It is the policy of this
29 state to encourage the participation of private corporations
30 in revitalization projects undertaken by public redevelopment
31 organizations. The purpose of this section is to provide to

1 the greatest extent possible an incentive for such
2 participation by granting partial state income tax credits to
3 corporations that contribute resources to public redevelopment
4 organizations for the revitalization of enterprise zones and
5 brownfield areas designated under s. 376.80 for the benefit of
6 low-income and moderate-income persons or to preserve existing
7 historically significant properties within enterprise zones or
8 brownfield areas designated under s. 376.80 ~~to the greatest~~
9 ~~extent possible~~. The Legislature thus declares this a public
10 purpose for which public money may be borrowed, expended,
11 loaned, and granted.

12 (4) ELIGIBILITY REQUIREMENTS.--

13 (d) The project shall be located in an area designated
14 as an enterprise zone pursuant to s. 290.0065 or a brownfield
15 area designated under s. 376.80. Any project designed to
16 construct or rehabilitate low-income housing is exempt from
17 the area requirement of this paragraph.

18 Section 12. Subsection (1) of section 220.1845,
19 Florida Statutes, is amended to read:

20 220.1845 Contaminated site rehabilitation tax
21 credit.--

22 (1) AUTHORIZATION FOR TAX CREDIT; LIMITATIONS.--

23 (a) A credit in the amount of 35 percent of the costs
24 of voluntary cleanup activity that is integral to site
25 rehabilitation at the following sites is allowed against any
26 tax due for a taxable year under this chapter:

27 1. A drycleaning-solvent-contaminated site eligible
28 for state-funded site rehabilitation under s. 376.3078(3);

29 2. A drycleaning-solvent-contaminated site at which
30 cleanup is undertaken by the real property owner pursuant to
31 s. 376.3078(11), if the real property owner is not also, and

1 has never been, the owner or operator of the drycleaning
2 facility where the contamination exists; ~~or~~

3 3. A brownfield site in a designated brownfield area
4 under s. 376.80; or

5 4. Any other contaminated site at which cleanup is
6 undertaken by a person pursuant to a voluntary cleanup
7 agreement approved by the Department of Environmental
8 Protection, if the person did not cause or contribute to the
9 contamination at the site.

10 (b) For all applications received by the Department of
11 Environmental Protection by January 15, if, as of the
12 following March 1, the credits granted under paragraph (a) do
13 not exhaust the annual maximum allowable credits under
14 paragraph (h), any remaining credits may be granted for
15 petroleum-contaminated sites at which site rehabilitation is
16 being conducted pursuant to the preapproved advanced cleanup
17 program authorized in s. 376.30713, but tax credits may be
18 granted only for 35 percent of the amount of the cost-share
19 percentage of site rehabilitation costs paid for with private
20 funding. Tax credit applications submitted for preapproved
21 advanced cleanup sites shall not be included in the
22 carry-forward provision of s. 376.30781(9), which otherwise
23 allows applications that do not receive credits due to an
24 exhaustion of the annual tax credit authorization to be
25 carried forward in the same order for the next year's annual
26 tax credit allocation, if any, based on the prior year
27 application.

28 ~~(c)~~(b) A taxpayer, or multiple taxpayers working
29 jointly to clean up a single site, may not receive more than
30 \$250,000 per year in tax credits for each site voluntarily
31 rehabilitated. Multiple taxpayers shall receive tax credits in

1 the same proportion as their contribution to payment of
2 cleanup costs. Subject to the same conditions and limitations
3 as provided in this section, a municipality or county which
4 voluntarily rehabilitates a site may receive not more than
5 \$250,000 per year in tax credits which it can subsequently
6 transfer subject to the provisions in paragraph (i)~~(h)~~.

7 (d)~~(c)~~ If the credit granted under this section is not
8 fully used in any one year because of insufficient tax
9 liability on the part of the corporation, the unused amount
10 may be carried forward for a period not to exceed 5 years. The
11 carryover credit may be used in a subsequent year when the tax
12 imposed by this chapter for that year exceeds the credit for
13 which the corporation is eligible in that year under this
14 section after applying the other credits and unused carryovers
15 in the order provided by s. 220.02(10).

16 (e)~~(d)~~ A taxpayer that files a consolidated return in
17 this state as a member of an affiliated group under s.
18 220.131(1) may be allowed the credit on a consolidated return
19 basis up to the amount of tax imposed upon and paid by the
20 taxpayer that incurred the rehabilitation costs.

21 (f)~~(e)~~ A taxpayer that receives credit under s.
22 199.1055 is ineligible to receive credit under this section in
23 a given tax year.

24 (g)~~(f)~~ A taxpayer that receives state-funded site
25 rehabilitation under s. 376.3078(3) for rehabilitation of a
26 drycleaning-solvent-contaminated site is ineligible to receive
27 credit under this section for costs incurred by the taxpayer
28 in conjunction with the rehabilitation of that site during the
29 same time period that state-administered site rehabilitation
30 was underway.

31

1 ~~(h)(g)~~ The total amount of the tax credits which may
2 be granted under this section and s. 199.1055 is \$2 million
3 annually.

4 (i)~~(h)~~1. Tax credits that may be available under this
5 section to an entity eligible under s. 376.30781 may be
6 transferred after a merger or acquisition to the surviving or
7 acquiring entity and used in the same manner and with the same
8 limitations.

9 2. The entity or its surviving or acquiring entity as
10 described in subparagraph 1., may transfer any unused credit
11 in whole or in units of no less than 25 percent of the
12 remaining credit. The entity acquiring such credit may use it
13 in the same manner and with the same limitation as described
14 in this section. Such transferred credits may not be
15 transferred again although they may succeed to a surviving or
16 acquiring entity subject to the same conditions and
17 limitations as described in this section.

18 3. In the event the credit provided for under this
19 section is reduced either as a result of a determination by
20 the Department of Environmental Protection or an examination
21 or audit by the Department of Revenue, such tax deficiency
22 shall be recovered from the first entity, or the surviving or
23 acquiring entity, to have claimed such credit up to the amount
24 of credit taken. Any subsequent deficiencies shall be
25 assessed against any entity acquiring and claiming such
26 credit, or in the case of multiple succeeding entities in the
27 order of credit succession.

28 (j)~~(i)~~ In order to encourage completion of site
29 rehabilitation at contaminated sites being voluntarily cleaned
30 up and eligible for a tax credit under this section, the
31 taxpayer may claim an additional 10 percent of the total

1 cleanup costs, not to exceed \$50,000, in the final year of
2 cleanup as evidenced by the Department of Environmental
3 Protection issuing a "No Further Action" order for that site.

4 Section 13. Subsections (4) and (7) of section 252.87,
5 Florida Statutes, are amended to read:

6 252.87 Supplemental state reporting requirements.--

7 (4) Each employer that owns or operates a facility in
8 this state at which hazardous materials are present in
9 quantities at or above the thresholds established under ss.
10 311(b) and 312(b) of EPCRA shall comply with the reporting
11 requirements of ss. 311 and 312 of EPCRA. Such employer shall
12 also be responsible for notifying the department, the local
13 emergency planning committee, and the local fire department in
14 writing within 30 days if there is a discontinuance or
15 abandonment of the employer's business activities that could
16 affect any stored hazardous materials.

17 (7) The department shall avoid duplicative reporting
18 requirements by utilizing the reporting requirements of other
19 state agencies that regulate hazardous materials to the extent
20 feasible and shall ~~only~~ request the ~~necessary~~ information
21 authorized required under EPCRA ~~or required to implement the~~
22 ~~fee provisions of this part.~~ With the advice and consent of
23 the State Emergency Response Commission for Hazardous
24 Materials, the department may require by rule that the maximum
25 daily amount entry on the chemical inventory report required
26 under s. 312 of EPCRA provide for reporting in estimated
27 actual amounts. The department may also require by rule an
28 entry for the Federal Employer Identification Number on this
29 report. To the extent feasible, the department shall encourage
30 and accept required information in a form initiated through
31 electronic data interchange and shall describe by rule the

1 format, manner of execution, and method of electronic
2 transmission necessary for using such form.To the extent
3 feasible, the Department of Insurance, the Department of
4 Agriculture and Consumer Services, the Department of
5 Environmental Protection, the Public Service Commission, the
6 Department of Revenue, the Department of Labor and Employment
7 Security, and other state agencies which regulate hazardous
8 materials shall coordinate with the department in order to
9 avoid duplicative requirements contained in each agency's
10 respective reporting or registration forms. The other state
11 agencies that inspect facilities storing hazardous materials
12 and suppliers and distributors of covered substances shall
13 assist the department in informing the facility owner or
14 operator of the requirements of this part. The department
15 shall provide the other state agencies with the necessary
16 information and materials to inform the owners and operators
17 of the requirements of this part to ensure that the budgets of
18 these agencies are not adversely affected.

19 Section 14. Subsection (5) of section 288.047, Florida
20 Statutes, is amended to read:

21 288.047 Quick-response training for economic
22 development.--

23 (5) For the first 6 months of each fiscal year,
24 Enterprise Florida, Inc., shall set aside 30 percent of the
25 amount appropriated for the Quick-Response Training Program by
26 the Legislature to fund instructional programs for businesses
27 located in an enterprise zone or brownfield area ~~to instruct~~
28 ~~residents of an enterprise zone~~. Any unencumbered funds
29 remaining undisbursed from this set-aside at the end of the
30 6-month period may be used to provide funding for any program
31 qualifying for funding pursuant to this section.

1 Section 15. Section 288.107, Florida Statutes, is
2 amended to read:

3 288.107 Brownfield redevelopment bonus refunds.--

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

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

7 (b) "Brownfield sites" means sites that are generally
8 abandoned, idled, or underused industrial and commercial
9 properties where expansion or redevelopment is complicated by
10 actual or perceived environmental contamination.

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

20 (d) "Director" means the director of the Office of
21 Tourism, Trade, and Economic Development.

22 (e) "Eligible business" means a qualified target
23 industry business as defined in s. 288.106(2)(o) or other
24 business that can demonstrate a fixed capital investment of at
25 least \$2 million in mixed-use business activities, including
26 multi-unit housing, commercial, retail, and industrial in
27 brownfield areas and which pays wages that are at least 80
28 percent of the average of all private-sector wages in the
29 county in which the business is located.

30 (f) "Jobs" means full-time equivalent positions,
31 consistent with the use of such terms by the Department of

1 Labor and Employment Security for the purpose of unemployment
2 compensation tax, resulting directly from a project in this
3 state. This number does not include temporary construction
4 jobs involved with the construction of facilities for the
5 project and which are not associated with the implementation
6 of the site rehabilitation as provided in s. 376.80.

7 (g) "Office" means the Office of Tourism, Trade, and
8 Economic Development.

9 (h) "Project" means the creation of a new business or
10 the expansion of an existing business as defined in s.
11 288.106.

12 (2) BROWNFIELD REDEVELOPMENT BONUS REFUND.--There
13 shall be allowed from the account a bonus refund of \$2,500 to
14 any qualified target industry business or other eligible
15 business as defined in paragraph (1)(e)for each new Florida
16 job created in a brownfield which is claimed on the qualified
17 target industry business's annual refund claim authorized in
18 s. 288.106(6) or other similar annual claim procedure for
19 other eligible business as defined in paragraph (1)(e)and
20 approved by the office as specified in the final order issued
21 by the director.

