



086474

CHAMBER ACTION

<u>Senate</u>	.	<u>House</u>
Comm: RCS	.	
4/3/2008	.	
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1 The Committee on Environmental Preservation and Conservation  
 2 (Dockery) recommended the following **amendment**:

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

5 Delete everything after the enacting clause  
 6 and insert:

7 Section 1. Subsections (1) and (2) of section 220.1845,  
 8 Florida Statutes, are amended to read:

9 220.1845 Contaminated site rehabilitation tax credit.--

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

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

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



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

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

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

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

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47 transferee has up to 5 years after the date of transfer to use  
48 its credit.

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

53 (e) A tax credit applicant that receives state-funded site  
54 rehabilitation under s. 376.3078(3) for rehabilitation of a  
55 drycleaning-solvent-contaminated site is ineligible to receive  
56 credit under this section for costs incurred by the tax credit  
57 applicant in conjunction with the rehabilitation of that site  
58 during the same time period that state-administered site  
59 rehabilitation was underway.

60 (f) The total amount of ~~the~~ tax credits which may be  
61 granted under this section is \$2 million annually.

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

66 ~~1.2.~~ The entity or its surviving or acquiring entity ~~as~~  
67 ~~described in subparagraph 1.7,~~ may transfer any unused credit in  
68 whole or in units of at least ~~no less than~~ 25 percent of the  
69 remaining credit. The entity acquiring such credit may use it in  
70 the same manner and with the same limitation as described in this  
71 section. Such transferred credits may not be transferred again  
72 although they may succeed to a surviving or acquiring entity  
73 subject to the same conditions and limitations as described in  
74 this section.

75 ~~2.3.~~ ~~If In the event~~ the credit ~~provided for under this~~  
76 ~~section~~ is reduced due to ~~either as a result of~~ a determination

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77 by the Department of Environmental Protection or an examination  
78 or audit by the Department of Revenue, the ~~such~~ tax deficiency  
79 shall be recovered from the first entity, or the surviving or  
80 acquiring entity that, ~~to have~~ claimed the ~~such~~ credit up to the  
81 amount of credit taken. Any subsequent deficiencies shall be  
82 assessed against the ~~any~~ entity acquiring and claiming the ~~such~~  
83 credit, or in the case of multiple succeeding entities in the  
84 order of credit succession.

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

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



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106       (j) In order to encourage the redevelopment of a brownfield  
107 site, as defined in the brownfield site rehabilitation agreement,  
108 which is hindered by the presence of solid waste, as defined in  
109 s. 403.703, costs relating to solid waste removal may also be  
110 claimed under this section. A tax credit applicant, or multiple  
111 tax credit applicants working jointly to clean up a single  
112 brownfield site, may also claim costs to address solid waste  
113 removal in accordance with the rules of the Department of  
114 Environmental Protection. Multiple tax credit applicants shall be  
115 granted tax credits in the same proportion as their contribution  
116 to payment of solid waste removal costs. To receive the credit,  
117 the applicant must submit an affidavit stating that to the best  
118 of the applicant's knowledge after consultation with appropriate  
119 local government officials, the department, and available  
120 historical records, the brownfield site was never operated as a  
121 permitted solid waste disposal area or for monetary compensation.  
122 The applicant must also submit all other documentation and  
123 certifications required by this section. Costs claimed for solid  
124 waste removal under this paragraph shall be treated in the same  
125 manner as costs claimed for site rehabilitation under this  
126 section. Tax credit applications claiming costs pursuant to this  
127 paragraph are not subject to the calendar-year limitation and  
128 January 31 annual application deadline. Only one solid waste  
129 removal tax credit application may be filed per brownfield site  
130 and the Department of Environmental Protection shall accept the  
131 application upon the completion of the applicable requirements  
132 listed in this section. Tax credit applicants may claim 50  
133 percent of the cost for solid waste removal, not to exceed  
134 \$500,000, when the applicant has determined solid waste removal



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135 is completed for the brownfield site. For the purposes of this  
136 section, the term:

137 1. "Monetary compensation" means that fees were charged or  
138 assessments were levied for the disposal of solid waste at a  
139 solid waste disposal area.

140 2. "Solid waste disposal area" means a landfill, dump, or  
141 other area where solid waste has been disposed of.

142 3. "Solid waste removal" means removal of solid waste from  
143 the land surface or excavation of solid waste from below the land  
144 surface and removal of the solid waste from the brownfield site.  
145 The term also includes:

146 a. Transportation of solid waste to a licensed or exempt  
147 solid waste management facility or to a temporary storage area;

148 b. Sorting or screening of solid waste prior to removal  
149 from the site; and

150 c. Deposition of solid waste at a permitted or exempt solid  
151 waste management facility, regardless of whether the solid waste  
152 is disposed of or recycled.

153 (k) In order to encourage the construction and operation of  
154 a new health care facility or a health care provider, as defined  
155 in s. 408.032, s. 408.07, or s. 408.7056, on a brownfield site,  
156 an applicant for a tax credit may claim an additional 25 percent  
157 of the total site rehabilitation costs, not to exceed \$500,000,  
158 if the applicant provides documentation indicating that the  
159 health care facility or health care provider has received a  
160 certificate of occupancy, or a license or certificate has been  
161 issued for the operation of the health care facility or health  
162 care provider.

163 (2) FILING REQUIREMENTS.--Any corporation that wishes to  
164 obtain credit under this section must submit with its return a

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165 tax credit certificate approving ~~partial~~ tax credits issued by  
166 the Department of Environmental Protection under s. 376.30781.

167 Section 2. Section 376.30781, Florida Statutes, is amended  
168 to read:

169 376.30781 ~~Partial~~ Tax credits for rehabilitation of  
170 drycleaning-solvent-contaminated sites and brownfield sites ~~in~~  
171 ~~designated brownfield areas; application process; rulemaking~~  
172 ~~authority; revocation authority.--~~

173 (1) The Legislature finds that:

174 (a) To facilitate property transactions and economic growth  
175 and development, it is in the state's interest ~~of the state~~ to  
176 encourage the cleanup, at the earliest possible time, of  
177 drycleaning-solvent-contaminated sites and brownfield sites in  
178 designated brownfield areas.

179 (b) It is the intent of the Legislature to encourage the  
180 voluntary cleanup of drycleaning-solvent-contaminated sites and  
181 brownfield sites in designated brownfield areas by providing a  
182 ~~partial~~ tax credit for the restoration of such property in  
183 specified circumstances.

