

1 A bill to be entitled

2 An act relating to brownfields; amending s. 376.78,  
3 F.S.; revising legislative intent with regard to  
4 community revitalization in certain areas; amending s.  
5 376.80, F.S.; revising procedures for designation of  
6 brownfield areas; authorizing local governments to use  
7 a term other than "brownfield area" when naming such  
8 areas; amending s. 376.82, F.S.; providing certain  
9 liability protection against claims of property  
10 damages; providing for applicability; providing an  
11 effective date.

12  
13 Be It Enacted by the Legislature of the State of Florida:

14  
15 Section 1. Subsection (8) of section 376.78, Florida  
16 Statutes, is amended to read:

17 376.78 Legislative intent.—The Legislature finds and  
18 declares the following:

19 (8) The existence of brownfields within a community may  
20 contribute to, or may be a symptom of, overall community  
21 decline, including issues of human disease and illness, crime,  
22 educational and employment opportunities, and infrastructure  
23 decay. The environment is an important element of quality of  
24 life in any community, along with economic opportunity,  
25 educational achievement, access to health care, housing quality  
26 and availability, provision of governmental services, and other

27 socioeconomic factors. Brownfields redevelopment, properly done,  
 28 can be a significant element in community revitalization,  
 29 especially within community redevelopment areas, enterprise  
 30 zones, empowerment zones, closed military bases, or designated  
 31 brownfield pilot project areas.

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

35 376.80 Brownfield program administration process.—

36 (1) The following general procedures apply to brownfield  
 37 designations:

38 (a) The local government with jurisdiction over a proposed  
 39 brownfield area shall designate such area pursuant to this  
 40 section.

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

42 1. The jurisdictional local government, the designation  
 43 criteria under paragraph (2) (a) apply, except if the local  
 44 government proposes to designate as a brownfield area a  
 45 specified redevelopment area as provided in paragraph (2) (b).

46 2. Any person, other than a governmental entity,  
 47 including, but not limited to, individuals, corporations,  
 48 partnerships, limited liability companies, community-based  
 49 organizations, or not-for-profit corporations, the designation  
 50 criteria under paragraph (2) (c) apply.

51 (c) Except as otherwise provided, the following provisions  
 52 apply to all proposed brownfield area designations:

53 1. Notification to department following adoption.—A local  
 54 government with jurisdiction over the brownfield area must  
 55 notify the department, and, if applicable, the local pollution  
 56 control program under s. 403.182, of its decision to designate a  
 57 brownfield area for rehabilitation for the purposes of ss.  
 58 376.77–376.86. The notification must include a resolution  
 59 adopted, by the local government body. The local government  
 60 shall notify the department, and, if applicable, the local  
 61 pollution control program under s. 403.182, of the designation  
 62 within 30 days after adoption of the resolution.

63 2. Resolution adoption.—The brownfield area designation  
 64 must be carried out by a resolution adopted by the  
 65 jurisdictional local government, ~~to~~ which includes ~~is attached~~ a  
 66 map adequate to clearly delineate exactly which parcels are to  
 67 be included in the brownfield area or alternatively a less-  
 68 detailed map accompanied by a detailed legal description of the  
 69 brownfield area. For municipalities, the governing body shall  
 70 adopt the resolution in accordance with the procedures outlined  
 71 in s. 166.041, except that the notice for the public hearings on  
 72 the proposed resolution must be in the form established in s.  
 73 166.041(3)(c)2. For counties, the governing body shall adopt the  
 74 resolution in accordance with the procedures outlined in s.  
 75 125.66, except that the notice for the public hearings on the  
 76 proposed resolution shall be in the form established in s.  
 77 125.66(4)(b).

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

79 property owner within the area proposed for designation by the  
 80 local government requests in writing to have his or her property  
 81 removed from the proposed designation, the local government  
 82 shall grant the request. ~~For municipalities, the governing body~~  
 83 ~~shall adopt the resolution in accordance with the procedures~~  
 84 ~~outlined in s. 166.041, except that the notice for the public~~  
 85 ~~hearings on the proposed resolution must be in the form~~  
 86 ~~established in s. 166.041(3)(c)2. For counties, the governing~~  
 87 ~~body shall adopt the resolution in accordance with the~~  
 88 ~~procedures outlined in s. 125.66, except that the notice for the~~  
 89 ~~public hearings on the proposed resolution shall be in the form~~  
 90 ~~established in s. 125.66(4)(b)2.~~

91 4. Notice and public hearing requirements for designation  
 92 of a proposed brownfield area outside a redevelopment area or by  
 93 a nongovernmental entity.-Compliance with the following  
 94 provisions is required before designation of a proposed  
 95 brownfield area under paragraph (2)(a) or paragraph (2)(c):

96 a. At least one of the required public hearings shall be  
 97 conducted as closely as is reasonably practicable to the area to  
 98 be designated to provide an opportunity for public input on the  
 99 size of the area, the objectives for rehabilitation, job  
 100 opportunities and economic developments anticipated,  
 101 neighborhood residents' considerations, and other relevant local  
 102 concerns.

