



General Assembly

January Session, 2005

Raised Bill No. 1215

LCO No. 4011

04011_____ENV

Referred to Committee on Environment

Introduced by:
(ENV)

***AN ACT CONCERNING THE SPECIAL CONTAMINATED PROPERTY
REMEDiation AND INSURANCE FUND.***

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 Section 22a-133u of the general statutes is repealed and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. The board
93 shall consist of one member representing a municipality, appointed by
94 the speaker of the House of Representatives; one member representing
95 a bank, appointed by the majority leader of the Senate; one member
96 who has experience in the field of contaminated property remediation,
97 appointed by the majority leader of the House of Representatives; one
98 member representing a municipality, appointed by the president pro
99 tempore of the Senate; one member representing a bank, appointed by
100 the minority leader of the House of Representatives; one member who
101 has experience in the field of contaminated property remediation,
102 appointed by the Governor; and one member representing a
103 municipality, appointed by the minority leader of the Senate. The
104 board shall annually elect one of its members to serve as chairperson.]

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

117 loan from the fund and the procedure to be used for evaluation of such
118 an application. In approving any loan under said subsection to any
119 person, firm or corporation, the [board] Commissioner of Economic
120 and Community Development may consider the loan applicant's credit
121 history and economic solvency, any plan of such applicant for business
122 development, municipal support for the proposed use of the property
123 and any existing indebtedness of such applicant to any entity. [Upon
124 application for any such loan, the board shall make a recommendation
125 to the Commissioner of Economic and Community Development
126 regarding such loan. On or before February 1, 2003, and annually
127 thereafter, said board and the Commissioner of Economic and
128 Community Development shall submit a report to the joint standing
129 committee of the General Assembly having cognizance of matters
130 relating to the environment regarding the number of applications
131 received, and the number and amounts of loans made in the preceding
132 year, the names of the applicants, the time period between submission
133 of application and the decision to grant or deny the loan, which
134 applications were approved and which applications were denied and
135 the reasons for denial. On or before February 1, 2003, the board shall
136 recommend to the joint standing committee of the General Assembly
137 whether the payments to the State Treasurer pursuant to section 12-63f
138 are sufficient for the continued solvency of the Special Contaminated
139 Property Remediation and Insurance Fund and whether such
140 payments should continue.]

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

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

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

166 Sec. 3. Section 12-63f of the general statutes is repealed. (*Effective*
 167 *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(l)
Sec. 3	<i>from passage</i>	12-63f repealed

Statement of Purpose:

To abolish the Special Contaminated Property Remediation and Insurance Fund Advisory Board, to allow the Commissioner of Economic and Community Development to require repayment of loans from the Special Contaminated Property Remediation and Insurance Fund program within five years, and to repeal the payment to the state of receipts from certain properties subjected to environmental pollution remediation costs.

[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.]