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Committee on Environmental Preservation

Senator Paula Dockery, Chair

## BROWNFIELDS REDEVELOPMENT ACT REVIEW

### SUMMARY

In 1995, the U.S. Environmental Protection Agency (EPA) initiated a program to empower states, communities, and other stakeholders in economic redevelopment to work together in a timely manner to prevent, assess, safely clean up, and reuse brownfields. Florida followed suit in 1997 and enacted the Brownfields Redevelopment Act to provide incentives for the private sector to redevelop abandoned or underused real property that was complicated by real or perceived environmental contamination.

The federal brownfields program was significantly expanded on January 11, 2002, when President Bush signed into law the Small Business Relief and Liability and Brownfields Revitalization Act, also known as the "Brownfields Amendments". The main purpose of this new law was to create incentives for the redevelopment of brownfield properties and Superfund sites and provide grants to assess or cleanup a brownfield property.

The Florida Brownfields Redevelopment Act provides legislative intent, a brownfield areas designation process, environmental cleanup criteria, program eligibility and liability protections; and economic and financial incentives.

The two most used financial incentives are the voluntary cleanup tax credit and the brownfield redevelopment bonus refunds. Though neither incentive is used to its full potential, statutory changes could be made to enhance their use, particularly the voluntary cleanup tax credit.

Affected brownfield stakeholders continue to work together to enhance the usage and effectiveness of Florida's brownfields program.

### BACKGROUND

The U.S. Environmental Protection Agency (EPA) initiated a program in 1995 to empower states, communities, and other stakeholders in economic redevelopment to work together in a timely manner to prevent, assess, safely clean up, and sustainably reuse brownfields. According to the federal definition, a "brownfield site" means real property, the expansion, redevelopment, or reuse of which may be complicated by the presence or potential presence of a hazardous substance, pollutant, or contaminant.<sup>1</sup>

The initial EPA program activities were designed to help the states and their affected communities provide for a cleaner environment, new jobs, and enhanced tax bases. The EPA Brownfields Initiative clarified liability issues, and provided for partnership and outreach, brownfields pilot projects, and job development and training. The EPA provided small amounts of seed money to local governments that launched hundreds of 2-year brownfield pilot projects. The first two pilot projects in Florida to receive Brownfield Initiative funds from the EPA were located in Clearwater and Miami.

In 1997, the Florida Legislature enacted the Brownfields Redevelopment Act (Act) to provide incentives for the private sector to redevelop abandoned, idled, or underused industrial and commercial properties where expansions or redevelopment is complicated by actual or perceived environmental contamination.<sup>2</sup>

<sup>1</sup> The current brownfield site definition is found in PL 107-118, "Small Business Liability Relief and Brownfields Revitalization Act" signed into law January 11, 2002. Prior to that time, the broad definition of a "brownfield site" was an abandoned, idled, or underused industrial and commercial property where expansion or redevelopment was complicated by real or perceived environmental contamination.

<sup>2</sup> Chapter 97-277, Laws of Florida

In 1998, the Act was amended to address several glitches that had been identified since the passage of the Act and to make changes intended to enhance the usage and success of the program. The Act has not been substantially amended since 1998.

The federal brownfields program was significantly expanded when President Bush signed into law the Small Business Relief and Liability and Brownfields Revitalization Act, also known as the “Brownfield Amendments” on January 11, 2002. The main purpose of this new law was to create incentives for the redevelopment of brownfield properties and Superfund sites. As an incentive, the Brownfield Amendments provided for grants to assess and or cleanup a brownfield property. The Brownfield Amendments also addressed important incentives to redevelop Superfund sites as well.<sup>3</sup>

Florida’s Brownfield Redevelopment Act was amended in 2004 to conform the definition of “brownfield site” to the federal definition used by the EPA.

There have been no other major revisions to Florida’s brownfield law since its enactment in 1997 to update the act to increase its effectiveness. Interest in redeveloping brownfield sites across the state has increased steadily since 1997. However, local government incentives intended to encourage brownfield redevelopment have not been used to the extent that the original act envisioned.

## METHODOLOGY

Staff met with representatives of the Department of Environmental Protection, the Office of Tourism, Trade and Economic Development, local governments, and other interested parties to determine the weaknesses and strengths of the program. Staff also attended the Florida Brownfields Conference in Sarasota in October of 2004.

