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1 A bill to be entitled

2 An act relating to liability under the drycleaning solvent
3 cleanup program; amending s. 376.301, F.S.; defining the
4 term "nearby real property owner" with respect to
5 protection and restoration of lands and surface and ground
6 waters; amending s. 376.3078, F.S.; providing additional
7 legislative findings with respect to drycleaning facility
8 restoration; exempting certain real property owners and
9 nearby real property owners from liability for damages
10 arising from contamination by drycleaning solvents in
11 certain circumstances; providing for retroactive
12 application; amending s. 376.30781, F.S.; conforming a
13 cross-reference; amending s. 376.3079, F.S.; redefining
14 the term "third-party liability" with respect to third-
15 party liability insurance; amending s. 376.308, F.S.;
16 revising applicability of provisions that set out
17 liabilities and defenses of facilities; amending s.
18 376.313, F.S.; revising provisions that provide
19 nonexclusiveness of remedies and individual causes of
20 action; providing an effective date.

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

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

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



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

39 Section 2. Subsections (1), (3), and (11) of section
40 376.3078, Florida Statutes, are amended to read:

41 376.3078 Drycleaning facility restoration; funds; uses;
42 liability; recovery of expenditures.--

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

45 (a) Significant quantities of drycleaning solvents have
46 been discharged in the past at drycleaning facilities as part of
47 the normal operation of these facilities.

48 (b) Discharges of drycleaning solvents at such drycleaning
49 facilities have occurred and are occurring, and pose a
50 significant threat to the quality of the groundwaters and inland
51 surface waters of this state.

52 (c) Where contamination of the groundwater or surface
53 water has occurred, remedial measures have often been delayed
54 for long periods while determinations as to liability and the
55 extent of liability are made, and such delays result in the
56 continuation and intensification of the threat to the public
57 health, safety, and welfare; in greater damage to the
58 environment; and in significantly higher costs to contain and
59 remove the contamination.



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60 (d) Adequate financial resources must be readily available
 61 to provide for the expeditious supply of safe and reliable
 62 alternative sources of potable water to affected persons and to
 63 provide a means for investigation and rehabilitation of
 64 contaminated sites without delay.

65 (e) It is the intent of the Legislature to encourage real
 66 property owners to undertake the voluntary cleanup of property
 67 contaminated with drycleaning solvents and that the immunity
 68 provisions of this section and all other available defenses be
 69 construed in favor of real property owners.

70 (f) Strong public interests are served by subsections (3)
 71 and (11). These include improving the marketability and use of,
 72 and the ability to borrow funds as to, property contaminated by
 73 drycleaning solvents and encouraging the voluntary remediation
 74 of contaminated sites. The extent to which claims or rights are
 75 affected by subsections (3) and (11) is offset by the remedies
 76 created in this section. The limitations imposed by these
 77 subsections on such claims or rights are reasonable when
 78 balanced against the public interests served. The claims or
 79 rights affected by subsections (3) and (11) are speculative, and
 80 these subsections are intended to prevent judicial
 81 interpretations allowing windfall awards that thwart the public-
 82 interest provisions of this section.

83 (3) REHABILITATION LIABILITY.--

84 (a) In accordance with the eligibility provisions of this
 85 section, ~~a~~ a ~~real property owner,~~ nearby real property owner,
 86 ~~or~~ ~~ne~~ person who owns or operates, or who otherwise could be
 87 liable as a result of the operation of, a drycleaning facility
 88 or a wholesale supply facility is not liable for or ~~shall be~~
 89 subject to:



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90 1. Claims of any person, except for any governmental
 91 entity, for property damage of any kind, including, but not
 92 limited to, diminished value of real property or improvements;
 93 lost or delayed rent, sale, or use of real property or
 94 improvements; or stigma to real property or improvements caused
 95 by drycleaning-solvent contamination; or

96 2. Administrative or judicial action brought by or on
 97 behalf of any state or local government or agency thereof or by
 98 or on behalf of any person to compel rehabilitation or pay for
 99 the costs of rehabilitation of environmental contamination
 100 resulting from the discharge of drycleaning solvents.

