
By: Delegates Guns, Taylor, Cummings, Hurson, Busch, Hixson, Rawlings, and Vallario

Requested: November 15, 1995

Introduced and read first time: January 10, 1996

Assigned to: Environmental Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Brownfields - Voluntary Cleanup and Revitalization Programs**

3 FOR the purpose of establishing a Voluntary Cleanup Program in the Maryland
4 Department of the Environment (MDE); establishing a Voluntary Cleanup Fund
5 administered by MDE; requiring an applicant to the Program to submit certain
6 information to MDE and pay a certain fee; authorizing MDE to reimburse an
7 applicant under certain circumstances; requiring MDE to notify an applicant within
8 a certain time whether a property is eligible property under the Program; requiring
9 a proposed response action plan to include certain information; authorizing an
10 applicant to select certain criteria when proposing a response action plan;
11 authorizing an applicant to withdraw from the Program; requiring MDE to return
12 certain documents under certain circumstances; requiring MDE to approve a
13 response action plan under certain circumstances; requiring MDE to adopt
14 regulations developing standards for certain criteria; altering a certain definition for
15 certain purposes; authorizing MDE to issue letters of assurance and certain liability
16 releases under certain circumstances; providing that an applicant that receives a
17 certain liability release is not liable to MDE or other persons for certain costs;
18 providing that liability releases will not prevent certain actions and will not remain
19 in effect under certain circumstances; requiring public notification under certain
20 circumstances; requiring MDE to appoint an environmental liaison; establishing a
21 Brownfields Revitalization Program in the Department of Business and Economic
22 Development (DBED); requiring DBED to select Brownfields sites based on
23 certain criteria; requiring DBED to publish a list of Brownfields sites; requiring
24 DBED to consult with certain persons during a certain time; establishing a property
25 tax credit for a certain period of time and for a certain amount; requiring a taxing
26 jurisdiction to contribute to the Voluntary Cleanup Fund for a certain period of
27 time and for a certain amount; defining certain terms; and generally relating to the
28 establishment of a Voluntary Cleanup Program and Brownfields Revitalization
29 Program.

30 BY repealing and reenacting, with amendments,
31 Article - Environment
32 Section 4-401(f) and 7-201(x)
33 Annotated Code of Maryland
34 (1993 Replacement Volume and 1995 Supplement)

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1 BY adding to
2 Article - Environment
3 Section 7-501 through 7-512, inclusive, to be under the new subtitle "Subtitle 5.
4 Voluntary Cleanup Program"
5 Annotated Code of Maryland
6 (1993 Replacement Volume and 1995 Supplement)

7 BY adding to
8 Article 83A - Department of Business and Economic Development
9 Section 3-901 through 3-903, inclusive, to be under the new subtitle "Subtitle 9.
10 Brownfields Revitalization Program"
11 Annotated Code of Maryland
12 (1995 Replacement Volume)

13 BY adding to
14 Article - Tax - Property
15 Section 9-109
16 Annotated Code of Maryland
17 (1994 Replacement Volume and 1995 Supplement)

18 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
19 MARYLAND, That the Laws of Maryland read as follows:

20 **Article - Environment**

21 4-401.

22 (f) (1) "Management" means directing or controlling operations at a site or
23 facility related to the storage or discharge of oil.

24 (2) "Management" does not include:

25 (I) [rendering] RENDERING advice on financial matters, rendering
26 financial assistance, or actions taken to protect or secure a site or facility or property
27 located on the site or at the facility, if the advice, assistance, or actions do not involve the
28 storage, disposal, or remediation of discharged oil[.] ; OR

29 (II) ANY ACTION TAKEN TO PROTECT ASSETS OR A SECURITY
30 INTEREST, INCLUDING RIGHTS UNDER A MORTGAGE, DEED OF TRUST,
31 ASSIGNMENT, JUDGMENT, LIEN, PLEDGE, SECURITY AGREEMENT, FACTORING
32 AGREEMENT, LEASE, OR ANY OTHER RIGHT ACCRUING TO A PERSON TO SECURE
33 THE REPAYMENT OF MONEY, THE PERFORMANCE OF A DUTY, OR SOME OTHER
34 OBLIGATION IF THERE IS NO KNOWING AND WILLFUL VIOLATION OF ANY
35 APPLICABLE LAW OR REGULATION UNDER THIS SUBTITLE.

36 7-201.

37 (x) (1) "Responsible person" means any person who:

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1 (i) Is the owner or operator of a vehicle or a site containing a
2 hazardous substance;

3 (ii) At the time of disposal of any hazardous substance, was the owner
4 or operator of any site at which the hazardous substance was disposed;

5 (iii) By contract, agreement, or otherwise, arranged for disposal or
6 treatment, or arranged with a transporter for transport for disposal or treatment, of a
7 hazardous substance owned or possessed by such person, by any other party or entity, at
8 any site owned or operated by another party or entity and containing such hazardous
9 substances; or

10 (iv) Accepts or accepted any hazardous substance for transport to a
11 disposal or treatment facility or any sites selected by the person.

