



General Assembly

February Session, 2002

Raised Bill No. 5544

LCO No. 1975

Referred to Committee on Environment

Introduced by:
(ENV)

AN ACT CONCERNING WEST ROCK RIDGE STATE PARK.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 4 of special act 75-80 is amended to read as
2 follows (*Effective from passage*):

3 (a) Before any transfer, development or change in use, including
4 proposals for changes in use which necessitate the approval of any
5 state or local board or agency, of real property or interests therein
6 within the above West Rock Ridge conservation area may be
7 undertaken, the owner of such property or interests therein shall first
8 notify in writing, by [registered or] certified mail, return receipt
9 requested, the commissioner of environmental protection of such
10 intention to transfer, develop or change the use of such property. Such
11 notice shall include a description of the property and a price at which
12 the state may purchase the property. Such notice shall be recorded on
13 the land records in the town in which such property is located. For the
14 purposes of this section, "transfer" shall include the selling, leasing or
15 otherwise disposing of such property or any interest therein. No
16 transfer, development or change of use of such property may be
17 entered into except as hereinafter provided. Any development or

18 change of use which occurs, and any purchase, other than the state,
19 who acquires property within said conservation area without proper
20 notice having been given to the state and without prior waiver by the
21 state of its right to acquire, shall remain subject to the state's right to
22 acquire by eminent domain.

23 (b) An owner of real property within the boundaries of said
24 conservation area who is under an option, contract or bond for deed to
25 sell, lease or otherwise dispose of such property shall be subject to
26 subsection (a) of this section.

27 Sec. 2. Section 5 of special act 75-80, as amended by section 2 of
28 special act 76-47, is amended to read as follows (*Effective from passage*):

29 (a) Within ninety days after such notice has been so given, the
30 commissioner of environmental protection shall give written notice to
31 the property owner by [registered or] certified mail, return receipt
32 requested, of the state's desire to acquire such land and the state shall
33 have the right to acquire the interest, or any mutually agreeable lesser
34 interest, in the land which such property owner has declared his intent
35 to transfer, develop, or change the use thereof, provided such
36 acquisition procedures shall commence within a reasonable time
37 thereof not to exceed two years.

38 (b) If the commissioner of environmental protection fails to give
39 notice, as provided in subsection (a) of this section, or gives notice to
40 the property owner by [registered or] certified mail, return receipt
41 requested, of the state's desire not to acquire such land, the state shall
42 have waived its right to acquire such land at that time in accordance
43 with the provisions of this act, subject to subsections (d) and (e) of this
44 section. Such waiver of the right to acquire the land shall terminate one
45 hundred eighty days following the expiration of the ninety-day period
46 or following receipt by the property owner of notice of the state's
47 desire not to purchase pursuant to this section. The landowner shall
48 record the state's notice or an affidavit attesting to the state's failure to
49 provide timely notice on the land records of the town in which the

50 property is located.

51 (c) Within six months after notice has been given by the state, of its
52 desire to acquire such land, as provided in subsection (a) of this
53 section, the property owner shall sell the land to the state, or, if the
54 parties cannot agree upon the amount to be paid therefor, the state
55 may proceed to acquire the land by eminent domain in accordance
56 with the procedure prescribed in section 48-12 of the general statutes.

57 (d) If the state fails to acquire the land or to file a statement of
58 compensation within two years after notice has been given by the state
59 of its desire to acquire the land, as provided in subsection (a) of this
60 section, the state shall have waived its rights to acquire such land in
61 accordance with the terms of this act, with regard to such transfer,
62 development or change of use, provided any subsequent transfer,
63 development, or change in use shall be subject to the provisions of this
64 act.

65 (e) Notwithstanding the provisions of [subsection] subsections (b)
66 and (d) of this section, if the property owner [thereafter] proposes to
67 transfer, develop or change the use upon terms different than those
68 described in its notice to the state or at a price less than the price
69 contained in the notice to the state, such property owner shall first
70 notify the commissioner of environmental protection of such proposal,
71 in the manner provided in subsection (a) of this section, and the terms
72 of such proposed transfer or development, and the state shall have the
73 option to acquire such land upon such terms and may thereupon, in
74 the same manner and within the same time limitations as are provided
75 in subsections (a) to (c), inclusive, of this section, proceed to acquire
76 such land.

