

By the Committees on General Government Appropriations;
Judiciary; and Senators Posey, Jones and Baker

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1 A bill to be entitled
2 An act relating to financial assistance for contaminated
3 petroleum storage sites; amending s. 376.30715, F.S.;
4 providing for financial assistance in certain additional
5 circumstances involving a transfer of the contaminated
6 property; amending s. 220.1845, F.S.; revising
7 requirements for site rehabilitation tax credits;
8 expanding eligibility for site rehabilitation tax credits;
9 providing for application to brownfield site redevelopment
10 solid waste removal costs; providing requirements and
11 limitations; providing definitions; providing for
12 application to construction and operation of new health
13 care facilities or health care providers on brownfield
14 sites; providing requirements; amending s. 376.30781,
15 F.S.; revising provisions providing tax credits for
16 rehabilitation of certain contaminated sites and
17 brownfield sites; providing for application to solid waste
18 removal activities and site rehabilitation; providing for
19 granting tax credits to multiple applicants; providing
20 criteria for claiming costs for solid waste removal;
21 providing definitions; providing for application to
22 construction and operation of new health care facilities
23 or health care providers on brownfield sites; providing
24 requirements; revising criteria and requirements for
25 granting site rehabilitation tax credits; providing
26 criteria and requirements for granting solid waste removal
27 tax credits; revising criteria and requirements for
28 Department of Environmental Protection review of tax
29 credit applications; providing notice requirements for the

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30 department in reviewing applications; increasing available
31 amounts eligible for tax credits; providing additional
32 limitations on tax credit awards for site rehabilitation
33 costs and solid waste removal costs; providing
34 construction of costs not eligible for tax credits;
35 providing requirements and procedures for allocating and
36 awarding certain ineligible or disputed costs; amending s.
37 376.77, F.S.; conforming cross-references; amending s.
38 376.79, F.S.; revising definitions relating to brownfield
39 redevelopment; conforming a cross-reference; amending s.
40 376.80, F.S.; revising the brownfield program
41 administration process; revising local government proposal
42 requirements; revising requirements for brownfield site
43 redevelopment agreements; deleting certain brownfield site
44 rehabilitation contractor certification requirements;
45 deleting a requirement that certain professionals carry
46 professional liability insurance; providing legislative
47 findings and declarations; authorizing local governments
48 to evaluate certain benefits and effects of brownfield
49 site redevelopment and rehabilitation; providing criteria;
50 authorizing the Department of Health to assist local
51 governments in such evaluations; amending ss. 376.82 and
52 376.83, F.S.; conforming cross-references; amending s.
53 376.86, F.S.; providing for limited application of
54 Brownfield Areas Loan Guarantee Program grants to
55 construction and operation of new health care facilities
56 and health care providers; expanding membership of the
57 Brownfield Areas Loan Guarantee Council; amending s.
58 163.3221, F.S.; conforming a cross-reference; providing

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59 for retroactive application; providing an effective date.

60
61 Be It Enacted by the Legislature of the State of Florida:

62
63 Section 1. Section 376.30715, Florida Statutes, is amended
64 to read:

65 376.30715 Innocent victim petroleum storage system
66 restoration.--A contaminated site acquired by the current owner
67 prior to July 1, 1990, which has ceased operating as a petroleum
68 storage or retail business prior to January 1, 1985, is eligible
69 for financial assistance pursuant to s. 376.305(6),
70 notwithstanding s. 376.305(6)(a). For purposes of this section,
71 the term "acquired" means the acquisition of title to the
72 property; however, a subsequent transfer of the property to a
73 spouse, a surviving spouse in trust or free of trust, or a
74 revocable trust created for the benefit of the settlor does not
75 disqualify the site from financial assistance pursuant to s.
76 376.305(6). Eligible sites shall be ranked in accordance with s.
77 376.3071(5).

78 Section 2. Paragraphs (a), (c), (g), and (i) of subsection
79 (1) and subsection (2) of section 220.1845, Florida Statutes, are
80 amended, and paragraphs (j) and (k) are added to subsection (1)
81 of that section, to read:

82 220.1845 Contaminated site rehabilitation tax credit.--

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

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

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

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

95 3. A brownfield site in a designated brownfield area under
96 s. 376.80.

97 (c) If the credit granted under this section is not fully
98 used in any one year because of insufficient tax liability on the
99 part of the corporation, the unused amount may be carried forward
100 for up to ~~a period not to exceed~~ 5 years. The carryover credit
101 may be used in a subsequent year if ~~when~~ the tax imposed by this
102 chapter for that year exceeds the credit for which the
103 corporation is eligible in that year ~~under this section~~ after
104 applying the other credits and unused carryovers in the order
105 provided by s. 220.02(8). ~~Five years after the date a credit is~~
106 ~~granted under this section, such credit expires and may not be~~
107 ~~used. However,~~ If during the 5-year period the credit is
108 transferred, in whole or in part, pursuant to paragraph (g), each
109 transferee has 5 years after the date of transfer to use its
110 credit.

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

115 2. The entity or its surviving or acquiring entity as
116 described in subparagraph 1.7 may transfer any unused credit in

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117 whole or in units of at least ~~no less than~~ 25 percent of the
118 remaining credit. The entity acquiring such credit may use it in
119 the same manner and with the same limitation as described in this
120 section. Such transferred credits may not be transferred again
121 although they may succeed to a surviving or acquiring entity
122 subject to the same conditions and limitations as described in
123 this section.

124 3. ~~If In the event~~ the credit ~~provided for under this~~
125 ~~section~~ is reduced due to ~~either as a result of~~ a determination
126 by the Department of Environmental Protection or an examination
127 or audit by the Department of Revenue, the ~~such~~ tax deficiency
128 shall be recovered from the first entity, or the surviving or
129 acquiring entity that, ~~to have claimed the~~ such credit up to the
130 amount of credit taken. Any subsequent deficiencies shall be
131 assessed against the ~~any~~ entity acquiring and claiming the ~~such~~
132 credit, or in the case of multiple succeeding entities in the
133 order of credit succession.

134 (i) In order to encourage the construction of housing that
135 meets the definition of affordable provided in s. 420.0004(3), an
136 applicant for the tax credit may claim an additional 25 percent
137 of the total site rehabilitation costs that are eligible for tax
138 credits under this section, not to exceed \$500,000. In order to
139 receive this additional tax credit, the applicant must provide a
140 certification letter from the Florida Housing Finance
141 Corporation, the local housing authority, or other governmental
142 agency that is a party to the use agreement, ~~indicating that the~~
143 ~~construction on the brownfield site is complete, the brownfield~~
144 ~~site~~ has received a certificate of occupancy, ~~and the brownfield~~
145 site has a properly recorded instrument that limits the use of

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146 the property to housing that meets the definition of affordable
147 provided in s. 420.0004~~(3)~~.

