

Amendment No.

CHAMBER ACTION

Senate

House

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1 Representative Hutson offered the following:

2
3 **Amendment (with title amendment)**

4 Between lines 1905 and 1906, insert:

5 Section 38. Effective July 1, 2013, subsection (8) of
6 section 376.78, Florida Statutes, is amended to read:

7 376.78 Legislative intent.—The Legislature finds and
8 declares the following:

9 (8) The existence of brownfields within a community may
10 contribute to, or may be a symptom of, overall community
11 decline, including issues of human disease and illness, crime,
12 educational and employment opportunities, and infrastructure
13 decay. The environment is an important element of quality of
14 life in any community, along with economic opportunity,
15 educational achievement, access to health care, housing quality
16 and availability, provision of governmental services, and other

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17 socioeconomic factors. Brownfields redevelopment, properly done,
18 can be a significant element in community revitalization,
19 especially within community redevelopment areas, enterprise
20 zones, empowerment zones, closed military bases, or designated
21 brownfield pilot project areas.

22 Section 39. Effective July 1, 2013, subsections (1) and
23 (2) of section 376.80, Florida Statutes, are amended, and
24 subsection (12) is added to that section, to read:

25 376.80 Brownfield program administration process.—

26 (1) The following general procedures apply to brownfield
27 designations:

28 (a) The local government with jurisdiction over a proposed
29 brownfield area shall designate such area pursuant to this
30 section.

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

32 1. The jurisdictional local government, the designation
33 criteria under paragraph (2)(a) apply, except if the local
34 government proposes to designate as a brownfield area a
35 specified redevelopment area as provided in paragraph (2)(b).

36 2. Any person, other than a governmental entity,
37 including, but not limited to, individuals, corporations,
38 partnerships, limited liability companies, community-based
39 organizations, or not-for-profit corporations, the designation
40 criteria under paragraph (2)(c) apply.

41 (c) Except as otherwise provided, the following provisions
42 apply to all proposed brownfield area designations:

43 1. Notification to department following adoption.—A local
44 government with jurisdiction over the brownfield area must

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45 notify the department, and, if applicable, the local pollution
46 control program under s. 403.182, of its decision to designate a
47 brownfield area for rehabilitation for the purposes of ss.
48 376.77-376.86. The notification must include a resolution
49 adopted~~r~~ by the local government body. The local government
50 shall notify the department, and, if applicable, the local
51 pollution control program under s. 403.182, of the designation
52 within 30 days after adoption of the resolution.

53 2. Resolution adoption.—The brownfield area designation
54 must be carried out by a resolution adopted by the
55 jurisdictional local government, ~~to~~ which includes ~~is attached~~ a
56 map adequate to clearly delineate exactly which parcels are to
57 be included in the brownfield area or alternatively a less-
58 detailed map accompanied by a detailed legal description of the
59 brownfield area. For municipalities, the governing body shall
60 adopt the resolution in accordance with the procedures outlined
61 in s. 166.041, except that the notice for the public hearings on
62 the proposed resolution must be in the form established in s.
63 166.041(3)(c)2. For counties, the governing body shall adopt the
64 resolution in accordance with the procedures outlined in s.
65 125.66, except that the notice for the public hearings on the
66 proposed resolution shall be in the form established in s.
67 125.66(4)(b).

68 3. Right to be removed from proposed brownfield area.—If a
69 property owner within the area proposed for designation by the
70 local government requests in writing to have his or her property
71 removed from the proposed designation, the local government
72 shall grant the request. ~~For municipalities, the governing body~~

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

81 4. Notice and public hearing requirements for designation
82 of a proposed brownfield area outside a redevelopment area or by
83 a nongovernmental entity.-Compliance with the following
84 provisions is required before designation of a proposed
85 brownfield area under paragraph (2) (a) or paragraph (2) (c):

86 a. At least one of the required public hearings shall be
87 conducted as closely as is reasonably practicable to the area to
88 be designated to provide an opportunity for public input on the
89 size of the area, the objectives for rehabilitation, job
90 opportunities and economic developments anticipated,
91 neighborhood residents' considerations, and other relevant local
92 concerns.

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

99 (2) (a) Local government-proposed brownfield area
100 designation outside specified redevelopment areas.-If a local

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101 government proposes to designate a brownfield area that is
102 outside a community redevelopment area areas, enterprise zone
103 zones, empowerment zone zones, closed military base bases, or
104 designated brownfield pilot project area areas, the local
105 government shall provide notice, adopt the resolution, and
106 conduct ~~the~~ public hearings pursuant to paragraph ~~in accordance~~
107 ~~with the requirements of subsection (1)(c), except at least one~~
108 ~~of the required public hearings shall be conducted as close as~~
109 ~~reasonably practicable to the area to be designated to provide~~
110 ~~an opportunity for public input on the size of the area, the~~
111 ~~objectives for rehabilitation, job opportunities and economic~~
112 ~~developments anticipated, neighborhood residents'~~
113 ~~considerations, and other relevant local concerns. Notice of the~~
114 ~~public hearing must be made in a newspaper of general~~
115 ~~circulation in the area and the notice must be at least 16~~
116 ~~square inches in size, must be in ethnic newspapers or local~~
117 ~~community bulletins, must be posted in the affected area, and~~
118 ~~must be announced at a scheduled meeting of the local governing~~
119 ~~body before the actual public hearing. At a public hearing to~~
120 designate the proposed brownfield area ~~In determining the areas~~
121 ~~to be designated, the local government must consider:~~

- 122 1. Whether the brownfield area warrants economic
123 development and has a reasonable potential for such activities;
124 2. Whether the proposed area to be designated represents a
125 reasonably focused approach and is not overly large in
126 geographic coverage;
127 3. Whether the area has potential to interest the private
128 sector in participating in rehabilitation; and

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129 4. Whether the area contains sites or parts of sites
130 suitable for limited recreational open space, cultural, or
131 historical preservation purposes.

