

By the Committees on Community Affairs; Environmental Preservation and Conservation; and Senator Constantine

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1 A bill to be entitled

2 An act relating to brownfield site redevelopment; amending
3 s. 220.1845, F.S.; revising requirements for site
4 rehabilitation tax credits; expanding eligibility for site
5 rehabilitation tax credits; providing for application to
6 brownfield site redevelopment solid waste removal costs;
7 providing requirements and limitations; providing
8 definitions; providing for application to construction and
9 operation of new health care facilities or health care
10 providers on brownfield sites; providing requirements;
11 amending s. 376.30715, F.S.; providing for financial
12 assistance in certain additional circumstances involving a
13 transfer of contaminated property; amending s. 376.30781,
14 F.S.; revising provisions providing tax credits for
15 rehabilitation of certain contaminated sites and
16 brownfield sites; providing for application to solid waste
17 removal activities and site rehabilitation; providing for
18 granting tax credits to multiple applicants; providing
19 criteria for claiming costs for solid waste removal;
20 providing definitions; providing for application to
21 construction and operation of new health care facilities
22 or health care providers on brownfield sites; providing
23 requirements; revising criteria and requirements for
24 granting site rehabilitation tax credits; providing
25 criteria and requirements for granting solid waste removal
26 tax credits; revising criteria and requirements for
27 Department of Environmental Protection review of tax
28 credit applications; providing notice requirements for the
29 department in reviewing applications; increasing available

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30 amounts eligible for tax credits; providing additional
31 limitations on tax credit awards for site rehabilitation
32 costs and solid waste removal costs; providing
33 construction of costs not eligible for tax credits;
34 providing requirements and procedures for allocating and
35 awarding certain ineligible or disputed costs; amending s.
36 376.77, F.S.; conforming cross-references; amending s.
37 376.79, F.S.; revising definitions relating to brownfield
38 redevelopment; conforming a cross-reference; amending s.
39 376.80, F.S.; revising the brownfield program
40 administration process; revising local government proposal
41 requirements; revising requirements for brownfield site
42 redevelopment agreements; deleting certain brownfield site
43 rehabilitation contractor certification requirements;
44 deleting a requirement that certain professionals carry
45 professional liability insurance; providing legislative
46 findings and declarations; authorizing local governments
47 to evaluate certain benefits and effects of brownfield
48 site redevelopment and rehabilitation; providing criteria;
49 authorizing the Department of Health to assist local
50 governments in such evaluations; amending ss. 376.82 and
51 376.83, F.S.; conforming cross-references; amending s.
52 376.86, F.S.; providing for limited application of
53 Brownfield Areas Loan Guarantee Program grants to
54 construction and operation of new health care facilities
55 and health care providers; expanding membership of the
56 Brownfield Areas Loan Guarantee Council; amending s.
57 163.3221, F.S.; conforming a cross-reference; providing
58 for retroactive application; providing an effective date.

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

Section 1. Paragraphs (a), (c), (g), and (i) of subsection (1) and subsection (2) of section 220.1845, Florida Statutes, are amended, and paragraphs (j) and (k) are added to subsection (1) of that section, to read:

220.1845 Contaminated site rehabilitation tax credit.--

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

(a) A credit in the amount of 50 percent of the costs of voluntary cleanup activity that is integral to site rehabilitation at the following sites is available against any tax due for a taxable year under this chapter:

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

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

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

(c) If the credit granted under this section is not fully used in any one year because of insufficient tax liability on the part of the corporation, the unused amount may be carried forward for up to a period not to exceed 5 years. The carryover credit may be used in a subsequent year if ~~when~~ the tax imposed by this chapter for that year exceeds the credit for which the corporation is eligible in that year ~~under this section~~ after

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88 applying the other credits and unused carryovers in the order
89 provided by s. 220.02(8). ~~Five years after the date a credit is~~
90 ~~granted under this section, such credit expires and may not be~~
91 ~~used. However,~~ If during the 5-year period the credit is
92 transferred, in whole or in part, pursuant to paragraph (g), each
93 transferee has 5 years after the date of transfer to use its
94 credit.

95 (g)1. Tax credits that may be available under this section
96 to an entity eligible under s. 376.30781 may be transferred after
97 a merger or acquisition to the surviving or acquiring entity and
98 used in the same manner and with the same limitations.

99 2. The entity or its surviving or acquiring entity as
100 described in subparagraph 1.7 may transfer any unused credit in
101 whole or in units of at least ~~no less than~~ 25 percent of the
102 remaining credit. The entity acquiring such credit may use it in
103 the same manner and with the same limitation as described in this
104 section. Such transferred credits may not be transferred again
105 although they may succeed to a surviving or acquiring entity
106 subject to the same conditions and limitations as described in
107 this section.

108 3. ~~If In the event~~ the credit ~~provided for under this~~
109 ~~section~~ is reduced due to ~~either as a result of~~ a determination
110 by the Department of Environmental Protection or an examination
111 or audit by the Department of Revenue, the ~~such~~ tax deficiency
112 shall be recovered from the first entity, or the surviving or
113 acquiring entity that, ~~to have claimed the~~ such credit up to the
114 amount of credit taken. Any subsequent deficiencies shall be
115 assessed against the ~~any~~ entity acquiring and claiming the ~~such~~
116 credit, or in the case of multiple succeeding entities in the

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117 order of credit succession.

118 (i) In order to encourage the construction of housing that
119 meets the definition of affordable provided in s. 420.0004~~(3)~~, an
120 applicant for the tax credit may claim an additional 25 percent
121 of the total site rehabilitation costs that are eligible for tax
122 credits under this section, not to exceed \$500,000. In order to
123 receive this additional tax credit, the applicant must provide a
124 certification letter from the Florida Housing Finance
125 Corporation, the local housing authority, or other governmental
126 agency that is a party to the use agreement, ~~indicating that the~~
127 ~~construction on the brownfield site is complete, the brownfield~~
128 ~~site~~ has received a certificate of occupancy, ~~and the brownfield~~
129 site has a properly recorded instrument that limits the use of
130 the property to housing that meets the definition of affordable
131 provided in s. 420.0004~~(3)~~.

132 (j) In order to encourage the redevelopment of a brownfield
133 site, as defined in the brownfield site rehabilitation agreement,
134 which is hindered by the presence of solid waste, as defined in
135 s. 403.703, a tax credit applicant, or multiple tax credit
136 applicants working jointly to clean up a single brownfield site,
137 may also claim costs required to address solid waste removal as
138 defined in this paragraph in accordance with rules of the
139 Department of Environmental Protection. Multiple tax credit
140 applicants shall be granted tax credits in the same proportion as
141 each applicant's contribution to payment of solid waste removal
142 costs. These costs are eligible for a tax credit provided the
143 applicant submits an affidavit stating that, after consultation
144 with appropriate local government officials and the Department of
145 Environmental Protection, to the best of the applicant's

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146 knowledge according to such consultation and available historical
147 records, the brownfield site was never operated as a permitted
148 solid waste disposal area or was never operated for monetary
149 compensation and the applicant submits all other documentation
150 and certifications required by this section. Under this section,
151 wherever reference is made to "site rehabilitation," the
152 Department of Environmental Protection shall instead consider
153 whether or not the costs claimed are for solid waste removal. Tax
154 credit applications claiming costs pursuant to this paragraph
155 shall not be subject to the calendar-year limitation and January
156 31 annual application deadline, and the Department of
157 Environmental Protection shall accept a one-time application
158 filed subsequent to the completion by the tax credit applicant of
159 the applicable requirements listed in this section. A tax credit
160 applicant may claim 50 percent of the cost for solid waste
161 removal, not to exceed \$500,000, after the applicant has
162 determined solid waste removal is completed for the brownfield
163 site. A solid waste removal tax credit application may be filed
164 only once per brownfield site. For the purposes of this section,
165 the term:

166 1. "Solid waste disposal area" means a landfill, dump, or
167 other area where solid waste has been disposed of.

