

CHAPTER 2025-116

Committee Substitute for House Bill No. 733

An act relating to brownfields; amending s. 376.303, F.S.; deleting a provision requiring certain property owners to provide information regarding institutional controls to the local government for mapping purposes; deleting local government requirements for such mapping; requiring that sites issued a site rehabilitation completion order without institutional controls be removed from the registry of all contaminated sites located in a brownfield area; amending s. 376.30781, F.S.; revising the conditions under which an applicant who has rehabilitated a contaminated site may submit and claim certain tax credits; specifying a timeframe within which such tax credit application must be submitted; revising the criteria for determining applicants who are redeveloping brownfield sites who may be eligible for certain tax credits; deleting the definition of the term “monetary compensation”; revising the date by which the Department of Environmental Protection must issue annual site rehabilitation tax credit certificate awards; revising the amount of time the department has to respond to a tax credit applicant regarding a certain notice; amending s. 376.78, F.S.; conforming provisions to changes made by the act; amending s. 376.79, F.S.; revising and providing definitions; amending s. 376.81, F.S.; providing legislative findings; prohibiting the department or a delegated local pollution control program from denying a specified status or refusing to issue a specified order for certain brownfield sites that are only a portion of larger contaminated sites; providing applicability; amending s. 376.82, F.S.; revising the persons and sites eligible for participation in the brownfield program; revising requirements for such participation; requiring that completion of the performance of remediation obligations at the brownfield site be evidenced by a site rehabilitation completion order; revising the information necessary from the United States Environmental Protection Agency and the department for a person’s participation in the program; specifying that certain brownfield sites are eligible to participate in the brownfield program under certain circumstances; amending ss. 196.1995 and 288.1175, F.S.; conforming cross-references; reenacting s. 1004.53(1), F.S., relating to the Center for Brownfield Rehabilitation Assistance, to incorporate the amendment made to s. 376.79, F.S., in a reference thereto; providing an effective date.

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

Section 1. Subsections (5) and (6) of section 376.303, Florida Statutes, are amended 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 must ~~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 site rehabilitation completion ~~no further action order~~ without institutional controls must ~~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 2. Paragraphs (c), (d), and (e) of subsection (3) and subsection (9) of section 376.30781, Florida Statutes, are amended to read:

376.30781 Tax credits for rehabilitation of drycleaning-solvent-contaminated sites and brownfield sites in designated brownfield areas; application process; rulemaking authority; revocation authority.—

(3)

(c) In order to encourage completion of site rehabilitation at contaminated sites that are being voluntarily cleaned up and that are eligible for a tax credit under this section, the tax credit applicant may claim an additional 25 percent of the total site rehabilitation costs, not to exceed \$500,000, if the Department of Environmental Protection has approved the applicant's annual site rehabilitation application and has issued a site rehabilitation completion ~~in the final year of cleanup as evidenced by the Department of Environmental Protection issuing a "No Further Action"~~

order for that site. The tax credit applicant must submit the claim for the additional 25 percent within 2 years after receipt of the site rehabilitation completion order for that site.

(d) In order to encourage the construction of housing that meets the definition of affordable provided in s. 420.0004, an applicant for the tax credit may claim an additional 25 percent of the total site rehabilitation costs that are eligible for tax credits under this section, not to exceed \$500,000. To receive this additional tax credit, the applicant must provide a certification letter from the Florida Housing Finance Corporation, the local housing authority, or other governmental agency that is a party to the use agreement indicating that the construction on the brownfield site has received a certificate of occupancy and the brownfield site has a properly recorded instrument that limits the use of the property to housing. Notwithstanding that only one application may be submitted each year for each site, an application for the additional credit provided for in this paragraph must ~~shall~~ be submitted after all requirements to obtain the additional tax credit have been met.

