

793-115BX-06

Bill No. CS/HB 1541

Amendment No. ____ (for drafter's use only)

	<u>Senate</u>	CHAMBER ACTION	<u>House</u>
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ORIGINAL STAMP BELOW

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Representative(s) Ross offered the following:

Amendment (with title amendment)

Remove everything after the enacting clause

and insert:

Section 1. Subsection (47) is added to section 376.301, Florida Statutes, to read:

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

(47) "Nearby real property owner" means the individual or entity that is vested with ownership, dominion, or legal or rightful title to real property, or that has a ground lease in real property, onto which drycleaning solvent has migrated through soil or groundwater from a drycleaning or wholesale supply facility eligible for site rehabilitation under s. 376.3078(3) or from a drycleaning or wholesale supply facility that is approved by the department for voluntary cleanup pursuant to s. 376.3078(11).

1 Section 2. Subsections (1), (3), and (11) of section
2 376.3078, Florida Statutes, are amended to read:

3 376.3078 Drycleaning facility restoration; funds;
4 uses; liability; recovery of expenditures.--

5 (1) FINDINGS.--In addition to the legislative findings
6 set forth in s. 376.30, the Legislature finds and declares
7 that:

8 (a) Significant quantities of drycleaning solvents
9 have been discharged in the past at drycleaning facilities as
10 part of the normal operation of these facilities.

11 (b) Discharges of drycleaning solvents at such
12 drycleaning facilities have occurred and are occurring, and
13 pose a significant threat to the quality of the groundwaters
14 and inland surface waters of this state.

15 (c) Where contamination of the groundwater or surface
16 water has occurred, remedial measures have often been delayed
17 for long periods while determinations as to liability and the
18 extent of liability are made, and such delays result in the
19 continuation and intensification of the threat to the public
20 health, safety, and welfare; in greater damage to the
21 environment; and in significantly higher costs to contain and
22 remove the contamination.

23 (d) Adequate financial resources must be readily
24 available to provide for the expeditious supply of safe and
25 reliable alternative sources of potable water to affected
26 persons and to provide a means for investigation and
27 rehabilitation of contaminated sites without delay.

28 (e) It is the intent of the Legislature to encourage
29 real property owners to undertake the voluntary cleanup of
30 property contaminated with drycleaning solvents and that the
31 immunity provisions of this section and all other available

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1 defenses be construed in favor of real property owners.

2 (f) Strong public interests are served by the
3 provisions of subsections (3) and (11) such as improving the
4 marketability and use of, and ability to borrow funds as to,
5 property contaminated by drycleaning solvents and encouraging
6 the voluntary remediation of contaminated sites. The extent
7 to which claims or rights are affected by subsections (3) and
8 (11) is offset by the remedies created in this section and the
9 limitations imposed by these subsections on such claims or
10 rights are reasonable when balanced against the public
11 interests served. The claims or right affected by subsections
12 (3) and (11) are speculative and these subsections are
13 intended to prevent judicial interpretations allowing windfall
14 awards that thwart the public interest provisions of this
15 section.

16 (3) REHABILITATION LIABILITY.--

17 (a) In accordance with the eligibility provisions of
18 this section, no real property owner or nearby real property
19 owner or ~~no~~ person who owns or operates, or who otherwise
20 could be liable as a result of the operation of, a drycleaning
21 facility or a wholesale supply facility shall be liable for or
22 subject to:

23 1. Claims of any person, except for any governmental
24 entity, for property damages of any kind, including, but not
25 limited to, diminished value of real property or improvements,
26 lost or delayed rent or sale or use of real property or
27 improvements, or stigma to real property or improvements
28 caused by drycleaning solvent contamination;

29 2. Administrative or judicial action brought by or on
30 behalf of any state or local government or agency thereof or
31 by or on behalf of any person to compel rehabilitation or pay

