



General Assembly

January Session, 2011

Raised Bill No. 6526

LCO No. 4169

04169_____CE_

Referred to Committee on Commerce

Introduced by:

(CE)

AN ACT CONCERNING BROWNFIELD REMEDIATION AND DEVELOPMENT AS AN ECONOMIC DRIVER.

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

1 Section 1. Section 32-9cc of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective July 1, 2011*):

3 (a) There is established, within the Department of Economic and
4 Community Development, an Office of Brownfield Remediation and
5 Development.

6 (b) The office shall:

7 (1) Develop procedures and policies for streamlining the process for
8 brownfield remediation and development;

9 (2) Identify existing and potential sources of funding for brownfield
10 remediation and develop procedures for expediting the application for
11 and release of such funds;

12 (3) Establish an office and maintain an informational web site to
13 provide assistance and information concerning the state's technical

14 assistance, funding, regulatory and permitting programs;

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

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

20 (6) Identify and prioritize state-wide brownfield development
21 opportunities; and

22 (7) Develop and execute a communication and outreach program to
23 educate municipalities, economic development agencies, property
24 owners and potential property owners and other organizations and
25 individuals with regard to state policies and procedures for brownfield
26 remediation.

27 (c) Subject to the availability of funds, there shall be a state-funded
28 [pilot] municipal brownfield grant program to identify brownfield
29 remediation economic opportunities in [five] Connecticut
30 municipalities. For each round of funding, the Commissioner of
31 Economic and Community Development may select at least six
32 municipalities, one of which shall have a population of less than fifty
33 thousand, one of which shall have a population of more than fifty
34 thousand but less than one hundred thousand, two of which shall have
35 populations of more than one hundred thousand and [one] two of
36 which shall be selected without regard to population. The
37 Commissioner of Economic and Community Development shall
38 designate [five pilot] municipalities in which untreated brownfields
39 hinder economic development and shall make grants under such
40 [pilot] program to these municipalities or economic development
41 agencies associated with each of the [five] selected municipalities that
42 are likely to produce significant economic development benefit for the
43 designated municipality.

44 (d) The Department of Environmental Protection, the Connecticut
45 Development Authority and the Department of Public Health shall
46 each designate one or more staff members to act as a liaison between
47 their offices and the Office of Brownfield Remediation and
48 Development. The Commissioners of Economic and Community
49 Development, Environmental Protection and Public Health and the
50 executive director of the Connecticut Development Authority shall
51 enter into a memorandum of understanding concerning each entity's
52 responsibilities with respect to the Office of Brownfield Remediation
53 and Development. The Office of Brownfield Remediation and
54 Development may [develop and] recruit two volunteers from the
55 private sector, including a person from the Connecticut chapter of the
56 National Brownfield Association, with experience in different aspects
57 of brownfield remediation and development. Said volunteers may
58 assist the Office of Brownfield Remediation and Development in
59 [achieving the goals of this section] marketing the brownfields
60 programs and activities of the state.

61 (e) The Office of Brownfield Remediation and Development may
62 call upon any other department, board, commission or other agency of
63 the state to supply such reports, information and assistance as said
64 office determines is appropriate to carry out its duties and
65 responsibilities. Each officer or employee of such office, department,
66 board, commission or other agency of the state is authorized and
67 directed to cooperate with the Office of Brownfield Remediation and
68 Development and to furnish such reports, information and assistance.

