

115<sup>TH</sup> CONGRESS  
1<sup>ST</sup> SESSION

# H. R. 3017

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## AN ACT

To amend the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 to reauthorize and improve the brownfields program, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Brownfields Enhance-  
3 ment, Economic Redevelopment, and Reauthorization Act  
4 of 2017”.

5 **SEC. 2. REDEVELOPMENT CERTAINTY FOR GOVERN-**  
6 **MENTAL ENTITIES.**

7 Section 101(20)(D) of the Comprehensive Environ-  
8 mental Response, Compensation, and Liability Act of  
9 1980 (42 U.S.C. 9601(20)(D)) is amended by striking  
10 “ownership or control” and all that follows through “by  
11 virtue” and inserting “ownership or control through sei-  
12 zure or otherwise in connection with law enforcement ac-  
13 tivity, or through bankruptcy, tax delinquency, abandon-  
14 ment, or other circumstances in which the government ac-  
15 quires title by virtue”.

16 **SEC. 3. PETROLEUM BROWNFIELD ENHANCEMENT.**

17 Section 101(39)(D)(ii)(II) of the Comprehensive En-  
18 vironmental Response, Compensation, and Liability Act of  
19 1980 (42 U.S.C. 9601(39)(D)(ii)(II)) is amended by  
20 amending item (bb) to read as follows:

21 “(bb) is a site for which there is no  
22 viable responsible party and that is deter-  
23 mined by the Administrator or the State,  
24 as appropriate, to be a site that will be as-  
25 sessed, investigated, or cleaned up by a  
26 person that is not potentially liable for

1 cleaning up the site under this Act or any  
2 other law pertaining to the cleanup of pe-  
3 troleum products; and”.

4 **SEC. 4. CLARIFICATION OF LEASEHOLDER INTEREST.**

5 Section 101(40) of the Comprehensive Environmental  
6 Response, Compensation, and Liability Act of 1980 (42  
7 U.S.C. 9601(40)) is amended—

8 (1) in the matter preceding subparagraph (A),  
9 by striking “(or a tenant of a person) that acquires  
10 ownership of” and inserting “who acquires owner-  
11 ship of, or a leasehold interest in,”;

12 (2) in subparagraph (A), by inserting “or the  
13 leasehold interest in the facility” before the period at  
14 the end;

15 (3) in subparagraph (B)—

16 (A) in clause (ii), by inserting “with re-  
17 spect to a person who acquires ownership of a  
18 facility. The Administrator shall establish  
19 standards and practices with respect to a per-  
20 son who acquires a leasehold interest in a facil-  
21 ity” before the period at the end; and

22 (B) in clause (iii), by inserting “, or acqui-  
23 sition of a leasehold interest,” after “time of  
24 purchase”;

1           (4) in subparagraph (H)(i)(II), by inserting “,  
2     by the instruments by which the leasehold interest in  
3     the facility is acquired after January 11, 2002,”  
4     after “financed”; and

5           (5) by adding at the end the following:

6           “(I) LEASEHOLDERS.—In the case of a  
7     person holding a leasehold interest in a facil-  
8     ity—

9           “(i) the leasehold interest in the facil-  
10     ity—

11           “(I) is for a term of not less than  
12     5 years; and

13           “(II) grants the person control  
14     of, and access to, the facility; and

15           “(ii) the person is responsible for the  
16     management of all hazardous substances  
17     at the facility.”.

18     **SEC. 5. EXPANDED ELIGIBILITY FOR NONPROFIT ORGANI-**  
19           **ZATIONS.**

20           (a) NONPROFIT ORGANIZATIONS.—Section 104(k)(1)  
21     of the Comprehensive Environmental Response, Com-  
22     pensation, and Liability Act of 1980 (42 U.S.C.  
23     9604(k)(1)) is amended—

24           (1) in subparagraph (G), by striking “or” after  
25     the semicolon;

1           (2) in subparagraph (H), by striking the period  
2           at the end and inserting a semicolon; and

3           (3) by adding at the end the following:

4                   “(I) an organization described in section  
5                   501(c)(3) of the Internal Revenue Code of 1986  
6                   and exempt from taxation under section 501(a)  
7                   of that Code;

8                   “(J) a limited liability corporation in which  
9                   all managing members are organizations de-  
10                  scribed in subparagraph (I) or limited liability  
11                  corporations whose sole members are organiza-  
12                  tions described in subparagraph (I);

13                  “(K) a limited partnership in which all  
14                  general partners are organizations described in  
15                  subparagraph (I) or limited liability corpora-  
16                  tions whose sole members are organizations de-  
17                  scribed in subparagraph (I); or

18                  “(L) a qualified community development  
19                  entity (as defined in section 45D(c)(1) of the  
20                  Internal Revenue Code of 1986).”.

