

Practice Update

Florida's Brownfields Program Shows Record Participation, Provides Key Incentives for Cleanup & Redevelopment

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The Florida Department of Environmental Protection (FDEP) released its annual Brownfield report this month, reporting record levels of participation in Florida's Brownfield program. Brownfields are sites with actual or potential environmental contamination that impairs a site's development or reuse.

For the second year in a row, the State of Florida approved over \$6 million in state Voluntary Cleanup Tax Credits (VCTC). More tax credit applications were submitted this year than ever – an annual increase of about 25% percent. The VCTC tax credit program is Florida's chief financial incentive designed to encourage the voluntary cleanup and redevelopment of contaminated and distressed sites.

Florida's Brownfield Program – Incentives & Results

Since the Florida Brownfield program's inception in 1997, local governments in Florida have designated more than 340 Brownfield areas and over 180 voluntary Brownfield Site Rehabilitation Agreements (BSRA) have been signed. During that time, approximately \$2.4 billion in capital has been

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invested in Florida's Brownfield areas and more than 50,000 new jobs created or projected.

Location in a Brownfield area and execution of a Brownfield cleanup agreement enables a property owner or developer to receive VCTC tax credits on environmental costs. These tax credits -- which apply against Florida corporate income tax -- are also transferable to third parties on an open, active market.

Florida's VCTC tax credit program provides a 50% tax credit on cleanup and other eligible environmental costs -- plus additional 25% bonuses upon the completion of cleanup and if the project is the site of an affordable housing development or health care facility or provider. Multiple bonuses may be available for a single site.

To enter Florida's Brownfield program, a site must first be included in a Brownfield area designated by the local government with land use jurisdiction. The designation process can be initiated at either the local government's or a third-party's request. After an area is designated, a site can enter into a BSRA agreement with FDEP or an approved local program.

Projects can also tap two other state Brownfield incentives -- (i) the state sales tax refund for building materials used to build affordable housing or mixed-used developments and (ii) Florida's Brownfield Job Bonus, which offers up to a \$2,500 cash refund for each new job created on a site. Certain eligible projects must be located on or adjacent to a site with a BSRA agreement.

Redevelopment Opportunities

Florida's Brownfields program continues to provide a strong, diverse toolbox of regulatory and financial incentives intended to encourage cleanup and redevelopment of impaired or undervalued sites. While the Florida Legislature passed legislation

in 2013 to revise eligibility criteria for certain Brownfield financial incentives for sites in Brownfield areas without BSRAs, the VCTC tax credit was not affected and remains a popular, key financial incentive.

Akerman can assist clients in pursuing Brownfield area designations, Brownfield cleanup agreements, and tax credits on sites large and small. Participation in Florida's Brownfields program often plays a crucial role for project financing, to reduce and manage liability risks, and to strengthen community support for redevelopment projects.

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