

Amendment No. (for drafter's use only)

CHAMBER ACTION

Senate

House

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Representative Clarke offered the following:

**Amendment (with title amendment)**

Remove everything after the enacting clause, and insert:

Section 1. Section 376.30701, Florida Statutes, is created to read:

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

(1) APPLICABILITY.--

(a) This section shall not create or establish any new liability for site rehabilitation at contaminated sites. This section is intended to describe a risk-based corrective action process to be applied at sites where legal responsibility for site rehabilitation exists pursuant to other provisions of this chapter or chapter 403. An exceedance of any cleanup target

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28 level derived from the cleanup criteria established in  
29 subsection (2) shall not, at sites where legal responsibility  
30 for site rehabilitation does not exist pursuant to other  
31 provisions of this chapter or chapter 403, create liability for  
32 site rehabilitation. This section may also apply to other  
33 contaminated sites at which a person conducting site  
34 rehabilitation elects to have it apply, even where such person  
35 does not have legal responsibility for site rehabilitation  
36 pursuant to this chapter or chapter 403. This section, and any  
37 rules adopted pursuant thereto, including the cleanup criteria  
38 described in subsection (2), do not create additional authority  
39 to prohibit or limit the legal placement of materials or  
40 products on land.

41 (b) This section shall apply to all contaminated sites  
42 resulting from a discharge of pollutants or hazardous substances  
43 where legal responsibility for site rehabilitation exists  
44 pursuant to other provisions of this chapter or chapter 403,  
45 except for those contaminated sites subject to the risk-based  
46 corrective action cleanup criteria established for the  
47 petroleum, brownfields, and drycleaning programs pursuant to ss.  
48 376.3071, 376.81, and 376.3078, respectively.

49 (c) This section shall apply to a variety of site  
50 rehabilitation scenarios including, but not limited to, site  
51 rehabilitation conducted voluntarily, site rehabilitation  
52 conducted pursuant to the department's enforcement authority, or  
53 site rehabilitation conducted as a state-managed cleanup by the  
54 department.

55 (d) This section, and any rules adopted pursuant thereto,  
56 shall apply retroactively to all existing contaminated sites

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57 where legal responsibility for site rehabilitation exists  
58 pursuant to other provisions of this chapter or chapter 403,  
59 except those sites for which cleanup target levels have been  
60 accepted by the department in an approved technical document,  
61 current permit, or other written agreement and except at those  
62 sites that have received a "No Further Action" order or a "Site  
63 Rehabilitation Completion" order from the department. However,  
64 the person responsible for site rehabilitation can elect to have  
65 the provisions of this section, including cleanup target levels  
66 established pursuant thereto, apply in lieu of those in an  
67 approved technical document, current permit, or other written  
68 agreement.

69 (e) Nothing in this section shall be construed to prohibit  
70 or delay actions to respond to a discharge of pollutants or  
71 hazardous substances prior to any contact with the department.  
72 The risk-based corrective action process contemplates  
73 appropriate emergency response action or initial remedial action  
74 prior to any formal application of the risk-based corrective  
75 action process involving site assessment and, if required,  
76 subsequent remedial action. Any emergency response actions or  
77 initial remedial actions must be conducted in accordance with  
78 all applicable federal, state, and local laws and regulations.

79 (2) INTENT; RULEMAKING AUTHORITY; CLEANUP CRITERIA.--It is  
80 the intent of the Legislature to protect the health of all  
81 people under actual circumstances of exposure. By July 1, 2004,  
82 the secretary of the department shall establish criteria by rule  
83 for the purpose of determining, on a site-specific basis, the  
84 rehabilitation program tasks that comprise a site rehabilitation  
85 program, including a voluntary site rehabilitation program, and

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86 the level at which a rehabilitation program task and a site  
87 rehabilitation program may be deemed completed. In establishing  
88 these rules, the department shall apply, to the maximum extent  
89 feasible, a risk-based corrective action process to achieve  
90 protection of human health and safety and the environment in a  
91 cost-effective manner based on the principles set forth in this  
92 subsection. These rules shall prescribe a phased risk-based  
93 corrective action process that is iterative and that tailors  
94 site rehabilitation tasks to site-specific conditions and risks.  
95 The department and the person responsible for site  
96 rehabilitation are encouraged to establish decision points at  
97 which risk management decisions will be made. The department  
98 shall provide an early decision, when requested, regarding  
99 applicable exposure factors and a risk management approach based  
100 on the current and future land use at the site. These rules  
101 shall also include protocols for the use of natural attenuation,  
102 the use of institutional and engineering controls, and the  
103 issuance of "No Further Action" orders. The criteria for  
104 determining what constitutes a rehabilitation program task or  
105 completion of a site rehabilitation program task or site  
106 rehabilitation program, including a voluntary site  
107 rehabilitation program, must:

108 (a) Consider the current exposure and potential risk of  
109 exposure to humans and the environment, including multiple  
110 pathways of exposure. The physical, chemical, and biological  
111 characteristics of each contaminant must be considered in order  
112 to determine the feasibility of risk-based corrective action  
113 assessment.

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114 (b) Establish the point of compliance at the source of the  
115 contamination. However, the department is authorized to  
116 temporarily move the point of compliance to the boundary of the  
117 property, or to the edge of the plume when the plume is within  
118 the property boundary, while cleanup, including cleanup through  
119 natural attenuation processes in conjunction with appropriate  
120 monitoring, is proceeding. The department also is authorized,  
121 pursuant to criteria provided for in this section, to  
122 temporarily extend the point of compliance beyond the property  
123 boundary with appropriate monitoring, if such extension is  
124 needed to facilitate natural attenuation or to address the  
125 current conditions of the plume, provided human health, public  
126 safety, and the environment are protected. When temporarily  
127 extending the point of compliance beyond the property boundary,  
128 it cannot be extended further than the lateral extent of the  
129 plume, if known, at the time of execution of a cleanup  
130 agreement, if required, or the lateral extent of the plume as  
131 defined at the time of site assessment. Temporary extension of  
132 the point of compliance beyond the property boundary, as  
133 provided in this paragraph, must include actual notice by the  
134 person responsible for site rehabilitation to local governments  
135 and the owners of any property into which the point of  
136 compliance is allowed to extend and constructive notice to  
137 residents and business tenants of the property into which the  
138 point of compliance is allowed to extend. Persons receiving  
139 notice pursuant to this paragraph shall have the opportunity to  
140 comment within 30 days after receipt of the notice.

141 (c) Ensure that the site-specific cleanup goal is that all  
142 contaminated sites being cleaned up pursuant to this section

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143 ultimately achieve the applicable cleanup target levels provided  
144 in this subsection. In the circumstances provided in this  
145 subsection, and after constructive notice and opportunity to  
146 comment within 30 days after receipt of the notice to local  
147 government, owners of any property into which the point of  
148 compliance is allowed to extend, and residents of any property  
149 into which the point of compliance is allowed to extend, the  
150 department may allow concentrations of contaminants to  
151 temporarily exceed the applicable cleanup target levels while  
152 cleanup, including cleanup through natural attenuation processes  
153 in conjunction with appropriate monitoring, is proceeding, if  
154 human health, public safety, and the environment are protected.

155 (d) Allow the use of institutional or engineering controls  
156 at contaminated sites being cleaned up pursuant to this section,  
157 where appropriate, to eliminate or control the potential  
158 exposure to contaminants of humans or the environment. The use  
159 of controls must be preapproved by the department and only after  
160 constructive notice and opportunity to comment within 30 days  
161 after receipt of notice is provided to local governments, owners  
162 of any property into which the point of compliance is allowed to  
163 extend, and residents of any property into which the point of  
164 compliance is allowed to extend. When institutional or  
165 engineering controls are implemented to control exposure, the  
166 removal of the controls must have prior department approval and  
167 must be accompanied by the resumption of active cleanup, or  
168 other approved controls, unless cleanup target levels under this  
169 section have been achieved.

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170 (e) Consider the additive effects of contaminants. The  
171 synergistic and antagonistic effects shall also be considered  
172 when the scientific data become available.

173 (f) Take into consideration individual site  
174 characteristics, which shall include, but not be limited to, the  
175 current and projected use of the affected groundwater and  
176 surface water in the vicinity of the site, current and projected  
177 land uses of the area affected by the contamination, the exposed  
178 population, the degree and extent of contamination, the rate of  
179 contaminant migration, the apparent or potential rate of  
180 contaminant degradation through natural attenuation processes,  
181 the location of the plume, and the potential for further  
182 migration in relation to site property boundaries.

