



General Assembly

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Amendment

LCO No. 7859

HB0736907859HDO

Offered by:

REP. BERGER, 73rd Dist.
SEN. LEBEAU, 3rd Dist.
REP. GENTILE, 104th Dist.
REP. ROY, 119th Dist.
SEN. FINCH, 22nd Dist.

REP. STRIPP, 135th Dist.
SEN. DEBICELLA, 21st Dist.
REP. CHAPIN, 67th Dist.
SEN. MCKINNEY, 28th Dist.
REP. STONE, 9th Dist.

To: Subst. House Bill No. 7369

File No. 783

Cal. No. 293

**"AN ACT IMPLEMENTING THE RECOMMENDATIONS OF THE
BROWNFIELDS TASK FORCE."**

1 Strike everything after the enacting clause and substitute the
2 following in lieu thereof:

3 "Section 1. Section 32-9cc of the general statutes is repealed and the
4 following is substituted in lieu thereof (*Effective July 1, 2007*):

5 (a) There is established, within the Department of Economic and
6 Community Development, an Office of Brownfield Remediation and
7 Development. [that shall be within the Department of Economic and
8 Community Development for administrative purposes only.]

9 (b) The office shall:

10 (1) Develop procedures and policies for streamlining the process for

11 brownfield remediation and development;

12 (2) Identify existing and [create new] potential sources of funding
13 for brownfield remediation and develop procedures for expediting the
14 application for and release of such funds; [to municipalities or
15 economic development agencies;]

16 (3) Establish [a place where municipalities or economic
17 development agencies may facilitate compliance with state and federal
18 clean up requirements and qualification for state funds] an office to
19 provide assistance and information concerning the state's technical
20 assistance, funding, regulatory and permitting programs;

21 (4) Provide a single point of contact for financial and technical
22 assistance from the state and quasi-public agencies;

23 (5) Develop a common application to be used by all state and quasi-
24 public entities providing financial assistance for brownfield
25 assessment, remediation and development;

26 [(4)] (6) Identify and prioritize state-wide brownfield development
27 opportunities;

28 [(5)] Analyze any action taken by other states, particularly New
29 Jersey and Pennsylvania, regarding brownfield remediation and
30 liability;] and

31 [(6)] (7) Develop and execute [an] a communication and outreach
32 program to educate municipalities, economic development agencies,
33 property owners and potential property owners and other
34 organizations and individuals with regard to state policies and
35 procedures for brownfield remediation.

36 (c) [The Office of Brownfield Remediation and Development shall
37 establish and operate] Subject to the availability of funds, there shall be
38 a state-funded pilot program to identify brownfield remediation
39 economic opportunities in [four] five Connecticut municipalities, one
40 of which shall have a population of [more than twenty-five thousand

41 but] less than fifty thousand, one of which shall have a population of
42 more than fifty thousand but less than one hundred thousand, [and]
43 two of which shall have populations of more than one hundred
44 thousand and one of which shall be selected without regard to
45 population. The [Office of Brownfield Remediation and Development]
46 Commissioner of Economic and Community Development shall
47 designate four pilot municipalities in which untreated brownfields
48 hinder economic development and shall make grants under such pilot
49 program to these municipalities or economic development agencies
50 associated with each of the four municipalities that are likely to
51 produce significant economic development benefit for the designated
52 municipality.

53 (d) The Department of Environmental Protection, [and] the
54 Connecticut Development Authority and the Department of Public
55 Health shall each designate [a staff member] one or more staff
56 members to act as a liaison between their offices and the Office of
57 Brownfield Remediation and Development. The Commissioners of
58 Economic and Community Development, Environmental Protection
59 and Public Health and the executive director of the Connecticut
60 Development Authority shall enter into a memorandum of
61 understanding concerning each entity's responsibilities with respect to
62 the Office of Brownfield Remediation and Development. The Office of
63 Brownfield Remediation and Development [shall] may develop and
64 recruit two volunteers from the private sector, including a person from
65 the Connecticut chapter of the National Brownfield Association, with
66 experience in different aspects of brownfield remediation and
67 development. Said [liaisons and] volunteers [shall] may assist the
68 Office of Brownfield Remediation and Development in achieving the
69 goals of this section. [and, together, shall represent said office's
70 response team.]

71 (e) The Office of Brownfield Remediation and Development may
72 call upon any other department, board, commission or other agency of
73 the state to supply such reports, information and assistance as said
74 office determines is appropriate to carry out its duties and

75 responsibilities. Each officer or employee of such office, department,
76 board, commission or other agency of the state is authorized and
77 directed to cooperate with the Office of Brownfield Remediation and
78 Development and to furnish such reports, information and assistance.

79 (f) Brownfield sites identified for funding under the pilot program
80 established in subsection (c) of this section shall receive priority review
81 status from the Department of Environmental Protection. Each
82 property funded under this program shall be investigated in
83 accordance with prevailing standards and guidelines and remediated
84 in accordance with the regulations established for the remediation of
85 such sites adopted by the Commissioner of Environmental Protection
86 or pursuant to section 22a-133k and under the supervision of the
87 department or in accordance with the voluntary remediation program
88 established in section 22a-133x. In either event, the department shall
89 determine that remediation of the property has been fully
90 implemented upon submission of a report indicating that remediation
91 has been verified by an environmental professional licensed in
92 accordance with section 22a-133v. Not later than ninety days after
93 submission of the verification report, the [commissioner]
94 Commissioner of Environmental Protection shall notify the
95 municipality or economic development agency as to whether the
96 remediation has been performed and completed in accordance with
97 the remediation standards or whether any additional remediation is
98 warranted. For purposes of acknowledging that the remediation is
99 complete, the commissioner may indicate that all actions to remediate
100 any pollution caused by any release have been taken in accordance
101 with the remediation standards and that no further remediation is
102 necessary to achieve compliance except postremediation monitoring,
103 natural attenuation monitoring or the recording of an environmental
104 land use restriction.

