

Bill No. SB 1092

Barcode 114080

CHAMBER ACTION

Senate

House

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The Committee on Government Efficiency Appropriations (Posey)
recommended the following amendment:

Senate Amendment (with title amendment)

Delete everything after the enacting clause

and insert:

Section 1. Section 199.1055, Florida Statutes, is
amended to read:

199.1055 Contaminated site rehabilitation tax
credit.--

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

(a) A credit in the amount of 50 ~~35~~ percent of the
costs of voluntary cleanup activity that is integral to site
rehabilitation at the following sites is available against any
tax due for a taxable year under s. 199.032, less any credit
allowed by former s. 220.68 for that year:

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

2. A drycleaning-solvent-contaminated site at which
cleanup is undertaken by the real property owner pursuant to

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1 s. 376.3078(11), if the real property owner is not also, and
2 has never been, the owner or operator of the drycleaning
3 facility where the contamination exists; or

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

6 (b) A tax credit applicant, or multiple tax credit
7 applicants working jointly to clean up a single site, may not
8 be granted more than \$500,000 ~~\$250,000~~ per year in tax credits
9 for each site voluntarily rehabilitated. Multiple tax credit
10 applicants shall be granted tax credits in the same proportion
11 as their contribution to payment of cleanup costs. Subject to
12 the same conditions and limitations as provided in this
13 section, a municipality, county, or other tax credit applicant
14 which voluntarily rehabilitates a site may receive not more
15 than \$500,000 ~~\$250,000~~ per year in tax credits which it can
16 subsequently transfer subject to the provisions in paragraph
17 (g).

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

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

31 (e) A tax credit applicant that receives state-funded

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

7 (f) The total amount of the tax credits which may be
 8 granted under this section and s. 220.1845 is ~~\$2~~ \$5 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

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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 may claim an additional 25 ~~10~~ percent of the
7 total cleanup costs, not to exceed \$500,000 ~~\$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 (i) In order to encourage the construction of housing
12 that meets the definition of affordable provided in s.
13 420.0004(3), an applicant for the tax credit may claim an
14 additional 25 percent of the total site-rehabilitation costs
15 that are eligible for tax credits under this section, not to
16 exceed \$500,000. In order to receive this additional tax
17 credit, the applicant must provide a certification letter from
18 the Florida Housing Finance Corporation, the local housing
19 authority, or other governmental agency that is a party to the
20 use agreement, indicating that the construction on the
21 brownfield site is complete, the brownfield site has received
22 a certificate of occupancy, and the brownfield site has a
23 properly recorded instrument that limits the use of the
24 property to housing that meets the definition of affordable
25 provided in s. 420.0004(3).

26 (2) FILING REQUIREMENTS.--Any taxpayer that wishes to
27 obtain credit under this section must submit with its return a
28 tax credit certificate approving partial tax credits issued by
29 the Department of Environmental Protection under s. 376.30781.

30 (3) ADMINISTRATION; AUDIT AUTHORITY; TAX CREDIT
31 FORFEITURE.--

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1 (a) The Department of Revenue may adopt rules to
 2 prescribe any necessary forms required to claim a tax credit
 3 under this section and to provide the administrative
 4 guidelines and procedures required to administer this section.

5 (b) In addition to its existing audit and
 6 investigation authority relating to chapters 199 and 220, the
 7 Department of Revenue may perform any additional financial and
 8 technical audits and investigations, including examining the
 9 accounts, books, or records of the tax credit applicant, which
 10 are necessary to verify the site rehabilitation costs included
 11 in a tax credit return and to ensure compliance with this
 12 section. The Department of Environmental Protection shall
 13 provide technical assistance, when requested by the Department
 14 of Revenue, on any technical audits performed under this
 15 section.

16 (c) It is grounds for forfeiture of previously claimed
 17 and received tax credits if the Department of Revenue
 18 determines, as a result of either an audit or information
 19 received from the Department of Environmental Protection, that
 20 a taxpayer received tax credits under this section to which
 21 the taxpayer was not entitled. In the case of fraud, the
 22 taxpayer shall be prohibited from claiming any future tax
 23 credits under this section or s. 220.1845.

24 1. The taxpayer is responsible for returning forfeited
 25 tax credits to the Department of Revenue, and such funds shall
 26 be paid into the General Revenue Fund of the state.

27 2. The taxpayer shall file with the Department of
 28 Revenue an amended tax return or such other report as the
 29 Department of Revenue prescribes by rule and shall pay any
 30 required tax within 60 days after the taxpayer receives
 31 notification from the Department of Environmental Protection

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1 pursuant to s. 376.30781 that previously approved tax credits
2 have been revoked or modified, if uncontested, or within 60
3 days after a final order is issued following proceedings
4 involving a contested revocation or modification order.

5 3. A notice of deficiency may be issued by the
6 Department of Revenue at any time within 5 years after the
7 date the taxpayer receives notification from the Department of
8 Environmental Protection pursuant to s. 376.30781 that
9 previously approved tax credits have been revoked or modified.
10 If a taxpayer fails to notify the Department of Revenue of any
11 change in its tax credit claimed, a notice of deficiency may
12 be issued at any time. In either case, the amount of any
13 proposed assessment set forth in such notice of deficiency
14 shall be limited to the amount of any deficiency resulting
15 under this section from the recomputation of the taxpayer's
16 tax for the taxable year.

17 4. Any taxpayer that fails to report and timely pay
18 any tax due as a result of the forfeiture of its tax credit is
19 in violation of this section and is subject to applicable
20 penalty and interest.

21 Section 2. Section 220.1845, Florida Statutes, is
22 amended to read:

23 220.1845 Contaminated site rehabilitation tax
24 credit.--

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

26 (a) A credit in the amount of 50 35 percent of the
27 costs of voluntary cleanup activity that is integral to site
28 rehabilitation at the following sites is available against any
29 tax due for a taxable year under this chapter:

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

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

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

8 (b) A tax credit applicant, or multiple tax credit
 9 applicants working jointly to clean up a single site, may not
 10 be granted more than \$500,000 ~~\$250,000~~ per year in tax credits
 11 for each site voluntarily rehabilitated. Multiple tax credit
 12 applicants shall be granted tax credits in the same proportion
 13 as their contribution to payment of cleanup costs. Subject to
 14 the same conditions and limitations as provided in this
 15 section, a municipality, county, or other tax credit applicant
 16 which voluntarily rehabilitates a site may receive not more
 17 than \$500,000 ~~\$250,000~~ per year in tax credits which it can
 18 subsequently transfer subject to the provisions in paragraph
 19 (h).

