



# Brownfields

*Transform the Past  
Build for the Future*

Places to live, work and play

# BROWNFIELD LEGISLATION 2008



# Site Preparation and Groundwater Credit Changes

- Current Law: 10 – 22 percent
- New law: 23 to 50 percent
  - Note: this continues to include all costs necessary to prepare a site for its reuse
    - Asbestos abatement
    - Lead abatement
    - Demolition
    - Fencing
    - Etc



# Site Preparation and Groundwater Tax Credits

## CURRENT LAW

- 10% (ind)
- 12% (corp)
- 8% for en-zone
- 2% for T1

## NEW LAW

- 50% for T1
- 40% for T2/T3 Res
- 33% for T2/T3 Comm.
- 27% for T2/T3 Ind
- 28% for T4 Res
- 25% for T4 Comm.
- 22% for T4 Ind



**Site Preparation and Groundwater Tax Credits  
based upon Cleanup of Soil as follows:**

<i>Use →</i>	<i>Unrestricted, Protection of Groundwater, or Protection of Ecological Resources</i>	<i>Residential</i>	<i>Commercial</i>	<i>Industrial</i>
Track 1	50%	N/A	N/A	N/A
Track 2	N/A	40%	33%	27%
Track 3	N/A	40%	33%	27%
Track 4	N/A	28%	25%	22%



# Tangible Property Tax Credits

- 10 – 24 percent
  - Former 10 – 22% still applies
  - New 2% increase for projects consistent w/BOA
- Tax Credit Caps
  - \$35 million or 3x site preparation and groundwater costs, whichever is lesser unless manufacturing
  - \$45 million or 6x site preparation and groundwater costs, whichever is lesser for manufacturing or high tech



# Redevelopment Credit Cap

- Higher manufacturing threshold
  - Applies if site is “to be used primarily for manufacturing activities”
  - “...the production of goods by manufacturing, processing, assembling, refining, mining, extracting, farming, agriculture, horticulture, floriculture, viticulture or commercial fishing, and...a qualified emerging technology company regardless of the \$10 million limitation...; provided however, that the generation and distribution of electricity, the distribution of natural gas, and the production of steam associated with the generation of electricity, shall not constitute manufacturing activities.”



# Grandfathering Provisions

- July 1, 2007 Date
  - Applications accepted in the program before June 23, 2008 are under 2003 law
  - Applications accepted after 6/23/2008 are under new law



# Other Tax Credit Provisions

- Express language to avoid “double-dipping” – or claiming credits for acquisition of the real property



# COC Transfer Basis Adjustment

- Intended to prevent 'double-dipping'
- Addressed as an adjustment to the redevelopment component base
- Taxpayers must exclude acquisition costs of property if property already generated credit
- Key date: April 1, 2005
  - Recipients of a COC transfer may have to recompute credit and file amended return



# Other Provisions

- Moratorium is repealed upon enactment
- BOA Program is transferred to DOS
  - As of 4-1-09
- Creation of a Brownfields Oversight Board within DEC (~ SSF Mgmt Board)
- Misc. Reporting
  - Tax prepares annual report on credits
  - DEC submits annual report on participation (~ to current law)
  - Developer reporting of other benefits rec'd on site



# What isn't changing

- Definition of “Brownfield”
- Placed in Service Date
- No alternative program in statute



THAT'S ALL FOLKS