105 (g) All relevant terms in this subsection, subsection (h) of this
106 section, sections 32-9dd to 32-9ff, inclusive, and section 11 of public act
107 06-184* shall be defined in accordance with the definitions in chapter
108 445. For purposes of subdivision (12) of subsection (a) of section 32-9t,

109 this subsection, subsection (h) of this section, sections 32-9dd to 32-9gg,
110 inclusive, and section 11 of public act 06-184*, "brownfields" means any
111 abandoned or underutilized site where redevelopment and reuse has
112 not occurred due to the presence of pollution in the soil or
113 groundwater that requires remediation prior to or in conjunction with
114 the restoration, redevelopment and reuse of the property.

115 (h) The Departments of Economic and Community Development
116 and Environmental Protection shall administer the provisions of
117 subdivision (1) of section 22a-134, section 32-1m, subdivision (12) of
118 subsection (a) of section 32-9t, sections 32-9cc to 32-9gg, inclusive, and
119 section 11 of public act 06-184* within available appropriations and
120 any funds allocated pursuant to sections 4-66c, 22a-133t and 32-9t.

121 Sec. 2. Subsection (b) of section 32-9ee of the general statutes is
122 repealed and the following is substituted in lieu thereof (*Effective July*
123 *1, 2007*):

124 (b) In determining what funds shall be made available for an
125 eligible brownfield remediation, the [Office of Brownfield Remediation
126 and Development] Commissioner of Economic and Community
127 Development shall consider (1) the economic development
128 opportunities such reuse and redevelopment may provide, [and] (2)
129 the feasibility of the project, (3) the environmental and public health
130 benefits of the project, and (4) the contribution of the reuse and
131 redevelopment to the municipality's tax base.

132 Sec. 3. (NEW) (*Effective July 1, 2007*) As used in sections 4 and 5 of
133 this act:

134 (1) "Brownfield" means any abandoned or underutilized site where
135 redevelopment and reuse has not occurred due to the presence or
136 potential presence of pollution in the buildings, soil or groundwater
137 that requires remediation before or in conjunction with the restoration,
138 redevelopment and reuse of the property;

139 (2) "Commissioner" means the Commissioner of Economic and

140 Community Development;

141 (3) "Department" means the Department of Economic and
142 Community Development;

143 (4) "Eligible applicant" means any municipality, a for-profit or
144 nonprofit organization or entity, a local or regional economic
145 development entity acting on behalf of a municipality or any
146 combination thereof;

147 (5) "Financial assistance" means grants, extensions of credit, loans or
148 loan guarantees, participation interests in loans made to eligible
149 applicants by the Connecticut Development Authority or combinations
150 thereof;

151 (6) "Municipality" means a town, city, consolidated town and city or
152 consolidated town and borough;

153 (7) "Eligible brownfield project" means the assessment, remediation
154 and development of a brownfield undertaken pursuant to this section
155 and sections 4 and 5 of this act;

156 (8) "Project area" means the area within which a brownfield
157 development project is located;

158 (9) "Real property" means land, buildings and other structures and
159 improvements thereto, subterranean or subsurface rights, any and all
160 easements, air rights and franchises of any kind or nature; and

161 (10) "State" means the state of Connecticut.

162 Sec. 4. (NEW) (*Effective July 1, 2007*) Subject to the availability of
163 funds, the Commissioner of Economic and Community Development
164 may, in consultation with the Commissioner of Environmental
165 Protection, provide financial assistance in support of eligible
166 brownfield projects, as defined in subdivision (7) of section 3 of this
167 act.

168 Sec. 5. (NEW) (*Effective July 1, 2007*) (a) An eligible applicant, as
169 defined in subdivision (4) of section 3 of this act, shall submit an
170 application for financial assistance to the Commissioner of Economic
171 and Community Development on forms provided by said
172 commissioner and with such information said commissioner deems
173 necessary, including, but not limited to: (1) A description of the
174 proposed project; (2) an explanation of the expected benefits of the
175 project in relation to the purposes of sections 3 to 5, inclusive, of this
176 act; (3) information concerning the financial and technical capacity of
177 the eligible applicant to undertake the proposed project; (4) a project
178 budget; (5) a description of the condition of the property involved
179 including the results of any environmental assessment of the property;
180 and (6) the names of any persons known to be liable for the
181 remediation of the property.

182 (b) The commissioner may approve, reject or modify any
183 application properly submitted. In reviewing an application and
184 determining the type and amount of financial assistance, if any, to be
185 provided, the commissioner shall consider the following criteria: (1)
186 The availability of funds; (2) the estimated costs of assessing and
187 remediating the site, if known; (3) the relative economic condition of
188 the municipality; (4) the relative need of the eligible project for
189 financial assistance; (5) the degree to which financial assistance is
190 necessary as an inducement to the eligible applicant to undertake the
191 project; (6) the public health and environmental benefits of the project;
192 (7) relative economic benefits of the project to the municipality, the
193 region and the state, including, but not limited to, the extent to which
194 the project will likely result in the retention and creation of jobs; (8) the
195 timeframe in which the contamination occurred; (9) the relationship of
196 the applicant to the person or entity that caused the contamination;
197 and (10) such other criteria as the commissioner may establish
198 consistent with the purposes of sections 3 to 5, inclusive, of this act.