## FINDINGS

### **Federal Small Business Relief and Liability and Brownfields Revitalization Act (Brownfields Amendments of 2002).**

The Brownfield Amendments created a competitive grant program for the assessment and cleanup of brownfield properties. The EPA offers the following grants:

- *Assessment Grants* to provide funding for brownfield inventories, planning, environmental assessments, and community outreach.
- *Revolving Loan Fund Grants* to provide funding to capitalize loans that are used to clean up brownfields.
- *Cleanup Grants* to provide direct funding for cleanup activities at certain properties with planned green space, recreation, or other nonprofit reuses.
- *Job Training Grants* to provide environmental training for residents of brownfields communities.<sup>4</sup>

In addition to providing brownfield grants, the Brownfield Amendments included several provisions that apply to brownfield site purchasers and Superfund liability. A purchaser who acquires a Superfund site after January 11, 2002, and who complies with eight specified criteria, will not incur Superfund liability as an owner of the property. A purchaser who attains and maintains this status is known as a Bona Fide Prospective Purchaser. A significant criterion requires the person to make all appropriate inquiries about the property before acquisition. The purpose of this criterion is to encourage knowledgeable buyers who will have the necessary information to respond appropriately to potential releases of hazardous substances on their property. This criteria mandates that all purchasers appropriately inquire into the history of the property and understand the environmental conditions. The EPA is currently finalizing the final rule which will set forth the standards of the All Appropriate Inquiry.<sup>5</sup>

The Brownfield Amendments also contain a windfall lien provision. This provision states that the EPA has the authority to put a lien, called a windfall lien, on the property of a bona fide prospective purchaser. This is to prevent a developer from unduly profiting from a taxpayer cleanup.<sup>6</sup>

### **Florida’s Brownfields Redevelopment Act.**

The Brownfields Redevelopment Act consists of ss. 376.77-376.85, F.S., and provides for legislative intent, definitions, a brownfields area designation and administration process, contamination cleanup criteria, certain liability protections, and brownfield redevelopment economic incentives. Furthermore,

<sup>4</sup> U.S. EPA pamphlet *The Brownfields Program: Setting Change in Motion*.

<sup>5</sup> Remarks of Kathleen West, EPA attorney at EPA Region 4 to the Florida Brownfields Conference, October 5, 2004.

<sup>6</sup> Id.

<sup>3</sup> Presentation by Kathleen West, EPA, to the Florida Brownfields Conference, Oct. 5, 2002.

s. 376.86, F.S., provides for a Brownfield Areas Loan Guarantee Program, and ss. 376.87 and 376.875, F.S., provide for brownfield property ownership clearance assistance and the creation of the Brownfield Property Ownership Clearance Assistance Revolving Loan Trust Fund.

*Legislative intent* – As provided in s. 376.78, F.S., The Legislature declared that the reduction of public health and environmental hazards on existing commercial and industrial sites is vital to use and reuse as sources of employment. There should be incentives to encourage voluntary cleanup. Environmental justice considerations should be inherent in meaningful public participation elements of a brownfields program. Cooperation among federal, state, and local agencies, local redevelopment organizations, current owners, and prospective purchasers of brownfield sites is required to accomplish timely cleanup activities and the redevelopment and reuse of brownfield sites.

*Designation and administration* – The designation of a brownfield area must come from the local government through the passage of a local resolution. Once a brownfield area has been designated, the local government must notify the Department of Environmental Protection (DEP), and attach a map or a detailed legal description of the brownfield area. A property owner within the proposed designated area may request in writing that his property be removed from the proposed designation.<sup>7</sup>

The designation of a brownfield area may be initiated in one of two ways:

- By a local government to encourage redevelopment of an area of specific interest to the community; or
- By an individual with a redevelopment plan in mind.

The local government must conduct at least one public hearing in the area to be designated to provide an opportunity for public input on the size of the area, the objectives for rehabilitation, job opportunities and economic developments anticipated, neighborhood residents' considerations, and other relevant local concerns if the local government proposes to designate a brownfield area that is outside community redevelopment areas, enterprises zones, empowerment zones, closed military bases, or designated brownfield pilot project areas. In determining the area to be designated, the local government must consider:

- Whether the brownfield area warrants economic development and has a reasonable potential for such activities;
- Whether the proposed area to be designated represents a reasonable focused approach and is not overly large in geographic coverage;
- Whether the area has potential to interest the private sector in participating in rehabilitation; and
- Whether the area contains sites or parts of sites suitable for limited recreational open space, cultural, or historical preservation purposes.<sup>8</sup>

