



General Assembly

Amendment

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LCO No. 3388

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Offered by:

REP. STRATTON, 17th Dist.

REP. SHARKEY, 103rd Dist.

To: Subst. Senate Bill No. 563

File No. 281

Cal. No.

"AN ACT CONCERNING LAND AND OPEN SPACE."

1 After line 261, insert the following:

2 "Sec. 8. Section 4 of special act 75-80 is amended to read as follows
3 (*Effective from passage*):

4 (a) Before any transfer, development or change in use, including
5 proposals for changes in use which necessitate the approval of any
6 state or local board or agency, of real property or interests therein
7 within the above West Rock Ridge conservation area may be
8 undertaken, the owner of such property or interests therein shall first
9 notify in writing, by [registered or] certified mail, return receipt
10 requested, the commissioner of environmental protection of such
11 intention to transfer, develop or change the use of such property. Such
12 notice shall include a description of the property and a price at which
13 the state may purchase the property. Such notice shall be recorded on
14 the land records in the town in which such property is located. For the

15 purposes of this section, "transfer" shall include the selling, leasing or
16 otherwise disposing of such property or any interest therein. No
17 transfer, development or change of use of such property may be
18 entered into except as hereinafter provided. Any development or
19 change of use which occurs, and any purchase, other than the state,
20 who acquires property within said conservation area without proper
21 notice having been given to the state and without prior waiver by the
22 state of its right to acquire, shall remain subject to the state's right to
23 acquire by eminent domain.

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

28 Sec. 9. Section 5 of special act 75-80, as amended by section 2 of
29 special act 76-47, is amended to read as follows (*Effective from passage*):

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

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

47 or following receipt by the property owner of notice of the state's
48 desire not to purchase pursuant to this section. The landowner shall
49 record the state's notice or an affidavit attesting to the state's failure to
50 provide timely notice on the land records of the town in which the
51 property is located.

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

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

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

78 Sec. 10. Section 6 of special act 75-80 is amended to read as follows

79 (Effective from passage):

80 The failure to send any notice in writing required under sections 4
81 and 5 of [this act] special act 75-80 by [registered or] certified mail,
82 return receipt requested, shall not constitute noncompliance with the
83 provisions of said sections if such failure is waived by the addressee
84 either expressly or by such addressee's actions evidencing receipt of
85 such written notice.

86 Sec. 11. Section 7 of special act 75-80 is amended to read as follows
87 (Effective from passage):

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

92 (a) The failure to [send] record on the land records the notice or
93 affidavit required under [this subsection] sections 4 and 5 of special act
94 75-80 may be cured at any time by the state or the property owner,
95 provided any third party purchasing such real property, or any
96 interest therein, where a copy of the notice has not been filed in the
97 appropriate town clerk's office shall have the right to maintain any
98 legal or equitable action against the party failing to file the required
99 notice in the town clerk's office.

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

104 (b) No state or municipal board or agency may approve any
105 application for development, transfer or change in use for any land
106 governed by this special act unless the applicant provides copies of the
107 notices or affidavit required pursuant to sections 4 and 5 of special act
108 75-80.

109 (c) Any person who develops, transfers or changes the use of,
110 including obtaining approval from a state or local board or agency for
111 a change in use any property in the West Rock Ridge conservation area
112 without complying with the notice and certification provisions of
113 subsection (c) of this section shall be liable for a civil penalty (1) in the
114 case of a development or change in use, an amount equivalent to three
115 times the difference between the fair market value of such property
116 immediately prior to any development, change in use or approval for a
117 change in use occurring prior thereto, whichever is earlier, and the
118 present fair market value of such property, or (2) in the case of a
119 transfer of such property, an amount equivalent to twenty-five per cent
120 of the consideration for such transfer. The attorney general at the
121 request of the commissioner of environmental protection, shall bring
122 an action in the superior court for the judicial district of Hartford-New
123 Britain at Hartford to enforce the provisions of this subsection and any
124 such action shall have precedence in the order of trial as provided in
125 section 52-191 of the general statutes.

126 Sec. 12. Section 4 of special act 79-92 is amended to read as follows
127 (*Effective from passage*):

128 (a) Before any transfer, development or change in use, including
129 proposals for changes in use which necessitate the approval of any
130 state or local board or agency, of real property or interests therein
131 within the above West Rock Ridge conservation area supplement may
132 be undertaken, the owner of such property or interests therein shall
133 first notify in writing, by [registered or] certified mail, return receipt
134 requested, the commissioner of environmental protection of such
135 intention to transfer, develop or change the use of such property. Such
136 notice shall include a description of the property and a price at which
137 the state may purchase the property. Such notice shall be recorded on
138 the land records in the town in which such property is located. For the
139 purposes of this section, "transfer" shall include the selling, leasing or
140 otherwise disposing of such property or any interest therein. No
141 transfer, development or change of use of such property may be
142 entered into except as hereinafter provided. Any development or

143 change of use which occurs, and any purchaser, other than the state,
144 who acquires property within said conservation area without proper
145 notice having been given to the state and without prior waiver by the
146 state of its right to acquire, shall remain subject to the state's right to
147 acquire by eminent domain.

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

152 Sec. 13. Section 5 of special act 79-92 is amended to read as follows
153 (*Effective from passage*):

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

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

175 property is located.

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

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

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

202 Sec. 14. Section 6 of special act 79-92 is amended to read as follows
203 (*Effective from passage*):

204 The failure to send any notice in writing, required under sections 4
205 and 5 of [this act] special act 79-92 by [registered or] certified mail,
206 return receipt requested, shall not constitute noncompliance with the

207 provisions of said sections if such failure is waived by the addressee
208 either expressly or by such addressee's actions evidencing receipt of
209 such written notice.

210 Sec. 15. Section 7 of special act 79-92 is amended to read as follows
211 (*Effective from passage*):

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

216 (a) The failure to [send] record on the land records the notice or
217 affidavit required under [this subsection] sections 4 and 5 of special act
218 75-80 may be cured at any time by the state or the property owner,
219 provided any third party purchasing such real property, or any
220 interest therein, where a copy of the notice has not been filed in the
221 appropriate town clerk's office shall have the right to maintain any
222 legal or equitable action against the party failing to file the required
223 notice in the town clerk's office.

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

228 (b) No state or municipal board or agency may approve any
229 application for development, transfer or change in use for any land
230 governed by this special act unless the applicant provides copies of the
231 notices or affidavit required pursuant to sections 4 and 5 of special act
232 75-80.

233 (c) Any person who develops, transfers or changes the use of,
234 including obtaining approval from a state or local board or agency for
235 a change in use, any property in the West Rock Ridge conservation
236 area supplement without complying with the notice and certification
237 provisions of subsection (c) of this section shall be liable for a civil

238 penalty (1) in the case of a development or change in use, an amount
239 equivalent to three times the difference between the fair market value
240 of such property immediately prior to any development change in use
241 or approval for a change in use occurring prior thereto whichever is
242 earlier, and the present fair market value of such property, or (2) in the
243 case of a transfer of such property, an amount equivalent to
244 twenty-five percent of the consideration for such transfer. The attorney
245 general at the request of the commissioner of environmental protection
246 shall bring an action in the superior court for the judicial district of
247 Hartford-New Britain at Hartford to enforce the provisions of this
248 subsection and any such action shall have precedence in the order of
249 trial as provided in section 52-191 of the general statutes.

250 Sec. 16. Section 23-9b of the general statutes is repealed and the
251 following is substituted in lieu thereof (*Effective from passage*):

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

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

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

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

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

304 precedence in the order of trial as provided in section 52-191.]"