

By Representative Lacasa

1 A bill to be entitled
2 An act relating to rehabilitation of
3 contaminated sites; amending s. 199.1055, F.S.;
4 clarifying who may apply for contaminated site
5 tax credits; clarifying time period for use of
6 tax credits; amending s. 220.1845, F.S.;
7 clarifying who may apply for contaminated site
8 tax credits; clarifying time period for use of
9 tax credits; allowing taxpayers to claim credit
10 on a consolidated return up to the amount of
11 the consolidated group's tax liability;
12 creating s. 376.30701, F.S.; extending
13 application of risk-based corrective action
14 principles to all contaminated sites resulting
15 from a discharge of pollutants or hazardous
16 substances; providing for contamination cleanup
17 criteria that incorporate risk-based corrective
18 action principles to be adopted by rule;
19 providing clarification that cleanup criteria
20 do not apply to offsite relocation or
21 treatment; providing the conditions under which
22 further rehabilitation may be required;
23 amending s. 376.30781, F.S.; clarifying who may
24 apply for contaminated site tax credits;
25 converting tax credit application time period
26 to calendar year; revising the application
27 deadline; providing that incomplete placeholder
28 applications shall not be accepted; providing
29 for transferability of tax credits; deleting
30 obsolete language; providing an effective date.
31

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

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3 Section 1. Subsection (1) of section 199.1055, Florida
4 Statutes, is amended to read:

5 199.1055 Contaminated site rehabilitation tax
6 credit.--

7 (1) AUTHORIZATION FOR TAX CREDIT; LIMITATIONS.--

8 (a) A credit in the amount of 35 percent of the costs
9 of voluntary cleanup activity that is integral to site
10 rehabilitation at the following sites is available ~~allowed~~
11 against any tax due for a taxable year under s. 199.032, less
12 any credit allowed by s. 220.68 for that year:

13 1. A drycleaning-solvent-contaminated site eligible
14 for state-funded site rehabilitation under s. 376.3078(3);

15 2. A drycleaning-solvent-contaminated site at which
16 cleanup is undertaken by the real property owner pursuant to
17 s. 376.3078(11), if the real property owner is not also, and
18 has never been, the owner or operator of the drycleaning
19 facility where the contamination exists; or

20 3. A brownfield site in a designated brownfield area
21 under s. 376.80.

22 (b) A tax credit applicant, or multiple tax credit
23 applicants ~~taxpayer, or multiple taxpayers~~ working jointly to
24 clean up a single site, may not be granted ~~receive~~ more than
25 \$250,000 per year in tax credits for each site voluntarily
26 rehabilitated. Multiple tax credit applicants ~~taxpayers~~ shall
27 be granted ~~receive~~ tax credits in the same proportion as their
28 contribution to payment of cleanup costs. Subject to the same
29 conditions and limitations as provided in this section, a
30 municipality, or county, or other tax credit applicant which
31 voluntarily rehabilitates a site may be granted ~~receive~~ not

1 more than \$250,000 per year in tax credits which it can
2 subsequently transfer subject to the provisions in paragraph
3 (g).

4 (c) If the credit granted under this section is not
5 fully used in any one year because of insufficient tax
6 liability on the part of the tax credit applicant ~~taxpayer~~,
7 the unused amount may be carried forward for a period not to
8 exceed 5 years. After 5 years from the date a credit is
9 granted under this section, such credit expires and may not be
10 used. However, if during the 5-year period the credit is
11 transferred, in whole or in part, pursuant to paragraph (g),
12 each transferee has 5 years from the date of transfer to use
13 its credit.

14 (d) A taxpayer that receives a credit under s.
15 220.1845 is ineligible to receive credit under this section in
16 a given tax year.

17 (e) A tax credit applicant ~~taxpayer~~ that receives
18 state-funded site rehabilitation pursuant to s. 376.3078(3)
19 for rehabilitation of a drycleaning-solvent-contaminated site
20 is ineligible to receive credit under this section for costs
21 incurred by the tax credit applicant ~~taxpayer~~ in conjunction
22 with the rehabilitation of that site during the same time
23 period that state-administered site rehabilitation was
24 underway.

25 (f) The total amount of the tax credits which may be
26 granted under this section and s. 220.1845 is \$2 million
27 annually.

