

# LEGISLATIVE UPDATE

## State Brownfields Law

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State programs represent the cutting edge of legislation related to the cleanup and redevelopment of contaminated properties, commonly known as brownfields. This article describes recent trends in state brownfield legislation, highlights specific examples of such legislation, and considers how such legislation is likely to develop in the future.

### Major Trends in State Brownfield Programs

In 2001, Congress passed the Small Business Liability Relief and Brownfields Revitalization Act (the Brownfields Act). This act had two major functions: (1) to limit liability under federal law for both purchasers of contaminated sites and for developers that clean brownfields pursuant to state cleanup programs and (2) to provide funding to state and local brownfield cleanup and development programs.<sup>1</sup> Although many states had developed brownfield cleanup and reuse programs prior to 2002, the Brownfields Act's additional incentives prompted many states to amend their laws and brownfield programs.

In various ways, states have adapted their brownfield policies to make cleanup more attractive to owners, developers, and potential purchasers. Major trends in state brownfield programs include movements to broaden eligibility to participate, increase funding or tax incentive options, limit liability for developers and purchasers, generate greater public participation, and improve public record databases.

### Expansion of Eligibility

**Adoption of federal definition.** The federal definition of a brownfield is "real property, the expansion, redevelopment, or reuse of which may be complicated by the presence or potential presence

of a hazardous substance, pollutant, or contaminant."<sup>2</sup> Many states have adopted this broad definition or functionally similar definitions,<sup>3</sup> allowing for cleanup of an increased number of properties.<sup>4</sup> The federal definition encompasses all real property rather than just commercial or industrial property. By adopting a broader definition, states can include facilities such as abandoned schools, hospitals, and petroleum-contaminated sites in brownfield initiatives.

**Focus on reuse rather than just cleanup.** Many states are focusing on reuse and redevelopment rather than just cleanup.<sup>5</sup> Properties that will have an industrial end use will often be held to a lower cleanup standard than properties that will have a residential end use.<sup>6</sup> This approach is different from that required by CERCLA, which imposes the same cleanup standard regardless of any intended future use.<sup>7</sup> Some states are accommodating these lower standards through such creative measures as containing the contaminated areas with concrete or creating deed or zoning restrictions to limit the future use of the property.<sup>8</sup> Under the 2002 Brownfields Act, properties can avoid CERCLA liability and CERCLA cleanup standards by participating in a voluntary state brownfield program.<sup>9</sup>

**Increased available participants.** Finally, state programs are expanding the list of parties who can participate in the cleanup and redevelopment process.<sup>10</sup> In contrast to cleanup programs under CERCLA and its state counterparts (where a regulatory agency initiates the cleanup),<sup>11</sup> almost a dozen state programs allow anyone, including the prospective purchaser, the owner, or even the party responsible for the contamination, to initiate or participate in the cleanup process.<sup>12</sup>

### Increasing Financing Options

Public financial assistance is vital to make brownfields attractive to developers. States approach the challenge of enticing developers with financial incentives in a number of ways. Some states provide loans and grants to developers to encourage redevelopment.<sup>13</sup> Federal monies are a primary source both to pay the administrative costs of state brownfield programs and to fund loans and grants to assist remediation efforts.<sup>14</sup>

Many states offer indirect financing in the form of tax abatements or credits, loan guarantees, and loss reserves.<sup>15</sup> New Jersey, for example, offers tax exemptions that allow recovery of up to 100 percent of cleanup costs.<sup>16</sup> North Carolina provides local property tax relief to improvements constructed on brownfield sites for five years, decreasing from 90 percent relief to 10 percent relief over the five years.<sup>17</sup>

In addition to using both state and federal funds earmarked for brownfield remediation, states are taking advantage of funds from other sources to clean up brownfields.<sup>18</sup> These sources include funds set aside for agriculture-related contamination, discarded tires, abandoned dry cleaners, and livestock contamination.<sup>19</sup> Further, some states are offering state-subsidized or volume-discounted environmental insurance provided through a private insurer.<sup>20</sup> Massachusetts,