184 (2) Notwithstanding subsection (5) ~~the requirements of~~  
185 ~~paragraph (5)(a)~~, tax credits allowed pursuant to s. 220.1845 are  
186 available for ~~any~~ site rehabilitation or solid waste removal  
187 conducted during the calendar year in which the applicable  
188 voluntary cleanup agreement or brownfield site rehabilitation  
189 agreement is executed, even if the site rehabilitation or solid  
190 waste removal is conducted prior to the execution of that  
191 agreement or the designation of the brownfield area.

192 (3)(a) A credit in the amount of 50 percent of the costs of  
193 voluntary cleanup activity that is integral to site



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194 rehabilitation at the following sites is allowed pursuant to s.  
195 220.1845:

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

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

203 3. A brownfield site in a designated brownfield area under  
204 s. 376.80.

205 (b) A tax credit applicant, or multiple tax credit  
206 applicants working jointly to clean up a single site, may not  
207 receive ~~be granted~~ more than \$500,000 per year in tax credits for  
208 each site voluntarily rehabilitated. Multiple tax credit  
209 applicants shall be granted tax credits in the same proportion as  
210 their contribution to payment of site rehabilitation ~~cleanup~~  
211 costs. Tax credits are available only for site rehabilitation  
212 conducted during the calendar year for which the tax credit  
213 application is submitted. For purposes of this section, the term  
214 "integral to site rehabilitation" means work that is necessary to  
215 implement the requirements of chapter 62-785 or chapter 62-782,  
216 Florida Administrative Code.

217 (c) In order to encourage completion of site rehabilitation  
218 at contaminated sites that are being voluntarily cleaned up and  
219 that are eligible for a tax credit under this section, the tax  
220 credit applicant may claim an additional 25 percent of the total  
221 site rehabilitation ~~cleanup~~ costs, not to exceed \$500,000, in the  
222 final year of cleanup as evidenced by the department ~~of~~



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223 ~~Environmental Protection~~ issuing a "No Further Action" order for  
224 that site.

225 (d) In order to encourage the construction of housing that  
226 meets the definition of affordable provided in s. 420.0004(3), an  
227 applicant for the tax credit may claim an additional 25 percent  
228 of the total site rehabilitation costs that are eligible for tax  
229 credits under this section, not to exceed \$500,000. ~~In order~~ To  
230 receive this additional tax credit, the applicant must provide a  
231 certification letter from the Florida Housing Finance  
232 Corporation, the local housing authority, or other governmental  
233 agency that is a party to the use agreement, indicating that the  
234 construction on the brownfield site ~~is complete, the brownfield~~  
235 ~~site~~ has received a certificate of occupancy, and the brownfield  
236 site has a properly recorded instrument that limits the use of  
237 the property to affordable housing ~~that meets the definition of~~  
238 ~~affordable provided in s. 420.0004(3)~~. Notwithstanding the  
239 ~~limitation~~ that only one application may ~~shall~~ be submitted each  
240 year for each site, an application for the additional credit  
241 ~~provided for in this paragraph~~ shall be submitted when ~~as soon as~~  
242 all requirements to obtain the ~~this~~ additional tax credit have  
243 been met.

244 (e) In order ~~Notwithstanding the restrictions in this~~  
245 ~~section that limit tax credit eligibility to costs that are~~  
246 ~~integral to site rehabilitation,~~ to encourage the redevelopment  
247 of a brownfield site, as defined in the brownfield site  
248 rehabilitation agreement, which is ~~properties in designated~~  
249 ~~brownfield areas that are hindered by the presence of solid~~  
250 waste, as defined in s. 403.703, costs relating to a tax credit  
251 ~~applicant may also claim costs to address the solid waste~~ removal  
252 may also be claimed under this section. A tax credit applicant,

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253 or multiple tax credit applicants working jointly to clean up a  
254 single brownfield site, may also claim costs to address the solid  
255 waste removal, but only those costs to remove, transport, and  
256 dispose of solid waste in accordance with department rules.  
257 Multiple tax credit applicants shall be granted tax credits in  
258 the same proportion as their contribution to payment of solid  
259 waste removal costs. To receive the credit, These costs are  
260 eligible for a tax credit provided the applicant must submit  
261 submits an affidavit stating that, after consultation with  
262 appropriate local government officials and the department, to the  
263 best of the applicant's knowledge after consultation with  
264 appropriate local government officials, the department, and  
265 available historical records, the brownfield site was never  
266 operated as a permitted solid waste disposal area or landfill or  
267 dump site for monetary compensation. The applicant must also  
268 submit, and submits all other documentation and certifications  
269 required by this section. Costs claimed for solid waste removal  
270 under this paragraph shall be treated in the same manner as costs  
271 claimed for site rehabilitation under this section. In this  
272 section, where reference is made to "site rehabilitation," the  
273 department shall instead consider whether the costs claimed are  
274 for removal, transportation, and disposal of solid waste. Tax  
275 credit applications claiming costs pursuant to this paragraph are  
276 shall not be subject to the calendar-year limitation and January  
277 31 15 annual application deadline, and the department shall  
278 accept a one-time application filed subsequent to the completion  
279 by the tax credit applicant of the applicable requirements listed  
280 in this paragraph. Only one solid waste removal tax credit  
281 application may be filed per brownfield site and the department  
282 shall accept the application upon the completion of the

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283 applicable requirements listed in this section. Tax credit  
284 applicants may claim 50 percent of the cost for solid waste  
285 removal, not to exceed \$500,000, when the applicant has  
286 determined solid waste removal is completed for the brownfield  
287 site. For the purposes of this section, the term:

288 1. "Monetary compensation" means that fees were charged or  
289 assessments were levied for the disposal of solid waste at a  
290 solid waste disposal area.

291 2. "Solid waste disposal area" means a landfill, dump, or  
292 other area where solid waste has been disposed of.

293 3. "Solid waste removal" means removal of solid waste from  
294 the land surface or excavation of solid waste from below the land  
295 surface and removal of the solid waste from the brownfield site.

296 The term also includes:

297 a. Transportation of solid waste to a licensed or exempt  
298 solid waste management facility or to a temporary storage area;

299 b. Sorting or screening of solid waste prior to removal  
300 from the site; and

301 c. Deposition of solid waste at a permitted or exempt solid  
302 waste management facility, regardless of whether the solid waste  
303 is disposed of or recycled.

304 (f) In order to encourage the construction and operation of  
305 a new health care facility or a health care provider, as defined  
306 in s. 408.032, s. 408.07, or s. 408.7056, on a brownfield site,  
307 an applicant for a tax credit may claim an additional 25 percent  
308 of the total site rehabilitation costs, not to exceed \$500,000,  
309 if the applicant provides documentation indicating that the  
310 health care facility or health care provider has received a  
311 certificate of occupancy, or a license or certificate has been



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312 issued for the operation of the health care facility or health  
313 care provider.

