

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

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

21
22 Section 1. Subsection (47) is added to section
23 376.301, Florida Statutes, to read:

24 376.301 Definitions of terms used in ss.
25 376.30-376.319, 376.70, and 376.75.--When used in ss.
26 376.30-376.319, 376.70, and 376.75, unless the context clearly
27 requires otherwise, the term:

28 (47) "Nearby real property owner" means the individual
29 or entity that is vested with ownership, dominion, or legal or
30 rightful title to real property, or that has a ground lease in
31 real property, onto which drycleaning solvent has migrated

1 through soil or groundwater from a drycleaning or wholesale
2 supply facility eligible for site rehabilitation under s.
3 376.3078(3) or from a drycleaning or wholesale supply facility
4 that is approved by the department for voluntary cleanup
5 pursuant to s. 376.3078(11).

6 Section 2. Subsections (1), (3), and (11) of section
7 376.3078, Florida Statutes, are amended to read:

8 376.3078 Drycleaning facility restoration; funds;
9 uses; liability; recovery of expenditures.--

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

13 (a) Significant quantities of drycleaning solvents
14 have been discharged in the past at drycleaning facilities as
15 part of the normal operation of these facilities.

16 (b) Discharges of drycleaning solvents at such
17 drycleaning facilities have occurred and are occurring, and
18 pose a significant threat to the quality of the groundwaters
19 and inland surface waters of this state.

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

28 (d) Adequate financial resources must be readily
29 available to provide for the expeditious supply of safe and
30 reliable alternative sources of potable water to affected
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1 persons and to provide a means for investigation and
2 rehabilitation of contaminated sites without delay.

3 (e) It is the intent of the Legislature to encourage
4 real property owners to undertake the voluntary cleanup of
5 property contaminated with drycleaning solvents and that the
6 immunity provisions of this section and all other available
7 defenses be construed in favor of real property owners.

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

22 (3) REHABILITATION LIABILITY.--

23 (a) In accordance with the eligibility provisions of
24 this section, no real property owner or nearby real property
25 owner or ~~no~~ person who owns or operates, or who otherwise
26 could be liable as a result of the operation of, a drycleaning
27 facility or a wholesale supply facility shall be liable for or
28 subject to:

29 1. Claims of any person, except for any governmental
30 entity, for property damages of any kind, including, but not
31 limited to, diminished value of real property or improvements,

1 lost or delayed rent or sale or use of real property or
2 improvements, or stigma to real property or improvements
3 caused by drycleaning solvent contamination;

4 2. Administrative or judicial action brought by or on
5 behalf of any state or local government or agency thereof or
6 by or on behalf of any person to compel rehabilitation or pay
7 for the costs of rehabilitation of environmental contamination
8 resulting from the discharge of drycleaning solvents.

9
10 Subject to the delays that may occur as a result of the
11 prioritization of sites under this section for any qualified
12 site, costs for activities described in paragraph (2)(b) shall
13 be absorbed at the expense of the drycleaning facility
14 restoration funds, without recourse to reimbursement or
15 recovery from the real property owner, nearby real property
16 owner, or the owner or operator of the drycleaning facility or
17 the wholesale supply facility. Notwithstanding any other
18 provisions of chapter 376 to the contrary, the provisions of
19 this subsection shall apply to causes of action accruing on or
20 after the effective date of this act, and shall apply
21 retroactively to causes of action accruing before the
22 effective date of this act, for which no lawsuit has been
23 filed.

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

28 1. An authentic copy of the department's order of
29 eligibility for rehabilitation of the drycleaning solvent
30 contamination, suitable for recordation in the public records
31 of any county; and

1 2. A statement, either obtained from the department or
2 prepared by the real property owner, that the real property
3 owner's property contains a drycleaning facility or a
4 wholesale-supply facility eligible for site rehabilitation as
5 provided in this section and that contamination resulting from
6 such facility, including any contamination which has migrated
7 onto the nearby real property owner's property, will be
8 cleaned up under the provisions of this section. The
9 department shall prepare such statements when requested by the
10 real property owner and shall assist the real property owner
11 in providing such information to the nearby real property
12 owner.

