

By the Committees on Commerce and Economic Opportunities;
Natural Resources; and Senator Latvala

310-1784-00

1 A bill to be entitled
2 An act relating to brownfield economic
3 redevelopment; amending s. 288.047, F.S.;
4 requiring Enterprise Florida, Inc., to set
5 aside each fiscal year a certain amount of the
6 appropriation for the Quick Response Training
7 Program for businesses located in a brownfield
8 area; amending s. 288.107, F.S.; redefining the
9 term "eligible business"; providing for bonus
10 refunds for businesses that can demonstrate a
11 fixed capital investment in certain mixed use
12 activities in the brownfield area; amending s.
13 288.905, F.S.; requiring Enterprise Florida,
14 Inc., to develop comprehensive marketing
15 strategies for redevelopment of brownfield
16 areas; amending s. 376.301, F.S.; redefining
17 the terms "antagonistic effects," "discharge,"
18 "institutional controls," "natural
19 attenuation," and "site rehabilitation" and
20 defining the term "risk reduction"; creating s.
21 376.30701, F.S.; extending application of
22 risk-based corrective action principles to all
23 contaminated sites resulting from a discharge
24 of pollutants or hazardous substances;
25 providing for contamination cleanup criteria
26 that incorporates risk-based corrective actions
27 to be adopted by rule; providing clarification
28 that cleanup criteria do not apply to offsite
29 relocation or treatment; providing the
30 conditions under which further rehabilitation
31 may be required; amending s. 376.3078, F.S.;

1 providing for rehabilitation criteria; amending
2 s. 376.79, F.S.; defining the terms
3 "contaminant" and "risk reduction"; redefining
4 the terms "natural attenuation," "institutional
5 control," and "source removal"; amending s.
6 376.80, F.S.; allowing local governments or
7 persons responsible for brownfield area
8 rehabilitation and redevelopment to use an
9 existing advisory committee; deleting the
10 requirement that the advisory committee must
11 review and provide recommendations to the local
12 government with jurisdiction on the proposed
13 brownfield site rehabilitation agreement;
14 providing that the person responsible for site
15 rehabilitation must notify the advisory
16 committee of the intent to rehabilitate and
17 redevelop the site before executing the
18 brownfield site rehabilitation agreement;
19 requiring the person responsible for site
20 rehabilitation to hold a meeting or attend a
21 regularly scheduled meeting of the advisory
22 committee to inform the advisory committee of
23 the outcome of the environmental assessment;
24 requiring the person responsible for site
25 rehabilitation to enter into a brownfield site
26 rehabilitation agreement only if actual
27 contamination exists; clarifying provisions
28 relating to the required comprehensive general
29 liability and comprehensive automobile
30 liability insurance; amending s. 376.81, F.S.;
31 providing direction regarding the risk-based

1 corrective action rule; requiring the
2 department to establish alternative cleanup
3 levels under certain circumstances; amending s.
4 376.82, F.S.; providing immunity for liability
5 regarding contaminated site remediation under
6 certain circumstances; creating s. 376.88,
7 F.S.; providing for the Brownfield Program
8 Review Advisory Council; providing duties and
9 responsibilities; amending s. 403.973, F.S.;
10 providing that projects located in a designated
11 brownfield area are eligible for the expedited
12 permitting process; amending s. 190.012, F.S.;
13 authorizing community development districts to
14 fund certain environmental costs under certain
15 circumstances; amending ss. 712.01, 712.03,
16 F.S.; prohibiting subsequent property owners
17 from removing certain deed restrictions under
18 other provisions of the Marketable Record Title
19 Act; providing an effective date.

20
21 Be It Enacted by the Legislature of the State of Florida:

22
23 Section 1. Subsection (5) of section 288.047, Florida
24 Statutes, is amended to read:

25 288.047 Quick-response training for economic
26 development.--

27 (5) For the first 6 months of each fiscal year,
28 Enterprise Florida, Inc., shall set aside 30 percent of the
29 amount appropriated for the Quick-Response Training Program by
30 the Legislature to fund instructional programs for businesses
31 located in an enterprise zone or brownfield area ~~to instruct~~

1 ~~residents of an enterprise zone~~. Any unencumbered funds
2 remaining undisbursed from this set-aside at the end of the
3 6-month period may be used to provide funding for any program
4 qualifying for funding pursuant to this section.

5 Section 2. Section 288.107, Florida Statutes, is
6 amended to read:

7 288.107 Brownfield redevelopment bonus refunds.--

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

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

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

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

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

26 (e) "Eligible business" means a qualified target
27 industry business as defined in s. 288.106(2)(o) or other
28 business that can demonstrate 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 pays 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 (f) "Jobs" means full-time equivalent positions,
4 consistent with the use of such terms by the Department of
5 Labor and Employment Security for the purpose of unemployment
6 compensation tax, resulting directly from a project in this
7 state. This number does not include temporary construction
8 jobs involved with the construction of facilities for the
9 project and which are not associated with the implementation
10 of the site rehabilitation as provided in s. 376.80.

11 (g) "Office" means the Office of Tourism, Trade, and
12 Economic Development.

13 (h) "Project" means the creation of a new business or
14 the expansion of an existing business as defined in s.
15 288.106.

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

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

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

1 (b) The completion of a fixed capital investment of at
2 least \$2 million in mixed-use business activities, including
3 multi-unit housing, commercial, retail, and industrial in
4 brownfield areas and which pay wages that are at least 80
5 percent of the average of all private-sector wages in the
6 county in which the business is located.

7 ~~(c)~~(b) That the designation as a brownfield will
8 diversify and strengthen the economy of the area surrounding
9 the site.

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

13 (4) PAYMENT OF BROWNFIELD REDEVELOPMENT BONUS
14 REFUNDS.--

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

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

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

22 (e) An eligible business that fraudulently claims a
23 refund under this section:

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

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

30 (f) The office shall review all applications submitted
31 under s. 288.106 or other similar application forms for other

1 eligible businesses as defined in paragraph (1)(e)which
2 indicate that the proposed project will be located in a
3 brownfield and determine, with the assistance of the
4 Department of Environmental Protection, that the project
5 location is within a brownfield as provided in this act.

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

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

16 (i) The total amount of the bonus refunds approved by
17 the director under this section in any fiscal year must not
18 exceed the total amount appropriated to the Economic
19 Development Incentives Account for this purpose for the fiscal
20 year. In the event that the Legislature does not appropriate
21 an amount sufficient to satisfy projections by the office for
22 brownfield redevelopment bonus refunds under this section in a
23 fiscal year, the office shall, not later than July 15 of such
24 year, determine the proportion of each brownfield
25 redevelopment bonus refund claim which shall be paid by
26 dividing the amount appropriated for tax refunds for the
27 fiscal year by the projected total of brownfield redevelopment
28 bonus refund claims for the fiscal year. The amount of each
29 claim for a brownfield redevelopment bonus tax refund shall be
30 multiplied by the resulting quotient. If, after the payment
31 of all such refund claims, funds remain in the Economic

1 Development Incentives Account for brownfield redevelopment
2 tax refunds, the office shall recalculate the proportion for
3 each refund claim and adjust the amount of each claim
4 accordingly.

