

1 A bill to be entitled
2 An act relating to brownfields; amending s. 376.78,
3 F.S.; revising legislative intent with regard to
4 community revitalization in certain areas; amending s.
5 376.80, F.S.; revising procedures for designation of
6 brownfield areas by local governments; authorizing
7 local governments to use a term other than "brownfield
8 area" when naming such areas; amending s. 376.82,
9 F.S.; providing relief of liability for property
10 damages for entities that execute and implement
11 certain brownfield site rehabilitation agreements;
12 providing for applicability; providing an effective
13 date.

14
15 Be It Enacted by the Legislature of the State of Florida:

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17 Section 1. Subsection (8) of section 376.78, Florida
18 Statutes, is amended to read:

19 376.78 Legislative intent.—The Legislature finds and
20 declares the following:

21 (8) The existence of brownfields within a community may
22 contribute to, or may be a symptom of, overall community
23 decline, including issues of human disease and illness, crime,
24 educational and employment opportunities, and infrastructure
25 decay. The environment is an important element of quality of
26 life in any community, along with economic opportunity,
27 educational achievement, access to health care, housing quality
28 and availability, provision of governmental services, and other

29 socioeconomic factors. Brownfields redevelopment, properly done,
 30 can be a significant element in community revitalization,
 31 especially within community redevelopment areas, enterprise
 32 zones, empowerment zones, closed military bases, or designated
 33 brownfield pilot project areas.

34 Section 2. Subsections (1) and (2) of section 376.80,
 35 Florida Statutes, are amended, and subsection (12) is added to
 36 that section, to read:

37 376.80 Brownfield program administration process.—

38 (1) (a) The local government with jurisdiction over a
 39 proposed brownfield area shall designate such area pursuant to
 40 this section.

41 (b) For a brownfield area designation proposed by:

42 1. The jurisdictional local government, except as provided
 43 in paragraph (2) (c), the designation criteria under paragraph
 44 (2) (a) apply.

45 2. Any person, other than a governmental entity,
 46 including, but not limited to, individuals, corporations,
 47 partnerships, limited liability companies, community-based
 48 organizations, or not-for-profit corporations, the designation
 49 criteria under paragraph (2) (b) apply.

50 (c) The following provisions apply to all proposed
 51 brownfield area designations:

52 1. A local government with jurisdiction over the
 53 brownfield area must notify the department of its decision to
 54 designate a brownfield area for rehabilitation for the purposes
 55 of ss. 376.77–376.86. The notification must include a resolution
 56 adopted⁷ by the local government body. The local government

57 | shall notify the department of the designation within 30 days
 58 | after adoption of the resolution.

59 | 2. The brownfield area designation must be carried out by
 60 | a resolution adopted by the jurisdictional local government, ~~to~~
 61 | which includes ~~is attached~~ a map adequate to clearly delineate
 62 | exactly which parcels are to be included in the brownfield area
 63 | or alternatively a less-detailed map accompanied by a detailed
 64 | legal description of the brownfield area. The resolution shall
 65 | be adopted pursuant to the procedures and requirements of the
 66 | local government in effect at the time of the proposed
 67 | designation, except as otherwise provided in this section.

68 | 3. If a property owner within the area proposed for
 69 | designation by the local government requests in writing to have
 70 | his or her property removed from the proposed designation, the
 71 | local government shall grant the request.

72 | 4. For municipalities, the governing body shall adopt the
 73 | resolution in accordance with the procedures outlined in s.
 74 | 166.041, except that the notice for the public hearings on the
 75 | proposed resolution must be in the form established in s.
 76 | 166.041(3)(c)2. For counties, the governing body shall adopt the
 77 | resolution in accordance with the procedures outlined in s.
 78 | 125.66, except that the notice for the public hearings on the
 79 | proposed resolution shall be in the form established in s.
 80 | 125.66(4)(b)2.

81 | (d) Compliance with the following provisions is required
 82 | before designation of a proposed brownfield area under paragraph
 83 | (2)(a) or paragraph (2)(b):

84 | 1. At least one of the required public hearings shall be

85 conducted as closely as reasonably practicable to the area to be
 86 designated to provide an opportunity for public input on the
 87 size of the area, the objectives for rehabilitation, job
 88 opportunities and economic developments anticipated,
 89 neighborhood residents' considerations, and other relevant local
 90 concerns.

91 2. Notice of the public hearing must be made in a
 92 newspaper of general circulation in the area, and the notice
 93 must be at least 16 square inches in size, must be in ethnic
 94 newspapers or local community bulletins, must be posted in the
 95 affected area, and must be announced at a scheduled meeting of
 96 the local governing body before the actual public hearing.

