



General Assembly

February Session, 2008

Raised Bill No. 362

LCO No. 1971

01971_____ENV

Referred to Committee on Environment

Introduced by:
(ENV)

AN ACT CONCERNING RIVERFRONT PROTECTION.

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

1 Section 1. Section 22a-36 of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective October 1, 2008*):

3 (a) The inland wetlands and watercourses of the state of
4 Connecticut are an indispensable and irreplaceable but fragile natural
5 resource with which the citizens of the state have been endowed. The
6 wetlands and watercourses are an interrelated web of nature essential
7 to an adequate supply of surface and underground water; to
8 hydrological stability and control of flooding and erosion; to the
9 recharging and purification of groundwater; and to the existence of
10 many forms of animal, aquatic and plant life. Many inland wetlands
11 and watercourses have been destroyed or are in danger of destruction
12 because of unregulated use by reason of the deposition, filling or
13 removal of material, the diversion or obstruction of water flow, the
14 erection of structures and other uses, all of which have despoiled,
15 polluted and eliminated wetlands and watercourses. Such unregulated
16 activity has had, and will continue to have, a significant, adverse
17 impact on the environment and ecology of the state of Connecticut and

18 has and will continue to imperil the quality of the environment thus
19 adversely affecting the ecological, scenic, historic and recreational
20 values and benefits of the state for its citizens now and forever more.
21 The preservation and protection of the wetlands and watercourses
22 from random, unnecessary, undesirable and unregulated uses,
23 disturbance or destruction is in the public interest and is essential to
24 the health, welfare and safety of the citizens of the state. It is, therefore,
25 the purpose of sections 22a-36 to 22a-45, inclusive, as amended by this
26 act, to protect the citizens of the state by making provisions for the
27 protection, preservation, maintenance and use of the inland wetlands
28 and watercourses by minimizing their disturbance and pollution;
29 maintaining and improving water quality in accordance with the
30 highest standards set by federal, state or local authority; preventing
31 damage from erosion, turbidity or siltation; preventing loss of fish and
32 other beneficial aquatic organisms, wildlife and vegetation and the
33 destruction of the natural habitats thereof; deterring and inhibiting the
34 danger of flood and pollution; protecting the quality of wetlands and
35 watercourses for their conservation, economic, aesthetic, recreational
36 and other public and private uses and values; and protecting the state's
37 potable fresh water supplies from the dangers of drought, overdraft,
38 pollution, misuse and mismanagement by providing an orderly
39 process to balance the need for the economic growth of the state and
40 the use of its land with the need to protect its environment and ecology
41 in order to forever guarantee to the people of the state, the safety of
42 such natural resources for their benefit and enjoyment and for the
43 benefit and enjoyment of generations yet unborn.

44 (b) Protected, vegetated riverfront areas provide important public
45 safety, public health, water purity and ecological benefits to the
46 citizens of the state and the environment. The destruction of such areas
47 through overdevelopment and destruction of natural vegetation has
48 caused degradation of water quality and stream habitats, changed
49 hydrological processes, exacerbated flood damage and required
50 construction of costly flood control structures. Riverfront areas and
51 associated vegetation and soils maintain the biological and ecological

52 productivity of stream ecosystems, filter polluted stormwater runoff,
53 protect water quality and public and private drinking water supplies,
54 prevent erosion and provide sedimentation control, absorb overland
55 water flows in streamside soils, reduce the impact of flooding, and
56 minimize the loss of property. Such areas and vegetation help preserve
57 natural stream flow and aquifer recharge capabilities and proper water
58 temperatures, provide travel corridors, food and cover for numerous
59 wildlife species, preserve stream ecosystems, and protect fish and
60 shellfish. These functions provide and enhance important
61 socioeconomic benefits, including, but not limited to, scenic vistas and
62 recreational opportunities, a desirable quality of life for the citizens of
63 the state, increased tourism and attractive settings for waterfront
64 businesses.

65 Sec. 2. Section 22a-37 of the general statutes is repealed and the
66 following is substituted in lieu thereof (*Effective October 1, 2008*):

67 Sections 22a-36 to 22a-45, inclusive, as amended by this act, shall be
68 known and may be cited as the "Inland Wetlands and Watercourses
69 and Riverfront Protection Act".

70 Sec. 3. Section 22a-38 of the general statutes is repealed and the
71 following is substituted in lieu thereof (*Effective October 1, 2008*):

72 As used in sections 22a-36 to 22a-45a, inclusive, as amended by this
73 act:

74 (1) "Commissioner" means the Commissioner of Environmental
75 Protection;

76 (2) "Person" means any person, firm, partnership, association,
77 corporation, limited liability company, company, organization or legal
78 entity of any kind, including municipal corporations, governmental
79 agencies or subdivisions thereof;

80 (3) "Municipality" means any town, consolidated town and city,
81 consolidated town and borough, city and borough;

82 (4) "Inland wetlands agency" means a municipal board or
83 commission established pursuant to and acting under section 22a-42,
84 as amended by this act;

85 (5) "Soil scientist" means an individual duly qualified in accordance
86 with standards set by the federal Office of Personnel Management;

