

Amendment No. (for drafter's use only)

CHAMBER ACTION

Senate

House

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1 Representative Peterman offered the following:

2
3 **Amendment (with title amendment)**

4 Remove everything after the enacting clause and insert:

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

7 199.1055 Contaminated site rehabilitation tax credit.--

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

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

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

16 2. A drycleaning-solvent-contaminated site at which
17 cleanup is undertaken by the real property owner pursuant to s.
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18 376.3078(11), if the real property owner is not also, and has
19 never been, the owner or operator of the drycleaning facility
20 where the contamination exists; or

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

23 (b) A tax credit applicant, or multiple tax credit
24 applicants working jointly to clean up a single site, may not be
25 granted more than \$500,000 ~~\$250,000~~ per year in tax credits for
26 each site voluntarily rehabilitated. Multiple tax credit
27 applicants shall be granted tax credits in the same proportion
28 as their contribution to payment of cleanup costs. Subject to
29 the same conditions and limitations as provided in this section,
30 a municipality, county, or other tax credit applicant which
31 voluntarily rehabilitates a site may receive not more than
32 \$500,000 ~~\$250,000~~ per year in tax credits which it can
33 subsequently transfer subject to the provisions in paragraph
34 (g).

35 (c) If the credit granted under this section is not fully
36 used in any one year because of insufficient tax liability on
37 the part of the tax credit applicant, the unused amount may be
38 carried forward for a period not to exceed 5 years. Five years
39 after the date a credit is granted under this section, such
40 credit expires and may not be used. However, if during the 5-
41 year period the credit is transferred, in whole or in part,
42 pursuant to paragraph (g), each transferee has 5 years after the
43 date of transfer to use its credit.

44 (d) A taxpayer that receives a credit under s. 220.1845 is
45 ineligible to receive credit under this section in a given tax
46 year.

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47 (e) A tax credit applicant that receives state-funded site
48 rehabilitation pursuant to s. 376.3078(3) for rehabilitation of
49 a drycleaning-solvent-contaminated site is ineligible to receive
50 credit under this section for costs incurred by the tax credit
51 applicant in conjunction with the rehabilitation of that site
52 during the same time period that state-administered site
53 rehabilitation was underway.

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

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

61 2. The entity or its surviving or acquiring entity as
62 described in subparagraph 1., may transfer any unused credit in
63 whole or in units of no less than 25 percent of the remaining
64 credit. The entity acquiring such credit may use it in the same
65 manner and with the same limitation as described in this
66 section. Such transferred credits may not be transferred again
67 although they may succeed to a surviving or acquiring entity
68 subject to the same conditions and limitations as described in
69 this section.

70 3. In the event the credit provided for under this section
71 is reduced either as a result of a determination by the
72 Department of Environmental Protection or an examination or
73 audit by the Department of Revenue, such tax deficiency shall be
74 recovered from the first entity, or the surviving or acquiring
75 entity, to have claimed such credit up to the amount of credit
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76 taken. Any subsequent deficiencies shall be assessed against any
77 entity acquiring and claiming such credit, or in the case of
78 multiple succeeding entities in the order of credit succession.

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

87 (i) In order to encourage the construction of housing that
88 meets the definition of affordable provided in s. 420.0004(3),
89 an applicant for the tax credit may claim an additional 25
90 percent of the total site-rehabilitation costs that are eligible
91 for tax credits under this section, not to exceed \$500,000. In
92 order to receive this additional tax credit, the applicant must
93 provide a certification letter from the Florida Housing Finance
94 Corporation, the local housing authority, or other governmental
95 agency that is a party to the use agreement, indicating that the
96 construction on the brownfield site is complete, the brownfield
97 site has received a certificate of occupancy, and the brownfield
98 site has a properly recorded instrument that limits the use of
99 the property to housing that meets the definition of affordable
100 provided in s. 420.0004(3).

101 (2) FILING REQUIREMENTS.--Any taxpayer that wishes to
102 obtain credit under this section must submit with its return a
103 tax credit certificate approving partial tax credits issued by
104 the Department of Environmental Protection under s. 376.30781.
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105 (3) ADMINISTRATION; AUDIT AUTHORITY; TAX CREDIT
106 FORFEITURE.--

107 (a) The Department of Revenue may adopt rules to prescribe
108 any necessary forms required to claim a tax credit under this
109 section and to provide the administrative guidelines and
110 procedures required to administer this section.

111 (b) In addition to its existing audit and investigation
112 authority relating to chapters 199 and 220, the Department of
113 Revenue may perform any additional financial and technical
114 audits and investigations, including examining the accounts,
115 books, or records of the tax credit applicant, which are
116 necessary to verify the site rehabilitation costs included in a
117 tax credit return and to ensure compliance with this section.
118 The Department of Environmental Protection shall provide
119 technical assistance, when requested by the Department of
120 Revenue, on any technical audits performed under this section.

121 (c) It is grounds for forfeiture of previously claimed and
122 received tax credits if the Department of Revenue determines, as
123 a result of either an audit or information received from the
124 Department of Environmental Protection, that a taxpayer received
125 tax credits under this section to which the taxpayer was not
126 entitled. In the case of fraud, the taxpayer shall be prohibited
127 from claiming any future tax credits under this section or s.
128 220.1845.

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

132 2. The taxpayer shall file with the Department of Revenue
133 an amended tax return or such other report as the Department of

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134 Revenue prescribes by rule and shall pay any required tax within
135 60 days after the taxpayer receives notification from the
136 Department of Environmental Protection pursuant to s. 376.30781
137 that previously approved tax credits have been revoked or
138 modified, if uncontested, or within 60 days after a final order
139 is issued following proceedings involving a contested revocation
140 or modification order.

141 3. A notice of deficiency may be issued by the Department
142 of Revenue at any time within 5 years after the date the
143 taxpayer receives notification from the Department of
144 Environmental Protection pursuant to s. 376.30781 that
145 previously approved tax credits have been revoked or modified.
146 If a taxpayer fails to notify the Department of Revenue of any
147 change in its tax credit claimed, a notice of deficiency may be
148 issued at any time. In either case, the amount of any proposed
149 assessment set forth in such notice of deficiency shall be
150 limited to the amount of any deficiency resulting under this
151 section from the recomputation of the taxpayer's tax for the
152 taxable year.

153 4. Any taxpayer that fails to report and timely pay any
154 tax due as a result of the forfeiture of its tax credit is in
155 violation of this section and is subject to applicable penalty
156 and interest.

