CHAPTER 2000-317

Committee Substitute for Committee Substitute for Committee Substitute for Senate Bill No. 1406

An act relating to state regulation of lands; amending s. 206.9935, F.S.; providing requirements for determination of the rate; amending s. 252.87, F.S.; revising reporting requirements under the Hazardous Materials Emergency Response and Community Right-to-Know Act; amending s. 288.047, F.S.; requiring Enterprise Florida, Inc., to set aside each fiscal year a certain amount of the appropriation for the Quick Response Training Program for businesses located in a brownfield area; amending s. 288.107, F.S.; redefining the term "eligible business"; providing for bonus refunds for businesses that can demonstrate a fixed capital investment in certain mixed use activities in the brownfield area; amending s. 288.905, F.S.; requiring Enterprise Florida, Inc., to develop comprehensive marketing strategies for redevelopment of brownfield areas; amending s. 376.051, F.S.; providing for the use of risk-based cleanup criteria on state university lands; amending s. 376.301, F.S.; redefining the terms "antagonistic effects," "discharge," "institutional controls," "natural attenuation," and "site rehabilitation" and defining the term "risk reduction"; amending s. 376.303, F.S.; providing authority for mapping and registering contamination within brownfields; amending s. 376.3078, F.S.; providing conditions with respect to determination of eligibility of specified drycleaning facilities for state-funded site rehabilitation; providing for rehabilitation criteria; amending s. 376.79, F.S.; defining the terms "contaminant" and "risk reduction"; redefining the terms "natural attenuation," "institutional control," and "source removal"; amending s. 376.80, F.S.; allowing local governments or persons responsible for brownfield area rehabilitation and redevelopment to use an existing advisory committee; deleting the requirement that the advisory committee must review and provide recommendations to the local government with jurisdiction on the proposed brownfield site rehabilitation agreement; providing that the person responsible for site rehabilitation must notify the advisory committee of the intent to rehabilitate and redevelop the site before executing the brownfield site rehabilitation agreement; requiring the person responsible for site rehabilitation to hold a meeting or attend a regularly scheduled meeting of the advisory committee to inform the advisory committee of the outcome of the environmental assessment; requiring the person responsible for site rehabilitation to enter into a brownfield site rehabilitation agreement only if actual contamination exists; clarifying provisions relating to the required comprehensive general liability and comprehensive automobile liability insurance; amending s. 376.81, F.S.; providing direction regarding the risk-based corrective action rule; requiring the department to establish alternative cleanup levels under certain circumstances; amending s. 376.82, F.S.; providing immunity for liability regarding contaminated site remediation under certain circumstances; amending s. 403.973,

F.S.; providing that projects located in a designated brownfield area are eligible for the expedited permitting process; amending s. 190.012, F.S.; authorizing community development districts to fund certain environmental costs under certain circumstances; amending ss. 712.01, 712.03, F.S.; prohibiting subsequent property owners from removing certain deed restrictions under other provisions of the Marketable Record Title Act; amending s. 163.2517, F.S.; revising the financial incentives which a local government may offer in an urban infill and redevelopment area which relate to exemption from local option sales surtaxes and waiver of delinquent taxes or fees; providing that, in order to be eligible for the exemption from collecting local option sales surtaxes, a business must submit an application under oath to the local government, which must be approved and submitted to the Department of Revenue; amending s. 212.08, F.S.; specifying that the authority of a local government to adopt financial and local government incentives under s. 163.2517, F.S., is not superseded by certain provisions relating to sales tax exemptions; amending s. 163.2523, F.S.; authorizing transfer of unused funds between grant categories under the Urban Infill and Redevelopment Assistance Grant Program; repealing s. 376.3195, F.S.; providing for distribution of certain unspent appropriations; repealing s. 211.3103(9), F.S.; providing an effective date.

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

Section 1. Paragraph (b) of subsection (2) and paragraph (b) of subsection (3) of section 206.9935, Florida Statutes, is amended to read:

206.9935 Taxes imposed.—

(2) TAX FOR WATER QUALITY.—

(a)1. There is hereby levied an excise tax for the privilege of producing in, importing into, or causing to be imported into this state pollutants for sale, use, or otherwise.

2. The tax shall be imposed only once on each barrel or other unit of pollutant, other than petroleum products, when first produced in or imported into this state. The tax on pollutants first imported into or produced in this state shall be imposed when the product is first sold or first removed from storage. The tax shall be paid and remitted by any person who is licensed by the department to engage in the production or importation of motor fuel, diesel fuel, aviation fuel, or other pollutants.

3. The tax shall be imposed on petroleum products and remitted to the department in the same manner as the motor fuel tax imposed pursuant to s. 206.41.

(b) The excise tax shall be the applicable rate as specified in subparagraph 1. per barrel or per unit of pollutant, or equivalent measure as established by the department, produced in or imported into the state. If the unobligated balance of the Water Quality Assurance Trust Fund is or falls

below $3 million, the tax shall be increased to the applicable rates specified in subparagraph 2. and shall remain at said rates until the unobligated balance in the fund exceeds $5 million, at which time the tax shall be imposed at the rates specified in subparagraph 1. If the unobligated balance of the fund exceeds $12 million, the levy of the tax shall be discontinued until the unobligated balance of the fund falls below $5 million, at which time the tax shall be imposed at the rates specified in subparagraph 1. Changes in the tax rates pursuant to this paragraph shall take effect on the first day of the month after 30 days' notification to the Department of Revenue when the unobligated balance of the fund falls below or exceeds a limit set pursuant to this paragraph. The unobligated balance of the Water Quality Assurance Trust Fund as it relates to determination of the applicable excise tax rate shall exclude the unobligated balances of funds of the Dry Cleaning, Operator Certification, and nonagricultural nonpoint source programs, and other required reservations of fund balance. The unobligated balance in the Water Quality Assurance Trust Fund is based upon the current unreserved fund balance, projected revenues, authorized legislative appropriations, and funding for the department's base budget for the subsequent fiscal year. Determination of the unobligated balance of the Water Quality Assurance Trust Fund shall be performed annually subsequent to the annual legislative appropriations becoming law.

1. As provided in this paragraph, the tax shall be 2.36 cents per gallon of solvents, 1 cent per gallon of motor oil or other lubricants, and 2 cents per barrel of petroleum products, pesticides, ammonia, and chlorine.

2. As provided in this paragraph, the tax shall be 5.9 cents per gallon of solvents, 2.5 cents per gallon of motor oil or other lubricants, 2 cents per barrel of ammonia, and 5 cents per barrel of petroleum products, pesticides, and chlorine. ingestion.

(3) TAX FOR INLAND PROTECTION.—

(a)1. There is hereby levied an excise tax for the privilege of producing in, importing into, or causing to be imported into this state pollutants for sale, use, or otherwise.

2. The tax shall be imposed only once on each barrel of pollutant produced in or imported into this state in the same manner as the motor fuel tax imposed pursuant to s. 206.41. The tax shall be paid or remitted by any person who is licensed by the department to engage in the production or importation of motor fuel, diesel fuel, aviation fuel, or other pollutants.

(b)1. The excise tax per barrel of pollutant, or equivalent measure as established by the department, produced in or imported into this state shall be:

a. Thirty cents if the unobligated balance of the fund is between $100 million and $150 million.

b. Sixty cents if the unobligated balance of the fund is above $50 million, but below $100 million.

c. Eighty cents if the unobligated balance of the fund is $50 million or less.

2. Any change in the tax rate shall be effective for a minimum of 6 months, unless the unobligated balance of the fund requires that a higher rate be levied.

3. If the unobligated balance of the fund exceeds $150 million, the tax shall be discontinued until such time as the unobligated balance of the fund reaches $100 million.

4. The Secretary of Environmental Protection shall immediately notify the Department of Revenue when the unobligated balance of the fund falls below or exceeds an amount set herein. Changes in the tax rates pursuant to this subsection shall take effect on the first day of the month after 30 days' notification to the Department of Revenue by the Secretary of Environmental Protection when the unobligated balance of the fund falls below or exceeds a limit set pursuant to this subsection. The unobligated balance of the Inland Protection Trust Fund as it relates to determination of the applicable excise tax rate shall exclude any required reservations of fund balance. The unobligated balance of the Inland Protection Trust Fund is based upon the current unreserved fund balance, projected revenues, authorized legislative appropriations, and funding for the department's base budget for the subsequent fiscal year. Determination of the unobligated balance of the Inland Protection Trust Fund shall be performed annually subsequent to the annual legislative appropriations becoming law.

