



## Legislation to Encourage Brownfield Redevelopment

### HB168

June 2019

To encourage brownfield redevelopment throughout Ohio, the undersigned support the passage of HB168: a bill to establish an affirmative defense to a release or threatened release of hazardous substances from a facility for certain bona fide prospective purchasers.

Brownfields are found in every county throughout the state, in both rural and urban communities. These blighted sites discourage investment and create barriers to job creation and economic development. Brownfield redevelopment often involves more time and increased costs, and the environmental contamination increases liability to purchasers and developers. Because of this, their redevelopment is often passed over.

While incentives are still needed to offset the increased cost of redeveloping brownfields, HB168 can encourage brownfield redevelopment by incorporating the bona fide purchaser defense (BFPD) into Ohio law. HB168 would:

- **Better align Ohio's law with the federal BFPD standards.** Currently, liability protection under the federal BFPD does not provide liability protection under Ohio law.
- **Place Ohio on equal footing with neighboring states.** Michigan's Baseline Environmental Assessment (BEA) program, similar to the BFPD, averaged 1,032 issuances per year between 1995 and 2015, while Ohio's current VAP Covenant-not-to-Sue (CNS) averaged 26 per year during that same time period. Ohio's brownfields redevelopment is far below neighboring states. **HB168 can fill this gap.**
- **Encourage brownfield redevelopment by offering a more cost-effective means for returning brownfields to productive use.** The BFPD is self-certifying, and oftentimes does not require a full-blown cleanup of a property. The BFPD can be utilized for lightly contaminated sites, while heavily contaminated sites will still utilize the Voluntary Action Program (VAP).

HB168 addresses an important gap in Ohio's economic development, and therefore, we encourage the Legislature to fully support this legislation.

- ❖ Greater Ohio Policy Center
- ❖ NAIOP Ohio
- ❖ Ohio Economic Development Association
- ❖ Ohio Chamber of Commerce
- ❖ Ohio Municipal League
- ❖ Ohio Mayors Alliance
- ❖ Brownfield Restoration Group LLC
- ❖ Hemisphere Brownfield Group LLC
- ❖ LaBella Associates