

Georgia's Brownfields Program



Program Development



- Began in 2004
- Funded by federal grant from U.S. EPA
- Provide oversight for voluntary cleanups

Georgia Brownfields Legislation



- Georgia Hazardous Site Reuse and Redevelopment Act
 - Amended 2002 and 2005
- Brownfields Tax Incentive Law
 - Enacted 2003

Goals of Georgia Brownfields Legislation



- To encourage voluntary cleanup and reuse of Brownfields
- To leverage private funding for cleanups through redevelopment projects

Why redevelop contaminated property?



- Location, location, location
- Cleanup costs may not be as high as feared
- State incentives may favorably affect redevelopment prospects

Incentives! What incentives?



- Federal grant money is available to communities and non-profits on a competitive basis

www.epa.gov/brownfields/

- Georgia provides incentives that can be used by private parties

What incentives does Georgia offer?



- Liability limitation for prospective purchasers
- Tax incentives to recoup investigation and cleanup costs

Liability



- Environmental liability is joint, strict, and several.

Purchasing the property

makes YOU liable

for the contamination and any personal injury,
property damage and cleanup

Limitation of Liability



Makes it possible to buy
contaminated property without assuming
all of the liability

Limitations



- The new owner is protected from third party claims (lawsuits) resulting from prior contamination
- The liability for groundwater contamination does not pass to the new owner
- Fully transferable (with one exception)

Purchaser's Responsibilities




- Soil and groundwater investigation
- Cleanup of soil and source material to risk reduction standards
- Compliance Status Report

Groundwater Investigation



Establishes the baseline groundwater conditions
for which the prospective purchaser
IS NOT
responsible

When does the limitation of liability take effect?



- Upon approval of the Corrective Action Plan

OR

- Upon concurrence with the Compliance Status Report

Application



- Application Review Fee \$3,000
- Prospective Purchaser Corrective Action Plan

OR

- Initial Compliance Status Report

What is the \$3,000 for?



The \$3,000 application review fee pays for the cost of having EPD scientists, engineers, and managers review the Corrective Action Plan and Compliance Status Report for your property. Additional review time can be billed if it is needed.

Corrective Action Plan



- actions that will clean up soil and source material
- compliance with environmental laws
- environmental sampling that will demonstrate that the property has been appropriately cleaned up

Corrective Action Plan Continued



- Works like a contract for soil and source cleanup
- Useful when releases can't be fully characterized by closing date
- Requires Compliance Status Report for full limitation of liability
- Upon approval conveys provisional limitation of liability

Compliance Status Report

- A Compliance Status Report is the environmental report on the property. It contains descriptive narrative, environmental sampling data, and risk assessment calculations.
- It certifies that soil and source material are in compliance with cleanup standards and that the property is safe for its new use.

EPD Concurrency




- Is required in order to receive full limitation of liability
- Marks the end of the new owner's cleanup obligations
- Clears the way to apply for the tax incentive

How does the Tax Incentive Work?



- Records of investigation and cleanup costs are submitted to EPD for certification
- The cost certification is submitted to the local taxing authority
- The taxing authority “freezes” the assessed value of the property, resulting in tax savings as the actual value of the property increases
- The freeze can last up to ten years unless cleanup costs have been fully recovered sooner

*So, I'm ready to buy a
Brownfield. What do I do ?*



Make sure you and the property are eligible

Purchaser Eligibility



Is Prospective!!!

If you already own the property, you cannot
apply!!!

Prospective Purchasers Must Not



- Have contributed to the release of hazardous substances
- Have a business relationship or other affiliation with a party responsible for the release
- Be in violation of EPD's enforcement authority

Ineligible Properties



- Federal superfund sites
- Properties under federal cleanup orders
- Hazardous waste facilities
- Properties with outstanding financial obligations to EPD

Eligible Properties



Must have a known preexisting release of a
hazardous waste, hazardous constituent, or
hazardous substance

How do I know if there is a preexisting release?

- If EPD has already been notified of a release of hazardous constituents or petroleum
- If the property is regulated by EPD because of known releases (for example, Hazardous Site Inventory “HSI” properties, leaking underground storage tank properties, landfills with releases)
- If “due diligence” environmental sampling data show a release

Brownfields Cleanups



- Address contaminated soil
- Address source material
- Establish baseline for groundwater
limitation of liability
- Apply state cleanup standards to soil and
source material

What are the Cleanup Standards?

- Health-based risk reduction standards promulgated under Georgia law for state superfund (HSI) sites
- Two types of standards, based on land use:
 - Residential
 - Non-residential

All Georgia Brownfields Cleanups



- Can result in limitations of liability if criteria are met
- Can result in tax savings if criteria are met
- Protect human health and the environment

Things to Note

- Liability limitation is only as comprehensive as the site assessment
- Contamination does not have to be an obstacle
- Face to face decision making
- Eliminate paper exchanges where possible
- Brownfields Program available to provide any level of input requested

124 Projects to Date



- Greenspace
- Residential
- Mixed use
- Adaptive reuse
- Industrial reuse
- Industrial redevelopment

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