1 for the costs of rehabilitation of environmental contamination
 2 resulting from the discharge of drycleaning solvents; or-
 3
 4 ~~Subject to~~ The delays that may occur as a result of the
 5 prioritization of sites under this section for any qualified
 6 site, costs for activities described in paragraph (2)(b) shall
 7 be absorbed at the expense of the drycleaning facility
 8 restoration funds, without recourse to reimbursement or
 9 recovery from the real property owner, nearby real property
 10 owner, or the owner or operator of the drycleaning facility or
 11 the wholesale supply facility. Notwithstanding any other
 12 provisions of chapter 376 to the contrary, the provisions of
 13 this subsection shall apply to causes of action accruing on or
 14 after the effective date of this act, and shall apply
 15 retroactively to causes of action accruing before the
 16 effective date of this act, for which no lawsuit has been
 17 filed.

18 (b) The real property owner shall provide within 60
 19 days after receiving a written request from the nearby real
 20 property owner delivered via certified mail and specifying a
 21 return address for receipt of documents:

22 1. An authentic copy of the department's order of
 23 eligibility for rehabilitation of the drycleaning solvent
 24 contamination, suitable for recordation in the public records
 25 of any county; and

26 2. A statement, either obtained from the department or
 27 prepared by the real property owner, that the real property
 28 owner's property contains a drycleaning facility or a
 29 wholesale-supply facility eligible for site rehabilitation as
 30 provided in this section and that contamination resulting from
 31 such facility, including any contamination which has migrated

1 onto the nearby real property owner's property, will be
 2 cleaned up under the provisions of this section. The
 3 department shall prepare such statements when requested by the
 4 real property owner and shall assist the real property owner
 5 in providing such information to the nearby real property
 6 owner.

7
 8 The real property owner's failure to provide the documents
 9 described in this paragraph within 60 days after a request
 10 from the nearby real property owner shall waive the real
 11 property owner's immunity described in subparagraph (a)1. only
 12 as to the nearby real property owner's claims described in
 13 subparagraph (a)1., if any.

14 (c)~~(a)~~ With regard to drycleaning facilities or
 15 wholesale supply facilities that have operated as drycleaning
 16 facilities or wholesale supply facilities on or after October
 17 1, 1994, any such drycleaning facility or wholesale supply
 18 facility at which there exists contamination by drycleaning
 19 solvents shall be eligible under this subsection regardless of
 20 when the drycleaning contamination was discovered, provided
 21 that the drycleaning facility or the wholesale supply
 22 facility:

- 23 1. Has been registered with the department;
- 24 2. Is determined by the department to be in compliance
 25 with the department's rules regulating drycleaning solvents,
 26 drycleaning facilities, or wholesale supply facilities on or
 27 after November 19, 1980;
- 28 3. Has not been operated in a grossly negligent manner
 29 at any time on or after November 19, 1980;
- 30 4. Has not been identified to qualify for listing, nor
 31 is listed, on the National Priority List pursuant to the

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1 Comprehensive Environmental Response, Compensation, and
2 Liability Act of 1980 as amended by the Superfund Amendments
3 and Reauthorization Act of 1986, and as subsequently amended;
4 5. Is not under an order from the United States
5 Environmental Protection Agency pursuant to s. 3008(h) of the
6 Resource Conservation and Recovery Act as amended (42 U.S.C.A.
7 s. 6928(h)), or has not obtained and is not required to obtain
8 a permit for the operation of a hazardous waste treatment,
9 storage, or disposal facility, a postclosure permit, or a
10 permit pursuant to the federal Hazardous and Solid Waste
11 Amendments of 1984;

12

13 and provided that the real property owner or the owner or
14 operator of the drycleaning facility or the wholesale supply
15 facility has not willfully concealed the discharge of
16 drycleaning solvents and has remitted all taxes due pursuant
17 to ss. 376.70 and 376.75, has provided documented evidence of
18 contamination by drycleaning solvents as required by the rules
19 developed pursuant to this section, has reported the
20 contamination prior to December 31, 1998, and has not denied
21 the department access to the site.

