



166054

CHAMBER ACTION

<u>Senate</u>	.	<u>House</u>
Comm: RCS	.	
4/22/2008	.	
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1 The Committee on General Government Appropriations (Bennett)
2 recommended the following **amendment**:

3
4 **Senate Amendment (with title amendment)**

5 Between line(s) 24 and 25,
6 insert:

7
8 Section 2. Paragraphs (a), (c), (g), and (i) of subsection
9 (1) and subsection (2) of section 220.1845, Florida Statutes, are
10 amended, and paragraphs (j) and (k) are added to subsection (1)
11 of that section, to read:

12 220.1845 Contaminated site rehabilitation tax credit.--

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

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



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

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

25 3. A brownfield site in a designated brownfield area under
26 s. 376.80.

27 (c) If the credit granted under this section is not fully
28 used in any one year because of insufficient tax liability on the
29 part of the corporation, the unused amount may be carried forward
30 for up to ~~a period not to exceed~~ 5 years. The carryover credit
31 may be used in a subsequent year if ~~when~~ the tax imposed by this
32 chapter for that year exceeds the credit for which the
33 corporation is eligible in that year ~~under this section~~ after
34 applying the other credits and unused carryovers in the order
35 provided by s. 220.02(8). ~~Five years after the date a credit is~~
36 ~~granted under this section, such credit expires and may not be~~
37 ~~used. However,~~ If during the 5-year period the credit is
38 transferred, in whole or in part, pursuant to paragraph (g), each
39 transferee has 5 years after the date of transfer to use its
40 credit.

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

45 2. The entity or its surviving or acquiring entity as
46 described in subparagraph 1.7 may transfer any unused credit in
47 whole or in units of at least ~~no less than~~ 25 percent of the



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48 remaining credit. The entity acquiring such credit may use it in
49 the same manner and with the same limitation as described in this
50 section. Such transferred credits may not be transferred again
51 although they may succeed to a surviving or acquiring entity
52 subject to the same conditions and limitations as described in
53 this section.

54 3. If ~~In the event~~ the credit ~~provided for under this~~
55 ~~section~~ is reduced due to either ~~as a result of~~ a determination
56 by the Department of Environmental Protection or an examination
57 or audit by the Department of Revenue, the ~~such~~ tax deficiency
58 shall be recovered from the first entity, or the surviving or
59 acquiring entity that, ~~to have~~ claimed the ~~such~~ credit up to the
60 amount of credit taken. Any subsequent deficiencies shall be
61 assessed against the ~~any~~ entity acquiring and claiming the ~~such~~
62 credit, or in the case of multiple succeeding entities in the
63 order of credit succession.

64 (i) In order to encourage the construction of housing that
65 meets the definition of affordable provided in s. 420.0004~~(3)~~, an
66 applicant for the tax credit may claim an additional 25 percent
67 of the total site rehabilitation costs that are eligible for tax
68 credits under this section, not to exceed \$500,000. In order to
69 receive this additional tax credit, the applicant must provide a
70 certification letter from the Florida Housing Finance
71 Corporation, the local housing authority, or other governmental
72 agency that is a party to the use agreement, ~~indicating that the~~
73 ~~construction on the brownfield site is complete, the brownfield~~
74 ~~site~~ has received a certificate of occupancy, ~~and the brownfield~~
75 site has a properly recorded instrument that limits the use of
76 the property to housing that meets the definition of affordable
77 provided in s. 420.0004~~(3)~~.



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78 (j) In order to encourage the redevelopment of a brownfield
79 site, as defined in the brownfield site rehabilitation agreement,
80 which is hindered by the presence of solid waste, as defined in
81 s. 403.703, a tax credit applicant, or multiple tax credit
82 applicants working jointly to clean up a single brownfield site,
83 may also claim costs required to address solid waste removal as
84 defined in this paragraph in accordance with rules of the
85 Department of Environmental Protection. Multiple tax credit
86 applicants shall be granted tax credits in the same proportion as
87 each applicant's contribution to payment of solid waste removal
88 costs. These costs are eligible for a tax credit provided the
89 applicant submits an affidavit stating that, after consultation
90 with appropriate local government officials and the Department of
91 Environmental Protection, to the best of the applicant's
92 knowledge according to such consultation and available historical
93 records, the brownfield site was never operated as a permitted
94 solid waste disposal area or was never operated for monetary
95 compensation and the applicant submits all other documentation
96 and certifications required by this section. Under this section,
97 wherever reference is made to "site rehabilitation," the
98 Department of Environmental Protection shall instead consider
99 whether or not the costs claimed are for solid waste removal. Tax
100 credit applications claiming costs pursuant to this paragraph
101 shall not be subject to the calendar-year limitation and January
102 31 annual application deadline, and the Department of
103 Environmental Protection shall accept a one-time application
104 filed subsequent to the completion by the tax credit applicant of
105 the applicable requirements listed in this section. A tax credit
106 applicant may claim 50 percent of the cost for solid waste
107 removal, not to exceed \$500,000, after the applicant has



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108 determined solid waste removal is completed for the brownfield
109 site. A solid waste removal tax credit application may be filed
110 only once per brownfield site. For the purposes of this section,
111 the term:

112 1. "Solid waste disposal area" means a landfill, dump, or
113 other area where solid waste has been disposed of.

114 2. "Monetary compensation" means the fees that were charged
115 or the assessments that were levied for the disposal of solid
116 waste at a solid waste disposal area.

117 3. "Solid waste removal" means removal of solid waste from
118 the land surface or excavation of solid waste from below the land
119 surface and removal of the solid waste from the brownfield site.
120 The term also includes:

121 a. Transportation of solid waste to a licensed or exempt
122 solid waste management facility or to a temporary storage area.

123 b. Sorting or screening of solid waste prior to removal
124 from the site.

125 c. Deposition of solid waste at a permitted or exempt solid
126 waste management facility, whether the solid waste is disposed of
127 or recycled.

128 (k) In order to encourage the construction and operation of
129 a new health care facility as defined in s. 408.032 or s. 408.07,
130 or a health care provider as defined in s. 408.07 or s. 408.7056,
131 on a brownfield site, an applicant for a tax credit may claim an
132 additional 25 percent of the total site rehabilitation costs, not
133 to exceed \$500,000, if the applicant meets the requirements of
134 this paragraph. In order to receive this additional tax credit,
135 the applicant must provide documentation indicating that the
136 construction of the health care facility or health care provider
137 by the applicant on the brownfield site has received a



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138 certificate of occupancy or a license or certificate has been
139 issued for the operation of the health care facility or health
140 care provider.

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

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

147 376.30781 ~~Partial~~ Tax credits for rehabilitation of
148 drycleaning-solvent-contaminated sites and brownfield sites in
149 designated brownfield areas; application process; rulemaking
150 authority; revocation authority.--

151 (1) The Legislature finds that:

152 (a) To facilitate property transactions and economic growth
153 and development, it is in the state's interest ~~of the state~~ to
154 encourage the cleanup, at the earliest possible time, of
155 drycleaning-solvent-contaminated sites and brownfield sites in
156 designated brownfield areas.

157 (b) It is the intent of the Legislature to encourage the
158 voluntary cleanup of drycleaning-solvent-contaminated sites and
159 brownfield sites in designated brownfield areas by providing a
160 ~~partial~~ tax credit for the restoration of such property in
161 specified circumstances.

