

A bill to be entitled

An act relating to brownfields; amending s. 376.78, F.S.; revising legislative intent with regard to community revitalization in certain areas; amending s. 376.80, F.S.; revising procedures for designation of brownfield areas; authorizing local governments to use a term other than "brownfield area" when naming such areas; amending s. 376.82, F.S.; providing certain liability protection against claims of property damages; providing for applicability; providing an effective date.

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

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

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

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

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

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

35 376.80 Brownfield program administration process.—

36 (1) The following general procedures apply to brownfield
 37 designations:

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

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

42 1. The jurisdictional local government, the designation
 43 criteria under paragraph (2) (a) apply, except if the local
 44 government proposes to designate as a brownfield area a
 45 specified redevelopment area as provided in paragraph (2) (b).

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

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

53 1. Notification to department following adoption.—A local
54 government with jurisdiction over the brownfield area must
55 notify the department, and, if applicable, the local pollution
56 control program under s. 403.182, of its decision to designate a
57 brownfield area for rehabilitation for the purposes of ss.
58 376.77–376.86. The notification must include a resolution
59 adopted, by the local government body. The local government
60 shall notify the department, and, if applicable, the local
61 pollution control program under s. 403.182, of the designation
62 within 30 days after adoption of the resolution.

63 2. Resolution adoption.—The brownfield area designation
64 must be carried out by a resolution adopted by the
65 jurisdictional local government, ~~to~~ which includes ~~is attached~~ a
66 map adequate to clearly delineate exactly which parcels are to
67 be included in the brownfield area or alternatively a less-
68 detailed map accompanied by a detailed legal description of the
69 brownfield area. For municipalities, the governing body shall
70 adopt the resolution in accordance with the procedures outlined
71 in s. 166.041, except that the procedures for the public
72 hearings on the proposed resolution must be in the form
73 established in s. 166.041(3)(c)2. For counties, the governing
74 body shall adopt the resolution in accordance with the
75 procedures outlined in s. 125.66, except that the procedures for
76 the public hearings on the proposed resolution shall be in the
77 form established in s. 125.66(4)(b).

78 3. Right to be removed from proposed brownfield area.—If a

79 property owner within the area proposed for designation by the
80 local government requests in writing to have his or her property
81 removed from the proposed designation, the local government
82 shall grant the request. ~~For municipalities, the governing body~~
83 ~~shall adopt the resolution in accordance with the procedures~~
84 ~~outlined in s. 166.041, except that the notice for the public~~
85 ~~hearings on the proposed resolution must be in the form~~
86 ~~established in s. 166.041(3)(c)2. For counties, the governing~~
87 ~~body shall adopt the resolution in accordance with the~~
88 ~~procedures outlined in s. 125.66, except that the notice for the~~
89 ~~public hearings on the proposed resolution shall be in the form~~
90 ~~established in s. 125.66(4)(b)2.~~

91 4. Notice and public hearing requirements for designation
92 of a proposed brownfield area outside a redevelopment area or by
93 a nongovernmental entity.-Compliance with the following
94 provisions is required before designation of a proposed
95 brownfield area under paragraph (2)(a) or paragraph (2)(c):

96 a. At least one of the required public hearings shall be
97 conducted as closely as is reasonably practicable to the area to
98 be designated to provide an opportunity for public input on the
99 size of the area, the objectives for rehabilitation, job
100 opportunities and economic developments anticipated,
101 neighborhood residents' considerations, and other relevant local
102 concerns.

103 b. Notice of the public hearing must be made in ethnic
104 newspapers or local community bulletins, must be posted in the

105 affected area, and must be announced at a scheduled meeting of
 106 the local governing body before the actual public hearing.

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

130 1. Whether the brownfield area warrants economic

131 development and has a reasonable potential for such activities;
 132 2. Whether the proposed area to be designated represents a
 133 reasonably focused approach and is not overly large in
 134 geographic coverage;
 135 3. Whether the area has potential to interest the private
 136 sector in participating in rehabilitation; and
 137 4. Whether the area contains sites or parts of sites
 138 suitable for limited recreational open space, cultural, or
 139 historical preservation purposes.

140 (b) Local government-proposed brownfield area designation
 141 within specified redevelopment areas.—Paragraph (a) does not
 142 apply to a proposed brownfield area if the local government
 143 proposes to designate the brownfield area inside a community
 144 redevelopment area, enterprise zone, empowerment zone, closed
 145 military base, or designated brownfield pilot project area and
 146 the local government complies with paragraph (1)(c).

147 (c) ~~(b)~~ Brownfield area designation proposed by persons
 148 other than a governmental entity.—For designation of a
 149 brownfield area that is proposed by a person other than the
 150 local government, the local government with jurisdiction over
 151 the proposed brownfield area shall provide notice and adopt a
 152 resolution to designate the a brownfield area pursuant to
 153 paragraph (1)(c) if, at the public hearing to adopt the
 154 resolution, the person establishes all of the following under
 155 the provisions of this act provided that:

156 1. A person who owns or controls a potential brownfield

157 site is requesting the designation and has agreed to
158 rehabilitate and redevelop the brownfield site.~~†~~

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

172 3. The redevelopment of the proposed brownfield site is
173 consistent with the local comprehensive plan and is a
174 permittable use under the applicable local land development
175 regulations.~~†~~

176 4. Notice of the proposed rehabilitation of the brownfield
177 area has been provided to neighbors and nearby residents of the
178 proposed area to be designated pursuant to paragraph (1)(c), and
179 the person proposing the area for designation has afforded to
180 those receiving notice the opportunity for comments and
181 suggestions about rehabilitation. Notice pursuant to this
182 subparagraph ~~must be made in a newspaper of general circulation~~

183 ~~in the area, at least 16 square inches in size, and the notice~~
 184 ~~must be posted in the affected area.~~ and

185 5. The person proposing the area for designation has
 186 provided reasonable assurance that he or she has sufficient
 187 financial resources to implement and complete the rehabilitation
 188 agreement and redevelopment of the brownfield site.

189 (d) ~~(e)~~ Negotiation of brownfield site rehabilitation
 190 agreement.—The designation of a brownfield area and the
 191 identification of a person responsible for brownfield site
 192 rehabilitation simply entitles the identified person to
 193 negotiate a brownfield site rehabilitation agreement with the
 194 department or approved local pollution control program.

195 (12) A local government that designates a brownfield area
 196 pursuant to this section is not required to use the term
 197 "brownfield area" within the name of the brownfield area
 198 designated by the local government.

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

201 376.82 Eligibility criteria and liability protection.—

202 (2) LIABILITY PROTECTION.—

203 (a) Any person, including his or her successors and
 204 assigns, who executes and implements to successful completion a
 205 brownfield site rehabilitation agreement, is ~~shall be~~ relieved
 206 of:

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

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

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

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

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