148 (j) In order to encourage the redevelopment of a brownfield
149 site, as defined in the brownfield site rehabilitation agreement,
150 which is hindered by the presence of solid waste, as defined in
151 s. 403.703, a tax credit applicant, or multiple tax credit
152 applicants working jointly to clean up a single brownfield site,
153 may also claim costs required to address solid waste removal as
154 defined in this paragraph in accordance with rules of the
155 Department of Environmental Protection. Multiple tax credit
156 applicants shall be granted tax credits in the same proportion as
157 each applicant's contribution to payment of solid waste removal
158 costs. These costs are eligible for a tax credit provided the
159 applicant submits an affidavit stating that, after consultation
160 with appropriate local government officials and the Department of
161 Environmental Protection, to the best of the applicant's
162 knowledge according to such consultation and available historical
163 records, the brownfield site was never operated as a permitted
164 solid waste disposal area or was never operated for monetary
165 compensation and the applicant submits all other documentation
166 and certifications required by this section. Under this section,
167 wherever reference is made to "site rehabilitation," the
168 Department of Environmental Protection shall instead consider
169 whether or not the costs claimed are for solid waste removal. Tax
170 credit applications claiming costs pursuant to this paragraph
171 shall not be subject to the calendar-year limitation and January
172 31 annual application deadline, and the Department of
173 Environmental Protection shall accept a one-time application
174 filed subsequent to the completion by the tax credit applicant of

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175 the applicable requirements listed in this section. A tax credit
176 applicant may claim 50 percent of the cost for solid waste
177 removal, not to exceed \$500,000, after the applicant has
178 determined solid waste removal is completed for the brownfield
179 site. A solid waste removal tax credit application may be filed
180 only once per brownfield site. For the purposes of this section,
181 the term:

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

184 2. "Monetary compensation" means the fees that were charged
185 or the assessments that were levied for the disposal of solid
186 waste at a solid waste disposal area.

187 3. "Solid waste removal" means removal of solid waste from
188 the land surface or excavation of solid waste from below the land
189 surface and removal of the solid waste from the brownfield site.

190 The term also includes:

191 a. Transportation of solid waste to a licensed or exempt
192 solid waste management facility or to a temporary storage area.

193 b. Sorting or screening of solid waste prior to removal
194 from the site.

195 c. Deposition of solid waste at a permitted or exempt solid
196 waste management facility, whether the solid waste is disposed of
197 or recycled.

198 (k) In order to encourage the construction and operation of
199 a new health care facility as defined in s. 408.032 or s. 408.07,
200 or a health care provider as defined in s. 408.07 or s. 408.7056,
201 on a brownfield site, an applicant for a tax credit may claim an
202 additional 25 percent of the total site rehabilitation costs, not
203 to exceed \$500,000, if the applicant meets the requirements of

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204 this paragraph. In order to receive this additional tax credit,
205 the applicant must provide documentation indicating that the
206 construction of the health care facility or health care provider
207 by the applicant on the brownfield site has received a
208 certificate of occupancy or a license or certificate has been
209 issued for the operation of the health care facility or health
210 care provider.

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

215 Section 3. Section 376.30781, Florida Statutes, is amended
216 to read:

217 376.30781 ~~Partial~~ Tax credits for rehabilitation of
218 drycleaning-solvent-contaminated sites and brownfield sites in
219 designated brownfield areas; application process; rulemaking
220 authority; revocation authority.--

221 (1) The Legislature finds that:

222 (a) To facilitate property transactions and economic growth
223 and development, it is in the state's interest ~~of the state~~ to
224 encourage the cleanup, at the earliest possible time, of
225 drycleaning-solvent-contaminated sites and brownfield sites in
226 designated brownfield areas.

227 (b) It is the intent of the Legislature to encourage the
228 voluntary cleanup of drycleaning-solvent-contaminated sites and
229 brownfield sites in designated brownfield areas by providing a
230 ~~partial~~ tax credit for the restoration of such property in
231 specified circumstances.

232 (2) Notwithstanding the requirements of subsection

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233 ~~paragraph (5)(a)~~, tax credits allowed pursuant to s. 220.1845 are
234 available for ~~any~~ site rehabilitation or solid waste removal
235 conducted during the calendar year in which the applicable
236 voluntary cleanup agreement or brownfield site rehabilitation
237 agreement is executed, even if the site rehabilitation or solid
238 waste removal is conducted prior to the execution of that
239 agreement or the designation of the brownfield area.

240 (3) (a) A credit in the amount of 50 percent of the costs of
241 voluntary cleanup activity that is integral to site
242 rehabilitation at the following sites is allowed pursuant to s.
243 220.1845:

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

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

251 3. A brownfield site in a designated brownfield area under
252 s. 376.80.

253 (b) A tax credit applicant, or multiple tax credit
254 applicants working jointly to clean up a single site, may not
255 receive ~~be granted~~ more than \$500,000 per year in tax credits for
256 each site voluntarily rehabilitated. Multiple tax credit
257 applicants shall be granted tax credits in the same proportion as
258 each applicant's ~~their~~ contribution to payment of site
259 rehabilitation ~~cleanup~~ costs. Tax credits are available only for
260 site rehabilitation conducted during the calendar year for which
261 the tax credit application is submitted. For purposes of this

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262 section, the term "integral to site rehabilitation" means work
263 that is necessary to implement the requirements of chapter 62-785
264 or chapter 62-782, Florida Administrative Code.

265 (c) In order to encourage completion of site rehabilitation
266 at contaminated sites that are being voluntarily cleaned up and
267 that are eligible for a tax credit under this section, the tax
268 credit applicant may claim an additional 25 percent of the total
269 site rehabilitation ~~cleanup~~ costs, not to exceed \$500,000, in the
270 final year of cleanup as evidenced by the Department of
271 Environmental Protection issuing a "No Further Action" order for
272 that site.

273 (d) In order to encourage the construction of housing that
274 meets the definition of affordable provided in s. 420.0004(3), an
275 applicant for the tax credit may claim an additional 25 percent
276 of the total site rehabilitation costs that are eligible for tax
277 credits under this section, not to exceed \$500,000. ~~In order~~ To
278 receive this additional tax credit, the applicant must provide a
279 certification letter from the Florida Housing Finance
280 Corporation, the local housing authority, or other governmental
281 agency that is a party to the use agreement, ~~indicating that the~~
282 ~~construction on the brownfield site is complete, the brownfield~~
283 ~~site has received a certificate of occupancy, and the brownfield~~
284 ~~site has a properly recorded instrument that limits the use of~~
285 ~~the property to housing that meets the definition of affordable~~
286 ~~provided in s. 420.0004(3).~~ Notwithstanding ~~the limitation~~ that
287 only one application may ~~shall~~ be submitted each year for each
288 site, an application for the additional credit provided for in
289 this paragraph shall be submitted after ~~as soon as~~ all
290 requirements to obtain the ~~this~~ additional tax credit have been

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291 met.