28 (g)1. Tax credits that may be available under this
29 section to an entity eligible under s. 376.30781 may be
30 transferred after a merger or acquisition to the surviving or
31

1 acquiring entity and used in the same manner with the same
2 limitations.

3 2. The entity or its surviving or acquiring entity as
4 described in subparagraph 1. may transfer any unused credit
5 in whole or in units of no less than 25 percent of the
6 remaining credit. The entity acquiring such credit may use it
7 in the same manner and with the same limitation as described
8 in this section. Such transferred credits may not be
9 transferred again although they may succeed to a surviving or
10 acquiring entity subject to the same conditions and
11 limitations as described in this section.

12 3. In the event the credit provided for under this
13 section is reduced either as a result of a determination by
14 the Department of Environmental Protection or an examination
15 or audit by the Department of Revenue, such tax deficiency
16 shall be recovered from the first entity, or the surviving or
17 acquiring entity, to have claimed such credit up to the amount
18 of credit taken. Any subsequent deficiencies shall be
19 assessed against any entity acquiring and claiming such
20 credit, or in the case of multiple succeeding entities in the
21 order of credit succession.

22 (h) In order to encourage completion of site
23 rehabilitation at contaminated sites being voluntarily cleaned
24 up and eligible for a tax credit under this section, the tax
25 credit applicant ~~taxpayer~~ may claim an additional 10 percent
26 of the total cleanup costs, not to exceed \$50,000, in the
27 final year of cleanup as evidenced by the Department of
28 Environmental Protection issuing a "no further action" order
29 for that site.

30 Section 2. Subsection (1) of section 220.1845, Florida
31 Statutes, is amended to read:

1 220.1845 Contaminated site rehabilitation tax
2 credit.--
3 (1) AUTHORIZATION FOR TAX CREDIT; LIMITATIONS.--
4 (a) A credit in the amount of 35 percent of the costs
5 of voluntary cleanup activity that is integral to site
6 rehabilitation at the following sites is available ~~allowed~~
7 ~~against~~ any tax due for a taxable year under this chapter:
8 1. A drycleaning-solvent-contaminated site eligible
9 for state-funded site rehabilitation under s. 376.3078(3);
10 2. A drycleaning-solvent-contaminated site at which
11 cleanup is undertaken by the real property owner pursuant to
12 s. 376.3078(11), if the real property owner is not also, and
13 has never been, the owner or operator of the drycleaning
14 facility where the contamination exists; or
15 3. A brownfield site in a designated brownfield area
16 under s. 376.80.
17 (b) A tax credit applicant, or multiple tax credit
18 applicants ~~taxpayer, or multiple taxpayers~~ working jointly to
19 clean up a single site, may not be granted ~~receive~~ more than
20 \$250,000 per year in tax credits for each site voluntarily
21 rehabilitated. Multiple tax credit applicants ~~taxpayers~~ shall
22 be granted ~~receive~~ tax credits in the same proportion as their
23 contribution to payment of cleanup costs. Subject to the same
24 conditions and limitations as provided in this section, a
25 municipality, or county, or other tax credit applicant which
26 voluntarily rehabilitates a site may be granted ~~receive~~ not
27 more than \$250,000 per year in tax credits which it can
28 subsequently transfer subject to the provisions in paragraph
29 (h).
30 (c) If the credit granted under this section is not
31 fully used in any one year because of insufficient tax

1 liability on the part of the corporation, the unused amount
2 may be carried forward for a period not to exceed 5 years. The
3 carryover credit may be used in a subsequent year when the tax
4 imposed by this chapter for that year exceeds the credit for
5 which the corporation is eligible in that year under this
6 section after applying the other credits and unused carryovers
7 in the order provided by s. 220.02(8). After 5 years from the
8 date a credit is granted under this section, such credit
9 expires and may not be used. However, if during the 5-year
10 period the credit is transferred, in whole or in part,
11 pursuant to paragraph (h), each transferee has 5 years from
12 the date of transfer to use its credit.

13 (d) A taxpayer that files a consolidated return in
14 this state as a member of an affiliated group under s.
15 220.131(1) may be allowed the credit on a consolidated return
16 basis up to the amount of tax imposed upon the consolidated
17 group and paid by the taxpayer that incurred the
18 rehabilitation costs.

19 (e) A taxpayer that receives credit under s. 199.1055
20 is ineligible to receive credit under this section in a given
21 tax year.