199 (c) The Commissioner of Economic and Community Development
200 shall approve applications submitted in accordance with subsection (a)
201 of this section before awarding any financial assistance to an eligible

202 applicant or purchasing any participation interest in a loan made by
203 the Connecticut Development Authority for the benefit of an eligible
204 applicant. Notwithstanding any other provision of this section, if the
205 applicant's request for financial assistance involves the department
206 purchasing a participation interest in a loan made by the Connecticut
207 Development Authority, such authority may submit such application
208 and other information as is required of eligible applicants under
209 subsection (a) of this section on behalf of such eligible applicant and no
210 further application shall be required of such eligible applicant. No
211 financial assistance shall exceed fifty per cent of the total project cost,
212 provided in the case of (1) planning or site evaluation projects, and (2)
213 financial assistance to any project in a targeted investment community,
214 such assistance shall not exceed ninety per cent of the project cost.
215 Upon approval of the commissioner, a nonstate share of the total
216 project cost, if any, may be satisfied entirely or partially from noncash
217 contributions, including contributions of real property, from private
218 sources or, to the extent permitted by federal law, from moneys
219 received by the municipality under any federal grant program.

220 (d) Financial assistance may be made available for (1) site
221 investigation and assessment, (2) planning, including, but not limited
222 to, the reasonable cost of feasibility studies, engineering, appraisals,
223 market studies and related activities, (3) the acquisition of real
224 property, provided financial assistance for such acquisition shall not
225 exceed fair market value as appraised as if clean, (4) the construction of
226 site and infrastructure improvements related to the site remediation,
227 (5) demolition, asbestos abatement, hazardous waste removal, PCB
228 removal and related infrastructure remedial activities, (6) remediation,
229 groundwater monitoring, (7) environmental insurance, and (8) other
230 reasonable expenses the commissioner determines are necessary or
231 appropriate for the initiation, implementation and completion of the
232 project. The department may purchase participation interests in loans
233 made by the Connecticut Development Authority for the foregoing
234 purposes.

235 (e) The commissioner may establish the terms and conditions of any

236 financial assistance provided pursuant to sections 3 to 5, inclusive, of
237 this act. The commissioner may make any stipulation in connection
238 with an offer of financial assistance the commissioner deems necessary
239 to implement the policies and purposes of such sections, including, but
240 not limited to the following: (1) Providing assurances that the eligible
241 applicant will discharge its obligations in connection with the project;
242 and (2) requiring that the eligible applicant provide the department
243 with appropriate security for such financial assistance, including, but
244 not limited to, a letter of credit, a lien on real property or a security
245 interest in goods, equipment, inventory or other property of any kind.

246 (f) The commissioner may use any available funds for financial
247 assistance under the provisions of sections 3 to 5, inclusive, of this act.

248 (g) Whenever funds are used pursuant to sections 3 to 5, inclusive,
249 of this act for purposes of environmental assessments or remediation
250 of a brownfield, the Commissioner of Environmental Protection may
251 seek reimbursement of the costs and expenses incurred by requesting
252 the Attorney General to bring a civil action to recover such costs and
253 expenses from any party responsible for such pollution provided no
254 such action shall be brought separately from any action to recover
255 costs and expenses incurred by the Commissioner of Environmental
256 Protection in pursuing action to contain, remove or mitigate any
257 pollution on such site. The costs and expenses recovered may include,
258 but shall not be limited to, (1) the actual cost of identifying, evaluating,
259 planning for and undertaking the remediation of the site; (2) any
260 administrative costs not exceeding ten per cent of the actual costs; (3)
261 the costs of recovering the reimbursement; and (4) interest on the
262 actual costs at a rate of ten per cent a year from the date such expenses
263 were paid. The defendant in any civil action brought pursuant to this
264 subsection shall have no cause of action or claim for contribution
265 against any person with whom the Commissioner of Environmental
266 Protection has entered into a covenant not to sue pursuant to sections
267 22a-133aa and 22a-133bb of the general statutes with respect to
268 pollution on or emanating from the property that is the subject of said
269 civil action. Funds recovered pursuant to this section shall be

270 deposited in the brownfield remediation and development account
271 established pursuant to section 6 of this act. The provisions of this
272 subsection shall be in addition to any other remedies provided by law.

273 Sec. 6. (NEW) (*Effective July 1, 2007*) (a) There is established a
274 separate nonlapsing account within the General Fund to be known as
275 the "brownfield remediation and development account". There shall be
276 deposited in the account: (1) The proceeds of bonds issued by the state
277 for deposit into said account and used in accordance with this section;
278 (2) repayments of assistance provided pursuant to subsection (c) of
279 section 22a-133u of the general statutes, as amended by this act; (3)
280 interest or other income earned on the investment of moneys in the
281 account; (4) funds recovered pursuant to subsection (g) of section 5 of
282 this act; and (5) all funds required by law to be deposited in the
283 account. Repayment of principal and interest on loans made pursuant
284 to sections 3 to 5, inclusive, of this act shall be credited to such account
285 and shall become part of the assets of the account. Any balance
286 remaining in such account at the end of any fiscal year shall be carried
287 forward in the account for the fiscal year next succeeding.

288 (b) All moneys received in consideration of financial assistance,
289 including payments of principal and interest on any loans, shall be
290 credited to the account. At the discretion of the Commissioner of
291 Economic and Community Development and subject to the approval
292 of the Secretary of the Office of Policy and Management, any federal,
293 private or other moneys received by the state in connection with
294 projects undertaken pursuant to sections 3 to 5, inclusive, of this act
295 shall be credited to the assets of the account.

