

OVERVIEW OF THE NORTH CAROLINA BROWNFIELD PROGRAM

The North Carolina Brownfields Program was established under the Brownfields Property Reuse Act of 1997 [NCGS 130A310.30 et seq.]. This statute authorizes North Carolina's Department of Environmental Quality (DEQ) to work with prospective developers, (provided they did not cause or contribute to site contamination) to promote the redevelopment of urban infill properties, old industrial sites, and other types of underutilized, environmentally impaired real estate.

In North Carolina, to date just over 375 brownfields agreements (BFAs) have been recorded and over \$15 billion of resulting real estate investment and development has occurred. Another 200 agreement applications are being processed at this time. Brownfields projects are located across the state, and in Raleigh they include the iconic Pilot Mills near William Peace University, new student housing at NC State, Raleigh CAM, new luxury townhouses near the Five Points neighborhood, Raleigh Union Station, and a host of other successful developments.

First and foremost, the Brownfields Property Reuse Act is a law to promote development and site reuse—it is not a cleanup program and it does not impose liability. It is recognized as a national model and considered development-friendly. It is implemented via a brownfields agreement entered into between DEQ and the prospective developer. The program was established to encourage redevelopment that may not otherwise occur due to environmental concerns.

Moreover, the program provides the following substantial benefits:

- Strong liability protection from the state in the form of a covenant not to sue. Such a covenant can increase marketability and aid in project financing, and can be transferred to subsequent owners and other stakeholders.
- Expensive cleanup actions are typically avoided and simple administrative land use covenants are used to ensure that site development and reuse proceeds in a safe manner.
- Property taxes are reduced by approximately 50% on constructed improvements for five years after redevelopment occurs, under a special tax exclusion provided by the Brownfields Program and North Carolina's tax statutes.

As discussed above, to promote brownfields redevelopment, North Carolina enacted a provision under its taxation statutes (General Statute §105-277.13: Taxation of improvements on brownfields) that excludes a portion of the appraised value of the improved brownfields property from both city and county ad valorem taxation. Simplistically stated the exclusion applies to the appraised value of the property and improvements after redevelopment, less the prior tax assessment value.

The exclusion reduces property taxes on a front-end-loaded sliding scale for five years based on the following schedule: Year 1 - 90%, Year 2 - 70%, Year 3 - 50%, Year 4 - 30%, and Year 5 - 10%. This results in a net tax savings of approximately 50% in total over the five-year period when the exclusion applies.

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