21           (b) CONFORMING AMENDMENTS.—Section 104(k) of  
22           the Comprehensive Environmental Response, Compensa-  
23           tion, and Liability Act of 1980 (42 U.S.C. 9604(k)) is  
24           amended—

25                   (1) in paragraph (3)—

1 (A) in subparagraph (A)(ii)—

2 (i) by striking “or nonprofit organiza-  
3 tions”; and

4 (ii) by striking “entity or organiza-  
5 tion” and inserting “eligible entity”; and

6 (B) in subparagraph (B)(ii)—

7 (i) by striking “or other nonprofit or-  
8 ganization”; and

9 (ii) by striking “or nonprofit organiza-  
10 tion”; and

11 (2) in paragraph (6)(A), by striking “or non-  
12 profit organizations”.

13 **SEC. 6. TREATMENT OF PUBLICLY OWNED BROWNFIELD**  
14 **SITES.**

15 Section 104(k) of the Comprehensive Environmental  
16 Response, Compensation, and Liability Act of 1980 (42  
17 U.S.C. 9604) is amended—

18 (1) in paragraph (2), by adding at the end the  
19 following:

20 “(C) EXEMPTION FOR CERTAIN PUBLICLY  
21 OWNED BROWNFIELD SITES.—Notwithstanding  
22 any other provision of law, an eligible entity de-  
23 scribed in any of subparagraphs (A) through  
24 (H) of paragraph (1) may receive a grant under  
25 this paragraph for property acquired by that el-

1 eligible entity prior to January 11, 2002, even if  
2 such eligible entity does not qualify as a bona  
3 fide prospective purchaser, so long as the eligi-  
4 ble entity has not caused or contributed to a re-  
5 lease or threatened release of a hazardous sub-  
6 stance at the property.”;

7 (2) in paragraph (3), by adding at the end the  
8 following:

9 “(E) EXEMPTION FOR CERTAIN PUBLICLY  
10 OWNED BROWNFIELD SITES.—Notwithstanding  
11 any other provision of law, an eligible entity de-  
12 scribed in any of subparagraphs (A) through  
13 (H) of paragraph (1) may receive a grant or  
14 loan under this paragraph for property acquired  
15 by that eligible entity prior to January 11,  
16 2002, even if such eligible entity does not qual-  
17 ify as a bona fide prospective purchaser, so long  
18 as the eligible entity has not caused or contrib-  
19 uted to a release or threatened release of a haz-  
20 ardous substance at the property.”; and

21 (3) in paragraph (4)(B)(iii)—

22 (A) by striking “up to 25 percent of the”;

23 and

1 (B) by inserting “described in any of sub-  
2 paragraphs (A) through (H) of paragraph (1)”  
3 after “eligible entities”.

4 **SEC. 7. REMEDIATION GRANT ENHANCEMENT.**

5 Section 104(k)(3)(A)(ii) of the Comprehensive Envi-  
6 ronmental Response, Compensation, and Liability Act of  
7 1980 (42 U.S.C. 9604(k)(3)(A)(ii)) is amended by strik-  
8 ing “\$200,000 for each site to be remediated” and insert-  
9 ing “\$500,000 for each site to be remediated, which limit  
10 may be waived by the Administrator, but not to exceed  
11 a total of \$750,000 for each site, based on the anticipated  
12 level of contamination, size, or ownership status of the  
13 site”.

