



General Assembly

Substitute Bill No. 5793

January Session, 2003

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, as amended by this act, may be cured at any time by the state or
94 the property owner, provided any third party purchasing such real
95 property, or any interest therein, where a copy of the notice has not
96 been filed in the appropriate town clerk's office shall have the right to
97 maintain any legal or equitable action against the party failing to file
98 the required 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, as amended by this act.

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 provisions of subsection (a) of
112 section 4 of special act 75-80, as amended by this act, shall be liable for
113 a civil penalty (1) in the case of a development or change in use, in an
114 amount equivalent to three times the difference between the fair
115 market value of such property immediately prior to any development,
116 change in use or approval for a change in use occurring prior thereto,
117 whichever is earlier, and the present fair market value of such

118 property, or (2) in the case of a transfer of such property, in an amount
119 equivalent to twenty-five per cent of the consideration for such
120 transfer. The Attorney General at the request of the Commissioner of
121 Environmental Protection, shall bring an action in the superior court
122 for the judicial district of Hartford to enforce the provisions of this
123 subsection and any such action shall have precedence in the order of
124 trial as provided in 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, as amended by this act, may be cured at any time by the state or
218 the property owner, provided any third party purchasing such real
219 property, or any interest therein, where a copy of the notice has not
220 been filed in the appropriate town clerk's office shall have the right to
221 maintain any legal or equitable action against the party failing to file
222 the required 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, as amended by this act.

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 provisions of
236 subsection (a) of section 4 of special act 79-92, as amended by this act,
237 shall be liable for a civil penalty (1) in the case of a development or
238 change in use, in an amount equivalent to three times the difference
239 between the fair market value of such property immediately prior to
240 any development change in use or approval for a change in use
241 occurring prior thereto whichever is earlier, and the present fair
242 market value of such property, or (2) in the case of a transfer of such
243 property, in an amount equivalent to twenty-five per cent of the
244 consideration for such transfer. The Attorney General at the request of
245 the Commissioner of Environmental Protection shall bring an action in
246 the superior court for the judicial district of Hartford to enforce the
247 provisions of this subsection and any such action shall have

248 precedence in the order of trial as provided in section 52-191 of the
249 general statutes.

250 Sec. 9. 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, as amended by this act, and
255 the West Rock Ridge conservation area supplement established in
256 special act 79-92, as amended by this act, and shall designate, within
257 said areas, certain parcels for priority 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 as amended by this act, including the requirement that each owner of
263 any such property notify the commissioner of any transfer,
264 development or change in use, including proposals for a change in use
265 which necessitate the approval of any state or local board or agency.
266 On or before ninety days after such recordation, the commissioner
267 shall send, by registered mail, return receipt requested, a copy of the
268 notice, together with a statement as to where the notice was filed, to
269 the property owner at his 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.]

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 Subst.-LCO*

JUD *Joint Favorable*

GAE *Joint Favorable*