13
14 The real property owner's failure to provide the documents
15 described in this paragraph within 60 days after a request
16 from the nearby real property owner shall waive the real
17 property owner's immunity described in subparagraph (a)1. only
18 as to the nearby real property owner's claims described in
19 subparagraph (a)1., if any.

20 ~~(c)(a)~~ With regard to drycleaning facilities or
21 wholesale supply facilities that have operated as drycleaning
22 facilities or wholesale supply facilities on or after October
23 1, 1994, any such drycleaning facility or wholesale supply
24 facility at which there exists contamination by drycleaning
25 solvents shall be eligible under this subsection regardless of
26 when the drycleaning contamination was discovered, provided
27 that the drycleaning facility or the wholesale supply
28 facility:

- 29 1. Has been registered with the department;
30 2. Is determined by the department to be in compliance
31 with the department's rules regulating drycleaning solvents,

1 drycleaning facilities, or wholesale supply facilities on or
2 after November 19, 1980;

3 3. Has not been operated in a grossly negligent manner
4 at any time on or after November 19, 1980;

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

10 5. Is not under an order from the United States
11 Environmental Protection Agency pursuant to s. 3008(h) of the
12 Resource Conservation and Recovery Act as amended (42 U.S.C.A.
13 s. 6928(h)), or has not obtained and is not required to obtain
14 a permit for the operation of a hazardous waste treatment,
15 storage, or disposal facility, a postclosure permit, or a
16 permit pursuant to the federal Hazardous and Solid Waste
17 Amendments of 1984;

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

28 (d)~~(b)~~ With regard to drycleaning facilities or
29 wholesale supply facilities that cease to be operated as
30 drycleaning facilities or wholesale supply facilities prior to
31 October 1, 1994, such facilities, at which there exists

1 contamination by drycleaning solvents, shall be eligible under
2 this subsection regardless of when the contamination was
3 discovered, provided that the drycleaning facility or
4 wholesale supply facility:

5 1. Was not determined by the department, within a
6 reasonable time after the department's discovery, to have been
7 out of compliance with the department rules regulating
8 drycleaning solvents, drycleaning facilities, or wholesale
9 supply facilities implemented at any time on or after November
10 19, 1980;

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

13 3. Has not been identified to qualify for listing, nor
14 is listed, on the National Priority List pursuant to the
15 Comprehensive Environmental Response, Compensation, and
16 Liability Act of 1980, as amended by the Superfund Amendments
17 and Reauthorization Act of 1986, and as subsequently amended;
18 and

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

26
27 and provided that the real property owner or the owner or
28 operator of the drycleaning facility or the wholesale supply
29 facility has not willfully concealed the discharge of
30 drycleaning solvents, has provided documented evidence of
31 contamination by drycleaning solvents as required by the rules

1 developed pursuant to this section, has reported the
2 contamination prior to December 31, 1998, and has not denied
3 the department access to the site.

4 (e)~~(c)~~ For purposes of determining eligibility, a
5 drycleaning facility or wholesale supply facility was operated
6 in a grossly negligent manner if the department determines
7 that the owner or operator of the drycleaning facility or the
8 wholesale supply facility:

9 1. Willfully discharged drycleaning solvents onto the
10 soils or into the waters of the state after November 19, 1980,
11 with the knowledge, intent, and purpose that the discharge
12 would result in harm to the environment or to public health or
13 result in a violation of the law;

14 2. Willfully concealed a discharge of drycleaning
15 solvents with the knowledge, intent, and purpose that the
16 concealment would result in harm to the environment or to
17 public health or result in a violation of the law; or

18 3. Willfully violated a local, state, or federal law
19 or rule regulating the operation of drycleaning facilities or
20 wholesale supply facilities with the knowledge, intent, and
21 purpose that the act would result in harm to the environment
22 or to public health or result in a violation of the law.