(c) This subsection shall be reviewed by the Legislature during the 1998 regular legislative session.

Section 2. Subsections (4) and (7) of section 252.87, Florida Statutes, are amended to read:

252.87 Supplemental state reporting requirements.—

(4) Each employer that owns or operates a facility in this state at which hazardous materials are present in quantities at or above the thresholds established under ss. 311(b) and 312(b) of EPCRA shall comply with the reporting requirements of ss. 311 and 312 of EPCRA. Such employer shall also be responsible for notifying the department, the local emergency planning committee and the local fire department in writing within 30 days if there is a discontinuance or abandonment of the employer's business activities that could affect any stored hazardous materials.

(7) The department shall avoid duplicative reporting requirements by utilizing the reporting requirements of other state agencies that regulate hazardous materials to the extent feasible and shall ~~only~~ request the ~~necessary~~ information authorized ~~required~~ under EPCRA ~~or required to implement the fee provisions of this part~~. With the advice and consent of the State Emergency Response Commission for Hazardous Materials, the department may require by rule that the maximum daily amount entry on the chemical inventory report required under s. 312 of EPCRA provide for reporting in estimated actual amounts. The department may also require by rule an

entry for the Federal Employer Identification Number on this report. To the extent feasible, the department shall encourage and accept required information in a form initiated through electronic data interchange and shall describe by rule the format, manner of execution, and method of electronic transmission necessary for using such form. To the extent feasible, the Department of Insurance, the Department of Agriculture and Consumer Services, the Department of Environmental Protection, the Public Service Commission, the Department of Revenue, the Department of Labor and Employment Security, and other state agencies which regulate hazardous materials shall coordinate with the department in order to avoid duplicative requirements contained in each agency's respective reporting or registration forms. The other state agencies that inspect facilities storing hazardous materials and suppliers and distributors of covered substances shall assist the department in informing the facility owner or operator of the requirements of this part. The department shall provide the other state agencies with the necessary information and materials to inform the owners and operators of the requirements of this part to ensure that the budgets of these agencies are not adversely affected.

Section 3. Subsection (5) of section 288.047, Florida Statutes, is amended to read:

288.047 Quick-response training for economic development.—

(5) For the first 6 months of each fiscal year, Enterprise Florida, Inc., shall set aside 30 percent of the amount appropriated for the Quick-Response Training Program by the Legislature to fund instructional programs for businesses located in an enterprise zone or brownfield area ~~to instruct residents of an enterprise zone~~. Any unencumbered funds remaining undisbursed from this set-aside at the end of the 6-month period may be used to provide funding for any program qualifying for funding pursuant to this section.

Section 4. Section 288.107, Florida Statutes, is amended to read:

288.107 Brownfield redevelopment bonus refunds.—

(1) DEFINITIONS.—As used in this section:

(a) "Account" means the Economic Development Incentives Account as authorized in s. 288.095.

(b) "Brownfield sites" means sites that are generally abandoned, idled, or underused industrial and commercial properties where expansion or redevelopment is complicated by actual or perceived environmental contamination.

(c) "Brownfield area" means a contiguous area of one or more brownfield sites, some of which may not be contaminated, and which has been designated by a local government by resolution. Such areas may include all or portions of community redevelopment areas, enterprise zones, empowerment zones, other such designated economically deprived communities and areas, and Environmental-Protection-Agency-designated brownfield pilot projects.

(d) "Director" means the director of the Office of Tourism, Trade, and Economic Development.

(e) "Eligible business" means a qualified target industry business as defined in s. 288.106(2)(o) or other business that can demonstrate a fixed capital investment of at least $2 million in mixed-use business activities, including multiunit housing, commercial, retail, and industrial in brownfield areas and which pays wages that are at least 80 percent of the average of all private sector wages in the county in which the business is located.

(f) "Jobs" means full-time equivalent positions, consistent with the use of such terms by the Department of Labor and Employment Security for the purpose of unemployment compensation tax, resulting directly from a project in this state. This number does not include temporary construction jobs involved with the construction of facilities for the project and which are not associated with the implementation of the site rehabilitation as provided in s. 376.80.

(g) "Office" means the Office of Tourism, Trade, and Economic Development.

(h) "Project" means the creation of a new business or the expansion of an existing business as defined in s. 288.106.

(2) BROWNFIELD REDEVELOPMENT BONUS REFUND.—There shall be allowed from the account a bonus refund of $2,500 to any qualified target industry business or other eligible business as defined in paragraph (1)(e) for each new Florida job created in a brownfield which is claimed on the qualified target industry business's annual refund claim authorized in s. 288.106(6) or other similar annual claim procedure for other eligible business as defined in paragraph (1)(e) and approved by the office as specified in the final order issued by the director.

(3) CRITERIA.—The minimum criteria for participation in the brownfield redevelopment bonus refund are:

(a) The creation of at least 10 new full-time permanent jobs. Such jobs shall not include construction or site rehabilitation jobs associated with the implementation of a brownfield site agreement as described in s. 376.80(5).

(b) The completion of a fixed capital investment of at least $2 million in mixed-use business activities, including multiunit housing, commercial, retail, and industrial in brownfield areas and which pay wages that are at least 80 percent of the average of all private sector wages in the county in which the business is located.

(c)~~(b)~~ That the designation as a brownfield will diversify and strengthen the economy of the area surrounding the site.

(d)~~(c)~~ That the designation as a brownfield will promote capital investment in the area beyond that contemplated for the rehabilitation of the site.

(4) PAYMENT OF BROWNFIELD REDEVELOPMENT BONUS REFUNDS.—

(a) To be eligible to receive a bonus refund for new Florida jobs created in a brownfield, a business must have been certified as a qualified target industry business under s. 288.106 or eligible business as defined in paragraph (1)(e) and must have indicated on the qualified target industry tax refund application form submitted in accordance with s. 288.106(4) or other similar agreement for other eligible business as defined in paragraph (1)(e) that the project for which the application is submitted is or will be located in a brownfield and that the business is applying for certification as a qualified brownfield business under this section, and must have signed a qualified target industry tax refund agreement with the office which indicates that the business has been certified as a qualified target industry business located in a brownfield and specifies the schedule of brownfield redevelopment bonus refunds that the business may be eligible to receive in each fiscal year.

(b) To be considered to receive an eligible brownfield redevelopment bonus refund payment, the business meeting the requirements of paragraph (a) must submit a claim once each fiscal year on a claim form approved by the office which indicates the location of the brownfield, the address of the business facility's brownfield location, the name of the brownfield in which it is located, the number of jobs created, and the average wage of the jobs created by the business within the brownfield as defined in s. 288.106 or other eligible business as defined in paragraph (1)(e) and the administrative rules and policies for that section.

(c) The bonus refunds shall be available on the same schedule as the qualified target industry tax refund payments scheduled in the qualified target industry tax refund agreement authorized in s. 288.106 or other similar agreement for other eligible businesses as defined in paragraph (1)(e).

(d) After entering into a tax refund agreement as provided in s. 288.106 or other similar agreement for other eligible businesses as defined in paragraph (1)(e), an eligible business may receive brownfield redevelopment bonus refunds from the account pursuant to s. 288.106(3)(c).

(e) An eligible business that fraudulently claims a refund under this section:

1. Is liable for repayment of the amount of the refund to the account, plus a mandatory penalty in the amount of 200 percent of the tax refund, which shall be deposited into the General Revenue Fund.

2. Commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(f) The office shall review all applications submitted under s. 288.106 or other similar application forms for other eligible businesses as defined in paragraph (1)(e) which indicate that the proposed project will be located in a brownfield and determine, with the assistance of the Department of Environmental Protection, that the project location is within a brownfield as provided in this act.

(g) The office shall approve all claims for a brownfield redevelopment bonus refund payment that are found to meet the requirements of paragraphs (b) and (d).

(h) The director, with such assistance as may be required from the office and the Department of Environmental Protection, shall specify by written final order the amount of the brownfield redevelopment bonus refund that is authorized for the qualified target industry business for the fiscal year within 30 days after the date that the claim for the annual tax refund is received by the office.

