



General Assembly

Substitute Bill No. 5038

February Session, 2006

* HB05038PD 031706 *

AN ACT CONCERNING THE USE OF EMINENT DOMAIN BY MUNICIPALITIES AND AUTHORIZING MUNICIPALITIES TO ESTABLISH SEPARATE RATES OF TAXATION.

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

1 Section 1. Section 8-125 of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective from passage*):

3 As used in this chapter:

4 [(a)] (1) "Redevelopment" means improvement by the rehabilitation
5 or demolition of structures, by the construction of new structures,
6 improvements or facilities, by the location or relocation of streets,
7 parks and utilities, by replanning or by two or more of these methods;

8 [(b)] (2) "Redevelopment area" means an area within the state which
9 is deteriorated, [deteriorating,] substandard or detrimental to the
10 safety, health, morals or welfare of the community. An area may
11 consist partly or wholly of vacant or unimproved land or of land with
12 structures and improvements thereon, and may include structures not
13 in themselves substandard or insanitary which are found to be
14 essential to complete an adequate unit of development, if the
15 redevelopment area is deteriorated, [deteriorating,] substandard or
16 detrimental. An area may include properties not contiguous to each
17 other. An area may include all or part of the territorial limits of any fire

18 district, sewer district, fire and sewer district, lighting district, village,
19 beach or improvement association or any other district or association,
20 wholly within a town and having the power to make appropriations or
21 to levy taxes, whether or not such entity is chartered by the General
22 Assembly;

23 [(c)] (3) A "redevelopment plan" shall include: (1) A description of
24 the redevelopment area and the condition, type and use of the
25 structures therein; (2) the location and extent of the land uses proposed
26 for and within the area, such as housing, recreation, business, industry,
27 schools, civic activities, open spaces or other categories of public and
28 private uses; (3) the location and extent of streets and other public
29 utilities, facilities and works within the area; (4) schedules showing the
30 number of families displaced by the proposed improvement, the
31 method of temporary relocation of such families and the availability of
32 sufficient suitable living accommodations at prices and rentals within
33 the financial reach of such families and located within a reasonable
34 distance of the area from which they are displaced; (5) present and
35 proposed zoning regulations in the redevelopment area; (6) any other
36 detail including financial aspects of redevelopment which, in the
37 judgment of the redevelopment agency authorized herein, is necessary
38 to give it adequate information. The plan shall also include a
39 preliminary statement describing the process for acquisition of each
40 parcel of real property;

41 [(d)] (4) "Planning agency" means the existing city or town plan
42 commission or, if such agency does not exist or is not created, the
43 legislative body or agency designated by it;

44 [(e)] (5) "Redeveloper" means any individual, group of individuals
45 or corporation or any municipality or other public agency including
46 any housing authority established pursuant to chapter 128;

47 [(f)] (6) "Real property" means land, subterranean or subsurface
48 rights, structures, any and all easements, air rights and franchises and
49 every estate, right or interest therein.

50 Sec. 2. Section 8-127 of the general statutes is repealed and the
51 following is substituted in lieu thereof (*Effective from passage*):

52 The redevelopment agency may prepare, or cause to be prepared, a
53 redevelopment plan and any redeveloper may submit a
54 redevelopment plan to the redevelopment agency, and such agency
55 shall immediately transmit such plan to the planning agency of the
56 municipality for its study. The planning agency may make a
57 comprehensive or general plan of the entire municipality as a guide in
58 the more detailed and precise planning of redevelopment areas. Such
59 plan and any modifications and extensions thereof shall show the
60 location of proposed redevelopment areas and the general location and
61 extent of use of land for housing, business, industry, communications
62 and transportation, recreation, public buildings and such other public
63 and private uses as are deemed by the planning agency essential to the
64 purpose of redevelopment. Appropriations by the municipality of any
65 amount necessary are authorized to enable the planning agency to
66 make such comprehensive or general plan. The redevelopment agency
67 shall request the written opinion of the planning agency on all
68 redevelopment plans prior to approving such redevelopment plans.
69 Before approving any redevelopment plan, the redevelopment agency
70 shall hold a public hearing thereon, notice of which shall be published
71 at least twice in a newspaper of general circulation in the municipality,
72 the first publication of notice to be not less than two weeks before the
73 date set for the hearing. At least thirty-five days prior to the public
74 hearing the redevelopment agency shall post the draft plan on the
75 Internet web site of the redevelopment agency, if any. The
76 redevelopment agency may approve any such redevelopment plan if,
77 following such hearing, it finds that: [(a)] (1) The area in which the
78 proposed redevelopment is to be located is a redevelopment area; [(b)]
79 (2) the carrying out of the redevelopment plan will result in materially
80 improving conditions in such area; [(c)] (3) sufficient living
81 accommodations are available within a reasonable distance of such
82 area or are provided for in the redevelopment plan for families
83 displaced by the proposed improvement, at prices or rentals within the

84 financial reach of such families; and [(d)] (4) the redevelopment plan is
85 satisfactory as to site planning, relation to the comprehensive or
86 general plan of the municipality and, except when the redevelopment
87 agency has prepared the redevelopment plan, the construction and
88 financial ability of the redeveloper to carry it out. No redevelopment
89 plan for a project which consists predominantly of residential facilities
90 shall be approved by the redevelopment agency in any municipality
91 having a housing authority organized under the provisions of chapter
92 128 except with the approval of such housing authority. The approval
93 of a redevelopment plan may be given by the legislative body or by
94 such agency as it designates to act in its behalf.