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

184 1. Cleanup target levels for each contaminant found in  
185 groundwater shall be the applicable state water quality  
186 standards. Where such standards do not exist, the cleanup target  
187 levels for groundwater shall be based on the minimum criteria  
188 specified in department rule. The department shall apply the  
189 following, as appropriate, in establishing the applicable  
190 cleanup target levels: calculations using a lifetime cancer risk  
191 level of 1.0E-6; a hazard index of 1 or less; the best  
192 achievable detection limit; and nuisance, organoleptic, and  
193 aesthetic considerations. However, the department shall not  
194 require site rehabilitation to achieve a cleanup target level  
195 for any individual contaminant that is more stringent than the  
196 site-specific, naturally occurring background concentration for  
197 that contaminant.

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198 2. Where surface waters are exposed to contaminated  
199 groundwater, the cleanup target levels for the contaminants  
200 shall be based on the more protective of the groundwater or  
201 surface water standards as established by department rule. The  
202 point of measuring compliance with the surface water standards  
203 shall be in the groundwater immediately adjacent to the surface  
204 water body.

205 3. Using risk-based corrective action principles, the  
206 department shall approve alternative cleanup target levels in  
207 conjunction with institutional and engineering controls, if  
208 needed, based upon an applicant's demonstration, using site-  
209 specific data, modeling results, risk assessment studies, risk  
210 reduction techniques, or a combination thereof, that human  
211 health, public safety, and the environment are protected to the  
212 same degree as provided in subparagraphs 1. and 2. Where a state  
213 water quality standard is applicable, a deviation may not result  
214 in the application of cleanup target levels more stringent than  
215 the standard. In determining whether it is appropriate to  
216 establish alternative cleanup target levels at a site, the  
217 department must consider the effectiveness of source removal, if  
218 any, that has been completed at the site and the practical  
219 likelihood of the use of low yield or poor quality groundwater,  
220 the use of groundwater near marine surface water bodies, the  
221 current and projected use of the affected groundwater in the  
222 vicinity of the site, or the use of groundwater in the immediate  
223 vicinity of the contaminated area, where it has been  
224 demonstrated that the groundwater contamination is not migrating  
225 away from such localized source, provided human health, public  
226 safety, and the environment are protected.

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227 (h) Provide for the department to issue a "No Further  
228 Action" order, with conditions, including, but not limited to,  
229 the use of institutional or engineering controls where  
230 appropriate, when alternative cleanup target levels established  
231 pursuant to subparagraph (g)3. have been achieved or when the  
232 person responsible for site rehabilitation can demonstrate that  
233 the cleanup target level is unachievable with the use of  
234 available technologies. Prior to issuing such an order, the  
235 department shall consider the feasibility of an alternative site  
236 rehabilitation technology at the contaminated site.

237 (i) Establish appropriate cleanup target levels for soils.  
238 Although there are existing state water quality standards, there  
239 are no existing statewide soil quality standards. The  
240 Legislature does not intend, through the adoption of this  
241 section, to create such soil quality standards. The specific  
242 rulemaking authority granted pursuant to this section merely  
243 authorizes the department to establish appropriate soil cleanup  
244 target levels. These soil cleanup target levels will be  
245 applicable at sites only after a determination as to legal  
246 responsibility for site rehabilitation has been made pursuant to  
247 other provisions of this chapter or chapter 403.

248 1. In establishing soil cleanup target levels for human  
249 exposure to each contaminant found in soils from the land  
250 surface to 2 feet below land surface, the department shall apply  
251 the following, as appropriate: calculations using a lifetime  
252 cancer risk level of 1.0E-6; a hazard index of 1 or less; and  
253 the best achievable detection limit. However, the department  
254 shall not require site rehabilitation to achieve a cleanup  
255 target level for an individual contaminant that is more

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256 stringent than the site-specific, naturally occurring background  
257 concentration for that contaminant. Institutional controls or  
258 other methods shall be used to prevent human exposure to  
259 contaminated soils more than 2 feet below the land surface. Any  
260 removal of such institutional controls shall require such  
261 contaminated soils to be remediated.

262 2. Leachability-based soil cleanup target levels shall be  
263 based on protection of the groundwater cleanup target levels or  
264 the alternate cleanup target levels for groundwater established  
265 pursuant to this paragraph, as appropriate. Source removal and  
266 other cost-effective alternatives that are technologically  
267 feasible shall be considered in achieving the leachability soil  
268 cleanup target levels established by the department. The  
269 leachability goals shall not be applicable if the department  
270 determines, based upon individual site characteristics, and in  
271 conjunction with institutional and engineering controls, if  
272 needed, that contaminants will not leach into the groundwater at  
273 levels that pose a threat to human health, public safety, and  
274 the environment.