22 (d)~~(b)~~ With regard to drycleaning facilities or
23 wholesale supply facilities that cease to be operated as
24 drycleaning facilities or wholesale supply facilities prior to
25 October 1, 1994, such facilities, at which there exists
26 contamination by drycleaning solvents, shall be eligible under
27 this subsection regardless of when the contamination was
28 discovered, provided that the drycleaning facility or
29 wholesale supply facility:

30 1. Was not determined by the department, within a
31 reasonable time after the department's discovery, to have been

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1 out of compliance with the department rules regulating
2 drycleaning solvents, drycleaning facilities, or wholesale
3 supply facilities implemented at any time on or after November
4 19, 1980;

5 2. Was not operated in a grossly negligent manner at
6 any time on or after November 19, 1980;

7 3. Has not been identified to qualify for listing, nor
8 is listed, on the National Priority List pursuant to the
9 Comprehensive Environmental Response, Compensation, and
10 Liability Act of 1980, as amended by the Superfund Amendments
11 and Reauthorization Act of 1986, and as subsequently amended;
12 and

13 4. Is not under an order from the United States
14 Environmental Protection Agency pursuant to s. 3008(h) of the
15 Resource Conservation and Recovery Act, as amended, or has not
16 obtained and is not required to obtain a permit for the
17 operation of a hazardous waste treatment, storage, or disposal
18 facility, a postclosure permit, or a permit pursuant to the
19 federal Hazardous and Solid Waste Amendments of 1984;

20
21 and provided that the real property owner or the owner or
22 operator of the drycleaning facility or the wholesale supply
23 facility has not willfully concealed the discharge of
24 drycleaning solvents, has provided documented evidence of
25 contamination by drycleaning solvents as required by the rules
26 developed pursuant to this section, has reported the
27 contamination prior to December 31, 1998, and has not denied
28 the department access to the site.

29 ~~(e)~~ For purposes of determining eligibility, a
30 drycleaning facility or wholesale supply facility was operated
31 in a grossly negligent manner if the department determines

1 that the owner or operator of the drycleaning facility or the
2 wholesale supply facility:

3 1. Willfully discharged drycleaning solvents onto the
4 soils or into the waters of the state after November 19, 1980,
5 with the knowledge, intent, and purpose that the discharge
6 would result in harm to the environment or to public health or
7 result in a violation of the law;

8 2. Willfully concealed a discharge of drycleaning
9 solvents with the knowledge, intent, and purpose that the
10 concealment would result in harm to the environment or to
11 public health or result in a violation of the law; or

12 3. Willfully violated a local, state, or federal law
13 or rule regulating the operation of drycleaning facilities or
14 wholesale supply facilities with the knowledge, intent, and
15 purpose that the act would result in harm to the environment
16 or to public health or result in a violation of the law.

17 ~~(f)(d)~~1. With respect to eligible drycleaning solvent
18 contamination reported to the department as part of a
19 completed application as required by the rules developed
20 pursuant to this section by June 30, 1997, the costs of
21 activities described in paragraph (2)(b) shall be absorbed at
22 the expense of the drycleaning facility restoration funds,
23 less a \$1,000 deductible per incident, which shall be paid by
24 the applicant or current property owner. The deductible shall
25 be paid within 60 days after receipt of billing by the
26 department.

27 2. For contamination reported to the department as
28 part of a completed application as required by the rules
29 developed under this section, from July 1, 1997, through
30 September 30, 1998, the costs shall be absorbed at the expense
31 of the drycleaning facility restoration funds, less a \$5,000

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1 deductible per incident. The deductible shall be paid within
2 60 days after receipt of billing by the department.

3 3. For contamination reported to the department as
4 part of a completed application as required by the rules
5 developed pursuant to this section from October 1, 1998,
6 through December 31, 1998, the costs shall be absorbed at the
7 expense of the drycleaning facility restoration funds, less a
8 \$10,000 deductible per incident. The deductible shall be paid
9 within 60 days after receipt of billing by the department.

