

Amendment No. 1

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	—	(Y/N)
ADOPTED AS AMENDED	—	(Y/N)
ADOPTED W/O OBJECTION	—	(Y/N)
FAILED TO ADOPT	—	(Y/N)
WITHDRAWN	—	(Y/N)
OTHER	—	

1 Committee/Subcommittee hearing bill: Economic Development &
 2 Tourism Subcommittee
 3 Representative Stone offered the following:

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6 Remove everything after the enacting clause and insert:

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

10 376.78 Legislative intent.—The Legislature finds and
 11 declares the following:

12 (8) The existence of brownfields within a community may
 13 contribute to, or may be a symptom of, overall community
 14 decline, including issues of human disease and illness, crime,
 15 educational and employment opportunities, and infrastructure
 16 decay. The environment is an important element of quality of
 17 life in any community, along with economic opportunity,

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18 educational achievement, access to health care, housing quality
19 and availability, provision of governmental services, and other
20 socioeconomic factors. Brownfields redevelopment, properly done,
21 can be a significant element in community revitalization,
22 especially within community redevelopment areas, enterprise
23 zones, empowerment zones, closed military bases, or designated
24 brownfield pilot project areas.

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

28 376.80 Brownfield program administration process.—

29 (1) The following general procedures apply to brownfield
30 designations:

31 (a) The local government with jurisdiction over a proposed
32 brownfield area shall designate such area pursuant to this
33 section.

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

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

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

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

46 1. Notification to department following adoption.—A local
47 government with jurisdiction over the brownfield area must
48 notify the department, and, if applicable, the local pollution
49 control program under s. 403.182, of its decision to designate a
50 brownfield area for rehabilitation for the purposes of ss.
51 376.77–376.86. The notification must include a resolution
52 adopted~~7~~ by the local government body. The local government
53 shall notify the department, and, if applicable, the local
54 pollution control program under s. 403.182, of the designation
55 within 30 days after adoption of the resolution.

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

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70 form established in s. 125.66(4)(b).

71 3. Right to be removed from proposed brownfield area.—If a
72 property owner within the area proposed for designation by the
73 local government requests in writing to have his or her property
74 removed from the proposed designation, the local government
75 shall grant the request. ~~For municipalities, the governing body~~
76 ~~shall adopt the resolution in accordance with the procedures~~
77 ~~outlined in s. 166.041, except that the notice for the public~~
78 ~~hearings on the proposed resolution must be in the form~~
79 ~~established in s. 166.041(3)(c)2. For counties, the governing~~
80 ~~body shall adopt the resolution in accordance with the~~
81 ~~procedures outlined in s. 125.66, except that the notice for the~~
82 ~~public hearings on the proposed resolution shall be in the form~~
83 ~~established in s. 125.66(4)(b)2.~~

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

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

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96 b. Notice of the public hearing must be made in ethnic
97 newspapers or local community bulletins, must be posted in the
98 affected area, and must be announced at a scheduled meeting of
99 the local governing body before the actual public hearing.

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

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122 ~~to be designated,~~ the local government must consider:

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

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

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

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148 ~~the provisions of this act provided that:~~

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

152 2. The rehabilitation and redevelopment of the proposed
153 brownfield site will result in economic productivity of the
154 area, along with the creation of at least 5 new permanent jobs
155 at the brownfield site that are full-time equivalent positions
156 not associated with the implementation of the brownfield site
157 rehabilitation agreement and that are not associated with
158 redevelopment project demolition or construction activities
159 pursuant to the redevelopment of the proposed brownfield site or
160 area. However, the job creation requirement does ~~shall~~ not apply
161 to the rehabilitation and redevelopment of a brownfield site
162 that will provide affordable housing as defined in s. 420.0004
163 or the creation of recreational areas, conservation areas, or
164 parks.~~†~~

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

169 4. Notice of the proposed rehabilitation of the brownfield
170 area has been provided to neighbors and nearby residents of the
171 proposed area to be designated pursuant to paragraph (1)(c), and
172 the person proposing the area for designation has afforded to
173 those receiving notice the opportunity for comments and

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174 suggestions about rehabilitation. Notice pursuant to this
175 subparagraph ~~must be made in a newspaper of general circulation~~
176 ~~in the area, at least 16 square inches in size, and the notice~~
177 must be posted in the affected area. ~~;~~ and

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

182 (d)(e) Negotiation of brownfield site rehabilitation
183 agreement.—The designation of a brownfield area and the
184 identification of a person responsible for brownfield site
185 rehabilitation simply entitles the identified person to
186 negotiate a brownfield site rehabilitation agreement with the
187 department or approved local pollution control program.

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

192 Section 3. Paragraphs (a) and (b) of subsection (2) of
193 section 376.82, Florida Statutes, are 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, is ~~shall be~~ relieved
199 of:

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

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

204 3. Liability for claims of property damages, including,
205 but not limited to, diminished value of real property or
206 improvements; lost or delayed rent, sale, or use of real
207 property or improvements; or stigma to real property or
208 improvements caused by contamination addressed by a brownfield
209 site rehabilitation agreement. Notwithstanding any other
210 provision of this chapter, this subparagraph applies to causes
211 of action accruing on or after July 1, 2014. This subparagraph
212 does not apply to a person who commits fraud in demonstrating
213 site conditions or completing site rehabilitation of a property
214 subject to a brownfield site rehabilitation agreement or who
215 exacerbates contamination of a property subject to a brownfield
216 site rehabilitation agreement in violation of applicable laws
217 which causes property damages.

218 (b) This section does not limit ~~shall not be construed as~~
219 ~~a limitation on~~ the right of a third party other than the state
220 to pursue an action for damages to persons for bodily harm
221 ~~property or person~~; however, such an action may not compel site
222 rehabilitation in excess of that required in the approved
223 brownfield site rehabilitation agreement or otherwise required
224 by the department or approved local pollution control program.

225 Section 4. This act shall take effect July 1, 2014.