(e) In order to encourage the redevelopment of a brownfield site, as defined in the brownfield site rehabilitation agreement, that is hindered by the presence of solid waste, as defined in s. 403.703, costs related to solid waste removal may also be claimed under this section. A tax credit applicant, or multiple tax credit applicants working jointly to clean up a single brownfield site, may also claim costs to address the solid waste removal as defined in this paragraph in accordance with department rules. Multiple tax credit applicants shall be granted tax credits in the same proportion as each applicant's contribution to payment of solid waste removal costs. These costs are eligible for a tax credit provided that the applicant meets the eligibility requirements of s. 376.82(1) and that submits an affidavit stating that, after consultation with appropriate local government officials and the department, to the best of the applicant's knowledge based upon such consultation and available historical records, the brownfield site was never operated as a permitted solid waste disposal area as regulated pursuant to s. 403.704 or was never operated for monetary compensation, and the applicant submits all other documentation and certifications required by this section. In this section, where reference is made to "site rehabilitation," the department shall instead consider whether the costs claimed are for solid waste removal. Tax credit applications claiming costs pursuant to this paragraph are ~~shall~~ not be subject to the calendar-year limitation and January 31 annual application deadline, and the department shall accept a one-time application filed subsequent to the completion by the tax credit applicant of the applicable requirements listed in this subsection. A tax credit applicant may claim 50 percent of the costs for solid waste removal, not to exceed \$500,000, after the applicant has determined solid waste removal is completed for the brownfield site. A solid waste removal tax credit application may be filed only once per brownfield site. For the purposes of this section, the term:

1. “Solid waste disposal area” means a landfill, dump, or other area where solid waste has been disposed.

2. ~~“Monetary compensation” means the fees that were charged or the assessments that were levied for the disposal of solid waste at a solid waste disposal area.~~

3. “Solid waste removal” means removal of solid waste from the land surface or excavation of solid waste from below the land surface and removal of the solid waste from the brownfield site. The term also includes:

a. Transportation of solid waste to a licensed or exempt solid waste management facility or to a temporary storage area.

b. Sorting or screening of solid waste prior to removal from the site.

c. Deposition of solid waste at a permitted or exempt solid waste management facility, whether the solid waste is disposed of or recycled.

(9) On or before June May 1, the Department of Environmental Protection shall inform each tax credit applicant ~~that is~~ subject to the January 31 annual application deadline of the applicant’s eligibility status and the amount of any tax credit due. The department shall provide each eligible tax credit applicant with a tax credit certificate that must be submitted with its tax return to the Department of Revenue to claim the tax credit or be transferred pursuant to s. 220.1845(2)(g). The June May 1 deadline for annual site rehabilitation tax credit certificate awards does ~~shall~~ not apply to any tax credit application for which the department has issued a notice of deficiency pursuant to subsection (8). The department shall respond within 120 ~~90~~ days after receiving a response from the tax credit applicant to such a notice of deficiency. Credits may not result in the payment of refunds if total credits exceed the amount of tax owed.

Section 3. Subsection (1) of section 376.78, Florida Statutes, is amended to read:

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

(1) The reduction of public health and environmental hazards on ~~existing commercial and industrial sites~~ proposed to be rehabilitated and redeveloped is vital to their use and reuse as sources of employment, housing, recreation, and open space areas. The reuse of such sites ~~industrial land~~ is an important component of sound land use policy for productive urban purposes which will help prevent the premature development of farmland, open space areas, and natural areas, and reduce public costs for installing new water, sewer, and highway infrastructure.

Section 4. Present subsections (6) through (21) of section 376.79, Florida Statutes, are redesignated as subsections (7) through (22), respectively, a

new subsection (6) is added to that section, and subsections (4) and (5) of that section are amended, to read:

376.79 Definitions relating to Brownfields Redevelopment Act.—As used in ss. 376.77-376.85, the term:

(4) “Brownfield sites” means any real property, the expansion, redevelopment, or reuse of which may be complicated by actual or perceived environmental contamination and which has not yet been entered into a brownfield site rehabilitation agreement pursuant to s. 376.80(5).