162 (2) Notwithstanding the requirements of subsection
163 ~~paragraph~~ (5) ~~(a)~~, tax credits allowed pursuant to s. 220.1845 are
164 available for ~~any~~ site rehabilitation or solid waste removal
165 conducted during the calendar year in which the applicable
166 voluntary cleanup agreement or brownfield site rehabilitation
167 agreement is executed, even if the site rehabilitation or solid



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168 waste removal is conducted prior to the execution of that
169 agreement or the designation of the brownfield area.

170 (3) (a) A credit in the amount of 50 percent of the costs of
171 voluntary cleanup activity that is integral to site
172 rehabilitation at the following sites is allowed pursuant to s.
173 220.1845:

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

176 2. A drycleaning-solvent-contaminated site at which site
177 rehabilitation ~~cleanup~~ is undertaken by the real property owner
178 pursuant to s. 376.3078(11), if the real property owner is not
179 also, and has never been, the owner or operator of the
180 drycleaning facility where the contamination exists; or

181 3. A brownfield site in a designated brownfield area under
182 s. 376.80.

183 (b) A tax credit applicant, or multiple tax credit
184 applicants working jointly to clean up a single site, may not
185 receive ~~be granted~~ more than \$500,000 per year in tax credits for
186 each site voluntarily rehabilitated. Multiple tax credit
187 applicants shall be granted tax credits in the same proportion as
188 each applicant's ~~their~~ contribution to payment of site
189 rehabilitation ~~cleanup~~ costs. Tax credits are available only for
190 site rehabilitation conducted during the calendar year for which
191 the tax credit application is submitted. For purposes of this
192 section, the term "integral to site rehabilitation" means work
193 that is necessary to implement the requirements of chapter 62-785
194 or chapter 62-782, Florida Administrative Code.

195 (c) In order to encourage completion of site rehabilitation
196 at contaminated sites that are being voluntarily cleaned up and
197 that are eligible for a tax credit under this section, the tax



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198 credit applicant may claim an additional 25 percent of the total
199 site rehabilitation ~~cleanup~~ costs, not to exceed \$500,000, in the
200 final year of cleanup as evidenced by the Department of
201 Environmental Protection issuing a "No Further Action" order for
202 that site.

203 (d) In order to encourage the construction of housing that
204 meets the definition of affordable provided in s. 420.0004(3), an
205 applicant for the tax credit may claim an additional 25 percent
206 of the total site rehabilitation costs that are eligible for tax
207 credits under this section, not to exceed \$500,000. ~~In order~~ To
208 receive this additional tax credit, the applicant must provide a
209 certification letter from the Florida Housing Finance
210 Corporation, the local housing authority, or other governmental
211 agency that is a party to the use agreement, ~~indicating that the~~
212 ~~construction on the brownfield site is complete, the brownfield~~
213 ~~site has received a certificate of occupancy, and the brownfield~~
214 ~~site has a properly recorded instrument that limits the use of~~
215 ~~the property to housing that meets the definition of affordable~~
216 ~~provided in s. 420.0004(3). Notwithstanding the limitation that~~
217 only one application may ~~shall~~ be submitted each year for each
218 site, an application for the additional credit provided for in
219 this paragraph shall be submitted after ~~as soon as~~ all
220 requirements to obtain the ~~this~~ additional tax credit have been
221 met.

222 (e) In order ~~Notwithstanding the restrictions in this~~
223 ~~section that limit tax credit eligibility to costs that are~~
224 ~~integral to site rehabilitation, to encourage the redevelopment~~
225 ~~of a brownfield site, as defined in the brownfield site~~
226 rehabilitation agreement, properties in designated brownfield
227 ~~areas which is that are~~ hindered by the presence of solid waste,



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228 | as defined in s. 403.703, costs related to solid waste removal
229 | may also be claimed under this section. A tax credit applicant,
230 | or multiple tax credit applicants working jointly to clean up a
231 | single brownfield site, may also claim costs to address the solid
232 | waste removal as defined in this paragraph, ~~but only those costs~~
233 | ~~to remove, transport, and dispose of solid waste~~ in accordance
234 | with department rules. Multiple tax credit applicants shall be
235 | granted tax credits in the same proportion as each applicant's
236 | contribution to payment of solid waste removal costs. These costs
237 | are eligible for a tax credit provided the applicant submits an
238 | affidavit stating that, after consultation with appropriate local
239 | government officials and the department, to the best of the
240 | applicant's knowledge based upon such consultation and available
241 | historical records, the brownfield site was never operated as a
242 | permitted solid waste disposal area or was never operated
243 | ~~landfill or dump site~~ for monetary compensation, and the
244 | applicant submits all other documentation and certifications
245 | required by this section. In this section, where reference is
246 | made to "site rehabilitation," the department shall instead
247 | consider whether the costs claimed are for solid waste removal,
248 | ~~transportation, and disposal of solid waste.~~ Tax credit
249 | applications claiming costs pursuant to this paragraph shall not
250 | be subject to the calendar-year limitation and January 31 ~~15~~
251 | annual application deadline, and the department shall accept a
252 | one-time application filed subsequent to the completion by the
253 | tax credit applicant of the applicable requirements listed in
254 | this subsection ~~paragraph.~~ A tax credit applicant may claim 50
255 | percent of the costs for solid waste removal, not to exceed
256 | \$500,000, after the applicant has determined solid waste removal
257 | is completed for the brownfield site. A solid waste removal tax



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258 credit application may be filed only once per brownfield site.

259 For the purposes of this section, the term:

260 1. "Solid waste disposal area" means a landfill, dump, or
261 other area where solid waste has been disposed of.

262 2. "Monetary compensation" means the fees that were charged
263 or the assessments that were levied for the disposal of solid
264 waste at a solid waste disposal area.

265 3. "Solid waste removal" means removal of solid waste from
266 the land surface or excavation of solid waste from below the land
267 surface and removal of the solid waste from the brownfield site.

268 The term also includes:

269 a. Transportation of solid waste to a licensed or exempt
270 solid waste management facility or to a temporary storage area.

271 b. Sorting or screening of solid waste prior to removal
272 from the site.

273 c. Deposition of solid waste at a permitted or exempt solid
274 waste management facility, whether the solid waste is disposed of
275 or recycled.

276 (f) In order to encourage the construction and operation of
277 a new health care facility or a health care provider, as defined
278 in s. 408.032, s. 408.07, or s. 408.7056, on a brownfield site,
279 an applicant for a tax credit may claim an additional 25 percent
280 of the total site rehabilitation costs, not to exceed \$500,000,
281 if the applicant meets the requirements of this paragraph. In
282 order to receive this additional tax credit, the applicant must
283 provide documentation indicating that the construction of the
284 health care facility or health care provider by the applicant on
285 the brownfield site has received a certificate of occupancy or a
286 license or certificate has been issued for the operation of the
287 health care facility or health care provider.



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288 (4) The Department of Environmental Protection is ~~shall be~~
289 responsible for allocating the tax credits provided for in s.
290 220.1845, which may not ~~to~~ exceed a total of \$2 million in tax
291 credits annually.

