

By the Committee on Environmental Preservation and Conservation;  
and Senator Constantine

592-06640-08

20082594c1

1 A bill to be entitled

2 An act relating to brownfield areas; amending s. 220.1845,  
3 F.S.; providing a tax credit for the costs of solid waste  
4 removal at brownfield sites; providing definitions  
5 relating to solid waste removal; providing an additional  
6 tax credit for rehabilitation costs that result in the  
7 construction and operation of a health care facility or  
8 health care provider on a brownfield site; amending s.  
9 376.30781, F.S.; removing provisions relating to a partial  
10 tax credit; providing a tax credit for the costs of solid  
11 waste removal at brownfield sites; providing definitions  
12 relating to solid waste removal; providing an additional  
13 tax credit for rehabilitation costs that result in the  
14 construction and operation of a health care facility or  
15 health care provider on a brownfield site; revising  
16 procedures relating to the application for the tax credit;  
17 providing additional limitations on the amount of credits  
18 claimed; amending s. 376.77, F.S.; conforming cross-  
19 references; amending s. 376.79, F.S.; redefining terms  
20 relating to the Brownfields Redevelopment Act; amending s.  
21 376.80, F.S.; revising provisions relating to the  
22 administration of the brownfield program at the local  
23 level; providing requirements for the certification of a  
24 proposed redevelopment of a brownfield site; deleting  
25 certification requirements relating to the site  
26 contractor; deleting the requirement that professional  
27 engineers and geologists providing professional services  
28 must maintain liability insurance; providing for  
29 evaluating the effects of brownfield site rehabilitation

592-06640-08

20082594c1

30 on the community and on individual health; amending ss.  
31 376.82 and 376.83, F.S.; conforming cross-references;  
32 amending s. 376.86, F.S.; revising the Brownfield Areas  
33 Loan Guarantee Program; authorizing the program to  
34 guarantee 75 percent of a loan for the construction and  
35 operation of a new health care facility or health care  
36 provider; adding the State Surgeon General of the  
37 Department of Health to the Brownfield Areas Loan  
38 Guarantee Council; amending s. 163.3221, F.S.; conforming  
39 a cross-reference; providing for retroactive application;  
40 providing an effective date.

41  
42 Be It Enacted by the Legislature of the State of Florida:

43  
44 Section 1. Subsections (1) and (2) of section 220.1845,  
45 Florida Statutes, are amended to read:

46 220.1845 Contaminated site rehabilitation tax credit.--

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

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

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

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

592-06640-08

20082594c1

59 3. A brownfield site in a designated brownfield area under  
60 s. 376.80.

61 (b) A tax credit applicant, or multiple tax credit  
62 applicants working jointly to clean up a single site, may not be  
63 granted more than \$500,000 per year in tax credits for each site  
64 voluntarily rehabilitated. Multiple tax credit applicants shall  
65 be granted tax credits in the same proportion as their  
66 contribution to payment of cleanup costs. Subject to the same  
67 conditions and limitations as provided in this section, a  
68 municipality, county, or other tax credit applicant that ~~which~~  
69 voluntarily rehabilitates a site may receive up to ~~not more than~~  
70 \$500,000 per year in tax credits which it can subsequently  
71 transfer subject to the provisions in paragraph (g).

72 (c) If the credit granted under this section is not fully  
73 used in any one year because of insufficient tax liability on the  
74 part of the corporation, the unused amount may be carried forward  
75 up to ~~for a period not to exceed~~ 5 years. The carryover credit  
76 may be used in a subsequent year if ~~when~~ the tax imposed by this  
77 chapter for that year exceeds the credit for which the  
78 corporation is eligible in that year ~~under this section~~ after  
79 applying the other credits and unused carryovers in the order  
80 provided by s. 220.02(8). ~~Five years after the date a credit is~~  
81 ~~granted under this section, such credit expires and may not be~~  
82 ~~used. However,~~ If during the 5-year period the credit is  
83 transferred, in whole or in part, pursuant to paragraph (g), each  
84 transferee has up to 5 years after the date of transfer to use  
85 its credit.

86 (d) A taxpayer that files a consolidated return in this  
87 state as a member of an affiliated group under s. 220.131(1) may

592-06640-08

20082594c1

88 | be allowed the credit on a consolidated return basis up to the  
89 | amount of tax imposed upon the consolidated group.

90 | (e) A tax credit applicant that receives state-funded site  
91 | rehabilitation under s. 376.3078(3) for rehabilitation of a  
92 | drycleaning-solvent-contaminated site is ineligible to receive  
93 | credit under this section for costs incurred by the tax credit  
94 | applicant in conjunction with the rehabilitation of that site  
95 | during the same time period that state-administered site  
96 | rehabilitation was underway.

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

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

103 | 1.2. The entity or its surviving or acquiring entity ~~as~~  
104 | ~~described in subparagraph 1.7,~~ may transfer any unused credit in  
105 | whole or in units of at least ~~no less than~~ 25 percent of the  
106 | remaining credit. The entity acquiring such credit may use it in  
107 | the same manner and with the same limitation as described in this  
108 | section. Such transferred credits may not be transferred again  
109 | although they may succeed to a surviving or acquiring entity  
110 | subject to the same conditions and limitations as described in  
111 | this section.

112 | 2.3. ~~If In the event~~ the credit ~~provided for under this~~  
113 | ~~section~~ is reduced due to ~~either as a result of~~ a determination  
114 | by the Department of Environmental Protection or an examination  
115 | or audit by the Department of Revenue, the ~~such~~ tax deficiency  
116 | shall be recovered from the first entity, or the surviving or

592-06640-08

20082594c1

117 acquiring entity ~~that, to have~~ claimed the such credit up to the  
118 amount of credit taken. Any subsequent deficiencies shall be  
119 assessed against the any entity acquiring and claiming the such  
120 credit, or in the case of multiple succeeding entities in the  
121 order of credit succession.

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

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

143 (j) In order to encourage the redevelopment of a brownfield  
144 site, as defined in the brownfield site rehabilitation agreement,  
145 which is hindered by the presence of solid waste, as defined in

592-06640-08

20082594c1

146 s. 403.703, costs relating to solid waste removal may also be  
147 claimed under this section. A tax credit applicant, or multiple  
148 tax credit applicants working jointly to clean up a single  
149 brownfield site, may also claim costs to address solid waste  
150 removal in accordance with the rules of the Department of  
151 Environmental Protection. Multiple tax credit applicants shall be  
152 granted tax credits in the same proportion as their contribution  
153 to payment of solid waste removal costs. To receive the credit,  
154 the applicant must submit an affidavit stating that to the best  
155 of the applicant's knowledge after consultation with appropriate  
156 local government officials, the department, and available  
157 historical records, the brownfield site was never operated as a  
158 permitted solid waste disposal area or for monetary compensation.  
159 The applicant must also submit all other documentation and  
160 certifications required by this section. Costs claimed for solid  
161 waste removal under this paragraph shall be treated in the same  
162 manner as costs claimed for site rehabilitation under this  
163 section. Tax credit applications claiming costs pursuant to this  
164 paragraph are not subject to the calendar-year limitation and  
165 January 31 annual application deadline. Only one solid waste  
166 removal tax credit application may be filed per brownfield site  
167 and the Department of Environmental Protection shall accept the  
168 application upon the completion of the applicable requirements  
169 listed in this section. Tax credit applicants may claim 50  
170 percent of the cost for solid waste removal, not to exceed  
171 \$500,000, when the applicant has determined solid waste removal  
172 is completed for the brownfield site. For the purposes of this  
173 section, the term:

174 1. "Monetary compensation" means that fees were charged or

592-06640-08

20082594c1

175 assessments were levied for the disposal of solid waste at a  
176 solid waste disposal area.