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for example, subsidizes premiums on policies for pollution legal liability and cleanup cost cap coverage of up to 25 percent.<sup>21</sup> Colorado and Oklahoma offer loans for the purchase of such insurance.<sup>22</sup>

### **Limiting Liability**

One of the most daunting obstacles to brownfield cleanup and development is liability under CERCLA and similar state laws, which can impose joint and several liability for cleanup costs for anyone in the chain of title to a contaminated property.<sup>23</sup> Both state and federal brownfield programs have attempted to overcome this obstacle by limiting liability through participation in voluntary cleanup programs.

Under one approach, after a project has undergone a voluntary cleanup program, developers are eligible to receive “no further action” letters from state regulators that limit future state liability related to that project.<sup>24</sup> The federal Brownfields Act severely limited the EPA’s ability to recover from developers for contamination to properties involved in state voluntary cleanup programs.<sup>25</sup> Some states, such as Delaware, provide that certain purchasers that did not cause or contribute to contamination may limit their retroactive liability upon purchase.<sup>26</sup>

The state voluntary cleanup program, however, must have several features in order for developers to escape potential liability, including (i) an inventory of brownfield sites, (ii) oversight programs to protect health and the environment, (iii) allowance for public participation, and (iv) mechanisms for cleanup plan approval.<sup>27</sup>

### **Affording Greater Public Participation**

A number of states are creating measures to allow for and—in some cases—require greater public participation.<sup>28</sup> All states have public record or notice requirements for their voluntary cleanup programs.<sup>29</sup> These notice requirements include such measures as publication in the state registrar or in newspapers and the posting of signs on the property. Thirty-eight states require public comment periods to allow citizens to voice concerns about proposed developments.<sup>30</sup> Over half of the states even require hearings or meetings for brownfield redevelopment, giving local residents a chance to interact and collaborate with developers and local officials.<sup>31</sup> These hearings can be limited to cases where there is a substantial public interest in the remediation, such as when the project involves a school. At least four states—Massachusetts, Minnesota, New York, and Pennsylvania—award grants to citizen groups that set up their own cleanup programs.<sup>32</sup>

### **Making Information About Cleanup Projects Available**

States are using technology to make information related to cleanup projects more accessible. For example, California has received approximately \$350,000 from the EPA to develop a new website, EnviroStor, for hazardous waste sites.<sup>33</sup> EnviroStor provides site documents such as deed restrictions and allows greater access to the “public record” related to cleanup sites.<sup>34</sup>

Virginia has included a weblink to its Voluntary Remediation Program database on its Department of Environmental Quality website.<sup>35</sup> The site publishes “institutional control” information for each cleanup site including restrictions on ground water use, residential use, and other site-specific controls. Similarly, North Carolina has created an interactive map of active cleanup projects throughout the

state that includes background on each site, site activity, contaminants located, photographs, and cleanup plans.<sup>36</sup>

### **Overview of Specific State Brownfield Legislation**

Brownfield redevelopment has been said to “offer the key to urban revitalization,” and states have a vested interest in remediating brownfields.<sup>37</sup> As discussed above, many states offer tax incentives, government subsidies, and local land use controls to encourage redevelopment.<sup>38</sup> This section discusses some of the recent action in specific states.

#### **Connecticut**

Connecticut administers its brownfield programs through the Office of Brownfield Remediation and Development.<sup>39</sup> Connecticut law defines a brownfield as “any abandoned or underutilized site where redevelopment and reuse has not occurred due to the presence of pollution in the soil or groundwater that requires remediation prior to or in conjunction with the restoration, redevelopment and reuse of the property.”<sup>40</sup>

The 2006 legislation that created Connecticut’s brownfield law also established a task force, which was designed to study brownfield programs and make recommendations for improvements.<sup>41</sup> The task force adopted and published its report on February 19, 2007.<sup>42</sup> The report emphasized the state’s need to modify its brownfield programs and offered several recommendations for that purpose. Legislative changes should be expected in light of the task force’s report.<sup>43</sup> The Urban Sites Remedial Action Program and the Voluntary Remediation Program are examples of two remediation programs available.