A local government shall designate a brownfield area if:

- The person who owns or controls a potential brownfield site is requesting the designation and has agreed to rehabilitate and redevelop the site;
- The redevelopment and rehabilitation of the proposed brownfield site will result in economic productivity of the area and will create at least 10 new permanent jobs at the brownfield site<sup>9</sup>;
- The redevelopment of the proposed brownfield site is consistent with the local comprehensive plan and is a permissible use under the applicable local land development regulations;
- Notice has been provided to neighbors and nearby residents of the proposed area to be designated; and
- The person proposing the area for designation has provided reasonable assurance that there are sufficient financial resources to implement and complete the rehabilitation agreement and redevelopment plan.

The designation of a brownfield area and the identification of a person responsible for brownfield site rehabilitation simply entitles the identified person to negotiate a brownfield rehabilitation site agreement with the DEP or an approved local program. The person responsible for rehabilitation must enter into a brownfield site rehabilitation agreement with the DEP or a approved local program to be eligible for certain benefits associated with the brownfields redevelopment program.

<sup>8</sup> s. 376.80(2), F.S.

<sup>9</sup> As specified in s. 376.80(b), F.S., the 10 new permanent jobs may be full- or part-time and cannot be associated with the rehabilitation agreement or redevelopment project demolition or construction activities.

<sup>7</sup> s. 376.80(1), F.S.

Contractors performing site rehabilitation program tasks must meet certain criteria. Also, professional engineers or professional geologists providing professional services relating to site rehabilitation program tasks must carry \$1 million of professional liability insurance.

*Cleanup criteria* – Risk-based corrective-action (RBCA) principles apply, to the maximum extent feasible, to the cleanup activities on a brownfield site within a designated brownfield area. These principles are designed to achieve protection of human health and safety and the environment in a cost-effective manner by taking into account natural attenuation, individual site characteristics, and the use of engineering and institutional controls.

The DEP's rules provide for default cleanup target levels; risk assessment tools to derive alternative cleanup target levels; risk management options; and special relief for sites with groundwater cleanup target levels based on nuisance, organoleptic or aesthetic considerations.<sup>10</sup>

*Eligibility and Liability Protection* – If a person has not caused or contributed to the contamination of a brownfield site on or after July 1, 1997, that person is eligible to participate in the brownfield program. Certain sites, however, are not eligible for the program. Those sites include brownfield sites that are subject to an ongoing formal judicial or administrative enforcement action or corrective action pursuant to federal authority, or sites that have obtained or are required to obtain a hazardous waste operation, storage, or disposal facility permit, unless specifically exempted by a memorandum of agreement with the EPA.<sup>11</sup> However, certain brownfield sites that are subject to ongoing corrective action or enforcement under state law are eligible for participation in the brownfield program if:

- The proposed site is currently idle and underutilized as a result of the contamination, and participation in the program will immediately, after cleanup or sooner, result in increased economic productivity at the site, including the creation of at least 10 new permanent jobs; and
- The person is complying in good faith with the terms of an existing consent order or DEP

approved corrective action plan, or responding in good faith to an enforcement action.<sup>12</sup>

After July 1, 1997, petroleum and drycleaning contamination sites in a brownfield area cannot receive both funding assistance for the cleanup of the discharge that is available under the underground storage tank cleanup program or the drycleaning cleanup program and any state assistance available under s. 288.107, F.S.<sup>13</sup>

Any person who executes and implements to successful completion a brownfield site rehabilitation agreement is relieved of further liability for remediation of the contamination by the state and third parties. That person is also relieved of further liability in contribution to any other party who has or may incur cleanup liability for the contaminated site. In addition, the DEP will attempt to negotiate a memorandum of agreement with the EPA for certain sites in EPA's jurisdiction that have received "no further action" determinations from the DEP.

If a state or local government has involuntarily acquired a contaminated site within a brownfield area, it is not liable for implementing site rehabilitation corrective actions, unless the state or local government has otherwise caused or contributed to a release of contaminants at the brownfield site. A site may be involuntarily acquired through bankruptcy, tax delinquency, abandonment, or other circumstances in which the state or local government acquires title by virtue of its function as a sovereign, or as a result of ownership from a donation, gift, or foreclosure.