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

179 3. "Solid waste removal" means removal of solid waste from  
180 the land surface or excavation of solid waste from below the land  
181 surface and removal of the solid waste from the brownfield site.

182 The term also includes:

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

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

187 c. Deposition of solid waste at a permitted or exempt solid  
188 waste management facility, regardless of whether the solid waste  
189 is disposed of or recycled.

190 (k) In order to encourage the construction and operation of  
191 a new health care facility or a health care provider, as defined  
192 in s. 408.032, s. 408.07, or s. 408.7056, on a brownfield site,  
193 an applicant for a tax credit may claim an additional 25 percent  
194 of the total site rehabilitation costs, not to exceed \$500,000,  
195 if the applicant provides documentation indicating that the  
196 health care facility or health care provider has received a  
197 certificate of occupancy, or a license or certificate has been  
198 issued for the operation of the health care facility or health  
199 care provider.

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

592-06640-08

20082594c1

204 Section 2. Section 376.30781, Florida Statutes, is amended  
205 to read:

206 376.30781 ~~Partial~~ Tax credits for rehabilitation of  
207 drycleaning-solvent-contaminated sites and brownfield sites ~~in~~  
208 ~~designated brownfield areas; application process; rulemaking~~  
209 ~~authority; revocation authority.--~~

210 (1) The Legislature finds that:

211 (a) To facilitate property transactions and economic growth  
212 and development, it is in the state's interest ~~of the state~~ to  
213 encourage the cleanup, at the earliest possible time, of  
214 drycleaning-solvent-contaminated sites and brownfield sites in  
215 designated brownfield areas.

216 (b) It is the intent of the Legislature to encourage the  
217 voluntary cleanup of drycleaning-solvent-contaminated sites and  
218 brownfield sites in designated brownfield areas by providing a  
219 ~~partial~~ tax credit for the restoration of such property in  
220 specified circumstances.

221 (2) Notwithstanding subsection (5) ~~the requirements of~~  
222 ~~paragraph (5)(a)~~, tax credits allowed pursuant to s. 220.1845 are  
223 available for ~~any~~ site rehabilitation or solid waste removal  
224 conducted during the calendar year in which the applicable  
225 voluntary cleanup agreement or brownfield site rehabilitation  
226 agreement is executed, even if the site rehabilitation or solid  
227 waste removal is conducted prior to the execution of that  
228 agreement or the designation of the brownfield area.

229 (3) (a) A credit in the amount of 50 percent of the costs of  
230 voluntary cleanup activity that is integral to site  
231 rehabilitation at the following sites is allowed pursuant to s.  
232 220.1845:



592-06640-08

20082594c1

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

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

240 3. A brownfield site in a designated brownfield area under  
241 s. 376.80.

242 (b) A tax credit applicant, or multiple tax credit  
243 applicants working jointly to clean up a single site, may not  
244 receive ~~be granted~~ more than \$500,000 per year in tax credits for  
245 each site voluntarily rehabilitated. Multiple tax credit  
246 applicants shall be granted tax credits in the same proportion as  
247 their contribution to payment of site rehabilitation ~~cleanup~~  
248 costs. Tax credits are available only for site rehabilitation  
249 conducted during the calendar year for which the tax credit  
250 application is submitted. For purposes of this section, the term  
251 "integral to site rehabilitation" means work that is necessary to  
252 implement the requirements of chapter 62-785 or chapter 62-782,  
253 Florida Administrative Code.

254 (c) In order to encourage completion of site rehabilitation  
255 at contaminated sites that are being voluntarily cleaned up and  
256 that are eligible for a tax credit under this section, the tax  
257 credit applicant may claim an additional 25 percent of the total  
258 site rehabilitation ~~cleanup~~ costs, not to exceed \$500,000, in the  
259 final year of cleanup as evidenced by the department ~~of~~  
260 ~~Environmental Protection~~ issuing a "No Further Action" order for  
261 that site.

592-06640-08

20082594c1

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

281 (e) In order ~~Notwithstanding the restrictions in this~~  
282 ~~section that limit tax credit eligibility to costs that are~~  
283 ~~integral to site rehabilitation,~~ to encourage the redevelopment  
284 of a brownfield site, as defined in the brownfield site  
285 rehabilitation agreement, which is properties in designated  
286 ~~brownfield areas that are hindered by the presence of solid~~  
287 ~~waste, as defined in s. 403.703, costs relating to a tax credit~~  
288 ~~applicant may also claim costs to address the solid waste removal~~  
289 may also be claimed under this section. A tax credit applicant,  
290 or multiple tax credit applicants working jointly to clean up a

592-06640-08

20082594c1

291 single brownfield site, may also claim costs to address the solid  
292 waste removal, but only those costs to remove, transport, and  
293 dispose of solid waste in accordance with department rules.  
294 Multiple tax credit applicants shall be granted tax credits in  
295 the same proportion as their contribution to payment of solid  
296 waste removal costs. To receive the credit, These costs are  
297 eligible for a tax credit provided the applicant must submit  
298 submits an affidavit stating that, after consultation with  
299 appropriate local government officials and the department, to the  
300 best of the applicant's knowledge after consultation with  
301 appropriate local government officials, the department, and  
302 available historical records, the brownfield site was never  
303 operated as a permitted solid waste disposal area or landfill or  
304 dump site for monetary compensation. The applicant must also  
305 submit, and submits all other documentation and certifications  
306 required by this section. Costs claimed for solid waste removal  
307 under this paragraph shall be treated in the same manner as costs  
308 claimed for site rehabilitation under this section. In this  
309 section, where reference is made to "site rehabilitation," the  
310 department shall instead consider whether the costs claimed are  
311 for removal, transportation, and disposal of solid waste. Tax  
312 credit applications claiming costs pursuant to this paragraph are  
313 shall not be subject to the calendar-year limitation and January  
314 31 15 annual application deadline, and the department shall  
315 accept a one-time application filed subsequent to the completion  
316 by the tax credit applicant of the applicable requirements listed  
317 in this paragraph. Only one solid waste removal tax credit  
318 application may be filed per brownfield site and the department  
319 shall accept the application upon the completion of the

592-06640-08

20082594c1

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

325 1. "Monetary compensation" means that fees were charged or  
326 assessments were levied for the disposal of solid waste at a  
327 solid waste disposal area.

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

330 3. "Solid waste removal" means removal of solid waste from  
331 the land surface or excavation of solid waste from below the land  
332 surface and removal of the solid waste from the brownfield site.

333 The term also includes:

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

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

338 c. Deposition of solid waste at a permitted or exempt solid  
339 waste management facility, regardless of whether the solid waste  
340 is disposed of or recycled.

341 (f) In order to encourage the construction and operation of  
342 a new health care facility or a health care provider, as defined  
343 in s. 408.032, s. 408.07, or s. 408.7056, on a brownfield site,  
344 an applicant for a tax credit may claim an additional 25 percent  
345 of the total site rehabilitation costs, not to exceed \$500,000,  
346 if the applicant provides documentation indicating that the  
347 health care facility or health care provider has received a  
348 certificate of occupancy, or a license or certificate has been

592-06640-08

20082594c1

349 issued for the operation of the health care facility or health  
350 care provider.

351 (4) The department ~~is of Environmental Protection shall be~~  
352 responsible for allocating the tax credits provided for in s.  
353 220.1845, which may not ~~to~~ exceed a total of \$2 million in tax  
354 credits annually.