296 (c) Notwithstanding any provision of law, proceeds from the sale of
297 bonds available pursuant to subdivision (1) of subsection (b) of section
298 4-66c of the general statutes may, with the approval of the Governor
299 and the State Bond Commission, be used to capitalize the brownfield
300 remediation and development account created by this section.

301 (d) The commissioner may, with the approval of the Secretary of the

302 Office of Policy and Management, provide financial assistance
303 pursuant to sections 3 to 5, inclusive, of this act from the account
304 established under this section.

305 Sec. 7. Subsection (c) of section 22a-133u of the general statutes is
306 repealed and the following is substituted in lieu thereof (*Effective July*
307 *1, 2007*):

308 (c) Any person, firm, corporation or municipality which has
309 received funds under subsection (b) of this section shall repay such
310 funds to the Commissioner of Economic and Community
311 Development, according to a schedule and terms which said
312 commissioner deems appropriate. The principal amount of the loan
313 shall be due at a time deemed appropriate by the commissioner as
314 follows: (1) Upon the sale of the property or lease of the property, in
315 whole or in part, which is the subject of such evaluation or demolition;
316 (2) upon the sale or release of a municipality's liens on such property;
317 or (3) upon the approval by the Commissioner of Environmental
318 Protection of a final remedial action report submitted in accordance
319 with section 22a-133y. The Commissioner of Economic and
320 Community Development may require repayment of the loan
321 amortized over a period of no more than five years from the sale of the
322 property, sale of the lien or approval by the Commissioner of
323 Environmental Protection of the final remedial action report. No
324 repayment shall be required, other than interest for the period that the
325 loan is outstanding, if completion of remediation of environmental
326 pollution at or on the property, or the sale or lease of such property, is
327 economically infeasible due to the cost of such remediation. The
328 commissioner may require partial repayment of the loan only if partial
329 repayment is economically feasible. Any funds received by said
330 commissioner as repayment under this subsection shall be deposited
331 into the [Special Contaminated Property Remediation and Insurance
332 Fund] brownfield remediation and development account. The terms of
333 any loan agreement entered into by said commissioner under said
334 subsection may provide for the collection of interest on the loan which
335 may vary according to whether the applicant is a municipality or a

336 private entity and the duration of the repayment schedule for such
337 loan provided the interest cost to the borrower provided for in such
338 agreement shall not exceed the interest cost to the state on borrowings
339 of like terms.

340 Sec. 8. (NEW) (*Effective July 1, 2007*) The Commissioners of
341 Environmental Protection and Economic and Community
342 Development shall, in consultation with the Secretary of the Office of
343 Policy and Management, establish a pilot program to identify and
344 evaluate brownfield sites in priority funding areas designated
345 pursuant to section 16a-28 of the general statutes. Said commissioners
346 will work with state and local agencies as a coordinated team to
347 identify all necessary permits and approvals for development, conduct
348 outreach to solicit development proposals, and coordinate to review all
349 requests for funding and permit approvals.

350 Sec. 9. Subsection (d) of section 25-68d of the general statutes is
351 repealed and the following is substituted in lieu thereof (*Effective July*
352 *1, 2007*):

353 (d) Any state agency proposing an activity or critical activity within
354 or affecting the floodplain may apply to the commissioner for
355 exemption from the provisions of subsection (b) of this section. Such
356 application shall include a statement of the reasons why such agency is
357 unable to comply with said subsection and any other information the
358 commissioner deems necessary. The commissioner, at least thirty days
359 before approving, approving with conditions or denying any such
360 application, shall publish once in a newspaper having a substantial
361 circulation in the affected area notice of: (1) The name of the applicant;
362 (2) the location and nature of the requested exemption; (3) the tentative
363 decision on the application; and (4) additional information the
364 commissioner deems necessary to support the decision to approve,
365 approve with conditions or deny the application. There shall be a
366 comment period following the public notice during which period
367 interested persons and municipalities may submit written comments.
368 After the comment period, the commissioner shall make a final

369 determination to either approve the application, approve the
370 application with conditions or deny the application. The commissioner
371 may hold a public hearing prior to approving, approving with
372 conditions or denying any application if in the discretion of the
373 commissioner the public interest will be best served thereby, and the
374 commissioner shall hold a public hearing upon receipt of a petition
375 signed by at least twenty-five persons. Notice of such hearing shall be
376 published at least thirty days before the hearing in a newspaper
377 having a substantial circulation in the area affected. The commissioner
378 may approve or approve with conditions such exemption if the
379 commissioner determines that (A) the agency has shown that the
380 activity or critical activity is in the public interest, will not injure
381 persons or damage property in the area of such activity or critical
382 activity, complies with the provisions of the National Flood Insurance
383 Program, and, in the case of a loan or grant, the recipient of the loan or
384 grant has been informed that increased flood insurance premiums may
385 result from the activity or critical activity. An activity shall be
386 considered to be in the public interest if it is a development subject to
387 environmental remediation regulations adopted pursuant to section
388 22a-133k and is in or adjacent to an area identified as a regional center,
389 neighborhood conservation area, growth area or rural community
390 center in the State Plan of Conservation and Development pursuant to
391 chapter 297, or (B) in the case of a flood control project, such project
392 meets the criteria of subparagraph (A) of this subdivision and is more
393 cost-effective to the state and municipalities than a project constructed
394 to or above the base flood or base flood for a critical activity. Following
395 approval for exemption for a flood control project, the commissioner
396 shall provide notice of the hazards of a flood greater than the capacity
397 of the project design to each member of the legislature whose district
398 will be affected by the project and to the following agencies and
399 officials in the area to be protected by the project: The planning and
400 zoning commission, the inland wetlands agency, the director of civil
401 defense, the conservation commission, the fire department, the police
402 department, the chief elected official and each member of the
403 legislative body, and the regional planning agency. Notice shall be

404 given to the general public by publication in a newspaper of general
405 circulation in each municipality in the area in which the project is to be
406 located.