101
 102 Subject to the delays that may occur as a result of the
 103 prioritization of sites under this section for any qualified
 104 site, costs for activities described in paragraph (2)(b) shall
 105 be absorbed at the expense of the drycleaning facility
 106 restoration funds, without recourse to reimbursement or recovery
 107 from the real property owner, nearby real property owner, or ~~the~~
 108 owner or operator of the drycleaning facility or the wholesale
 109 supply facility. Notwithstanding any other provision of this
 110 chapter, this subsection applies to causes of action accruing on
 111 or after the effective date of this act and applies
 112 retroactively to causes of action accruing before the effective
 113 date of this act for which a lawsuit has not been filed before
 114 the effective date of this act.

115 (b)(a) With regard to drycleaning facilities or wholesale
 116 supply facilities that have operated as drycleaning facilities
 117 or wholesale supply facilities on or after October 1, 1994, any
 118 such drycleaning facility or wholesale supply facility at which
 119 there exists contamination by drycleaning solvents shall be



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120 eligible under this subsection regardless of when the
121 drycleaning contamination was discovered, provided that the
122 drycleaning facility or the wholesale supply facility:

- 123 1. Has been registered with the department;
- 124 2. Is determined by the department to be in compliance
125 with the department's rules regulating drycleaning solvents,
126 drycleaning facilities, or wholesale supply facilities on or
127 after November 19, 1980;
- 128 3. Has not been operated in a grossly negligent manner at
129 any time on or after November 19, 1980;
- 130 4. Has not been identified to qualify for listing, nor is
131 listed, on the National Priority List pursuant to the
132 Comprehensive Environmental Response, Compensation, and
133 Liability Act of 1980 as amended by the Superfund Amendments and
134 Reauthorization Act of 1986, and as subsequently amended;
- 135 5. Is not under an order from the United States
136 Environmental Protection Agency pursuant to s. 3008(h) of the
137 Resource Conservation and Recovery Act as amended (42 U.S.C.A.
138 s. 6928(h)), or has not obtained and is not required to obtain a
139 permit for the operation of a hazardous waste treatment,
140 storage, or disposal facility, a postclosure permit, or a permit
141 pursuant to the federal Hazardous and Solid Waste Amendments of
142 1984;

143
144 and provided that the real property owner or the owner or
145 operator of the drycleaning facility or the wholesale supply
146 facility has not willfully concealed the discharge of
147 drycleaning solvents and has remitted all taxes due pursuant to
148 ss. 376.70 and 376.75, has provided documented evidence of
149 contamination by drycleaning solvents as required by the rules



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150 developed pursuant to this section, has reported the
151 contamination prior to December 31, 1998, and has not denied the
152 department access to the site.

153 (c)~~(b)~~ With regard to drycleaning facilities or wholesale
154 supply facilities that cease to be operated as drycleaning
155 facilities or wholesale supply facilities prior to October 1,
156 1994, such facilities, at which there exists contamination by
157 drycleaning solvents, shall be eligible under this subsection
158 regardless of when the contamination was discovered, provided
159 that the drycleaning facility or wholesale supply facility:

160 1. Was not determined by the department, within a
161 reasonable time after the department's discovery, to have been
162 out of compliance with the department rules regulating
163 drycleaning solvents, drycleaning facilities, or wholesale
164 supply facilities implemented at any time on or after November
165 19, 1980;

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

168 3. Has not been identified to qualify for listing, nor is
169 listed, on the National Priority List pursuant to the
170 Comprehensive Environmental Response, Compensation, and
171 Liability Act of 1980, as amended by the Superfund Amendments
172 and Reauthorization Act of 1986, and as subsequently amended;
173 and

174 4. Is not under an order from the United States
175 Environmental Protection Agency pursuant to s. 3008(h) of the
176 Resource Conservation and Recovery Act, as amended, or has not
177 obtained and is not required to obtain a permit for the
178 operation of a hazardous waste treatment, storage, or disposal



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179 facility, a postclosure permit, or a permit pursuant to the
180 federal Hazardous and Solid Waste Amendments of 1984;

181
182 and provided that the real property owner or the owner or
183 operator of the drycleaning facility or the wholesale supply
184 facility has not willfully concealed the discharge of
185 drycleaning solvents, has provided documented evidence of
186 contamination by drycleaning solvents as required by the rules
187 developed pursuant to this section, has reported the
188 contamination prior to December 31, 1998, and has not denied the
189 department access to the site.

