



467494

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/23/2010	.	
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The Committee on Environmental Preservation and Conservation  
(Constantine) recommended the following:

**Senate Amendment (with title amendment)**

Delete everything after the enacting clause  
and insert:

Section 1. Paragraph (o) of subsection (5) of section  
212.08, Florida Statutes, is amended to read:

212.08 Sales, rental, use, consumption, distribution, and  
storage tax; specified exemptions.—The sale at retail, the  
rental, the use, the consumption, the distribution, and the  
storage to be used or consumed in this state of the following  
are hereby specifically exempt from the tax imposed by this  
chapter.



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13 (5) EXEMPTIONS; ACCOUNT OF USE.—

14 (o) *Building materials in redevelopment projects.*—

15 1. As used in this paragraph, the term:

16 a. "Building materials" means tangible personal property  
17 that becomes a component part of a housing project or a mixed-  
18 use project.

19 b. "Housing project" means the conversion of an existing  
20 manufacturing or industrial building to housing units in an  
21 urban high-crime area, enterprise zone, empowerment zone, Front  
22 Porch Community, designated brownfield area, or urban infill  
23 area and in which the developer agrees to set aside at least 20  
24 percent of the housing units in the project for low-income and  
25 moderate-income persons or the construction in a designated  
26 brownfield area of affordable housing for persons described in  
27 s. 420.0004(8), (10), (11), or (15) or in s. 159.603(7).

28 c. "Mixed-use project" means the conversion of an existing  
29 manufacturing or industrial building to mixed-use units that  
30 include artists' studios, art and entertainment services, or  
31 other compatible uses. A mixed-use project must be located in an  
32 urban high-crime area, enterprise zone, empowerment zone, Front  
33 Porch Community, designated brownfield area, or urban infill  
34 area, and the developer must agree to set aside at least 20  
35 percent of the square footage of the project for low-income and  
36 moderate-income housing. Notwithstanding this sub-subparagraph,  
37 a mixed-use project may also mean the construction in a  
38 designated brownfield area of mixed-use units that include  
39 residential, commercial, or other compatible or permitted uses.

40 d. "Substantially completed" has the same meaning as  
41 provided in s. 192.042(1).



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42           2. Building materials used in the construction of a housing  
43 project or mixed-use project are exempt from the tax imposed by  
44 this chapter upon an affirmative showing to the satisfaction of  
45 the department that the requirements of this paragraph have been  
46 met. This exemption inures to the owner through a refund of  
47 previously paid taxes. To receive this refund, the owner must  
48 file an application under oath with the department which  
49 includes:

50           a. The name and address of the owner.

51           b. The address and assessment roll parcel number of the  
52 project for which a refund is sought.

53           c. A copy of the building permit issued for the project.

54           d. A certification by the local building code inspector  
55 that the project is substantially completed.

56           e. A sworn statement, under penalty of perjury, from the  
57 general contractor licensed in this state with whom the owner  
58 contracted to construct the project, which statement lists the  
59 building materials used in the construction of the project and  
60 the actual cost thereof, and the amount of sales tax paid on  
61 these materials. If a general contractor was not used, the owner  
62 shall provide this information in a sworn statement, under  
63 penalty of perjury. Copies of invoices evidencing payment of  
64 sales tax must be attached to the sworn statement.

65           3. An application for a refund under this paragraph must be  
66 submitted to the department within 6 months after the date the  
67 project is deemed to be substantially completed by the local  
68 building code inspector. Within 30 working days after receipt of  
69 the application, the department shall determine if it meets the  
70 requirements of this paragraph. A refund approved pursuant to



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71 this paragraph shall be made within 30 days after formal  
72 approval of the application by the department.

73 4. The department shall establish by rule an application  
74 form and criteria for establishing eligibility for exemption  
75 under this paragraph.

76 5. The exemption shall apply to purchases of materials on  
77 or after July 1, 2000.