(i) The total amount of the bonus refunds approved by the director under this section in any fiscal year must not exceed the total amount appropriated to the Economic Development Incentives Account for this purpose for the fiscal year. In the event that the Legislature does not appropriate an amount sufficient to satisfy projections by the office for brownfield redevelopment bonus refunds under this section in a fiscal year, the office shall, not later than July 15 of such year, determine the proportion of each brownfield redevelopment bonus refund claim which shall be paid by dividing the amount appropriated for tax refunds for the fiscal year by the projected total of brownfield redevelopment bonus refund claims for the fiscal year. The amount of each claim for a brownfield redevelopment bonus tax refund shall be multiplied by the resulting quotient. If, after the payment of all such refund claims, funds remain in the Economic Development Incentives Account for brownfield redevelopment tax refunds, the office shall recalculate the proportion for each refund claim and adjust the amount of each claim accordingly.

(j) Upon approval of the brownfield redevelopment bonus refund, payment shall be made for the amount specified in the final order. If the final order is appealed, payment may not be made for a refund to the qualified target industry business until the conclusion of all appeals of that order.

(5) ADMINISTRATION.—

(a) The office is authorized to verify information provided in any claim submitted for tax credits under this section with regard to employment and wage levels or the payment of the taxes to the appropriate agency or authority, including the Department of Revenue, the Department of Labor and Employment Security, or any local government or authority.

(b) To facilitate the process of monitoring and auditing applications made under this program, the office may provide a list of qualified target industry businesses to the Department of Revenue, to the Department of Labor and Employment Security, to the Department of Environmental Protection, or to any local government authority. The office may request the assistance of those entities with respect to monitoring the payment of the taxes listed in s. 288.106(3).

Section 5. Paragraph (b) of subsection (3) of section 288.905, Florida Statutes, is amended to read:

288.905 Duties of the board of directors of Enterprise Florida, Inc.—

(3)

(b)1. The strategic plan required under this section shall include specific provisions for the stimulation of economic development and job creation in rural areas and midsize cities and counties of the state.

2. Enterprise Florida, Inc., shall involve local governments, local and regional economic development organizations, and other local, state, and federal economic, international, and workforce development entities, both public and private, in developing and carrying out policies, strategies, and programs, seeking to partner and collaborate to produce enhanced public benefit at a lesser cost.

3. Enterprise Florida, Inc., shall involve rural, urban, small-business, and minority-business development agencies and organizations, both public and private, in developing and carrying out policies, strategies, and programs.

4. Enterprise Florida, Inc., shall develop a comprehensive marketing plan for redevelopment of brownfield areas designated pursuant to s. 376.80. The plan must include, but is not limited to, strategies to distribute information about current designated brownfield areas and the available economic incentives for redevelopment of brownfield areas. Such strategies are to be used in the promotion of business formation, expansion, recruitment, retention, and workforce development programs.

Section 6. Subsection (6) of section 376.051, Florida Statutes, is added to said section to read:

376.051 Powers and duties of the Department of Environmental Protection.—

(6) The department is specifically authorized to utilize risk-based cleanup criteria as described in ss. 376.3071, 376.3078, and 376.81 in conducting cleanups on lands owned by the state university system.

Section 7. Section 376.301, Florida Statutes, is amended to read:

376.301 Definitions of terms used in ss. 376.30-376.319, 376.70, and 376.75.—When used in ss. 376.30-376.319, 376.70, and 376.75, unless the context clearly requires otherwise, the term:

(1) “Aboveground hazardous substance tank” means any stationary aboveground storage tank and onsite integral piping that contains hazardous substances which are liquid at standard temperature and pressure and has an individual storage capacity greater than 110 gallons.

(2) “Additive effects” means a scientific principle that the toxicity that occurs as a result of exposure is the sum of the toxicities of the individual chemicals to which the individual is exposed.

(3) "Antagonistic effects" means a scientific principle that the toxicity that occurs as a result of exposure is less than the sum of the toxicities of the individual chemicals to which the individual is exposed.

(4) "Backlog" means reimbursement obligations incurred pursuant to s. 376.3071(12), prior to March 29, 1995, or authorized for reimbursement under the provisions of s. 376.3071(12), pursuant to chapter 95-2, Laws of Florida. Claims within the backlog are subject to adjustment, where appropriate.

(5) "Barrel" means 42 U.S. gallons at 60 degrees Fahrenheit.

(6) "Bulk product facility" means a waterfront location with at least one aboveground tank with a capacity greater than 30,000 gallons which is used for the storage of pollutants.

(7) "Cattle-dipping vat" means any structure, excavation, or other facility constructed by any person, or the site where such structure, excavation, or other facility once existed, for the purpose of treating cattle or other livestock with a chemical solution pursuant to or in compliance with any local, state, or federal governmental program for the prevention, suppression, control, or eradication of any dangerous, contagious, or infectious diseases.

(8) "Compression vessel" means any stationary container, tank, or onsite integral piping system, or combination thereof, which has a capacity of greater than 110 gallons, that is primarily used to store pollutants or hazardous substances above atmospheric pressure or at a reduced temperature in order to lower the vapor pressure of the contents. Manifold compression vessels that function as a single vessel shall be considered as one vessel.

(9) "Contaminant" means any physical, chemical, biological, or radiological substance present in any medium which may result in adverse effects to human health or the environment or which creates an adverse nuisance, organoleptic, or aesthetic condition in groundwater.

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

(11) "Department" means the Department of Environmental Protection.

(12) "Discharge" includes, but is not limited to, any spilling, leaking, seeping, pouring, misapplying, emitting, emptying, releasing, or dumping of any pollutant or hazardous substance which occurs and which affects lands and the surface and ground waters of the state not regulated by ss. 376.011-376.21.

(13) "Drycleaning facility" means a commercial establishment that operates or has at some time in the past operated for the primary purpose of drycleaning clothing and other fabrics utilizing a process that involves any use of drycleaning solvents. The term "drycleaning facility" includes laundry facilities that use drycleaning solvents as part of their cleaning process. The term does not include a facility that operates or has at some time in the past

operated as a uniform rental company or a linen supply company regardless of whether the facility operates as or was previously operated as a drycleaning facility.

(14) "Drycleaning solvents" means any and all nonaqueous solvents used in the cleaning of clothing and other fabrics and includes perchloroethylene (also known as tetrachloroethylene) and petroleum-based solvents, and their breakdown products. For purposes of this definition, "drycleaning solvents" only includes those drycleaning solvents originating from use at a drycleaning facility or by a wholesale supply facility.

(15) "Dry drop-off facility" means any commercial retail store that receives from customers clothing and other fabrics for drycleaning or laundering at an offsite drycleaning facility and that does not clean the clothing or fabrics at the store utilizing drycleaning solvents.

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

(17) "Wholesale supply facility" means a commercial establishment that supplies drycleaning solvents to drycleaning facilities.

(18) "Facility" means a nonresidential location containing, or which contained, any underground stationary tank or tanks which contain hazardous substances or pollutants and have individual storage capacities greater than 110 gallons, or any aboveground stationary tank or tanks which contain pollutants which are liquids at standard ambient temperature and pressure and have individual storage capacities greater than 550 gallons. This subsection shall not apply to facilities covered by chapter 377, or containers storing solid or gaseous pollutants, and agricultural tanks having storage capacities of less than 550 gallons.

(19) "Flow-through process tank" means an aboveground tank that contains hazardous substances or specified mineral acids as defined in s. 376.321 and that forms an integral part of a production process through which there is a steady, variable, recurring, or intermittent flow of materials during the operation of the process. Flow-through process tanks include, but are not limited to, seal tanks, vapor recovery units, surge tanks, blend tanks, feed tanks, check and delay tanks, batch tanks, oil-water separators, or tanks in which mechanical, physical, or chemical change of a material is accomplished.

(20) "Hazardous substances" means those substances defined as hazardous substances in the Comprehensive Environmental Response, Compensation and Liability Act of 1980, Pub. L. No. 96-510, 94 Stat. 2767, as amended by the Superfund Amendments and Reauthorization Act of 1986.

(21) "Institutional controls" means the restriction on use or access to a site to eliminate or minimize exposure to petroleum products' chemicals of concern, drycleaning solvents, or other contaminants. Such restrictions may

include, but are not limited to, deed restrictions, restrictive covenants, or conservation easements ~~use restrictions, or restrictive zoning~~.

(22) "Laundering on a wash, dry, and fold basis" means the service provided by the owner or operator of a coin-operated laundry to its customers whereby an employee of the laundry washes, dries, and folds laundry for its customers.

(23) "Marine fueling facility" means a commercial or recreational coastal facility, excluding a bulk product facility, providing fuel to vessels.