292 (e) In order ~~Notwithstanding the restrictions in this~~
293 ~~section that limit tax credit eligibility to costs that are~~
294 ~~integral to site rehabilitation,~~ to encourage the redevelopment
295 of a brownfield site, as defined in the brownfield site
296 rehabilitation agreement, which is ~~properties in designated~~
297 ~~brownfield areas that are hindered by the presence of solid~~
298 ~~waste, as defined in s. 403.703, costs related to solid waste~~
299 removal may also be claimed under this section. A tax credit
300 applicant, or multiple tax credit applicants working jointly to
301 clean up a single brownfield site, may also claim costs to
302 address the solid waste removal as defined in this paragraph, ~~but~~
303 ~~only those costs to remove, transport, and dispose of solid waste~~
304 in accordance with department rules. Multiple tax credit
305 applicants shall be granted tax credits in the same proportion as
306 each applicant's contribution to payment of solid waste removal
307 costs. These costs are eligible for a tax credit provided the
308 applicant submits an affidavit stating that, after consultation
309 with appropriate local government officials and the department,
310 to the best of the applicant's knowledge based upon such
311 consultation and available historical records, the brownfield
312 site was never operated as a permitted solid waste disposal area
313 or was never operated ~~landfill or dump site~~ for monetary
314 compensation, and the applicant submits all other documentation
315 and certifications required by this section. In this section,
316 where reference is made to "site rehabilitation," the department
317 shall instead consider whether the costs claimed are for solid
318 waste removal, ~~transportation, and disposal of solid waste.~~ Tax
319 credit applications claiming costs pursuant to this paragraph

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320 shall not be subject to the calendar-year limitation and January
321 31 ~~15~~ annual application deadline, and the department shall
322 accept a one-time application filed subsequent to the completion
323 by the tax credit applicant of the applicable requirements listed
324 in this subsection ~~paragraph~~. A tax credit applicant may claim 50
325 percent of the costs for solid waste removal, not to exceed
326 \$500,000, after the applicant has determined solid waste removal
327 is completed for the brownfield site. A solid waste removal tax
328 credit application may be filed only once per brownfield site.
329 For the purposes of this section, the term:

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

332 2. "Monetary compensation" means the fees that were charged
333 or the assessments that were levied for the disposal of solid
334 waste at a solid waste disposal area.

335 3. "Solid waste removal" means removal of solid waste from
336 the land surface or excavation of solid waste from below the land
337 surface and removal of the solid waste from the brownfield site.

338 The term also includes:

339 a. Transportation of solid waste to a licensed or exempt
340 solid waste management facility or to a temporary storage area.

341 b. Sorting or screening of solid waste prior to removal
342 from the site.

343 c. Deposition of solid waste at a permitted or exempt solid
344 waste management facility, whether the solid waste is disposed of
345 or recycled.

346 (f) In order to encourage the construction and operation of
347 a new health care facility or a health care provider, as defined
348 in s. 408.032, s. 408.07, or s. 408.7056, on a brownfield site,

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349 an applicant for a tax credit may claim an additional 25 percent
350 of the total site rehabilitation costs, not to exceed \$500,000,
351 if the applicant meets the requirements of this paragraph. In
352 order to receive this additional tax credit, the applicant must
353 provide documentation indicating that the construction of the
354 health care facility or health care provider by the applicant on
355 the brownfield site has received a certificate of occupancy or a
356 license or certificate has been issued for the operation of the
357 health care facility or health care provider.

358 (4) The Department of Environmental Protection is ~~shall be~~
359 responsible for allocating the tax credits provided for in s.
360 220.1845, which may not ~~to~~ exceed a total of \$2 million in tax
361 credits annually.

362 (5) To claim the credit for site rehabilitation or solid
363 waste removal ~~conducted during the current calendar year~~, each
364 tax credit applicant must apply to the Department of
365 Environmental Protection for an allocation of the \$2 million
366 annual credit by filing a tax credit application with the
367 Division of Waste Management ~~January 15 of the following year~~ on
368 a form developed by the Department of Environmental Protection in
369 cooperation with the Department of Revenue. The form shall
370 include an affidavit from each tax credit applicant certifying
371 that all information contained in the application, including all
372 records of costs incurred and claimed in the tax credit
373 application, are true and correct. If the application is
374 submitted pursuant to subparagraph (3)(a)2., the form must
375 include an affidavit signed by the real property owner stating
376 that it is not, and has never been, the owner or operator of the
377 drycleaning facility where the contamination exists. Approval of

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378 ~~partial~~ tax credits must be accomplished on a first-come, first-
379 served basis based upon the date and time complete applications
380 are received by the Division of Waste Management, subject to the
381 limitations of subsection (14). ~~A tax credit applicant shall~~
382 ~~submit only one complete application per site for each calendar~~
383 ~~year's site rehabilitation costs. Incomplete placeholder~~
384 ~~applications shall not be accepted and will not secure a place in~~
385 ~~the first-come, first-served application line.~~ To be eligible for
386 a tax credit, the tax credit applicant must:

387 (a) For site rehabilitation tax credits, have entered into
388 a voluntary cleanup agreement with the Department of
389 Environmental Protection for a drycleaning-solvent-contaminated
390 site or a Brownfield Site Rehabilitation Agreement, as
391 applicable,⁺ and have paid all deductibles pursuant to s.
392 376.3078(3)(e) for eligible drycleaning-solvent-cleanup program
393 sites, as applicable. A site rehabilitation tax credit applicant
394 must submit only a single completed application per site for each
395 calendar year's site rehabilitation costs. A site rehabilitation
396 application must be received by the Division of Waste Management
397 of the Department of Environmental Protection by January 31 of
398 the year after the calendar year for which site rehabilitation
399 costs are being claimed in a tax credit application.

400 (b) For solid waste removal tax credits, have entered into
401 a brownfield site rehabilitation agreement with the Department of
402 Environmental Protection. A solid waste removal tax credit
403 applicant must submit only a single complete application per
404 brownfield site, as defined in the brownfield site rehabilitation
405 agreement, for solid waste removal costs. A solid waste removal
406 tax credit application must be received by the Division of Waste

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407 Management of the Department of Environmental Protection
408 subsequent to the completion of the requirements listed in
409 paragraph (3) (e) ~~Have paid all deductibles pursuant to s.~~
410 ~~376.3078(3) (e) for eligible drycleaning-solvent-cleanup program~~
411 sites.

412 (6) To obtain the tax credit certificate, ~~a tax credit~~
413 ~~applicant must annually file an application for certification,~~
414 ~~which must be received by the Division of Waste Management of the~~
415 ~~Department of Environmental Protection by January 15 of the year~~
416 ~~following the calendar year for which site rehabilitation costs~~
417 ~~are being claimed in a tax credit application.~~ the tax credit
418 applicant must provide all pertinent information requested on the
419 tax credit application form, including, at a minimum, the name
420 and address of the tax credit applicant and the address and
421 tracking identification number of the eligible site. Along with
422 the tax credit application form, the tax credit applicant must
423 submit the following:

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

428 (b) Copies of documents that describe the goods or services
429 and associated costs being claimed that were integral to site
430 rehabilitation as defined in s. 376.301 or s. 376.79 or were for
431 solid waste removal as defined in this section during the time
432 period covered by the application. Such documents must include
433 contractual records that describe the scope of work performed,
434 payment requests that describe the goods or services provided,
435 and payment records involving actual costs incurred and paid.