5 (j) Upon approval of the brownfield redevelopment
6 bonus refund, payment shall be made for the amount specified
7 in the final order. If the final order is appealed, payment
8 may not be made for a refund to the qualified target industry
9 business until the conclusion of all appeals of that order.

10 (5) ADMINISTRATION.--

11 (a) The office is authorized to verify information
12 provided in any claim submitted for tax credits under this
13 section with regard to employment and wage levels or the
14 payment of the taxes to the appropriate agency or authority,
15 including the Department of Revenue, the Department of Labor
16 and Employment Security, or any local government or authority.

17 (b) To facilitate the process of monitoring and
18 auditing applications made under this program, the office may
19 provide a list of qualified target industry businesses to the
20 Department of Revenue, to the Department of Labor and
21 Employment Security, to the Department of Environmental
22 Protection, or to any local government authority. The office
23 may request the assistance of those entities with respect to
24 monitoring the payment of the taxes listed in s. 288.106(3).

25 Section 3. Paragraph (b) of subsection (3) of section
26 288.905, Florida Statutes, is amended to read:

27 288.905 Duties of the board of directors of Enterprise
28 Florida, Inc.--

29 (3)

30 (b)1. The strategic plan required under this section
31 shall include specific provisions for the stimulation of

1 economic development and job creation in rural areas and
2 midsize cities and counties of the state.

3 2. Enterprise Florida, Inc., shall involve local
4 governments, local and regional economic development
5 organizations, and other local, state, and federal economic,
6 international, and workforce development entities, both public
7 and private, in developing and carrying out policies,
8 strategies, and programs, seeking to partner and collaborate
9 to produce enhanced public benefit at a lesser cost.

10 3. Enterprise Florida, Inc., shall involve rural,
11 urban, small-business, and minority-business development
12 agencies and organizations, both public and private, in
13 developing and carrying out policies, strategies, and
14 programs.

15 4. Enterprise Florida, Inc., shall develop a
16 comprehensive marketing plan for redevelopment of brownfield
17 areas designated pursuant to s. 376.80. The plan must include,
18 but is not limited to, strategies to distribute information
19 about current designated brownfield areas and the available
20 economic incentives for redevelopment of brownfield areas.
21 Such strategies are to be used in the promotion of business
22 formation, expansion, recruitment, retention, and work-force
23 development programs.

24 Section 4. Section 376.301, Florida Statutes, is
25 amended to read:

26 376.301 Definitions of terms used in ss.
27 376.30-376.319, 376.70, and 376.75.--When used in ss.
28 376.30-376.319, 376.70, and 376.75, unless the context clearly
29 requires otherwise, the term:

30 (1) "Aboveground hazardous substance tank" means any
31 stationary aboveground storage tank and onsite integral piping

1 that contains hazardous substances which are liquid at
2 standard temperature and pressure and has an individual
3 storage capacity greater than 110 gallons.

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

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

12 (4) "Backlog" means reimbursement obligations incurred
13 pursuant to s. 376.3071(12), prior to March 29, 1995, or
14 authorized for reimbursement under the provisions of s.
15 376.3071(12), pursuant to chapter 95-2, Laws of Florida.
16 Claims within the backlog are subject to adjustment, where
17 appropriate.

18 (5) "Barrel" means 42 U.S. gallons at 60 degrees
19 Fahrenheit.

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

24 (7) "Cattle-dipping vat" means any structure,
25 excavation, or other facility constructed by any person, or
26 the site where such structure, excavation, or other facility
27 once existed, for the purpose of treating cattle or other
28 livestock with a chemical solution pursuant to or in
29 compliance with any local, state, or federal governmental
30 program for the prevention, suppression, control, or

31

1 eradication of any dangerous, contagious, or infectious
2 diseases.

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

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

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

20 (11) "Department" means the Department of
21 Environmental Protection.

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

28 (13) "Drycleaning facility" means a commercial
29 establishment that operates or has at some time in the past
30 operated for the primary purpose of drycleaning clothing and
31 other fabrics utilizing a process that involves any use of

1 drycleaning solvents. The term "drycleaning facility" includes
2 laundry facilities that use drycleaning solvents as part of
3 their cleaning process. The term does not include a facility
4 that operates or has at some time in the past operated as a
5 uniform rental company or a linen supply company regardless of
6 whether the facility operates as or was previously operated as
7 a drycleaning facility.

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

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

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

27 (17) "Wholesale supply facility" means a commercial
28 establishment that supplies drycleaning solvents to
29 drycleaning facilities.

30 (18) "Facility" means a nonresidential location
31 containing, or which contained, any underground stationary

1 tank or tanks which contain hazardous substances or pollutants
2 and have individual storage capacities greater than 110
3 gallons, or any aboveground stationary tank or tanks which
4 contain pollutants which are liquids at standard ambient
5 temperature and pressure and have individual storage
6 capacities greater than 550 gallons. This subsection shall not
7 apply to facilities covered by chapter 377, or containers
8 storing solid or gaseous pollutants, and agricultural tanks
9 having storage capacities of less than 550 gallons.

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

21 (20) "Hazardous substances" means those substances
22 defined as hazardous substances in the Comprehensive
23 Environmental Response, Compensation and Liability Act of
24 1980, Pub. L. No. 96-510, 94 Stat. 2767, as amended by the
25 Superfund Amendments and Reauthorization Act of 1986.

26 (21) "Institutional controls" means the restriction on
27 use or access to a site to eliminate or minimize exposure to
28 petroleum products' chemicals of concern, drycleaning
29 solvents, or other contaminants. Such restrictions may
30 include, but are not limited to, deed restrictions,
31

1 restrictive covenants, or conservation easements ~~use~~
2 ~~restrictions, or restrictive zoning.~~

3 (22) "Laundering on a wash, dry, and fold basis" means
4 the service provided by the owner or operator of a
5 coin-operated laundry to its customers whereby an employee of
6 the laundry washes, dries, and folds laundry for its
7 customers.

8 (23) "Marine fueling facility" means a commercial or
9 recreational coastal facility, excluding a bulk product
10 facility, providing fuel to vessels.

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

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

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

21 (27) "Person" means any individual, partner, joint
22 venture, or corporation; any group of the foregoing, organized
23 or united for a business purpose; or any governmental entity.

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

27 (29) "Person responsible for conducting site
28 rehabilitation" means the site owner, operator, or the person
29 designated by the site owner or operator on the reimbursement
30 application. Mortgage holders and trust holders may be
31

1 eligible to participate in the reimbursement program pursuant
2 to s. 376.3071(12).