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

3 2. For contamination reported to the department as
4 part of a completed application as required by the rules
5 developed under this section, from July 1, 1997, through
6 September 30, 1998, the costs shall be absorbed at the expense
7 of the drycleaning facility restoration funds, less a \$5,000
8 deductible per incident. The deductible shall be paid within
9 60 days after receipt of billing by the department.

10 3. For contamination reported to the department as
11 part of a completed application as required by the rules
12 developed pursuant to this section from October 1, 1998,
13 through December 31, 1998, the costs shall be absorbed at the
14 expense of the drycleaning facility restoration funds, less a
15 \$10,000 deductible per incident. The deductible shall be paid
16 within 60 days after receipt of billing by the department.

17 4. For contamination reported after December 31, 1998,
18 no costs will be absorbed at the expense of the drycleaning
19 facility restoration funds.

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

23 (h)(f) In order to identify those drycleaning
24 facilities and wholesale supply facilities that have
25 experienced contamination resulting from the discharge of
26 drycleaning solvents and to ensure the most expedient
27 rehabilitation of such sites, the owners and operators of
28 drycleaning facilities and wholesale supply facilities are
29 encouraged to detect and report contamination from drycleaning
30 solvents related to the operation of drycleaning facilities
31 and wholesale supply facilities. The department shall

1 establish reasonable guidelines for the written reporting of
2 drycleaning contamination and shall distribute forms to
3 registrants under s. 376.303(1)(d), and to other interested
4 parties upon request, to be used for such purpose.

5 (i)~~(g)~~ A report of drycleaning solvent contamination
6 at a drycleaning facility or wholesale supply facility made to
7 the department by any person in accordance with this
8 subsection, or any rules promulgated pursuant hereto, may not
9 be used directly as evidence of liability for such discharge
10 in any civil or criminal trial arising out of the discharge.

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

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

23 (l)~~(j)~~ It is not the intent of the Legislature that
24 the state become the owner or operator of a drycleaning
25 facility or wholesale supply facility by engaging in
26 state-conducted cleanup.

27 (m)~~(k)~~ The owner, operator, and either the real
28 property owner or agent of the real property owner may apply
29 for the Drycleaning Contamination Cleanup Program by jointly
30 submitting a completed application package to the department
31 pursuant to the rules that shall be adopted by the department.

1 If the application cannot be jointly submitted, then the
2 applicant shall provide notice of the application to other
3 interested parties. After reviewing the completed application
4 package, the department shall notify the applicant in writing
5 as to whether the drycleaning facility or wholesale supply
6 facility is eligible for the program. If the department denies
7 eligibility for a completed application package, the notice of
8 denial shall specify the reasons for the denial, including
9 specific and substantive findings of fact, and shall
10 constitute agency action subject to the provisions of chapter
11 120. For the purposes of ss. 120.569 and 120.57, the real
12 property owner and the owner and operator of a drycleaning
13 facility or wholesale supply facility which is the subject of
14 a decision by the department with regard to eligibility shall
15 be deemed to be parties whose substantial interests are
16 determined by the department's decision to approve or deny
17 eligibility.

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

1 (o)~~(m)~~ If funding for the drycleaning contamination
2 rehabilitation program is eliminated, the provisions of this
3 subsection shall not apply.

4 (p)~~(n)~~1. The department shall have the authority to
5 cancel the eligibility of any drycleaning facility or
6 wholesale supply facility that submits fraudulent information
7 in the application package or that fails to continuously
8 comply with the conditions of eligibility set forth in this
9 subsection, or has not remitted all fees pursuant to s.
10 376.303(1)(d), or has not remitted the deductible payments
11 pursuant to paragraph (f)~~(d)~~.