14 **SEC. 8. MULTIPURPOSE BROWNFIELDS GRANTS.**

15 Section 104(k) of the Comprehensive Environmental  
16 Response, Compensation, and Liability Act of 1980 (42  
17 U.S.C. 9604(k)) is amended—

18 (1) by redesignating paragraphs (4) through  
19 (12) as paragraphs (5) through (13), respectively;

20 (2) in paragraph (3)(A), by striking “Subject to  
21 paragraphs (4) and (5)” and inserting “Subject to  
22 paragraphs (5) and (6)”;

23 (3) by inserting after paragraph (3) the fol-  
24 lowing:

25 “(4) MULTIPURPOSE BROWNFIELDS GRANTS.—



1           “(A) IN GENERAL.—Subject to subpara-  
2 graph (D) and paragraphs (5) and (6), the Ad-  
3 ministrator shall establish a program to provide  
4 multipurpose grants to an eligible entity based  
5 on the criteria under subparagraph (C) and the  
6 considerations under paragraph (3)(C), to carry  
7 out inventory, characterization, assessment,  
8 planning, or remediation activities at 1 or more  
9 brownfield sites in an area proposed by the eli-  
10 gible entity.

11           “(B) GRANT AMOUNTS.—

12           “(i) INDIVIDUAL GRANT AMOUNTS.—  
13 Each grant awarded under this paragraph  
14 shall not exceed \$1,000,000.

15           “(ii) CUMULATIVE GRANT  
16 AMOUNTS.—The total amount of grants  
17 awarded for each fiscal year under this  
18 paragraph may not exceed 15 percent of  
19 the amounts made available for the fiscal  
20 year to carry out this subsection.

21           “(C) CRITERIA.—In awarding a grant  
22 under this paragraph, the Administrator shall  
23 consider the extent to which the eligible entity  
24 is able—

1           “(i) to provide an overall plan for re-  
2           vitalization of the 1 or more brownfield  
3           sites in the proposed area in which the  
4           multipurpose grant will be used;

5           “(ii) to demonstrate a capacity to con-  
6           duct the range of activities that will be  
7           funded by the multipurpose grant; and

8           “(iii) to demonstrate that a multipur-  
9           pose grant will meet the needs of the 1 or  
10          more brownfield sites in the proposed area.

11          “(D) CONDITION.—As a condition of re-  
12          ceiving a grant under this paragraph, each eli-  
13          gible entity shall expend the full amount of the  
14          grant not later than the date that is 5 years  
15          after the date on which the grant is awarded to  
16          the eligible entity, unless the Administrator pro-  
17          vides an extension.

18          “(E) OWNERSHIP.—An eligible entity that  
19          receives a grant under this paragraph may not  
20          expend any of the grant funds on remediation  
21          of a brownfield site until such time as the eligi-  
22          ble entity owns the brownfield site.”; and

23          (4) by striking “(2) or (3)” each place it ap-  
24          pears and inserting “(2), (3), or (4)”.

1 **SEC. 9. ADMINISTRATIVE COSTS FOR GRANT RECIPIENTS.**

2 Paragraph (5) of section 104(k) of the Comprehen-  
3 sive Environmental Response, Compensation, and Liabil-  
4 ity Act of 1980 (42 U.S.C. 9604(k)) (as redesignated by  
5 section 8 of this Act) is amended—

6 (1) in subparagraph (B)—

7 (A) in clause (i)—

8 (i) by striking subclause (III); and

9 (ii) by redesignating subclauses (IV)  
10 and (V) as subclauses (III) and (IV), re-  
11 spectively;

12 (B) by striking clause (ii);

13 (C) by redesignating clause (iii) as clause  
14 (ii); and

15 (D) in clause (ii) (as redesignated by sub-  
16 paragraph (C) of this paragraph), by striking  
17 “Notwithstanding clause (i)(IV)” and inserting  
18 “Notwithstanding clause (i)(III)”; and

19 (2) by adding at the end the following:

20 “(E) ADMINISTRATIVE COSTS.—

21 “(i) IN GENERAL.—An eligible entity  
22 may use up to 5 percent of the amounts  
23 made available under a grant or loan  
24 under this subsection for administrative  
25 costs.

1                   “(ii) RESTRICTION.—For purposes of  
2                   clause (i), the term ‘administrative costs’  
3                   does not include—

4                   “(I) investigation and identifica-  
5                   tion of the extent of contamination of  
6                   a brownfield site;

7                   “(II) design and performance of  
8                   a response action; or

9                   “(III) monitoring of a natural re-  
10                  source.”.