355 (5) To claim the credit for site rehabilitation or solid  
356 waste removal ~~conducted during the current calendar year~~, each  
357 tax credit applicant must apply to the department ~~of~~  
358 ~~Environmental Protection~~ for an allocation of the \$2 million  
359 annual credit by filing a tax credit application with the  
360 Division of Waste Management ~~January 15 of the following year~~ on  
361 a form developed by the department ~~of Environmental Protection~~ in  
362 cooperation with the Department of Revenue. The form shall  
363 include an affidavit from each tax credit applicant certifying  
364 that all information contained in the application, including all  
365 records of costs incurred and claimed in the tax credit  
366 application, are true and correct. If the application is  
367 submitted pursuant to subparagraph (3)(a)2., the form must  
368 include an affidavit signed by the real property owner stating  
369 that it is not, and has never been, the owner or operator of the  
370 drycleaning facility where the contamination exists. Approval of  
371 ~~partial~~ tax credits is ~~must be accomplished~~ on a first-come,  
372 first-served basis based upon the date and time complete  
373 applications are received by the Division of Waste Management. A  
374 ~~tax credit applicant shall submit only one complete application~~  
375 ~~per site for each calendar year's site rehabilitation costs.~~  
376 ~~Incomplete placeholder applications shall not be accepted and~~  
377 ~~will not secure a place in the first-come, first-served~~

592-06640-08

20082594c1

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

380 (a) For site rehabilitation tax credits, the applicant must  
381 have entered into a voluntary cleanup agreement with the  
382 department of Environmental Protection for a drycleaning-solvent-  
383 contaminated site or a brownfield site rehabilitation agreement,  
384 as applicable,† and must have paid all deductibles pursuant to s.  
385 376.3078(3)(e), as applicable. Site rehabilitation tax credit  
386 applicants shall submit only one complete application per site  
387 for each calendar year's site rehabilitation costs. Applications  
388 must be received by the Division of Waste Management by January  
389 31 of the year following the calendar year for which site  
390 rehabilitation costs are being claimed in a tax credit  
391 application.

392 (b) For solid waste removal tax credits, the applicant must  
393 have entered into a brownfield site rehabilitation agreement with  
394 the department. Solid waste removal tax credit applicants shall  
395 submit only one complete application per brownfield site, as  
396 defined in the rehabilitation agreement. Applications must be  
397 received by the Division of Waste Management subsequent to the  
398 completion of the requirements listed in paragraph (3)(e). Have  
399 paid all deductibles pursuant to s. 376.3078(3)(e) for eligible  
400 drycleaning-solvent-cleanup program sites.

401 (6) To obtain the tax credit certificate, ~~a tax credit~~  
402 ~~applicant must annually file an application for certification,~~  
403 ~~which must be received by the Division of Waste Management of the~~  
404 ~~Department of Environmental Protection by January 15 of the year~~  
405 ~~following the calendar year for which site rehabilitation costs~~  
406 ~~are being claimed in a tax credit application.~~ the tax credit

592-06640-08

20082594c1

407 applicant must provide all pertinent information requested on the  
408 tax credit application form, including, at a minimum, the name  
409 and address of the tax credit applicant and the address and  
410 tracking identification number of the eligible site. ~~Along with~~  
411 ~~the tax credit application form,~~ The tax credit applicant must  
412 also submit ~~the following~~:

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

417 (b) Copies of documents that describe the goods or services  
418 and associated costs being claimed that were integral to site  
419 rehabilitation, as "site rehabilitation" is defined in ss.  
420 376.301 and 376.79, or were for solid waste removal during the  
421 time period covered by the application. These documents must  
422 include, but need not be limited to, contract records that  
423 describe the scope of work performed, payment requests that  
424 describe the goods or services provided, and payment records  
425 involving actual costs incurred and paid. This documentation is  
426 sufficient to demonstrate a link between the contractual records,  
427 the payment requests, and the payment records for the time period  
428 covered by the application ~~contracts and documentation of~~  
429 ~~contract negotiations, accounts, invoices, sales tickets, or~~  
430 ~~other payment records from purchases, sales, leases, or other~~  
431 ~~transactions involving actual costs incurred for that tax year~~  
432 ~~related to site rehabilitation, as that term is defined in ss.~~  
433 ~~376.301 and 376.79;~~

434 (c) Proof that the documentation submitted pursuant to  
435 paragraph (b) has been reviewed and verified by an independent

592-06640-08

20082594c1

436 certified public accountant in accordance with standards  
437 established by the American Institute of Certified Public  
438 Accountants. Specifically, a certified public accountant's report  
439 must be submitted and the certified public accountant must attest  
440 to the accuracy and validity of the costs incurred and paid  
441 during the period covered in the application by conducting an  
442 independent review of the data presented by the tax credit  
443 applicant. Accuracy and validity of costs incurred and paid shall  
444 ~~would~~ be determined once the level of effort is ~~was~~ certified by  
445 an appropriate professional registered in this state in each  
446 contributing technical discipline. The certified public  
447 accountant's report must ~~would~~ also attest that the costs  
448 included in the application form are not duplicated within the  
449 application. A copy of the accountant's report shall be submitted  
450 to the department in addition to the accountant's certification  
451 form in ~~of Environmental Protection with~~ the tax credit  
452 application; and

453 (d) A certification form stating that ~~site rehabilitation~~  
454 activities associated with the documentation submitted pursuant  
455 to paragraph (b) have been conducted under the observation of,  
456 and related technical documents have been signed and sealed by,  
457 an appropriate professional registered in this state in each  
458 contributing technical discipline. The certification form shall  
459 be signed and sealed by the appropriate registered professionals  
460 stating that the costs incurred were integral, necessary, and  
461 required for site rehabilitation, as that term is defined in ss.  
462 376.301 and 376.79. If the scope of solid waste removal  
463 activities do not require oversight by a registered technical  
464 professional, the certification form is not required as part of



592-06640-08

20082594c1

465 the tax credit application.

466 (7) The certified public accountant and appropriate  
467 registered professionals submitting forms as part of a tax credit  
468 application must verify such forms by completing and signing the  
469 appropriate certifications included in the application form.

470 Verification shall ~~must~~ be accomplished as provided in s.

471 92.525(1)(b) and subject to ~~the provisions of~~ s. 92.525(3).

472 (8) The department ~~of Environmental Protection~~ shall review  
473 the tax credit application and any supplemental documentation  
474 that the tax credit applicant may submit prior to the annual  
475 application deadline, if applicable, for completeness and  
476 eligibility. ~~in order to have the application~~

477 (a) To be considered complete, the review must verify for  
478 ~~the purpose of verifying~~ that the tax credit applicant has met  
479 the appropriate qualifying criteria in subsections (3) and (5),  
480 ~~and~~ has submitted the application form, and has addressed each of  
481 the categories of submittals all required documentation listed in  
482 subsection (6). Upon verification that the tax credit applicant  
483 has met these completeness requirements, the tax credit  
484 application shall secure a place in the first-come, first-served  
485 application line. If the department determines that an  
486 application is incomplete, the applicant shall be notified in  
487 writing and shall have 30 days to correct any deficiencies. Upon  
488 timely correction of the deficiency, the tax credit application  
489 shall secure a place in the first-come, first-served application  
490 line. Tax credit applications may not be altered to claim  
491 additional costs during this time.