292 (5) To claim the credit for site rehabilitation or solid
293 waste removal ~~conducted during the current calendar year~~, each
294 tax credit applicant must apply to the Department of
295 Environmental Protection for an allocation of the \$2 million
296 annual credit by filing a tax credit application with the
297 Division of Waste Management ~~January 15 of the following year~~ on
298 a form developed by the Department of Environmental Protection in
299 cooperation with the Department of Revenue. The form shall
300 include an affidavit from each tax credit applicant certifying
301 that all information contained in the application, including all
302 records of costs incurred and claimed in the tax credit
303 application, are true and correct. If the application is
304 submitted pursuant to subparagraph (3)(a)2., the form must
305 include an affidavit signed by the real property owner stating
306 that it is not, and has never been, the owner or operator of the
307 drycleaning facility where the contamination exists. Approval of
308 ~~partial~~ tax credits must be accomplished on a first-come, first-
309 served basis based upon the date and time complete applications
310 are received by the Division of Waste Management, subject to the
311 limitations of subsection (14). ~~A tax credit applicant shall~~
312 ~~submit only one complete application per site for each calendar~~
313 ~~year's site rehabilitation costs. Incomplete placeholder~~
314 ~~applications shall not be accepted and will not secure a place in~~
315 ~~the first-come, first-served application line.~~ To be eligible for
316 a tax credit, the tax credit applicant must:



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317 (a) For site rehabilitation tax credits, have entered into
318 a voluntary cleanup agreement with the Department of
319 Environmental Protection for a drycleaning-solvent-contaminated
320 site or a Brownfield Site Rehabilitation Agreement, as
321 applicable,~~†~~ and have paid all deductibles pursuant to s.
322 376.3078(3)(e) for eligible drycleaning-solvent-cleanup program
323 sites, as applicable. A site rehabilitation tax credit applicant
324 must submit only a single completed application per site for each
325 calendar year's site rehabilitation costs. A site rehabilitation
326 application must be received by the Division of Waste Management
327 of the Department of Environmental Protection by January 31 of
328 the year after the calendar year for which site rehabilitation
329 costs are being claimed in a tax credit application.

330 (b) For solid waste removal tax credits, have entered into
331 a brownfield site rehabilitation agreement with the Department of
332 Environmental Protection. A solid waste removal tax credit
333 applicant must submit only a single complete application per
334 brownfield site, as defined in the brownfield site rehabilitation
335 agreement, for solid waste removal costs. A solid waste removal
336 tax credit application must be received by the Division of Waste
337 Management of the Department of Environmental Protection
338 subsequent to the completion of the requirements listed in
339 paragraph (3)(e) Have paid all deductibles pursuant to s.
340 376.3078(3)(e) for eligible drycleaning-solvent-cleanup program
341 sites.

342 (6) To obtain the tax credit certificate, ~~a tax credit~~
343 ~~applicant must annually file an application for certification,~~
344 ~~which must be received by the Division of Waste Management of the~~
345 ~~Department of Environmental Protection by January 15 of the year~~
346 ~~following the calendar year for which site rehabilitation costs~~



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347 | ~~are being claimed in a tax credit application.~~ the tax credit
348 | applicant must provide all pertinent information requested on the
349 | tax credit application form, including, at a minimum, the name
350 | and address of the tax credit applicant and the address and
351 | tracking identification number of the eligible site. Along with
352 | the tax credit application form, the tax credit applicant must
353 | submit the following:

354 | (a) A nonrefundable review fee of \$250 made payable to the
355 | Water Quality Assurance Trust Fund to cover the administrative
356 | costs associated with the department's review of the tax credit
357 | application;

358 | (b) Copies of documents that describe the goods or services
359 | and associated costs being claimed that were integral to site
360 | rehabilitation as defined in s. 376.301 or s. 376.79 or were for
361 | solid waste removal as defined in this section during the time
362 | period covered by the application. Such documents must include
363 | contractual records that describe the scope of work performed,
364 | payment requests that describe the goods or services provided,
365 | and payment records involving actual costs incurred and paid.
366 | Such documentation must be sufficient to demonstrate a link
367 | between the contractual records, the payment requests, and the
368 | payment records for the time period covered by the application
369 | ~~contracts and documentation of contract negotiations, accounts,~~
370 | ~~invoices, sales tickets, or other payment records from purchases,~~
371 | ~~sales, leases, or other transactions involving actual costs~~
372 | ~~incurred for that tax year related to site rehabilitation, as~~
373 | ~~that term is defined in ss. 376.301 and 376.79;~~

374 | (c) Proof that the documentation submitted pursuant to
375 | paragraph (b) has been reviewed and verified by an independent
376 | certified public accountant in accordance with standards



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377 established by the American Institute of Certified Public
378 Accountants. Specifically, a certified public accountant's report
379 must be submitted and the certified public accountant must attest
380 to the accuracy and validity of the costs incurred and paid
381 during the time period covered in the application by conducting
382 an independent review of the data presented by the tax credit
383 applicant. Accuracy and validity of costs incurred and paid shall
384 ~~would~~ be determined after ~~once~~ the level of effort is ~~was~~
385 certified by an appropriate professional registered in this state
386 in each contributing technical discipline. The certified public
387 accountant's report must ~~would~~ also attest that the costs
388 included in the application form are not duplicated within the
389 application. A copy of the accountant's report shall be submitted
390 to the Department of Environmental Protection in addition to the
391 accountant's certification form in ~~with~~ the tax credit
392 application; and

393 (d) A certification form stating that ~~site rehabilitation~~
394 activities associated with the documentation submitted pursuant
395 to paragraph (b) have been conducted under the observation of,
396 and related technical documents have been signed and sealed by,
397 an appropriate professional registered in this state in each
398 contributing technical discipline. The certification form shall
399 be signed and sealed by the appropriate registered professionals
400 stating that the costs incurred were integral, necessary, and
401 required for site rehabilitation, as that term is defined in ss.
402 376.301 and 376.79. If the scope of solid waste removal
403 activities does not require oversight by a registered technical
404 professional in this state, such certification form is not
405 required as part of the tax credit application.



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406 (7) The certified public accountant and appropriate
407 registered professionals submitting forms as part of a tax credit
408 application must verify such forms by completing and signing the
409 appropriate certifications included as part of the application
410 form. Verification shall ~~must~~ be accomplished as provided in s.
411 92.525(1)(b) and subject to ~~the provisions of~~ s. 92.525(3).

412 (8) The Department of Environmental Protection shall review
413 the tax credit application and any supplemental documentation
414 that the tax credit applicant may submit prior to the annual
415 application deadline, if applicable, for completeness and
416 eligibility, as follows:

417 (a) ~~To be in order to have the application~~ considered
418 complete, the review must verify for the purpose of verifying
419 that the tax credit applicant has met the appropriate qualifying
420 criteria in subsections (3) and (5), ~~and~~ has submitted a
421 completed application form, and has addressed each of the
422 categories of submittals all required documentation listed in
423 subsection (6). Upon verification that the tax credit applicant
424 has met such completeness ~~these~~ requirements, the tax credit
425 application secures a place in the first-come, first-served
426 application line. If the department determines that an
427 application is incomplete, the department shall notify the
428 applicant in writing and the applicant shall have 30 days after
429 receiving such notification to correct any deficiency. Upon
430 timely correction of any deficiencies, the tax credit application
431 secures a place in the first-come, first-served application line.
432 Tax credit applications may not be altered to claim additional
433 costs during this time.