12 (2) "Responsible person" does not include:

13 (i) A person who can establish by a preponderance of the evidence
14 that at the time the person acquired an interest in a site containing a hazardous substance
15 the person did not know and had no reason to know that any hazardous substance which
16 is the subject of the release or threatened release was disposed of on, in, or at the site;
17 however, any person claiming an exemption from liability under this subparagraph must
18 establish that the person had no reason to know, in accordance with § 101(35)(B) of the
19 federal act, and that the person satisfied the requirements of § 107(b)(3)(a) of the federal
20 act;

21 (ii) A person who acquired a property containing a hazardous
22 substance by inheritance or bequest at the death of the transferor;

23 (iii) A person who, without participating in the day-to-day
24 management of a site containing a hazardous substance, holds indicia of ownership in the
25 site or in property located on the site primarily to protect a valid and enforceable lien
26 unless that person directly causes the discharge of a hazardous substance on or from the
27 site;

28 (iv) A holder of a mortgage or deed of trust on a site containing a
29 hazardous substance or a holder of a security interest in property located on the site who
30 does not participate in the day-to-day management of the site unless that holder directly
31 causes the discharge of a hazardous substance on or from the site;

32 (v) A fiduciary who has legal title to a site containing a hazardous
33 substance or to property located on the site containing a hazardous substance for purpose
34 of administering an estate or trust of which the site or property located on the site is a
35 part unless the fiduciary:

36 1. Participates in the day-to-day management of the site or
37 property; or

38 2. Directly causes the discharge of a hazardous substance on or
39 from the site;

40 (vi) A holder of a mortgage or deed of trust who acquires title to a site
41 containing a hazardous substance through foreclosure or deed in lieu of foreclosure who:

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1 1. Does not participate in the day-to-day management of the
2 site; and

3 2. Does not directly cause the discharge of a hazardous
4 substance on or from the site; or

5 (vii) Except in the case of gross negligence or willful misconduct, an
6 owner or operator who is:

7 1. A State, county, or municipal government;

8 2. Any other political subdivision of the State; or

9 3. Any unit of a State, county, or municipal government or any
10 other political subdivision.

11 (3) (i) Paragraph (2)(i) of this subsection does not affect the liability of a
12 previous owner or previous operator of a site containing a hazardous substance if the
13 previous owner or previous operator is a responsible person under paragraph (1)(ii) of
14 this subsection.

15 (ii) Notwithstanding paragraph (2)(i) of this subsection, a person shall
16 be treated as a responsible person if the person:

17 1. Obtained actual knowledge of the release or threatened
18 release of a hazardous substance at a site when the person owned the real property; and

19 2. Transferred ownership of the property after June 30, 1991
20 without disclosing this knowledge to the transferee.

21 (iii) Nothing in paragraph (2)(i) of this subsection shall affect the
22 liability under this subtitle of a person who, by any act or omission, caused or contributed
23 to the release or threatened release of a hazardous substance at a site which is the subject
24 of the action relating to the site if at the time of the act or omission the person knew or
25 had reason to know that the act or omission would cause or contribute to the release or
26 threatened release of a hazardous substance.

27 (4) Notwithstanding paragraph (2)(ii) of this subsection, a person shall be
28 treated as a responsible person if the person:

29 (i) Knew or had reason to know of the release or threatened release
30 of a hazardous substance at the site; and

31 (ii) Transferred ownership of the property after June 30, 1991 without
32 disclosing this knowledge to the transferee.

33 (5) (i) For purposes of paragraph (2)(iii), (iv), (v), and (vi) of this
34 subsection, "management" means directing or controlling operations, production or
35 treatment of a hazardous substance, storage or disposal of a hazardous substance, or
36 remediation of a hazardous substance release.

37 (ii) "Management" does not include:

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1 1. [rendering] RENDERING advice on financial matters,
2 rendering financial assistance, or actions taken to protect or secure the site or property
3 located on the site if the advice, assistance, or actions do not involve the treatment,
4 storage, or disposal of a hazardous substance or remediation of a hazardous substance
5 release[.]; OR

6 2. ANY ACTION TO PROTECT ASSETS OR A SECURITY
7 INTEREST, INCLUDING RIGHTS UNDER A MORTGAGE, DEED OF TRUST,
8 ASSIGNMENT, JUDGMENT, LIEN, PLEDGE, SECURITY AGREEMENT, FACTORING
9 AGREEMENT, LEASE, OR ANY OTHER RIGHT ACCRUING TO A PERSON TO SECURE
10 THE REPAYMENT OF MONEY, THE PERFORMANCE OF A DUTY, OR SOME OTHER
11 OBLIGATION IF THERE IS NO KNOWING AND WILLFUL VIOLATION OF ANY
12 APPLICABLE LAW OR REGULATION UNDER THIS TITLE.

