



General Assembly

Substitute Bill No. 5436

February Session, 2010

* _____HB05436CE_____031910_____*

AN ACT CONCERNING BROWNFIELD REMEDIATION LIABILITY.

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

1 Section 1. Subsection (f) of section 22a-133m of the general statutes
2 is repealed and the following is substituted in lieu thereof (*Effective*
3 *October 1, 2010*):

4 (f) There is established an Urban Site Remediation Fund. The fund
5 may contain any moneys required by law to be deposited in the fund
6 and shall be held by the Treasurer separate and apart from all other
7 moneys, funds and accounts. Any balance remaining in the fund at the
8 end of any fiscal year shall be carried forward in the fund for the fiscal
9 year next succeeding. The fund shall be used (1) by the Commissioner
10 of Environmental Protection (A) for costs incurred in the assessment
11 and remedial activities conducted at real property acquired pursuant
12 to subsection (e) of this section, or (B) to reimburse the costs to obtain
13 directors' and liability insurance and for certain administrative
14 expenses of (i) a municipal economic development agency or entity
15 created or operating under chapter 130 or 132, or (ii) a nonprofit
16 economic development corporation formed to promote the common
17 good, general welfare and economic development of a municipality
18 that is funded, either directly or through in-kind services, in part by a
19 municipality, or a nonstock corporation or limited liability company
20 controlled or established by a municipality, municipal economic

21 development agency or entity created or operating under chapter 130
22 or 132; and (2) by the Commissioner of Economic and Community
23 Development to pay any local property taxes on real property acquired
24 pursuant to subsection (e) of this section and the costs of administering
25 the program. The Commissioner of Economic and Community
26 Development may allocate money from the fund to a regional
27 economic development entity organized for the purpose of
28 remediating contaminated real property.

29 Sec. 2. (*Effective July 1, 2010*) (a) The speaker of the House of
30 Representatives and the president pro tempore of the Senate shall
31 appoint a brownfield remediation and development working group
32 for the purpose of examining the remediation and development of
33 brownfields in this state, including, but not limited to, the remediation
34 scheme for such properties, permitting issues and liability issues,
35 including those set forth by sections 22a-14 to 22a-20, inclusive, of the
36 general statutes.

37 (b) The working group appointed jointly by the speaker and
38 president pro tempore shall include, but need not be limited to: (1)
39 Representatives with expertise in brownfield redevelopment in
40 environmental law, engineering, finance, development or insurance;
41 (2) a licensed environmental professional; (3) a representative from the
42 Department of Economic and Community Development; (4) a
43 representative from the Department of Environmental Protection; (5) a
44 representative from the Connecticut Development Authority; and (6) a
45 representative of the Office of Policy and Management.

46 (c) On or before January 15, 2011, the working group shall report, in
47 accordance with the provisions of section 11-4a of the general statutes,
48 on its findings and provide recommendations on facilitating
49 brownfield remediation and development to the chairpersons and
50 ranking members of the joint standing committee of the General
51 Assembly having cognizance of matters relating to commerce.

52 Sec. 3. Section 12-81r of the general statutes is repealed and the

53 following is substituted in lieu thereof (*Effective July 1, 2010, and*
54 *applicable to assessment years commencing on and after October 1, 2010*):