Nonprofit conservation organizations, acting for the public interest, which purchase contaminated sites and which did not contribute to the release of contamination on the site also warrant protection from liability. Under certain circumstances, a nonprofit, charitable, federal tax-exempt, s. 501(c)(3) national land conservation corporation which purchases title to property in the state for the purpose of conveying such land to any governmental entity for conservation, historical preservation or cultural resource park, greenway, or other similar uses is not liable to the state, local government, or any third party for penalties or remediation costs in connection with environmental contamination found in the soil or groundwater if the corporation did not cause the original deposit or release

<sup>10</sup> *Florida Brownfields Redevelopment Program* pamphlet, DEP, Enterprise Florida, and Governor's Office of Tourism, Trade, and Economic Development.

<sup>11</sup> s. 376.82(1)(a), F.S.

<sup>12</sup> s. 376.82(1)(b), F.S.

<sup>13</sup> s. 288.107, F.S., provides for brownfield redevelopment bonus refunds.

of contaminants, and provided the DEP and the local pollution control program and responsible parties have access to the land for investigation, remediation, or monitoring purposes.

A person whose property becomes contaminated due to geophysical or hydrologic reasons, is not subject to administrative or judicial action to compel the rehabilitation of or payment of the costs for the rehabilitation of sites that are contaminated by materials that have migrated onto the property from the designated brownfield area if certain specified conditions are met.

In 2004, the Legislature provided that when a property, including a brownfield site, escheats to a county, the county is not subject to any liability imposed by ch. 376 or ch. 403, F.S., for preexisting soil or groundwater contamination due solely to its ownership. However, this provision does not affect the rights or liabilities of any past or future owners of the escheated property, and does not affect the liability of any governmental entity for the results of its actions that create or exacerbate a pollution source.<sup>14</sup>

Lenders are afforded certain liability protections to encourage financing of real property in brownfield areas. Essentially, the same liability protections apply to lenders if they have not caused or contributed to a release of a contaminant at the brownfield site.

*Economic and financial incentives* – As stated in s. 376.84, F.S., there should be different standards for brownfield areas than those in place for new development to encourage to redevelopment of brownfields. Since the Brownfields Redevelopment Act was envisioned to emphasize economic redevelopment, local governments were expected to play a significant role in the process. As a result, state and local governments are encouraged to offer redevelopment incentives which may include financial, regulatory, and technical assistance. The financial and local incentives for redevelopment may include, but are not limited to:

- Tax increment financing through community redevelopment agencies pursuant to part III of ch. 163, F.S.;
- Enterprise zone tax exemptions for businesses pursuant to ch. 196, F.S., and 290, F.S.;
- Safe neighborhood improvement districts as provided in ss. 163.502-163.523, F.S.;

- Waiver, reduction, or limitation by line of business with respect to occupational license taxes pursuant to ch. 205, F.S.;
- Tax exemption for historic properties as provided in s. 196.1997, F.S.;
- Residential electricity exemption of up to the first 500 kilowatts of use from the municipal public service tax pursuant to s. 166.231, F.S.;
- Minority business enterprise programs as provided in s. 287.0943, F.S.;
- Electric and gas tax exemption as provided in s. 166.231(6), F.S.;
- Economic development tax abatement as provided in s. 196.1995, F.S.;
- Grants, including community development block grants;
- Pledging of revenues to secure bonds;
- Low-interest revolving loans and zero-interest loan pools;
- Local grant programs for façade, storefront, signage, and other business improvements;
- Governmental coordination of loan payments with lenders, such as microloans, business reserve fund loans, letter of credit enhancements, gap financing, land lease and sublease loans, and private equity; and
- Payment schedules over time for payment of fees, within certain criteria, and marginal cost pricing.

Regulatory incentives may include, but are not limited to:

- Cities' absorption of developers' concurrency needs;
- Developers' performance of certain analyses;
- Exemptions and lessening of state and local review requirements;
- Water and sewer regulatory incentives;
- Waiver of transportation impact fees and permit fees;
- Zoning incentives to reduce review requirements for redevelopment changes in use and occupancy; establishment of code criteria for specific uses; and institution of credits for previous use within the area;
- Flexibility in parking standards and buffer zone standards;
- Environmental management through specific code criteria and conditions that are allowed by current law;
- Maintenance standards and activities by ordinance and otherwise, and increased security and crime

<sup>14</sup> Ch. 2004-40, Laws of Florida

prevention measures available through special assessments;

- Traffic-calming measures;
- Historic preservation ordinances, loan programs, and review and permitting procedures; and
- One-stop permitting and streamlined development and permitting process.