434 (b) In order to have costs considered eligible, a review of
435 the complete application shall be performed to verify that the



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436 work claimed was integral to site rehabilitation or was for solid
437 waste removal, that the work claimed was performed in the
438 applicable timeframe, and that the costs claimed were properly
439 documented. Upon verification, the department shall issue a
440 written decision granting eligibility for ~~partial~~ tax credits (a
441 tax credit certificate). Complete tax credit applications shall
442 be reviewed for eligible costs in conjunction with ~~in the amount~~
443 of 50 percent of the total costs claimed, subject to the \$500,000
444 limitation, for the calendar year for which the tax credit
445 application is submitted based on the report of the certified
446 public accountant and the certifications from the appropriate
447 registered technical professionals, as applicable.

448 (9) On or before May 1 ~~March 31~~, the Department of
449 Environmental Protection shall inform each ~~eligible~~ tax credit
450 applicant that is subject to the January 31 annual application
451 deadline of the applicant's eligibility status and ~~of~~ the amount
452 of ~~any its partial~~ tax credit due. The department shall ~~and~~
453 provide each eligible tax credit applicant with a tax credit
454 certificate that must be submitted with its tax return to the
455 Department of Revenue to claim the tax credit or be transferred
456 pursuant to s. 220.1845(1) (g) ~~(h)~~. The May 1 deadline for annual
457 site rehabilitation tax credit certificate awards shall not apply
458 to any tax credit application for which the department has issued
459 a notice of deficiency pursuant to subsection (8). The department
460 shall respond within 90 days after receiving a response from the
461 tax credit applicant to such a notice of deficiency. Credits ~~may~~
462 will not result in the payment of refunds if total credits exceed
463 the amount of tax owed.

464 (10) For solid waste removal, new health care facility or
465 health care provider, and affordable housing tax credit



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466 applications, the Department of Environmental Protection shall
467 inform the applicant of the department's determination within 90
468 days after the application is deemed complete. Each eligible tax
469 credit applicant shall be informed of the amount of its tax
470 credit and provided with a tax credit certificate that must be
471 submitted with its tax return to the Department of Revenue to
472 claim the tax credit or be transferred pursuant to s.
473 220.1845(1)(g). Credits may not result in the payment of refunds
474 if total credits exceed the amount of tax owed.

475 (11)-(10) If a tax credit applicant does not receive a tax
476 credit allocation due to an exhaustion of the \$2 million annual
477 tax credit authorization, such application will then be included
478 in the same first-come, first-served order in the next year's
479 annual tax credit allocation, if any, based on the prior year
480 application.

481 (12)-(11) The Department of Environmental Protection may
482 adopt rules to prescribe the necessary forms required to claim
483 tax credits under this section and to provide the administrative
484 guidelines and procedures required to administer this section.

485 (13)-(12) The Department of Environmental Protection may
486 revoke or modify any written decision granting eligibility for
487 ~~partial~~ tax credits under this section if it is discovered that
488 the tax credit applicant submitted any false statement,
489 representation, or certification in any application, record,
490 report, plan, or other document filed in an attempt to receive
491 ~~partial~~ tax credits under this section. The Department of
492 Environmental Protection shall immediately notify the Department
493 of Revenue of any revoked or modified orders affecting previously
494 granted partial tax credits. Additionally, the tax credit



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495 applicant must notify the Department of Revenue of any change in
496 its tax credit claimed.

497 (14) (a) ~~(13)~~ A tax credit applicant who receives state-
498 funded site rehabilitation under s. 376.3078(3) for
499 rehabilitation of a drycleaning-solvent-contaminated site is
500 ineligible to receive a tax credit under s. 220.1845 for costs
501 incurred by the tax credit applicant in conjunction with the
502 rehabilitation of that site during the same time period that
503 state-administered site rehabilitation was underway.

504 (b) Tax credits for site rehabilitation awarded pursuant to
505 paragraphs (3) (b)-(d) and (f) are additive, but at no time shall
506 the total tax credit award for site rehabilitation exceed 100
507 percent of the costs incurred and paid by an applicant.

508 (c) A single brownfield site may receive tax credits for
509 both eligible site rehabilitation costs and eligible solid waste
510 removal costs provided the costs for any given activity are not
511 claimed for both site rehabilitation and solid waste removal such
512 that the same costs are claimed twice.

513 (d) For purposes of this subsection, costs incurred that
514 are not considered integral to site rehabilitation include, but
515 are not limited to, brownfield area designation costs and tax
516 credit application preparation and submittal costs.

517 (e) If the department notifies an applicant pursuant to
518 subsection (9) that any claimed costs are ineligible, those costs
519 may not be allocated and applied to the annual tax credit
520 authorization, and any disputed costs may not delay the
521 application processing or award for subsequent eligible tax
522 credit applicants in the first-come, first-served application
523 line. However, if the department subsequently agrees to award tax
524 credits on any amount that was disputed, the department shall do



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525 so based upon the first-come, first-served application line
526 determined by the applicant's original completeness date and
527 time, provided there is any tax credit authorization available.
528 If a tax credit applicant does not receive an award for the
529 disputed costs due to an exhaustion of the annual tax credit
530 authorization, such subsequent tax credit award shall be included
531 in the same first-come, first-served order in the next year's
532 annual tax credit allocation, if any, based upon the applicant's
533 original completeness date and time.

534 Section 4. Section 376.77, Florida Statutes, is amended to
535 read:

536 376.77 Short title.--Sections 376.77-376.86 ~~376.77-376.85~~
537 may be cited as the "Brownfields Redevelopment Act."

538 Section 5. Subsections (6), (8), (10), (11), (12), and (17)
539 of section 376.79, Florida Statutes, are amended to read:

540 376.79 Definitions relating to Brownfields Redevelopment
541 Act.--As used in ss. 376.77-376.86 ~~376.77-376.85~~, the term:

542 (6) "Contaminated site" means any contiguous land,
543 sediment, surface water, or groundwater areas that contain
544 contaminants that may be harmful to human health or the
545 environment.

546 (8) "Engineering controls" means modifications to a site to
547 reduce or eliminate the potential for exposure to chemicals of
548 concern from petroleum products, drycleaning solvents, or other
549 contaminants. Such modifications may include, but are not limited
550 to, physical or hydraulic control measures, capping, point of use
551 treatments, or slurry walls.

552 (10) "Institutional controls" means the restriction on use
553 of or access to a site to eliminate or minimize exposure to
554 chemicals of concern from petroleum products, drycleaning



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555 solvents, or other contaminants. Such restrictions may include,
556 but are not limited to, deed restrictions, restrictive covenants,
557 or conservation easements.

558 (11) "Local pollution control program" means a local
559 pollution control program that has received delegated authority
560 from the Department of Environmental Protection under ss.
561 376.80 (9) ~~(11)~~ and 403.182.

562 (12) "Natural attenuation" means a verifiable approach to
563 site rehabilitation that ~~which~~ allows natural processes to
564 contain the spread of contamination and reduce the concentrations
565 of contaminants in contaminated groundwater and soil. Natural
566 attenuation processes may include sorption, biodegradation,
567 chemical reactions with subsurface materials, diffusion,
568 dispersion, and volatilization.

