



501588

CHAMBER ACTION

<u>Senate</u>	.	<u>House</u>
Comm: RCS	.	
4/17/2008	.	
	.	
	.	

1 The Committee on Community Affairs (Crist) recommended the
2 following **amendment**:

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

5 Delete everything after the enacting clause
6 and insert:

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

11 220.1845 Contaminated site rehabilitation tax credit.--

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

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



501588

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

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

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

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

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

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



501588

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

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

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



501588

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



501588

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

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

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

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

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

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

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

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



501588

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

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

144 Section 2. Section 376.30781, Florida Statutes, is amended
145 to read:

146 376.30781 ~~Partial~~ Tax credits for rehabilitation of
147 drycleaning-solvent-contaminated sites and brownfield sites in
148 designated brownfield areas; application process; rulemaking
149 authority; revocation authority.--

150 (1) The Legislature finds that:

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

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

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



501588

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

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

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

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

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

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

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



501588

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

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

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



501588

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



501588

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

258 For the purposes of this section, the term:

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

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

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

267 The term also includes:

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

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

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

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



501588

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

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



501588

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

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

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



501588

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

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

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

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



501588

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

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



501588

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

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

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

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



501588

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

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

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



501588

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

474 (11)-(10) If a tax credit applicant does not receive a tax
475 credit allocation due to an exhaustion of the \$2 million annual
476 tax credit authorization, such application will then be included
477 in the same first-come, first-served order in the next year's
478 annual tax credit allocation, if any, based on the prior year
479 application.

480 (12)-(11) The Department of Environmental Protection may
481 adopt rules to prescribe the necessary forms required to claim
482 tax credits under this section and to provide the administrative
483 guidelines and procedures required to administer this section.

484 (13)-(12) The Department of Environmental Protection may
485 revoke or modify any written decision granting eligibility for
486 ~~partial~~ tax credits under this section if it is discovered that
487 the tax credit applicant submitted any false statement,
488 representation, or certification in any application, record,
489 report, plan, or other document filed in an attempt to receive
490 ~~partial~~ tax credits under this section. The Department of
491 Environmental Protection shall immediately notify the Department
492 of Revenue of any revoked or modified orders affecting previously
493 granted partial tax credits. Additionally, the tax credit



501588

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

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

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

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

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

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



501588

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

533 Section 3. Section 376.77, Florida Statutes, is amended to
534 read:

535 376.77 Short title.--Sections 376.77-376.86 ~~376.77-376.85~~
536 may be cited as the "Brownfields Redevelopment Act."

537 Section 4. Subsections (6), (8), (10), (11), (12), and (17)
538 of section 376.79, Florida Statutes, are amended to read:

539 376.79 Definitions relating to Brownfields Redevelopment
540 Act.--As used in ss. 376.77-376.86 ~~376.77-376.85~~, the term:

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

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

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



501588

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

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

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

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

576 Section 5. Section 376.80, Florida Statutes, is amended to
577 read:

578 376.80 Brownfield program administration process.--

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



501588

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

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



501588

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

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

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

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

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

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

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

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



501588

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

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

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

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

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

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



501588

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

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



501588

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

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

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

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



501588

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

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

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

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

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

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

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



501588

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

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

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

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

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



501588

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

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

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

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

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

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

817 ~~(7)(9)~~ During the cleanup process, if the department or
818 local program fails to complete review of a technical document
819 within the timeframe specified in the brownfield site
820 rehabilitation agreement, the person responsible for brownfield



501588

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

828 ~~(8)-(10)~~ If the person responsible for brownfield site
829 rehabilitation fails to comply with the brownfield site
830 rehabilitation agreement, the department shall allow 90 days for
831 the person responsible for brownfield site rehabilitation to
832 return to compliance with the provision at issue or to negotiate
833 a modification to the brownfield site rehabilitation agreement
834 with the department for good cause shown. If an imminent hazard
835 exists, the 90-day grace period shall not apply. If the project
836 is not returned to compliance with the brownfield site
837 rehabilitation agreement and a modification cannot be negotiated,
838 the immunity provisions of s. 376.82 are revoked.