69 (f) Brownfield sites identified for funding under the [pilot] grant
70 program established in subsection (c) of this section shall receive
71 priority review status from the Department of Environmental
72 Protection. Each property funded under this program shall be
73 investigated in accordance with prevailing standards and guidelines
74 and remediated in accordance with the regulations established for the
75 remediation of such sites adopted by the Commissioner of
76 Environmental Protection or pursuant to section 22a-133k and under

77 the supervision of the department or a licensed environmental
78 professional in accordance with the voluntary remediation program
79 established in section 22a-133x. In either event, the department shall
80 determine that remediation of the property has been fully
81 implemented, or whether an audit will not be conducted, upon
82 submission of a report indicating that remediation has been verified by
83 an environmental professional licensed in accordance with section 22a-
84 133v. Not later than ninety days after submission of the verification
85 report, the Commissioner of Environmental Protection shall notify the
86 municipality or economic development agency as to whether the
87 remediation has been performed and completed in accordance with
88 the remediation standards, whether an audit will not be conducted, or
89 whether any additional remediation is warranted. For purposes of
90 acknowledging that the remediation is complete, the commissioner or
91 a licensed environmental professional may indicate that all actions to
92 remediate any pollution caused by any release have been taken in
93 accordance with the remediation standards and that no further
94 remediation is necessary to achieve compliance except
95 postremediation monitoring [.] or natural attenuation monitoring. [or
96 the recording of an environmental land use restriction.]

97 (g) All relevant terms in this subsection, subsection (h) of this
98 section [.] and sections 32-9dd to 32-9ff, inclusive, [and section 11 of
99 public act 06-184] shall be defined in accordance with the definitions in
100 chapter 445. For purposes of subdivision (12) of subsection (a) of
101 section 32-9t, this subsection, subsection (h) of this section [.] and
102 sections 32-9dd to 32-9gg, inclusive, [and section 11 of public act 06-
103 184,] "brownfields" means any abandoned or underutilized site where
104 redevelopment, [and] reuse [has not occurred due to] or expansion
105 may be complicated by the presence of pollution in the buildings, soil
106 or groundwater that requires investigation or remediation [prior to]
107 before or in conjunction with the restoration, redevelopment [and] or
108 reuse of the property.

109 (h) The Departments of Economic and Community Development

110 and Environmental Protection shall administer the provisions of
111 subdivision (1) of section 22a-134, section 32-1m, subdivision (12) of
112 subsection (a) of section 32-9t [,] and sections 32-9cc to 32-9gg,
113 inclusive, [and section 11 of public act 06-184] within available
114 appropriations and any funds allocated pursuant to sections 4-66c,
115 22a-133t and 32-9t.

116 Sec. 2. Section 32-9ee of the general statutes is repealed and the
117 following is substituted in lieu thereof (*Effective July 1, 2011*):

118 (a) Any municipality, economic development agency or entity
119 established under chapter 130 or 132, nonprofit economic development
120 corporation formed to promote the common good, general welfare and
121 economic development of a municipality that is funded, either directly
122 or through in-kind services, in part by a municipality, or a nonstock
123 corporation or limited liability company controlled or established by a
124 municipality, municipal economic development agency or entity
125 created or operating under chapter 130 or 132 that receives grants
126 through the Office of Brownfield Remediation and Development or the
127 Department of Economic and Community Development, including
128 those municipalities designated by the Commissioner of Economic and
129 Community Development as part of the [pilot] municipal brownfield
130 grant program established in subsection (c) of section 32-9cc for the
131 investigation and remediation of a brownfield property shall be
132 considered an innocent party and shall not be liable under section 22a-
133 432, 22a-433, 22a-451 or 22a-452 for conditions pre-existing or existing
134 on the brownfield property as of the date of acquisition or control as
135 long as the municipality, economic development agency or entity
136 established under chapter 130 or 132, nonprofit economic development
137 corporation formed to promote the common good, general welfare and
138 economic development of a municipality that is funded, either directly
139 or through in-kind services, in part by a municipality, or a nonstock
140 corporation or limited liability company controlled or established by a
141 municipality, municipal economic development agency or entity
142 created or operating under chapter 130 or 132 did not establish, cause

