



**Substitute Senate Bill No. 1215**

**Public Act No. 05-285**

**AN ACT CONCERNING THE SPECIAL CONTAMINATED PROPERTY REMEDIATION AND INSURANCE FUND AND OPEN SPACE AND ECONOMIC DEVELOPMENT IN THE CITY OF SHELTON.**

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

Section 1. Section 22a-133u of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

(a) The Commissioner of Environmental Protection may use any funds in the Special Contaminated Property Remediation and Insurance Fund established in section 22a-133t other than any funds which are necessary to carry out any other responsibility of said commissioner under this section, for (1) removal or mitigation of a spill, as defined in section 22a-452c, upon or into land or waters of the state if the owner of the property associated with such spill is found to be an innocent landowner, as defined in section 22a-452d, and for administrative costs related to such removal or mitigation or (2) administrative costs related to the remediation of a property for which a loan was made under subsection (b) of this section provided not more than five thousand dollars shall be disbursed from the fund for such purpose. Said commissioner may use any funds received in connection with the issuance of a covenant not to sue or a settlement

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by said commissioner of a claim related to contaminated real property, or any funds received pursuant to section 22a-16a, for removal or mitigation of a spill, as defined in section 22a-452c, for which the owner of the property associated with such spill would be liable except for a covenant not to sue entered into pursuant to sections 22a-133aa or 22a-133bb and for administrative costs related to such removal or mitigation. Said commissioner may use any funds received pursuant to section 22a-134e, as amended by this act, and subsection (c) of section 22a-133aa, for expenses related to the administration of sections 22a-134 to 22a-134e, inclusive, as amended by this act, and for expenses related to administration of sections 22a-133x, 22a-133y, 22a-133aa and 22a-133bb.

(b) The Commissioner of Economic and Community Development, [with the approval of the advisory board established in subsection (e) of this section,] may use any funds deposited into the Special Contaminated Property Remediation and Insurance Fund pursuant to [section 12-63f or] section 3 of public act 96-250\* for (1) loans to municipalities, individuals or firms for Phase II environmental site assessments, Phase III investigations of real property or for any costs of demolition, including related lead and asbestos removal or abatement costs or costs related to the remediation of environmental pollution, undertaken to prepare contaminated real property for development subsequent to any Phase III investigation, and (2) expenses related to administration of this subsection provided such expenses may not exceed one hundred twenty-five thousand dollars per year.

(c) Any person, firm, corporation or municipality which has received funds under subsection (b) of this section shall repay such funds to the Commissioner of Economic and Community Development, according to a schedule and terms which said commissioner deems appropriate. The principal amount of the loan shall be due at a time deemed appropriate by the commissioner as

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follows: (1) Upon the sale of the property or lease of the property, in whole or in part, which is the subject of such evaluation or demolition; (2) upon the sale or release of a municipality's liens on such property; or (3) upon the approval by the Commissioner of Environmental Protection of a final remedial action report submitted in accordance with section 22a-133y. The Commissioner of Economic and Community Development may require repayment of the loan amortized over a period of no more than five years from the sale of the property, sale of the lien or approval by the Commissioner of Environmental Protection of the final remedial action report. No repayment shall be required, other than interest for the period that the loan is outstanding, if completion of remediation of environmental pollution at or on the property, or the sale or lease of such property, is economically infeasible due to the cost of such remediation. The commissioner may require partial repayment of the loan only if partial repayment is economically feasible. Any funds received by said commissioner as repayment under this subsection shall be deposited into the Special Contaminated Property Remediation and Insurance Fund. The terms of any loan agreement entered into by said commissioner under said subsection may provide for the collection of interest on the loan which may vary according to whether the applicant is a municipality or a private entity and the duration of the repayment schedule for such loan provided the interest cost to the borrower provided for in such agreement shall not exceed the interest cost to the state on borrowings of like terms.

(d) The amount of any funds received under subsection (b) of this section by any entity other than a municipality shall be a lien against the real property for which the funds were disbursed. A lien pursuant to this section shall not be effective unless (1) a certificate of lien is filed in the land records of each town in which the real estate is located, describing the real estate, the amount of the lien, the name of the owner as grantor, and (2) the Commissioner of Economic and

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Community Development mails a copy of the certificate to such persons and to all other persons of record holding an interest in such real estate over which the commissioner's lien is entitled to priority. Any action for the foreclosure of such lien shall be brought by the Attorney General in the name of the state in the superior court for the judicial district in which the property subject to such lien is situated, or, if such property is located in two or more judicial districts, in the superior court for any one such judicial district, and the court may limit the time for redemption or order the sale of such property or make such other or further decree as it judges equitable.