95 Sec. 3. Section 8-128 of the general statutes is repealed and the
96 following is substituted in lieu thereof (*Effective from passage*):

97 Within a reasonable time after its approval of the redevelopment
98 plan as hereinbefore provided, the redevelopment agency may
99 proceed with the acquisition or rental of real property by purchase,
100 lease, exchange or gift. The redevelopment agency may acquire real
101 property by eminent domain with the approval of the legislative body
102 of the municipality and in accordance with the provisions of sections 8-
103 129 to 8-133, inclusive, and this section. The legislative body in its
104 approval of a project under section 8-127 shall specify the time within
105 which real property is to be acquired. There shall be a separate vote on
106 the acquisition of each parcel to be acquired in accordance with the
107 redevelopment plan. No parcel of real property may be acquired by
108 eminent domain more than five years after approval of the
109 redevelopment plan unless the redevelopment agency submits
110 documentation to the legislative body sufficient for such legislative
111 body to determine that acquisition of such parcel is necessary to
112 implement the redevelopment plan. The time for acquisition may be
113 extended by the legislative body in accordance with section 48-6, upon
114 request of the redevelopment agency, provided the owner of the real
115 property consents to such request. Real property may be acquired
116 previous to the adoption or approval of the project area redevelopment

117 plan, provided the property acquired shall be located within an area
118 designated on the general plan as an appropriate redevelopment area
119 or within an area whose boundaries are defined by the planning
120 commission as an appropriate area for a redevelopment project, and
121 provided such acquisition shall be authorized by the legislative body.
122 The redevelopment agency may clear, repair, operate or insure such
123 property while it is in its possession or make site improvements
124 essential to preparation for its use in accordance with the
125 redevelopment plan.

126 Sec. 4. Section 8-129 of the general statutes is repealed and the
127 following is substituted in lieu thereof (*Effective from passage*):

128 (a) The redevelopment agency shall determine the compensation to
129 be paid to the persons entitled thereto for [such] real property [and] to
130 be taken pursuant to section 8-128, as amended by this act. The amount
131 of compensation may exceed the fair market value of the real property
132 and in determining such amount the redevelopment agency may
133 consider any factor it deems relevant, including, but not limited to, the
134 number of years of ownership and lost good will. As used in this
135 subsection, "good will" means the benefits that accrue to a business
136 from its location, reputation for dependability, skill or quality and any
137 other circumstances resulting in probable retention of old or
138 acquisition of new patronage.

139 (b) The redevelopment agency shall file a statement of
140 compensation, containing a description of the property to be taken and
141 the names of all persons having a record interest therein and setting
142 forth the amount of such compensation, and a deposit as provided in
143 section 8-130, with the clerk of the superior court for the judicial
144 district in which the property affected is located. Upon filing such
145 statement of compensation and deposit, the redevelopment agency
146 shall forthwith cause to be recorded, in the office of the town clerk of
147 each town in which the property is located, a copy of such statement of
148 compensation, such recording to have the same effect and to be treated

149 the same as the recording of a lis pendens, and shall forthwith give
150 notice, as provided in this section, to each person appearing of record
151 as an owner of property affected thereby and to each person appearing
152 of record as a holder of any mortgage, lien, assessment or other
153 encumbrance on such property or interest therein [(a)] (1) in the case of
154 any such person found to be residing within this state, by causing a
155 copy of such notice, with a copy of such statement of compensation, to
156 be served upon each such person by a state marshal, constable or
157 indifferent person, in the manner set forth in section 52-57, as
158 amended, for the service of civil process, and [(b)] (2) in the case of any
159 such person who is a nonresident of this state at the time of the filing
160 of such statement of compensation and deposit or of any such person
161 whose whereabouts or existence is unknown, by mailing to each such
162 person a copy of such notice and of such statement of compensation,
163 by registered or certified mail, directed to his last-known address, and
164 by publishing such notice and such statement of compensation at least
165 twice in a newspaper published in the judicial district and having daily
166 or weekly circulation in the town in which such property is located.
167 Any such published notice shall state that it is notice to the widow or
168 widower, heirs, representatives and creditors of the person holding
169 such record interest, if such person is dead. If, after a reasonably
170 diligent search, no last-known address can be found for any interested
171 party, an affidavit stating such fact, and reciting the steps taken to
172 locate such address, shall be filed with the clerk of the superior court
173 and accepted in lieu of mailing to the last-known address. Not less
174 than [twelve] forty-five days or more than ninety days after such
175 notice and such statement of compensation have been so served or so
176 mailed and first published, the redevelopment agency shall file with
177 the clerk of the superior court a return of notice setting forth the notice
178 given and, upon receipt of such return of notice, such clerk shall,
179 without any delay or continuance of any kind, issue a certificate of
180 taking setting forth the fact of such taking, a description of all the
181 property so taken and the names of the owners and of all other persons
182 having a record interest therein. The redevelopment agency shall cause
183 such certificate of taking to be recorded in the office of the town clerk

184 of each town in which such property is located. Upon the recording of
185 such certificate, title to such property in fee simple shall vest in the
186 municipality, and the right to just compensation shall vest in the
187 persons entitled thereto. At any time after such certificate of taking has
188 been so recorded, the redevelopment agency may repair, operate or
189 insure such property and enter upon such property, and take any
190 action that is proposed with regard to such property by the project
191 area redevelopment plan. The notice referred to above shall state that
192 [(1)] (A) not less than [twelve] forty-five days or more than ninety days
193 after service or mailing and first publication thereof, the
194 redevelopment agency shall file, with the clerk of the superior court for
195 the judicial district in which such property is located, a return setting
196 forth the notice given, [(2)] (B) upon receipt of such return, such clerk
197 shall issue a certificate for recording in the office of the town clerk of
198 each town in which such property is located, [(3)] (C) upon the
199 recording of such certificate, title to such property shall vest in the
200 municipality, the right to just compensation shall vest in the persons
201 entitled thereto and the redevelopment agency may repair, operate or
202 insure such property and enter upon such property and take any
203 action that may be proposed with regard thereto by the project area
204 redevelopment plan, and [(4)] (D) such notice shall bind the widow or
205 widower, heirs, representatives and creditors of each person named
206 therein who then or thereafter may be dead. When any redevelopment
207 agency acting on behalf of any municipality has acquired or rented real
208 property by purchase, lease, exchange or gift in accordance with the
209 provisions of this section, or in exercising its right of eminent domain
210 has filed a statement of compensation and deposit with the clerk of the
211 superior court and has caused a certificate of taking to be recorded in
212 the office of the town clerk of each town in which such property is
213 located as provided in this section, any judge of such court may, upon
214 application and proof of such acquisition or rental or such filing and
215 deposit and such recording, order such clerk to issue an execution
216 commanding a state marshal to put such municipality and the
217 redevelopment agency, as its agent, into peaceable possession of the
218 property so acquired, rented or condemned. The provisions of this

219 section shall not be limited in any way by the provisions of chapter
220 832.