10 4. For contamination reported after December 31, 1998,
11 no costs will be absorbed at the expense of the drycleaning
12 facility restoration funds.

13 (g)~~(e)~~ The provisions of this subsection shall not
14 apply to any site where the department has been denied site
15 access to implement the provisions of this section.

16 (h)~~(f)~~ In order to identify those drycleaning
17 facilities and wholesale supply facilities that have
18 experienced contamination resulting from the discharge of
19 drycleaning solvents and to ensure the most expedient
20 rehabilitation of such sites, the owners and operators of
21 drycleaning facilities and wholesale supply facilities are
22 encouraged to detect and report contamination from drycleaning
23 solvents related to the operation of drycleaning facilities
24 and wholesale supply facilities. The department shall
25 establish reasonable guidelines for the written reporting of
26 drycleaning contamination and shall distribute forms to
27 registrants under s. 376.303(1)(d), and to other interested
28 parties upon request, to be used for such purpose.

29 (i)~~(g)~~ A report of drycleaning solvent contamination
30 at a drycleaning facility or wholesale supply facility made to
31 the department by any person in accordance with this

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1 subsection, or any rules promulgated pursuant hereto, may not
2 be used directly as evidence of liability for such discharge
3 in any civil or criminal trial arising out of the discharge.

4 (j)~~(h)~~ The provisions of this subsection shall not
5 apply to drycleaning facilities owned or operated by the state
6 or Federal Government.

7 (k)~~(i)~~ Due to the value of Florida's potable water, it
8 is the intent of the Legislature that the department initiate
9 and facilitate as many cleanups as possible utilizing the
10 resources of the state, local governments, and the private
11 sector. The department is authorized to adopt necessary rules
12 and enter into contracts to carry out the intent of this
13 subsection and to limit or prevent future contamination from
14 the operation of drycleaning facilities and wholesale supply
15 facilities.

16 (l)~~(j)~~ It is not the intent of the Legislature that
17 the state become the owner or operator of a drycleaning
18 facility or wholesale supply facility by engaging in
19 state-conducted cleanup.

20 (m)~~(k)~~ The owner, operator, and either the real
21 property owner or agent of the real property owner may apply
22 for the Drycleaning Contamination Cleanup Program by jointly
23 submitting a completed application package to the department
24 pursuant to the rules that shall be adopted by the department.
25 If the application cannot be jointly submitted, then the
26 applicant shall provide notice of the application to other
27 interested parties. After reviewing the completed application
28 package, the department shall notify the applicant in writing
29 as to whether the drycleaning facility or wholesale supply
30 facility is eligible for the program. If the department denies
31 eligibility for a completed application package, the notice of

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1 denial shall specify the reasons for the denial, including
2 specific and substantive findings of fact, and shall
3 constitute agency action subject to the provisions of chapter
4 120. For the purposes of ss. 120.569 and 120.57, the real
5 property owner and the owner and operator of a drycleaning
6 facility or wholesale supply facility which is the subject of
7 a decision by the department with regard to eligibility shall
8 be deemed to be parties whose substantial interests are
9 determined by the department's decision to approve or deny
10 eligibility.

11 (n)(1) Eligibility under this subsection applies to
12 the drycleaning facility or wholesale supply facility, and
13 attendant site rehabilitation applies to such facilities and
14 to any place where drycleaning solvent contamination migrating
15 from the eligible facility is found to be located. A
16 determination of eligibility or ineligibility shall not be
17 affected by any conveyance of the ownership of the drycleaning
18 facility, wholesale supply facility, or the real property on
19 which such facility is located. Nothing contained in this
20 chapter shall be construed to allow a drycleaning facility or
21 wholesale supply facility which would not be eligible under
22 this subsection to become eligible as a result of the
23 conveyance of the ownership of the ineligible drycleaning
24 facility or wholesale supply facility to another owner.