22 (3) CRITERIA.--The minimum criteria for participation
23 in the brownfield redevelopment bonus refund are:

24 (a) The creation of at least 10 new full-time
25 permanent jobs. Such jobs shall not include construction or
26 site rehabilitation jobs associated with the implementation of
27 a brownfield site agreement as described in s. 376.80(5).

28 (b) The completion of a fixed capital investment of at
29 least \$2 million in mixed-use business activities, including
30 multi-unit housing, commercial, retail, and industrial in
31 brownfield areas and which pay wages that are at least 80

1 percent of the average of all private-sector wages in the
2 county in which the business is located.

3 ~~(c)(b)~~ That the designation as a brownfield will
4 diversify and strengthen the economy of the area surrounding
5 the site.

6 ~~(d)(e)~~ That the designation as a brownfield will
7 promote capital investment in the area beyond that
8 contemplated for the rehabilitation of the site.

9 (4) PAYMENT OF BROWNFIELD REDEVELOPMENT BONUS
10 REFUNDS.--

11 (a) To be eligible to receive a bonus refund for new
12 Florida jobs created in a brownfield, a business must have
13 been certified as a qualified target industry business under
14 s. 288.106 or eligible business as defined in paragraph (1)(e)
15 and must have indicated on the qualified target industry tax
16 refund application form submitted in accordance with s.
17 288.106(4) or other similar agreement for other eligible
18 business as defined in paragraph (1)(e)that the project for
19 which the application is submitted is or will be located in a
20 brownfield and that the business is applying for certification
21 as a qualified brownfield business under this section, and
22 must have signed a qualified target industry tax refund
23 agreement or other similar agreement for other eligible
24 business as defined in paragraph (1)(e)with the office which
25 indicates that the business has been certified as a qualified
26 target industry business or eligible business as defined in
27 paragraph (1)(e)~~agreement with the office which indicates~~
28 ~~that the business has been certified as a qualified target~~
29 ~~industry business~~ located in a brownfield and specifies the
30 schedule of brownfield redevelopment bonus refunds that the
31 business may be eligible to receive in each fiscal year.

1 (b) To be considered to receive an eligible brownfield
2 redevelopment bonus refund payment, the business meeting the
3 requirements of paragraph (a) must submit a claim once each
4 fiscal year on a claim form approved by the office which
5 indicates the location of the brownfield, the address of the
6 business facility's brownfield location, the name of the
7 brownfield in which it is located, the number of jobs created,
8 and the average wage of the jobs created by the business
9 within the brownfield as defined in s. 288.106 and in the case
10 of other eligible business as defined in paragraph (1)(e), the
11 amount of capital investment and the administrative rules and
12 policies for this that section or s. 288.106. ~~within the~~
13 ~~brownfield as defined in s. 288.106 and the administrative~~
14 ~~rules and policies for that section.~~

15 (c) The bonus refunds shall be available on the same
16 schedule as the qualified target industry tax refund payments
17 scheduled in the qualified target industry tax refund
18 agreement authorized in s. 288.106 or other similar agreement
19 for other eligible businesses as defined in paragraph (1)(e).

20 (d) After entering into a tax refund agreement as
21 provided in s. 288.106 or other similar agreement for other
22 eligible businesses as defined in paragraph (1)(e), an
23 eligible business may receive brownfield redevelopment bonus
24 refunds from the account pursuant to s. 288.106(3)(c).

25 (e) An eligible business that fraudulently claims a
26 refund under this section:

27 1. Is liable for repayment of the amount of the refund
28 to the account, plus a mandatory penalty in the amount of 200
29 percent of the tax refund, which shall be deposited into the
30 General Revenue Fund.

31

1 2. Commits a felony of the third degree, punishable as
2 provided in s. 775.082, s. 775.083, or s. 775.084.

3 (f) The office shall review all applications submitted
4 under s. 288.106 or other similar application forms for other
5 eligible businesses as defined in paragraph (1)(e)which
6 indicate that the proposed project will be located in a
7 brownfield and determine, with the assistance of the
8 Department of Environmental Protection, that the project
9 location is within a brownfield as provided in this act.

10 (g) The office shall approve all claims for a
11 brownfield redevelopment bonus refund payment that are found
12 to meet the requirements of paragraphs (b) and (d).

13 (h) The director, with such assistance as may be
14 required from the office and the Department of Environmental
15 Protection, shall specify by written final order the amount of
16 the brownfield redevelopment bonus refund that is authorized
17 for the qualified target industry business for the fiscal year
18 within 30 days after the date that the claim for the annual
19 tax refund is received by the office.

20 (i) The office shall approve applications for
21 certification pursuant to this section; however, the total of
22 tax refund payments scheduled in all active certifications for
23 any fiscal year shall not exceed \$3 million.

24 ~~(j)(i)~~ The total amount of the bonus refunds approved
25 by the director under this section in any fiscal year must not
26 exceed the total amount appropriated to the Economic
27 Development Incentives Account for this purpose for the fiscal
28 year. In the event that the Legislature does not appropriate
29 an amount sufficient to satisfy projections by the office for
30 brownfield redevelopment bonus refunds under this section in a
31 fiscal year, the office shall, not later than July 15 of such

1 year, determine the proportion of each brownfield
2 redevelopment bonus refund claim which shall be paid by
3 dividing the amount appropriated for tax refunds for the
4 fiscal year by the projected total of brownfield redevelopment
5 bonus refund claims for the fiscal year. The amount of each
6 claim for a brownfield redevelopment bonus tax refund shall be
7 multiplied by the resulting quotient. If, after the payment
8 of all such refund claims, funds remain in the Economic
9 Development Incentives Account for brownfield redevelopment
10 tax refunds, the office shall recalculate the proportion for
11 each refund claim and adjust the amount of each claim
12 accordingly.

13 ~~(k)(j)~~ Upon approval of the brownfield redevelopment
14 bonus refund, payment shall be made for the amount specified
15 in the final order. If the final order is appealed, payment
16 may not be made for a refund to the qualified target industry
17 business until the conclusion of all appeals of that order.

18 (5) ADMINISTRATION.--

19 (a) The office is authorized to verify information
20 provided in any claim submitted for tax credits under this
21 section with regard to employment and wage levels or the
22 payment of the taxes to the appropriate agency or authority,
23 including the Department of Revenue, the Department of Labor
24 and Employment Security, or any local government or authority.

25 (b) To facilitate the process of monitoring and
26 auditing applications made under this program, the office may
27 provide a list of qualified target industry businesses or
28 other eligible businesses as defined in paragraph (1)(e) to
29 the Department of Revenue, to the Department of Labor and
30 Employment Security, to the Department of Environmental
31 Protection, or to any local government authority. The office

1 may request the assistance of those entities with respect to
2 monitoring the payment of the taxes listed in s. 288.106(3).

3 Section 16. Paragraph (b) of subsection (3) of section
4 288.905, Florida Statutes, is amended to read:

5 288.905 Duties of the board of directors of Enterprise
6 Florida, Inc.--

7 (3)

8 (b)1. The strategic plan required under this section
9 shall include specific provisions for the stimulation of
10 economic development and job creation in rural areas and
11 midsize cities and counties of the state.

12 2. Enterprise Florida, Inc., shall involve local
13 governments, local and regional economic development
14 organizations, and other local, state, and federal economic,
15 international, and workforce development entities, both public
16 and private, in developing and carrying out policies,
17 strategies, and programs, seeking to partner and collaborate
18 to produce enhanced public benefit at a lesser cost.

19 3. Enterprise Florida, Inc., shall involve rural,
20 urban, small-business, and minority-business development
21 agencies and organizations, both public and private, in
22 developing and carrying out policies, strategies, and
23 programs.

24 4. Enterprise Florida, Inc., shall develop a
25 comprehensive marketing plan for redevelopment of brownfield
26 areas designated pursuant to s. 376.80. The plan must include,
27 but is not limited to, strategies to distribute information
28 about current designated brownfield areas and the available
29 economic incentives for redevelopment of brownfield areas.
30 Such strategies are to be used in the promotion of business
31

1 formation, expansion, recruitment, retention, and work-force
2 development programs.

3 Section 17. Section 290.007, Florida Statutes, is
4 amended to read:

5 290.007 State incentives available in enterprise zones
6 and brownfield areas.--The following incentives are provided
7 by the state to encourage the revitalization of enterprise
8 zones and brownfield areas designated under s. 376.80:

9 (1) The enterprise zone jobs credit and the designated
10 brownfield area jobs credit provided in s. 220.181.

11 (2) The enterprise zone or designated brownfield area
12 property tax credit provided in s. 220.182.

13 (3) The community contribution tax credits provided in
14 ss. 220.183 and 624.5105.

15 (4) The sales tax exemption for building materials
16 used in the rehabilitation of real property in enterprise
17 zones or designated brownfield areas provided in s.
18 212.08(5)(g).

19 (5) The sales tax exemption for business equipment
20 used in an enterprise zone or a designated brownfield area
21 provided in s. 212.08(5)(h).

22 (6) The sales tax exemption for electrical energy used
23 in an enterprise zone or a designated brownfield area provided
24 in s. 212.08(15).

25 (7) The enterprise zone jobs credit and the designated
26 brownfield area jobs credit against the sales tax provided in
27 s. 212.096.

28 (8) Notwithstanding any law to the contrary, the
29 Public Service Commission may allow public utilities and
30 telecommunications companies to grant discounts of up to 50
31 percent on tariffed rates for services to small businesses

1 located in an enterprise zone designated pursuant to s.
2 290.0065 or a brownfield area designated under s.376.80. Such
3 discounts may be granted for a period not to exceed 5 years.
4 For purposes of this subsection, "public utility" has the same
5 meaning as in s. 366.02(1) and "telecommunications company"
6 has the same meaning as in s. 364.02(12)~~s. 364.02(7)~~.

7 (9) The tax rebate pursuant to s. 212.20 for a person
8 or entity who establishes a new business or expands an
9 existing business in an enterprise zone or designated
10 brownfield area as provided in this subsection.

11 (a) As used in this section, the term:

12 1. "New business" means a business entity as defined
13 in s. 220.03(1)(e) authorized to do business in this state
14 which generates taxes imposed under chapter 212 from the use
15 and operation of the business and which commences operations
16 from property located in an enterprise zone or brownfield area
17 after it is designated as such.

18 2. "Expanded business" means any business entity as
19 defined in s. 220.03(1)(e) authorized to do business in this
20 state which generates taxes imposed under chapter 212 from the
21 use and operation of the business and which expands by or
22 through additions to real and personal property within an
23 enterprise zone or brownfield area after it is designated as
24 such.

25 (b) The Office of Tourism, Trade, and Economic
26 Development is responsible for certifying an applicant as a
27 new business or expanded business in an enterprise zone or
28 designated brownfield area. Each applicant shall file an
29 application with the Office of Tourism, Trade, and Economic
30 Development on a form prescribed by the Office of Tourism,
31 Trade, and Economic Development which provides:

1 1. Evidence that the new or expanded business is
2 located in an enterprise zone or designated brownfield area;

3 2. An economic analysis showing that the amount of the
4 revenues generated or to be generated by the taxes imposed
5 under chapter 212 from the use and operation of the business
6 will equal or exceed \$1 million annually;

7 3. In the case of an expanded business, evidence
8 indicating the amount of taxes imposed under chapter 212 with
9 respect to the use and operation of the business during the 12
10 consecutive months before the commencement of expansion; and

11 4. A sworn statement, under the penalty of perjury,
12 from the applicant or, if applicable, the applicant's general
13 contractor licensed in this state to make the improvements
14 necessary to accomplish the construction, reconstruction,
15 renovation, expansion, or rehabilitation of property where a
16 new or expanded business is located and operated, which states
17 the actual cost of the construction, reconstruction,
18 renovation, expansion, or rehabilitation of the property and
19 of the applicant's share of cleanup costs if in a brownfield
20 area.