221 Sec. 5. Section 8-189 of the general statutes is repealed and the
222 following is substituted in lieu thereof (*Effective from passage*):

223 The development agency may initiate a development project by
224 preparing a project plan therefor in accordance with regulations of the
225 commissioner. The project plan shall meet an identified public need
226 and include: [(a)] (1) A legal description of the land within the project
227 area; [(b)] (2) a description of the present condition and uses of such
228 land or building; [(c)] (3) a description of the process utilized by the
229 agency to prepare the plan along with alternative approaches
230 considered to achieve project objectives; (4) a description of the types
231 and locations of land uses or building uses proposed for the project
232 area; [(d)] (5) a description of the types and locations of present and
233 proposed streets, sidewalks and sanitary, utility and other facilities
234 and the types and locations of other proposed site improvements; [(e)]
235 (6) statements of the present and proposed zoning classification and
236 subdivision status of the project area and the areas adjacent to the
237 project area; [(f)] (7) a plan for relocating project-area occupants; [(g)]
238 (8) a financing plan; [(h)] (9) an administrative plan; [(i)] (10) a
239 marketability and proposed land-use study or building use study if
240 required by the commissioner; [(j)] (11) appraisal reports and title
241 searches; [(k)] (12) a statement of public benefits including, but not
242 limited to, (A) the number of jobs which the development agency
243 anticipates would be created by the project and the number and types
244 of existing housing units in the municipality in which the project
245 would be located, and in contiguous municipalities, which would be
246 available to employees filling such jobs; (B) an estimate of the amount
247 of local tax revenue to be generated by the project; (C) a description of
248 infrastructure improvements, including public access, facilities or use;
249 (D) a description of any blight remediation or environmental
250 remediation; (E) a description of any aesthetic improvements to be
251 generated by the project; (F) a description of the project's role in

252 increasing or sustaining market value of land in the municipality; (G) a
253 description of the project's role in assisting residents of the
254 municipality to improve their standard of living; and (H) a statement
255 of the project's role in maintaining or enhancing the competitiveness of
256 the municipality; and [(1)] (13) findings that the land and buildings
257 within the project area will be used principally for industrial or
258 business purposes; that the plan is in accordance with the plan of
259 development for the municipality adopted by its planning commission
260 under section 8-23, as amended, and the plan of development of the
261 regional planning agency adopted under section 8-35a, as amended, if
262 any, for the region within which the municipality is located; that the
263 plan is not inimical to [any] the state plan of conservation and
264 development adopted under chapter 297 and any other state-wide
265 planning program objectives of the state or state agencies as
266 coordinated by the Secretary of the Office of Policy and Management;
267 that the project will contribute to the economic welfare of the
268 municipality and the state; and that to carry out and administer the
269 project, public action under this chapter is required. The plan shall also
270 include a preliminary statement describing the process for acquisition
271 of each parcel of real property. Any plan which has been prepared by a
272 redevelopment agency under chapter 130 may be submitted by the
273 development agency to the legislative body and to the commissioner in
274 lieu of a plan initiated and prepared in accordance with this section,
275 provided all other requirements of this chapter for obtaining the
276 approval of the commissioner of the project plan are satisfied.

277 Sec. 6. Section 8-191 of the general statutes is repealed and the
278 following is substituted in lieu thereof (*Effective from passage*):

279 (a) Before the development agency adopts a plan for a development
280 project, (1) the planning commission of the municipality shall find that
281 the plan is in accord with the plan of development for the
282 municipality; and (2) the regional planning agency, if any, for the
283 region within which such municipality is located shall find that such
284 plan is in accord with the plan of development for such region, or if

285 such agency fails to make a finding concerning said plan within thirty-
286 five days of receipt thereof by such agency, it shall be presumed that
287 such agency does not disapprove of such plan; and (3) the
288 development agency shall hold at least one public hearing thereon. At
289 least thirty-five days prior to any public hearing the development
290 agency shall post the draft plan on the Internet web site of the
291 development agency, if any. Upon approval by the development
292 agency, the agency shall submit such plan to the legislative body
293 which shall vote to approve or disapprove the plan. After approval of
294 the plan by the legislative body, the development agency shall submit
295 the plan for approval to the commissioner. Notice of the time, place
296 and subject of any public hearing held under this section shall be
297 published once in a newspaper of general circulation in such town,
298 such publication to be made not less than one week nor more than
299 three weeks prior to the date set for the hearing. In the event the
300 commissioner requires a substantial modification of the project plan
301 before giving approval, then upon the completion of such modification
302 such plan shall first have a public hearing and then be approved by the
303 development agency and the legislative body. Any legislative body,
304 agency or commission in approving a plan for a development project
305 shall specifically approve the findings made therein.

306 (b) The provisions of subsection (a) of this section with respect to
307 submission of a development project to and approval by the
308 commissioner shall not apply to a project for which no grant has been
309 made under section 8-190 and no application for a grant is to be made
310 under section 8-195.

311 Sec. 7. Section 8-193 of the general statutes is repealed and the
312 following is substituted in lieu thereof (*Effective from passage*):

313 (a) After approval of the development plan as provided in this
314 chapter, the development agency may proceed by purchase, lease,
315 exchange or gift with the acquisition or rental of real property within
316 the project area and real property and interests therein for rights-of-
317 way and other easements to and from the project area. The

318 development agency may, with the approval of the legislative body,
319 and in the name of the municipality, acquire by eminent domain real
320 property located within the project area and real property and interests
321 therein for rights-of-way and other easements to and from the project
322 area, in the same manner that a redevelopment agency may acquire
323 real property under sections 8-128 to 8-133, inclusive, as amended by
324 this act, as if said sections specifically applied to development
325 agencies. There shall be a separate vote on the acquisition of each
326 parcel to be acquired in accordance with the development plan. No
327 parcel of real property may be acquired by eminent domain more than
328 five years after the approval of the development plan unless the
329 development agency submits documentation to the legislative body
330 sufficient for such legislative body to determine that acquisition of
331 such parcel is necessary to implement the development plan. The
332 development agency may, with the approval of the legislative body
333 and, of the commissioner if any grants were made by the state under
334 section 8-190 or 8-195 for such development project, and in the name of
335 such municipality, transfer by sale or lease at fair market value or fair
336 rental value, as the case may be, the whole or any part of the real
337 property in the project area to any person, in accordance with the
338 project plan and such disposition plans as may have been determined
339 by the commissioner.

