



AN ACT CONCERNING LAND AND OPEN SPACE.

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

1 Section 1. Section 12-107e of the general statutes, as amended by
2 section 118 of public act 01-195, is repealed and the following is
3 substituted in lieu thereof (*Effective October 1, 2002*):

4 (a) The planning commission of any municipality in preparing a
5 plan of development for such municipality may designate upon such
6 plan areas which it recommends for preservation as areas of open
7 space land, provided such designation is approved by a majority vote
8 of the legislative body of such municipality. Land included in any area
9 so designated upon such plan as finally adopted may be classified as
10 open space land for purposes of property taxation or payments in lieu
11 thereof if there has been no change in the use of such area which has
12 adversely affected its essential character as an area of open space land
13 between the date of the adoption of such plan and the date of such
14 classification.

15 (b) An owner of land included in any area designated as open space
16 land upon any plan as finally adopted may apply for its classification
17 as open space land on any grand list of a municipality by filing a
18 written application for such classification with the assessor thereof not
19 earlier than thirty days before or later than thirty days after the
20 assessment date, provided in a year in which a revaluation of all real

21 property in accordance with section 12-62 becomes effective such
22 application may be filed not later than ninety days after such
23 assessment date. The assessor shall determine whether there has been
24 any change in the area designated as an area of open space land upon
25 the plan of development which adversely affects its essential character
26 as an area of open space land and, if the assessor determines that there
27 has been no such change, said assessor shall classify such land as open
28 space land and include it as such on the grand list. An application for
29 classification of land as open space land shall be made upon a form
30 prescribed by the Commissioner of Agriculture and shall set forth a
31 description of the land, a general description of the use to which it is
32 being put, a statement of the potential liability for tax under the
33 provisions of section 12-504a to 12-504e, inclusive, and such other
34 information as the assessor may require to aid in determining whether
35 such land qualifies for such classification.

36 (c) Any land classified as open space pursuant to subsection (b) of
37 this section that a municipality has previously identified as land that
38 such municipality wants to acquire for open space, shall not be sold
39 while so assessed unless the municipality in which such land is located
40 has been notified of the owner's intent to sell. The owner of any such
41 land shall send notice of intent to sell via certified mail to the chief
42 elected official of the municipality in addition to the city council, board
43 of selectmen, board of assessors, planning board and conservation
44 commission of the municipality. For a period of one hundred twenty
45 days subsequent to such notification, said municipality shall have a
46 first refusal option to meet a bona fide offer to purchase said land.
47 After a public hearing, such municipality may assign such option to a
48 nonprofit conservation organization under such terms and conditions
49 as the chief elected official or board of selectmen of such municipality
50 deem appropriate. Such assignment shall be for the purpose of
51 continuing the open space use of the property. Said option period shall
52 run from the day following the latest date of deposit of any such
53 notices in the United States mails. No sale of such land shall be
54 consummated unless and until either the option period shall have

55 expired or the landowner shall have been notified, in writing, by the
56 chief elected official of the municipality or the board of selectmen that
57 the option will not be exercised. Such option may be exercised only by
58 written notice signed by the chief elected official or board of selectmen
59 of the municipality, mailed to the landowner by certified mail at such
60 address as may be specified in the landowner's notice of intention to
61 sell and recorded with the registry of deeds, within the option period.
62 If the option has been assigned to a nonprofit conservation
63 organization, as provided in this section, the written notice shall state
64 the name and address of such organization and the terms and
65 conditions of such assignment.

66 [(c)] (d) Failure to file an application for classification of land as
67 open space land within the time limit prescribed in subsection (b) of
68 this section and in the manner and form prescribed in subsection (b) of
69 this section shall be considered a waiver of the right to such
70 classification on such assessment list.

71 [(d)] (e) Any person aggrieved by the denial by an assessor of any
72 application for the classification of land as open space land shall have
73 the same rights and remedies for appeal and relief as are provided in
74 the general statutes for taxpayers claiming to be aggrieved by the
75 doings of assessors or boards of assessment appeals.

76 Sec. 2. Subsection (a) of section 12-504a of the general statutes is
77 repealed and the following is substituted in lieu thereof (*Effective*
78 *October 1, 2002*):

79 (a) Any land which has been classified by the record owner thereof
80 as open space land pursuant to section 12-107e, as amended by this act,
81 if sold by him within a period of ten years from the time he first caused
82 such land to be so classified, shall be subject to a conveyance tax
83 applicable to the total sales price of such land, which tax shall be in
84 addition to the tax imposed under sections 12-494 to 12-504, inclusive.
85 Said conveyance tax shall be at the following rate: (1) Ten per cent of
86 said total sales price if sold within the first year following the date of