22 (f) A tax credit applicant taxpayer that receives
23 state-funded site rehabilitation under s. 376.3078(3) for
24 rehabilitation of a drycleaning-solvent-contaminated site is
25 ineligible to receive credit under this section for costs
26 incurred by the tax credit applicant taxpayer in conjunction
27 with the rehabilitation of that site during the same time
28 period that state-administered site rehabilitation was
29 underway.

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1 (g) The total amount of the tax credits which may be
2 granted under this section and s. 199.1055 is \$2 million
3 annually.

4 (h)1. Tax credits that may be available under this
5 section to an entity eligible under s. 376.30781 may be
6 transferred after a merger or acquisition to the surviving or
7 acquiring entity and used in the same manner and with the same
8 limitations.

9 2. The entity or its surviving or acquiring entity as
10 described in subparagraph 1.7 may transfer any unused credit
11 in whole or in units of no less than 25 percent of the
12 remaining credit. The entity acquiring such credit may use it
13 in the same manner and with the same limitation as described
14 in this section. Such transferred credits may not be
15 transferred again although they may succeed to a surviving or
16 acquiring entity subject to the same conditions and
17 limitations as described in this section.

18 3. In the event the credit provided for under this
19 section is reduced either as a result of a determination by
20 the Department of Environmental Protection or an examination
21 or audit by the Department of Revenue, such tax deficiency
22 shall be recovered from the first entity, or the surviving or
23 acquiring entity, to have claimed such credit up to the amount
24 of credit taken. Any subsequent deficiencies shall be
25 assessed against any entity acquiring and claiming such
26 credit, or in the case of multiple succeeding entities in the
27 order of credit succession.

28 (i) In order to encourage completion of site
29 rehabilitation at contaminated sites being voluntarily cleaned
30 up and eligible for a tax credit under this section, the tax
31 credit applicant ~~taxpayer~~ may claim an additional 10 percent

1 of the total cleanup costs, not to exceed \$50,000, in the
2 final year of cleanup as evidenced by the Department of
3 Environmental Protection issuing a "no further action" order
4 for that site.

5 Section 3. Section 376.30701, Florida Statutes, is
6 created to read:

7 376.30701 Application of risk-based corrective action
8 principles to contaminated sites; contamination cleanup
9 criteria; limitations; reopeners.--

10 (1) APPLICABILITY.--

11 (a) This section shall not create or establish any new
12 liability for site rehabilitation at contaminated sites. This
13 section is intended to describe a risk-based corrective action
14 process to be applied at sites where legal responsibility for
15 site rehabilitation exists pursuant to other provisions of
16 chapter 376 or chapter 403.

17 (b) This section shall apply to all contaminated sites
18 resulting from a discharge of pollutants or hazardous
19 substances where legal responsibility for site rehabilitation
20 exists pursuant to other provisions of chapter 376 or chapter
21 403, except for those contaminated sites subject to the
22 risk-based corrective action cleanup criteria established for
23 the petroleum, brownfields, and drycleaning programs pursuant
24 to ss. 376.3071, 376.81, and 376.3078, respectively.

25 (c) This section shall apply to a variety of site
26 rehabilitation scenarios, including, but not limited to, site
27 rehabilitation conducted voluntarily, site rehabilitation
28 conducted pursuant to the department's enforcement authority,
29 and site rehabilitation conducted as a state-managed cleanup
30 by the department.

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1 (d) This section, and any rules adopted pursuant to
2 this section, shall apply retroactively to all existing
3 contaminated sites where legal responsibility for site
4 rehabilitation exists pursuant to other provisions of chapter
5 376 or chapter 403, except those sites for which cleanup
6 target levels have been accepted by the department in an
7 approved technical document, current permit, or other written
8 agreement and except at those sites that have received a "no
9 further action" order or a site rehabilitation completion
10 order from the department. However, the person responsible for
11 site rehabilitation may elect to have the provisions of this
12 section, including cleanup target levels established pursuant
13 to this section, apply in lieu of those in an approved
14 technical document, current permit, or other written
15 agreement.

16 (e) Nothing in this section shall be construed to
17 prohibit or delay actions to respond to a discharge of
18 pollutants or hazardous substances prior to any contact with
19 the department. The risk-based corrective action process
20 contemplates appropriate emergency response action or initial
21 remedial action prior to any formal application of the
22 risk-based corrective action process involving site
23 assessment, and, if required, subsequent remedial action. Any
24 emergency response actions or initial remedial actions must be
25 conducted in accordance with all applicable federal, state,
26 and local laws and regulations.