340 (b) A development agency shall have all the powers necessary or
341 convenient to undertake and carry out development plans and
342 development projects, including the power to clear, demolish, repair,
343 rehabilitate, operate, or insure real property while it is in its
344 possession, to make site improvements essential to the preparation of
345 land for its use in accordance with the development plan, to install,
346 construct or reconstruct streets, utilities and other improvements
347 necessary for carrying out the objectives of the development project,
348 and, in distressed municipalities, as defined in section 32-9p, to lend
349 funds to businesses and industries in a manner approved by the
350 commissioner.

351 Sec. 8. Subsection (b) of section 1-210 of the 2006 supplement to the
352 general statutes is repealed and the following is substituted in lieu
353 thereof (*Effective from passage*):

354 (b) Nothing in the Freedom of Information Act shall be construed to
355 require disclosure of:

356 (1) Preliminary drafts or notes provided the public agency has
357 determined that the public interest in withholding such documents
358 clearly outweighs the public interest in disclosure;

359 (2) Personnel or medical files and similar files the disclosure of
360 which would constitute an invasion of personal privacy;

361 (3) Records of law enforcement agencies not otherwise available to
362 the public which records were compiled in connection with the
363 detection or investigation of crime, if the disclosure of said records
364 would not be in the public interest because it would result in the
365 disclosure of (A) the identity of informants not otherwise known or the
366 identity of witnesses not otherwise known whose safety would be
367 endangered or who would be subject to threat or intimidation if their
368 identity was made known, (B) signed statements of witnesses, (C)
369 information to be used in a prospective law enforcement action if
370 prejudicial to such action, (D) investigatory techniques not otherwise
371 known to the general public, (E) arrest records of a juvenile, which
372 shall also include any investigatory files, concerning the arrest of such
373 juvenile, compiled for law enforcement purposes, (F) the name and
374 address of the victim of a sexual assault under section 53a-70, 53a-70a,
375 53a-71, 53a-72a, 53a-72b or 53a-73a, or injury or risk of injury, or
376 impairing of morals under section 53-21, or of an attempt thereof, or
377 (G) uncorroborated allegations subject to destruction pursuant to
378 section 1-216;

379 (4) Records pertaining to strategy and negotiations with respect to
380 pending claims or pending litigation to which the public agency is a
381 party until such litigation or claim has been finally adjudicated or

382 otherwise settled;

383 (5) (A) Trade secrets, which for purposes of the Freedom of
384 Information Act, are defined as information, including formulas,
385 patterns, compilations, programs, devices, methods, techniques,
386 processes, drawings, cost data, or customer lists that (i) derive
387 independent economic value, actual or potential, from not being
388 generally known to, and not being readily ascertainable by proper
389 means by, other persons who can obtain economic value from their
390 disclosure or use, and (ii) are the subject of efforts that are reasonable
391 under the circumstances to maintain secrecy; and

392 (B) Commercial or financial information given in confidence, not
393 required by statute;

394 (6) Test questions, scoring keys and other examination data used to
395 administer a licensing examination, examination for employment or
396 academic examinations;

397 (7) The contents of real estate appraisals, engineering or feasibility
398 estimates and evaluations made for or by an agency relative to the
399 acquisition of property or to prospective public supply and
400 construction contracts, until such time as all of the property has been
401 acquired or all proceedings or transactions have been terminated or
402 abandoned, [provided the law of eminent domain shall not be affected
403 by this provision] except that the provisions of this section shall not
404 apply to such appraisals, estimates or evaluations made for or by the
405 agency relative to the acquisition of property by eminent domain;

406 (8) Statements of personal worth or personal financial data required
407 by a licensing agency and filed by an applicant with such licensing
408 agency to establish the applicant's personal qualification for the
409 license, certificate or permit applied for;

410 (9) Records, reports and statements of strategy or negotiations with
411 respect to collective bargaining;

412 (10) Records, tax returns, reports and statements exempted by
413 federal law or state statutes or communications privileged by the
414 attorney-client relationship;

415 (11) Names or addresses of students enrolled in any public school or
416 college without the consent of each student whose name or address is
417 to be disclosed who is eighteen years of age or older and a parent or
418 guardian of each such student who is younger than eighteen years of
419 age, provided this subdivision shall not be construed as prohibiting the
420 disclosure of the names or addresses of students enrolled in any public
421 school in a regional school district to the board of selectmen or town
422 board of finance, as the case may be, of the town wherein the student
423 resides for the purpose of verifying tuition payments made to such
424 school;

425 (12) Any information obtained by the use of illegal means;

426 (13) Records of an investigation or the name of an employee
427 providing information under the provisions of section 4-61dd, as
428 amended;

429 (14) Adoption records and information provided for in sections 45a-
430 746, 45a-750 and 45a-751;

431 (15) Any page of a primary petition, nominating petition,
432 referendum petition or petition for a town meeting submitted under
433 any provision of the general statutes or of any special act, municipal
434 charter or ordinance, until the required processing and certification of
435 such page has been completed by the official or officials charged with
436 such duty after which time disclosure of such page shall be required;

437 (16) Records of complaints, including information compiled in the
438 investigation thereof, brought to a municipal health authority pursuant
439 to chapter 368e or a district department of health pursuant to chapter
440 368f, until such time as the investigation is concluded or thirty days
441 from the date of receipt of the complaint, whichever occurs first;

442 (17) Educational records which are not subject to disclosure under
443 the Family Educational Rights and Privacy Act, 20 USC 1232g;