143 or contribute to the discharge, spillage, uncontrolled loss, seepage or
144 filtration of such hazardous substance, material, waste or pollution
145 that is subject to remediation under section 22a-133k and funded by
146 the Office of Brownfield Remediation and Development or the
147 Department of Economic and Community Development; does not
148 exacerbate the conditions; and complies with reporting of significant
149 environmental hazard requirements in section 22a-6u. To the extent
150 that any conditions are exacerbated, the municipality, economic
151 development agency or entity established under chapter 130 or 132,
152 nonprofit economic development corporation formed to promote the
153 common good, general welfare and economic development of a
154 municipality that is funded, either directly or through in-kind services,
155 in part by a municipality, or nonstock corporation or limited liability
156 company controlled or established by a municipality, municipal
157 economic development agency or entity created or operating under
158 chapter 130 or 132 shall only be responsible for responding to
159 contamination exacerbated by its negligent or reckless activities.

160 (b) In determining what funds shall be made available for an
161 eligible brownfield remediation, the Commissioner of Economic and
162 Community Development shall consider (1) the economic
163 development opportunities such reuse and redevelopment may
164 provide, (2) the feasibility of the project, (3) the environmental and
165 public health benefits of the project, and (4) the contribution of the
166 reuse and redevelopment to the municipality's tax base.

167 (c) No person shall acquire title to or hold, possess or maintain any
168 interest in a property that has been remediated in accordance with the
169 [pilot] municipal brownfield grant program established in subsection
170 (c) of section 32-9cc if such person (1) is liable under section 22a-432,
171 22a-433, 22a-451 or 22a-452; (2) is otherwise responsible, directly or
172 indirectly, for the discharge, spillage, uncontrolled loss, seepage or
173 filtration of such hazardous substance, material or waste; (3) is a
174 member, officer, manager, director, shareholder, subsidiary, successor
175 of, related to, or affiliated with, directly or indirectly, the person who is

176 otherwise liable to under section 22a-432, 22a-433, 22a-451 or 22a-452;
177 or (4) is or was an owner, operator or tenant. If such person elects to
178 acquire title to or hold, possess or maintain any interest in the
179 property, that person shall reimburse the state of Connecticut, the
180 municipality and the economic development agency for any and all
181 costs expended to perform the investigation and remediation of the
182 property, plus interest at a rate of eighteen per cent.

183 Sec. 3. Section 32-9ff of the general statutes is repealed and the
184 following is substituted in lieu thereof (*Effective July 1, 2011*):

185 (a) There is established an account to be known as the "Connecticut
186 brownfields remediation account" which shall be a separate,
187 nonlapsing account within the General Fund. The account shall
188 contain any moneys required by law to be deposited in the account
189 and shall be held separate and apart from other moneys, funds and
190 accounts. Investment earnings credited to the account shall become
191 part of the assets of the account. Any balance remaining in the account
192 at the end of any fiscal year shall be carried forward in the account for
193 the next fiscal year.

194 (b) The Office of Brownfield Remediation and Development,
195 established in subsections (a) to (f), inclusive, of section 32-9cc may use
196 amounts in the account established pursuant to subsection (a) of this
197 section to fund remediation and restoration of brownfield sites as part
198 of the [pilot] municipal brownfield grant program established in
199 subsection (c) of section 32-9cc, as amended by this act.

200 Sec. 4. Section 22a-134a of the general statutes is amended by adding
201 subsection (n) as follows (*Effective from passage*):

202 (NEW) (n) Notwithstanding any other provisions of this section, the
203 execution of a Form III or a Form IV shall not require a certifying party
204 to investigate or remediate any release or potential release of pollution
205 at the parcel that occurs from and after the date of the transfer of
206 establishment for which such Form III or Form IV was signed.

207 Sec. 5. Section 22a-133k of the general statutes is amended by
208 adding subsection (c) as follows (*Effective from passage*):

209 (NEW) (c) In accordance with the provisions of chapter 54, the
210 commissioner shall review and recommend revisions to the standards
211 for the remediation of environmental pollution at hazardous waste
212 disposal sites and other properties which have been subject to a spill,
213 as defined in section 22a-452c, as have been adopted pursuant to
214 subsection (a) three years after the effective date of this section and,
215 every five years thereafter, the commissioner shall hold a public
216 hearing on the adequacy of such standards and revise such standards
217 as may be deemed necessary to insure that the regulations shall fully
218 protect health, public welfare and the environment, are feasible, and
219 are consistent with the best scientifically available information,
220 including consideration of the standards adopted by the federal
221 government.