168 2. "Monetary compensation" means the fees that were charged
169 or the assessments that were levied for the disposal of solid
170 waste at a solid waste disposal area.

171 3. "Solid waste removal" means removal of solid waste from
172 the land surface or excavation of solid waste from below the land
173 surface and removal of the solid waste from the brownfield site.

174 The term also includes:

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175 a. Transportation of solid waste to a licensed or exempt
176 solid waste management facility or to a temporary storage area.

177 b. Sorting or screening of solid waste prior to removal
178 from the site.

179 c. Deposition of solid waste at a permitted or exempt solid
180 waste management facility, whether the solid waste is disposed of
181 or recycled.

182 (k) In order to encourage the construction and operation of
183 a new health care facility as defined in s. 408.032 or s. 408.07,
184 or a health care provider as defined in s. 408.07 or s. 408.7056,
185 on a brownfield site, an applicant for a tax credit may claim an
186 additional 25 percent of the total site rehabilitation costs, not
187 to exceed \$500,000, if the applicant meets the requirements of
188 this paragraph. In order to receive this additional tax credit,
189 the applicant must provide documentation indicating that the
190 construction of the health care facility or health care provider
191 by the applicant on the brownfield site has received a
192 certificate of occupancy or a license or certificate has been
193 issued for the operation of the health care facility or health
194 care provider.

195 (2) FILING REQUIREMENTS.--Any corporation that wishes to
196 obtain credit under this section must submit with its return a
197 tax credit certificate approving ~~partial~~ tax credits issued by
198 the Department of Environmental Protection under s. 376.30781.

199 Section 2. Section 376.30715, Florida Statutes, is amended
200 to read:

201 376.30715 Innocent victim petroleum storage system
202 restoration.--A contaminated site acquired by the current owner
203 prior to July 1, 1990, which has ceased operating as a petroleum

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204 storage or retail business prior to January 1, 1985, is eligible
205 for financial assistance pursuant to s. 376.305(6),
206 notwithstanding s. 376.305(6)(a). For purposes of this section,
207 the term "acquired" means the acquisition of title to the
208 property; however, a subsequent transfer of the property to a
209 spouse, a surviving spouse in trust or free of trust, or a
210 revocable trust created for the benefit of the settlor does not
211 disqualify the site from financial assistance pursuant to s.
212 376.305(6). Eligible sites shall be ranked in accordance with s.
213 376.3071(5).

214 Section 3. Section 376.30781, Florida Statutes, is amended
215 to read:

216 376.30781 ~~Partial~~ Tax credits for rehabilitation of
217 drycleaning-solvent-contaminated sites and brownfield sites in
218 designated brownfield areas; application process; rulemaking
219 authority; revocation authority.--

220 (1) The Legislature finds that:

221 (a) To facilitate property transactions and economic growth
222 and development, it is in the state's interest ~~of the state~~ to
223 encourage the cleanup, at the earliest possible time, of
224 drycleaning-solvent-contaminated sites and brownfield sites in
225 designated brownfield areas.

226 (b) It is the intent of the Legislature to encourage the
227 voluntary cleanup of drycleaning-solvent-contaminated sites and
228 brownfield sites in designated brownfield areas by providing a
229 ~~partial~~ tax credit for the restoration of such property in
230 specified circumstances.

231 (2) Notwithstanding the requirements of subsection
232 ~~paragraph~~ (5)(a), tax credits allowed pursuant to s. 220.1845 are

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233 available for ~~any~~ site rehabilitation or solid waste removal
234 conducted during the calendar year in which the applicable
235 voluntary cleanup agreement or brownfield site rehabilitation
236 agreement is executed, even if the site rehabilitation or solid
237 waste removal is conducted prior to the execution of that
238 agreement or the designation of the brownfield area.

239 (3) (a) A credit in the amount of 50 percent of the costs of
240 voluntary cleanup activity that is integral to site
241 rehabilitation at the following sites is allowed pursuant to s.
242 220.1845:

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

245 2. A drycleaning-solvent-contaminated site at which site
246 rehabilitation ~~cleanup~~ is undertaken by the real property owner
247 pursuant to s. 376.3078(11), if the real property owner is not
248 also, and has never been, the owner or operator of the
249 drycleaning facility where the contamination exists; or

250 3. A brownfield site in a designated brownfield area under
251 s. 376.80.

252 (b) A tax credit applicant, or multiple tax credit
253 applicants working jointly to clean up a single site, may not
254 receive ~~be granted~~ more than \$500,000 per year in tax credits for
255 each site voluntarily rehabilitated. Multiple tax credit
256 applicants shall be granted tax credits in the same proportion as
257 each applicant's ~~their~~ contribution to payment of site
258 rehabilitation ~~cleanup~~ costs. Tax credits are available only for
259 site rehabilitation conducted during the calendar year for which
260 the tax credit application is submitted. For purposes of this
261 section, the term "integral to site rehabilitation" means work

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262 that is necessary to implement the requirements of chapter 62-785
263 or chapter 62-782, Florida Administrative Code.

264 (c) In order to encourage completion of site rehabilitation
265 at contaminated sites that are being voluntarily cleaned up and
266 that are eligible for a tax credit under this section, the tax
267 credit applicant may claim an additional 25 percent of the total
268 site rehabilitation ~~cleanup~~ costs, not to exceed \$500,000, in the
269 final year of cleanup as evidenced by the Department of
270 Environmental Protection issuing a "No Further Action" order for
271 that site.

272 (d) In order to encourage the construction of housing that
273 meets the definition of affordable provided in s. 420.0004(3), an
274 applicant for the tax credit may claim an additional 25 percent
275 of the total site rehabilitation costs that are eligible for tax
276 credits under this section, not to exceed \$500,000. ~~In order~~ To
277 receive this additional tax credit, the applicant must provide a
278 certification letter from the Florida Housing Finance
279 Corporation, the local housing authority, or other governmental
280 agency that is a party to the use agreement, indicating that the
281 construction on the brownfield site ~~is complete, the brownfield~~
282 ~~site~~ has received a certificate of occupancy, and the brownfield
283 site has a properly recorded instrument that limits the use of
284 the property to housing ~~that meets the definition of affordable~~
285 ~~provided in s. 420.0004(3)~~. Notwithstanding ~~the limitation~~ that
286 only one application may ~~shall~~ be submitted each year for each
287 site, an application for the additional credit provided for in
288 this paragraph shall be submitted after ~~as soon as~~ all
289 requirements to obtain the ~~this~~ additional tax credit have been
290 met.