21 (c) The Office of Tourism, Trade, and Economic
22 Development shall certify an applicant within 90 days of its
23 submission of a complete application. The Office of Tourism,
24 Trade, and Economic Development may adopt rules pursuant to
25 ss. 120.536(1) and 120.54 to administer this section.

26 (d) An applicant certified as a new or expanded
27 business in an enterprise zone or designated brownfield area
28 may use funds provided pursuant to s. 212.20(6)(f)5.d. only
29 for the public purpose of paying for the construction,
30 reconstruction, renovation, expansion, or rehabilitation of
31 the premises from which the business is located and operated

1 or for the reimbursement of such costs and for the cleanup
2 costs incurred in a brownfield area which have not otherwise
3 been reimbursed to the applicant, directly or indirectly, by
4 operation of another provision of law.

5 (e) The amount of the tax rebate under s. 212.20 to be
6 provided to a business certified pursuant to this section
7 shall be computed annually as follows:

8 1. In the case of a new business in an enterprise zone
9 or designated brownfield area, an amount equal to 75 percent
10 of the taxes imposed under chapter 212 generated each year
11 from the business; and

12 2. In the case of an expanded business in an
13 enterprise zone or designated brownfield area, an amount equal
14 to 75 percent of the additional taxes imposed under chapter
15 212 generated each year from the business in excess of the
16 taxes imposed under chapter 212 generated from the business
17 during the 12 months before the commencement of expansion of
18 the business.

19
20 In no event shall the total amount of the tax rebate provided
21 under s. 212.20(6)(f)5.d. to a business certified hereunder
22 exceed 75 percent of the cost of construction, reconstruction,
23 renovation, expansion, or rehabilitation of the property where
24 the business is located and operated and the cost of cleanup
25 of contamination of property in a brownfield area, as set
26 forth in the application submitted to the Office of Tourism,
27 Trade, and Economic Development pursuant to this section.

28 Section 18. Section 376.301, Florida Statutes, is
29 amended to read:

30 376.301 Definitions of terms used in ss.
31 376.30-376.319, 376.70, and 376.75.--When used in ss.

1 376.30-376.319, 376.70, and 376.75, unless the context clearly
2 requires otherwise, the term:

3 (1) "Aboveground hazardous substance tank" means any
4 stationary aboveground storage tank and onsite integral piping
5 that contains hazardous substances which are liquid at
6 standard temperature and pressure and has an individual
7 storage capacity greater than 110 gallons.

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

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

16 (4) "Backlog" means reimbursement obligations incurred
17 pursuant to s. 376.3071(12), prior to March 29, 1995, or
18 authorized for reimbursement under the provisions of s.
19 376.3071(12), pursuant to chapter 95-2, Laws of Florida.
20 Claims within the backlog are subject to adjustment, where
21 appropriate.

22 (5) "Barrel" means 42 U.S. gallons at 60 degrees
23 Fahrenheit.

24 (6) "Bulk product facility" means a waterfront
25 location with at least one aboveground tank with a capacity
26 greater than 30,000 gallons which is used for the storage of
27 pollutants.

28 (7) "Cattle-dipping vat" means any structure,
29 excavation, or other facility constructed by any person, or
30 the site where such structure, excavation, or other facility
31 once existed, for the purpose of treating cattle or other

1 livestock with a chemical solution pursuant to or in
2 compliance with any local, state, or federal governmental
3 program for the prevention, suppression, control, or
4 eradication of any dangerous, contagious, or infectious
5 diseases.

6 (8) "Compression vessel" means any stationary
7 container, tank, or onsite integral piping system, or
8 combination thereof, which has a capacity of greater than 110
9 gallons, that is primarily used to store pollutants or
10 hazardous substances above atmospheric pressure or at a
11 reduced temperature in order to lower the vapor pressure of
12 the contents. Manifold compression vessels that function as a
13 single vessel shall be considered as one vessel.

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

19 (10) "Contaminated site" means any contiguous land,
20 sediment, surface water, or groundwater areas that contain
21 contaminants that may be harmful to human health or the
22 environment.

23 (11) "Department" means the Department of
24 Environmental Protection.

25 (12) "Discharge" includes, but is not limited to, any
26 spilling, leaking, seeping, pouring, misapplying, emitting,
27 emptying, releasing, or dumping of any pollutant or hazardous
28 substance which occurs and which affects lands and the surface
29 and ground waters of the state not regulated by ss.
30 376.011-376.21.

31

1 (13) "Drycleaning facility" means a commercial
2 establishment that operates or has at some time in the past
3 operated for the primary purpose of drycleaning clothing and
4 other fabrics utilizing a process that involves any use of
5 drycleaning solvents. The term "drycleaning facility" includes
6 laundry facilities that use drycleaning solvents as part of
7 their cleaning process. The term does not include a facility
8 that operates or has at some time in the past operated as a
9 uniform rental company or a linen supply company regardless of
10 whether the facility operates as or was previously operated as
11 a drycleaning facility.

12 (14) "Drycleaning solvents" means any and all
13 nonaqueous solvents used in the cleaning of clothing and other
14 fabrics and includes perchloroethylene (also known as
15 tetrachloroethylene) and petroleum-based solvents, and their
16 breakdown products. For purposes of this definition,
17 "drycleaning solvents" only includes those drycleaning
18 solvents originating from use at a drycleaning facility or by
19 a wholesale supply facility.

20 (15) "Dry drop-off facility" means any commercial
21 retail store that receives from customers clothing and other
22 fabrics for drycleaning or laundering at an offsite
23 drycleaning facility and that does not clean the clothing or
24 fabrics at the store utilizing drycleaning solvents.

25 (16) "Engineering controls" means modifications to a
26 site to reduce or eliminate the potential for exposure to
27 petroleum products' chemicals of concern, drycleaning
28 solvents, or other contaminants. Such modifications may
29 include, but are not limited to, physical or hydraulic control
30 measures, capping, point of use treatments, or slurry walls.

31

1 (17) "Wholesale supply facility" means a commercial
2 establishment that supplies drycleaning solvents to
3 drycleaning facilities.

4 (18) "Facility" means a nonresidential location
5 containing, or which contained, any underground stationary
6 tank or tanks which contain hazardous substances or pollutants
7 and have individual storage capacities greater than 110
8 gallons, or any aboveground stationary tank or tanks which
9 contain pollutants which are liquids at standard ambient
10 temperature and pressure and have individual storage
11 capacities greater than 550 gallons. This subsection shall not
12 apply to facilities covered by chapter 377, or containers
13 storing solid or gaseous pollutants, and agricultural tanks
14 having storage capacities of less than 550 gallons.

15 (19) "Flow-through process tank" means an aboveground
16 tank that contains hazardous substances or specified mineral
17 acids as defined in s. 376.321 and that forms an integral part
18 of a production process through which there is a steady,
19 variable, recurring, or intermittent flow of materials during
20 the operation of the process. Flow-through process tanks
21 include, but are not limited to, seal tanks, vapor recovery
22 units, surge tanks, blend tanks, feed tanks, check and delay
23 tanks, batch tanks, oil-water separators, or tanks in which
24 mechanical, physical, or chemical change of a material is
25 accomplished.

26 (20) "Hazardous substances" means those substances
27 defined as hazardous substances in the Comprehensive
28 Environmental Response, Compensation and Liability Act of
29 1980, Pub. L. No. 96-510, 94 Stat. 2767, as amended by the
30 Superfund Amendments and Reauthorization Act of 1986.

31

1 (21) "Institutional controls" means the restriction on
2 use or access to a site to eliminate or minimize exposure to
3 petroleum products' chemicals of concern, drycleaning
4 solvents, or other contaminants. Such restrictions may
5 include, but are not limited to, deed restrictions,
6 restrictive covenants, or conservation easements ~~use~~
7 ~~restrictions, or restrictive zoning.~~

8 (22) "Laundering on a wash, dry, and fold basis" means
9 the service provided by the owner or operator of a
10 coin-operated laundry to its customers whereby an employee of
11 the laundry washes, dries, and folds laundry for its
12 customers.

13 (23) "Marine fueling facility" means a commercial or
14 recreational coastal facility, excluding a bulk product
15 facility, providing fuel to vessels.

16 (24) "Natural attenuation" means a verifiable ~~an~~
17 approach to site rehabilitation that allows natural processes
18 to contain the spread of contamination and reduce the
19 concentrations of contaminants in contaminated groundwater and
20 soil. Natural attenuation processes may include the following:
21 sorption, biodegradation, chemical reactions with subsurface
22 materials, diffusion, dispersion, and volatilization.

23 (25) "Operator" means any person operating a facility,
24 whether by lease, contract, or other form of agreement.

25 (26) "Owner" means any person owning a facility.

26 (27) "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 (28) "Person in charge" means the person on the scene
30 who is in direct, responsible charge of a facility from which
31 pollutants are discharged, when the discharge occurs.

1 (29) "Person responsible for conducting site
2 rehabilitation" means the site owner, operator, or the person
3 designated by the site owner or operator on the reimbursement
4 application. Mortgage holders and trust holders may be
5 eligible to participate in the reimbursement program pursuant
6 to s. 376.3071(12).

7 (30) "Petroleum" includes:

8 (a) Oil, including crude petroleum oil and other
9 hydrocarbons, regardless of gravity, which are produced at the
10 well in liquid form by ordinary methods and which are not the
11 result of condensation of gas after it leaves the reservoir;
12 and

13 (b) All natural gas, including casinghead gas, and all
14 other hydrocarbons not defined as oil in paragraph (a).

15 (31) "Petroleum product" means any liquid fuel
16 commodity made from petroleum, including, but not limited to,
17 all forms of fuel known or sold as diesel fuel, kerosene, all
18 forms of fuel known or sold as gasoline, and fuels containing
19 a mixture of gasoline and other products, excluding liquefied
20 petroleum gas and American Society for Testing and Materials
21 (ASTM) grades no. 5 and no. 6 residual oils, bunker C residual
22 oils, intermediate fuel oils (IFO) used for marine bunkering
23 with a viscosity of 30 and higher, asphalt oils, and
24 petrochemical feedstocks.

25 (32) "Petroleum products' chemicals of concern" means
26 the constituents of petroleum products, including, but not
27 limited to, xylene, benzene, toluene, ethylbenzene,
28 naphthalene, and similar chemicals, and constituents in
29 petroleum products, including, but not limited to, methyl
30 tert-butyl ether (MTBE), lead, and similar chemicals found in
31

1 additives, provided the chemicals of concern are present as a
2 result of a discharge of petroleum products.

3 (33) "Petroleum storage system" means a stationary
4 tank not covered under the provisions of chapter 377, together
5 with any onsite integral piping or dispensing system
6 associated therewith, which is used, or intended to be used,
7 for the storage or supply of any petroleum product. Petroleum
8 storage systems may also include oil/water separators, and
9 other pollution control devices installed at petroleum product
10 terminals as defined in this chapter and bulk product
11 facilities pursuant to, or required by, permits or best
12 management practices in an effort to control surface discharge
13 of pollutants. Nothing herein shall be construed to allow a
14 continuing discharge in violation of department rules.