275 3. Using risk-based corrective action principles, the  
276 department shall approve alternative cleanup target levels in  
277 conjunction with institutional and engineering controls, if  
278 needed, based upon an applicant's demonstration, using site-  
279 specific data, modeling results, risk assessment studies, risk  
280 reduction techniques, or a combination thereof, that human  
281 health, public safety, and the environment are protected to the  
282 same degree as provided in subparagraphs 1. and 2.  
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284 The department shall require source removal, as a risk reduction  
285 measure, if warranted and cost-effective. Once source removal at  
286 a site is complete, the department shall reevaluate the site to  
287 determine the degree of active cleanup needed to continue.  
288 Further, the department shall determine if the reevaluated site  
289 qualifies for monitoring only or if no further action is  
290 required to rehabilitate the site. If additional site  
291 rehabilitation is necessary to reach "No Further Action" status,  
292 the department is encouraged to utilize natural attenuation and  
293 monitoring where site conditions warrant.

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

300 (4) REOPENERS.--Upon completion of site rehabilitation in  
301 compliance with subsection (2), additional site rehabilitation  
302 is not required unless it is demonstrated that:

303 (a) Fraud was committed in demonstrating site conditions  
304 or completion of site rehabilitation;

305 (b) New information confirms the existence of an area of  
306 previously unknown contamination which exceeds the site-specific  
307 rehabilitation levels established in accordance with subsection  
308 (2), or which otherwise poses the threat of real and substantial  
309 harm to public health, safety, or the environment;

310 (c) The remediation efforts failed to achieve the site  
311 rehabilitation criteria established under this section;

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312 (d) The level of risk is increased beyond the acceptable  
313 risk established under subsection (2) due to substantial changes  
314 in exposure conditions, such as a change in land use from  
315 nonresidential to residential use. Any person who changes the  
316 land use of the site, thereby causing the level of risk to  
317 increase beyond the acceptable risk level, may be required by  
318 the department to undertake additional remediation measures to  
319 ensure that human health, public safety, and the environment are  
320 protected consistent with this section; or

321 (e) A new discharge of pollutants or hazardous substances  
322 occurs at the site subsequent to the issuance of a "No Further  
323 Action" order or a "Site Rehabilitation Completion" order  
324 associated with the original contamination being addressed  
325 pursuant to this section.

326 Section 2. Subsection (1) of section 199.1055, Florida  
327 Statutes, is amended to read:

328 199.1055 Contaminated site rehabilitation tax credit.--

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

330 (a) A credit in the amount of 35 percent of the costs of  
331 voluntary cleanup activity that is integral to site  
332 rehabilitation at the following sites is available ~~allowed~~  
333 against any tax due for a taxable year under s. 199.032, less  
334 any credit allowed by former s. 220.68 for that year:

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

337 2. A drycleaning-solvent-contaminated site at which  
338 cleanup is undertaken by the real property owner pursuant to s.  
339 376.3078(11), if the real property owner is not also, and has

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340 never been, the owner or operator of the drycleaning facility  
341 where the contamination exists; or

342 3. A brownfield site in a designated brownfield area under  
343 s. 376.80.

344 (b) A tax credit applicant, or multiple tax credit  
345 applicants taxpayer, or multiple taxpayers working jointly to  
346 clean up a single site, may not be granted ~~receive~~ more than  
347 \$250,000 per year in tax credits for each site voluntarily  
348 rehabilitated. Multiple tax credit applicants ~~taxpayers~~ shall be  
349 granted ~~receive~~ tax credits in the same proportion as their  
350 contribution to payment of cleanup costs. Subject to the same  
351 conditions and limitations as provided in this section, a  
352 municipality, ~~or~~ county, or other tax credit applicant which  
353 voluntarily rehabilitates a site may receive not more than  
354 \$250,000 per year in tax credits which it can subsequently  
355 transfer subject to the provisions in paragraph (g).

356 (c) If the credit granted under this section is not fully  
357 used in any one year because of insufficient tax liability on  
358 the part of the tax credit applicant ~~taxpayer~~, the unused amount  
359 may be carried forward for a period not to exceed 5 years. Five  
360 years after the date a credit is granted under this section,  
361 such credit expires and may not be used. However, if during the  
362 5-year period the credit is transferred, in whole or in part,  
363 pursuant to paragraph (g), each transferee has 5 years after the  
364 date of transfer to use its credit.