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291 (e) In order ~~Notwithstanding the restrictions in this~~
292 ~~section that limit tax credit eligibility to costs that are~~
293 ~~integral to site rehabilitation,~~ to encourage the redevelopment
294 of a brownfield site, as defined in the brownfield site
295 rehabilitation agreement, which is ~~properties in designated~~
296 ~~brownfield areas that are~~ hindered by the presence of solid
297 waste, as defined in s. 403.703, costs related to solid waste
298 removal may also be claimed under this section. A tax credit
299 applicant, or multiple tax credit applicants working jointly to
300 clean up a single brownfield site, may also claim costs to
301 address the solid waste removal as defined in this paragraph, ~~but~~
302 ~~only those costs to remove, transport, and dispose of solid waste~~
303 in accordance with department rules. Multiple tax credit
304 applicants shall be granted tax credits in the same proportion as
305 each applicant's contribution to payment of solid waste removal
306 costs. These costs are eligible for a tax credit provided the
307 applicant submits an affidavit stating that, after consultation
308 with appropriate local government officials and the department,
309 to the best of the applicant's knowledge based upon such
310 consultation and available historical records, the brownfield
311 site was never operated as a permitted solid waste disposal area
312 or was never operated ~~landfill or dump site~~ for monetary
313 compensation, and the applicant submits all other documentation
314 and certifications required by this section. In this section,
315 where reference is made to "site rehabilitation," the department
316 shall instead consider whether the costs claimed are for solid
317 waste removal, ~~transportation, and disposal of solid waste.~~ Tax
318 credit applications claiming costs pursuant to this paragraph
319 shall not be subject to the calendar-year limitation and January

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320 31 ~~15~~ annual application deadline, and the department shall
321 accept a one-time application filed subsequent to the completion
322 by the tax credit applicant of the applicable requirements listed
323 in this subsection ~~paragraph~~. A tax credit applicant may claim 50
324 percent of the costs for solid waste removal, not to exceed
325 \$500,000, after the applicant has determined solid waste removal
326 is completed for the brownfield site. A solid waste removal tax
327 credit application may be filed only once per brownfield site.

328 For the purposes of this section, the term:

329 1. "Solid waste disposal area" means a landfill, dump, or
330 other area where solid waste has been disposed of.

331 2. "Monetary compensation" means the fees that were charged
332 or the assessments that were levied for the disposal of solid
333 waste at a solid waste disposal area.

334 3. "Solid waste removal" means removal of solid waste from
335 the land surface or excavation of solid waste from below the land
336 surface and removal of the solid waste from the brownfield site.

337 The term also includes:

338 a. Transportation of solid waste to a licensed or exempt
339 solid waste management facility or to a temporary storage area.

340 b. Sorting or screening of solid waste prior to removal
341 from the site.

342 c. Deposition of solid waste at a permitted or exempt solid
343 waste management facility, whether the solid waste is disposed of
344 or recycled.

345 (f) In order to encourage the construction and operation of
346 a new health care facility or a health care provider, as defined
347 in s. 408.032, s. 408.07, or s. 408.7056, on a brownfield site,
348 an applicant for a tax credit may claim an additional 25 percent

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349 of the total site rehabilitation costs, not to exceed \$500,000,
350 if the applicant meets the requirements of this paragraph. In
351 order to receive this additional tax credit, the applicant must
352 provide documentation indicating that the construction of the
353 health care facility or health care provider by the applicant on
354 the brownfield site has received a certificate of occupancy or a
355 license or certificate has been issued for the operation of the
356 health care facility or health care provider.

357 (4) The Department of Environmental Protection ~~is shall be~~
358 responsible for allocating the tax credits provided for in s.
359 220.1845, which may not ~~to~~ exceed a total of \$2 million in tax
360 credits annually.

361 (5) To claim the credit for site rehabilitation or solid
362 waste removal ~~conducted during the current calendar year~~, each
363 tax credit applicant must apply to the Department of
364 Environmental Protection for an allocation of the \$2 million
365 annual credit by filing a tax credit application with the
366 Division of Waste Management ~~January 15 of the following year~~ on
367 a form developed by the Department of Environmental Protection in
368 cooperation with the Department of Revenue. The form shall
369 include an affidavit from each tax credit applicant certifying
370 that all information contained in the application, including all
371 records of costs incurred and claimed in the tax credit
372 application, are true and correct. If the application is
373 submitted pursuant to subparagraph (3)(a)2., the form must
374 include an affidavit signed by the real property owner stating
375 that it is not, and has never been, the owner or operator of the
376 drycleaning facility where the contamination exists. Approval of
377 ~~partial~~ tax credits must be accomplished on a first-come, first-

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378 served basis based upon the date and time complete applications
379 are received by the Division of Waste Management, subject to the
380 limitations of subsection (14). ~~A tax credit applicant shall~~
381 ~~submit only one complete application per site for each calendar~~
382 ~~year's site rehabilitation costs. Incomplete placeholder~~
383 ~~applications shall not be accepted and will not secure a place in~~
384 ~~the first-come, first-served application line.~~ To be eligible for
385 a tax credit, the tax credit applicant must:

386 (a) For site rehabilitation tax credits, have entered into
387 a voluntary cleanup agreement with the Department of
388 Environmental Protection for a drycleaning-solvent-contaminated
389 site or a Brownfield Site Rehabilitation Agreement, as
390 applicable,~~r~~ and have paid all deductibles pursuant to s.
391 376.3078(3)(e) for eligible drycleaning-solvent-cleanup program
392 sites, as applicable. A site rehabilitation tax credit applicant
393 must submit only a single completed application per site for each
394 calendar year's site rehabilitation costs. A site rehabilitation
395 application must be received by the Division of Waste Management
396 of the Department of Environmental Protection by January 31 of
397 the year after the calendar year for which site rehabilitation
398 costs are being claimed in a tax credit application.

399 (b) For solid waste removal tax credits, have entered into
400 a brownfield site rehabilitation agreement with the Department of
401 Environmental Protection. A solid waste removal tax credit
402 applicant must submit only a single complete application per
403 brownfield site, as defined in the brownfield site rehabilitation
404 agreement, for solid waste removal costs. A solid waste removal
405 tax credit application must be received by the Division of Waste
406 Management of the Department of Environmental Protection

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407 subsequent to the completion of the requirements listed in
408 paragraph (3) (e) ~~Have paid all deductibles pursuant to s.~~
409 ~~376.3078(3) (e) for eligible drycleaning solvent cleanup program~~
410 sites.

411 (6) To obtain the tax credit certificate, ~~a tax credit~~
412 ~~applicant must annually file an application for certification,~~
413 ~~which must be received by the Division of Waste Management of the~~
414 ~~Department of Environmental Protection by January 15 of the year~~
415 ~~following the calendar year for which site rehabilitation costs~~
416 ~~are being claimed in a tax credit application.~~ the tax credit
417 applicant must provide all pertinent information requested on the
418 tax credit application form, including, at a minimum, the name
419 and address of the tax credit applicant and the address and
420 tracking identification number of the eligible site. Along with
421 the tax credit application form, the tax credit applicant must
422 submit the following:

423 (a) A nonrefundable review fee of \$250 made payable to the
424 Water Quality Assurance Trust Fund to cover the administrative
425 costs associated with the department's review of the tax credit
426 application;

427 (b) Copies of documents that describe the goods or services
428 and associated costs being claimed that were integral to site
429 rehabilitation as defined in s. 376.301 or s. 376.79 or were for
430 solid waste removal as defined in this section during the time
431 period covered by the application. Such documents must include
432 contractual records that describe the scope of work performed,
433 payment requests that describe the goods or services provided,
434 and payment records involving actual costs incurred and paid.
435 Such documentation must be sufficient to demonstrate a link

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436 between the contractual records, the payment requests, and the
437 payment records for the time period covered by the application
438 ~~contracts and documentation of contract negotiations, accounts,~~
439 ~~invoices, sales tickets, or other payment records from purchases,~~
440 ~~sales, leases, or other transactions involving actual costs~~
441 ~~incurred for that tax year related to site rehabilitation, as~~
442 ~~that term is defined in ss. 376.301 and 376.79;~~