15 (34) "Pollutants" includes any "product" as defined in
16 s. 377.19(11), pesticides, ammonia, chlorine, and derivatives
17 thereof, excluding liquefied petroleum gas.

18 (35) "Pollution" means the presence on the land or in
19 the waters of the state of pollutants in quantities which are
20 or may be potentially harmful or injurious to human health or
21 welfare, animal or plant life, or property or which may
22 unreasonably interfere with the enjoyment of life or property,
23 including outdoor recreation.

24 (36) "Real property owner" means the individual or
25 entity that is vested with ownership, dominion, or legal or
26 rightful title to the real property, or which has a ground
27 lease interest in the real property, on which a drycleaning
28 facility or wholesale supply facility is or has ever been
29 located.

30 (37) "Response action" means any activity, including
31 evaluation, planning, design, engineering, construction, and

1 ancillary services, which is carried out in response to any
2 discharge, release, or threatened release of a hazardous
3 substance, pollutant, or other contaminant from a facility or
4 site identified by the department under the provisions of ss.
5 376.30-376.319.

6 (38) "Response action contractor" means a person who
7 is carrying out any response action, including a person
8 retained or hired by such person to provide services relating
9 to a response action.

10 (39) "Risk reduction" means the lowering or
11 elimination of the level of risk posed to human health or the
12 environment through interim remedial actions, remedial action,
13 or institutional and, if appropriate, engineering controls.

14 (40)~~(39)~~ "Secretary" means the Secretary of
15 Environmental Protection.

16 (41)~~(40)~~ "Site rehabilitation" means the assessment of
17 site contamination and the remediation activities that reduce
18 the levels of contaminants at a site through accepted
19 treatment methods to meet the cleanup target levels
20 established for that site. For purposes of sites subject to
21 the Resource Conservation and Recovery Act, as amended, the
22 term includes removal, decontamination, and corrective action
23 of releases of hazardous substances.

24 (42)~~(41)~~ "Source removal" means the removal of free
25 product, or the removal of contaminants from soil or sediment
26 that has been contaminated to the extent that leaching to
27 groundwater or surface water has occurred or is occurring.

28 (43)~~(42)~~ "Storage system" means a stationary tank not
29 covered under the provisions of chapter 377, together with any
30 onsite integral piping or dispensing system associated
31 therewith, which is or has been used for the storage or supply

1 of any petroleum product, pollutant, or hazardous substance as
2 defined herein, and which is registered with the Department of
3 Environmental Protection under this chapter or any rule
4 adopted pursuant hereto.

5 (44)~~(43)~~ "Synergistic effects" means a scientific
6 principle that the toxicity that occurs as a result of
7 exposure is more than the sum of the toxicities of the
8 individual chemicals to which the individual is exposed.

9 (45)~~(44)~~ "Terminal facility" means any structure,
10 group of structures, motor vehicle, rolling stock, pipeline,
11 equipment, or related appurtenances which are used or capable
12 of being used for one or more of the following purposes:
13 pumping, refining, drilling for, producing, storing, handling,
14 transferring, or processing pollutants, provided such
15 pollutants are transferred over, under, or across any water,
16 estuaries, tidal flats, beaches, or waterfront lands,
17 including, but not limited to, any such facility and related
18 appurtenances owned or operated by a public utility or a
19 governmental or quasi-governmental body. In the event of a
20 ship-to-ship transfer of pollutants, the vessel going to or
21 coming from the place of transfer and a terminal facility
22 shall also be considered a terminal facility. For the purposes
23 of ss. 376.30-376.319, the term "terminal facility" shall not
24 be construed to include spill response vessels engaged in
25 response activities related to removal of pollutants, or
26 temporary storage facilities created to temporarily store
27 recovered pollutants and matter, or waterfront facilities
28 owned and operated by governmental entities acting as agents
29 of public convenience for persons engaged in the drilling for
30 or pumping, storing, handling, transferring, processing, or
31 refining of pollutants. However, each person engaged in the

1 drilling for or pumping, storing, handling, transferring,
2 processing, or refining of pollutants through a waterfront
3 facility owned and operated by such a governmental entity
4 shall be construed as a terminal facility.

5 (46)~~(45)~~ "Transfer" or "transferred" includes
6 onloading, offloading, fueling, bunkering, lightering, removal
7 of waste pollutants, or other similar transfers, between
8 terminal facility and vessel or vessel and vessel.

9 Section 19. Paragraph (i) of subsection (4) of section
10 376.3078, Florida Statutes, is amended and paragraph (e) is
11 added to subsection (9) of that section to read:

12 376.3078 Drycleaning facility restoration; funds;
13 uses; liability; recovery of expenditures.--

14 (4) REHABILITATION CRITERIA.--It is the intent of the
15 Legislature to protect the health of all people under actual
16 circumstances of exposure. By July 1, 1999, the secretary of
17 the department shall establish criteria by rule for the
18 purpose of determining, on a site-specific basis, the
19 rehabilitation program tasks that comprise a site
20 rehabilitation program, including a voluntary site
21 rehabilitation program, and the level at which a
22 rehabilitation program task and a site rehabilitation program
23 may be deemed completed. In establishing the rule, the
24 department shall incorporate, to the maximum extent feasible,
25 risk-based corrective action principles to achieve protection
26 of human health and safety and the environment in a
27 cost-effective manner as provided in this subsection. The
28 rule shall also include protocols for the use of natural
29 attenuation and the issuance of "no further action" letters.
30 The criteria for determining what constitutes a rehabilitation
31 program task or completion of a site rehabilitation program

1 task or site rehabilitation program, including a voluntary
2 site rehabilitation program, must:

3 (i) Establish appropriate cleanup target levels for
4 soils.

5 1. In establishing soil cleanup target levels for
6 human exposure to each contaminant found in soils from the
7 land surface to 2 feet below land surface, the department
8 shall consider the following, as appropriate: calculations
9 using a lifetime cancer risk level of 1.0E-6; a hazard index
10 of 1 or less; the best achievable detection limit; or the
11 naturally occurring background concentration. Institutional
12 controls or other methods shall be used to prevent human
13 exposure to contaminated soils more than 2 feet below the land
14 surface. Any removal of such institutional controls shall
15 require such contaminated soils to be remediated.

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

28 3. The department may set alternative cleanup target
29 levels based upon the person responsible for site
30 rehabilitation demonstrating, using

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1 The department shall require source removal, if warranted and
2 cost-effective. Once source removal at a site is complete,
3 the department shall reevaluate the site to determine the
4 degree of active cleanup needed to continue. Further, the
5 department shall determine if the reevaluated site qualifies
6 for monitoring only or if no further action is required to
7 rehabilitate the site. If additional site rehabilitation is
8 necessary to reach "no further action" status, the department
9 is encouraged to utilize natural attenuation and monitoring
10 where site conditions warrant.

11 (9) REQUIREMENT FOR DRYCLEANING FACILITIES.--It is the
12 intent of the Legislature that the following drycleaning
13 solvent containment shall be required of the owners or
14 operators of drycleaning facilities, as follows:

15 (e) A drycleaning facility that commenced operating
16 before January 1, 1996, and applied to the program by December
17 30, 1997, is considered to have had secondary containment
18 timely installed for the purpose of determining eligibility
19 for state-funded site rehabilitation under this section if the
20 drycleaning facility meets the following criteria:

21 1. Reported in the completed application that the
22 facility was not in compliance with paragraph (a) of this
23 subsection, and entered into a consent order with the
24 department to install secondary containment and installed the
25 required containment by April 15, 1999; or

26 2. Reported in the completed application that the
27 facility had installed secondary containment but stated in the
28 application that the date the facility installed secondary
29 containment was not known, and was requested by the department
30 subsequent to April 30, 1997, to apply for program eligibility

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1 and did so apply within 90 days of the request, and installed
2 secondary containment by February 28, 1998.

3
4 The department shall reconsider the applications of facilities
5 that meet the criteria set forth in this paragraph and that
6 were previously determined to be ineligible due to failure to
7 comply with secondary containment requirements. The facilities
8 must meet all other eligibility requirements.

9 Section 20. Section 376.30781, Florida Statutes, is
10 amended to read:

11 376.30781 Partial tax credits for rehabilitation of
12 ~~drycleaning-solvent-contaminated sites and brownfield sites in~~
13 ~~designated brownfield areas~~; application process; rulemaking
14 authority; revocation authority.--

15 (1) The Legislature finds that:

16 (a) To facilitate property transactions and economic
17 growth and development, it is in the interest of the state to
18 encourage the voluntary cleanup, at the earliest possible
19 time, of contaminated ~~drycleaning-solvent-contaminated sites~~
20 ~~and brownfield sites in designated brownfield areas.~~

21 (b) It is the intent of the Legislature to encourage
22 the voluntary cleanup of contaminated
23 ~~drycleaning-solvent-contaminated sites and brownfield sites in~~
24 ~~designated brownfield areas~~ by providing a partial tax credit
25 for the restoration of such property in specified
26 circumstances.

27 (2)(a) A credit in the amount of 35 percent of the
28 costs of voluntary cleanup activity that is integral to site
29 rehabilitation at the following sites is allowed pursuant to
30 ss. 199.1055 and 220.1845:

31

1 1. A drycleaning-solvent-contaminated site eligible
2 for state-funded site rehabilitation under s. 376.3078(3);

3 2. A drycleaning-solvent-contaminated site at which
4 cleanup is undertaken by the real property owner pursuant to
5 s. 376.3078(11), if the real property owner is not also, and
6 has never been, the owner or operator of the drycleaning
7 facility where the contamination exists; ~~or~~

8 3. A brownfield site in a designated brownfield area
9 under s. 376.80; ~~or~~

10 4. Any other contaminated site at which cleanup is
11 undertaken by a person pursuant to a voluntary cleanup
12 agreement approved by the Department of Environmental
13 Protection, if the person did not cause or contribute to the
14 contamination at the site.

15 (b) For all applications received by the Department of
16 Environmental Protection by January 15, if, as of the
17 following March 1, the credits granted under paragraph (a) do
18 not exhaust the annual maximum allowable credits under
19 subsection (3), any remaining credits may be granted for
20 petroleum-contaminated sites at which site rehabilitation is
21 being conducted pursuant to the preapproved advanced cleanup
22 program authorized in s. 376.30713, but tax credits may be
23 granted only for 35 percent of the amount of the cost-share
24 percentage of site rehabilitation costs paid for with private
25 funding. Tax credit applications submitted for preapproved
26 advanced cleanup sites shall not be included in the
27 carry-forward provision of subsection (9), which otherwise
28 allows applications that do not receive credits due to an
29 exhaustion of the annual tax credit authorization to be
30 carried forward in the same order for the next year's annual
31

1 tax credit allocation, if any, based on the prior year
2 application.

3 (c)(b) A taxpayer, or multiple taxpayers working
4 jointly to clean up a single site, may not receive more than
5 \$250,000 per year in tax credits for each site voluntarily
6 rehabilitated. Multiple taxpayers shall receive tax credits in
7 the same proportion as their contribution to payment of
8 cleanup costs. Tax credits are available only for site
9 rehabilitation conducted during the calendar ~~tax~~ year for in
10 which the tax credit application is submitted.