77 Sec. 3. Section 6 of special act 75-80 is amended to read as follows
78 (*Effective from passage*):

79 The failure to send any notice in writing required under sections 4
80 and 5 of this act by [registered or] certified mail, return receipt

81 requested, shall not constitute noncompliance with the provisions of
82 said sections if such failure is waived by the addressee either expressly
83 or by such addressee's actions evidencing receipt of such written
84 notice.

85 Sec. 4. Section 7 of special act 75-80 is amended to read as follows
86 (*Effective from passage*):

87 [(a) A copy of each notice required by sections 4 and 5 of this act
88 shall be sent by the party giving such notice to the town clerk of the
89 municipality in which the land is situated and such town clerk shall
90 make all such notices part of the appropriate land records.]

91 (a) The failure to [send] record on the land records the notice or
92 affidavit required under [this subsection] sections 4 and 5 of this act
93 may be cured at any time by the state or the property owner, provided
94 any third party purchasing such real property, or any interest therein,
95 where a copy of the notice has not been filed in the appropriate town
96 clerk's office shall have the right to maintain any legal or equitable
97 action against the party failing to file the required notice in the town
98 clerk's office.

99 [(b) The secretary of the state shall direct the town clerk of the
100 municipality in which the land is situated to record notice of this act in
101 the appropriate land records within thirty days from the effective date
102 of this act.]

103 (b) No state or municipal board or agency may approve any
104 application for development, transfer or change in use for any land
105 governed by this special act unless the applicant provides copies of the
106 notices or affidavit required pursuant to sections 4 and 5 of this act.

107 (c) Any person who develops, transfers or changes the use of,
108 including obtaining approval from a state or local board or agency for
109 a change in use any property in the West Rock Ridge conservation area
110 without complying with the notice and certification provisions of

111 subsection (c) of this section shall be liable for a civil penalty (1) in the
112 case of a development or change in use, an amount equivalent to three
113 times the difference between the fair market value of such property
114 immediately prior to any development, change in use or approval for a
115 change in use occurring prior thereto, whichever is earlier, and the
116 present fair market value of such property, or (2) in the case of a
117 transfer of such property, an amount equivalent to twenty-five per cent
118 of the consideration for such transfer. The attorney general at the
119 request of the commissioner of environmental protection, shall bring
120 an action in the superior court for the judicial district of Hartford-New
121 Britain at Hartford to enforce the provisions of this subsection and any
122 such action shall have precedence in the order of trial as provided in
123 section 52-191 of the general statutes.

124 Sec. 5. Section 4 of special act 79-92 is amended to read as follows
125 (*Effective from passage*):

126 (a) Before any transfer, development or change in use, including
127 proposals for changes in use which necessitate the approval of any
128 state or local board or agency, of real property or interests therein
129 within the above West Rock Ridge conservation area supplement may
130 be undertaken, the owner of such property or interests therein shall
131 first notify in writing, by [registered or] certified mail, return receipt
132 requested, the commissioner of environmental protection of such
133 intention to transfer, develop or change the use of such property. Such
134 notice shall include a description of the property and a price at which
135 the state may purchase the property. Such notice shall be recorded on
136 the land records in the town in which such property is located. For the
137 purposes of this section, "transfer" shall include the selling, leasing or
138 otherwise disposing of such property or any interest therein. No
139 transfer, development or change of use of such property may be
140 entered into except as hereinafter provided. Any development or
141 change of use which occurs, and any purchaser, other than the state,
142 who acquires property within said conservation area without proper
143 notice having been given to the state and without prior waiver by the

144 state of its right to acquire, shall remain subject to the state's right to
145 acquire by eminent domain.

146 (b) An owner of real property within the boundaries of said
147 conservation area supplement who is under an option, contract or
148 bond for deed to sell, lease or otherwise dispose of such property shall
149 be subject to subsection (a) of this section.

