



# Senate

General Assembly

**File No. 713**

January Session, 2005

Substitute Senate Bill No. 1215

*Senate, May 5, 2005*

The Committee on Commerce reported through SEN. LEBEAU of the 3rd Dist., Chairperson of the Committee on the part of the Senate, that the substitute bill ought to pass.

**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:

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 Section 22a-133u of the general statutes is repealed and  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

3 (a) The Commissioner of Environmental Protection may use any  
4 funds in the Special Contaminated Property Remediation and  
5 Insurance Fund established in section 22a-133t other than any funds  
6 which are necessary to carry out any other responsibility of said  
7 commissioner under this section, for (1) removal or mitigation of a  
8 spill, as defined in section 22a-452c, upon or into land or waters of the  
9 state if the owner of the property associated with such spill is found to  
10 be an innocent landowner, as defined in section 22a-452d, and for  
11 administrative costs related to such removal or mitigation or (2)  
12 administrative costs related to the remediation of a property for which

13 a loan was made under subsection (b) of this section provided not  
14 more than five thousand dollars shall be disbursed from the fund for  
15 such purpose. Said commissioner may use any funds received in  
16 connection with the issuance of a covenant not to sue or a settlement  
17 by said commissioner of a claim related to contaminated real property,  
18 or any funds received pursuant to section 22a-16a, for removal or  
19 mitigation of a spill, as defined in section 22a-452c, for which the  
20 owner of the property associated with such spill would be liable except  
21 for a covenant not to sue entered into pursuant to sections 22a-133aa or  
22 22a-133bb and for administrative costs related to such removal or  
23 mitigation. Said commissioner may use any funds received pursuant to  
24 section 22a-134e, as amended by this act, and subsection (c) of section  
25 22a-133aa, for expenses related to the administration of sections  
26 22a-134 to 22a-134e, inclusive, as amended by this act, and for  
27 expenses related to administration of sections 22a-133x, 22a-133y,  
28 22a-133aa and 22a-133bb.

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

42 (c) Any person, firm, corporation or municipality which has  
43 received funds under subsection (b) of this section shall repay such  
44 funds to the Commissioner of Economic and Community  
45 Development, according to a schedule and terms which said  
46 commissioner deems appropriate. The principal amount of the loan

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

73 (d) The amount of any funds received under subsection (b) of this  
74 section by any entity other than a municipality shall be a lien against  
75 the real property for which the funds were disbursed. A lien pursuant  
76 to this section shall not be effective unless (1) a certificate of lien is filed  
77 in the land records of each town in which the real estate is located,  
78 describing the real estate, the amount of the lien, the name of the  
79 owner as grantor, and (2) the Commissioner of Economic and  
80 Community Development mails a copy of the certificate to such  
81 persons and to all other persons of record holding an interest in such

82 real estate over which the commissioner's lien is entitled to priority.  
83 Any action for the foreclosure of such lien shall be brought by the  
84 Attorney General in the name of the state in the superior court for the  
85 judicial district in which the property subject to such lien is situated,  
86 or, if such property is located in two or more judicial districts, in the  
87 superior court for any one such judicial district, and the court may  
88 limit the time for redemption or order the sale of such property or  
89 make such other or further decree as it judges equitable.

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

106 (2) The Commissioner of Economic and Community Development [,  
107 in consultation with said board] shall establish criteria for (A) making  
108 disbursements under subsection (b) of this section which criteria shall  
109 include, but not be limited to, anticipated commercial value of the  
110 property, potential tax revenue to the relevant municipality,  
111 environmental or public health risk posed by the spill, potential  
112 community or economic development benefit to the relevant  
113 municipality, the status of any loans previously made under said  
114 subsection to the municipality and potential for restoration of an  
115 abandoned property, and (B) cancelling loans related to a property at