25 (o)(m) If funding for the drycleaning contamination
26 rehabilitation program is eliminated, the provisions of this
27 subsection shall not apply.

28 (p)(n)1. The department shall have the authority to
29 cancel the eligibility of any drycleaning facility or
30 wholesale supply facility that submits fraudulent information
31 in the application package or that fails to continuously

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1 comply with the conditions of eligibility set forth in this
2 subsection, or has not remitted all fees pursuant to s.
3 376.303(1)(d), or has not remitted the deductible payments
4 pursuant to paragraph (f) ~~(d)~~.

5 2. If the program eligibility of a drycleaning
6 facility or wholesale supply facility is subject to
7 cancellation pursuant to this section, then the department
8 shall notify the applicant in writing of its intent to cancel
9 program eligibility and shall state the reason or reasons for
10 cancellation. The applicant shall have 45 days to resolve the
11 reason or reasons for cancellation to the satisfaction of the
12 department. If, after 45 days, the applicant has not resolved
13 the reason or reasons for cancellation to the satisfaction of
14 the department, the order of cancellation shall become final
15 and shall be subject to the provisions of chapter 120.

16 (g) ~~(e)~~ A real property owner shall not be subject to
17 administrative or judicial action brought by or on behalf of
18 any person or local or state government, or agency thereof,
19 for gross negligence or violations of department rules prior
20 to January 1, 1990, which resulted from the operation of a
21 drycleaning facility, provided that the real property owner
22 demonstrates that:

23 1. The real property owner had ownership in the
24 property at the time of the gross negligence or violation of
25 department rules and did not cause or contribute to
26 contamination on the property;

27 2. The real property owner was a distinct and separate
28 entity from the owner and operator of the drycleaning
29 facility, and did not have an ownership interest in or share
30 in the profits of the drycleaning facility;

31 3. The real property owner did not participate in the

1 operation or management of the drycleaning facility;

2 4. The real property owner complied with all discharge
3 reporting requirements, and did not conceal any contamination;
4 and

5 5. The department has not been denied access.
6

7 The defense provided by this paragraph does not apply to any
8 liability under a federally delegated program.

9 (r)~~(p)~~ A person whose property becomes contaminated
10 due to geophysical or hydrologic reasons from the operation of
11 a nearby drycleaning or wholesale supply facility and whose
12 property has never been occupied by a business that utilized
13 or stored drycleaning solvents or similar constituents is not
14 subject to administrative or judicial action brought by or on
15 behalf of another to compel the rehabilitation of or the
16 payment of the costs for the rehabilitation of sites
17 contaminated by drycleaning solvents, provided that the
18 person:

19 1. Does not own and has never held an ownership
20 interest in, or shared in the profits of, the drycleaning
21 facility operated at the source location;

22 2. Did not participate in the operation or management
23 of the drycleaning facility at the source location; and

24 3. Did not cause, contribute to, or exacerbate the
25 release or threat of release of any hazardous substance
26 through any act or omission.
27

28 The defense provided by this paragraph does not apply to any
29 liability under a federally delegated program.

30 (s)~~(q)~~ Nothing in this subsection precludes the
31 department from considering information and documentation

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1 provided by private consultants, local government programs,
2 federal agencies, or any individual which is relevant to an
3 eligibility determination if the department provides the
4 applicant with reasonable access to the information and its
5 origin.