The Urban Sites Remedial Action Program deals with properties that have a certain significance to the state’s economy.<sup>44</sup> The Department of Environmental Protection (DEP) can conduct investigations and remediation on properties if the owner is not willing or is unknown. Otherwise, the DEP works closely with owners in these areas.<sup>45</sup>

The Voluntary Remediation Program allows owners to voluntarily investigate or remediate contaminated properties with the assistance of a licensed environmental professional.<sup>46</sup> The licensed environmental professional is under contract with the state and is subject to strict regulation.<sup>47</sup>

In Connecticut, relief from liability is offered by way of “covenants not to sue.”<sup>48</sup> The Connecticut law uses such covenants to limit the future liability of buyers, owners, and lending institutions once a property has been remediated to current standards.<sup>49</sup>

Various financial incentives are offered in connection with Connecticut’s different programs. For instance, the Urban Sites Remedial Action Program allows for the state cleanup of sites;<sup>50</sup> the Special Contaminated Property Remediation and Insurance Fund provides low-interest loans to municipalities and private entities;<sup>51</sup> and the Connecticut Brownfields Redevelopment Authority offers grants, assessment grants, financing options, and tax incentives.<sup>52</sup> In addition, environmental land-use restrictions<sup>53</sup> and environmental insurance<sup>54</sup> are also available under certain circumstances. All remediation performed must comply with the Remediation Standard Regulations, which provide detailed guidance and standards.<sup>55</sup>

#### **Rhode Island**

Rhode Island defines brownfields as “real property, the expansion, redevelopment, or reuse of which may be complicated by the presence of a hazardous substance, pollutant or contaminant.”<sup>56</sup> The state’s brownfield program is governed and regulated through the Industrial Property Remediation and Reuse Act.<sup>57</sup> The Department of Environmental Management (DEM) is charged with the responsibility of coordinating the program.<sup>58</sup>

The Rhode Island Act provides for an exemption from liability for bona fide prospective purchasers who have received either a remedial decision letter from the DEM showing that their remediation has been approved, a letter of compliance confirming that the remediation plan was successfully completed, or an enforceable settlement agreement.<sup>59</sup> The Act also exempts lending institutions from liability.<sup>60</sup> Anyone who has received a remedial decision letter may enter into a remedial agreement, which provides a covenant not to sue and contribution protection.<sup>61</sup>

Rhode Island offers general incentives to encourage the development of Brownfield areas. Public or nonprofit organizations can participate in the Targeted Brownfields Assessment Program, which provides for no-cost site investigations performed by environmental consultants under contract with the state.<sup>62</sup> Low-interest loans and grants are available through the Brownfields Cleanup Revolving Loan Fund for the cleanup of abandoned or underutilized properties.<sup>63</sup> Specific tax credits are also available such as the Mill Building Tax Credit<sup>64</sup> and the Historic Building Tax Credits, which provide developers a 30 percent tax credit for rehabilitating eligible historic buildings.<sup>65</sup>

### **Florida**

Florida defines brownfield sites as “real property, the expansion, redevelopment, or reuse of which may be complicated by actual or perceived environmental contamination.”<sup>66</sup> Florida’s Brownfields Redevelopment Act provides regulatory guidance for the cleanup of brownfields.<sup>67</sup> The Florida Department of Environmental Protection (DEP) has a detailed and useful website that contains a brownfield “Geofinder” and also provides links to databases containing designated brownfield areas.<sup>68</sup> The brownfield Geofinder is a mapping tool that allows the user to locate areas and sites within Florida.