407 Sec. 10. Subsections (e) to (g), inclusive, of section 22a-134a of the
408 general statutes are repealed and the following is substituted in lieu
409 thereof (*Effective July 1, 2007*):

410 (e) [No] Not later than thirty days after receipt of a Form III or Form
411 IV, the commissioner shall notify the certifying party whether the form
412 is complete or incomplete. [Within] The certifying party shall use a
413 licensed environmental professional to verify the investigation and
414 remediation, unless not later than forty-five days [of] after receipt of a
415 complete Form III or IV, the commissioner [shall notify] notifies the
416 certifying party in writing [whether] that review and approval of the
417 remediation by the commissioner [will] shall be required. [, or whether
418 a licensed environmental professional may verify that the investigation
419 has been performed in accordance with prevailing standards and
420 guidelines and that the remediation has been performed in accordance
421 with the remediation standards.] Any person who submitted a Form
422 III to the commissioner prior to October 1, 1995, may submit an
423 environmental condition assessment form to the commissioner. The
424 commissioner shall, [within] not later than forty-five days [of] after
425 receipt of such form, notify the certifying party whether approval of
426 the remediation by the commissioner will be required or whether a
427 licensed environmental professional may verify that the investigation
428 was performed in accordance with prevailing standards and
429 guidelines and the remediation has been performed in accordance with
430 the remediation standards.

431 (f) In determining whether review and approval of the remediation
432 by the commissioner will be required, or whether a licensed
433 environmental professional may verify that the remediation has been
434 performed in accordance with the remediation standards, the
435 commissioner shall consider: (1) The potential risk to human health
436 and the environment posed by any discharge, spillage, uncontrolled

437 loss, seepage or filtration of hazardous waste or a hazardous substance
438 at the establishment; (2) the degree of environmental investigation at
439 the parcel; (3) the proximity of the establishment to significant natural
440 resources; (4) the character of the land uses surrounding the
441 establishment; (5) the complexity of the environmental condition of the
442 establishment; and (6) any other factor the commissioner deems
443 relevant.

444 (g) (1) [If the commissioner notifies] Except as provided in
445 subsection (h) of this section, the certifying party to a Form III or Form
446 IV [that a licensed environmental professional may verify the
447 remediation, such certifying party] shall, on or before [thirty] seventy-
448 five days [of] after the receipt of such notice that such form is complete
449 or such later date as may be approved in writing by the commissioner,
450 submit a schedule for the investigation of the parcel and remediation
451 of the establishment. Such schedule shall, unless a later date is
452 specified in writing by the commissioner, provide that the
453 investigation shall be completed within two years of the date of receipt
454 of such notice and that remediation shall be initiated within three years
455 of the date of receipt of such notice. The schedule shall also include a
456 schedule for providing public notice of the remediation prior to the
457 initiation of such remediation in accordance with subsection (i) of this
458 section. [The commissioner] Not later than two years after the date of
459 the receipt of the notice that the Form III or Form IV is complete,
460 unless the commissioner has specified a later day, in writing, the
461 certifying party shall submit to the commissioner documentation,
462 approved in writing by a licensed environmental professional and in a
463 form prescribed by the commissioner, that the investigation has been
464 completed in accordance with prevailing standards and guidelines.
465 Not later than three years after the date of the receipt of the notice that
466 the Form III or Form IV is complete, unless the commissioner has
467 specified a later day in writing, the certifying party shall notify the
468 commissioner in a form prescribed by the commissioner that the
469 remediation has been initiated, and shall submit to the commissioner a
470 remedial action plan approved in writing by a licensed environmental

471 professional in a form prescribed by the commissioner.
472 Notwithstanding any other provision of this section, the commissioner
473 may determine at any time that the commissioner's review and written
474 approval is necessary and in such case shall notify such certifying
475 party [if the commissioner determines] that the commissioner's review
476 and written approval is necessary. Such certifying party shall
477 investigate the parcel and remediate the establishment in accordance
478 with the proposed schedule or the schedule specified by the
479 commissioner. When remediation of the entire establishment is
480 complete, the certifying party shall submit to the commissioner a final
481 verification by a licensed environmental professional. Any such final
482 verification may include and rely upon a verification for a portion of
483 the establishment submitted pursuant to subdivision (2) of this
484 subsection. Verifications shall be submitted on a form prescribed by
485 the commissioner.

486 (2) If a certifying party completes the remediation for a portion of an
487 establishment, such party may submit a verification by a licensed
488 environmental professional for any such portion of an establishment.
489 The certifying party shall be deemed to have satisfied the requirements
490 of this subsection for that portion of the establishment covered by any
491 such verification. If any portion of an establishment for which a
492 verification is submitted pursuant to this subdivision is transferred,
493 conveyed or undergoes a change in ownership before remediation of
494 the entire establishment is complete that would not otherwise be
495 subject to the provisions of sections 22a-134 to 22a-134e, inclusive, then
496 the certifying party shall provide notice to the commissioner of such
497 transfer, conveyance or change in ownership not later than thirty days
498 of any such transfer, conveyance or change in ownership.

