



713336

LEGISLATIVE ACTION

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

1           **Senate Substitute for Amendment (573872) (with title**  
2 **amendment)**

3  
4           Delete everything after the enacting clause  
5 and insert:

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

8           376.78 Legislative intent.—The Legislature finds and  
9 declares the following:

10           (8) The existence of brownfields within a community may  
11 contribute to, or may be a symptom of, overall community  
12 decline, including issues of human disease and illness, crime,



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

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

26 376.80 Brownfield program administration process.—

27 GENERAL BROWNFIELD DESIGNATION PROCEDURES -

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

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

32 1. The jurisdictional local government, the designation  
33 criteria under paragraph (2) (a) apply, except if the local  
34 government proposes to designate as a brownfield area a  
35 specified redevelopment area as provided in paragraph (2) (b).

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

41 (c) The following provisions apply to all proposed



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42 brownfield area designations, unless otherwise provided below:

43 1. Notification to Department Following Adoption - A local  
44 government with jurisdiction over the brownfield area must  
45 notify the department of its decision to designate a brownfield  
46 area for rehabilitation for the purposes of ss. 376.77-376.86.  
47 The notification must include a resolution adopted, by the local  
48 government body. The local government shall notify the  
49 department of the designation within 30 days after adoption of  
50 the resolution.

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

61 3. Right to be Removed From Proposed Brownfield Area - If  
62 a property owner within the area proposed for designation by the  
63 local government requests in writing to have his or her property  
64 removed from the proposed designation, the local government  
65 shall grant the request.

66 ~~4. For municipalities, the governing body shall adopt the~~  
67 ~~resolution in accordance with the procedures outlined in s.~~  
68 ~~166.041, except that the notice for the public hearings on the~~  
69 ~~proposed resolution must be in the form established in s.~~  
70 ~~166.041(3)(c)2. For counties, the governing body shall adopt the~~



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71 ~~resolution in accordance with the procedures outlined in s.~~  
72 ~~125.66, except that the notice for the public hearings on the~~  
73 ~~proposed resolution shall be in the form established in s.~~  
74 ~~125.66(4)(b)2.~~

75 4. Notice & Public Hearing Requirements - Compliance with  
76 the following provisions is required before designation of a  
77 proposed brownfield area under paragraph (2)(a) or paragraph  
78 (2)(c):

79 (a) At least one of the required public hearings shall be  
80 conducted as closely as reasonably practicable to the area to be  
81 designated to provide an opportunity for public input on the  
82 size of the area, the objectives for rehabilitation, job  
83 opportunities and economic developments anticipated,  
84 neighborhood residents' considerations, and other relevant local  
85 concerns.

86 (b) Notice of the public hearing must be made in a  
87 newspaper of general circulation in the area, and the notice  
88 must be at least 16 square inches in size, must be in ethnic  
89 newspapers or local community bulletins, must be posted in the  
90 affected area, and must be announced at a scheduled meeting of  
91 the local governing body before the actual public hearing.

92 (2)(a) LOCAL GOVERNMENT-PROPOSED BROWNFIELD AREA  
93 DESIGNATION OUTSIDE OF SPECIFIED REDEVELOPMENT AREAS - If a  
94 local government proposes to designate a brownfield area that is  
95 outside a community redevelopment ~~area areas~~, enterprise zone  
96 ~~zones~~, empowerment zone zones, closed military base bases, or  
97 designated brownfield pilot project area areas, the local  
98 government shall provide notice, adopt the resolution, and  
99 conduct ~~the public hearings pursuant to in accordance with the~~



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100 ~~requirements of subsection (1) (c), except at least one of the~~  
101 ~~required public hearings shall be conducted as close as~~  
102 ~~reasonably practicable to the area to be designated to provide~~  
103 ~~an opportunity for public input on the size of the area, the~~  
104 ~~objectives for rehabilitation, job opportunities and economic~~  
105 ~~developments anticipated, neighborhood residents'~~  
106 ~~considerations, and other relevant local concerns. Notice of the~~  
107 ~~public hearing must be made in a newspaper of general~~  
108 ~~circulation in the area and the notice must be at least 16~~  
109 ~~square inches in size, must be in ethnic newspapers or local~~  
110 ~~community bulletins, must be posted in the affected area, and~~  
111 ~~must be announced at a scheduled meeting of the local governing~~  
112 ~~body before the actual public hearing. At a public hearing to~~  
113 ~~designate the proposed brownfield area ~~In determining the areas~~~~  
114 ~~to be designated, the local government must consider:~~

- 115       1. Whether the brownfield area warrants economic  
116 development and has a reasonable potential for such activities;  
117       2. Whether the proposed area to be designated represents a  
118 reasonably focused approach and is not overly large in  
119 geographic coverage;  
120       3. Whether the area has potential to interest the private  
121 sector in participating in rehabilitation; and  
122       4. Whether the area contains sites or parts of sites  
123 suitable for limited recreational open space, cultural, or  
124 historical preservation purposes.