222 Sec. 6. Section 22a-426 of the general statutes, as amended by section
223 9 of public act 10-158, is amended by adding subsections (d) to (g),
224 inclusive, as follows (*Effective from passage*):

225 (NEW) (d) On or after March 1, 2011, the commissioner may
226 reclassify surface or ground water within the state. Notwithstanding
227 the provisions of subsection (a) of this section, the following
228 procedures shall apply to any surface or ground water reclassification
229 proposed by the commissioner: (1) The commissioner shall hold a
230 public hearing in accordance with subdivision (4) of subsection (e) of
231 this section. Such public hearing shall not be considered a contested
232 case pursuant to chapter 54; (2) notice of such hearing specifying the
233 surface or ground waters for which reclassification is proposed, and
234 the time, date and place of such hearing shall be published once in a
235 newspaper having a substantial circulation in the affected area and
236 shall provide the information set forth in subparagraph (D) of
237 subdivision (2) of subsection (e) of this section; (3) such notice shall
238 also be provided to municipal officials in accordance with

239 subparagraph (E) of subdivision (2) of subsection (e) of this section.
240 Following the public hearing, the Commissioner shall provide notice
241 of the reclassification decision in accordance with subdivision (5) of
242 subsection (e) of this section.

243 (NEW) (e) On or after March 1, 2011, at the request of any person,
244 the commissioner may reclassify any surface or ground water within
245 the state. Notwithstanding the provisions of subsection (a) of this
246 section, the following procedures shall apply to any such
247 reclassification: (1) Any person seeking a reclassification shall apply to
248 the commissioner on forms prescribed by the commissioner and shall
249 provide the information required by such forms; (2) the commissioner
250 shall publish or cause to be published, at the expense of the person
251 seeking a reclassification, once in a newspaper having a substantial
252 circulation in the affected area (A) the name of the person seeking a
253 reclassification, (B) an identification of the surface or ground waters
254 affected by such reclassification, (C) notice of the commissioner's
255 tentative determination regarding such reclassification, (D) how
256 members of the public may obtain additional information regarding
257 such reclassification, and (E) the time, date and place of a public
258 hearing regarding such reclassification. Any such notice shall also be
259 given by certified mail to the chief executive officer of each
260 municipality in which the water affected by such reclassification is
261 located, with a copy to the director of health of each municipality, at
262 least thirty days prior to the hearing; (3) the commissioner shall
263 conduct a public hearing regarding any tentative determination to
264 reclassify surface or ground waters; (4) the public hearing shall be
265 conducted in a manner which affords all interested persons reasonable
266 opportunity to provide oral or written comments. Any such hearing
267 shall be conducted in accordance with the procedures set forth in
268 subdivision (6) of subsection (a) of section 4-168, provided no such
269 hearing shall be considered a contested case, and the commissioner
270 shall maintain a recording of the hearing; and (5) following the public
271 hearing, the commissioner shall provide notice of the decision in the
272 Connecticut Law Journal and to the chief elected official and the

273 director of health of each municipality in which the water affected by
274 such reclassification is located.

275 (NEW) (f) Any decision by the commissioner to reclassify surface or
276 ground water shall be consistent with the state's water quality
277 standards and shall comply with all applicable federal requirements
278 regarding reclassification of surface water.

279 (NEW) (g) Unless modified in accordance with subsections (a), (d),
280 (e) and (f) of this section, the state's surface and ground water
281 classifications and water quality standards, effective as of February 28,
282 2011, shall remain in full force and effect.

