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HB 7131, Engrossed 2

2006 Legislature

1 A bill to be entitled

2 An act relating to the redevelopment of brownfields;
3 amending ss. 199.1055, 220.1845, 376.30781, 376.80, and
4 376.86, F.S.; increasing the amount and percentage of the
5 credit that may be applied against the intangible personal
6 property tax and the corporate income tax for the cost of
7 voluntary cleanup of a contaminated site; increasing the
8 amount that may be received by the taxpayer as an
9 incentive to complete the cleanup in the final year;
10 increasing the total amount of credits that may be granted
11 in any year; providing tax credits for voluntary cleanup
12 activities related to solid waste disposal facilities;
13 providing criteria for eligible sites and activities;
14 increasing the amount of the Brownfield Areas Loan
15 Guarantee; reducing the job creation requirements;
16 directing the Department of Environmental Protection to
17 apply certain criteria, requirements, and limitations for
18 implementation of such provisions; providing certain
19 exceptions; amending s. 288.9015, F.S.; requiring
20 Enterprise Florida, Inc., to aggressively market
21 brownfields; amending ss. 196.012 and 196.1995, F.S., to
22 include brownfield areas in the implementation of the
23 economic development ad valorem tax exemption authorized
24 under s. 3, Art VII of the Florida Constitution; repealing
25 s. 376.87, F.S., relating to the Brownfield Property
26 Ownership Clearance Assistance; repealing s. 376.875,
27 F.S., relating to the Brownfield Property Ownership
28 Clearance Assistance Revolving Loan Trust Fund; amending

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CODING: Words ~~stricken~~ are deletions; words underlined are additions.

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29 s. 14.2015, F.S.; deleting a reference to the trust fund
 30 to conform; providing that the repeal of certain
 31 provisions relating to the tax on intangible personal
 32 property prevails over any amendment to such provisions
 33 contained in this act; providing an effective date.
 34

35 Be It Enacted by the Legislature of the State of Florida:
 36

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

39 199.1055 Contaminated site rehabilitation tax credit.--

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

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

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

48 2. A drycleaning-solvent-contaminated site at which
 49 cleanup is undertaken by the real property owner pursuant to s.
 50 376.3078(11), if the real property owner is not also, and has
 51 never been, the owner or operator of the drycleaning facility
 52 where the contamination exists; or

53 3. A brownfield site in a designated brownfield area under
 54 s. 376.80.

55 (b) A tax credit applicant, or multiple tax credit
 56 applicants working jointly to clean up a single site, may not be

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57 | granted more than \$500,000 ~~\$250,000~~ per year in tax credits for
 58 | each site voluntarily rehabilitated. Multiple tax credit
 59 | applicants shall be granted tax credits in the same proportion
 60 | as their contribution to payment of cleanup costs. Subject to
 61 | the same conditions and limitations as provided in this section,
 62 | a municipality, county, or other tax credit applicant which
 63 | voluntarily rehabilitates a site may receive not more than
 64 | \$500,000 ~~\$250,000~~ per year in tax credits which it can
 65 | subsequently transfer subject to the provisions in paragraph
 66 | (g).

67 | (c) If the credit granted under this section is not fully
 68 | used in any one year because of insufficient tax liability on
 69 | the part of the tax credit applicant, the unused amount may be
 70 | carried forward for a period not to exceed 5 years. Five years
 71 | after the date a credit is granted under this section, such
 72 | credit expires and may not be used. However, if during the 5-
 73 | year period the credit is transferred, in whole or in part,
 74 | pursuant to paragraph (g), each transferee has 5 years after the
 75 | date of transfer to use its credit.

76 | (d) A taxpayer that receives a credit under s. 220.1845 is
 77 | ineligible to receive credit under this section in a given tax
 78 | year.

79 | (e) A tax credit applicant that receives state-funded site
 80 | rehabilitation pursuant to s. 376.3078(3) for rehabilitation of
 81 | a drycleaning-solvent-contaminated site is ineligible to receive
 82 | credit under this section for costs incurred by the tax credit
 83 | applicant in conjunction with the rehabilitation of that site
 84 | during the same time period that state-administered site

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85 rehabilitation was underway.

86 (f) The total amount of the tax credits which may be
87 granted under this section and s. 220.1845 is \$2 million
88 annually.

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

93 2. The entity or its surviving or acquiring entity as
94 described in subparagraph 1., may transfer any unused credit in
95 whole or in units of no less than 25 percent of the remaining
96 credit. The entity acquiring such credit may use it in the same
97 manner and with the same limitation as described in this
98 section. Such transferred credits may not be transferred again
99 although they may succeed to a surviving or acquiring entity
100 subject to the same conditions and limitations as described in
101 this section.

102 3. In the event the credit provided for under this section
103 is reduced either as a result of a determination by the
104 Department of Environmental Protection or an examination or
105 audit by the Department of Revenue, such tax deficiency shall be
106 recovered from the first entity, or the surviving or acquiring
107 entity, to have claimed such credit up to the amount of credit
108 taken. Any subsequent deficiencies shall be assessed against any
109 entity acquiring and claiming such credit, or in the case of
110 multiple succeeding entities in the order of credit succession.

111 (h) In order to encourage completion of site
112 rehabilitation at contaminated sites being voluntarily cleaned

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113 up and eligible for a tax credit under this section, the tax
 114 credit applicant may claim an additional 25 ~~10~~ percent of the
 115 total cleanup costs, not to exceed \$500,000 ~~\$50,000~~, in the
 116 final year of cleanup as evidenced by the Department of
 117 Environmental Protection issuing a "No Further Action" order for
 118 that site.

119 (i) In order to encourage the construction of housing that
 120 meets the definition of affordable provided in s. 420.0004(3),
 121 an applicant for the tax credit may claim an additional 25
 122 percent of the total site-rehabilitation costs that are eligible
 123 for tax credits under this section, not to exceed \$500,000. In
 124 order to receive this additional tax credit, the applicant must
 125 provide a certification letter from the Florida Housing Finance
 126 Corporation, the local housing authority, or other governmental
 127 agency that is a party to the use agreement, indicating that the
 128 construction on the brownfield site is complete, the brownfield
 129 site has received a certificate of occupancy, and the brownfield
 130 site has a properly recorded instrument that limits the use of
 131 the property to housing that meets the definition of affordable
 132 provided in s. 420.0004(3).

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

137 (3) ADMINISTRATION; AUDIT AUTHORITY; TAX CREDIT
 138 FORFEITURE.--

139 (a) The Department of Revenue may adopt rules to prescribe
 140 any necessary forms required to claim a tax credit under this

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141 section and to provide the administrative guidelines and
 142 procedures required to administer this section.

143 (b) In addition to its existing audit and investigation
 144 authority relating to chapters 199 and 220, the Department of
 145 Revenue may perform any additional financial and technical
 146 audits and investigations, including examining the accounts,
 147 books, or records of the tax credit applicant, which are
 148 necessary to verify the site rehabilitation costs included in a
 149 tax credit return and to ensure compliance with this section.
 150 The Department of Environmental Protection shall provide
 151 technical assistance, when requested by the Department of
 152 Revenue, on any technical audits performed under this section.