13 SUBTITLE 5. VOLUNTARY CLEANUP PROGRAM.

14 7-501.

15 (A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS
16 INDICATED.

17 (B) "APPLICANT" MEANS A PERSON WHO:

18 (1) APPLIES TO PARTICIPATE IN THE VOLUNTARY CLEANUP PROGRAM;
19 AND

20 (2) HAS NOT CAUSED A RELEASE BY KNOWINGLY AND WILFULLY
21 VIOLATING ANY LAW OR REGULATION CONCERNING OIL OR CONTROLLED
22 HAZARDOUS SUBSTANCES.

23 (C) "ASSURANCE LETTER" MEANS A LETTER FROM THE DEPARTMENT
24 AVAILABLE TO AN APPLICANT ON APPROVAL BY THE DEPARTMENT OF A PLANNED
25 OR COMPLETED VOLUNTARY INVESTIGATION OR RESPONSE ACTION PLAN.

26 (D) "BACKGROUND LEVEL" MEANS THE CONCENTRATION OF A
27 CONTAMINANT THAT IS PRESENT AT AN ELIGIBLE PROPERTY BUT IS NOT RELATED
28 TO ANY RELEASE AT THE ELIGIBLE PROPERTY.

29 (E) "CONTAMINATION" MEANS A RELEASE, DISCHARGE, OR THREATENED
30 RELEASE OF :

31 (1) A CONTROLLED HAZARDOUS SUBSTANCE, AS DEFINED IN § 7-201 OF
32 THIS TITLE; OR

33 (2) OIL, AS DEFINED IN § 4-401 OF THIS ARTICLE.

34 (F) (1) "ELIGIBLE PROPERTY" MEANS A SITE THAT IS CONTAMINATED.

35 (2) "ELIGIBLE PROPERTY" DOES NOT INCLUDE A SITE THAT IS:

36 (I) ON THE NATIONAL PRIORITIES LIST UNDER § 105 OF THE
37 FEDERAL ACT; OR

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1 (II) SUBJECT TO AN ENFORCEMENT ACTION TAKEN BY THE
2 DEPARTMENT UNDER THIS SUBTITLE OR TITLE 4 OF THIS ARTICLE.

3 (G) (1) "LIABILITY RELEASE" MEANS A STATEMENT ISSUED BY THE
4 DEPARTMENT UNDER § 7-508 OF THIS SUBTITLE:

5 (I) ACKNOWLEDGING THE NATURE AND THE PURPOSE OF THE
6 WORK PLANNED OR COMPLETED BY A PARTICIPANT IN THE VOLUNTARY CLEANUP
7 PROGRAM IN CONNECTION WITH A CONTAMINATED PROPERTY; AND

8 (II) STATING THAT THE DEPARTMENT MAY NOT REQUIRE
9 ADDITIONAL ACTIVITIES AND MAY NOT SEEK COST RECOVERY FOR ACTIVITIES
10 CONDUCTED BY THE DEPARTMENT EXCEPT AS PROVIDED IN § 7-508(D) OF THIS
11 SUBTITLE .

12 (2) A LIABILITY RELEASE MAY INCLUDE A LIMITATION ON THE
13 PERMISSIBLE USES OF THE PROPERTY.

14 (H) "RESPONSIBLE PERSON" MEANS A PERSON AS DEFINED BY § 7-201(X) OF
15 THIS TITLE.

16 7-502.

17 (A) THERE IS A VOLUNTARY CLEANUP FUND.

18 (B) ALL APPLICATION FEES COLLECTED BY THE DEPARTMENT FROM
19 APPLICANTS IN THE VOLUNTARY CLEANUP PROGRAM SHALL BE PAID TO THE
20 VOLUNTARY CLEANUP FUND.

21 (C) MONEYS APPROPRIATED, GRANTED, LOANED, OR OTHERWISE PROVIDED
22 TO THE DEPARTMENT FOR THE SUPPORT OF THE VOLUNTARY CLEANUP PROGRAM
23 SHALL BE PAID TO THE VOLUNTARY CLEANUP FUND.

24 (D) THE DEPARTMENT MAY USE THE MONEYS IN THE VOLUNTARY CLEANUP
25 FUND SOLELY FOR REVIEW OF PROPOSED VOLUNTARY CLEANUP PROJECTS AND
26 THE OVERSIGHT OF VOLUNTARY CLEANUP PROJECTS.

27 7-503.

28 (A) THERE IS A VOLUNTARY CLEANUP PROGRAM ADMINISTERED BY THE
29 DEPARTMENT.

30 (B) THE PURPOSE OF THE VOLUNTARY CLEANUP PROGRAM IS TO:

31 (1) PROVIDE FOR THE VOLUNTARY INVESTIGATION OF ELIGIBLE
32 PROPERTIES WITH KNOWN OR SUSPECTED CONTAMINATION;

33 (2) PROTECT HEALTH AND THE ENVIRONMENT WHERE VOLUNTARY
34 CLEANUP PROJECTS ARE BEING PERFORMED;

35 (3) ACCELERATE VOLUNTARY CLEANUP OF ELIGIBLE PROPERTIES, IF
36 CONTAMINATED; AND

37 (4) PROVIDE PREDICTABILITY AND FINALITY TO THE VOLUNTARY
38 CLEANUP OF ELIGIBLE PROPERTIES.