492 (b) For costs to be eligible, the review must verify that  
493 the work claimed was integral to site rehabilitation or was for

592-06640-08

20082594c1

494 solid waste removal, that the work claimed was performed in the  
495 applicable timeframe, and that the costs claimed were properly  
496 documented. Upon verification, the department shall issue a  
497 written decision granting eligibility for ~~partial~~ tax credits (a  
498 tax credit certificate). Complete tax credit applications shall  
499 be reviewed for eligible costs, in conjunction with ~~in the amount~~  
500 of 50 percent of the total costs claimed, subject to the \$500,000  
501 limitation, for the calendar year for which the tax credit  
502 application is submitted based on the report of the certified  
503 public accountant, and the certifications from the appropriate  
504 registered technical professionals, as applicable.

505 (9) On or before May 1 ~~March 31~~, the department ~~of~~  
506 ~~Environmental Protection~~ shall inform each eligible tax credit  
507 applicant, subject to the January 31 annual application deadline,  
508 of its eligibility status and the amount of any ~~its partial~~ tax  
509 credit due. The department shall ~~and~~ provide each eligible tax  
510 credit applicant with a tax credit certificate that must be  
511 submitted with its tax return to the Department of Revenue to  
512 claim the tax credit or to have the credit ~~be~~ transferred  
513 pursuant to s. 220.1845(1)(g) ~~s. 220.1845(1)(h).~~ The May 1  
514 deadline for annual site rehabilitation tax credit certificate  
515 awards does not apply to any tax credit application for which the  
516 department issued a notice of deficiency pursuant to subsection  
517 (8). The department shall respond within 90 days after receipt of  
518 a response from the tax credit applicant to the notice of  
519 deficiency. Credits will not result in the payment of refunds if  
520 total credits exceed the amount of tax owed.

521 (10) For solid waste removal, a new health care facility or  
522 health care provider, or affordable housing tax credit

592-06640-08

20082594c1

523 applications, the department shall inform the applicant of the  
524 department's determination within 90 days after the application  
525 has been deemed complete. Each eligible tax credit applicant  
526 shall be informed of the amount of its tax credit and provided  
527 with a tax credit certificate that must be submitted with its tax  
528 return to the Department of Revenue to claim the tax credit or to  
529 have the tax credit transferred pursuant to s. 220.1845(1)(g).  
530 Tax refunds may not be paid on credits that exceed the amount of  
531 tax owed.

532 (11)~~(10)~~ If a tax credit applicant does not receive a tax  
533 credit allocation due to an exhaustion of the \$2 million annual  
534 tax credit authorization, such application will then be included  
535 in the same first-come, first-served order in the next year's  
536 annual tax credit allocation, if any, based on the prior year  
537 application.

538 (12)~~(11)~~ The department of ~~Environmental Protection~~ may  
539 adopt rules to prescribe the necessary forms for claiming  
540 ~~required to claim~~ tax credits under this section and to provide  
541 the administrative guidelines and procedures ~~required to~~  
542 administer this section.

543 (13)~~(12)~~ The department of ~~Environmental Protection~~ may  
544 revoke or modify any written decision granting eligibility for  
545 ~~partial~~ tax credits under this section if it is discovered that  
546 the tax credit applicant submitted any false statement,  
547 representation, or certification in any application, record,  
548 report, plan, or other document filed in an attempt to receive  
549 ~~partial~~ tax credits under this section. The department of  
550 ~~Environmental Protection~~ shall immediately notify the Department  
551 of Revenue of any revoked or modified orders affecting previously

592-06640-08

20082594c1

552 | granted ~~partial~~ tax credits. Additionally, the tax credit  
553 | applicant must notify the Department of Revenue of any change in  
554 | its tax credit claimed.

555 |       ~~(14)-(13)~~ Tax credits are subject to the following  
556 | limitations:

557 |       (a) A tax credit applicant who receives state-funded site  
558 | rehabilitation under s. 376.3078(3) for rehabilitation of a  
559 | drycleaning-solvent-contaminated site is ineligible to receive a  
560 | tax credit under s. 220.1845 for costs incurred by the tax credit  
561 | applicant in conjunction with the rehabilitation of that site  
562 | during the same time period that state-administered site  
563 | rehabilitation is ~~was~~ underway.

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

568 |       (c) A single brownfield site may receive tax credits for  
569 | eligible site rehabilitation and eligible solid waste removal  
570 | costs if the costs are claimed only once per site.

571 |       (d) For purposes of this section, costs incurred that are  
572 | not considered integral to site rehabilitation include, but are  
573 | not limited to, brownfield area designation costs and tax credit  
574 | application preparation and submittal costs.

575 |       (e) If, pursuant to subsection (9), the department notifies  
576 | an applicant that any claimed costs are ineligible, those costs  
577 | may not be allocated against the annual tax credit authorization,  
578 | and any disputed costs may not delay the application processing  
579 | or award for subsequent eligible tax credit applicants in the  
580 | first-come, first-served application line. However, if the

592-06640-08

20082594c1

581 department subsequently agrees to award tax credits on an amount  
582 that was in dispute, it shall do so based upon the first-come,  
583 first-served application line determined by the applicant's  
584 original completeness date and time if there is any tax credit  
585 authorization available. If a tax credit applicant does not  
586 receive an award for the disputed costs due to an exhaustion of  
587 the annual tax credit authorization, such subsequent tax credit  
588 award shall be included in the same first-come, first-served  
589 order in next year's annual tax credit allocation, if any, based  
590 on the applicant's original completeness date and time.

591 Section 3. Section 376.77, Florida Statutes, is amended to  
592 read:

593 376.77 Short title.--Sections 376.77-376.86 ~~376.77-376.85~~  
594 may be cited as the "Brownfields Redevelopment Act."

595 Section 4. Section 376.79, Florida Statutes, is amended to  
596 read:

597 376.79 Definitions ~~relating to Brownfields Redevelopment~~  
598 ~~Act.~~--As used in ss. 376.77-376.86 ~~376.77-376.85~~, the term:

599 (1) "Additive effects" means a scientific principle that  
600 the toxicity that occurs as a result of exposure is the sum of  
601 the toxicities of the individual chemicals to which the  
602 individual is exposed.

603 (2) "Antagonistic effects" means a scientific principle  
604 that the toxicity that occurs as a result of exposure is less  
605 than the sum of the toxicities of the individual chemicals to  
606 which the individual is exposed.

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

592-06640-08

20082594c1

610 (4) "Brownfield area" means a contiguous area of one or  
611 more brownfield sites, some of which may not be contaminated, and  
612 which has been designated by a local government by resolution.  
613 Such areas may include all or portions of community redevelopment  
614 areas, enterprise zones, empowerment zones, other such designated  
615 economically deprived communities and areas, and Environmental  
616 Protection Agency-designated brownfield pilot projects.

617 (5) "Contaminant" means any physical, chemical, biological,  
618 or radiological substance present in any medium which may result  
619 in adverse effects to human health or the environment or which  
620 creates an adverse nuisance, organoleptic, or aesthetic condition  
621 in groundwater.

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

625 (7) "Department" means the Department of Environmental  
626 Protection.

627 (8) "Engineering controls" means modifications to a site to  
628 reduce or eliminate the potential for exposure to petroleum  
629 products' chemicals of concern, drycleaning solvents, or other  
630 contaminants. Such modifications may include, but are not limited  
631 to, physical or hydraulic control measures, capping, point of use  
632 treatments, or slurry walls.

633 (9) "Environmental justice" means the fair treatment of all  
634 people of all races, cultures, and incomes with respect to the  
635 development, implementation, and enforcement of environmental  
636 laws, regulations, and policies.

637 (10) "Institutional controls" means the restriction on use  
638 of or access to a site to eliminate or minimize exposure to

592-06640-08

20082594c1

639 petroleum products' chemicals of concern, drycleaning solvents,  
640 or other contaminants. Such restrictions may include, but are not  
641 limited to, deed restrictions, restrictive covenants, or  
642 conservation easements.