27 (2) CONTAMINATION CLEANUP CRITERIA.--It is the intent
28 of the Legislature to protect the health of all people under
29 actual circumstances of exposure. By July 1, 2002, the
30 secretary of the department shall establish criteria by rule
31 for the purpose of determining, on a site-specific basis, the

1 rehabilitation program tasks that comprise a site
2 rehabilitation program, including a voluntary site
3 rehabilitation program, and the level at which a
4 rehabilitation program task and a site rehabilitation program
5 may be deemed completed. In establishing these rules, the
6 department shall apply, to the maximum extent feasible, a
7 risk-based corrective action process to achieve protection of
8 human health and safety and the environment in a
9 cost-effective manner based on the principles set forth in
10 this subsection. These rules shall prescribe a phased
11 risk-based corrective action process that is iterative and
12 that tailors site rehabilitation tasks to site-specific
13 conditions and risks. The department and the person
14 responsible for site rehabilitation are encouraged to
15 establish decision points at which risk management decisions
16 will be made. The department shall provide an early decision,
17 when requested, regarding applicable exposure factors and a
18 risk management approach based on the current and future land
19 use at the site. These rules shall also include protocols for
20 the use of natural attenuation, the use of institutional and
21 engineering controls, and the issuance of "no further action"
22 letters. The criteria for determining what constitutes a
23 rehabilitation program task or completion of a site
24 rehabilitation program task or site rehabilitation program,
25 including a voluntary site rehabilitation program, must:
26 (a) Consider the current exposure and potential risk
27 of exposure to humans and the environment, including multiple
28 pathways of exposure. The physical, chemical, and biological
29 characteristics of each contaminant must be considered in
30 order to determine the feasibility of risk-based corrective
31 action assessment.

1 (b) Establish the point of compliance at the source of
2 the contamination. However, the department is authorized to
3 temporarily move the point of compliance to the boundary of
4 the property, or to the edge of the plume when the plume is
5 within the property boundary, while cleanup, including cleanup
6 through natural attenuation processes in conjunction with
7 appropriate monitoring, is proceeding. The department also is
8 authorized, pursuant to criteria provided for in this section,
9 to temporarily extend the point of compliance beyond the
10 property boundary with appropriate monitoring, if such
11 extension is needed to facilitate natural attenuation or to
12 address the current conditions of the plume, provided human
13 health, public safety, and the environment are protected. When
14 temporarily extending the point of compliance beyond the
15 property boundary, it may not be extended further than the
16 lateral extent of the plume, if known, at the time of
17 execution of a cleanup agreement if required, or the lateral
18 extent of the plume as defined at the time of site assessment.
19 Temporary extension of the point of compliance beyond the
20 property boundary, as provided in this paragraph, must include
21 actual notice by the person responsible for site
22 rehabilitation to local governments and the owners of any
23 property into which the point of compliance is allowed to
24 extend and constructive notice to residents and business
25 tenants of the property into which the point of compliance is
26 allowed to extend. Persons receiving notice pursuant to this
27 paragraph shall have the opportunity to comment within 30 days
28 from receipt of the notice.

29 (c) Ensure that the site-specific cleanup goal is that
30 all contaminated sites being cleaned up pursuant to this
31 section ultimately achieve the applicable cleanup target

1 levels provided in this subsection. While proceeding pursuant
2 to this subsection, and after constructive notice and
3 opportunity to comment within 30 days from receipt of the
4 notice to local government, to owners of any property into
5 which the point of compliance is allowed to extend, and to
6 residents on any property into which the point of compliance
7 is allowed to extend, the department may allow concentrations
8 of contaminants to temporarily exceed the applicable cleanup
9 target levels while cleanup, including cleanup through natural
10 attenuation processes in conjunction with appropriate
11 monitoring, is proceeding, if human health, public safety, and
12 the environment are protected.