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1 7-504.

2 (A) TO PARTICIPATE IN THE PROGRAM, A PERSON SHALL:

3 (1) SUBMIT TO THE DEPARTMENT A SPECIFIC REQUEST FOR THE TYPE
4 OF LIABILITY RELEASE AS PROVIDED IN § 7-508 OF THIS SUBTITLE OR AN
5 ASSURANCE LETTER SOUGHT BY THE APPLICANT;

6 (2) PROVIDE INFORMATION DEMONSTRATING THAT THE
7 CONTAMINATION DID NOT RESULT FROM THE APPLICANT KNOWINGLY OR
8 WILLFULLY VIOLATING ANY LAW OR REGULATION CONCERNING OIL OR
9 CONTROLLED HAZARDOUS SUBSTANCES;

10 (3) DESCRIBE, IN SUMMARY FORM, A PROPOSED VOLUNTARY CLEANUP
11 PROJECT; AND

12 (4) PAY TO THE DEPARTMENT AN APPLICATION FEE BETWEEN \$1,000
13 AND \$10,000 DEPENDING ON THE COSTS ANTICIPATED BY THE DEPARTMENT IN
14 ADMINISTERING AND OVERSEEING THE VOLUNTARY CLEANUP PROJECT.

15 (B) THE DEPARTMENT SHALL NOTIFY THE APPLICANT IN WRITING WITHIN 15
16 DAYS AFTER THE DATE OF RECEIPT OF A COMPLETE APPLICATION WHETHER THE
17 PROPERTY IS AN ELIGIBLE PROPERTY.

18 (C) IF THE APPLICATION IS NOT ACCEPTED, THE DEPARTMENT SHALL
19 RETURN TO THE APPLICANT THAT PART OF THE APPLICATION FEE THAT IS NOT
20 USED TO COVER THE COSTS OF THE DEPARTMENT IN REVIEWING THE VOLUNTARY
21 CLEANUP PROJECT.

22 (D) THE DEPARTMENT SHALL USE THE APPLICATION FEE TO COVER COSTS
23 OF ADMINISTRATION OF THE VOLUNTARY CLEANUP PROGRAM AND THE
24 OVERSIGHT OF VOLUNTARY CLEANUP PROJECTS.

25 (E) AFTER COMPLETION OF A VOLUNTARY CLEANUP PROJECT, THE
26 DEPARTMENT MAY:

27 (1) REIMBURSE THE APPLICANT FOR THE PORTION OF THE
28 APPLICATION FEE THAT WAS NOT SPENT BY THE DEPARTMENT IN THE
29 ADMINISTRATION AND OVERSIGHT OF THE VOLUNTARY CLEANUP PROJECT; OR

30 (2) REQUIRE THE APPLICANT TO PAY TO THE DEPARTMENT THE
31 ADDITIONAL AMOUNT SPENT BY THE DEPARTMENT IN THE ADMINISTRATION AND
32 OVERSIGHT OF THE VOLUNTARY CLEANUP PROJECT.

33 7-505.

34 (A) (1) AFTER AN APPLICANT RECEIVES A NOTICE OF ELIGIBILITY, THE
35 APPLICANT SHALL PROPOSE A RESPONSE ACTION PLAN NECESSARY TO ACHIEVE
36 THE CLEANUP STANDARDS IN § 7-506 OF THIS SUBTITLE.

37 (2) THE PROPOSED RESPONSE ACTION PLAN SHALL INCLUDE:

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1 (I) A SUMMARY OF AVAILABLE RELEVANT INFORMATION ON
2 ENVIRONMENTAL CONDITIONS AT THE ELIGIBLE PROPERTY KNOWN TO THE
3 APPLICANT AT THE TIME OF THE APPLICATION; AND

4 (II) AN ENVIRONMENTAL SITE ASSESSMENT OR ASSESSMENTS.

5 (3) THE PROPOSED RESPONSE ACTION PLAN MAY INCLUDE:

6 (I) A WORK PLAN FOR THE PROPOSED RESPONSE ACTION PLAN TO
7 BE PERFORMED; OR

8 (II) A DEMONSTRATION THAT THE PROPOSED RESPONSE ACTION
9 PLAN WILL MEET CLEANUP STANDARDS IN § 7-506 OF THIS SUBTITLE.

10 (4) AN APPLICANT MAY SELECT ONE OF THE CRITERIA IN § 7-506(A) OF
11 THIS SUBTITLE WHEN PROPOSING A RESPONSE ACTION PLAN.