314 (4) The department ~~is of Environmental Protection shall be~~  
315 responsible for allocating the tax credits provided for in s.  
316 220.1845, which may not ~~to~~ exceed a total of \$2 million in tax  
317 credits annually.

318 (5) To claim the credit for site rehabilitation or solid  
319 waste removal conducted during the current calendar year, each  
320 tax credit applicant must apply to the department ~~of~~  
321 ~~Environmental Protection~~ for an allocation of the \$2 million  
322 annual credit by filing a tax credit application with the  
323 Division of Waste Management January 15 of the following year on  
324 a form developed by the department ~~of Environmental Protection~~ in  
325 cooperation with the Department of Revenue. The form shall  
326 include an affidavit from each tax credit applicant certifying  
327 that all information contained in the application, including all  
328 records of costs incurred and claimed in the tax credit  
329 application, are true and correct. If the application is  
330 submitted pursuant to subparagraph (3)(a)2., the form must  
331 include an affidavit signed by the real property owner stating  
332 that it is not, and has never been, the owner or operator of the  
333 drycleaning facility where the contamination exists. Approval of  
334 ~~partial~~ tax credits is ~~must be accomplished~~ on a first-come,  
335 first-served basis based upon the date and time complete  
336 applications are received by the Division of Waste Management. ~~A~~  
337 ~~tax credit applicant shall submit only one complete application~~  
338 ~~per site for each calendar year's site rehabilitation costs.~~  
339 ~~Incomplete placeholder applications shall not be accepted and~~  
340 ~~will not secure a place in the first-come, first-served~~

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341 ~~application line.~~ To be eligible for a tax credit, the tax credit  
342 applicant must comply with the following:

343 (a) For site rehabilitation tax credits, the applicant must  
344 have entered into a voluntary cleanup agreement with the  
345 department of Environmental Protection for a drycleaning-solvent-  
346 contaminated site or a brownfield site rehabilitation agreement,  
347 as applicable, and must have paid all deductibles pursuant to s.  
348 376.3078(3)(e), as applicable. Site rehabilitation tax credit  
349 applicants shall submit only one complete application per site  
350 for each calendar year's site rehabilitation costs. Applications  
351 must be received by the Division of Waste Management by January  
352 31 of the year following the calendar year for which site  
353 rehabilitation costs are being claimed in a tax credit  
354 application.

355 (b) For solid waste removal tax credits, the applicant must  
356 have entered into a brownfield site rehabilitation agreement with  
357 the department. Solid waste removal tax credit applicants shall  
358 submit only one complete application per brownfield site, as  
359 defined in the rehabilitation agreement. Applications must be  
360 received by the Division of Waste Management subsequent to the  
361 completion of the requirements listed in paragraph (3)(e). Have  
362 paid all deductibles pursuant to s. 376.3078(3)(e) for eligible  
363 drycleaning-solvent-cleanup program sites.

364 (6) To obtain the tax credit certificate, ~~a tax credit~~  
365 ~~applicant must annually file an application for certification,~~  
366 ~~which must be received by the Division of Waste Management of the~~  
367 ~~Department of Environmental Protection by January 15 of the year~~  
368 ~~following the calendar year for which site rehabilitation costs~~  
369 ~~are being claimed in a tax credit application.~~ the tax credit  
370 applicant must provide all pertinent information requested on the

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371 tax credit application form, including, at a minimum, the name  
372 and address of the tax credit applicant and the address and  
373 tracking identification number of the eligible site. ~~Along with~~  
374 ~~the tax credit application form,~~ The tax credit applicant must  
375 also submit ~~the following:~~

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

380 (b) Copies of documents that describe the goods or services  
381 and associated costs being claimed that were integral to site  
382 rehabilitation, as "site rehabilitation" is defined in ss.  
383 376.301 and 376.79, or were for solid waste removal during the  
384 time period covered by the application. These documents must  
385 include, but need not be limited to, contract records that  
386 describe the scope of work performed, payment requests that  
387 describe the goods or services provided, and payment records  
388 involving actual costs incurred and paid. This documentation is  
389 sufficient to demonstrate a link between the contractual records,  
390 the payment requests, and the payment records for the time period  
391 covered by the application ~~contracts and documentation of~~  
392 ~~contract negotiations, accounts, invoices, sales tickets, or~~  
393 ~~other payment records from purchases, sales, leases, or other~~  
394 ~~transactions involving actual costs incurred for that tax year~~  
395 ~~related to site rehabilitation, as that term is defined in ss.~~  
396 ~~376.301 and 376.79;~~

397 (c) Proof that the documentation submitted pursuant to  
398 paragraph (b) has been reviewed and verified by an independent  
399 certified public accountant in accordance with standards  
400 established by the American Institute of Certified Public

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401 Accountants. Specifically, a certified public accountant's report  
402 must be submitted and the certified public accountant must attest  
403 to the accuracy and validity of the costs incurred and paid  
404 during the period covered in the application by conducting an  
405 independent review of the data presented by the tax credit  
406 applicant. Accuracy and validity of costs incurred and paid shall  
407 ~~would~~ be determined once the level of effort is ~~was~~ certified by  
408 an appropriate professional registered in this state in each  
409 contributing technical discipline. The certified public  
410 accountant's report must ~~would~~ also attest that the costs  
411 included in the application form are not duplicated within the  
412 application. A copy of the accountant's report shall be submitted  
413 to the department in addition to the accountant's certification  
414 form in ~~of Environmental Protection with~~ the tax credit  
415 application; and

416 (d) A certification form stating that ~~site rehabilitation~~  
417 activities associated with the documentation submitted pursuant  
418 to paragraph (b) have been conducted under the observation of,  
419 and related technical documents have been signed and sealed by,  
420 an appropriate professional registered in this state in each  
421 contributing technical discipline. The certification form shall  
422 be signed and sealed by the appropriate registered professionals  
423 stating that the costs incurred were integral, necessary, and  
424 required for site rehabilitation, as that term is defined in ss.  
425 376.301 and 376.79. If the scope of solid waste removal  
426 activities do not require oversight by a registered technical  
427 professional, the certification form is not required as part of  
428 the tax credit application.

429 (7) The certified public accountant and appropriate  
430 registered professionals submitting forms as part of a tax credit



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431 application must verify such forms by completing and signing the  
432 appropriate certifications included in the application form.

433 Verification shall ~~must~~ be accomplished as provided in s.  
434 92.525(1)(b) and subject to ~~the provisions of~~ s. 92.525(3).

