

By Senator Argenziano

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See HB

1 A bill to be entitled
2 An act relating to site rehabilitation of
3 contaminated sites; creating s. 376.30701,
4 F.S.; extending application of risk-based
5 corrective action principles to all
6 contaminated sites resulting from a discharge
7 of pollutants or hazardous substances;
8 providing for contamination cleanup criteria
9 that incorporate risk-based corrective action
10 principles to be adopted by rule; providing
11 clarification that cleanup criteria do not
12 apply to offsite relocation or treatment;
13 providing the conditions under which further
14 rehabilitation may be required; amending s.
15 199.1055, F.S.; clarifying who may apply for
16 tax credits; clarifying time period for use of
17 tax credits; amending s. 220.1845, F.S.;
18 clarifying who may apply for tax credits;
19 clarifying time period for use of tax credits;
20 allowing taxpayers to claim credit on a
21 consolidated return up to the amount of the
22 consolidated group's tax liability; amending s.
23 376.30781, F.S.; clarifying who may apply for
24 tax credits; converting tax credit application
25 time period to calendar year; moving
26 application deadline to January 15; clarifying
27 that placeholder applications are prohibited;
28 cross-referencing sections governing
29 transferability of tax credits; eliminating
30 outdated language; providing an effective date.
31

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

2

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

5 376.30701 Application of risk-based corrective action
6 principles to contaminated sites; applicability; legislative
7 intent; rulemaking authority; contamination cleanup criteria;
8 limitations; reopeners.--

9 (1) APPLICABILITY.--

10 (a) This section shall not create or establish any new
11 liability for site rehabilitation at contaminated sites. This
12 section is intended to describe a risk-based corrective action
13 process to be applied at sites where legal responsibility for
14 site rehabilitation exists pursuant to other provisions of
15 this chapter or chapter 403. An exceedance of any cleanup
16 target level derived from the cleanup criteria established in
17 subsection (2) shall not, at sites where legal responsibility
18 for site rehabilitation does not exist pursuant to other
19 provisions of this chapter or chapter 403, create liability
20 for site rehabilitation. This section may also apply to other
21 contaminated sites at which a person conducting site
22 rehabilitation elects to have it apply, even where such person
23 does not have legal responsibility for site rehabilitation
24 pursuant to this chapter or chapter 403. This section, and
25 any rules adopted pursuant thereto, including the cleanup
26 criteria described in subsection (2), do not create additional
27 authority to prohibit or limit the legal placement of
28 materials or products on land.

29 (b) This section shall apply to all contaminated sites
30 resulting from a discharge of pollutants or hazardous
31 substances where legal responsibility for site rehabilitation

1 exists pursuant to other provisions of this chapter or chapter
2 403, except for those contaminated sites subject to the
3 risk-based corrective action cleanup criteria established for
4 the petroleum, brownfields, and drycleaning programs pursuant
5 to ss. 376.3071, 376.81 and 376.3078, respectively.

6 (c) This section shall apply to a variety of site
7 rehabilitation scenarios including, but not limited to, site
8 rehabilitation conducted voluntarily, site rehabilitation
9 conducted pursuant to the department's enforcement authority,
10 or site rehabilitation conducted as a state-managed cleanup by
11 the department.

12 (d) This section, and any rules adopted pursuant
13 thereto, shall apply retroactively to all existing
14 contaminated sites where legal responsibility for site
15 rehabilitation exists pursuant to other provisions of this
16 chapter or chapter 403, except those sites for which cleanup
17 target levels have been accepted by the department in an
18 approved technical document, current permit, or other written
19 agreement and except at those sites that have received a "No
20 Further Action" order or a "Site Rehabilitation Completion"
21 order from the department. However, the person responsible
22 for site rehabilitation can elect to have the provisions of
23 this section, including cleanup target levels established
24 pursuant thereto, apply in lieu of those in an approved
25 technical document, current permit, or other written
26 agreement.

27 (e) Nothing in this section shall be construed to
28 prohibit or delay actions to respond to a discharge of
29 pollutants or hazardous substances prior to any contact with
30 the department. The risk-based corrective action process
31 contemplates appropriate emergency response action or initial

1 remedial action prior to any formal application of the
2 risk-based corrective action process involving site assessment
3 and, if required, subsequent remedial action. Any emergency
4 response actions or initial remedial actions must be conducted
5 in accordance with all applicable federal, state, and local
6 laws and regulations.