116 which the borrower of the loan elects not to proceed with remediation.  
117 Such criteria shall further set forth the procedure for applying for a  
118 loan from the fund and the procedure to be used for evaluation of such  
119 an application. In approving any loan under said subsection to any  
120 person, firm or corporation, the [board] Commissioner of Economic  
121 and Community Development may consider the loan applicant's credit  
122 history and economic solvency, any plan of such applicant for business  
123 development, municipal support for the proposed use of the property  
124 and any existing indebtedness of such applicant to any entity. [Upon  
125 application for any such loan, the board shall make a recommendation  
126 to the Commissioner of Economic and Community Development  
127 regarding such loan. On or before February 1, 2003, and annually  
128 thereafter, said board and the Commissioner of Economic and  
129 Community Development shall submit a report to the joint standing  
130 committee of the General Assembly having cognizance of matters  
131 relating to the environment regarding the number of applications  
132 received, and the number and amounts of loans made in the preceding  
133 year, the names of the applicants, the time period between submission  
134 of application and the decision to grant or deny the loan, which  
135 applications were approved and which applications were denied and  
136 the reasons for denial. On or before February 1, 2003, the board shall  
137 recommend to the joint standing committee of the General Assembly  
138 whether the payments to the State Treasurer pursuant to section 12-63f  
139 are sufficient for the continued solvency of the Special Contaminated  
140 Property Remediation and Insurance Fund and whether such  
141 payments should continue.]

142 Sec. 2. Subsection (l) of section 22a-134e of the general statutes is  
143 repealed and the following is substituted in lieu thereof (*Effective from*  
144 *passage*):

145 (l) The fee specified in subsection (k) of this section shall be due in  
146 accordance with the following schedule: (1) Two thousand dollars  
147 shall be paid upon the filing of the notification required under section  
148 22a-134a if the cost of remediation is less than one hundred thousand  
149 dollars; (2) six thousand dollars shall be paid upon filing of the

150 notification required under section 22a-134a if the cost of remediation  
 151 is equal to or greater than one hundred thousand dollars; (3) the  
 152 balance, if any, shall be paid within thirty days of receipt from the  
 153 commissioner of written approval of a remedial action plan or within  
 154 thirty days of the issuance of an order, consent agreement or stipulated  
 155 judgment, whichever is earlier; (4) any remaining balance shall be paid  
 156 within thirty days after receipt of written notice from the  
 157 commissioner that it is due; (5) any refund, if applicable, will be paid  
 158 after receipt of a letter from the commissioner stating that no further  
 159 action is required or after receipt of a letter of compliance. After the  
 160 deposit of any appropriated funds, funds from the sale of bonds of the  
 161 state or any contribution pursuant to section [12-63f,] 22a-16a, 22a-133t  
 162 or 22a-133u, as amended by this act, or section 3 of public act 96-250\*  
 163 to the Special Contaminated Property Remediation and Insurance  
 164 Fund established under section 22a-133t, any amount received by the  
 165 commissioner pursuant to this section shall be deposited into said  
 166 fund.

167       Sec. 3. (*Effective from passage*) The Commissioner of Economic and  
 168 Community Development shall revise the Assistance Agreement  
 169 between the state of Connecticut, acting by the Department of  
 170 Economic and Community Development, and the Shelton Economic  
 171 Development Corporation, to provide that (1) the parcel of land  
 172 identified in Phase I of such agreement is designated for open space  
 173 purposes, (2) the parcel of land identified in Phase II of such agreement  
 174 is designated for economic development, and (3) the state and the city  
 175 of Shelton and their agents and assigns be held harmless with respect  
 176 to such designations.

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

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>from passage</i>	22a-133u
Sec. 2	<i>from passage</i>	22a-134e(1)

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Sec. 3	<i>from passage</i>	New section
Sec. 4	<i>from passage</i>	Repealer section

**CE**      *Joint Favorable Subst.*

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either House thereof for any purpose:

### **OFA Fiscal Note**

#### **State Impact:**

<b>Agency Affected</b>	<b>Fund-Effect</b>	<b>FY 06 \$</b>	<b>FY 07 \$</b>
Department of Economic & Community Development	SCPRIIF - See Below	See Below	See Below
Department of Environmental Protection	None	None	None
Treasurer, Debt Serv.	GF - Potential Cost	See Below	See Below

Note: GF=General Fund

#### **Municipal Impact:**

<b>Municipalities</b>	<b>Effect</b>
Various Municipalities	Potential Grand List Increase

#### **Explanation**

Expansion of the use of the Special Contaminated Property Remediation and Insurance Fund (SCPRIIF) to include remediation will increase eligible costs and the use of the SCPRIIF resulting in an increase in fund expenditures for loans. In addition, limiting the SCPRIIF board duties could result in a minimal reduction in administrative costs. SCPRIIF loans are repaid to the state upon sale or lease of the property, or upon approval of a final remedial action report. Loans are forgiven under certain circumstances.