11 (d)(c) In order to encourage completion of site
12 rehabilitation at contaminated sites that are being
13 voluntarily cleaned up and that are eligible for a tax credit
14 under this section, the tax credit applicant may claim an
15 additional 10 percent of the total cleanup costs, not to
16 exceed \$50,000, in the final year of cleanup as evidenced by
17 the Department of Environmental Protection issuing a "no
18 further action" order for that site.

19 (3) The Department of Environmental Protection shall
20 be responsible for allocating the tax credits provided for in
21 ss. 199.1055 and 220.1845, not to exceed a total of \$2 million
22 in tax credits annually.

23 (4) To claim the credit for site rehabilitation
24 conducted during the current calendar year, each applicant
25 must apply to the Department of Environmental Protection for
26 an allocation of the \$2 million annual credit by January 15 of
27 the following year ~~December 31~~ on a form developed by the
28 Department of Environmental Protection in cooperation with the
29 Department of Revenue. The form shall include an affidavit
30 from each applicant certifying that all information contained
31 in the application, including all records of costs incurred

1 and claimed in the tax credit application, are true and
2 correct. If the application is submitted pursuant to
3 subparagraph (2)(a)2., the form must include an affidavit
4 signed by the real property owner stating that it is not, and
5 has never been, the owner or operator of the drycleaning
6 facility where the contamination exists. If the application is
7 submitted under subparagraph (2)(a)4., the form must include
8 an affidavit signed by the person agreeing to conduct
9 voluntary cleanup stating that he or she did not cause or
10 contribute to the contamination at the site. Approval of
11 partial tax credits must be accomplished on a first-come,
12 first-served basis based upon the date complete applications
13 are received by the Division of Waste Management. An applicant
14 shall submit only one complete application per site for each
15 calendar year's site rehabilitation costs. Placeholder
16 applications may not be accepted and will not secure a place
17 in the first-come, first-served application line per year. To
18 be eligible for a tax credit the applicant must:

19 (a) Have entered into a voluntary cleanup agreement
20 with the Department of Environmental Protection for a
21 contaminated drycleaning-solvent-contaminated site or into a
22 Brownfield Site Rehabilitation Agreement, as applicable; and

23 (b) Have paid all deductibles pursuant to s.
24 376.3078(3)(d) for eligible drycleaning-solvent-cleanup
25 program sites.

26 (5) To obtain the tax credit certificate, an applicant
27 must annually file an application for certification, which
28 must be received by the Department of Environmental
29 Protection's Division of Waste Management ~~Protection~~ by
30 January 15 of the year following the calendar year for which
31 site rehabilitation costs are being claimed in a tax credit

1 application ~~December 31~~. The applicant must provide all
2 pertinent information requested on the tax credit application
3 form, including, at a minimum, the name and address of the
4 applicant and the address and tracking identification number
5 of the eligible site. Along with the application form, the
6 applicant must submit the following:

7 (a) A nonrefundable review fee of \$250 made payable to
8 the Water Quality Assurance Trust Fund to cover the
9 administrative costs associated with the department's review
10 of the tax credit application;

11 (b) Copies of contracts and documentation of contract
12 negotiations, accounts, invoices, sales tickets, or other
13 payment records from purchases, sales, leases, or other
14 transactions involving actual costs incurred for that tax year
15 related to site rehabilitation, as that term is defined in ss.
16 376.301 and 376.79;

17 (c) Proof that the documentation submitted pursuant to
18 paragraph (b) has been reviewed and verified by an independent
19 certified public accountant in accordance with standards
20 established by the American Institute of Certified Public
21 Accountants. Specifically, the certified public accountant
22 must attest to the accuracy and validity of the costs incurred
23 and paid by conducting an independent review of the data
24 presented by the applicant. Accuracy and validity of costs
25 incurred and paid would be determined once the level of effort
26 was certified by an appropriate professional registered in
27 this state in each contributing technical discipline. The
28 certified public accountant's report would also attest that
29 the costs included in the application form are not duplicated
30 within the application. A copy of the accountant's report

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1 shall be submitted to the Department of Environmental
2 Protection with the tax credit application; and

3 (d) A certification form stating that site
4 rehabilitation activities associated with the documentation
5 submitted pursuant to paragraph (b) have been conducted under
6 the observation of, and related technical documents have been
7 signed and sealed by, an appropriate professional registered
8 in this state in each contributing technical discipline. The
9 certification form shall be signed and sealed by the
10 appropriate registered professionals stating that the costs
11 incurred were integral, necessary, and required for site
12 rehabilitation, as that term is defined in ss. 376.301 and
13 376.79.

14 (6) The certified public accountant and appropriate
15 registered professionals submitting forms as part of a tax
16 credit application must verify such forms. Verification must
17 be accomplished as provided in s. 92.525(1)(b) and subject to
18 the provisions of s. 92.525(3).

19 (7) The Department of Environmental Protection shall
20 review the tax credit application and any supplemental
21 documentation that the applicant may submit before the annual
22 application deadline in order to have the application
23 considered complete ~~submitted by each applicant~~, for the
24 purpose of verifying that the applicant has met the qualifying
25 criteria in subsections (2) and (4) and has submitted all
26 required documentation listed in subsection (5). Upon
27 verification that the applicant has met these requirements,
28 the department shall issue a written decision granting
29 eligibility for partial tax credits (a tax credit certificate)
30 in the amount of 35 percent of the total costs claimed,
31 subject to the \$250,000 limitation, for the calendar ~~tax~~ year

1 for in which the tax credit application is submitted based on
2 the report of the certified public accountant and the
3 certifications from the appropriate registered technical
4 professionals.

5 (8) On or before March 1, the Department of
6 Environmental Protection shall inform each eligible applicant
7 for sites listed in paragraph (2)(a) of the amount of its
8 partial tax credit and provide each eligible applicant with a
9 tax credit certificate that must be submitted with its tax
10 return to the Department of Revenue to claim the tax credit.
11 Credits will not result in the payment of refunds if total
12 credits exceed the amount of tax owed.

13 (9) Except for applicants for sites listed in
14 paragraph (2)(b), if an applicant does not receive a tax
15 credit allocation due to an exhaustion of the \$2 million
16 annual tax credit authorization, such application will then be
17 included in the same first-come, first-served order in the
18 next year's annual tax credit allocation, if any, based on the
19 prior year application.

20 (10) The Department of Environmental Protection may
21 adopt rules to prescribe the necessary forms required to claim
22 tax credits under this section and to provide the
23 administrative guidelines and procedures required to
24 administer this section. ~~Prior to the adoption of rules~~
25 ~~regulating the tax credit application, the department shall,~~
26 ~~by September 1, 1998, establish reasonable interim application~~
27 ~~requirements and forms.~~

28 (11) The Department of Environmental Protection may
29 revoke or modify any written decision granting eligibility for
30 partial tax credits under this section if it is discovered
31 that the tax credit applicant submitted any false statement,

1 representation, or certification in any application, record,
2 report, plan, or other document filed in an attempt to receive
3 partial tax credits under this section. The Department of
4 Environmental Protection shall immediately notify the
5 Department of Revenue of any revoked or modified orders
6 affecting previously granted partial tax credits.

7 Additionally, the taxpayer must notify the Department of
8 Revenue of any change in its tax credit claimed.

9 (12) An owner, operator, or real property owner who
10 receives state-funded site rehabilitation under s. 376.3078(3)
11 for rehabilitation of a drycleaning-solvent-contaminated site
12 is ineligible to receive a tax credit under s. 199.1055 or s.
13 220.1845 for costs incurred by the taxpayer in conjunction
14 with the rehabilitation of that site during the same time
15 period that state-administered site rehabilitation was
16 underway.

17 (13) Any person who receives partial state-funded site
18 rehabilitation under the preapproved advanced cleanup program
19 authorized in s. 376.30713(4) is ineligible to receive tax
20 credits under s. 199.1055 or s. 220.1845 for the portion of
21 site rehabilitation costs paid for by the state.

22 (14) Regardless of the effective date of this statute,
23 the Legislature intends to allow tax credit applications filed
24 under paragraphs (2)(a)4. and (2)(b) to include site
25 rehabilitation costs for the entire 2000 calendar year rather
26 than only those costs incurred and paid from July 1, 2000,
27 forward.

28 Section 21. Section 376.79, Florida Statutes, is
29 amended to read:

30 376.79 Definitions.--As used in ss. 376.77-376.85, the
31 term:

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

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

9 (3) "Brownfield sites" means sites that are generally
10 abandoned, idled, or underused industrial and commercial
11 properties where expansion or redevelopment is complicated by
12 actual or perceived environmental contamination.

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

21 (5) "Contaminant" means any physical, chemical,
22 biological, or radiological substance present in any medium
23 which may result in adverse effects to human health or the
24 environment or which creates an adverse nuisance,
25 organoleptic, or aesthetic condition in groundwater.

26 ~~(6)(5)~~ "Contaminated site" means any contiguous land,
27 surface water, or groundwater areas that contain contaminants
28 that may be harmful to human health or the environment.

29 ~~(7)(6)~~ "Department" means the Department of
30 Environmental Protection.

31

1 ~~(8)(7)~~ "Engineering controls" means modifications to a
2 site to reduce or eliminate the potential for exposure to
3 contaminants. Such modifications may include, but are not
4 limited to, physical or hydraulic control measures, capping,
5 point of use treatments, or slurry walls.

6 ~~(9)(8)~~ "Environmental justice" means the fair
7 treatment of all people of all races, cultures, and incomes
8 with respect to the development, implementation, and
9 enforcement of environmental laws, regulations, and policies.

10 ~~(10)(9)~~ "Institutional controls" means the restriction
11 on use of or access to a site to eliminate or minimize
12 exposure to contaminants. Such restrictions may include, but
13 are not limited to, deed restrictions, restrictive covenants,
14 or conservation easements ~~use restrictions, or restrictive~~
15 ~~zoning.~~

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

20 ~~(12)(11)~~ "Natural attenuation" means a verifiable
21 approach to site rehabilitation which allows natural processes
22 to contain the spread of contamination and reduce the
23 concentrations of contaminants in contaminated groundwater and
24 soil. Natural attenuation processes may include sorption,
25 biodegradation, chemical reactions with subsurface materials,
26 diffusion, dispersion, and volatilization.~~the verifiable~~
27 ~~reduction of contaminants through natural processes, which may~~
28 ~~include diffusion, dispersion, adsorption, and biodegradation.~~

29 ~~(13)(12)~~ "Person responsible for brownfield site
30 rehabilitation" means the individual or entity that is
31 designated by the local government to enter into the

1 brownfield site rehabilitation agreement with the department
2 or an approved local pollution control program and enters into
3 an agreement with the local government for redevelopment of
4 the site.

5 (14)~~(13)~~ "Person" means any individual, partner, joint
6 venture, or corporation; any group of the foregoing, organized
7 or united for a business purpose; or any governmental entity.

8 (15) "Risk reduction" means the lowering or
9 elimination of the level of risk posed to human health or the
10 environment through interim remedial actions, remedial action,
11 or institutional, and if appropriate, engineering controls.

12 (16)~~(14)~~ "Secretary" means the secretary of the
13 Department of Environmental Protection.

14 (17)~~(15)~~ "Site rehabilitation" means the assessment of
15 site contamination and the remediation activities that reduce
16 the levels of contaminants at a site through accepted
17 treatment methods to meet the cleanup target levels
18 established for that site.