3 (30) "Petroleum" includes:

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

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

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

21 (32) "Petroleum products' chemicals of concern" means
22 the constituents of petroleum products, including, but not
23 limited to, xylene, benzene, toluene, ethylbenzene,
24 naphthalene, and similar chemicals, and constituents in
25 petroleum products, including, but not limited to, methyl
26 tert-butyl ether (MTBE), lead, and similar chemicals found in
27 additives, provided the chemicals of concern are present as a
28 result of a discharge of petroleum products.

29 (33) "Petroleum storage system" means a stationary
30 tank not covered under the provisions of chapter 377, together
31 with any onsite integral piping or dispensing system

1 associated therewith, which is used, or intended to be used,
2 for the storage or supply of any petroleum product. Petroleum
3 storage systems may also include oil/water separators, and
4 other pollution control devices installed at petroleum product
5 terminals as defined in this chapter and bulk product
6 facilities pursuant to, or required by, permits or best
7 management practices in an effort to control surface discharge
8 of pollutants. Nothing herein shall be construed to allow a
9 continuing discharge in violation of department rules.

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

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

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

25 (37) "Response action" means any activity, including
26 evaluation, planning, design, engineering, construction, and
27 ancillary services, which is carried out in response to any
28 discharge, release, or threatened release of a hazardous
29 substance, pollutant, or other contaminant from a facility or
30 site identified by the department under the provisions of ss.
31 376.30-376.319.

1 (38) "Response action contractor" means a person who
2 is carrying out any response action, including a person
3 retained or hired by such person to provide services relating
4 to a response action.

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

9 ~~(40)(39)~~ "Secretary" means the Secretary of
10 Environmental Protection.

11 ~~(41)(40)~~ "Site rehabilitation" means the assessment of
12 site contamination and the remediation activities that reduce
13 the levels of contaminants at a site through accepted
14 treatment methods to meet the cleanup target levels
15 established for that site. For purposes of sites subject to
16 the Resource Conservation and Recovery Act, as amended, the
17 term includes removal, decontamination, and corrective action
18 of releases of hazardous substances.

19 ~~(42)(41)~~ "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 ~~(43)(42)~~ "Storage system" means a stationary tank not
24 covered under the provisions of chapter 377, together with any
25 onsite integral piping or dispensing system associated
26 therewith, which is or has been used for the storage or supply
27 of any petroleum product, pollutant, or hazardous substance as
28 defined herein, and which is registered with the Department of
29 Environmental Protection under this chapter or any rule
30 adopted pursuant hereto.

31

1 (44)~~(43)~~ "Synergistic effects" means a scientific
2 principle that the toxicity that occurs as a result of
3 exposure is more than the sum of the toxicities of the
4 individual chemicals to which the individual is exposed.

5 (45)~~(44)~~ "Terminal facility" means any structure,
6 group of structures, motor vehicle, rolling stock, pipeline,
7 equipment, or related appurtenances which are used or capable
8 of being used for one or more of the following purposes:
9 pumping, refining, drilling for, producing, storing, handling,
10 transferring, or processing pollutants, provided such
11 pollutants are transferred over, under, or across any water,
12 estuaries, tidal flats, beaches, or waterfront lands,
13 including, but not limited to, any such facility and related
14 appurtenances owned or operated by a public utility or a
15 governmental or quasi-governmental body. In the event of a
16 ship-to-ship transfer of pollutants, the vessel going to or
17 coming from the place of transfer and a terminal facility
18 shall also be considered a terminal facility. For the purposes
19 of ss. 376.30-376.319, the term "terminal facility" shall not
20 be construed to include spill response vessels engaged in
21 response activities related to removal of pollutants, or
22 temporary storage facilities created to temporarily store
23 recovered pollutants and matter, or waterfront facilities
24 owned and operated by governmental entities acting as agents
25 of public convenience for persons engaged in the drilling for
26 or pumping, storing, handling, transferring, processing, or
27 refining of pollutants. However, each person engaged in the
28 drilling for or pumping, storing, handling, transferring,
29 processing, or refining of pollutants through a waterfront
30 facility owned and operated by such a governmental entity
31 shall be construed as a terminal facility.

1 ~~(46)(45)~~ "Transfer" or "transferred" includes
2 onloading, offloading, fueling, bunkering, lightering, removal
3 of waste pollutants, or other similar transfers, between
4 terminal facility and vessel or vessel and vessel.

5 Section 5. Section 376.30701, Florida Statutes, is
6 created to read:

7 376.30701 Application of risk-based corrective action
8 principles to contaminated sites; applicability; legislative
9 intent; rulemaking authority; contamination cleanup criteria;
10 limitations; reopeners; mapping; registry.--

11 (1) APPLICABILITY.--

12 (a) This section shall not create or establish any new
13 liability for site rehabilitation at contaminated sites. This
14 section is intended to describe a risk-based corrective action
15 process to be applied at sites where legal responsibility for
16 site rehabilitation exists pursuant to other provisions of
17 chapter 376 or chapter 403.

18 (b) This section shall apply to all contaminated sites
19 resulting from a discharge of pollutants or hazardous
20 substances where legal responsibility for site rehabilitation
21 exists pursuant to other provisions of chapter 376 or chapter
22 403 except for those contaminated sites subject to the
23 risk-based corrective action cleanup criteria established for
24 the petroleum, brownfields, and drycleaning programs pursuant
25 to ss. 376.3071, 376.81, and 376.3078, respectively.

26 (c) This section shall apply to a variety of site
27 rehabilitation scenarios including, but not limited to, site
28 rehabilitation conducted voluntarily, conducted pursuant to
29 the department's enforcement authority, or conducted as a
30 state-managed cleanup by the department.

31

1 (d) This section, and any rules adopted pursuant
2 thereto, shall apply retroactively to all existing
3 contaminated sites where legal responsibility for site
4 rehabilitation exists pursuant to other provisions of chapter
5 376 or chapter 403 except those sites for which as of March 1,
6 2000, a report has been submitted to the department which
7 documents that cleanup has been completed, at sites for which
8 cleanup target levels have been accepted by the department in
9 an approved technical document, current permit, or other
10 written agreement, and at those sites that have received a No
11 Further Action Order or a Site Rehabilitation Completion Order
12 from the department. However, the person responsible for site
13 rehabilitation can elect to have the provisions of this
14 section, including cleanup target levels established pursuant
15 thereto, apply in lieu of those in an approved technical
16 document, current permit, or other written agreement.

17 (e) The cleanup criteria established in subsection (2)
18 shall apply as Applicable or Relevant and Appropriate
19 Requirements to all contaminated sites in Florida that have
20 been identified to qualify for listing, or are listed, on the
21 National Priority List pursuant to the Comprehensive
22 Environmental Response, Compensation, and Liability Act of
23 1980 as amended by the Superfund Amendments and
24 Reauthorization Act of 1986, and as subsequently amended.