153 (c) It is grounds for forfeiture of previously claimed and
 154 received tax credits if the Department of Revenue determines, as
 155 a result of either an audit or information received from the
 156 Department of Environmental Protection, that a taxpayer received
 157 tax credits under this section to which the taxpayer was not
 158 entitled. In the case of fraud, the taxpayer shall be prohibited
 159 from claiming any future tax credits under this section or s.
 160 220.1845.

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

164 2. The taxpayer shall file with the Department of Revenue
 165 an amended tax return or such other report as the Department of
 166 Revenue prescribes by rule and shall pay any required tax within
 167 60 days after the taxpayer receives notification from the
 168 Department of Environmental Protection pursuant to s. 376.30781

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169 that previously approved tax credits have been revoked or
 170 modified, if uncontested, or within 60 days after a final order
 171 is issued following proceedings involving a contested revocation
 172 or modification order.

173 3. A notice of deficiency may be issued by the Department
 174 of Revenue at any time within 5 years after the date the
 175 taxpayer receives notification from the Department of
 176 Environmental Protection pursuant to s. 376.30781 that
 177 previously approved tax credits have been revoked or modified.
 178 If a taxpayer fails to notify the Department of Revenue of any
 179 change in its tax credit claimed, a notice of deficiency may be
 180 issued at any time. In either case, the amount of any proposed
 181 assessment set forth in such notice of deficiency shall be
 182 limited to the amount of any deficiency resulting under this
 183 section from the recomputation of the taxpayer's tax for the
 184 taxable year.

185 4. Any taxpayer that fails to report and timely pay any
 186 tax due as a result of the forfeiture of its tax credit is in
 187 violation of this section and is subject to applicable penalty
 188 and interest.

189 Section 2. Section 220.1845, Florida Statutes, is amended
 190 to read:

191 220.1845 Contaminated site rehabilitation tax credit.--

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

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

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197 1. A drycleaning-solvent-contaminated site eligible for
 198 state-funded site rehabilitation under s. 376.3078(3);
 199 2. A drycleaning-solvent-contaminated site at which
 200 cleanup is undertaken by the real property owner pursuant to s.
 201 376.3078(11), if the real property owner is not also, and has
 202 never been, the owner or operator of the drycleaning facility
 203 where the contamination exists; or
 204 3. A brownfield site in a designated brownfield area under
 205 s. 376.80.
 206 (b) A tax credit applicant, or multiple tax credit
 207 applicants working jointly to clean up a single site, may not be
 208 granted more than \$500,000 ~~\$250,000~~ per year in tax credits for
 209 each site voluntarily rehabilitated. Multiple tax credit
 210 applicants shall be granted tax credits in the same proportion
 211 as their contribution to payment of cleanup costs. Subject to
 212 the same conditions and limitations as provided in this section,
 213 a municipality, county, or other tax credit applicant which
 214 voluntarily rehabilitates a site may receive not more than
 215 \$500,000 ~~\$250,000~~ per year in tax credits which it can
 216 subsequently transfer subject to the provisions in paragraph
 217 (h).
 218 (c) If the credit granted under this section is not fully
 219 used in any one year because of insufficient tax liability on
 220 the part of the corporation, the unused amount may be carried
 221 forward for a period not to exceed 5 years. The carryover credit
 222 may be used in a subsequent year when the tax imposed by this
 223 chapter for that year exceeds the credit for which the
 224 corporation is eligible in that year under this section after

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225 applying the other credits and unused carryovers in the order
226 provided by s. 220.02(8). Five years after the date a credit is
227 granted under this section, such credit expires and may not be
228 used. However, if during the 5-year period the credit is
229 transferred, in whole or in part, pursuant to paragraph (h),
230 each transferee has 5 years after the date of transfer to use
231 its credit.

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

236 (e) A taxpayer that receives credit under s. 199.1055 is
237 ineligible to receive credit under this section in a given tax
238 year.

239 (f) A tax credit applicant that receives state-funded site
240 rehabilitation under s. 376.3078(3) for rehabilitation of a
241 drycleaning-solvent-contaminated site is ineligible to receive
242 credit under this section for costs incurred by the tax credit
243 applicant in conjunction with the rehabilitation of that site
244 during the same time period that state-administered site
245 rehabilitation was underway.

246 (g) The total amount of the tax credits which may be
247 granted under this section and s. 199.1055 is \$2 million
248 annually.

249 (h)1. Tax credits that may be available under this section
250 to an entity eligible under s. 376.30781 may be transferred
251 after a merger or acquisition to the surviving or acquiring
252 entity and used in the same manner and with the same

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253 limitations.

254 2. The entity or its surviving or acquiring entity as
255 described in subparagraph 1., may transfer any unused credit in
256 whole or in units of no less than 25 percent of the remaining
257 credit. The entity acquiring such credit may use it in the same
258 manner and with the same limitation as described in this
259 section. Such transferred credits may not be transferred again
260 although they may succeed to a surviving or acquiring entity
261 subject to the same conditions and limitations as described in
262 this section.

263 3. In the event the credit provided for under this section
264 is reduced either as a result of a determination by the
265 Department of Environmental Protection or an examination or
266 audit by the Department of Revenue, such tax deficiency shall be
267 recovered from the first entity, or the surviving or acquiring
268 entity, to have claimed such credit up to the amount of credit
269 taken. Any subsequent deficiencies shall be assessed against any
270 entity acquiring and claiming such credit, or in the case of
271 multiple succeeding entities in the order of credit succession.

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

280 (j) In order to encourage the construction of housing that

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281 meets the definition of affordable provided in s. 420.0004(3),
 282 an applicant for the tax credit may claim an additional 25
 283 percent of the total site-rehabilitation costs that are eligible
 284 for tax credits under this section, not to exceed \$500,000. In
 285 order to receive this additional tax credit, the applicant must
 286 provide a certification letter from the Florida Housing Finance
 287 Corporation, the local housing authority, or other governmental
 288 agency that is a party to the use agreement, indicating that the
 289 construction on the brownfield site is complete, the brownfield
 290 site has received a certificate of occupancy, and the brownfield
 291 site has a properly recorded instrument that limits the use of
 292 the property to housing that meets the definition of affordable
 293 provided in s. 420.0004(3).

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

298 (3) ADMINISTRATION; AUDIT AUTHORITY; TAX CREDIT
 299 FORFEITURE.--

300 (a) The Department of Revenue may adopt rules to prescribe
 301 any necessary forms required to claim a tax credit under this
 302 section and to provide the administrative guidelines and
 303 procedures required to administer this section.

304 (b) In addition to its existing audit and investigation
 305 authority relating to chapter 199 and this chapter, the
 306 Department of Revenue may perform any additional financial and
 307 technical audits and investigations, including examining the
 308 accounts, books, or records of the tax credit applicant, which

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309 are necessary to verify the site rehabilitation costs included
310 in a tax credit return and to ensure compliance with this
311 section. The Department of Environmental Protection shall
312 provide technical assistance, when requested by the Department
313 of Revenue, on any technical audits performed pursuant to this
314 section.

