

PENNSYLVANIA BROWNFIELDS 2008

Proposed Brownfields Redevelopment Act

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Brian J. Clark

Buchanan Ingersoll & Rooney PC

213 Market Street, Third Floor

Harrisburg, PA

(717) 237-4823

brian.clark@bipc.com



Brownfields Redevelopment Act

Senate Bill 1062 (Senator Wonderling)

- Creates a program for reimbursing developers for up to 75% of the costs associated with the remediation of Brownfield sites
- Remediation must be completed in accordance with Pennsylvania's Land Recycling Program (Act 2)
- The program is based on the successful New Jersey Brownfield Reimbursement Program enacted in 1998

Senate Bill 1062: Key Components

Key legislative components include:

- Provides up to 75% of cleanup costs incurred at Brownfield sites in the form of a tax reimbursement from new state taxes generated by the project
- Pennsylvania Department of Environmental Protection (DEP) is the lead agency along with the Department of Community and Economic Development (DCED) in reviewing the applications with consultation from the Department of Revenue
- Defines Brownfield site
- Authorizes reimbursement for remediation projects of mined properties in addition to traditional Act 2 Brownfield sites
- Establishes Brownfield site reimbursement fund to be administered by DEP
- Requires Redevelopment Agreement between developer and DEP
Redevelopment Agreement specifies the amount of reimbursement, the frequency of payments and the length of time for reimbursement will be granted
- DEP is prohibited from entering into a redevelopment agreement with a developer who “caused or contributed to the release of contaminants” at the site proposed to be redeveloped

Redevelopment Agreement

In determining whether to enter into a Redevelopment Agreement, DEP shall consider the following factors:

- Economic feasibility of the redevelopment project;
- Extent of economic and related social distress to the municipality in the area to be affected by the redevelopment project;
- Degree to which the redevelopment project will advance state, regional and local development planning strategies;
- Likelihood that the redevelopment project shall, upon completion, be capable of generating new tax revenue in excess of the reimbursement costs incurred;
- Relationship of the redevelopment project to a comprehensive local development strategy;
- Need for Redevelopment Agreement to the viability of the redevelopment project;
- Degree to which the redevelopment project enhances and promotes job creation and economic development;
- Extent that developer's plan achieves the Act 2 cleanup standards; and
- Cost of environmental infrastructure improvements relative to overall site remediation

Reimbursement Eligibility

- Occupancy rate compliance (90% occupancy triggers full reimbursement)
- Cleanup by developer in compliance with the Redevelopment Agreement, Act 2 and is “diligently performing” remediation
- Developer must submit an application to DEP for review and certification of the reimbursement

Cost Certification

DEP determines:

- Construction is complete in the area subject to the redevelopment agreement that has generated new tax revenues
- Remediation of the contamination located on the site is in compliance with Act 2 cleanup or other DEP-approved cleanup (mine sites)
- Costs of the remediation were actually and reasonably incurred

Brownfields Redevelopment Act

- SB 1062 supplements existing Brownfield funding programs while being revenue-neutral with regard to the Commonwealth of Pennsylvania budget.
- Reimbursement to the developer is contingent on completion of the remediation, performance of the project, and generation of new tax revenue.

Legislative Status

- Passed the Senate 50-0. Bipartisan support
- The legislation is currently before the House Environmental Resources and Energy Committee
- Limited legislative schedule remaining