283 Sec. 7. (NEW) (*Effective from passage*) Not later than seven days after
284 the effective date of this section, within available resources, the
285 Commissioner of Environmental Protection shall commence a
286 comprehensive evaluation of the property remediation programs and
287 the provisions of the general statutes that affect property remediation.
288 Not later than February 1, 2012, the commissioner shall issue a
289 comprehensive report, in accordance with section 11-4a of the general
290 statutes, to the Governor and to the joint standing committees of the
291 General Assembly having cognizance of matters relating to the
292 environment and commerce. The evaluation shall include (1) factors
293 that influence the length of time to complete investigation and
294 remediation under existing programs; (2) the number of properties
295 that have entered into each property remediation program, the rate by
296 which properties enter and the number of properties that have
297 completed the requirements of each property remediation program; (3)
298 the use of licensed environmental professionals in expediting property
299 remediation; (4) audits of verifications rendered by licensed
300 environmental professionals; (5) the programs provided for in chapters
301 445 and 446k of the general statutes that provide liability relief for
302 potential and existing property owners; (6) a comparison of existing
303 programs to states with a single remediation program; (7) the use by
304 the commissioner of resources when adopting regulations such as

305 studies published by other federal and state agencies, the Connecticut
306 Academy of Science and Engineering or other such research
307 organization and university studies; and (8) recommendations that will
308 address issues identified in the report or improvements that may be
309 necessary for a more streamlined or efficient remediation process.

310 Sec. 8. Subdivision (1) of subsection (a) of section 32-9kk of the
311 general statutes is repealed and the following is substituted in lieu
312 thereof (*Effective July 1, 2011*):

313 (1) "Brownfield" means any abandoned or underutilized site where
314 redevelopment, [and reuse has not occurred due to] reuse or expansion
315 may be complicated by the presence or potential presence of pollution
316 in the buildings, soil or groundwater that requires investigation or
317 remediation before or in conjunction with the restoration,
318 redevelopment and reuse of the property;

319 Sec. 9. Section 22a-6 of the general statutes is amended by adding
320 subsections (i) and (j) as follows (*Effective from passage*):

321 (NEW) (i) Notwithstanding the provisions of subsection (a) of this
322 section, no person shall be required to pay any fee established by the
323 commissioner pursuant to section 22a-133x, 22a-133aa, 22a-134a or 22a-
324 134e provided such person has received financial assistance from any
325 department, institution, agency or authority of the state for the
326 purpose of investigation or remediation, or both, of a brownfield site,
327 as defined in section 32-9kk, and such activity would otherwise require
328 a fee to be paid to the commissioner for the activity conducted with
329 such financial assistance.

330 (NEW) (j) Notwithstanding the provisions of subsection (a) of this
331 section, no department, institution, agency or authority of the state or
332 the state system of higher education shall be required to pay any fee
333 established by the commissioner pursuant to section 22a-133x, 22a-
334 133aa, 22a-134a or 22a-134e provided such division of the state is
335 conducting investigation or remediation, or both of a brownfield site,

336 as defined in section 32-9kk, and siting a state facility on such
337 brownfield site.

338 Sec. 10. Section 32-9ll of the general statutes is repealed and the
339 following is substituted in lieu thereof (*Effective July 1, 2011*):

340 (a) There is established an abandoned brownfield cleanup program.
341 The Commissioner of Economic and Community Development shall
342 determine, in consultation with the Commissioner of Environmental
343 Protection, properties and persons eligible for said program.