(5) “Brownfield area” means a contiguous area of one or more brownfields ~~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 United States Environmental Protection Agency-designated brownfield pilot projects.

(6) “Brownfield site” means the real property identified in a brownfield site rehabilitation agreement executed by the person responsible for brownfield site rehabilitation of the property and the department or a delegated local pollution control program, as applicable.

Section 5. Present subsection (3) of section 376.81, Florida Statutes, is redesignated as subsection (4), a new subsection (3) is added to that section, and present subsection (3) of that section is amended, to read:

376.81 Brownfield site and brownfield areas contamination cleanup criteria.—

(3)(a) The Legislature finds that rehabilitation and redevelopment of a potential brownfield site that is a portion of a larger contaminated site are significantly complicated when multiple parties may own, lease, or operate different portions of the contaminated site. The Legislature further finds that delaying a person’s ability to achieve a “No Further Action” status for a potential brownfield site until such time as the owners, lessees, or operators of all other portions of the larger historical contaminated site have completed site rehabilitation on their respective portions is not in the public interest, as such delay disincentivizes rehabilitation and redevelopment of the potential brownfield site by imposing unnecessary legal burdens, technical obstacles, and financial costs.

(b) Therefore, the Legislature finds that it is in the public interest to remove any such barriers to the rehabilitation and redevelopment of property by providing a clear path to obtaining a “No Further Action” status in cases where a potential brownfield site is only a portion of a larger contaminated site.

(c) If the person responsible for a brownfield site rehabilitation demonstrates compliance with the applicable contamination cleanup criteria

described in subsection (1), and the brownfield site is only a portion of a larger contaminated site, the department or any delegated local pollution control program under s. 376.80(9) may not:

1. Deny a “No Further Action” status for the brownfield site; or

2. Refuse to issue a site rehabilitation completion order for the brownfield site, regardless of whether it has engineering and institutional controls. This subparagraph applies even where similar contamination exists elsewhere on the contaminated site which was the result of similar or related activities or operations that occurred both on the contaminated site and the brownfield site, provided that all soil and groundwater contamination emanating from the brownfield site is adequately addressed pursuant to chapter 62-780, Florida Administrative Code.

(d) This subsection applies to all brownfield sites, irrespective of the effective date of the brownfield site rehabilitation agreement.

~~(4)(3)~~ The cleanup criteria described in this section govern only site rehabilitation activities occurring at the brownfield 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 6. Paragraphs (a) and (b) of subsection (1) and paragraphs (e) and (g) of subsection (2) of section 376.82, Florida Statutes, are amended to read:

376.82 Eligibility criteria and liability protection.—

(1) ELIGIBILITY.—

(a) All of the following persons are eligible to participate in the brownfield program established in ss. 376.77-376.85:

1. Notwithstanding subparagraph 2., a any person who has not caused or contributed to the contamination of a brownfield site on or after July 1, 1997.

2. A local governmental entity, including any other person who may be organized or united with the local governmental entity for a business purpose, if such entity or person did not cause or contribute to the contamination of a brownfield site on or after July 1, 2025.

(b) A person eligible to participate in the brownfield program pursuant to paragraph (a) is, is eligible to participate in the brownfield program established in ss. 376.77-376.85, subject to the following:

1.~~(a)~~ Potential brownfield sites that are subject to an ongoing formal judicial or administrative enforcement action or corrective action pursuant to federal authority, including, but not limited to, the Comprehensive Environmental Response Compensation and Liability Act, 42 U.S.C. ss.