435 (8) The department ~~of Environmental Protection~~ shall review  
436 the tax credit application and any supplemental documentation  
437 that the tax credit applicant may submit prior to the annual  
438 application deadline, if applicable, for completeness and  
439 eligibility. ~~in order to have the application~~

440 (a) To be considered complete, the review must verify for  
441 ~~the purpose of verifying~~ that the tax credit applicant has met  
442 the appropriate qualifying criteria in subsections (3) and (5),  
443 ~~and~~ has submitted the application form, and has addressed each of  
444 the categories of submittals all required documentation listed in  
445 subsection (6). Upon verification that the tax credit applicant  
446 has met these completeness requirements, the tax credit  
447 application shall secure a place in the first-come, first-served  
448 application line. If the department determines that an  
449 application is incomplete, the applicant shall be notified in  
450 writing and shall have 30 days to correct any deficiencies. Upon  
451 timely correction of the deficiency, the tax credit application  
452 shall secure a place in the first-come, first-served application  
453 line. Tax credit applications may not be altered to claim  
454 additional costs during this time.

455 (b) For costs to be eligible, the review must verify that  
456 the work claimed was integral to site rehabilitation or was for  
457 solid waste removal, that the work claimed was performed in the  
458 applicable timeframe, and that the costs claimed were properly  
459 documented. Upon verification, the department shall issue a  
460 written decision granting eligibility for ~~partial~~ tax credits (a



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461 tax credit certificate). Complete tax credit applications shall  
462 be reviewed for eligible costs, in conjunction with ~~in the amount~~  
463 ~~of 50 percent of the total costs claimed, subject to the \$500,000~~  
464 ~~limitation, for the calendar year for which the tax credit~~  
465 ~~application is submitted based on the report of the certified~~  
466 public accountant, and the certifications from the appropriate  
467 registered technical professionals, as applicable.

468 (9) On or before May 1 ~~March 31~~, the department ~~of~~  
469 ~~Environmental Protection~~ shall inform each eligible tax credit  
470 applicant, subject to the January 31 annual application deadline,  
471 of its eligibility status and the amount of any its partial tax  
472 credit due. The department shall ~~and~~ provide each eligible tax  
473 credit applicant with a tax credit certificate that must be  
474 submitted with its tax return to the Department of Revenue to  
475 claim the tax credit or to have the credit ~~be~~ transferred  
476 pursuant to s. 220.1845(1)(g) ~~s. 220.1845(1)(h)~~. The May 1  
477 deadline for annual site rehabilitation tax credit certificate  
478 awards does not apply to any tax credit application for which the  
479 department issued a notice of deficiency pursuant to subsection  
480 (8). The department shall respond within 90 days after receipt of  
481 a response from the tax credit applicant to the notice of  
482 deficiency. Credits will not result in the payment of refunds if  
483 total credits exceed the amount of tax owed.

484 (10) For solid waste removal, a new health care facility or  
485 health care provider, or affordable housing tax credit  
486 applications, the department shall inform the applicant of the  
487 department's determination within 90 days after the application  
488 has been deemed complete. Each eligible tax credit applicant  
489 shall be informed of the amount of its tax credit and provided  
490 with a tax credit certificate that must be submitted with its tax

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491 return to the Department of Revenue to claim the tax credit or to  
492 have the tax credit transferred pursuant to s. 220.1845(1)(g).  
493 Tax refunds may not be paid on credits that exceed the amount of  
494 tax owed.

495 (11)-(10) If a tax credit applicant does not receive a tax  
496 credit allocation due to an exhaustion of the \$2 million annual  
497 tax credit authorization, such application will then be included  
498 in the same first-come, first-served order in the next year's  
499 annual tax credit allocation, if any, based on the prior year  
500 application.

501 (12)-(11) The department of ~~Environmental Protection~~ may  
502 adopt rules to prescribe the necessary forms for claiming  
503 ~~required to claim~~ tax credits under this section and to provide  
504 the administrative guidelines and procedures ~~required~~ to  
505 administer this section.

506 (13)-(12) The department of ~~Environmental Protection~~ may  
507 revoke or modify any written decision granting eligibility for  
508 ~~partial~~ tax credits under this section if it is discovered that  
509 the tax credit applicant submitted any false statement,  
510 representation, or certification in any application, record,  
511 report, plan, or other document filed in an attempt to receive  
512 ~~partial~~ tax credits ~~under this section~~. The department of ~~of~~  
513 ~~Environmental Protection~~ shall immediately notify the Department  
514 of Revenue of any revoked or modified orders affecting previously  
515 granted ~~partial~~ tax credits. Additionally, the tax credit  
516 applicant must notify the Department of Revenue of any change in  
517 its tax credit claimed.

518 (14)-(13) Tax credits are subject to the following  
519 limitations:



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520        (a) A tax credit applicant who receives state-funded site  
521 rehabilitation under s. 376.3078(3) for rehabilitation of a  
522 drycleaning-solvent-contaminated site is ineligible to receive a  
523 tax credit under s. 220.1845 for costs incurred by the tax credit  
524 applicant in conjunction with the rehabilitation of that site  
525 during the same time period that state-administered site  
526 rehabilitation ~~is~~ was underway.

527        (b) Tax credits for site rehabilitation awarded pursuant to  
528 paragraphs (3)(b), (c), (d), and (f) are additive; however, the  
529 total tax credit award may not exceed 100 percent of the costs  
530 incurred and paid by the applicant.

531        (c) A single brownfield site may receive tax credits for  
532 eligible site rehabilitation and eligible solid waste removal  
533 costs if the costs are claimed only once per site.

534        (d) For purposes of this section, costs incurred that are  
535 not considered integral to site rehabilitation include, but are  
536 not limited to, brownfield area designation costs and tax credit  
537 application preparation and submittal costs.

538        (e) If, pursuant to subsection (9), the department notifies  
539 an applicant that any claimed costs are ineligible, those costs  
540 may not be allocated against the annual tax credit authorization,  
541 and any disputed costs may not delay the application processing  
542 or award for subsequent eligible tax credit applicants in the  
543 first-come, first-served application line. However, if the  
544 department subsequently agrees to award tax credits on an amount  
545 that was in dispute, it shall do so based upon the first-come,  
546 first-served application line determined by the applicant's  
547 original completeness date and time if there is any tax credit  
548 authorization available. If a tax credit applicant does not  
549 receive an award for the disputed costs due to an exhaustion of

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550 the annual tax credit authorization, such subsequent tax credit  
551 award shall be included in the same first-come, first-served  
552 order in next year's annual tax credit allocation, if any, based  
553 on the applicant's original completeness date and time.

554 Section 3. Section 376.77, Florida Statutes, is amended to  
555 read:

556 376.77 Short title.--Sections 376.77-376.86 ~~376.77-376.85~~  
557 may be cited as the "Brownfields Redevelopment Act."