150 Sec. 6. Section 5 of special act 79-92 is amended to read as follows
151 (*Effective from passage*):

152 (a) Within ninety days after such notice has been so given, the
153 commissioner of environmental protection shall give written notice to
154 the property owner by [registered or] certified mail, return receipt
155 requested, of the state's desire to acquire such land and the state shall
156 have the right to acquire the interest, or any mutually agreeable lesser
157 interest, in the land which such property owner has declared his intent
158 to transfer, develop, or change the use thereof, provided such
159 acquisition procedures shall commence within a reasonable time
160 thereof not to exceed two years.

161 (b) If the commissioner of environmental protection fails to give
162 notice, as provided in subsection (a) of this section, or gives notice to
163 the property owner by [registered or] certified mail, return receipt
164 requested, of the state's desire not to acquire such land, the state shall
165 have waived its right to acquire such land at that time in accordance
166 with the provisions of this act, subject to subsections (d) and (e) of this
167 section. Such waiver of the right to acquire the land shall terminate one
168 hundred eighty days following the expiration of the ninety-day period
169 or following receipt by the property owner of notice of the state's
170 desire not to purchase pursuant to this section. The landowner shall
171 record the state's notice, or an affidavit attesting to the state's failure to
172 provide timely notice, on the land records of the town in which the
173 property is located.

174 (c) Within six months after notice has been given by the state, of its

175 desire to acquire such land, as provided in subsection (a) of this
176 section, the property owner shall sell the land to the state, or, if the
177 parties cannot agree upon the amount to be paid therefor, the state
178 may proceed to acquire the land by eminent domain in accordance
179 with the procedure prescribed in section 48-12 of the general statutes.

180 (d) If the state fails to acquire the land or to file a statement of
181 compensation within two years after notice has been given by the state
182 of its desire to acquire the land, as provided in subsection (a) of this
183 section, the state shall have waived its rights to acquire such land in
184 accordance with the terms of this act, with regard to such transfer,
185 development or change of use, provided any subsequent transfer,
186 development, or change in use shall be subject to the provisions of this
187 act.

188 (e) Notwithstanding the provisions of [subsection] subsections (b)
189 and (d) of this section, if the property owner [thereafter] proposes to
190 transfer, develop or change the use upon terms different than those
191 described in its notice to the state or at a price less than the price
192 contained in the notice to the state, such property owner shall first
193 notify the commissioner of environmental protection of such proposal,
194 in the manner provided in subsection (a) of this section, and the terms
195 of such proposed transfer or development, and the state shall have the
196 option to acquire such land upon such terms and may thereupon, in
197 the same manner and within the same time limitations as are provided
198 in subsections (a) to (c), inclusive, of this section proceed to acquire
199 such land.

200 Sec. 7. Section 6 of special act 79-92 is amended to read as follows
201 (*Effective from passage*):

202 The failure to send any notice in writing, required under sections 4
203 and 5 of this act by [registered or] certified mail, return receipt
204 requested, shall not constitute noncompliance with the provisions of
205 said sections if such failure is waived by the addressee either expressly
206 or by such addressee's actions evidencing receipt of such written

207 notice.

208 Sec. 8. Section 7 of special act 79-92 is amended to read as follows
209 (*Effective from passage*):

210 [(a) A copy of each notice required by sections 4 and 5 of this act
211 shall be sent by the party giving such notice to the town clerk of the
212 municipality in which the land is situated and such town clerk shall
213 make all such notices part of the appropriate land records.]

214 (a) The failure to [send] record on the land records the notice or
215 affidavit required under [this subsection] sections 4 and 5 of this act
216 may be cured at any time by the state or the property owner, provided
217 any third party purchasing such real property, or any interest therein,
218 where a copy of the notice has not been filed in the appropriate town
219 clerk's office shall have the right to maintain any legal or equitable
220 action against the party failing to file the required notice in the town
221 clerk's office.

222 [(b) The secretary of the state shall direct the town clerk of the
223 municipality in which the land is situated to record notice of this act in
224 the appropriate land records within thirty days from the effective date
225 of this act.]

226 (b) No state or municipal board or agency may approve any
227 application for development, transfer or change in use for any land
228 governed by this special act unless the applicant provides copies of the
229 notices or affidavit required pursuant to sections 4 and 5 of this act.

