



SPONSOR: Sen. Marshall & Rep. DiPinto  
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Williams

DELAWARE STATE SENATE

141st GENERAL ASSEMBLY

SENATE BILL NO. 183

AN ACT TO AMEND CHAPTER 91 OF TITLE 7 OF THE DELAWARE CODE TO DEFINE BROWNFIELD AND TO AUTHORIZE THE SECRETARY OF THE DEPARTMENT OF NATURAL RESOURCES AND ENVIRONMENTAL CONTROL TO CERTIFY REAL PROPERTY AS A BROWNFIELD, TO AMEND SUBCHAPTER I-B, CHAPTER 50, TITLE 29 OF THE DELAWARE CODE TO AUTHORIZE THE DELAWARE ECONOMIC DEVELOPMENT AUTHORITY TO MAKE GRANTS FROM THE DELAWARE STRATEGIC FUND TO DEFRAY A PART OF THE COSTS FOR THE ENVIRONMENTAL ASSESSMENT AND REMEDIATION OF BROWNFIELDS, AND TO AMEND SECTION 2010 OF TITLE 30 OF THE DELAWARE CODE TO CONFORM THE DEFINITION OF BROWNFIELD TO THE DEFINITION SET FORTH IN CHAPTER 91 OF TITLE 7 OF THE DELAWARE CODE.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE (Three-fourths of all members elected to each house thereof concurring therein):

- 1           Section 1.           The General Assembly finds that:
- 2           (a) there is a need for a uniform definition of the term "brownfield" in the Delaware Code and that the
- 3           Department of Natural Resources and Environmental Control should be authorized to promulgate and revise regulations
- 4           to establish procedures for certifying parcels of real property, in whole or in part, as brownfields for all purposes of the
- 5           Delaware Code;
- 6           (b) the high costs of the assessment and remediation of potential or actual environmental contamination at
- 7           brownfields in the State of Delaware prevent the utilization of these sites at their highest economic potential;
- 8           (c) the underutilization of brownfields in the State of Delaware operates to the economic detriment of the citizens
- 9           of the State of Delaware, because the underutilization of these sites limits employment opportunities; and,
- 10          (d) if increased economic incentives were available, a greater number of brownfields would be environmentally
- 11          assessed, and necessary remedies would be performed, thus returning these sites to more productive use and enhancing
- 12          the economic well being of the citizens of the State of Delaware.
- 13          Section 2. Amend § 9103 of title 7 of the Delaware Code by redesignating subdivisions (3) through (20) as
- 14          subdivisions (4) through (21) and adding a new subdivision (3) as follows:

15 “ ‘Brownfield’ means any vacant, abandoned or underutilized real property, the development or redevelopment  
16 of which may be hindered by the reasonably held belief that the real property may be environmentally contaminated.”

17 Section 3. Amend § 9104(b)(2) of title 7 by adding a new subparagraph as follows:

18 “p. For certifying part or all of a parcel of real property as a brownfield.”

19 Section 4. Amend subsection (a) of § 5028 of title 29 of the Delaware Code by:

20 (a) striking the period after the word “businesses” in paragraph (3);

21 (b) adding a semicolon after the word “businesses” in paragraph (3); and,

22 (c) adding a new paragraph as follows:

23 “(4) To the extent provided in subsection (c), environmental assessment and remediation of certified  
24 brownfields.”

25 Section 5. Amend § 5028 of title 29 of the Delaware Code by adding thereto a new subsection as follows:

26 “(c) During any fiscal year of the State, up to one million dollars (\$1,000,000), in aggregate, of the monies  
27 appropriated to the Fund may be used to provide matching grants for the costs of environmental assessment and  
28 remediation at certified brownfields. The amount of a matching grant with respect to a certified brownfield shall not  
29 exceed the lesser of fifty thousand dollars (\$50,000) or fifty percent (50%) of environmental assessment and remediation  
30 costs with respect to such certified brownfield. For purposes of this subsection, a “certified brownfield” is a brownfield,  
31 as defined in 7 Del. C. § 9103, that the Secretary of the Department of Natural Resources and Environmental Control has  
32 certified as a brownfield pursuant to regulations promulgated under 7 Del. C. § 9104(b)(2)p. The Chairperson of the  
33 Authority may at any time suspend the making of grants under this subsection, if the Chairperson finds that monies in the  
34 Fund would be better used for other Fund purposes consistent with this subchapter, and may resume the making of grants  
35 under this subsection at any time after previously suspending the making of such grants.”