87 (6) "Material" means any substance, solid or liquid, organic or
88 inorganic, including, but not limited to soil, sediment, aggregate, land,
89 gravel, clay, bog, mud, debris, sand, refuse or waste;

90 (7) "Waste" means sewage or any substance, liquid, gaseous, solid or
91 radioactive, which may pollute or tend to pollute any of the waters of
92 the state;

93 (8) "Pollution" means harmful thermal effect or the contamination or
94 rendering unclean or impure of any waters of the state by reason of
95 any waste or other materials discharged or deposited therein by any
96 public or private sewer or otherwise so as directly or indirectly to
97 come in contact with any waters;

98 (9) "Rendering unclean or impure" means any alteration of the
99 physical, chemical or biological properties of any of the waters of the
100 state, including, but not limited to change in odor, color, turbidity or
101 taste;

102 (10) "Discharge" means the emission of any water, substance or
103 material into waters of the state whether or not such substance causes
104 pollution;

105 (11) "Remove" includes, but shall not be limited to drain, excavate,
106 mine, dig, dredge, suck, bulldoze, dragline or blast;

107 (12) "Deposit" includes, but shall not be limited to, fill, grade, dump,
108 place, discharge or emit;

109 (13) "Regulated activity" means any operation within or use of a

110 wetland or watercourse or riverfront area involving removal or
111 deposition of material, or any obstruction, construction, alteration or
112 pollution, of such wetlands or watercourses or riverfront areas, but
113 shall not include the specified activities in section 22a-40, as amended
114 by this act;

115 (14) "License" means the whole or any part of any permit, certificate
116 of approval or similar form of permission which may be required of
117 any person by the provisions of sections 22a-36 to 22a-45a, inclusive, as
118 amended by this act;

119 (15) "Wetlands" means land, including submerged land, not
120 regulated pursuant to sections 22a-28 to 22a-35, inclusive, which
121 consists of any of the soil types designated as poorly drained, very
122 poorly drained, alluvial, and floodplain by the National Cooperative
123 Soils Survey, as may be amended from time to time, of the Natural
124 Resources Conservation Service of the United States Department of
125 Agriculture;

126 (16) "Watercourses" means rivers, streams, brooks, waterways,
127 lakes, ponds, marshes, swamps, bogs and all other bodies of water,
128 natural or artificial, vernal or intermittent, public or private, which are
129 contained within, flow through or border upon this state or any
130 portion thereof, not regulated pursuant to sections 22a-28 to 22a-35,
131 inclusive. Intermittent watercourses shall be delineated by a defined
132 permanent channel and bank and the occurrence of two or more of the
133 following characteristics: (A) Evidence of scour or deposits of recent
134 alluvium or detritus, (B) the presence of standing or flowing water for
135 a duration longer than a particular storm incident, and (C) the
136 presence of hydrophytic vegetation;

137 (17) "Feasible" means able to be constructed or implemented
138 consistent with sound engineering principles;

139 (18) "Prudent" means economically and otherwise reasonable in
140 light of the social benefits to be derived from the proposed regulated

141 activity provided cost may be considered in deciding what is prudent
142 and further provided a mere showing of expense will not necessarily
143 mean an alternative is imprudent;

144 (19) "River" means a natural body of perennial or intermittent
145 flowing water that empties into the Long Island Sound, any lake, or
146 other natural body of perennial or intermittently flowing water.
147 Intermittent flowing rivers are delineated by a defined permanent
148 channel and bank, and the occurrence of two or more of the following
149 characteristics: (A) Evidence of scour or deposits of recent alluvium or
150 detritus; (B) the presence of standing or flowing water for a duration
151 longer than a particular storm incident; and (C) the presence of
152 hydrophytic vegetation;

153 (20) "Riverfront area" means the area of land situated between the
154 ordinary high water mark of a river and a parallel line located one
155 hundred feet away, measured outward horizontally from the ordinary
156 high water mark of the river;

157 (21) "Ordinary high water mark" means the line on the shore of a
158 river established by the fluctuations of water and indicated by physical
159 characteristics such as a readily identifiable, natural line impressed on
160 the river bank or shelving, or by changes in the character of the soil or
161 absence of terrestrial vegetation;

162 (22) "Vegetation" means naturally occurring shrubs, trees or other
163 plants but does not include lawns; and

164 (23) "Clear cutting" means removal of more than eighty per cent of
165 standing vegetation greater than two inches in diameter at breast
166 height in a riverfront area.

