

BY: Conference Committee

AMENDMENTS TO HOUSE BILL NO. 331

(Third Reading File Bill)

AMENDMENT NO. 1

On page 1, in line 2, strike "Business and Economic Development" and substitute "Environment"; in line 3, strike "Program" and substitute "and Voluntary Cleanup Programs"; strike beginning with "certain" in line 4 down through "costs;" in line 12 and substitute "the requirement that for a brownfields site to be eligible for certain financial incentives the site must be located in a jurisdiction that has elected to participate in the Brownfields Revitalization Incentive Program; authorizing the Department of Business and Economic Development to provide certain loans and grants to certain persons for the environmental site assessment of certain brownfields sites; requiring the repayment of certain grants under certain circumstances; providing that certain low-interest loans convert to market rate loans under certain circumstances; providing for the ownership of the information contained in certain environmental site assessments; providing for the application of certain provisions; authorizing the Department of Business and Economic Development to establish certain procedures and eligibility requirements for these loans and grants; requiring that certain moneys deposited by certain jurisdictions into the Brownfields Revitalization Incentive Fund be used to provide incentives for qualified brownfields sites in certain jurisdictions that enacted certain tax credit ordinances; altering the definition of "brownfields site" to include properties for which there exists certain innocent purchasers; altering the requirements for jurisdictions electing to provide certain property tax credits for certain property; providing for a certain contingency;"; in line 13, strike "Program" and substitute "and Voluntary Cleanup programs"; in line 16, strike "3-902(b), and 3-903(c)" and substitute "3-902, and 3-905"; and strike in their entirety lines 19 through 23, inclusive, and substitute:

"BY repealing and reenacting, with amendments,

Article - Tax - Property

Section 9-229(b) and (c)

Annotated Code of Maryland

(1994 Replacement Volume and 1999 Supplement)

(Over)

BY repealing and reenacting, with amendments,

Article 83A - Department of Business and Economic Development

Section 5-1401(f) and 5-1408

Annotated Code of Maryland

(As enacted by Chapter \_\_\_\_\_ (S.B. 783/H.B. 972) of the Acts of the General Assembly of 2000)".

AMENDMENT NO. 2

On page 2, in line 6, strike the brackets.

On pages 2 and 3, strike in their entirety the lines beginning with line 7 on page 2 through line 2 on page 3, inclusive, and substitute:

“(i) An eligible property, as defined in § 7-501 of the Environment Article, that is:

1. Owned or operated by [an]:

A. AN inculpable person, as defined in § 7-501 of the Environment Article; [and] OR

B. AN INNOCENT PURCHASER THAT MEETS THE REQUIREMENTS SET FORTH IN § 7-201(X)(2)(I) OF THE ENVIRONMENT ARTICLE; AND

2. Located in a [taxing jurisdiction] COUNTY OR MUNICIPAL CORPORATION that has elected to participate in the Brownfields Revitalization Incentive Program in accordance with [§ 9-229 of the Tax - Property Article] § 3-902(C) OF THIS SUBTITLE; or

(ii) Property where there is a release, discharge, or threatened release of oil, as defined in § 4-401 of the Environment Article, that is:

1. Subject to a corrective action plan approved by the Department of the Environment in accordance with Title 4 of the Environment Article; and

2. Located in a [taxing jurisdiction] COUNTY OR MUNICIPAL CORPORATION that has elected to participate in the Brownfields Revitalization Incentive Program

in accordance with [§ 9-229 of the Tax - Property Article] § 3-902(C) OF THIS SUBTITLE.

(2) “Brownfields site” does not include property that is owned or operated by a responsible person or a person responsible for the discharge.”.

AMENDMENT NO. 3

On page 3, after line 10, insert:

“(a) There is a Brownfields Revitalization Incentive Program in the Department.”;

in lines 12 and 14, in each instance, strike “ENVIRONMENTAL ASSESSMENT AND”; and after line 19, insert:

“(C) A COUNTY OR MUNICIPAL CORPORATION MAY ELECT TO PARTICIPATE IN THE BROWNFIELDS REVITALIZATION INCENTIVE PROGRAM BY:

(1) SUBMITTING TO THE DEPARTMENT A LIST OF POTENTIAL BROWNFIELDS SITES IN THE COUNTY OR MUNICIPAL CORPORATION, RANKED IN THE ORDER OF PRIORITY FOR REDEVELOPMENT RECOMMENDED BY THE COUNTY OR MUNICIPAL CORPORATION; AND

(2) ANNUALLY UPDATING THE LIST SUBMITTED UNDER PARAGRAPH (1) OF THIS SUBSECTION.