365 (d) A taxpayer that receives a credit under s. 220.1845 is  
366 ineligible to receive credit under this section in a given tax  
367 year.

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368 (e) A tax credit applicant ~~taxpayer~~ that receives state-  
369 funded site rehabilitation pursuant to s. 376.3078(3) for  
370 rehabilitation of a drycleaning-solvent-contaminated site is  
371 ineligible to receive credit under this section for costs  
372 incurred by the tax credit applicant ~~taxpayer~~ in conjunction  
373 with the rehabilitation of that site during the same time period  
374 that state-administered site rehabilitation was underway.

375 (f) The total amount of the tax credits which may be  
376 granted under this section and s. 220.1845 is \$2 million  
377 annually.

378 (g)1. Tax credits that may be available under this section  
379 to an entity eligible under s. 376.30781 may be transferred  
380 after a merger or acquisition to the surviving or acquiring  
381 entity and used in the same manner with the same limitations.

382 2. The entity or its surviving or acquiring entity as  
383 described in subparagraph 1., may transfer any unused credit in  
384 whole or in units of no less than 25 percent of the remaining  
385 credit. The entity acquiring such credit may use it in the same  
386 manner and with the same limitation as described in this  
387 section. Such transferred credits may not be transferred again  
388 although they may succeed to a surviving or acquiring entity  
389 subject to the same conditions and limitations as described in  
390 this section.

391 3. In the event the credit provided for under this section  
392 is reduced either as a result of a determination by the  
393 Department of Environmental Protection or an examination or  
394 audit by the Department of Revenue, such tax deficiency shall be  
395 recovered from the first entity, or the surviving or acquiring  
396 entity, to have claimed such credit up to the amount of credit

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397 taken. Any subsequent deficiencies shall be assessed against any  
398 entity acquiring and claiming such credit, or in the case of  
399 multiple succeeding entities in the order of credit succession.

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

407 Section 3. Subsection (1) of section 220.1845, Florida  
408 Statutes, is amended to read:

409 220.1845 Contaminated site rehabilitation tax credit.--

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

411 (a) A credit in the amount of 35 percent of the costs of  
412 voluntary cleanup activity that is integral to site  
413 rehabilitation at the following sites is available ~~allowed~~  
414 against any tax due for a taxable year under this chapter:

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

417 2. A drycleaning-solvent-contaminated site at which  
418 cleanup is undertaken by the real property owner pursuant to s.  
419 376.3078(11), if the real property owner is not also, and has  
420 never been, the owner or operator of the drycleaning facility  
421 where the contamination exists; or

422 3. A brownfield site in a designated brownfield area under  
423 s. 376.80.

424 (b) A tax credit applicant, or multiple tax credit  
425 applicants ~~taxpayer, or multiple taxpayers~~ working jointly to

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426 clean up a single site, may not be granted ~~receive~~ more than  
427 \$250,000 per year in tax credits for each site voluntarily  
428 rehabilitated. Multiple tax credit applicants ~~taxpayers~~ shall be  
429 granted ~~receive~~ tax credits in the same proportion as their  
430 contribution to payment of cleanup costs. Subject to the same  
431 conditions and limitations as provided in this section, a  
432 municipality, ~~or county,~~ or other tax credit applicant which  
433 voluntarily rehabilitates a site may receive not more than  
434 \$250,000 per year in tax credits which it can subsequently  
435 transfer subject to the provisions in paragraph (h).

436 (c) If the credit granted under this section is not fully  
437 used in any one year because of insufficient tax liability on  
438 the part of the corporation, the unused amount may be carried  
439 forward for a period not to exceed 5 years. The carryover credit  
440 may be used in a subsequent year when the tax imposed by this  
441 chapter for that year exceeds the credit for which the  
442 corporation is eligible in that year under this section after  
443 applying the other credits and unused carryovers in the order  
444 provided by s. 220.02(8). Five years after the date a credit is  
445 granted under this section, such credit expires and may not be  
446 used. However, if during the 5-year period the credit is  
447 transferred, in whole or in part, pursuant to paragraph (h),  
448 each transferee has 5 years after the date of transfer to use  
449 its credit.