315 (c) It is grounds for forfeiture of previously claimed and
316 received tax credits if the Department of Revenue determines, as
317 a result of either an audit or information received from the
318 Department of Environmental Protection, that a taxpayer received
319 tax credits pursuant to this section to which the taxpayer was
320 not entitled. In the case of fraud, the taxpayer shall be
321 prohibited from claiming any future tax credits under this
322 section or s. 199.1055.

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

326 2. The taxpayer shall file with the Department of Revenue
327 an amended tax return or such other report as the Department of
328 Revenue prescribes by rule and shall pay any required tax within
329 60 days after the taxpayer receives notification from the
330 Department of Environmental Protection pursuant to s. 376.30781
331 that previously approved tax credits have been revoked or
332 modified, if uncontested, or within 60 days after a final order
333 is issued following proceedings involving a contested revocation
334 or modification order.

335 3. A notice of deficiency may be issued by the Department
336 of Revenue at any time within 5 years after the date the

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337 taxpayer receives notification from the Department of
 338 Environmental Protection pursuant to s. 376.30781 that
 339 previously approved tax credits have been revoked or modified.
 340 If a taxpayer fails to notify the Department of Revenue of any
 341 change in its tax credit claimed, a notice of deficiency may be
 342 issued at any time. In either case, the amount of any proposed
 343 assessment set forth in such notice of deficiency shall be
 344 limited to the amount of any deficiency resulting under this
 345 section from the recomputation of the taxpayer's tax for the
 346 taxable year.

347 4. Any taxpayer that fails to report and timely pay any
 348 tax due as a result of the forfeiture of its tax credit is in
 349 violation of this section and is subject to applicable penalty
 350 and interest.

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

353 376.30781 Partial tax credits for rehabilitation of
 354 drycleaning-solvent-contaminated sites and brownfield sites in
 355 designated brownfield areas; application process; rulemaking
 356 authority; revocation authority.--

357 (1) The Legislature finds that:

358 (a) To facilitate property transactions and economic
 359 growth and development, it is in the interest of the state to
 360 encourage the cleanup, at the earliest possible time, of
 361 drycleaning-solvent-contaminated sites and brownfield sites in
 362 designated brownfield areas.

363 (b) It is the intent of the Legislature to encourage the
 364 voluntary cleanup of drycleaning-solvent-contaminated sites and

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365 brownfield sites in designated brownfield areas by providing a
 366 partial tax credit for the restoration of such property in
 367 specified circumstances.

368 (2) Notwithstanding the requirements of paragraph (5)(a),
 369 tax credits allowed pursuant to ss. 199.1055 and 220.1845 are
 370 available for any site rehabilitation conducted during the
 371 calendar year in which the applicable voluntary cleanup
 372 agreement or brownfield site rehabilitation agreement is
 373 executed, even if the site rehabilitation is conducted prior to
 374 the execution of that agreement or the designation of the
 375 brownfield area.

376 (3)(2)(a) A credit in the amount of 50 ~~35~~ percent of the
 377 costs of voluntary cleanup activity that is integral to site
 378 rehabilitation at the following sites is allowed pursuant to ss.
 379 199.1055 and 220.1845:

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

382 2. A drycleaning-solvent-contaminated site at which
 383 cleanup is undertaken by the real property owner pursuant to s.
 384 376.3078(11), if the real property owner is not also, and has
 385 never been, the owner or operator of the drycleaning facility
 386 where the contamination exists; or

387 3. A brownfield site in a designated brownfield area under
 388 s. 376.80.

389 (b) A tax credit applicant, or multiple tax credit
 390 applicants working jointly to clean up a single site, may not be
 391 granted more than \$500,000 ~~\$250,000~~ per year in tax credits for
 392 each site voluntarily rehabilitated. Multiple tax credit

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393 applicants shall be granted tax credits in the same proportion
 394 as their contribution to payment of cleanup costs. Tax credits
 395 are available only for site rehabilitation conducted during the
 396 calendar year for which the tax credit application is submitted.

397 (c) In order to encourage completion of site
 398 rehabilitation at contaminated sites that are being voluntarily
 399 cleaned up and that are eligible for a tax credit under this
 400 section, the tax credit applicant may claim an additional 25 ~~10~~
 401 percent of the total cleanup costs, not to exceed \$500,000
 402 ~~\$50,000~~, in the final year of cleanup as evidenced by the
 403 Department of Environmental Protection issuing a "No Further
 404 Action" order for that site.

405 (d) In order to encourage the construction of housing that
 406 meets the definition of affordable provided in s. 420.0004(3),
 407 an applicant for the tax credit may claim an additional 25
 408 percent of the total site-rehabilitation costs that are eligible
 409 for tax credits under this section, not to exceed \$500,000. In
 410 order to receive this additional tax credit, the applicant must
 411 provide a certification letter from the Florida Housing Finance
 412 Corporation, the local housing authority, or other governmental
 413 agency that is a party to the use agreement, indicating that the
 414 construction on the brownfield site is complete, the brownfield
 415 site has received a certificate of occupancy, and the brownfield
 416 site has a properly recorded instrument that limits the use of
 417 the property to housing that meets the definition of affordable
 418 provided in s. 420.0004(3). Notwithstanding the limitation that
 419 only one application shall be submitted each year for each site,
 420 an application for the additional credit provided for in this

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421 paragraph shall be submitted as soon as all requirements to
 422 obtain this additional tax credit have been met.

423 (e) Notwithstanding the restrictions in this section that
 424 limit tax credit eligibility to costs that are integral to site
 425 rehabilitation, to encourage the redevelopment of properties in
 426 designated brownfield areas that are hindered by the presence of
 427 solid waste, as defined in s. 403.703, a tax credit applicant
 428 may also claim costs to address the solid waste, but only those
 429 costs to remove, transport, and dispose of solid waste in
 430 accordance with department rules. These costs are eligible for a
 431 tax credit provided the applicant submits an affidavit stating
 432 that, after consultation with appropriate local government
 433 officials and the department, to the best of the applicant's
 434 knowledge, the site was never operated as a landfill or dump
 435 site for monetary compensation, and submits all other
 436 documentation and certifications required by this section. In
 437 this section, where reference is made to "site rehabilitation,"
 438 the department shall instead consider whether the costs claimed
 439 are for removal, transportation, and disposal of solid waste.
 440 Tax credit applications claiming costs pursuant to this
 441 paragraph shall not be subject to the calendar-year limitation
 442 and January 15 annual application deadline, and the department
 443 shall accept a one-time application filed subsequent to the
 444 completion by the tax credit applicant of the applicable
 445 requirements listed in this paragraph.

446 (4)-(3) The Department of Environmental Protection shall be
 447 responsible for allocating the tax credits provided for in ss.
 448 199.1055 and 220.1845, not to exceed a total of \$5 ~~\$2~~ million in

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449 tax credits annually.

