

Across the Southeast - Key Incentives in State Brownfield & Voluntary Cleanup Programs



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Key Incentives in State Brownfield & Voluntary Cleanup Programs

Florida Perspective

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Florida's Key Brownfield Financial Incentives

- Florida's Brownfield program in place since 1997 – More than 20 years
- Approx. \$3.36 billion projected in capital investment in Brownfield areas
- Approx. 86,360 direct and indirect jobs created (confirmed & projected) in Brownfield areas since 1997
- Florida's Voluntary Cleanup Tax Credit (VCTC)
- Florida Sales Tax Refund for Building Materials
- Florida Brownfield Job Bonus Refund

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Voluntary Cleanup Tax Credit (VCTC)

- **Threshold eligibility:** Brownfield sites in designated Brownfield areas (designated by local governments) under Brownfield Site Rehabilitation Agreements (BSRAs) with FDEP or local delegated Brownfield programs
- 50% VCTC credit – against state corporate income tax
- \$10 million authorized per year
- Available as to “costs of voluntary cleanup activity that is integral to site rehabilitation,” including eligible environmental assessment, monitoring, and cleanup work & costs per FDEP; solid waste costs - separate VCTC eligibility
- Max. annual site rehab VCTC cap - \$500,000 award per site/per year
- VCTC bonuses (25%) are available for affordable housing and health care facilities and following NFA issuance – Maximum \$500,000 per bonus/per site

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Voluntary Cleanup Tax Credit (VCTC)

- VCTC is available for both unconditional and conditional closure sites
- One-time (1X) transferability of VCTC tax credit certificate
- VCTC tax credit is good for 5 years; VCTC transferee has 5 years after transfer date to use VCTC credit
- Building mitigation costs are generally not VCTC eligible (no asbestos or lead-based paint mitigation)
- Per FDEP, vapor mitigation system costs are not VCTC eligible
- Related legal fees & costs are eligible
- Engineering & institutional controls are VCTC eligible

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Sales Tax Refund

Building Materials

- Threshold eligibility: Sites with BSRAs or sites that are abutting/adjacent to BSRA sites in designated Brownfield areas
- 100% refund as to state sales taxes paid for building/construction materials
- Available for affordable housing and mixed-use developments (conversion of existing manufacturing or industrial building into mixed-use units)
- Must apply to State of Florida within 6 months of substantial completion
- No statutory cap/limit on amount of sales tax refund, but subject to appropriations

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Brownfield Job Bonus

- Threshold eligibility: Sites with BSRAs or sites that are abutting/adjacent to BSRA sites in designated Brownfield areas
- Be a Qualified Target Industry (QTI) business or requires capital investment by an eligible business of at least \$2 million. Create at least 10 new permanent jobs.
- Eligible jobs do not include jobs relating to site construction or site environmental cleanup
- State cash refund - up to \$2,500 per new job
- Enter into agreement with State of Florida governing job creation and bonus payment schedule; generally pays within 4 or 5 years
- Annual claim procedure
- Subject to appropriations

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Florida Economic Incentives; By the Numbers

- Brownfield act enacted in 1997
- VCTC statute enacted in 1998
- Since program inception, over 530 sites have been designated as Brownfield areas
- Since program inception, 420 BSRAs executed
- According to FDEP's annual Brownfield program report (dated August 2021)
- FDEP has approved approx. \$136.8 million in VCTC tax credits since program inception

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Key Incentives in State Brownfield & Voluntary Cleanup Programs

Georgia Perspective



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Georgia Brownfields

The Tax Incentive

- Georgia BF Purchaser performs Corrective Action on Site
- Records investigation and cleanup / compliance costs
- Costs are submitted to EPD for review
- Once certified, purchaser can submit cost certification to local taxing authority
- Tax authority “freezes” the assessed property value; tax savings result when the actual value of the property increases
- Freeze lasts up to ten years unless cleanup costs are recovered sooner
- Can stack with other incentives (ex. historic tax credit) and does not expire

Georgia Brownfields

Eligible Costs

Eligible Costs

- “Eligible brownfield costs” means costs incurred after July 1, 2003, and directly related to the receipt of a limitation of liability pursuant to Article 9 of Chapter 8 of Title 12, the "Brownfield Act," as amended, that are not ineligible costs.
- Examples: Environmental due diligence; Asbestos Removal; caps and other institutional controls; costs to apply to BF program; soil removal and clean fill