344 (b) For a person [and] municipality or a property to be eligible, the
345 Commissioner of Economic and Community Development shall
346 determine if (1) the property is a brownfield, as defined in section 32-
347 9kk and such property has been unused or significantly underused
348 [since October 1, 1999] for at least five years before an application filed
349 with the commissioner pursuant to subsection (g) of this section; (2)
350 such person intends to acquire title to such property for the purpose of
351 redeveloping such property; (3) the redevelopment of such property
352 has a regional or municipal economic development benefit; (4) such
353 person did not establish or create a facility or condition at or on such
354 property that can reasonably be expected to create a source of
355 pollution to the waters of the state for the purposes of section 22a-432
356 and is not affiliated with any person responsible for such pollution or
357 source of pollution through any direct or indirect familial relationship
358 or any contractual, corporate or financial relationship other than a
359 relationship by which such owner's interest in such property is to be
360 conveyed or financed; (5) such person is not otherwise required by
361 law, an order or consent order issued by the Commissioner of
362 Environmental Protection or a stipulated judgment to remediate
363 pollution on or emanating from such property; (6) the person
364 responsible for pollution on or emanating from the property is
365 indeterminate, is no longer in existence, is required by law to
366 remediate releases on and emanating from the property or is otherwise
367 unable to perform necessary remediation of such property; and (7) the

368 property and the person meet any other criteria said commissioner
369 deems necessary.

370 (c) For the purposes of this section, "municipality" means a
371 municipality, economic development agency or entity established
372 under chapter 130 or 132, nonprofit economic development
373 corporation formed to promote the common good, general welfare and
374 economic development of a municipality that is funded, either directly
375 or through in-kind services, in part by a municipality, or a nonstock
376 corporation or limited liability company controlled or established by a
377 municipality, municipal economic development agency or entity
378 created or operating under chapter 130 or 132.

379 (d) Notwithstanding subsection (b) of this section, a municipally-
380 owned property shall not be subject to subdivision (6) of subsection (b)
381 of this section.

382 (e) Notwithstanding subsection (b) of this section, a municipality
383 may request the Commissioner of Economic and Community
384 Development to determine if a property is eligible regardless of the
385 person who currently owns such property.

386 [(b)] (f) Upon designation by the Commissioner of Economic and
387 Community Development of an eligible person who holds title to such
388 property, such eligible person shall (1) enter and remain in the
389 voluntary remediation program established in section 22a-133x,
390 provided such person will not be a certifying party for the property
391 pursuant to section 22a-134 when acquiring such property; (2)
392 investigate pollution on such property in accordance with prevailing
393 standards and guidelines and remediate pollution on such property in
394 accordance with regulations established for remediation adopted by
395 the Commissioner of Environmental Protection and in accordance with
396 applicable schedules; and (3) eliminate further emanation or migration
397 of any pollution from such property. An eligible person who holds title
398 to an eligible property designated to be in the abandoned brownfields
399 cleanup program shall not be responsible for investigating or

400 remediating any pollution or source of pollution that has emanated
401 from such property prior to such person taking title to such property.

402 [(c)] (g) Any applicant seeking a designation of eligibility for a
403 person or a property under the abandoned brownfields cleanup
404 program shall apply to the Commissioner of Economic and
405 Community Development at such times and on such forms as the
406 commissioner may prescribe.

407 [(d)] (h) Not later than sixty days after receipt of the application, the
408 Commissioner of Economic and Community Development shall
409 determine if the application is complete and shall notify the applicant
410 of such determination.

411 [(e)] (i) Not later than ninety days after determining that the
412 application is complete, the Commissioner of Economic and
413 Community Development shall determine whether to include the
414 property and applicant in the abandoned brownfields cleanup
415 program.

416 [(f)] (j) Designation of a property in the abandoned brownfields
417 cleanup program by the Commissioner of Economic and Community
418 Development shall not limit the applicant's or any other person's
419 ability to seek funding for such property under any other brownfield
420 grant or loan program administered by the Department of Economic
421 and Community Development, the Connecticut Development
422 Authority or the Department of Environmental Protection.

423 (k) Designation of a property in the abandoned brownfields cleanup
424 program by the Commissioner of Economic and Community
425 Development shall exempt such eligible person or eligible
426 municipality for filing as an establishment pursuant to sections 22a-
427 134a to 22a-134d, inclusive, if such real property or prior business
428 operations constitute an establishment.

429 (l) Upon completion of the requirements of subsection (e) of this

430 section to the satisfaction of the Commissioner of Environmental
431 Protection, such person or municipality shall qualify for a Covenant
432 Not To Sue from the Commissioner of Environmental Protection
433 without fee, pursuant to section 22a-133aa.