12 (B) (1) AN APPLICANT MAY WITHDRAW AN APPLICATION AT ANY TIME
13 UNDER THE VOLUNTARY CLEANUP PROGRAM AND WILL NOT BE OBLIGATED TO
14 COMPLETE A PROPOSED RESPONSE ACTION PLAN.

15 (2) IF AN APPLICANT WITHDRAWS AN APPLICATION, THE DEPARTMENT
16 SHALL RETURN ALL DOCUMENTS AND COPIES OF DOCUMENTS SUBMITTED TO THE
17 APPLICANT.

18 7-506.

19 (A) THE DEPARTMENT SHALL APPROVE A RESPONSE ACTION PLAN IF
20 CONDITIONS AT THE ELIGIBLE PROPERTY ARE EXPECTED TO MEET ONE OF THE
21 FOLLOWING CRITERIA UPON COMPLETION OF THE RESPONSE ACTION PLAN:

22 (1) NUMERIC RISK-BASED STANDARDS;

23 (2) PRESUMPTIVE AND GENERIC REMEDIES;

24 (3) SITE-SPECIFIC RISK ASSESSMENTS;

25 (4) BACKGROUND LEVELS;

26 (5) THE STANDARDS OF THE STATE HAZARDOUS SUBSTANCE RESPONSE
27 PLAN; OR

28 (6) A COMBINATION OF ONE OR MORE OF THESE CRITERIA.

29 (B) (1) THE DEPARTMENT SHALL ADOPT REGULATIONS DEVELOPING
30 STANDARDS FOR THE CRITERIA IN SUBSECTION (A) OF THIS SECTION BASED ON:

31 (I) COST EFFECTIVE RISK REDUCTION; AND

32 (II) TECHNICAL PRACTICABILITY.

33 (2) THE DEPARTMENT SHALL DEVELOP STANDARDS FOR NUMERIC
34 RISK-BASED STANDARDS, PRESUMPTIVE AND GENERIC REMEDIES, SITE-SPECIFIC
35 RISK ASSESSMENTS, AND BACKGROUND LEVELS BASED ON RESIDENTIAL,
36 INDUSTRIAL, OR COMMERCIAL USES FOR ELIGIBLE PROPERTY.

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1 (3) THE DEPARTMENT SHALL DEVELOP STANDARDS FOR
2 COMBINATIONS OF THE CRITERIA IN SUBSECTION (A) OF THIS SECTION.

3 (C) THE FAILURE OF THE DEPARTMENT TO ADOPT FINAL REGULATIONS MAY
4 NOT PREVENT THE DEPARTMENT FROM IMPLEMENTING THE VOLUNTARY CLEANUP
5 PROGRAM ON AN INDIVIDUAL PROJECT BASIS.

6 7-507.

7 ON REQUEST FROM AN APPLICANT, THE DEPARTMENT MAY ISSUE A LETTER
8 OF ASSURANCE CONFIRMING THAT:

9 (1) WORK PLANS, ENVIRONMENTAL SITE ASSESSMENTS, OR OTHER
10 TECHNICAL DOCUMENTS ARE ADEQUATE FOR THE PURPOSES FOR WHICH THEY
11 ARE DESIGNED;

12 (2) CONTAMINATION AT AN ELIGIBLE PROPERTY IS NOT CAUSED BY
13 ACTIVITIES ON THE ELIGIBLE PROPERTY; OR

14 (3) AN APPLICANT OR A RESPONSIBLE PERSON DID NOT CAUSE
15 CONTAMINATION AT THE ELIGIBLE PROPERTY.

16 7-508.

17 (A) ON APPROVAL BY THE DEPARTMENT OF A PROPOSED RESPONSE ACTION
18 PLAN, THE DEPARTMENT SHALL ISSUE A NO FURTHER ACTION LIABILITY RELEASE
19 WITHIN 60 DAYS STATING THAT NO FURTHER ACTION WILL BE REQUIRED TO
20 ACCOMPLISH THE PURPOSES OF THE PROPOSED RESPONSE ACTION PLAN OTHER
21 THAN THOSE ACTIONS CONTEMPLATED IN THE PROPOSED ACTION PLAN.

22 (B) THE DEPARTMENT SHALL ISSUE A NO ACTION LIABILITY RELEASE
23 WITHIN 60 DAYS STATING THAT THE PROPOSED RESPONSE ACTION PLAN HAS BEEN
24 COMPLETED TO:

25 (1) AN APPLICANT WHO HAS DEMONSTRATED THAT CONTAMINATION
26 AT A PROPERTY MEETS THE CLEANUP STANDARDS SET FORTH IN § 7-506 OF THIS
27 SUBTITLE; OR

28 (2) A PROSPECTIVE OWNER OR OPERATOR WHOSE ACTIONS DID NOT
29 CAUSE CONTAMINATION AT A PROPERTY IF:

30 (I) THERE IS NO IMMINENT AND SUBSTANTIAL THREAT TO
31 HEALTH OR THE ENVIRONMENT AT THE PROPERTY; AND

32 (II) THE APPLICANT PROVIDES THE DEPARTMENT WITH A LIST OF
33 ANY PERSON:

34 1. KNOWN OR SUSPECTED TO HAVE CAUSED
35 CONTAMINATION OF THE PROPERTY; OR

36 2. WHO WAS A PRIOR OWNER OF THE PROPERTY.