569 (17) "Site rehabilitation" means the assessment of site
570 contamination and the remediation activities that reduce the
571 levels of contaminants at a site through accepted treatment
572 methods to meet the cleanup target levels established for that
573 site. For purposes of sites subject to the Resource Conservation
574 and Recovery Act, as amended, the term includes removal,
575 decontamination, and corrective action concerning releases of
576 hazardous substances.

577 Section 6. Section 376.80, Florida Statutes, is amended to
578 read:

579 376.80 Brownfield program administration process.--

580 (1) A local government with jurisdiction over the
581 brownfield area must notify the department of its decision to
582 designate a brownfield area for rehabilitation for the purposes
583 of ss. 376.77-376.86 ~~376.77-376.85~~. The notification must include
584 a resolution, by the local government body, to which is attached



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585 a map adequate to clearly delineate exactly which parcels are to
586 be included in the brownfield area or alternatively a less-
587 detailed map accompanied by a detailed legal description of the
588 brownfield area. If a property owner within the area proposed for
589 designation by the local government requests in writing to have
590 his or her property removed from the proposed designation, the
591 local government shall grant the request. For municipalities, the
592 governing body shall adopt the resolution in accordance with the
593 procedures outlined in s. 166.041, except that the notice for the
594 public hearings on the proposed resolution must be in the form
595 established in s. 166.041(3)(c)2. For counties, the governing
596 body shall adopt the resolution in accordance with the procedures
597 outlined in s. 125.66, except that the notice for the public
598 hearings on the proposed resolution shall be in the form
599 established in s. 125.66(4)(b)2.

600 (2)(a) If a local government proposes to designate a
601 brownfield area that is outside community redevelopment areas,
602 enterprise zones, empowerment zones, closed military bases, or
603 designated brownfield pilot project areas, the local government
604 shall adopt the resolution and must conduct the public hearings
605 in accordance with the requirements of subsection (1), except
606 that at least one of the required public hearings shall be
607 conducted as close as reasonably practicable to hearing in the
608 area to be designated to provide an opportunity for public input
609 on the size of the area, the objectives for rehabilitation, job
610 opportunities and economic developments anticipated, neighborhood
611 residents' considerations, and other relevant local concerns.
612 Notice of the public hearing must be made in a newspaper of
613 general circulation in the area and the notice must be at least
614 16 square inches in size, must be in ethnic newspapers or local



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615 community bulletins, must be posted in the affected area, and
616 must be announced at a scheduled meeting of the local governing
617 body before the actual public hearing. In determining the areas
618 to be designated, the local government must consider:

619 1. Whether the brownfield area warrants economic
620 development and has a reasonable potential for such activities;

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

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

626 4. Whether the area contains sites or parts of sites
627 suitable for limited recreational open space, cultural, or
628 historical preservation purposes.

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

631 1. A person who owns or controls a potential brownfield
632 site is requesting the designation and has agreed to rehabilitate
633 and redevelop the brownfield site;

634 2. The rehabilitation and redevelopment of the proposed
635 brownfield site will result in economic productivity of the area,
636 along with the creation of at least 5 new permanent jobs at the
637 brownfield site that ~~which~~ are full-time equivalent positions not
638 associated with the implementation of the brownfield site
639 rehabilitation agreement and that ~~which~~ are not associated with
640 redevelopment project demolition or construction activities
641 pursuant to the redevelopment of the proposed brownfield site or
642 area ~~agreement required under paragraph (5)(i)~~. However, the job
643 creation requirement shall not apply to the rehabilitation and
644 redevelopment of a brownfield site that will provide affordable



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645 housing as defined in s. 420.0004~~(3)~~ or the creation of
646 recreational areas, conservation areas, or parks;

647 3. The redevelopment of the proposed brownfield site is
648 consistent with the local comprehensive plan and is a permissible
649 use under the applicable local land development regulations;

650 4. Notice of the proposed rehabilitation of the brownfield
651 area has been provided to neighbors and nearby residents of the
652 proposed area to be designated, and the person proposing the area
653 for designation has afforded to those receiving notice the
654 opportunity for comments and suggestions about rehabilitation.
655 Notice pursuant to this subparagraph ~~subsection~~ must be made in a
656 newspaper of general circulation in the area, at least 16 square
657 inches in size, and the notice must be posted in the affected
658 area; and

659 5. The person proposing the area for designation has
660 provided reasonable assurance that he or she has sufficient
661 financial resources to implement and complete the rehabilitation
662 agreement and redevelopment of the brownfield site ~~plan~~.

663 (c) The designation of a brownfield area and the
664 identification of a person responsible for brownfield site
665 rehabilitation simply entitles the identified person to negotiate
666 a brownfield site rehabilitation agreement with the department or
667 approved local pollution control program.

668 (3) When there is a person responsible for brownfield site
669 rehabilitation, the local government must notify the department
670 of the identity of that person. If the agency or person who will
671 be responsible for the coordination changes during the approval
672 process specified in subsections (4), (5), and (6), the
673 department or the affected approved local pollution control



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674 program must notify the affected local government when the change
675 occurs.

676 (4) Local governments or persons responsible for
677 rehabilitation and redevelopment of brownfield areas must
678 establish an advisory committee or use an existing advisory
679 committee that has formally expressed its intent to address
680 redevelopment of the specific brownfield area for the purpose of
681 improving public participation and receiving public comments on
682 rehabilitation and redevelopment of the brownfield area, future
683 land use, local employment opportunities, community safety, and
684 environmental justice. Such advisory committee should include
685 residents within or adjacent to the brownfield area, businesses
686 operating within the brownfield area, and others deemed
687 appropriate. The person responsible for brownfield site
688 rehabilitation must notify the advisory committee of the intent
689 to rehabilitate and redevelop the site before executing the
690 brownfield site rehabilitation agreement, and provide the
691 committee with a copy of the draft plan for site rehabilitation
692 which addresses elements required by subsection (5). This
693 includes disclosing potential reuse of the property as well as
694 site rehabilitation activities, if any, to be performed. The
695 advisory committee shall review any ~~the~~ proposed redevelopment
696 agreements prepared ~~agreement required~~ pursuant to paragraph
697 (5) (i) and provide comments, if appropriate, to the board of the
698 local government with jurisdiction over the brownfield area. The
699 advisory committee must receive a copy of the executed brownfield
700 site rehabilitation agreement. When the person responsible for
701 brownfield site rehabilitation submits a site assessment report
702 or the technical document containing the proposed course of
703 action following site assessment to the department or the local



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704 | pollution control program for review, the person responsible for
705 | brownfield site rehabilitation must hold a meeting or attend a
706 | regularly scheduled meeting to inform the advisory committee of
707 | the findings and recommendations in the site assessment report or
708 | the technical document containing the proposed course of action
709 | following site assessment.

