

1                                   A bill to be entitled  
 2           An act relating to brownfields; amending s. 376.78,  
 3           F.S.; revising legislative intent with regard to  
 4           community revitalization in certain areas; amending s.  
 5           376.80, F.S.; revising procedures for designation of  
 6           brownfield areas by local governments; authorizing  
 7           local governments to use a term other than "brownfield  
 8           area" when naming such areas; amending s. 376.82,  
 9           F.S.; providing relief of liability for property  
 10          damages for entities that execute and implement  
 11          certain brownfield site rehabilitation agreements;  
 12          providing for applicability; providing an effective  
 13          date.

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

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

19           376.78 Legislative intent.—The Legislature finds and  
 20   declares the following:

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

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

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

37 376.80 Brownfield program administration process.—

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

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

42 1. The jurisdictional local government, except as provided  
 43 in paragraph (2) (c), the designation criteria under paragraph  
 44 (2) (a) apply.

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

50 (c) The following provisions apply to all proposed  
 51 brownfield area designations:

52 1. A local government with jurisdiction over the  
 53 brownfield area must notify the department of its decision to  
 54 designate a brownfield area for rehabilitation for the purposes  
 55 of ss. 376.77–376.86. The notification must include a resolution  
 56 adopted~~7~~ by the local government body. The local government

57 | shall notify the department of the designation within 30 days  
 58 | after adoption of the resolution.

59 | 2. The brownfield area designation must be carried out by  
 60 | a resolution adopted by the jurisdictional local government, ~~to~~  
 61 | which includes ~~is attached~~ a map adequate to clearly delineate  
 62 | exactly which parcels are to be included in the brownfield area  
 63 | or alternatively a less-detailed map accompanied by a detailed  
 64 | legal description of the brownfield area. The resolution shall  
 65 | be adopted pursuant to the procedures and requirements of the  
 66 | local government in effect at the time of the proposed  
 67 | designation, except as otherwise provided in this section.

68 | 3. If a property owner within the area proposed for  
 69 | designation by the local government requests in writing to have  
 70 | his or her property removed from the proposed designation, the  
 71 | local government shall grant the request.

72 | 4. For municipalities, the governing body shall adopt the  
 73 | resolution in accordance with the procedures outlined in s.  
 74 | 166.041, except that the notice for the public hearings on the  
 75 | proposed resolution must be in the form established in s.  
 76 | 166.041(3)(c)2. For counties, the governing body shall adopt the  
 77 | resolution in accordance with the procedures outlined in s.  
 78 | 125.66, except that the notice for the public hearings on the  
 79 | proposed resolution shall be in the form established in s.  
 80 | 125.66(4)(b)2.

81 | (d) Compliance with the following provisions is required  
 82 | before designation of a proposed brownfield area under paragraph  
 83 | (2)(a) or paragraph (2)(b):

84 | 1. At least one of the required public hearings shall be

85 conducted as close as reasonably practicable to the area to be  
 86 designated to provide an opportunity for public input on the  
 87 size of the area, the objectives for rehabilitation, job  
 88 opportunities and economic developments anticipated,  
 89 neighborhood residents' considerations, and other relevant local  
 90 concerns.

91 2. Notice of the public hearing must be made in a newspaper  
 92 of general circulation in the area and the notice must be at  
 93 least 16 square inches in size, must be in ethnic newspapers or  
 94 local community bulletins, must be posted in the affected area,  
 95 and must be announced at a scheduled meeting of the local  
 96 governing body before the actual public hearing.

97 (2) (a) If a local government proposes to designate a  
 98 brownfield area that is outside a community redevelopment area  
 99 areas, enterprise zone zones, empowerment zone zones, closed  
 100 military base bases, or designated brownfield pilot project area  
 101 areas, the local government shall provide notice, adopt the  
 102 resolution, and conduct the public hearings pursuant to in  
 103 accordance with the requirements of subsection (1), except at  
 104 least one of the required public hearings shall be conducted as  
 105 close as reasonably practicable to the area to be designated to  
 106 provide an opportunity for public input on the size of the area,  
 107 the objectives for rehabilitation, job opportunities and  
 108 economic developments anticipated, neighborhood residents'  
 109 considerations, and other relevant local concerns. Notice of the  
 110 public hearing must be made in a newspaper of general  
 111 circulation in the area and the notice must be at least 16  
 112 square inches in size, must be in ethnic newspapers or local

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113 ~~community bulletins, must be posted in the affected area, and~~  
114 ~~must be announced at a scheduled meeting of the local governing~~  
115 ~~body before the actual public hearing. At a public hearing to~~  
116 ~~designate the proposed brownfield area~~ In determining the areas  
117 ~~to be designated, the local government must consider:~~

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

128 (b) For designation of a brownfield area that is proposed  
129 by a person other than the local government, the ~~A~~ local  
130 government with jurisdiction over the proposed brownfield area  
131 shall adopt a resolution to designate the ~~a~~ brownfield area  
132 pursuant to subsection (1), if, at the public hearing to adopt  
133 the resolution, the person establishes ~~under the provisions of~~  
134 ~~this act provided that:~~

- 135 1. A person who owns or controls a potential brownfield  
136 site is requesting the designation and has agreed to  
137 rehabilitate and redevelop the brownfield site;
- 138 2. The rehabilitation and redevelopment of the proposed  
139 brownfield site will result in economic productivity of the  
140 area, along with the creation of at least 5 new permanent jobs

141 at the brownfield site that are full-time equivalent positions  
 142 not associated with the implementation of the brownfield site  
 143 rehabilitation agreement and that are not associated with  
 144 redevelopment project demolition or construction activities  
 145 pursuant to the redevelopment of the proposed brownfield site or  
 146 area. However, the job creation requirement shall not apply to  
 147 the rehabilitation and redevelopment of a brownfield site that  
 148 will provide affordable housing as defined in s. 420.0004 or the  
 149 creation of recreational areas, conservation areas, or parks;

150 3. The redevelopment of the proposed brownfield site is  
 151 consistent with the local comprehensive plan and is a  
 152 permittable use under the applicable local land development  
 153 regulations;

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

163 5. The person proposing the area for designation has  
 164 provided reasonable assurance that he or she has sufficient  
 165 financial resources to implement and complete the rehabilitation  
 166 agreement and redevelopment of the brownfield site.

167 (c) Paragraphs (a) and (b) do not apply to a proposed  
 168 brownfield area if the local government proposes to designate

169 the brownfield area inside a community redevelopment area,  
 170 enterprise zone, empowerment zone, closed military base, or  
 171 designated brownfield pilot project area and the local  
 172 government complies with paragraph (1)(c).

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

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

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

184 376.82 Eligibility criteria and liability protection.—

185 (2) LIABILITY PROTECTION.—

186 (a) Any person, including his or her successors and  
 187 assigns, who executes and implements to successful completion a  
 188 brownfield site rehabilitation agreement, shall be relieved of:

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

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

193 3. Liability for claims of any person for property  
 194 damages, including, but not limited to, diminished value of real  
 195 property or improvements; lost or delayed rent, sale, or use of  
 196 real property or improvements; or stigma to real property or

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197 improvements caused by contamination addressed by a brownfield  
 198 site rehabilitation agreement. Notwithstanding any other  
 199 provision of this chapter, this subparagraph applies to causes  
 200 of action accruing on or after July 1, 2013.

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

208 Section 4. This act shall take effect July 1, 2013.