13 (d) Allow the use of institutional or engineering
14 controls at contaminated sites being cleaned up pursuant to
15 this section, where appropriate, to eliminate or control the
16 potential exposure to contaminants of humans or the
17 environment. The use of controls must be preapproved by the
18 department and only after constructive notice and opportunity
19 to comment within 30 days from receipt of the notice are
20 provided to local governments, to owners of any property into
21 which the point of compliance is allowed to extend, and to
22 residents on any property into which the point of compliance
23 is allowed to extend. When institutional or engineering
24 controls are implemented to control exposure, the removal of
25 the controls must have prior department approval and must be
26 accompanied by the resumption of active cleanup, or other
27 approved controls, unless cleanup target levels under this
28 section have been achieved.

29 (e) Consider the additive effects of contaminants. The
30 synergistic and antagonistic effects shall also be considered
31 when the scientific data become available.

1 (f) Take into consideration individual site
2 characteristics, which shall include, at a minimum, the
3 current and projected use of the affected groundwater and
4 surface water in the vicinity of the site, the current and
5 projected land uses of the area affected by the contamination,
6 the exposed population, the degree and extent of
7 contamination, the rate of contaminant migration, the apparent
8 or potential rate of contaminant degradation through natural
9 attenuation processes, the location of the plume, and the
10 potential for further migration in relation to site property
11 boundaries.

12 (g) Apply state water quality standards as follows:

13 1. Cleanup target levels for each contaminant found in
14 groundwater shall be the applicable state water quality
15 standards. Where such standards do not exist, the cleanup
16 target levels for groundwater shall be based on the minimum
17 criteria specified in department rule. The department shall
18 apply the following, as appropriate, in establishing the
19 applicable cleanup target levels: calculations using a
20 lifetime cancer risk level of 1.0E-6; a hazard index of 1 or
21 less; the best achievable detection limit; and nuisance,
22 organoleptic, and aesthetic considerations. However, the
23 department shall not require site rehabilitation to achieve a
24 cleanup target level for any individual contaminant that is
25 more stringent than the site-specific, naturally occurring
26 background concentration for that contaminant.

27 2. Where surface waters are exposed to contaminated
28 groundwater, the cleanup target levels for the contaminants
29 shall be based on the more protective of the groundwater or
30 surface water standards as established by department rule. The
31 point of measuring compliance with the surface water standards

1 shall be in the groundwater immediately adjacent to the
2 surface water body.

3 3. Using risk-based corrective action principles, the
4 department shall approve alternative cleanup target levels in
5 conjunction with institutional and engineering controls, if
6 needed, based upon an applicant's demonstration, using
7 site-specific data, modeling results, risk-assessment studies,
8 risk-reduction techniques, or a combination thereof, that
9 human health, public safety, and the environment are protected
10 to the same degree as provided in subparagraphs 1. and 2.
11 Where a state water quality standard is applicable, a
12 deviation may not result in the application of cleanup target
13 levels more stringent than the standard. In determining
14 whether it is appropriate to establish alternative cleanup
15 target levels at a site, the department must consider the
16 effectiveness of source removal, if any, that has been
17 completed at the site and the practical likelihood of the use
18 of low-yield or poor-quality groundwater, the use of
19 groundwater near marine surface water bodies, the current and
20 projected use of the affected groundwater in the vicinity of
21 the site, or the use of groundwater in the immediate vicinity
22 of the contaminated area, where it has been demonstrated that
23 the groundwater contamination is not migrating away from such
24 localized source, provided human health, public safety, and
25 the environment are protected.

26 (h) Provide for the department to issue a "no further
27 action" order, with conditions, including the use of
28 institutional or engineering controls where appropriate, when
29 alternative cleanup target levels established pursuant to
30 subparagraph (g)3. have been achieved, or when the person
31 responsible for site rehabilitation can demonstrate that the

1 cleanup target level is unachievable within available
2 technologies. Prior to issuing such an order, the department
3 shall consider the feasibility of an alternative site
4 rehabilitation technology at the contaminated site.
5 (i) Establish appropriate cleanup target levels for
6 soils.
7 1. In establishing soil cleanup target levels for
8 human exposure to each contaminant found in soils from the
9 land surface to 2 feet below land surface, the department
10 shall apply the following, as appropriate: calculations using
11 a lifetime cancer risk level of 1.0E-6; a hazard index of 1 or
12 less; and the best achievable detection limit. However, the
13 department shall not require site rehabilitation to achieve a
14 cleanup target level for an individual contaminant that is
15 more stringent than the site-specific, naturally occurring
16 background concentration for that contaminant. Institutional
17 controls or other methods shall be used to prevent human
18 exposure to contaminated soils more than 2 feet below the land
19 surface. Any removal of such institutional controls shall
20 require such contaminated soils to be remediated.
21 2. Leachability-based soil cleanup target levels shall
22 be based on protection of the groundwater cleanup target
23 levels or the alternate cleanup target levels for groundwater
24 established pursuant to this paragraph, as appropriate. Source
25 removal and other cost-effective alternatives that are
26 technologically feasible shall be considered in achieving the
27 leachability soil cleanup target levels established by the
28 department. The leachability goals shall not be applicable if
29 the department determines, based upon individual site
30 characteristics, and in conjunction with institutional and
31 engineering controls, if needed, that contaminants will not