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

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455 (e) A taxpayer that receives credit under s. 199.1055 is  
456 ineligible to receive credit under this section in a given tax  
457 year.

458 (f) A tax credit applicant ~~taxpayer~~ that receives state-  
459 funded site rehabilitation under s. 376.3078(3) for  
460 rehabilitation of a drycleaning-solvent-contaminated site is  
461 ineligible to receive credit under this section for costs  
462 incurred by the tax credit applicant ~~taxpayer~~ in conjunction  
463 with the rehabilitation of that site during the same time period  
464 that state-administered site rehabilitation was underway.

465 (g) The total amount of the tax credits which may be  
466 granted under this section and s. 199.1055 is \$2 million  
467 annually.

468 (h)1. Tax credits that may be available under this section  
469 to an entity eligible under s. 376.30781 may be transferred  
470 after a merger or acquisition to the surviving or acquiring  
471 entity and used in the same manner and with the same  
472 limitations.

473 2. The entity or its surviving or acquiring entity as  
474 described in subparagraph 1., may transfer any unused credit in  
475 whole or in units of no less than 25 percent of the remaining  
476 credit. The entity acquiring such credit may use it in the same  
477 manner and with the same limitation as described in this  
478 section. Such transferred credits may not be transferred again  
479 although they may succeed to a surviving or acquiring entity  
480 subject to the same conditions and limitations as described in  
481 this section.

482 3. In the event the credit provided for under this section  
483 is reduced either as a result of a determination by the

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484 Department of Environmental Protection or an examination or  
485 audit by the Department of Revenue, such tax deficiency shall be  
486 recovered from the first entity, or the surviving or acquiring  
487 entity, to have claimed such credit up to the amount of credit  
488 taken. Any subsequent deficiencies shall be assessed against  
489 any entity acquiring and claiming such credit, or in the case of  
490 multiple succeeding entities in the order of credit succession.

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

498 Section 4. Section 376.30781, Florida Statutes, is amended  
499 to read:

500 376.30781 Partial tax credits for rehabilitation of  
501 drycleaning-solvent-contaminated sites and brownfield sites in  
502 designated brownfield areas; application process; rulemaking  
503 authority; revocation authority.--

504 (1) The Legislature finds that:

505 (a) To facilitate property transactions and economic  
506 growth and development, it is in the interest of the state to  
507 encourage the cleanup, at the earliest possible time, of  
508 drycleaning-solvent-contaminated sites and brownfield sites in  
509 designated brownfield areas.

510 (b) It is the intent of the Legislature to encourage the  
511 voluntary cleanup of drycleaning-solvent-contaminated sites and  
512 brownfield sites in designated brownfield areas by providing a

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513 partial tax credit for the restoration of such property in  
514 specified circumstances.

515 (2)(a) A credit in the amount of 35 percent of the costs  
516 of voluntary cleanup activity that is integral to site  
517 rehabilitation at the following sites is allowed pursuant to ss.  
518 199.1055 and 220.1845:

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

521 2. A drycleaning-solvent-contaminated site at which  
522 cleanup is undertaken by the real property owner pursuant to s.  
523 376.3078(11), if the real property owner is not also, and has  
524 never been, the owner or operator of the drycleaning facility  
525 where the contamination exists; or

526 3. A brownfield site in a designated brownfield area under  
527 s. 376.80.

528 (b) A tax credit applicant taxpayer, or multiple tax  
529 credit applicants taxpayers working jointly to clean up a single  
530 site, may not be granted receive more than \$250,000 per year in  
531 tax credits for each site voluntarily rehabilitated. Multiple  
532 tax credit applicants taxpayers shall be granted receive tax  
533 credits in the same proportion as their contribution to payment  
534 of cleanup costs. Tax credits are available only for site  
535 rehabilitation conducted during the calendar tax year for in  
536 which the tax credit application is submitted.

537 (c) In order to encourage completion of site  
538 rehabilitation at contaminated sites that are being voluntarily  
539 cleaned up and that are eligible for a tax credit under this  
540 section, the tax credit applicant may claim an additional 10  
541 percent of the total cleanup costs, not to exceed \$50,000, in

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542 the final year of cleanup as evidenced by the Department of  
543 Environmental Protection issuing a "No Further Action" order for  
544 that site.

545 (3) The Department of Environmental Protection shall be  
546 responsible for allocating the tax credits provided for in ss.  
547 199.1055 and 220.1845, not to exceed a total of \$2 million in  
548 tax credits annually.