167 Sec. 4. Section 22a-39 of the general statutes is repealed and the
168 following is substituted in lieu thereof (*Effective October 1, 2008*):

169 The commissioner shall:

170 (a) Exercise general supervision of the administration and
171 enforcement of sections 22a-36 to 22a-45, inclusive, as amended by this
172 act;

173 (b) Develop comprehensive programs in furtherance of the
174 purposes of said sections;

175 (c) Advise, consult and cooperate with other agencies of the state,
176 the federal government, other states and with persons and
177 municipalities in furtherance of the purposes of said sections;

178 (d) Encourage, participate in or conduct studies, investigations,
179 research and demonstrations, and collect and disseminate information,
180 relating to the purposes of said sections;

181 (e) Retain and employ consultants and assistants on a contract or
182 other basis for rendering legal, financial, technical or other assistance
183 and advice in furtherance of any of its purposes, specifically including,
184 but not limited to, soil scientists on a cost-sharing basis with the
185 United States Soil Conservation Service for the purpose of (1)
186 completing the state soils survey and (2) making on-site
187 interpretations, evaluations and findings as to soil types;

188 (f) Adopt such regulations, in accordance with the provisions of
189 chapter 54, as are necessary to protect the wetlands or watercourses or
190 any of them individually or collectively;

191 (g) Inventory or index the wetlands and watercourses in such form,
192 including pictorial representations, as the commissioner deems best
193 suited to effectuate the purposes of sections 22a-36 to 22a-45, inclusive,
194 as amended by this act;

195 (h) Grant, deny, limit or modify in accordance with the provisions
196 of section 22a-42a, as amended by this act, an application for a license
197 or permit for any proposed regulated activity conducted by any
198 department, agency or instrumentality of the state, except any local or
199 regional board of education, (1) after an advisory decision on such

200 license or permit has been rendered to the commissioner by the
201 wetland agency of the municipality within which such wetland is
202 located or (2) thirty-five days after receipt by the commissioner of such
203 application, whichever occurs first;

204 (i) Grant, deny, limit or modify in accordance with the provisions of
205 section 22a-42, as amended by this act, and section 22a-42a, as
206 amended by this act, an application for a license or permit for any
207 proposed regulated activity within a municipality which does not
208 regulate its wetlands and watercourses;

209 (j) Exercise all incidental powers including but not limited to the
210 issuance of orders necessary to enforce rules and regulations and to
211 carry out the purposes of sections 22a-36 to 22a-45, inclusive, as
212 amended by this act;

213 (k) Conduct a public hearing no sooner than thirty days and not
214 later than sixty days following the receipt by said commissioner of any
215 inland wetlands application, provided whenever the commissioner
216 determines that the regulated activity for which a permit is sought is
217 not likely to have a significant impact on the wetland or watercourse,
218 he may waive the requirement for public hearing after (1) publishing
219 notice, in a newspaper having general circulation in each town
220 wherever the proposed work or any part thereof is located, of his
221 intent to waive said requirement, and (2) mailing notice of such intent
222 to the chief administrative officer in the town or towns where the
223 proposed work, or any part thereof, is located, and the chairman of the
224 conservation commission and inland wetlands agency of each such
225 town or towns, except that the commissioner shall hold a hearing on
226 such application upon receipt, within thirty days after such notice has
227 been published or mailed, of a petition signed by at least twenty-five
228 persons requesting such a hearing. The commissioner shall (1) publish
229 notice of such hearing at least once not more than thirty days and not
230 fewer than ten days before the date set for the hearing in a newspaper
231 having a general circulation in each town where the proposed work, or

232 any part thereof, is located, and (2) mail notice of such hearing to the
233 chief administrative officer in the town or towns where the proposed
234 work, or any part thereof, is located, and the chairman of the
235 conservation commission and inland wetlands agency of each such
236 town or towns. All applications and maps and documents relating
237 thereto shall be open for public inspection at the office of the
238 commissioner. The commissioner shall state upon his records his
239 findings and reasons for the action taken;

240 (l) Develop a comprehensive training program for inland wetlands
241 agency members;

242 (m) Adopt regulations in accordance with the provisions of chapter
243 54 establishing reporting requirements for inland wetlands agencies,
244 which shall include provisions for reports to the commissioner on
245 permits, orders and other actions of such agencies and development of
246 a form for such reports; [and]

247 (n) The commissioner shall issue a certificate to any member of a
248 municipal inland wetlands agency or its staff who completes the
249 training program offered annually by the commissioner for such
250 officials; and

251 (o) Not later than July 1, 2009, the commissioner shall, in
252 consultation with interested parties and the Commissioner of Public
253 Health, develop a guidance document designed to assist and educate
254 municipal inland wetlands agency members regarding the protection
255 of riverfront areas defined in section 22a-38, as amended by this act.
256 The guidance document shall identify management practices
257 associated with activities proposed within such riverfront areas to
258 ensure compliance with the purposes and provisions of sections 1 to 8,
259 inclusive, of this act. The Commissioner of Environmental Protection
260 shall post the guidance document on the Department of
261 Environmental Protection's Internet web site.