190 (d)~~(e)~~ For purposes of determining eligibility, a
191 drycleaning facility or wholesale supply facility was operated
192 in a grossly negligent manner if the department determines that
193 the owner or operator of the drycleaning facility or the
194 wholesale supply facility:

195 1. Willfully discharged drycleaning solvents onto the
196 soils or into the waters of the state after November 19, 1980,
197 with the knowledge, intent, and purpose that the discharge would
198 result in harm to the environment or to public health or result
199 in a violation of the law;

200 2. Willfully concealed a discharge of drycleaning solvents
201 with the knowledge, intent, and purpose that the concealment
202 would result in harm to the environment or to public health or
203 result in a violation of the law; or

204 3. Willfully violated a local, state, or federal law or
205 rule regulating the operation of drycleaning facilities or
206 wholesale supply facilities with the knowledge, intent, and
207 purpose that the act would result in harm to the environment or
208 to public health or result in a violation of the law.



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209 (e)~~(d)~~1. With respect to eligible drycleaning solvent
210 contamination reported to the department as part of a completed
211 application as required by the rules developed pursuant to this
212 section by June 30, 1997, the costs of activities described in
213 paragraph (2)(b) shall be absorbed at the expense of the
214 drycleaning facility restoration funds, less a \$1,000 deductible
215 per incident, which shall be paid by the applicant or current
216 property owner. The deductible shall be paid within 60 days
217 after receipt of billing by the department.

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

225 3. For contamination reported to the department as part of
226 a completed application as required by the rules developed
227 pursuant to this section from October 1, 1998, through December
228 31, 1998, the costs shall be absorbed at the expense of the
229 drycleaning facility restoration funds, less a \$10,000
230 deductible per incident. The deductible shall be paid within 60
231 days after receipt of billing by the department.

232 4. For contamination reported after December 31, 1998, no
233 costs will be absorbed at the expense of the drycleaning
234 facility restoration funds.

235 (f)~~(e)~~ The provisions of this subsection shall not apply
236 to any site where the department has been denied site access to
237 implement the provisions of this section.



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238 ~~(g)(f)~~ In order to identify those drycleaning facilities
239 and wholesale supply facilities that have experienced
240 contamination resulting from the discharge of drycleaning
241 solvents and to ensure the most expedient rehabilitation of such
242 sites, the owners and operators of drycleaning facilities and
243 wholesale supply facilities are encouraged to detect and report
244 contamination from drycleaning solvents related to the operation
245 of drycleaning facilities and wholesale supply facilities. The
246 department shall establish reasonable guidelines for the written
247 reporting of drycleaning contamination and shall distribute
248 forms to registrants under s. 376.303(1)(d), and to other
249 interested parties upon request, to be used for such purpose.

250 ~~(h)(g)~~ A report of drycleaning solvent contamination at a
251 drycleaning facility or wholesale supply facility made to the
252 department by any person in accordance with this subsection, or
253 any rules promulgated pursuant hereto, may not be used directly
254 as evidence of liability for such discharge in any civil or
255 criminal trial arising out of the discharge.

256 ~~(i)(h)~~ The provisions of this subsection shall not apply
257 to drycleaning facilities owned or operated by the state or
258 Federal Government.

259 ~~(j)(i)~~ Due to the value of Florida's potable water, it is
260 the intent of the Legislature that the department initiate and
261 facilitate as many cleanups as possible utilizing the resources
262 of the state, local governments, and the private sector. The
263 department is authorized to adopt necessary rules and enter into
264 contracts to carry out the intent of this subsection and to
265 limit or prevent future contamination from the operation of
266 drycleaning facilities and wholesale supply facilities.