839 ~~(9)-(11)~~ The department is specifically authorized and
840 encouraged to enter into delegation agreements with local
841 pollution control programs approved under s. 403.182 to
842 administer the brownfield program within their jurisdictions,
843 thereby maximizing the integration of this process with the other
844 local development processes needed to facilitate redevelopment of
845 a brownfield area. When determining whether a delegation pursuant
846 to this subsection of all or part of the brownfield program to a
847 local pollution control program is appropriate, the department
848 shall consider the following. The local pollution control program
849 must:



501588

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

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

858

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

868 ~~(10)-(12)~~ Local governments are encouraged to use the full
869 range of economic and tax incentives available to facilitate and
870 promote the rehabilitation of brownfield areas, to help eliminate
871 the public health and environmental hazards, and to promote the
872 creation of jobs and economic development in these previously
873 run-down, blighted, and underutilized areas.

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

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



501588

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

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

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

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

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

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

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



501588

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

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

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

918 376.82 Eligibility criteria and liability protection.--

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

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



501588

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

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

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

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



501588

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

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

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

985 | (2) LIABILITY PROTECTION.--

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

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



501588

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

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

1003 | (a) That fraud was committed in demonstrating site
1004 | conditions or completion of site rehabilitation;

1005 | (b) That new information confirms the existence of an area
1006 | of previously unknown contamination which exceeds the site-
1007 | specific rehabilitation levels established in accordance with s.
1008 | 376.81, or which otherwise poses the threat of real and
1009 | substantial harm to public health, safety, or the environment in
1010 | violation of the terms of ss. 376.77-376.86 ~~376.77-376.85~~;

1011 | (c) That the remediation efforts failed to achieve the site
1012 | rehabilitation criteria established under s. 376.81;

1013 | (d) That the level of risk is increased beyond the
1014 | acceptable risk established under s. 376.81 due to substantial
1015 | changes in exposure conditions, such as a change in land use from
1016 | nonresidential to residential use. Any person who changes the
1017 | land use of the brownfield site thus causing the level of risk to
1018 | increase beyond the acceptable risk level may be required by the
1019 | department to undertake additional remediation measures to assure
1020 | that human health, public safety, and the environment are
1021 | protected to levels consistent with s. 376.81; or

1022 | (e) That a new release occurs at the brownfield site
1023 | subsequent to a determination of eligibility for participation in
1024 | the brownfield program established under s. 376.80.

1025 | Section 7. Subsection (1) of section 376.83, Florida
1026 | Statutes, is amended to read:



501588

1027 376.83 Violation; penalties.--

1028 (1) It is a violation of ss. 376.77-376.86 ~~376.77-376.85~~,
1029 and it is prohibited for any person, to knowingly make any false
1030 statement, representation, or certification in any application,
1031 record, report, plan, or other document filed or required to be
1032 maintained, or to falsify, tamper with, or knowingly render
1033 inaccurate any monitoring device or method required to be
1034 maintained under ss. 376.77-376.86 ~~376.77-376.85~~, or by any
1035 permit, rule, or order issued under this chapter or chapter 403.

1036 Section 8. Subsections (1) and (2) of section 376.86,
1037 Florida Statutes, are amended to read:

1038 376.86 Brownfield Areas Loan Guarantee Program.--

1039 (1) The Brownfield Areas Loan Guarantee Council is created
1040 to review and approve or deny, by a majority vote of its
1041 membership, the situations and circumstances for participation in
1042 partnerships by agreements with local governments, financial
1043 institutions, and others associated with the redevelopment of
1044 brownfield areas pursuant to the Brownfields Redevelopment Act
1045 for a limited state guaranty of up to 5 years of loan guarantees
1046 or loan loss reserves issued pursuant to law. The limited state
1047 loan guaranty applies only to 50 percent of the primary lenders
1048 loans for redevelopment projects in brownfield areas. If the
1049 redevelopment project is for affordable housing, as defined in s.
1050 420.0004(3), in a brownfield area, the limited state loan
1051 guaranty applies to 75 percent of the primary lender's loan. If
1052 the redevelopment project includes the construction and operation
1053 of a new health care facility or a health care provider, as
1054 defined in s. 408.032, s. 408.07, or s. 408.7056, on a brownfield
1055 site and the applicant has obtained documentation in accordance
1056 with s. 376.30781 indicating that the construction of the health



501588

1057 | care facility or health care provider by the applicant on the
1058 | brownfield site has received a certificate of occupancy or a
1059 | license or certificate has been issued for the operation of the
1060 | health care facility or health care provider, the limited state
1061 | loan guaranty applies to 75 percent of the primary lender's loan.

1062 | A limited state guaranty of private loans or a loan loss reserve
1063 | is authorized for lenders licensed to operate in the state upon a
1064 | determination by the council that such an arrangement would be in
1065 | the public interest and the likelihood of the success of the loan
1066 | is great.

