



General Assembly

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**Amendment**

LCO No. 8013

**\*HB0736908013HDO\***

Offered by:

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

REP. STRIPP, 135<sup>th</sup> Dist.  
SEN. DEBICELLA, 21<sup>st</sup> Dist.  
REP. CHAPIN, 67<sup>th</sup> Dist.  
SEN. MCKINNEY, 28<sup>th</sup> Dist.  
REP. STONE, 9<sup>th</sup> 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 Section 32-9cc of the general statutes is repealed and the  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 and engineering, including,  
222 but not limited to, the reasonable cost of environmental consultants,  
223 laboratory analysis, investigatory and remedial contractors, architects,  
224 attorneys' fees, feasibility studies, appraisals, market studies and  
225 related activities, (3) the acquisition of real property, provided  
226 financial assistance for such acquisition shall not exceed fair market  
227 value as appraised as if clean, (4) the construction of site and  
228 infrastructure improvements related to the site remediation, (5)  
229 demolition, asbestos abatement, hazardous waste removal, PCB  
230 removal and related infrastructure remedial activities, (6) remediation,  
231 groundwater monitoring, including, but not limited to, natural  
232 attenuation groundwater monitoring and costs associated with filing  
233 an environmental land use restriction, (7) environmental insurance,  
234 and (8) other reasonable expenses the commissioner determines are  
235 necessary or appropriate for the initiation, implementation and

236 completion of the project. The department may purchase participation  
237 interests in loans made by the Connecticut Development Authority for  
238 the foregoing purposes.

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

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

252 (g) Whenever funds are used pursuant to sections 3 to 5, inclusive,  
253 of this act for purposes of environmental assessments or remediation  
254 of a brownfield, the Commissioner of Environmental Protection may  
255 seek reimbursement of the costs and expenses incurred by requesting  
256 the Attorney General to bring a civil action to recover such costs and  
257 expenses from any party responsible for such pollution provided no  
258 such action shall be brought separately from any action to recover  
259 costs and expenses incurred by the Commissioner of Environmental  
260 Protection in pursuing action to contain, remove or mitigate any  
261 pollution on such site. The costs and expenses recovered may include,  
262 but shall not be limited to, (1) the actual cost of identifying, evaluating,  
263 planning for and undertaking the remediation of the site; (2) any  
264 administrative costs not exceeding ten per cent of the actual costs; (3)  
265 the costs of recovering the reimbursement; and (4) interest on the  
266 actual costs at a rate of ten per cent a year from the date such expenses  
267 were paid. The defendant in any civil action brought pursuant to this  
268 subsection shall have no cause of action or claim for contribution

269 against any person with whom the Commissioner of Environmental  
270 Protection has entered into a covenant not to sue pursuant to sections  
271 22a-133aa and 22a-133bb of the general statutes with respect to  
272 pollution on or emanating from the property that is the subject of said  
273 civil action. Funds recovered pursuant to this section shall be  
274 deposited in the brownfield remediation and development account  
275 established pursuant to section 6 of this act. The provisions of this  
276 subsection shall be in addition to any other remedies provided by law.

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

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

300 (c) Notwithstanding any provision of law, proceeds from the sale of  
301 bonds available pursuant to subdivision (1) of subsection (b) of section

302 4-66c of the general statutes may, with the approval of the Governor  
303 and the State Bond Commission, be used to capitalize the brownfield  
304 remediation and development account created by this section.

305 (d) The commissioner may, with the approval of the Secretary of the  
306 Office of Policy and Management, provide financial assistance  
307 pursuant to sections 3 to 5, inclusive, of this act from the account  
308 established under this section.

309 Sec. 7. Subsection (c) of section 22a-133u of the general statutes is  
310 repealed and the following is substituted in lieu thereof (*Effective July*  
311 *1, 2007*):

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

335 into the [Special Contaminated Property Remediation and Insurance  
336 Fund] brownfield remediation and development account. The terms of  
337 any loan agreement entered into by said commissioner under said  
338 subsection may provide for the collection of interest on the loan which  
339 may vary according to whether the applicant is a municipality or a  
340 private entity and the duration of the repayment schedule for such  
341 loan provided the interest cost to the borrower provided for in such  
342 agreement shall not exceed the interest cost to the state on borrowings  
343 of like terms.

