



General Assembly

January Session, 2003

**Committee Bill No. 5793**

LCO No. 4665

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 purchaser, 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] special act 75-80, as amended by this

81 act, by certified mail, return receipt requested, shall not constitute  
82 noncompliance with the provisions of said sections if such failure is  
83 waived by the addressee either expressly or by such addressee's  
84 actions evidencing receipt of such written 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 special act  
93 75-80 may be cured at any time by the state or the property owner,  
94 provided any third party purchasing such real property, or any  
95 interest therein, where a copy of the notice has not been filed in the  
96 appropriate town clerk's office shall have the right to maintain any  
97 legal or equitable action against the party failing to file the required  
98 notice in the town 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 special act  
107 75-80.

108 (c) Any person who develops, transfers or changes the use of,  
109 including obtaining approval from a state or local board or agency for  
110 a change in use of any property in the West Rock Ridge conservation

111 area without complying with the notice and certification provisions of  
112 subsection (c) of this section shall be liable for a civil penalty (1) in the  
113 case of a development or change in use, an amount equivalent to three  
114 times the difference between the fair market value of such property  
115 immediately prior to any development, change in use or approval for a  
116 change in use occurring prior thereto, whichever is earlier, and the  
117 present fair market value of such property, or (2) in the case of a  
118 transfer of such property, an amount equivalent to twenty-five per cent  
119 of the consideration for such transfer. The Attorney General at the  
120 request of the Commissioner of Environmental Protection, shall bring  
121 an action in the superior court for the judicial district of Hartford-New  
122 Britain at Hartford to enforce the provisions of this subsection and any  
123 such action shall have precedence in the order of trial as provided in  
124 section 52-191 of the general statutes.

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

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

144 notice having been given to the state and without prior waiver by the  
145 state of its right to acquire, shall remain subject to the state's right to  
146 acquire by eminent domain.

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

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

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

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

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

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

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

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

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

207 waived by the addressee either expressly or by such addressee's  
208 actions evidencing receipt of such written notice.

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

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

215 (a) The failure to [send] record on the land records the notice or  
216 affidavit required under [this subsection] sections 4 and 5 of special act  
217 79-92 may be cured at any time by the state or the property owner,  
218 provided any third party purchasing such real property, or any  
219 interest therein, where a copy of the notice has not been filed in the  
220 appropriate town clerk's office shall have the right to maintain any  
221 legal or equitable action against the party failing to file the required  
222 notice in the town clerk's office.

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

227 (b) No state or municipal board or agency may approve any  
228 application for development, transfer or change in use for any land  
229 governed by this special act unless the applicant provides copies of the  
230 notices or affidavit required pursuant to sections 4 and 5 of special act  
231 79-92.

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

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

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

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

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

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

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

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

302 provisions of this subsection and any such action shall have  
303 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>

**Statement of Purpose:**

To clarify and enhance the procedures regarding the disposition of private properties in West Rock Ridge State Park.

*[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]*

Co-Sponsors: REP. SHARKEY, 88th Dist.; REP. VILLANO, 91st Dist.

H.B. 5793