1 leach into the groundwater at levels that pose a threat to
2 human health, public safety, and the environment.

3 3. Using risk-based corrective action principles, the
4 department shall approve alternative cleanup target levels in
5 conjunction with institutional and engineering controls, if
6 needed, based upon an applicant's demonstration, using
7 site-specific data, modeling results, risk-assessment studies,
8 risk-reduction techniques, or a combination thereof, that
9 human health, public safety, and the environment are protected
10 to the same degree as provided in subparagraphs 1. and 2.

11
12 The department shall require source removal, as a
13 risk-reduction measure, if warranted and cost-effective. Once
14 source removal at a site is complete, the department shall
15 reevaluate the site to determine the degree of active cleanup
16 needed to continue. Further, the department shall determine if
17 the reevaluated site qualifies for monitoring only or if no
18 further action is required to rehabilitate the site. If
19 additional site rehabilitation is necessary to reach "no
20 further action" status, the department is encouraged to
21 utilize natural attenuation and monitoring where site
22 conditions warrant.

23 (3) LIMITATIONS.--The cleanup criteria established
24 pursuant to this section govern only site rehabilitation
25 activities occurring at the contaminated site. Removal of
26 contaminated media from a site for offsite relocation or
27 treatment must be in accordance with all applicable federal,
28 state, and local laws, rules, and regulations.

29 (4) REOPENERS.--Upon completion of site rehabilitation
30 in compliance with subsection (2), additional site
31 rehabilitation is not required unless it is demonstrated that:

1 (a) Fraud was committed in demonstrating site
2 conditions or completion of site rehabilitation;

3 (b) New information confirms the existence of an area
4 of previously unknown contamination that exceeds the
5 site-specific rehabilitation levels established in accordance
6 with subsection (2), or that otherwise poses the threat of
7 real and substantial harm to human health, public safety, or
8 the environment;

9 (c) The remediation efforts failed to achieve the site
10 rehabilitation criteria established under this section;

11 (d) The level of risk is increased beyond the
12 acceptable risk established under subsection (2) due to
13 substantial changes in exposure conditions, such as a change
14 in land use from nonresidential to residential use. Any person
15 who changes the land use of the site, thus causing the level
16 of risk to increase beyond the acceptable risk level, may be
17 required by the department to undertake additional remediation
18 measures to assure that human health, public safety, and the
19 environment are protected consistent with this section; or

20 (e) A new discharge of pollutants or hazardous
21 substances occurs at the site subsequent to the issuance of a
22 "no further action" letter or site rehabilitation completion
23 order associated with the original contamination being
24 addressed pursuant to this section.

25 Section 4. Section 376.30781, Florida Statutes, is
26 amended to read:

27 376.30781 Partial tax credits for rehabilitation of
28 drycleaning-solvent-contaminated sites and brownfield sites in
29 designated brownfield areas; application process; rulemaking
30 authority; revocation authority.--

31 (1) The Legislature finds that:

1 (a) To facilitate property transactions and economic
2 growth and development, it is in the interest of the state to
3 encourage the cleanup, at the earliest possible time, of
4 drycleaning-solvent-contaminated sites and brownfield sites in
5 designated brownfield areas.

6 (b) It is the intent of the Legislature to encourage
7 the voluntary cleanup of drycleaning-solvent-contaminated
8 sites and brownfield sites in designated brownfield areas by
9 providing a partial tax credit for the restoration of such
10 property in specified circumstances.