710 | (5) The person responsible for brownfield site
711 | rehabilitation must enter into a brownfield site rehabilitation
712 | agreement with the department or an approved local pollution
713 | control program if actual contamination exists at the brownfield
714 | site. The brownfield site rehabilitation agreement must include:

715 | (a) A brownfield site rehabilitation schedule, including
716 | milestones for completion of site rehabilitation tasks and
717 | submittal of technical reports and rehabilitation plans as agreed
718 | upon by the parties to the agreement.†

719 | (b) A commitment to conduct site rehabilitation activities
720 | under the observation of professional engineers or geologists who
721 | are registered in accordance with the requirements of chapter 471
722 | or chapter 492, respectively. Submittals provided by the person
723 | responsible for brownfield site rehabilitation must be signed and
724 | sealed by a professional engineer registered under chapter 471,
725 | or a professional geologist registered under chapter 492,
726 | certifying that the submittal and associated work comply with the
727 | law and rules of the department and those governing the
728 | profession. In addition, upon completion of the approved remedial
729 | action, the department shall require a professional engineer
730 | registered under chapter 471 or a professional geologist
731 | registered under chapter 492 to certify that the corrective
732 | action was, to the best of his or her knowledge, completed in



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733 substantial conformance with the plans and specifications
734 approved by the department.†

735 (c) A commitment to conduct site rehabilitation in
736 accordance with department quality assurance rules.†

737 (d) A commitment to conduct site rehabilitation consistent
738 with state, federal, and local laws and consistent with the
739 brownfield site contamination cleanup criteria in s. 376.81,
740 including any applicable requirements for risk-based corrective
741 action.†

742 (e) Timeframes for the department's review of technical
743 reports and plans submitted in accordance with the agreement. The
744 department shall make every effort to adhere to established
745 agency goals for reasonable timeframes for review of such
746 documents.†

747 (f) A commitment to secure site access for the department
748 or approved local pollution control program to all brownfield
749 sites within the eligible brownfield area for activities
750 associated with site rehabilitation.†

751 (g) Other provisions that the person responsible for
752 brownfield site rehabilitation and the department agree upon,
753 that are consistent with ss. 376.77-376.86 ~~376.77-376.85~~, and
754 that will improve or enhance the brownfield site rehabilitation
755 process.†

756 (h) A commitment to consider appropriate pollution
757 prevention measures and to implement those that the person
758 responsible for brownfield site rehabilitation determines are
759 reasonable and cost-effective, taking into account the ultimate
760 use or uses of the brownfield site. Such measures may include
761 improved inventory or production controls and procedures for
762 preventing loss, spills, and leaks of hazardous waste and



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763 materials, and include goals for the reduction of releases of
764 toxic materials. ~~and~~

765 (i) Certification that ~~an agreement exists between~~ the
766 person responsible for brownfield site rehabilitation has
767 consulted with ~~and~~ the local government with jurisdiction over
768 the brownfield area about the proposed redevelopment of the
769 brownfield site, that the local government is in agreement with
770 or approves the proposed redevelopment, and that the proposed
771 redevelopment complies with applicable laws and requirements for
772 such redevelopment. Certification shall be accomplished by
773 referencing or providing a legally recorded or officially
774 approved land use or site plan, a development order or approval,
775 a building permit, or a similar official document issued by the
776 local government that reflects the local government's approval of
777 proposed redevelopment of the brownfield site; providing a copy
778 of the local government resolution designating the brownfield
779 area that contains the proposed redevelopment of the brownfield
780 site; or providing a letter from the local government that
781 describes the proposed redevelopment of the brownfield site and
782 expresses the local government's agreement with or approval of
783 the proposed redevelopment. ~~Such agreement shall contain terms~~
784 ~~for the redevelopment of the brownfield area.~~

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

787 (a) Meets all certification and license requirements
788 imposed by law; and

789 (b) Will conduct ~~Has obtained the necessary approvals for~~
790 ~~conducting~~ sample collection and analyses pursuant to department
791 rules.



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792 ~~(7) The contractor who is performing the majority of the~~
793 ~~site rehabilitation program tasks pursuant to a brownfield site~~
794 ~~rehabilitation agreement or supervising the performance of such~~
795 ~~tasks by licensed subcontractors in accordance with the~~
796 ~~provisions of s. 489.113(9) must certify to the department that~~
797 ~~the contractor:~~

798 ~~(a) Complies with applicable OSHA regulations.~~

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

801 ~~(c) Maintains comprehensive general liability coverage with~~
802 ~~limits of not less than \$1 million per occurrence and \$2 million~~
803 ~~general aggregate for bodily injury and property damage and~~
804 ~~comprehensive automobile liability coverage with limits of not~~
805 ~~less than \$1 million combined single limit. The contractor shall~~
806 ~~also maintain pollution liability coverage with limits of not~~
807 ~~less than \$3 million aggregate for personal injury or death, \$1~~
808 ~~million per occurrence for personal injury or death, and \$1~~
809 ~~million per occurrence for property damage. The contractor's~~
810 ~~certificate of insurance shall name the state as an additional~~
811 ~~insured party.~~

812 ~~(d) Maintains professional liability insurance of at least~~
813 ~~\$1 million per claim and \$1 million annual aggregate.~~

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

818 ~~(7)(9)~~ During the cleanup process, if the department or
819 local program fails to complete review of a technical document
820 within the timeframe specified in the brownfield site
821 rehabilitation agreement, the person responsible for brownfield



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822 site rehabilitation may proceed to the next site rehabilitation
823 task. However, the person responsible for brownfield site
824 rehabilitation does so at its own risk and may be required by the
825 department or local program to complete additional work on a
826 previous task. Exceptions to this subsection include requests for
827 "no further action," "monitoring only proposals," and feasibility
828 studies, which must be approved prior to implementation.

829 ~~(8)-(10)~~ If the person responsible for brownfield site
830 rehabilitation fails to comply with the brownfield site
831 rehabilitation agreement, the department shall allow 90 days for
832 the person responsible for brownfield site rehabilitation to
833 return to compliance with the provision at issue or to negotiate
834 a modification to the brownfield site rehabilitation agreement
835 with the department for good cause shown. If an imminent hazard
836 exists, the 90-day grace period shall not apply. If the project
837 is not returned to compliance with the brownfield site
838 rehabilitation agreement and a modification cannot be negotiated,
839 the immunity provisions of s. 376.82 are revoked.

840 ~~(9)-(11)~~ The department is specifically authorized and
841 encouraged to enter into delegation agreements with local
842 pollution control programs approved under s. 403.182 to
843 administer the brownfield program within their jurisdictions,
844 thereby maximizing the integration of this process with the other
845 local development processes needed to facilitate redevelopment of
846 a brownfield area. When determining whether a delegation pursuant
847 to this subsection of all or part of the brownfield program to a
848 local pollution control program is appropriate, the department
849 shall consider the following. The local pollution control program
850 must:



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851 (a) Have and maintain the administrative organization,
852 staff, and financial and other resources to effectively and
853 efficiently implement and enforce the statutory requirements of
854 the delegated brownfield program; and

855 (b) Provide for the enforcement of the requirements of the
856 delegated brownfield program, and for notice and a right to
857 challenge governmental action, by appropriate administrative and
858 judicial process, which shall be specified in the delegation.
859

860 The local pollution control program shall not be delegated
861 authority to take action on or to make decisions regarding any
862 brownfield site on land owned by the local government. Any
863 delegation agreement entered into pursuant to this subsection
864 shall contain such terms and conditions necessary to ensure the
865 effective and efficient administration and enforcement of the
866 statutory requirements of the brownfield program as established
867 by the act and the relevant rules and other criteria of the
868 department.

869 ~~(10)-(12)~~ Local governments are encouraged to use the full
870 range of economic and tax incentives available to facilitate and
871 promote the rehabilitation of brownfield areas, to help eliminate
872 the public health and environmental hazards, and to promote the
873 creation of jobs and economic development in these previously
874 run-down, blighted, and underutilized areas.