According to Florida’s Brownfields Redevelopment Act, any person who successfully completes a brownfield site rehabilitation agreement is relieved of any further liability for the remediation of that site.<sup>69</sup> Once the remediation is successfully completed, a “no further action” letter is issued by the DEP or approved local pollution control program.<sup>70</sup> Lenders also are provided immunity from liability.<sup>71</sup>

Many incentives are available under the Florida law. The DEP offers a tax credit to anyone who voluntarily participates in the cleanup of dry-cleaning solvent contaminated sites as well as sites located in designated brownfield areas.<sup>72</sup> The Office of Tourism, Trade and Economic Development offers a loan note guarantee that guarantees 10 percent of the original loan amount for a period of five years.<sup>73</sup> The Department of Revenue provides a tax exemption on sales and use taxes for the purchase of building materials.<sup>74</sup> Local governments also may provide various incentives.

### **Wisconsin**

Wisconsin defines brownfields as “abandoned, idle or underused

industrial or commercial facilities or sites, the expansion or redevelopment of which is adversely affected by actual or perceived environmental contamination.”<sup>75</sup>

The Remediation and Redevelopment Program, which is regulated by the Department of Natural Resources, provides the basis for Wisconsin’s brownfield remediation. The program and accompanying statutes provide for liability exemptions for certain private individuals who wish to purchase former brownfield property from local governments who have remediated the property.<sup>76</sup> Such individuals may obtain a certificate that exempts the party from future liability and is transferable to eligible future owners.<sup>77</sup> In addition, any individual, business, or unit of government who voluntarily remediates a brownfield property in compliance with state requirements can obtain an exemption from future liability.<sup>78</sup>

Many incentives exist in Wisconsin. The Department of Natural Resources offers the Brownfields Site Assessment Grant Program,<sup>79</sup> the Brownfields Green Space and Public Facilities Grant Program,<sup>80</sup> and the Dry Cleaner Environmental Response Fund.<sup>81</sup> The Department of Commerce offers incentives in the way of Community Development Block Grants,<sup>82</sup> grants through the Wisconsin Blight Elimination and Brownfields Redevelopment Fund,<sup>83</sup> as well as the Petroleum Environmental Cleanup Fund.<sup>84</sup> Grants are also available through the Wisconsin Departments of Transportation, Administration, and Agriculture.<sup>85</sup> Certain tax credits are available through various departments.

On March 26, 2007, the governor of Wisconsin announced the availability of \$1.7 million in connection with the Brownfields Site Assessment Grant. The grants under this fund will fund forty-seven projects, including twenty-six grants that were awarded to rural communities or counties hoping to promote economic growth.<sup>86</sup>

### **Oklahoma**

Oklahoma provides two different programs: the Voluntary Cleanup Program and the Brownfields Redevelopment Program, both of which are governed by the Oklahoma Brownfields Voluntary Redevelopment Act.<sup>87</sup>

A person may apply to the Oklahoma Department of Environmental Quality (DEQ) for either a consent order for risk-based remediation or a no-action-necessary determination, and must include with the application a plan for remediating the brownfield site.<sup>88</sup> The consent order and no-action determination apply only to conditions present at the time of the submission of the application and not to subsequent or future contaminations.<sup>89</sup>

If a consent order is requested, then a Certificate of Completion can be issued once the DEQ determines that all of the requirements of the consent order have been completed.<sup>90</sup> The Certificate provides that the DEQ will not pursue administrative penalties or civil action against the applicant, lenders, or lessees in connection with activities of remediation.<sup>91</sup>

In connection with the no-action-necessary determination, the Oklahoma DEQ issues a Certificate of No Action Necessary once it determines that no remediation action is required on the site.<sup>92</sup> Like the Certificate of Completion, the Certificate of No Action Necessary states that the DEQ will not pursue any administrative penalties or civil actions against the applicant, lenders, or lessees.<sup>93</sup>

Oklahoma offers sales tax incentives for machinery, equipment,

fuels, and chemicals used in the remediation process.<sup>94</sup> Low-interest loans may be available to private industries, local governments, and tribes through the Oklahoma Brownfields Cleanup Revolving Loan Fund.<sup>95</sup>

### What Does the Future Hold?

States can be expected to continue to broaden and streamline the cleanup of brownfields, creating some new challenges in the process. Several areas to watch in the future are financing, program staffing, broadening eligibility, and institutional controls.<sup>96</sup>

### Financing

The largest single barrier to brownfield reuse is financing cleanup projects. States will likely continue to entice developers to engage in brownfield reuse through additional financial incentives, likely including partnership with new or existing federal incentives.