230 (c) Any person who develops, transfers or changes the use of,
231 including obtaining approval from a state or local board or agency for
232 a change in use, any property in the West Rock Ridge conservation
233 area supplement without complying with the notice and certification
234 provisions of subsection (c) of this section shall be liable for a civil
235 penalty (1) in the case of a development or change in use, an amount
236 equivalent to three times the difference between the fair market value

237 of such property immediately prior to any development change in use
238 or approval for a change in use occurring prior thereto whichever is
239 earlier, and the present fair market value of such property, or (2) in the
240 case of a transfer of such property, an amount equivalent to
241 twenty-five percent of the consideration for such transfer. The attorney
242 general at the request of the commissioner of environmental protection
243 shall bring an action in the superior court for the judicial district of
244 Hartford-New Britain at Hartford to enforce the provisions of this
245 subsection and any such action shall have precedence in the order of
246 trial as provided in section 52-191 of the general statutes.

247 Sec. 9. Section 23-9b of the general statutes is repealed and the
248 following is substituted in lieu thereof (*Effective from passage*):

249 (a) The Commissioner of Environmental Protection shall review the
250 West Rock Ridge conservation area established in special act 75-80, as
251 amended by special acts 76-47 and 77-49 and the West Rock Ridge
252 conservation area supplement established in special act 79-92, and
253 shall designate, within said areas, certain parcels for priority
254 acquisition by the state.

255 (b) The commissioner shall cause to be recorded on the land records
256 of the appropriate town for each such priority parcel a notice of the
257 requirements and restrictions on such parcels contained in special act
258 75-80, as amended by special acts 76-47 and 77-49 and special act 79-92,
259 including the requirement that each owner of any such property notify
260 the commissioner of any transfer, development or change in use,
261 including proposals for a change in use which necessitate the approval
262 of any state or local board or agency. On or before ninety days after
263 such recordation, the commissioner shall send, by registered mail,
264 return receipt requested, a copy of the notice, together with a
265 statement as to where the notice was filed, to the property owner at his
266 last-known address.

267 [(c) The owner of any land within the West Rock Ridge conservation
268 area or the West Rock Ridge conservation area supplement may satisfy

269 the notice requirements contained in special act 75-80, as amended by
270 special acts 76-47 and 77-49, or special act 79-92, by sending a notice in
271 writing, by registered or certified mail, return receipt requested, to the
272 commissioner of such owner's intention to transfer, develop or change
273 the use of such property. Prior to any transfer, development or change
274 in use of the property, the owner shall certify in writing that he has
275 sent such notice to the commissioner and shall include in such
276 certification the return receipt of such notice by the commissioner.
277 Such certification shall be filed on the land records of the appropriate
278 town together with any documentation of such transfer, development
279 or change in use.

280 (d) No state or municipal board or agency may approve any
281 application for development, transfer or change in use for any real
282 property located within the West Rock Ridge conservation area or the
283 West Rock Ridge conservation area supplement unless the applicant
284 provides the certification required under subsection (c) of this section.

285 (e) Any person who develops, transfers or changes the use of,
286 including obtaining approval from a state or local board or agency for
287 a change in use, any priority property for which the commissioner has
288 recorded notice in accordance with subsection (b) of this section,
289 without complying with the notice and certification provisions of
290 subsection (c) of this section, shall be liable for a civil penalty: (1) In the
291 case of a development or change in use, an amount equivalent to three
292 times the difference between the fair market value of such property
293 immediately prior to any development, change in use or approval for a
294 change in use occurring prior thereto, whichever is earlier, and the
295 present fair market value of such property, or (2) in the case of a
296 transfer of such property, an amount equivalent to five per cent of the
297 consideration for such transfer. The Attorney General, at the request of
298 the Commissioner of Environmental Protection, shall bring an action in
299 the superior court for the judicial district of Hartford to enforce the
300 provisions of this subsection and any such action shall have
301 precedence in the order of trial as provided in section 52-191.]

This act shall take effect as follows:	
Section 1	<i>from passage</i>
Sec. 2	<i>from passage</i>
Sec. 3	<i>from passage</i>
Sec. 4	<i>from passage</i>
Sec. 5	<i>from passage</i>
Sec. 6	<i>from passage</i>
Sec. 7	<i>from passage</i>
Sec. 8	<i>from passage</i>
Sec. 9	<i>from passage</i>

ENV

Joint Favorable C/R

GAE