Technical assistance incentives may include, but are not limited to:

- Expedited development applications;
- Formal and informal information on business incentives and financial programs;
- Site design assistance; and
- Marketing and promotion of projects or areas.<sup>15</sup>

Other economic and financial incentives available to brownfield sites are tax refunds for qualified target industries located in a brownfield area, brownfield redevelopment bonus refunds, and partial voluntary cleanup tax credits.

The tax refunds available as a qualified target industry may be for corporate income taxes, insurance premium taxes, sales and use taxes, intangible personal property taxes, emergency excise taxes, documentary stamp taxes, and ad valorem taxes.

The brownfield redevelopment bonus refunds of \$2,500 are available to any qualified target industry business for each new Florida job created in a brownfield area which is claimed on the qualified target industry's annual refund claim. Section 288.107, F.S., provides the minimum criteria for participation in the brownfield redevelopment bonus refund program. The minimum criteria are:

- The creation of at least 10 new full-time permanent jobs.<sup>16</sup>
- The completion of a mixed capital investment of at least \$2 million in mixed-use business activities, including multiunit housing, commercial, retail, and industrial in brownfield areas, by an eligible business applying for a refund which provides benefits to its employees.
- The designation of a brownfield will diversify and strengthen the economy of the area surrounding the site.

- The designation as a brownfield will promote capital investment in the area beyond that contemplated for the rehabilitation of the site.

*Voluntary Cleanup Tax Credit* – One of the financial incentives that is getting increased attention as the brownfield program matures and gains in popularity, is the voluntary cleanup tax credit or VCTC. This is a tax credit available for site rehabilitation conducted at eligible drycleaning sites, and brownfield sites in designated brownfield areas. To be eligible, the responsible party must execute a Brownfield Site Rehabilitation Agreement with the DEP.

The VCTC can apply toward either the intangible personal property tax or corporate income tax. The amount of the credit is 35 percent of the costs of voluntary cleanup activity that is integral to site rehabilitation. The maximum for a tax credit applicant is \$250,000 per year. If the credit is not fully used in any one year because of insufficient tax liability on the part of the tax credit applicant, the unused amount may be carried forward for a period not to exceed 5 years. However, the total amount of the tax credit that may be granted each year under the program is \$2 million.<sup>17</sup> Tax credit applications in excess of \$2 million, will be carried forward and will be applied to the next tax year. To date, however, the total amount of applications for the tax credits has not reached the \$2 million cap in any one year.

To apply for the tax credit, the applicant must submit a \$250 nonrefundable application review fee by January 15 following the calendar year for which the tax credit is being claimed. An applicant can submit only one application per site per year for costs incurred and paid during the calendar year for which the application is submitted.

As an inducement to complete the voluntary cleanup, the tax credit applicant may claim an additional 10 percent of the total cleanup costs, not to exceed \$50,000 in the final year of cleanup.

The tax credits may be transferred once to another entity in whole or in units of not less than 25 percent of the remaining credit. The following indicates the growth and activity of the VCTC program:<sup>18</sup>

<sup>15</sup> s. 376.84, F.S.

<sup>16</sup> These jobs cannot include construction or site rehabilitation jobs associated with the implementation of a brownfield site agreement. The definition of "jobs" means full-time equivalent.

<sup>17</sup> s. 199.1055, F.S.; s. 220.1845, and s. 376.30781, F.S.

<sup>18</sup> DEP presentation at the Florida Brownfields Conference in Sarasota, October 5, 2004.

Fiscal Year	Certificates Issued	Total \$ Issued
FY 98-99	1	\$30,228
FY 99-00	3	\$118,438
FY 00-01	6	\$213,852
FY 01-02	9	\$494,194
FY 02-03	13	\$1,068,049
FY 03-04	16	\$1,014,834

As of October 1, 2004, the DEP has received applications totaling just over \$1 million for the current year.

*Brownfield Areas Loan Guarantee Program* – The Brownfield Areas Loan Guarantee Program was created in 1998. A Brownfield Areas Loan Guarantee Council was created to review, approve, or deny certain partnership agreements with local governments, financial institutions, and others associated with the redevelopment of brownfields for limited guarantees of loans or loss reserves. Section 376.86, F.S., provides that no more than \$5 million of the balance of the Inland Protection Trust Fund in a fiscal year may be at risk at any time on loan guarantees or as loan loss reserves. A loan guarantee may only be for a period of not more than 5 years.