(24) "Natural attenuation" means a verifiable ~~an~~ approach to site rehabilitation that allows natural processes to contain the spread of contamination and reduce the concentrations of contaminants in contaminated groundwater and soil. Natural attenuation processes may include the following: sorption, biodegradation, chemical reactions with subsurface materials, diffusion, dispersion, and volatilization.

(25) "Operator" means any person operating a facility, whether by lease, contract, or other form of agreement.

(26) "Owner" means any person owning a facility.

(27) "Person" means any individual, partner, joint venture, or corporation; any group of the foregoing, organized or united for a business purpose; or any governmental entity.

(28) "Person in charge" means the person on the scene who is in direct, responsible charge of a facility from which pollutants are discharged, when the discharge occurs.

(29) "Person responsible for conducting site rehabilitation" means the site owner, operator, or the person designated by the site owner or operator on the reimbursement application. Mortgage holders and trust holders may be eligible to participate in the reimbursement program pursuant to s. 376.3071(12).

(30) "Petroleum" includes:

(a) Oil, including crude petroleum oil and other hydrocarbons, regardless of gravity, which are produced at the well in liquid form by ordinary methods and which are not the result of condensation of gas after it leaves the reservoir; and

(b) All natural gas, including casinghead gas, and all other hydrocarbons not defined as oil in paragraph (a).

(31) "Petroleum product" means any liquid fuel commodity made from petroleum, including, but not limited to, all forms of fuel known or sold as diesel fuel, kerosene, all forms of fuel known or sold as gasoline, and fuels containing a mixture of gasoline and other products, excluding liquefied petroleum gas and American Society for Testing and Materials (ASTM) grades no. 5 and no. 6 residual oils, bunker C residual oils, intermediate fuel

oils (IFO) used for marine bunkering with a viscosity of 30 and higher, asphalt oils, and petrochemical feedstocks.

(32) "Petroleum products' chemicals of concern" means the constituents of petroleum products, including, but not limited to, xylene, benzene, toluene, ethylbenzene, naphthalene, and similar chemicals, and constituents in petroleum products, including, but not limited to, methyl tert-butyl ether (MTBE), lead, and similar chemicals found in additives, provided the chemicals of concern are present as a result of a discharge of petroleum products.

(33) "Petroleum storage system" means a stationary tank not covered under the provisions of chapter 377, together with any onsite integral piping or dispensing system associated therewith, which is used, or intended to be used, for the storage or supply of any petroleum product. Petroleum storage systems may also include oil/water separators, and other pollution control devices installed at petroleum product terminals as defined in this chapter and bulk product facilities pursuant to, or required by, permits or best management practices in an effort to control surface discharge of pollutants. Nothing herein shall be construed to allow a continuing discharge in violation of department rules.

(34) "Pollutants" includes any "product" as defined in s. 377.19(11), pesticides, ammonia, chlorine, and derivatives thereof, excluding liquefied petroleum gas.

(35) "Pollution" means the presence on the land or in the waters of the state of pollutants in quantities which are or may be potentially harmful or injurious to human health or welfare, animal or plant life, or property or which may unreasonably interfere with the enjoyment of life or property, including outdoor recreation.

(36) "Real property owner" means the individual or entity that is vested with ownership, dominion, or legal or rightful title to the real property, or which has a ground lease interest in the real property, on which a drycleaning facility or wholesale supply facility is or has ever been located.

(37) "Response action" means any activity, including evaluation, planning, design, engineering, construction, and ancillary services, which is carried out in response to any discharge, release, or threatened release of a hazardous substance, pollutant, or other contaminant from a facility or site identified by the department under the provisions of ss. 376.30-376.319.

(38) "Response action contractor" means a person who is carrying out any response action, including a person retained or hired by such person to provide services relating to a response action.

(39) "Risk reduction" means the lowering or elimination of the level of risk posed to human health or the environment through interim remedial actions, remedial action, or institutional and, if appropriate, engineering controls.

(40)~~(39)~~ "Secretary" means the Secretary of Environmental Protection.

(41)~~(40)~~ "Site rehabilitation" means the assessment of site contamination and the remediation activities that reduce the levels of contaminants at a site through accepted treatment methods to meet the cleanup target levels established for that site. For purposes of sites subject to the Resource Conservation and Recovery Act, as amended, the term includes removal, decontamination, and corrective action of releases of hazardous substances.

(42)~~(41)~~ "Source removal" means the removal of free product, or the removal of contaminants from soil or sediment that has been contaminated to the extent that leaching to groundwater or surface water has occurred or is occurring.

(43)~~(42)~~ "Storage system" means a stationary tank not covered under the provisions of chapter 377, together with any onsite integral piping or dispensing system associated therewith, which is or has been used for the storage or supply of any petroleum product, pollutant, or hazardous substance as defined herein, and which is registered with the Department of Environmental Protection under this chapter or any rule adopted pursuant hereto.

(44)~~(43)~~ "Synergistic effects" means a scientific principle that the toxicity that occurs as a result of exposure is more than the sum of the toxicities of the individual chemicals to which the individual is exposed.

(45)~~(44)~~ "Terminal facility" means any structure, group of structures, motor vehicle, rolling stock, pipeline, equipment, or related appurtenances which are used or capable of being used for one or more of the following purposes: pumping, refining, drilling for, producing, storing, handling, transferring, or processing pollutants, provided such pollutants are transferred over, under, or across any water, estuaries, tidal flats, beaches, or waterfront lands, including, but not limited to, any such facility and related appurtenances owned or operated by a public utility or a governmental or quasi-governmental body. In the event of a ship-to-ship transfer of pollutants, the vessel going to or coming from the place of transfer and a terminal facility shall also be considered a terminal facility. For the purposes of ss. 376.30-376.319, the term "terminal facility" shall not be construed to include spill response vessels engaged in response activities related to removal of pollutants, or temporary storage facilities created to temporarily store recovered pollutants and matter, or waterfront facilities owned and operated by governmental entities acting as agents of public convenience for persons engaged in the drilling for or pumping, storing, handling, transferring, processing, or refining of pollutants. However, each person engaged in the drilling for or pumping, storing, handling, transferring, processing, or refining of pollutants through a waterfront facility owned and operated by such a governmental entity shall be construed as a terminal facility.

(46)~~(45)~~ "Transfer" or "transferred" includes onloading, offloading, fueling, bunkering, lightering, removal of waste pollutants, or other similar transfers, between terminal facility and vessel or vessel and vessel.

Section 8. Subsections (5) and (6) of section 376.303, Florida Statutes, are added to read:

376.303 Powers and duties of the Department of Environmental Protection.—

(5) MAPPING.—If an institutional control is implemented at any contaminated site in a brownfield area designated pursuant to s. 376.80, the property owner must provide information regarding the institutional control to the local government for mapping purposes. The local government must then note the existence of the institutional control on any relevant local land use and zoning maps with a cross reference to the department's site registry developed pursuant to subsection (6). If the type of institutional control used requires recording with the local government, then the map notation shall also provide a cross reference to the book and page number where recorded. When a local government is provided with evidence that the department has subsequently issued a no further action order without institutional controls for a site currently noted on such maps, the local government shall remove the notation.

(6) REGISTRY.—The department shall prepare and maintain a registry of all contaminated sites located in a brownfield area designated pursuant to s. 376.80, which are subject to institutional and engineering controls, in order to provide a mechanism for the public and local governments to monitor the status of these controls, monitor the department's short-term and long-term protection of human health and the environment in relation to these sites, and evaluate economic revitalization efforts in these areas. At a minimum, the registry shall include the type of institutional or engineering controls employed at a particular site, types of contaminants and affected media, land use limitations, and the county in which the site is located. Sites listed on the registry at which the department has subsequently issued a no further action order without institutional controls shall be removed from the registry. The department shall make the registry available to the public and local governments within 1 year after the effective date of this act. The department shall provide local governments with actual notice when the registry becomes available. Local zoning and planning offices shall post information on how to access the registry in public view.