875 (11) (a) The Legislature finds and declares that:

876 1. Brownfield site rehabilitation and redevelopment can
877 improve the overall health of a community and the quality of life
878 for communities, including improved health and quality of life of
879 individuals living in such communities.



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880 2. The community health benefits of brownfield site
881 rehabilitation and redevelopment should be better measured in
882 order to achieve the legislative intent as expressed in s.
883 376.78.

884 3. There is a need in this state to define and better
885 measure the community health benefits of brownfield site
886 rehabilitation and redevelopment.

887 4. Funding sources should be established to support efforts
888 by the state and local governments, in collaboration with local
889 health departments, community health providers, and nonprofit
890 organizations, to evaluate the community health benefits of
891 brownfield site rehabilitation and redevelopment.

892 (b) Local governments may and are encouraged to evaluate
893 the community health benefits and effects of brownfield site
894 rehabilitation and redevelopment in connection with brownfield
895 areas located within their jurisdictions. Factors that may be
896 evaluated and monitored before and after brownfield site
897 rehabilitation and redevelopment include, but are not limited to:

898 1. Health status, disease distribution, and quality of life
899 measures regarding populations living in or around brownfield
900 sites that have been rehabilitated and redeveloped.

901 2. Access to primary and other health care or health
902 services for persons living in or around brownfield sites that
903 have been rehabilitated and redeveloped.

904 3. Any new or increased access to open, green, park, or
905 other recreational spaces that provide recreational opportunities
906 for individuals living in or around brownfield sites that have
907 been rehabilitated and redeveloped.



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908 4. Other factors described in rules adopted by the
909 Department of Environmental Protection or the Department of
910 Health, as applicable.

911 (c) The Department of Health may and is encouraged to
912 assist local governments, in collaboration with local health
913 departments, community health providers, and nonprofit
914 organizations, in evaluating the community health benefits of
915 brownfield site rehabilitation and redevelopment.

916 Section 7. Subsection (1), paragraphs (d) and (f) of
917 subsection (2), and subsection (3) of section 376.82, Florida
918 Statutes, are amended to read:

919 376.82 Eligibility criteria and liability protection.--

920 (1) ELIGIBILITY.--Any person who has not caused or
921 contributed to the contamination of a brownfield site on or after
922 July 1, 1997, is eligible to participate in the brownfield
923 program established in ss. 376.77-376.86 ~~376.77-376.85~~, subject
924 to the following:

925 (a) Potential brownfield sites that are subject to an
926 ongoing formal judicial or administrative enforcement action or
927 corrective action pursuant to federal authority, including, but
928 not limited to, the Comprehensive Environmental Response
929 Compensation and Liability Act, 42 U.S.C. ss. 9601 et seq., as
930 amended; the Safe Drinking Water Act, 42 U.S.C. ss. 300f-300i, as
931 amended; the Clean Water Act, 33 U.S.C. ss. 1251-1387, as
932 amended; or under an order from the United States Environmental
933 Protection Agency pursuant to 42 U.S.C. s. 6928(h) ~~s. 3008(h)~~ of
934 the Resource Conservation and Recovery Act, as amended ~~(42~~
935 ~~U.S.C.A. s. 6928(h))~~; or that have obtained or are required to
936 obtain a permit for the operation of a hazardous waste treatment,
937 storage, or disposal facility; a postclosure permit; or a permit



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938 | pursuant to the federal Hazardous and Solid Waste Amendments of
939 | 1984, are not eligible for participation unless specific
940 | exemptions are secured by a memorandum of agreement with the
941 | United States Environmental Protection Agency pursuant to
942 | paragraph (2)(g). A brownfield site within an eligible brownfield
943 | area that subsequently becomes subject to formal judicial or
944 | administrative enforcement action or corrective action under such
945 | federal authority shall have its eligibility revoked unless
946 | specific exemptions are secured by a memorandum of agreement with
947 | the United States Environmental Protection Agency pursuant to
948 | paragraph (2)(g).

949 | (b) Persons who have not caused or contributed to the
950 | contamination of a brownfield site on or after July 1, 1997, and
951 | who, prior to the department's approval of a brownfield site
952 | rehabilitation agreement, are subject to ongoing corrective
953 | action or enforcement under state authority established in this
954 | chapter or chapter 403, including those persons subject to a
955 | pending consent order with the state, are eligible for
956 | participation in a brownfield site rehabilitation agreement if:

957 | 1. The proposed brownfield site is currently idle or
958 | underutilized as a result of the contamination, and participation
959 | in the brownfield program shall ~~will~~ immediately, after cleanup
960 | or sooner, result in increased economic productivity at the site,
961 | including at a minimum the creation of 10 new permanent jobs,
962 | whether full-time or part-time, which are not associated with
963 | implementation of the brownfield site rehabilitation agreement;
964 | and

965 | 2. The person is complying in good faith with the terms of
966 | an existing consent order or department-approved corrective
967 | action plan, or responding in good faith to an enforcement



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968 action, as evidenced by a determination issued by the department
969 or an approved local pollution control program.

970 (c) Potential brownfield sites owned by the state or a
971 local government which contain contamination for which a
972 governmental entity is potentially responsible and which are
973 already designated as federal brownfield pilot projects or have
974 filed an application for designation to the United States
975 Environmental Protection Agency are eligible for participation in
976 a brownfield site rehabilitation agreement.

977 (d) After July 1, 1997, petroleum and drycleaning
978 contamination sites may ~~shall~~ not receive both restoration
979 funding assistance available for the discharge under this chapter
980 and any state assistance available under s. 288.107. Nothing in
981 this act shall affect the cleanup criteria, priority ranking, and
982 other rights and obligations inherent in petroleum contamination
983 and drycleaning contamination site rehabilitation under ss.
984 376.30-376.317, or the availability of economic incentives
985 otherwise provided for by law.

986 (2) LIABILITY PROTECTION.--

987 (d) The liability protection provided under this section
988 shall become effective upon execution of a brownfield site
989 rehabilitation agreement and shall remain effective, provided the
990 person responsible for brownfield site rehabilitation complies
991 with the terms of the site rehabilitation agreement. Any statute
992 of limitations that would bar the department from pursuing relief
993 in accordance with its existing authority is tolled from the time
994 the agreement is executed until site rehabilitation is completed
995 or immunity is revoked pursuant to s. 376.80(8)(10).

996 (f) Compliance with ~~the agreement referenced in s.~~
997 376.80(5)(i) must be evidenced as set forth in that paragraph ~~by~~



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998 | ~~a finding by the local government with jurisdiction over the~~
999 | ~~brownfield area that the terms of the agreement have been met.~~

1000 | (3) REOPENERS.--Upon completion of site rehabilitation in
1001 | compliance with ss. 376.77-376.86 ~~376.77-376.85~~, no additional
1002 | site rehabilitation is ~~shall be~~ required unless it is
1003 | demonstrated:

1004 | (a) That fraud was committed in demonstrating site
1005 | conditions or completion of site rehabilitation;

1006 | (b) That new information confirms the existence of an area
1007 | of previously unknown contamination which exceeds the site-
1008 | specific rehabilitation levels established in accordance with s.
1009 | 376.81, or which otherwise poses the threat of real and
1010 | substantial harm to public health, safety, or the environment in
1011 | violation of the terms of ss. 376.77-376.86 ~~376.77-376.85~~;

1012 | (c) That the remediation efforts failed to achieve the site
1013 | rehabilitation criteria established under s. 376.81;

1014 | (d) That the level of risk is increased beyond the
1015 | acceptable risk established under s. 376.81 due to substantial
1016 | changes in exposure conditions, such as a change in land use from
1017 | nonresidential to residential use. Any person who changes the
1018 | land use of the brownfield site thus causing the level of risk to
1019 | increase beyond the acceptable risk level may be required by the
1020 | department to undertake additional remediation measures to assure
1021 | that human health, public safety, and the environment are
1022 | protected to levels consistent with s. 376.81; or

1023 | (e) That a new release occurs at the brownfield site
1024 | subsequent to a determination of eligibility for participation in
1025 | the brownfield program established under s. 376.80.