157 Section 2. Section 220.1845, Florida Statutes, is amended
158 to read:

159 220.1845 Contaminated site rehabilitation tax credit.--

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

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

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

167 2. A drycleaning-solvent-contaminated site at which
168 cleanup is undertaken by the real property owner pursuant to s.
169 376.3078(11), if the real property owner is not also, and has
170 never been, the owner or operator of the drycleaning facility
171 where the contamination exists; or

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

174 (b) A tax credit applicant, or multiple tax credit
175 applicants working jointly to clean up a single site, may not be
176 granted more than \$500,000 ~~\$250,000~~ per year in tax credits for
177 each site voluntarily rehabilitated. Multiple tax credit
178 applicants shall be granted tax credits in the same proportion
179 as their contribution to payment of cleanup costs. Subject to
180 the same conditions and limitations as provided in this section,
181 a municipality, county, or other tax credit applicant which
182 voluntarily rehabilitates a site may receive not more than
183 \$500,000 ~~\$250,000~~ per year in tax credits which it can
184 subsequently transfer subject to the provisions in paragraph
185 (h).

186 (c) If the credit granted under this section is not fully
187 used in any one year because of insufficient tax liability on
188 the part of the corporation, the unused amount may be carried
189 forward for a period not to exceed 5 years. The carryover credit
190 may be used in a subsequent year when the tax imposed by this
191 chapter for that year exceeds the credit for which the

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192 corporation is eligible in that year under this section after
193 applying the other credits and unused carryovers in the order
194 provided by s. 220.02(8). Five years after the date a credit is
195 granted under this section, such credit expires and may not be
196 used. However, if during the 5-year period the credit is
197 transferred, in whole or in part, pursuant to paragraph (h),
198 each transferee has 5 years after the date of transfer to use
199 its credit.

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

204 (e) A taxpayer that receives credit under s. 199.1055 is
205 ineligible to receive credit under this section in a given tax
206 year.

207 (f) A tax credit applicant that receives state-funded site
208 rehabilitation under s. 376.3078(3) for rehabilitation of a
209 drycleaning-solvent-contaminated site is ineligible to receive
210 credit under this section for costs incurred by the tax credit
211 applicant in conjunction with the rehabilitation of that site
212 during the same time period that state-administered site
213 rehabilitation was underway.

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

217 (h)1. Tax credits that may be available under this section
218 to an entity eligible under s. 376.30781 may be transferred
219 after a merger or acquisition to the surviving or acquiring

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220 entity and used in the same manner and with the same
221 limitations.

222 2. The entity or its surviving or acquiring entity as
223 described in subparagraph 1., may transfer any unused credit in
224 whole or in units of no less than 25 percent of the remaining
225 credit. The entity acquiring such credit may use it in the same
226 manner and with the same limitation as described in this
227 section. Such transferred credits may not be transferred again
228 although they may succeed to a surviving or acquiring entity
229 subject to the same conditions and limitations as described in
230 this section.

231 3. In the event the credit provided for under this section
232 is reduced either as a result of a determination by the
233 Department of Environmental Protection or an examination or
234 audit by the Department of Revenue, such tax deficiency shall be
235 recovered from the first entity, or the surviving or acquiring
236 entity, to have claimed such credit up to the amount of credit
237 taken. Any subsequent deficiencies shall be assessed against any
238 entity acquiring and claiming such credit, or in the case of
239 multiple succeeding entities in the order of credit succession.

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

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248 (j) In order to encourage the construction of housing that
249 meets the definition of affordable provided in s. 420.0004(3),
250 an applicant for the tax credit may claim an additional 25
251 percent of the total site-rehabilitation costs that are eligible
252 for tax credits under this section, not to exceed \$500,000. In
253 order to receive this additional tax credit, the applicant must
254 provide a certification letter from the Florida Housing Finance
255 Corporation, the local housing authority, or other governmental
256 agency that is a party to the use agreement, indicating that the
257 construction on the brownfield site is complete, the brownfield
258 site has received a certificate of occupancy, and the brownfield
259 site has a properly recorded instrument that limits the use of
260 the property to housing that meets the definition of affordable
261 provided in s. 420.0004(3).

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

266 (3) ADMINISTRATION; AUDIT AUTHORITY; TAX CREDIT
267 FORFEITURE.--

268 (a) The Department of Revenue may adopt rules to prescribe
269 any necessary forms required to claim a tax credit under this
270 section and to provide the administrative guidelines and
271 procedures required to administer this section.

272 (b) In addition to its existing audit and investigation
273 authority relating to chapter 199 and this chapter, the
274 Department of Revenue may perform any additional financial and
275 technical audits and investigations, including examining the
276 accounts, books, or records of the tax credit applicant, which

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277 are necessary to verify the site rehabilitation costs included
278 in a tax credit return and to ensure compliance with this
279 section. The Department of Environmental Protection shall
280 provide technical assistance, when requested by the Department
281 of Revenue, on any technical audits performed pursuant to this
282 section.

283 (c) It is grounds for forfeiture of previously claimed and
284 received tax credits if the Department of Revenue determines, as
285 a result of either an audit or information received from the
286 Department of Environmental Protection, that a taxpayer received
287 tax credits pursuant to this section to which the taxpayer was
288 not entitled. In the case of fraud, the taxpayer shall be
289 prohibited from claiming any future tax credits under this
290 section or s. 199.1055.

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

294 2. The taxpayer shall file with the Department of Revenue
295 an amended tax return or such other report as the Department of
296 Revenue prescribes by rule and shall pay any required tax within
297 60 days after the taxpayer receives notification from the
298 Department of Environmental Protection pursuant to s. 376.30781
299 that previously approved tax credits have been revoked or
300 modified, if uncontested, or within 60 days after a final order
301 is issued following proceedings involving a contested revocation
302 or modification order.

303 3. A notice of deficiency may be issued by the Department
304 of Revenue at any time within 5 years after the date the
305 taxpayer receives notification from the Department of
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306 Environmental Protection pursuant to s. 376.30781 that
307 previously approved tax credits have been revoked or modified.
308 If a taxpayer fails to notify the Department of Revenue of any
309 change in its tax credit claimed, a notice of deficiency may be
310 issued at any time. In either case, the amount of any proposed
311 assessment set forth in such notice of deficiency shall be
312 limited to the amount of any deficiency resulting under this
313 section from the recomputation of the taxpayer's tax for the
314 taxable year.

315 4. Any taxpayer that fails to report and timely pay any
316 tax due as a result of the forfeiture of its tax credit is in
317 violation of this section and is subject to applicable penalty
318 and interest.