20 (c) If the credit granted under this section is not
 21 fully used in any one year because of insufficient tax
 22 liability on the part of the corporation, the unused amount
 23 may be carried forward for a period not to exceed 5 years. The
 24 carryover credit may be used in a subsequent year when the tax
 25 imposed by this chapter for that year exceeds the credit for
 26 which the corporation is eligible in that year under this
 27 section after applying the other credits and unused carryovers
 28 in the order provided by s. 220.02(8). Five years after the
 29 date a credit is granted under this section, such credit
 30 expires and may not be used. However, if during the 5-year
 31 period the credit is transferred, in whole or in part,

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1 pursuant to paragraph (h), each transferee has 5 years after
2 the date of transfer to use its credit.

3 (d) A taxpayer that files a consolidated return in
4 this state as a member of an affiliated group under s.
5 220.131(1) may be allowed the credit on a consolidated return
6 basis up to the amount of tax imposed upon the consolidated
7 group.

8 (e) A taxpayer that receives credit under s. 199.1055
9 is ineligible to receive credit under this section in a given
10 tax year.

11 (f) A tax credit applicant that receives state-funded
12 site rehabilitation under s. 376.3078(3) for rehabilitation of
13 a drycleaning-solvent-contaminated site is ineligible to
14 receive credit under this section for costs incurred by the
15 tax credit applicant in conjunction with the rehabilitation of
16 that site during the same time period that state-administered
17 site rehabilitation was underway.

18 (g) The total amount of the tax credits which may be
19 granted under this section and s. 199.1055 is \$5 ~~\$2~~ million
20 annually.

21 (h)1. Tax credits that may be available under this
22 section to an entity eligible under s. 376.30781 may be
23 transferred after a merger or acquisition to the surviving or
24 acquiring entity and used in the same manner and with the same
25 limitations.

26 2. The entity or its surviving or acquiring entity as
27 described in subparagraph 1., may transfer any unused credit
28 in whole or in units of no less than 25 percent of the
29 remaining credit. The entity acquiring such credit may use it
30 in the same manner and with the same limitation as described
31 in this section. Such transferred credits may not be

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1 transferred again although they may succeed to a surviving or
 2 acquiring entity subject to the same conditions and
 3 limitations as described in this section.

4 3. In the event the credit provided for under this
 5 section is reduced either as a result of a determination by
 6 the Department of Environmental Protection or an examination
 7 or audit by the Department of Revenue, such tax deficiency
 8 shall be recovered from the first entity, or the surviving or
 9 acquiring entity, to have claimed such credit up to the amount
 10 of credit taken. Any subsequent deficiencies shall be assessed
 11 against any entity acquiring and claiming such credit, or in
 12 the case of multiple succeeding entities in the order of
 13 credit succession.

14 (i) In order to encourage completion of site
 15 rehabilitation at contaminated sites being voluntarily cleaned
 16 up and eligible for a tax credit under this section, the tax
 17 credit applicant may claim an additional 25 ~~10~~ percent of the
 18 total cleanup costs, not to exceed \$500,000 ~~\$50,000~~, in the
 19 final year of cleanup as evidenced by the Department of
 20 Environmental Protection issuing a "No Further Action" order
 21 for that site.

22 (j) In order to encourage the construction of housing
 23 that meets the definition of affordable provided in s.
 24 420.0004(3), an applicant for the tax credit may claim an
 25 additional 25 percent of the total site-rehabilitation costs
 26 that are eligible for tax credits under this section, not to
 27 exceed \$500,000. In order to receive this additional tax
 28 credit, the applicant must provide a certification letter from
 29 the Florida Housing Finance Corporation, the local housing
 30 authority, or other governmental agency that is a party to the
 31 use agreement, indicating that the construction on the

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1 brownfield site is complete, the brownfield site has received
 2 a certificate of occupancy, and the brownfield site has a
 3 properly recorded instrument that limits the use of the
 4 property to housing that meets the definition of affordable
 5 provided in s. 420.0004(3).

6 (2) FILING REQUIREMENTS.--Any corporation that wishes
 7 to obtain credit under this section must submit with its
 8 return a tax credit certificate approving partial tax credits
 9 issued by the Department of Environmental Protection under s.
 10 376.30781.

11 (3) ADMINISTRATION; AUDIT AUTHORITY; TAX CREDIT
 12 FORFEITURE.--

13 (a) The Department of Revenue may adopt rules to
 14 prescribe any necessary forms required to claim a tax credit
 15 under this section and to provide the administrative
 16 guidelines and procedures required to administer this section.

17 (b) In addition to its existing audit and
 18 investigation authority relating to chapter 199 and this
 19 chapter, the Department of Revenue may perform any additional
 20 financial and technical audits and investigations, including
 21 examining the accounts, books, or records of the tax credit
 22 applicant, which are necessary to verify the site
 23 rehabilitation costs included in a tax credit return and to
 24 ensure compliance with this section. The Department of
 25 Environmental Protection shall provide technical assistance,
 26 when requested by the Department of Revenue, on any technical
 27 audits performed pursuant to this section.

28 (c) It is grounds for forfeiture of previously claimed
 29 and received tax credits if the Department of Revenue
 30 determines, as a result of either an audit or information
 31 received from the Department of Environmental Protection, that

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1 a taxpayer received tax credits pursuant to this section to
 2 which the taxpayer was not entitled. In the case of fraud, the
 3 taxpayer shall be prohibited from claiming any future tax
 4 credits under this section or s. 199.1055.

5 1. The taxpayer is responsible for returning forfeited
 6 tax credits to the Department of Revenue, and such funds shall
 7 be paid into the General Revenue Fund of the state.

8 2. The taxpayer shall file with the Department of
 9 Revenue an amended tax return or such other report as the
 10 Department of Revenue prescribes by rule and shall pay any
 11 required tax within 60 days after the taxpayer receives
 12 notification from the Department of Environmental Protection
 13 pursuant to s. 376.30781 that previously approved tax credits
 14 have been revoked or modified, if uncontested, or within 60
 15 days after a final order is issued following proceedings
 16 involving a contested revocation or modification order.

17 3. A notice of deficiency may be issued by the
 18 Department of Revenue at any time within 5 years after the
 19 date the taxpayer receives notification from the Department of
 20 Environmental Protection pursuant to s. 376.30781 that
 21 previously approved tax credits have been revoked or modified.
 22 If a taxpayer fails to notify the Department of Revenue of any
 23 change in its tax credit claimed, a notice of deficiency may
 24 be issued at any time. In either case, the amount of any
 25 proposed assessment set forth in such notice of deficiency
 26 shall be limited to the amount of any deficiency resulting
 27 under this section from the recomputation of the taxpayer's
 28 tax for the taxable year.

