



SENATE BILL 387: Brownfields Property Reuse Act Revisions.

2025-2026 General Assembly

Committee:

Introduced by: Sens. McInnis, Moffitt, Jarvis

Analysis of: Fourth Edition

Date:

June 25, 2025

Prepared by: Trina Griffin

Staff Attorney

OVERVIEW: *Senate Bill 387 would do the following with respect to the property tax exclusion for property subject to a brownfields agreement:*

- *Authorize an additional exclusionary period of five years for subsequent qualifying improvements to the extent the property is eligible for a brownfields agreement, as confirmed in writing by DEQ, and provided that the real property is or becomes subject to a brownfields agreement.*
- *Make various changes to the process and timing of payment of the fees established under current law.*
- *Add language to allow DEQ to recover unanticipated costs of implementation and monitoring of a brownfields agreement.*
- *Establish a new fee applicable to a prospective developer subject to a recorded Notice of Brownfields Property who is out of compliance with the statutory requirements regarding the Notice, which would be payable to the Department and the Department of Justice in an amount that would be sufficient to cover the costs to the State to enforce or otherwise seek to correct the noncompliance.*

CURRENT LAW/BACKGROUND:

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 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 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, the Department will 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

Kara McCraw
Director



Legislative Analysis
Division
919-733-2578

Senate Bill 387

Page 2

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.

A PD must pay a fee at the time they submit a proposed brownfields agreement for Department approval, and a fee upon entering a brownfields agreement to cover the full cost to the Department and the Department of Justice of all activities related to the brownfields agreement, including negotiation of the brownfields agreement, public notice and community involvement, and monitoring the implementation of the brownfields agreement.

BILL ANALYSIS:

Section 1 of the bill would modify the language governing the partial exclusion from taxation for improvements made on brownfields property to authorize an additional exclusionary period of five years for subsequent qualifying improvements to the extent the property is eligible for a brownfields agreement, as confirmed in writing by DEQ, and provided that the real property is or becomes subject to a brownfields agreement.

Section 2 would make various changes to the process and timing of payment of the fees established under current law. Additionally, the bill would:

- Add language to allow DEQ to recover unanticipated costs of implementation and monitoring of a brownfields agreement:
- Establish a new fee applicable to a PD subject to a recorded Notice of Brownfields Property who is out of compliance with the statutory requirements regarding the Notice, which would be payable to the Department and the Department of Justice in an amount that would be sufficient to cover the costs to the State to enforce or otherwise seek to correct the noncompliance.

EFFECTIVE DATE: Section 1 of the bill would be effective for taxes imposed for taxable years beginning on or after July 1, 2025.

Jennifer McGinnis, LAD Staff Attorney, substantially contributed to this summary.