132 (b) Local government-proposed brownfield area designation
133 within specified redevelopment areas.-Paragraph (a) does not
134 apply to a proposed brownfield area if the local government
135 proposes to designate the brownfield area inside a community
136 redevelopment area, enterprise zone, empowerment zone, closed
137 military base, or designated brownfield pilot project area and
138 the local government complies with paragraph (1)(c).

139 (c) ~~(b)~~ Brownfield area designation proposed by persons
140 other than a governmental entity.-For designation of a
141 brownfield area that is proposed by a person other than the
142 local government, the local government with jurisdiction over
143 the proposed brownfield area shall provide notice and adopt a
144 resolution to designate the a brownfield area pursuant to
145 paragraph (1)(c) if, at the public hearing to adopt the
146 resolution, the person establishes all of the following ~~under~~
147 the provisions of this act provided that:

148 1. A person who owns or controls a potential brownfield
149 site is requesting the designation and has agreed to
150 rehabilitate and redevelop the brownfield site.~~†~~

151 2. The rehabilitation and redevelopment of the proposed
152 brownfield site will result in economic productivity of the
153 area, along with the creation of at least 5 new permanent jobs
154 at the brownfield site that are full-time equivalent positions
155 not associated with the implementation of the brownfield site
156 rehabilitation agreement and that are not associated with

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157 redevelopment project demolition or construction activities
158 pursuant to the redevelopment of the proposed brownfield site or
159 area. However, the job creation requirement does ~~shall~~ not apply
160 to the rehabilitation and redevelopment of a brownfield site
161 that will provide affordable housing as defined in s. 420.0004
162 or the creation of recreational areas, conservation areas, or
163 parks.~~†~~

164 3. The redevelopment of the proposed brownfield site is
165 consistent with the local comprehensive plan and is a
166 permissible use under the applicable local land development
167 regulations.~~†~~

168 4. Notice of the proposed rehabilitation of the brownfield
169 area has been provided to neighbors and nearby residents of the
170 proposed area to be designated pursuant to paragraph (1)(c), and
171 the person proposing the area for designation has afforded to
172 those receiving notice the opportunity for comments and
173 suggestions about rehabilitation. Notice pursuant to this
174 subparagraph must be made in a newspaper of general circulation
175 in the area, at least 16 square inches in size, and the notice
176 must be posted in the affected area.~~†~~~~and~~

177 5. The person proposing the area for designation has
178 provided reasonable assurance that he or she has sufficient
179 financial resources to implement and complete the rehabilitation
180 agreement and redevelopment of the brownfield site.

181 (d)(e) Negotiation of brownfield site rehabilitation
182 agreement.—The designation of a brownfield area and the
183 identification of a person responsible for brownfield site
184 rehabilitation simply entitles the identified person to

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185 negotiate a brownfield site rehabilitation agreement with the
186 department or approved local pollution control program.

187 (12) A local government that designates a brownfield area
188 pursuant to this section is not required to use the term
189 "brownfield area" within the name of the brownfield area
190 proposed for designation by the local government.

191 Section 40. Effective July 1, 2013, paragraphs (a) and (b)
192 of subsection (2) of section 376.82, Florida Statutes, are
193 amended to read:

194 376.82 Eligibility criteria and liability protection.—

195 (2) LIABILITY PROTECTION.—

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

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

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

203 3. Liability for claims of any person for property
204 damages, including, but not limited to, diminished value of real
205 property or improvements; lost or delayed rent, sale, or use of
206 real property or improvements; or stigma to real property or
207 improvements caused by contamination addressed by a brownfield
208 site rehabilitation agreement. Notwithstanding any other
209 provision of this chapter, this subparagraph applies to causes
210 of action accruing on or after July 1, 2013.

211 (b) This section does not limit ~~shall not be construed as~~
212 ~~a limitation on~~ the right of a third party other than the state

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213 to pursue an action for damages to persons for bodily harm
214 ~~property or person~~; however, such an action may not compel site
215 rehabilitation in excess of that required in the approved
216 brownfield site rehabilitation agreement or otherwise required
217 by the department or approved local pollution control program.

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

221 Remove line 258 and insert:
222 reporting requirements; amending s. 376.78, F.S.;
223 revising legislative intent with regard to community
224 revitalization in certain areas; amending s. 376.80,
225 F.S.; revising procedures for designation of
226 brownfield areas by local governments; authorizing
227 local governments to use a term other than "brownfield
228 area" when naming such areas; amending s. 376.82,
229 F.S.; providing relief of liability for property
230 damages for entities that execute and implement
231 certain brownfield site rehabilitation agreements;
232 providing for applicability; amending s. 443.036,
233 F.S.;