450 (5)~~(4)~~ To claim the credit for site rehabilitation
 451 conducted during the current calendar year, each tax credit
 452 applicant must apply to the Department of Environmental
 453 Protection for an allocation of the \$2 million annual credit by
 454 January 15 of the following year on a form developed by the
 455 Department of Environmental Protection in cooperation with the
 456 Department of Revenue. The form shall include an affidavit from
 457 each tax credit applicant certifying that all information
 458 contained in the application, including all records of costs
 459 incurred and claimed in the tax credit application, are true and
 460 correct. If the application is submitted pursuant to
 461 subparagraph (3)~~(2)~~(a)2., the form must include an affidavit
 462 signed by the real property owner stating that it is not, and
 463 has never been, the owner or operator of the drycleaning
 464 facility where the contamination exists. Approval of partial tax
 465 credits must be accomplished on a first-come, first-served basis
 466 based upon the date complete applications are received by the
 467 Division of Waste Management. A tax credit applicant shall
 468 submit only one complete application per site for each calendar
 469 year's site rehabilitation costs. Incomplete placeholder
 470 applications shall not be accepted and will not secure a place
 471 in the first-come, first-served application line. To be eligible
 472 for a tax credit, the tax credit applicant must:

473 (a) Have entered into a voluntary cleanup agreement with
 474 the Department of Environmental Protection for a drycleaning-
 475 solvent-contaminated site or a Brownfield Site Rehabilitation
 476 Agreement, as applicable; and

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477 (b) Have paid all deductibles pursuant to s.
 478 376.3078(3)(e) for eligible drycleaning-solvent-cleanup program
 479 sites.

480 (6)~~(5)~~ To obtain the tax credit certificate, a tax credit
 481 applicant must annually file an application for certification,
 482 which must be received by the Division of Waste Management of
 483 the Department of Environmental Protection by January 15 of the
 484 year following the calendar year for which site rehabilitation
 485 costs are being claimed in a tax credit application. The tax
 486 credit applicant must provide all pertinent information
 487 requested on the tax credit application form, including, at a
 488 minimum, the name and address of the tax credit applicant and
 489 the address and tracking identification number of the eligible
 490 site. Along with the tax credit application form, the tax credit
 491 applicant must submit the following:

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

496 (b) Copies of contracts and documentation of contract
 497 negotiations, accounts, invoices, sales tickets, or other
 498 payment records from purchases, sales, leases, or other
 499 transactions involving actual costs incurred for that tax year
 500 related to site rehabilitation, as that term is defined in ss.
 501 376.301 and 376.79;

502 (c) Proof that the documentation submitted pursuant to
 503 paragraph (b) has been reviewed and verified by an independent
 504 certified public accountant in accordance with standards

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505 established by the American Institute of Certified Public
506 Accountants. Specifically, the certified public accountant must
507 attest to the accuracy and validity of the costs incurred and
508 paid by conducting an independent review of the data presented
509 by the tax credit applicant. Accuracy and validity of costs
510 incurred and paid would be determined once the level of effort
511 was certified by an appropriate professional registered in this
512 state in each contributing technical discipline. The certified
513 public accountant's report would also attest that the costs
514 included in the application form are not duplicated within the
515 application. A copy of the accountant's report shall be
516 submitted to the Department of Environmental Protection with the
517 tax credit application; and

518 (d) A certification form stating that site rehabilitation
519 activities associated with the documentation submitted pursuant
520 to paragraph (b) have been conducted under the observation of,
521 and related technical documents have been signed and sealed by,
522 an appropriate professional registered in this state in each
523 contributing technical discipline. The certification form shall
524 be signed and sealed by the appropriate registered professionals
525 stating that the costs incurred were integral, necessary, and
526 required for site rehabilitation, as that term is defined in ss.
527 376.301 and 376.79.

528 (7)~~(6)~~ The certified public accountant and appropriate
529 registered professionals submitting forms as part of a tax
530 credit application must verify such forms. Verification must be
531 accomplished as provided in s. 92.525(1)(b) and subject to the
532 provisions of s. 92.525(3).

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533 (8)~~(7)~~ The Department of Environmental Protection shall
 534 review the tax credit application and any supplemental
 535 documentation that the tax credit applicant may submit prior to
 536 the annual application deadline in order to have the application
 537 considered complete, for the purpose of verifying that the tax
 538 credit applicant has met the qualifying criteria in subsections
 539 (3)~~(2)~~ and (5)~~(4)~~ and has submitted all required documentation
 540 listed in subsection (6)~~(5)~~. Upon verification that the tax
 541 credit applicant has met these requirements, the department
 542 shall issue a written decision granting eligibility for partial
 543 tax credits (a tax credit certificate) in the amount of 50 ~~35~~
 544 percent of the total costs claimed, subject to the \$500,000
 545 ~~\$250,000~~ limitation, for the calendar year for which the tax
 546 credit application is submitted based on the report of the
 547 certified public accountant and the certifications from the
 548 appropriate registered technical professionals.

549 (9)~~(8)~~ On or before March 31 ~~March 1~~, the Department of
 550 Environmental Protection shall inform each eligible tax credit
 551 applicant of the amount of its partial tax credit and provide
 552 each eligible tax credit applicant with a tax credit certificate
 553 that must be submitted with its tax return to the Department of
 554 Revenue to claim the tax credit or be transferred pursuant to s.
 555 199.1055(1)(g) or s. 220.1845(1)(h). Credits will not result in
 556 the payment of refunds if total credits exceed the amount of tax
 557 owed.

558 (10)~~(9)~~ If a tax credit applicant does not receive a tax
 559 credit allocation due to an exhaustion of the \$2 million annual
 560 tax credit authorization, such application will then be included

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561 in the same first-come, first-served order in the next year's
562 annual tax credit allocation, if any, based on the prior year
563 application.

564 (11)~~(10)~~ The Department of Environmental Protection may
565 adopt rules to prescribe the necessary forms required to claim
566 tax credits under this section and to provide the administrative
567 guidelines and procedures required to administer this section.

568 (12)~~(11)~~ The Department of Environmental Protection may
569 revoke or modify any written decision granting eligibility for
570 partial tax credits under this section if it is discovered that
571 the tax credit applicant submitted any false statement,
572 representation, or certification in any application, record,
573 report, plan, or other document filed in an attempt to receive
574 partial tax credits under this section. The Department of
575 Environmental Protection shall immediately notify the Department
576 of Revenue of any revoked or modified orders affecting
577 previously granted partial tax credits. Additionally, the tax
578 credit applicant must notify the Department of Revenue of any
579 change in its tax credit claimed.

580 (13)~~(12)~~ A tax credit applicant who receives state-funded
581 site rehabilitation under s. 376.3078(3) for rehabilitation of a
582 drycleaning-solvent-contaminated site is ineligible to receive a
583 tax credit under s. 199.1055 or s. 220.1845 for costs incurred
584 by the tax credit applicant in conjunction with the
585 rehabilitation of that site during the same time period that
586 state-administered site rehabilitation was underway.

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

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589 196.012 Definitions.--For the purpose of this chapter, the
590 following terms are defined as follows, except where the context
591 clearly indicates otherwise:

592 (15) "New business" means:

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

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

604 3. An office space in this state owned and used by a
605 corporation newly domiciled in this state; provided such office
606 space houses 50 or more full-time employees of such corporation;
607 provided that such business or office first begins operation on
608 a site clearly separate from any other commercial or industrial
609 operation owned by the same business.