434 Sec. 11. Subdivision (1) of section 22a-134 of the general statutes is
435 amended by adding subparagraph (X) as follows (*Effective from*
436 *passage*):

437 (NEW) (X) Acquisition of an establishment that is in the abandoned
438 brownfield cleanup program set forth in section 32-91l, as amended by
439 this act, and all subsequent transfers of the establishment, provided the
440 establishment is undergoing remediation or is remediated in
441 accordance with subsection (f) of section 32-91l, as amended by this act.

442 Sec. 12. Section 22a-133aa of the general statutes is amended by
443 adding subsection (g) as follows (*Effective from passage*):

444 (NEW) (g) Any prospective purchaser or municipality remediating
445 property pursuant to the abandoned brownfield cleanup program set
446 forth in section 32-91l, as amended by this act, shall qualify for a
447 Covenant Not To Sue from the Commissioner of Environmental
448 Protection without fee. Such Covenant Not To Sue shall be transferable
449 to subsequent owners provided the establishment is undergoing
450 remediation or is remediated in accordance with subsection (f) of
451 section 32-91l, as amended by this act.

452 Sec. 13. Section 22a-133o of the general statutes is repealed and the
453 following is substituted in lieu thereof (*Effective from passage*):

454 (a) An owner of land may execute and record an environmental use
455 restriction under sections 22a-133n to 22a-133r, inclusive, on the land
456 records of the municipality in which such land is located if (1) the
457 commissioner has adopted standards for the remediation of
458 contaminated land pursuant to section 22a-133k and adopted
459 regulations pursuant to section 22a-133q, (2) the commissioner, or in

460 the case of land for which remedial action was supervised under
461 section 22a-133y, a licensed environmental professional, determines, as
462 evidenced by his signature on such restriction, that it is consistent with
463 the purposes and requirements of sections 22a-133n to 22a-133r,
464 inclusive, and of such standards and regulations, and (3) such
465 restriction will effectively protect public health and the environment
466 from the hazards of pollution. An environmental use restriction may
467 be in the form of either an environmental land use restriction in
468 accordance with subsection (b) of this section, or a notice of activity
469 and use limitation in accordance with subsection (c) of this section.

470 (b) (1) No owner of land may record an environmental use
471 restriction on the land records of the municipality in which such land
472 is located unless he simultaneously records documents which
473 demonstrate that each person holding an interest in such land or any
474 part thereof, including without limitation each mortgagee, lessee,
475 lienor and encumbrancer, irrevocably subordinates such interest to the
476 environmental use restriction provided the commissioner may waive
477 such requirement if he finds that the interest in such land is so minor
478 as to be unaffected by the environmental land use restriction. An
479 environmental use restriction shall run with land, shall bind the owner
480 of the land and his successors and assigns, and shall be enforceable
481 notwithstanding lack of privity of estate or contract or benefit to
482 particular land.

483 [(c) Within] (2) Not later than seven days [of] after executing an
484 environmental use restriction and receiving thereon the signature of
485 the commissioner or licensed environmental professional, as the case
486 may be, the owner of the land involved therein shall record such
487 restriction and documents required under [subsection (b) of this
488 section] subdivision (1) of this subsection on the land records of the
489 municipality in which such land is located and shall submit to the
490 commissioner a certificate of title certifying that each interest in such
491 land or any part thereof is irrevocably subordinated to the
492 environmental use restriction in accordance with [said subsection (b)]

493 subdivision (1) of this subsection.

494 [(d)] (3) An owner of land with respect to which an environmental
495 use restriction applies may be released, wholly or in part, from the
496 limitations of such restriction only with the commissioner's written
497 approval which shall be consistent with the regulations adopted
498 pursuant to section 22a-133q and shall be recorded on the land records
499 of the municipality in which such land is located provided the
500 commissioner may waive the requirement to record such release if he
501 finds that the activity which is the subject of such release does not
502 affect the overall purpose for which the environmental land use
503 restriction was implemented and does not alter the size of the area
504 subject to the environmental land use restriction. The commissioner
505 shall not approve any such release unless the owner demonstrates that
506 he has remediated the land, or such portion thereof as would be
507 affected by the release, in accordance with the standards established
508 pursuant to section 22a-133k.