Section 9. Paragraph (i) of subsection (4) and paragraph (a) of subsection (9) of section 376.3078, Florida Statutes, are amended, to read:

376.3078 Drycleaning facility restoration; funds; uses; liability; recovery of expenditures.—

(4) REHABILITATION CRITERIA.—It is the intent of the Legislature to protect the health of all people under actual circumstances of exposure. By July 1, 1999, the secretary of the department shall establish criteria by rule for the purpose of determining, on a site-specific basis, the rehabilitation program tasks that comprise a site rehabilitation program, including a voluntary site rehabilitation program, and the level at which a rehabilitation program task and a site rehabilitation program may be deemed completed. In establishing the rule, the department shall incorporate, to the maximum extent feasible, risk-based corrective action principles to achieve protection of human health and safety and the environment in a cost-effective manner as provided in this subsection. The rule shall also include

protocols for the use of natural attenuation and the issuance of "no further action" letters. The criteria for determining what constitutes a rehabilitation program task or completion of a site rehabilitation program task or site rehabilitation program, including a voluntary site rehabilitation program, must:

(i) Establish appropriate cleanup target levels for soils.

1. In establishing soil cleanup target levels for human exposure to each contaminant found in soils from the land surface to 2 feet below land surface, the department shall consider the following, as appropriate: calculations using a lifetime cancer risk level of 1.0E-6; a hazard index of 1 or less; the best achievable detection limit; or the naturally occurring background concentration. Institutional controls or other methods shall be used to prevent human exposure to contaminated soils more than 2 feet below the land surface. Any removal of such institutional controls shall require such contaminated soils to be remediated.

2. Leachability-based soil target levels shall be based on protection of the groundwater cleanup target levels or the alternate cleanup target levels for groundwater established pursuant to this paragraph, as appropriate. Source removal and other cost-effective alternatives that are technologically feasible shall be considered in achieving the leachability soil target levels established by the department. The leachability goals shall not be applicable if the department determines, based upon individual site characteristics, that contaminants will not leach into the groundwater at levels which pose a threat to human health, public safety, and the environment.

3. Using risk-based corrective action principles, the department shall approve ~~may set~~ alternative cleanup target levels based upon the person responsible for site rehabilitation demonstrating, using site-specific modeling and risk assessment studies, that human health, public safety, and the environment are protected.

The department shall require source removal, as a risk reduction measure, if warranted and cost-effective. Once source removal at a site is complete, the department shall reevaluate the site to determine the degree of active cleanup needed to continue. Further, the department shall determine if the reevaluated site qualifies for monitoring only or if no further action is required to rehabilitate the site. If additional site rehabilitation is necessary to reach "no further action" status, the department is encouraged to utilize natural attenuation and monitoring where site conditions warrant.

(9) REQUIREMENT FOR DRYCLEANING FACILITIES.—It is the intent of the Legislature that the following drycleaning solvent containment shall be required of the owners or operators of drycleaning facilities, as follows:

(a) Owners or operators of drycleaning facilities shall by January 1, 1997, install dikes or other containment structures around each machine or item of equipment in which drycleaning solvents are used and around any area in which solvents or waste-containing solvents are stored. Such dikes or

containment structures shall be capable of containing 110 percent of the capacity of each such machine and each such storage area. To the extent practicable, each owner or operator of a drycleaning facility shall seal or otherwise render impervious those portions of all dikes' floor surfaces upon which any drycleaning solvents may leak, spill, or otherwise be released. A drycleaning facility that commenced operating before January 1, 1996, and applied to the program by December 30, 1997, is considered to have had secondary containment timely installed for the purpose of determining eligibility for state-funded site rehabilitation under this section if the drycleaning facility meets the following criteria:

1. Reported in the completed application that the facility was not in compliance with paragraph (a) of this subsection, and entered into a consent order with the department to install secondary containment and installed the required containment by April 15, 1999; or

2. Reported in the completed application that the facility had installed secondary containment but stated in the application that the date the facility installed secondary containment was not known, and was requested by the department subsequent to April 30, 1997, to apply for program eligibility and did so apply within 90 days of the request, and installed secondary containment by February 28, 1998.

The department shall reconsider the applications of facilities that meet the criteria set forth in this paragraph and that were previously determined to be ineligible due to failure to comply with secondary containment requirements. The facilities must meet all other eligibility requirements.

Section 10. Section 376.79, Florida Statutes, is amended to read:

376.79 Definitions.—As used in ss. 376.77-376.85, the term:

(1) "Additive effects" means a scientific principle that the toxicity that occurs as a result of exposure is the sum of the toxicities of the individual chemicals to which the individual is exposed.

(2) "Antagonistic effects" means a scientific principle that the toxicity that occurs as a result of exposure is less than the sum of the toxicities of the individual chemicals to which the individual is exposed.

(3) "Brownfield sites" means sites that are generally abandoned, idled, or underused industrial and commercial properties where expansion or redevelopment is complicated by actual or perceived environmental contamination.

(4) "Brownfield area" means a contiguous area of one or more brownfield sites, some of which may not be contaminated, and which has been designated by a local government by resolution. Such areas may include all or portions of community redevelopment areas, enterprise zones, empowerment zones, other such designated economically deprived communities and areas, and Environmental Protection Agency-designated brownfield pilot projects.

(5) "Contaminant" means any physical, chemical, biological, or radiological substance present in any medium which may result in adverse effects to human health or the environment or which creates an adverse nuisance, organoleptic, or aesthetic condition in groundwater.

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

(7)~~(6)~~ "Department" means the Department of Environmental Protection.

(8)~~(7)~~ "Engineering controls" means modifications to a site to reduce or eliminate the potential for exposure to contaminants. Such modifications may include, but are not limited to, physical or hydraulic control measures, capping, point of use treatments, or slurry walls.

(9)~~(8)~~ "Environmental justice" means the fair treatment of all people of all races, cultures, and incomes with respect to the development, implementation, and enforcement of environmental laws, regulations, and policies.

(10)~~(9)~~ "Institutional controls" means the restriction on use of or access to a site to eliminate or minimize exposure to contaminants. Such restrictions may include, but are not limited to, deed restrictions, restrictive covenants, or conservation easements ~~use restrictions, or restrictive zoning~~.

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

(12)~~(11)~~ "Natural attenuation" means a verifiable approach to site rehabilitation which allows natural processes to contain the spread of contamination and reduce the concentrations of contaminants in contaminated groundwater and soil. Natural attenuation processes may include sorption, biodegradation, chemical reactions with subsurface materials, diffusion, dispersion, and volatilization. ~~the verifiable reduction of contaminants through natural processes, which may include diffusion, dispersion, adsorption, and biodegradation.~~

(13)~~(12)~~ "Person responsible for brownfield site rehabilitation" means the individual or entity that is designated by the local government to enter into the brownfield site rehabilitation agreement with the department or an approved local pollution control program and enters into an agreement with the local government for redevelopment of the site.

(14)~~(13)~~ "Person" means any individual, partner, joint venture, or corporation; any group of the foregoing, organized or united for a business purpose; or any governmental entity.

(15) "Risk reduction" means the lowering or elimination of the level of risk posed to human health or the environment through interim remedial actions, remedial action, or institutional, and if appropriate, engineering controls.

(16)~~(14)~~ "Secretary" means the secretary of the Department of Environmental Protection.

(17)~~(15)~~ "Site rehabilitation" means the assessment of site contamination and the remediation activities that reduce the levels of contaminants at a site through accepted treatment methods to meet the cleanup target levels established for that site.

(18)~~(16)~~ "Source removal" means the removal of free product, or the removal of contaminants from soil or sediment that has been contaminated to the extent that leaching to groundwater or surface water has occurred or is occurring.

(19)~~(17)~~ "Synergistic effects" means a scientific principle that the toxicity that occurs as a result of exposure is more than the sum of the toxicities of the individual chemicals to which the individual is exposed.

