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FEDERAL ACT STRENGTHENS SUCCESSFUL ILLINOIS BROWNFIELDS PROGRAM

By James Michel

In January, President George W. Bush signed the bipartisan Small Business Liability Relief and Brownfields Revitalization Act ("the Act"). Pub. L. No. 107-118, HR 2869 (2002). For Illinois, this means additional funding and more flexibility for a state brownfields program that is already one of the most successful in the nation.

Governor George H. Ryan recently praised the President's approval of the Act. "The Act will encourage the cleanup and redevelopment of old industrial properties, cleaning up our environment, creating new jobs and protecting small business from frivolous lawsuits," said Ryan. "This will enhance the already successful programs in Illinois."

Brownfields are abandoned, unused, or underused industrial and commercial properties that have potential for redevelopment. Behind the leadership of the Illinois Environmental Protection Agency ("Illinois EPA"), Illinois has cleaned up roughly 150 acres of brownfields. According to the Illinois EPA, funding from the Act will help the state provide for the clean up of over twice as much brownfield property in the coming years.

"Although we don't know what the [Act's] guidelines are yet, we have built a program that will be able to meld any financial or technical assistance that might come out of the Act," said Steve Colantino, director of the Illinois EPA's Brownfields Assistance program.

Some of the state's brownfield

projects have included the redevelopment of major industrial sites in Chicago and surrounding areas. For example, increased federal funding could go towards the redevelopment of the former US Steel site in Chicago or a portion of the city's Lake Calumet industrial area. Both sites are projected to produce hundreds of new jobs and several acres of new parkland.

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Illinois' success with brownfield clean up and redevelopment has been due in large part to the state's establishment of redevelopment grant and loan programs. Since their inception a few years ago, these programs have issued 44 grants to several Illinois communities. Those grants, totaling approximately \$3.5 million, have been provided to brownfields projects throughout the state. With increased funding that Illinois will receive from the Act, the Illinois EPA projects that the state will clean up and redevelop over 400 acres of brownfields by the end of next year, according to Maggie Carson, spokesperson for the Illinois EPA's

Bureau of Land Support. "Every expectation has been fulfilled – funding has been given to communities small and large," said Carson. "The Act reinforces and adds to the grant and loan programs already in place."

Furthermore, the state prides itself on structuring these programs around the needs of the communities, according to Colantino. "We let the communities tell us what is important and this doesn't necessarily mean jobs," he said.

Therefore, the true success, said Colantino, comes from the partnerships that the state creates with its communities—an initiative that other states cannot take credit for. "We partner with the local and federal government to leverage funds and orchestrate a partnership that has been hugely successful," he said. "We might have a modest program—one that is the most targeted, compressed, and used program in the state—but a lot of people will agree that we have a foundation that is proven."

Aside from funding, the Act also reforms the federal Superfund law. 42 U.S.C. § 9601 (1980). The Act will provide federal liability protection for entities that have undertaken the redevelopment on brownfield sites to prevent harmful or unnecessary litigation. Pub. L. No. 107-118, §§ 221-223 (2002). Because of the Act, prospective purchasers, neighboring property owners, and innocent landowners of brownfields will have the benefit of both state and federal liability protection.