87 such classification; (2) nine per cent if sold within the second year
88 following the date of such classification; (3) eight per cent if sold
89 within the third year following the date of such classification; (4) seven
90 per cent if sold within the fourth year following the date of such
91 classification; (5) six per cent if sold within the fifth year following the
92 date of such classification; (6) five per cent if sold within the sixth year
93 following the date of such classification; (7) four per cent if sold within
94 the seventh year following the date of such classification; (8) three per
95 cent if sold within the eighth year following the date of such
96 classification; (9) two per cent if sold within the ninth year following
97 the date of such classification; and (10) one per cent if sold within the
98 tenth year following the date of such classification. No conveyance tax
99 shall be imposed on such record owner by the provisions of sections
100 12-504a to 12-504f, inclusive, following the end of the tenth year after
101 the date of such classification by such record owner. No conveyance
102 tax shall be imposed on such record owner by the provisions of
103 sections 12-504a to 12-504f, inclusive, upon the sale of such property to
104 the municipality pursuant to the provisions of section 12-107e, as
105 amended by this act. Notwithstanding any other provision of the
106 general statutes, any moneys collected by a municipality pursuant to
107 this subsection shall be used for the purchase of open space within
108 such municipality.

109 Sec. 3. Section 7-131b of the general statutes is repealed and the
110 following is substituted in lieu thereof (*Effective October 1, 2002*):

111 (a) Any municipality may, by vote of its legislative body, by
112 purchase, condemnation, gift, devise, lease or otherwise, acquire any
113 land in any area designated as an area of open space land on any plan
114 of development of a municipality adopted by its planning commission
115 or any easements, interest or rights therein and enter into covenants
116 and agreements with owners of such open space land or interests
117 therein to maintain, improve, protect, limit the future use of or
118 otherwise conserve such open space land.

119 (b) Any owner who encumbers his property by conveying a less

120 than fee interest to any municipality under subsection (a) of this
121 section or to a nonprofit land conservation organization shall, upon
122 written application to the assessor or board of assessors of the
123 municipality in which the property is located, be entitled to a
124 revaluation of such property to reflect the existence of such
125 encumbrance, effective with respect to the next-succeeding assessment
126 list of such municipality. Any such owner shall be entitled to such
127 revaluation, notwithstanding the fact that he conveyed such less than
128 fee interest prior to October 1, 1971, provided no such revaluation shall
129 be effective retroactively.

130 (c) Any owner aggrieved by a revaluation under subsection (b) of
131 this section may appeal to the board of assessment appeals in
132 accordance with the provisions of sections 12-111, as amended, and 12-
133 112 and may appeal from the decision of the board of assessment
134 appeals in accordance with the provisions of section 12-117a.

135 Sec. 4. Subsection (b) of section 7-131g of the general statutes, as
136 amended by section 9 of public act 01-204 and section 73 of public act
137 01-9 of the June special session, is repealed and the following is
138 substituted in lieu thereof (*Effective October 1, 2002*):

139 (b) The Commissioner of Environmental Protection may make
140 grants under the open space and watershed land acquisition program
141 to: (1) Municipalities for acquisition of land for open space under
142 subdivisions (1) to (6), inclusive, of subsection (b) of section 7-131d, as
143 amended, in an amount not to exceed fifty per cent of the fair market
144 value of a parcel of land or interest in land proposed to be acquired; (2)
145 municipalities for acquisition of land for class I and class II water
146 supply protection under subdivision (5) of subsection (b) of said
147 section 7-131d, in an amount not to exceed [sixty-five] fifty per cent of
148 such value; (3) nonprofit land conservation organizations for
149 acquisition of land for open space or watershed protection under
150 subdivisions (1) to (6), inclusive, of subsection (b) of said section 7-
151 131d, in an amount not to exceed fifty per cent of such value; (4) water
152 companies for acquisition of land under subdivision (7) of subsection

153 (b) of said section 7-131d, in an amount not to exceed [forty] fifty per
154 cent of such value provided if such a company proposes in a grant
155 application that it intends to allow access to such land for recreational
156 uses, such company shall seek approval of the Commissioner of Public
157 Health for such access; and (5) distressed municipalities or targeted
158 investment communities, as defined in section 32-9p, as amended, or,
159 with the approval of the chief elected official or governing legislative
160 body of such a municipality or community, to a nonprofit land
161 conservation organization, for acquisition of land within that
162 municipality or community, for open space under subdivisions (1) to
163 (6), inclusive, of subsection (b) of said section 7-131d, in an amount not
164 to exceed sixty-five per cent of such value or for performance of work
165 in the restoration, enhancement or protection of resources in an
166 amount not to exceed fifty per cent of the cost of such work.
167 Applicants for grants under the program shall provide a copy of the
168 application to the chairperson of the review board established under
169 section 7-131e, as amended. The board shall provide comments to the
170 commissioner on pending applications as it deems necessary.