558 Section 4. Section 376.79, Florida Statutes, is amended to  
559 read:

560 376.79 Definitions ~~relating to Brownfields Redevelopment~~  
561 ~~Act.~~--As used in ss. 376.77-376.86 ~~376.77-376.85~~, the term:

562 (1) "Additive effects" means a scientific principle that  
563 the toxicity that occurs as a result of exposure is the sum of  
564 the toxicities of the individual chemicals to which the  
565 individual is exposed.

566 (2) "Antagonistic effects" means a scientific principle  
567 that the toxicity that occurs as a result of exposure is less  
568 than the sum of the toxicities of the individual chemicals to  
569 which the individual is exposed.

570 (3) "Brownfield sites" means real property, the expansion,  
571 redevelopment, or reuse of which may be complicated by actual or  
572 perceived environmental contamination.

573 (4) "Brownfield area" means a contiguous area of one or  
574 more brownfield sites, some of which may not be contaminated, and  
575 which has been designated by a local government by resolution.  
576 Such areas may include all or portions of community redevelopment  
577 areas, enterprise zones, empowerment zones, other such designated  
578 economically deprived communities and areas, and Environmental  
579 Protection Agency-designated brownfield pilot projects.

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580 (5) "Contaminant" means any physical, chemical, biological,  
581 or radiological substance present in any medium which may result  
582 in adverse effects to human health or the environment or which  
583 creates an adverse nuisance, organoleptic, or aesthetic condition  
584 in groundwater.

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

588 (7) "Department" means the Department of Environmental  
589 Protection.

590 (8) "Engineering controls" means modifications to a site to  
591 reduce or eliminate the potential for exposure to petroleum  
592 products' chemicals of concern, drycleaning solvents, or other  
593 contaminants. Such modifications may include, but are not limited  
594 to, physical or hydraulic control measures, capping, point of use  
595 treatments, or slurry walls.

596 (9) "Environmental justice" means the fair treatment of all  
597 people of all races, cultures, and incomes with respect to the  
598 development, implementation, and enforcement of environmental  
599 laws, regulations, and policies.

600 (10) "Institutional controls" means the restriction on use  
601 of or access to a site to eliminate or minimize exposure to  
602 petroleum products' chemicals of concern, drycleaning solvents,  
603 or other contaminants. Such restrictions may include, but are not  
604 limited to, deed restrictions, restrictive covenants, or  
605 conservation easements.

606 (11) "Local pollution control program" means a local  
607 pollution control program that has received delegated authority  
608 from the department ~~of Environmental Protection~~ under ss.  
609 376.80(9) ~~376.80(11)~~ and 403.182.



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610 (12) "Natural attenuation" means a verifiable approach to  
611 site rehabilitation which allows natural processes to contain the  
612 spread of contamination and reduce the concentrations of  
613 contaminants in contaminated groundwater and soil. Natural  
614 attenuation processes may include sorption, biodegradation,  
615 chemical reactions with subsurface materials, diffusion,  
616 dispersion, and volatilization.

617 (13) "Person responsible for brownfield site  
618 rehabilitation" means the individual or entity that is designated  
619 by the local government to enter into the brownfield site  
620 rehabilitation agreement with the department or an approved local  
621 pollution control program and enters into an agreement with the  
622 local government for redevelopment of the site.

623 (14) "Person" means any individual, partner, joint venture,  
624 or corporation; any group of the foregoing, organized or united  
625 for a business purpose; or any governmental entity.

626 (15) "Risk reduction" means the lowering or elimination of  
627 the level of risk posed to human health or the environment  
628 through interim remedial actions, remedial action, or  
629 institutional, and if appropriate, engineering controls.

630 (16) "Secretary" means the secretary of the Department of  
631 Environmental Protection.

632 (17) "Site rehabilitation" means the assessment of site  
633 contamination and the remediation activities that reduce the  
634 levels of contaminants at a site through accepted treatment  
635 methods to meet the cleanup target levels established for that  
636 site. For purposes of sites subject to the Resource Conservation  
637 and Recovery Act, the term includes removal, decontamination, and  
638 corrective action of releases of hazardous substances.

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639 (18) "Source removal" means the removal of free product, or  
640 the removal of contaminants from soil or sediment that has been  
641 contaminated to the extent that leaching to groundwater or  
642 surface water has occurred or is occurring.

643 (19) "Synergistic effects" means a scientific principle  
644 that the toxicity that occurs as a result of exposure is more  
645 than the sum of the toxicities of the individual chemicals to  
646 which the individual is exposed.

647 Section 5. Section 376.80, Florida Statutes, is amended to  
648 read:

649 376.80 Brownfield program administration ~~process~~.--

650 (1) A local government that has ~~with~~ jurisdiction over the  
651 brownfield area must notify the department of its decision to  
652 designate a brownfield area for site rehabilitation purposes ~~for~~  
653 ~~the purposes of ss. 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 proposed area  
659 ~~proposed for designation by the local government~~ requests in  
660 writing to have his or her property removed from the proposed  
661 designation, the local government shall grant the request.

662 (a) For municipalities, the governing body shall adopt the  
663 resolution in accordance with the procedures outlined in s.  
664 166.041, except that the notice for the public hearings on the  
665 proposed resolution must be in the form established in s.  
666 166.041(3)(c)2.

667 (b) For counties, the governing body shall adopt the  
668 resolution in accordance with the procedures outlined in s.

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669 125.66, except that the notice for the public hearings on the  
670 proposed resolution shall be in the form established in s.  
671 125.66(4)(b)2.

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

690 (a) In determining the areas to be designated, the local  
691 government shall ~~must~~ consider:

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

694 2. Whether the proposed area to be designated represents a  
695 reasonably focused approach and is not overly large in geographic  
696 coverage;

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



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699 4. Whether the area contains sites or parts of sites  
700 suitable for limited recreational open space, cultural, or  
701 historical preservation purposes.

702 (b) A local government shall designate a brownfield area if  
703 ~~under the provisions of this act provided that:~~

704 1. A person who owns or controls a potential brownfield  
705 site is requesting the designation and has agreed to rehabilitate  
706 and redevelop the brownfield site;

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

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

725 4. Notice of the proposed rehabilitation of the brownfield  
726 area has been provided to neighbors and nearby residents of the  
727 proposed area to be designated, and the person proposing the area  
728 for designation has afforded ~~to~~ those receiving notice the



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729 opportunity for comments and suggestions about rehabilitation.  
730 Notice ~~pursuant to this subsection~~ must be made in a newspaper of  
731 general circulation in the area, be at least 16 square inches in  
732 size, and ~~the notice~~ must be posted in the affected area; and

733 5. The person proposing the area for designation has  
734 provided reasonable assurance that he or she has sufficient  
735 financial resources to implement and complete the rehabilitation  
736 agreement and redevelopment of the brownfield site plan.