(e) (1) There is established a Special Contaminated Property Remediation and Insurance Fund Advisory Board to [review applications for loans from said fund under this section] advise and review, on a yearly basis, the progress of the fund. The board shall consist of one member representing a municipality, appointed by the speaker of the House of Representatives; one member representing a bank, appointed by the majority leader of the Senate; one member who has experience in the field of contaminated property remediation, appointed by the majority leader of the House of Representatives; one member representing a municipality, appointed by the president pro tempore of the Senate; one member representing a bank, appointed by the minority leader of the House of Representatives; one member who has experience in the field of contaminated property remediation, appointed by the Governor; and one member representing a municipality, appointed by the minority leader of the Senate. The board shall annually elect one of its members to serve as chairperson.

(2) The Commissioner of Economic and Community Development [, in consultation with said board] shall establish criteria for (A) making disbursements under subsection (b) of this section which criteria shall include, but not be limited to, anticipated commercial value of the property, potential tax revenue to the relevant municipality,

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environmental or public health risk posed by the spill, potential community or economic development benefit to the relevant municipality, the status of any loans previously made under said subsection to the municipality and potential for restoration of an abandoned property, and (B) cancelling loans related to a property at which the borrower of the loan elects not to proceed with remediation. Such criteria shall further set forth the procedure for applying for a loan from the fund and the procedure to be used for evaluation of such an application. In approving any loan under said subsection to any person, firm or corporation, the [board] Commissioner of Economic and Community Development may consider the loan applicant's credit history and economic solvency, any plan of such applicant for business development, municipal support for the proposed use of the property and any existing indebtedness of such applicant to any entity. [Upon application for any such loan, the board shall make a recommendation to the Commissioner of Economic and Community Development regarding such loan. On or before February 1, 2003, and annually thereafter, said board and the Commissioner of Economic and Community Development shall submit a report to the joint standing committee of the General Assembly having cognizance of matters relating to the environment regarding the number of applications received, and the number and amounts of loans made in the preceding year, the names of the applicants, the time period between submission of application and the decision to grant or deny the loan, which applications were approved and which applications were denied and the reasons for denial. On or before February 1, 2003, the board shall recommend to the joint standing committee of the General Assembly whether the payments to the State Treasurer pursuant to section 12-63f are sufficient for the continued solvency of the Special Contaminated Property Remediation and Insurance Fund and whether such payments should continue.]

Sec. 2. Subsection (l) of section 22a-134e of the general statutes is

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repealed and the following is substituted in lieu thereof (*Effective from passage*):

(l) The fee specified in subsection (k) of this section shall be due in accordance with the following schedule: (1) Two thousand dollars shall be paid upon the filing of the notification required under section 22a-134a if the cost of remediation is less than one hundred thousand dollars; (2) six thousand dollars shall be paid upon filing of the notification required under section 22a-134a if the cost of remediation is equal to or greater than one hundred thousand dollars; (3) the balance, if any, shall be paid within thirty days of receipt from the commissioner of written approval of a remedial action plan or within thirty days of the issuance of an order, consent agreement or stipulated judgment, whichever is earlier; (4) any remaining balance shall be paid within thirty days after receipt of written notice from the commissioner that it is due; (5) any refund, if applicable, will be paid after receipt of a letter from the commissioner stating that no further action is required or after receipt of a letter of compliance. After the deposit of any appropriated funds, funds from the sale of bonds of the state or any contribution pursuant to section [12-63f,] 22a-16a, 22a-133t or 22a-133u, as amended by this act, or section 3 of public act 96-250\* to the Special Contaminated Property Remediation and Insurance Fund established under section 22a-133t, any amount received by the commissioner pursuant to this section shall be deposited into said fund.

Sec. 3. (*Effective from passage*) The Commissioner of Economic and Community Development shall revise the Assistance Agreement between the state of Connecticut, acting by the Department of Economic and Community Development, and the Shelton Economic Development Corporation, to provide that (1) the parcel of land identified in Phase I of such agreement is designated for open space purposes, (2) the parcel of land identified in Phase II of such agreement

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is designated for economic development, and (3) the state and the city of Shelton and their agents and assigns be held harmless with respect to such designations.

Sec. 4. Section 12-63f of the general statutes is repealed. (*Effective from passage*)

Approved July 13, 2005