

Practice Update

Florida Governor Signs Major Brownfields Bill Into Law, Expanding Program

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The 2025 Florida legislative session produced a sweeping change in Florida's Brownfield Redevelopment Program with the passage of CS/HB 733 and its significant amendments to Florida's Brownfields statutes. The bill, which paves the way for increased Brownfield site cleanup, redevelopment, and revitalization throughout the state, received bipartisan support during its passage and was signed by Governor Ron DeSantis on June 3, 2025. The new law takes effect on July 1, 2025, and contains a number of important changes and enhancements to Florida's Brownfield Redevelopment Program.

As a backdrop, Florida's Brownfield Redevelopment Program (Florida's Brownfield Program) provides a range of incentives for real estate developers and property owners to perform voluntary cleanup and rehabilitation of contaminated sites in Florida. These incentives may be obtained by entering into a Brownfield Site Rehabilitation Agreement (BSRA) for a site within a designated Brownfield area, if certain requirements are met. These incentives also include certain liability protections and the right to apply for state Voluntary Cleanup Tax Credits (VCTC) regarding costs incurred relating to site rehabilitation, solid waste removal, and other cleanup activities. According to the Florida Department of Environmental Protection's annual

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report for fiscal year 2023-24, Florida's highly successful Brownfield Program has resulted in the cleanup and closure of more than 235 brownfield sites, more than \$557 million in confirmed investment, and 16,549 net new direct jobs.

This year's CS/HB 733 (Brownfields Law) builds on the existing achievements of Florida's Brownfield Program and contains meaningful statutory amendments, including those below.

Closure of Brownfield Sites within Larger Contaminated Sites

Of primary significance under the Brownfields Law is the new, enhanced flexibility for multi-parcel Brownfield sites in obtaining environmental regulatory closure. Achieving regulatory closure – generally meaning that no further environmental action must be performed or there must only be compliance with specified closure conditions – is often a key objective in undertaking and completing site rehabilitation. The Brownfields Law allows the Florida Department of Environmental Protection (FDEP) or delegated county environmental agencies to issue No Further Action (NFA) status to a Brownfield site that is a portion of a larger contaminated site, regardless of whether similar contamination exists elsewhere on the larger contaminated site, as long as the soil and groundwater contamination at or from the Brownfield site is sufficiently addressed under FDEP's site cleanup rule at Chapter 62-780, Fla. Admin. Code.

This amendment is a critical change that will likely help effectuate cleanup and rehabilitation of complex sites in Florida. In some instances, a Brownfield site does not encompass the entire larger contaminated site and parties may elect not to perform site rehabilitation if NFA status will not be granted for the particular Brownfield site. Under the Brownfields Law, individual Brownfield sites that are part of a larger contaminated site are eligible to

pursue NFA status. This key change will allow those undertaking voluntary cleanup to rehabilitate portions of contaminated sites that make sense from a variety of perspectives, including business and economic, and at the same time pursue NFA status.

Participation by Federally Regulated Sites

Another fundamental change is the streamlining of the process for participation in Florida's Brownfield Program by certain federally regulated sites. The Brownfields Law provides that specified federally regulated sites – e.g., sites subject to ongoing formal judicial or administrative enforcement action or corrective action pursuant to federal authority – are eligible to participate in Florida's Brownfield Program if certain requirements are met, including that the United States Environmental Protection Agency (U.S. EPA) issues a letter stating it has no objection to such participation and FDEP provides a letter of concurrence. The previous version of the statute required U.S. EPA to issue a memorandum of agreement agreeing to forego enforcement of federal corrective action authority. Under the Brownfields Law, FDEP may not require as a condition of a concurrence letter that the U.S. EPA agree to forego enforcement of federal corrective action authority at Brownfield sites that have received a Site Rehabilitation Completion Order from FDEP (or delegated agency) or that are in the process of implementing a BSRA. This amendment is expected to facilitate additional sites becoming Brownfield sites participating in Florida's Brownfield Program.

Participation by Local Governments

The Brownfields Law confirms that a local governmental entity, including any other person who may be organized or united with the local governmental entity for a business purpose, may participate in Florida's Brownfield Program, as long as such entity or person did not cause or contribute to the contamination of a Brownfield site on or after July 1, 2025. This language opens the door to increased participation by local governments.

Other Notable Changes

The Brownfields Law contains some definitional revisions and also modifies the annual deadline for FDEP to inform VCTC tax credit applicants of their eligibility status and tax credit award amount – this response deadline was moved to June 1 from May 1. The Brownfields Law also provides clarity on the time period to apply for a Site Rehabilitation Completion Order VCTC tax credit bonus, which under the new law is “within 2 years after receipt of the Site Rehabilitation Completion Order.” While the Brownfields Law still requires FDEP to maintain a public “registry” of contaminated sites within a Brownfield area that are subject to institutional or engineering controls, the Brownfields Law eliminates local government mapping requirements, including the requirement that local governments note the existence of institutional controls on local land use and zoning maps.

Conclusion

The Brownfields Law represents the continued expansion of Florida’s Brownfield Program, and in particular as part of the allowance for smaller Brownfield sites within a larger contaminated site to receive environmental regulatory closure, clears the way for new and exciting Brownfield cleanup and redevelopment opportunities throughout the state.

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