737 (c) The designation of a brownfield area and the  
738 identification of a person responsible for brownfield site  
739 rehabilitation ~~simply~~ entitles the identified person to negotiate  
740 a brownfield site rehabilitation agreement with the department or  
741 approved local pollution control program.

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

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

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

784 (5) The person responsible for brownfield site  
785 rehabilitation must enter into a brownfield site rehabilitation  
786 agreement with the department or an approved local pollution  
787 control program if actual contamination exists at the brownfield  
788 site. The ~~brownfield site~~ rehabilitation agreement must include:



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789 (a) A brownfield site rehabilitation schedule, including  
790 milestones for completion of site rehabilitation tasks and  
791 submittal of technical reports and rehabilitation plans as agreed  
792 upon by the parties to the agreement.~~†~~

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

809 (c) A commitment to conduct site rehabilitation in  
810 accordance with department quality assurance rules.~~†~~

811 (d) A commitment to conduct site rehabilitation consistent  
812 with state, federal, and local laws and ~~consistent~~ with the  
813 brownfield site contamination cleanup criteria in s. 376.81,  
814 including any applicable requirements for risk-based corrective  
815 action.~~†~~

816 (e) Timeframes for the department's review of technical  
817 reports and plans submitted in accordance with the agreement. The  
818 department shall make every effort to adhere to established



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819 agency goals for reasonable timeframes for review of such  
820 documents.†

821 (f) A commitment to secure ~~site~~ access for the department  
822 or approved local pollution control program to all brownfield  
823 sites within the eligible brownfield area for activities  
824 associated with site rehabilitation.†

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

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

839 (i) Certification that the person responsible for  
840 brownfield site rehabilitation has consulted with an agreement  
841 exists between the person responsible for brownfield site  
842 rehabilitation and the local government having with jurisdiction  
843 over the brownfield area concerning the proposed redevelopment  
844 for the brownfield site, that the local government is in  
845 agreement with or approves the proposed redevelopment, and that  
846 the proposed redevelopment complies with all applicable laws and  
847 requirements for such redevelopment. Certification includes:

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848       1. Referencing or providing a legally recorded or  
849 officially approved land use or site map or plan, a development  
850 order or approval, a building permit, or a similar official  
851 document issued by the local government which reflects the local  
852 government's approval of the proposed redevelopment of the  
853 brownfield site;

854       2. Providing a copy of the local government resolution  
855 designating the brownfield area that contains the proposed  
856 redevelopment of the brownfield site; or

857       3. Providing a letter from the local government that  
858 describes the proposed redevelopment of the brownfield site and  
859 expresses the local government's agreement with or approval of  
860 the proposed redevelopment. ~~Such agreement shall contain terms~~  
861 ~~for the redevelopment of the brownfield area.~~

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

864       (a) Meets all certification and license requirements  
865 imposed by law; and

866       (b) Intends to conduct ~~Has obtained the necessary approvals~~  
867 ~~for conducting~~ sample collection and analyses pursuant to  
868 department rules.

869       ~~(7) The contractor who is performing the majority of the~~  
870 ~~site rehabilitation program tasks pursuant to a brownfield site~~  
871 ~~rehabilitation agreement or supervising the performance of such~~  
872 ~~tasks by licensed subcontractors in accordance with the~~  
873 ~~provisions of s. 489.113(9) must certify to the department that~~  
874 ~~the contractor:~~

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

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



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

889       ~~(d) Maintains professional liability insurance of at least~~  
890 ~~\$1 million per claim and \$1 million annual aggregate.~~

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

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

906       ~~(8)~~~~(10)~~ If the person responsible for brownfield site  
907 rehabilitation fails to comply with the brownfield site

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908 rehabilitation agreement, the department shall allow ~~90 days for~~  
909 the person responsible for brownfield site rehabilitation up to  
910 90 days to return to compliance with the provision at issue or to  
911 negotiate a modification to the brownfield site rehabilitation  
912 agreement with the department for good cause shown. If an  
913 imminent hazard exists, the 90-day grace period does ~~shall~~ not  
914 apply. If the project is not returned to compliance with the  
915 brownfield site rehabilitation agreement and a modification  
916 cannot be negotiated, the immunity provisions of s. 376.82 are  
917 revoked.

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

929 (a) Have and maintain the administrative organization,  
930 staff, and financial and other resources to effectively and  
931 efficiently implement and enforce the statutory requirements of  
932 the delegated brownfield program; and

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

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938 A ~~The~~ local pollution control program may ~~shall~~ not be delegated  
939 authority to take action on or to make decisions regarding any  
940 brownfield site on land owned by the local government. A ~~Any~~  
941 delegation agreement entered into pursuant to this subsection  
942 must ~~shall~~ contain ~~such~~ terms and conditions necessary to ensure  
943 the effective and efficient administration and enforcement of the  
944 statutory requirements of the brownfield program ~~as established~~  
945 ~~by the act~~ and the relevant rules and other criteria of the  
946 department.

947 (10) ~~(12)~~ Local governments are encouraged to use the full  
948 range of economic and tax incentives available to facilitate and  
949 promote the rehabilitation of brownfield areas, to help eliminate  
950 the public health and environmental hazards, and to promote the  
951 creation of jobs and economic development in these previously  
952 run-down, blighted, and underutilized areas.

953 (11) (a) The Legislature finds and declares the following:

954 1. Brownfield site rehabilitation and redevelopment can  
955 improve the health of a community and improve the quality of life  
956 for communities, including the individuals living in such  
957 communities;

958 2. The benefits of brownfield site rehabilitation and  
959 redevelopment on community health should be better measured in  
960 order to achieve the legislative intent expressed in s. 376.78;

961 3. There is a need in this state to define and better  
962 measure the community health benefits of brownfield site  
963 rehabilitation and redevelopment; and

964 4. Funding sources should be established to support efforts  
965 by the state and local governments, in collaboration with local  
966 health departments, community health providers, and nonprofit

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967 organizations, to evaluate the benefits of brownfield site  
968 rehabilitation and redevelopment on community health.

969 (b) Local governments are authorized and encouraged to  
970 evaluate the community health benefits and effects of brownfield  
971 site rehabilitation and redevelopment in connection with  
972 brownfield areas within their jurisdiction. Measures that may be  
973 evaluated and monitored before and after brownfield site  
974 rehabilitation and redevelopment, include, but are not limited  
975 to:

976 1. Health status, disease distribution, and quality of life  
977 measures for populations living in or around brownfield sites  
978 that have been rehabilitated and redeveloped;

979 2. Access to primary and other health care or health  
980 services for persons living in or around brownfield sites that  
981 have been rehabilitated and redeveloped;

982 3. New or increased access to open, green, park, or other  
983 spaces that provide recreational opportunities for individuals  
984 living in or around brownfield sites that have been rehabilitated  
985 and redeveloped; and

986 4. Other factors described in rules adopted by the  
987 department and the Department of Health, as applicable.