1026 | Section 8. Subsection (1) of section 376.83, Florida
1027 | Statutes, is amended to read:



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1028 376.83 Violation; penalties.--

1029 (1) It is a violation of ss. 376.77-376.86 ~~376.77-376.85~~,
1030 and it is prohibited for any person, to knowingly make any false
1031 statement, representation, or certification in any application,
1032 record, report, plan, or other document filed or required to be
1033 maintained, or to falsify, tamper with, or knowingly render
1034 inaccurate any monitoring device or method required to be
1035 maintained under ss. 376.77-376.86 ~~376.77-376.85~~, or by any
1036 permit, rule, or order issued under this chapter or chapter 403.

1037 Section 9. Subsections (1) and (2) of section 376.86,
1038 Florida Statutes, are amended to read:

1039 376.86 Brownfield Areas Loan Guarantee Program.--

1040 (1) The Brownfield Areas Loan Guarantee Council is created
1041 to review and approve or deny, by a majority vote of its
1042 membership, the situations and circumstances for participation in
1043 partnerships by agreements with local governments, financial
1044 institutions, and others associated with the redevelopment of
1045 brownfield areas pursuant to the Brownfields Redevelopment Act
1046 for a limited state guaranty of up to 5 years of loan guarantees
1047 or loan loss reserves issued pursuant to law. The limited state
1048 loan guaranty applies only to 50 percent of the primary lenders
1049 loans for redevelopment projects in brownfield areas. If the
1050 redevelopment project is for affordable housing, as defined in s.
1051 420.0004(3), in a brownfield area, the limited state loan
1052 guaranty applies to 75 percent of the primary lender's loan. If
1053 the redevelopment project includes the construction and operation
1054 of a new health care facility or a health care provider, as
1055 defined in s. 408.032, s. 408.07, or s. 408.7056, on a brownfield
1056 site and the applicant has obtained documentation in accordance
1057 with s. 376.30781 indicating that the construction of the health



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1058 care facility or health care provider by the applicant on the
1059 brownfield site has received a certificate of occupancy or a
1060 license or certificate has been issued for the operation of the
1061 health care facility or health care provider, the limited state
1062 loan guaranty applies to 75 percent of the primary lender's loan.

1063 A limited state guaranty of private loans or a loan loss reserve
1064 is authorized for lenders licensed to operate in the state upon a
1065 determination by the council that such an arrangement would be in
1066 the public interest and the likelihood of the success of the loan
1067 is great.

1068 (2) The council shall consist of the secretary of the
1069 Department of Environmental Protection or the secretary's
1070 designee, the secretary of the Department of Community Affairs or
1071 the secretary's designee, the State Surgeon General or the State
1072 Surgeon General's designee, the Executive Director of the State
1073 Board of Administration or the executive director's designee, the
1074 Executive Director of the Florida Housing Finance Corporation or
1075 the executive director's designee, and the Director of the
1076 Governor's Office of Tourism, Trade, and Economic Development or
1077 the director's designee. The chairperson of the council shall be
1078 the Director of the Governor's Office of Tourism, Trade, and
1079 Economic Development. Staff services for activities of the
1080 council shall be provided as needed by the member agencies.

1081 Section 10. Subsection (1) of section 163.3221, Florida
1082 Statutes, is amended to read:

1083 163.3221 Florida Local Government Development Agreement
1084 Act; definitions.--As used in ss. 163.3220-163.3243:

1085 (1) "Brownfield designation" means a resolution adopted by
1086 a local government pursuant to s. 376.80 ~~the Brownfields~~
1087 ~~Redevelopment Act, ss. 376.77-376.85.~~



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1088
1089 ===== T I T L E A M E N D M E N T =====

1090 And the title is amended as follows:

1091 On line(s) 6, after the semicolon,
1092 insert:

1093
1094 amending s. 220.1845, F.S.; revising requirements for site
1095 rehabilitation tax credits; expanding eligibility for site
1096 rehabilitation tax credits; providing for application to
1097 brownfield site redevelopment solid waste removal costs;
1098 providing requirements and limitations; providing
1099 definitions; providing for application to construction and
1100 operation of new health care facilities or health care
1101 providers on brownfield sites; providing requirements;
1102 amending s. 376.30781, F.S.; revising provisions providing
1103 tax credits for rehabilitation of certain contaminated
1104 sites and brownfield sites; providing for application to
1105 solid waste removal activities and site rehabilitation;
1106 providing for granting tax credits to multiple applicants;
1107 providing criteria for claiming costs for solid waste
1108 removal; providing definitions; providing for application
1109 to construction and operation of new health care
1110 facilities or health care providers on brownfield sites;
1111 providing requirements; revising criteria and requirements
1112 for granting site rehabilitation tax credits; providing
1113 criteria and requirements for granting solid waste removal
1114 tax credits; revising criteria and requirements for
1115 Department of Environmental Protection review of tax
1116 credit applications; providing notice requirements for the
1117 department in reviewing applications; increasing available



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1118 amounts eligible for tax credits; providing additional
1119 limitations on tax credit awards for site rehabilitation
1120 costs and solid waste removal costs; providing
1121 construction of costs not eligible for tax credits;
1122 providing requirements and procedures for allocating and
1123 awarding certain ineligible or disputed costs; amending s.
1124 376.77, F.S.; conforming cross-references; amending s.
1125 376.79, F.S.; revising definitions relating to brownfield
1126 redevelopment; conforming a cross-reference; amending s.
1127 376.80, F.S.; revising the brownfield program
1128 administration process; revising local government proposal
1129 requirements; revising requirements for brownfield site
1130 redevelopment agreements; deleting certain brownfield site
1131 rehabilitation contractor certification requirements;
1132 deleting a requirement that certain professionals carry
1133 professional liability insurance; providing legislative
1134 findings and declarations; authorizing local governments
1135 to evaluate certain benefits and effects of brownfield
1136 site redevelopment and rehabilitation; providing criteria;
1137 authorizing the Department of Health to assist local
1138 governments in such evaluations; amending ss. 376.82 and
1139 376.83, F.S.; conforming cross-references; amending s.
1140 376.86, F.S.; providing for limited application of
1141 Brownfield Areas Loan Guarantee Program grants to
1142 construction and operation of new health care facilities
1143 and health care providers; expanding membership of the
1144 Brownfield Areas Loan Guarantee Council; amending s.
1145 163.3221, F.S.; conforming a cross-reference; providing
1146 for retroactive application;