262 Sec. 5. Section 22a-40 of the general statutes is repealed and the

263 following is substituted in lieu thereof (*Effective October 1, 2008*):

264 (a) The following operations and uses shall be permitted in
265 wetlands and watercourses and riverfront areas, as of right:

266 (1) Grazing, farming, nurseries, gardening and harvesting of crops
267 and farm ponds of three acres or less essential to the farming
268 operation, and activities conducted by, or under the authority of, the
269 Department of Environmental Protection for the purposes of wetland
270 or watercourse or riverfront area restoration or enhancement or
271 mosquito control. The provisions of this subdivision shall not be
272 construed to include road construction or the erection of buildings not
273 directly related to the farming operation, relocation of watercourses
274 with continual flow, filling or reclamation of wetlands or watercourses
275 or riverfront areas with continual flow, clear cutting of timber except
276 for the expansion of agricultural crop land, the mining of top soil, peat,
277 sand, gravel or similar material from wetlands or watercourses or
278 riverfront areas for the purposes of sale;

279 (2) (A) For wetlands and watercourses: A residential home (i) for
280 which a building permit has been issued, or (ii) on a subdivision lot,
281 provided the permit has been issued or the subdivision has been
282 approved by a municipal planning, zoning or planning and zoning
283 commission as of the effective date of promulgation of the municipal
284 regulations pursuant to subsection (b) of section 22a-42a, as amended
285 by this act, or as of July 1, 1974, whichever is earlier, and further
286 provided no residential home shall be permitted as of right pursuant
287 to this subdivision unless the permit was obtained on or before July 1,
288 1987; (B) for riverfront areas: A residential home (i) for which a
289 building permit has been issued, or (ii) on a subdivision lot, provided
290 the permit has been issued or the subdivision has been approved by a
291 municipal planning, zoning or planning and zoning commission;

292 (3) Boat anchorage or mooring;

293 (4) Uses incidental to the enjoyment and maintenance of residential

294 property, such property defined as equal to or smaller than the largest
295 minimum residential lot site permitted anywhere in the municipality,
296 provided in any town, where there are no zoning regulations
297 establishing minimum residential lot sites, the largest minimum lot site
298 shall be two acres. Such incidental uses shall include maintenance of
299 existing structures and landscaping but shall not include removal or
300 deposition of significant amounts of material from or onto a wetland
301 or watercourse or riverfront area or diversion or alteration of a
302 watercourse or riverfront area;

303 (5) Construction and operation, by water companies as defined in
304 section 16-1 of the 2008 supplement to the general statutes or by
305 municipal water supply systems as provided for in chapter 102, of
306 dams, reservoirs and other facilities necessary to the impounding,
307 storage and withdrawal of water in connection with public water
308 supplies except as provided in sections 22a-401 and 22a-403; and

309 (6) Maintenance relating to any drainage pipe which existed before
310 the effective date of any municipal regulations adopted pursuant to
311 section 22a-42a, as amended by this act, or July 1, 1974, whichever is
312 earlier, provided such pipe is on property which is zoned as residential
313 but which does not contain hydrophytic vegetation. For purposes of
314 this subdivision, "maintenance" means the removal of accumulated
315 leaves, soil, and other debris whether by hand or machine, while the
316 pipe remains in place.

317 (b) The following additional uses shall be permitted as of right in
318 riverfront areas:

319 (1) Forestry activities supervised by a forest practitioner certified
320 pursuant to section 23-65h, in accordance with a forest management
321 plan, provided no clear cutting occurs within the riverfront area;

322 (2) The continuous use, repair, maintenance or replacement of any
323 existing land use, structure, parking, street facility or flood control
324 structure located in a riverfront area, provided the replacement of the

325 land use, structure, parking, street facility or flood control structure
326 does not exceed the footprint of the existing land use, structure,
327 parking, street facility or flood control structure;

328 (3) Construction, operation or maintenance of a transportation
329 facility or improvement operated by the state of Connecticut, or the
330 construction, expansion, repair, replacement, operation or
331 maintenance of public or private wastewater treatment plants and
332 their related structures, conveyance systems or facilities, including any
333 associated utility lines;

334 (4) Construction or maintenance of utility rights-of-way and
335 facilities, including, but not limited to, electric, gas, water, sewer and
336 communication lines; and

337 (5) The reuse of riverfront areas containing existing structures,
338 including, but not limited to, abandoned mills, industrial or
339 commercial structures, and associated parking and street facilities.

340 [(b)] (c) The following operations and uses shall be permitted, as
341 nonregulated uses in wetlands and watercourses, provided they do not
342 disturb the natural and indigenous character of the wetland or
343 watercourse by removal or deposition of material, alteration or
344 obstruction of water flow or pollution of the wetland or watercourse:

345 (1) Conservation of soil, vegetation, water, fish, shellfish and
346 wildlife; and

347 (2) Outdoor recreation, including play and sporting areas, golf
348 courses, field trials, nature study, hiking, horseback riding, swimming,
349 skin diving, camping, boating, water skiing, trapping, hunting, fishing
350 and shellfishing where otherwise legally permitted and regulated.

351 [(c)] (d) Any dredging or any erection, placement, retention or
352 maintenance of any structure, fill, obstruction or encroachment, or any
353 work incidental to such activities, conducted by a state agency, which
354 activity is regulated under sections 22a-28 to 22a-35, inclusive, or

355 sections 22a-359b to 22a-363f, inclusive, shall not require any permit or
356 approval under sections 22a-36 to 22a-45, inclusive, as amended by this
357 act.