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

614 (c) A business that is situated on property annexed into a
615 municipality and that, at the time of the annexation, is
616 receiving an economic development ad valorem tax exemption from

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617 the county under s. 196.1995.

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

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

624 2. A business establishing 25 or more jobs to employ 25 or
 625 more full-time employees in this state, the sales factor of
 626 which, as defined by s. 220.15(5), for the facility with respect
 627 to which it requests an economic development ad valorem tax
 628 exemption is less than 0.50 for each year the exemption is
 629 claimed; provided that such business increases operations on a
 630 site colocated with a commercial or industrial operation owned
 631 by the same business, resulting in a net increase in employment
 632 of not less than 10 percent or an increase in productive output
 633 of not less than 10 percent.

634 (b) Any business located in an enterprise zone or
 635 brownfield area that increases operations on a site colocated
 636 with a commercial or industrial operation owned by the same
 637 business.

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

640 196.1995 Economic development ad valorem tax exemption.--

641 (1) The board of county commissioners of any county or the
 642 governing authority of any municipality shall call a referendum
 643 within its total jurisdiction to determine whether its
 644 respective jurisdiction may grant economic development ad

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645 | valorem tax exemptions under s. 3, Art. VII of the State
 646 | Constitution if:

647 | (a) The board of county commissioners of the county or the
 648 | governing authority of the municipality votes to hold such
 649 | referendum; or

650 | (b) The board of county commissioners of the county or the
 651 | governing authority of the municipality receives a petition
 652 | signed by 10 percent of the registered electors of its
 653 | respective jurisdiction, which petition calls for the holding of
 654 | such referendum.

655 | (2) The ballot question in such referendum shall be in
 656 | substantially the following form:

657 |
 658 | Shall the board of county commissioners of this county (or the
 659 | governing authority of this municipality, or both) be authorized
 660 | to grant, pursuant to s. 3, Art. VII of the State Constitution,
 661 | property tax exemptions to new businesses and expansions of
 662 | existing businesses?

663 | ___ Yes--For authority to grant exemptions.
 664 | ___ No--Against authority to grant exemptions.

665 |
 666 | (3) The board of county commissioners or the governing
 667 | authority of the municipality that ~~which~~ calls a referendum
 668 | within its total jurisdiction to determine whether its
 669 | respective jurisdiction may grant economic development ad
 670 | valorem tax exemptions may vote to limit the effect of the
 671 | referendum to authority to grant economic development tax
 672 | exemptions for new businesses and expansions of existing

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673 | businesses located in an enterprise zone or a brownfield area,
 674 | as defined in s. 376.79(4). ~~If In the event that~~ an area
 675 | nominated to be an enterprise zone pursuant to s. 290.0055 has
 676 | not yet been designated pursuant to s. 290.0065, the board of
 677 | county commissioners or the governing authority of the
 678 | municipality may call such referendum prior to such designation;
 679 | however, the authority to grant economic development ad valorem
 680 | tax exemptions does ~~will~~ not apply until such area is designated
 681 | pursuant to s. 290.0065. The ballot question in such referendum
 682 | shall be in substantially the following form and shall be used
 683 | in lieu of the ballot question prescribed in subsection (2):

684 |
 685 | Shall the board of county commissioners of this county (or the
 686 | governing authority of this municipality, or both) be authorized
 687 | to grant, pursuant to s. 3, Art. VII of the State Constitution,
 688 | property tax exemptions for new businesses and expansions of
 689 | existing businesses which are located in an enterprise zone or a
 690 | brownfield area?

- 691 |
 692 | _____ Yes--For authority to grant exemptions.
 693 | _____ No--Against authority to grant exemptions.

694 |
 695 | (4) A referendum pursuant to this section may be called
 696 | only once in any 12-month period.

697 | (5) Upon a majority vote in favor of such authority, the
 698 | board of county commissioners or the governing authority of the
 699 | municipality, at its discretion, by ordinance may exempt from ad
 700 | valorem taxation up to 100 percent of the assessed value of all

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701 improvements to real property made by or for the use of a new
702 business and of all tangible personal property of such new
703 business, or up to 100 percent of the assessed value of all
704 added improvements to real property made to facilitate the
705 expansion of an existing business and of the net increase in all
706 tangible personal property acquired to facilitate such expansion
707 of an existing business, provided that the improvements to real
708 property are made or the tangible personal property is added or
709 increased on or after the day the ordinance is adopted. However,
710 if the authority to grant exemptions is approved in a referendum
711 in which the ballot question contained in subsection (3) appears
712 on the ballot, the authority of the board of county
713 commissioners or the governing authority of the municipality to
714 grant exemptions is limited solely to new businesses and
715 expansions of existing businesses that ~~which~~ are located in an
716 enterprise zone or brownfield area. Property acquired to replace
717 existing property shall not be considered to facilitate a
718 business expansion. The exemption applies only to taxes levied
719 by the respective unit of government granting the exemption.
720 The exemption does not apply, however, to taxes levied for the
721 payment of bonds or to taxes authorized by a vote of the
722 electors pursuant to s. 9(b) or s. 12, Art. VII of the State
723 Constitution. Any such exemption shall remain in effect for up
724 to 10 years with respect to any particular facility, regardless
725 of any change in the authority of the county or municipality to
726 grant such exemptions. The exemption shall not be prolonged or
727 extended by granting exemptions from additional taxes or by
728 virtue of any reorganization or sale of the business receiving

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729 the exemption.
 730 (6) With respect to a new business as defined by s.
 731 196.012(15)(c), the municipality annexing the property on which
 732 the business is situated may grant an economic development ad
 733 valorem tax exemption under this section to that business for a
 734 period that will expire upon the expiration of the exemption
 735 granted by the county. If the county renews the exemption under
 736 subsection (7), the municipality may also extend its exemption.
 737 A municipal economic development ad valorem tax exemption
 738 granted under this subsection may not extend beyond the duration
 739 of the county exemption.

740 (7) The authority to grant exemptions under this section
 741 will expire 10 years after the date such authority was approved
 742 in an election, but such authority may be renewed for another
 743 10-year period in a referendum called and held pursuant to this
 744 section.

745 (8) Any person, firm, or corporation which desires an
 746 economic development ad valorem tax exemption shall, in the year
 747 the exemption is desired to take effect, file a written
 748 application on a form prescribed by the department with the
 749 board of county commissioners or the governing authority of the
 750 municipality, or both. The application shall request the
 751 adoption of an ordinance granting the applicant an exemption
 752 pursuant to this section and shall include the following
 753 information:

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

756 (b) A description of the improvements to real property for

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757 | which an exemption is requested and the date of commencement of
 758 | construction of such improvements;

759 | (c) A description of the tangible personal property for
 760 | which an exemption is requested and the dates when such property
 761 | was or is to be purchased;

762 | (d) Proof, to the satisfaction of the board of county
 763 | commissioners or the governing authority of the municipality,
 764 | that the applicant is a new business or an expansion of an
 765 | existing business, as defined in s. 196.012(15) or (16); and

766 | (e) Other information deemed necessary by the department.