7 (2) INTENT; RULEMAKING AUTHORITY; CLEANUP

8 CRITERIA.--It is the intent of the Legislature to protect the
9 health of all people under actual circumstances of exposure.

10 By July 1, 2004, the secretary of the department shall
11 establish criteria by rule for the purpose of determining, on
12 a site-specific basis, the rehabilitation program tasks that
13 comprise a site rehabilitation program, including a voluntary
14 site rehabilitation program, and the level at which a
15 rehabilitation program task and a site rehabilitation program
16 may be deemed completed. In establishing these rules, the
17 department shall apply, to the maximum extent feasible, a
18 risk-based corrective action process to achieve protection of
19 human health and safety and the environment in a
20 cost-effective manner based on the principles set forth in
21 this subsection. These rules shall prescribe a phased
22 risk-based corrective action process that is iterative and
23 that tailors site rehabilitation tasks to site-specific
24 conditions and risks. The department and the person
25 responsible for site rehabilitation are encouraged to
26 establish decision points at which risk management decisions
27 will be made. The department shall provide an early decision,
28 when requested, regarding applicable exposure factors and a
29 risk management approach based on the current and future land
30 use at the site. These rules shall also include protocols for
31 the use of natural attenuation, the use of institutional and

1 engineering controls, and the issuance of "No Further Action"
2 orders. The criteria for determining what constitutes a
3 rehabilitation program task or completion of a site
4 rehabilitation program task or site rehabilitation program,
5 including a voluntary site rehabilitation program, must:
6 (a) Consider the current exposure and potential risk
7 of exposure to humans and the environment, including multiple
8 pathways of exposure. The physical, chemical, and biological
9 characteristics of each contaminant must be considered in
10 order to determine the feasibility of risk-based corrective
11 action assessment.
12 (b) Establish the point of compliance at the source of
13 the contamination. However, the department is authorized to
14 temporarily move the point of compliance to the boundary of
15 the property, or to the edge of the plume when the plume is
16 within the property boundary, while cleanup, including cleanup
17 through natural attenuation processes in conjunction with
18 appropriate monitoring, is proceeding. The department also is
19 authorized, pursuant to criteria provided for in this section,
20 to temporarily extend the point of compliance beyond the
21 property boundary with appropriate monitoring, if such
22 extension is needed to facilitate natural attenuation or to
23 address the current conditions of the plume, provided human
24 health, public safety, and the environment are protected.
25 When temporarily extending the point of compliance beyond the
26 property boundary, it cannot be extended further than the
27 lateral extent of the plume, if known, at the time of
28 execution of a cleanup agreement, if required, or the lateral
29 extent of the plume as defined at the time of site assessment.
30 Temporary extension of the point of compliance beyond the
31 property boundary, as provided in this paragraph, must include

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

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

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

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

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

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

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

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

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

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

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

1 the site, or the use of groundwater in the immediate vicinity
2 of the contaminated area, where it has been demonstrated that
3 the groundwater contamination is not migrating away from such
4 localized source, provided human health, public safety, and
5 the environment are protected.

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

17 (i) Establish appropriate cleanup target levels for
18 soils. Although there are existing state water quality
19 standards, there are no existing statewide soil quality
20 standards. The Legislature does not intend, through the
21 adoption of this section, to create such soil quality
22 standards. The specific rulemaking authority granted pursuant
23 to this section merely authorizes the department to establish
24 appropriate soil cleanup target levels. These soil cleanup
25 target levels will be applicable at sites only after a
26 determination as to legal responsibility for site
27 rehabilitation has been made pursuant to other provisions of
28 this chapter or chapter 403.

29 1. In establishing soil cleanup target levels for
30 human exposure to each contaminant found in soils from the
31 land surface to 2 feet below land surface, the department

1 shall apply the following, as appropriate: calculations using
2 a lifetime cancer risk level of 1.0E-6; a hazard index of 1 or
3 less; and the best achievable detection limit. However, the
4 department shall not require site rehabilitation to achieve a
5 cleanup target level for an individual contaminant that is
6 more stringent than the site-specific, naturally occurring
7 background concentration for that contaminant. Institutional
8 controls or other methods shall be used to prevent human
9 exposure to contaminated soils more than 2 feet below the land
10 surface. Any removal of such institutional controls shall
11 require such contaminated soils to be remediated.