103 b. Notice of the public hearing must be made in a  
 104 newspaper of general circulation in the area, and the notice

105 must be at least 16 square inches in size, must be in ethnic  
 106 newspapers or local community bulletins, must be posted in the  
 107 affected area, and must be announced at a scheduled meeting of  
 108 the local governing body before the actual public hearing.

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

131 ~~to be designated,~~ the local government must consider:

- 132 1. Whether the brownfield area warrants economic  
133 development and has a reasonable potential for such activities;  
134 2. Whether the proposed area to be designated represents a  
135 reasonably focused approach and is not overly large in  
136 geographic coverage;  
137 3. Whether the area has potential to interest the private  
138 sector in participating in rehabilitation; and  
139 4. Whether the area contains sites or parts of sites  
140 suitable for limited recreational open space, cultural, or  
141 historical preservation purposes.

142 (b) Local government-proposed brownfield area designation  
143 within specified redevelopment areas.—Paragraph (a) does not  
144 apply to a proposed brownfield area if the local government  
145 proposes to designate the brownfield area inside a community  
146 redevelopment area, enterprise zone, empowerment zone, closed  
147 military base, or designated brownfield pilot project area and  
148 the local government complies with paragraph (1) (c).

149 (c) ~~(b)~~ Brownfield area designation proposed by persons  
150 other than a governmental entity.—For designation of a  
151 brownfield area that is proposed by a person other than the  
152 local government, the local government with jurisdiction over  
153 the proposed brownfield area shall provide notice and adopt a  
154 resolution to designate the a brownfield area pursuant to  
155 paragraph (1) (c) if, at the public hearing to adopt the  
156 resolution, the person establishes all of the following under

157 ~~the provisions of this act provided that:~~

158       1. A person who owns or controls a potential brownfield  
159 site is requesting the designation and has agreed to  
160 rehabilitate and redevelop the brownfield site.~~†~~

161       2. The rehabilitation and redevelopment of the proposed  
162 brownfield site will result in economic productivity of the  
163 area, along with the creation of at least 5 new permanent jobs  
164 at the brownfield site that are full-time equivalent positions  
165 not associated with the implementation of the brownfield site  
166 rehabilitation agreement and that are not associated with  
167 redevelopment project demolition or construction activities  
168 pursuant to the redevelopment of the proposed brownfield site or  
169 area. However, the job creation requirement does ~~shall~~ not apply  
170 to the rehabilitation and redevelopment of a brownfield site  
171 that will provide affordable housing as defined in s. 420.0004  
172 or the creation of recreational areas, conservation areas, or  
173 parks.~~†~~

174       3. The redevelopment of the proposed brownfield site is  
175 consistent with the local comprehensive plan and is a  
176 permissible use under the applicable local land development  
177 regulations.~~†~~

178       4. Notice of the proposed rehabilitation of the brownfield  
179 area has been provided to neighbors and nearby residents of the  
180 proposed area to be designated pursuant to paragraph (1)(c), and  
181 the person proposing the area for designation has afforded to  
182 those receiving notice the opportunity for comments and

183 suggestions about rehabilitation. Notice pursuant to this  
 184 subparagraph must be made in a newspaper of general circulation  
 185 in the area, at least 16 square inches in size, and the notice  
 186 must be posted in the affected area. ~~;~~ ~~and~~

187 5. The person proposing the area for designation has  
 188 provided reasonable assurance that he or she has sufficient  
 189 financial resources to implement and complete the rehabilitation  
 190 agreement and redevelopment of the brownfield site.

191 (d) (e) Negotiation of brownfield site rehabilitation  
 192 agreement.—The designation of a brownfield area and the  
 193 identification of a person responsible for brownfield site  
 194 rehabilitation simply entitles the identified person to  
 195 negotiate a brownfield site rehabilitation agreement with the  
 196 department or approved local pollution control program.

197 (12) A local government that designates a brownfield area  
 198 pursuant to this section is not required to use the term  
 199 "brownfield area" within the name of the brownfield area  
 200 proposed for designation by the local government.

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

203 376.82 Eligibility criteria and liability protection.—

204 (2) LIABILITY PROTECTION.—

205 (a) Any person, including his or her successors and  
 206 assigns, who executes and implements to successful completion a  
 207 brownfield site rehabilitation agreement, is ~~shall be~~ relieved  
 208 of:



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

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

213 3. Liability for claims of property damages, including,  
 214 but not limited to, diminished value of real property or  
 215 improvements; lost or delayed rent, sale, or use of real  
 216 property or improvements; or stigma to real property or  
 217 improvements caused by contamination addressed by a brownfield  
 218 site rehabilitation agreement. Notwithstanding any other  
 219 provision of this chapter, this subparagraph applies to causes  
 220 of action accruing on or after July 1, 2014. This subparagraph  
 221 does not apply to a person who commits fraud in demonstrating  
 222 site conditions or completing site rehabilitation of a property  
 223 subject to a brownfield site rehabilitation agreement or who  
 224 exacerbates contamination of a property subject to a brownfield  
 225 site rehabilitation agreement in violation of applicable laws  
 226 which causes property damages.

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

234 Section 4. This act shall take effect July 1, 2014.