29 4. Any taxpayer that fails to report and timely pay
 30 any tax due as a result of the forfeiture of its tax credit is
 31 in violation of this section and is subject to applicable

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1 penalty and interest.

2 Section 3. Section 376.30781, Florida Statutes, is
3 amended to read:

4 376.30781 Partial tax credits for rehabilitation of
5 drycleaning-solvent-contaminated sites and brownfield sites in
6 designated brownfield areas; application process; rulemaking
7 authority; revocation authority.--

8 (1) The Legislature finds that:

9 (a) To facilitate property transactions and economic
10 growth and development, it is in the interest of the state to
11 encourage the cleanup, at the earliest possible time, of
12 drycleaning-solvent-contaminated sites and brownfield sites in
13 designated brownfield areas.

14 (b) It is the intent of the Legislature to encourage
15 the voluntary cleanup of drycleaning-solvent-contaminated
16 sites and brownfield sites in designated brownfield areas by
17 providing a partial tax credit for the restoration of such
18 property in specified circumstances.

19 (2) Notwithstanding the requirements of subsection
20 (5), tax credits allowed pursuant to ss. 199.1055 and 220.1845
21 are available for any site rehabilitation conducted during the
22 calendar year in which the applicable voluntary cleanup
23 agreement or brownfield site rehabilitation agreement is
24 executed, even if the site rehabilitation is conducted prior
25 to the execution of that agreement or the designation of the
26 brownfield area.

27 (3)(2)(a) A credit in the amount of 50 35 percent of
28 the costs of voluntary cleanup activity that is integral to
29 site rehabilitation at the following sites is allowed pursuant
30 to ss. 199.1055 and 220.1845:

31 1. A drycleaning-solvent-contaminated site eligible

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1 for state-funded site rehabilitation under s. 376.3078(3);

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

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

9 (b) A tax credit applicant, or multiple tax credit
10 applicants working jointly to clean up a single site, may not
11 be granted more than \$500,000 ~~\$250,000~~ per year in tax credits
12 for each site voluntarily rehabilitated. Multiple tax credit
13 applicants shall be granted tax credits in the same proportion
14 as their contribution to payment of cleanup costs. Tax credits
15 are available only for site rehabilitation conducted during
16 the calendar year for which the tax credit application is
17 submitted.

18 (c) In order to encourage completion of site
19 rehabilitation at contaminated sites that are being
20 voluntarily cleaned up and that are eligible for a tax credit
21 under this section, the tax credit applicant may claim an
22 additional 25 ~~10~~ percent of the total cleanup costs, not to
23 exceed \$500,000 ~~\$50,000~~, in the final year of cleanup as
24 evidenced by the Department of Environmental Protection
25 issuing a "No Further Action" order for that site.

26 (d) In order to encourage the construction of housing
27 that meets the definition of affordable provided in s.
28 420.0004(3), an applicant for the tax credit may claim an
29 additional 25 percent of the total site-rehabilitation costs
30 that are eligible for tax credits under this section, not to
31 exceed \$500,000. In order to receive this additional tax

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1 credit, the applicant must provide a certification letter from
 2 the Florida Housing Finance Corporation, the local housing
 3 authority, or other governmental agency that is a party to the
 4 use agreement, indicating that the construction on the
 5 brownfield site is complete, the brownfield site has received
 6 a certificate of occupancy, and the brownfield site has a
 7 properly recorded instrument that limits the use of the
 8 property to housing that meets the definition of affordable
 9 provided in s. 420.0004(3). Notwithstanding the limitation
 10 that only one application shall be submitted each year for
 11 each site, an application for the additional credit provided
 12 for in this paragraph shall be submitted as soon as all
 13 requirements to obtain this additional tax credit have been
 14 met.

15 ~~(4)(3)~~ The Department of Environmental Protection
 16 shall be responsible for allocating the tax credits provided
 17 for in ss. 199.1055 and 220.1845, not to exceed a total of ~~\$5~~
 18 ~~\$2~~ million in tax credits annually.

19 ~~(5)(4)~~ To claim the credit for site rehabilitation
 20 conducted during the current calendar year, each tax credit
 21 applicant must apply to the Department of Environmental
 22 Protection for an allocation of the ~~\$5~~ ~~\$2~~ million annual
 23 credit by January 15 of the following year on a form developed
 24 by the Department of Environmental Protection in cooperation
 25 with the Department of Revenue. The form shall include an
 26 affidavit from each tax credit applicant certifying that all
 27 information contained in the application, including all
 28 records of costs incurred and claimed in the tax credit
 29 application, are true and correct. If the application is
 30 submitted pursuant to subparagraph (2)(a)2., the form must
 31 include an affidavit signed by the real property owner stating

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1 that it is not, and has never been, the owner or operator of
 2 the drycleaning facility where the contamination exists.
 3 Approval of partial tax credits must be accomplished on a
 4 first-come, first-served basis based upon the date complete
 5 applications are received by the Division of Waste Management.
 6 A tax credit applicant shall submit only one complete
 7 application per site for each calendar year's site
 8 rehabilitation costs. Incomplete placeholder applications
 9 shall not be accepted and will not secure a place in the
 10 first-come, first-served application line. To be eligible for
 11 a tax credit, the tax credit applicant must:

12 (a) Have entered into a voluntary cleanup agreement
 13 with the Department of Environmental Protection for a
 14 drycleaning-solvent-contaminated site or a Brownfield Site
 15 Rehabilitation Agreement, as applicable; and

16 (b) Have paid all deductibles pursuant to s.
 17 376.3078(3)(e) for eligible drycleaning-solvent-cleanup
 18 program sites.