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

25 3. Using risk-based corrective action principles, the
26 department shall approve alternative cleanup target levels in
27 conjunction with institutional and engineering controls, if
28 needed, based upon an applicant's demonstration, using
29 site-specific data, modeling results, risk assessment studies,
30 risk reduction techniques, or a combination thereof, that
31

1 human health, public safety, and the environment are protected
2 to the same degree as provided in subparagraphs 1. and 2.

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

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

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

24 (a) Fraud was committed in demonstrating site
25 conditions or completion of site rehabilitation;

26 (b) New information confirms the existence of an area
27 of previously unknown contamination which exceeds the
28 site-specific rehabilitation levels established in accordance
29 with subsection (2), or which otherwise poses the threat of
30 real and substantial harm to public health, safety, or the
31 environment;

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

3 (d) The level of risk is increased beyond the
4 acceptable risk established under subsection (2) due to
5 substantial changes in exposure conditions, such as a change
6 in land use from nonresidential to residential use. Any
7 person who changes the land use of the site, thereby causing
8 the level of risk to increase beyond the acceptable risk
9 level, may be required by the department to undertake
10 additional remediation measures to ensure that human health,
11 public safety, and the environment are protected consistent
12 with this section; or

13 (e) A new discharge of pollutants or hazardous
14 substances occurs at the site subsequent to the issuance of a
15 "No Further Action" order or a "Site Rehabilitation
16 Completion" order associated with the original contamination
17 being addressed pursuant to this section.

18 Section 2. Subsection (1) of Section 199.1055, Florida
19 Statutes, is amended to read:

20 199.1055 Contaminated site rehabilitation tax credit.--

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

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

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

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

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

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

5 (b) A tax credit applicant, or multiple tax credit
6 applicants taxpayer, or multiple taxpayers working jointly to
7 clean up a single site, may not be granted ~~receive~~ more than
8 \$250,000 per year in tax credits for each site voluntarily
9 rehabilitated. Multiple tax credit applicants taxpayers shall
10 be granted ~~receive~~ tax credits in the same proportion as their
11 contribution to payment of cleanup costs. Subject to the same
12 conditions and limitations as provided in this section, a
13 municipality, ~~or~~ county, or other taxcredit applicant which
14 voluntarily rehabilitates a site may receive not more than
15 \$250,000 per year in tax credits which it can subsequently
16 transfer subject to the provisions in paragraph (g).

17 (c) If the credit granted under this section is not
18 fully used in any one year because of insufficient tax
19 liability on the part of the tax credit applicant taxpayer,
20 the unused amount may be carried forward for a period not to
21 exceed 5 years. Five years after the date a credit is granted
22 under this section, such credit expires and may not be used.
23 However, if during the 5-year period the credit is
24 transferred, in whole or in part, pursuant to paragraph (g),
25 each transferee has 5 years after the date of transfer to use
26 its credit.

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

30 (e) A tax credit applicant taxpayer that receives
31 state-funded site rehabilitation pursuant to s. 376.3078(3)

1 for rehabilitation of a drycleaning-solvent-contaminated site
2 is ineligible to receive credit under this section for costs
3 incurred by the tax credit applicant ~~taxpayer~~ in conjunction
4 with the rehabilitation of that site during the same time
5 period that state-administered site rehabilitation was
6 underway.

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

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

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

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

1 the case of multiple succeeding entities in the order of
2 credit succession.

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

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

13 220.1845 Contaminated site rehabilitation tax credit.--

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

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

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

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

26 3. A brownfield site in a designated brownfield area
27 under s. 376.80.

28 (b) A tax credit applicant, or multiple tax credit
29 applicants ~~taxpayer, or multiple taxpayers~~ working jointly to
30 clean up a single site, may not be granted ~~receive~~ more than
31 \$250,000 per year in tax credits for each site voluntarily

1 rehabilitated. Multiple tax credit applicants ~~taxpayers~~ shall
2 be granted ~~receive~~ tax credits in the same proportion as their
3 contribution to payment of cleanup costs. Subject to the same
4 conditions and limitations as provided in this section, a
5 municipality, or county, or other tax credit applicant which
6 voluntarily rehabilitates a site may receive not more than
7 \$250,000 per year in tax credits which it can subsequently
8 transfer subject to the provisions in paragraph (h).