Section 11. Subsections (4) and (5) and paragraph (c) of subsection (7) of section 376.80, Florida Statutes, are amended to read:

376.80 Brownfield program administration process.—

(4) Local governments or persons responsible for rehabilitation and redevelopment of brownfield areas must establish an advisory committee or use an existing advisory committee that has formally expressed its intent to address redevelopment of the specific brownfield area for the purpose of improving public participation and receiving public comments on rehabilitation and redevelopment of the brownfield area, future land use, local employment opportunities, community safety, and environmental justice. Such advisory committee should include residents within or adjacent to the brownfield area, businesses operating within the brownfield area, and others deemed appropriate. The person responsible for brownfield site rehabilitation must notify the advisory committee of the intent to rehabilitate and redevelop the site before executing the brownfield site rehabilitation agreement, and provide the committee with a copy of the draft plan for site rehabilitation which addresses elements required by subsection (5). This includes disclosing potential reuse of the property as well as site rehabilitation activities, if any, to be performed. The advisory committee shall review the proposed redevelopment agreement required pursuant to paragraph (5)(i) and provide comments, if appropriate, to the board of the local government with jurisdiction over the brownfield area. The advisory committee must receive a copy of the executed brownfield site rehabilitation agreement. When the person responsible for brownfield site rehabilitation submits a site assessment report or the technical document containing the proposed course of action following site assessment to the department or the local pollution control program for review, the person responsible for brownfield site rehabilitation must hold a meeting or attend a regularly scheduled meeting to inform the advisory committee of the findings and recommendations in the site assessment report or the technical document containing the proposed course of action following site assessment. ~~The advisory committee must review and provide recommendations to the board of the local government with jurisdiction on the proposed site rehabilitation agreement provided in subsection (5).~~

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

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

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

(c) A commitment to conduct site rehabilitation in accordance with an approved comprehensive quality assurance plan under department rules;

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

(e) Timeframes for the department's review of technical reports and plans submitted in accordance with the agreement. The department shall make every effort to adhere to established agency goals for reasonable timeframes for review of such documents;

(f) A commitment to secure site access for the department or approved local pollution control program to all brownfield sites within the eligible brownfield area for activities associated with site rehabilitation;

(g) Other provisions that the person responsible for brownfield site rehabilitation and the department agree upon, that are consistent with ss. 376.77-376.85, and that will improve or enhance the brownfield site rehabilitation process;

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

(i) Certification that an agreement exists between the person responsible for brownfield site rehabilitation and the local government with jurisdiction over the brownfield area. Such agreement shall contain terms for the redevelopment of the brownfield area.

(7) The contractor must certify to the department that the contractor:

(c) Maintains comprehensive general liability and comprehensive automobile liability insurance with minimum limits of at least $1 million per claim ~~occurrence~~ and $1 million annual aggregate, sufficient to protect it from claims for damage for personal injury, including accidental death, as well as claims for property damage which may arise from performance of work under the program, designating the state as an additional insured party.

Section 12. Section 376.81, Florida Statutes, is amended to read:

376.81 Brownfield site and brownfield areas contamination cleanup criteria.—

(1) It is the intent of the Legislature to protect the health of all people under actual circumstances of exposure. By July 1, 2001 ~~1998~~, the secretary of the department shall establish criteria by rule for the purpose of determining, on a site-specific basis, the rehabilitation program tasks that comprise a site rehabilitation program and the level at which a rehabilitation program task and a site rehabilitation program may be deemed completed. In establishing the rule, the department shall apply ~~incorporate~~, to the maximum extent feasible, a risk-based corrective action process ~~principles~~ to achieve protection of human health and safety and the environment in a cost-effective manner based on the principles set forth ~~as provided~~ in this subsection. The rule must prescribe a phased risk-based corrective action process that is iterative and that tailors site rehabilitation tasks to site-specific conditions and risks. The department and the person responsible for brownfield site rehabilitation are encouraged to establish decision points at which risk management decisions will be made. The department shall provide an early decision, when requested, regarding applicable exposure factors and a risk management approach based on the current and future land use at the site. The rule shall also include protocols for the use of natural attenuation, the use of institutional and engineering controls, and the issuance of "no further action" letters. The criteria for determining what constitutes a rehabilitation program task or completion of a site rehabilitation program task or site rehabilitation program must:

(a) Consider the current exposure and potential risk of exposure to humans and the environment, including multiple pathways of exposure. The physical, chemical, and biological characteristics of each contaminant must be considered in order to determine the feasibility of risk-based corrective action assessment.

(b) Establish the point of compliance at the source of the contamination. However, the department is authorized to temporarily move the point of compliance to the boundary of the property, or to the edge of the plume when the plume is within the property boundary, while cleanup, including cleanup

through natural attenuation processes in conjunction with appropriate monitoring, is proceeding. The department also is authorized, pursuant to criteria provided for in this section, to temporarily extend the point of compliance beyond the property boundary with appropriate monitoring, if such extension is needed to facilitate natural attenuation or to address the current conditions of the plume, provided human health, public safety, and the environment are protected. When temporarily extending the point of compliance beyond the property boundary, it cannot be extended further than the lateral extent of the plume at the time of execution of the brownfield site rehabilitation agreement, if known, or the lateral extent of the plume as defined at the time of site assessment. Temporary extension of the point of compliance beyond the property boundary, as provided in this paragraph, must include actual notice by the person responsible for brownfield site rehabilitation to local governments and the owners of any property into which the point of compliance is allowed to extend and constructive notice to residents and business tenants of the property into which the point of compliance is allowed to extend. Persons receiving notice pursuant to this paragraph shall have the opportunity to comment within 30 days of receipt of the notice.

(c) Ensure that the site-specific cleanup goal is that all contaminated brownfield sites and brownfield areas ultimately achieve the applicable cleanup target levels provided in this section. In the circumstances provided below, and after constructive notice and opportunity to comment within 30 days from receipt of the notice to local government, to owners of any property into which the point of compliance is allowed to extend, and to residents on any property into which the point of compliance is allowed to extend, the department may allow concentrations of contaminants to temporarily exceed the applicable cleanup target levels while cleanup, including cleanup through natural attenuation processes in conjunction with appropriate monitoring, is proceeding, if human health, public safety, and the environment are protected.

(d) Allow brownfield site and brownfield area rehabilitation programs to include the use of institutional or engineering controls, where appropriate, to eliminate or control the potential exposure to contaminants of humans or the environment. The use of controls must be preapproved by the department and only after constructive notice and opportunity to comment within 30 days from receipt of notice is provided to local governments, to owners of any property into which the point of compliance is allowed to extend, and to residents on any property into which the point of compliance is allowed to extend. When institutional or engineering controls are implemented to control exposure, the removal of the controls must have prior department approval and must be accompanied by the resumption of active cleanup, or other approved controls, unless cleanup target levels under this section have been achieved.

(e) Consider the additive effects of contaminants. The synergistic and antagonistic effects shall also be considered when the scientific data become available.

(f) Take into consideration individual site characteristics, which shall include, but not be limited to, the current and projected use of the affected

groundwater and surface water in the vicinity of the site, current and projected land uses of the area affected by the contamination, the exposed population, the degree and extent of contamination, the rate of contaminant migration, the apparent or potential rate of contaminant degradation through natural attenuation processes, the location of the plume, and the potential for further migration in relation to site property boundaries.

(g) Apply state water quality standards as follows:

1. Cleanup target levels for each contaminant found in groundwater shall be the applicable state water quality standards. Where such standards do not exist, the cleanup target levels for groundwater shall be based on the minimum criteria specified in department rule. The department shall apply ~~consider~~ the following, as appropriate, in establishing the applicable cleanup target levels ~~minimum criteria~~: calculations using a lifetime cancer risk level of 1.0E-6; a hazard index of 1 or less; the best achievable detection limit; and ~~the naturally occurring background concentration; or~~ nuisance, organoleptic, and aesthetic considerations. However, the department shall not require site rehabilitation to achieve a cleanup target level for any individual contaminant which is more stringent than the site-specific, naturally occurring background concentration for that contaminant.

2. Where surface waters are exposed to contaminated groundwater, the cleanup target levels for the contaminants shall be based on the more protective of the groundwater or surface water standards as established by department rule. The point of measuring compliance with the surface water standards shall be in the groundwater immediately adjacent to the surface water body.

3. Using risk-based corrective action principles, the department shall approve ~~may set~~ alternative cleanup target levels in conjunction with institutional and engineering controls, if needed, based upon an applicant's demonstration, using site-specific data, modeling results, ~~and~~ risk assessment studies, risk reduction techniques, or a combination thereof, that human health, public safety, and the environment are protected to the same degree as provided in subparagraphs 1. and 2. Where a state water quality standard is applicable, a deviation may not result in the application of cleanup target levels more stringent than the standard. In determining whether it is appropriate to establish alternative cleanup target levels at a site, the department must consider the effectiveness of source removal, if any, which ~~that~~ has been completed at the site and the practical likelihood of the use of low yield or poor quality groundwater, the use of groundwater near marine surface water bodies, the current and projected use of the affected groundwater in the vicinity of the site, or the use of groundwater in the immediate vicinity of the contaminated area, where it has been demonstrated that the groundwater contamination is not migrating away from such localized source, provided human health, public safety, and the environment are protected. When using alternative cleanup target levels at a brownfield site, institutional controls shall not be required if:

a. The only cleanup target levels exceeded are the groundwater cleanup target levels derived from nuisance, organoleptic, or aesthetic considerations;

b. Concentrations of all contaminants meet the state water quality standards or minimum criteria, based on protection of human health, provided in subparagraph 1.;

c. All of the groundwater cleanup target levels established pursuant to subparagraph 1. are met at the property boundary;

d. The person responsible for brownfield site rehabilitation has demonstrated that the contaminants will not migrate beyond the property boundary at concentrations exceeding the groundwater cleanup target levels established pursuant to subparagraph 1.;

e. The property has access to and is using an offsite water supply and no unplugged private wells are used for domestic purposes; and

f. The real property owner provides written acceptance of the "no further action" proposal to the department or the local pollution control program.