37 (C) EXCEPT AS PROVIDED IN SUBSECTION (D) OF THIS SECTION, AN
38 APPLICANT WHO RECEIVES A NO FURTHER ACTION LIABILITY RELEASE OR A NO

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1 ACTION LIABILITY RELEASE IS NOT LIABLE TO THE DEPARTMENT OR ANY OTHER
2 PERSON FOR ANY CLEANUP COSTS OR OTHER EXPENSES RELATED TO THE
3 CONTAMINATION ADDRESSED IN THE NO FURTHER ACTION LETTER OR THE NO
4 ACTION LETTER.

5 (D) A NO FURTHER ACTION LIABILITY RELEASE OR A NO ACTION LIABILITY
6 RELEASE DOES NOT:

7 (1) PREVENT THE DEPARTMENT FROM TAKING ACTION AGAINST ANY
8 RESPONSIBLE PERSON TO PREVENT OR ABATE AN IMMINENT OR SUBSTANTIAL
9 THREAT TO HEALTH OR THE ENVIRONMENT AT THE ELIGIBLE PROPERTY;

10 (2) REMAIN IN EFFECT IF A NO FURTHER ACTION LIABILITY RELEASE
11 OR A NO ACTION LIABILITY RELEASE IS OBTAINED THROUGH FRAUD OR
12 MISREPRESENTATION;

13 (3) PREVENT THE DEPARTMENT FROM REQUIRING A RESPONSIBLE
14 PERSON TO TAKE FURTHER ACTION IF THE ELIGIBLE PROPERTY FAILS TO MEET
15 THE APPLICABLE CLEANUP STANDARDS AS SET FORTH IN THE PROPOSED RESPONSE
16 ACTION PLAN APPROVED BY THE DEPARTMENT; OR

17 (4) IF THE NO FURTHER ACTION LIABILITY RELEASE OR THE NO
18 ACTION LIABILITY RELEASE IS CONDITIONED ON THE USE OF THE PROPERTY FOR
19 INDUSTRIAL OR COMMERCIAL PURPOSES OR THE AVOIDANCE OF RESIDENTIAL
20 USES, PREVENT THE DEPARTMENT FROM TAKING ACTION AGAINST ANY
21 RESPONSIBLE PERSON WHO DOES NOT COMPLY WITH THE CONDITIONS.

22 (E) A NO FURTHER ACTION LIABILITY RELEASE OR A NO ACTION LIABILITY
23 RELEASE DOES NOT AFFECT THE AUTHORITY OF THE DEPARTMENT OR ANY OTHER
24 PERSON TO BRING AN ENFORCEMENT ACTION CONCERNING NEW CONTAMINATION
25 AT AN ELIGIBLE SITE AFTER A NO FURTHER ACTION LIABILITY RELEASE OR A NO
26 ACTION LIABILITY RELEASE HAS BEEN ISSUED BY THE DEPARTMENT.

27 (F) EXCEPT FOR A NO ACTION LIABILITY RELEASE ISSUED UNDER
28 SUBSECTION (B)(2) OF THIS SECTION, A NO FURTHER ACTION LIABILITY RELEASE OR
29 A NO ACTION LIABILITY RELEASE MAY BE TRANSFERRED TO ANY PERSON WHOSE
30 ACTIONS DID NOT CAUSE THE CONTAMINATION.

31 (G) IF A NO FURTHER ACTION LIABILITY RELEASE OR A NO ACTION
32 LIABILITY RELEASE IS CONDITIONED ON THE USE OF THE PROPERTY FOR
33 INDUSTRIAL OR COMMERCIAL PURPOSES, THE LIABILITY RELEASE SHALL BE
34 RECORDED IN THE LAND RECORDS.

35 7-509.

36 (A) THE DEPARTMENT SHALL IMPLEMENT AND USE STANDARDIZED NOTICES
37 OF ELIGIBILITY, LETTERS OF ASSURANCE, NO FURTHER ACTION LETTERS, AND NO
38 ACTION LETTERS.

39 (B) THE DEPARTMENT SHALL ADOPT A MODEL PROTOCOL FOR
40 ENVIRONMENTAL SITE ASSESSMENT.

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1 7-510.

2 (A) BEFORE THE DEPARTMENT ISSUES A LETTER OF ASSURANCE OR A
3 LIABILITY RELEASE CONDITIONED ON THE USE OF THE PROPERTY FOR INDUSTRIAL
4 OR COMMERCIAL PURPOSES, THE DEPARTMENT SHALL:

5 (1) PROVIDE FOR PUBLIC NOTIFICATION IN THE SAME MANNER AS SET
6 FORTH IN § 1-602 OF THIS ARTICLE; AND

7 (2) NOTIFY THE LOCAL HEALTH DEPARTMENT.