444 (18) Records, the disclosure of which the Commissioner of
445 Correction, or as it applies to Whiting Forensic Division facilities of the
446 Connecticut Valley Hospital, the Commissioner of Mental Health and
447 Addiction Services, has reasonable grounds to believe may result in a
448 safety risk, including the risk of harm to any person or the risk of an
449 escape from, or a disorder in, a correctional institution or facility under
450 the supervision of the Department of Correction or Whiting Forensic
451 Division facilities. Such records shall include, but are not limited to:

452 (A) Security manuals, including emergency plans contained or
453 referred to in such security manuals;

454 (B) Engineering and architectural drawings of correctional
455 institutions or facilities or Whiting Forensic Division facilities;

456 (C) Operational specifications of security systems utilized by the
457 Department of Correction at any correctional institution or facility or
458 Whiting Forensic Division facilities, except that a general description
459 of any such security system and the cost and quality of such system
460 may be disclosed;

461 (D) Training manuals prepared for correctional institutions and
462 facilities or Whiting Forensic Division facilities that describe, in any
463 manner, security procedures, emergency plans or security equipment;

464 (E) Internal security audits of correctional institutions and facilities
465 or Whiting Forensic Division facilities;

466 (F) Minutes or recordings of staff meetings of the Department of
467 Correction or Whiting Forensic Division facilities, or portions of such
468 minutes or recordings, that contain or reveal information relating to
469 security or other records otherwise exempt from disclosure under this
470 subdivision;

471 (G) Logs or other documents that contain information on the
472 movement or assignment of inmates or staff at correctional institutions
473 or facilities; and

474 (H) Records that contain information on contacts between inmates,
475 as defined in section 18-84, and law enforcement officers;

476 (19) Records when there are reasonable grounds to believe
477 disclosure may result in a safety risk, including the risk of harm to any
478 person, any government-owned or leased institution or facility or any
479 fixture or appurtenance and equipment attached to, or contained in,
480 such institution or facility, except that such records shall be disclosed
481 to a law enforcement agency upon the request of the law enforcement
482 agency. Such reasonable grounds shall be determined (A) with respect
483 to records concerning any executive branch agency of the state or any
484 municipal, district or regional agency, by the Commissioner of Public
485 Works, after consultation with the chief executive officer of the agency;
486 (B) with respect to records concerning Judicial Department facilities,
487 by the Chief Court Administrator; and (C) with respect to records
488 concerning the Legislative Department, by the executive director of the
489 Joint Committee on Legislative Management. As used in this section,
490 "government-owned or leased institution or facility" includes, but is
491 not limited to, an institution or facility owned or leased by a public
492 service company, as defined in section 16-1, as amended, a certified
493 telecommunications provider, as defined in section 16-1, as amended, a
494 water company, as defined in section 25-32a, or a municipal utility that
495 furnishes electric, gas or water service, but does not include an
496 institution or facility owned or leased by the federal government, and
497 "chief executive officer" includes, but is not limited to, an agency head,
498 department head, executive director or chief executive officer. Such
499 records include, but are not limited to:

500 (i) Security manuals or reports;

501 (ii) Engineering and architectural drawings of government-owned
502 or leased institutions or facilities;

503 (iii) Operational specifications of security systems utilized at any
504 government-owned or leased institution or facility, except that a
505 general description of any such security system and the cost and
506 quality of such system, may be disclosed;

507 (iv) Training manuals prepared for government-owned or leased
508 institutions or facilities that describe, in any manner, security
509 procedures, emergency plans or security equipment;

510 (v) Internal security audits of government-owned or leased
511 institutions or facilities;

512 (vi) Minutes or records of meetings, or portions of such minutes or
513 records, that contain or reveal information relating to security or other
514 records otherwise exempt from disclosure under this subdivision;

515 (vii) Logs or other documents that contain information on the
516 movement or assignment of security personnel at government-owned
517 or leased institutions or facilities;

518 (viii) Emergency plans and emergency recovery or response plans;
519 and

520 (ix) With respect to a water company, as defined in section 25-32a,
521 that provides water service: Vulnerability assessments and risk
522 management plans, operational plans, portions of water supply plans
523 submitted pursuant to section 25-32d that contain or reveal
524 information the disclosure of which may result in a security risk to a
525 water company, inspection reports, technical specifications and other
526 materials that depict or specifically describe critical water company
527 operating facilities, collection and distribution systems or sources of
528 supply;

529 (20) Records of standards, procedures, processes, software and
530 codes, not otherwise available to the public, the disclosure of which
531 would compromise the security or integrity of an information
532 technology system;

533 (21) The residential, work or school address of any participant in the
534 address confidentiality program established pursuant to sections 54-
535 240 to 54-240o, inclusive;

536 (22) The electronic mail address of any person that is obtained by
537 the Department of Transportation in connection with the
538 implementation or administration of any plan to inform individuals
539 about significant highway or railway incidents.

540 Sec. 9. Section 8-268 of the 2006 supplement to the general statutes is
541 repealed and the following is substituted in lieu thereof (*Effective from*
542 *passage*):

543 (a) Whenever a program or project undertaken by a state agency or
544 under the supervision of a state agency will result in the displacement
545 of any person on or after July 6, 1971, the head of such state agency
546 shall make payment to any displaced person, upon proper application
547 as approved by such agency head, for (1) actual reasonable expenses in
548 moving himself, his family, business, farm operation or other personal
549 property, (2) actual direct losses of tangible personal property as a
550 result of moving or discontinuing a business or farm operation, but not
551 to exceed an amount equal to the reasonable expenses that would have
552 been required to relocate such property, as determined by the state
553 agency, and (3) actual reasonable expenses in searching for a
554 replacement business or farm, provided, whenever any tenant in any
555 dwelling unit is displaced as the result of the enforcement of any code
556 to which this section is applicable by any town, city or borough or
557 agency thereof, the landlord of such dwelling unit shall be liable for
558 any payments made by such town, city or borough pursuant to this
559 section or by the state pursuant to subsection (b) of section 8-280, and
560 the town, city or borough or the state may place a lien on any real
561 property owned by such landlord to secure repayment to the town,
562 city or borough or the state of such payments, which lien shall have the
563 same priority as and shall be filed, enforced and discharged in the
564 same manner as a lien for municipal taxes under chapter 205.