(D) (1) NOTWITHSTANDING ANY OTHER PROVISION OF LAW TO THE CONTRARY, THE DEPARTMENT MAY PROVIDE A PERSON, INCLUDING A RESPONSIBLE PERSON, WITH A LOW-INTEREST LOAN OR GRANT FOR CONDUCTING THE ENVIRONMENTAL SITE ASSESSMENT OF A POTENTIAL BROWNFIELDS SITE THAT IS REQUIRED FOR PARTICIPATION IN THE VOLUNTARY CLEANUP PROGRAM IF THE PERSON:

(I) HAS NOT ALREADY APPLIED TO PARTICIPATE IN THE VOLUNTARY CLEANUP PROGRAM UNDER TITLE 7, SUBTITLE 5 OF THE

(Over)

ENVIRONMENT ARTICLE, BUT IS OTHERWISE ELIGIBLE TO PARTICIPATE IN THAT PROGRAM; AND

(II) MEETS THE ELIGIBILITY REQUIREMENTS ESTABLISHED BY THE DEPARTMENT.

(2) (I) IF AN ENVIRONMENTAL ASSESSMENT IS FINANCED IN WHOLE OR IN PART WITH A GRANT FROM THE DEPARTMENT, OR BY A LOAN THAT IS IN PAYMENT DEFAULT, THE INFORMATION CONTAINED IN THE ENVIRONMENTAL ASSESSMENT IS THE PROPERTY OF THE STATE.

(II) IF AN ENVIRONMENTAL ASSESSMENT IS FINANCED BY A LOAN FROM THE DEPARTMENT, OR BY A GRANT THAT IS REPAID, THE INFORMATION CONTAINED IN THE ENVIRONMENTAL ASSESSMENT IS THE PROPERTY OF THE PERSON WHO CONTRACTED FOR THE ASSESSMENT.

(3) ELIGIBILITY FOR FINANCIAL ASSISTANCE FOR ENVIRONMENTAL ASSESSMENTS UNDER PARAGRAPH (1) OF THIS SUBSECTION DOES NOT CONSTITUTE ELIGIBILITY FOR ANY OTHER FINANCIAL INCENTIVES UNDER THIS SUBTITLE OR FOR THE TAX CREDITS PROVIDED UNDER § 9-229 OF THE TAX - PROPERTY ARTICLE.

(4) A RECIPIENT OF A GRANT UNDER PARAGRAPH (1) OF THIS SUBSECTION MUST REPAY THE GRANT IF THE RECIPIENT, WITHIN 12 MONTHS AFTER RECEIVING THE GRANT, DOES NOT APPLY TO AND RECEIVE APPROVAL FROM THE DEPARTMENT OF THE ENVIRONMENT:

(I) TO PARTICIPATE IN THE VOLUNTARY CLEANUP PROGRAM UNDER TITLE 7, SUBTITLE 5 OF THE ENVIRONMENT ARTICLE; OR

(II) FOR THE IMPLEMENTATION OF A CORRECTIVE ACTION PLAN UNDER TITLE 4 OF THE ENVIRONMENT ARTICLE.

(5) A LOW-INTEREST LOAN PROVIDED UNDER PARAGRAPH (1) OF THIS SUBSECTION SHALL CONVERT TO A MARKET RATE LOAN IF THE RECIPIENT OF

THE LOAN, WITHIN 12 MONTHS AFTER RECEIVING THE LOAN, DOES NOT APPLY TO AND RECEIVE APPROVAL FROM THE DEPARTMENT OF THE ENVIRONMENT:

(I) TO PARTICIPATE IN THE VOLUNTARY CLEANUP PROGRAM UNDER TITLE 7, SUBTITLE 5 OF THE ENVIRONMENT ARTICLE; OR

(II) FOR THE IMPLEMENTATION OF A CORRECTIVE ACTION PLAN UNDER TITLE 4 OF THE ENVIRONMENT ARTICLE.

