

By the Committee on Government Efficiency Appropriations; and  
Senators Constantine, Crist and Lynn

593-2147-06

1                                   A bill to be entitled  
2           An act relating to the redevelopment of  
3           brownfields; amending ss. 199.1055, 220.1845,  
4           and 376.30781, F.S.; increasing the amount and  
5           percentage of the credit which may be applied  
6           against the intangible personal property tax  
7           and the corporate income tax for the cost of  
8           voluntary cleanup of a contaminated site;  
9           providing an additional tax credit for  
10          affordable housing built in brownfield areas;  
11          increasing the amount that may be received by  
12          the taxpayer as an incentive to complete the  
13          cleanup in the final year; increasing the total  
14          amount of credits that may be granted in any  
15          year; providing that tax credits are available  
16          for site-rehabilitation activities conducted  
17          prior to the area being designated as a  
18          brownfield area under certain conditions;  
19          amending s. 196.012, F.S.; revising the  
20          definition of the term "new business" to  
21          include a brownfield area; amending s.  
22          196.1995, F.S.; authorizing a local government  
23          to grant ad valorem tax relief to brownfield  
24          areas pursuant to a local referendum; amending  
25          s. 288.9015, F.S.; requiring Enterprise  
26          Florida, Inc., to aggressively market  
27          brownfields; amending s. 376.80, F.S.;  
28          decreasing the job-creation requirement for the  
29          rehabilitation of a brownfield site; providing  
30          exceptions to the job-creation requirement;  
31          amending s. 376.86, F.S.; increasing the

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.

12  
13 Be It Enacted by the Legislature of the State of Florida:

14  
15 Section 1. Section 199.1055, Florida Statutes, is  
16 amended to read:

17 199.1055 Contaminated site rehabilitation tax  
18 credit.--

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

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

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

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

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

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

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

25           (d) A taxpayer that receives a credit under s.  
26 220.1845 is ineligible to receive credit under this section in  
27 a given tax year.

28           (e) A tax credit applicant that receives state-funded  
29 site rehabilitation pursuant to s. 376.3078(3) for  
30 rehabilitation of a drycleaning-solvent-contaminated site is  
31 ineligible to receive credit under this section for costs

1 incurred by the tax credit applicant in conjunction with the  
2 rehabilitation of that site during the same time period that  
3 state-administered site rehabilitation was underway.

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

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

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

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

31

1           (h) In order to encourage completion of site  
2 rehabilitation at contaminated sites being voluntarily cleaned  
3 up and eligible for a tax credit under this section, the tax  
4 credit applicant may claim an additional ~~25~~ 10 percent of the  
5 total cleanup costs, not to exceed ~~\$500,000~~ \$50,000, in the  
6 final year of cleanup as evidenced by the Department of  
7 Environmental Protection issuing a "No Further Action" order  
8 for that site.

9           (i) In order to encourage the construction of housing  
10 that meets the definition of affordable provided in s.  
11 420.0004(3), an applicant for the tax credit may claim an  
12 additional 25 percent of the total site-rehabilitation costs  
13 that are eligible for tax credits under this section, not to  
14 exceed \$500,000. In order to receive this additional tax  
15 credit, the applicant must provide a certification letter from  
16 the Florida Housing Finance Corporation, the local housing  
17 authority, or other governmental agency that is a party to the  
18 use agreement, indicating that the construction on the  
19 brownfield site is complete, the brownfield site has received  
20 a certificate of occupancy, and the brownfield site has a  
21 properly recorded instrument that limits the use of the  
22 property to housing that meets the definition of affordable  
23 provided in s. 420.0004(3).

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

28           (3) ADMINISTRATION; AUDIT AUTHORITY; TAX CREDIT  
29 FORFEITURE.--

30           (a) The Department of Revenue may adopt rules to  
31 prescribe any necessary forms required to claim a tax credit

1 | under this section and to provide the administrative  
2 | guidelines and procedures required to administer this section.

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

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

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

25 |       2. The taxpayer shall file with the Department of  
26 | Revenue an amended tax return or such other report as the  
27 | Department of Revenue prescribes by rule and shall pay any  
28 | required tax within 60 days after the taxpayer receives  
29 | notification from the Department of Environmental Protection  
30 | pursuant to s. 376.30781 that previously approved tax credits  
31 | have been revoked or modified, if uncontested, or within 60

1 days after a final order is issued following proceedings  
2 involving a contested revocation or modification order.

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

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

19           Section 2. Section 220.1845, Florida Statutes, is  
20 amended to read:

21           220.1845 Contaminated site rehabilitation tax  
22 credit.--

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

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

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

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

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 (h).