8 (B) THE DEPARTMENT SHALL RECEIVE WRITTEN COMMENTS FROM THE
9 PUBLIC FOR 20 DAYS AFTER PUBLIC NOTIFICATION.

10 7-511.

11 DOCUMENTS SUBMITTED TO THE DEPARTMENT BY AN APPLICANT AS PART OF
12 THE VOLUNTARY CLEANUP PROGRAM MAY NOT BE USED BY THE DEPARTMENT OR
13 ANY OTHER PERSON IN ANY NONVOLUNTARY CLEANUP, COST RECOVERY, OR
14 ENFORCEMENT ACTION.

15 7-512.

16 (A) THE DEPARTMENT SHALL APPOINT A PERSON TO SERVE AS AN
17 ENVIRONMENTAL LIAISON FOR THE VOLUNTARY CLEANUP PROGRAM.

18 (B) THE ENVIRONMENTAL LIAISON SHALL:

19 (1) ENCOURAGE COORDINATION AMONG FEDERAL, STATE, AND LOCAL
20 JURISDICTIONS CONCERNING ENVIRONMENTAL AND FINANCIAL ISSUES AFFECTING
21 ELIGIBLE PROPERTIES; AND

22 (2) COORDINATE AND PROVIDE INFORMATION ON FINANCING
23 OPPORTUNITIES THAT ARE AVAILABLE TO ADDRESS ENVIRONMENTAL CONCERNS
24 AND REDEVELOP ELIGIBLE PROPERTIES.

25 **Article 83A - Department of Business and Economic Development**

26 SUBTITLE 9. BROWNFIELDS REVITALIZATION PROGRAM.

27 3-901.

28 (A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS
29 INDICATED.

30 (B) (1) "BROWNFIELDS SITE" MEANS:

31 (I) AN INDUSTRIAL OR COMMERCIAL PROPERTY THAT IS LISTED
32 BY THE DEPARTMENT ON THE FINAL LIST OF SITES AS PROVIDED FOR IN § 3-903(A)
33 OF THIS SUBTITLE; OR

34 (II) PROPERTY THAT IS OTHERWISE SHOWN TO BE ELIGIBLE AS A
35 BROWNFIELDS SITE.

36 (2) "BROWNFIELDS SITE" DOES NOT INCLUDE PROPERTY THAT IS:

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1 (I) ON THE NATIONAL PRIORITIES LIST AS PROVIDED IN § 105 OF
2 THE FEDERAL ACT;

3 (II) THE SUBJECT OF AN ENFORCEMENT ACTION FILED BY THE
4 DEPARTMENT OF THE ENVIRONMENT UNDER TITLES 4 OR 7 OF THE ENVIRONMENT
5 ARTICLE; OR

6 (III) OWNED OR OPERATED BY A RESPONSIBLE PERSON THAT
7 CAUSED CONTAMINATION ON THE PROPERTY.

8 (C) "RESPONSIBLE PERSON" HAS THE MEANING STATED IN § 7-201 OF THE
9 ENVIRONMENT ARTICLE.

10 3-902.

11 (A) THERE IS A BROWNFIELDS REVITALIZATION PROGRAM IN THE
12 DEPARTMENT.

13 (B) THE PURPOSE OF THE BROWNFIELDS REVITALIZATION PROGRAM IS TO :

14 (1) PROVIDE FINANCIAL INCENTIVES FOR REDEVELOPMENT OF
15 PROPERTIES WITHIN FINANCIALLY DISTRESSED URBAN AREAS;

16 (2) PROVIDE FINANCIAL INCENTIVES FOR REDEVELOPMENT OF
17 PROPERTIES WITHIN LOCALLY DESIGNATED GROWTH AREAS;

18 (3) PREVENT URBAN SPRAWL;

19 (4) ENCOURAGE ECONOMIC REVITALIZATION; AND

20 (5) EXPAND EMPLOYMENT OPPORTUNITIES.

21 3-903.

22 (A) (1) BY OCTOBER 1, 1997, THE DEPARTMENT, IN CONJUNCTION WITH THE
23 DEPARTMENT OF THE ENVIRONMENT, SHALL PUBLISH A LIST OF BROWNFIELDS
24 SITES THAT QUALIFY FOR FINANCIAL INCENTIVES.

25 (2) THE DEPARTMENT SHALL SELECT, IN CONJUNCTION WITH THE
26 DEPARTMENT OF THE ENVIRONMENT, BROWNFIELDS SITES BASED ON THE
27 LOCATION OF THE SITE IN:

28 (I) A FINANCIALLY DISTRESSED URBAN AREA; OR

29 (II) A LOCALLY DESIGNATED GROWTH AREA.

