



573872

LEGISLATIVE ACTION

Senate	.	House
Comm: RS	.	
03/14/2013	.	
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The Committee on Environmental Preservation and Conservation  
(Altman) recommended the following:

**Senate Amendment (with title amendment)**

Delete everything after the enacting clause  
and insert:

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

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

(8) The existence of brownfields within a community may  
contribute to, or may be a symptom of, overall community  
decline, including issues of human disease and illness, crime,  
educational and employment opportunities, and infrastructure



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13 decay. The environment is an important element of quality of  
14 life in any community, along with economic opportunity,  
15 educational achievement, access to health care, housing quality  
16 and availability, provision of governmental services, and other  
17 socioeconomic factors. Brownfields redevelopment, properly done,  
18 can be a significant element in community revitalization,  
19 especially within community redevelopment areas, enterprise  
20 zones, empowerment zones, closed military bases, or designated  
21 brownfield pilot project areas.

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

25 376.80 Brownfield program administration process.—

26 (1) (a) The local government with jurisdiction over a  
27 proposed brownfield area shall designate such area pursuant to  
28 this section.

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

30 1. The jurisdictional local government, except as provided  
31 in paragraph (2) (c), the designation criteria under paragraph  
32 (2) (a) apply.

33 2. Any person, other than a governmental entity, including,  
34 but not limited to, individuals, corporations, partnerships,  
35 limited liability companies, community-based organizations, or  
36 not-for-profit corporations, the designation criteria under  
37 paragraph (2) (b) apply.

38 (c) The following provisions apply to all proposed  
39 brownfield area designations:

40 1. A local government with jurisdiction over the brownfield  
41 area must notify the department of its decision to designate a



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42 brownfield area for rehabilitation for the purposes of ss.  
43 376.77-376.86. The notification must include a resolution  
44 adopted, by the local government body. The local government  
45 shall notify the department of the designation within 30 days  
46 after adoption of the resolution.

47 2. The brownfield area designation must be carried out by a  
48 resolution adopted by the jurisdictional local government, to  
49 which includes ~~is attached~~ a map adequate to clearly delineate  
50 exactly which parcels are to be included in the brownfield area  
51 or alternatively a less-detailed map accompanied by a detailed  
52 legal description of the brownfield area. The resolution shall  
53 be adopted pursuant to the procedures and requirements of the  
54 local government in effect at the time of the proposed  
55 designation, except as otherwise provided in this section.

56 3. If a property owner within the area proposed for  
57 designation by the local government requests in writing to have  
58 his or her property removed from the proposed designation, the  
59 local government shall grant the request.

60 4. For municipalities, the governing body shall adopt the  
61 resolution in accordance with the procedures outlined in s.  
62 166.041, except that the notice for the public hearings on the  
63 proposed resolution must be in the form established in s.  
64 166.041(3)(c)2. For counties, the governing body shall adopt the  
65 resolution in accordance with the procedures outlined in s.  
66 125.66, except that the notice for the public hearings on the  
67 proposed resolution shall be in the form established in s.  
68 125.66(4)(b)2.

69 (d) Compliance with the following provisions is required  
70 before designation of a proposed brownfield area under paragraph



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71 (2) (a) or paragraph (2) (b) :

72 1. At least one of the required public hearings shall be  
73 conducted as closely as reasonably practicable to the area to be  
74 designated to provide an opportunity for public input on the  
75 size of the area, the objectives for rehabilitation, job  
76 opportunities and economic developments anticipated,  
77 neighborhood residents' considerations, and other relevant local  
78 concerns.

79 2. Notice of the public hearing must be made in a newspaper  
80 of general circulation in the area, and the notice must be at  
81 least 16 square inches in size, must be in ethnic newspapers or  
82 local community bulletins, must be posted in the affected area,  
83 and must be announced at a scheduled meeting of the local  
84 governing body before the actual public hearing.

85 (2) (a) If a local government proposes to designate a  
86 brownfield area that is outside a community redevelopment area  
87 areas, enterprise zone zones, empowerment zone zones, closed  
88 military base bases, or designated brownfield pilot project area  
89 areas, the local government shall provide notice, adopt the  
90 resolution, and conduct the public hearings pursuant to in  
91 accordance with the requirements of subsection (1), except at  
92 least one of the required public hearings shall be conducted as  
93 close as reasonably practicable to the area to be designated to  
94 provide an opportunity for public input on the size of the area,  
95 the objectives for rehabilitation, job opportunities and  
96 economic developments anticipated, neighborhood residents'  
97 considerations, and other relevant local concerns. Notice of the  
98 public hearing must be made in a newspaper of general  
99 circulation in the area and the notice must be at least 16



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100 ~~square inches in size, must be in ethnic newspapers or local~~  
101 ~~community bulletins, must be posted in the affected area, and~~  
102 ~~must be announced at a scheduled meeting of the local governing~~  
103 ~~body before the actual public hearing. At a public hearing to~~  
104 ~~designate the proposed brownfield area~~ In determining the areas  
105 ~~to be designated,~~ the local government must consider:

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

108 2. Whether the proposed area to be designated represents a  
109 reasonably focused approach and is not overly large in  
110 geographic coverage;

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

113 4. Whether the area contains sites or parts of sites  
114 suitable for limited recreational open space, cultural, or  
115 historical preservation purposes.