9 (c) If the credit granted under this section is not
10 fully used in any one year because of insufficient tax
11 liability on the part of the corporation, the unused amount
12 may be carried forward for a period not to exceed 5 years. The
13 carryover credit may be used in a subsequent year when the tax
14 imposed by this chapter for that year exceeds the credit for
15 which the corporation is eligible in that year under this
16 section after applying the other credits and unused carryovers
17 in the order provided by s. 220.02(8). Five years after the
18 date a credit is granted under this section, such credit
19 expires and may not be used. However, if during the 5-year
20 period the credit is transferred, in whole or in part,
21 pursuant to paragraph (h), each transferee has 5 years after
22 the date of transfer to use its credit.

23 (d) A taxpayer that files a consolidated return in
24 this state as a member of an affiliated group under s.
25 220.131(1) may be allowed the credit on a consolidated return
26 basis up to the amount of tax imposed upon the consolidated
27 group and paid by the taxpayer that incurred the
28 rehabilitation costs.

29 (e) A taxpayer that receives credit under s. 199.1055
30 is ineligible to receive credit under this section in a given
31 tax year.

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

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

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

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

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

1 of credit taken. Any subsequent deficiencies shall be
2 assessed against any entity acquiring and claiming such
3 credit, or in the case of multiple succeeding entities in the
4 order of credit succession.

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

13 Section 4. Section 376.30781, Florida Statutes, is
14 amended to read:

15 376.30781 Partial tax credits for rehabilitation of
16 drycleaning-solvent-contaminated sites and brownfield sites in
17 designated brownfield areas; application process; rulemaking
18 authority; revocation authority.--

19 (1) The Legislature finds that:

20 (a) To facilitate property transactions and economic
21 growth and development, it is in the interest of the state to
22 encourage the cleanup, at the earliest possible time, of
23 drycleaning-solvent-contaminated sites and brownfield sites in
24 designated brownfield areas.

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

30 (2)(a) A credit in the amount of 35 percent of the
31 costs of voluntary cleanup activity that is integral to site

1 rehabilitation at the following sites is allowed pursuant to
2 ss. 199.1055 and 220.1845:

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

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

10 3. A brownfield site in a designated brownfield area
11 under s. 376.80.

12 (b) A tax credit applicant taxpayer, or multiple tax
13 credit applicants taxpayers working jointly to clean up a
14 single site, may not be granted ~~receive~~ more than \$250,000 per
15 year in tax credits for each site voluntarily rehabilitated.
16 Multiple tax credit applicants taxpayers shall be granted
17 ~~receive~~ tax credits in the same proportion as their
18 contribution to payment of cleanup costs. Tax credits are
19 available only for site rehabilitation conducted during the
20 calendar tax year for in which the tax credit application is
21 submitted.

22 (c) In order to encourage completion of site
23 rehabilitation at contaminated sites that are being
24 voluntarily cleaned up and that are eligible for a tax credit
25 under this section, the tax credit applicant may claim an
26 additional 10 percent of the total cleanup costs, not to
27 exceed \$50,000, in the final year of cleanup as evidenced by
28 the Department of Environmental Protection issuing a "No
29 Further Action" order for that site.

30 (3) The Department of Environmental Protection shall
31 be responsible for allocating the tax credits provided for in

1 ss. 199.1055 and 220.1845, not to exceed a total of \$2 million
2 in tax credits annually.

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

27 (a) Have entered into a voluntary cleanup agreement
28 with the Department of Environmental Protection for a
29 drycleaning-solvent-contaminated site or a Brownfield Site
30 Rehabilitation Agreement, as applicable; and
31

1 (b) Have paid all deductibles pursuant to s.
2 376.3078(3)(d) for eligible drycleaning-solvent-cleanup
3 program sites.

