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**HOUSE BILL 527:**  
**SUMMARY OF KEY PROVISIONS**

*Legislation Addressing Brownfield and Voluntary Cleanup Tax Credit Issues*

• **Solid Waste Removal & Management Activities.**

▪ The bill authorizes state Voluntary Cleanup Tax Credits ("VCTC") for a range of new activities in connection with redeveloping eligible former solid waste sites, including: (i) sorting and screening work to separate solid waste for reuse, recycling, or disposal; (ii) transportation of solid waste to an off-site solid waste management facility or to a temporary on-site or off-site staging area; and (iii) the ultimate disposal or recycling of solid waste material. These types of activities are frequently undertaken at former solid waste sites that are the subject of redevelopment.

▪ The bill also clarifies that the VCTC applicant is required to attest in an affidavit to accompany the VCTC application that it has consulted with appropriate local government officials and FDEP, and "to the best of the applicant's knowledge according to such consultation and available historical records," to attest that the Brownfield site was never operated either as a permitted solid waste disposal area or operated for monetary compensation.

▪ VCTC applicants may file only one solid waste VCTC application upon the overall completion of the eligible solid waste activities.

▪ The bill also provides that if the scope of the solid waste work does not require oversight by a registered technical environmental professional, a technical professional's certification form is not required with the VCTC application.

• **New VCTC Incentive for Health Care Facilities on Brownfield Sites.**

▪ The bill adds a new VCTC incentive that authorizes VCTC tax credits for the construction of new health care facilities (such as health care clinics) by the VCTC applicant on Brownfield sites in order to serve the public health and medical needs of local communities. The bill provides a 25% VCTC tax credit for eligible costs, up to \$500,000 per site.



### **Clarified Affordable Housing VCTC Requirements.**

- The bill makes several important clarifications, including clarifying (i) that an affordable housing VCTC application is not required to be submitted "as soon as" all applicable requirements are met, but simply "after" they have been met, and (ii) that certification is not required that the construction of the affordable housing is "complete" in a general sense but that a Certificate of Occupancy has been issued and that there is a properly recorded instrument that limits the use of the property to eligible affordable housing.

### **Improved VCTC Application Procedures.**

- The bill extends the annual VCTC application deadline from January 15<sup>th</sup> to January 31<sup>st</sup> of each year, providing VCTC "site rehabilitation" applicants additional time to prepare and submit their VCTC applications and complete previous year-end activities.
- The bill extends FDEP's review time of VCTC applications from March 31<sup>st</sup> to May 1<sup>st</sup> each year and now specifically requires FDEP to inform all VCTC "site rehabilitation" applicants of the status of their applications and of the approval of any VCTC tax credits by May 1<sup>st</sup> of each year.
- The bill revises and improves the VCTC application review process by requiring FDEP to determine whether an application is "complete," and if it is not complete, to issue a notice to the applicant identifying the deficiency and providing the applicant 30 days to correct it. FDEP has 90 days to respond to a supplemental submission. This largely changes the program's previous "one-bite-at-the-apple" approach.
- The bill provides FDEP 90 days to review a solid waste, affordable housing, or health care facility VCTC application upon the application being deemed complete.

### **Revised Brownfield Designation Procedures and Requirements.**

- The bill clarifies that for new Brownfield area designations of sites located outside of already existing community redevelopment areas, enterprise or empowerment zones, and other specified areas, at least one of the public hearings must be conducted as close as reasonably practicable to the area to be designated. This clarifies that this public hearing need not be held at the actual Brownfield area if it would be impractical (such as if there are no meeting facilities there).



### **Revised BSRA Requirements.**

- BSRA Contractor Insurance Requirements. The bill deletes the previous statutory BSRA contractor and environmental consultant insurance requirements in their entirety, essentially leaving insurance coverage issues to the parties to negotiate. Otherwise applicable state and federal laws still apply, such as relating to OSHA requirements and workers compensation laws.
- Redevelopment Agreement Certification. The bill substantially revises the statute's redevelopment agreement provisions, now only requiring a BSRA party to certify (i) that it has consulted with the applicable local government concerning the proposed redevelopment of the Brownfield site, (ii) that the local government approves or is in agreement with the proposed redevelopment, and (iii) that the proposed redevelopment complies with applicable laws and requirements.

The bill provides that this "certification" shall be accomplished by one or several methods, including by (a) referencing or providing a legally recorded or officially approved land use or site plan, a development order or approval, a building permit, or a similar official document issued by the local government that reflects its approval of the proposed redevelopment; (b) providing a copy of the local government resolution designating the Brownfield area that contains the proposed redevelopment of the Brownfield site; or (c) providing a letter from the local government that describes the proposed redevelopment and express its approval or agreement.

### **Study of Public/Community Health Issues and Effects of Brownfield Redevelopment.**

- The bill encourages (but does not require) local governments to evaluate the community health benefits and effects of Brownfield site rehabilitation and redevelopment on local communities, both before and after the completion of Brownfield cleanup and redevelopment work. The bill encourages this study in collaboration with the Florida Department of Health, local health departments, community health providers, and nonprofit organizations.

### **Retroactive Effective Date of Changes.**

- The bill, which Governor Charlie Crist signed into law on June 30, 2008, is retroactive to January 1, 2008.

*The FBA expresses its sincere appreciate to the individual members who volunteered and worked tirelessly on behalf of the FBA during the successful 2008 Legislative Session. Members of the Legislative Committee included Rick Keenan, Jason Lichtstein, Roger Register, Suzie Ruhl, Mary Yeargan, Joseph Ullo, and Bo Bohannon, with the FBA's advocacy firm The Fiorentino Group. Special thanks go to Jason and Joe as Co-Chairs of the 2008 Legislative Committee*