358 Sec. 6. Section 22a-41 of the general statutes is repealed and the
359 following is substituted in lieu thereof (*Effective October 1, 2008*):

360 (a) In carrying out the purposes and policies of sections 22a-36 to
361 22a-45a, inclusive, as amended by this act, including matters relating to
362 regulating, licensing and enforcing of the provisions related to
363 wetlands and watercourses thereof, the commissioner shall take into
364 consideration all relevant facts and circumstances, including but not
365 limited to:

366 (1) The environmental impact of the proposed regulated activity on
367 wetlands or watercourses;

368 (2) The applicant's purpose for, and any feasible and prudent
369 alternatives to, the proposed regulated activity which alternatives
370 would cause less or no environmental impact to wetlands or
371 watercourses;

372 (3) The relationship between the short-term and long-term impacts
373 of the proposed regulated activity on wetlands or watercourses and
374 the maintenance and enhancement of long-term productivity of such
375 wetlands or watercourses;

376 (4) Irreversible and irretrievable loss of wetland or watercourse
377 resources which would be caused by the proposed regulated activity,
378 including the extent to which such activity would foreclose a future
379 ability to protect, enhance or restore such resources, and any
380 mitigation measures which may be considered as a condition of
381 issuing a permit for such activity including, but not limited to,
382 measures to (A) prevent or minimize pollution or other environmental
383 damage, (B) maintain or enhance existing environmental quality, or
384 (C) in the following order of priority: Restore, enhance and create

385 productive wetland or watercourse resources;

386 (5) The character and degree of injury to, or interference with,
387 safety, health or the reasonable use of property which is caused or
388 threatened by the proposed regulated activity; and

389 (6) Impacts of the proposed regulated activity on wetlands or
390 watercourses outside the area for which the activity is proposed and
391 future activities associated with, or reasonably related to, the proposed
392 regulated activity which are made inevitable by the proposed
393 regulated activity and which may have an impact on wetlands or
394 watercourses.

395 (b) (1) In the case of an application which received a public hearing
396 pursuant to (A) subsection (k) of section 22a-39, as amended by this
397 act, or (B) a finding by the inland wetlands agency that the proposed
398 activity may have a significant impact on wetlands or watercourses, a
399 permit shall not be issued unless the commissioner finds on the basis
400 of the record that a feasible and prudent alternative does not exist. In
401 making his finding, the commissioner shall consider the facts and
402 circumstances set forth in subsection (a) of this section. The finding
403 and the reasons therefor shall be stated on the record in writing.

404 (2) In the case of an application which is denied on the basis of a
405 finding that there may be feasible and prudent alternatives to the
406 proposed regulated activity which have less adverse impact on
407 wetlands or watercourses, the commissioner or the inland wetlands
408 agency, as the case may be, shall propose on the record in writing the
409 types of alternatives which the applicant may investigate provided this
410 subdivision shall not be construed to shift the burden from the
411 applicant to prove that he is entitled to the permit or to present
412 alternatives to the proposed regulated activity.

413 (c) For purposes of this section, (1) "wetlands or watercourses"
414 includes aquatic, plant or animal life and habitats in wetlands or
415 watercourses, and (2) "habitats" means areas or environments in which

416 an organism or biological population normally lives or occurs.

417 (d) A municipal inland wetlands agency shall not deny or condition
418 an application for a regulated activity in an area outside wetlands or
419 watercourses on the basis of an impact or effect on aquatic, plant, or
420 animal life unless such activity will likely impact or affect the physical
421 characteristics of such wetlands or watercourses.

422 (e) Neither the commissioner nor any inland wetland agency shall
423 approve of any regulated activity located within a riverfront area,
424 unless the applicant has proven by a preponderance of the evidence
425 that such regulated activity is both consistent with the provisions of
426 sections 1 to 8, inclusive, of this act and will have no adverse impact on
427 the riverfront area's natural functions in providing the following
428 benefits:

429 (1) Reducing the likelihood of flooding and the need for flood
430 controls;

431 (2) Preventing storm damage;

432 (3) Protecting public and private drinking water supplies from
433 harmful contamination;

434 (4) Preventing erosion and providing sedimentation controls;

435 (5) Preventing nonpoint water pollution, including, but not limited
436 to, pollution by pathogens, nutrients, heavy metals, pesticides,
437 herbicides, sediment, hydrocarbons and thermal pollution;

438 (6) Protecting the state's fisheries and shellfish; and

439 (7) Protecting wildlife habitat.

440 (f) Management practices contained in the guidance document
441 prepared by the Commissioner of Environmental Protection pursuant
442 to section 22a-39, as amended by this act, shall establish a rebuttable
443 presumption that such practices will prevent adverse impacts on the

444 riverfront area's natural functions and benefits identified in section
445 22a-36, as amended by this act.

446 (g) In the case of an application for activity within a riverfront area
447 that is denied on the basis of a finding that there are feasible and
448 prudent alternatives to the proposed regulated activity that have less
449 adverse impact on the riverfront area, the inland wetlands agency shall
450 propose on the record and in writing, such feasible and prudent
451 alternatives. The provisions of this subsection shall not be construed to
452 shift the burden from the applicant to prove that such applicant is
453 entitled to the permit or for such applicant to present alternatives to
454 the proposed regulated activity.