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

23 (q)~~(o)~~ A real property owner shall not be subject to
24 administrative or judicial action brought by or on behalf of
25 any person or local or state government, or agency thereof,
26 for gross negligence or violations of department rules prior
27 to January 1, 1990, which resulted from the operation of a
28 drycleaning facility, provided that the real property owner
29 demonstrates that:

30 1. The real property owner had ownership in the
31 property at the time of the gross negligence or violation of

1 department rules and did not cause or contribute to
2 contamination on the property;

3 2. The real property owner was a distinct and separate
4 entity from the owner and operator of the drycleaning
5 facility, and did not have an ownership interest in or share
6 in the profits of the drycleaning facility;

7 3. The real property owner did not participate in the
8 operation or management of the drycleaning facility;

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

12 5. The department has not been denied access.
13

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

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

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

29 2. Did not participate in the operation or management
30 of the drycleaning facility at the source location; and
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1 3. Did not cause, contribute to, or exacerbate the
2 release or threat of release of any hazardous substance
3 through any act or omission.

4
5 The defense provided by this paragraph does not apply to any
6 liability under a federally delegated program.

7 ~~(s)(c)~~ Nothing in this subsection precludes the
8 department from considering information and documentation
9 provided by private consultants, local government programs,
10 federal agencies, or any individual which is relevant to an
11 eligibility determination if the department provides the
12 applicant with reasonable access to the information and its
13 origin.

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

1 or improvements caused by drycleaning solvent contamination or
2 administrative or judicial action brought by or on behalf of
3 ~~liability to~~ any person, state or local government, or agency
4 thereof to compel or enjoin site rehabilitation or pay for the
5 cost of rehabilitation of environmental contamination, or to
6 pay any fines or penalties regarding rehabilitation, as soon
7 as the real property owner:

8 (a) Conducts contamination assessment and site
9 rehabilitation consistent with state and federal laws and
10 rules;

11 (b) Conducts such site rehabilitation in a timely
12 manner according to a rehabilitation schedule approved by the
13 department; and

14 (c) Does not deny the department access to the site.
15 Upon completion of such site rehabilitation activities in
16 accordance with the requirements of this subsection, the
17 department shall render a site rehabilitation completion
18 order.

19
20 The immunity set forth in this subsection shall also apply to
21 any nearby real property owner. The real property owner shall
22 provide upon request from any nearby real property owner all
23 reasonably available documentation in the public records in
24 reference to the drycleaning solvent contamination, including,
25 but not limited to, copies of any soil or groundwater tests
26 and site assessment reports, and a copy of the department's
27 approved voluntary cleanup agreement. The department shall
28 assist the real property owner to provide such documentation.

29 This immunity shall continue to apply to any real property
30 owner who transfers, conveys, leases, or sells property on
31 which a drycleaning facility is located so long as the

1 voluntary cleanup activities continue. Notwithstanding any
2 other provisions of chapter 376 to the contrary, the
3 provisions of this subsection shall apply to causes of action
4 accruing on or after the effective date of this act, and shall
5 apply retroactively to causes of action accruing before the
6 effective date of this act, for which no lawsuit has been
7 filed.

8 Section 3. Subsection (6) of section 376.308, Florida
9 Statutes, is amended to read:

10 376.308 Liabilities and defenses of facilities.--

11 (6) Nothing herein shall be construed to affect
12 cleanup program eligibility under ss. 376.305(6), 376.3071,
13 376.3072, 376.3078, and 376.3079. Except as otherwise
14 expressly provided in this chapter, nothing in this chapter
15 shall affect, void, or defeat any immunity of any real
16 property owner or nearby real property owner under s.
17 376.3078.