1067 | (2) The council shall consist of the secretary of the
1068 | Department of Environmental Protection or the secretary's
1069 | designee, the secretary of the Department of Community Affairs or
1070 | the secretary's designee, the State Surgeon General or the State
1071 | Surgeon General's designee, the Executive Director of the State
1072 | Board of Administration or the executive director's designee, the
1073 | Executive Director of the Florida Housing Finance Corporation or
1074 | the executive director's designee, and the Director of the
1075 | Governor's Office of Tourism, Trade, and Economic Development or
1076 | the director's designee. The chairperson of the council shall be
1077 | the Director of the Governor's Office of Tourism, Trade, and
1078 | Economic Development. Staff services for activities of the
1079 | council shall be provided as needed by the member agencies.

1080 | Section 9. Subsection (1) of section 163.3221, Florida
1081 | Statutes, is amended to read:

1082 | 163.3221 Florida Local Government Development Agreement
1083 | Act; definitions.--As used in ss. 163.3220-163.3243:

1084 | (1) "Brownfield designation" means a resolution adopted by
1085 | a local government pursuant to s. 376.80 ~~the Brownfields~~
1086 | ~~Redevelopment Act, ss. 376.77-376.85.~~



501588

1087 Section 10. This act shall take effect upon becoming a law
1088 and shall operate retroactively to January 1, 2008.

1089
1090
1091 ===== T I T L E A M E N D M E N T =====

1092 And the title is amended as follows:

1093 Delete everything before the enacting clause
1094 and insert:

1095 A bill to be entitled
1096 An act relating to brownfield site redevelopment; amending
1097 s. 220.1845, F.S.; revising requirements for site
1098 rehabilitation tax credits; expanding eligibility for site
1099 rehabilitation tax credits; providing for application to
1100 brownfield site redevelopment solid waste removal costs;
1101 providing requirements and limitations; providing
1102 definitions; providing for application to construction and
1103 operation of new health care facilities or health care
1104 providers on brownfield sites; providing requirements;
1105 amending s. 376.30781, F.S.; revising provisions providing
1106 tax credits for rehabilitation of certain contaminated
1107 sites and brownfield sites; providing for application to
1108 solid waste removal activities and site rehabilitation;
1109 providing for granting tax credits to multiple applicants;
1110 providing criteria for claiming costs for solid waste
1111 removal; providing definitions; providing for application
1112 to construction and operation of new health care
1113 facilities or health care providers on brownfield sites;
1114 providing requirements; revising criteria and requirements
1115 for granting site rehabilitation tax credits; providing
1116 criteria and requirements for granting solid waste removal



501588

1117 tax credits; revising criteria and requirements for
1118 Department of Environmental Protection review of tax
1119 credit applications; providing notice requirements for the
1120 department in reviewing applications; increasing available
1121 amounts eligible for tax credits; providing additional
1122 limitations on tax credit awards for site rehabilitation
1123 costs and solid waste removal costs; providing
1124 construction of costs not eligible for tax credits;
1125 providing requirements and procedures for allocating and
1126 awarding certain ineligible or disputed costs; amending s.
1127 376.77, F.S.; conforming cross-references; amending s.
1128 376.79, F.S.; revising definitions relating to brownfield
1129 redevelopment; conforming a cross-reference; amending s.
1130 376.80, F.S.; revising the brownfield program
1131 administration process; revising local government proposal
1132 requirements; revising requirements for brownfield site
1133 redevelopment agreements; deleting certain brownfield site
1134 rehabilitation contractor certification requirements;
1135 deleting a requirement that certain professionals carry
1136 professional liability insurance; providing legislative
1137 findings and declarations; authorizing local governments
1138 to evaluate certain benefits and effects of brownfield
1139 site redevelopment and rehabilitation; providing criteria;
1140 authorizing the Department of Health to assist local
1141 governments in such evaluations; amending ss. 376.82 and
1142 376.83, F.S.; conforming cross-references; amending s.
1143 376.86, F.S.; providing for limited application of
1144 Brownfield Areas Loan Guarantee Program grants to
1145 construction and operation of new health care facilities
1146 and health care providers; expanding membership of the



501588

1147 | Brownfield Areas Loan Guarantee Council; amending s.
1148 | 163.3221, F.S.; conforming a cross-reference; providing
1149 | for retroactive application; providing an effective date.