565 (b) Any displaced person eligible for payments under subsection (a)
566 of this section who is displaced from a dwelling and who elects to
567 accept the payments authorized by this subsection in lieu of the
568 payments authorized by subsection (a) of this section may receive a
569 moving expense allowance, determined according to a schedule
570 established by the state agency, not to exceed three hundred dollars
571 and a dislocation allowance of two hundred dollars.

572 (c) Any displaced person eligible for payments under subsection (a)
573 of this section who is displaced from his place of business or from his
574 farm operation and who elects to accept the payment authorized by
575 this subsection in lieu of the payment authorized by subsection (a) of
576 this section, may receive a fixed payment in an amount equal to the
577 average annual net earnings of the business or farm operation, except
578 that such payment shall not be less than two thousand five hundred
579 dollars nor more than ten thousand dollars. In the case of a business no
580 payment shall be made under this subsection unless the state agency is
581 satisfied that the business (1) cannot be relocated without a substantial
582 loss of its existing patronage, and (2) is not a part of a commercial
583 enterprise having at least one other establishment not being acquired
584 by the state, which is engaged in the same or similar business. For
585 purposes of this subsection, the term "average annual net earnings"
586 means one half of any net earnings of the business or farm operation,
587 before federal, state and local income taxes, during the two taxable
588 years immediately preceding the taxable year in which such business
589 or farm operation moves from the real property acquired for such
590 project, or during such other period as such agency determines to be
591 more equitable for establishing such earnings, and includes any
592 compensation paid by the business or farm operation to the owner, his
593 spouse or his dependents during such period.

594 (d) Notwithstanding the provisions of this section, the head of the
595 state agency shall make relocation payments as provided under the
596 federal Uniform Relocation Assistance and Real Property Acquisition
597 Policies Act of 1970, 42 USC 4601 et seq. and any subsequent

598 amendments thereto and regulations promulgated thereunder if
599 payments under said act would be greater than payments under this
600 section.

601 Sec. 10. (NEW) (*Effective July 1, 2006*) As used in this section and
602 sections 12 to 20, inclusive, of this act: (1) "Constitutional taking" or
603 "taking" means an action by the state, a municipality or political
604 subdivision of the state or a municipality that results in a taking of
605 private property by eminent domain requiring compensation to the
606 owner of the property pursuant to: (A) The Fifth or Fourteenth
607 Amendments to the Constitution of the United States; or (B) article I,
608 Section 11 of the State Constitution; and (2) "takings law" means the
609 provisions of the federal and state constitutions, case law interpreting
610 such provisions, and any relevant statutory provisions that require a
611 governmental unit to compensate a private property owner for a
612 constitutional taking.

613 Sec. 11. (NEW) (*Effective July 1, 2006*) (a) There is established an
614 Office of Property Rights Ombudsman which shall be within the Office
615 of Policy and Management for administrative purposes only. The
616 Office of Property Rights Ombudsman shall be under the direction of a
617 Property Rights Ombudsman who shall be appointed in accordance
618 with section 12 of this act. The office shall not appoint any other
619 employees for the discharge of the duties of the office.

620 (b) The Office of Property Rights Ombudsman shall:

621 (1) Develop and maintain expertise in and understanding of (A)
622 provisions of the federal and state constitutions governing the taking
623 of private property and provisions of state law authorizing a state or
624 municipal agency to take private property, and (B) the case law
625 interpreting such provisions;

626 (2) Assist state and municipal agencies with the power of eminent
627 domain in applying constitutional and statutory provisions concerning
628 takings;

629 (3) At the request of a state or municipal agency with the power of
630 eminent domain, provide assistance in analyzing actions that have
631 potential takings implications;

632 (4) Advise private property owners who have a legitimate potential
633 or actual takings claim against a state or municipal agency with the
634 power of eminent domain;

635 (5) Identify state or local governmental actions that have potential
636 takings implications and, if appropriate, advise the appropriate
637 governmental agency about such implications;

638 (6) Provide information to private citizens, civic groups and other
639 interested parties about takings law and their rights with respect to
640 takings;

641 (7) If requested to do so by a private property owner, mediate or
642 conduct or arrange arbitration of disputes between private property
643 owners and governmental agencies involving takings and disputes
644 about relocation assistance;

645 (8) Assist a private property owner with respect to a dispute
646 involving the effect of municipal regulation of the use and occupancy
647 of real property, except that such assistance shall not include
648 mediation and arbitration unless requested under subdivision (7) of
649 this subsection; and

650 (9) Recommend to the General Assembly changes that, in the
651 opinion of the Property Rights Ombudsman, should be made in the
652 laws relating to takings.

653 Sec. 12. (NEW) (*Effective July 1, 2006*) The Property Rights
654 Ombudsman shall be appointed by the Governor in accordance with
655 sections 4-5 to 4-8, inclusive, of the general statutes, as amended by
656 this act. The Property Rights Ombudsman shall be an elector of the
657 state and shall be a person with expertise and experience in the field of
658 real estate sales, real estate appraisals or land use regulation. The

659 Property Rights Ombudsman shall not have been employed or served
660 in an official capacity with respect to any eminent domain procedure
661 within one year of appointment.

662 Sec. 13. (NEW) (*Effective July 1, 2006*) (a) The Property Rights
663 Ombudsman shall provide an arbitration procedure for the settlement
664 of disputes between private property owners and governmental
665 agencies involving takings and disputes about relocation assistance.

666 (b) Any private property owner may bring a dispute to an
667 arbitration panel by calling a toll-free telephone number designated by
668 the Property Rights Ombudsman or by requesting an arbitration
669 hearing in writing. The property owner shall file, on forms prescribed
670 by the Property Rights Ombudsman, any information the Property
671 Rights Ombudsman deems relevant to the resolution of the dispute.