(6) THE DEPARTMENT MAY ESTABLISH PROCEDURES AND ELIGIBILITY REQUIREMENTS FOR THE APPROVAL OF REQUESTS FOR LOANS AND GRANTS UNDER PARAGRAPH (1) OF THIS SUBSECTION.”.

AMENDMENT NO. 4

On pages 3 and 4, strike in their entirety the lines beginning with line 20 on page 3 through line 24 on page 4, inclusive, and substitute:

“3-905.

This subtitle does not affect, and may not be construed as affecting[,]:

(1) [the] THE planning and zoning authority of a county or municipal corporation;

OR

(2) ANY PROVISION OF THE ENVIRONMENT ARTICLE.

SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland read as follows:

Article - Tax - Property

9-229.

(Over)

(b) (1) (I) A taxing jurisdiction may elect to participate in the Brownfields Revitalization Incentive Program under Article 83A, Title 3, Subtitle 9 of the Code THROUGH THE ENACTMENT OF LEGISLATION THAT GRANTS PROPERTY TAX CREDITS IN ACCORDANCE WITH THE REQUIREMENTS OF THIS SECTION.

(II) IF A TAXING JURISDICTION ELECTS TO PARTICIPATE IN THE PROGRAM IN ACCORDANCE WITH THIS SECTION, THE TAXING JURISDICTION SHALL NOTIFY THE DEPARTMENT OF BUSINESS AND ECONOMIC DEVELOPMENT.

(2) If a taxing jurisdiction elects to participate in the Brownfields Revitalization Incentive Program, the taxing jurisdiction shall:

(i) enact the necessary legislation to grant the property tax credits established under this section; and

(ii) notify the Department of Business and Economic Development.

(3)] If a taxing jurisdiction elects to participate in the Brownfields Revitalization Incentive Program IN ACCORDANCE WITH THIS SECTION, the property tax credits under this section shall also apply to the State property tax in that jurisdiction in the same percentage and for the same duration as provided for the property tax of the taxing jurisdiction.

(c) For each of the 5 taxable years immediately following the first revaluation of the property after completion of a voluntary cleanup or corrective action plan of a brownfields site, each PARTICIPATING taxing jurisdiction where a qualified brownfields site is located shall:

(1) grant a property tax credit against the property tax imposed on the qualified brownfields site in an amount equal to 50% of the property tax attributable to the increase in the assessment of the qualified brownfields site, including improvements added to the site within the 5-year period as provided under this subsection, over the assessment of the qualified brownfields site before the voluntary cleanup; and

(2) contribute to the Brownfields Revitalization Incentive Fund under Article 83A, § 3-904 of the Code, 30% of the property tax attributable to the increase in the assessment of

the brownfields site, including improvements added to the site within the 5-year period as provided under this subsection, over the assessment of the qualified brownfields site before the voluntary cleanup.

SECTION 3. AND BE IT FURTHER ENACTED, That the Laws of Maryland read as follows:

Article 83A - Department of Business and Economic Development

5-1401.

(f) (1) “Brownfields site” means:

(i) An eligible property, as defined in § 7-501 of the Environment Article,  
that is:

1. Owned or operated by [an]:

A. AN inculpable person, as defined in § 7-501 of the  
Environment Article; OR

B. AN INNOCENT PURCHASER THAT MEETS THE  
REQUIREMENTS SET FORTH IN § 7-201(X)(2)(I) OF THE ENVIRONMENT ARTICLE; and

2. Located in a [taxing jurisdiction] COUNTY OR MUNICIPAL  
CORPORATION that has elected to participate in the Brownfields Revitalization Incentive Program  
in accordance with [§ 9-229 of the Tax - Property Article] § 5-1408(A) OF THIS SUBTITLE; or

(ii) Property where there is a release, discharge, or threatened release of  
oil, as defined in § 4-401 of the Environment Article, that is:

1. Subject to a corrective action plan approved by the Department  
of the Environment in accordance with Title 4 of the Environment Article; and

(Over)

2. Located in a [taxing jurisdiction] COUNTY OR MUNICIPAL CORPORATION that has elected to participate in the Brownfields Revitalization Incentive Program in accordance with [§ 9-229 of the Tax - Property Article] § 5-1408(A) OF THIS SUBTITLE.