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

321 376.30781 Partial tax credits for rehabilitation of
322 drycleaning-solvent-contaminated sites and brownfield sites in
323 designated brownfield areas; application process; rulemaking
324 authority; revocation authority.--

325 (1) The Legislature finds that:

326 (a) To facilitate property transactions and economic
327 growth and development, it is in the interest of the state to
328 encourage the cleanup, at the earliest possible time, of
329 drycleaning-solvent-contaminated sites and brownfield sites in
330 designated brownfield areas.

331 (b) It is the intent of the Legislature to encourage the
332 voluntary cleanup of drycleaning-solvent-contaminated sites and
333 brownfield sites in designated brownfield areas by providing a

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334 partial tax credit for the restoration of such property in
335 specified circumstances.

336 (2) Notwithstanding the requirements of subsection (5),
337 tax credits allowed pursuant to ss. 199.1055 and 220.1845 are
338 available for any site rehabilitation conducted during the
339 calendar year in which the applicable voluntary cleanup
340 agreement or brownfield site rehabilitation agreement is
341 executed, even if the site rehabilitation is conducted prior to
342 the execution of that agreement or the designation of the
343 brownfield area.

344 (3)-(2)(a) A credit in the amount of 50 ~~35~~ percent of the
345 costs of voluntary cleanup activity that is integral to site
346 rehabilitation at the following sites is allowed pursuant to ss.
347 199.1055 and 220.1845:

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

350 2. A drycleaning-solvent-contaminated site at which
351 cleanup is undertaken by the real property owner pursuant to s.
352 376.3078(11), if the real property owner is not also, and has
353 never been, the owner or operator of the drycleaning facility
354 where the contamination exists; or

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

357 (b) A tax credit applicant, or multiple tax credit
358 applicants working jointly to clean up a single site, may not be
359 granted more than \$500,000 ~~\$250,000~~ per year in tax credits for
360 each site voluntarily rehabilitated. Multiple tax credit
361 applicants shall be granted tax credits in the same proportion
362 as their contribution to payment of cleanup costs. Tax credits
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363 are available only for site rehabilitation conducted during the
364 calendar year for which the tax credit application is submitted.

365 (c) In order to encourage completion of site
366 rehabilitation at contaminated sites that are being voluntarily
367 cleaned up and that are eligible for a tax credit under this
368 section, the tax credit applicant may claim an additional 25 ~~10~~
369 percent of the total cleanup costs, not to exceed \$500,000
370 ~~\$50,000~~, in the final year of cleanup as evidenced by the
371 Department of Environmental Protection issuing a "No Further
372 Action" order for that site.

373 (d) In order to encourage the construction of housing that
374 meets the definition of affordable provided in s. 420.0004(3),
375 an applicant for the tax credit may claim an additional 25
376 percent of the total site-rehabilitation costs that are eligible
377 for tax credits under this section, not to exceed \$500,000. In
378 order to receive this additional tax credit, the applicant must
379 provide a certification letter from the Florida Housing Finance
380 Corporation, the local housing authority, or other governmental
381 agency that is a party to the use agreement, indicating that the
382 construction on the brownfield site is complete, the brownfield
383 site has received a certificate of occupancy, and the brownfield
384 site has a properly recorded instrument that limits the use of
385 the property to housing that meets the definition of affordable
386 provided in s. 420.0004(3). Notwithstanding the limitation that
387 only one application shall be submitted each year for each site,
388 an application for the additional credit provided for in this
389 paragraph shall be submitted as soon as all requirements to
390 obtain this additional tax credit have been met.

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391 ~~(4)~~~~(3)~~ The Department of Environmental Protection shall be
392 responsible for allocating the tax credits provided for in ss.
393 199.1055 and 220.1845, not to exceed a total of \$5 ~~\$2~~-million in
394 tax credits annually.

395 ~~(5)~~~~(4)~~ To claim the credit for site rehabilitation
396 conducted during the current calendar year, each tax credit
397 applicant must apply to the Department of Environmental
398 Protection for an allocation of the \$5 ~~\$2~~ million annual credit
399 by January 15 of the following year on a form developed by the
400 Department of Environmental Protection in cooperation with the
401 Department of Revenue. The form shall include an affidavit from
402 each tax credit applicant certifying that all information
403 contained in the application, including all records of costs
404 incurred and claimed in the tax credit application, are true and
405 correct. If the application is submitted pursuant to
406 subparagraph (2)(a)2., the form must include an affidavit signed
407 by the real property owner stating that it is not, and has never
408 been, the owner or operator of the drycleaning facility where
409 the contamination exists. Approval of partial tax credits must
410 be accomplished on a first-come, first-served basis based upon
411 the date complete applications are received by the Division of
412 Waste Management. A tax credit applicant shall submit only one
413 complete application per site for each calendar year's site
414 rehabilitation costs. Incomplete placeholder applications shall
415 not be accepted and will not secure a place in the first-come,
416 first-served application line. To be eligible for a tax credit,
417 the tax credit applicant must:

418 (a) Have entered into a voluntary cleanup agreement with
419 the Department of Environmental Protection for a drycleaning-

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420 solvent-contaminated site or a Brownfield Site Rehabilitation
421 Agreement, as applicable; and

422 (b) Have paid all deductibles pursuant to s.
423 376.3078(3)(e) for eligible drycleaning-solvent-cleanup program
424 sites.

425 ~~(6)~~⁽⁵⁾ To obtain the tax credit certificate, a tax credit
426 applicant must annually file an application for certification,
427 which must be received by the Division of Waste Management of
428 the Department of Environmental Protection by January 15 of the
429 year following the calendar year for which site rehabilitation
430 costs are being claimed in a tax credit application. The tax
431 credit applicant must provide all pertinent information
432 requested on the tax credit application form, including, at a
433 minimum, the name and address of the tax credit applicant and
434 the address and tracking identification number of the eligible
435 site. Along with the tax credit application form, the tax credit
436 applicant must submit the following:

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

441 (b) Copies of contracts and documentation of contract
442 negotiations, accounts, invoices, sales tickets, or other
443 payment records from purchases, sales, leases, or other
444 transactions involving actual costs incurred for that tax year
445 related to site rehabilitation, as that term is defined in ss.
446 376.301 and 376.79;

447 (c) Proof that the documentation submitted pursuant to
448 paragraph (b) has been reviewed and verified by an independent

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449 certified public accountant in accordance with standards
450 established by the American Institute of Certified Public
451 Accountants. Specifically, the certified public accountant must
452 attest to the accuracy and validity of the costs incurred and
453 paid by conducting an independent review of the data presented
454 by the tax credit applicant. Accuracy and validity of costs
455 incurred and paid would be determined once the level of effort
456 was certified by an appropriate professional registered in this
457 state in each contributing technical discipline. The certified
458 public accountant's report would also attest that the costs
459 included in the application form are not duplicated within the
460 application. A copy of the accountant's report shall be
461 submitted to the Department of Environmental Protection with the
462 tax credit application; and

463 (d) A certification form stating that site rehabilitation
464 activities associated with the documentation submitted pursuant
465 to paragraph (b) have been conducted under the observation of,
466 and related technical documents have been signed and sealed by,
467 an appropriate professional registered in this state in each
468 contributing technical discipline. The certification form shall
469 be signed and sealed by the appropriate registered professionals
470 stating that the costs incurred were integral, necessary, and
471 required for site rehabilitation, as that term is defined in ss.
472 376.301 and 376.79.

