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LEGISLATIVE ACTION

Senate

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House

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Floor: 1/AD/2R

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04/26/2010 05:01 PM

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Senator Altman moved the following:

Senate Amendment (with title amendment)

Between lines 34 and 35

insert:

Section 1. Present subsections (1), (2), and (3) of section 220.1845, Florida Statutes, are renumbered as subsections (2), (3), and (4), respectively, and a new subsection (1) is added to that section, to read:

220.1845 Contaminated site rehabilitation tax credit.—

(1) APPLICATION FOR TAX CREDIT.—A site rehabilitation application must be received by the Division of Waste Management of the Department of Environmental Protection by January 31 of the year after the calendar year for which site rehabilitation



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14 costs are being claimed in a tax credit application. All site
15 rehabilitation costs claimed must have been for work conducted
16 between January 1 and December 31 of the year for which the
17 application is being submitted. All payment requests must be
18 received and all costs must be paid before submission of the tax
19 credit application, but no later than January 31 of the year
20 after the calendar year for which site rehabilitation costs are
21 claimed.

22 Section 2. Paragraph (a) of subsection (5), paragraph (c)
23 of subsection (6), and subsections (9) and (10) of section
24 376.30781, Florida Statutes, are amended to read:

25 376.30781 Tax credits for rehabilitation of drycleaning-
26 solvent-contaminated sites and brownfield sites in designated
27 brownfield areas; application process; rulemaking authority;
28 revocation authority.—

29 (5) To claim the credit for site rehabilitation or solid
30 waste removal, each tax credit applicant must apply to the
31 Department of Environmental Protection for an allocation of the
32 \$2 million annual credit by filing a tax credit application with
33 the Division of Waste Management on a form developed by the
34 Department of Environmental Protection in cooperation with the
35 Department of Revenue. The form shall include an affidavit from
36 each tax credit applicant certifying that all information
37 contained in the application, including all records of costs
38 incurred and claimed in the tax credit application, are true and
39 correct. If the application is submitted pursuant to
40 subparagraph (3)(a)2., the form must include an affidavit signed
41 by the real property owner stating that it is not, and has never
42 been, the owner or operator of the drycleaning facility where



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43 the contamination exists. Approval of tax credits must be
44 accomplished on a first-come, first-served basis based upon the
45 date and time complete applications are received by the Division
46 of Waste Management, subject to the limitations of subsection
47 (14). To be eligible for a tax credit, the tax credit applicant
48 must:

49 (a) For site rehabilitation tax credits, have entered into
50 a voluntary cleanup agreement with the Department of
51 Environmental Protection for a drycleaning-solvent-contaminated
52 site or a Brownfield Site Rehabilitation Agreement, as
53 applicable, and have paid all deductibles pursuant to s.
54 376.3078(3)(e) for eligible drycleaning-solvent-cleanup program
55 sites, as applicable. A site rehabilitation tax credit applicant
56 must submit only a single completed application per site for
57 each calendar year's site rehabilitation costs. A site
58 rehabilitation application must be received by the Division of
59 Waste Management of the Department of Environmental Protection
60 by January 31 of the year after the calendar year for which site
61 rehabilitation costs are being claimed in a tax credit
62 application. All site rehabilitation costs claimed must have
63 been for work conducted between January 1 and December 31 of the
64 year for which the application is being submitted. All payment
65 requests must be received and all costs must be paid before
66 submission of the tax credit application, but no later than
67 January 31 of the year after the calendar year for which site
68 rehabilitation costs are claimed.