443 (c) Proof that the documentation submitted pursuant to
444 paragraph (b) has been reviewed and verified by an independent
445 certified public accountant in accordance with standards
446 established by the American Institute of Certified Public
447 Accountants. Specifically, a certified public accountant's report
448 must be submitted and the certified public accountant must attest
449 to the accuracy and validity of the costs incurred and paid
450 during the time period covered in the application by conducting
451 an independent review of the data presented by the tax credit
452 applicant. Accuracy and validity of costs incurred and paid shall
453 ~~would~~ be determined after ~~once~~ the level of effort is ~~was~~
454 certified by an appropriate professional registered in this state
455 in each contributing technical discipline. The certified public
456 accountant's report must ~~would~~ also attest that the costs
457 included in the application form are not duplicated within the
458 application. A copy of the accountant's report shall be submitted
459 to the Department of Environmental Protection in addition to the
460 accountant's certification form in ~~with~~ the tax credit
461 application; and

462 (d) A certification form stating that ~~site rehabilitation~~
463 activities associated with the documentation submitted pursuant
464 to paragraph (b) have been conducted under the observation of,

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465 and related technical documents have been signed and sealed by,
466 an appropriate professional registered in this state in each
467 contributing technical discipline. The certification form shall
468 be signed and sealed by the appropriate registered professionals
469 stating that the costs incurred were integral, necessary, and
470 required for site rehabilitation, as that term is defined in ss.
471 376.301 and 376.79. If the scope of solid waste removal
472 activities does not require oversight by a registered technical
473 professional in this state, such certification form is not
474 required as part of the tax credit application.

475 (7) The certified public accountant and appropriate
476 registered professionals submitting forms as part of a tax credit
477 application must verify such forms by completing and signing the
478 appropriate certifications included as part of the application
479 form. Verification shall ~~must~~ be accomplished as provided in s.
480 92.525(1)(b) and subject to ~~the provisions of~~ s. 92.525(3).

481 (8) The Department of Environmental Protection shall review
482 the tax credit application and any supplemental documentation
483 that the tax credit applicant may submit prior to the annual
484 application deadline, if applicable, for completeness and
485 eligibility, as follows:

486 (a) ~~To be In order to have the application considered~~
487 ~~complete, the review must verify for the purpose of verifying~~
488 that the tax credit applicant has met the appropriate qualifying
489 criteria in subsections (3) and (5), ~~and~~ has submitted a
490 completed application form, and has addressed each of the
491 categories of submittals ~~all required documentation~~ listed in
492 subsection (6). Upon verification that the tax credit applicant
493 has met such completeness ~~these~~ requirements, the tax credit

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494 application secures a place in the first-come, first-served
495 application line. If the department determines that an
496 application is incomplete, the department shall notify the
497 applicant in writing and the applicant shall have 30 days after
498 receiving such notification to correct any deficiency. Upon
499 timely correction of any deficiencies, the tax credit application
500 secures a place in the first-come, first-served application line.
501 Tax credit applications may not be altered to claim additional
502 costs during this time.

503 (b) In order to have costs considered eligible, a review of
504 the complete application shall be performed to verify that the
505 work claimed was integral to site rehabilitation or was for solid
506 waste removal, that the work claimed was performed in the
507 applicable timeframe, and that the costs claimed were properly
508 documented. Upon verification, the department shall issue a
509 written decision granting eligibility for ~~partial~~ tax credits (a
510 tax credit certificate). Complete tax credit applications shall
511 be reviewed for eligible costs in conjunction with ~~in the amount~~
512 ~~of 50 percent of the total costs claimed, subject to the \$500,000~~
513 ~~limitation, for the calendar year for which the tax credit~~
514 ~~application is submitted based on the report of the certified~~
515 public accountant and the certifications from the appropriate
516 registered technical professionals, as applicable.

517 (9) On or before ~~May 1~~ ~~March 31~~, the Department of
518 Environmental Protection shall inform each ~~eligible~~ tax credit
519 applicant that is subject to the January 31 annual application
520 deadline of the applicant's eligibility status and ~~of the amount~~
521 of ~~any its partial~~ tax credit due. The department shall ~~and~~
522 provide each eligible tax credit applicant with a tax credit

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523 certificate that must be submitted with its tax return to the
524 Department of Revenue to claim the tax credit or be transferred
525 pursuant to s. 220.1845(1) (g) ~~(h)~~. The May 1 deadline for annual
526 site rehabilitation tax credit certificate awards shall not apply
527 to any tax credit application for which the department has issued
528 a notice of deficiency pursuant to subsection (8). The department
529 shall respond within 90 days after receiving a response from the
530 tax credit applicant to such a notice of deficiency. Credits may
531 ~~will~~ not result in the payment of refunds if total credits exceed
532 the amount of tax owed.

533 (10) For solid waste removal, new health care facility or
534 health care provider, and affordable housing tax credit
535 applications, the Department of Environmental Protection shall
536 inform the applicant of the department's determination within 90
537 days after the application is deemed complete. Each eligible tax
538 credit applicant shall be informed of the amount of its tax
539 credit and provided with a tax credit certificate that must be
540 submitted with its tax return to the Department of Revenue to
541 claim the tax credit or be transferred pursuant to s.
542 220.1845(1) (g). Credits may not result in the payment of refunds
543 if total credits exceed the amount of tax owed.

544 ~~(11)-(10)~~ If a tax credit applicant does not receive a tax
545 credit allocation due to an exhaustion of the \$2 million annual
546 tax credit authorization, such application will then be included
547 in the same first-come, first-served order in the next year's
548 annual tax credit allocation, if any, based on the prior year
549 application.

550 ~~(12)-(11)~~ The Department of Environmental Protection may
551 adopt rules to prescribe the necessary forms required to claim

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552 tax credits under this section and to provide the administrative
553 guidelines and procedures required to administer this section.

554 ~~(13)-(12)~~ The Department of Environmental Protection may
555 revoke or modify any written decision granting eligibility for
556 ~~partial~~ tax credits under this section if it is discovered that
557 the tax credit applicant submitted any false statement,
558 representation, or certification in any application, record,
559 report, plan, or other document filed in an attempt to receive
560 ~~partial~~ tax credits under this section. The Department of
561 Environmental Protection shall immediately notify the Department
562 of Revenue of any revoked or modified orders affecting previously
563 granted partial tax credits. Additionally, the tax credit
564 applicant must notify the Department of Revenue of any change in
565 its tax credit claimed.

566 (14) (a) ~~(13)~~ A tax credit applicant who receives state-
567 funded site rehabilitation under s. 376.3078(3) for
568 rehabilitation of a drycleaning-solvent-contaminated site is
569 ineligible to receive a tax credit under s. 220.1845 for costs
570 incurred by the tax credit applicant in conjunction with the
571 rehabilitation of that site during the same time period that
572 state-administered site rehabilitation was underway.

573 (b) Tax credits for site rehabilitation awarded pursuant to
574 paragraphs (3) (b)-(d) and (f) are additive, but at no time shall
575 the total tax credit award for site rehabilitation exceed 100
576 percent of the costs incurred and paid by an applicant.

577 (c) A single brownfield site may receive tax credits for
578 both eligible site rehabilitation costs and eligible solid waste
579 removal costs provided the costs for any given activity are not
580 claimed for both site rehabilitation and solid waste removal such

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581 that the same costs are claimed twice.

582 (d) For purposes of this subsection, costs incurred that
583 are not considered integral to site rehabilitation include, but
584 are not limited to, brownfield area designation costs and tax
585 credit application preparation and submittal costs.