455 Sec. 7. Section 22a-42 of the general statutes is repealed and the
456 following is substituted in lieu thereof (*Effective October 1, 2008*):

457 (a) To carry out and effectuate the purposes and policies of sections
458 22a-36 to 22a-45a, inclusive, as amended by this act, it is hereby
459 declared to be the public policy of the state to require municipal
460 regulation of activities affecting the wetlands and watercourses within
461 the territorial limits of the various municipalities or districts and to
462 regulate riverfront areas to preserve and restore such areas and to
463 prevent the despoliation and destruction thereof, in order to protect
464 the private or public drinking water supply, provide flood control,
465 prevent storm damage, prevent water pollution, protect wildlife
466 habitat and to protect fisheries and shell fisheries in the state.

467 (b) Any municipality may acquire wetlands and watercourses and
468 riverfront areas within its territorial limits by gift or purchase, in fee or
469 lesser interest including, but not limited to, lease, easement or
470 covenant, subject to such reservations and exceptions as it deems
471 advisable.

472 (c) On or before July 1, 2009, each municipality shall direct its inland
473 wetlands agency to administer and protect riverfront areas and
474 authorize such inland wetlands agency to carry out the provisions of

475 sections 1 to 8, inclusive, of this act. On or before July 1, 1988, each
476 municipality shall establish an inland wetlands agency or authorize an
477 existing board or commission to carry out the provisions of sections
478 22a-36 to 22a-45, inclusive, as amended by this act. Each municipality,
479 acting through its legislative body, may authorize any board or
480 commission, as may be by law authorized to act, or may establish a
481 new board or commission to promulgate such regulations, in
482 conformity with the regulations adopted by the commissioner
483 pursuant to section 22a-39, as amended by this act, as are necessary to
484 protect the wetlands and watercourses within its territorial limits. The
485 ordinance establishing the new board or commission shall determine
486 the number of members and alternate members, the length of their
487 terms, the method of selection and removal and the manner for filling
488 vacancies in the new board or commission. No member or alternate
489 member of such board or commission shall participate in the hearing
490 or decision of such board or commission of which he is a member
491 upon any matter in which he is directly or indirectly interested in a
492 personal or financial sense. In the event of such disqualification, such
493 fact shall be entered on the records of such board or commission and
494 replacement shall be made from alternate members of an alternate to
495 act as a member of such commission in the hearing and determination
496 of the particular matter or matters in which the disqualification arose.
497 For the purposes of this section, the board or commission authorized
498 by the municipality or district, as the case may be, shall serve as the
499 sole agent for the licensing of regulated activities.

500 (d) At least one member of the inland wetlands agency or staff of
501 the agency shall be a person who has completed the comprehensive
502 training program developed by the commissioner pursuant to section
503 22a-39, as amended by this act. Failure to have a member of the agency
504 or staff with training shall not affect the validity of any action of the
505 agency. The commissioner shall annually make such program
506 available to one person from each town without cost to that person or
507 the town. Each inland wetlands agency shall hold a meeting at least
508 once annually at which information is presented to the members of the

509 agency which summarizes the provisions of the training program. The
510 commissioner shall develop such information in consultation with
511 interested persons affected by the regulation of inland wetlands and
512 shall provide for distribution of video presentations and related
513 written materials which convey such information to inland wetlands
514 agencies. In addition to such materials, the commissioner, in
515 consultation with such persons, shall prepare materials which provide
516 guidance to municipalities in carrying out the provisions of subsection
517 (f) of section 22a-42a, as amended by this act.

518 (e) Any municipality, pursuant to ordinance, may act through the
519 board or commission authorized in subsection (c) of this section to join
520 with any other municipalities in the formation of a district for the
521 regulation of activities affecting the wetlands and watercourses within
522 such district. Any city or borough may delegate its authority to
523 regulate inland wetlands under this section to the town in which it is
524 located.

525 (f) Municipal or district ordinances or regulations may embody any
526 regulations promulgated hereunder, in whole or in part, or may
527 consist of other ordinances or regulations in conformity with
528 regulations promulgated hereunder. Any ordinances or regulations
529 shall be for the purpose of effectuating the purposes of sections 22a-36
530 to 22a-45, inclusive, as amended by this act, and, a municipality or
531 district, in acting upon ordinances and regulations shall incorporate
532 the factors set forth in section 22a-41, as amended by this act.

533 (g) Nothing contained in this section shall be construed to limit the
534 existing authority of a municipality or any boards or commissions of
535 the municipality, provided the commissioner shall retain authority to
536 act on any application filed with said commissioner prior to the
537 establishment or designation of an inland wetlands agency by a
538 municipality.

539 Sec. 8. Section 22a-42a of the general statutes is repealed and the
540 following is substituted in lieu thereof (*Effective October 1, 2008*):

541 (a) The inland wetlands agencies authorized in section 22a-42, as
542 amended by this act, shall through regulation provide for (1) the
543 manner in which the boundaries of inland wetland and watercourse
544 areas and riverfront areas in their respective municipalities shall be
545 established and amended or changed, (2) the form for an application to
546 conduct regulated activities, (3) notice and publication requirements,
547 (4) criteria and procedures for the review of applications, and (5)
548 administration and enforcement.