643 (11) "Local pollution control program" means a local  
644 pollution control program that has received delegated authority  
645 from the department of ~~Environmental Protection~~ under ss.  
646 376.80(9) ~~376.80(11)~~ and 403.182.

647 (12) "Natural attenuation" means a verifiable approach to  
648 site rehabilitation which allows natural processes to contain the  
649 spread of contamination and reduce the concentrations of  
650 contaminants in contaminated groundwater and soil. Natural  
651 attenuation processes may include sorption, biodegradation,  
652 chemical reactions with subsurface materials, diffusion,  
653 dispersion, and volatilization.

654 (13) "Person responsible for brownfield site  
655 rehabilitation" means the individual or entity that is designated  
656 by the local government to enter into the brownfield site  
657 rehabilitation agreement with the department or an approved local  
658 pollution control program and enters into an agreement with the  
659 local government for redevelopment of the site.

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

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

667 (16) "Secretary" means the secretary of the Department of

592-06640-08

20082594c1

668 Environmental Protection.

669 (17) "Site rehabilitation" means the assessment of site  
670 contamination and the remediation activities that reduce the  
671 levels of contaminants at a site through accepted treatment  
672 methods to meet the cleanup target levels established for that  
673 site. For purposes of sites subject to the Resource Conservation  
674 and Recovery Act, the term includes removal, decontamination, and  
675 corrective action of releases of hazardous substances.

676 (18) "Source removal" means the removal of free product, or  
677 the removal of contaminants from soil or sediment that has been  
678 contaminated to the extent that leaching to groundwater or  
679 surface water has occurred or is occurring.

680 (19) "Synergistic effects" means a scientific principle  
681 that the toxicity that occurs as a result of exposure is more  
682 than the sum of the toxicities of the individual chemicals to  
683 which the individual is exposed.

684 Section 5. Section 376.80, Florida Statutes, is amended to  
685 read:

686 376.80 Brownfield program administration ~~process~~.--

687 (1) A local government that has ~~with~~ jurisdiction over the  
688 brownfield area must notify the department of its decision to  
689 designate a brownfield area for site rehabilitation purposes ~~for~~  
690 ~~the purposes of ss. 376.77-376.85~~. The notification must include  
691 a resolution, by the local government body, to which is attached  
692 a map adequate to clearly delineate exactly which parcels are to  
693 be included in the brownfield area or alternatively a less-  
694 detailed map accompanied by a detailed legal description of the  
695 brownfield area. If a property owner within the proposed area  
696 ~~proposed for designation by the local government~~ requests in



592-06640-08

20082594c1

697 writing to have his or her property removed from the proposed  
698 designation, the local government shall grant the request.

699 (a) For municipalities, the governing body shall adopt the  
700 resolution in accordance with the procedures outlined in s.  
701 166.041, except that the notice for the public hearings on the  
702 proposed resolution must be in the form established in s.  
703 166.041 (3) (c) 2.

704 (b) For counties, the governing body shall adopt the  
705 resolution in accordance with the procedures outlined in s.  
706 125.66, except that the notice for the public hearings on the  
707 proposed resolution shall be in the form established in s.  
708 125.66 (4) (b) 2.

709 (2) ~~(a)~~ If a local government proposes to designate a  
710 brownfield area that is outside community redevelopment areas,  
711 enterprise zones, empowerment zones, closed military bases, or  
712 designated brownfield pilot project areas, the local government  
713 must adopt the resolution and conduct the public hearings in  
714 accordance with the requirements of subsection (1) except that  
715 conduct at least one of the required public hearings must be  
716 conducted as close as reasonably practicable to hearing in the  
717 area to be designated to provide an opportunity for public input  
718 on the size of the area, the objectives for rehabilitation, job  
719 opportunities and economic developments anticipated, neighborhood  
720 residents' considerations, and other relevant local concerns.  
721 Notice of the public hearing must be made in a newspaper of  
722 general circulation in the area, ~~and the notice~~ must be at least  
723 16 square inches in size, must be in ethnic newspapers or local  
724 community bulletins, must be posted in the affected area, and  
725 must be announced at a scheduled meeting of the local governing

592-06640-08

20082594c1

726 body before the actual public hearing.

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

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

731 2. Whether the proposed area to be designated represents a  
732 reasonably focused approach and is not overly large in geographic  
733 coverage;

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

736 4. Whether the area contains sites or parts of sites  
737 suitable for limited recreational open space, cultural, or  
738 historical preservation purposes.

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

741 1. A person who owns or controls a potential brownfield  
742 site is requesting the designation and has agreed to rehabilitate  
743 and redevelop the brownfield site;

744 2. The rehabilitation and redevelopment of the proposed  
745 brownfield site will result in economic productivity in ~~of~~ the  
746 area, along with the creation of at least 5 new permanent jobs at  
747 the brownfield site which are full-time equivalent positions not  
748 associated with the implementation of the brownfield site  
749 rehabilitation agreement and which are not associated with  
750 redevelopment project demolition or construction activities  
751 pursuant to the redevelopment of the proposed brownfield area  
752 ~~agreement required under paragraph (5)(i). However,~~ The job  
753 creation requirement is ~~shall~~ not applicable ~~apply~~ to the  
754 rehabilitation and redevelopment of a brownfield site that will

592-06640-08

20082594c1

755 provide ~~affordable~~ housing that meets the definition of  
756 affordable provided in s. 420.0004 as defined in s. 420.0004(3)  
757 or the creation of recreational areas, conservation areas, or  
758 parks;

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

762 4. Notice of the proposed rehabilitation of the brownfield  
763 area has been provided to neighbors and nearby residents of the  
764 proposed area to be designated, and the person proposing the area  
765 for designation has afforded ~~to~~ those receiving notice the  
766 opportunity for comments and suggestions about rehabilitation.  
767 Notice ~~pursuant to this subsection~~ must be made in a newspaper of  
768 general circulation in the area, be at least 16 square inches in  
769 size, and ~~the notice~~ must be posted in the affected area; and

770 5. The person proposing the area for designation has  
771 provided reasonable assurance that he or she has sufficient  
772 financial resources to implement and complete the rehabilitation  
773 agreement and redevelopment of the brownfield site plan.

774 (c) The designation of a brownfield area and the  
775 identification of a person responsible for brownfield site  
776 rehabilitation ~~simply~~ entitles the identified person to negotiate  
777 a brownfield site rehabilitation agreement with the department or  
778 approved local pollution control program.

779 (3) If ~~When~~ there is a person responsible for brownfield  
780 site rehabilitation, the local government must notify the  
781 department of the identity of that person. If the agency or  
782 person ~~who will be~~ responsible for the coordination changes  
783 during the approval process specified in subsections (4), (5),

592-06640-08

20082594c1

784 and (6), the department or the affected approved local pollution  
785 control program must notify the affected local government when  
786 the change occurs.