988 (c) The Department of Health is authorized and encouraged,  
989 in collaboration with local health departments, community health  
990 providers, and nonprofit organizations, to assist local  
991 governments in their evaluation of the health benefits of  
992 brownfield site rehabilitation and redevelopment.

993 Section 6. Subsection (1), paragraphs (d) and (f) of  
994 subsection (2), and subsection (3) of section 376.82, Florida  
995 Statutes, are amended to read:

996 376.82 Eligibility criteria and liability protection.--



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997 (1) ELIGIBILITY.--Any person who has not caused or  
998 contributed to the contamination of a brownfield site on or after  
999 July 1, 1997, is eligible to participate in the brownfield  
1000 program established in ss. 376.77-376.86 ~~376.77-376.85~~, subject  
1001 to the following:

1002 (a) Potential brownfield sites that are subject to an  
1003 ongoing formal judicial or administrative enforcement action or  
1004 corrective action pursuant to federal authority, including, but  
1005 not limited to, the Comprehensive Environmental Response  
1006 Compensation and Liability Act, 42 U.S.C. ss. 9601 et seq., as  
1007 amended; the Safe Drinking Water Act, 42 U.S.C. ss. 300f-300i, as  
1008 amended; the Clean Water Act, 33 U.S.C. ss. 1251-1387, as  
1009 amended; or under an order from the United States Environmental  
1010 Protection Agency pursuant to 42 U.S.C. s. 6928(h) ~~s. 3008(h)~~ of  
1011 the Resource Conservation and Recovery Act, as amended ~~(42~~  
1012 ~~U.S.C.A. s. 6928(h))~~; or that have obtained or are required to  
1013 obtain a permit for the operation of a hazardous waste treatment,  
1014 storage, or disposal facility; a postclosure permit; or a permit  
1015 pursuant to the federal Hazardous and Solid Waste Amendments of  
1016 1984, are not eligible for participation unless specific  
1017 exemptions are secured by a memorandum of agreement with the  
1018 United States Environmental Protection Agency pursuant to  
1019 paragraph (2)(g). A brownfield site within an eligible brownfield  
1020 area that subsequently becomes subject to formal judicial or  
1021 administrative enforcement action or corrective action under such  
1022 federal authority shall have its eligibility revoked unless  
1023 specific exemptions are secured by a memorandum of agreement with  
1024 the United States Environmental Protection Agency pursuant to  
1025 paragraph (2)(g).

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1026 (b) Persons who have not caused or contributed to the  
1027 contamination of a brownfield site on or after July 1, 1997, and  
1028 who, prior to the department's approval of a brownfield site  
1029 rehabilitation agreement, are subject to ongoing corrective  
1030 action or enforcement under state authority established in this  
1031 chapter or chapter 403, including those persons subject to a  
1032 pending consent order with the state, are eligible for  
1033 participation in a brownfield site rehabilitation agreement if:

1034 1. The proposed brownfield site is currently idle or  
1035 underutilized as a result of the contamination, and participation  
1036 in the brownfield program shall ~~will~~ immediately, after cleanup  
1037 or sooner, result in increased economic productivity at the site,  
1038 including at a minimum the creation of 10 new permanent jobs,  
1039 whether full-time or part-time, which are not associated with  
1040 implementation of the brownfield site rehabilitation agreement;  
1041 and

1042 2. The person is complying in good faith with the terms of  
1043 an existing consent order or department-approved corrective  
1044 action plan, or responding in good faith to an enforcement  
1045 action, as evidenced by a determination issued by the department  
1046 or an approved local pollution control program.

1047 (c) Potential brownfield sites owned by the state or a  
1048 local government which contain contamination for which a  
1049 governmental entity is potentially responsible and which are  
1050 already designated as federal brownfield pilot projects or have  
1051 filed an application for designation to the United States  
1052 Environmental Protection Agency are eligible for participation in  
1053 a brownfield site rehabilitation agreement.

1054 (d) After July 1, 1997, petroleum and drycleaning  
1055 contamination sites may ~~shall~~ not receive both restoration

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1056 funding assistance available for the discharge under this chapter  
1057 and any state assistance available under s. 288.107. Sections  
1058 376.77-376.86 do not ~~Nothing in this act shall~~ affect the cleanup  
1059 criteria, priority ranking, and other rights and obligations  
1060 inherent in petroleum contamination and drycleaning contamination  
1061 site rehabilitation under ss. 376.30-376.317, or the availability  
1062 of economic incentives otherwise provided for by law.

1063 (2) LIABILITY PROTECTION.--

1064 (d) The liability protection provided under this section is  
1065 ~~shall become~~ effective upon execution of a brownfield site  
1066 rehabilitation agreement and shall remain effective if, ~~provided~~  
1067 the person responsible for brownfield site rehabilitation  
1068 complies with the terms of the site rehabilitation agreement. Any  
1069 statute of limitations that bars ~~would bar~~ the department from  
1070 pursuing relief in accordance with its existing authority is  
1071 tolled from the time the agreement is executed until site  
1072 rehabilitation is completed or immunity is revoked pursuant to s.  
1073 376.80(8) ~~376.80(10)~~.

1074 (f) Compliance with the agreement ~~referenced in~~ s.  
1075 ~~376.80(5)(i)~~ must be evidenced by a finding by the local  
1076 government with jurisdiction as provided in s. 376.80(5)(i) ~~over~~  
1077 ~~the brownfield area that the terms of the agreement have been~~  
1078 ~~met.~~

1079 (3) REOPENERS.--Upon completion of site rehabilitation in  
1080 compliance with ss. 376.77-376.86 ~~376.77-376.85~~, no additional  
1081 site rehabilitation is ~~shall be~~ required unless it is  
1082 demonstrated:

1083 (a) That fraud was committed in demonstrating site  
1084 conditions or completion of site rehabilitation;

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1085 (b) That new information confirms the existence of an area  
1086 of previously unknown contamination which exceeds the site-  
1087 specific rehabilitation levels established in accordance with s.  
1088 376.81, or which otherwise poses the threat of real and  
1089 substantial harm to public health, safety, or the environment in  
1090 violation of the terms of ss. 376.77-376.86 ~~376.77-376.85~~;

1091 (c) That the remediation efforts failed to achieve the site  
1092 rehabilitation criteria established under s. 376.81;

1093 (d) That the level of risk is increased beyond the  
1094 acceptable risk established under s. 376.81 due to substantial  
1095 changes in exposure conditions, such as a change in land use from  
1096 nonresidential to residential use. Any person who changes the  
1097 land use of the brownfield site thus causing the level of risk to  
1098 increase beyond the acceptable risk level may be required by the  
1099 department to undertake additional remediation measures to assure  
1100 that human health, public safety, and the environment are  
1101 protected to levels consistent with s. 376.81; or

1102 (e) That a new release occurs at the brownfield site  
1103 subsequent to a determination of eligibility for participation in  
1104 the brownfield program established under s. 376.80.