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436 Such documentation must be sufficient to demonstrate a link
437 between the contractual records, the payment requests, and the
438 payment records for the time period covered by the application
439 ~~contracts and documentation of contract negotiations, accounts,~~
440 ~~invoices, sales tickets, or other payment records from purchases,~~
441 ~~sales, leases, or other transactions involving actual costs~~
442 ~~incurred for that tax year related to site rehabilitation, as~~
443 ~~that term is defined in ss. 376.301 and 376.79;~~

444 (c) Proof that the documentation submitted pursuant to
445 paragraph (b) has been reviewed and verified by an independent
446 certified public accountant in accordance with standards
447 established by the American Institute of Certified Public
448 Accountants. Specifically, a certified public accountant's report
449 must be submitted and the certified public accountant must attest
450 to the accuracy and validity of the costs incurred and paid
451 during the time period covered in the application by conducting
452 an independent review of the data presented by the tax credit
453 applicant. Accuracy and validity of costs incurred and paid shall
454 ~~would~~ be determined after ~~once~~ the level of effort is ~~was~~
455 certified by an appropriate professional registered in this state
456 in each contributing technical discipline. The certified public
457 accountant's report must ~~would~~ also attest that the costs
458 included in the application form are not duplicated within the
459 application. A copy of the accountant's report shall be submitted
460 to the Department of Environmental Protection in addition to the
461 accountant's certification form in ~~with~~ the tax credit
462 application; and

463 (d) A certification form stating that ~~site rehabilitation~~
464 activities associated with the documentation submitted pursuant

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465 to paragraph (b) have been conducted under the observation of,
466 and related technical documents have been signed and sealed by,
467 an appropriate professional registered in this state in each
468 contributing technical discipline. The certification form shall
469 be signed and sealed by the appropriate registered professionals
470 stating that the costs incurred were integral, necessary, and
471 required for site rehabilitation, as that term is defined in ss.
472 376.301 and 376.79. If the scope of solid waste removal
473 activities does not require oversight by a registered technical
474 professional in this state, such certification form is not
475 required as part of the tax credit application.

476 (7) The certified public accountant and appropriate
477 registered professionals submitting forms as part of a tax credit
478 application must verify such forms by completing and signing the
479 appropriate certifications included as part of the application
480 form. Verification shall ~~must~~ be accomplished as provided in s.
481 92.525(1)(b) and subject to ~~the provisions of~~ s. 92.525(3).

482 (8) The Department of Environmental Protection shall review
483 the tax credit application and any supplemental documentation
484 that the tax credit applicant may submit prior to the annual
485 application deadline, if applicable, for completeness and
486 eligibility, as follows:

487 (a) To be In order to have the application considered
488 complete, the review must verify for the purpose of verifying
489 that the tax credit applicant has met the appropriate qualifying
490 criteria in subsections (3) and (5), and has submitted a
491 completed application form, and has addressed each of the
492 categories of submittals all required documentation listed in
493 subsection (6). Upon verification that the tax credit applicant

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494 has met such completeness ~~these~~ requirements, the tax credit
495 application secures a place in the first-come, first-served
496 application line. If the department determines that an
497 application is incomplete, the department shall notify the
498 applicant in writing and the applicant shall have 30 days after
499 receiving such notification to correct any deficiency. Upon
500 timely correction of any deficiencies, the tax credit application
501 secures a place in the first-come, first-served application line.
502 Tax credit applications may not be altered to claim additional
503 costs during this time.

504 (b) In order to have costs considered eligible, a review of
505 the complete application shall be performed to verify that the
506 work claimed was integral to site rehabilitation or was for solid
507 waste removal, that the work claimed was performed in the
508 applicable timeframe, and that the costs claimed were properly
509 documented. Upon verification, the department shall issue a
510 written decision granting eligibility for ~~partial~~ tax credits (a
511 tax credit certificate). Complete tax credit applications shall
512 be reviewed for eligible costs in conjunction with ~~in the amount~~
513 ~~of 50 percent of the total costs claimed, subject to the \$500,000~~
514 ~~limitation, for the calendar year for which the tax credit~~
515 ~~application is submitted based on the report of the certified~~
516 public accountant and the certifications from the appropriate
517 registered technical professionals, as applicable.

518 (9) On or before May 1 ~~March 31~~, the Department of
519 Environmental Protection shall inform each ~~eligible~~ tax credit
520 applicant that is subject to the January 31 annual application
521 deadline of the applicant's eligibility status and ~~of the amount~~
522 of ~~any its partial~~ tax credit due. The department shall ~~and~~

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523 provide each eligible tax credit applicant with a tax credit
524 certificate that must be submitted with its tax return to the
525 Department of Revenue to claim the tax credit or be transferred
526 pursuant to s. 220.1845(1) (g) ~~(h)~~. The May 1 deadline for annual
527 site rehabilitation tax credit certificate awards shall not apply
528 to any tax credit application for which the department has issued
529 a notice of deficiency pursuant to subsection (8). The department
530 shall respond within 90 days after receiving a response from the
531 tax credit applicant to such a notice of deficiency. Credits may
532 ~~will~~ not result in the payment of refunds if total credits exceed
533 the amount of tax owed.

534 (10) For solid waste removal, new health care facility or
535 health care provider, and affordable housing tax credit
536 applications, the Department of Environmental Protection shall
537 inform the applicant of the department's determination within 90
538 days after the application is deemed complete. Each eligible tax
539 credit applicant shall be informed of the amount of its tax
540 credit and provided with a tax credit certificate that must be
541 submitted with its tax return to the Department of Revenue to
542 claim the tax credit or be transferred pursuant to s.
543 220.1845(1) (g). Credits may not result in the payment of refunds
544 if total credits exceed the amount of tax owed.

545 ~~(11)-(10)~~ If a tax credit applicant does not receive a tax
546 credit allocation due to an exhaustion of the \$2 million annual
547 tax credit authorization, such application will then be included
548 in the same first-come, first-served order in the next year's
549 annual tax credit allocation, if any, based on the prior year
550 application.

551 (12) ~~(11)~~ The Department of Environmental Protection may

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552 adopt rules to prescribe the necessary forms required to claim
553 tax credits under this section and to provide the administrative
554 guidelines and procedures required to administer this section.

555 (13)~~(12)~~ The Department of Environmental Protection may
556 revoke or modify any written decision granting eligibility for
557 ~~partial~~ tax credits under this section if it is discovered that
558 the tax credit applicant submitted any false statement,
559 representation, or certification in any application, record,
560 report, plan, or other document filed in an attempt to receive
561 ~~partial~~ tax credits under this section. The Department of
562 Environmental Protection shall immediately notify the Department
563 of Revenue of any revoked or modified orders affecting previously
564 granted partial tax credits. Additionally, the tax credit
565 applicant must notify the Department of Revenue of any change in
566 its tax credit claimed.

567 (14) (a)~~(13)~~ A tax credit applicant who receives state-
568 funded site rehabilitation under s. 376.3078(3) for
569 rehabilitation of a drycleaning-solvent-contaminated site is
570 ineligible to receive a tax credit under s. 220.1845 for costs
571 incurred by the tax credit applicant in conjunction with the
572 rehabilitation of that site during the same time period that
573 state-administered site rehabilitation was underway.

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

578 (c) A single brownfield site may receive tax credits for
579 both eligible site rehabilitation costs and eligible solid waste
580 removal costs provided the costs for any given activity are not

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581 claimed for both site rehabilitation and solid waste removal such
582 that the same costs are claimed twice.