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

20 376.313 Nonexclusiveness of remedies and individual
21 cause of action for damages under ss. 376.30-376.319.--

22 (3) ~~Notwithstanding any other provision of law~~ Except
23 as provided in s. 376.3078(3) and (11), nothing contained in
24 ss. 376.30-376.319 prohibits any person from bringing a cause
25 of action in a court of competent jurisdiction for all damages
26 resulting from a discharge or other condition of pollution
27 covered by ss. 376.30-376.319. Nothing in this chapter shall
28 prohibit or diminish a party's right to contribution from
29 other parties jointly or severally liable for a prohibited
30 discharge of pollutants or hazardous substances or other
31 pollution conditions. Except as otherwise provided in

1 subsection (4) or subsection (5), in any such suit, it is not
2 necessary for such person to plead or prove negligence in any
3 form or manner. Such person need only plead and prove the fact
4 of the prohibited discharge or other pollutive condition and
5 that it has occurred. The only defenses to such cause of
6 action shall be those specified in s. 376.308.

7 (5)(a) In any civil action against the owner or
8 operator of a drycleaning facility or a wholesale supply
9 facility, or the owner of the real property on which such
10 facility is located, if such facility is not eligible under s.
11 376.3078(3) and is not involved in voluntary cleanup pursuant
12 to s. 376.3078(11), for damages arising from the discharge of
13 drycleaning solvents from a drycleaning facility or wholesale
14 supply facility, the provisions of subsection (3) shall not
15 apply if it can be proven that, at the time of the discharge
16 the alleged damages resulted solely from a discharge from a
17 drycleaning facility or wholesale supply facility that was in
18 compliance with department rules regulating drycleaning
19 facilities or wholesale supply facilities.

20 (b) Any person bringing such an action must prove
21 negligence in order to recover damages under this subsection.
22 For the purposes of this subsection, noncompliance with s.
23 376.303 or s. 376.3078, or any of the rules promulgated
24 pursuant thereto, or any applicable state or federal law or
25 regulation, as the same may hereafter be amended, shall be
26 prima facie evidence of negligence.

27 Section 5. Paragraph (b) of subsection (4) of section
28 376.30781, Florida Statutes, is amended to read:

29 376.30781 Partial tax credits for rehabilitation of
30 drycleaning-solvent-contaminated sites and brownfield sites in
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1 designated brownfield areas; application process; rulemaking
2 authority; revocation authority.--

3 (4) To claim the credit, each applicant must apply to
4 the Department of Environmental Protection for an allocation
5 of the \$2 million annual credit by December 31 on a form
6 developed by the Department of Environmental Protection in
7 cooperation with the Department of Revenue. The form shall
8 include an affidavit from each applicant certifying that all
9 information contained in the application, including all
10 records of costs incurred and claimed in the tax credit
11 application, are true and correct. If the application is
12 submitted pursuant to subparagraph (2)(a)2., the form must
13 include an affidavit signed by the real property owner stating
14 that it is not, and has never been, the owner or operator of
15 the drycleaning facility where the contamination exists.
16 Approval of partial tax credits must be accomplished on a
17 first-come, first-served basis based upon the date complete
18 applications are received by the Division of Waste Management.
19 An applicant shall submit only one application per site per
20 year. To be eligible for a tax credit the applicant must:

21 (b) Have paid all deductibles pursuant to s.
22 376.3078(3)(f)~~(d)~~ for eligible drycleaning-solvent-cleanup
23 program sites.

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

26 376.3079 Third-party liability insurance.--

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

29 (a) "Third-party liability" means the insured's
30 liability, other than for site rehabilitation costs and
31 property damage, for bodily injury ~~or property damage~~ caused

1 by an incident of contamination related to the operation of a
2 drycleaning facility or wholesale supply facility.

3 (b) "Incident" means any sudden or gradual discharge
4 of drycleaning solvents arising from the operation of a
5 drycleaning facility or wholesale supply facility that results
6 in a need for site rehabilitation or results in bodily injury
7 or property damage neither expected nor intended by the
8 drycleaning facility owner or operator or wholesale supply
9 facility.

10 Section 7. This act shall take effect upon becoming a
11 law.

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