55 (a) Any municipality may (1) enter into an agreement with the
56 owner of any real property to abate the property tax due as of the date
57 of the agreement for a period not to exceed seven years if the property
58 has been subject to a spill, as defined in section 22a-452c, and the
59 owner agrees to conduct any environmental site assessment,
60 demolition and remediation of the spill necessary to redevelop the
61 property. Any such tax abatement shall only be for the period of
62 remediation and redevelopment and shall be contingent upon the
63 continuation and completion of the remediation and redevelopment
64 process with respect to the purposes specified in the agreement. The
65 abatement shall cease upon the sale or transfer of the property for any
66 other purpose unless the municipality consents to its continuation. The
67 municipality may also establish a recapture provision in the event of
68 sale provided such recapture shall not exceed the original amount of
69 taxes abated and may not go back further than the date of the
70 agreement; [or] (2) forgive all or a portion of the principal balance and
71 interest due on delinquent property taxes for the benefit of any
72 prospective purchaser who has obtained an environmental
73 investigation or remediation plan approved by the Commissioner of
74 Environmental Protection or a licensed environmental professional
75 under section 22a-133w, 22a-133x or 22a-133y and completes such
76 remediation plan for an establishment, as defined in section 22a-134,
77 deemed by the municipality to be abandoned or a brownfield, as
78 defined in subdivision (1) of subsection (a) of section 32-9kk; or (3)
79 enter into an agreement with the owner of any real property to fix the
80 assessment of the property as of the last assessment date prior to
81 commencement of remediation activities for a period not to exceed
82 seven years, provided the property has been the subject of a
83 remediation approved by the Commissioner of Environmental
84 Protection or verified by a licensed environmental professional
85 pursuant to section 22a-133w, 22a-133x, 22a-133y or 22a-134.

86 (b) Any abatement or forgiveness of taxes or fixed assessment or

87 any combination thereof under subsection (a) of this section shall be
88 approved by vote of the board of finance, if applicable, and the
89 legislative body of the municipality, or by vote of the board of finance,
90 if applicable, and the board of selectmen in a municipality where the
91 legislative body is a town meeting and contingent upon any other
92 conditions deemed appropriate by such body.

93 (c) A municipality shall notify the Commissioner of Environmental
94 Protection, the Commissioner of Economic and Community
95 Development and the Secretary of the Office of Policy and
96 Management not later than thirty days after granting any abatement or
97 forgiveness of taxes or any fixed assessment under subsection (a) of
98 this section. Such notice shall provide the owner or purchaser's name,
99 as the case may be, and the address of the property.

100 Sec. 4. Subsection (c) of section 22a-134b of the 2010 supplement to
101 the general statutes is repealed and the following is substituted in lieu
102 thereof (*Effective July 1, 2010*):

103 (c) This section shall apply to any action brought for the
104 reimbursement or recovery of costs associated with investigation and
105 remediation, [as defined in subsection (n) of section 22a-452] which
106 includes assessment, investigation, containment, mitigation, removal,
107 remediation and monitoring, and all direct and indirect damages,
108 except any action that becomes final and is no longer subject to appeal
109 on or before October 1, 2009.

110 Sec. 5. Subsection (b) of section 22a-133u of the general statutes is
111 repealed and the following is substituted in lieu thereof (*Effective July*
112 *1, 2010*):

113 (b) The Commissioner of Economic and Community Development
114 may use any funds deposited into the Special Contaminated Property
115 Remediation and Insurance Fund pursuant to section 3 of public act
116 96-250 for (1) loans to municipalities, individuals or firms for Phase II
117 environmental site assessments, Phase III investigations of real
118 property or for any costs of demolition, including related lead and

119 asbestos removal or abatement costs or costs related to the remediation
 120 of environmental pollution, undertaken to prepare contaminated real
 121 property for development subsequent to any Phase III investigation,
 122 [and] (2) expenses related to administration of this subsection
 123 provided such expenses may not exceed one hundred twenty-five
 124 thousand dollars per year, (3) funding the remedial action and
 125 redevelopment municipal grant program established pursuant to
 126 subsection (e) of section 32-9kk, and (4) funding the targeted
 127 brownfield development loan program developed pursuant to
 128 subsection (f) of section 32-9kk.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2010</i>	22a-133m(f)
Sec. 2	<i>July 1, 2010</i>	New section
Sec. 3	<i>July 1, 2010, and applicable to assessment years commencing on and after October 1, 2010</i>	12-81r
Sec. 4	<i>July 1, 2010</i>	22a-134b(c)
Sec. 5	<i>July 1, 2010</i>	22a-133u(b)

Statement of Legislative Commissioners:

In section (2)(c), the requirement was added that the report be submitted in accordance with the provisions of section 11-4a of the general statutes.

CE *Joint Favorable Subst.*