787 (4) Local governments or persons responsible for  
788 rehabilitation and redevelopment of brownfield areas must  
789 establish an advisory committee or use an existing advisory  
790 committee that has formally expressed its intent to address  
791 redevelopment of the specific brownfield area for the purpose of  
792 improving public participation and receiving public comments on  
793 rehabilitation and redevelopment of the ~~brownfield~~ area, future  
794 land use, local employment opportunities, community safety, and  
795 environmental justice. The ~~Such~~ advisory committee should include  
796 residents within or adjacent to the brownfield area, businesses  
797 operating within the ~~brownfield~~ area, and others deemed  
798 appropriate. The person responsible for brownfield site  
799 rehabilitation must notify the advisory committee of the intent  
800 to rehabilitate and redevelop the site before executing the  
801 brownfield site rehabilitation agreement, and provide the  
802 committee with a copy of the draft plan for site rehabilitation  
803 which addresses elements required by subsection (5). This  
804 includes disclosing potential reuse of the property as well as  
805 site rehabilitation activities, if any, to be performed. The  
806 advisory committee shall review any ~~the~~ proposed redevelopment  
807 agreements prepared ~~agreement required~~ pursuant to paragraph  
808 (5) (i) and provide comments, if appropriate, to the board of the  
809 local government that has ~~with~~ jurisdiction over the brownfield  
810 area. The advisory committee must receive a copy of the executed  
811 brownfield site rehabilitation agreement. When the person  
812 responsible for brownfield site rehabilitation submits a site

592-06640-08

20082594c1

813 assessment report or the technical document containing the  
814 proposed course of action following site assessment to the  
815 department or the local pollution control program for review, the  
816 person responsible for brownfield site rehabilitation must hold a  
817 meeting or attend a regularly scheduled meeting to inform the  
818 advisory committee of the findings and recommendations in the  
819 site assessment report or the technical document ~~containing the~~  
820 ~~proposed course of action following site assessment.~~

821 (5) The person responsible for brownfield site  
822 rehabilitation must enter into a brownfield site rehabilitation  
823 agreement with the department or an approved local pollution  
824 control program if actual contamination exists at the brownfield  
825 site. The ~~brownfield site~~ rehabilitation agreement must include:

826 (a) A brownfield site rehabilitation schedule, including  
827 milestones for completion of site rehabilitation tasks and  
828 submittal of technical reports and rehabilitation plans as agreed  
829 upon by the parties to the agreement. †

830 (b) A commitment to conduct site rehabilitation activities  
831 under the observation of professional engineers or geologists who  
832 are registered in accordance with the requirements of chapter 471  
833 or chapter 492, respectively. Submittals provided by the person  
834 responsible for brownfield site rehabilitation must be signed and  
835 sealed by a professional engineer registered under chapter 471,  
836 or a professional geologist registered under chapter 492,  
837 certifying that the submittal and associated work comply with the  
838 law and rules of the department and those governing the  
839 profession. ~~In addition,~~ Upon completion of the approved remedial  
840 action, ~~the department shall require~~ a professional engineer  
841 registered under chapter 471 or a professional geologist

592-06640-08

20082594c1

842 registered under chapter 492 must ~~to~~ certify that the corrective  
843 action was, to the best of his or her knowledge, completed in  
844 substantial conformance with the plans and specifications  
845 approved by the department.†

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

848 (d) A commitment to conduct site rehabilitation consistent  
849 with state, federal, and local laws and ~~consistent~~ with the  
850 brownfield site contamination cleanup criteria in s. 376.81,  
851 including any applicable requirements for risk-based corrective  
852 action.†

853 (e) Timeframes for the department's review of technical  
854 reports and plans submitted in accordance with the agreement. The  
855 department shall make every effort to adhere to established  
856 agency goals for reasonable timeframes for review of such  
857 documents.†

858 (f) A commitment to secure ~~site~~ access for the department  
859 or approved local pollution control program to all brownfield  
860 sites within the eligible brownfield area for activities  
861 associated with site rehabilitation.†

862 (g) Other provisions that the person responsible for  
863 brownfield site rehabilitation and the department agree upon,  
864 that are consistent with ss. 376.77-376.86 ~~376.77-376.85~~, and  
865 that will improve or enhance the brownfield site rehabilitation  
866 process.†

867 (h) A commitment to consider appropriate pollution  
868 prevention measures and to implement those that the person  
869 responsible for brownfield site rehabilitation determines are  
870 reasonable and cost-effective, taking into account the ultimate

592-06640-08

20082594c1

871 | use ~~or uses~~ of the brownfield site. Such measures may include  
872 | improved inventory or production controls and procedures for  
873 | preventing loss, spills, and leaks of hazardous waste and  
874 | materials, and include goals for the reduction of releases of  
875 | toxic materials.~~;~~ ~~and~~

876 |       (i) Certification that the person responsible for  
877 | brownfield site rehabilitation has consulted with an agreement  
878 | ~~exists between the person responsible for brownfield site~~  
879 | ~~rehabilitation and the local government having with~~ jurisdiction  
880 | over the brownfield area concerning the proposed redevelopment  
881 | for the brownfield site, that the local government is in  
882 | agreement with or approves the proposed redevelopment, and that  
883 | the proposed redevelopment complies with all applicable laws and  
884 | requirements for such redevelopment. Certification includes:

885 |       1. Referencing or providing a legally recorded or  
886 | officially approved land use or site map or plan, a development  
887 | order or approval, a building permit, or a similar official  
888 | document issued by the local government which reflects the local  
889 | government's approval of the proposed redevelopment of the  
890 | brownfield site;

891 |       2. Providing a copy of the local government resolution  
892 | designating the brownfield area that contains the proposed  
893 | redevelopment of the brownfield site; or

894 |       3. Providing a letter from the local government that  
895 | describes the proposed redevelopment of the brownfield site and  
896 | expresses the local government's agreement with or approval of  
897 | the proposed redevelopment. Such agreement shall contain terms  
898 | ~~for the redevelopment of the brownfield area.~~

899 |       (6) Any contractor performing site rehabilitation program

592-06640-08

20082594c1

900 tasks must demonstrate to the department that the contractor:

901 (a) Meets all certification and license requirements  
902 imposed by law; and

903 (b) Intends to conduct ~~Has obtained the necessary approvals~~  
904 ~~for conducting~~ sample collection and analyses pursuant to  
905 department rules.

906 ~~(7) The contractor who is performing the majority of the~~  
907 ~~site rehabilitation program tasks pursuant to a brownfield site~~  
908 ~~rehabilitation agreement or supervising the performance of such~~  
909 ~~tasks by licensed subcontractors in accordance with the~~  
910 ~~provisions of s. 489.113(9) must certify to the department that~~  
911 ~~the contractor:~~

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

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

915 ~~(c) Maintains comprehensive general liability coverage with~~  
916 ~~limits of not less than \$1 million per occurrence and \$2 million~~  
917 ~~general aggregate for bodily injury and property damage and~~  
918 ~~comprehensive automobile liability coverage with limits of not~~  
919 ~~less than \$1 million combined single limit. The contractor shall~~  
920 ~~also maintain pollution liability coverage with limits of not~~  
921 ~~less than \$3 million aggregate for personal injury or death, \$1~~  
922 ~~million per occurrence for personal injury or death, and \$1~~  
923 ~~million per occurrence for property damage. The contractor's~~  
924 ~~certificate of insurance shall name the state as an additional~~  
925 ~~insured party.~~

926 ~~(d) Maintains professional liability insurance of at least~~  
927 ~~\$1 million per claim and \$1 million annual aggregate.~~

928 ~~(8) Any professional engineer or geologist providing~~



592-06640-08

20082594c1

929 ~~professional services relating to site rehabilitation program~~  
930 ~~tasks must carry professional liability insurance with a coverage~~  
931 ~~limit of at least \$1 million.~~

932 (7)~~(9)~~ During the cleanup process, if the department or  
933 local program fails to complete review of a technical document  
934 within the timeframe specified in the brownfield site  
935 rehabilitation agreement, the person responsible for brownfield  
936 site rehabilitation may proceed to the next site rehabilitation  
937 task. However, the person responsible for brownfield site  
938 rehabilitation does so at its own risk and may be required by the  
939 department or local program to complete additional work on a  
940 previous task. Exceptions to this subsection include requests for  
941 "no further action," "monitoring only proposals," and feasibility  
942 studies, which must be approved before ~~prior to~~ implementation.