The limited state loan guarantee applies only to 10 percent of the primary lender's loans for redevelopment projects in brownfields areas. A lender seeking a limited state guarantee for a loan from the Brownfield Areas Loan Guarantee Council<sup>19</sup> must first provide a report demonstrating that the lender has reviewed the project for redevelopment of the brownfield areas and has determined its feasibility in accordance with its standard procedures. A lender may not file a claim for loss pursuant to the guarantee unless all reasonable and normal remedies available and customary for lending institutions for resolving problems of loan repayments are exhausted.

To date, the loan guarantee provisions have been used only one time. That project involved a shopping center and an out-parcel in a Clearwater brownfield. The loan guarantee mechanism worked as it was designed to do. With the loan guarantee, the developer has more

<sup>19</sup> The council is created to review and approve or deny the applications for the loan guarantees. The council membership consists of the Secretary of DEP, the Secretary of the Dept. of Community Affairs, the Executive Director of the State Board of Administration, the Executive Director of the Fla. Housing Finance Corp., and the Director of OTTED (or their designees).

financial flexibility because the initial cash flow is not as great. The loan guarantee holds until permanent financing is acquired or until the project is sold. In this case, the project was sold. There are currently a few applications pending, but none active.

The loan guarantee provision must be reviewed by the Legislature by January 1, 2007, and a determination made relating to the need to continue or modify the program. New loan guarantees may not be approved in 2007 until the review by the Legislature has been completed and a determination has been made as to the feasibility of continuing the use of the Inland Protection Trust Fund to guarantee portions of loans under this program.

*Brownfield Property Ownership Clearance Assistance and Revolving Loans Trust Fund* – Section 376.87, F.S., provides for brownfield property ownership clearance assistance. The Legislature recognized that some brownfield redevelopment projects are more difficult to redevelop due to the existence of various types of liens on the property and complications from previous ownership having declared bankruptcy. The Legislature created the Brownfield Property Ownership Clearance Assistance Revolving Loan Trust Fund to assist in the early stages of redeveloping brownfields by helping to clear prior liens on the property through a negotiated process. The loans would be repaid in later years from the resale of the brownfield properties following site rehabilitation and other activities that will enhance the properties' ultimate value.

This trust fund has never been capitalized and used for its intended purposes.

#### Issues.

Since its enactment in 1997, designations of brownfield areas and interest in revitalizing these areas has been steadily growing. There are currently 95 designated brownfield areas in Florida. Those brownfield areas have accounted for 3,274 direct new jobs and \$172.5 million in capital investment.<sup>20</sup>

To enhance usage of the law, several amendments to the law have been suggested.

1. Modifying the voluntary tax credit to offset a greater portion of the moneys spent for cleanup. Currently, the amount, as stated previously, is 35 percent of the moneys spent on eligible site

<sup>20</sup> Information obtained from a DEP presentation at the Florida Brownfields Conference, October 2004.

rehabilitation activities with a yearly individual site cap of \$250,000. The total amount for all tax credits cannot exceed \$2 million. Proposals include increasing the percentage that can be claimed; increasing the individual site cap; and increasing the overall cap that can be claimed per year for all tax credits.

2. Expanding the scope of “site rehabilitation” to include tasks commonly associated with site development.
3. Increasing the amount of the loan guarantee from 10 percent to as much as 50 percent. Also suggested is increasing the total amount that can be used to back the loan guarantees from the Inland Protection Trust from \$5 million to \$7.5 million.
4. Expanding the third party liability protections.

## RECOMMENDATIONS

The affected brownfield stakeholders continue to work together to enhance the usage and effectiveness of Florida’s brownfields program.

- The voluntary tax cleanup credit, though it has not been fully utilized, is gaining in popularity and usage. Increasing the percentage offered per year as a credit while maintaining the overall \$2 million per year cap on such credits may increase participation in the program. Also, increasing the amount offered as an incentive in the last year of cleanup as an inducement to complete the cleanup would greatly increase participation in the program.
- The percentage of the loan that would be guaranteed by the Brownfield Loan Guarantee Program could be increased from the present 10 percent without putting state funds at further risk. Lenders are still hesitant to lend for projects in brownfield areas.
- A few technical changes are needed to modernize the law. Also, consideration should be given to repealing the Brownfield Property Ownership Clearance Assistance Program and the Revolving Loan Trust Fund since the trust fund has not been funded or used for that purpose.