19 (18)~~(16)~~ "Source removal" means the removal of free
20 product, or the removal of contaminants from soil or sediment
21 that has been contaminated to the extent that leaching to
22 groundwater or surface water has occurred or is occurring.

23 (19)~~(17)~~ "Synergistic effects" means a scientific
24 principle that the toxicity that occurs as a result of
25 exposure is more than the sum of the toxicities of the
26 individual chemicals to which the individual is exposed.

27 Section 22. Subsections (4) and (5) and paragraph (c)
28 of subsection (7) of section 376.80, Florida Statutes, are
29 amended to read:

30 376.80 Brownfield program administration process.--

31

1 (4) Local governments or persons responsible for
2 rehabilitation and redevelopment of brownfield areas must
3 establish an advisory committee or use an existing advisory
4 committee that has formally expressed its intent to address
5 redevelopment of the specific brownfield area for the purpose
6 of improving public participation and receiving public
7 comments on rehabilitation and redevelopment of the brownfield
8 area, future land use, local employment opportunities,
9 community safety, and environmental justice. Such advisory
10 committee should include residents within or adjacent to the
11 brownfield area, businesses operating within the brownfield
12 area, and others deemed appropriate. The person responsible
13 for brownfield site rehabilitation must notify the advisory
14 committee of the intent to rehabilitate and redevelop the site
15 before executing the brownfield site rehabilitation agreement,
16 and provide the committee with a copy of the draft plan for
17 site rehabilitation which addresses elements required by
18 subsection (5). This includes disclosing potential reuse of
19 the property as well as site rehabilitation activities, if
20 any, to be performed. The advisory committee shall review the
21 proposed redevelopment agreement required pursuant to
22 paragraph (5)(i) and provide comments, if appropriate, to the
23 board of the local government with jurisdiction over the
24 brownfield area. The advisory committee must receive a copy of
25 the executed brownfield site rehabilitation agreement. When
26 the person responsible for brownfield site rehabilitation
27 submits a site assessment report or the technical document
28 containing the proposed course of action following site
29 assessment to the department or the local pollution control
30 program for review, the person responsible for brownfield site
31 rehabilitation must hold a meeting or attend a regularly

1 scheduled meeting to inform the advisory committee of the
2 findings and recommendations in the site assessment report or
3 the technical document containing the proposed course of
4 action following site assessment. ~~The advisory committee must~~
5 ~~review and provide recommendations to the board of the local~~
6 ~~government with jurisdiction on the proposed site~~
7 ~~rehabilitation agreement provided in subsection (5).~~

8 (5) The person responsible for brownfield site
9 rehabilitation must enter into a brownfield site
10 rehabilitation agreement with the department or an approved
11 local pollution control program if actual contamination exists
12 at the brownfield site. The brownfield site rehabilitation
13 agreement must include:

14 (a) A brownfield site rehabilitation schedule,
15 including milestones for completion of site rehabilitation
16 tasks and submittal of technical reports and rehabilitation
17 plans as agreed upon by the parties to the agreement;

18 (b) A commitment to conduct site rehabilitation
19 activities under the observation of professional engineers or
20 geologists who are registered in accordance with the
21 requirements of chapter 471 or chapter 492, respectively.
22 Submittals provided by the person responsible for brownfield
23 site rehabilitation must be signed and sealed by a
24 professional engineer registered under chapter 471, or a
25 professional geologist registered under chapter 492,
26 certifying that the submittal and associated work comply with
27 the law and rules of the department and those governing the
28 profession. In addition, upon completion of the approved
29 remedial action, the department shall require a professional
30 engineer registered under chapter 471 or a professional
31 geologist registered under chapter 492 to certify that the

1 corrective action was, to the best of his or her knowledge,
2 completed in substantial conformance with the plans and
3 specifications approved by the department;

4 (c) A commitment to conduct site rehabilitation in
5 accordance with an approved comprehensive quality assurance
6 plan under department rules;

7 (d) A commitment to conduct site rehabilitation
8 consistent with state, federal, and local laws and consistent
9 with the brownfield site contamination cleanup criteria in s.
10 376.81, including any applicable requirements for risk-based
11 corrective action;

12 (e) Timeframes for the department's review of
13 technical reports and plans submitted in accordance with the
14 agreement. The department shall make every effort to adhere
15 to established agency goals for reasonable timeframes for
16 review of such documents;

17 (f) A commitment to secure site access for the
18 department or approved local pollution control program to all
19 brownfield sites within the eligible brownfield area for
20 activities associated with site rehabilitation;

21 (g) Other provisions that the person responsible for
22 brownfield site rehabilitation and the department agree upon,
23 that are consistent with ss. 376.77-376.85, and that will
24 improve or enhance the brownfield site rehabilitation process;

25 (h) A commitment to consider appropriate pollution
26 prevention measures and to implement those that the person
27 responsible for brownfield site rehabilitation determines are
28 reasonable and cost-effective, taking into account the
29 ultimate use or uses of the brownfield site. Such measures
30 may include improved inventory or production controls and
31 procedures for preventing loss, spills, and leaks of hazardous

1 waste and materials, and include goals for the reduction of
2 releases of toxic materials; and

3 (i) Certification that an agreement exists between the
4 person responsible for brownfield site rehabilitation and the
5 local government with jurisdiction over the brownfield area.
6 Such agreement shall contain terms for the redevelopment of
7 the brownfield area.

8 (7) The contractor must certify to the department that
9 the contractor:

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

18 Section 23. Section 376.81, Florida Statutes, is
19 amended to read:

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

22 (1) It is the intent of the Legislature to protect the
23 health of all people under actual circumstances of exposure.
24 By July 1, 2001 ~~1998~~, the secretary of the department shall
25 establish criteria by rule for the purpose of determining, on
26 a site-specific basis, the rehabilitation program tasks that
27 comprise a site rehabilitation program and the level at which
28 a rehabilitation program task and a site rehabilitation
29 program may be deemed completed. In establishing the rule,
30 the department shall apply ~~incorporate~~, to the maximum extent
31 feasible, a risk-based corrective action process ~~principles~~ to

1 achieve protection of human health and safety and the
2 environment in a cost-effective manner based on the principles
3 set forth as provided in this subsection. The rule must
4 prescribe a phased risk-based corrective action process that
5 is iterative and that tailors site rehabilitation tasks to
6 site-specific conditions and risks. The department and the
7 person responsible for brownfield site rehabilitation are
8 encouraged to establish decision points at which risk
9 management decisions will be made. The department shall
10 provide an early decision, when requested, regarding
11 applicable exposure factors and a risk management approach
12 based on the current and future land use at the site.The rule
13 shall also include protocols for the use of natural
14 attenuation, the use of institutional and engineering
15 controls,and the issuance of "no further action" letters. The
16 criteria for determining what constitutes a rehabilitation
17 program task or completion of a site rehabilitation program
18 task or site rehabilitation program must:

19 (a) Consider the current exposure and potential risk
20 of exposure to humans and the environment, including multiple
21 pathways of exposure. The physical, chemical, and biological
22 characteristics of each contaminant must be considered in
23 order to determine the feasibility of risk-based corrective
24 action assessment.

25 (b) Establish the point of compliance at the source of
26 the contamination. However, the department is authorized to
27 temporarily move the point of compliance to the boundary of
28 the property, or to the edge of the plume when the plume is
29 within the property boundary, while cleanup, including cleanup
30 through natural attenuation processes in conjunction with
31 appropriate monitoring, is proceeding. The department also is

1 authorized, pursuant to criteria provided for in this section,
2 to temporarily extend the point of compliance beyond the
3 property boundary with appropriate monitoring, if such
4 extension is needed to facilitate natural attenuation or to
5 address the current conditions of the plume, provided human
6 health, public safety, and the environment are protected.
7 When temporarily extending the point of compliance beyond the
8 property boundary, it cannot be extended further than the
9 lateral extent of the plume at the time of execution of the
10 brownfield site rehabilitation agreement, if known, or the
11 lateral extent of the plume as defined at the time of site
12 assessment. Temporary extension of the point of compliance
13 beyond the property boundary, as provided in this paragraph,
14 must include actual notice by the person responsible for
15 brownfield site rehabilitation to local governments and the
16 owners of any property into which the point of compliance is
17 allowed to extend and constructive notice to residents and
18 business tenants of the property into which the point of
19 compliance is allowed to extend. Persons receiving notice
20 pursuant to this paragraph shall have the opportunity to
21 comment within 30 days of receipt of the notice.

22 (c) Ensure that the site-specific cleanup goal is that
23 all contaminated brownfield sites and brownfield areas
24 ultimately achieve the applicable cleanup target levels
25 provided in this section. In the circumstances provided below,
26 and after constructive notice and opportunity to comment
27 within 30 days from receipt of the notice to local government,
28 to owners of any property into which the point of compliance
29 is allowed to extend, and to residents on any property into
30 which the point of compliance is allowed to extend, the
31 department may allow concentrations of contaminants to

1 temporarily exceed the applicable cleanup target levels while
2 cleanup, including cleanup through natural attenuation
3 processes in conjunction with appropriate monitoring, is
4 proceeding, if human health, public safety, and the
5 environment are protected.

6 (d) Allow brownfield site and brownfield area
7 rehabilitation programs to include the use of institutional or
8 engineering controls, where appropriate, to eliminate or
9 control the potential exposure to contaminants of humans or
10 the environment. The use of controls must be preapproved by
11 the department and only after constructive notice and
12 opportunity to comment within 30 days from receipt of notice
13 is provided to local governments, to owners of any property
14 into which the point of compliance is allowed to extend, and
15 to residents on any property into which the point of
16 compliance is allowed to extend. When institutional or
17 engineering controls are implemented to control exposure, the
18 removal of the controls must have prior department approval
19 and must be accompanied by the resumption of active cleanup,
20 or other approved controls, unless cleanup target levels under
21 this section have been achieved.

22 (e) Consider the additive effects of contaminants.
23 The synergistic and antagonistic effects shall also be
24 considered when the scientific data become available.

25 (f) Take into consideration individual site
26 characteristics, which shall include, but not be limited to,
27 the current and projected use of the affected groundwater and
28 surface water in the vicinity of the site, current and
29 projected land uses of the area affected by the contamination,
30 the exposed population, the degree and extent of
31 contamination, the rate of contaminant migration, the apparent

1 or potential rate of contaminant degradation through natural
2 attenuation processes, the location of the plume, and the
3 potential for further migration in relation to site property
4 boundaries.

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

6 1. Cleanup target levels for each contaminant found in
7 groundwater shall be the applicable state water quality
8 standards. Where such standards do not exist, the cleanup
9 target levels for groundwater shall be based on the minimum
10 criteria specified in department rule. The department shall
11 apply ~~consider~~ the following, as appropriate, in establishing
12 the applicable cleanup target levels ~~minimum criteria~~:
13 calculations using a lifetime cancer risk level of 1.0E-6; a
14 hazard index of 1 or less; the best achievable detection
15 limit; and ~~the naturally occurring background concentration~~
16 ~~or~~ nuisance, organoleptic, and aesthetic considerations.
17 However, the department shall not require site rehabilitation
18 to achieve a cleanup target level for any individual
19 contaminant which is more stringent than the site-specific,
20 naturally occurring background concentration for that
21 contaminant.

22 2. Where surface waters are exposed to contaminated
23 groundwater, the cleanup target levels for the contaminants
24 shall be based on the more protective of the groundwater or
25 surface water standards as established by department rule.
26 The point of measuring compliance with the surface water
27 standards shall be in the groundwater immediately adjacent to
28 the surface water body.