473 ~~(7)(6)~~ The certified public accountant and appropriate
474 registered professionals submitting forms as part of a tax
475 credit application must verify such forms. Verification must be
476 accomplished as provided in s. 92.525(1)(b) and subject to the
477 provisions of s. 92.525(3).

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478 (8)~~(7)~~ The Department of Environmental Protection shall
479 review the tax credit application and any supplemental
480 documentation that the tax credit applicant may submit prior to
481 the annual application deadline in order to have the application
482 considered complete, for the purpose of verifying that the tax
483 credit applicant has met the qualifying criteria in subsections
484 (2) and (4) and has submitted all required documentation listed
485 in subsection (5). Upon verification that the tax credit
486 applicant has met these requirements, the department shall issue
487 a written decision granting eligibility for partial tax credits
488 (a tax credit certificate) in the amount of 50 ~~35~~ percent of the
489 total costs claimed, subject to the \$500,000 ~~\$250,000~~
490 limitation, for the calendar year for which the tax credit
491 application is submitted based on the report of the certified
492 public accountant and the certifications from the appropriate
493 registered technical professionals.

494 (9)~~(8)~~ On or before March 1, the Department of
495 Environmental Protection shall inform each eligible tax credit
496 applicant of the amount of its partial tax credit and provide
497 each eligible tax credit applicant with a tax credit certificate
498 that must be submitted with its tax return to the Department of
499 Revenue to claim the tax credit or be transferred pursuant to s.
500 199.1055(1)(g) or s. 220.1845(1)(h). Credits will not result in
501 the payment of refunds if total credits exceed the amount of tax
502 owed.

503 (10)~~(9)~~ If a tax credit applicant does not receive a tax
504 credit allocation due to an exhaustion of the \$5 ~~\$2~~-million
505 annual tax credit authorization, such application will then be
506 included in the same first-come, first-served order in the next

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507 year's annual tax credit allocation, if any, based on the prior
508 year application.

509 ~~(11)-(10)~~ The Department of Environmental Protection may
510 adopt rules to prescribe the necessary forms required to claim
511 tax credits under this section and to provide the administrative
512 guidelines and procedures required to administer this section.

513 ~~(12)-(11)~~ The Department of Environmental Protection may
514 revoke or modify any written decision granting eligibility for
515 partial tax credits under this section if it is discovered that
516 the tax credit applicant submitted any false statement,
517 representation, or certification in any application, record,
518 report, plan, or other document filed in an attempt to receive
519 partial tax credits under this section. The Department of
520 Environmental Protection shall immediately notify the Department
521 of Revenue of any revoked or modified orders affecting
522 previously granted partial tax credits. Additionally, the tax
523 credit applicant must notify the Department of Revenue of any
524 change in its tax credit claimed.

525 ~~(13)-(12)~~ A tax credit applicant who receives state-funded
526 site rehabilitation under s. 376.3078(3) for rehabilitation of a
527 drycleaning-solvent-contaminated site is ineligible to receive a
528 tax credit under s. 199.1055 or s. 220.1845 for costs incurred
529 by the tax credit applicant in conjunction with the
530 rehabilitation of that site during the same time period that
531 state-administered site rehabilitation was underway.

532 (14) At any brownfield site in a designated brownfield area
533 under s. 376.80, a tax credit applicant may also claim tax
534 credits pursuant to the requirements of this section for

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535 voluntary cleanup of sites impacted by solid waste subject to
536 the following criteria:

537 (a) For purposes of this subsection:

538 1. "Solid waste" shall have the meaning found in s.
539 403.703(13);

540 2. "Sites impacted by solid waste" must be located in an
541 "urban area."

542 3. "Urban area" shall have the meaning found in s.
543 380.503(15);

544 4. "Sites impacted by solid waste" shall not include sites
545 that merely have litter or debris scattered on the surface of
546 the land; and

547 5. "Sites impacted by solid waste" shall not include sites
548 where the clean up activity addresses the disposal of solid
549 waste transported from another location for the purpose of
550 disposal on the disposal site, and for the pecuniary gain of the
551 prior or current property owner or operator of the disposal
552 site.

553 (b) Tax credits may be claimed for one or more of the
554 following activities:

555 1. Analytical work to assess potential contamination in any
556 media;

557 2. Sorting, screening, separating, excavating, removing, or
558 disposing of solid waste in a manner consistent with Florida
559 law;

560 3. Backfilling with clean fill excavated areas where solid
561 waste was removed;

562 4. Compacting excavated areas where solid waste was
563 removed;

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564 5. Establishing institutional controls; and

565 6. Engineering work directly associated with the activities
566 listed in this paragraph (b).

567 (c) Costs for compacting the solid waste shall not be
568 eligible for tax credits pursuant to this section; and

569 (d) No activities conducted in accordance with this
570 subsection (14) shall be considered site rehabilitation.

571 (15) In implementing subsection (14), the Department shall
572 use the same criteria, requirements, and limitations detailed in
573 subsections (1) through (13) of this section and sections
574 199.1055 and 220.1845, with the following exceptions:

575 (a) Where reference is made to "site rehabilitation," the
576 Department shall instead consider whether the costs claimed are
577 for voluntary cleanup of sites impacted by solid waste as
578 outlined in subsection (14);

579 (b) In lieu of the certification requirements of paragraph
580 (5)(d), a tax credit applicant seeking a tax credit pursuant to
581 subsection (14) shall include in its tax credit application:

582 1. A certification that the applicant has determined, after
583 consultation with local government officials and the Department,
584 that, to the best of the applicant's knowledge, the clean up
585 activity did not address the disposal of solid waste transported
586 from another location for the purpose of disposal on the
587 disposal site, and for the pecuniary gain of the prior or
588 current property owner or operator of the disposal site;

589 2. A certification that the applicant has determined, after
590 consultation with local government officials, that the disposal
591 of the solid waste was in an urban area;

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592 3. A certification signed and sealed by an appropriate
593 registered professional that costs incurred and claimed in the
594 tax credit application were integral, necessary and required to
595 conduct those activities listed in paragraph (14)(b), as
596 applicable; and

597 4. A certification that the applicant did not cause or
598 contribute to the disposal of the solid waste.