11 (2)(a) A credit in the amount of 35 percent of the
12 costs of voluntary cleanup activity that is integral to site
13 rehabilitation at the following sites is allowed pursuant to
14 ss. 199.1055 and 220.1845:

15 1. A drycleaning-solvent-contaminated site eligible
16 for state-funded site rehabilitation under s. 376.3078(3);

17 2. A drycleaning-solvent-contaminated site at which
18 cleanup is undertaken by the real property owner pursuant to
19 s. 376.3078(11), if the real property owner is not also, and
20 has never been, the owner or operator of the drycleaning
21 facility where the contamination exists; or

22 3. A brownfield site in a designated brownfield area
23 under s. 376.80.

24 (b) A tax credit applicant, or multiple tax credit
25 applicants taxpayer, or multiple taxpayers working jointly to
26 clean up a single site, may not be granted ~~receive~~ more than
27 \$250,000 per year in tax credits for each site voluntarily
28 rehabilitated. Multiple tax credit applicants ~~taxpayers~~ shall
29 be granted ~~receive~~ tax credits in the same proportion as their
30 contribution to payment of cleanup costs. Tax credits are
31 available only for site rehabilitation conducted during the

1 calendar tax year for in which the tax credit application is
2 submitted.

3 (c) In order to encourage completion of site
4 rehabilitation at contaminated sites that are being
5 voluntarily cleaned up and that are eligible for a tax credit
6 under this section, the tax credit applicant may claim an
7 additional 10 percent of the total cleanup costs, not to
8 exceed \$50,000, in the final year of cleanup as evidenced by
9 the department ~~of Environmental Protection~~ issuing a "no
10 further action" order for that site.

11 (3) The department ~~of Environmental Protection~~ shall
12 be responsible for allocating the tax credits provided for in
13 ss. 199.1055 and 220.1845, not to exceed a total of \$2 million
14 in tax credits annually.

15 (4) To claim the credit for site rehabilitation
16 conducted during the current calendar year, each tax credit
17 applicant must apply to the department ~~of Environmental~~
18 ~~Protection~~ for an allocation of the \$2 million annual credit
19 by January 15 of the following year ~~December 31~~ on a form
20 developed by the department ~~of Environmental Protection~~ in
21 cooperation with the Department of Revenue. The form shall
22 include an affidavit from each tax credit applicant certifying
23 that all information contained in the application, including
24 all records of costs incurred and claimed in the tax credit
25 application, are true and correct. If the application is
26 submitted pursuant to subparagraph (2)(a)2., the form must
27 include an affidavit signed by the real property owner stating
28 that it is not, and has never been, the owner or operator of
29 the drycleaning facility where the contamination exists.
30 Approval of partial tax credits must be accomplished on a
31 first-come, first-served basis based upon the date complete

1 applications are received by the Division of Waste Management.
2 A tax credit ~~An~~ applicant shall submit only one complete
3 application per site for each calendar year's site
4 rehabilitation costs. Incomplete placeholder applications
5 shall not be accepted and will not secure a place in the
6 first-come, first-served application priority order per year.
7 To be eligible for a tax credit, the tax credit applicant
8 must:

9 (a) Have entered into a voluntary cleanup agreement
10 with the department of ~~Environmental Protection~~ for a
11 drycleaning-solvent-contaminated site or a Brownfield Site
12 Rehabilitation Agreement, as applicable; and

13 (b) Have paid all deductibles pursuant to s.
14 376.3078(3)(d) for eligible drycleaning-solvent-cleanup
15 program sites.

16 (5) To obtain the tax credit certificate, a tax credit
17 ~~an~~ applicant must annually file an application for
18 certification, which must be received by the Division of Waste
19 Management ~~Department of Environmental Protection~~ by January
20 15 of the year following the calendar year for which site
21 rehabilitation costs are being claimed in a tax credit
22 application ~~December 31~~. The tax credit applicant must provide
23 all pertinent information requested on the tax credit
24 application form, including, at a minimum, the name and
25 address of the tax credit applicant and the address and
26 tracking identification number of the eligible site. Along
27 with the application form, the tax credit applicant must
28 submit the following:

29 (a) A nonrefundable review fee of \$250 made payable to
30 the Water Quality Assurance Trust Fund to cover the
31

1 administrative costs associated with the department's review
2 of the tax credit application;

3 (b) Copies of contracts and documentation of contract
4 negotiations, accounts, invoices, sales tickets, or other
5 payment records from purchases, sales, leases, or other
6 transactions involving actual costs incurred for that tax year
7 related to site rehabilitation, as that term is defined in ss.
8 376.301 and 376.79;