549 (4) To claim the credit for site rehabilitation conducted  
550 during the current calendar year, each tax credit applicant must  
551 apply to the Department of Environmental Protection for an  
552 allocation of the \$2 million annual credit by January 15 of the  
553 following year ~~December 31~~ on a form developed by the Department  
554 of Environmental Protection in cooperation with the Department  
555 of Revenue. The form shall include an affidavit from each tax  
556 credit applicant certifying that all information contained in  
557 the application, including all records of costs incurred and  
558 claimed in the tax credit application, are true and correct. If  
559 the application is submitted pursuant to subparagraph (2)(a)2.,  
560 the form must include an affidavit signed by the real property  
561 owner stating that it is not, and has never been, the owner or  
562 operator of the drycleaning facility where the contamination  
563 exists. Approval of partial tax credits must be accomplished on  
564 a first-come, first-served basis based upon the date complete  
565 applications are received by the Division of Waste Management.  
566 A tax credit ~~An~~ applicant shall submit only one complete  
567 application per site for each calendar year's site  
568 rehabilitation costs. Incomplete placeholder applications shall  
569 not be accepted and will not secure a place in the first-come,

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570 first-served application line ~~per year~~. To be eligible for a  
571 tax credit the tax credit applicant must:

572 (a) Have entered into a voluntary cleanup agreement with  
573 the Department of Environmental Protection for a drycleaning-  
574 solvent-contaminated site or a Brownfield Site Rehabilitation  
575 Agreement, as applicable; and

576 (b) Have paid all deductibles pursuant to s.  
577 376.3078(3)(d) for eligible drycleaning-solvent-cleanup program  
578 sites.

579 (5) To obtain the tax credit certificate, a tax credit ~~an~~  
580 applicant must annually file an application for certification,  
581 which must be received by the Division of Waste Management of  
582 the Department of Environmental Protection by January 15 of the  
583 year following the calendar year for which site rehabilitation  
584 costs are being claimed in a tax credit application ~~December 31~~.  
585 The tax credit applicant must provide all pertinent information  
586 requested on the tax credit application form, including, at a  
587 minimum, the name and address of the tax credit applicant and  
588 the address and tracking identification number of the eligible  
589 site. Along with the tax credit application form, the tax credit  
590 applicant must submit the following:

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

595 (b) Copies of contracts and documentation of contract  
596 negotiations, accounts, invoices, sales tickets, or other  
597 payment records from purchases, sales, leases, or other  
598 transactions involving actual costs incurred for that tax year

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599 related to site rehabilitation, as that term is defined in ss.  
600 376.301 and 376.79;

601 (c) Proof that the documentation submitted pursuant to  
602 paragraph (b) has been reviewed and verified by an independent  
603 certified public accountant in accordance with standards  
604 established by the American Institute of Certified Public  
605 Accountants. Specifically, the certified public accountant must  
606 attest to the accuracy and validity of the costs incurred and  
607 paid by conducting an independent review of the data presented  
608 by the tax credit applicant. Accuracy and validity of costs  
609 incurred and paid would be determined once the level of effort  
610 was certified by an appropriate professional registered in this  
611 state in each contributing technical discipline. The certified  
612 public accountant's report would also attest that the costs  
613 included in the application form are not duplicated within the  
614 application. A copy of the accountant's report shall be  
615 submitted to the Department of Environmental Protection with  
616 the tax credit application; and

617 (d) A certification form stating that site rehabilitation  
618 activities associated with the documentation submitted pursuant  
619 to paragraph (b) have been conducted under the observation of,  
620 and related technical documents have been signed and sealed by,  
621 an appropriate professional registered in this state in each  
622 contributing technical discipline. The certification form shall  
623 be signed and sealed by the appropriate registered professionals  
624 stating that the costs incurred were integral, necessary, and  
625 required for site rehabilitation, as that term is defined in ss.  
626 376.301 and 376.79.

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627 (6) The certified public accountant and appropriate  
628 registered professionals submitting forms as part of a tax  
629 credit application must verify such forms. Verification must be  
630 accomplished as provided in s. 92.525(1)(b) and subject to the  
631 provisions of s. 92.525(3).