Ineligible Costs

- Equipment
- Supplies not purchased specifically for obtaining a limitation of liability
- Employee salaries/Legal expenses;
- Other expenses not directly related to the receipt of LOL
- 3rd Party Claims
- Construction costs
- Maintenance of Institutional Control

GA Economic Incentives; By the Numbers

- Brownfield Act enacted in 2003
- Since the program inception, 1,235 properties (sites) have enrolled into the Program
- 144 cost recovery packages certified by EPD:
 - \$95,858,293.76

Key Incentives in State Brownfield & Voluntary Cleanup Programs

Mississippi Perspective

MS Economic Redevelopment Act

MERA Key Features

- Private Sector Incentive
- Tax Rebate for a single project
- All state taxes (sales, income, and franchise taxes) will be rebated to the developer for fifteen years or **2½ times the cleanup costs**, whichever is less
- Effective 7-1-13, it was expanded to include brownfield sites subject to a brownfield agreement with MDEQ
- MDEQ fees eligible (\$2000 & \$100/hr.);
- Asbestos abatement is eligible;
- Demolition (when asbestos is present) is eligible;
- Recycling of building materials is eligible;
- UST Removals are eligible;
- No maximum amount;
- MDEQ reviews estimated costs on front end;
- Actual cost invoices to MDA on back end;
- Rebate is not transferrable;
- §57-91-1 of Mississippi Code

MS Economic Redevelopment Act *Brownfields Incentives Act (BIA) Key Features*

- **Private Sector Incentive**
- 25% STATE Income Tax CREDIT
- For tax year costs incurred
- Remediation costs for assessment, investigation, remediation, monitoring, and related activities at a brownfield agreement site.
- Credit is the lesser of \$40K or actual income tax imposed.
- Unused portion may be carried forward to succeeding tax years;
- Max. total credit over life of project- \$150K.
- MDEQ fees eligible (\$2000 & \$100/hr.);
- Assessment Costs are eligible (after joining Brownfield Program);
- Asbestos abatement is eligible;
- Demolition (when asbestos is present) is eligible;
- Recycling of building materials is eligible;
- UST Removals are eligible;
- Simple 1-page application to MDEQ;
- Simple certification letter from MDEQ;
- Credit is not transferrable;
- §27-7-22.16 of Mississippi Code

MS Economic Incentives; By the Numbers

- Brownfield Act enacted in 1998;
 - *Brownfield Tax CREDIT (1998);*
- Mississippi Economic Redevelopment Act (2013);
- Since the program inception, 38 properties (sites) have enrolled into the Program;
- Sites that have taken advantage of Brownfield Incentives:
 - *~ 4 Brownfield Tax Credits*
 - *5 MERA Rebates ~ \$6.1M in Rebates (actual and projected)*

Key Incentives in State Brownfield & Voluntary Cleanup Programs

Alabama Perspective



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Brownfield Development Tax Abatement Act (Chapter 9C, Title 40, Code of Alabama 1975)

- Gives cities and counties the ability to abate the following:
 - *Non-educational city and county sales and use taxes*
 - *Non-educational state, city and county property taxes – up to 20 years*
 - *Mortgage and recording taxes.*
- To receive an abatement for any or all of these taxes, a business must meet certain qualifications and follow certain procedures, as determined by law and regulation.

Statutory Requirements For Brownfield Abatements

- The property must be in the Alabama Department of Environmental Management's voluntary cleanup program to qualify for brownfield abatements.

- Capital Investment Requirement
 - *New Company*
 - *There is no threshold or limiting investment amount for a new brownfield abatement project. The total amount of the capital investment by a company that is locating in Alabama is eligible for the tax abatements.*

- Major Addition
 - *The additional capital investment by a company that is expanding their current facilities on brownfield development property must equal the lesser of:*
 - 30 percent of the original cost of the property as cleaned up **or** \$2,000,000.

AL Economic Incentives; By the Numbers

- VCP enacted in 2002
- Since the program inception, 506 properties (sites) have enrolled into the Program
- 15 sites have used the tax incentive:
 - *\$1,056,798-sales&use*
 - *\$11,193,220-property*
 - *\$43,650-mortgage&recording*

EXAMPLE RE-DEVELOPMENT

Redevelopment Details

Project is a mixed-use redevelopment, siting on 5-acres consolidated from 4 separate parcels. Total construction schedule was 25 months.

