

By the Committee on Judiciary; and Senator Burgess

590-02319-25

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1 A bill to be entitled
2 An act relating to former phosphate mining lands;
3 amending s. 376.308, F.S.; providing conditions for a
4 cause of action against certain former phosphate mine
5 sites; creating s. 378.213, F.S.; providing
6 legislative findings; providing for certain notice of
7 former phosphate mines; authorizing landowners to
8 record certain notice; providing requirements for such
9 notice; defining the term "former phosphate mine";
10 creating s. 404.0561, F.S.; requiring the Department
11 of Health to conduct surveys of former phosphate land
12 parcels upon petition; providing conditions and
13 requirements for such surveys; creating s. 768.405,
14 F.S.; requiring that specified documentation of
15 radiation levels be submitted in certain civil actions
16 related to phosphate mining; providing an effective
17 date.

18
19 Be It Enacted by the Legislature of the State of Florida:

20
21 Section 1. Paragraph (e) is added to subsection (2) of
22 section 376.308, Florida Statutes, to read:

23 376.308 Liabilities and defenses of facilities.—

24 (2) In addition to the defense described in paragraph
25 (1)(c), the only other defenses of a person specified in
26 subsection (1) are to plead and prove that the occurrence was
27 solely the result of any of the following or any combination of
28 the following:

29 (e) The condition giving rise to the cause of action is a

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30 natural geological substance of a former phosphate mine, as
31 defined in s. 378.213, for which:

32 1. A notice has been recorded in accordance with s.
33 378.213(2); and

34 2. The Department of Health has conducted a survey under s.
35 404.0561(1).

36 Section 2. Section 378.213, Florida Statutes, is created to
37 read:

38 378.213 Notice of former phosphate mine site.-

39 (1) The Legislature finds that phosphate mining is an
40 essential agricultural activity that is necessary for the food
41 security of the nation and this state and that, further,
42 formerly mined lands are a valuable resource. The highest and
43 best use of formerly mined lands is in the state's interests.

44 (2) A landowner may record a notice in the official records
45 of the county in which the land is located which identifies the
46 landowner's property as a former phosphate mine. The recorded
47 notice must be in substantially the following form:

48
49 NOTICE

50 This property is a former phosphate mine as defined in
51 s. 378.213(3), Florida Statutes.

52
53 Such recording serves as notice that the land is a former
54 phosphate mine.

55 (3) As used in this section, the term "former phosphate
56 mine" means an area of land upon which phosphate mining has been
57 conducted and which may have been subject to a radiation survey
58 in accordance with s. 404.0561 and state reclamation

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59 requirements of ss. 378.201-378.212, but does not include a
60 phosphogypsum stack as defined in s. 403.4154(1)(d).

61 Section 3. Section 404.0561, Florida Statutes, is created
62 to read:

63 404.0561 Monitoring of former phosphate mining lands.-

64 (1) Upon petition by a current landowner, the department
65 shall conduct a gamma radiation survey of a former phosphate
66 land parcel within 120 days to determine the radioactivity
67 levels. The survey must document gamma radiation exposure
68 measurements and the locations of the measurements. Gamma
69 radiation measurements must be taken at the density of one per
70 site or one per acre of land, whichever is greater.

71 (2) The department shall provide a copy of the preliminary
72 survey results to the petitioner within 30 days after completion
73 of the survey. Within 60 days after receipt of the survey, the
74 petitioner may request an additional survey based upon any
75 reasonable belief that the survey was flawed or not
76 representative of conditions on the site. The department shall
77 conduct one additional survey within 90 days after receipt of
78 the petitioner's request. The additional survey must meet the
79 requirements of this section and is deemed final within 90 days
80 after completion.

81 Section 4. Section 768.405, Florida Statutes, is created to
82 read:

83 768.405 Documentation of radiation levels.-In any civil
84 action based on strict liability under s. 376.313(3), negligence
85 or similar conduct related to an alleged discharge of hazardous
86 substances or condition of pollution related to phosphate
87 mining, including the presence of mining overburden, solid waste

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88 from the extraction, or beneficiation of phosphate rock from a
89 phosphate mine; or any other similar claim related to the mining
90 of phosphatic rock or reclamation of a mined area, the plaintiff
91 must include a radiation survey of the property with the
92 complaint. The survey must be prepared by a person certified as
93 either a health physicist by the American Board of Health
94 Physics or as a radiation protection technologist by the
95 National Registry of Radiation Protection Technologists. The
96 survey must be representative and document the measured gamma
97 radiation on the property, including background values
98 determined in accordance with the Environmental Protection
99 Agency's Multi-agency Radiation Survey and Site Investigation
100 Manual; the locations of the measurements; the testing
101 equipment; the testing methodology used, including the equipment
102 calibration date and protocol; and the name of the person
103 performing the survey and describe the person's relevant
104 training, education, and experience. The survey shall be
105 verified under penalty of perjury as provided in s. 92.525.

106 Section 5. This act shall take effect July 1, 2025.