599 (c) Tax credit applications claiming costs pursuant to
600 paragraph (14)(b) shall not be subject to the calendar-year
601 limitation and January 15 annual application deadline, and
602 instead the Department shall accept a one-time application filed
603 subsequent to the tax credit applicant completing the applicable
604 requirements listed in subsection (14) and this subsection;

605 (d) The additional percentage allowed by paragraph (2)(c)
606 and paragraphs 199.1055(1)(h) and 220.1845(1)(i) is applicable
607 to tax credits claimed pursuant to subsection (14) only if all
608 solid waste has been removed from the site;

609 (e) The Department shall have 60 days from the date of
610 receipt of any application claiming tax credits pursuant to
611 subsection (14) to process the application and grant or deny the
612 claimed tax credits; and

613 (f) Subsection 14 and this subsection shall not be
614 construed to broaden the authority of local governments to
615 designate brownfield areas under s. 376.80.

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

618 196.012 Definitions.--For the purpose of this chapter, the
619 following terms are defined as follows, except where the context
620 clearly indicates otherwise:

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621 (15) "New business" means:

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

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

633 3. An office space in this state owned and used by a
634 corporation newly domiciled in this state; provided such office
635 space houses 50 or more full-time employees of such corporation;
636 provided that such business or office first begins operation on
637 a site clearly separate from any other commercial or industrial
638 operation owned by the same business.

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

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

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

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

653 2. A business establishing 25 or more jobs to employ 25 or
654 more full-time employees in this state, the sales factor of
655 which, as defined by s. 220.15(5), for the facility with respect
656 to which it requests an economic development ad valorem tax
657 exemption is less than 0.50 for each year the exemption is
658 claimed; provided that such business increases operations on a
659 site colocated with a commercial or industrial operation owned
660 by the same business, resulting in a net increase in employment
661 of not less than 10 percent or an increase in productive output
662 of not less than 10 percent.

663 (b) Any business located in an enterprise zone or
664 brownfield area that increases operations on a site colocated
665 with a commercial or industrial operation owned by the same
666 business.

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

669 196.1995 Economic development ad valorem tax exemption.--

670 (1) The board of county commissioners of any county or the
671 governing authority of any municipality shall call a referendum
672 within its total jurisdiction to determine whether its
673 respective jurisdiction may grant economic development ad
674 valorem tax exemptions under s. 3, Art. VII of the State
675 Constitution if:

676 (a) The board of county commissioners of the county or the
677 governing authority of the municipality votes to hold such
678 referendum; or

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679 (b) The board of county commissioners of the county or the
680 governing authority of the municipality receives a petition
681 signed by 10 percent of the registered electors of its
682 respective jurisdiction, which petition calls for the holding of
683 such referendum.

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

686
687 Shall the board of county commissioners of this county (or the
688 governing authority of this municipality, or both) be authorized
689 to grant, pursuant to s. 3, Art. VII of the State Constitution,
690 property tax exemptions to new businesses and expansions of
691 existing businesses?

692 Yes--For authority to grant exemptions.

693 No--Against authority to grant exemptions.

694 (3) The board of county commissioners or the governing
695 authority of the municipality that ~~which~~ calls a referendum
696 within its total jurisdiction to determine whether its
697 respective jurisdiction may grant economic development ad
698 valorem tax exemptions may vote to limit the effect of the
699 referendum to authority to grant economic development tax
700 exemptions for new businesses and expansions of existing
701 businesses located in an enterprise zone or a brownfield area,
702 as defined in s. 376.79(4). If ~~In the event that~~ an area
703 nominated to be an enterprise zone pursuant to s. 290.0055 has
704 not yet been designated pursuant to s. 290.0065 or has not been
705 designated as a brownfield pursuant to s. 376.80, the board of
706 county commissioners or the governing authority of the
707 municipality may call such referendum prior to such designation;

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708 however, the authority to grant economic development ad valorem
709 tax exemptions does ~~will~~ not apply until such area is designated
710 pursuant to s. 290.0065. The ballot question in such referendum
711 shall be in substantially the following form and shall be used
712 in lieu of the ballot question prescribed in subsection (2):

713
714 Shall the board of county commissioners of this county (or the
715 governing authority of this municipality, or both) be authorized
716 to grant, pursuant to s. 3, Art. VII of the State Constitution,
717 property tax exemptions for new businesses and expansions of
718 existing businesses which are located in an enterprise zone or a
719 brownfield area?

720 Yes--For authority to grant exemptions.

721 No--Against authority to grant exemptions.

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

724 (5) Upon a majority vote in favor of such authority, the
725 board of county commissioners or the governing authority of the
726 municipality, at its discretion, by ordinance may exempt from ad
727 valorem taxation up to 100 percent of the assessed value of all
728 improvements to real property made by or for the use of a new
729 business and of all tangible personal property of such new
730 business, or up to 100 percent of the assessed value of all
731 added improvements to real property made to facilitate the
732 expansion of an existing business and of the net increase in all
733 tangible personal property acquired to facilitate such expansion
734 of an existing business, provided that the improvements to real
735 property are made or the tangible personal property is added or
736 increased on or after the day the ordinance is adopted. However,

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737 if the authority to grant exemptions is approved in a referendum
738 in which the ballot question contained in subsection (3) appears
739 on the ballot, the authority of the board of county
740 commissioners or the governing authority of the municipality to
741 grant exemptions is limited solely to new businesses and
742 expansions of existing businesses that ~~which~~ are located in an
743 enterprise zone or brownfield area. Property acquired to replace
744 existing property shall not be considered to facilitate a
745 business expansion. The exemption applies only to taxes levied
746 by the respective unit of government granting the exemption.
747 The exemption does not apply, however, to taxes levied for the
748 payment of bonds or to taxes authorized by a vote of the
749 electors pursuant to s. 9(b) or s. 12, Art. VII of the State
750 Constitution. Any such exemption shall remain in effect for up
751 to 10 years with respect to any particular facility, regardless
752 of any change in the authority of the county or municipality to
753 grant such exemptions. The exemption shall not be prolonged or
754 extended by granting exemptions from additional taxes or by
755 virtue of any reorganization or sale of the business receiving
756 the exemption.

757 (6) With respect to a new business as defined by s.
758 196.012(15)(c), the municipality annexing the property on which
759 the business is situated may grant an economic development ad
760 valorem tax exemption under this section to that business for a
761 period that will expire upon the expiration of the exemption
762 granted by the county. If the county renews the exemption under
763 subsection (7), the municipality may also extend its exemption.
764 A municipal economic development ad valorem tax exemption

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765 granted under this subsection may not extend beyond the duration
766 of the county exemption.