672 (c) (1) The Property Rights Ombudsman shall conduct an initial
673 review of the request for arbitration and determine whether the
674 dispute should be accepted or rejected for arbitration based on criteria
675 established by regulations adopted under section 17 of this act. If the
676 Property Rights Ombudsman declines to arbitrate or appoint an
677 arbitrator, the Property Rights Ombudsman shall issue a written
678 statement to the applicant specifying the reasons for such decision.

679 (2) The Property Rights Ombudsman may appoint a panel to
680 arbitrate a dispute, on the initiative of the Property Rights
681 Ombudsman or upon agreement of both parties, when: (A) Either
682 party objects to the Property Rights Ombudsman serving as the
683 arbitrator and agrees to pay for the services of another arbitrator; (B)
684 the Property Rights Ombudsman declines to arbitrate the dispute for a
685 reason other than those stated in subdivision (8) of subsection (b) of
686 section 11 of this act and one or both parties are willing to pay for the
687 services of another arbitrator; or (C) the Property Rights Ombudsman
688 determines that it is appropriate to appoint another person to arbitrate
689 the dispute with no charge to the parties for the services of the
690 appointed arbitrator. In appointing another person to arbitrate a

691 dispute, the Property Rights Ombudsman shall appoint an arbitrator
692 who is agreeable to both parties or agreeable to the party paying for
693 the arbitrator and the Property Rights Ombudsman.

694 (3) Upon acceptance of a dispute for arbitration, the Property Rights
695 Ombudsman shall notify each state or municipal agency participating
696 in the taking of the filing of a request for arbitration. The filer and each
697 such agency shall submit, in writing, on a form prescribed by the
698 Property Rights Ombudsman, any information the Property Rights
699 Ombudsman deems relevant to the resolution of the dispute.

700 (4) The Property Rights Ombudsman shall investigate, gather and
701 organize all information necessary for a fair and timely decision in
702 each dispute. The Property Rights Ombudsman may issue subpoenas
703 on behalf of any arbitration panel to compel the attendance of
704 witnesses and the production of documents, papers and records
705 relevant to the dispute. The Property Rights Ombudsman may
706 forward a copy of all written testimony, including all documentary
707 evidence, to an independent technical expert or to any person having a
708 degree or other credentials from a nationally recognized organization
709 or institution attesting to relevant expertise, who shall review such
710 material and be available to advise and consult with the Property
711 Rights Ombudsman or arbitration panel. The Property Rights
712 Ombudsman or arbitration panel shall, not later than sixty days after
713 the date the request is filed under subsection (b) of this section, render
714 a decision based on the information gathered and disclose the findings
715 and the reasons therefor to the parties involved.

716 (d) The property owner and state or municipal agency may agree in
717 advance of arbitration that the arbitration shall be binding and that no
718 de novo trial by a court may occur.

719 (e) Arbitration by or through the Property Rights Ombudsman is
720 not required before bringing legal action to adjudicate any claim.

721 (f) The lack of arbitration by or through the Property Rights

722 Ombudsman does not constitute, and may not be construed to
723 constitute, a failure to exhaust available administrative remedies or as
724 a bar to any legal action. Not more than thirty days after the arbitrator
725 issues a final award, any party may submit the award or any issue
726 upon which the award is based to the court for de novo review, except
727 as provided in subsection (d) of this section.

728 (g) The filing with the Property Rights Ombudsman of a request for
729 arbitration of a constitutional taking issue does not stay any land use
730 decision by a municipal agency.

731 (h) The Property Rights Ombudsman may not be compelled to
732 testify in a civil action filed with regard to the subject matter of any
733 review or arbitration by the ombudsman.

734 (i) Evidence of a review by the Property Rights Ombudsman and
735 the opinions, writings, findings and determinations of the Property
736 Rights Ombudsman shall not be admissible as evidence in any action
737 subsequently brought in court and dealing with the same dispute.

738 (j) The Property Rights Ombudsman may not represent private
739 property owners, the state or any municipality in court or in
740 administrative proceedings under chapter 54 of the general statutes.

741 Sec. 14. (NEW) (*Effective July 1, 2006*) Each public agency, as defined
742 in section 1-200 of the general statutes, and any entity in this state with
743 the power of eminent domain shall comply with reasonable requests of
744 the Office of Property Rights Ombudsman for information and
745 assistance.

746 Sec. 15. (NEW) (*Effective July 1, 2006*) No ombudsman may:

747 (1) Be employed by, or hold a position on, any public agency, as
748 defined in section 1-200 of the general statutes, or other entity with the
749 power of eminent domain;

750 (2) Receive or have the right to receive, directly or indirectly,

751 remuneration under a compensation arrangement with respect to an
752 eminent domain procedure; or

753 (3) Knowingly accept employment with a public agency or other
754 entity with the power of eminent domain for a period of one year
755 following termination of that person's services with the Office of
756 Property Rights Ombudsman.

757 Sec. 16. (NEW) (*Effective July 1, 2006*) (a) The Office of Property
758 Rights Ombudsman may apply for and accept grants, gifts and
759 bequests of funds from other states, federal and interstate agencies and
760 independent authorities and private firms, individuals and
761 foundations, for the purpose of carrying out its responsibilities.

762 (b) There is established, within the General Fund, a Property Rights
763 Ombudsman account that shall be a separate nonlapsing account. Any
764 funds received under this section shall, upon deposit in the General
765 Fund, be credited to said account and may be used by the Office of
766 Property Rights Ombudsman in the performance of its duties.

767 Sec. 17. (NEW) (*Effective July 1, 2006*) The Property Rights
768 Ombudsman shall adopt regulations, in accordance with chapter 54 of
769 the general statutes, to implement sections 10 to 20, inclusive, of this
770 act and section 4-5 of the general statutes, as amended by this act. Such
771 regulations shall establish criteria to be used by the Property Rights
772 Ombudsman in determinations accepting or rejecting a dispute for
773 arbitration in accordance with section 13 of this act.