586 (e) If the department notifies an applicant pursuant to
587 subsection (9) that any claimed costs are ineligible, those costs
588 may not be allocated and applied to the annual tax credit
589 authorization, and any disputed costs may not delay the
590 application processing or award for subsequent eligible tax
591 credit applicants in the first-come, first-served application
592 line. However, if the department subsequently agrees to award tax
593 credits on any amount that was disputed, the department shall do
594 so based upon the first-come, first-served application line
595 determined by the applicant's original completeness date and
596 time, provided there is any tax credit authorization available.
597 If a tax credit applicant does not receive an award for the
598 disputed costs due to an exhaustion of the annual tax credit
599 authorization, such subsequent tax credit award shall be included
600 in the same first-come, first-served order in the next year's
601 annual tax credit allocation, if any, based upon the applicant's
602 original completeness date and time.

603 Section 4. Section 376.77, Florida Statutes, is amended to
604 read:

605 376.77 Short title.--Sections 376.77-376.86 ~~376.77-376.85~~
606 may be cited as the "Brownfields Redevelopment Act."

607 Section 5. Subsections (6), (8), (10), (11), (12), and (17)
608 of section 376.79, Florida Statutes, are amended to read:

609 376.79 Definitions relating to Brownfields Redevelopment

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610 Act.--As used in ss. 376.77-376.86 ~~376.77-376.85~~, the term:

611 (6) "Contaminated site" means any contiguous land,
612 sediment, surface water, or groundwater areas that contain
613 contaminants that may be harmful to human health or the
614 environment.

615 (8) "Engineering controls" means modifications to a site to
616 reduce or eliminate the potential for exposure to chemicals of
617 concern from petroleum products, drycleaning solvents, or other
618 contaminants. Such modifications may include, but are not limited
619 to, physical or hydraulic control measures, capping, point of use
620 treatments, or slurry walls.

621 (10) "Institutional controls" means the restriction on use
622 of or access to a site to eliminate or minimize exposure to
623 chemicals of concern from petroleum products, drycleaning
624 solvents, or other contaminants. Such restrictions may include,
625 but are not limited to, deed restrictions, restrictive covenants,
626 or conservation easements.

627 (11) "Local pollution control program" means a local
628 pollution control program that has received delegated authority
629 from the Department of Environmental Protection under ss.
630 376.80(9) ~~(11)~~ and 403.182.

631 (12) "Natural attenuation" means a verifiable approach to
632 site rehabilitation that ~~which~~ allows natural processes to
633 contain the spread of contamination and reduce the concentrations
634 of contaminants in contaminated groundwater and soil. Natural
635 attenuation processes may include sorption, biodegradation,
636 chemical reactions with subsurface materials, diffusion,
637 dispersion, and volatilization.

638 (17) "Site rehabilitation" means the assessment of site

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639 | contamination and the remediation activities that reduce the
640 | levels of contaminants at a site through accepted treatment
641 | methods to meet the cleanup target levels established for that
642 | site. For purposes of sites subject to the Resource Conservation
643 | and Recovery Act, as amended, the term includes removal,
644 | decontamination, and corrective action concerning releases of
645 | hazardous substances.

646 | Section 6. Section 376.80, Florida Statutes, is amended to
647 | read:

648 | 376.80 Brownfield program administration process.--

649 | (1) A local government with jurisdiction over the
650 | brownfield area must notify the department of its decision to
651 | designate a brownfield area for rehabilitation for the purposes
652 | of ss. 376.77-376.86 ~~376.77-376.85~~. The notification must include
653 | a resolution, by the local government body, to which is attached
654 | a map adequate to clearly delineate exactly which parcels are to
655 | be included in the brownfield area or alternatively a less-
656 | detailed map accompanied by a detailed legal description of the
657 | brownfield area. If a property owner within the area proposed for
658 | designation by the local government requests in writing to have
659 | his or her property removed from the proposed designation, the
660 | local government shall grant the request. For municipalities, the
661 | governing body shall adopt the resolution in accordance with the
662 | procedures outlined in s. 166.041, except that the notice for the
663 | public hearings on the proposed resolution must be in the form
664 | established in s. 166.041(3)(c)2. For counties, the governing
665 | body shall adopt the resolution in accordance with the procedures
666 | outlined in s. 125.66, except that the notice for the public
667 | hearings on the proposed resolution shall be in the form

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668 established in s. 125.66(4)(b)2.

669 (2)(a) If a local government proposes to designate a
670 brownfield area that is outside community redevelopment areas,
671 enterprise zones, empowerment zones, closed military bases, or
672 designated brownfield pilot project areas, the local government
673 shall adopt the resolution and ~~must~~ conduct the public hearings
674 in accordance with the requirements of subsection (1), except
675 that at least one of the required public hearings shall be
676 conducted as close as reasonably practicable to ~~hearing in~~ the
677 area to be designated to provide an opportunity for public input
678 on the size of the area, the objectives for rehabilitation, job
679 opportunities and economic developments anticipated, neighborhood
680 residents' considerations, and other relevant local concerns.
681 Notice of the public hearing must be made in a newspaper of
682 general circulation in the area and the notice must be at least
683 16 square inches in size, must be in ethnic newspapers or local
684 community bulletins, must be posted in the affected area, and
685 must be announced at a scheduled meeting of the local governing
686 body before the actual public hearing. In determining the areas
687 to be designated, the local government must consider:

688 1. Whether the brownfield area warrants economic
689 development and has a reasonable potential for such activities;

690 2. Whether the proposed area to be designated represents a
691 reasonably focused approach and is not overly large in geographic
692 coverage;

693 3. Whether the area has potential to interest the private
694 sector in participating in rehabilitation; and

695 4. Whether the area contains sites or parts of sites
696 suitable for limited recreational open space, cultural, or

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697 historical preservation purposes.

698 (b) A local government shall designate a brownfield area
699 under the provisions of this act provided that:

700 1. A person who owns or controls a potential brownfield
701 site is requesting the designation and has agreed to rehabilitate
702 and redevelop the brownfield site;

703 2. The rehabilitation and redevelopment of the proposed
704 brownfield site will result in economic productivity of the area,
705 along with the creation of at least 5 new permanent jobs at the
706 brownfield site that ~~which~~ are full-time equivalent positions not
707 associated with the implementation of the brownfield site
708 rehabilitation agreement and that ~~which~~ are not associated with
709 redevelopment project demolition or construction activities
710 pursuant to the redevelopment of the proposed brownfield site or
711 area agreement required under paragraph (5)(i). However, the job
712 creation requirement shall not apply to the rehabilitation and
713 redevelopment of a brownfield site that will provide affordable
714 housing as defined in s. 420.0004~~(3)~~ or the creation of
715 recreational areas, conservation areas, or parks;

716 3. The redevelopment of the proposed brownfield site is
717 consistent with the local comprehensive plan and is a permissible
718 use under the applicable local land development regulations;

719 4. Notice of the proposed rehabilitation of the brownfield
720 area has been provided to neighbors and nearby residents of the
721 proposed area to be designated, and the person proposing the area
722 for designation has afforded to those receiving notice the
723 opportunity for comments and suggestions about rehabilitation.
724 Notice pursuant to this subparagraph ~~subsection~~ must be made in a
725 newspaper of general circulation in the area, at least 16 square

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726 inches in size, and the notice must be posted in the affected
727 area; and

728 5. The person proposing the area for designation has
729 provided reasonable assurance that he or she has sufficient
730 financial resources to implement and complete the rehabilitation
731 agreement and redevelopment of the brownfield site ~~plan~~.