4 (5) To obtain the tax credit certificate, a tax credit
5 ~~an~~ applicant must annually file an application for
6 certification, which must be received by the Division of Waste
7 Management of the Department of Environmental Protection by
8 January 15 of the year following the calendar year for which
9 site rehabilitation costs are being claimed in a tax credit
10 application ~~December 31~~. The tax credit applicant must
11 provide all pertinent information requested on the tax credit
12 application form, including, at a minimum, the name and
13 address of the tax credit applicant and the address and
14 tracking identification number of the eligible site. Along
15 with the tax credit application form, the tax credit applicant
16 must submit the following:

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

21 (b) Copies of contracts and documentation of contract
22 negotiations, accounts, invoices, sales tickets, or other
23 payment records from purchases, sales, leases, or other
24 transactions involving actual costs incurred for that tax year
25 related to site rehabilitation, as that term is defined in ss.
26 376.301 and 376.79;

27 (c) Proof that the documentation submitted pursuant to
28 paragraph (b) has been reviewed and verified by an independent
29 certified public accountant in accordance with standards
30 established by the American Institute of Certified Public
31 Accountants. Specifically, the certified public accountant

1 must attest to the accuracy and validity of the costs incurred
2 and paid by conducting an independent review of the data
3 presented by the tax credit applicant. Accuracy and validity
4 of costs incurred and paid would be determined once the level
5 of effort was certified by an appropriate professional
6 registered in this state in each contributing technical
7 discipline. The certified public accountant's report would
8 also attest that the costs included in the application form
9 are not duplicated within the application. A copy of the
10 accountant's report shall be submitted to the Department of
11 Environmental Protection with the tax credit application; and

12 (d) A certification form stating that site
13 rehabilitation activities associated with the documentation
14 submitted pursuant to paragraph (b) have been conducted under
15 the observation of, and related technical documents have been
16 signed and sealed by, an appropriate professional registered
17 in this state in each contributing technical discipline. The
18 certification form shall be signed and sealed by the
19 appropriate registered professionals stating that the costs
20 incurred were integral, necessary, and required for site
21 rehabilitation, as that term is defined in ss. 376.301 and
22 376.79.

23 (6) The certified public accountant and appropriate
24 registered professionals submitting forms as part of a tax
25 credit application must verify such forms. Verification must
26 be accomplished as provided in s. 92.525(1)(b) and subject to
27 the provisions of s. 92.525(3).

28 (7) The Department of Environmental Protection shall
29 review the tax credit application and any supplemental
30 documentation that the tax credit applicant may submit prior
31 to the annual application deadline in order to have the

1 application considered complete ~~submitted by each applicant,~~
2 for the purpose of verifying that the tax credit applicant has
3 met the qualifying criteria in subsections (2) and (4) and has
4 submitted all required documentation listed in subsection (5).
5 Upon verification that the tax credit applicant has met these
6 requirements, the department shall issue a written decision
7 granting eligibility for partial tax credits (a tax credit
8 certificate) in the amount of 35 percent of the total costs
9 claimed, subject to the \$250,000 limitation, for the calendar
10 ~~tax~~ year for ~~in~~ which the tax credit application is submitted
11 based on the report of the certified public accountant and the
12 certifications from the appropriate registered technical
13 professionals.

14 (8) On or before March 1, the Department of
15 Environmental Protection shall inform each eligible tax credit
16 applicant of the amount of its partial tax credit and provide
17 each eligible tax credit applicant with a tax credit
18 certificate that must be submitted with its tax return to the
19 Department of Revenue to claim the tax credit or be
20 transferred pursuant to s. 199.1055(1)(g) or s.
21 220.1845(1)(h). Credits will not result in the payment of
22 refunds if total credits exceed the amount of tax owed.

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

29 (10) The Department of Environmental Protection may
30 adopt rules to prescribe the necessary forms required to claim
31 tax credits under this section and to provide the

1 administrative guidelines and procedures required to
2 administer this section. ~~Prior to the adoption of rules~~
3 ~~regulating the tax credit application, the department shall,~~
4 ~~by September 1, 1998, establish reasonable interim application~~
5 ~~requirements and forms.~~

6 (11) The Department of Environmental Protection may
7 revoke or modify any written decision granting eligibility for
8 partial tax credits under this section if it is discovered
9 that the tax credit applicant submitted any false statement,
10 representation, or certification in any application, record,
11 report, plan, or other document filed in an attempt to receive
12 partial tax credits under this section. The Department of
13 Environmental Protection shall immediately notify the
14 Department of Revenue of any revoked or modified orders
15 affecting previously granted partial tax credits.
16 Additionally, the tax credit applicant ~~taxpayer~~ must notify
17 the Department of Revenue of any change in its tax credit
18 claimed.

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