9601 et seq., as amended; the Safe Drinking Water Act, 42 U.S.C. ss. 300f-300i, as amended; the Clean Water Act, 33 U.S.C. ss. 1251-1387, as amended; or under an order from the United States Environmental Protection Agency pursuant to s. 3008(h) of the Resource Conservation and Recovery Act, as amended (42 U.S.C.A. s. 6928(h)); or that have obtained or are required to obtain a permit for the operation of a hazardous waste treatment, storage, or disposal facility; a postclosure permit; or a permit pursuant to the federal Hazardous and Solid Waste Amendments of 1984, are not eligible for participation in the brownfield program established in ss. 376.77-376.85 unless, pursuant to paragraph (2)(g), specific exemptions are secured by a memorandum of agreement with the United States Environmental Protection Agency issues a letter stating it has no objection to such participation and the department issues a letter of concurrence pursuant to paragraph (2)(g). A brownfield site within an eligible brownfield area that subsequently becomes subject to formal judicial or administrative enforcement action or corrective action under such federal authority shall have its eligibility revoked unless, specific exemptions are secured by a memorandum of agreement with the United States Environmental Protection Agency pursuant to paragraph (2)(g), the United States Environmental Protection Agency issues a letter stating it has no objection to such participation and the department issues a letter of concurrence.

2.(b) A person who is eligible to participate in the brownfield program pursuant to paragraph (a) Persons who have not caused or contributed to the contamination of a brownfield site on or after July 1, 1997, and who, before prior to the department's approval of a brownfield site rehabilitation agreement, is are subject to ongoing corrective action or enforcement under state authority established in this chapter or chapter 403, including those persons subject to a pending consent order with the state, is are eligible for participation in a brownfield site rehabilitation agreement if:

a.1. The proposed brownfield site is currently idle or underutilized as a result of the contamination, and participation in the brownfield program will immediately, after cleanup or sooner, result in increased economic productivity at the site, including at a minimum the creation of 10 new permanent jobs, whether full-time or part-time, which are not associated with implementation of the brownfield site rehabilitation agreement. However, the job creation requirement does not apply to the rehabilitation and redevelopment of a brownfield site that will provide housing that is affordable as defined in s. 420.0004; create recreational areas, conservation areas, or parks; or be maintained for cultural or historical preservation purposes; and

b.2. The person is complying in good faith with the terms of an existing consent order or department-approved corrective action plan, or responding in good faith to an enforcement action, as evidenced by a determination issued by the department or an approved local pollution control program.

(2) LIABILITY PROTECTION.—

(e) Completion of the performance of the remediation obligations at the brownfield site shall be evidenced by a site rehabilitation completion order ~~letter or a “no further action” letter~~ issued by the department or the approved local pollution control program, which letter shall include the following statement: “Based upon the information provided by (property owner) concerning property located at (address), it is the opinion of (the Florida Department of Environmental Protection or approved local pollution control program) that (party) has successfully and satisfactorily implemented the approved brownfield site rehabilitation agreement schedule and, accordingly, no further action is required to assure that any land use identified in the brownfield site rehabilitation agreement is consistent with existing and proposed uses.”

(g)1. The Legislature recognizes the benefits of promoting the reuse of brownfield sites, even when subject to its limitations in addressing cleanup liability under federal pollution control programs, including those enumerated in subparagraph (1)(b)1. In an effort to encourage such reuse secure federal liability protection for persons willing to undertake remediation responsibility for site rehabilitation at a brownfield site, the department may, upon receipt of a letter from shall attempt to negotiate a memorandum of agreement or similar document with the United States Environmental Protection Agency stating it has no objection to a site’s participation pursuant to subparagraph (1)(b)1. and upon a reasonable demonstration by the person seeking to participate in the brownfield program that he or she will conduct site rehabilitation pursuant to s. 376.81, issue a letter of no objection that states the person may participate in the brownfield program. The department may not require, as a condition of such letter of concurrence, that, whereby the United States Environmental Protection Agency agree agrees to forego enforcement of federal corrective action authority at brownfield sites that have received a site rehabilitation completion order or “No Further Action” determination from the department or the approved local pollution control program or that are in the process of implementing a brownfield site rehabilitation agreement in accordance with this act. The letter of no objection from the United States Environmental Protection Agency and the letter of concurrence from the department must be added as attachments to the brownfield site rehabilitation agreement.