The total amount of loans approved and/or closed is approximately \$940,000 (ten projects). There are loan applications pending totaling \$570,000. No full loan applications were received in FY 04. The fund is capitalized through GO bond authorizations. To the degree that increasing the uses for which these funds may be used causes GO bond funds to be expended more rapidly than they otherwise would have been, there will be an increase in debt service costs in future

years. The unallocated balance for SCPRI as of March 31, 2005 is \$1.0 million.

To the degree that the provisions of the bill result in the remediation of greater number of contaminated properties, then it is anticipated to result in an increase in grand list value to municipalities.

The provisions of the bill concerning revising an assistance agreement between Shelton and the Department of Economic and Community Development have no fiscal impact.

**OLR Bill Analysis**

sSB 1215

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

This bill expands the purposes for which the Special Contaminated Remediation and Insurance Fund (SCPRIF) can be used. SCPRIF provides loans to towns, businesses, and developers to assess sites and demolish structures in preparation for remediation and development. Under current law, SCPRIF may be used only for assessment and demolition in preparation for remediation to prepare property for redevelopment after completion of an investigation. The bill adds the costs related to the remediation of contaminated property. It also allows the Department of Economic and Community Development (DECD) commissioner to extend the loan repayment period under the SCPRIF program.

The bill limits the role of the SCPRIF advisory board by eliminating its loan approval and administrative cost authority and making it advisory only. It also eliminates the requirements (1) that towns that have remediated a property pay a portion of the property tax revenue from it into SCPRIF and (2) that the DECD report information about the SCPRIF program to the Environment Committee.

The bill requires the DECD commissioner to revise the Assistance Agreement it has with the Shelton Economic Development Corporation, so that:

1. the parcel of land identified in Phase I of the agreement is designated for open space purposes,
2. the parcel of land identified in Phase II of the agreement is designated for economic development, and
3. the state and Shelton and their agents and "assigns" are held

harmless with respect to the designations.

It also makes technical and conforming changes.

EFFECTIVE DATE: Upon passage

## **SCPRIF**

### ***Loan Repayments***

Under current law, an entity receiving loan funds must repay DECD on a schedule the DECD commissioner deems appropriate, and the principal is due as follows: when (1) the portion of the property subject to the evaluation or demolition is sold or leased, (2) the municipality sells or releases liens on the property, or (3) the Department of Environmental Protection (DEP) commissioner approves the final remedial action report. Under the bill, the DECD commissioner may also choose to spread repayment over a period of up to five years from the sale of the property, sale of the lien, or the approval of the final DEP remedial action report.

### ***Advisory Board***

The bill eliminates the requirement that the SCPRIF advisory board (1) approve loans and administrative costs for the program and (2) review applications and make recommendations on them to DECD. It also eliminates the requirement that DECD consult with the board to establish program criteria. The bill, however, requires the board annually to advise DECD on the progress of the fund. By law, the Board's seven members are appointed by the legislature and governor.

### ***Reporting***

The bill also eliminates the requirement that DECD report to the Environment Committee on the number of applications received, the number and amount of loans made the preceding year, and other information.

### ***Tax Payment to SCPRIF***

The bill terminates, as of its effective date (upon passage), rather than January 1, 2006, the requirement that municipalities contribute part of the property taxes collected, which are deposited into the SCPRIF, on

certain contaminated sites for five years after they are remediated.

## **BACKGROUND**

### ***Legislative History***

The Senate referred the bill (File 316) to the Commerce Committee on April 20. On April 27, the committee favorably reported a substitute that added the Shelton provision.

## **COMMITTEE ACTION**

Environment Committee

Joint Favorable Substitute

Yea 26    Nay 0

Commerce Committee

Joint Favorable Substitute

Yea 18    Nay 0