767 (7) The authority to grant exemptions under this section
768 will expire 10 years after the date such authority was approved
769 in an election, but such authority may be renewed for another
770 10-year period in a referendum called and held pursuant to this
771 section.

772 (8) Any person, firm, or corporation which desires an
773 economic development ad valorem tax exemption shall, in the year
774 the exemption is desired to take effect, file a written
775 application on a form prescribed by the department with the
776 board of county commissioners or the governing authority of the
777 municipality, or both. The application shall request the
778 adoption of an ordinance granting the applicant an exemption
779 pursuant to this section and shall include the following
780 information:

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

783 (b) A description of the improvements to real property for
784 which an exemption is requested and the date of commencement of
785 construction of such improvements;

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

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

793 (e) Other information deemed necessary by the department.

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794 (9) Before it takes action on the application, the board
795 of county commissioners or the governing authority of the
796 municipality shall deliver a copy of the application to the
797 property appraiser of the county. After careful consideration,
798 the property appraiser shall report the following information to
799 the board of county commissioners or the governing authority of
800 the municipality:

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

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

809 (c) An estimate of the revenue which would be lost to the
810 county or municipality during the current fiscal year if the
811 exemption applied for were granted had the property for which
812 the exemption is requested otherwise been subject to taxation;
813 and

814 (d) A determination as to whether the property for which
815 an exemption is requested is to be incorporated into a new
816 business or the expansion of an existing business, as defined in
817 s. 196.012(15) or (16), or into neither, which determination the
818 property appraiser shall also affix to the face of the
819 application. Upon the request of the property appraiser, the
820 department shall provide to him or her such information as it
821 may have available to assist in making such determination.

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

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

827 (b) The total amount of revenue available to the county or
828 municipality from ad valorem tax sources for the current fiscal
829 year, the total amount of revenue lost to the county or
830 municipality for the current fiscal year by virtue of economic
831 development ad valorem tax exemptions currently in effect, and
832 the estimated revenue loss to the county or municipality for the
833 current fiscal year attributable to the exemption of the
834 business named in the ordinance;

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

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

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

841 288.9015 Enterprise Florida, Inc.; purpose; duties.--

842 (2) It shall be the responsibility of Enterprise Florida,
843 Inc., to aggressively market Florida's rural communities,
844 distressed urban communities, brownfields, and enterprise zones
845 as locations for potential new investment, to aggressively
846 assist in the retention and expansion of existing businesses in
847 these communities, and to aggressively assist these communities
848 in the identification and development of new economic
849 development opportunities for job creation, fully marketing
850 state incentive programs such as the Qualified Target Industry
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851 Tax Refund Program under s. 288.106 and the Quick Action Closing
852 Fund under s. 288.1088 in economically distressed areas.

853 Section 7. Section 376.80, Florida Statutes, is amended to
854 read:

855 376.80 Brownfield program administration process.--

856 (1) A local government with jurisdiction over the
857 brownfield area must notify the department of its decision to
858 designate a brownfield area for rehabilitation for the purposes
859 of ss. 376.77-376.85. The notification must include a
860 resolution, by the local government body, to which is attached a
861 map adequate to clearly delineate exactly which parcels are to
862 be included in the brownfield area or alternatively a less-
863 detailed map accompanied by a detailed legal description of the
864 brownfield area. If a property owner within the area proposed
865 for designation by the local government requests in writing to
866 have his or her property removed from the proposed designation,
867 the local government shall grant the request. For
868 municipalities, the governing body shall adopt the resolution in
869 accordance with the procedures outlined in s. 166.041, except
870 that the notice for the public hearings on the proposed
871 resolution must be in the form established in s. 166.041(3)(c)2.
872 For counties, the governing body shall adopt the resolution in
873 accordance with the procedures outlined in s. 125.66, except
874 that the notice for the public hearings on the proposed
875 resolution shall be in the form established in s. 125.66(4)(b)2.

876 (2)(a) If a local government proposes to designate a
877 brownfield area that is outside community redevelopment areas,
878 enterprise zones, empowerment zones, closed military bases, or
879 designated brownfield pilot project areas, the local government

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880 must conduct at least one public hearing in the area to be
881 designated to provide an opportunity for public input on the
882 size of the area, the objectives for rehabilitation, job
883 opportunities and economic developments anticipated,
884 neighborhood residents' considerations, and other relevant local
885 concerns. Notice of the public hearing must be made in a
886 newspaper of general circulation in the area and the notice must
887 be at least 16 square inches in size, must be in ethnic
888 newspapers or local community bulletins, must be posted in the
889 affected area, and must be announced at a scheduled meeting of
890 the local governing body before the actual public hearing. In
891 determining the areas to be designated, the local government
892 must consider:

- 893 1. Whether the brownfield area warrants economic
894 development and has a reasonable potential for such activities;
895 2. Whether the proposed area to be designated represents a
896 reasonably focused approach and is not overly large in
897 geographic coverage;
898 3. Whether the area has potential to interest the private
899 sector in participating in rehabilitation; and
900 4. Whether the area contains sites or parts of sites
901 suitable for limited recreational open space, cultural, or
902 historical preservation purposes.

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

- 905 1. A person who owns or controls a potential brownfield
906 site is requesting the designation and has agreed to
907 rehabilitate and redevelop the brownfield site;

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908 2. The rehabilitation and redevelopment of the proposed
909 brownfield site will result in economic productivity of the
910 area, along with the creation of at least 5 ~~10~~ new permanent
911 jobs at the brownfield site, ~~whether full-time or part-time,~~
912 which are full-time equivalent positions not associated with the
913 implementation of the brownfield site rehabilitation agreement
914 and which are not associated with redevelopment project
915 demolition or construction activities pursuant to the
916 redevelopment agreement required under paragraph (5)(i).
917 However, the job-creation requirement may not apply to the
918 rehabilitation and redevelopment of a brownfield site that will
919 provide affordable housing as defined in s. 420.0004(3) or the
920 creation of recreational areas, conservation areas, or parks;

921 3. The redevelopment of the proposed brownfield site is
922 consistent with the local comprehensive plan and is a
923 permittable use under the applicable local land development
924 regulations;

925 4. Notice of the proposed rehabilitation of the brownfield
926 area has been provided to neighbors and nearby residents of the
927 proposed area to be designated, and the person proposing the
928 area for designation has afforded to those receiving notice the
929 opportunity for comments and suggestions about rehabilitation.
930 Notice pursuant to this subsection must be made in a newspaper
931 of general circulation in the area, at least 16 square inches in
932 size, and the notice must be posted in the affected area; and

933 5. The person proposing the area for designation has
934 provided reasonable assurance that he or she has sufficient
935 financial resources to implement and complete the rehabilitation
936 agreement and redevelopment plan.