767 | (9) Before it takes action on the application, the board
 768 | of county commissioners or the governing authority of the
 769 | municipality shall deliver a copy of the application to the
 770 | property appraiser of the county. After careful consideration,
 771 | the property appraiser shall report the following information to
 772 | the board of county commissioners or the governing authority of
 773 | the municipality:

774 | (a) The total revenue available to the county or
 775 | municipality for the current fiscal year from ad valorem tax
 776 | sources, or an estimate of such revenue if the actual total
 777 | revenue available cannot be determined;

778 | (b) Any revenue lost to the county or municipality for the
 779 | current fiscal year by virtue of exemptions previously granted
 780 | under this section, or an estimate of such revenue if the actual
 781 | revenue lost cannot be determined;

782 | (c) An estimate of the revenue which would be lost to the
 783 | county or municipality during the current fiscal year if the
 784 | exemption applied for were granted had the property for which

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785 the exemption is requested otherwise been subject to taxation;
 786 and

787 (d) A determination as to whether the property for which
 788 an exemption is requested is to be incorporated into a new
 789 business or the expansion of an existing business, as defined in
 790 s. 196.012(15) or (16), or into neither, which determination the
 791 property appraiser shall also affix to the face of the
 792 application. Upon the request of the property appraiser, the
 793 department shall provide to him or her such information as it
 794 may have available to assist in making such determination.

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

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

800 (b) The total amount of revenue available to the county or
 801 municipality from ad valorem tax sources for the current fiscal
 802 year, the total amount of revenue lost to the county or
 803 municipality for the current fiscal year by virtue of economic
 804 development ad valorem tax exemptions currently in effect, and
 805 the estimated revenue loss to the county or municipality for the
 806 current fiscal year attributable to the exemption of the
 807 business named in the ordinance;

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

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

812 Section 6. Subsection (2) of section 288.9015, Florida

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813 Statutes, is amended to read:

814 288.9015 Enterprise Florida, Inc.; purpose; duties.--

815 (2) It shall be the responsibility of Enterprise Florida,
 816 Inc., to aggressively market Florida's rural communities,
 817 distressed urban communities, brownfields, and enterprise zones
 818 as locations for potential new investment, to aggressively
 819 assist in the retention and expansion of existing businesses in
 820 these communities, and to aggressively assist these communities
 821 in the identification and development of new economic
 822 development opportunities for job creation, fully marketing
 823 state incentive programs such as the Qualified Target Industry
 824 Tax Refund Program under s. 288.106 and the Quick Action Closing
 825 Fund under s. 288.1088 in economically distressed areas.

826 Section 7. Section 376.80, Florida Statutes, is amended to
 827 read:

828 376.80 Brownfield program administration process.--

829 (1) A local government with jurisdiction over the
 830 brownfield area must notify the department of its decision to
 831 designate a brownfield area for rehabilitation for the purposes
 832 of ss. 376.77-376.85. The notification must include a
 833 resolution, by the local government body, to which is attached a
 834 map adequate to clearly delineate exactly which parcels are to
 835 be included in the brownfield area or alternatively a less-
 836 detailed map accompanied by a detailed legal description of the
 837 brownfield area. If a property owner within the area proposed
 838 for designation by the local government requests in writing to
 839 have his or her property removed from the proposed designation,
 840 the local government shall grant the request. For

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841 municipalities, the governing body shall adopt the resolution in
 842 accordance with the procedures outlined in s. 166.041, except
 843 that the notice for the public hearings on the proposed
 844 resolution must be in the form established in s. 166.041(3)(c)2.
 845 For counties, the governing body shall adopt the resolution in
 846 accordance with the procedures outlined in s. 125.66, except
 847 that the notice for the public hearings on the proposed
 848 resolution shall be in the form established in s. 125.66(4)(b)2.

849 (2)(a) If a local government proposes to designate a
 850 brownfield area that is outside community redevelopment areas,
 851 enterprise zones, empowerment zones, closed military bases, or
 852 designated brownfield pilot project areas, the local government
 853 must conduct at least one public hearing in the area to be
 854 designated to provide an opportunity for public input on the
 855 size of the area, the objectives for rehabilitation, job
 856 opportunities and economic developments anticipated,
 857 neighborhood residents' considerations, and other relevant local
 858 concerns. Notice of the public hearing must be made in a
 859 newspaper of general circulation in the area and the notice must
 860 be at least 16 square inches in size, must be in ethnic
 861 newspapers or local community bulletins, must be posted in the
 862 affected area, and must be announced at a scheduled meeting of
 863 the local governing body before the actual public hearing. In
 864 determining the areas to be designated, the local government
 865 must consider:

- 866 1. Whether the brownfield area warrants economic
- 867 development and has a reasonable potential for such activities;
- 868 2. Whether the proposed area to be designated represents a

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869 reasonably focused approach and is not overly large in
 870 geographic coverage;

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

873 4. Whether the area contains sites or parts of sites
 874 suitable for limited recreational open space, cultural, or
 875 historical preservation purposes.

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

878 1. A person who owns or controls a potential brownfield
 879 site is requesting the designation and has agreed to
 880 rehabilitate and redevelop the brownfield site;

881 2. The rehabilitation and redevelopment of the proposed
 882 brownfield site will result in economic productivity of the
 883 area, along with the creation of at least 5 ~~10~~ new permanent
 884 jobs at the brownfield site, ~~whether full-time or part-time,~~
 885 which are full-time equivalent positions not associated with the
 886 implementation of the brownfield site rehabilitation agreement
 887 and which are not associated with redevelopment project
 888 demolition or construction activities pursuant to the
 889 redevelopment agreement required under paragraph (5)(i).

890 However, the job-creation requirement shall not apply to the
 891 rehabilitation and redevelopment of a brownfield site that will
 892 provide affordable housing as defined in s. 420.0004(3) or the
 893 creation of recreational areas, conservation areas, or parks;

894 3. The redevelopment of the proposed brownfield site is
 895 consistent with the local comprehensive plan and is a
 896 permittable use under the applicable local land development

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897 regulations;

898 4. Notice of the proposed rehabilitation of the brownfield
899 area has been provided to neighbors and nearby residents of the
900 proposed area to be designated, and the person proposing the
901 area for designation has afforded to those receiving notice the
902 opportunity for comments and suggestions about rehabilitation.
903 Notice pursuant to this subsection must be made in a newspaper
904 of general circulation in the area, at least 16 square inches in
905 size, and the notice must be posted in the affected area; and

906 5. The person proposing the area for designation has
907 provided reasonable assurance that he or she has sufficient
908 financial resources to implement and complete the rehabilitation
909 agreement and redevelopment plan.

910 (c) The designation of a brownfield area and the
911 identification of a person responsible for brownfield site
912 rehabilitation simply entitles the identified person to
913 negotiate a brownfield site rehabilitation agreement with the
914 department or approved local pollution control program.