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

587 (e) If the department notifies an applicant pursuant to
588 subsection (9) that any claimed costs are ineligible, those costs
589 may not be allocated and applied to the annual tax credit
590 authorization, and any disputed costs may not delay the
591 application processing or award for subsequent eligible tax
592 credit applicants in the first-come, first-served application
593 line. However, if the department subsequently agrees to award tax
594 credits on any amount that was disputed, the department shall do
595 so based upon the first-come, first-served application line
596 determined by the applicant's original completeness date and
597 time, provided there is any tax credit authorization available.
598 If a tax credit applicant does not receive an award for the
599 disputed costs due to an exhaustion of the annual tax credit
600 authorization, such subsequent tax credit award shall be included
601 in the same first-come, first-served order in the next year's
602 annual tax credit allocation, if any, based upon the applicant's
603 original completeness date and time.

604 Section 4. Section 376.77, Florida Statutes, is amended to
605 read:

606 376.77 Short title.--Sections 376.77-376.86 ~~376.77-376.85~~
607 may be cited as the "Brownfields Redevelopment Act."

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

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610 376.79 Definitions relating to Brownfields Redevelopment
611 Act.--As used in ss. 376.77-376.86 ~~376.77-376.85~~, the term:

612 (6) "Contaminated site" means any contiguous land,
613 sediment, surface water, or groundwater areas that contain
614 contaminants that may be harmful to human health or the
615 environment.

616 (8) "Engineering controls" means modifications to a site to
617 reduce or eliminate the potential for exposure to chemicals of
618 concern from petroleum products, drycleaning solvents, or other
619 contaminants. Such modifications may include, but are not limited
620 to, physical or hydraulic control measures, capping, point of use
621 treatments, or slurry walls.

622 (10) "Institutional controls" means the restriction on use
623 of or access to a site to eliminate or minimize exposure to
624 chemicals of concern from petroleum products, drycleaning
625 solvents, or other contaminants. Such restrictions may include,
626 but are not limited to, deed restrictions, restrictive covenants,
627 or conservation easements.

628 (11) "Local pollution control program" means a local
629 pollution control program that has received delegated authority
630 from the Department of Environmental Protection under ss.
631 376.80 (9) ~~(11)~~ and 403.182.

632 (12) "Natural attenuation" means a verifiable approach to
633 site rehabilitation that ~~which~~ allows natural processes to
634 contain the spread of contamination and reduce the concentrations
635 of contaminants in contaminated groundwater and soil. Natural
636 attenuation processes may include sorption, biodegradation,
637 chemical reactions with subsurface materials, diffusion,
638 dispersion, and volatilization.

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639 (17) "Site rehabilitation" means the assessment of site
640 contamination and the remediation activities that reduce the
641 levels of contaminants at a site through accepted treatment
642 methods to meet the cleanup target levels established for that
643 site. For purposes of sites subject to the Resource Conservation
644 and Recovery Act, as amended, the term includes removal,
645 decontamination, and corrective action concerning releases of
646 hazardous substances.

647 Section 6. Section 376.80, Florida Statutes, is amended to
648 read:

649 376.80 Brownfield program administration process.--

650 (1) A local government with jurisdiction over the
651 brownfield area must notify the department of its decision to
652 designate a brownfield area for rehabilitation for the purposes
653 of ss. 376.77-376.86 ~~376.77-376.85~~. The notification must include
654 a resolution, by the local government body, to which is attached
655 a map adequate to clearly delineate exactly which parcels are to
656 be included in the brownfield area or alternatively a less-
657 detailed map accompanied by a detailed legal description of the
658 brownfield area. If a property owner within the area proposed for
659 designation by the local government requests in writing to have
660 his or her property removed from the proposed designation, the
661 local government shall grant the request. For municipalities, the
662 governing body shall adopt the resolution in accordance with the
663 procedures outlined in s. 166.041, except that the notice for the
664 public hearings on the proposed resolution must be in the form
665 established in s. 166.041(3)(c)2. For counties, the governing
666 body shall adopt the resolution in accordance with the procedures
667 outlined in s. 125.66, except that the notice for the public

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668 hearings on the proposed resolution shall be in the form
669 established in s. 125.66(4)(b)2.

670 (2)(a) If a local government proposes to designate a
671 brownfield area that is outside community redevelopment areas,
672 enterprise zones, empowerment zones, closed military bases, or
673 designated brownfield pilot project areas, the local government
674 shall adopt the resolution and ~~must~~ conduct the public hearings
675 in accordance with the requirements of subsection (1), except
676 that at least one of the required public hearings shall be
677 conducted as close as reasonably practicable to ~~hearing in~~ the
678 area to be designated to provide an opportunity for public input
679 on the size of the area, the objectives for rehabilitation, job
680 opportunities and economic developments anticipated, neighborhood
681 residents' considerations, and other relevant local concerns.
682 Notice of the public hearing must be made in a newspaper of
683 general circulation in the area and the notice must be at least
684 16 square inches in size, must be in ethnic newspapers or local
685 community bulletins, must be posted in the affected area, and
686 must be announced at a scheduled meeting of the local governing
687 body before the actual public hearing. In determining the areas
688 to be designated, the local government must consider:

- 689 1. Whether the brownfield area warrants economic
690 development and has a reasonable potential for such activities;
- 691 2. Whether the proposed area to be designated represents a
692 reasonably focused approach and is not overly large in geographic
693 coverage;
- 694 3. Whether the area has potential to interest the private
695 sector in participating in rehabilitation; and
- 696 4. Whether the area contains sites or parts of sites

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697 suitable for limited recreational open space, cultural, or
698 historical preservation purposes.

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

701 1. A person who owns or controls a potential brownfield
702 site is requesting the designation and has agreed to rehabilitate
703 and redevelop the brownfield site;

704 2. The rehabilitation and redevelopment of the proposed
705 brownfield site will result in economic productivity of the area,
706 along with the creation of at least 5 new permanent jobs at the
707 brownfield site that ~~which~~ are full-time equivalent positions not
708 associated with the implementation of the brownfield site
709 rehabilitation agreement and that ~~which~~ are not associated with
710 redevelopment project demolition or construction activities
711 pursuant to the redevelopment of the proposed brownfield site or
712 area agreement required under paragraph (5)(i). However, the job
713 creation requirement shall not apply to the rehabilitation and
714 redevelopment of a brownfield site that will provide affordable
715 housing as defined in s. 420.0004~~(3)~~ or the creation of
716 recreational areas, conservation areas, or parks;

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

720 4. Notice of the proposed rehabilitation of the brownfield
721 area has been provided to neighbors and nearby residents of the
722 proposed area to be designated, and the person proposing the area
723 for designation has afforded to those receiving notice the
724 opportunity for comments and suggestions about rehabilitation.
725 Notice pursuant to this subparagraph ~~subsection~~ must be made in a

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726 newspaper of general circulation in the area, at least 16 square
727 inches in size, and the notice must be posted in the affected
728 area; and

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

733 (c) The designation of a brownfield area and the
734 identification of a person responsible for brownfield site
735 rehabilitation simply entitles the identified person to negotiate
736 a brownfield site rehabilitation agreement with the department or
737 approved local pollution control program.