943 (8)~~(10)~~ If the person responsible for brownfield site  
944 rehabilitation fails to comply with the brownfield site  
945 rehabilitation agreement, the department shall allow ~~90 days for~~  
946 the person responsible for brownfield site rehabilitation up to  
947 90 days to return to compliance with the provision at issue or to  
948 negotiate a modification to the brownfield site rehabilitation  
949 agreement with the department for good cause shown. If an  
950 imminent hazard exists, the 90-day grace period does ~~shall~~ not  
951 apply. If the project is not returned to compliance with the  
952 brownfield site rehabilitation agreement and a modification  
953 cannot be negotiated, the immunity provisions of s. 376.82 are  
954 revoked.

955 (9)~~(11)~~ The department is specifically authorized and  
956 encouraged to enter into delegation agreements with local  
957 pollution control programs approved under s. 403.182 to

592-06640-08

20082594c1

958 administer the brownfield program within their jurisdictions,  
959 thereby maximizing the integration of this process with the other  
960 local development processes needed to facilitate redevelopment of  
961 a brownfield area. When determining whether a delegation pursuant  
962 ~~to this subsection~~ of all or part of the brownfield program to a  
963 local pollution control program is appropriate, the department  
964 shall consider the following. The local pollution control program  
965 must:

966 (a) Have and maintain the administrative organization,  
967 staff, and financial and other resources to effectively and  
968 efficiently implement and enforce the statutory requirements of  
969 the delegated brownfield program; and

970 (b) Provide for the enforcement of the requirements of the  
971 delegated brownfield program, and for notice and a right to  
972 challenge governmental action, by appropriate administrative and  
973 judicial process, which shall be specified in the delegation.  
974

975 A ~~The~~ local pollution control program may ~~shall~~ not be delegated  
976 authority to take action on or to make decisions regarding any  
977 brownfield site on land owned by the local government. A ~~Any~~  
978 delegation agreement entered into pursuant to this subsection  
979 must ~~shall~~ contain ~~such~~ terms and conditions necessary to ensure  
980 the effective and efficient administration and enforcement of the  
981 statutory requirements of the brownfield program ~~as established~~  
982 ~~by the act~~ and the relevant rules and other criteria of the  
983 department.

984 (10) ~~(12)~~ Local governments are encouraged to use the full  
985 range of economic and tax incentives available to facilitate and  
986 promote the rehabilitation of brownfield areas, to help eliminate

592-06640-08

20082594c1

987 the public health and environmental hazards, and to promote the  
988 creation of jobs and economic development in these previously  
989 run-down, blighted, and underutilized areas.

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

991 1. Brownfield site rehabilitation and redevelopment can  
992 improve the health of a community and improve the quality of life  
993 for communities, including the individuals living in such  
994 communities;

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

998 3. There is a need in this state to define and better  
999 measure the community health benefits of brownfield site  
1000 rehabilitation and redevelopment; and

1001 4. Funding sources should be established to support efforts  
1002 by the state and local governments, in collaboration with local  
1003 health departments, community health providers, and nonprofit  
1004 organizations, to evaluate the benefits of brownfield site  
1005 rehabilitation and redevelopment on community health.

1006 (b) Local governments are authorized and encouraged to  
1007 evaluate the community health benefits and effects of brownfield  
1008 site rehabilitation and redevelopment in connection with  
1009 brownfield areas within their jurisdiction. Measures that may be  
1010 evaluated and monitored before and after brownfield site  
1011 rehabilitation and redevelopment, include, but are not limited  
1012 to:

1013 1. Health status, disease distribution, and quality of life  
1014 measures for populations living in or around brownfield sites  
1015 that have been rehabilitated and redeveloped;

592-06640-08

20082594c1

1016           2. Access to primary and other health care or health  
1017 services for persons living in or around brownfield sites that  
1018 have been rehabilitated and redeveloped;

1019           3. New or increased access to open, green, park, or other  
1020 spaces that provide recreational opportunities for individuals  
1021 living in or around brownfield sites that have been rehabilitated  
1022 and redeveloped; and

1023           4. Other factors described in rules adopted by the  
1024 department and the Department of Health, as applicable.

1025           (c) The Department of Health is authorized and encouraged,  
1026 in collaboration with local health departments, community health  
1027 providers, and nonprofit organizations, to assist local  
1028 governments in their evaluation of the health benefits of  
1029 brownfield site rehabilitation and redevelopment.

1030           Section 6. Subsection (1), paragraphs (d) and (f) of  
1031 subsection (2), and subsection (3) of section 376.82, Florida  
1032 Statutes, are amended to read:

1033           376.82 Eligibility criteria and liability protection.--

1034           (1) ELIGIBILITY.--Any person who has not caused or  
1035 contributed to the contamination of a brownfield site on or after  
1036 July 1, 1997, is eligible to participate in the brownfield  
1037 program established in ss. 376.77-376.86 ~~376.77-376.85~~, subject  
1038 to the following:

1039           (a) Potential brownfield sites that are subject to an  
1040 ongoing formal judicial or administrative enforcement action or  
1041 corrective action pursuant to federal authority, including, but  
1042 not limited to, the Comprehensive Environmental Response  
1043 Compensation and Liability Act, 42 U.S.C. ss. 9601 et seq., as  
1044 amended; the Safe Drinking Water Act, 42 U.S.C. ss. 300f-300i, as

592-06640-08

20082594c1

1045 amended; the Clean Water Act, 33 U.S.C. ss. 1251-1387, as  
1046 amended; or under an order from the United States Environmental  
1047 Protection Agency pursuant to 42 U.S.C. s. 6928(h) ~~s. 3008(h)~~ of  
1048 the Resource Conservation and Recovery Act, as amended ~~(42~~  
1049 ~~U.S.C.A. s. 6928(h))~~; or that have obtained or are required to  
1050 obtain a permit for the operation of a hazardous waste treatment,  
1051 storage, or disposal facility; a postclosure permit; or a permit  
1052 pursuant to the federal Hazardous and Solid Waste Amendments of  
1053 1984, are not eligible for participation unless specific  
1054 exemptions are secured by a memorandum of agreement with the  
1055 United States Environmental Protection Agency pursuant to  
1056 paragraph (2)(g). A brownfield site within an eligible brownfield  
1057 area that subsequently becomes subject to formal judicial or  
1058 administrative enforcement action or corrective action under such  
1059 federal authority shall have its eligibility revoked unless  
1060 specific exemptions are secured by a memorandum of agreement with  
1061 the United States Environmental Protection Agency pursuant to  
1062 paragraph (2)(g).

1063 (b) Persons who have not caused or contributed to the  
1064 contamination of a brownfield site on or after July 1, 1997, and  
1065 who, prior to the department's approval of a brownfield site  
1066 rehabilitation agreement, are subject to ongoing corrective  
1067 action or enforcement under state authority established in this  
1068 chapter or chapter 403, including those persons subject to a  
1069 pending consent order with the state, are eligible for  
1070 participation in a brownfield site rehabilitation agreement if:

1071 1. The proposed brownfield site is currently idle or  
1072 underutilized as a result of the contamination, and participation  
1073 in the brownfield program shall ~~will~~ immediately, after cleanup

592-06640-08

20082594c1

1074 or sooner, result in increased economic productivity at the site,  
1075 including at a minimum the creation of 10 new permanent jobs,  
1076 whether full-time or part-time, which are not associated with  
1077 implementation of the brownfield site rehabilitation agreement;  
1078 and

1079 2. The person is complying in good faith with the terms of  
1080 an existing consent order or department-approved corrective  
1081 action plan, or responding in good faith to an enforcement  
1082 action, as evidenced by a determination issued by the department  
1083 or an approved local pollution control program.

