



# **BROWNFIELDS REVITALIZATION INCENTIVE PROGRAM**

Presentation to:

Maryland Business Tax Reform Commission Business  
Incentives in the Tax Code Subcommittee

Submitted by:

Maryland Department of Business and Economic Development

January 25, 2010

# **BROWNFIELDS REVITALIZATION INCENTIVE PROGRAM**

The **Brownfields Revitalization Incentive Program (BRIP)** was approved by the Legislature in 1997 in conjunction with Maryland Department of Environment's Voluntary Cleanup Program (VCP). BRIP is administered by the Maryland Department of Business and Economic Development (DBED). The purpose of this program is to encourage participation in the VCP and provide financial incentives for the redevelopment of properties previously used for commercial or industrial purposes within designated growth areas of participating jurisdictions. As of June 30, 2008, DBED has **approved 94 BRIP** projects of which 36 have received real property tax credits.

The program can provide the following incentives to assist with the redevelopment of brownfields:

- Potential purchasers or current site owners that intend to either apply to MDE's VCP or participate in the Oil Control Program may apply to BRIP for assistance with the cost of Phase I and Phase II assessments.
- Participants in the VCP or Oil Control Program that are an inculpable party can apply to BRIP for the site to be qualified to receive property tax credits and/or financial assistance for revitalization.
- Property tax credits, low interest loans, and partial grants under BRIP are based on the current condition of the site, as well as, the intended project's economic impact, timing and scope, creation and retention of employment, and private capital investment.

The 2000 legislative session approved changes that broadened the Department's ability to provide funding for assessments to a wider universe of eligible participants including those who have yet to enter into either of the MDE programs. The consolidation of the Department's financing programs during that same session has allowed for greater flexibility and overall financial resources. The Brownfields Reform Act of 2004 which became effective October 1, 2004, provided several key changes to the program that have allowed it to gain momentum and become an effective force in reclaiming abandoned and underutilized properties. The changes had a significant impact on the program as the Act simplified both the access and process of the VCP and BRIP and broadened the scope of eligible sites.

## **Participation by Jurisdictions**

Current participants are: County – Allegany, Anne Arundel, Baltimore, Baltimore City, Cecil, Dorchester, Frederick, Howard, Montgomery, Prince George's, Queen Anne's, Somerset, and Worcester; Municipalities – Colmar Manor, Cumberland, Frederick, Salisbury, and Taneytown.

In order to participate, local jurisdictions must either approve property tax credits pursuant to State statute or maintain a list of priority brownfields sites to assist with planning efforts. To date, all participants have approved property tax credits as provided for in the Tax-Property Article § 9-229. The article provides that if DBED determines that a site qualifies for

BRIP redevelopment incentives, the site is eligible for real property tax credits as well. The tax credit program provides that:

### **How the Program works?**

- I. *BRIP Financial Incentives.*** The Brownfields Revitalization Incentive Program (BRIP) provides financial incentives in the form of grants or low interest loans for the redevelopment of certain properties that are contaminated—or perceived to be contaminated—by hazardous materials or oil.
  - A. *Site Assessment Assistance.*** Assistance with up to 70% of the cost of Phase I and II environmental assessments may be in the form of low interest loans or grants. This assistance may be available to any site eligible for either of the MDE programs, even if owned by a responsible person (see explanation in Part III below). Assistance in grant form will need to be repaid, if within 12 months, the recipient has not entered the VCP or implemented a Corrective Action Plan for an oil site.
  - B. *Redevelopment Assistance.*** Assistance with up to 70% of the cost of remediation of eligible sites. Available for sites owned by inculpable persons and accepted into MDE's VCP or MDE's program for cleanup of oil contamination (see explanations in Part III below).
- II. *Eligibility for Real Property Tax Credits.*** If DBED determines that a site qualifies for BRIP redevelopment incentives, the site is eligible for real property tax credits as well. Credits may vary by jurisdiction, but generally:
  - The jurisdiction will provide a 50% credit on the property tax attributable to the increase of the site assessment, including improvements added within 5 years after the reassessment.
  - The jurisdiction will pay 30% of the increased property taxes to the BRIP Fund.
  - At the option of the jurisdiction, an additional 20% credit may be provided.
  - The tax credit is granted for a 5 year period.
  - If the site is located in a designated enterprise zone, an additional 5 years of credit may be granted by the jurisdiction.
- III. *Eligibility for BRIP Financial Incentives:*** The BRIP statute generally addresses eligibility for BRIP incentives in terms of the site's eligibility—not the applicant's. For a site to be eligible for BRIP incentives, the site must be:
  - A.** Located in a taxing jurisdiction that has elected to participate in the BRIP by either enacting local legislation authorizing the Brownfields real property tax credits or by submitting a list of its potential brownfields sites, ranked by order of priority for redevelopment;
  - B.** The property *must be* either:

- (1) Located in a densely populated urban center and be substantially underutilized, *or*
  - (2) An existing or former industrial or commercial site that poses a threat to public health or the environment.
- C. A site owned by a responsible person who would be eligible to participate in MDE's VCP is also eligible for environmental assessment assistance from BRIP.
- D. For redevelopment assistance, the site must be either (the following criteria address the fact that the site is either eligible for MDE's VCP program, or for MDE's program for cleanup of oil contamination):
- (1) A property eligible for MDE's Voluntary Cleanup Program that is owned or operated by an "inculpable person" (meaning someone who is not responsible for the contamination of the site, and who is not in the chain of title of the site); *or*
  - (2) A property subject to a corrective action plan approved by MDE to cleanup a property where there is a release, discharge, or threatened release of oil, and which is not owned or operated by a person responsible for the discharge.

IV. **Eligible Costs.** The statute permits a wide range of the costs of redevelopment to be paid with BRIP funds. As guidance, it states that the purpose of the program is to:

- Provide financial incentives for redevelopment of, brownfields sites; properties previously used for commercial or industrial purposes; and properties within locally designated growth areas;
- Prevent urban sprawl;
- Encourage economic revitalization; and
- Expand employment opportunities.

V. **Process**

- A. To apply for assessment assistance, an eligible applicant for (but not yet in) MDE's VCP program should submit the completed General Application and Brownfields Addendum, available from DBED.
- B. To apply for remediation assistance, an inculpable party must submit a copy of its completed VCP application (and Response Action Plan, if applicable) to DBED, along with the DBED General Application and Brownfields Addendum. If the property is a site subject to a Corrective Action Plan for contamination from oil, the applicant must submit DBED's General Application and Brownfields Addendum along with a copy of the Corrective Action Plan.

- C.** Within 30 days after receiving a complete application, DBED will determine whether the project is a “qualified Brownfields site” and as such eligible for assistance.
- D.** In determining eligibility, DBED will consider the criteria described above. In addition, DBED will consider:
- Local jurisdiction support for the project.
  - Feasibility of redevelopment
  - Overall economic development benefits
  - Degree of cleanup efforts as they relate to costs
  - Potential to attract or retain businesses
- E.** As part of the process, DBED will consult, as necessary, with MDE, the State Office of Planning, local officials, community and/or environmental groups, and public health experts.