171 Sec. 5. Section 12-504c of the general statutes is repealed and the
172 following is substituted in lieu thereof (*Effective October 1, 2002*):

173 The provisions of section 12-504a shall not be applicable to the
174 following: (a) Transfers of land resulting from eminent domain
175 proceedings; (b) mortgage deeds; (c) deeds to or by the United States
176 of America, state of Connecticut or any political subdivision or agency
177 thereof; (d) strawman deeds and deeds which correct, modify,
178 supplement or confirm a deed previously recorded; (e) deeds between
179 husband and wife and parent and child when no consideration is
180 received, except that a subsequent nonexempt transfer by the grantee
181 in such cases shall be subject to the provisions of section 12-504a as it
182 would be if the grantor were making such nonexempt transfer; (f) tax
183 deeds; (g) deeds releasing any property which is a security for a debt
184 or other obligation; (h) deeds of partition; (i) deeds made pursuant to a
185 merger of a corporation; (j) deeds made by a subsidiary corporation to
186 its parent corporation for no consideration other than the cancellation

187 or surrender of the capital stock of such subsidiary; (k) property
188 transferred as a result of death by devise or otherwise and in such
189 transfer the date of acquisition or classification of the land for purposes
190 of sections 12-504a to 12-504f, inclusive, whichever is earlier, shall be
191 the date of acquisition or classification by the decedent; (l) deeds to any
192 corporation, trust or other entity, of land to be held in perpetuity for
193 educational, scientific, aesthetic or other equivalent passive uses,
194 provided such corporation, trust or other entity has received a
195 determination from the Internal Revenue Service that contributions to
196 it are deductible under applicable sections of the Internal Revenue
197 Code; (m) land subject to a covenant specifically set forth in the deed
198 transferring title to such land, which covenant is enforceable by the
199 town in which such land is located or by a nonprofit land conservation
200 organization, to refrain from selling or developing such land in a
201 manner inconsistent with its classification as farm land pursuant to
202 section 12-107c, as amended, forest land pursuant to section 12-107d,
203 as amended, or open space land pursuant to section 12-107e, as
204 amended, for a period of not less than eight years from the date of
205 transfer, if such covenant is violated the conveyance tax set forth in
206 this chapter shall be applicable at the rate which would have been
207 applicable at the date the deed containing the covenant was delivered
208 and, in addition, the town or any taxpayer therein may commence an
209 action to enforce such covenant; and (n) land the development rights to
210 which have been sold to the state under chapter 422a. If such action is
211 taken by such a taxpayer, the town shall be served as a necessary
212 party.

213 Sec. 6. Subsection (a) of section 23-75 of the general statutes is
214 repealed and the following is substituted in lieu thereof (*Effective*
215 *October 1, 2002*):

216 (a) The Commissioner of Environmental Protection shall acquire
217 land by purchase, gift or devise for the purposes set forth in section 23-
218 74. The title to any land acquired pursuant to sections 23-73 to 23-79,
219 inclusive, shall be vested in the state. In determining whether sites
220 shall be acquired, the department shall consider whether the site is: (1)

221 Identified as having high priority recreation, forestry, fishery, wildlife
222 or conservation value, including, but not limited to, the conservation of
223 grasslands and as being consistent with the state comprehensive plan
224 for outdoor recreation and the state plan of conservation and
225 development; (2) a prime natural feature of the Connecticut landscape,
226 such as a major river, its tributaries and watershed, mountainous
227 territory, an inland or coastal wetland, a significant littoral or estuarine
228 or aquatic site or any other important geologic feature; (3) habitat for
229 native plant or animal species listed as threatened or endangered or of
230 special concern in the data base or pursuant to the program established
231 under section 26-305, particularly areas identified as essential habitat
232 for such species; (4) a relatively undisturbed outstanding example of a
233 native ecological community which is now uncommon; or (5)
234 threatened with conversion to incompatible uses or contains sacred
235 sites or archaeological sites of state or national importance. In
236 acquiring a site that has been identified as having a high priority
237 recreation value, the department shall give priority to sites near
238 population centers.

239 Sec. 7. Subsection (f) of section 25-32 of the general statutes is
240 repealed and the following is substituted in lieu thereof (*Effective July*
241 *1, 2002*):

242 (f) Nothing in this section shall prevent the lease or change in use of
243 water company land to allow for recreational purposes that do not
244 require intense development or improvements for water supply
245 purposes, for leases of existing structures, or for radio towers or
246 telecommunications antennas on existing structures. For purposes of
247 this subsection, intense development includes golf courses, driving
248 ranges, tennis courts, ballfields, swimming pools and uses by
249 motorized vehicles, provided trails or pathways for pedestrians,
250 motorized wheelchairs or nonmotorized vehicles shall not be
251 considered intense development. In executing a lease of an existing
252 structure in accordance with this subsection, a water company may
253 grant an easement, declaration of covenant or a declaration of
254 preservation restriction to the state, through the Connecticut Historical

255 Commission or any state agency, to effect a preservation restriction, as
256 defined in section 47-42a, that is required as a condition to granting the
257 lessee a grant-in-aid pursuant to section 10-320d or similar subsequent
258 grant-in-aid program. A water company may grant the state a lien on
259 such leased structures to secure repayment of any grant-in-aid upon
260 the failure by the lessee to fulfill the terms of the grant.

This act shall take effect as follows:	
Section 1	<i>October 1, 2002</i>
Sec. 2	<i>October 1, 2002</i>
Sec. 3	<i>October 1, 2002</i>
Sec. 4	<i>October 1, 2002</i>
Sec. 5	<i>October 1, 2002</i>
Sec. 6	<i>October 1, 2002</i>
Sec. 7	<i>July 1, 2002</i>

ENV *Joint Favorable Subst.*