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



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

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

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

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

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

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

1 acquiring entity subject to the same conditions and  
2 limitations as described in this section.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

3 376.30781 Partial tax credits for rehabilitation of  
4 drycleaning-solvent-contaminated sites and brownfield sites in  
5 designated brownfield areas; application process; rulemaking  
6 authority; revocation authority.--

7 (1) The Legislature finds that:

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

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

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

26 ~~(3)(2)~~(a) A credit in the amount of 50 ~~35~~ percent of  
27 the costs of voluntary cleanup activity that is integral to  
28 site rehabilitation at the following sites is allowed pursuant  
29 to ss. 199.1055 and 220.1845:

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

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. Tax credits  
14 are available only for site rehabilitation conducted during  
15 the calendar year for which the tax credit application is  
16 submitted.

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

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

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

14 ~~(4)(3)~~ The Department of Environmental Protection  
15 shall be responsible for allocating the tax credits provided  
16 for in ss. 199.1055 and 220.1845, not to exceed a total of ~~\$5~~  
17 ~~\$2~~ million in tax credits annually.

18 ~~(5)(4)~~ To claim the credit for site rehabilitation  
19 conducted during the current calendar year, each tax credit  
20 applicant must apply to the Department of Environmental  
21 Protection for an allocation of the ~~\$5~~~~\$2~~ million annual  
22 credit by January 15 of the following year on a form developed  
23 by the Department of Environmental Protection in cooperation  
24 with the Department of Revenue. The form shall include an  
25 affidavit from each tax credit applicant certifying that all  
26 information contained in the application, including all  
27 records of costs incurred and claimed in the tax credit  
28 application, are true and correct. If the application is  
29 submitted pursuant to subparagraph (2)(a)2., the form must  
30 include an affidavit signed by the real property owner stating  
31 that it is not, and has never been, the owner or operator of

1 | the drycleaning facility where the contamination exists.  
2 | Approval of partial tax credits must be accomplished on a  
3 | first-come, first-served basis based upon the date complete  
4 | applications are received by the Division of Waste Management.  
5 | A tax credit applicant shall submit only one complete  
6 | application per site for each calendar year's site  
7 | rehabilitation costs. Incomplete placeholder applications  
8 | shall not be accepted and will not secure a place in the  
9 | first-come, first-served application line. To be eligible for  
10 | a tax credit, the tax credit applicant must:

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

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

18 |       (6)~~(5)~~ To obtain the tax credit certificate, a tax  
19 | credit applicant must annually file an application for  
20 | certification, which must be received by the Division of Waste  
21 | Management of the Department of Environmental Protection by  
22 | January 15 of the year following the calendar year for which  
23 | site rehabilitation costs are being claimed in a tax credit  
24 | application. The tax credit applicant must provide all  
25 | pertinent information requested on the tax credit application  
26 | form, including, at a minimum, the name and address of the tax  
27 | credit applicant and the address and tracking identification  
28 | number of the eligible site. Along with the tax credit  
29 | application form, the tax credit applicant must submit the  
30 | following:  
31 |



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

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

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)~~<sup>(9)</sup> If a tax credit applicant does not receive a  
8 tax credit allocation due to an exhaustion of the ~~\$5~~<sup>\$2</sup>  
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)~~<sup>(10)</sup> 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)~~<sup>(11)</sup> 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)~~<sup>(12)</sup> A tax credit applicant who receives  
31 state-funded site rehabilitation under s. 376.3078(3) for

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  
31

1 provided that such business or office first begins operation  
2 on a site clearly separate from any other commercial or  
3 industrial operation owned by the same business.

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

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

12 (16) "Expansion of an existing 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; or

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;

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

31

1           (b) Any business located in an enterprise zone or  
2 brownfield area that increases operations on a site colocated  
3 with a commercial or industrial operation owned by the same  
4 business.

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

7           196.1995 Economic development ad valorem tax  
8 exemption.--

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

15           (a) The board of county commissioners of the county or  
16 the governing authority of the municipality votes to hold such  
17 referendum; or

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

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

25  
26 Shall the board of county commissioners of this county (or the  
27 governing authority of this municipality, or both) be  
28 authorized to grant, pursuant to s. 3, Art. VII of the State  
29 Constitution, property tax exemptions to new businesses and  
30 expansions of existing businesses?  
31

1           .... Yes--For authority to grant exemptions.  
2           .... No--Against authority to grant exemptions.

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

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

31

1           ....Yes--For authority to grant exemptions.

2           ....No--Against authority to grant exemptions.