738 (3) When there is a person responsible for brownfield site
739 rehabilitation, the local government must notify the department
740 of the identity of that person. If the agency or person who will
741 be responsible for the coordination changes during the approval
742 process specified in subsections (4), (5), and (6), the
743 department or the affected approved local pollution control
744 program must notify the affected local government when the change
745 occurs.

746 (4) Local governments or persons responsible for
747 rehabilitation and redevelopment of brownfield areas must
748 establish an advisory committee or use an existing advisory
749 committee that has formally expressed its intent to address
750 redevelopment of the specific brownfield area for the purpose of
751 improving public participation and receiving public comments on
752 rehabilitation and redevelopment of the brownfield area, future
753 land use, local employment opportunities, community safety, and
754 environmental justice. Such advisory committee should include

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755 residents within or adjacent to the brownfield area, businesses
756 operating within the brownfield area, and others deemed
757 appropriate. The person responsible for brownfield site
758 rehabilitation must notify the advisory committee of the intent
759 to rehabilitate and redevelop the site before executing the
760 brownfield site rehabilitation agreement, and provide the
761 committee with a copy of the draft plan for site rehabilitation
762 which addresses elements required by subsection (5). This
763 includes disclosing potential reuse of the property as well as
764 site rehabilitation activities, if any, to be performed. The
765 advisory committee shall review any ~~the~~ proposed redevelopment
766 agreements prepared ~~agreement required~~ pursuant to paragraph
767 (5)(i) and provide comments, if appropriate, to the board of the
768 local government with jurisdiction over the brownfield area. The
769 advisory committee must receive a copy of the executed brownfield
770 site rehabilitation agreement. When the person responsible for
771 brownfield site rehabilitation submits a site assessment report
772 or the technical document containing the proposed course of
773 action following site assessment to the department or the local
774 pollution control program for review, the person responsible for
775 brownfield site rehabilitation must hold a meeting or attend a
776 regularly scheduled meeting to inform the advisory committee of
777 the findings and recommendations in the site assessment report or
778 the technical document containing the proposed course of action
779 following site assessment.

780 (5) The person responsible for brownfield site
781 rehabilitation must enter into a brownfield site rehabilitation
782 agreement with the department or an approved local pollution
783 control program if actual contamination exists at the brownfield

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784 | site. The brownfield site rehabilitation agreement must include:

785 | (a) A brownfield site rehabilitation schedule, including
786 | milestones for completion of site rehabilitation tasks and
787 | submittal of technical reports and rehabilitation plans as agreed
788 | upon by the parties to the agreement.†

789 | (b) A commitment to conduct site rehabilitation activities
790 | under the observation of professional engineers or geologists who
791 | are registered in accordance with the requirements of chapter 471
792 | or chapter 492, respectively. Submittals provided by the person
793 | responsible for brownfield site rehabilitation must be signed and
794 | sealed by a professional engineer registered under chapter 471,
795 | or a professional geologist registered under chapter 492,
796 | certifying that the submittal and associated work comply with the
797 | law and rules of the department and those governing the
798 | profession. In addition, upon completion of the approved remedial
799 | action, the department shall require a professional engineer
800 | registered under chapter 471 or a professional geologist
801 | registered under chapter 492 to certify that the corrective
802 | action was, to the best of his or her knowledge, completed in
803 | substantial conformance with the plans and specifications
804 | approved by the department.†

805 | (c) A commitment to conduct site rehabilitation in
806 | accordance with department quality assurance rules.†

807 | (d) A commitment to conduct site rehabilitation consistent
808 | with state, federal, and local laws and consistent with the
809 | brownfield site contamination cleanup criteria in s. 376.81,
810 | including any applicable requirements for risk-based corrective
811 | action.†

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

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813 reports and plans submitted in accordance with the agreement. The
814 department shall make every effort to adhere to established
815 agency goals for reasonable timeframes for review of such
816 documents.~~†~~

817 (f) A commitment to secure site access for the department
818 or approved local pollution control program to all brownfield
819 sites within the eligible brownfield area for activities
820 associated with site rehabilitation.~~†~~

821 (g) Other provisions that the person responsible for
822 brownfield site rehabilitation and the department agree upon,
823 that are consistent with ss. 376.77-376.86 ~~376.77-376.85~~, and
824 that will improve or enhance the brownfield site rehabilitation
825 process.~~†~~

826 (h) A commitment to consider appropriate pollution
827 prevention measures and to implement those that the person
828 responsible for brownfield site rehabilitation determines are
829 reasonable and cost-effective, taking into account the ultimate
830 use or uses of the brownfield site. Such measures may include
831 improved inventory or production controls and procedures for
832 preventing loss, spills, and leaks of hazardous waste and
833 materials, and include goals for the reduction of releases of
834 toxic materials.~~†~~ and

835 (i) Certification that ~~an agreement exists between~~ the
836 person responsible for brownfield site rehabilitation has
837 consulted with ~~and~~ the local government with jurisdiction over
838 the brownfield area about the proposed redevelopment of the
839 brownfield site, that the local government is in agreement with
840 or approves the proposed redevelopment, and that the proposed
841 redevelopment complies with applicable laws and requirements for

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842 such redevelopment. Certification shall be accomplished by
843 referencing or providing a legally recorded or officially
844 approved land use or site plan, a development order or approval,
845 a building permit, or a similar official document issued by the
846 local government that reflects the local government's approval of
847 proposed redevelopment of the brownfield site; providing a copy
848 of the local government resolution designating the brownfield
849 area that contains the proposed redevelopment of the brownfield
850 site; or providing a letter from the local government that
851 describes the proposed redevelopment of the brownfield site and
852 expresses the local government's agreement with or approval of
853 the proposed redevelopment. ~~Such agreement shall contain terms~~
854 ~~for the redevelopment of the brownfield area.~~

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

857 (a) Meets all certification and license requirements
858 imposed by law; and

859 (b) Will conduct ~~Has obtained the necessary approvals for~~
860 ~~conducting~~ sample collection and analyses pursuant to department
861 rules.

862 ~~(7) The contractor who is performing the majority of the~~
863 ~~site rehabilitation program tasks pursuant to a brownfield site~~
864 ~~rehabilitation agreement or supervising the performance of such~~
865 ~~tasks by licensed subcontractors in accordance with the~~
866 ~~provisions of s. 489.113(9) must certify to the department that~~
867 ~~the contractor:~~

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

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

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871 ~~(c) Maintains comprehensive general liability coverage with~~
872 ~~limits of not less than \$1 million per occurrence and \$2 million~~
873 ~~general aggregate for bodily injury and property damage and~~
874 ~~comprehensive automobile liability coverage with limits of not~~
875 ~~less than \$1 million combined single limit. The contractor shall~~
876 ~~also maintain pollution liability coverage with limits of not~~
877 ~~less than \$3 million aggregate for personal injury or death, \$1~~
878 ~~million per occurrence for personal injury or death, and \$1~~
879 ~~million per occurrence for property damage. The contractor's~~
880 ~~certificate of insurance shall name the state as an additional~~
881 ~~insured party.~~

882 ~~(d) Maintains professional liability insurance of at least~~
883 ~~\$1 million per claim and \$1 million annual aggregate.~~

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

888 (7)(9) During the cleanup process, if the department or
889 local program fails to complete review of a technical document
890 within the timeframe specified in the brownfield site
891 rehabilitation agreement, the person responsible for brownfield
892 site rehabilitation may proceed to the next site rehabilitation
893 task. However, the person responsible for brownfield site
894 rehabilitation does so at its own risk and may be required by the
895 department or local program to complete additional work on a
896 previous task. Exceptions to this subsection include requests for
897 "no further action," "monitoring only proposals," and feasibility
898 studies, which must be approved prior to implementation.