25 (f) This section does not affect the goal of
26 expediency in emergency response actions to releases to soil
27 that result in soil contamination at levels above the soil
28 target cleanup levels. The need for uniformity in requirements
29 and accountability necessitates that emergency response
30 actions to releases be subject solely to the requirements of
31 the department, the Department of Community Affairs, and any

1 federal agencies with statewide enforcement authority that are
2 given jurisdiction over releases by federal law. The
3 risk-based corrective action process at these sites shall
4 allow department-recognized field screening techniques to be
5 used.

6 (2) INTENT; RULEMAKING AUTHORITY; CLEANUP

7 CRITERIA.--It is the intent of the Legislature to protect the
8 health of all people under actual circumstances of exposure.
9 By July 1, 2001, the secretary of the department shall
10 establish criteria by rule for the purpose of determining, on
11 a site-specific basis, the rehabilitation program tasks that
12 comprise a site rehabilitation program, including a voluntary
13 site rehabilitation program, and the level at which a
14 rehabilitation program task and a site rehabilitation program
15 may be deemed completed. In establishing these rules, the
16 department shall apply, to the maximum extent feasible, a
17 risk-based corrective action process to achieve protection of
18 human health and safety and the environment in a
19 cost-effective manner based on the principles set forth in
20 this subsection. These rules shall prescribe a phased
21 risk-based corrective-action process that is iterative and
22 that tailors site rehabilitation tasks to site-specific
23 conditions and risk. The department and the person responsible
24 for site rehabilitation are encouraged to establish decision
25 points at which risk management decisions will be made. The
26 department shall provide an early decision, when requested,
27 regarding applicable exposure factors and a risk management
28 approach based on the current and future land use at the site.
29 These rules must also include protocols for the use of natural
30 attenuation, the use of institutional and engineering
31 controls, and the issuance of "no further action" letters. The

1 criteria for determining what constitutes a rehabilitation
2 program task or completion of a site rehabilitation program
3 task or site rehabilitation program, including a voluntary
4 site rehabilitation program, must:

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

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

1 rehabilitation to local governments and the owners of any
2 property into which the point of compliance is allowed to
3 extend and constructive notice to residents and business
4 tenants of the property into which the point of compliance is
5 allowed to extend. Persons receiving notice pursuant to this
6 paragraph shall have the opportunity to comment within 30 days
7 of receipt of the notice.

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

23 (d) Allow the use of institutional or engineering
24 controls at contaminated sites being cleaned up under this
25 section, where appropriate, to eliminate or control the
26 potential exposure to contaminants of humans or the
27 environment. The use of controls must be preapproved by the
28 department and only after constructive notice and opportunity
29 to comment within 30 days from receipt of notice is provided
30 to local governments, to owners of any property into which the
31 point of compliance is allowed to extend, and to residents on

1 any property into which the point of compliance is allowed to
2 extend. When institutional or engineering controls are
3 implemented to control exposure, the removal of the controls
4 must have prior department approval and must be accompanied by
5 the resumption of active cleanup, or other approved controls,
6 unless cleanup target levels under this section have been
7 achieved.

8 (e) Consider the additive effects of contaminants.
9 The synergistic and antagonistic effects must also be
10 considered when the scientific data become available.

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

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

23 1. Cleanup target levels for each contaminant found in
24 groundwater shall be the applicable state water quality
25 standards. Where such standards do not exist, the cleanup
26 target levels for groundwater shall be based on the minimum
27 criteria specified in department rule. The department shall
28 apply the following, as appropriate, in establishing the
29 applicable cleanup target levels: calculations using a
30 lifetime cancer risk level of 1.0E-6; a hazard index of 1 or
31 less; the best achievable detection limit; and nuisance,

1 organoleptic, and aesthetic considerations. However, the
2 department shall not require site rehabilitation to achieve a
3 cleanup target level for any individual contaminant that is
4 more stringent than the site-specific, naturally occurring
5 background concentration for that contaminant.

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

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

1 the groundwater contamination is not migrating away from such
2 localized source, provided human health, public safety, and
3 the environment are protected.

4 (h) Provide for the department to issue a "no further
5 action order," with conditions including, but not limited to,
6 the use of institutional or engineering controls where
7 appropriate, when alternative cleanup target levels
8 established pursuant to subparagraph (g)3. have been achieved,
9 or when the person responsible for site rehabilitation can
10 demonstrate that the cleanup target level is unachievable
11 within available technologies. Prior to issuing such an
12 order, the department shall consider the feasibility of an
13 alternative site rehabilitation technology at the contaminated
14 site.

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

17 1. In establishing soil cleanup target levels for
18 human exposure to each contaminant found in soils from the
19 land surface to 2 feet below land surface, the department
20 shall apply the following, as appropriate: calculations using
21 a lifetime cancer risk level of 1.0E-6; a hazard index of 1 or
22 less; and the best achievable detection limit. However, the
23 department shall not require site rehabilitation to achieve a
24 cleanup target level for an individual contaminant that is
25 more stringent than the site-specific, naturally occurring
26 background concentration for that contaminant. Institutional
27 controls or other methods shall be used to prevent human
28 exposure to contaminated soils more than 2 feet below the land
29 surface. Any removal of such institutional controls shall
30 require such contaminated soils to be remediated.

31

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

14 3. The department shall approve alternative cleanup
15 target levels in conjunction with institutional and
16 engineering controls, if needed, based upon an applicant's
17 demonstration, using site-specific data, modeling results,
18 risk assessment studies, risk-reduction techniques, or a
19 combination thereof, that human health, public safety, and the
20 environment are protected to the same degree as provided in
21 subparagraphs 1. and 2.

22
23 The department shall require source removal, if warranted and
24 cost-effective. Once source removal at a site is complete,
25 the department shall reevaluate the site to determine the
26 degree of active cleanup needed to continue. Further, the
27 department shall determine if the reevaluated site qualifies
28 for monitoring only or if no further action is required to
29 rehabilitate the site. If additional site rehabilitation is
30 necessary to reach "no further action" status, the department

31

1 is encouraged to utilize natural attenuation and monitoring
2 where site conditions warrant.

3 (3) LIMITATIONS.--The cleanup criteria established
4 pursuant to this section govern only site rehabilitation
5 activities occurring at the contaminated site. Removal of
6 contaminated media from a site for offsite relocation or
7 treatment must be in accordance with all applicable federal,
8 state, and local laws and regulations.