### Program Staffing

In 2006, the EPA concluded that the level of brownfield reuse activity outpaced the capacity of state staff responsible for administering response programs.<sup>97</sup> As states draw increased participation in cleanup projects, and as states increase the use of institutional controls, demands on program staff will increase.

### Ever Broadening Eligibility

To expand cleanup participation, states have increased both the persons who can be involved in brownfield cleanup and the sites that are eligible. Some states are identifying properties by contaminants and incorporating more contaminants into their programs to encourage more private developers to engage in reuse projects. This increased eligibility will require states to adapt their public participation and notification requirements, as many existing requirements will become laborious and impracticable. States are likely to use technology to develop Web-based or email-based notification and participation forums.

### Institutional Controls

States have tended toward incorporating engineering and institutional controls into the cleanup process to reduce remediation costs and make returns on cleanup projects more economical. As these engineering and institutional controls become more central to state brownfield administration, states will need to respond to difficulties such as defining workable conditions, maintaining institutional controls, and monitoring controls over time. These controls will require states to commit resources for long-term monitoring. Many existing state programs lack the controls for these functions.

### Endnotes

1. Joel B. Eisen, *A Case Study of Sustainable Development: Brownfields*, 32 ENVTL. L. REP. 10,420, 10,423 (2002) [hereinafter Eisen, *Case Study*]; for an excellent overview of the Brownfields Act, see Amy Pilat McMorrow, *CERCLA Liability Redefined: An Analysis of the Small Business Liability Relief and Brownfields Revitalization Act and Its Impact on State Voluntary Cleanup Programs*, 20 GA. ST. U. L. REV. 1087 (2004); Heather D. Vanderberg, *The Brownfields Revitalization Act of 2001: New Hope for Urban Development*, 23 CONSTR. LAW. 39 (2003).

2. 42 U.S.C. § 9601(39)(A).

3. See, e.g., ARIZ. REV. STAT. ANN. § 49-218 (2007) (“Eligible site” means a site that is a brownfields site as defined by § 101(39) of CERCLA”); CAL.

HEALTH & SAFETY CODE § 44504.1 (West 2007) (“Brownfield site” means a real estate parcel . . . which is abandoned, idled, or underused, due to real or perceived environmental contamination . . . , which after assessment and planning, is determined to have a reasonable potential for economically beneficial reuse.”); CONN. GEN. STAT. ANN. § 32-9CC (West 2007) (“[B]rownfields” means any abandoned or underutilized site where redevelopment and reuse has not occurred due to the presence of pollution . . .”); DEL. CODE ANN. tit. 7, § 9103 (2007) (“Brownfield” means any vacant, abandoned or underutilized real property the development or redevelopment of which may be hindered by the reasonably held belief that the real property may be environmentally contaminated.”); FLA. STAT. ANN. § 376.79 (West 2007) (“Brownfield sites” means real property, the expansion, redevelopment, or reuse of which may be complicated by actual or perceived environmental contamination.”); GA. CODE ANN. § 48-5-7-6 (West 2006); ILL. COMP. STAT. 5/58.2 (2007); IND. CODE § 13-11-2-19.3 (2007); IOWA CODE ANN. § 15.291 (West 2007); KY. REV. STAT. ANN. § 65.680 (West 2006).