19 ~~(6)~~(5) To obtain the tax credit certificate, a tax
 20 credit applicant must annually file an application for
 21 certification, which must be received by the Division of Waste
 22 Management of the Department of Environmental Protection by
 23 January 15 of the year following the calendar year for which
 24 site rehabilitation costs are being claimed in a tax credit
 25 application. The tax credit applicant must provide all
 26 pertinent information requested on the tax credit application
 27 form, including, at a minimum, the name and address of the tax
 28 credit applicant and the address and tracking identification
 29 number of the eligible site. Along with the tax credit
 30 application form, the tax credit applicant must submit the
 31 following:

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

5 (b) Copies of contracts and documentation of contract
 6 negotiations, accounts, invoices, sales tickets, or other
 7 payment records from purchases, sales, leases, or other
 8 transactions involving actual costs incurred for that tax year
 9 related to site rehabilitation, as that term is defined in ss.
 10 376.301 and 376.79;

11 (c) Proof that the documentation submitted pursuant to
 12 paragraph (b) has been reviewed and verified by an independent
 13 certified public accountant in accordance with standards
 14 established by the American Institute of Certified Public
 15 Accountants. Specifically, the certified public accountant
 16 must attest to the accuracy and validity of the costs incurred
 17 and paid by conducting an independent review of the data
 18 presented by the tax credit applicant. Accuracy and validity
 19 of costs incurred and paid would be determined once the level
 20 of effort was certified by an appropriate professional
 21 registered in this state in each contributing technical
 22 discipline. The certified public accountant's report would
 23 also attest that the costs included in the application form
 24 are not duplicated within the application. A copy of the
 25 accountant's report shall be submitted to the Department of
 26 Environmental Protection with the tax credit application; and

27 (d) A certification form stating that site
 28 rehabilitation activities associated with the documentation
 29 submitted pursuant to paragraph (b) have been conducted under
 30 the observation of, and related technical documents have been
 31 signed and sealed by, an appropriate professional registered

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1 in this state in each contributing technical discipline. The
 2 certification form shall be signed and sealed by the
 3 appropriate registered professionals stating that the costs
 4 incurred were integral, necessary, and required for site
 5 rehabilitation, as that term is defined in ss. 376.301 and
 6 376.79.

7 ~~(7)(6)~~ The certified public accountant and appropriate
 8 registered professionals submitting forms as part of a tax
 9 credit application must verify such forms. Verification must
 10 be accomplished as provided in s. 92.525(1)(b) and subject to
 11 the provisions of s. 92.525(3).

12 ~~(8)(7)~~ The Department of Environmental Protection
 13 shall review the tax credit application and any supplemental
 14 documentation that the tax credit applicant may submit prior
 15 to the annual application deadline in order to have the
 16 application considered complete, for the purpose of verifying
 17 that the tax credit applicant has met the qualifying criteria
 18 in subsections (2) and (4) and has submitted all required
 19 documentation listed in subsection (5). Upon verification that
 20 the tax credit applicant has met these requirements, the
 21 department shall issue a written decision granting eligibility
 22 for partial tax credits (a tax credit certificate) in the
 23 amount of 50 ~~35~~ percent of the total costs claimed, subject to
 24 ~~the \$500,000~~ ~~\$250,000~~ limitation, for the calendar year for
 25 which the tax credit application is submitted based on the
 26 report of the certified public accountant and the
 27 certifications from the appropriate registered technical
 28 professionals.

29 ~~(9)(8)~~ On or before March 1, the Department of
 30 Environmental Protection shall inform each eligible tax credit
 31 applicant of the amount of its partial tax credit and provide

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1 each eligible tax credit applicant with a tax credit
 2 certificate that must be submitted with its tax return to the
 3 Department of Revenue to claim the tax credit or be
 4 transferred pursuant to s. 199.1055(1)(g) or s.
 5 220.1845(1)(h). Credits will not result in the payment of
 6 refunds if total credits exceed the amount of tax owed.

7 ~~(10)(9)~~ If a tax credit applicant does not receive a
 8 tax credit allocation due to an exhaustion of the ~~\$5~~ \$2
 9 million annual tax credit authorization, such application will
 10 then be included in the same first-come, first-served order in
 11 the next year's annual tax credit allocation, if any, based on
 12 the prior year application.

13 ~~(11)(10)~~ The Department of Environmental Protection
 14 may adopt rules to prescribe the necessary forms required to
 15 claim tax credits under this section and to provide the
 16 administrative guidelines and procedures required to
 17 administer this section.

18 ~~(12)(11)~~ The Department of Environmental Protection
 19 may revoke or modify any written decision granting eligibility
 20 for partial tax credits under this section if it is discovered
 21 that the tax credit applicant submitted any false statement,
 22 representation, or certification in any application, record,
 23 report, plan, or other document filed in an attempt to receive
 24 partial tax credits under this section. The Department of
 25 Environmental Protection shall immediately notify the
 26 Department of Revenue of any revoked or modified orders
 27 affecting previously granted partial tax credits.
 28 Additionally, the tax credit applicant must notify the
 29 Department of Revenue of any change in its tax credit claimed.

30 ~~(13)(12)~~ A tax credit applicant who receives
 31 state-funded site rehabilitation under s. 376.3078(3) for

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1 rehabilitation of a drycleaning-solvent-contaminated site is
 2 ineligible to receive a tax credit under s. 199.1055 or s.
 3 220.1845 for costs incurred by the tax credit applicant in
 4 conjunction with the rehabilitation of that site during the
 5 same time period that state-administered site rehabilitation
 6 was underway.

7 Section 4. Subsections (15) and (16) of section
 8 196.012, Florida Statutes, are amended to read:

9 196.012 Definitions.--For the purpose of this chapter,
 10 the following terms are defined as follows, except where the
 11 context clearly indicates otherwise:

12 (15) "New business" means:

13 (a)1. A business establishing 10 or more jobs to
 14 employ 10 or more full-time employees in this state, which
 15 manufactures, processes, compounds, fabricates, or produces
 16 for sale items of tangible personal property at a fixed
 17 location and which comprises an industrial or manufacturing
 18 plant;

19 2. A business establishing 25 or more jobs to employ
 20 25 or more full-time employees in this state, the sales factor
 21 of which, as defined by s. 220.15(5), for the facility with
 22 respect to which it requests an economic development ad
 23 valorem tax exemption is less than 0.50 for each year the
 24 exemption is claimed; or

25 3. An office space in this state owned and used by a
 26 corporation newly domiciled in this state; provided such
 27 office space houses 50 or more full-time employees of such
 28 corporation;

29
 30 provided that such business or office first begins operation
 31 on a site clearly separate from any other commercial or

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1 industrial operation owned by the same business.

2 (b) Any business located in an enterprise zone or
3 brownfield area that first begins operation on a site clearly
4 separate from any other commercial or industrial operation
5 owned by the same business.

6 (c) A business that is situated on property annexed
7 into a municipality and that, at the time of the annexation,
8 is receiving an economic development ad valorem tax exemption
9 from the county under s. 196.1995.

10 (16) "Expansion of an existing business" means:

11 (a)1. A business establishing 10 or more jobs to
12 employ 10 or more full-time employees in this state, which
13 manufactures, processes, compounds, fabricates, or produces
14 for sale items of tangible personal property at a fixed
15 location and which comprises an industrial or manufacturing
16 plant; or

17 2. A business establishing 25 or more jobs to employ
18 25 or more full-time employees in this state, the sales factor
19 of which, as defined by s. 220.15(5), for the facility with
20 respect to which it requests an economic development ad
21 valorem tax exemption is less than 0.50 for each year the
22 exemption is claimed;

23
24 provided that such business increases operations on a site
25 colocated with a commercial or industrial operation owned by
26 the same business, resulting in a net increase in employment
27 of not less than 10 percent or an increase in productive
28 output of not less than 10 percent.