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937 (c) The designation of a brownfield area and the
938 identification of a person responsible for brownfield site
939 rehabilitation simply entitles the identified person to
940 negotiate a brownfield site rehabilitation agreement with the
941 department or approved local pollution control program.

942 (3) When there is a person responsible for brownfield site
943 rehabilitation, the local government must notify the department
944 of the identity of that person. If the agency or person who will
945 be responsible for the coordination changes during the approval
946 process specified in subsections (4), (5), and (6), the
947 department or the affected approved local pollution control
948 program must notify the affected local government when the
949 change occurs.

950 (4) Local governments or persons responsible for
951 rehabilitation and redevelopment of brownfield areas must
952 establish an advisory committee or use an existing advisory
953 committee that has formally expressed its intent to address
954 redevelopment of the specific brownfield area for the purpose of
955 improving public participation and receiving public comments on
956 rehabilitation and redevelopment of the brownfield area, future
957 land use, local employment opportunities, community safety, and
958 environmental justice. Such advisory committee should include
959 residents within or adjacent to the brownfield area, businesses
960 operating within the brownfield area, and others deemed
961 appropriate. The person responsible for brownfield site
962 rehabilitation must notify the advisory committee of the intent
963 to rehabilitate and redevelop the site before executing the
964 brownfield site rehabilitation agreement, and provide the
965 committee with a copy of the draft plan for site rehabilitation

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966 which addresses elements required by subsection (5). This
967 includes disclosing potential reuse of the property as well as
968 site rehabilitation activities, if any, to be performed. The
969 advisory committee shall review the proposed redevelopment
970 agreement required pursuant to paragraph (5)(i) and provide
971 comments, if appropriate, to the board of the local government
972 with jurisdiction over the brownfield area. The advisory
973 committee must receive a copy of the executed brownfield site
974 rehabilitation agreement. When the person responsible for
975 brownfield site rehabilitation submits a site assessment report
976 or the technical document containing the proposed course of
977 action following site assessment to the department or the local
978 pollution control program for review, the person responsible for
979 brownfield site rehabilitation must hold a meeting or attend a
980 regularly scheduled meeting to inform the advisory committee of
981 the findings and recommendations in the site assessment report
982 or the technical document containing the proposed course of
983 action following site assessment.

984 (5) The person responsible for brownfield site
985 rehabilitation must enter into a brownfield site rehabilitation
986 agreement with the department or an approved local pollution
987 control program if actual contamination exists at the brownfield
988 site. The brownfield site rehabilitation agreement must include:

989 (a) A brownfield site rehabilitation schedule, including
990 milestones for completion of site rehabilitation tasks and
991 submittal of technical reports and rehabilitation plans as
992 agreed upon by the parties to the agreement;

993 (b) A commitment to conduct site rehabilitation activities
994 under the observation of professional engineers or geologists

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995 who are registered in accordance with the requirements of
996 chapter 471 or chapter 492, respectively. Submittals provided by
997 the person responsible for brownfield site rehabilitation must
998 be signed and sealed by a professional engineer registered under
999 chapter 471, or a professional geologist registered under
1000 chapter 492, certifying that the submittal and associated work
1001 comply with the law and rules of the department and those
1002 governing the profession. In addition, upon completion of the
1003 approved remedial action, the department shall require a
1004 professional engineer registered under chapter 471 or a
1005 professional geologist registered under chapter 492 to certify
1006 that the corrective action was, to the best of his or her
1007 knowledge, completed in substantial conformance with the plans
1008 and specifications approved by the department;

1009 (c) A commitment to conduct site rehabilitation in
1010 accordance with department quality assurance rules;

1011 (d) A commitment to conduct site rehabilitation consistent
1012 with state, federal, and local laws and consistent with the
1013 brownfield site contamination cleanup criteria in s. 376.81,
1014 including any applicable requirements for risk-based corrective
1015 action;

1016 (e) Timeframes for the department's review of technical
1017 reports and plans submitted in accordance with the agreement.
1018 The department shall make every effort to adhere to established
1019 agency goals for reasonable timeframes for review of such
1020 documents;

1021 (f) A commitment to secure site access for the department
1022 or approved local pollution control program to all brownfield

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1023 sites within the eligible brownfield area for activities
1024 associated with site rehabilitation;

1025 (g) Other provisions that the person responsible for
1026 brownfield site rehabilitation and the department agree upon,
1027 that are consistent with ss. 376.77-376.85, and that will
1028 improve or enhance the brownfield site rehabilitation process;

1029 (h) A commitment to consider appropriate pollution
1030 prevention measures and to implement those that the person
1031 responsible for brownfield site rehabilitation determines are
1032 reasonable and cost-effective, taking into account the ultimate
1033 use or uses of the brownfield site. Such measures may include
1034 improved inventory or production controls and procedures for
1035 preventing loss, spills, and leaks of hazardous waste and
1036 materials, and include goals for the reduction of releases of
1037 toxic materials; and

1038 (i) Certification that an agreement exists between the
1039 person responsible for brownfield site rehabilitation and the
1040 local government with jurisdiction over the brownfield area.
1041 Such agreement shall contain terms for the redevelopment of the
1042 brownfield area.

1043 (6) Any contractor performing site rehabilitation program
1044 tasks must demonstrate to the department that the contractor:

1045 (a) Meets all certification and license requirements
1046 imposed by law; and

1047 (b) Has obtained the necessary approvals for conducting
1048 sample collection and analyses pursuant to department rules.

1049 (7) The contractor who is performing the majority of the
1050 site rehabilitation program tasks pursuant to a brownfield site
1051 rehabilitation agreement or supervising the performance of such
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1052 tasks by licensed subcontractors in accordance with the
1053 provisions of s. 489.113(9) must certify to the department that
1054 the contractor:

1055 (a) Complies with applicable OSHA regulations.

1056 (b) Maintains workers' compensation insurance for all
1057 employees as required by the Florida Workers' Compensation Law.

1058 (c) Maintains comprehensive general liability coverage
1059 with limits of not less than \$1 million per occurrence and \$2
1060 million general aggregate for bodily injury and property damage
1061 and comprehensive automobile liability coverage with limits of
1062 not less than \$2 million combined single limit. The contractor
1063 shall also maintain pollution liability coverage with limits of
1064 not less than \$3 million aggregate for personal injury or death,
1065 \$1 million per occurrence for personal injury or death, and \$1
1066 million per occurrence for property damage. The contractor's
1067 certificate of insurance shall name the state as an additional
1068 insured party.