774 Sec. 18. Section 4-5 of the general statutes is repealed and the
775 following is substituted in lieu thereof (*Effective July 1, 2006*):

776 As used in sections 4-6, 4-7 and 4-8, the term "department head"
777 means Secretary of the Office of Policy and Management,
778 Commissioner of Administrative Services, Commissioner of Revenue
779 Services, Banking Commissioner, Commissioner of Children and
780 Families, Commissioner of Consumer Protection, Commissioner of
781 Correction, Commissioner of Economic and Community Development,

782 State Board of Education, Commissioner of Emergency Management
783 and Homeland Security, Commissioner of Environmental Protection,
784 Commissioner of Agriculture, Commissioner of Public Health,
785 Insurance Commissioner, Labor Commissioner, Liquor Control
786 Commission, Commissioner of Mental Health and Addiction Services,
787 Commissioner of Public Safety, Commissioner of Social Services,
788 Commissioner of Mental Retardation, Commissioner of Motor
789 Vehicles, Commissioner of Transportation, Commissioner of Public
790 Works, Commissioner of Veterans' Affairs, Commissioner of Health
791 Care Access, Chief Information Officer, the chairperson of the Public
792 Utilities Control Authority, the executive director of the Board of
793 Education and Services for the Blind, [and] the executive director of
794 the Connecticut Commission on Culture and Tourism and the
795 Property Rights Ombudsman.

796 Sec. 19. (NEW) (*Effective July 1, 2006*) Prior to proceeding with the
797 acquisition of real property by eminent domain under any provisions
798 of the general statutes, the agency proposing to acquire the real
799 property shall: (1) Before initiating an eminent domain action, make a
800 reasonable effort to negotiate with the property owner for the purchase
801 of the property; and (2) as early in the negotiation process for the real
802 property as practicable, but no later than fourteen days before the
803 filing of an eminent domain action, unless the court for good cause
804 allows a shorter period before filing: (A) Advise the property owner of
805 the owner's rights to mediation and arbitration under section 20 of this
806 act , including the name and current telephone number of the Property
807 Rights Ombudsman, established pursuant to sections 10 to 20,
808 inclusive, of this act, and (B) provide the property owner with a
809 written statement explaining that oral representations or promises
810 made during the negotiation process are not binding upon the person
811 seeking to acquire the property by eminent domain.

812 Sec. 20. (NEW) (*Effective July 1, 2006*) (a) In any dispute between an
813 agency proposing to acquire real property by eminent domain and a
814 private property owner, the private property owner may submit the

815 dispute for mediation or arbitration to the Property Rights
816 Ombudsman under sections 10 to 20, inclusive, of this act.

817 (b) An action submitted to the Property Rights Ombudsman under
818 authority of this section shall not bar or stay any action for occupancy
819 of premises which are the subject of the dispute.

820 (c) A mediator or arbitrator, acting at the request of the property
821 owner under subdivision (2) of subsection (c) of section 13 of this act,
822 has standing in an action brought in any court concerning the real
823 property that is the subject of the dispute to file with such court a
824 motion to stay the action during the pendency of the mediation or
825 arbitration. A mediator or arbitrator may not file such a motion unless
826 the mediator or arbitrator certifies at the time of filing the motion that
827 a stay is reasonably necessary to reach a resolution of the case through
828 mediation or arbitration. If a stay is granted and the order granting the
829 stay does not specify when the stay terminates, the mediator or
830 arbitrator shall file with the district court a motion to terminate the
831 stay not more than thirty days after: (1) The resolution of the dispute
832 through mediation; (2) the issuance of a final arbitration award; or (3) a
833 determination by the mediator or arbitrator that mediation or
834 arbitration is not appropriate.

835 (d) The private property owner or displaced person may request
836 that the mediator or arbitrator authorize an additional appraisal. If the
837 mediator or arbitrator determines that an additional appraisal is
838 reasonably necessary to reach a resolution of the case, the mediator or
839 arbitrator may: (1) Have an additional appraisal of the property
840 prepared by an independent appraiser; and (2) require the agency
841 proposing to acquire the property to pay the costs of the first
842 additional appraisal.

843 Sec. 21. Subsection (b) of section 12-62a of the general statutes is
844 repealed and the following is substituted in lieu thereof (*Effective*
845 *October 1, 2006, and applicable to assessment years commencing on or after*
846 *October 1, 2006*):

847 (b) Each such municipality shall assess all property for purposes of
 848 the local property tax at a uniform rate of seventy per cent of present
 849 true and actual value, as determined under section 12-63. Any
 850 municipality with a population of more than eighty thousand, by
 851 ordinance adopted by its legislative body, may (1) classify real estate
 852 as (A) land or land exclusive of buildings, or (B) buildings on land, and
 853 (2) establish a different rate of property tax for each class, provided the
 854 higher rate shall apply to land or land exclusive of buildings. As used
 855 in this subsection, the term "real estate" does not include farm land,
 856 forest land and open space land as such terms are defined in section
 857 12-107b. The provisions of this subsection shall not be construed to
 858 authorize a municipality to classify real property for purposes of the
 859 local property tax based on the use of such property, except as
 860 provided in the general statutes or any special act.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>from passage</i>	8-125
Sec. 2	<i>from passage</i>	8-127
Sec. 3	<i>from passage</i>	8-128
Sec. 4	<i>from passage</i>	8-129
Sec. 5	<i>from passage</i>	8-189
Sec. 6	<i>from passage</i>	8-191
Sec. 7	<i>from passage</i>	8-193
Sec. 8	<i>from passage</i>	1-210(b)
Sec. 9	<i>from passage</i>	8-268
Sec. 10	<i>July 1, 2006</i>	New section
Sec. 11	<i>July 1, 2006</i>	New section
Sec. 12	<i>July 1, 2006</i>	New section
Sec. 13	<i>July 1, 2006</i>	New section
Sec. 14	<i>July 1, 2006</i>	New section
Sec. 15	<i>July 1, 2006</i>	New section
Sec. 16	<i>July 1, 2006</i>	New section
Sec. 17	<i>July 1, 2006</i>	New section
Sec. 18	<i>July 1, 2006</i>	4-5
Sec. 19	<i>July 1, 2006</i>	New section
Sec. 20	<i>July 1, 2006</i>	New section

Sec. 21	<i>October 1, 2006, and applicable to assessment years commencing on or after October 1, 2006</i>	12-62a(b)
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PD *Joint Favorable Subst.*