4. ENVTL. PROT. AGENCY OFFICE OF SOLID WASTE AND EMERGENCY RESPONSE OFFICE OF BROWNFIELDS, STATE BROWNFIELDS AND VOLUNTARY RESPONSE PROGRAMS: AN UPDATE FROM THE STATES 4 (2005) [hereinafter EPA BROWNFIELDS], [www.epa.gov/brownfields/pubs/st\\_res\\_prog\\_report.htm](http://www.epa.gov/brownfields/pubs/st_res_prog_report.htm) (last visited May 9, 2007).

5. See, e.g., ALA. CODE § 40-9C-3 (2006) (“The Legislature further finds that the appropriate reuse and redevelopment of properties which are contaminated, or perceived to be contaminated, is in the public interest.”); CAL. HEALTH & SAFETY CODE § 44501 (West 2007) (The remediation and development of brownfields is an important component of revitalizing existing communities and supporting sustainable growth patterns.); CONN. GEN. STAT. ANN. § 32-9CC (West 2007) (“[B]rownfields” means any abandoned or underutilized site where redevelopment and reuse has not occurred due to the presence of pollution in the soil or groundwater that requires remediation prior to or in conjunction with the restoration, redevelopment and reuse of the property.); KY. REV. STAT. ANN. § 65.682 (West 2006) (noting in connection to brownfield properties that “the creation or expansion of development areas is of paramount importance”).

6. McMorrow, *supra* note 1, at 1118.

7. Joel B. Eisen, *Brownfields at 20: A Critical Reevaluation*, FORDHAM URB. L.J. (forthcoming Apr. 2007) [hereinafter Eisen, *Brownfields at 20*]; Eisen, *Case Study*, *supra* note 1, at 10,423; McMorrow, *supra* note 1, at 1118.

8. Eisen, *Brownfields at 20*, *supra* note 7; Eisen, *Case Study*, *supra* note 1, at 10,423; McMorrow, *supra* note 1, at 1118.

9. Vanderberg, *supra* note 1, at 42.

10. Eisen, *Case Study*, *supra* note 1, at 10,423.

11. *Id.* at 10,422; EPA BROWNFIELDS, *supra* note 4, at 4.

12. See, e.g., ALA. CODE § 40-9C-6 (2006) (“[A]ny person who proposes to become a private user of brownfield development property or of a major addition thereto may apply . . . for an abatement of all of the taxes allowed to be abated under this chapter with respect to such property.”); IOWA CODE ANN. § 15.292 (West 2007) (noting that owners and nonowners may apply for financial assistance under the brownfield program); FLA. STAT. ANN. § 376.82 (West 2007) (“Any person who has not caused or contributed to the contamination of a brownfield site . . . is eligible to participate in the brownfield program . . .”); Eisen, *Case Study*, *supra* note 1, at 10,423.

13. EPA BROWNFIELDS, *supra* note 4, at 7.

14. Vanderberg, *supra* note 1, at 40; EPA BROWNFIELDS, *supra* note 4, at 4, 7.

15. EPA BROWNFIELDS, *supra* note 4, at 7.

16. N.J. STAT. ANN. § 54:4-3.154 (West 2006) (“The property tax exemption shall end if the difference between the real property taxes otherwise due and payments made in lieu of those taxes equals the total remediation cost for the qualified real property.”).

17. N.C. GEN. STAT. ANN. § 105-277.13 (West 2007).

18. *Id.* at 4.

19. *Id.*

20. See, e.g., WIS. STAT. ANN. § 292.53 (West 2007) (“The department, in cooperation with the department of administration, may undertake activities

to make private environmental insurance products available to encourage and facilitate the clean-up and redevelopment of contaminated property. The department of natural resources may negotiate with, select, and contract with one or more insurers to provide insurance products under this section, subject to the approval of the department of administration under § 16.865(5).”)

21. MASS. GEN. LAWS ANN. ch. 23A, § 60(f) (West 2007).  
22. OKLA. ADMIN. CODE § 252.220-11-10 (2007); Colorado Brownfields Revolving Loan Fund Program Guidelines 5 (2001), [www.cdphe.state.co.us/hm/bfprogguide.pdf](http://www.cdphe.state.co.us/hm/bfprogguide.pdf).