29 3. The department shall approve ~~may set~~ alternative
30 cleanup target levels in conjunction with institutional and
31 engineering controls, if needed, based upon an applicant's

1 demonstration, using site-specific data, modeling results, and
2 risk assessment studies, risk reduction techniques, or a
3 combination thereof, that human health, public safety, and the
4 environment are protected to the same degree as provided in
5 subparagraphs 1. and 2. Where a state water quality standard
6 is applicable, a deviation may not result in the application
7 of cleanup target levels more stringent than the standard. In
8 determining whether it is appropriate to establish alternative
9 cleanup target levels at a site, the department must consider
10 the effectiveness of source removal, if any, which ~~that~~ has
11 been completed at the site and the practical likelihood of the
12 use of low yield or poor quality groundwater, the use of
13 groundwater near marine surface water bodies, the current and
14 projected use of the affected groundwater in the vicinity of
15 the site, or the use of groundwater in the immediate vicinity
16 of the contaminated area, where it has been demonstrated that
17 the groundwater contamination is not migrating away from such
18 localized source, provided human health, public safety, and
19 the environment are protected. When using alternative cleanup
20 target levels at a brownfield site, institutional controls
21 shall not be required if:

- 22 a. The only cleanup target levels exceeded are the
23 groundwater cleanup target levels derived from nuisance,
24 organoleptic, or aesthetic considerations;
- 25 b. Concentrations of all contaminants meet the state
26 water quality standards or minimum criteria, based on
27 protection of human health, provided in subparagraph 1.;
- 28 c. All of the groundwater cleanup target levels
29 established pursuant to subparagraph 1. are met at the
30 property boundary;

31

1 d. The person responsible for brownfield site
2 rehabilitation has demonstrated that the contaminants will not
3 migrate beyond the property boundary at concentrations
4 exceeding the groundwater cleanup target levels established
5 pursuant to subparagraph 1.;

6 e. The property has access to and is using an offsite
7 water supply and no unplugged private wells are used for
8 domestic purposes; and

9 f. The real property owner provides written acceptance
10 of the "no further action" proposal to the department or the
11 local pollution control program.

12 (h) Provide for the department to issue a "no further
13 action order," with conditions, including, but not limited to,
14 the use of institutional or engineering controls where
15 appropriate, when alternative cleanup target levels
16 established pursuant to subparagraph (g)3. have been achieved,
17 or when the person responsible for brownfield site
18 rehabilitation can demonstrate that the cleanup target level
19 is unachievable within available technologies. Prior to
20 issuing such an order, the department shall consider the
21 feasibility of an alternative site rehabilitation technology
22 in the brownfield area.

23 (i) Establish appropriate cleanup target levels for
24 soils.

25 1. In establishing soil cleanup target levels for
26 human exposure to each contaminant found in soils from the
27 land surface to 2 feet below land surface, the department
28 shall apply ~~consider~~ the following, as appropriate:
29 calculations using a lifetime cancer risk level of 1.0E-6; a
30 hazard index of 1 or less; and the best achievable detection
31 limit; ~~or the naturally occurring background concentration.~~

1 However, the department shall not require site rehabilitation
2 to achieve a cleanup target level for an individual
3 contaminant which is more stringent than the site-specific,
4 naturally occurring background concentration for that
5 contaminant. Institutional controls or other methods shall be
6 used to prevent human exposure to contaminated soils more than
7 2 feet below the land surface. Any removal of such
8 institutional controls shall require such contaminated soils
9 to be remediated.

10 2. Leachability-based soil target levels shall be
11 based on protection of the groundwater cleanup target levels
12 or the alternate cleanup target levels for groundwater
13 established pursuant to this paragraph, as appropriate. Source
14 removal and other cost-effective alternatives that are
15 technologically feasible shall be considered in achieving the
16 leachability soil target levels established by the department.
17 The leachability goals shall not be applicable if the
18 department determines, based upon individual site
19 characteristics, and in conjunction with institutional and
20 engineering controls, if needed, that contaminants will not
21 leach into the groundwater at levels that ~~which~~ pose a threat
22 to human health, public safety, and the environment.

23 3. The department shall approve ~~may set~~ alternative
24 cleanup target levels in conjunction with institutional and
25 engineering controls, if needed, based upon an applicant's
26 demonstration, using site-specific data, modeling results, ~~and~~
27 risk assessment studies, risk reduction techniques, or a
28 combination thereof, that human health, public safety, and the
29 environment are protected to the same degree as provided in
30 subparagraphs 1. and 2.

31

1 (2) The department shall require source removal, if
2 warranted and cost-effective. Once source removal at a site
3 is complete, the department shall reevaluate the site to
4 determine the degree of active cleanup needed to continue.
5 Further, the department shall determine if the reevaluated
6 site qualifies for monitoring only or if no further action is
7 required to rehabilitate the site. If additional site
8 rehabilitation is necessary to reach "no further action"
9 status, the department is encouraged to utilize natural
10 attenuation and monitoring where site conditions warrant.

11 (3) The cleanup criteria established pursuant to this
12 section govern only site rehabilitation activities occurring
13 at the contaminated site. Removal of contaminated media from a
14 site for offsite relocation or treatment must be in accordance
15 with all applicable federal, state, and local laws and
16 regulations.

17 Section 24. Paragraph (k) is added to subsection (2)
18 of section 376.82, Florida Statutes, to read:

19 376.82 Eligibility criteria and liability
20 protection.--

21 (2) LIABILITY PROTECTION.--

22 (k) A person whose property becomes contaminated due
23 to geophysical or hydrologic reasons, including the migration
24 of contaminants onto their property from the operation of
25 facilities and activities on a nearby designated brownfield
26 area, and whose property has never been occupied by a business
27 that utilized or stored the contaminants or similar
28 constituents is not subject to administrative or judicial
29 action brought by or on behalf of another to compel the
30 rehabilitation of or the payment of the costs for the
31 rehabilitation of sites contaminated by materials that

1 migrated onto the property from the designated brownfield
2 area, if the person:

3 1. Does not own and has never held an ownership
4 interest in, or shared in the profits of, activities in the
5 designated brownfield area operated at the source location;

6 2. Did not participate in the operation or management
7 of the activities in the designated brownfield area operated
8 at the source location; and

9 3. Did not cause, contribute to, or exacerbate the
10 release or threat of release of any hazardous substance
11 through any act or omission.

12 Section 25. Section 376.84, Florida Statutes, is
13 amended to read:

14 376.84 Brownfield redevelopment economic
15 incentives.--It is the intent of the Legislature that
16 brownfield redevelopment activities be viewed as opportunities
17 to significantly improve the utilization, general condition,
18 and appearance of these sites. Alternative ~~Different~~ standards
19 than those in place for new development, as allowed under
20 current state and local laws, should be used to the fullest
21 extent to encourage the redevelopment of a brownfield. State
22 and local governments are encouraged to offer redevelopment
23 incentives for this purpose, as an ongoing public investment
24 in infrastructure and services, to help eliminate the public
25 health and environmental hazards, and to promote the creation
26 of jobs in these areas. These ~~Such~~ incentives may include
27 financial, regulatory, and technical assistance to persons and
28 businesses involved in the redevelopment of the brownfield
29 pursuant to this act.

30 (1) Financial incentives and local incentives for
31 redevelopment may include, but not be limited to:

1 (a) Tax increment financing through community
2 redevelopment agencies, pursuant to part III of chapter 163,
3 or any other entities approved by the local government for the
4 purpose of redeveloping brownfield areas.

5 (b) Enterprise zone tax exemptions for businesses
6 pursuant to chapters 196 and 290.

7 (c) Safe neighborhood improvement districts as
8 provided in ss. 163.501-163.523.

9 (d) Waiver, reduction, or limitation by line of
10 business with respect to occupational license taxes pursuant
11 to chapter 205.

12 (e) Tax exemption for historic properties as provided
13 in s. 196.1997.

14 (f) Residential electricity exemption of up to the
15 first 500 kilowatts of use may be exempted from the municipal
16 public service tax pursuant to s. 166.231.

17 (g) Minority business enterprise programs as provided
18 in s. 287.0943.

19 (h) Electric and gas tax exemption as provided in s.
20 166.231(6).

21 (i) Economic development tax abatement as provided in
22 s. 196.1995.

23 (j) Grants, including community development block
24 grants.

25 (k) Pledging of revenues to secure bonds.

26 (l) Low-interest revolving loans and zero-interest
27 loan pools.

28 (m) Local grant programs for facade, storefront,
29 signage, and other business improvements.

30 (n) Governmental coordination of loan programs with
31 lenders, such as microloans, business reserve fund loans,

1 letter of credit enhancements, gap financing, land lease and
2 sublease loans, and private equity.

3 (o) Payment schedules over time for payment of fees,
4 within criteria, and marginal cost pricing.

5 (p) The tax rebate established for certified
6 businesses located and operated in a designated brownfield
7 area under s. 290.007(9).

8 (2) Regulatory incentives may include, but not be
9 limited to:

10 (a) Cities' absorption of developers' concurrency
11 needs.

12 (b) Developers' performance of certain analyses.

13 (c) Exemptions and lessening of state and local review
14 requirements.

15 (d) Water and sewer regulatory incentives.

16 (e) Waiver of transportation impact fees and permit
17 fees.

18 (f) Zoning incentives to reduce review requirements
19 for redevelopment changes in use and occupancy; establishment
20 of code criteria for specific uses; and institution of credits
21 for previous use within the area.

22 (g) Flexibility in parking standards and buffer zone
23 standards.

24 (h) Environmental management through specific code
25 criteria and conditions allowed by current law.

26 (i) Maintenance standards and activities by ordinance
27 and otherwise, and increased security and crime prevention
28 measures available through special assessments.

29 (j) Traffic-calming measures.

30 (k) Historic preservation ordinances, loan programs,
31 and review and permitting procedures.

1 (1) One-stop permitting and streamlined development
2 and permitting process.

3 (3) Technical assistance incentives may include, but
4 not be limited to:

5 (a) Expedited development applications.

6 (b) Formal and informal information on business
7 incentives and financial programs.

8 (c) Site design assistance.

9 (d) Marketing and promotion of projects or areas.

10 (4) A local government having a designated brownfield
11 area under s. 376.80 and a brownfield site rehabilitation
12 agreement under subsection (5) of that section may issue
13 revenue bonds under s. 163.385 and employ tax increment
14 financing under s. 163.387 for the purpose of financing the
15 implementation of the brownfield site rehabilitation agreement
16 and the local government's approved plan for revitalizing the
17 brownfield area, except that in a charter county such
18 incentive shall be employed consistent with the provisions of
19 s. 163.410.

20 (5) A local government having a designated brownfield
21 area as described in subsection (4) may also exercise the
22 powers granted under s. 163.514 for community redevelopment
23 improvement districts, including the authority to levy special
24 assessments when such mechanisms will assist in revitalizing
25 the brownfield area.

