
By: **Senators Frosh, Conway, and Sfikas**
Introduced and read first time: February 4, 2000
Assigned to: Economic and Environmental Affairs

Committee Report: Favorable with amendments
Senate action: Adopted
Read second time: March 8, 2000

CHAPTER _____

1 AN ACT concerning

2 **Environment - Brownfields Revitalization Incentive and Voluntary Cleanup**
3 **Programs**

4 FOR the purpose of altering the requirement that for a brownfields site to be eligible
5 for certain financial incentives the site must be located in a jurisdiction that has
6 elected to participate in the Brownfields Revitalization Incentive Program;
7 authorizing the Department of Business and Economic Development to provide
8 certain loans and grants to certain ~~inculpable~~ persons for the environmental site
9 assessment of certain brownfields sites; requiring the repayment of certain
10 grants under certain circumstances; providing that certain low-interest loans
11 convert to market rate loans under certain circumstances; providing for the
12 ownership of the information contained in certain environmental site
13 assessments; providing for the application of certain provisions; authorizing the
14 Department of Business and Economic Development to establish certain
15 procedures and eligibility requirements for these loans and grants; ~~requiring the~~
16 ~~Department of the Environment to establish a certain process for certifying~~
17 ~~inculpable persons for certain purposes; establishing certain application and~~
18 ~~notification requirements for the certification process; eliminating the~~
19 ~~requirement that a jurisdiction that elects to participate in the Brownfields~~
20 ~~Revitalization Incentive Program contribute certain moneys to a certain fund~~
21 requiring that certain moneys deposited by certain jurisdictions into the
22 Brownfields Revitalization Incentive Fund be used to provide incentives for
23 qualified brownfields sites in certain jurisdictions that enacted certain tax
24 credit ordinances by a certain date; altering the definition of "brownfields site"
25 ~~to exclude properties for which there exists certain responsible persons; defining~~
26 ~~a certain term; include properties for which there exists certain innocent~~
27 purchasers; altering the requirements for jurisdictions electing to provide
28 certain property tax credits for certain property; and generally relating to the

1 Brownfields Revitalization Incentive and Voluntary Cleanup programs.

2 BY repealing and reenacting, with amendments,
 3 Article 83A - Department of Business and Economic Development
 4 Section 3-901 ~~and 3-902~~ 3-902, and 3-905
 5 Annotated Code of Maryland
 6 (1998 Replacement Volume and 1999 Supplement)

7 ~~BY adding to~~
 8 ~~Article - Environment~~
 9 ~~Section 7-505.1~~
 10 ~~Annotated Code of Maryland~~
 11 ~~(1996 Replacement Volume and 1999 Supplement)~~

12 BY repealing and reenacting, with amendments,
 13 Article - Tax - Property
 14 Section ~~9-229(e)~~ 9-229(b) and (c)
 15 Annotated Code of Maryland
 16 (1994 Replacement Volume and 1999 Supplement)

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

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

20 3-901.

21 (a) In this subtitle the following words have the meanings indicated.

22 (b) (1) "Brownfields site" means:

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

25 1. Owned or operated by ~~an~~:

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

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

30 2. Located in a [taxing jurisdiction] COUNTY OR MUNICIPAL
 31 CORPORATION that has elected to participate in the Brownfields Revitalization
 32 Incentive Program in accordance with [§ 9-229 of the Tax - Property Article] §
 33 3-902(C) OF THIS SUBTITLE; or

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

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

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

10 (2) "Brownfields site" does not include property {that is owned or
11 operated by} ~~FOR WHICH THERE EXISTS a FINANCIALLY VIABLE~~ a responsible person
12 or a ~~FINANCIALLY VIABLE~~ person responsible for the discharge.

13 ~~(C) "FINANCIALLY VIABLE RESPONSIBLE PERSON" AND "FINANCIALLY VIABLE~~
14 ~~PERSON RESPONSIBLE FOR THE DISCHARGE" MEAN A RESPONSIBLE PERSON WHO IS~~
15 ~~A READILY IDENTIFIABLE PAST OR PRESENT OWNER OR OPERATOR WITH THE~~
16 ~~FINANCIAL RESOURCES TO UNDERTAKE THE CLEANUP.~~

17 {(c)} ~~(D)~~ "Person responsible for the discharge" has the meaning stated in §
18 4-401 of the Environment Article.

19 {(d)} ~~(E)~~ "Qualified brownfields site" means a brownfields site that has been
20 determined by the Department of Business and Economic Development to be eligible
21 for financial incentives under § 3-903 of this subtitle.

22 {(e)} ~~(F)~~ "Responsible person" has the meaning stated in § 7-201 of the
23 Environment Article.

24 3-902.

25 (a) There is a Brownfields Revitalization Incentive Program in the
26 Department.

27 (b) The purpose of the Brownfields Revitalization Incentive Program is to:

28 (1) Provide financial incentives for redevelopment of properties
29 previously used for commercial or industrial purposes;

30 (2) Provide financial incentives for redevelopment of properties within
31 locally designated growth areas;

32 (3) Prevent urban sprawl;

33 (4) Encourage economic revitalization;

34 (5) Expand employment opportunities; and

35 (6) Provide financial incentives for qualified brownfields sites.