23. Eisen, *Case Study*, *supra* note 1, at 10,422.

24. *Id.* at 10,423.

25. *Id.*; McMorrow, *supra* note 1, at 1114.

26. *E.g.*, DEL. CODE ANN. tit. 7, § 9125 (2007).

27. 42 U.S.C. § 9628(a)(2).

28. Jennifer Felten, *Brownfield Redevelopment 1995–2005: An Environmental Justice Success Story?* 40 REAL PROP. PROB. & TR. J. 679, 680 (2006); *see also* ALA. CODE § 40-9C-3 (2006) (“[T]he department shall notify potentially affected and other interested parties to invite participation in developing the program created by this chapter . . .”); FLA. STAT. ANN. § 376.80 (West 2007) (“If a local government proposes to designate a brownfield area that is outside [certain designated] areas, the local government must conduct at least one public hearing in the area to be designated to provide an opportunity for public input on the size of the area, the objectives for rehabilitation, job opportunities and economic developments anticipated, neighborhood residents’ considerations, and other relevant local concerns.”).

29. Felten, *supra* note 28, at 685. The following states require no public notice: California, Illinois, Nebraska, New Hampshire, Ohio, Texas, Washington, and Wisconsin. The following states require no public comment: Alaska, California, Hawaii, Illinois, Maine, Massachusetts, Nebraska, New Hampshire, New Jersey, Ohio, Texas, and Wisconsin. The following states require no hearing: Colorado, Georgia, Hawaii, Illinois, Maine, Massachusetts, Montana, Nebraska, New Hampshire, North Dakota, Ohio, Texas, Washington, and Wisconsin. *See* EPA BROWNFIELDS, *supra* note 4, at 153–54.

30. Felten, *supra* note 28, at 685.

31. *Id.*; EPA BROWNFIELDS, *supra* note 4, at 153.

32. 310 MASS. CODE REGS. 40.1453 (2007); MINN. R. 9210.0815 (2006); N.Y. ENVTL. CONSERV. LAW § 27-1417 (McKinney 2007); PA. CONS. STAT. ANN. § 6028.2 (West 2006). Louisiana offers loans to private entities for the cleanup of brownfield properties. LA. ADMIN. CODE tit. 33, § 1103 (2007).

33. EPA BROWNFIELDS, *supra* note 4, at 5.

34. [www.envirostor.dtsc.ca.gov/public/default.asp](http://www.envirostor.dtsc.ca.gov/public/default.asp).

35. [www.deq.state.va.us/vrp/](http://www.deq.state.va.us/vrp/).

36. [www.ncbrownfields.org/project\\_locations.htm](http://www.ncbrownfields.org/project_locations.htm).

37. James A. Kushner, *Brownfield Redevelopment Strategies in the United States*, 22 GA. ST. U. L. REV. 857 (Summer 2006).

38. *Id.* at 859–62.

39. CONN. GEN. STAT. ANN. § 32-9CC (West 2007).

40. *Id.*

41. Act of June 9, 2006, 2006 Conn. Legis. Serv. Pub. Act no. 06-184 (West).

42. Report of the State of Connecticut, Task Force on Brownfields Strategies, Feb. 2007 ([www.ctbrownfields.gov/ctbrownfields/lib/ctbrownfields/brownfield\\_task\\_force\\_final\\_report\\_2-7-07.pdf](http://www.ctbrownfields.gov/ctbrownfields/lib/ctbrownfields/brownfield_task_force_final_report_2-7-07.pdf)).

43. [www.ctbrownfields.gov](http://www.ctbrownfields.gov).

44. CONN. GEN. STAT. ANN. § 22a-133m (West 2007).

45. *Id.* § 22a-133x.

46. *Id.* § 22a-133y.

47. *Id.* § 22a-133v.

48. *Id.* §§ 22a-133aa–133bb.