2. Proposed brownfield sites that are subject to ongoing formal judicial or administrative enforcement action or corrective action pursuant to an order from the United States Environmental Protection Agency pursuant to s. 3008(h) of the Resource Conservation and Recovery Act, as amended by 42 U.S.C. s. 6928(h), or that have obtained or are required to obtain a permit for the operation of a hazardous waste treatment, storage, or disposal facility, a postclosure permit, or a permit pursuant to the federal Hazardous and Solid Waste Amendments of 1984 are eligible for participation in the brownfield program established in ss. 376.77-376.85, provided that the sites:

a. Obtain the necessary letters of no objection and concurrence pursuant to subparagraph (1)(b)1. and subparagraph 1.; or

b. Comply with the provisions of Section V of the Memorandum of Agreement between the department and the United States Environmental Protection Agency Region 4 covering Florida's Brownfield Program, dated November 28, 2005, as may be amended.

Section 7. Subsection (3) of section 196.1995, Florida Statutes, is amended to read:

196.1995 Economic development ad valorem tax exemption.—

(3) The board of county commissioners or the governing authority of the municipality that calls a referendum within its total jurisdiction to determine whether its respective jurisdiction may grant economic development ad valorem tax exemptions may vote to limit the effect of the referendum to authority to grant economic development tax exemptions for new businesses and expansions of existing businesses located in an enterprise zone or a brownfield area, as defined in s. 376.79 s. 376.79(5). If an area nominated to be an enterprise zone pursuant to s. 290.0055 has not yet been designated pursuant to s. 290.0065, the board of county commissioners or the governing authority of the municipality may call such referendum prior to such designation; however, the authority to grant economic development ad valorem tax exemptions does not apply until such area is designated pursuant to s. 290.0065. The ballot question in such referendum shall be in substantially the following form and shall be used in lieu of the ballot question prescribed in subsection (2):

Shall the board of county commissioners of this county (or the governing authority of this municipality, or both) be authorized to grant, pursuant to s. 3, Art. VII of the State Constitution, property tax exemptions for new businesses and expansions of existing businesses that are located in an enterprise zone or a brownfield area and that are expected to create new, full-time jobs in the county (or municipality, or both)?

.....Yes—For authority to grant exemptions.

.....No—Against authority to grant exemptions.

Section 8. Paragraph (c) of subsection (5) of section 288.1175, Florida Statutes, is amended to read:

288.1175 Agriculture education and promotion facility.—

(5) The Department of Agriculture and Consumer Services shall competitively evaluate applications for funding of an agriculture education and promotion facility. If the number of applicants exceeds three, the Department of Agriculture and Consumer Services shall rank the applications based upon criteria developed by the Department of Agriculture and Consumer Services, with priority given in descending order to the following items:

(c) The location of the facility in a brownfield site as defined in s. 376.79 ~~s. 376.79(4)~~, a rural enterprise zone as defined in s. 290.004, an agriculturally depressed area as defined in s. 570.74, or a county that has lost its agricultural land to environmental restoration projects.

Section 9. For the purpose of incorporating the amendment made by this act to section 376.79, Florida Statutes, in a reference thereto, subsection (1) of section 1004.53, Florida Statutes, is reenacted to read:

1004.53 Interdisciplinary Center for Brownfield Rehabilitation Assistance.—The Center for Brownfield Rehabilitation Assistance in the Environmental Sciences and Policy Program is established in the College of Arts and Sciences at the University of South Florida with the collaboration of other related disciplines such as business administration, environmental science, and medicine. The center shall work in conjunction with other state universities. The Center for Brownfield Rehabilitation Assistance shall:

(1) Conduct research relating to problems and solutions associated with rehabilitation and restoration of brownfield areas as defined in s. 376.79. The research must include identifying innovative solutions to removing contamination from brownfield sites to reduce the threats to drinking water supplies and other potential public health threats from contaminated sites.

Section 10. This act shall take effect July 1, 2025.

Approved by the Governor June 3, 2025.

Filed in Office Secretary of State June 3, 2025.