78 Section 2. Paragraph (1) is added to subsection (1) of  
79 section 220.1845, Florida Statutes, to read:

80 220.1845 Contaminated site rehabilitation tax credit.—

81 (1) A site rehabilitation application must be received by  
82 the Division of Waste Management of the Department of  
83 Environmental Protection by January 31 of the year after the  
84 calendar year for which site rehabilitation costs are being  
85 claimed in a tax credit application. All site rehabilitation  
86 costs claimed must have been for work conducted between January  
87 1 and December 31 of the year for which the application is being  
88 submitted. All payment requests must have been received and all  
89 costs must have been paid prior to submittal of the tax credit  
90 application, but no later than January 31 of the year after the  
91 calendar year for which site rehabilitation costs are being  
92 claimed.

93 Section 3. Paragraph (e) of subsection (1) and paragraphs  
94 (a) and (b) of subsection (3) of section 288.107, Florida  
95 Statutes, are amended to read:

96 288.107 Brownfield redevelopment bonus refunds.—

97 (1) DEFINITIONS.—As used in this section:

98 (e) "Eligible business" means:

99 1. A qualified target industry business as defined in s.



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100 288.106(1)(o); or

101 2. A business that can demonstrate a fixed capital  
102 investment of at least \$2 million in brownfield areas, including  
103 mixed-use business ~~activities, including~~ multiunit housing,  
104 commercial, retail, and industrial activities, or a business  
105 that can demonstrate a fixed capital investment of at least  
106 \$500,000 and creates between 5 and 50 jobs in mixed-use  
107 business, multiunit housing, commercial, retail, or industrial  
108 activities in brownfield areas, or at least \$500,000 in  
109 brownfield areas that do not require site cleanup, and that  
110 ~~which~~ provides benefits to its employees.

111 (3) CRITERIA.—The minimum criteria for participation in the  
112 brownfield redevelopment bonus refund are:

113 (a) The creation of at least 10 new full-time permanent  
114 jobs, except as otherwise provide in subsection (1)(e)2. and  
115 subsection (3)(b). Such jobs shall not include construction or  
116 site rehabilitation jobs associated with the implementation of a  
117 brownfield site agreement as described in s. 376.80(5).

118 (b) The completion of a fixed capital investment of at  
119 least \$2 million in brownfield areas, including mixed-use  
120 business ~~activities, including~~ multiunit housing, commercial,  
121 retail, and industrial activities in brownfield areas, or a  
122 business that can demonstrate a fixed capital investment of at  
123 least \$500,000 and creates between 5 and 50 jobs in mixed-use  
124 business, multiunit housing, commercial, retail, or industrial  
125 activities in brownfield areas, or at least \$500,000 in  
126 brownfield areas that do not require site cleanup, by an  
127 eligible business applying for a refund under paragraph (2)(b)  
128 that ~~which~~ provides benefits to its employees.



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129           Section 4. Subsections (5) and (6) of section 376.30781,  
130 Florida Statutes, are amended to read:

131           376.30781 Tax credits for rehabilitation of drycleaning-  
132 solvent-contaminated sites and brownfield sites in designated  
133 brownfield areas; application process; rulemaking authority;  
134 revocation authority.-

135           (5) To claim the credit for site rehabilitation or solid  
136 waste removal, each tax credit applicant must apply to the  
137 Department of Environmental Protection for an allocation of the  
138 \$2 million annual credit by filing a tax credit application with  
139 the Division of Waste Management on a form developed by the  
140 Department of Environmental Protection in cooperation with the  
141 Department of Revenue. The form shall include an affidavit from  
142 each tax credit applicant certifying that all information  
143 contained in the application, including all records of costs  
144 incurred and claimed in the tax credit application, are true and  
145 correct. If the application is submitted pursuant to  
146 subparagraph (3)(a)2., the form must include an affidavit signed  
147 by the real property owner stating that it is not, and has never  
148 been, the owner or operator of the drycleaning facility where  
149 the contamination exists. Approval of tax credits must be  
150 accomplished on a first-come, first-served basis based upon the  
151 date and time complete applications are received by the Division  
152 of Waste Management, subject to the limitations of subsection  
153 (14). To be eligible for a tax credit, the tax credit applicant  
154 must:

155           (a) For site rehabilitation tax credits, have entered into  
156 a voluntary cleanup agreement with the Department of  
157 Environmental Protection for a drycleaning-solvent-contaminated



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158 site or a Brownfield Site Rehabilitation Agreement, as  
159 applicable, and have paid all deductibles pursuant to s.  
160 376.3078(3)(e) for eligible drycleaning-solvent-cleanup program  
161 sites, as applicable. A site rehabilitation tax credit applicant  
162 must submit only a single completed application per site for  
163 each calendar year's site rehabilitation costs. A site  
164 rehabilitation application must be received by the Division of  
165 Waste Management of the Department of Environmental Protection  
166 by January 31 of the year after the calendar year for which site  
167 rehabilitation costs are being claimed in a tax credit  
168 application. All site rehabilitation costs claimed must have  
169 been for work conducted between January 1 and December 31 of the  
170 year for which the application is being submitted. All payment  
171 requests must have been received and all costs must have been  
172 paid prior to submittal of the tax credit application, but no  
173 later than January 31 of the year after the calendar year for  
174 which site rehabilitation costs are being claimed.

175 (b) For solid waste removal tax credits, have entered into  
176 a brownfield site rehabilitation agreement with the Department  
177 of Environmental Protection. A solid waste removal tax credit  
178 applicant must submit only a single complete application per  
179 brownfield site, as defined in the brownfield site  
180 rehabilitation agreement, for solid waste removal costs. A solid  
181 waste removal tax credit application must be received by the  
182 Division of Waste Management of the Department of Environmental  
183 Protection subsequent to the completion of the requirements  
184 listed in paragraph (3)(e).

185 (6) To obtain the tax credit certificate, the tax credit  
186 applicant must provide all pertinent information requested on



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187 the tax credit application form, including, at a minimum, the  
188 name and address of the tax credit applicant and the address and  
189 tracking identification number of the eligible site. Along with  
190 the tax credit application form, the tax credit applicant must  
191 submit the following:

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

196 (b) Copies of documents that describe the goods or services  
197 and associated costs being claimed that were integral to site  
198 rehabilitation as defined in s. 376.301 or s. 376.79 or were for  
199 solid waste removal as defined in this section during the time  
200 period covered by the application. Such documents must include  
201 contractual records that describe the scope of work performed,  
202 payment requests that describe the goods or services provided,  
203 and payment records involving actual costs incurred and paid.  
204 Such documentation must be sufficient to demonstrate a link  
205 between the contractual records, the payment requests, and the  
206 payment records for the time period covered by the application;

207 (c) Proof that the documentation submitted pursuant to  
208 paragraph (b) has been reviewed and verified by an independent  
209 certified public accountant in accordance with standards  
210 established by the American Institute of Certified Public  
211 Accountants. Specifically, a certified public accountant's  
212 report must be submitted and the certified public accountant  
213 must attest to the accuracy and validity of the costs claimed in  
214 the application incurred and paid during the time period covered  
215 in the application by conducting an independent review of the





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216 data presented by the tax credit applicant. Accuracy and  
217 validity of costs incurred and paid shall be determined after  
218 the level of effort is certified by an appropriate professional  
219 registered in this state in each contributing technical  
220 discipline. The certified public accountant's report must also  
221 attest that the costs included in the application form are not  
222 duplicated within the application, all payment requests were  
223 received and all costs were paid prior to submittal of the tax  
224 credit application and that, for site rehabilitation tax  
225 credits, costs claimed are for work conducted between January 1  
226 and December 31 of the year for which the application is being  
227 submitted. A copy of the accountant's report shall be submitted  
228 to the Department of Environmental Protection in addition to the  
229 accountant's certification form in the tax credit application;  
230 and