732 (c) The designation of a brownfield area and the
733 identification of a person responsible for brownfield site
734 rehabilitation simply entitles the identified person to negotiate
735 a brownfield site rehabilitation agreement with the department or
736 approved local pollution control program.

737 (3) When there is a person responsible for brownfield site
738 rehabilitation, the local government must notify the department
739 of the identity of that person. If the agency or person who will
740 be responsible for the coordination changes during the approval
741 process specified in subsections (4), (5), and (6), the
742 department or the affected approved local pollution control
743 program must notify the affected local government when the change
744 occurs.

745 (4) Local governments or persons responsible for
746 rehabilitation and redevelopment of brownfield areas must
747 establish an advisory committee or use an existing advisory
748 committee that has formally expressed its intent to address
749 redevelopment of the specific brownfield area for the purpose of
750 improving public participation and receiving public comments on
751 rehabilitation and redevelopment of the brownfield area, future
752 land use, local employment opportunities, community safety, and
753 environmental justice. Such advisory committee should include
754 residents within or adjacent to the brownfield area, businesses

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755 | operating within the brownfield area, and others deemed
756 | appropriate. The person responsible for brownfield site
757 | rehabilitation must notify the advisory committee of the intent
758 | to rehabilitate and redevelop the site before executing the
759 | brownfield site rehabilitation agreement, and provide the
760 | committee with a copy of the draft plan for site rehabilitation
761 | which addresses elements required by subsection (5). This
762 | includes disclosing potential reuse of the property as well as
763 | site rehabilitation activities, if any, to be performed. The
764 | advisory committee shall review any ~~the~~ proposed redevelopment
765 | agreements prepared ~~agreement required~~ pursuant to paragraph
766 | (5) (i) and provide comments, if appropriate, to the board of the
767 | local government with jurisdiction over the brownfield area. The
768 | advisory committee must receive a copy of the executed brownfield
769 | site rehabilitation agreement. When the person responsible for
770 | brownfield site rehabilitation submits a site assessment report
771 | or the technical document containing the proposed course of
772 | action following site assessment to the department or the local
773 | pollution control program for review, the person responsible for
774 | brownfield site rehabilitation must hold a meeting or attend a
775 | regularly scheduled meeting to inform the advisory committee of
776 | the findings and recommendations in the site assessment report or
777 | the technical document containing the proposed course of action
778 | following site assessment.

779 | (5) The person responsible for brownfield site
780 | rehabilitation must enter into a brownfield site rehabilitation
781 | agreement with the department or an approved local pollution
782 | control program if actual contamination exists at the brownfield
783 | site. The brownfield site rehabilitation agreement must include:

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784 (a) A brownfield site rehabilitation schedule, including
785 milestones for completion of site rehabilitation tasks and
786 submittal of technical reports and rehabilitation plans as agreed
787 upon by the parties to the agreement.†

788 (b) A commitment to conduct site rehabilitation activities
789 under the observation of professional engineers or geologists who
790 are registered in accordance with the requirements of chapter 471
791 or chapter 492, respectively. Submittals provided by the person
792 responsible for brownfield site rehabilitation must be signed and
793 sealed by a professional engineer registered under chapter 471,
794 or a professional geologist registered under chapter 492,
795 certifying that the submittal and associated work comply with the
796 law and rules of the department and those governing the
797 profession. In addition, upon completion of the approved remedial
798 action, the department shall require a professional engineer
799 registered under chapter 471 or a professional geologist
800 registered under chapter 492 to certify that the corrective
801 action was, to the best of his or her knowledge, completed in
802 substantial conformance with the plans and specifications
803 approved by the department.†

804 (c) A commitment to conduct site rehabilitation in
805 accordance with department quality assurance rules.†

806 (d) A commitment to conduct site rehabilitation consistent
807 with state, federal, and local laws and consistent with the
808 brownfield site contamination cleanup criteria in s. 376.81,
809 including any applicable requirements for risk-based corrective
810 action.†

811 (e) Timeframes for the department's review of technical
812 reports and plans submitted in accordance with the agreement. The

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813 department shall make every effort to adhere to established
814 agency goals for reasonable timeframes for review of such
815 documents.~~†~~

816 (f) A commitment to secure site access for the department
817 or approved local pollution control program to all brownfield
818 sites within the eligible brownfield area for activities
819 associated with site rehabilitation.~~†~~

820 (g) Other provisions that the person responsible for
821 brownfield site rehabilitation and the department agree upon,
822 that are consistent with ss. 376.77-376.86 ~~376.77-376.85~~, and
823 that will improve or enhance the brownfield site rehabilitation
824 process.~~†~~

825 (h) A commitment to consider appropriate pollution
826 prevention measures and to implement those that the person
827 responsible for brownfield site rehabilitation determines are
828 reasonable and cost-effective, taking into account the ultimate
829 use or uses of the brownfield site. Such measures may include
830 improved inventory or production controls and procedures for
831 preventing loss, spills, and leaks of hazardous waste and
832 materials, and include goals for the reduction of releases of
833 toxic materials.~~†~~~~and~~

834 (i) Certification that ~~an agreement exists between~~ the
835 person responsible for brownfield site rehabilitation has
836 consulted with ~~and~~ the local government with jurisdiction over
837 the brownfield area about the proposed redevelopment of the
838 brownfield site, that the local government is in agreement with
839 or approves the proposed redevelopment, and that the proposed
840 redevelopment complies with applicable laws and requirements for
841 such redevelopment. Certification shall be accomplished by

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842 referencing or providing a legally recorded or officially
843 approved land use or site plan, a development order or approval,
844 a building permit, or a similar official document issued by the
845 local government that reflects the local government's approval of
846 proposed redevelopment of the brownfield site; providing a copy
847 of the local government resolution designating the brownfield
848 area that contains the proposed redevelopment of the brownfield
849 site; or providing a letter from the local government that
850 describes the proposed redevelopment of the brownfield site and
851 expresses the local government's agreement with or approval of
852 the proposed redevelopment. ~~Such agreement shall contain terms~~
853 ~~for the redevelopment of the brownfield area.~~

854 (6) Any contractor performing site rehabilitation program
855 tasks must demonstrate to the department that the contractor:

856 (a) Meets all certification and license requirements
857 imposed by law; and

858 (b) Will conduct ~~Has obtained the necessary approvals for~~
859 ~~conducting~~ sample collection and analyses pursuant to department
860 rules.

861 ~~(7) The contractor who is performing the majority of the~~
862 ~~site rehabilitation program tasks pursuant to a brownfield site~~
863 ~~rehabilitation agreement or supervising the performance of such~~
864 ~~tasks by licensed subcontractors in accordance with the~~
865 ~~provisions of s. 489.113(9) must certify to the department that~~
866 ~~the contractor:~~

867 ~~(a) Complies with applicable OSHA regulations.~~

868 ~~(b) Maintains workers' compensation insurance for all~~
869 ~~employees as required by the Florida Workers' Compensation Law.~~

870 ~~(c) Maintains comprehensive general liability coverage with~~

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871 | ~~limits of not less than \$1 million per occurrence and \$2 million~~
872 | ~~general aggregate for bodily injury and property damage and~~
873 | ~~comprehensive automobile liability coverage with limits of not~~
874 | ~~less than \$1 million combined single limit. The contractor shall~~
875 | ~~also maintain pollution liability coverage with limits of not~~
876 | ~~less than \$3 million aggregate for personal injury or death, \$1~~
877 | ~~million per occurrence for personal injury or death, and \$1~~
878 | ~~million per occurrence for property damage. The contractor's~~
879 | ~~certificate of insurance shall name the state as an additional~~
880 | ~~insured party.~~

881 | ~~(d) Maintains professional liability insurance of at least~~
882 | ~~\$1 million per claim and \$1 million annual aggregate.~~

883 | ~~(8) Any professional engineer or geologist providing~~
884 | ~~professional services relating to site rehabilitation program~~
885 | ~~tasks must carry professional liability insurance with a coverage~~
886 | ~~limit of at least \$1 million.~~

887 | (7)~~(9)~~ During the cleanup process, if the department or
888 | local program fails to complete review of a technical document
889 | within the timeframe specified in the brownfield site
890 | rehabilitation agreement, the person responsible for brownfield
891 | site rehabilitation may proceed to the next site rehabilitation
892 | task. However, the person responsible for brownfield site
893 | rehabilitation does so at its own risk and may be required by the
894 | department or local program to complete additional work on a
895 | previous task. Exceptions to this subsection include requests for
896 | "no further action," "monitoring only proposals," and feasibility
897 | studies, which must be approved prior to implementation.