(h) Provide for the department to issue a "no further action order," with conditions, including, but not limited to, the use of institutional or engineering controls where appropriate, when alternative cleanup target levels established pursuant to subparagraph (g)3. have been achieved, or when the person responsible for brownfield site rehabilitation can demonstrate that the cleanup target level is unachievable within available technologies. Prior to issuing such an order, the department shall consider the feasibility of an alternative site rehabilitation technology in the brownfield area.

(i) Establish appropriate cleanup target levels for soils.

1. In establishing soil cleanup target levels for human exposure to each contaminant found in soils from the land surface to 2 feet below land surface, the department shall apply ~~consider~~ the following, as appropriate: calculations using a lifetime cancer risk level of 1.0E-6; a hazard index of 1 or less; and the best achievable detection limit~~; or the naturally occurring background concentration~~. However, the department shall not require site rehabilitation to achieve a cleanup target level for an individual contaminant which is more stringent than the site-specific, naturally occurring background concentration for that contaminant. Institutional controls or other methods shall be used to prevent human exposure to contaminated soils more than 2 feet below the land surface. Any removal of such institutional controls shall require such contaminated soils to be remediated.

2. Leachability-based soil target levels shall be based on protection of the groundwater cleanup target levels or the alternate cleanup target levels for groundwater established pursuant to this paragraph, as appropriate. Source removal and other cost-effective alternatives that are technologically feasible shall be considered in achieving the leachability soil target levels established by the department. The leachability goals shall not be applicable if the department determines, based upon individual site characteristics, and in conjunction with institutional and engineering controls, if needed, that contaminants will not leach into the groundwater at levels that ~~which~~ pose a threat to human health, public safety, and the environment.

3. Using risk-based corrective action principles, the department shall approve ~~may set~~ alternative cleanup target levels in conjunction with institutional and engineering controls, if needed, based upon an applicant's demonstration, using site-specific data, modeling results, ~~and~~ risk assessment studies, risk reduction techniques, or a combination thereof, that human health, public safety, and the environment are protected to the same degree as provided in subparagraphs 1. and 2.

(2) The department shall require source removal, as a risk reduction measure, if warranted and cost-effective. Once source removal at a site is complete, the department shall reevaluate the site to determine the degree of active cleanup needed to continue. Further, the department shall determine if the reevaluated site qualifies for monitoring only or if no further action is required to rehabilitate the site. If additional site rehabilitation is necessary to reach "no further action" status, the department is encouraged to utilize natural attenuation and monitoring where site conditions warrant.

(3) The cleanup criteria described in this section govern only site rehabilitation activities occurring at the contaminated site. Removal of contaminated media from a site for offsite relocation or treatment must be in accordance with all applicable federal, state, and local laws and regulations.

Section 13. Paragraph (k) is added to subsection (2) of section 376.82, Florida Statutes, to read:

376.82 Eligibility criteria and liability protection.—

(2) LIABILITY PROTECTION.—

(k) A person whose property becomes contaminated due to geophysical or hydrologic reasons, including the migration of contaminants onto their property from the operation of facilities and activities on a nearby designated brownfield area, and whose property has never been occupied by a business that utilized or stored the contaminants or similar constituents is not subject to administrative or judicial action brought by or on behalf of another to compel the rehabilitation of or the payment of the costs for the rehabilitation of sites contaminated by materials that migrated onto the property from the designated brownfield area, if the person:

1. Does not own and has never held an ownership interest in, or shared in the profits of, activities in the designated brownfield area operated at the source location;

2. Did not participate in the operation or management of the activities in the designated brownfield area operated at the source location; and

3. Did not cause, contribute to, or exacerbate the release or threat of release of any hazardous substance through any act or omission.

Section 14. Paragraph (d) is added to subsection (3) of section 403.973, Florida Statutes, to read:

403.973 Expedited permitting; comprehensive plan amendments.—

(3)

(d) Projects located in a designated brownfield area are eligible for the expedited permitting process.

Section 15. Subsection (1) of section 190.012, Florida Statutes, is amended to read:

190.012 Special powers; public improvements and community facilities.—The district shall have, and the board may exercise, subject to the regulatory jurisdiction and permitting authority of all applicable governmental bodies, agencies, and special districts having authority with respect to any area included therein, any or all of the following special powers relating to public improvements and community facilities authorized by this act:

(1) To finance, fund, plan, establish, acquire, construct or reconstruct, enlarge or extend, equip, operate, and maintain systems, facilities, and basic infrastructures for the following:

(a) Water management and control for the lands within the district and to connect some or any of such facilities with roads and bridges.

(b) Water supply, sewer, and wastewater management, reclamation, and reuse or any combination thereof, and to construct and operate connecting intercepting or outlet sewers and sewer mains and pipes and water mains, conduits, or pipelines in, along, and under any street, alley, highway, or other public place or ways, and to dispose of any effluent, residue, or other byproducts of such system or sewer system.

(c) Bridges or culverts that may be needed across any drain, ditch, canal, floodway, holding basin, excavation, public highway, tract, grade, fill, or cut and roadways over levees and embankments, and to construct any and all of such works and improvements across, through, or over any public right-of-way, highway, grade, fill, or cut.

(d)1. District roads equal to or exceeding the specifications of the county in which such district roads are located, and street lights.

2. Buses, trolleys, transit shelters, ridesharing facilities and services, parking improvements, and related signage.

(e) Investigation and remediation costs associated with the cleanup of actual or perceived environmental contamination within the district under the supervision or direction of a competent governmental authority unless the covered costs benefit any person who is a landowner within the district and who caused or contributed to the contamination.

(f)~~(e)~~ Conservation areas, mitigation areas, and wildlife habitat, including the maintenance of any plant or animal species, and any related interest in real or personal property.

(g)~~(f)~~ Any other project within or without the boundaries of a district when a local government issued a development order pursuant to s. 380.06

or s. 380.061 approving or expressly requiring the construction or funding of the project by the district, or when the project is the subject of an agreement between the district and a governmental entity and is consistent with the local government comprehensive plan of the local government within which the project is to be located.

Section 16. Section 712.01, Florida Statutes, is amended to read:

712.01 Definitions.—As used in this law:

(1) The term "person" as used herein denotes singular or plural, natural or corporate, private or governmental, including the state and any political subdivision or agency thereof as the context for the use thereof requires or denotes and including any homeowners' association.

(2) "Root of title" means any title transaction purporting to create or transfer the estate claimed by any person and which is the last title transaction to have been recorded at least 30 years prior to the time when marketability is being determined. The effective date of the root of title is the date on which it was recorded.

(3) "Title transaction" means any recorded instrument or court proceeding which affects title to any estate or interest in land and which describes the land sufficiently to identify its location and boundaries.

(4) The term "homeowners' association" means a homeowners' association as defined in s. 617.301(7), or an association of parcel owners which is authorized to enforce use restrictions that are imposed on the parcels.

(5) The term "parcel" means real property which is used for residential purposes that is subject to exclusive ownership and which is subject to any covenant or restriction of a homeowners' association.

(6) The term "covenant or restriction" means any agreement or limitation contained in a document recorded in the public records of the county in which a parcel is located which subjects the parcel to any use restriction which may be enforced by a homeowners' association or which authorizes a homeowners' association to impose a charge or assessment against the parcel or the owner of the parcel or which may be enforced by the Florida Department of Environmental Protection pursuant to chapter 376 or chapter 403.

Section 17. Section 712.03, Florida Statutes, is amended to read:

712.03 Exceptions to marketability.—Such marketable record title shall not affect or extinguish the following rights:

(1) Estates or interests, easements and use restrictions disclosed by and defects inherent in the muniments of title on which said estate is based beginning with the root of title; provided, however, that a general reference in any of such muniments to easements, use restrictions or other interests created prior to the root of title shall not be sufficient to preserve them unless specific identification by reference to book and page of record or by

name of recorded plat be made therein to a recorded title transaction which imposed, transferred or continued such easement, use restrictions or other interests; subject, however, to the provisions of subsection (5).