9 (4) REOPENERS.--Upon completion of site rehabilitation
10 in compliance with subsection (2), additional site
11 rehabilitation is not required unless it is demonstrated:

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

14 (b) That new information confirms the existence of an
15 area of previously unknown contamination that exceeds the
16 site-specific rehabilitation levels established in accordance
17 with subsection (2), or that otherwise poses the threat of
18 real and substantial harm to public health, safety, or the
19 environment;

20 (c) That the remediation efforts failed to achieve the
21 site rehabilitation criteria established under this section;

22 (d) That the level of risk is increased beyond the
23 acceptable risk established under subsection (2) due to
24 substantial changes in exposure conditions, such as a change
25 in land use from nonresidential to residential use. Any person
26 who changes the land use of the site, thus causing the level
27 of risk to increase beyond the acceptable risk level, may be
28 required by the department to undertake additional remediation
29 measures to assure that human health, public safety, and the
30 environment are protected consistent with this section; or

31

1 (e) That a new discharge of pollutants or hazardous
2 substances or disposal of solid waste or hazardous waste
3 occurs at the site subsequent to the issuance of a "no further
4 action" letter or site rehabilitation completion order
5 associated with the original contamination being addressed
6 pursuant to this section.

7 (5) MAPPING.--Notwithstanding the exceptions in
8 paragraph (1)(b), if an institutional control is implemented
9 at any contaminated site, including sites in the petroleum,
10 brownfields, or drycleaning programs, the property owner must
11 provide information regarding the institutional control to the
12 local government for mapping purposes. The local government
13 must then note the existence of the institutional control on
14 any relevant local land use and zoning maps with a
15 cross-reference to the department's site registry developed
16 pursuant to subsection (6). If the type of institutional
17 control used requires recording with the local government,
18 then the map notation shall also provide a cross-reference to
19 the book and page number where recorded. When a local
20 government is provided with evidence that the department has
21 subsequently issued a No Further Action Order without
22 institutional controls for a site currently noted on such
23 maps, the local government shall remove the notation.

24 (6) REGISTRY.--Notwithstanding the exceptions in
25 paragraph (1)(b), the department shall prepare and maintain a
26 registry of all contaminated sites subject to institutional
27 and engineering controls, in order to provide a mechanism for
28 the public and local governments to: monitor the status of
29 these controls; monitor the department's short-term and
30 long-term protection of human health and the environment in
31 relation to these sites; and evaluate economic revitalization

1 efforts in these areas. At a minimum, the registry shall
2 include the type of institutional or engineering controls
3 employed at a particular site, types of contaminants and
4 affected media, land use limitations, and the county in which
5 the site is located. Sites listed on the registry at which the
6 department has subsequently issued a No Further Action Order
7 without institutional controls shall be removed from the
8 registry. The department shall make the registry available to
9 the public and local governments within 1 year after the
10 effective date of this act. The department shall provide local
11 governments with actual notice when the registry becomes
12 available. Local zoning and planning offices shall post
13 information on how to access the registry in public view.

14 Section 6. Paragraph (i) of subsection (4) of section
15 376.3078, Florida Statutes, is amended to read:

16 376.3078 Drycleaning facility restoration; funds;
17 uses; liability; recovery of expenditures.--

18 (4) REHABILITATION CRITERIA.--It is the intent of the
19 Legislature to protect the health of all people under actual
20 circumstances of exposure. By July 1, 1999, the secretary of
21 the department shall establish criteria by rule for the
22 purpose of determining, on a site-specific basis, the
23 rehabilitation program tasks that comprise a site
24 rehabilitation program, including a voluntary site
25 rehabilitation program, and the level at which a
26 rehabilitation program task and a site rehabilitation program
27 may be deemed completed. In establishing the rule, the
28 department shall incorporate, to the maximum extent feasible,
29 risk-based corrective action principles to achieve protection
30 of human health and safety and the environment in a
31 cost-effective manner as provided in this subsection. The

1 rule shall also include protocols for the use of natural
2 attenuation and the issuance of "no further action" letters.
3 The criteria for determining what constitutes a rehabilitation
4 program task or completion of a site rehabilitation program
5 task or site rehabilitation program, including a voluntary
6 site rehabilitation program, must:

7 (i) Establish appropriate cleanup target levels for
8 soils.

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

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

1 3. The department may set alternative cleanup target
2 levels based upon the person responsible for site
3 rehabilitation demonstrating, using site-specific modeling and
4 risk assessment studies, that human health, public safety, and
5 the environment are protected.

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

17 Section 7. Section 376.79, Florida Statutes, is
18 amended to read:

19 376.79 Definitions.--As used in ss. 376.77-376.85, the
20 term:

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

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

29 (3) "Brownfield sites" means sites that are generally
30 abandoned, idled, or underused industrial and commercial
31

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

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

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

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

19 ~~(7)(6)~~ "Department" means the Department of
20 Environmental Protection.

21 ~~(8)(7)~~ "Engineering controls" means modifications to a
22 site to reduce or eliminate the potential for exposure to
23 contaminants. Such modifications may include, but are not
24 limited to, physical or hydraulic control measures, capping,
25 point of use treatments, or slurry walls.

26 ~~(9)(8)~~ "Environmental justice" means the fair
27 treatment of all people of all races, cultures, and incomes
28 with respect to the development, implementation, and
29 enforcement of environmental laws, regulations, and policies.

30 ~~(10)(9)~~ "Institutional controls" means the restriction
31 on use of or access to a site to eliminate or minimize

1 exposure to contaminants. Such restrictions may include, but
2 are not limited to, deed restrictions, restrictive covenants,
3 or conservation easements ~~use restrictions, or restrictive~~
4 ~~zoning.~~

5 (11)~~(10)~~ "Local pollution control program" means a
6 local pollution control program that has received delegated
7 authority from the Department of Environmental Protection
8 under ss. 376.80(11) and 403.182.

9 (12)~~(11)~~ "Natural attenuation" means a verifiable
10 approach to site rehabilitation which allows natural processes
11 to contain the spread of contamination and reduce the
12 concentrations of contaminants in contaminated groundwater and
13 soil. Natural attenuation processes may include sorption,
14 biodegradation, chemical reactions with subsurface materials,
15 diffusion, dispersion, and volatilization.~~the verifiable~~
16 ~~reduction of contaminants through natural processes, which may~~
17 ~~include diffusion, dispersion, adsorption, and biodegradation.~~

18 (13)~~(12)~~ "Person responsible for brownfield site
19 rehabilitation" means the individual or entity that is
20 designated by the local government to enter into the
21 brownfield site rehabilitation agreement with the department
22 or an approved local pollution control program and enters into
23 an agreement with the local government for redevelopment of
24 the site.

25 (14)~~(13)~~ "Person" means any individual, partner, joint
26 venture, or corporation; any group of the foregoing, organized
27 or united for a business purpose; or any governmental entity.

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

1 ~~(16)(14)~~ "Secretary" means the secretary of the
2 Department of Environmental Protection.