1105 Section 7. Subsection (1) of section 376.83, Florida  
1106 Statutes, is amended to read:

1107 376.83 Violation; penalties.--

1108 (1) It is a violation of ss. 376.77-376.86 ~~376.77-376.85~~,  
1109 and it is prohibited for any person, to knowingly make any false  
1110 statement, representation, or certification in any application,  
1111 record, report, plan, or other document filed or required to be  
1112 maintained, or to falsify, tamper with, or knowingly render  
1113 inaccurate any monitoring device or method required to be

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1114 maintained under ss. 376.77-376.86 ~~376.77-376.85~~, or by any  
1115 permit, rule, or order issued under this chapter or chapter 403.

1116 Section 8. Subsections (1) and (2) of section 376.86,  
1117 Florida Statutes, are amended, to read:

1118 376.86 Brownfield Areas Loan Guarantee Program.--

1119 (1) The Brownfield Areas Loan Guarantee Council is created  
1120 to review and approve or deny by a majority vote of its  
1121 membership, the situations and circumstances for participating  
1122 ~~participation~~ in partnerships by agreements with local  
1123 governments, financial institutions, and others associated with  
1124 the redevelopment of brownfield areas pursuant to the Brownfields  
1125 Redevelopment Act for a limited state guaranty of up to 5 years  
1126 of loan guarantees or loan loss reserves issued pursuant to law.  
1127 The limited state loan guaranty applies only to 50 percent of the  
1128 primary lenders loans for redevelopment projects in brownfield  
1129 areas. If the redevelopment project is for affordable housing, as  
1130 defined in s. 420.0004(3), in a brownfield area, the limited  
1131 state loan guaranty applies to 75 percent of the primary lender's  
1132 loan. If the redevelopment project includes the construction and  
1133 operation of a new health care facility or a health care  
1134 provider, as defined in s. 408.032, s. 408.07, or s. 408.7056, on  
1135 a brownfield site and the applicant has obtained documentation of  
1136 occupancy or the issuance of a license or certificate in  
1137 accordance with s. 376.30781, the limited state loan guaranty  
1138 applies to 75 percent of the primary lender's loan. A limited  
1139 state guaranty of private loans or a loan loss reserve is  
1140 authorized for lenders licensed to operate in the state upon a  
1141 determination by the council that such an arrangement would be in  
1142 the public interest and the likelihood of the success of the loan  
1143 is great.



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1144 (2) The council shall consist of the secretary of the  
 1145 department ~~of Environmental Protection~~ or the secretary's  
 1146 designee, the secretary of the Department of Community Affairs or  
 1147 the secretary's designee, the State Surgeon General of the  
 1148 Department of Health or the State Surgeon General's designee, the  
 1149 Executive Director of the State Board of Administration or the  
 1150 executive director's designee, the Executive Director of the  
 1151 Florida Housing Finance Corporation or the executive director's  
 1152 designee, and the Director of the Governor's Office of Tourism,  
 1153 Trade, and Economic Development or the director's designee. The  
 1154 chairperson of the council shall be the Director of the  
 1155 Governor's Office of Tourism, Trade, and Economic Development.  
 1156 Staff services for activities of the council shall be provided as  
 1157 needed by the member agencies.

1158 Section 9. Subsection (1) of section 163.3221, Florida  
 1159 Statutes, is amended to read:

1160 163.3221 Florida Local Government Development Agreement  
 1161 Act; definitions.--As used in ss. 163.3220-163.3243:

1162 (1) "Brownfield designation" means a resolution adopted by  
 1163 a local government pursuant to s. 376.80 ~~the Brownfields~~  
 1164 ~~Redevelopment Act, ss. 376.77-376.85.~~

1165 Section 10. This act shall take effect July 1, 2008 and  
 1166 shall operate retroactively to January 1, 2008.

1167  
 1168 ===== T I T L E A M E N D M E N T =====

1169 And the title is amended as follows:

1170 Delete everything before the enacting clause  
 1171 and insert:

1172 A bill to be entitled



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1173 An act relating to brownfield areas; amending s. 220.1845,  
1174 F.S.; providing a tax credit for the costs of solid waste  
1175 removal at brownfield sites; providing definitions  
1176 relating to solid waste removal; providing an additional  
1177 tax credit for rehabilitation costs that result in the  
1178 construction and operation of a health care facility or  
1179 health care provider on a brownfield site; amending s.  
1180 376.30781, F.S.; removing provisions relating to a partial  
1181 tax credit; providing a tax credit for the costs of solid  
1182 waste removal at brownfield sites; providing definitions  
1183 relating to solid waste removal; providing an additional  
1184 tax credit for rehabilitation costs that result in the  
1185 construction and operation of a health care facility or  
1186 health care provider on a brownfield site; revising  
1187 procedures relating to the application for the tax credit;  
1188 providing additional limitations on the amount of credits  
1189 claimed; amending s. 376.77, F.S.; conforming cross-  
1190 references; amending s. 376.79, F.S.; redefining terms  
1191 relating to the Brownfields Redevelopment Act; amending s.  
1192 376.80, F.S.; revising provisions relating to the  
1193 administration of the brownfield program at the local  
1194 level; providing requirements for the certification of a  
1195 proposed redevelopment of a brownfield site; deleting  
1196 certification requirements relating to the site  
1197 contractor; deleting the requirement that professional  
1198 engineers and geologists providing professional services  
1199 must maintain liability insurance; providing for  
1200 evaluating the effects of brownfield site rehabilitation  
1201 on the community and on individual health; amending ss.  
1202 376.82 and 376.83, F.S.; conforming cross-references;

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1203 | amending s. 376.86, F.S.; revising the Brownfield Areas  
1204 | Loan Guarantee Program; authorizing the program to  
1205 | guarantee 75 percent of a loan for the construction and  
1206 | operation of a new health care facility or health care  
1207 | provider; adding the State Surgeon General of the  
1208 | Department of Health to the Brownfield Areas Loan  
1209 | Guarantee Council; amending s. 163.3221, F.S.; conforming  
1210 | a cross-reference providing an effective date.