29 (b) Any business located in an enterprise zone or
30 brownfield area that increases operations on a site colocated
31 with a commercial or industrial operation owned by the same

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1 business.

2 Section 5. Section 196.1995, Florida Statutes, is
3 amended to read:

4 196.1995 Economic development ad valorem tax
5 exemption.--

6 (1) The board of county commissioners of any county or
7 the governing authority of any municipality shall call a
8 referendum within its total jurisdiction to determine whether
9 its respective jurisdiction may grant economic development ad
10 valorem tax exemptions under s. 3, Art. VII of the State
11 Constitution if:

12 (a) The board of county commissioners of the county or
13 the governing authority of the municipality votes to hold such
14 referendum; or

15 (b) The board of county commissioners of the county or
16 the governing authority of the municipality receives a
17 petition signed by 10 percent of the registered electors of
18 its respective jurisdiction, which petition calls for the
19 holding of such referendum.

20 (2) The ballot question in such referendum shall be in
21 substantially the following form:

22
23 Shall the board of county commissioners of this county (or the
24 governing authority of this municipality, or both) be
25 authorized to grant, pursuant to s. 3, Art. VII of the State
26 Constitution, property tax exemptions to new businesses and
27 expansions of existing businesses?

28
29 Yes--For authority to grant exemptions.

30 No--Against authority to grant exemptions.

31

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1 (3) The board of county commissioners or the governing
2 authority of the municipality that ~~which~~ calls a referendum
3 within its total jurisdiction to determine whether its
4 respective jurisdiction may grant economic development ad
5 valorem tax exemptions may vote to limit the effect of the
6 referendum to authority to grant economic development tax
7 exemptions for new businesses and expansions of existing
8 businesses located in an enterprise zone or a brownfield area,
9 as defined in s. 376.79(4). ~~If~~ ~~in the event that~~ an area
10 nominated to be an enterprise zone pursuant to s. 290.0055 has
11 not yet been designated pursuant to s. 290.0065 or has not
12 been designated as a brownfield pursuant to s. 376.80, the
13 board of county commissioners or the governing authority of
14 the municipality may call such referendum prior to such
15 designation; however, the authority to grant economic
16 development ad valorem tax exemptions does ~~will~~ not apply
17 until such area is designated pursuant to s. 290.0065. The
18 ballot question in such referendum shall be in substantially
19 the following form and shall be used in lieu of the ballot
20 question prescribed in subsection (2):

21
22 Shall the board of county commissioners of this county (or the
23 governing authority of this municipality, or both) be
24 authorized to grant, pursuant to s. 3, Art. VII of the State
25 Constitution, property tax exemptions for new businesses and
26 expansions of existing businesses which are located in an
27 enterprise zone or a brownfield area?

28
29 Yes--For authority to grant exemptions.
30 No--Against authority to grant exemptions.

31

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1 (4) A referendum pursuant to this section may be
2 called only once in any 12-month period.

3 (5) Upon a majority vote in favor of such authority,
4 the board of county commissioners or the governing authority
5 of the municipality, at its discretion, by ordinance may
6 exempt from ad valorem taxation up to 100 percent of the
7 assessed value of all improvements to real property made by or
8 for the use of a new business and of all tangible personal
9 property of such new business, or up to 100 percent of the
10 assessed value of all added improvements to real property made
11 to facilitate the expansion of an existing business and of the
12 net increase in all tangible personal property acquired to
13 facilitate such expansion of an existing business, provided
14 that the improvements to real property are made or the
15 tangible personal property is added or increased on or after
16 the day the ordinance is adopted. The exemption may provide
17 for the forgiveness of past ad valorem taxes for any new
18 business that satisfies the requirements of s. 196.012(15).

19 However, if the authority to grant exemptions is approved in a
20 referendum in which the ballot question contained in
21 subsection (3) appears on the ballot, the authority of the
22 board of county commissioners or the governing authority of
23 the municipality to grant exemptions is limited solely to new
24 businesses and expansions of existing businesses that ~~which~~
25 are located in an enterprise zone or brownfield area. Property
26 acquired to replace existing property shall not be considered
27 to facilitate a business expansion. The exemption applies
28 only to taxes levied by the respective unit of government
29 granting the exemption. The exemption does not apply,
30 however, to taxes levied for the payment of bonds or to taxes
31 authorized by a vote of the electors pursuant to s. 9(b) or s.

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1 12, Art. VII of the State Constitution. Any such exemption
 2 shall remain in effect for up to 10 years with respect to any
 3 particular facility, regardless of any change in the authority
 4 of the county or municipality to grant such exemptions. The
 5 exemption shall not be prolonged or extended by granting
 6 exemptions from additional taxes or by virtue of any
 7 reorganization or sale of the business receiving the
 8 exemption.

9 (6) With respect to a new business as defined by s.
 10 196.012(15)(c), the municipality annexing the property on
 11 which the business is situated may grant an economic
 12 development ad valorem tax exemption under this section to
 13 that business for a period that will expire upon the
 14 expiration of the exemption granted by the county. If the
 15 county renews the exemption under subsection (7), the
 16 municipality may also extend its exemption. A municipal
 17 economic development ad valorem tax exemption granted under
 18 this subsection may not extend beyond the duration of the
 19 county exemption.

20 (7) The authority to grant exemptions under this
 21 section will expire 10 years after the date such authority was
 22 approved in an election, but such authority may be renewed for
 23 another 10-year period in a referendum called and held
 24 pursuant to this section.

25 (8) Any person, firm, or corporation which desires an
 26 economic development ad valorem tax exemption shall, in the
 27 year the exemption is desired to take effect, file a written
 28 application on a form prescribed by the department with the
 29 board of county commissioners or the governing authority of
 30 the municipality, or both. The application shall request the
 31 adoption of an ordinance granting the applicant an exemption

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1 pursuant to this section and shall include the following
2 information:

3 (a) The name and location of the new business or the
4 expansion of an existing business;

5 (b) A description of the improvements to real property
6 for which an exemption is requested and the date of
7 commencement of construction of such improvements;

8 (c) A description of the tangible personal property
9 for which an exemption is requested and the dates when such
10 property was or is to be purchased;

11 (d) Proof, to the satisfaction of the board of county
12 commissioners or the governing authority of the municipality,
13 that the applicant is a new business or an expansion of an
14 existing business, as defined in s. 196.012(15) or (16); and

15 (e) Other information deemed necessary by the
16 department.

