

By the Committee on Appropriations; and Senator Constantine

309-2542-04

1 A bill to be entitled
2 An act relating to brownfield loan guarantees;
3 amending s. 376.86, F.S.; revising certain
4 restrictions on investing funds maintained in
5 the Inland Protection Trust Fund; providing a
6 schedule for legislative review of the
7 Brownfield Areas Loan Guarantee Program;
8 providing protection from liability on behalf
9 of the state or a local unit of government for
10 taking corrective action at a contaminated site
11 as a result of involuntary ownership or due to
12 ownership resulting from donation, gift, or
13 foreclosure; providing for a county and the
14 Department of Environmental Protection to agree
15 to investigate and remedy conditions on a site
16 that escheats to the county; providing an
17 effective date.

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

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21 Section 1. Subsections (3) and (8) of section 376.86,
22 Florida Statutes, as amended by section 56 of chapter
23 2003-399, Laws of Florida, are amended to read:

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376.86 Brownfield Areas Loan Guarantee Program.--

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26 (3) The council may enter into an investment agreement
27 with the Department of Environmental Protection and the State
28 Board of Administration concerning the ~~investment of the~~
29 ~~earnings accrued and collected upon the~~ investment of the
30 balance of funds maintained in the Inland Protection
31 ~~Nonmandatory Land Reclamation~~ Trust Fund. The investment must
be limited as follows:

1 (a) Not more than \$5 million of the ~~investment~~
2 ~~earnings earned on the investment of the~~ minimum balance of
3 the Inland Protection Nonmandatory Land Reclamation Trust Fund
4 in a fiscal year may be at risk at any time on loan guarantees
5 or as loan loss reserves. Of that amount, 15 percent shall be
6 reserved for investment agreements involving predominantly
7 minority-owned businesses which meet the requirements of
8 subsection (4).

9 (b) Such funds at risk at any time ~~The investment~~
10 ~~earnings~~ may not be used to guarantee any loan guaranty or
11 loan loss reserve agreement for a period longer than 5 years.

12 (8) The council shall provide an annual report to the
13 Legislature by February 1 of each year describing its
14 activities and agreements approved relating to redevelopment
15 of brownfield areas. This section shall be reviewed by the
16 Legislature by January 1, 2007 ~~October 1, 2003~~, and a
17 determination made related to the need to continue or modify
18 this section. New loan guarantees may not be approved in 2007
19 ~~2003~~ until the review by the Legislature has been completed
20 and a determination has been made as to the feasibility of
21 continuing the use of the Inland Protection Nonmandatory Land
22 Reclamation Trust Fund to guarantee portions of loans under
23 this section.

24 Section 2. Liability protection.--A unit of state or
25 local government may not be held liable for implementing
26 corrective actions at a contaminated site within an eligible
27 brownfield area as a result of the involuntary ownership of
28 the site through bankruptcy, tax delinquency, abandonment, or
29 other circumstances in which the state or local government
30 involuntarily acquires title by virtue of its function as a
31 sovereign, or as a result of ownership from donation, gift, or

1 foreclosure, unless the state or the local government has
2 otherwise caused or contributed to a release of a contaminant
3 at the brownfield site.

4 (1) When a property, including a brownfield site,
5 escheats to a county, the county is not subject to any
6 liability imposed by chapter 376 or chapter 403, Florida
7 Statutes, for preexisting soil or groundwater contamination
8 due solely to its ownership. However, this subsection does not
9 affect the rights or liabilities of any past or future
10 governmental entity for the results of its actions that create
11 or exacerbate a pollution source.

12 (2) The county and the Department of Environmental
13 Protection may enter into a written agreement for the
14 performance, funding, and reimbursement of the investigative
15 and remedial acts necessary for a property that escheats to
16 the county.

17 Section 3. This act shall take effect July 1, 2004.

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19 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
20 COMMITTEE SUBSTITUTE FOR
21 Senate Bill 338

22 The committee substitute:

23 (1) Provides that no more than \$5 million of the balance of
24 the Inland Protection Trust Fund in a fiscal year may be at
25 risk at any time on loan guarantees for the Brownfield Areas
Loan Guarantee Program.

26 (2) Provides immunity from liability for property with
27 environmental contamination that escheats to the county that
28 is located within a designated brownfield area.
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