499 (3) (A) The commissioner may conduct an audit of any verification
500 submitted pursuant to this section, but shall not conduct an audit of a
501 final verification of an entire establishment submitted pursuant to
502 subdivision (1) of this subsection after three years have passed since
503 the date of the commissioner's receipt of such final verification unless
504 an exception listed in subparagraph (C) of subdivision (3) of this

505 subsection applies. Upon completion of an audit, the commissioner
506 shall send written audit findings to the certifying party and the
507 licensed environmental professional who verified. The three-year time
508 frame for an audit of a final verification of an entire establishment shall
509 apply to such final verifications received by the commissioner after
510 October 1, 2007.

511 (B) The commissioner may request additional information during an
512 audit. If such information has not been provided to the commissioner
513 within ninety days of the commissioner's request for such information
514 or any longer time as the commissioner may determine in writing, the
515 commissioner may either (i) suspend the audit, which for a final
516 verification shall suspend the running of the three-year audit time
517 frame until such time as the commissioner receives all the information
518 requested, or (ii) complete the audit based upon the information
519 provided in the verification before the request for additional
520 information.

521 (C) The commissioner shall not conduct an audit of a final
522 verification of an entire establishment after three years from receipt of
523 such verification pursuant to this subdivision unless (i) the
524 commissioner has reason to believe that a verification was obtained
525 through the submittal of materially inaccurate or erroneous
526 information, or otherwise misleading information material to the
527 verification or that misrepresentations were made in connection with
528 the submittal of the verification, (ii) a verification is submitted
529 pursuant to an order of the commissioner pursuant to subdivision (j) of
530 section 22a-134a, (iii) any post-verification monitoring, or operations
531 and maintenance, is required as part of a verification and which has
532 not been done, (iv) a verification that relies upon an environmental
533 land use restriction was not recorded on the land records of the
534 municipality in which such land is located in accordance with section
535 22a-133o and applicable regulations, (v) the commissioner determines
536 that there has been a violation of sections 22a-134 to 22a-134e, or (vi)
537 the commissioner determines that information exists indicating that
538 the remediation may have failed to prevent a substantial threat to

539 public health or the environment.

540 Sec. 11. Section 12-63e of the general statutes is repealed and the
541 following is substituted in lieu thereof (*Effective July 1, 2007*):

542 (a) Notwithstanding the provisions of this chapter, and except as
543 provided in subsection (b) of this section, when determining the value
544 of any property, except residential property, for purpose of the
545 assessment for property taxes, the assessors of a municipality shall not
546 reduce the value of any property due to any polluted or
547 environmentally hazardous condition existing on such property if such
548 condition was caused by the owner of such property or if a successor
549 in title to such owner acquired such property after any notice of the
550 existence of any such condition was filed on the land records in the
551 town where the property is located. For purposes of this section, an
552 owner shall be deemed to have caused the polluted or environmentally
553 hazardous condition if the Department of Environmental Protection,
554 the United States Environmental Protection Agency or a court of
555 competent jurisdiction has determined that such owner caused such
556 condition or a portion of it.

557 (b) If any owner of such property or if any successor in title to such
558 owner who acquired such property after any notice of the existence of
559 any such condition was filed on the land records in the town where the
560 property is located (1) enters into an agreement with the department to
561 voluntarily remediate such property, (2) files such agreement on the
562 land records of the town where such property is located, and (3) has
563 developed an approved remedial action plan for the property, the
564 provisions of subsection (a) of this section shall not apply. In any such
565 cases, the assessors of a municipality may reduce the value of any
566 property due to any polluted of environmentally hazardous condition
567 existing on such property. The assessors of a municipality may also
568 raise the value of any property after remediation is completed to take
569 into account the removal of such pollution or environmentally
570 hazardous condition.

571 Sec. 12. Section 22a-133aa of the general statutes is repealed and the
572 following is substituted in lieu thereof (*Effective July 1, 2007*):

573 (a) The Commissioner of Environmental Protection may enter into a
574 covenant not to sue with any prospective purchaser or owner of
575 contaminated real property provided (1) a detailed written plan for
576 remediation of the property, in accordance with standards adopted by
577 said commissioner pursuant to section 22a-133k, has been approved by
578 the Commissioner of Environmental Protection which plan shall be
579 incorporated by reference in the covenant, [or] (2) the Commissioner of
580 Environmental Protection has approved a final remedial action report
581 for such property, or (3) if before any approval by the commissioner of
582 a detailed written plan or final remedial action report for such
583 property, the commissioner has approved a brownfield investigation
584 plan and remediation schedule, as defined in subsection (f) of section
585 22a-133aa, which investigation plan and remediation schedule shall be
586 incorporated by reference in the covenant. No such covenant may be
587 entered into unless such purchaser or owner has demonstrated to the
588 satisfaction of the commissioner that such purchaser or owner (A) did
589 not establish or create a facility or condition at or on such property
590 which reasonably can be expected to create a source of pollution to the
591 waters of the state for purposes of section 22a-432 and has not
592 maintained any such facility or condition at such property for
593 purposes of said section, and such purchaser is not responsible
594 pursuant to any other provision of the general statutes for any
595 pollution or source of pollution on the property; (B) is not affiliated
596 with any person responsible for such pollution or source of pollution
597 through any direct or indirect familial relationship or any contractual,
598 corporate or financial relationship other than that by which such
599 purchaser's interest in such property is to be conveyed or financed;
600 and (C) will redevelop the property for productive use or continue
601 productive use of such property provided the commissioner
602 determines that the covenant not to sue is in the public interest. Upon
603 the request of a successor of an original holder of a covenant issued
604 under this section, the commissioner shall enter into such covenant