49. *Id.*

50. *Id.* § 22a-133m.

51. *Id.* § 22a-133u.

52. The Connecticut Brownfield Redevelopment Authority (CBRA) is a wholly owned subsidiary of the Connecticut Development Authority (CDA). The CDA is a quasi-public agency established by law in *id.* § 32-11a. More information regarding the CBRA may be found on their website at [www.ctbrownfields.com/default.asp](http://www.ctbrownfields.com/default.asp).

53. *See* CONN. GEN. STAT. ANN. §§ 22a-133n–133s (West 2007).

54. *Id.* § 22a-133u.

55. *Id.* §§ 22a-133k-1–133k-3. Additional information may be found on the state website: [www.ctbrownfields.com](http://www.ctbrownfields.com).

56. This is the federal definition of *brownfield*. *See supra* note 3. Rhode Island’s use of this definition may be seen on its website: [www.dem.ri.gov/brownfields/default.htm](http://www.dem.ri.gov/brownfields/default.htm).

57. 1995 R.I. PUB. LAWS ch. 95-187 (codified at R.I. GEN. LAWS § 23-19.14 (2006)).

58. R.I. GEN. LAWS § 23-19.14-5.1 (2006).

59. *Id.* § 23-19.14-7.

60. *Id.*

61. *Id.* § 23-19.14-7.1.

62. The Targeted Brownfields Assessment Program is funded by the EPA and administered through Rhode Island’s Department of Environmental Management. More information is available at [www.dem.ri.gov/brownfields/documents/tbadesc.pdf](http://www.dem.ri.gov/brownfields/documents/tbadesc.pdf).

63. The Brownfields Cleanup Revolving Loan Fund program offers low-interest loans through the Economic Development Corporation, a quasi-public corporation. More information can be found on the state’s website: [www.dem.ri.gov/brownfields/financial/index.htm#RLF](http://www.dem.ri.gov/brownfields/financial/index.htm#RLF).

64. R.I. GEN. LAWS § 42-64.9-8 (2006).

65. *Id.* § 44-33.2-3.

66. FLA. STAT. ANN. § 376.79 (West 2007).

67. *See id.* §§ 376.77–376.85.

68. *See* [www.dep.state.fl.us/waste/categories/brownfields/default.htm](http://www.dep.state.fl.us/waste/categories/brownfields/default.htm).

69. FLA. STAT. ANN. § 376.82 (West 2007).

70. *Id.* § 376.82(2)(e).

71. *Id.* § 376.82(4).

72. *Id.* § 220.1845.

73. *Id.* § 376.86.

74. *Id.* § 212.08(5)(n)–(5)(o).

75. WIS. STAT. ANN. § 560.13 (2007).

76. *Id.* § 292.15.

77. *Id.*

78. *Id.*

79. WIS. ADMIN. CODE NR § 168 (2007).

80. *Id.* § 173.

81. *Id.* § 169.

82. WIS. ADMIN. CODE COMM. §§ 108.01–08 (2007).

83. *Id.* § 108.19.

84. *Id.* § 47.

85. *See* [http://dnr.wi.gov/org/aw/rr/financial/grants\\_reimbursements.html](http://dnr.wi.gov/org/aw/rr/financial/grants_reimbursements.html).

86. [http://dnr.wi.gov/org/aw/rr/general/whats\\_new.htm](http://dnr.wi.gov/org/aw/rr/general/whats_new.htm).

87. *See* OKLA. STAT. ANN. tit. 27A, §§ 2-15-101–110 (West 2007).

88. *Id.* § 2-15-105.

89. *Id.*

90. *Id.* § 2-15-106.

91. *Id.*

92. *Id.*

93. *Id.*

94. OKLA. STAT. ANN. tit. 68, § 1359(7) (West 2007).

95. OKLA. ADMIN. CODE § 252:220-11-1 (2007).

96. *See* EPA BROWNFIELDS, *supra* note 4.

97. *Id.* at 7.