898 | (8)~~(10)~~ If the person responsible for brownfield site
899 | rehabilitation fails to comply with the brownfield site

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900 rehabilitation agreement, the department shall allow 90 days for
901 the person responsible for brownfield site rehabilitation to
902 return to compliance with the provision at issue or to negotiate
903 a modification to the brownfield site rehabilitation agreement
904 with the department for good cause shown. If an imminent hazard
905 exists, the 90-day grace period shall not apply. If the project
906 is not returned to compliance with the brownfield site
907 rehabilitation agreement and a modification cannot be negotiated,
908 the immunity provisions of s. 376.82 are revoked.

909 (9)~~(11)~~ The department is specifically authorized and
910 encouraged to enter into delegation agreements with local
911 pollution control programs approved under s. 403.182 to
912 administer the brownfield program within their jurisdictions,
913 thereby maximizing the integration of this process with the other
914 local development processes needed to facilitate redevelopment of
915 a brownfield area. When determining whether a delegation pursuant
916 to this subsection of all or part of the brownfield program to a
917 local pollution control program is appropriate, the department
918 shall consider the following. The local pollution control program
919 must:

920 (a) Have and maintain the administrative organization,
921 staff, and financial and other resources to effectively and
922 efficiently implement and enforce the statutory requirements of
923 the delegated brownfield program; and

924 (b) Provide for the enforcement of the requirements of the
925 delegated brownfield program, and for notice and a right to
926 challenge governmental action, by appropriate administrative and
927 judicial process, which shall be specified in the delegation.

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929 The local pollution control program shall not be delegated
930 authority to take action on or to make decisions regarding any
931 brownfield site on land owned by the local government. Any
932 delegation agreement entered into pursuant to this subsection
933 shall contain such terms and conditions necessary to ensure the
934 effective and efficient administration and enforcement of the
935 statutory requirements of the brownfield program as established
936 by the act and the relevant rules and other criteria of the
937 department.

938 (10)~~(12)~~ Local governments are encouraged to use the full
939 range of economic and tax incentives available to facilitate and
940 promote the rehabilitation of brownfield areas, to help eliminate
941 the public health and environmental hazards, and to promote the
942 creation of jobs and economic development in these previously
943 run-down, blighted, and underutilized areas.

944 (11) (a) The Legislature finds and declares that:

945 1. Brownfield site rehabilitation and redevelopment can
946 improve the overall health of a community and the quality of life
947 for communities, including improved health and quality of life of
948 individuals living in such communities.

949 2. The community health benefits of brownfield site
950 rehabilitation and redevelopment should be better measured in
951 order to achieve the legislative intent as expressed in s.
952 376.78.

953 3. There is a need in this state to define and better
954 measure the community health benefits of brownfield site
955 rehabilitation and redevelopment.

956 4. Funding sources should be established to support efforts
957 by the state and local governments, in collaboration with local

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958 health departments, community health providers, and nonprofit
959 organizations, to evaluate the community health benefits of
960 brownfield site rehabilitation and redevelopment.

961 (b) Local governments may and are encouraged to evaluate
962 the community health benefits and effects of brownfield site
963 rehabilitation and redevelopment in connection with brownfield
964 areas located within their jurisdictions. Factors that may be
965 evaluated and monitored before and after brownfield site
966 rehabilitation and redevelopment include, but are not limited to:

967 1. Health status, disease distribution, and quality of life
968 measures regarding populations living in or around brownfield
969 sites that have been rehabilitated and redeveloped.

970 2. Access to primary and other health care or health
971 services for persons living in or around brownfield sites that
972 have been rehabilitated and redeveloped.

973 3. Any new or increased access to open, green, park, or
974 other recreational spaces that provide recreational opportunities
975 for individuals living in or around brownfield sites that have
976 been rehabilitated and redeveloped.

977 4. Other factors described in rules adopted by the
978 Department of Environmental Protection or the Department of
979 Health, as applicable.

980 (c) The Department of Health may and is encouraged to
981 assist local governments, in collaboration with local health
982 departments, community health providers, and nonprofit
983 organizations, in evaluating the community health benefits of
984 brownfield site rehabilitation and redevelopment.

985 Section 7. Subsection (1), paragraphs (d) and (f) of
986 subsection (2), and subsection (3) of section 376.82, Florida

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987 Statutes, are amended to read:

988 376.82 Eligibility criteria and liability protection.--

989 (1) ELIGIBILITY.--Any person who has not caused or
990 contributed to the contamination of a brownfield site on or after
991 July 1, 1997, is eligible to participate in the brownfield
992 program established in ss. 376.77-376.86 ~~376.77-376.85~~, subject
993 to the following:

994 (a) Potential brownfield sites that are subject to an
995 ongoing formal judicial or administrative enforcement action or
996 corrective action pursuant to federal authority, including, but
997 not limited to, the Comprehensive Environmental Response
998 Compensation and Liability Act, 42 U.S.C. ss. 9601 et seq., as
999 amended; the Safe Drinking Water Act, 42 U.S.C. ss. 300f-300i, as
1000 amended; the Clean Water Act, 33 U.S.C. ss. 1251-1387, as
1001 amended; or under an order from the United States Environmental
1002 Protection Agency pursuant to 42 U.S.C. s. 6928(h) ~~s. 3008(h)~~ of
1003 the Resource Conservation and Recovery Act, as amended ~~(42~~
1004 ~~U.S.C.A. s. 6928(h))~~; or that have obtained or are required to
1005 obtain a permit for the operation of a hazardous waste treatment,
1006 storage, or disposal facility; a postclosure permit; or a permit
1007 pursuant to the federal Hazardous and Solid Waste Amendments of
1008 1984, are not eligible for participation unless specific
1009 exemptions are secured by a memorandum of agreement with the
1010 United States Environmental Protection Agency pursuant to
1011 paragraph (2)(g). A brownfield site within an eligible brownfield
1012 area that subsequently becomes subject to formal judicial or
1013 administrative enforcement action or corrective action under such
1014 federal authority shall have its eligibility revoked unless
1015 specific exemptions are secured by a memorandum of agreement with

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1016 the United States Environmental Protection Agency pursuant to
1017 paragraph (2) (g).