(2) “Brownfields site” does not include property that is owned or operated by a responsible person or a person responsible for the discharge.

5-1408.

(A) A COUNTY OR MUNICIPAL CORPORATION MAY ELECT TO PARTICIPATE IN THE BROWNFIELDS REVITALIZATION INCENTIVE PROGRAM BY:

(1) SUBMITTING TO THE DEPARTMENT A LIST OF POTENTIAL BROWNFIELDS SITES IN THE COUNTY OR MUNICIPAL CORPORATION, RANKED IN THE ORDER OF PRIORITY FOR REDEVELOPMENT RECOMMENDED BY THE COUNTY OR MUNICIPAL CORPORATION; AND

(2) ANNUALLY UPDATING THE LIST SUBMITTED UNDER PARAGRAPH (1) OF THIS SUBSECTION.

(B) (1) NOTWITHSTANDING ANY OTHER PROVISION OF LAW TO THE CONTRARY, THE DEPARTMENT MAY PROVIDE A PERSON, INCLUDING A RESPONSIBLE PERSON, WITH A LOW-INTEREST LOAN OR GRANT FOR CONDUCTING THE ENVIRONMENTAL SITE ASSESSMENT OF A POTENTIAL BROWNFIELDS SITE THAT IS REQUIRED FOR PARTICIPATION IN THE VOLUNTARY CLEANUP PROGRAM IF THE PERSON:

(I) HAS NOT ALREADY APPLIED TO PARTICIPATE IN THE VOLUNTARY CLEANUP PROGRAM UNDER TITLE 7, SUBTITLE 5 OF THE ENVIRONMENT ARTICLE, BUT IS OTHERWISE ELIGIBLE TO PARTICIPATE IN THAT PROGRAM; AND

(II) MEETS THE ELIGIBILITY REQUIREMENTS ESTABLISHED BY THE DEPARTMENT.



(2) (I) IF AN ENVIRONMENTAL ASSESSMENT IS FINANCED IN WHOLE OR IN PART WITH A GRANT FROM THE DEPARTMENT, OR BY A LOAN THAT IS IN PAYMENT DEFAULT, THE INFORMATION CONTAINED IN THE ENVIRONMENTAL ASSESSMENT IS THE PROPERTY OF THE STATE.

(II) IF AN ENVIRONMENTAL ASSESSMENT IS FINANCED BY A LOAN FROM THE DEPARTMENT, OR BY A GRANT THAT IS REPAYED, THE INFORMATION CONTAINED IN THE ENVIRONMENTAL ASSESSMENT IS THE PROPERTY OF THE PERSON WHO CONTRACTED FOR THE ASSESSMENT.

(3) ELIGIBILITY FOR FINANCIAL ASSISTANCE FOR ENVIRONMENTAL ASSESSMENTS UNDER PARAGRAPH (1) OF THIS SUBSECTION DOES NOT CONSTITUTE ELIGIBILITY FOR ANY OTHER FINANCIAL INCENTIVES UNDER THIS SUBTITLE OR FOR THE TAX CREDITS PROVIDED UNDER § 9-229 OF THE TAX - PROPERTY ARTICLE.

(4) A RECIPIENT OF A GRANT UNDER PARAGRAPH (1) OF THIS SUBSECTION MUST REPAY THE GRANT IF THE RECIPIENT, WITHIN 12 MONTHS AFTER RECEIVING THE GRANT, DOES NOT APPLY TO AND RECEIVE APPROVAL FROM THE DEPARTMENT OF THE ENVIRONMENT:

(I) TO PARTICIPATE IN THE VOLUNTARY CLEANUP PROGRAM UNDER TITLE 7, SUBTITLE 5 OF THE ENVIRONMENT ARTICLE; OR

(II) FOR THE IMPLEMENTATION OF A CORRECTIVE ACTION PLAN UNDER TITLE 4 OF THE ENVIRONMENT ARTICLE.

