



# HOUSE BILL 600: Regulatory Reform Act of 2023, Sec. 20: Clarify Brownfield Program Construction

2023-2024 General Assembly

<b>Committee:</b>	<b>Date:</b>	December 11, 2023
<b>Introduced by:</b>	<b>Prepared by:</b>	Kyle Evans Staff Attorney
<b>Analysis of:</b>	Sec. 20 of S.L. 2023-137	

**OVERVIEW:** Section 20 of S.L. 2023-137 amends the brownfields statute to provide that the law must not be construed to limit or preclude a prospective developer from performing an investigation of a brownfields property without prior approval from the Department of Environmental Quality.

This bill was vetoed by the Governor on October 2, 2023, and that veto was overridden by the General Assembly on October 10, 2023. This section became effective on October 10, 2023.

### CURRENT LAW & BILL ANALYSIS:

A brownfields site is any real property that is abandoned, idled, or underutilized where environmental contamination, or perceived environmental contamination, hinders redevelopment. The Brownfields Property Reuse Act (Act) of 1997 was enacted to encourage and facilitate redevelopment of these sites by removing barriers to redevelopment posed by a prospective developer's (PD's) potential liability for clean-up costs. To be eligible for participation in the Brownfields Program (Program), a PD must not have caused or contributed to contamination at a site. The Act does not obviate practical or necessary remediation of properties under any State or federal cleanup program, but it does authorize the Department of Environment Quality (DEQ) to work with PDs toward the safe redevelopment of sites, and to provide PDs regulatory flexibility and liability protection that would not be available to parties who actually caused or contributed to contamination at a site.

If a site is included in the Brownfields Program, DEQ enter into an agreement with the developer that is in effect a covenant not-to-sue contingent on the developer making the site suitable for the reuse proposed. Additionally, a brownfields agreement obtained from the Program entitles the developer to a property tax exclusion on the improvements made to the property for a period of five years, which can more than pay for assessment and cleanup activities on many projects. Site remedies (cleanup requirements) under the Program are also less costly and time consuming than they would be for a party who caused or contributed to the contamination, as site remedies under the Brownfields Program are designed to prevent exposure and make the site suitable for reuse, rather than meet environmental standards required under the traditional cleanup programs.

**Section 20** amends the brownfields statute to provide that the law must not be construed to limit or preclude a prospective developer from performing an investigation of a brownfields property without prior approval from the Department.

**EFFECTIVE DATE:** This bill was vetoed by the Governor on October 2, 2023, and that veto was overridden by the General Assembly on October 10, 2023. This section became effective on October 10, 2023.

Jennifer McGinnis, LAD, substantially contributed to this summary.

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