17 (9) Before it takes action on the application, the
18 board of county commissioners or the governing authority of
19 the municipality shall deliver a copy of the application to
20 the property appraiser of the county. After careful
21 consideration, the property appraiser shall report the
22 following information to the board of county commissioners or
23 the governing authority of the municipality:

24 (a) The total revenue available to the county or
25 municipality for the current fiscal year from ad valorem tax
26 sources, or an estimate of such revenue if the actual total
27 revenue available cannot be determined;

28 (b) Any revenue lost to the county or municipality for
29 the current fiscal year by virtue of exemptions previously
30 granted under this section, or an estimate of such revenue if
31 the actual revenue lost cannot be determined;

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1 (c) An estimate of the revenue which would be lost to
 2 the county or municipality during the current fiscal year if
 3 the exemption applied for were granted had the property for
 4 which the exemption is requested otherwise been subject to
 5 taxation; and

6 (d) A determination as to whether the property for
 7 which an exemption is requested is to be incorporated into a
 8 new business or the expansion of an existing business, as
 9 defined in s. 196.012(15) or (16), or into neither, which
 10 determination the property appraiser shall also affix to the
 11 face of the application. Upon the request of the property
 12 appraiser, the department shall provide to him or her such
 13 information as it may have available to assist in making such
 14 determination.

15 (10) An ordinance granting an exemption under this
 16 section shall be adopted in the same manner as any other
 17 ordinance of the county or municipality and shall include the
 18 following:

19 (a) The name and address of the new business or
 20 expansion of an existing business to which the exemption is
 21 granted;

22 (b) The total amount of revenue available to the
 23 county or municipality from ad valorem tax sources for the
 24 current fiscal year, the total amount of revenue lost to the
 25 county or municipality for the current fiscal year by virtue
 26 of economic development ad valorem tax exemptions currently in
 27 effect, and the estimated revenue loss to the county or
 28 municipality for the current fiscal year attributable to the
 29 exemption of the business named in the ordinance;

30 (c) The period of time for which the exemption will
 31 remain in effect and the expiration date of the exemption; and

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1 (d) A finding that the business named in the ordinance
2 meets the requirements of s. 196.012(15) or (16).

3 Section 6. Subsection (2) of section 288.9015, Florida
4 Statutes, is amended to read:

5 288.9015 Enterprise Florida, Inc.; purpose; duties.--

6 (2) It shall be the responsibility of Enterprise
7 Florida, Inc., to aggressively market Florida's rural
8 communities, distressed urban communities, brownfields, and
9 enterprise zones as locations for potential new investment, to
10 aggressively assist in the retention and expansion of existing
11 businesses in these communities, and to aggressively assist
12 these communities in the identification and development of new
13 economic development opportunities for job creation, fully
14 marketing state incentive programs such as the Qualified
15 Target Industry Tax Refund Program under s. 288.106 and the
16 Quick Action Closing Fund under s. 288.1088 in economically
17 distressed areas.

18 Section 7. Section 376.80, Florida Statutes, is
19 amended to read:

20 376.80 Brownfield program administration process.--

21 (1) A local government with jurisdiction over the
22 brownfield area must notify the department of its decision to
23 designate a brownfield area for rehabilitation for the
24 purposes of ss. 376.77-376.85. The notification must include a
25 resolution, by the local government body, to which is attached
26 a map adequate to clearly delineate exactly which parcels are
27 to be included in the brownfield area or alternatively a
28 less-detailed map accompanied by a detailed legal description
29 of the brownfield area. If a property owner within the area
30 proposed for designation by the local government requests in
31 writing to have his or her property removed from the proposed

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1 designation, the local government shall grant the request. For
 2 municipalities, the governing body shall adopt the resolution
 3 in accordance with the procedures outlined in s. 166.041,
 4 except that the notice for the public hearings on the proposed
 5 resolution must be in the form established in s.
 6 166.041(3)(c)2. For counties, the governing body shall adopt
 7 the resolution in accordance with the procedures outlined in
 8 s. 125.66, except that the notice for the public hearings on
 9 the proposed resolution shall be in the form established in s.
 10 125.66(4)(b)2.

11 (2)(a) If a local government proposes to designate a
 12 brownfield area that is outside community redevelopment areas,
 13 enterprise zones, empowerment zones, closed military bases, or
 14 designated brownfield pilot project areas, the local
 15 government must conduct at least one public hearing in the
 16 area to be designated to provide an opportunity for public
 17 input on the size of the area, the objectives for
 18 rehabilitation, job opportunities and economic developments
 19 anticipated, neighborhood residents' considerations, and other
 20 relevant local concerns. Notice of the public hearing must be
 21 made in a newspaper of general circulation in the area and the
 22 notice must be at least 16 square inches in size, must be in
 23 ethnic newspapers or local community bulletins, must be posted
 24 in the affected area, and must be announced at a scheduled
 25 meeting of the local governing body before the actual public
 26 hearing. In determining the areas to be designated, the local
 27 government must consider:

28 1. Whether the brownfield area warrants economic
 29 development and has a reasonable potential for such
 30 activities;

31 2. Whether the proposed area to be designated

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1 represents a reasonably focused approach and is not overly
2 large in geographic coverage;

3 3. Whether the area has potential to interest the
4 private sector in participating in rehabilitation; and

5 4. Whether the area contains sites or parts of sites
6 suitable for limited recreational open space, cultural, or
7 historical preservation purposes.

8 (b) A local government shall designate a brownfield
9 area under the provisions of this act provided that:

10 1. A person who owns or controls a potential
11 brownfield site is requesting the designation and has agreed
12 to rehabilitate and redevelop the brownfield site;

13 2. The rehabilitation and redevelopment of the
14 proposed brownfield site will result in economic productivity
15 of the area, along with the creation of at least 5 ~~10~~ new
16 permanent jobs at the brownfield site, ~~whether full-time or~~
17 ~~part-time~~, which are full-time equivalent positions not
18 associated with the implementation of the brownfield site
19 rehabilitation agreement and which are not associated with
20 redevelopment project demolition or construction activities
21 pursuant to the redevelopment agreement required under
22 paragraph (5)(i). However, the job-creation requirement may
23 not apply to the rehabilitation and redevelopment of a
24 brownfield site that will provide affordable housing as
25 defined in s. 420.0004(3) or the creation of recreational
26 areas, conservation areas, or parks;

27 3. The redevelopment of the proposed brownfield site
28 is consistent with the local comprehensive plan and is a
29 permissible use under the applicable local land development
30 regulations;

31 4. Notice of the proposed rehabilitation of the

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1 brownfield area has been provided to neighbors and nearby
 2 residents of the proposed area to be designated, and the
 3 person proposing the area for designation has afforded to
 4 those receiving notice the opportunity for comments and
 5 suggestions about rehabilitation. Notice pursuant to this
 6 subsection must be made in a newspaper of general circulation
 7 in the area, at least 16 square inches in size, and the notice
 8 must be posted in the affected area; and

9 5. The person proposing the area for designation has
 10 provided reasonable assurance that he or she has sufficient
 11 financial resources to implement and complete the
 12 rehabilitation agreement and redevelopment plan.