915 (3) When there is a person responsible for brownfield site
916 rehabilitation, the local government must notify the department
917 of the identity of that person. If the agency or person who will
918 be responsible for the coordination changes during the approval
919 process specified in subsections (4), (5), and (6), the
920 department or the affected approved local pollution control
921 program must notify the affected local government when the
922 change occurs.

923 (4) Local governments or persons responsible for
924 rehabilitation and redevelopment of brownfield areas must

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925 establish an advisory committee or use an existing advisory
926 committee that has formally expressed its intent to address
927 redevelopment of the specific brownfield area for the purpose of
928 improving public participation and receiving public comments on
929 rehabilitation and redevelopment of the brownfield area, future
930 land use, local employment opportunities, community safety, and
931 environmental justice. Such advisory committee should include
932 residents within or adjacent to the brownfield area, businesses
933 operating within the brownfield area, and others deemed
934 appropriate. The person responsible for brownfield site
935 rehabilitation must notify the advisory committee of the intent
936 to rehabilitate and redevelop the site before executing the
937 brownfield site rehabilitation agreement, and provide the
938 committee with a copy of the draft plan for site rehabilitation
939 which addresses elements required by subsection (5). This
940 includes disclosing potential reuse of the property as well as
941 site rehabilitation activities, if any, to be performed. The
942 advisory committee shall review the proposed redevelopment
943 agreement required pursuant to paragraph (5)(i) and provide
944 comments, if appropriate, to the board of the local government
945 with jurisdiction over the brownfield area. The advisory
946 committee must receive a copy of the executed brownfield site
947 rehabilitation agreement. When the person responsible for
948 brownfield site rehabilitation submits a site assessment report
949 or the technical document containing the proposed course of
950 action following site assessment to the department or the local
951 pollution control program for review, the person responsible for
952 brownfield site rehabilitation must hold a meeting or attend a

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953 regularly scheduled meeting to inform the advisory committee of
 954 the findings and recommendations in the site assessment report
 955 or the technical document containing the proposed course of
 956 action following site assessment.

957 (5) The person responsible for brownfield site
 958 rehabilitation must enter into a brownfield site rehabilitation
 959 agreement with the department or an approved local pollution
 960 control program if actual contamination exists at the brownfield
 961 site. The brownfield site rehabilitation agreement must include:

962 (a) A brownfield site rehabilitation schedule, including
 963 milestones for completion of site rehabilitation tasks and
 964 submittal of technical reports and rehabilitation plans as
 965 agreed upon by the parties to the agreement;

966 (b) A commitment to conduct site rehabilitation activities
 967 under the observation of professional engineers or geologists
 968 who are registered in accordance with the requirements of
 969 chapter 471 or chapter 492, respectively. Submittals provided by
 970 the person responsible for brownfield site rehabilitation must
 971 be signed and sealed by a professional engineer registered under
 972 chapter 471, or a professional geologist registered under
 973 chapter 492, certifying that the submittal and associated work
 974 comply with the law and rules of the department and those
 975 governing the profession. In addition, upon completion of the
 976 approved remedial action, the department shall require a
 977 professional engineer registered under chapter 471 or a
 978 professional geologist registered under chapter 492 to certify
 979 that the corrective action was, to the best of his or her
 980 knowledge, completed in substantial conformance with the plans

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981 and specifications approved by the department;

982 (c) A commitment to conduct site rehabilitation in

983 accordance with department quality assurance rules;

984 (d) A commitment to conduct site rehabilitation consistent

985 with state, federal, and local laws and consistent with the

986 brownfield site contamination cleanup criteria in s. 376.81,

987 including any applicable requirements for risk-based corrective

988 action;

989 (e) Timeframes for the department's review of technical

990 reports and plans submitted in accordance with the agreement.

991 The department shall make every effort to adhere to established

992 agency goals for reasonable timeframes for review of such

993 documents;

994 (f) A commitment to secure site access for the department

995 or approved local pollution control program to all brownfield

996 sites within the eligible brownfield area for activities

997 associated with site rehabilitation;

998 (g) Other provisions that the person responsible for

999 brownfield site rehabilitation and the department agree upon,

1000 that are consistent with ss. 376.77-376.85, and that will

1001 improve or enhance the brownfield site rehabilitation process;

1002 (h) A commitment to consider appropriate pollution

1003 prevention measures and to implement those that the person

1004 responsible for brownfield site rehabilitation determines are

1005 reasonable and cost-effective, taking into account the ultimate

1006 use or uses of the brownfield site. Such measures may include

1007 improved inventory or production controls and procedures for

1008 preventing loss, spills, and leaks of hazardous waste and

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1009 materials, and include goals for the reduction of releases of
 1010 toxic materials; and

1011 (i) Certification that an agreement exists between the
 1012 person responsible for brownfield site rehabilitation and the
 1013 local government with jurisdiction over the brownfield area.
 1014 Such agreement shall contain terms for the redevelopment of the
 1015 brownfield area.

1016 (6) Any contractor performing site rehabilitation program
 1017 tasks must demonstrate to the department that the contractor:

1018 (a) Meets all certification and license requirements
 1019 imposed by law; and

1020 (b) Has obtained the necessary approvals for conducting
 1021 sample collection and analyses pursuant to department rules.

1022 (7) The contractor who is performing the majority of the
 1023 site rehabilitation program tasks pursuant to a brownfield site
 1024 rehabilitation agreement or supervising the performance of such
 1025 tasks by licensed subcontractors in accordance with the
 1026 provisions of s. 489.113(9) must certify to the department that
 1027 the contractor:

1028 (a) Complies with applicable OSHA regulations.

1029 (b) Maintains workers' compensation insurance for all
 1030 employees as required by the Florida Workers' Compensation Law.

1031 (c) Maintains comprehensive general liability coverage
 1032 with limits of not less than \$1 million per occurrence and \$2
 1033 million general aggregate for bodily injury and property damage
 1034 and comprehensive automobile liability coverage with limits of
 1035 not less than \$1 ~~\$2~~ million combined single limit. The
 1036 contractor shall also maintain pollution liability coverage with

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1037 | limits of not less than \$3 million aggregate for personal injury
1038 | or death, \$1 million per occurrence for personal injury or
1039 | death, and \$1 million per occurrence for property damage. The
1040 | contractor's certificate of insurance shall name the state as an
1041 | additional insured party.

1042 | (d) Maintains professional liability insurance of at least
1043 | \$1 million per claim and \$1 million annual aggregate.

1044 | (8) Any professional engineer or geologist providing
1045 | professional services relating to site rehabilitation program
1046 | tasks must carry professional liability insurance with a
1047 | coverage limit of at least \$1 million.

1048 | (9) During the cleanup process, if the department or local
1049 | program fails to complete review of a technical document within
1050 | the timeframe specified in the brownfield site rehabilitation
1051 | agreement, the person responsible for brownfield site
1052 | rehabilitation may proceed to the next site rehabilitation task.
1053 | However, the person responsible for brownfield site
1054 | rehabilitation does so at its own risk and may be required by
1055 | the department or local program to complete additional work on a
1056 | previous task. Exceptions to this subsection include requests
1057 | for "no further action," "monitoring only proposals," and
1058 | feasibility studies, which must be approved prior to
1059 | implementation.