(5) A LOW-INTEREST LOAN PROVIDED UNDER PARAGRAPH (1) OF THIS SUBSECTION SHALL CONVERT TO A MARKET RATE LOAN IF THE RECIPIENT OF THE LOAN, WITHIN 12 MONTHS AFTER RECEIVING THE LOAN, DOES NOT APPLY TO AND RECEIVE APPROVAL FROM THE DEPARTMENT OF THE ENVIRONMENT:

(I) TO PARTICIPATE IN THE VOLUNTARY CLEANUP PROGRAM UNDER TITLE 7, SUBTITLE 5 OF THE ENVIRONMENT ARTICLE; OR

(II) FOR THE IMPLEMENTATION OF A CORRECTIVE ACTION PLAN UNDER TITLE 4 OF THE ENVIRONMENT ARTICLE.

(6) THE DEPARTMENT MAY ESTABLISH PROCEDURES AND ELIGIBILITY REQUIREMENTS FOR THE APPROVAL OF REQUESTS FOR LOANS AND GRANTS UNDER PARAGRAPH (1) OF THIS SUBSECTION.

[(a)] (C) (1) At the time a person applies to participate in the Voluntary Cleanup Program under Title 7, Subtitle 5 of the Environment Article or receives approval from the Department of the Environment for the implementation of a corrective action plan under Title 4 of the Environment Article, the person may submit a request to the Department to determine whether the person qualifies for financial assistance for the potential redevelopment of a brownfields site.

(2) (i) Within 30 days after receipt of a request under paragraph (1) of this subsection, the Department shall notify an applicant whether, if approved to participate in the Voluntary Cleanup Program or a corrective action plan, and if approved by the Authority, the applicant qualifies for financial assistance for the redevelopment of a brownfields site.

(ii) In the Department's notice of an applicant's qualification for financial incentives under subparagraph (i) of this paragraph, the Department shall specify which of the criteria set forth in paragraph (4) of this subsection the applicant met.

(3) The Department shall determine the eligibility of a site as a qualified brownfields site based on whether:

(i) The property is located in a densely populated urban center and is substantially underutilized; or

(ii) The property is an existing or former industrial or commercial site that poses a threat to public health or the environment.

(4) The Department may consider the following criteria when selecting a qualified brownfields site:

- (i) The feasibility of redevelopment;
- (ii) The public benefit provided to the community and the State through the redevelopment of the property;
- (iii) The extent of releases or threatened releases at the site and the degree to which the cleanup and redevelopment of the site will protect public health or the environment;
- (iv) The potential to attract or retain manufacturing or other economic base employers;
- (v) The absence of identifiable and financially solvent responsible persons; or
- (vi) Any other factor relevant and appropriate to economic development.

[(b)] (D) During the course of evaluating potential qualified brownfields sites, the Department shall consult with:

- (1) the Department of the Environment, the Office of Planning, and relevant local officials;
- (2) The neighboring community and any citizens groups located in the community;
- (3) Representatives of State and local environmental organizations;
- (4) Public health experts; and
- (5) Any other person the Department considers appropriate.

[(c)] (E) The Department shall develop a program of financial incentives, including low-interest loans and grants, to assist persons who participate in the Brownfields Revitalization

Incentive Program.

[(d)] (F) This section does not affect, and may not be construed as affecting [, the]:

(1) THE planning and zoning authority of a county or municipal corporation; OR

(2) ANY PROVISION OF THE ENVIRONMENT ARTICLE.

SECTION 4. AND BE IT FURTHER ENACTED, That any money received by the Brownfields Revitalization Fund from a taxing jurisdiction shall only be used for brownfields sites in the taxing jurisdictions that have enacted a brownfields property tax credit ordinance.

SECTION 5. AND BE IT FURTHER ENACTED, That Section 3 of this Act shall take effect October 1, 2000, contingent on the taking effect of Chapter \_\_\_\_\_ (S.B. 783/H.B. 972) of the Acts of the General Assembly of 2000, and if Chapter \_\_\_\_\_ does not become effective, Section 3 of this Act shall be null and void without the necessity of further action by the General Assembly. If Chapter \_\_\_\_\_ (S.B. 783/H.B. 972) of the Acts of the General Assembly of 2000 takes effect, Section 1 of this Act shall be null and void without the necessity of further action by the General Assembly.”.

AMENDMENT NO. 5

On page 4, in line 25, strike “2.” and substitute “6.”; in the same line, after “That” insert “, subject to Section 5 of this Act.”; and in line 26, strike “July” and substitute “October”.