116 (b) For designation of a brownfield area that is proposed  
117 by a person other than the local government, the a local  
118 government with jurisdiction over the proposed brownfield area  
119 shall adopt a resolution to designate the a brownfield area  
120 pursuant to subsection (1), if, at the public hearing to adopt  
121 the resolution, the person establishes under the provisions of  
122 ~~this act provided that:~~

123 1. A person who owns or controls a potential brownfield  
124 site is requesting the designation and has agreed to  
125 rehabilitate and redevelop the brownfield site;

126 2. The rehabilitation and redevelopment of the proposed  
127 brownfield site will result in economic productivity of the  
128 area, along with the creation of at least 5 new permanent jobs



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129 at the brownfield site that are full-time equivalent positions  
130 not associated with the implementation of the brownfield site  
131 rehabilitation agreement and that are not associated with  
132 redevelopment project demolition or construction activities  
133 pursuant to the redevelopment of the proposed brownfield site or  
134 area. However, the job creation requirement does ~~shall~~ not apply  
135 to the rehabilitation and redevelopment of a brownfield site  
136 that will provide affordable housing as defined in s. 420.0004  
137 or the creation of recreational areas, conservation areas, or  
138 parks;

139 3. The redevelopment of the proposed brownfield site is  
140 consistent with the local comprehensive plan and is a  
141 permittable use under the applicable local land development  
142 regulations;

143 4. Notice of the proposed rehabilitation of the brownfield  
144 area has been provided to neighbors and nearby residents of the  
145 proposed area to be designated pursuant to subsection (1), and  
146 the person proposing the area for designation has afforded to  
147 those receiving notice the opportunity for comments and  
148 suggestions about rehabilitation. Notice pursuant to this  
149 subparagraph must be made in a newspaper of general circulation  
150 in the area, at least 16 square inches in size, and the notice  
151 must be posted in the affected area; and

152 5. The person proposing the area for designation has  
153 provided reasonable assurance that he or she has sufficient  
154 financial resources to implement and complete the rehabilitation  
155 agreement and redevelopment of the brownfield site.

156 (c) Paragraphs (a) and (b) do not apply to a proposed  
157 brownfield area if the local government proposes to designate



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158 the brownfield area inside a community redevelopment area,  
159 enterprise zone, empowerment zone, closed military base, or  
160 designated brownfield pilot project area and the local  
161 government complies with paragraph (1)(c).

162 (d)(e) The designation of a brownfield area and the  
163 identification of a person responsible for brownfield site  
164 rehabilitation simply entitles the identified person to  
165 negotiate a brownfield site rehabilitation agreement with the  
166 department or approved local pollution control program.

167 (12) A local government that designates a brownfield area  
168 pursuant to this section is not required to use the term  
169 "brownfield area" within the name of the brownfield area  
170 proposed for designation by the local government.

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

173 376.82 Eligibility criteria and liability protection.—

174 (2) LIABILITY PROTECTION.—

175 (a) Any person, including his or her successors and  
176 assigns, who executes and implements to successful completion a  
177 brownfield site rehabilitation agreement, shall be relieved of:

178 1. Further liability for remediation of the contaminated  
179 site or sites to the state and to third parties, and of

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

182 3. Liability for claims of any person for property damages,  
183 including, but not limited to, diminished value of real property  
184 or improvements; lost or delayed rent, sale, or use of real  
185 property or improvements; or stigma to real property or  
186 improvements caused by contamination addressed by a brownfield



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187 site rehabilitation agreement. Notwithstanding any other  
188 provision of this chapter, this subparagraph applies to causes  
189 of action accruing on or after July 1, 2013.

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

197  
198 ===== T I T L E A M E N D M E N T =====

199 And the title is amended as follows:

200 Delete everything before the enacting clause  
201 and insert:

202 A bill to be entitled  
203 An act relating to brownfields; amending s. 376.78,  
204 F.S.; revising legislative intent with regard to  
205 community revitalization in certain areas; amending s.  
206 376.80, F.S.; revising procedures for designation of  
207 brownfield areas by local governments; authorizing  
208 local governments to use a term other than "brownfield  
209 area" when naming such areas; amending s. 376.82,  
210 F.S.; providing relief of liability for property  
211 damages for entities that execute and implement  
212 certain brownfield site rehabilitation agreements;  
213 providing for applicability; providing an effective  
214 date.