11 **SEC. 10. RENEWABLE ENERGY ON BROWNFIELD SITES.**

12           Paragraph (6) of section 104(k) of the Comprehen-  
13           sive Environmental Response, Compensation, and Liabil-  
14           ity Act of 1980 (42 U.S.C. 9604(k)) (as redesignated by  
15           section 8 of this Act) is amended by adding at the end  
16           of subparagraph (C) the following:

17                   “(xi) The extent to which a grant  
18                   would facilitate the production of renew-  
19                   able energy on the site.”.

20 **SEC. 11. SMALL COMMUNITY TECHNICAL ASSISTANCE**  
21 **GRANTS.**

22           (a) IN GENERAL.—Section 128(a)(1)(B) of the Com-  
23           prehensive Environmental Response, Compensation, and  
24           Liability Act of 1980 (42 U.S.C. 9628(a)(1)(B)) is  
25           amended—

1 (1) in clause (ii)—

2 (A) in subclause (I), by striking “; or” and  
3 inserting a semicolon;

4 (B) in subclause (II), by striking the pe-  
5 riod at the end and inserting “; or”; and

6 (C) by adding at the end the following:

7 “(III) assist small communities,  
8 Indian tribes, rural areas, or dis-  
9 advantaged areas in carrying out ac-  
10 tivities described in section  
11 104(k)(7)(A) with respect to  
12 brownfield sites.”; and

13 (2) by adding at the end the following:

14 “(iii) SMALL COMMUNITIES, INDIAN  
15 TRIBES, RURAL AREAS, AND DISADVAN-  
16 TAGED AREAS.—

17 “(I) IN GENERAL.—To make  
18 grants to States or Indian tribes  
19 under clause (ii)(III), the Adminis-  
20 trator may use not more than  
21 \$1,500,000 of the amounts made  
22 available to carry out section  
23 104(k)(7) in each fiscal year.

1                   “(II) LIMITATION.—Each grant  
2                   made under subclause (I) may be not  
3                   more than \$20,000.

4                   “(iv) DEFINITIONS.—In this subpara-  
5                   graph:

6                   “(I) DISADVANTAGED AREA.—  
7                   The term ‘disadvantaged area’ means  
8                   a community with an annual median  
9                   household income that is less than 2/  
10                  3 of the statewide annual median  
11                  household income, as determined by  
12                  the President based on the latest  
13                  available decennial census.

14                  “(II) SMALL COMMUNITY.—The  
15                  term ‘small community’ means a com-  
16                  munity with a population of not more  
17                  than 10,000 individuals, as deter-  
18                  mined by the President based on the  
19                  latest available decennial census.”.

20                  (b) CONFORMING AMENDMENT.—Section 104(g)(1)  
21 of the Comprehensive Environmental Response, Com-  
22 pensation, and Liability Act of 1980 (42 U.S.C.  
23 9604(g)(1)) is amended by inserting “or section  
24 128(a)(1)(B)(ii)(III)” after “under this section”.

1 **SEC. 12. BROWNFIELDS FUNDING.**

2 Paragraph (13) of section 104(k) of the Comprehen-  
3 sive Environmental Response, Compensation, and Liabil-  
4 ity Act of 1980 (42 U.S.C. 9604(k)) (as redesignated by  
5 section 8 of this Act) is amended to read as follows:

6 “(13) AUTHORIZATION OF APPROPRIATIONS.—

7 There is authorized to be appropriated to carry out  
8 this subsection \$200,000,000 for each of fiscal years  
9 2018 through 2022.”.

10 **SEC. 13. STATE RESPONSE PROGRAM FUNDING.**

11 Section 128(a)(3) of the Comprehensive Environ-  
12 mental Response, Compensation, and Liability Act of  
13 1980 (42 U.S.C. 9628(a)(3)) is amended to read as fol-  
14 lows:

15 “(3) FUNDING.—There is authorized to be ap-  
16 propriated to carry out this subsection \$50,000,000  
17 for each of fiscal years 2018 through 2022.”.

Passed the House of Representatives November 30,  
2017.

Attest:

*Clerk.*

115<sup>TH</sup> CONGRESS  
1<sup>ST</sup> SESSION

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To amend the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 to reauthorize and improve the brownfields program, and for other purposes.