13 (c) The designation of a brownfield area and the
 14 identification of a person responsible for brownfield site
 15 rehabilitation simply entitles the identified person to
 16 negotiate a brownfield site rehabilitation agreement with the
 17 department or approved local pollution control program.

18 (3) When there is a person responsible for brownfield
 19 site rehabilitation, the local government must notify the
 20 department of the identity of that person. If the agency or
 21 person who will be responsible for the coordination changes
 22 during the approval process specified in subsections (4), (5),
 23 and (6), the department or the affected approved local
 24 pollution control program must notify the affected local
 25 government when the change occurs.

26 (4) Local governments or persons responsible for
 27 rehabilitation and redevelopment of brownfield areas must
 28 establish an advisory committee or use an existing advisory
 29 committee that has formally expressed its intent to address
 30 redevelopment of the specific brownfield area for the purpose
 31 of improving public participation and receiving public

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1 | comments on rehabilitation and redevelopment of the brownfield
2 | area, future land use, local employment opportunities,
3 | community safety, and environmental justice. Such advisory
4 | committee should include residents within or adjacent to the
5 | brownfield area, businesses operating within the brownfield
6 | area, and others deemed appropriate. The person responsible
7 | for brownfield site rehabilitation must notify the advisory
8 | committee of the intent to rehabilitate and redevelop the site
9 | before executing the brownfield site rehabilitation agreement,
10 | and provide the committee with a copy of the draft plan for
11 | site rehabilitation which addresses elements required by
12 | subsection (5). This includes disclosing potential reuse of
13 | the property as well as site rehabilitation activities, if
14 | any, to be performed. The advisory committee shall review the
15 | proposed redevelopment agreement required pursuant to
16 | paragraph (5)(i) and provide comments, if appropriate, to the
17 | board of the local government with jurisdiction over the
18 | brownfield area. The advisory committee must receive a copy of
19 | the executed brownfield site rehabilitation agreement. When
20 | the person responsible for brownfield site rehabilitation
21 | submits a site assessment report or the technical document
22 | containing the proposed course of action following site
23 | assessment to the department or the local pollution control
24 | program for review, the person responsible for brownfield site
25 | rehabilitation must hold a meeting or attend a regularly
26 | scheduled meeting to inform the advisory committee of the
27 | findings and recommendations in the site assessment report or
28 | the technical document containing the proposed course of
29 | action following site assessment.

30 | (5) The person responsible for brownfield site
31 | rehabilitation must enter into a brownfield site

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1 rehabilitation agreement with the department or an approved
2 local pollution control program if actual contamination exists
3 at the brownfield site. The brownfield site rehabilitation
4 agreement must include:

5 (a) A brownfield site rehabilitation schedule,
6 including milestones for completion of site rehabilitation
7 tasks and submittal of technical reports and rehabilitation
8 plans as agreed upon by the parties to the agreement;

9 (b) A commitment to conduct site rehabilitation
10 activities under the observation of professional engineers or
11 geologists who are registered in accordance with the
12 requirements of chapter 471 or chapter 492, respectively.

13 Submittals provided by the person responsible for brownfield
14 site rehabilitation must be signed and sealed by a
15 professional engineer registered under chapter 471, or a
16 professional geologist registered under chapter 492,
17 certifying that the submittal and associated work comply with
18 the law and rules of the department and those governing the
19 profession. In addition, upon completion of the approved
20 remedial action, the department shall require a professional
21 engineer registered under chapter 471 or a professional
22 geologist registered under chapter 492 to certify that the
23 corrective action was, to the best of his or her knowledge,
24 completed in substantial conformance with the plans and
25 specifications approved by the department;

26 (c) A commitment to conduct site rehabilitation in
27 accordance with department quality assurance rules;

28 (d) A commitment to conduct site rehabilitation
29 consistent with state, federal, and local laws and consistent
30 with the brownfield site contamination cleanup criteria in s.
31 376.81, including any applicable requirements for risk-based

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1 corrective action;

2 (e) Timeframes for the department's review of
3 technical reports and plans submitted in accordance with the
4 agreement. The department shall make every effort to adhere
5 to established agency goals for reasonable timeframes for
6 review of such documents;

7 (f) A commitment to secure site access for the
8 department or approved local pollution control program to all
9 brownfield sites within the eligible brownfield area for
10 activities associated with site rehabilitation;

11 (g) Other provisions that the person responsible for
12 brownfield site rehabilitation and the department agree upon,
13 that are consistent with ss. 376.77-376.85, and that will
14 improve or enhance the brownfield site rehabilitation process;

15 (h) A commitment to consider appropriate pollution
16 prevention measures and to implement those that the person
17 responsible for brownfield site rehabilitation determines are
18 reasonable and cost-effective, taking into account the
19 ultimate use or uses of the brownfield site. Such measures
20 may include improved inventory or production controls and
21 procedures for preventing loss, spills, and leaks of hazardous
22 waste and materials, and include goals for the reduction of
23 releases of toxic materials; and

24 (i) Certification that an agreement exists between the
25 person responsible for brownfield site rehabilitation and the
26 local government with jurisdiction over the brownfield area.
27 Such agreement shall contain terms for the redevelopment of
28 the brownfield area.

29 (6) Any contractor performing site rehabilitation
30 program tasks must demonstrate to the department that the
31 contractor:

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1 (a) Meets all certification and license requirements
2 imposed by law; and

3 (b) Has obtained the necessary approvals for
4 conducting sample collection and analyses pursuant to
5 department rules.

6 (7) The contractor who is performing the majority of
7 the site rehabilitation program tasks pursuant to a brownfield
8 site rehabilitation agreement or supervising the performance
9 of such tasks by licensed subcontractors in accordance with
10 the provisions of s. 489.113(9) must certify to the department
11 that the contractor:

12 (a) Complies with applicable OSHA regulations.

13 (b) Maintains workers' compensation insurance for all
14 employees as required by the Florida Workers' Compensation
15 Law.