231 (d) A certification form stating that activities associated  
232 with the documentation submitted pursuant to paragraph (b) have  
233 been conducted under the observation of, and related technical  
234 documents have been signed and sealed by, an appropriate  
235 professional registered in this state in each contributing  
236 technical discipline. The certification form shall be signed and  
237 sealed by the appropriate registered professionals stating that  
238 the costs incurred were integral, necessary, and required for  
239 site rehabilitation, as that term is defined in ss. 376.301 and  
240 376.79. If the scope of solid waste removal activities does not  
241 require oversight by a registered technical professional in this  
242 state, such certification form is not required as part of the  
243 tax credit application.

244 Section 5. Section 376.85, Florida Statutes, is amended to



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245 read:

246 376.85 Annual report.—The Department of Environmental  
247 Protection shall prepare and submit an annual report to the  
248 President of the Senate and the Speaker of the House of  
249 Representatives by August 1 of each year a report that  
250 Legislature, beginning in December 1998, which shall include,  
251 but is not be limited to, the number, size, and locations of  
252 brownfield sites that have been remediated under the provisions  
253 of this act, that are currently under rehabilitation pursuant  
254 to a negotiated site rehabilitation agreement with the  
255 department or a delegated local program, where alternative  
256 cleanup target levels have been established pursuant to s.  
257 376.81(1)(g)3. and where engineering and institutional  
258 control strategies are being employed as conditions of a “no  
259 further action order” to maintain the protections provided in s.  
260 376.81(1)(g)1. and 2. Based upon such information, the report  
261 shall also include recommendations or items for potential  
262 improvements to the brownfield program established under ss.  
263 376.77-376.86 in order to achieve the legislative intent and  
264 goals and objectives set forth in s. 376.78.

265 Section 6. Subsection (7) of section 403.1835, Florida  
266 Statutes, is amended to read:

267 403.1835 Water pollution control financial assistance.—

268 (7) Eligible projects must be given priority according to  
269 the extent each project is intended to remove, mitigate, or  
270 prevent adverse effects on surface or ground water quality and  
271 public health. The relative costs of achieving environmental and  
272 public health benefits must be taken into consideration during  
273 the department’s assignment of project priorities. The



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274 department shall adopt a priority system by rule. In developing  
275 the priority system, the department shall give priority to  
276 projects that:

277 (a) Eliminate public health hazards;

278 (b) Enable compliance with laws requiring the elimination  
279 of discharges to specific water bodies, including the  
280 requirements of s. 403.086(9) regarding domestic wastewater  
281 ocean outfalls;

282 (c) Assist in the implementation of total maximum daily  
283 loads adopted under s. 403.067;

284 (d) Enable compliance with other pollution control  
285 requirements, including, but not limited to, toxics control,  
286 wastewater residuals management, and reduction of nutrients and  
287 bacteria;

288 (e) Assist in the implementation of surface water  
289 improvement and management plans and pollutant load reduction  
290 goals developed under state water policy;

291 (f) Promote reclaimed water reuse;

292 (g) Eliminate failing onsite sewage treatment and disposal  
293 systems or those that are causing environmental damage; or

294 (h) Reduce pollutants to and otherwise promote the  
295 restoration of Florida's surface and ground waters.

296 Eligible projects located within a brownfield site  
297 addressed by a brownfield site rehabilitation agreement under s.  
298 376.80 that remove, mitigate, or prevent adverse effects on  
299 surface or ground water quality and public health shall be  
300 prioritized according to (a) - (h).

301 Section 7. This act shall take effect July 1, 2010.

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

And the title is amended as follows:

    Delete everything before the enacting clause  
and insert:

                                A bill to be entitled  
An act relating to ; providing an effective date.