1060 | (10) If the person responsible for brownfield site
1061 | rehabilitation fails to comply with the brownfield site
1062 | rehabilitation agreement, the department shall allow 90 days for
1063 | the person responsible for brownfield site rehabilitation to
1064 | return to compliance with the provision at issue or to negotiate

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1065 a modification to the brownfield site rehabilitation agreement
 1066 with the department for good cause shown. If an imminent hazard
 1067 exists, the 90-day grace period shall not apply. If the project
 1068 is not returned to compliance with the brownfield site
 1069 rehabilitation agreement and a modification cannot be
 1070 negotiated, the immunity provisions of s. 376.82 are revoked.

1071 (11) The department is specifically authorized and
 1072 encouraged to enter into delegation agreements with local
 1073 pollution control programs approved under s. 403.182 to
 1074 administer the brownfield program within their jurisdictions,
 1075 thereby maximizing the integration of this process with the
 1076 other local development processes needed to facilitate
 1077 redevelopment of a brownfield area. When determining whether a
 1078 delegation pursuant to this subsection of all or part of the
 1079 brownfields program to a local pollution control program is
 1080 appropriate, the department shall consider the following. The
 1081 local pollution control program must:

1082 (a) Have and maintain the administrative organization,
 1083 staff, and financial and other resources to effectively and
 1084 efficiently implement and enforce the statutory requirements of
 1085 the delegated brownfields program; and

1086 (b) Provide for the enforcement of the requirements of the
 1087 delegated brownfields program, and for notice and a right to
 1088 challenge governmental action, by appropriate administrative and
 1089 judicial process, which shall be specified in the delegation.

1090
 1091 The local pollution control program shall not be delegated
 1092 authority to take action on or to make decisions regarding any

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1093 | brownfield site on land owned by the local government. Any
 1094 | delegation agreement entered into pursuant to this subsection
 1095 | shall contain such terms and conditions necessary to ensure the
 1096 | effective and efficient administration and enforcement of the
 1097 | statutory requirements of the brownfields program as established
 1098 | by the act and the relevant rules and other criteria of the
 1099 | department.

1100 | (12) Local governments are encouraged to use the full
 1101 | range of economic and tax incentives available to facilitate and
 1102 | promote the rehabilitation of brownfield areas, to help
 1103 | eliminate the public health and environmental hazards, and to
 1104 | promote the creation of jobs and economic development in these
 1105 | previously run-down, blighted, and underutilized areas.

1106 | Section 8. Subsection (1) of section 376.86, Florida
 1107 | Statutes, is amended to read:

1108 | 376.86 Brownfield Areas Loan Guarantee Program.--

1109 | (1) The Brownfield Areas Loan Guarantee Council is created
 1110 | to review and approve or deny by a majority vote of its
 1111 | membership, the situations and circumstances for participation
 1112 | in partnerships by agreements with local governments, financial
 1113 | institutions, and others associated with the redevelopment of
 1114 | brownfield areas pursuant to the Brownfields Redevelopment Act
 1115 | for a limited state guaranty of up to 5 years of loan guarantees
 1116 | or loan loss reserves issued pursuant to law. The limited state
 1117 | loan guaranty applies only to 50 ~~40~~ percent of the primary
 1118 | lenders loans for redevelopment projects in brownfield areas. If
 1119 | the redevelopment project is for affordable housing, as defined
 1120 | in s. 420.0004(3), in a brownfield area, the limited state loan

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1121 guaranty applies to 75 percent of the primary lender's loan. A
 1122 limited state guaranty of private loans or a loan loss reserve
 1123 is authorized for lenders licensed to operate in the state upon
 1124 a determination by the council that such an arrangement would be
 1125 in the public interest and the likelihood of the success of the
 1126 loan is great.

1127 Section 9. Sections 376.87 and 376.875, Florida Statutes,
 1128 are repealed.

1129 Section 10. Paragraph (f) of subsection (2) of section
 1130 14.2015, Florida Statutes, is amended to read:

1131 14.2015 Office of Tourism, Trade, and Economic
 1132 Development; creation; powers and duties.--

1133 (2) The purpose of the Office of Tourism, Trade, and
 1134 Economic Development is to assist the Governor in working with
 1135 the Legislature, state agencies, business leaders, and economic
 1136 development professionals to formulate and implement coherent
 1137 and consistent policies and strategies designed to provide
 1138 economic opportunities for all Floridians. To accomplish such
 1139 purposes, the Office of Tourism, Trade, and Economic Development
 1140 shall:

1141 (f)1. Administer the Florida Enterprise Zone Act under ss.
 1142 290.001-290.016, the community contribution tax credit program
 1143 under ss. 220.183 and 624.5105, the tax refund program for
 1144 qualified target industry businesses under s. 288.106, the tax-
 1145 refund program for qualified defense contractors under s.
 1146 288.1045, contracts for transportation projects under s.
 1147 288.063, the sports franchise facility program under s.
 1148 288.1162, the professional golf hall of fame facility program

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1149 | under s. 288.1168, the expedited permitting process under s.
 1150 | 403.973, the Rural Community Development Revolving Loan Fund
 1151 | under s. 288.065, the Regional Rural Development Grants Program
 1152 | under s. 288.018, the Certified Capital Company Act under s.
 1153 | 288.99, the Florida State Rural Development Council, the Rural
 1154 | Economic Development Initiative, and other programs that are
 1155 | specifically assigned to the office by law, by the
 1156 | appropriations process, or by the Governor. Notwithstanding any
 1157 | other provisions of law, the office may expend interest earned
 1158 | from the investment of program funds deposited in the Grants and
 1159 | Donations Trust Fund ~~and the Brownfield Property Ownership~~
 1160 | ~~Clearance Assistance Revolving Loan Trust Fund~~ to contract for
 1161 | the administration of the programs, or portions of the programs,
 1162 | enumerated in this paragraph or assigned to the office by law,
 1163 | by the appropriations process, or by the Governor. Such
 1164 | expenditures shall be subject to review under chapter 216.

1165 | 2. The office may enter into contracts in connection with
 1166 | the fulfillment of its duties concerning the Florida First
 1167 | Business Bond Pool under chapter 159, tax incentives under
 1168 | chapters 212 and 220, tax incentives under the Certified Capital
 1169 | Company Act in chapter 288, foreign offices under chapter 288,
 1170 | the Enterprise Zone program under chapter 290, the Seaport
 1171 | Employment Training program under chapter 311, the Florida
 1172 | Professional Sports Team License Plates under chapter 320,
 1173 | Spaceport Florida under chapter 331, Expedited Permitting under
 1174 | chapter 403, and in carrying out other functions that are
 1175 | specifically assigned to the office by law, by the
 1176 | appropriations process, or by the Governor.

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1177 Section 11. An amendment to any provision of chapter 199,
1178 Florida Statutes, contained in this act does not supersede a
1179 repeal of that provision contained in House Bill 209.

1180 Section 12. This act shall take effect July 1, 2006.