899 (8)(10) If the person responsible for brownfield site

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900 rehabilitation fails to comply with the brownfield site
901 rehabilitation agreement, the department shall allow 90 days for
902 the person responsible for brownfield site rehabilitation to
903 return to compliance with the provision at issue or to negotiate
904 a modification to the brownfield site rehabilitation agreement
905 with the department for good cause shown. If an imminent hazard
906 exists, the 90-day grace period shall not apply. If the project
907 is not returned to compliance with the brownfield site
908 rehabilitation agreement and a modification cannot be negotiated,
909 the immunity provisions of s. 376.82 are revoked.

910 (9)~~(11)~~ The department is specifically authorized and
911 encouraged to enter into delegation agreements with local
912 pollution control programs approved under s. 403.182 to
913 administer the brownfield program within their jurisdictions,
914 thereby maximizing the integration of this process with the other
915 local development processes needed to facilitate redevelopment of
916 a brownfield area. When determining whether a delegation pursuant
917 to this subsection of all or part of the brownfield program to a
918 local pollution control program is appropriate, the department
919 shall consider the following. The local pollution control program
920 must:

921 (a) Have and maintain the administrative organization,
922 staff, and financial and other resources to effectively and
923 efficiently implement and enforce the statutory requirements of
924 the delegated brownfield program; and

925 (b) Provide for the enforcement of the requirements of the
926 delegated brownfield program, and for notice and a right to
927 challenge governmental action, by appropriate administrative and
928 judicial process, which shall be specified in the delegation.

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929
930 The local pollution control program shall not be delegated
931 authority to take action on or to make decisions regarding any
932 brownfield site on land owned by the local government. Any
933 delegation agreement entered into pursuant to this subsection
934 shall contain such terms and conditions necessary to ensure the
935 effective and efficient administration and enforcement of the
936 statutory requirements of the brownfield program as established
937 by the act and the relevant rules and other criteria of the
938 department.

939 (10)~~(12)~~ Local governments are encouraged to use the full
940 range of economic and tax incentives available to facilitate and
941 promote the rehabilitation of brownfield areas, to help eliminate
942 the public health and environmental hazards, and to promote the
943 creation of jobs and economic development in these previously
944 run-down, blighted, and underutilized areas.

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

946 1. Brownfield site rehabilitation and redevelopment can
947 improve the overall health of a community and the quality of life
948 for communities, including improved health and quality of life of
949 individuals living in such communities.

950 2. The community health benefits of brownfield site
951 rehabilitation and redevelopment should be better measured in
952 order to achieve the legislative intent as expressed in s.
953 376.78.

954 3. There is a need in this state to define and better
955 measure the community health benefits of brownfield site
956 rehabilitation and redevelopment.

957 4. Funding sources should be established to support efforts

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958 by the state and local governments, in collaboration with local
959 health departments, community health providers, and nonprofit
960 organizations, to evaluate the community health benefits of
961 brownfield site rehabilitation and redevelopment.

962 (b) Local governments may and are encouraged to evaluate
963 the community health benefits and effects of brownfield site
964 rehabilitation and redevelopment in connection with brownfield
965 areas located within their jurisdictions. Factors that may be
966 evaluated and monitored before and after brownfield site
967 rehabilitation and redevelopment include, but are not limited to:

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

971 2. Access to primary and other health care or health
972 services for persons living in or around brownfield sites that
973 have been rehabilitated and redeveloped.

974 3. Any new or increased access to open, green, park, or
975 other recreational spaces that provide recreational opportunities
976 for individuals living in or around brownfield sites that have
977 been rehabilitated and redeveloped.

978 4. Other factors described in rules adopted by the
979 Department of Environmental Protection or the Department of
980 Health, as applicable.

981 (c) The Department of Health may and is encouraged to
982 assist local governments, in collaboration with local health
983 departments, community health providers, and nonprofit
984 organizations, in evaluating the community health benefits of
985 brownfield site rehabilitation and redevelopment.

986 Section 7. Subsection (1), paragraphs (d) and (f) of

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987 subsection (2), and subsection (3) of section 376.82, Florida
988 Statutes, are amended to read:

989 376.82 Eligibility criteria and liability protection.--

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

995 (a) Potential brownfield sites that are subject to an
996 ongoing formal judicial or administrative enforcement action or
997 corrective action pursuant to federal authority, including, but
998 not limited to, the Comprehensive Environmental Response
999 Compensation and Liability Act, 42 U.S.C. ss. 9601 et seq., as
1000 amended; the Safe Drinking Water Act, 42 U.S.C. ss. 300f-300i, as
1001 amended; the Clean Water Act, 33 U.S.C. ss. 1251-1387, as
1002 amended; or under an order from the United States Environmental
1003 Protection Agency pursuant to 42 U.S.C. s. 6928(h) ~~s. 3008(h)~~ of
1004 the Resource Conservation and Recovery Act, as amended ~~(42~~
1005 ~~U.S.C.A. s. 6928(h))~~; or that have obtained or are required to
1006 obtain a permit for the operation of a hazardous waste treatment,
1007 storage, or disposal facility; a postclosure permit; or a permit
1008 pursuant to the federal Hazardous and Solid Waste Amendments of
1009 1984, are not eligible for participation unless specific
1010 exemptions are secured by a memorandum of agreement with the
1011 United States Environmental Protection Agency pursuant to
1012 paragraph (2)(g). A brownfield site within an eligible brownfield
1013 area that subsequently becomes subject to formal judicial or
1014 administrative enforcement action or corrective action under such
1015 federal authority shall have its eligibility revoked unless

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1016 specific exemptions are secured by a memorandum of agreement with
1017 the United States Environmental Protection Agency pursuant to
1018 paragraph (2)(g).

1019 (b) Persons who have not caused or contributed to the
1020 contamination of a brownfield site on or after July 1, 1997, and
1021 who, prior to the department's approval of a brownfield site
1022 rehabilitation agreement, are subject to ongoing corrective
1023 action or enforcement under state authority established in this
1024 chapter or chapter 403, including those persons subject to a
1025 pending consent order with the state, are eligible for
1026 participation in a brownfield site rehabilitation agreement if:

1027 1. The proposed brownfield site is currently idle or
1028 underutilized as a result of the contamination, and participation
1029 in the brownfield program shall ~~will~~ immediately, after cleanup
1030 or sooner, result in increased economic productivity at the site,
1031 including at a minimum the creation of 10 new permanent jobs,
1032 whether full-time or part-time, which are not associated with
1033 implementation of the brownfield site rehabilitation agreement;
1034 and

1035 2. The person is complying in good faith with the terms of
1036 an existing consent order or department-approved corrective
1037 action plan, or responding in good faith to an enforcement
1038 action, as evidenced by a determination issued by the department
1039 or an approved local pollution control program.