6 (11) VOLUNTARY CLEANUP.--A real property owner is
7 authorized to conduct site rehabilitation activities at any
8 time pursuant to department rules, either through agents of
9 the real property owner or through responsible response action
10 contractors or subcontractors, whether or not the facility has
11 been determined by the department to be eligible for the
12 drycleaning solvent cleanup program. A real property owner or
13 any other person who ~~that~~ conducts site rehabilitation may not
14 seek cost recovery from the department or the Water Quality
15 Assurance Trust Fund for any such rehabilitation activities. A
16 real property owner who ~~that~~ voluntarily conducts such site
17 rehabilitation, whether commenced before or on or after
18 October 1, 1995, shall be immune from, and shall have no
19 liability for claims of any person, except for any
20 governmental entity, for property damages of any kind,
21 including, but not limited to, diminished value of real
22 property or improvements, lost or delayed rent or sale or use
23 of real property or improvements, or stigma to real property
24 or improvements caused by drycleaning solvent contamination or
25 administrative or judicial action brought by or on behalf of
26 ~~liability to~~ any person, state or local government, or agency
27 thereof to compel or enjoin site rehabilitation or pay for the
28 cost of rehabilitation of environmental contamination, or to
29 pay any fines or penalties regarding rehabilitation, as soon
30 as the real property owner:

31 (a) Conducts contamination assessment and site

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1 rehabilitation consistent with state and federal laws and
2 rules;

3 (b) Conducts such site rehabilitation in a timely
4 manner according to a rehabilitation schedule approved by the
5 department; and

6 (c) Does not deny the department access to the site.
7 Upon completion of such site rehabilitation activities in
8 accordance with the requirements of this subsection, the
9 department shall render a site rehabilitation completion
10 order.

11
12 The immunity set forth in this subsection shall also apply to
13 any nearby real property owner. The real property owner shall
14 provide upon request from any nearby real property owner all
15 reasonably available documentation in the public records in
16 reference to the drycleaning solvent contamination, including,
17 but not limited to, copies of any soil or groundwater tests
18 and site assessment reports, and a copy of the department's
19 approved voluntary cleanup agreement. The department shall
20 assist the real property owner to provide such documentation.

21 This immunity shall continue to apply to any real property
22 owner who transfers, conveys, leases, or sells property on
23 which a drycleaning facility is located so long as the
24 voluntary cleanup activities continue. Notwithstanding any
25 other provisions of chapter 376 to the contrary, the
26 provisions of this subsection shall apply to causes of action
27 accruing on or after the effective date of this act, and shall
28 apply retroactively to causes of action accruing before the
29 effective date of this act, for which no lawsuit has been
30 filed.

31 Section 3. Subsection (6) of section 376.308, Florida

1 Statutes, is amended to read:

2 376.308 Liabilities and defenses of facilities.--

3 (6) Nothing herein shall be construed to affect
4 cleanup program eligibility under ss. 376.305(6), 376.3071,
5 376.3072, 376.3078, and 376.3079. Except as otherwise
6 expressly provided in this chapter, nothing in this chapter
7 shall affect, void, or defeat any immunity of any real
8 property owner or nearby real property owner under s.
9 376.3078.

10 Section 4. Subsections (3) and (5) of section 376.313,
11 Florida Statutes, are amended to read:

12 376.313 Nonexclusiveness of remedies and individual
13 cause of action for damages under ss. 376.30-376.319.--

14 ~~(3) Notwithstanding any other provision of law~~ Except
15 as provided in s. 376.3078(3) and (11), nothing contained in
16 ss. 376.30-376.319 prohibits any person from bringing a cause
17 of action in a court of competent jurisdiction for all damages
18 resulting from a discharge or other condition of pollution
19 covered by ss. 376.30-376.319. Nothing in this chapter shall
20 prohibit or diminish a party's right to contribution from
21 other parties jointly or severally liable for a prohibited
22 discharge of pollutants or hazardous substances or other
23 pollution conditions. Except as otherwise provided in
24 subsection (4) or subsection (5), in any such suit, it is not
25 necessary for such person to plead or prove negligence in any
26 form or manner. Such person need only plead and prove the fact
27 of the prohibited discharge or other pollutive condition and
28 that it has occurred. The only defenses to such cause of
29 action shall be those specified in s. 376.308.