1084 (c) Potential brownfield sites owned by the state or a  
1085 local government which contain contamination for which a  
1086 governmental entity is potentially responsible and which are  
1087 already designated as federal brownfield pilot projects or have  
1088 filed an application for designation to the United States  
1089 Environmental Protection Agency are eligible for participation in  
1090 a brownfield site rehabilitation agreement.

1091 (d) After July 1, 1997, petroleum and drycleaning  
1092 contamination sites may ~~shall~~ not receive both restoration  
1093 funding assistance available for the discharge under this chapter  
1094 and any state assistance available under s. 288.107. Sections  
1095 376.77-376.86 do not ~~Nothing in this act shall~~ affect the cleanup  
1096 criteria, priority ranking, and other rights and obligations  
1097 inherent in petroleum contamination and drycleaning contamination  
1098 site rehabilitation under ss. 376.30-376.317, or the availability  
1099 of economic incentives otherwise provided for by law.

1100 (2) LIABILITY PROTECTION.--

1101 (d) The liability protection provided under this section is  
1102 ~~shall become~~ effective upon execution of a brownfield site

592-06640-08

20082594c1

1103 rehabilitation agreement and shall remain effective if, ~~provided~~  
1104 the person responsible for brownfield site rehabilitation  
1105 complies with the terms of the site rehabilitation agreement. Any  
1106 statute of limitations that bars ~~would bar~~ the department from  
1107 pursuing relief in accordance with its existing authority is  
1108 tolled from the time the agreement is executed until site  
1109 rehabilitation is completed or immunity is revoked pursuant to s.  
1110 376.80(8) ~~376.80(10)~~.

1111 (f) Compliance with the agreement ~~referenced in~~ s.  
1112 ~~376.80(5)(i)~~ must be evidenced by a finding by the local  
1113 government with jurisdiction as provided in s. 376.80(5)(i) ~~over~~  
1114 ~~the brownfield area that the terms of the agreement have been~~  
1115 ~~met.~~

1116 (3) REOPENERS.--Upon completion of site rehabilitation in  
1117 compliance with ss. 376.77-376.86 ~~376.77-376.85~~, no additional  
1118 site rehabilitation is ~~shall be~~ required unless it is  
1119 demonstrated:

1120 (a) That fraud was committed in demonstrating site  
1121 conditions or completion of site rehabilitation;

1122 (b) That new information confirms the existence of an area  
1123 of previously unknown contamination which exceeds the site-  
1124 specific rehabilitation levels established in accordance with s.  
1125 376.81, or which otherwise poses the threat of real and  
1126 substantial harm to public health, safety, or the environment in  
1127 violation of the terms of ss. 376.77-376.86 ~~376.77-376.85~~;

1128 (c) That the remediation efforts failed to achieve the site  
1129 rehabilitation criteria established under s. 376.81;

1130 (d) That the level of risk is increased beyond the  
1131 acceptable risk established under s. 376.81 due to substantial

592-06640-08

20082594c1

1132 changes in exposure conditions, such as a change in land use from  
1133 nonresidential to residential use. Any person who changes the  
1134 land use of the brownfield site thus causing the level of risk to  
1135 increase beyond the acceptable risk level may be required by the  
1136 department to undertake additional remediation measures to assure  
1137 that human health, public safety, and the environment are  
1138 protected to levels consistent with s. 376.81; or

1139 (e) That a new release occurs at the brownfield site  
1140 subsequent to a determination of eligibility for participation in  
1141 the brownfield program established under s. 376.80.

1142 Section 7. Subsection (1) of section 376.83, Florida  
1143 Statutes, is amended to read:

1144 376.83 Violation; penalties.--

1145 (1) It is a violation of ss. 376.77-376.86 ~~376.77-376.85~~,  
1146 and it is prohibited for any person, to knowingly make any false  
1147 statement, representation, or certification in any application,  
1148 record, report, plan, or other document filed or required to be  
1149 maintained, or to falsify, tamper with, or knowingly render  
1150 inaccurate any monitoring device or method required to be  
1151 maintained under ss. 376.77-376.86 ~~376.77-376.85~~, or by any  
1152 permit, rule, or order issued under this chapter or chapter 403.

1153 Section 8. Subsections (1) and (2) of section 376.86,  
1154 Florida Statutes, are amended, to read:

1155 376.86 Brownfield Areas Loan Guarantee Program.--

1156 (1) The Brownfield Areas Loan Guarantee Council is created  
1157 to review and approve or deny by a majority vote of its  
1158 membership, the situations and circumstances for participating  
1159 ~~participation~~ in partnerships by agreements with local  
1160 governments, financial institutions, and others associated with



592-06640-08

20082594c1

1161 the redevelopment of brownfield areas pursuant to the Brownfields  
1162 Redevelopment Act for a limited state guaranty of up to 5 years  
1163 of loan guarantees or loan loss reserves issued pursuant to law.  
1164 The limited state loan guaranty applies only to 50 percent of the  
1165 primary lenders loans for redevelopment projects in brownfield  
1166 areas. If the redevelopment project is for affordable housing, as  
1167 defined in s. 420.0004(3), in a brownfield area, the limited  
1168 state loan guaranty applies to 75 percent of the primary lender's  
1169 loan. If the redevelopment project includes the construction and  
1170 operation of a new health care facility or a health care  
1171 provider, as defined in s. 408.032, s. 408.07, or s. 408.7056, on  
1172 a brownfield site and the applicant has obtained documentation of  
1173 occupancy or the issuance of a license or certificate in  
1174 accordance with s. 376.30781, the limited state loan guaranty  
1175 applies to 75 percent of the primary lender's loan. A limited  
1176 state guaranty of private loans or a loan loss reserve is  
1177 authorized for lenders licensed to operate in the state upon a  
1178 determination by the council that such an arrangement would be in  
1179 the public interest and the likelihood of the success of the loan  
1180 is great.

1181 (2) The council shall consist of the secretary of the  
1182 department ~~of Environmental Protection~~ or the secretary's  
1183 designee, the secretary of the Department of Community Affairs or  
1184 the secretary's designee, the State Surgeon General of the  
1185 Department of Health or the State Surgeon General's designee, the  
1186 Executive Director of the State Board of Administration or the  
1187 executive director's designee, the Executive Director of the  
1188 Florida Housing Finance Corporation or the executive director's  
1189 designee, and the Director of the Governor's Office of Tourism,

592-06640-08

20082594c1

1190 Trade, and Economic Development or the director's designee. The  
1191 chairperson of the council shall be the Director of the  
1192 Governor's Office of Tourism, Trade, and Economic Development.  
1193 Staff services for activities of the council shall be provided as  
1194 needed by the member agencies.

1195 Section 9. Subsection (1) of section 163.3221, Florida  
1196 Statutes, is amended to read:

1197 163.3221 Florida Local Government Development Agreement  
1198 Act; definitions.--As used in ss. 163.3220-163.3243:

1199 (1) "Brownfield designation" means a resolution adopted by  
1200 a local government pursuant to s. 376.80 ~~the Brownfields~~  
1201 ~~Redevelopment Act, ss. 376.77-376.85.~~

1202 Section 10. This act shall take effect July 1, 2008, and  
1203 shall operate retroactively to January 1, 2008.