1040 (c) Potential brownfield sites owned by the state or a
1041 local government which contain contamination for which a
1042 governmental entity is potentially responsible and which are
1043 already designated as federal brownfield pilot projects or have
1044 filed an application for designation to the United States

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1045 Environmental Protection Agency are eligible for participation in
1046 a brownfield site rehabilitation agreement.

1047 (d) After July 1, 1997, petroleum and drycleaning
1048 contamination sites may ~~shall~~ not receive both restoration
1049 funding assistance available for the discharge under this chapter
1050 and any state assistance available under s. 288.107. Nothing in
1051 this act shall affect the cleanup criteria, priority ranking, and
1052 other rights and obligations inherent in petroleum contamination
1053 and drycleaning contamination site rehabilitation under ss.
1054 376.30-376.317, or the availability of economic incentives
1055 otherwise provided for by law.

1056 (2) LIABILITY PROTECTION.--

1057 (d) The liability protection provided under this section
1058 shall become effective upon execution of a brownfield site
1059 rehabilitation agreement and shall remain effective, provided the
1060 person responsible for brownfield site rehabilitation complies
1061 with the terms of the site rehabilitation agreement. Any statute
1062 of limitations that would bar the department from pursuing relief
1063 in accordance with its existing authority is tolled from the time
1064 the agreement is executed until site rehabilitation is completed
1065 or immunity is revoked pursuant to s. 376.80 (8) ~~(10)~~.

1066 (f) Compliance with ~~the agreement referenced in s.~~
1067 376.80(5)(i) must be evidenced as set forth in that paragraph ~~by~~
1068 ~~a finding by the local government with jurisdiction over the~~
1069 ~~brownfield area that the terms of the agreement have been met.~~

1070 (3) REOPENERS.--Upon completion of site rehabilitation in
1071 compliance with ss. 376.77-376.86 ~~376.77-376.85~~, no additional
1072 site rehabilitation is ~~shall be~~ required unless it is
1073 demonstrated:

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1074 (a) That fraud was committed in demonstrating site
1075 conditions or completion of site rehabilitation;

1076 (b) That new information confirms the existence of an area
1077 of previously unknown contamination which exceeds the site-
1078 specific rehabilitation levels established in accordance with s.
1079 376.81, or which otherwise poses the threat of real and
1080 substantial harm to public health, safety, or the environment in
1081 violation of the terms of ss. 376.77-376.86 ~~376.77-376.85~~;

1082 (c) That the remediation efforts failed to achieve the site
1083 rehabilitation criteria established under s. 376.81;

1084 (d) That the level of risk is increased beyond the
1085 acceptable risk established under s. 376.81 due to substantial
1086 changes in exposure conditions, such as a change in land use from
1087 nonresidential to residential use. Any person who changes the
1088 land use of the brownfield site thus causing the level of risk to
1089 increase beyond the acceptable risk level may be required by the
1090 department to undertake additional remediation measures to assure
1091 that human health, public safety, and the environment are
1092 protected to levels consistent with s. 376.81; or

1093 (e) That a new release occurs at the brownfield site
1094 subsequent to a determination of eligibility for participation in
1095 the brownfield program established under s. 376.80.

1096 Section 8. Subsection (1) of section 376.83, Florida
1097 Statutes, is amended to read:

1098 376.83 Violation; penalties.--

1099 (1) It is a violation of ss. 376.77-376.86 ~~376.77-376.85~~,
1100 and it is prohibited for any person, to knowingly make any false
1101 statement, representation, or certification in any application,
1102 record, report, plan, or other document filed or required to be

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1103 maintained, or to falsify, tamper with, or knowingly render
1104 inaccurate any monitoring device or method required to be
1105 maintained under ss. 376.77-376.86 ~~376.77-376.85~~, or by any
1106 permit, rule, or order issued under this chapter or chapter 403.

1107 Section 9. Subsections (1) and (2) of section 376.86,
1108 Florida Statutes, are amended to read:

1109 376.86 Brownfield Areas Loan Guarantee Program.--

1110 (1) The Brownfield Areas Loan Guarantee Council is created
1111 to review and approve or deny, by a majority vote of its
1112 membership, the situations and circumstances for participation in
1113 partnerships by agreements with local governments, financial
1114 institutions, and others associated with the redevelopment of
1115 brownfield areas pursuant to the Brownfields Redevelopment Act
1116 for a limited state guaranty of up to 5 years of loan guarantees
1117 or loan loss reserves issued pursuant to law. The limited state
1118 loan guaranty applies only to 50 percent of the primary lenders
1119 loans for redevelopment projects in brownfield areas. If the
1120 redevelopment project is for affordable housing, as defined in s.
1121 420.0004(3), in a brownfield area, the limited state loan
1122 guaranty applies to 75 percent of the primary lender's loan. If
1123 the redevelopment project includes the construction and operation
1124 of a new health care facility or a health care provider, as
1125 defined in s. 408.032, s. 408.07, or s. 408.7056, on a brownfield
1126 site and the applicant has obtained documentation in accordance
1127 with s. 376.30781 indicating that the construction of the health
1128 care facility or health care provider by the applicant on the
1129 brownfield site has received a certificate of occupancy or a
1130 license or certificate has been issued for the operation of the
1131 health care facility or health care provider, the limited state

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1132 loan guaranty applies to 75 percent of the primary lender's loan.
1133 A limited state guaranty of private loans or a loan loss reserve
1134 is authorized for lenders licensed to operate in the state upon a
1135 determination by the council that such an arrangement would be in
1136 the public interest and the likelihood of the success of the loan
1137 is great.

1138 (2) The council shall consist of the secretary of the
1139 Department of Environmental Protection or the secretary's
1140 designee, the secretary of the Department of Community Affairs or
1141 the secretary's designee, the State Surgeon General or the State
1142 Surgeon General's designee, the Executive Director of the State
1143 Board of Administration or the executive director's designee, the
1144 Executive Director of the Florida Housing Finance Corporation or
1145 the executive director's designee, and the Director of the
1146 Governor's Office of Tourism, Trade, and Economic Development or
1147 the director's designee. The chairperson of the council shall be
1148 the Director of the Governor's Office of Tourism, Trade, and
1149 Economic Development. Staff services for activities of the
1150 council shall be provided as needed by the member agencies.

1151 Section 10. Subsection (1) of section 163.3221, Florida
1152 Statutes, is amended to read:

1153 163.3221 Florida Local Government Development Agreement
1154 Act; definitions.--As used in ss. 163.3220-163.3243:

1155 (1) "Brownfield designation" means a resolution adopted by
1156 a local government pursuant to s. 376.80 ~~the Brownfields~~
1157 ~~Redevelopment Act, ss. 376.77-376.85.~~

1158 Section 11. This act shall take effect July 1, 2008.