125       (b) LOCAL GOVERNMENT-PROPOSED BROWNFIELD AREA DESIGNATION  
126 WITHIN SPECIFIED REDEVELOPMENT AREAS - Paragraph (a) does not  
127 apply to a proposed brownfield area if the local government  
128 proposes to designate the brownfield area inside a community



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129 redevelopment area, enterprise zone, empowerment zone, closed  
130 military base, or designated brownfield pilot project area and  
131 the local government complies with paragraph (1)(c).

132 (b)(c) BROWNFIELD AREA DESIGNATION PROPOSED BY PERSONS  
133 OTHER THAN A GOVERNMENTAL ENTITY - For designation of a  
134 brownfield area that is proposed by a person other than the  
135 local government, the a local government with jurisdiction over  
136 the proposed brownfield area shall adopt a resolution to  
137 designate the a brownfield area pursuant to subsection (1), if,  
138 at the public hearing to adopt the resolution, the person  
139 establishes under the provisions of this act provided that:

140 1. A person who owns or controls a potential brownfield  
141 site is requesting the designation and has agreed to  
142 rehabilitate and redevelop the brownfield site;

143 2. The rehabilitation and redevelopment of the proposed  
144 brownfield site will result in economic productivity of the  
145 area, along with the creation of at least 5 new permanent jobs  
146 at the brownfield site that are full-time equivalent positions  
147 not associated with the implementation of the brownfield site  
148 rehabilitation agreement and that are not associated with  
149 redevelopment project demolition or construction activities  
150 pursuant to the redevelopment of the proposed brownfield site or  
151 area. However, the job creation requirement does ~~shall~~ not apply  
152 to the rehabilitation and redevelopment of a brownfield site  
153 that will provide affordable housing as defined in s. 420.0004  
154 or the creation of recreational areas, conservation areas, or  
155 parks;

156 3. The redevelopment of the proposed brownfield site is  
157 consistent with the local comprehensive plan and is a



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158 | permittable use under the applicable local land development  
159 | regulations;

160 |         4. Notice of the proposed rehabilitation of the brownfield  
161 | area has been provided to neighbors and nearby residents of the  
162 | proposed area to be designated pursuant to subsection (1)(c),  
163 | and the person proposing the area for designation has afforded  
164 | to those receiving notice the opportunity for comments and  
165 | suggestions about rehabilitation. Notice pursuant to this  
166 | subparagraph must be made in a newspaper of general circulation  
167 | in the area, at least 16 square inches in size, and the notice  
168 | must be posted in the affected area; and

169 |         5. The person proposing the area for designation has  
170 | provided reasonable assurance that he or she has sufficient  
171 | financial resources to implement and complete the rehabilitation  
172 | agreement and redevelopment of the brownfield site.

173 |         (d) ~~(e)~~ The designation of a brownfield area and the  
174 | identification of a person responsible for brownfield site  
175 | rehabilitation simply entitles the identified person to  
176 | negotiate a brownfield site rehabilitation agreement with the  
177 | department or approved local pollution control program.

178 |         (12) A local government that designates a brownfield area  
179 | pursuant to this section is not required to use the term  
180 | "brownfield area" within the name of the brownfield area  
181 | proposed for designation by the local government.

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

184 |         376.82 Eligibility criteria and liability protection.—

185 |         (2) LIABILITY PROTECTION.—

186 |         (a) Any person, including his or her successors and



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187 assigns, who executes and implements to successful completion a  
188 brownfield site rehabilitation agreement, shall be relieved of:

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

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

193 3. Liability for claims of any person for property damages,  
194 including, but not limited to, diminished value of real property  
195 or improvements; lost or delayed rent, sale, or use of real  
196 property or improvements; or stigma to real property or  
197 improvements caused by contamination addressed by a brownfield  
198 site rehabilitation agreement. Notwithstanding any other  
199 provision of this chapter, this subparagraph applies to causes  
200 of action accruing on or after July 1, 2013.

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

208  
209  
210 ===== T I T L E A M E N D M E N T =====

211 And the title is amended as follows:

212 Delete everything before the enacting clause  
213 and insert:

214 A bill to be entitled  
215 An act relating to to brownfields; amending s. 376.78,





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216 F.S.; revising legislative intent with regard to community  
217 revitalization in certain areas; amending s. 376.80, F.S.;  
218 revising procedures for designation of brownfield areas by local  
219 governments; authorizing local governments to use a term other  
220 than "brownfield area" when naming such areas; amending s.  
221 376.82, F.S.; providing relief of liability for property damages  
222 for entities that execute and implement certain brownfield site  
223 rehabilitation agreements; providing for applicability;  
224 providing an effective date.