(2) Estates, interests, claims, or charges, or any covenant or restriction, preserved by the filing of a proper notice in accordance with the provisions hereof.

(3) Rights of any person in possession of the lands, so long as such person is in such possession.

(4) Estates, interests, claims, or charges arising out of a title transaction which has been recorded subsequent to the effective date of the root of title.

(5) Recorded or unrecorded easements or rights, interest or servitude in the nature of easements, rights-of-way and terminal facilities, including those of a public utility or of a governmental agency, so long as the same are used and the use of any part thereof shall except from the operation hereof the right to the entire use thereof. No notice need be filed in order to preserve the lien of any mortgage or deed of trust or any supplement thereto encumbering any such recorded or unrecorded easements, or rights, interest, or servitude in the nature of easements, rights-of-way, and terminal facilities. However, nothing herein shall be construed as preserving to the mortgagee or grantee of any such mortgage or deed of trust or any supplement thereto any greater rights than the rights of the mortgagor or grantor.

(6) Rights of any person in whose name the land is assessed on the county tax rolls for such period of time as the land is so assessed and which rights are preserved for a period of 3 years after the land is last assessed in such person's name.

(7) State title to lands beneath navigable waters acquired by virtue of sovereignty.

(8) A restriction or covenant recorded pursuant to chapter 376 or chapter 403.

Section 18. Paragraph (j) of subsection (3) of section 163.2517, Florida Statutes, is amended to read:

163.2517 Designation of urban infill and redevelopment area.—

(3) A local government seeking to designate a geographic area within its jurisdiction as an urban infill and redevelopment area shall prepare a plan that describes the infill and redevelopment objectives of the local government within the proposed area. In lieu of preparing a new plan, the local government may demonstrate that an existing plan or combination of plans associated with a community redevelopment area, Florida Main Street program, Front Porch Florida Community, sustainable community, enterprise zone, or neighborhood improvement district includes the factors listed in paragraphs (a)-(n), including a collaborative and holistic community participation process, or amend such existing plans to include these factors. The plan shall demonstrate the local government and community's commitment

to comprehensively address the urban problems within the urban infill and redevelopment area and identify activities and programs to accomplish locally identified goals such as code enforcement; improved educational opportunities; reduction in crime; neighborhood revitalization and preservation; provision of infrastructure needs, including mass transit and multimodal linkages; and mixed-use planning to promote multifunctional redevelopment to improve both the residential and commercial quality of life in the area. The plan shall also:

(j) Identify and adopt a package of financial and local government incentives which the local government will offer for new development, expansion of existing development, and redevelopment within the urban infill and redevelopment area. Examples of such incentives include:

1. Waiver of license and permit fees.

2. Exemption of sales made in the urban infill and redevelopment area from ~~Waiver of~~ local option sales surtaxes imposed pursuant to s. 212.054 ~~taxes~~.

3. Waiver of delinquent local taxes or fees to promote the return of property to productive use.

4. Expedited permitting.

5. Lower transportation impact fees for development which encourages more use of public transit, pedestrian, and bicycle modes of transportation.

6. Prioritization of infrastructure spending within the urban infill and redevelopment area.

7. Local government absorption of developers' concurrency costs.

In order to be authorized to recognize the exemption from local option sales surtaxes pursuant to subparagraph 2., the owner, lessee, or lessor of the new development, expanding existing development, or redevelopment within the urban infill and redevelopment area must file an application under oath with the governing body having jurisdiction over the urban infill and redevelopment area where the business is located. The application must include the name and address of the business claiming the exclusion from collecting local option surtaxes; an address and assessment roll parcel number of the urban infill and redevelopment area for which the exemption is being sought; a description of the improvements made to accomplish the new development, expanding development, or redevelopment of the real property; a copy of the building permit application or the building permit issued for the development of the real property; a new application for a certificate of registration with the Department of Revenue with the address of the new development, expanding development, or redevelopment; and the location of the property. The local government must review and approve the application and submit the completed application and documentation along with a copy of the ordinance adopted pursuant to subsection (5) to the Department of Revenue in order for the business to become eligible to make sales exempt from local option sales surtaxes in the urban infill and redevelopment area.

Section 19. Subsection (13) of section 212.08, Florida Statutes, is amended to read:

212.08 Sales, rental, use, consumption, distribution, and storage tax; specified exemptions.—The sale at retail, the rental, the use, the consumption, the distribution, and the storage to be used or consumed in this state of the following are hereby specifically exempt from the tax imposed by this chapter.

(13) No transactions shall be exempt from the tax imposed by this chapter except those expressly exempted herein. All laws granting tax exemptions, to the extent they may be inconsistent or in conflict with this chapter, including, but not limited to, the following designated laws, shall yield to and be superseded by the provisions of this subsection: ss. 125.019, 153.76, 154.2331, 159.15, 159.31, 159.50, 159.708, 163.385, 163.395, 215.76, 243.33, 258.14, 315.11, 348.65, 348.762, 349.13, 403.1834, 616.07, and 623.09, and the following Laws of Florida, acts of the year indicated: s. 31, chapter 30843, 1955; s. 19, chapter 30845, 1955; s. 12, chapter 30927, 1955; s. 8, chapter 31179, 1955; s. 15, chapter 31263, 1955; s. 13, chapter 31343, 1955; s. 16, chapter 59-1653; s. 13, chapter 59-1356; s. 12, chapter 61-2261; s. 19, chapter 61-2754; s. 10, chapter 61-2686; s. 11, chapter 63-1643; s. 11, chapter 65-1274; s. 16, chapter 67-1446; and s. 10, chapter 67-1681. <u>This subsection does not supersede the authority of a local government to adopt financial and local government incentives pursuant to s. 163.2517.</u>

Section 20. Section 163.2523, Florida Statutes, is amended to read:

163.2523 Grant program.—An Urban Infill and Redevelopment Assistance Grant Program is created for local governments. A local government may allocate grant money to special districts, including community redevelopment agencies, and nonprofit community development organizations to implement projects consistent with an adopted urban infill and redevelopment plan or plan employed in lieu thereof. Thirty percent of the general revenue appropriated for this program shall be available for planning grants to be used by local governments for the development of an urban infill and redevelopment plan, including community participation processes for the plan. Sixty percent of the general revenue appropriated for this program shall be available for fifty/fifty matching grants for implementing urban infill and redevelopment projects that further the objectives set forth in the local government's adopted urban infill and redevelopment plan or plan employed in lieu thereof. The remaining 10 percent of the revenue must be used for outright grants for implementing projects requiring an expenditure of under $50,000. <u>If the volume of fundable applications under any of the allocations specified in this section does not fully obligate the amount of the allocation, the Department of Community Affairs may transfer the unused balance to the category having the highest dollar value of applications eligible but unfunded. However, in no event may the percentage of dollars allocated to outright grants for implementing projects exceed 20 percent in any given fiscal year.</u> Projects that provide employment opportunities to clients of the WAGES program and projects within urban infill and redevelopment areas that include a community redevelopment area, Florida Main Street program, Front Porch Florida Community, sustainable community, enterprise zone, federal enterprise zone, enterprise community, or neighborhood

improvement district must be given an elevated priority in the scoring of competing grant applications. The Division of Housing and Community Development of the Department of Community Affairs shall administer the grant program. The Department of Community Affairs shall adopt rules establishing grant review criteria consistent with this section.

Section 21. Section 376.3195, Florida Statutes, is repealed.

Section 22. Subsection (9) of section 211.3103, Florida Statutes, is repealed.

Section 23. In fiscal year 2000-2001, any unencumbered funds remaining undisbursed on June 30, 2001, from the Quick-Response Training Program, Brownfield Redevelopment Bonus Refunds, and funds appropriated in the General Appropriations Act for cleanup of state-owned lands, shall be used for grants to fund assessment and remediation at brownfield sites or areas designated pursuant to section 376.80, Florida Statues, prior to April 1, 2000, that are United States Environmental Protection Agency brownfield pilot projects designated prior to July 1, 1997, at which site assessment has been initiated as of April 1, 2000. Grants shall be distributed to eligible pilot projects under this part on a pro-rata basis in an amount not to exceed $500,000 per pilot project.

Section 24. This act shall take effect July 1, 2000.

Approved by the Governor June 19, 2000.

Filed in Office Secretary of State June 19, 2000.