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267 ~~(k)(j)~~ It is not the intent of the Legislature that the
268 state become the owner or operator of a drycleaning facility or
269 wholesale supply facility by engaging in state-conducted
270 cleanup.

271 ~~(l)(k)~~ The owner, operator, and either the real property
272 owner or agent of the real property owner may apply for the
273 Drycleaning Contamination Cleanup Program by jointly submitting
274 a completed application package to the department pursuant to
275 the rules that shall be adopted by the department. If the
276 application cannot be jointly submitted, then the applicant
277 shall provide notice of the application to other interested
278 parties. After reviewing the completed application package, the
279 department shall notify the applicant in writing as to whether
280 the drycleaning facility or wholesale supply facility is
281 eligible for the program. If the department denies eligibility
282 for a completed application package, the notice of denial shall
283 specify the reasons for the denial, including specific and
284 substantive findings of fact, and shall constitute agency action
285 subject to the provisions of chapter 120. For the purposes of
286 ss. 120.569 and 120.57, the real property owner and the owner
287 and operator of a drycleaning facility or wholesale supply
288 facility which is the subject of a decision by the department
289 with regard to eligibility shall be deemed to be parties whose
290 substantial interests are determined by the department's
291 decision to approve or deny eligibility.

292 ~~(m)(l)~~ Eligibility under this subsection applies to the
293 drycleaning facility or wholesale supply facility, and attendant
294 site rehabilitation applies to such facilities and to any place
295 where drycleaning-solvent contamination migrating from the
296 eligible facility is found. A determination of eligibility or



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297 ineligible shall not be affected by any conveyance of the
298 ownership of the drycleaning facility, wholesale supply
299 facility, or the real property on which such facility is
300 located. Nothing contained in this chapter shall be construed
301 to allow a drycleaning facility or wholesale supply facility
302 which would not be eligible under this subsection to become
303 eligible as a result of the conveyance of the ownership of the
304 ineligible drycleaning facility or wholesale supply facility to
305 another owner.

306 (n)~~(m)~~ If funding for the drycleaning contamination
307 rehabilitation program is eliminated, the provisions of this
308 subsection shall not apply.

309 (o)~~(n)~~1. The department shall have the authority to cancel
310 the eligibility of any drycleaning facility or wholesale supply
311 facility that submits fraudulent information in the application
312 package or that fails to continuously comply with the conditions
313 of eligibility set forth in this subsection, or has not remitted
314 all fees pursuant to s. 376.303(1)(d), or has not remitted the
315 deductible payments pursuant to paragraph (e) ~~(d)~~.

316 2. If the program eligibility of a drycleaning facility or
317 wholesale supply facility is subject to cancellation pursuant to
318 this section, then the department shall notify the applicant in
319 writing of its intent to cancel program eligibility and shall
320 state the reason or reasons for cancellation. The applicant
321 shall have 45 days to resolve the reason or reasons for
322 cancellation to the satisfaction of the department. If, after
323 45 days, the applicant has not resolved the reason or reasons
324 for cancellation to the satisfaction of the department, the
325 order of cancellation shall become final and shall be subject to
326 the provisions of chapter 120.



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327 ~~(p)~~~~(e)~~ A real property owner shall not be subject to
328 administrative or judicial action brought by or on behalf of any
329 person or local or state government, or agency thereof, for
330 gross negligence or violations of department rules prior to
331 January 1, 1990, which resulted from the operation of a
332 drycleaning facility, provided that the real property owner
333 demonstrates that:

334 1. The real property owner had ownership in the property
335 at the time of the gross negligence or violation of department
336 rules and did not cause or contribute to contamination on the
337 property;

338 2. The real property owner was a distinct and separate
339 entity from the owner and operator of the drycleaning facility,
340 and did not have an ownership interest in or share in the
341 profits of the drycleaning facility;

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

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

347 5. The department has not been denied access.