549 (b) No regulations of an inland wetlands agency including
550 boundaries of inland wetland and watercourse areas and riverfront
551 areas shall become effective or be established until after a public
552 hearing in relation thereto is held by the inland wetlands agency. Any
553 such hearing shall be held in accordance with the provisions of section
554 8-7d of the 2008 supplement to the general statutes. A copy of such
555 proposed regulation or boundary shall be filed in the office of the
556 town, city or borough clerk as the case may be, in such municipality,
557 for public inspection at least ten days before such hearing, and may be
558 published in full in such paper. A copy of the notice and the proposed
559 regulations or amendments thereto, except determinations of
560 boundaries, shall be provided to the commissioner at least thirty-five
561 days before such hearing. Such regulations and inland wetland and
562 watercourse and riverfront area boundaries may be from time to time
563 amended, changed or repealed, by majority vote of the inland
564 wetlands agency, after a public hearing in relation thereto is held by
565 the inland wetlands agency, in accordance with the provisions of
566 section 8-7d of the 2008 supplement to the general statutes.
567 Regulations or boundaries or changes therein shall become effective at
568 such time as is fixed by the inland wetlands agency, provided a copy
569 of such regulation, boundary or change shall be filed in the office of
570 the town, city or borough clerk, as the case may be. Whenever an
571 inland wetlands agency makes a change in regulations or boundaries it
572 shall state upon its records the reason why the change was made and
573 shall provide a copy of such regulation, boundary or change to the
574 Commissioner of Environmental Protection no later than ten days after

575 its adoption provided failure to submit such regulation, boundary or
576 change shall not impair the validity of such regulation, boundary or
577 change. All petitions submitted in writing and in a form prescribed by
578 the inland wetlands agency, requesting a change in the regulations or
579 the boundaries of an inland wetland and watercourse area and
580 riverfront area shall be considered at a public hearing held in
581 accordance with the provisions of section 8-7d of the 2008 supplement
582 to the general statutes. The failure of the inland wetlands agency to act
583 within any time period specified in this subsection, or any extension
584 thereof, shall not be deemed to constitute approval of the petition.

585 (c) (1) On and after the effective date of the municipal regulations
586 promulgated pursuant to subsection (b) of this section, no regulated
587 activity shall be conducted upon any inland wetland or watercourse or
588 riverfront area without a permit. Any person proposing to conduct or
589 cause to be conducted a regulated activity upon an inland wetland or
590 watercourse or riverfront area shall file an application with the inland
591 wetlands agency of the town or towns wherein the wetland or
592 watercourse or riverfront area in question is located. The application
593 shall be in such form and contain such information as the inland
594 wetlands agency may prescribe. The date of receipt of an application
595 shall be determined in accordance with the provisions of subsection (c)
596 of section 8-7d of the 2008 supplement to the general statutes. The
597 inland wetlands agency shall not hold a public hearing on such
598 application unless the inland wetlands agency determines that the
599 proposed activity may have a significant impact on wetlands or
600 watercourses or riverfront area, a petition signed by at least
601 twenty-five persons who are eighteen years of age or older and who
602 reside in the municipality in which the regulated activity is proposed,
603 requesting a hearing is filed with the agency not later than fourteen
604 days after the date of receipt of such application, or the agency finds
605 that a public hearing regarding such application would be in the
606 public interest. An inland wetlands agency may issue a permit without
607 a public hearing provided no petition provided for in this subsection is
608 filed with the agency on or before the fourteenth day after the date of

609 receipt of the application. Such hearing shall be held in accordance
610 with the provisions of section 8-7d of the 2008 supplement to the
611 general statutes. If the inland wetlands agency, or its agent, fails to act
612 on any application within thirty-five days after the completion of a
613 public hearing or in the absence of a public hearing within sixty-five
614 days from the date of receipt of the application, or within any
615 extension of any such period as provided in section 8-7d of the 2008
616 supplement to the general statutes, the applicant may file such
617 application with the Commissioner of Environmental Protection who
618 shall review and act on such application in accordance with this
619 section. Any costs incurred by the commissioner in reviewing such
620 application for such inland wetlands agency shall be paid by the
621 municipality that established or authorized the agency. Any fees that
622 would have been paid to such municipality if such application had not
623 been filed with the commissioner shall be paid to the state. The failure
624 of the inland wetlands agency or the commissioner to act within any
625 time period specified in this subsection, or any extension thereof, shall
626 not be deemed to constitute approval of the application.