3 ~~(17)(15)~~ "Site rehabilitation" means the assessment of
4 site contamination and the remediation activities that reduce
5 the levels of contaminants at a site through accepted
6 treatment methods to meet the cleanup target levels
7 established for that site.

8 ~~(18)(16)~~ "Source removal" means the removal of free
9 product, or the removal of contaminants from soil or sediment
10 that has been contaminated to the extent that leaching to
11 groundwater or surface water has occurred or is occurring.

12 ~~(19)(17)~~ "Synergistic effects" means a scientific
13 principle that the toxicity that occurs as a result of
14 exposure is more than the sum of the toxicities of the
15 individual chemicals to which the individual is exposed.

16 Section 8. Subsections (4) and (5) and paragraph (c)
17 of subsection (7) of section 376.80, Florida Statutes, are
18 amended to read:

19 376.80 Brownfield program administration process.--

20 (4) Local governments or persons responsible for
21 rehabilitation and redevelopment of brownfield areas must
22 establish an advisory committee or use an existing advisory
23 committee that has formally expressed its intent to address
24 redevelopment of the specific brownfield area for the purpose
25 of improving public participation and receiving public
26 comments on rehabilitation and redevelopment of the brownfield
27 area, future land use, local employment opportunities,
28 community safety, and environmental justice. Such advisory
29 committee should include residents within or adjacent to the
30 brownfield area, businesses operating within the brownfield
31 area, and others deemed appropriate. The person responsible

1 for brownfield site rehabilitation must notify the advisory
2 committee of the intent to rehabilitate and redevelop the site
3 before executing the brownfield site rehabilitation agreement,
4 and provide the committee with a copy of the draft plan for
5 site rehabilitation which addresses elements required by
6 subsection (5). This includes disclosing potential reuse of
7 the property as well as site rehabilitation activities, if
8 any, to be performed. The advisory committee shall review the
9 proposed redevelopment agreement required pursuant to
10 paragraph (5)(i) and provide comments, if appropriate, to the
11 board of the local government with jurisdiction over the
12 brownfield area. The advisory committee must receive a copy of
13 the executed brownfield site rehabilitation agreement. When
14 the person responsible for brownfield site rehabilitation
15 submits a site assessment report or the technical document
16 containing the proposed course of action following site
17 assessment to the department or the local pollution control
18 program for review, the person responsible for brownfield site
19 rehabilitation must hold a meeting or attend a regularly
20 scheduled meeting to inform the advisory committee of the
21 findings and recommendations in the site assessment report or
22 the technical document containing the proposed course of
23 action following site assessment. ~~The advisory committee must~~
24 ~~review and provide recommendations to the board of the local~~
25 ~~government with jurisdiction on the proposed site~~
26 ~~rehabilitation agreement provided in subsection (5).~~

27 (5) The person responsible for brownfield site
28 rehabilitation must enter into a brownfield site
29 rehabilitation agreement with the department or an approved
30 local pollution control program if actual contamination exists
31

1 at the brownfield site. The brownfield site rehabilitation
2 agreement must include:
3 (a) A brownfield site rehabilitation schedule,
4 including milestones for completion of site rehabilitation
5 tasks and submittal of technical reports and rehabilitation
6 plans as agreed upon by the parties to the agreement;
7 (b) A commitment to conduct site rehabilitation
8 activities under the observation of professional engineers or
9 geologists who are registered in accordance with the
10 requirements of chapter 471 or chapter 492, respectively.
11 Submittals provided by the person responsible for brownfield
12 site rehabilitation must be signed and sealed by a
13 professional engineer registered under chapter 471, or a
14 professional geologist registered under chapter 492,
15 certifying that the submittal and associated work comply with
16 the law and rules of the department and those governing the
17 profession. In addition, upon completion of the approved
18 remedial action, the department shall require a professional
19 engineer registered under chapter 471 or a professional
20 geologist registered under chapter 492 to certify that the
21 corrective action was, to the best of his or her knowledge,
22 completed in substantial conformance with the plans and
23 specifications approved by the department;
24 (c) A commitment to conduct site rehabilitation in
25 accordance with an approved comprehensive quality assurance
26 plan under department rules;
27 (d) A commitment to conduct site rehabilitation
28 consistent with state, federal, and local laws and consistent
29 with the brownfield site contamination cleanup criteria in s.
30 376.81, including any applicable requirements for risk-based
31 corrective action;

1 (e) Timeframes for the department's review of
2 technical reports and plans submitted in accordance with the
3 agreement. The department shall make every effort to adhere
4 to established agency goals for reasonable timeframes for
5 review of such documents;

6 (f) A commitment to secure site access for the
7 department or approved local pollution control program to all
8 brownfield sites within the eligible brownfield area for
9 activities associated with site rehabilitation;

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

14 (h) A commitment to consider appropriate pollution
15 prevention measures and to implement those that the person
16 responsible for brownfield site rehabilitation determines are
17 reasonable and cost-effective, taking into account the
18 ultimate use or uses of the brownfield site. Such measures
19 may include improved inventory or production controls and
20 procedures for preventing loss, spills, and leaks of hazardous
21 waste and materials, and include goals for the reduction of
22 releases of toxic materials; and

23 (i) Certification that an agreement exists between the
24 person responsible for brownfield site rehabilitation and the
25 local government with jurisdiction over the brownfield area.
26 Such agreement shall contain terms for the redevelopment of
27 the brownfield area.

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

30 (c) Maintains comprehensive general liability and
31 comprehensive automobile liability insurance with minimum

1 limits of at least \$1 million per claim ~~occurrence~~ and \$1
2 million annual aggregate, sufficient to protect it from claims
3 for damage for personal injury, including accidental death, as
4 well as claims for property damage which may arise from
5 performance of work under the program, designating the state
6 as an additional insured party.

7 Section 9. Section 376.81, Florida Statutes, is
8 amended to read:

9 376.81 Brownfield site and brownfield areas
10 contamination cleanup criteria.--

11 (1) It is the intent of the Legislature to protect the
12 health of all people under actual circumstances of exposure.
13 By July 1, 2001 ~~1998~~, the secretary of the department shall
14 establish criteria by rule for the purpose of determining, on
15 a site-specific basis, the rehabilitation program tasks that
16 comprise a site rehabilitation program and the level at which
17 a rehabilitation program task and a site rehabilitation
18 program may be deemed completed. In establishing the rule,
19 the department shall apply ~~incorporate~~, to the maximum extent
20 feasible, a risk-based corrective action process principles to
21 achieve protection of human health and safety and the
22 environment in a cost-effective manner based on the principles
23 set forth as provided in this subsection. The rule must
24 prescribe a phased risk-based corrective action process that
25 is iterative and that tailors site rehabilitation tasks to
26 site-specific conditions and risks. The department and the
27 person responsible for brownfield site rehabilitation are
28 encouraged to establish decision points at which risk
29 management decisions will be made. The department shall
30 provide an early decision, when requested, regarding
31 applicable exposure factors and a risk management approach