36 Section 6. The Delaware Economic Development Authority is authorized to make the grants described in  
37 Section 5 hereof with respect to costs of environmental assessment and remediation that are incurred by the owners of  
38 certified brownfields on or after January 16, 2001.

39 Section 7. Amend § 2010 of title 30 of the Delaware Code by striking the language of subdivision (16) thereof in  
40 its entirety and substituting the following language:

41 “ ‘Brownfield’ shall have the meaning set forth in 7 Del. C. § 9103.”

42           Section 8. Sections 1 through 6 of this Act shall become effective upon the enactment of this Act into law.  
43   Section 7 of this Act shall be effective with respect to qualified investments, qualified employment, and qualified  
44   activities occurring on or after October 1, 2001.

#### SYNOPSIS

The Bill harmonizes the efforts of the State to encourage the redevelopment of brownfields by providing a uniform definition of the term, empowering the Department of Natural Resources and Environmental Control (“DNREC”) to certify real property as a brownfield, authorizing The Delaware Economic Development Authority (“DEDA”) to make up to \$1 million, in aggregate, per fiscal year of matching grants from the Delaware Strategic Fund to defray part of the costs of environmental assessment and remediation of brownfields and harmonizing the definition of brownfield for purposes of certain tax credits.

Section 1 of the Bill constitutes the findings of the General Assembly regarding the necessity for a uniform statutory definition of brownfields, authorizing DNREC to certify properties as brownfields and providing financial incentives for the redevelopment of brownfields.

Section 2 of the Bill defines the term “brownfield.”

Section 3 of the Bill authorizes the Secretary of DNREC to promulgate and revise regulations to establish procedures for certifying part of all of a parcel of real property as a brownfield.

Section 4 of the Bill adds environmental assessment and remediation of brownfields certified as such by DNREC as new purposes for which Delaware Strategic Fund monies may be used.

Section 5 of the Bill sets forth the authorization of DEDA to make brownfields grants. The General Assembly has limited the amount of brownfields grants that DEDA can make in any fiscal year to \$1 million, in aggregate. The amount of a grant for any specific certified brownfield is limited to the lesser of \$50,000 or fifty percent of environmental assessment and remediation costs; thus, a match of the grant from private dollars is assured. Section 5 of the Bill also defines the term “certified brownfield” for purposes of the grant program as brownfields that DNREC has certified as such. The Chairperson of DEDA has the power under the Bill to suspend the making of brownfield grants, if he or she determines that Delaware Strategic Fund monies would be better used for other permitted purposes, and to resume the making of such grants. This provides the Chairperson of DEDA with the flexibility to maximize the utility of the monies in the Delaware Strategic Fund as the State’s economic development needs change. DEDA has existing power under 29 Del. C. § 5029(a) to make regulations to establish eligibility criteria and to administer the brownfields grant program.

Section 6 of the Bill permits DEDA to make grants with respect to environmental assessment and remediation costs for brownfields that are incurred on or after January 16, 2001.

Section 7 of the Bill conforms the definition of brownfield for purposes of the Blue Collar Jobs and Targeted Areas Tax Credits to the definition set forth in 7 Del. C. § 9103.

Section 8 of the Bill provides that sections 1 through 6 shall become effective immediately upon enactment into law and that section 7 becomes effective with respect to qualified investments, qualified employment, and qualified activities occurring on or after October 1, 2001.

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