

By Senator Constantine

22-801-07

1 A bill to be entitled
2 An act relating to the redevelopment of
3 brownfields; amending s. 376.30781, F.S.;
4 conforming a reference to annual maximum total
5 tax credits for brownfields redevelopment;
6 providing an effective date.

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

9
10 Section 1. Section 376.30781, Florida Statutes, is
11 amended to read:

12 376.30781 Partial tax credits for rehabilitation of
13 drycleaning-solvent-contaminated sites and brownfield sites in
14 designated brownfield areas; application process; rulemaking
15 authority; revocation authority.--

16 (1) The Legislature finds that:

17 (a) To facilitate property transactions and economic
18 growth and development, it is in the interest of the state to
19 encourage the cleanup, at the earliest possible time, of
20 drycleaning-solvent-contaminated sites and brownfield sites in
21 designated brownfield areas.

22 (b) It is the intent of the Legislature to encourage
23 the voluntary cleanup of drycleaning-solvent-contaminated
24 sites and brownfield sites in designated brownfield areas by
25 providing a partial tax credit for the restoration of such
26 property in specified circumstances.

27 (2) Notwithstanding the requirements of paragraph
28 (5)(a), tax credits allowed pursuant to ss. 199.1055 and
29 220.1845 are available for any site rehabilitation conducted
30 during the calendar year in which the applicable voluntary
31 cleanup agreement or brownfield site rehabilitation agreement

1 is executed, even if the site rehabilitation is conducted
2 prior to the execution of that agreement or the designation of
3 the brownfield area.

4 (3)(a) A credit in the amount of 50 percent of the
5 costs of voluntary cleanup activity that is integral to site
6 rehabilitation at the following sites is allowed pursuant to
7 s. 220.1845:

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

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

15 3. A brownfield site in a designated brownfield area
16 under s. 376.80.

17 (b) A tax credit applicant, or multiple tax credit
18 applicants working jointly to clean up a single site, may not
19 be granted more than \$500,000 per year in tax credits for each
20 site voluntarily rehabilitated. Multiple tax credit applicants
21 shall be granted tax credits in the same proportion as their
22 contribution to payment of cleanup costs. Tax credits are
23 available only for site rehabilitation conducted during the
24 calendar year for which the tax credit application is
25 submitted.

26 (c) In order to encourage completion of site
27 rehabilitation at contaminated sites that are being
28 voluntarily cleaned up and that are eligible for a tax credit
29 under this section, the tax credit applicant may claim an
30 additional 25 percent of the total cleanup costs, not to
31 exceed \$500,000, in the final year of cleanup as evidenced by

1 the Department of Environmental Protection issuing a "No
2 Further Action" order for that site.

3 (d) In order to encourage the construction of housing
4 that meets the definition of affordable provided in s.
5 420.0004(3), an applicant for the tax credit may claim an
6 additional 25 percent of the total site rehabilitation costs
7 that are eligible for tax credits under this section, not to
8 exceed \$500,000. In order to receive this additional tax
9 credit, the applicant must provide a certification letter from
10 the Florida Housing Finance Corporation, the local housing
11 authority, or other governmental agency that is a party to the
12 use agreement, indicating that the construction on the
13 brownfield site is complete, the brownfield site has received
14 a certificate of occupancy, and the brownfield site has a
15 properly recorded instrument that limits the use of the
16 property to housing that meets the definition of affordable
17 provided in s. 420.0004(3). Notwithstanding the limitation
18 that only one application shall be submitted each year for
19 each site, an application for the additional credit provided
20 for in this paragraph shall be submitted as soon as all
21 requirements to obtain this additional tax credit have been
22 met.

23 (e) Notwithstanding the restrictions in this section
24 that limit tax credit eligibility to costs that are integral
25 to site rehabilitation, to encourage the redevelopment of
26 properties in designated brownfield areas that are hindered by
27 the presence of solid waste, as defined in s. 403.703, a tax
28 credit applicant may also claim costs to address the solid
29 waste, but only those costs to remove, transport, and dispose
30 of solid waste in accordance with department rules. These
31 costs are eligible for a tax credit provided the applicant

1 submits an affidavit stating that, after consultation with
2 appropriate local government officials and the department, to
3 the best of the applicant's knowledge, the site was never
4 operated as a landfill or dump site for monetary compensation,
5 and submits all other documentation and certifications
6 required by this section. In this section, where reference is
7 made to "site rehabilitation," the department shall instead
8 consider whether the costs claimed are for removal,
9 transportation, and disposal of solid waste. Tax credit
10 applications claiming costs pursuant to this paragraph shall
11 not be subject to the calendar-year limitation and January 15
12 annual application deadline, and the department shall accept a
13 one-time application filed subsequent to the completion by the
14 tax credit applicant of the applicable requirements listed in
15 this paragraph.

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

20 (5) To claim the credit for site rehabilitation
21 conducted during the current calendar year, each tax credit
22 applicant must apply to the Department of Environmental
23 Protection for an allocation of the \$2 million annual credit
24 by January 15 of the following year on a form developed by the
25 Department of Environmental Protection in cooperation with the
26 Department of Revenue. The form shall include an affidavit
27 from each tax credit applicant certifying that all information
28 contained in the application, including all records of costs
29 incurred and claimed in the tax credit application, are true
30 and correct. If the application is submitted pursuant to
31 subparagraph (3)(a)2., the form must include an affidavit

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

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

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

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

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

7 (b) Copies of contracts and documentation of contract
8 negotiations, accounts, invoices, sales tickets, or other
9 payment records from purchases, sales, leases, or other
10 transactions involving actual costs incurred for that tax year
11 related to site rehabilitation, as that term is defined in ss.
12 376.301 and 376.79;

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

29 (d) A certification form stating that site
30 rehabilitation activities associated with the documentation
31 submitted pursuant to paragraph (b) have been conducted under

1 | the observation of, and related technical documents have been
2 | signed and sealed by, an appropriate professional registered
3 | in this state in each contributing technical discipline. The
4 | certification form shall be signed and sealed by the
5 | appropriate registered professionals stating that the costs
6 | incurred were integral, necessary, and required for site
7 | rehabilitation, as that term is defined in ss. 376.301 and
8 | 376.79.

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

14 | (8) The Department of Environmental Protection shall
15 | review the tax credit application and any supplemental
16 | documentation that the tax credit applicant may submit prior
17 | to the annual application deadline in order to have the
18 | application considered complete, for the purpose of verifying
19 | that the tax credit applicant has met the qualifying criteria
20 | in subsections (3) and (5) and has submitted all required
21 | documentation listed in subsection (6). Upon verification that
22 | the tax credit applicant has met these requirements, the
23 | department shall issue a written decision granting eligibility
24 | for partial tax credits (a tax credit certificate) in the
25 | amount of 50 percent of the total costs claimed, subject to
26 | the \$500,000 limitation, for the calendar year for which the
27 | tax credit application is submitted based on the report of the
28 | certified public accountant and the certifications from the
29 | appropriate registered technical professionals.

30 | (9) On or before March 31, the Department of
31 | Environmental Protection shall inform each eligible tax credit

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

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

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

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