1018 (b) Persons who have not caused or contributed to the
1019 contamination of a brownfield site on or after July 1, 1997, and
1020 who, prior to the department's approval of a brownfield site
1021 rehabilitation agreement, are subject to ongoing corrective
1022 action or enforcement under state authority established in this
1023 chapter or chapter 403, including those persons subject to a
1024 pending consent order with the state, are eligible for
1025 participation in a brownfield site rehabilitation agreement if:

1026 1. The proposed brownfield site is currently idle or
1027 underutilized as a result of the contamination, and participation
1028 in the brownfield program shall ~~will~~ immediately, after cleanup
1029 or sooner, result in increased economic productivity at the site,
1030 including at a minimum the creation of 10 new permanent jobs,
1031 whether full-time or part-time, which are not associated with
1032 implementation of the brownfield site rehabilitation agreement;
1033 and

1034 2. The person is complying in good faith with the terms of
1035 an existing consent order or department-approved corrective
1036 action plan, or responding in good faith to an enforcement
1037 action, as evidenced by a determination issued by the department
1038 or an approved local pollution control program.

1039 (c) Potential brownfield sites owned by the state or a
1040 local government which contain contamination for which a
1041 governmental entity is potentially responsible and which are
1042 already designated as federal brownfield pilot projects or have
1043 filed an application for designation to the United States
1044 Environmental Protection Agency are eligible for participation in

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1045 a brownfield site rehabilitation agreement.

1046 (d) After July 1, 1997, petroleum and drycleaning
1047 contamination sites may ~~shall~~ not receive both restoration
1048 funding assistance available for the discharge under this chapter
1049 and any state assistance available under s. 288.107. Nothing in
1050 this act shall affect the cleanup criteria, priority ranking, and
1051 other rights and obligations inherent in petroleum contamination
1052 and drycleaning contamination site rehabilitation under ss.
1053 376.30-376.317, or the availability of economic incentives
1054 otherwise provided for by law.

1055 (2) LIABILITY PROTECTION.--

1056 (d) The liability protection provided under this section
1057 shall become effective upon execution of a brownfield site
1058 rehabilitation agreement and shall remain effective, provided the
1059 person responsible for brownfield site rehabilitation complies
1060 with the terms of the site rehabilitation agreement. Any statute
1061 of limitations that would bar the department from pursuing relief
1062 in accordance with its existing authority is tolled from the time
1063 the agreement is executed until site rehabilitation is completed
1064 or immunity is revoked pursuant to s. 376.80 (8) ~~(10)~~.

1065 (f) Compliance with ~~the agreement referenced in s.~~
1066 376.80(5)(i) must be evidenced as set forth in that paragraph ~~by~~
1067 ~~a finding by the local government with jurisdiction over the~~
1068 ~~brownfield area that the terms of the agreement have been met.~~

1069 (3) REOPENERS.--Upon completion of site rehabilitation in
1070 compliance with ss. 376.77-376.86 ~~376.77-376.85~~, no additional
1071 site rehabilitation is ~~shall be~~ required unless it is
1072 demonstrated:

1073 (a) That fraud was committed in demonstrating site

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1074 conditions or completion of site rehabilitation;

1075 (b) That new information confirms the existence of an area
1076 of previously unknown contamination which exceeds the site-
1077 specific rehabilitation levels established in accordance with s.
1078 376.81, or which otherwise poses the threat of real and
1079 substantial harm to public health, safety, or the environment in
1080 violation of the terms of ss. 376.77-376.86 ~~376.77-376.85~~;

1081 (c) That the remediation efforts failed to achieve the site
1082 rehabilitation criteria established under s. 376.81;

1083 (d) That the level of risk is increased beyond the
1084 acceptable risk established under s. 376.81 due to substantial
1085 changes in exposure conditions, such as a change in land use from
1086 nonresidential to residential use. Any person who changes the
1087 land use of the brownfield site thus causing the level of risk to
1088 increase beyond the acceptable risk level may be required by the
1089 department to undertake additional remediation measures to assure
1090 that human health, public safety, and the environment are
1091 protected to levels consistent with s. 376.81; or

1092 (e) That a new release occurs at the brownfield site
1093 subsequent to a determination of eligibility for participation in
1094 the brownfield program established under s. 376.80.

1095 Section 8. Subsection (1) of section 376.83, Florida
1096 Statutes, is amended to read:

1097 376.83 Violation; penalties.--

1098 (1) It is a violation of ss. 376.77-376.86 ~~376.77-376.85~~,
1099 and it is prohibited for any person, to knowingly make any false
1100 statement, representation, or certification in any application,
1101 record, report, plan, or other document filed or required to be
1102 maintained, or to falsify, tamper with, or knowingly render

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1103 | inaccurate any monitoring device or method required to be
1104 | maintained under ss. 376.77-376.86 ~~376.77-376.85~~, or by any
1105 | permit, rule, or order issued under this chapter or chapter 403.

1106 | Section 9. Subsections (1) and (2) of section 376.86,
1107 | Florida Statutes, are amended to read:

1108 | 376.86 Brownfield Areas Loan Guarantee Program.--

1109 | (1) The Brownfield Areas Loan Guarantee Council is created
1110 | to review and approve or deny, by a majority vote of its
1111 | membership, the situations and circumstances for participation in
1112 | partnerships by agreements with local governments, financial
1113 | institutions, and others associated with the redevelopment of
1114 | brownfield areas pursuant to the Brownfields Redevelopment Act
1115 | for a limited state guaranty of up to 5 years of loan guarantees
1116 | or loan loss reserves issued pursuant to law. The limited state
1117 | loan guaranty applies only to 50 percent of the primary lenders
1118 | loans for redevelopment projects in brownfield areas. If the
1119 | redevelopment project is for affordable housing, as defined in s.
1120 | 420.0004(3), in a brownfield area, the limited state loan
1121 | guaranty applies to 75 percent of the primary lender's loan. If
1122 | the redevelopment project includes the construction and operation
1123 | of a new health care facility or a health care provider, as
1124 | defined in s. 408.032, s. 408.07, or s. 408.7056, on a brownfield
1125 | site and the applicant has obtained documentation in accordance
1126 | with s. 376.30781 indicating that the construction of the health
1127 | care facility or health care provider by the applicant on the
1128 | brownfield site has received a certificate of occupancy or a
1129 | license or certificate has been issued for the operation of the
1130 | health care facility or health care provider, the limited state
1131 | loan guaranty applies to 75 percent of the primary lender's loan.

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1132 A limited state guaranty of private loans or a loan loss reserve
1133 is authorized for lenders licensed to operate in the state upon a
1134 determination by the council that such an arrangement would be in
1135 the public interest and the likelihood of the success of the loan
1136 is great.

1137 (2) The council shall consist of the secretary of the
1138 Department of Environmental Protection or the secretary's
1139 designee, the secretary of the Department of Community Affairs or
1140 the secretary's designee, the State Surgeon General or the State
1141 Surgeon General's designee, the Executive Director of the State
1142 Board of Administration or the executive director's designee, the
1143 Executive Director of the Florida Housing Finance Corporation or
1144 the executive director's designee, and the Director of the
1145 Governor's Office of Tourism, Trade, and Economic Development or
1146 the director's designee. The chairperson of the council shall be
1147 the Director of the Governor's Office of Tourism, Trade, and
1148 Economic Development. Staff services for activities of the
1149 council shall be provided as needed by the member agencies.

1150 Section 10. Subsection (1) of section 163.3221, Florida
1151 Statutes, is amended to read:

1152 163.3221 Florida Local Government Development Agreement
1153 Act; definitions.--As used in ss. 163.3220-163.3243:

1154 (1) "Brownfield designation" means a resolution adopted by
1155 a local government pursuant to s. 376.80 ~~the Brownfields~~
1156 ~~Redevelopment Act, ss. 376.77-376.85.~~

1157 Section 11. This act shall take effect upon becoming a law
1158 and shall operate retroactively to January 1, 2008.