97 (2) (a) If a local government proposes to designate a
 98 brownfield area that is outside a community redevelopment area
 99 areas, enterprise zone zones, empowerment zone zones, closed
 100 military base bases, or designated brownfield pilot project area
 101 areas, the local government shall provide notice, adopt the
 102 resolution, and conduct ~~the~~ public hearings pursuant to ~~in~~
 103 ~~accordance with the requirements of subsection (1), except at~~
 104 ~~least one of the required public hearings shall be conducted as~~
 105 ~~close as reasonably practicable to the area to be designated to~~
 106 ~~provide an opportunity for public input on the size of the area,~~
 107 ~~the objectives for rehabilitation, job opportunities and~~
 108 ~~economic developments anticipated, neighborhood residents'~~
 109 ~~considerations, and other relevant local concerns. Notice of the~~
 110 ~~public hearing must be made in a newspaper of general~~
 111 ~~circulation in the area and the notice must be at least 16~~
 112 ~~square inches in size, must be in ethnic newspapers or local~~

113 ~~community bulletins, must be posted in the affected area, and~~
114 ~~must be announced at a scheduled meeting of the local governing~~
115 ~~body before the actual public hearing. At a public hearing to~~
116 ~~designate the proposed brownfield area~~ In determining the areas
117 ~~to be designated, the local government must consider:~~

- 118 1. Whether the brownfield area warrants economic
119 development and has a reasonable potential for such activities;
- 120 2. Whether the proposed area to be designated represents a
121 reasonably focused approach and is not overly large in
122 geographic coverage;
- 123 3. Whether the area has potential to interest the private
124 sector in participating in rehabilitation; and
- 125 4. Whether the area contains sites or parts of sites
126 suitable for limited recreational open space, cultural, or
127 historical preservation purposes.

128 (b) For designation of a brownfield area that is proposed
129 by a person other than the local government, the a local
130 government with jurisdiction over the proposed brownfield area
131 shall adopt a resolution to designate the a brownfield area
132 pursuant to subsection (1), if, at the public hearing to adopt
133 the resolution, the person establishes under the provisions of
134 this act provided that:

- 135 1. A person who owns or controls a potential brownfield
136 site is requesting the designation and has agreed to
137 rehabilitate and redevelop the brownfield site;
- 138 2. The rehabilitation and redevelopment of the proposed
139 brownfield site will result in economic productivity of the
140 area, along with the creation of at least 5 new permanent jobs

141 at the brownfield site that are full-time equivalent positions
142 not associated with the implementation of the brownfield site
143 rehabilitation agreement and that are not associated with
144 redevelopment project demolition or construction activities
145 pursuant to the redevelopment of the proposed brownfield site or
146 area. However, the job creation requirement does ~~shall~~ not apply
147 to the rehabilitation and redevelopment of a brownfield site
148 that will provide affordable housing as defined in s. 420.0004
149 or the creation of recreational areas, conservation areas, or
150 parks;

151 3. The redevelopment of the proposed brownfield site is
152 consistent with the local comprehensive plan and is a
153 permittable use under the applicable local land development
154 regulations;

155 4. Notice of the proposed rehabilitation of the brownfield
156 area has been provided to neighbors and nearby residents of the
157 proposed area to be designated pursuant to subsection (1), and
158 the person proposing the area for designation has afforded to
159 those receiving notice the opportunity for comments and
160 suggestions about rehabilitation. Notice pursuant to this
161 subparagraph must be made in a newspaper of general circulation
162 in the area, at least 16 square inches in size, and the notice
163 must be posted in the affected area; and

164 5. The person proposing the area for designation has
165 provided reasonable assurance that he or she has sufficient
166 financial resources to implement and complete the rehabilitation
167 agreement and redevelopment of the brownfield site.

168 (c) Paragraphs (a) and (b) do not apply to a proposed

169 brownfield area if the local government proposes to designate
170 the brownfield area inside a community redevelopment area,
171 enterprise zone, empowerment zone, closed military base, or
172 designated brownfield pilot project area and the local
173 government complies with paragraph (1)(c).

174 (d)~~(e)~~ The designation of a brownfield area and the
175 identification of a person responsible for brownfield site
176 rehabilitation simply entitles the identified person to
177 negotiate a brownfield site rehabilitation agreement with the
178 department or approved local pollution control program.

179 (12) A local government that designates a brownfield area
180 pursuant to this section is not required to use the term
181 "brownfield area" within the name of the brownfield area
182 proposed for designation by the local government.

183 Section 3. Paragraphs (a) and (b) of subsection (2) of
184 section 376.82, Florida Statutes, are amended to read:

185 376.82 Eligibility criteria and liability protection.—

186 (2) LIABILITY PROTECTION.—

187 (a) Any person, including his or her successors and
188 assigns, who executes and implements to successful completion a
189 brownfield site rehabilitation agreement, shall be relieved of:

190 1. Further liability for remediation of the contaminated
191 site or sites to the state and to third parties. ~~and of~~

192 2. Liability in contribution to any other party who has or
193 may incur cleanup liability for the contaminated site or sites.

194 3. Liability for claims of any person for property
195 damages, including, but not limited to, diminished value of real
196 property or improvements; lost or delayed rent, sale, or use of

CS/HB 415

2013

197 | real property or improvements; or stigma to real property or
198 | improvements caused by contamination addressed by a brownfield
199 | site rehabilitation agreement. Notwithstanding any other
200 | provision of this chapter, this subparagraph applies to causes
201 | of action accruing on or after July 1, 2013.

202 | (b) This section does not limit ~~shall not be construed as~~
203 | ~~a limitation on~~ the right of a third party other than the state
204 | to pursue an action for damages to persons for bodily harm
205 | ~~property or person~~; however, such an action may not compel site
206 | rehabilitation in excess of that required in the approved
207 | brownfield site rehabilitation agreement or otherwise required
208 | by the department or approved local pollution control program.

209 | Section 4. This act shall take effect July 1, 2013.