348

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

351 ~~(q)~~~~(p)~~ A person whose property becomes contaminated due to
352 geophysical or hydrologic reasons from the operation of a nearby
353 drycleaning or wholesale supply facility and whose property has
354 never been occupied by a business that utilized or stored
355 drycleaning solvents or similar constituents is not subject to
356 administrative or judicial action brought by or on behalf of



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357 another to compel the rehabilitation of or the payment of the
358 costs for the rehabilitation of sites contaminated by
359 drycleaning solvents, provided that the person:

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

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

365 3. Did not cause, contribute to, or exacerbate the release
366 or threat of release of any hazardous substance through any act
367 or omission.

368
369 The defense provided by this paragraph does not apply to any
370 liability under a federally delegated program.

371 ~~(r)~~~~(q)~~ Nothing in this subsection precludes the department
372 from considering information and documentation provided by
373 private consultants, local government programs, federal
374 agencies, or any individual which is relevant to an eligibility
375 determination if the department provides the applicant with
376 reasonable access to the information and its origin.

377 (11) VOLUNTARY CLEANUP.--A real property owner is
378 authorized to conduct site rehabilitation activities at any time
379 pursuant to department rules, either through agents of the real
380 property owner or through responsible response action
381 contractors or subcontractors, whether or not the facility has
382 been determined by the department to be eligible for the
383 drycleaning solvent cleanup program. A real property owner or
384 any other person who ~~that~~ conducts site rehabilitation may not
385 seek cost recovery from the department or the Water Quality
386 Assurance Trust Fund for any such rehabilitation activities. A



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387 real property owner who ~~that~~ voluntarily conducts such site
 388 rehabilitation, whether commenced before or on or after October
 389 1, 1995, shall be immune from and have no liability for claims
 390 of any person, except for any governmental entity, for property
 391 damages of any kind, including, but not limited to, diminished
 392 value of real property or improvements; lost or delayed rent,
 393 sale, or use of real property or improvements; or stigma to real
 394 property or improvements caused by drycleaning-solvent
 395 contamination or be subject to any administrative or judicial
 396 action brought by or on behalf of ~~to~~ any person, state or local
 397 government, or agency thereof to compel or enjoin site
 398 rehabilitation or pay for the cost of rehabilitation of
 399 environmental contamination, and ~~or~~ to pay any fines or
 400 penalties regarding rehabilitation, as soon as the real property
 401 owner:

402 (a) Conducts contamination assessment and site
 403 rehabilitation consistent with state and federal laws and rules;

404 (b) Conducts such site rehabilitation in a timely manner
 405 according to a rehabilitation schedule approved by the
 406 department; and

407 (c) Does not deny the department access to the site. Upon
 408 completion of such site rehabilitation activities in accordance
 409 with the requirements of this subsection, the department shall
 410 render a site rehabilitation completion order.

411
 412 The immunity set forth in this subsection also applies to any
 413 nearby real property owner. This immunity shall continue to
 414 apply to any real property owner who transfers, conveys, leases,
 415 or sells property on which a drycleaning facility is located so
 416 long as the voluntary cleanup activities continue.



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417 Notwithstanding any other provision of this chapter, this
418 subsection applies to causes of action accruing on or after the
419 effective date of this act and applies retroactively to causes
420 of action accruing before the effective date of this act for
421 which a lawsuit has not been filed before the effective date of
422 this act.

423 Section 3. Subsection (4) of section 376.30781, Florida
424 Statutes, is amended to read:

425 376.30781 Partial tax credits for rehabilitation of
426 drycleaning-solvent-contaminated sites and brownfield sites in
427 designated brownfield areas; application process; rulemaking
428 authority; revocation authority.--