30 (5)(a) In any civil action against the owner or
31 operator of a drycleaning facility or a wholesale supply

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1 facility, or the owner of the real property on which such
2 facility is located, if such facility is not eligible under s.
3 376.3078(3) and is not involved in voluntary cleanup pursuant
4 to s. 376.3078(11), for damages arising from the discharge of
5 drycleaning solvents from a drycleaning facility or wholesale
6 supply facility, the provisions of subsection (3) shall not
7 apply if it can be proven that, at the time of the discharge
8 the alleged damages resulted solely from a discharge from a
9 drycleaning facility or wholesale supply facility that was in
10 compliance with department rules regulating drycleaning
11 facilities or wholesale supply facilities.

12 (b) Any person bringing such an action must prove
13 negligence in order to recover damages under this subsection.
14 For the purposes of this subsection, noncompliance with s.
15 376.303 or s. 376.3078, or any of the rules promulgated
16 pursuant thereto, or any applicable state or federal law or
17 regulation, as the same may hereafter be amended, shall be
18 prima facie evidence of negligence.

19 Section 5. Paragraph (b) of subsection (4) of section
20 376.30781, Florida Statutes, is amended to read:

21 376.30781 Partial tax credits for rehabilitation of
22 drycleaning-solvent-contaminated sites and brownfield sites in
23 designated brownfield areas; application process; rulemaking
24 authority; revocation authority.--

25 (4) To claim the credit, each applicant must apply to
26 the Department of Environmental Protection for an allocation
27 of the \$2 million annual credit by December 31 on a form
28 developed by the Department of Environmental Protection in
29 cooperation with the Department of Revenue. The form shall
30 include an affidavit from each applicant certifying that all
31 information contained in the application, including all

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1 records of costs incurred and claimed in the tax credit
2 application, are true and correct. If the application is
3 submitted pursuant to subparagraph (2)(a)2., the form must
4 include an affidavit signed by the real property owner stating
5 that it is not, and has never been, the owner or operator of
6 the drycleaning facility where the contamination exists.
7 Approval of partial tax credits must be accomplished on a
8 first-come, first-served basis based upon the date complete
9 applications are received by the Division of Waste Management.
10 An applicant shall submit only one application per site per
11 year. To be eligible for a tax credit the applicant must:

12 (b) Have paid all deductibles pursuant to s.
13 376.3078(3)(f)~~(d)~~ for eligible drycleaning-solvent-cleanup
14 program sites.

15 Section 6. Subsection (3) of section 376.3079, Florida
16 Statutes, is amended to read:

17 376.3079 Third-party liability insurance.--

18 (3) For purposes of this section and s. 376.3078, the
19 term:

20 (a) "Third-party liability" means the insured's
21 liability, other than for site rehabilitation costs and
22 property damage, for bodily injury ~~or property damage~~ caused
23 by an incident of contamination related to the operation of a
24 drycleaning facility or wholesale supply facility.

25 (b) "Incident" means any sudden or gradual discharge
26 of drycleaning solvents arising from the operation of a
27 drycleaning facility or wholesale supply facility that results
28 in a need for site rehabilitation or results in bodily injury
29 or property damage neither expected nor intended by the
30 drycleaning facility owner or operator or wholesale supply
31 facility.

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1 Section 7. This act shall take effect upon becoming a
2 law.

3
4
5 ===== T I T L E A M E N D M E N T =====

6 And the title is amended as follows:

7 remove: the entire title

8
9 and insert:

10 A bill to be entitled
11 An act relating to liability under the
12 drycleaning solvent cleanup program; amending
13 s. 376.01, F.S.; defining the term "nearby real
14 property owner"; amending s. 376.3078, F.S.;
15 adding a statement of intent; exempting certain
16 real property owners and others from claims for
17 property damage arising from contamination by
18 drycleaning solvents; amending s. 376.308,
19 F.S.; revising provisions governing the
20 statutory construction of immunity provisions;
21 amending s. 376.313, F.S.; revising provisions
22 governing immunity; amending s. 376.30781,
23 F.S.; correcting a cross reference; amending s.
24 376.3079, F.S.; redefining the term
25 "third-party liability"; providing an effective
26 date.

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