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

354 Sec. 9. Subsection (d) of section 25-68d of the general statutes is  
355 repealed and the following is substituted in lieu thereof (*Effective July*  
356 *1, 2007*):

357 (d) Any state agency proposing an activity or critical activity within  
358 or affecting the floodplain may apply to the commissioner for  
359 exemption from the provisions of subsection (b) of this section. Such  
360 application shall include a statement of the reasons why such agency is  
361 unable to comply with said subsection and any other information the  
362 commissioner deems necessary. The commissioner, at least thirty days  
363 before approving, approving with conditions or denying any such  
364 application, shall publish once in a newspaper having a substantial  
365 circulation in the affected area notice of: (1) The name of the applicant;  
366 (2) the location and nature of the requested exemption; (3) the tentative  
367 decision on the application; and (4) additional information the

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

403 officials in the area to be protected by the project: The planning and  
404 zoning commission, the inland wetlands agency, the director of civil  
405 defense, the conservation commission, the fire department, the police  
406 department, the chief elected official and each member of the  
407 legislative body, and the regional planning agency. Notice shall be  
408 given to the general public by publication in a newspaper of general  
409 circulation in each municipality in the area in which the project is to be  
410 located.

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

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

435 (f) In determining whether review and approval of the remediation

436 by the commissioner will be required, or whether a licensed  
437 environmental professional may verify that the remediation has been  
438 performed in accordance with the remediation standards, the  
439 commissioner shall consider: (1) The potential risk to human health  
440 and the environment posed by any discharge, spillage, uncontrolled  
441 loss, seepage or filtration of hazardous waste or a hazardous substance  
442 at the establishment; (2) the degree of environmental investigation at  
443 the parcel; (3) the proximity of the establishment to significant natural  
444 resources; (4) the character of the land uses surrounding the  
445 establishment; (5) the complexity of the environmental condition of the  
446 establishment; and (6) any other factor the commissioner deems  
447 relevant.

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

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

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

503 (3) (A) The commissioner may conduct an audit of any verification

504 submitted pursuant to this section, but shall not conduct an audit of a  
505 final verification of an entire establishment submitted pursuant to  
506 subdivision (1) of this subsection after three years have passed since  
507 the date of the commissioner's receipt of such final verification unless  
508 an exception listed in subparagraph (C) of subdivision (3) of this  
509 subsection applies. Upon completion of an audit, the commissioner  
510 shall send written audit findings to the certifying party and the  
511 licensed environmental professional who verified. The three-year time  
512 frame for an audit of a final verification of an entire establishment shall  
513 apply to such final verifications received by the commissioner after  
514 October 1, 2007.

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

525 (C) The commissioner shall not conduct an audit of a final  
526 verification of an entire establishment after three years from receipt of  
527 such verification pursuant to this subdivision unless (i) the  
528 commissioner has reason to believe that a verification was obtained  
529 through the submittal of materially inaccurate or erroneous  
530 information, or otherwise misleading information material to the  
531 verification or that misrepresentations were made in connection with  
532 the submittal of the verification, (ii) a verification is submitted  
533 pursuant to an order of the commissioner pursuant to subdivision (j) of  
534 section 22a-134a, (iii) any post-verification monitoring, or operations  
535 and maintenance, is required as part of a verification and which has  
536 not been done, (iv) a verification that relies upon an environmental  
537 land use restriction was not recorded on the land records of the

538 municipality in which such land is located in accordance with section  
539 22a-133o and applicable regulations, (v) the commissioner determines  
540 that there has been a violation of sections 22a-134 to 22a-134e, or (vi)  
541 the commissioner determines that information exists indicating that  
542 the remediation may have failed to prevent a substantial threat to  
543 public health or the environment.

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

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

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

571 existing on such property. The assessors of a municipality may also  
572 raise the value of any property after remediation is completed to take  
573 into account the removal of such pollution or environmentally  
574 hazardous condition.

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

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

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

633 (b) Any covenant entered into under this section shall release only  
634 those claims said commissioner may have which are related to  
635 pollution or contamination on or emanating from the property, which  
636 contamination resulted from a discharge, spillage, uncontrolled loss,  
637 seepage or filtration on such property prior to the effective date of the  
638 covenant. Such covenant shall provide that the commissioner will not