605 with such successor if such successor certifies to the satisfaction of the
606 commissioner that such successor complies with subparagraphs (A),
607 (B) and (C) of this subsection. The commissioner may enter into a
608 covenant not to sue with any lending institution to whom a
609 prospective purchaser of contaminated real property conveys a
610 security interest in such property provided such institution has
611 demonstrated to the satisfaction of the commissioner that such
612 institution did not establish or create a facility or condition at or on
613 such property which reasonably can be expected to create a source of
614 pollution to the waters of the state for purposes of section 22a-432 and
615 has not maintained any such facility or condition at such property for
616 purposes of said section, and such institution is not responsible
617 pursuant to any other provision of the general statutes for any
618 pollution or source of pollution on the property. Any covenant issued
619 to a lending institution under this section shall be effective with
620 respect to any lending institution which is a successor in interest to the
621 original lending institution provided such successor lending institution
622 did not establish or create a facility or condition at or on such property
623 which reasonably can be expected to create a source of pollution to the
624 waters of the state for purposes of section 22a-432 and has not
625 maintained any such facility or condition at such property for
626 purposes of said section, and such institution is not responsible
627 pursuant to any other provision of the general statutes for any
628 pollution or source of pollution on the property.

629 (b) Any covenant entered into under this section shall release only
630 those claims said commissioner may have which are related to
631 pollution or contamination on or emanating from the property, which
632 contamination resulted from a discharge, spillage, uncontrolled loss,
633 seepage or filtration on such property prior to the effective date of the
634 covenant. Such covenant shall provide that the commissioner will not
635 take any action against the holder of the covenant to require
636 remediation of the parcel or any other action against such holder
637 related to such discharge, spillage, uncontrolled loss, seepage or
638 filtration unless (1) prior to the commissioner's approval of a detailed

639 written plan for remediation pursuant to a brownfields investigation
640 plan and remediation schedule, the commissioner finds that there is
641 substantial noncompliance with such investigation plan and
642 remediation schedule and there has not been a good faith effort to
643 substantially comply therewith, (2) such property is not remediated in
644 accordance with the detailed written plan approved by the
645 commissioner and incorporated by reference in such covenant, [(2)] (3)
646 prior to completion of remediation in accordance with such plan, the
647 commissioner finds that there is substantial noncompliance with any
648 such plan and there has not been a good faith effort to substantially
649 comply therewith, [(3)] (4) remediation of the parcel in accordance
650 with [such] any detailed written plan for remediation did not comply
651 with standards adopted by the commissioner pursuant to section 22a-
652 133k which were in effect as of the effective date of either the covenant
653 or the commissioner's approval of the detailed written plan for
654 remediation, whichever is later, [or (4)] (5) if required by the standards
655 adopted by the commissioner pursuant to section 22a-133k, an
656 environmental land use restriction has not been recorded in
657 accordance with section 22a-133o or there has been a failure to comply
658 with the provisions of such a restriction, (6) for a property subject to
659 the brownfield plan and remediation schedule, the commissioner does
660 not approve a detailed written plan for remediation, or (7) the
661 prospective buyer or owner fails to pay the fee, including fails to pay
662 in accordance with any payment schedule pursuant to subsection (c) of
663 this section.

664 (c) (1) Any prospective purchaser or owner receiving a covenant not
665 to sue pursuant to this section shall pay to the commissioner a fee
666 equal to three per cent of the value of the property for which the
667 covenant was issued provided such property is appraised as if it were
668 uncontaminated. Such fee shall be deposited into the Special
669 Contaminated Property Remediation and Insurance Fund established
670 under section 22a-133t. No such fee shall be required for a covenant
671 issued to a successor in interest to the original covenant, [or] for a
672 covenant issued in connection with a remediation project conducted

673 under section 22a-133m, or for a municipality or municipal economic
674 development agency.

675 (2) Notwithstanding any other provision, the commissioner may
676 approve a written payment schedule of the fee set forth in subdivision
677 (1) of subsection (c) of this section, for a prospective purchaser or
678 owner receiving the covenant not to sue and who has a brownfield
679 investigation plan and remediation schedule approved by the
680 commissioner. Any such payment schedule shall be incorporated by
681 reference into the covenant.

682 (d) A covenant not to sue issued under this section may provide for
683 continued monitoring in accordance with the remediation standards
684 adopted under section 22a-133k, and, if further remediation is
685 necessary based upon the results of such monitoring, that further
686 action will be taken to remediate t-he property in accordance with such
687 standards.

688 (e) A covenant not to sue issued under this section shall not
689 preclude the com-missioner from taking any appropriate action,
690 including, but not limited to, any action to require remediation of the
691 property, if he determines that the covenant not to sue was based on
692 information provided by the person seeking the covenant which
693 information such person knew, or had reason to know, was false or
694 misleading.