3

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

6           (5) Upon a majority vote in favor of such authority,  
7 the board of county commissioners or the governing authority  
8 of the municipality, at its discretion, by ordinance may  
9 exempt from ad valorem taxation up to 100 percent of the  
10 assessed value of all improvements to real property made by or  
11 for the use of a new business and of all tangible personal  
12 property of such new business, or up to 100 percent of the  
13 assessed value of all added improvements to real property made  
14 to facilitate the expansion of an existing business and of the  
15 net increase in all tangible personal property acquired to  
16 facilitate such expansion of an existing business, provided  
17 that the improvements to real property are made or the  
18 tangible personal property is added or increased on or after  
19 the day the ordinance is adopted. However, if the authority to  
20 grant exemptions is approved in a referendum in which the  
21 ballot question contained in subsection (3) appears on the  
22 ballot, the authority of the board of county commissioners or  
23 the governing authority of the municipality to grant  
24 exemptions is limited solely to new businesses and expansions  
25 of existing businesses that ~~which~~ are located in an enterprise  
26 zone or brownfield area. Property acquired to replace existing  
27 property shall not be considered to facilitate a business  
28 expansion. The exemption applies only to taxes levied by the  
29 respective unit of government granting the exemption. The  
30 exemption does not apply, however, to taxes levied for the  
31 payment of bonds or to taxes authorized by a vote of the



1 electors pursuant to s. 9(b) or s. 12, Art. VII of the State  
2 Constitution. Any such exemption shall remain in effect for up  
3 to 10 years with respect to any particular facility,  
4 regardless of any change in the authority of the county or  
5 municipality to grant such exemptions. The exemption shall  
6 not be prolonged or extended by granting exemptions from  
7 additional taxes or by virtue of any reorganization or sale of  
8 the business receiving the 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

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;

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

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

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

1           2. Whether the proposed area to be designated  
2 represents a reasonably focused approach and is not overly  
3 large in geographic coverage;

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

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

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

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

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

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

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

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

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

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

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

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

31 |



1           (5) The person responsible for brownfield site  
2 rehabilitation must enter into a brownfield site  
3 rehabilitation agreement with the department or an approved  
4 local pollution control program if actual contamination exists  
5 at the brownfield site. The brownfield site rehabilitation  
6 agreement must include:

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

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

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

30           (d) A commitment to conduct site rehabilitation  
31 consistent with state, federal, and local laws and consistent

1 with the brownfield site contamination cleanup criteria in s.  
2 376.81, including any applicable requirements for risk-based  
3 corrective action;

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

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

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

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

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

31

1           (6) Any contractor performing site rehabilitation  
2 program tasks must demonstrate to the department that the  
3 contractor:

4           (a) Meets all certification and license requirements  
5 imposed by law; and

6           (b) Has obtained the necessary approvals for  
7 conducting sample collection and analyses pursuant to  
8 department rules.

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

15           (a) Complies with applicable OSHA regulations.

16           (b) Maintains workers' compensation insurance for all  
17 employees as required by the Florida Workers' Compensation  
18 Law.

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

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

1           (8) Any professional engineer or geologist providing  
2 professional services relating to site rehabilitation program  
3 tasks must carry professional liability insurance with a  
4 coverage limit of at least \$1 million.

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

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

29           (11) The department is specifically authorized and  
30 encouraged to enter into delegation agreements with local  
31 pollution control programs approved under s. 403.182 to

1 administer the brownfield program within their jurisdictions,  
2 thereby maximizing the integration of this process with the  
3 other local development processes needed to facilitate  
4 redevelopment of a brownfield area. When determining whether  
5 a delegation pursuant to this subsection of all or part of the  
6 brownfields program to a local pollution control program is  
7 appropriate, the department shall consider the following. The  
8 local pollution control program must:

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

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

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

28 (12) Local governments are encouraged to use the full  
29 range of economic and tax incentives available to facilitate  
30 and promote the rehabilitation of brownfield areas, to help  
31 eliminate the public health and environmental hazards, and to

1 | promote the creation of jobs and economic development in these  
2 | previously run-down, blighted, and underutilized areas.

3 |         Section 8. Subsection (1) of section 376.86, Florida  
4 | Statutes, is amended to read:

5 |             376.86 Brownfield Areas Loan Guarantee Program.--

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

25 |         Section 9. Sections 376.87 and 376.875, Florida  
26 | Statutes, are repealed.

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

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STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN  
COMMITTEE SUBSTITUTE FOR  
SB 1092

The committee substitute for SB 1092 provides additional tax credits for the redevelopment of brownfield and dry-cleaning sites as affordable housing areas. It adds new businesses located in a brownfield to the definition of new business for purposes of the Economic Development Ad Valorem Tax Exemption. It reduces the job creation requirement for brownfield designation, and it increases the limited brownfield area state loan guaranty for redevelopment projects that create affordable housing.