30 (3) THE DEPARTMENT MAY CONSIDER THE FOLLOWING CRITERIA
31 WHEN SELECTING A BROWNFIELDS SITE:

32 (I) THE FEASIBILITY OF REDEVELOPMENT;

33 (II) THE FEASIBILITY OF ACHIEVING A CLEANUP STANDARD AS
34 IDENTIFIED IN § 7-506 OF THE ENVIRONMENT ARTICLE;

35 (III) THE PUBLIC BENEFIT PROVIDED TO THE COMMUNITY AND
36 THE STATE THROUGH THE REDEVELOPMENT OF THE PROPERTY;

13

1 (IV) THE POTENTIAL TO ATTRACT OR RETAIN MANUFACTURING
2 OR OTHER ECONOMIC BASE-TYPE EMPLOYERS;

3 (V) THE ABSENCE OF IDENTIFIABLE AND FINANCIALLY SOLVENT
4 RESPONSIBLE PERSONS; OR

5 (VI) ANY OTHER FACTOR RELEVANT AND APPROPRIATE TO
6 ECONOMIC DEVELOPMENT, CLEANUP, OR CONTAMINATION.

7 (B) DURING THE COURSE OF EVALUATING POTENTIAL BROWNFIELDS SITES,
8 THE DEPARTMENT SHALL CONSULT WITH:

9 (1) RELEVANT STATE AND LOCAL OFFICIALS;

10 (2) THE NEIGHBORING COMMUNITY AND ANY CITIZEN GROUPS
11 LOCATED IN THE COMMUNITY;

12 (3) REPRESENTATIVES OF STATE AND LOCAL ENVIRONMENTAL
13 ORGANIZATIONS;

14 (4) PUBLIC HEALTH EXPERTS; AND

15 (5) ANY OTHER PERSON THE DEPARTMENT CONSIDERS APPROPRIATE.

16 (C) (1) THE DEPARTMENT SHALL PUBLISH A FINAL LIST OF BROWNFIELDS
17 SITES IN THE MARYLAND REGISTER.

18 (2) AT LEAST ANNUALLY, THE DEPARTMENT SHALL UPDATE THE FINAL
19 LIST BY ADDING OR DELETING BROWNFIELDS SITES AS APPROPRIATE.

20 (3) THE FINAL LIST MAY NOT CONTAIN MORE THAN 125 SITES DURING A
21 12-MONTH PERIOD.

22 (D) (1) THE DEPARTMENT SHALL DEVELOP A PROGRAM OF FINANCIAL
23 INCENTIVES, INCLUDING LOW-INTEREST LOANS AND GRANTS, TO ASSIST PERSONS
24 WHO PARTICIPATE IN THE BROWNFIELDS REVITALIZATION PROGRAM.

25 (2) ANY BROWNFIELDS SITE ON THE FINAL LIST SHALL BE GIVEN
26 PRIORITY FOR FINANCIAL INCENTIVES.

27 (E) THE FINAL LIST OF BROWNFIELDS SITES IS NOT SUBJECT TO JUDICIAL
28 REVIEW UNDER THIS ARTICLE OR ANY OTHER PROVISION IN LAW.

29 **Article - Tax - Property**

30 9-109.

31 (A) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS
32 INDICATED.

33 (B) "BROWNFIELDS SITE" HAS THE MEANING SET FORTH IN § 3-901(B) OF
34 ARTICLE 83A.

35 (C) "TAXING JURISDICTION" MEANS:

36 (1) THE STATE;

HOUSE BILL 5

14

1 (2) A COUNTY OR BALTIMORE CITY;

2 (3) A MUNICIPAL CORPORATION; OR

3 (4) A SPECIAL TAXING DISTRICT.

4 (D) FOR EACH OF THE 5 TAXABLE YEARS IMMEDIATELY FOLLOWING THE
5 COMPLETION OF A VOLUNTARY CLEANUP OF A BROWNFIELDS SITE, EACH TAXING
6 JURISDICTION WHERE THE BROWNFIELDS SITE IS LOCATED SHALL:

7 (1) GRANT A PROPERTY TAX CREDIT AGAINST THE PROPERTY TAX
8 IMPOSED ON THE BROWNFIELDS SITE IN AN AMOUNT EQUAL TO 70% OF THE
9 PROPERTY TAX ATTRIBUTABLE TO THE INCREASE IN THE ASSESSMENT OF THE
10 BROWNFIELDS SITE OVER THE ASSESSMENT OF THE BROWNFIELDS SITE BEFORE
11 THE VOLUNTARY CLEANUP; AND

12 (2) CONTRIBUTE TO THE VOLUNTARY CLEANUP FUND ESTABLISHED
13 UNDER § 7-502 OF THE ENVIRONMENT ARTICLE THE PROPERTY TAX COLLECTED
14 THAT IS ATTRIBUTABLE TO THE INCREASE IN THE ASSESSMENT OF THE
15 BROWNFIELDS SITE OVER THE ASSESSMENT OF THE BROWNFIELDS SITE BEFORE
16 THE VOLUNTARY CLEANUP.

17 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
18 October 1, 1996.