69 (6) To obtain the tax credit certificate, the tax credit
70 applicant must provide all pertinent information requested on
71 the tax credit application form, including, at a minimum, the



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72 name and address of the tax credit applicant and the address and
73 tracking identification number of the eligible site. Along with
74 the tax credit application form, the tax credit applicant must
75 submit the following:

76 (c) Proof that the documentation submitted pursuant to
77 paragraph (b) has been reviewed and verified by an independent
78 certified public accountant in accordance with standards
79 established by the American Institute of Certified Public
80 Accountants. Specifically, a certified public accountant's
81 report must be submitted and the certified public accountant
82 must attest to the accuracy and validity of the costs claimed
83 ~~incurred and paid during the time period covered~~ in the
84 application by conducting an independent review of the data
85 presented by the tax credit applicant. Accuracy and validity of
86 costs incurred and paid shall be determined after the level of
87 effort is certified by an appropriate professional registered in
88 this state in each contributing technical discipline. The
89 certified public accountant's report must also attest that the
90 costs included in the application form are not duplicated within
91 the application, that all payment requests were received and all
92 costs were paid before submission of the tax credit application,
93 and, for site rehabilitation tax credits, that all costs claimed
94 are for work conducted between January 1 and December 31 of the
95 year for which the application is submitted. A copy of the
96 accountant's report shall be submitted to the Department of
97 Environmental Protection in addition to the accountant's
98 certification form in the tax credit application; and

99 (9) On or before May 1, the Department of Environmental
100 Protection shall inform each tax credit applicant that is



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101 subject to the January 31 annual application deadline of the
102 applicant's eligibility status and the amount of any tax credit
103 due. The department shall provide each eligible tax credit
104 applicant with a tax credit certificate that must be submitted
105 with its tax return to the Department of Revenue to claim the
106 tax credit or be transferred pursuant to s. 220.1845(2)(g) ~~s.~~
107 ~~220.1845(1)(g)~~. The May 1 deadline for annual site
108 rehabilitation tax credit certificate awards shall not apply to
109 any tax credit application for which the department has issued a
110 notice of deficiency pursuant to subsection (8). The department
111 shall respond within 90 days after receiving a response from the
112 tax credit applicant to such a notice of deficiency. Credits may
113 not result in the payment of refunds if total credits exceed the
114 amount of tax owed.

115 (10) For solid waste removal, new health care facility or
116 health care provider, and affordable housing tax credit
117 applications, the Department of Environmental Protection shall
118 inform the applicant of the department's determination within 90
119 days after the application is deemed complete. Each eligible tax
120 credit applicant shall be informed of the amount of its tax
121 credit and provided with a tax credit certificate that must be
122 submitted with its tax return to the Department of Revenue to
123 claim the tax credit or be transferred pursuant to s.
124 220.1845(2)(g) ~~s. 220.1845(1)(g)~~. Credits may not result in the
125 payment of refunds if total credits exceed the amount of tax
126 owed.

127 Section 3. Section 376.85, Florida Statutes, is amended to
128 read:

129 376.85 Annual report.—The Department of Environmental



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130 Protection shall prepare and submit an annual report to the
131 President of the Senate and the Speaker of the House of
132 Representatives by August 1 of each year a report that includes
133 Legislature, beginning in December 1998, which shall include,
134 but is not ~~be~~ limited to, the number, size, and locations of
135 brownfield sites: that have been remediated under the provisions
136 of this act; that are currently under rehabilitation pursuant to
137 a negotiated site rehabilitation agreement with the department
138 or a delegated local program; where alternative cleanup target
139 levels have been established pursuant to s. 376.81(1)(g)3.; and,
140 where engineering and institutional control strategies are being
141 employed as conditions of a "no further action order" to
142 maintain the protections provided in s. 376.81(1)(g)1. and 2.

143
144 ===== T I T L E A M E N D M E N T =====

145 And the title is amended as follows:

146 Delete line 2

147 and insert:

148 An act relating to permitting; amending ss. 220.1845
149 and 376.30781, F.S.; providing requirements for
150 claiming certain site rehabilitation costs in
151 applications for contaminated site rehabilitation tax
152 credits; conforming cross-references; amending s.
153 376.85, F.S.; revising requirements for the Department
154 of Environmental Protection's annual report regarding
155 site rehabilitation; amending s. 403.973,