1 based on the current and future land use at the site.The rule
2 shall also include protocols for the use of natural
3 attenuation, the use of institutional and engineering
4 controls,and the issuance of "no further action" letters. The
5 criteria for determining what constitutes a rehabilitation
6 program task or completion of a site rehabilitation program
7 task or site rehabilitation program must:

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

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

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

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

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

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

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

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

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

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

1 the applicable cleanup target levels ~~minimum criteria~~:
2 calculations using a lifetime cancer risk level of 1.0E-6; a
3 hazard index of 1 or less; the best achievable detection
4 limit; and the naturally occurring background concentration
5 ~~or~~ nuisance, organoleptic, and aesthetic considerations.
6 However, the department shall not require site rehabilitation
7 to achieve a cleanup target level for any individual
8 contaminant which is more stringent than the site-specific,
9 naturally occurring background concentration for that
10 contaminant.

11 2. Where surface waters are exposed to contaminated
12 groundwater, the cleanup target levels for the contaminants
13 shall be based on the more protective of the groundwater or
14 surface water standards as established by department rule.
15 The point of measuring compliance with the surface water
16 standards shall be in the groundwater immediately adjacent to
17 the surface water body.

18 3. The department shall approve ~~may set~~ alternative
19 cleanup target levels in conjunction with institutional and
20 engineering controls, if needed, based upon an applicant's
21 demonstration, using site-specific data, modeling results, ~~and~~
22 risk assessment studies, risk reduction techniques, or a
23 combination thereof, that human health, public safety, and the
24 environment are protected to the same degree as provided in
25 subparagraphs 1. and 2. Where a state water quality standard
26 is applicable, a deviation may not result in the application
27 of cleanup target levels more stringent than the standard. In
28 determining whether it is appropriate to establish alternative
29 cleanup target levels at a site, the department must consider
30 the effectiveness of source removal, if any, which ~~that~~ has
31 been completed at the site and the practical likelihood of the

1 use of low yield or poor quality groundwater, the use of
2 groundwater near marine surface water bodies, the current and
3 projected use of the affected groundwater in the vicinity of
4 the site, or the use of groundwater in the immediate vicinity
5 of the contaminated area, where it has been demonstrated that
6 the groundwater contamination is not migrating away from such
7 localized source, provided human health, public safety, and
8 the environment are protected. When using alternative cleanup
9 target levels at a brownfield site, institutional controls
10 shall not be required if:

11 a. The only cleanup target levels exceeded are the
12 groundwater cleanup target levels derived from nuisance,
13 organoleptic, or aesthetic considerations;

14 b. Concentrations of all contaminants meet the state
15 water quality standards or minimum criteria, based on
16 protection of human health, provided in subparagraph 1.;

17 c. All of the groundwater cleanup target levels
18 established pursuant to subparagraph 1. are met at the
19 property boundary;

20 d. The person responsible for brownfield site
21 rehabilitation has demonstrated that the contaminants will not
22 migrate beyond the property boundary at concentrations
23 exceeding the groundwater cleanup target levels established
24 pursuant to subparagraph 1.;

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

28 f. The real property owner provides written acceptance
29 of the "no further action" proposal to the department or the
30 local pollution control program.

31

1 (h) Provide for the department to issue a "no further
2 action order," with conditions, including, but not limited to,
3 the use of institutional or engineering controls where
4 appropriate, when alternative cleanup target levels
5 established pursuant to subparagraph (g)3. have been achieved,
6 or when the person responsible for brownfield site
7 rehabilitation can demonstrate that the cleanup target level
8 is unachievable within available technologies. Prior to
9 issuing such an order, the department shall consider the
10 feasibility of an alternative site rehabilitation technology
11 in the brownfield area.

12 (i) Establish appropriate cleanup target levels for
13 soils.

14 1. In establishing soil cleanup target levels for
15 human exposure to each contaminant found in soils from the
16 land surface to 2 feet below land surface, the department
17 shall apply ~~consider~~ the following, as appropriate:
18 calculations using a lifetime cancer risk level of 1.0E-6; a
19 hazard index of 1 or less; and the best achievable detection
20 limit; ~~or the naturally occurring background concentration.~~
21 However, the department shall not require site rehabilitation
22 to achieve a cleanup target level for an individual
23 contaminant which is more stringent than the site-specific,
24 naturally occurring background concentration for that
25 contaminant. Institutional controls or other methods shall be
26 used to prevent human exposure to contaminated soils more than
27 2 feet below the land surface. Any removal of such
28 institutional controls shall require such contaminated soils
29 to be remediated.

30 2. Leachability-based soil target levels shall be
31 based on protection of the groundwater cleanup target levels

1 or the alternate cleanup target levels for groundwater
2 established pursuant to this paragraph, as appropriate. Source
3 removal and other cost-effective alternatives that are
4 technologically feasible shall be considered in achieving the
5 leachability soil target levels established by the department.
6 The leachability goals shall not be applicable if the
7 department determines, based upon individual site
8 characteristics, and in conjunction with institutional and
9 engineering controls, if needed,that contaminants will not
10 leach into the groundwater at levels that ~~which~~ pose a threat
11 to human health, public safety, and the environment.

12 3. The department shall approve ~~may set~~ alternative
13 cleanup target levels in conjunction with institutional and
14 engineering controls, if needed,based upon an applicant's
15 demonstration, using site-specific data, modeling results,and
16 risk assessment studies, risk reduction techniques, or a
17 combination thereof,that human health, public safety, and the
18 environment are protected to the same degree as provided in
19 subparagraphs 1. and 2.

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

30 (3) The cleanup criteria established pursuant to this
31 section govern only site rehabilitation activities occurring

1 at the contaminated site. Removal of contaminated media from a
2 site for offsite relocation or treatment must be in accordance
3 with all applicable federal, state, and local laws and
4 regulations.

5 Section 10. Paragraph (k) is added to subsection (2)
6 of section 376.82, Florida Statutes, to read:

7 376.82 Eligibility criteria and liability
8 protection.--

9 (2) LIABILITY PROTECTION.--

10 (k) A person whose property becomes contaminated due
11 to geophysical or hydrologic reasons, including the migration
12 of contaminants onto their property from the operation of
13 facilities and activities on a nearby designated brownfield
14 area, and whose property has never been occupied by a business
15 that utilized or stored the contaminants or similar
16 constituents is not subject to administrative or judicial
17 action brought by or on behalf of another to compel the
18 rehabilitation of or the payment of the costs for the
19 rehabilitation of sites contaminated by materials that
20 migrated onto the property from the designated brownfield
21 area, if the person:

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

25 2. Did not participate in the operation or management
26 of the activities in the designated brownfield area operated
27 at the source location; and

28 3. Did not cause, contribute to, or exacerbate the
29 release or threat of release of any hazardous substance
30 through any act or omission.