627 (2) An inland wetlands agency may delegate to its duly authorized
628 agent the authority to approve or extend an activity that is not located
629 in a wetland or watercourse or riverfront area when such agent finds
630 that the conduct of such activity would result in no greater than a
631 minimal impact on any wetland or watercourse or riverfront area,
632 provided such agent has completed the comprehensive training
633 program developed by the commissioner pursuant to section 22a-39, as
634 amended by this act. Notwithstanding the provisions for receipt and
635 processing applications prescribed in subdivision (1) of this subsection,
636 such agent may approve or extend such an activity at any time. Any
637 person receiving such approval from such agent shall, within ten days
638 of the date of such approval, publish, at the applicant's expense, notice
639 of the approval in a newspaper having a general circulation in the
640 town wherein the activity is located or will have an effect. Any person
641 may appeal such decision of such agent to the inland wetlands agency
642 within fifteen days after the publication date of the notice and the

643 inland wetlands agency shall consider such appeal at its next regularly
644 scheduled meeting provided such meeting is no earlier than three
645 business days after receipt by such agency or its agent of such appeal.
646 The inland wetlands agency shall, at its discretion, sustain, alter or
647 reject the decision of its agent or require an application for a permit in
648 accordance with subdivision (1) of subsection (c) of this section.

649 (d) (1) In granting, denying or limiting any permit for a regulated
650 activity the inland wetlands agency, or its agent, shall consider the
651 factors set forth in section 22a-41, as amended by this act, and such
652 agency, or its agent, shall state upon the record the reason for its
653 decision. In granting a permit the inland wetlands agency, or its agent,
654 may grant the application as filed or grant it upon other terms,
655 conditions, limitations or modifications of the regulated activity which
656 are designed to carry out the policy of sections 22a-36 to 22a-45,
657 inclusive, as amended by this act. Such terms may include any
658 reasonable measures which would mitigate the impacts of the
659 regulated activity and which would (A) prevent or minimize pollution
660 or other environmental damage, (B) maintain or enhance existing
661 environmental quality, or (C) in the following order of priority:
662 Restore, enhance and create productive wetland or watercourse or
663 riverfront area resources. No person shall conduct any regulated
664 activity within an inland wetland or watercourse or riverfront area
665 which requires zoning or subdivision approval without first having
666 obtained a valid certificate of zoning or subdivision approval, special
667 permit, special exception or variance or other documentation
668 establishing that the proposal complies with the zoning or subdivision
669 requirements adopted by the municipality pursuant to chapters 124 to
670 126, inclusive, or any special act. The agency may suspend or revoke a
671 permit if it finds after giving notice to the permittee of the facts or
672 conduct which warrant the intended action and after a hearing at
673 which the permittee is given an opportunity to show compliance with
674 the requirements for retention of the permit, that the applicant has not
675 complied with the conditions or limitations set forth in the permit or
676 has exceeded the scope of the work as set forth in the application. The

677 applicant shall be notified of the agency's decision by certified mail
678 within fifteen days of the date of the decision and the agency shall
679 cause notice of their order in issuance, denial, revocation or suspension
680 of a permit to be published in a newspaper having a general
681 circulation in the town wherein the wetland or watercourse lies. In any
682 case in which such notice is not published within such fifteen-day
683 period, the applicant may provide for the publication of such notice
684 within ten days thereafter.

685 (2) Any permit issued under this section for the development of
686 property for which an approval is required under section 8-3 of the
687 2008 supplement to the general statutes, 8-25 of the 2008 supplement to
688 the general statutes or 8-26 of the 2008 supplement to the general
689 statutes shall be valid for five years provided the agency may establish
690 a specific time period within which any regulated activity shall be
691 conducted. Any permit issued under this section for any other activity
692 shall be valid for not less than two years and not more than five years.
693 Any such permit shall be renewed upon request of the permit holder
694 unless the agency finds that there has been a substantial change in
695 circumstances which requires a new permit application or an
696 enforcement action has been undertaken with regard to the regulated
697 activity for which the permit was issued provided no permit may be
698 valid for more than ten years.

699 (e) The inland wetlands agency may require a filing fee to be
700 deposited with the agency. The amount of such fee shall be sufficient
701 to cover the reasonable cost of reviewing and acting on applications
702 and petitions, including, but not limited to, the costs of certified
703 mailings, publications of notices and decisions and monitoring
704 compliance with permit conditions or agency orders.

705 (f) If a municipal inland wetlands agency regulates activities within
706 areas around wetlands or watercourses or riverfront areas, such
707 regulation shall (1) be in accordance with the provisions of the inland
708 wetlands regulations adopted by such agency related to application

709 for, and approval of, activities to be conducted in wetlands or
710 watercourses or riverfront areas, and (2) apply only to those activities
711 which are likely to impact or affect wetlands or watercourses or
712 riverfront areas. Nothing in sections 1 to 8, inclusive, of this act
713 regarding riverfront areas shall be construed to expand or diminish the
714 jurisdiction of municipal inland wetlands agencies regarding activities
715 located within wetlands or watercourses, as defined in section 22a-38,
716 as amended by this act.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2008</i>	22a-36
Sec. 2	<i>October 1, 2008</i>	22a-37
Sec. 3	<i>October 1, 2008</i>	22a-38
Sec. 4	<i>October 1, 2008</i>	22a-39
Sec. 5	<i>October 1, 2008</i>	22a-40
Sec. 6	<i>October 1, 2008</i>	22a-41
Sec. 7	<i>October 1, 2008</i>	22a-42
Sec. 8	<i>October 1, 2008</i>	22a-42a

Statement of Purpose:

To amend the Inland Wetlands and Watercourses Act to protect riverfront areas.

[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]