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LEGISLATIVE ACTION

Senate	.	House
Comm: FAV	.	
02/05/2014	.	
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The Committee on Environmental Preservation and Conservation  
(Altman) recommended the following:

**Senate Amendment (with title amendment)**

Delete everything after the enacting clause  
and insert:

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



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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  
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 2. Subsections (1) and (2) of section 376.80,  
23 Florida Statutes, are amended, and subsection (12) is added to  
24 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 unless the local  
34 government proposes to designate a brownfield area within a  
35 specified redevelopment area as provided in paragraph (2) (b).

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



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40 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 the department following adoption.—A  
44 local government with jurisdiction over the brownfield area must  
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<sup>7</sup> 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 procedures for the public  
62 hearings on the proposed resolution must be in the form  
63 established in s. 166.041(3)(c)2. For counties, the governing  
64 body shall adopt the resolution in accordance with the  
65 procedures outlined in s. 125.66, except that the procedures for  
66 the public hearings on the proposed resolution must be in the  
67 form established in s. 125.66(4)(b).

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



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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~~  
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 close 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 a public hearing must be made in a newspaper  
94 of general circulation in the area, must be made in ethnic  
95 newspapers or local community bulletins, must be posted in the  
96 affected area, and must be announced at a scheduled meeting of  
97 the local governing body before the actual public hearing.



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

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



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127 sector in participating in rehabilitation; and

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

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

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

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

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



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

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

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

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

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



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185 department or approved local pollution control program.

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

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

192 376.82 Eligibility criteria and liability protection.—

193 (2) LIABILITY PROTECTION.—

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

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

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

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





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214 site rehabilitation agreement in violation of applicable laws,  
215 which causes property damages.

216 (b) This section does not limit ~~shall not be construed as a~~  
217 ~~limitation on~~ the right of a third party other than the state to  
218 pursue an action for damages to persons for bodily harm ~~property~~  
219 ~~or person~~; however, such an action may not compel site  
220 rehabilitation in excess of that required in the approved  
221 brownfield site rehabilitation agreement or otherwise required  
222 by the department or approved local pollution control program.  
223 Section 4. This act shall take effect July 1, 2014.

224  
225 ===== T I T L E A M E N D M E N T =====

226 And the title is amended as follows:

227 Delete everything before the enacting clause  
228 and insert:

229 A bill to be entitled  
230 An act relating to brownfields; amending s. 376.78,  
231 F.S.; revising legislative intent with regard to  
232 community revitalization in certain areas; amending s.  
233 376.80, F.S.; revising procedures for designation of  
234 brownfield areas by local governments; providing  
235 procedures for adoption of a resolution; providing  
236 requirements for notice and public hearings;  
237 authorizing local governments to use a term other than  
238 "brownfield area" when naming such areas; amending s.  
239 376.82, F.S.; providing an exemption from liability  
240 for property damages for entities that execute and  
241 implement certain brownfield site rehabilitation  
242 agreements; providing for applicability; providing an



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243        effective date.

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