1069 (d) Maintains professional liability insurance of at least
1070 \$1 million per claim and \$1 million annual aggregate.

1071 (8) Any professional engineer or geologist providing
1072 professional services relating to site rehabilitation program
1073 tasks must carry professional liability insurance with a
1074 coverage limit of at least \$1 million.

1075 (9) During the cleanup process, if the department or local
1076 program fails to complete review of a technical document within
1077 the timeframe specified in the brownfield site rehabilitation
1078 agreement, the person responsible for brownfield site
1079 rehabilitation may proceed to the next site rehabilitation task.

1080 However, the person responsible for brownfield site
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1081 rehabilitation does so at its own risk and may be required by
1082 the department or local program to complete additional work on a
1083 previous task. Exceptions to this subsection include requests
1084 for "no further action," "monitoring only proposals," and
1085 feasibility studies, which must be approved prior to
1086 implementation.

1087 (10) If the person responsible for brownfield site
1088 rehabilitation fails to comply with the brownfield site
1089 rehabilitation agreement, the department shall allow 90 days for
1090 the person responsible for brownfield site rehabilitation to
1091 return to compliance with the provision at issue or to negotiate
1092 a modification to the brownfield site rehabilitation agreement
1093 with the department for good cause shown. If an imminent hazard
1094 exists, the 90-day grace period shall not apply. If the project
1095 is not returned to compliance with the brownfield site
1096 rehabilitation agreement and a modification cannot be
1097 negotiated, the immunity provisions of s. 376.82 are revoked.

1098 (11) The department is specifically authorized and
1099 encouraged to enter into delegation agreements with local
1100 pollution control programs approved under s. 403.182 to
1101 administer the brownfield program within their jurisdictions,
1102 thereby maximizing the integration of this process with the
1103 other local development processes needed to facilitate
1104 redevelopment of a brownfield area. When determining whether a
1105 delegation pursuant to this subsection of all or part of the
1106 brownfields program to a local pollution control program is
1107 appropriate, the department shall consider the following. The
1108 local pollution control program must:

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1109 (a) Have and maintain the administrative organization,
1110 staff, and financial and other resources to effectively and
1111 efficiently implement and enforce the statutory requirements of
1112 the delegated brownfields program; and

1113 (b) Provide for the enforcement of the requirements of the
1114 delegated brownfields program, and for notice and a right to
1115 challenge governmental action, by appropriate administrative and
1116 judicial process, which shall be specified in the delegation.

1117
1118 The local pollution control program shall not be delegated
1119 authority to take action on or to make decisions regarding any
1120 brownfield site on land owned by the local government. Any
1121 delegation agreement entered into pursuant to this subsection
1122 shall contain such terms and conditions necessary to ensure the
1123 effective and efficient administration and enforcement of the
1124 statutory requirements of the brownfields program as established
1125 by the act and the relevant rules and other criteria of the
1126 department.

1127 (12) Local governments are encouraged to use the full
1128 range of economic and tax incentives available to facilitate and
1129 promote the rehabilitation of brownfield areas, to help
1130 eliminate the public health and environmental hazards, and to
1131 promote the creation of jobs and economic development in these
1132 previously run-down, blighted, and underutilized areas.

1133 Section 8. Subsection (1) of section 376.86, Florida
1134 Statutes, is amended to read:

1135 376.86 Brownfield Areas Loan Guarantee Program.--

1136 (1) The Brownfield Areas Loan Guarantee Council is created
1137 to review and approve or deny by a majority vote of its

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1138 membership, the situations and circumstances for participation
 1139 in partnerships by agreements with local governments, financial
 1140 institutions, and others associated with the redevelopment of
 1141 brownfield areas pursuant to the Brownfields Redevelopment Act
 1142 for a limited state guaranty of up to 5 years of loan guarantees
 1143 or loan loss reserves issued pursuant to law. The limited state
 1144 loan guaranty applies only to 50 ~~40~~ percent of the primary
 1145 lenders loans for redevelopment projects in brownfield areas. If
 1146 the redevelopment project is for affordable housing, as defined
 1147 in s. 420.0004(3), in a brownfield area, the limited state loan
 1148 guaranty applies to 75 percent of the primary lender's loan. A
 1149 limited state guaranty of private loans or a loan loss reserve
 1150 is authorized for lenders licensed to operate in the state upon
 1151 a determination by the council that such an arrangement would be
 1152 in the public interest and the likelihood of the success of the
 1153 loan is great.

1154 Section 9. Sections 376.87 and 376.875, Florida Statutes,
 1155 are repealed.

1156 Section 10. This act shall take effect July 1, 2006.

1157
 1158
 1159

1160 ===== T I T L E A M E N D M E N T =====

1161 Remove the entire title and insert:

1162
 1163

1164 A bill to be entitled
 1165 An act relating to the redevelopment of brownfields;
 1166 amending ss. 199.1055, 220.1845, and 376.30781, 376.80,
 and 376.86, F.S.; increasing the amount and percentage of

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1167 the credit that may be applied against the intangible
1168 personal property tax and the corporate income tax for the
1169 cost of voluntary cleanup of a contaminated site;
1170 increasing the amount that may be received by the taxpayer
1171 as an incentive to complete the cleanup in the final year;
1172 increasing the total amount of credits that may be granted
1173 in any year; providing tax credits for voluntary cleanup
1174 activities related to solid waste disposal facilities;
1175 providing criteria for eligible sites and activities;
1176 increasing the amount of the Brownfield Areas Loan
1177 Guarantee; reducing the job creation requirements;
1178 directing the Department of Environmental Protection to
1179 apply certain criteria, requirements, and limitations for
1180 implementation of such provisions; providing certain
1181 exceptions; amending s. 288.9015, F.S.; requiring
1182 Enterprise Florida, Inc., to aggressively market
1183 brownfields; amending ss. 196.012 and 196.1995, F.S., to
1184 include brownfield areas in the implementation of the
1185 economic development ad valorem tax exemption authorized
1186 under s. 3, Art VII of the Florida Constitution; repealing
1187 s. 376.87, F.S., relating to the Brownfield Property
1188 Ownership Clearance Assistance; repealing s. 376.875,
1189 F.S., relating to the Brownfield Property Ownership
1190 Clearance Assistance Revolving Loan Trust Fund; amending
1191 s. 14.2015, F.S.; deleting a reference to the trust fund
1192 to conform; providing an effective date.

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