695 (f) A "brownfield investigation plan and remediation schedule"
696 means a plan and schedule for investigation, and a schedule for
697 remediation, of any abandoned or underutilized site where
698 redevelopment and reuse has not occurred due to the presence of
699 pollution on the soil or groundwater that requires remediation prior to
700 or in conjunction with the restoration, redevelopment and reuse of the
701 property. The commissioner may determine for each property whether
702 the commissioner will oversee the investigation and remediation of the
703 property or whether such oversight will be delegated to a licensed
704 environmental professional. For each property subject to a covenant

705 under this section based on an approved brownfield investigation plan
706 and remediation schedule, the owner or prospective purchaser shall
707 perform all investigation and remediation activities under the
708 direction of a licensed environmental professional, and shall ensure
709 that all documents required to be submitted contain a written approval
710 of a licensed environmental professional, even at properties for which
711 the commissioner has not delegated oversight to a licensed
712 environmental professional. Each investigation plan and remediation
713 schedule shall provide a schedule for activities including, but not
714 limited to, completion of the investigation of the property in
715 accordance with prevailing standards and guidelines, submittal of a
716 complete investigation report, submittal of a detailed written plan for
717 remediation, completion of remediation in accordance with standards
718 adopted by said commissioner pursuant to section 22a-133k, and
719 submittal of a final remedial action report. At a minimum, the detailed
720 written plan for remediation shall be submitted, pursuant to the
721 schedule, for the commissioner's review and, as appropriate, approval.
722 If the commissioner approves the detailed written plan for
723 remediation, the plan shall be considered incorporated by reference
724 into the covenant not to sue. The commissioner may require submittal
725 of other plans and reports for the commissioner's review and approval.

726 Sec. 13. Subsection (ii) of section 32-23d of the general statutes is
727 repealed and the following is substituted in lieu thereof (*Effective July*
728 *1, 2007*):

729 (ii) "Remediation project" means any project (1) involving the
730 development, redevelopment or productive reuse of real property
731 within this state that (A) has been subject to a spill, as defined in
732 section 22a-452c, (B) is an establishment, as defined in subdivision (3)
733 of section 22a-134, (C) is a facility, as defined in 42 USC 9601(9), or (D)
734 is eligible to be treated as polluted real property for purposes of
735 section 22a-133m or contaminated real property for purposes of section
736 22a-133aa or section 22a-133bb, provided the development,
737 redevelopment or productive reuse is undertaken pursuant to a
738 remediation plan meeting all applicable standards and requirements of

739 the Department of Environmental Protection, (2) that the authority
740 determines will add or support significant new economic activity or
741 employment in the municipality in which such project is located or
742 will otherwise materially contribute to the economic base of the state
743 or the municipality or will provide a residential or mixed-use
744 development pursuant to chapter 828, and (3) for which assistance
745 from the authority will be needed to attract necessary private
746 investment.

747 Sec. 14. (NEW) (*Effective July 1, 2007*) The Connecticut Development
748 Authority may establish a loan guarantee program to provide
749 guarantees of not more than thirty per cent of the loan to lenders who
750 provide financing to eligible developers or eligible property owners as
751 defined in section 3 of this act.

752 Sec. 15. Section 11 of public act 06-184 is amended to read as follows
753 (*Effective July 1, 2007*):

754 (a) There is established a task force to study strategies for providing
755 long-term solutions for the state's brownfields.

756 (b) The task force shall consist of the following [nine] ten members,
757 each of whom shall have expertise in brownfield redevelopment either
758 in environmental law, engineering, finance, development, consulting,
759 insurance or other relevant experience:

760 (1) Two appointed by the Governor;

761 (2) One appointed by the president pro tempore of the Senate;

762 (3) One appointed by the speaker of the House of Representatives;

763 (4) One appointed by the majority leader of the Senate;

764 (5) One appointed by the majority leader of the House of
765 Representatives;

766 (6) One appointed by the minority leader of the Senate;

767 (7) One appointed by the minority leader of the House of
768 Representatives; [and]

769 [(8) A representative of the Department of Environmental
770 Protection, as appointed by the]

771 (8) The Commissioner of Economic and Community Development,
772 or the commissioner's designee;

773 (9) The Commissioner of Environmental Protection, or the
774 commissioner's designee; and

775 (10) The Secretary of the Office of Policy and Management or the
776 secretary's designee.

777 (c) Any member of the task force appointed under subdivision (1),
778 (2), (3), (4), (5), (6) or (7) of subsection (b) of this section may be a
779 member of the General Assembly. At least one member shall be an
780 employee.

781 (d) All appointments to the task force shall be made no later than
782 thirty days after the effective date of this section. Any vacancy shall be
783 filled by the appointing authority.

784 (e) The speaker of the House of Representatives and the president
785 pro tempore of the Senate shall select the chairpersons of the task
786 force, from among the members of the task force. Such chairpersons
787 shall schedule the first meeting of the task force, which shall be held no
788 later than sixty days after the effective date of this section.

789 (f) Not later than [January 1, 2007] February 1, 2008, the task force
790 shall submit a report on its findings and recommendations to the joint
791 standing committees of the General Assembly having cognizance of
792 matters relating to environment and commerce, in accordance with the
793 provisions of section 11-4a of the general statutes. The task force shall
794 terminate on the date that it submits such report or [January 1, 2007]
795 February 1, 2008, whichever is later."

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>July 1, 2007</i>	32-9cc
Sec. 2	<i>July 1, 2007</i>	32-9ee(b)
Sec. 3	<i>July 1, 2007</i>	New section
Sec. 4	<i>July 1, 2007</i>	New section
Sec. 5	<i>July 1, 2007</i>	New section
Sec. 6	<i>July 1, 2007</i>	New section
Sec. 7	<i>July 1, 2007</i>	22a-133u(c)
Sec. 8	<i>July 1, 2007</i>	New section
Sec. 9	<i>July 1, 2007</i>	25-68d(d)
Sec. 10	<i>July 1, 2007</i>	22a-134a(e) to (g)
Sec. 11	<i>July 1, 2007</i>	12-63e
Sec. 12	<i>July 1, 2007</i>	22a-133aa
Sec. 13	<i>July 1, 2007</i>	32-23d(ii)
Sec. 14	<i>July 1, 2007</i>	New section
Sec. 15	<i>July 1, 2007</i>	PA 06-184, Sec. 11