26 Section 26. Subsection (1) of section 376.86, Florida
27 Statutes, is amended to read:

28 376.86 Brownfield Areas Loan Guarantee Program.--

29 (1) The Brownfield Areas Loan Guarantee Council is
30 created to review and approve or deny by a majority vote of
31 its membership, the situations and circumstances for

1 participation in partnerships by agreements with local
2 governments, financial institutions, and others associated
3 with the redevelopment of brownfield areas pursuant to the
4 Brownfields Redevelopment Act for a limited state guaranty of
5 up to 4 ~~5~~ years of loan guarantees or loan loss reserves
6 issued pursuant to law. The limited state loan guaranty
7 applies only to 20 ~~10~~ percent of the primary lenders'~~lenders~~
8 loans for redevelopment projects in brownfield areas. A
9 limited state guaranty of private loans or a loan loss reserve
10 is authorized for lenders licensed to operate in the state
11 upon a determination by the council that such an arrangement
12 is ~~would be~~ in the public interest and that the likelihood of
13 the success of the loan is great.

14 Section 27. Section 376.876, Florida Statutes, is
15 created to read:

16 376.876 Brownfield Redevelopment Grants Program.--

17 (1) The Department of Environmental Protection shall
18 administer a program to make grants to local governments that
19 have designated brownfield areas under s. 376.80 and need
20 financial assistance for site rehabilitation activities to
21 make the redevelopment project financially feasible. The
22 grants shall be administered pursuant to s. 216.181 and may
23 not be used for general administrative costs incurred by a
24 local government or other entities identified in subsection
25 (4) for oversight and administration of a brownfield area
26 redevelopment program, but instead the state grants must be
27 used for actual site rehabilitation activities, including
28 integrally related engineering design, groundwater
29 remediation, soil removal, and soil treatment, and customary
30 nonadministrative activities undertaken in the remediation of
31 contamination at a designated brownfield site.

1 (2) The department shall develop criteria for awards
2 of grant funds. In developing these criteria, the department
3 shall consider, but not be limited to, the following factors:

4 (a) The level of unemployment and poverty in the
5 census tract in the brownfield area and in which the project
6 site is located;

7 (b) The likelihood that the proposed response action
8 will be adequate to clean up the property in accordance with
9 the requirements of all applicable laws;

10 (c) The presence of community benefits associated with
11 the project, including, without limitation, the creation or
12 revitalization of open space;

13 (d) The proximity of the project site to existing
14 transportation and utility infrastructure appropriate to
15 support the proposed reuse of the project site;

16 (e) Whether the project site is located in an area
17 that has received pilot project funding for redevelopment of
18 brownfield areas from the U.S. Environmental Protection
19 Agency;

20 (f) Whether the local government in which the project
21 site is located has made available substantial funds in
22 furtherance of remediation and redevelopment of the designated
23 brownfield area; and

24 (g) Whether the local government having the designated
25 brownfield area has completed any projects in the brownfield
26 area.

27 (3) The grant application must include:

28 (a) A discussion of the relevance of the redevelopment
29 project to the factors listed in paragraphs (2)(a)-(g);

30 (b) A projection of budget and project needs; and
31

1 (c) A procedure for securing and identifying local
2 matching funds.

3 (4) While grants must be applied for by municipalities
4 or counties, the local governments may by agreement allow the
5 grant funds to be used by local redevelopment authorities,
6 economic development authorities, community redevelopment
7 agencies, or other similar entities approved by the municipal
8 or county governing body that has designated the brownfield
9 area under s. 376.80 and has jurisdiction over the location
10 where the redevelopment grant funds will be used.

11 (5) Each grant requires a 20-percent match from the
12 applicant in either cash or in-kind services. A single grant
13 may not be larger than \$300,000 during each state fiscal year.
14 Of each grant, no more than \$100,000 may be used for site
15 assessment activities. The remainder of the grant amount is to
16 be used for cleanup activities at a brownfield site. Each
17 grant awarded per brownfield site shall be for a one-time
18 occurrence and not a recurring annual award. Multiple grants
19 may be awarded to local governments for projects at multiple
20 brownfield sites within a designated brownfield area.

21 (6) In the first fiscal year in which the Legislature
22 provides an appropriation for this grant program, the
23 department shall administer the funds to assure that at least
24 one-half of the amount available is awarded to local
25 governments that can demonstrate compliance with paragraphs
26 (2)(e), (f), and (g).

27 (7) The department may adopt rules to administer the
28 grant program authorized by this section relating to
29 application forms, timeframes for submission of applications,
30 notification of grant awards, grant agreement documents
31 required, and criteria pursuant to subsection (2) for

1 determining grant awards. Before the adoption of these rules,
2 the department shall, by September 1, 2000, establish interim
3 application requirements, forms, and criteria.

4 Section 28. Section 376.88, Florida Statutes, is
5 created to read:

6 376.88 Brownfield Program Review Advisory Council.--

7 (1) The Brownfield Program Review Advisory Council is
8 created to provide for continuous review of the progress in
9 the administration of Florida's Brownfield Program and to make
10 recommendations for its improvement. The council shall consist
11 of the following:

12 (a) A representative of a city that participated in
13 the pilot grant program for brownfields sponsored by the U.S.
14 Environmental Protection Agency;

15 (b) A representative of a county that participated in
16 the pilot grant program for brownfields sponsored by the U.S.
17 Environmental Protection Agency;

18 (c) A representative of a statewide business
19 organization;

20 (d) A representative of Enterprise Florida, Inc.;

21 (e) A representative of response action contractor
22 companies involved in activities at brownfield sites;

23 (f) The Secretary of the Department of Environmental
24 Protection or his or her designee;

25 (g) The Secretary of the Department of Community
26 Affairs or his or her designee;

27 (h) The Director of the Office of Tourism, Trade, and
28 Economic Development in the Executive Office of the Governor;

29 (i) A representative of a financial institution;

30 (j) A representative of the Sierra Club; and

31

1 (k) A representative of the Community Environmental
2 Health Advisory Board.

3 (2) Duties and responsibilities.--The Brownfield
4 Program Review Advisory Council shall:

5 (a) Perform a comprehensive review of activities
6 related to rehabilitation of brownfield areas;

7 (b) Determine and recommend any additional economic
8 incentives that should be available to help accelerate
9 rehabilitation activities; and

10 (c) Review the administrative processes for approving
11 and permitting rehabilitation activities by the Department of
12 Environmental Protection and local programs and make
13 recommendations for improvements in these processes.

14 (3) The initial term for service of the council shall
15 be 2 years from the date of the first meeting and may be
16 extended at the discretion of the Secretary of Environmental
17 Protection, or his or her designee, based upon the needs of
18 the brownfields program.

19 (4) Each member shall provide his or her own per diem
20 and expenses for travel while carrying out the business of the
21 council.

22 (5) The Secretary of the Department of Environmental
23 Protection or his or her designee shall appoint the council
24 members, serve as chairperson of the council, and convene the
25 council on at least a semi-annual basis.

26 (6) The council shall submit a report to the
27 Legislature as often as needed to address issues requiring
28 legislative changes or appropriations.

29 Section 29. Paragraph (d) is added to subsection (3)
30 of section 403.973, Florida Statutes, to read:

31

1 403.973 Expedited permitting; comprehensive plan
2 amendments.--

3 (3)

4 (d) Projects located in a designated brownfield area
5 are eligible for the expedited permitting process.

6 Section 30. Section 712.01, Florida Statutes, is
7 amended to read:

8 712.01 Definitions.--As used in this law:

9 (1) The term "person" as used herein denotes singular
10 or plural, natural or corporate, private or governmental,
11 including the state and any political subdivision or agency
12 thereof as the context for the use thereof requires or denotes
13 and including any homeowners' association.

14 (2) "Root of title" means any title transaction
15 purporting to create or transfer the estate claimed by any
16 person and which is the last title transaction to have been
17 recorded at least 30 years prior to the time when
18 marketability is being determined. The effective date of the
19 root of title is the date on which it was recorded.

20 (3) "Title transaction" means any recorded instrument
21 or court proceeding which affects title to any estate or
22 interest in land and which describes the land sufficiently to
23 identify its location and boundaries.

24 (4) The term "homeowners' association" means a
25 homeowners' association as defined in s. 617.301(7), or an
26 association of parcel owners which is authorized to enforce
27 use restrictions that are imposed on the parcels.

28 (5) The term "parcel" means real property which is
29 used for residential purposes that is subject to exclusive
30 ownership and which is subject to any covenant or restriction
31 of a homeowners' association.

1 (6) The term "covenant or restriction" means any
2 agreement or limitation contained in a document recorded in
3 the public records of the county in which a parcel is located
4 which subjects the parcel to any use restriction which may be
5 enforced by a homeowners' association or which authorizes a
6 homeowners' association to impose a charge or assessment
7 against the parcel or the owner of the parcel or which may be
8 enforced by the Florida Department of Environmental Protection
9 pursuant to chapter 376 or chapter 403.

10 Section 31. Section 712.03, Florida Statutes, is
11 amended to read:

12 712.03 Exceptions to marketability.--Such marketable
13 record title shall not affect or extinguish the following
14 rights:

15 (1) Estates or interests, easements and use
16 restrictions disclosed by and defects inherent in the
17 muniments of title on which said estate is based beginning
18 with the root of title; provided, however, that a general
19 reference in any of such muniments to easements, use
20 restrictions or other interests created prior to the root of
21 title shall not be sufficient to preserve them unless specific
22 identification by reference to book and page of record or by
23 name of recorded plat be made therein to a recorded title
24 transaction which imposed, transferred or continued such
25 easement, use restrictions or other interests; subject,
26 however, to the provisions of subsection (5).

27 (2) Estates, interests, claims, or charges, or any
28 covenant or restriction, preserved by the filing of a proper
29 notice in accordance with the provisions hereof.

30 (3) Rights of any person in possession of the lands,
31 so long as such person is in such possession.

1 (4) Estates, interests, claims, or charges arising out
2 of a title transaction which has been recorded subsequent to
3 the effective date of the root of title.

4 (5) Recorded or unrecorded easements or rights,
5 interest or servitude in the nature of easements,
6 rights-of-way and terminal facilities, including those of a
7 public utility or of a governmental agency, so long as the
8 same are used and the use of any part thereof shall except
9 from the operation hereof the right to the entire use thereof.
10 No notice need be filed in order to preserve the lien of any
11 mortgage or deed of trust or any supplement thereto
12 encumbering any such recorded or unrecorded easements, or
13 rights, interest, or servitude in the nature of easements,
14 rights-of-way, and terminal facilities. However, nothing
15 herein shall be construed as preserving to the mortgagee or
16 grantee of any such mortgage or deed of trust or any
17 supplement thereto any greater rights than the rights of the
18 mortgagor or grantor.

19 (6) Rights of any person in whose name the land is
20 assessed on the county tax rolls for such period of time as
21 the land is so assessed and which rights are preserved for a
22 period of 3 years after the land is last assessed in such
23 person's name.

24 (7) State title to lands beneath navigable waters
25 acquired by virtue of sovereignty.

26 (8) A restriction or covenant recorded pursuant to
27 chapter 376 or chapter 403.

28 Section 32. Each provision of this act will be
29 implemented to the extent that funds are specifically
30 appropriated in the General Appropriations Act.

31

1 Section 33. Subsection (6) of section 376.051, Florida
2 Statutes, is added to said section to read:

3 376.051 Powers and duties of the Department of
4 Environmental Protection.--

5 (6) The department is specifically authorized to
6 utilize risk-based cleanup criteria as described in ss.
7 376.3071, 376.3078, and 376.81 in conducting cleanups on lands
8 owned by the state university system.

9 Section 34. Subsection (9) of section 211.3103,
10 Florida Statutes, is repealed.

11 Section 35. This act shall take effect July 1, 2000.

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