350 multifamily units (50 affordable units & 300 market rate units), 20,000 SF retail, and 10,000 SF office

■ Environmental Conditions

- *Historically included a dry cleaning plant, metals recycling facility, and residential property*
- *Environmental assessments identified soil and groundwater contamination*
- *Property was enrolled in the State Brownfield program*
- *Soil remediation was needed, along with a vapor intrusion mitigation system below the new buildings*

■ Project Costs and Retail Revenue

- *Land value at time of purchase = \$2M*
- *Overall development valuation = \$125M (includes retail and office)*
- *Total environmental fees including consulting (\$290K), asbestos abatement (\$100K), State Brownfield fees (\$10K), soil disposal (\$1.2M), and vapor mitigation (\$200K) = \$1.8M*
- *Total estimated retail sales tax generation = \$400K/annually*
- *Jobs created = 200 (including apartment leasing and maintenance, retail, and office)*

Florida Brownfield Incentives

- Florida VCTC Tax Credit: Core environmental costs & fees are eligible
- **But not VCTC eligible** - Vapor mitigation (\$200,000), asbestos abatement (\$100,000) & program fees (\$10,000) = \$310,000
- Florida VCTC Tax Credit: \$1.8M - \$310,000 (not VCTC eligible) = \$1.49M
- **VCTC (Projected) Recovery** = \$1.49M x 50% = \$745,000.
- Plus VCTC NFA Bonus: \$1.8M x 25% = \$372,500.
- Potential portion of VCTC affordable housing bonus
- Based on 25 months of work (over 2 years), but without application of annual VCTC cap.

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Florida Brownfield Incentives

- Florida Sales Tax Refund for Building Materials:
 - *Project may be eligible;*
 - *Check whether there is 20% set aside of square footage for low-income and/or moderate-income housing. For purposes here, assume potential \$300,000*
- Florida Brownfield Job Bonus:
 - 150-200 eligible jobs created x \$2,500 = \$375,000-\$500,000

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Georgia Brownfield Incentives

- In 2018, site purchased for appraised value of \$2 M and tax liability of \$50,000/annually.
- Purchaser applied to the Georgia Brownfield Program and remediated soil, installed vapor mitigation system, certifying \$1.8M
- In 2019, City assesses new value to be = \$125M with a tax liability of \$500,000/year.

Georgia Brownfield Incentives

Year	2019	2020	2021	2022	2023	2024
Value	2 M	125 M → 2M	2 M	2 M	2 M	125 M
Tax Bill	50,000	500,000 → 50,000 (450,000)	50,000 (450,000)	50,000 (450,000)	50,000 (450,000)	500,000
BF Costs	1.8 M	1.35 M	900,000	450,000	0	N/A



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Mississippi Brownfield Incentives

MERA Sales Tax Rebate

- Max Rebate - \$4.5M (2.5 x \$1.8M)
- Rebate Schedule:
 - \$400K/Yr. - Years 1-6
 - \$320K - Yr. 7 (80% of Actual Annual Sales Tax)
 - \$280K - Yr. 8 (70%)
 - \$240K - Yr. 9 (60%)
 - \$200K/Yr. - Yrs. 10-15 (50%)
- Actual Rebate - \$4.44M at Yr. 15

BIA Tax Credit (STATE Income Tax)

- Max Credit -
\$40,000/Year (\$150K
Max)

Alabama Brownfield Incentives

- Property Tax Abatement
 - *City of Birmingham has 3.57 mills for non ed ad valorem tax. So, \$125M x 20% x .0357 = \$892,500*
- Sales and Use Taxes
 - *Hard construction costs x 40% (40% is typical amount for materials) x 9%. So, if hard cost is \$10M = \$360,000*
- Mortgage Recording Tax
 - *\$125M x 65% (assumed mortgage for loan) to arrive at amount of mortgage. Mortgage tax is \$0.15 per 100 in value. = \$121,875*
- Thank you to Brian Wolfe with Corporate Realty for assisting with this example

Overview

	FL	GA	MS	AL
Program Inception	'97/98	'03	'13	'02
Total Sites	420	1235	38	506
Sites w Cost Recovery	TBD	144	5	15
Incentives to Date	\$136M	\$95M	\$6.1M (projected)	\$12M
Example Redevelopment	\$1.8M	\$1.8M	\$4.4M	\$1.4M

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