16 (c) Maintains comprehensive general liability coverage
17 with limits of not less than \$1 million per occurrence and \$2
18 million general aggregate for bodily injury and property
19 damage and comprehensive automobile liability coverage with
20 limits of not less than \$2 million combined single limit. The
21 contractor shall also maintain pollution liability coverage
22 with limits of not less than \$3 million aggregate for personal
23 injury or death, \$1 million per occurrence for personal injury
24 or death, and \$1 million per occurrence for property damage.
25 The contractor's certificate of insurance shall name the state
26 as an additional insured party.

27 (d) Maintains professional liability insurance of at
28 least \$1 million per claim and \$1 million annual aggregate.

29 (8) Any professional engineer or geologist providing
30 professional services relating to site rehabilitation program
31 tasks must carry professional liability insurance with a

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1 coverage limit of at least \$1 million.

2 (9) During the cleanup process, if the department or
3 local program fails to complete review of a technical document
4 within the timeframe specified in the brownfield site
5 rehabilitation agreement, the person responsible for
6 brownfield site rehabilitation may proceed to the next site
7 rehabilitation task. However, the person responsible for
8 brownfield site rehabilitation does so at its own risk and may
9 be required by the department or local program to complete
10 additional work on a previous task. Exceptions to this
11 subsection include requests for "no further action,"
12 "monitoring only proposals," and feasibility studies, which
13 must be approved prior to implementation.

14 (10) If the person responsible for brownfield site
15 rehabilitation fails to comply with the brownfield site
16 rehabilitation agreement, the department shall allow 90 days
17 for the person responsible for brownfield site rehabilitation
18 to return to compliance with the provision at issue or to
19 negotiate a modification to the brownfield site rehabilitation
20 agreement with the department for good cause shown. If an
21 imminent hazard exists, the 90-day grace period shall not
22 apply. If the project is not returned to compliance with the
23 brownfield site rehabilitation agreement and a modification
24 cannot be negotiated, the immunity provisions of s. 376.82 are
25 revoked.

26 (11) The department is specifically authorized and
27 encouraged to enter into delegation agreements with local
28 pollution control programs approved under s. 403.182 to
29 administer the brownfield program within their jurisdictions,
30 thereby maximizing the integration of this process with the
31 other local development processes needed to facilitate

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1 redevelopment of a brownfield area. When determining whether
 2 a delegation pursuant to this subsection of all or part of the
 3 brownfields program to a local pollution control program is
 4 appropriate, the department shall consider the following. The
 5 local pollution control program must:

6 (a) Have and maintain the administrative organization,
 7 staff, and financial and other resources to effectively and
 8 efficiently implement and enforce the statutory requirements
 9 of the delegated brownfields program; and

10 (b) Provide for the enforcement of the requirements of
 11 the delegated brownfields program, and for notice and a right
 12 to challenge governmental action, by appropriate
 13 administrative and judicial process, which shall be specified
 14 in the delegation.

15
 16 The local pollution control program shall not be delegated
 17 authority to take action on or to make decisions regarding any
 18 brownfield site on land owned by the local government. Any
 19 delegation agreement entered into pursuant to this subsection
 20 shall contain such terms and conditions necessary to ensure
 21 the effective and efficient administration and enforcement of
 22 the statutory requirements of the brownfields program as
 23 established by the act and the relevant rules and other
 24 criteria of the department.

25 (12) Local governments are encouraged to use the full
 26 range of economic and tax incentives available to facilitate
 27 and promote the rehabilitation of brownfield areas, to help
 28 eliminate the public health and environmental hazards, and to
 29 promote the creation of jobs and economic development in these
 30 previously run-down, blighted, and underutilized areas.

31 Section 8. Subsection (1) of section 376.86, Florida

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1 Statutes, is amended to read:

2 376.86 Brownfield Areas Loan Guarantee Program.--

3 (1) The Brownfield Areas Loan Guarantee Council is
4 created to review and approve or deny by a majority vote of
5 its membership, the situations and circumstances for
6 participation in partnerships by agreements with local
7 governments, financial institutions, and others associated
8 with the redevelopment of brownfield areas pursuant to the
9 Brownfields Redevelopment Act for a limited state guaranty of
10 up to 5 years of loan guarantees or loan loss reserves issued
11 pursuant to law. The limited state loan guaranty applies only
12 to 50 ~~10~~ percent of the primary lenders loans for
13 redevelopment projects in brownfield areas. If the
14 redevelopment project is for affordable housing, as defined in
15 s. 420.0004(3), in a brownfield area, the limited state loan
16 guaranty applies to 75 percent of the primary lender's loan. A
17 limited state guaranty of private loans or a loan loss reserve
18 is authorized for lenders licensed to operate in the state
19 upon a determination by the council that such an arrangement
20 would be in the public interest and the likelihood of the
21 success of the loan is great.

22 Section 9. Sections 376.87 and 376.875, Florida
23 Statutes, are repealed.

24 Section 10. This act shall take effect July 1, 2006.

25
26

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

28 And the title is amended as follows:

29 Delete everything before the enacting clause

30

31 and insert:

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A bill to be entitled
An act relating to the redevelopment of
brownfields; amending ss. 199.1055, 220.1845,
and 376.30781, F.S.; increasing the amount and
percentage of the credit which may be applied
against the intangible personal property tax
and the corporate income tax for the cost of
voluntary cleanup of a contaminated site;
providing an additional tax credit for
affordable housing built in brownfield areas;
increasing the amount that may be received by
the taxpayer as an incentive to complete the
cleanup in the final year; increasing the total
amount of credits that may be granted in any
year; providing that tax credits are available
for site-rehabilitation activities conducted
prior to the area being designated as a
brownfield area under certain conditions;
amending s. 196.012, F.S.; revising the
definition of the term "new business" to
include a brownfield area; amending s.
196.1995, F.S.; authorizing a local government
to grant ad valorem tax relief to brownfield
areas pursuant to a local referendum; amending
s. 288.9015, F.S.; requiring Enterprise
Florida, Inc., to aggressively market
brownfields; amending s. 376.80, F.S.;
decreasing the job-creation requirement for the
rehabilitation of a brownfield site; providing
exceptions to the job-creation requirement;
amending s. 376.86, F.S.; increasing the

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1 percentage of loans for redevelopment projects
2 in brownfield areas to which the state loan
3 guarantee applies under the Brownfield Areas
4 Loan Guarantee Program; providing an additional
5 loan guaranty for affordable housing projects
6 in brownfield areas; repealing ss. 376.87 and
7 376.875, F.S., relating to brownfield property
8 ownership clearance assistance and the
9 Brownfield Property Ownership Clearance
10 Assistance Revolving Loan Trust Fund; providing
11 an effective date.

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