632 (7) The Department of Environmental Protection shall  
633 review the tax credit application and any supplemental  
634 documentation that the tax credit applicant may submit prior to  
635 the annual application deadline in order to have the application  
636 considered complete ~~submitted by each applicant~~, for the purpose  
637 of verifying that the tax credit applicant has met the  
638 qualifying criteria in subsections (2) and (4) and has submitted  
639 all required documentation listed in subsection (5). Upon  
640 verification that the tax credit applicant has met these  
641 requirements, the department shall issue a written decision  
642 granting eligibility for partial tax credits (a tax credit  
643 certificate) in the amount of 35 percent of the total costs  
644 claimed, subject to the \$250,000 limitation, for the calendar  
645 ~~tax year~~ for in which the tax credit application is submitted  
646 based on the report of the certified public accountant and the  
647 certifications from the appropriate registered technical  
648 professionals.

649 (8) On or before March 1, the Department of Environmental  
650 Protection shall inform each eligible tax credit applicant of  
651 the amount of its partial tax credit and provide each eligible  
652 tax credit applicant with a tax credit certificate that must be  
653 submitted with its tax return to the Department of Revenue to  
654 claim the tax credit or be transferred pursuant to s.  
655 199.1055(1)(g) or s. 220.1845(1)(h). Credits will not result in

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656 the payment of refunds if total credits exceed the amount of tax  
657 owed.

658 (9) If a tax credit ~~an~~ applicant does not receive a tax  
659 credit allocation due to an exhaustion of the \$2 million annual  
660 tax credit authorization, such application will then be included  
661 in the same first-come, first-served order in the next year's  
662 annual tax credit allocation, if any, based on the prior year  
663 application.

664 (10) The Department of Environmental Protection may adopt  
665 rules to prescribe the necessary forms required to claim tax  
666 credits under this section and to provide the administrative  
667 guidelines and procedures required to administer this section.  
668 ~~Prior to the adoption of rules regulating the tax credit~~  
669 ~~application, the department shall, by September 1, 1998,~~  
670 ~~establish reasonable interim application requirements and forms.~~

671 (11) The Department of Environmental Protection may revoke  
672 or modify any written decision granting eligibility for partial  
673 tax credits under this section if it is discovered that the tax  
674 credit applicant submitted any false statement, representation,  
675 or certification in any application, record, report, plan, or  
676 other document filed in an attempt to receive partial tax  
677 credits under this section. The Department of Environmental  
678 Protection shall immediately notify the Department of Revenue of  
679 any revoked or modified orders affecting previously granted  
680 partial tax credits. Additionally, the tax credit applicant  
681 ~~taxpayer~~ must notify the Department of Revenue of any change in  
682 its tax credit claimed.

683 (12) A tax credit applicant ~~An owner, operator, or real~~  
684 ~~property owner~~ who receives state-funded site rehabilitation



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685 under s. 376.3078(3) for rehabilitation of a drycleaning-  
686 solvent-contaminated site is ineligible to receive a tax credit  
687 under s. 199.1055 or s. 220.1845 for costs incurred by the tax  
688 credit applicant taxpayer in conjunction with the rehabilitation  
689 of that site during the same time period that state-administered  
690 site rehabilitation was underway.

691 Section 5. This act shall take effect upon becoming a law.

692

693 ===== T I T L E A M E N D M E N T =====

694 Remove the entire title, and insert:

695 A bill to be entitled

696 An act relating to site rehabilitation of contaminated  
697 sites; creating s. 376.30701, F.S.; extending application  
698 of risk-based corrective action principles to all  
699 contaminated sites resulting from a discharge of  
700 pollutants or hazardous substances; providing for  
701 contamination cleanup criteria that incorporate risk-based  
702 corrective action principles to be adopted by rule;  
703 providing clarification that cleanup criteria do not apply  
704 to offsite relocation or treatment; providing the  
705 conditions under which further rehabilitation may be  
706 required; amending s. 199.1055, F.S.; clarifying who may  
707 apply for tax credits; clarifying time period for use of  
708 tax credits; amending s. 220.1845, F.S.; clarifying who  
709 may apply for tax credits; clarifying time period for use  
710 of tax credits; allowing taxpayers to claim credit on a  
711 consolidated return up to the amount of the consolidated  
712 group's tax liability; amending s. 376.30781, F.S.;  
713 clarifying who may apply for tax credits; converting tax

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714 credit application time period to calendar year; moving  
715 application deadline to January 15; clarifying that  
716 placeholder applications are prohibited; conforming  
717 references governing transferability of tax credits;  
718 eliminating outdated language; providing an effective  
719 date.