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

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

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

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

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

19 ~~(II) HAS BEEN CERTIFIED AS AN INCULPABLE PERSON BY THE~~
20 ~~DEPARTMENT OF THE ENVIRONMENT IN ACCORDANCE WITH § 7-505.1 OF THE~~
21 ~~ENVIRONMENT ARTICLE; AND~~

22 ~~(III)—(II)~~ MEETS THE ELIGIBILITY REQUIREMENTS ESTABLISHED
23 BY THE DEPARTMENT.

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

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

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

36 ~~(2)~~ (4) A RECIPIENT OF A GRANT UNDER PARAGRAPH (1) OF THIS
37 SUBSECTION MUST REPAY THE GRANT IF THE RECIPIENT, WITHIN 12 MONTHS AFTER
38 RECEIVING THE GRANT, DOES NOT APPLY TO AND RECEIVE APPROVAL FROM THE
39 DEPARTMENT OF THE ENVIRONMENT:

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

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

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

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

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

13 ~~(3)~~ (6) THE DEPARTMENT MAY ESTABLISH PROCEDURES AND
14 ELIGIBILITY REQUIREMENTS FOR THE APPROVAL OF REQUESTS FOR LOANS AND
15 GRANTS UNDER PARAGRAPH (1) OF THIS SUBSECTION.

16 ~~(E) THE DEPARTMENT, IN CONSULTATION WITH THE DEPARTMENT OF THE~~
17 ~~ENVIRONMENT, SHALL DETERMINE WHETHER THERE IS A FINANCIALLY VIABLE~~
18 ~~RESPONSIBLE PERSON OR FINANCIALLY VIABLE PERSON RESPONSIBLE FOR THE~~
19 ~~DISCHARGE ASSOCIATED WITH A BROWNFIELDS SITE.~~

20 3-905.

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

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

24 (2) ANY PROVISION OF THE ENVIRONMENT ARTICLE.

25 **Article – Environment**

26 ~~7-505.1.~~

27 ~~(A) THE DEPARTMENT SHALL ESTABLISH A PROCESS TO CERTIFY WHETHER A~~
28 ~~PERSON QUALIFIES AS AN INCULPABLE PERSON WHO MAY APPLY FOR A GRANT OR~~
29 ~~LOAN IN ACCORDANCE WITH ARTICLE 83A, § 3-902 OF THE CODE FOR CONDUCTING~~
30 ~~THE ENVIRONMENTAL SITE ASSESSMENTS NECESSARY FOR PARTICIPATING IN THE~~
31 ~~VOLUNTARY CLEANUP PROGRAM UNDER THIS SUBTITLE.~~

32 ~~(B) TO SEEK CERTIFICATION AS AN INCULPABLE PERSON, AN APPLICANT~~
33 ~~SHALL SUBMIT AN APPLICATION, ON A FORM PROVIDED BY THE DEPARTMENT, THAT~~
34 ~~INCLUDES:~~

1 ~~(1) INFORMATION DEMONSTRATING THE PERSON'S STATUS AS AN~~
 2 ~~INCUPLABLE PERSON;~~

3 ~~(2) INFORMATION DEMONSTRATING THAT THE PROPERTY THAT WOULD~~
 4 ~~BE THE SUBJECT OF THE ENVIRONMENTAL SITE ASSESSMENT IS AN ELIGIBLE~~
 5 ~~PROPERTY AS DEFINED IN § 7-501 OF THIS SUBTITLE; AND~~

6 ~~(3) ANY OTHER INFORMATION REQUIRED BY THE DEPARTMENT.~~

7 ~~(C) (1) THE DEPARTMENT SHALL NOTIFY THE APPLICANT IN WRITING,~~
 8 ~~WITHIN 60 DAYS AFTER RECEIPT OF THE APPLICATION, WHETHER THE APPLICANT~~
 9 ~~HAS BEEN CERTIFIED AS AN INCUPLABLE PERSON.~~

10 ~~(2) IF THE DEPARTMENT DENIES THE APPLICATION, THE DEPARTMENT~~
 11 ~~SHALL PROVIDE TO THE APPLICANT THE REASONS FOR ITS DECISION IN WRITING.~~

12 ~~(3) AN APPLICANT MAY RESUBMIT AN APPLICATION WITHIN 60 DAYS~~
 13 ~~AFTER RECEIPT OF NOTICE OF THE DEPARTMENT'S DECISION TO DENY THE INITIAL~~
 14 ~~APPLICATION.~~

15 ~~(4) THE DEPARTMENT SHALL APPROVE OR DENY A RESUBMITTED~~
 16 ~~APPLICATION WITHIN 30 DAYS AFTER RECEIPT.~~

17 **Article - Tax - Property**

18 9-229.

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

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

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

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

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

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

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

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

11 (2) contribute to the Brownfields Revitalization Incentive Fund under
12 Article 83A, § 3-904 of the Code, 30% of the property tax attributable to the increase
13 in the assessment of the brownfields site, including improvements added to the site
14 within the 5-year period as provided under this subsection, over the assessment of
15 the qualified brownfields site before the voluntary cleanup.

16 SECTION 2. AND BE IT FURTHER ENACTED, That any money received by
17 the Brownfields Revitalization Fund from a taxing jurisdiction shall only be used for
18 Brownfields sites in the taxing jurisdictions that have enacted a Brownfields property
19 tax credit ordinance on or before June 1, 2000.

20 ~~SECTION 2.~~ 3. AND BE IT FURTHER ENACTED, That this Act shall take
21 effect October 1, 2000.