639 take any action against the holder of the covenant to require  
640 remediation of the parcel or any other action against such holder  
641 related to such discharge, spillage, uncontrolled loss, seepage or  
642 filtration unless (1) prior to the commissioner's approval of a detailed  
643 written plan for remediation pursuant to a brownfields investigation  
644 plan and remediation schedule, the commissioner finds that there is  
645 substantial noncompliance with such investigation plan and  
646 remediation schedule and there has not been a good faith effort to  
647 substantially comply therewith, (2) such property is not remediated in  
648 accordance with the detailed written plan approved by the  
649 commissioner and incorporated by reference in such covenant, [(2)] (3)  
650 prior to completion of remediation in accordance with such plan, the  
651 commissioner finds that there is substantial noncompliance with any  
652 such plan and there has not been a good faith effort to substantially  
653 comply therewith, [(3)] (4) remediation of the parcel in accordance  
654 with [such] any detailed written plan for remediation did not comply  
655 with standards adopted by the commissioner pursuant to section 22a-  
656 133k which were in effect as of the effective date of either the covenant  
657 or the commissioner's approval of the detailed written plan for  
658 remediation, whichever is later, [or (4)] (5) if required by the standards  
659 adopted by the commissioner pursuant to section 22a-133k, an  
660 environmental land use restriction has not been recorded in  
661 accordance with section 22a-133o or there has been a failure to comply  
662 with the provisions of such a restriction, (6) for a property subject to  
663 the brownfield plan and remediation schedule, the commissioner does  
664 not approve a detailed written plan for remediation, or (7) the  
665 prospective buyer or owner fails to pay the fee, including fails to pay  
666 in accordance with any payment schedule pursuant to subsection (c) of  
667 this section.

668 (c) (1) Any prospective purchaser or owner receiving a covenant not  
669 to sue pursuant to this section shall pay to the commissioner a fee  
670 equal to three per cent of the value of the property for which the  
671 covenant was issued provided such property is appraised as if it were  
672 uncontaminated. Such fee shall be deposited into the Special

673 Contaminated Property Remediation and Insurance Fund established  
674 under section 22a-133t. No such fee shall be required for a covenant  
675 issued to a successor in interest to the original covenant, [or] for a  
676 covenant issued in connection with a remediation project conducted  
677 under section 22a-133m, or for a municipality or municipal economic  
678 development agency or a nonprofit economic development  
679 corporation and its officers and directors.

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

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

693 (e) A covenant not to sue issued under this section shall not  
694 preclude the commissioner from taking any appropriate action,  
695 including, but not limited to, any action to require remediation of the  
696 property, if he determines that the covenant not to sue was based on  
697 information provided by the person seeking the covenant which  
698 information such person knew, or had reason to know, was false or  
699 misleading.

700 (f) A "brownfield investigation plan and remediation schedule"  
701 means a plan and schedule for investigation, and a schedule for  
702 remediation, of any abandoned or underutilized site where  
703 redevelopment and reuse has not occurred due to the presence of  
704 pollution on the soil or groundwater that requires remediation prior to

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

731 Sec. 13. Subsection (ii) of section 32-23d of the general statutes is  
732 repealed and the following is substituted in lieu thereof (*Effective July*  
733 *1, 2007*):

734 (ii) "Remediation project" means any project (1) involving the  
735 development, redevelopment or productive reuse of real property  
736 within this state that (A) has been subject to a spill, as defined in  
737 section 22a-452c, (B) is an establishment, as defined in subdivision (3)  
738 of section 22a-134, (C) is a facility, as defined in 42 USC 9601(9), or (D)

739 is eligible to be treated as polluted real property for purposes of  
740 section 22a-133m or contaminated real property for purposes of section  
741 22a-133aa or section 22a-133bb, provided the development,  
742 redevelopment or productive reuse is undertaken pursuant to a  
743 remediation plan meeting all applicable standards and requirements of  
744 the Department of Environmental Protection, (2) that the authority  
745 determines will add or support significant new economic activity or  
746 employment in the municipality in which such project is located or  
747 will otherwise materially contribute to the economic base of the state  
748 or the municipality or will provide a residential or mixed-use  
749 development pursuant to chapter 828, and (3) for which assistance  
750 from the authority will be needed to attract necessary private  
751 investment.

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

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

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

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

765 (1) Two appointed by the Governor;

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

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

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

769 (5) One appointed by the majority leader of the House of  
770 Representatives;

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

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

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

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

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

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

782 (c) Any member of the task force appointed under subdivision (1),  
783 (2), (3), (4), (5), (6) or (7) of subsection (b) of this section may be a  
784 member of the General Assembly. At least one member shall be an  
785 employee.

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

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

794 (f) Not later than [January 1, 2007] February 1, 2008, the task force  
795 shall submit a report on its findings and recommendations to the joint  
796 standing committees of the General Assembly having cognizance of

797 matters relating to environment and commerce, in accordance with the  
 798 provisions of section 11-4a of the general statutes. The task force shall  
 799 terminate on the date that it submits such report or [January 1, 2007]  
 800 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