429 (4) To claim the credit, each applicant must apply to the
430 Department of Environmental Protection for an allocation of the
431 \$2 million annual credit by December 31 on a form developed by
432 the Department of Environmental Protection in cooperation with
433 the Department of Revenue. The form shall include an affidavit
434 from each applicant certifying that all information contained in
435 the application, including all records of costs incurred and
436 claimed in the tax credit application, are true and correct. If
437 the application is submitted pursuant to subparagraph (2)(a)2.,
438 the form must include an affidavit signed by the real property
439 owner stating that it is not, and has never been, the owner or
440 operator of the drycleaning facility where the contamination
441 exists. Approval of partial tax credits must be accomplished on
442 a first-come, first-served basis based upon the date complete
443 applications are received by the Division of Waste Management.
444 An applicant shall submit only one application per site per
445 year. To be eligible for a tax credit the applicant must:



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446 (a) Have entered into a voluntary cleanup agreement with
 447 the Department of Environmental Protection for a drycleaning-
 448 solvent-contaminated site or a Brownfield Site Rehabilitation
 449 Agreement, as applicable; and

450 (b) Have paid all deductibles pursuant to s.
 451 376.3078(3)(e) ~~s. 376.3078(3)(d)~~ for eligible drycleaning-
 452 solvent-cleanup program sites.

453 Section 4. Subsection (3) of section 376.3079, Florida
 454 Statutes, is amended to read:

376.3079 Third-party liability insurance.--

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

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

463 (b) "Incident" means any sudden or gradual discharge of
 464 drycleaning solvents arising from the operation of a drycleaning
 465 facility or wholesale supply facility that results in a need for
 466 site rehabilitation or results in bodily injury or property
 467 damage neither expected nor intended by the drycleaning facility
 468 owner or operator or wholesale supply facility.

469 Section 5. Subsection (6) of section 376.308, Florida
 470 Statutes, is amended to read:

376.308 Liabilities and defenses of facilities.--

472 (6) This section may not ~~Nothing herein shall~~ be construed
 473 to affect cleanup program eligibility under ss. 376.305(6),
 474 376.3071, 376.3072, 376.3078, and 376.3079. Except as otherwise
 475 expressly provided in this chapter, nothing in this chapter



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476 shall affect, void, or defeat any immunity of any real property
 477 owner or nearby real property owner under s. 376.3078.

478 Section 6. Subsection (3) and paragraph (a) of subsection
 479 (5) of section 376.313, Florida Statutes, are amended to read:

480 376.313 Nonexclusiveness of remedies and individual cause
 481 of action for damages under ss. 376.30-376.319.--

482 (3) Except as provided in s. 376.3078(3) and (11)

483 ~~Notwithstanding any other provision of law, nothing contained in~~
 484 ~~ss. 376.30-376.319 prohibits any person from bringing a cause of~~
 485 ~~action in a court of competent jurisdiction for all damages~~
 486 ~~resulting from a discharge or other condition of pollution~~
 487 ~~covered by ss. 376.30-376.319. Nothing in this chapter shall~~
 488 ~~prohibit or diminish a party's right to contribution from other~~
 489 ~~parties jointly or severally liable for a prohibited discharge~~
 490 ~~of pollutants or hazardous substances or other pollution~~
 491 ~~conditions. Except as otherwise provided in subsection (4) or~~
 492 ~~subsection (5), in any such suit, it is not necessary for such~~
 493 ~~person to plead or prove negligence in any form or manner. Such~~
 494 ~~person need only plead and prove the fact of the prohibited~~
 495 ~~discharge or other pollutive condition and that it has occurred.~~
 496 ~~The only defenses to such cause of action shall be those~~
 497 ~~specified in s. 376.308.~~

498 (5)(a) In any civil action against the owner or operator
 499 of a drycleaning facility or a wholesale supply facility, or the
 500 owner of the real property on which such facility is located, if
 501 such facility is not eligible under s. 376.3078(3) and is not
 502 involved in voluntary cleanup under s. 376.3078(11), for damages
 503 arising from the discharge of drycleaning solvents from a
 504 drycleaning facility or wholesale supply facility, the
 505 provisions of subsection (3) shall not apply if it can be proven



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506 that, at the time of the discharge the alleged damages resulted
507 solely from a discharge from a drycleaning facility or wholesale
508 supply facility that was in compliance with department rules
509 regulating drycleaning facilities or wholesale supply
510 facilities.

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