9 (c) Proof that the documentation submitted pursuant to
10 paragraph (b) has been reviewed and verified by an independent
11 certified public accountant in accordance with standards
12 established by the American Institute of Certified Public
13 Accountants. Specifically, the certified public accountant
14 must attest to the accuracy and validity of the costs incurred
15 and paid by conducting an independent review of the data
16 presented by the applicant. Accuracy and validity of costs
17 incurred and paid would be determined once the level of effort
18 was certified by an appropriate professional registered in
19 this state in each contributing technical discipline. The
20 certified public accountant's report would also attest that
21 the costs included in the application form are not duplicated
22 within the application. A copy of the accountant's report
23 shall be submitted to the Department of Environmental
24 Protection with the tax credit application; and

25 (d) A certification form stating that site
26 rehabilitation activities associated with the documentation
27 submitted pursuant to paragraph (b) have been conducted under
28 the observation of, and related technical documents have been
29 signed and sealed by, an appropriate professional registered
30 in this state in each contributing technical discipline. The
31 certification form shall be signed and sealed by the

1 appropriate registered professionals stating that the costs
2 incurred were integral, necessary, and required for site
3 rehabilitation, as that term is defined in ss. 376.301 and
4 376.79.

5 (6) The certified public accountant and appropriate
6 registered professionals submitting forms as part of a tax
7 credit application must verify such forms. Verification must
8 be accomplished as provided in s. 92.525(1)(b) and subject to
9 the provisions of s. 92.525(3).

10 (7) The department ~~of Environmental Protection~~ shall
11 review the tax credit application, and any supplemental
12 documentation that the tax credit applicant may submit prior
13 to the annual application deadline in order to have the
14 application considered complete ~~submitted by each applicant,~~
15 for the purpose of verifying that the tax credit applicant has
16 met the qualifying criteria in subsections (2) and (4) and has
17 submitted all required documentation listed in subsection (5).
18 Upon verification that the tax credit applicant has met these
19 requirements, the department shall issue a written decision
20 granting eligibility for partial tax credits (a tax credit
21 certificate) in the amount of 35 percent of the total costs
22 claimed, subject to the \$250,000 limitation, for the calendar
23 tax year for ~~in~~ which the tax credit application is submitted
24 based on the report of the certified public accountant and the
25 certifications from the appropriate registered technical
26 professionals.

27 (8) On or before March 1, the department ~~of~~
28 ~~Environmental Protection~~ shall inform each eligible tax credit
29 applicant of the amount of its partial tax credit and provide
30 each eligible tax credit applicant with a tax credit
31 certificate that must be submitted with its tax return to the

1 Department of Revenue to claim the tax credit or be
2 transferred pursuant to s. 199.1055(1)(g) or s.
3 220.1845(1)(h). Credits will not result in the payment of
4 refunds if total credits exceed the amount of tax owed.

5 (9) If a tax credit ~~an~~ applicant does not receive a
6 tax credit allocation due to an exhaustion of the \$2 million
7 annual tax credit authorization, such application will then be
8 included in the same first-come, first-served order in the
9 next year's annual tax credit allocation, if any, based on the
10 prior year application.

11 (10) The department ~~of Environmental Protection~~ may
12 adopt rules to prescribe the necessary forms required to claim
13 tax credits under this section and to provide the
14 administrative guidelines and procedures required to
15 administer this section. ~~Prior to the adoption of rules~~
16 ~~regulating the tax credit application, the department shall,~~
17 ~~by September 1, 1998, establish reasonable interim application~~
18 ~~requirements and forms.~~

19 (11) The department ~~of Environmental Protection~~ may
20 revoke or modify any written decision granting eligibility for
21 partial tax credits under this section if it is discovered
22 that the tax credit applicant submitted any false statement,
23 representation, or certification in any application, record,
24 report, plan, or other document filed in an attempt to receive
25 partial tax credits under this section. The department ~~of~~
26 ~~Environmental Protection~~ shall immediately notify the
27 Department of Revenue of any revoked or modified orders
28 affecting previously granted partial tax credits.
29 Additionally, the tax credit applicant ~~taxpayer~~ must notify
30 the Department of Revenue of any change in its tax credit
31 claimed.