31

1 Section 11. Section 376.88, Florida Statutes, is
2 created to read:

3 376.88 Brownfield Program Review Advisory Council.--

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

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

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

15 (c) A representative of a statewide business
16 organization;

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

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

20 (f) The Secretary of the Department of Environmental
21 Protection or his or her designee;

22 (g) The Secretary of the Department of Community
23 Affairs or his or her designee;

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

26 (i) A representative of a financial institution;

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

28 (k) A representative of the Community Environmental
29 Health Advisory Board.

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

1 (a) Perform a comprehensive review of activities
2 related to rehabilitation of brownfield areas;

3 (b) Determine and recommend any additional economic
4 incentives that should be available to help accelerate
5 rehabilitation activities; and

6 (c) Review the administrative processes for approving
7 and permitting rehabilitation activities by the Department of
8 Environmental Protection and local programs and make
9 recommendations for improvements in these processes.

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

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

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

22 (6) The council shall submit a report to the
23 Legislature as often as needed to address issues requiring
24 legislative changes or appropriations.

25 Section 12. Paragraph (d) is added to subsection (3)
26 of section 403.973, Florida Statutes, to read:

27 403.973 Expedited permitting; comprehensive plan
28 amendments.--

29 (3)

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

1 Section 13. Subsection (1) of section 190.012, Florida
2 Statutes, is amended to read:

3 190.012 Special powers; public improvements and
4 community facilities.--The district shall have, and the board
5 may exercise, subject to the regulatory jurisdiction and
6 permitting authority of all applicable governmental bodies,
7 agencies, and special districts having authority with respect
8 to any area included therein, any or all of the following
9 special powers relating to public improvements and community
10 facilities authorized by this act:

11 (1) To finance, fund, plan, establish, acquire,
12 construct or reconstruct, enlarge or extend, equip, operate,
13 and maintain systems, facilities, and basic infrastructures
14 for the following:

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

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

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

31

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

4 2. Buses, trolleys, transit shelters, ridesharing
5 facilities and services, parking improvements, and related
6 signage.

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

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

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

26 Section 14. Section 712.01, Florida Statutes, is
27 amended to read:

28 712.01 Definitions.--As used in this law:

29 (1) The term "person" as used herein denotes singular
30 or plural, natural or corporate, private or governmental,
31 including the state and any political subdivision or agency

1 | thereof as the context for the use thereof requires or denotes
2 | and including any homeowners' association.

3 | (2) "Root of title" means any title transaction
4 | purporting to create or transfer the estate claimed by any
5 | person and which is the last title transaction to have been
6 | recorded at least 30 years prior to the time when
7 | marketability is being determined. The effective date of the
8 | root of title is the date on which it was recorded.

9 | (3) "Title transaction" means any recorded instrument
10 | or court proceeding which affects title to any estate or
11 | interest in land and which describes the land sufficiently to
12 | identify its location and boundaries.

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

17 | (5) The term "parcel" means real property which is
18 | used for residential purposes that is subject to exclusive
19 | ownership and which is subject to any covenant or restriction
20 | of a homeowners' association.

21 | (6) The term "covenant or restriction" means any
22 | agreement or limitation contained in a document recorded in
23 | the public records of the county in which a parcel is located
24 | which subjects the parcel to any use restriction which may be
25 | enforced by a homeowners' association or which authorizes a
26 | homeowners' association to impose a charge or assessment
27 | against the parcel or the owner of the parcel or which may be
28 | enforced by the Florida Department of Environmental Protection
29 | pursuant to chapter 376 or chapter 403.

30 | Section 15. Section 712.03, Florida Statutes, is
31 | amended to read:

1 712.03 Exceptions to marketability.--Such marketable
2 record title shall not affect or extinguish the following
3 rights:

4 (1) Estates or interests, easements and use
5 restrictions disclosed by and defects inherent in the
6 muniments of title on which said estate is based beginning
7 with the root of title; provided, however, that a general
8 reference in any of such muniments to easements, use
9 restrictions or other interests created prior to the root of
10 title shall not be sufficient to preserve them unless specific
11 identification by reference to book and page of record or by
12 name of recorded plat be made therein to a recorded title
13 transaction which imposed, transferred or continued such
14 easement, use restrictions or other interests; subject,
15 however, to the provisions of subsection (5).

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

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

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

24 (5) Recorded or unrecorded easements or rights,
25 interest or servitude in the nature of easements,
26 rights-of-way and terminal facilities, including those of a
27 public utility or of a governmental agency, so long as the
28 same are used and the use of any part thereof shall except
29 from the operation hereof the right to the entire use thereof.
30 No notice need be filed in order to preserve the lien of any
31 mortgage or deed of trust or any supplement thereto

1 encumbering any such recorded or unrecorded easements, or
2 rights, interest, or servitude in the nature of easements,
3 rights-of-way, and terminal facilities. However, nothing
4 herein shall be construed as preserving to the mortgagee or
5 grantee of any such mortgage or deed of trust or any
6 supplement thereto any greater rights than the rights of the
7 mortgagor or grantor.

8 (6) Rights of any person in whose name the land is
9 assessed on the county tax rolls for such period of time as
10 the land is so assessed and which rights are preserved for a
11 period of 3 years after the land is last assessed in such
12 person's name.

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

15 (8) A restriction or covenant recorded pursuant to
16 chapter 376 or chapter 403.

17 Section 16. This act shall take effect upon becoming a
18 law.

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

1 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
2 COMMITTEE SUBSTITUTE FOR
3 CS/SB 1408

4 This committee substitute differs from the committee
5 substitute for Senate Bill 1408 by:

6 Clarifying that in order for businesses that are not qualified
7 target industry businesses to participate in the brownfield
8 redevelopment bonus refund program under s. 288.107, F.S.,
9 they must pay wages that are at least 80 percent of the area
10 wages, in addition to making the required capital investments.

11 Clarifying that the new statute governing application of
12 risk-based corrective action principles to contaminated sites
13 shall not create or establish any new liability for site
14 rehabilitation, but is intended to describe a risk-based
15 corrective action process to be applied at sites where legal
16 responsibility for site rehabilitation exists pursuant to
17 other provisions of chs. 376 or 403, F.S.

18 Specifying that the local advisory committee shall review the
19 proposed brownfield redevelopment agreement required pursuant
20 to s. 376.80(5)(i), F.S.

21 Specifying that the initial term for service of the Brownfield
22 Program Review Advisory Council shall be two years from the
23 date of the first meeting and may be extended at the
24 discretion of the Secretary of the Department of Environmental
25 Protection or his or her designee, based upon the needs of the
26 brownfields program.

27
28
29
30
31