509 [(e)] (4) An environmental use restriction shall survive foreclosure
510 of a mortgage, lien or other encumbrance.

511 (c) (1) A notice of activity and use limitation may only be used and
512 recorded for releases remediated in accordance with the regulations
513 adopted pursuant to sections 22a-133k and 22a-133q, as amended by
514 this act, for the following purposes:

515 (A) To achieve compliance with industrial or commercial direct
516 exposure criteria, groundwater volatilization criteria, and soil vapor
517 criteria set forth in regulations adopted pursuant to section 22a-133k,
518 as amended by this act, by preventing residential activity and use of
519 the area to be affected by the notice of activity and use limitation
520 provided that the property is zoned to exclude residential activity as
521 defined in regulations adopted pursuant to section 22a-133k, as
522 amended by this act;

523 (B) To prevent disturbance of polluted soil that exceeds the

524 applicable direct exposure criteria but is inaccessible, in compliance
525 with the provisions of regulations adopted pursuant to section 22a-
526 133k, as amended by this act, provided pollutant concentrations in
527 such inaccessible soil do not exceed ten times the applicable direct
528 exposure criteria;

529 (C) To prevent disturbance of an engineered control to the extent
530 such engineered control is for the sole remedial purpose of eliminating
531 exposure to polluted soil that exceeds the direct exposure criteria,
532 provided pollutant concentrations in such soil do not exceed ten times
533 the applicable direct exposure criteria;

534 (D) To prevent demolition of a building or permanent structure that
535 renders polluted soil environmentally isolated, provided either: (i) The
536 pollutant concentrations in the environmentally isolated soil do not
537 exceed ten times the applicable direct exposure criteria and the
538 applicable pollutant mobility criteria, or (ii) the total volume of soil
539 that is environmentally isolated is less than or equal to ten cubic yards;
540 or

541 (E) Any other purpose the commissioner may prescribe by
542 regulation.

543 (2) No owner shall record a notice of activity and use limitation on
544 the land records of the municipality in which such land is located
545 unless the owner provides written notice to each person holding an
546 interest in such land or any part thereof, including, without limitation,
547 each mortgagee, lessee, lienor and encumbrancer, not later than sixty
548 days prior to the recordation of such notice. Such notice of the
549 proposed notice of activity and use limitation shall be sent by certified
550 mail, return receipt requested, and shall include notice of the existence
551 and location of pollution within such area and the terms of such
552 proposed activity and use limitation. Such sixty-day-notice period may
553 be waived upon the written agreement of all interest holders.

554 (3) A notice of activity and use limitation recorded pursuant to this

555 subsection shall be implemented and adhered to by the owner and
556 holders of interests in the property and any person that has a license to
557 use such property, and their successors and assigns, or to conduct
558 remediation on any portion of such property.

559 (4) A notice of activity and use limitation shall be deemed
560 implemented and shall be in effect upon being duly recorded on the
561 land records of the municipality in which such property is located.

562 (5) (A) A notice of activity and use limitation shall be prepared on a
563 form as prescribed by the commissioner.

564 (B) A notice of activity and use limitation decision document, signed
565 by the commissioner or signed and sealed by a licensed environmental
566 professional, shall be referenced in and recorded with the notice of
567 activity and use limitation, and shall specify:

568 (i) Why the notice of activity and use limitation is appropriate to
569 achieve and maintain compliance with the regulations adopted
570 pursuant to section 22a-133k, as amended by this act;

571 (ii) Activities and uses that are inconsistent with maintaining
572 compliance with such regulations;

573 (iii) Activities and uses to be permitted;

574 (iv) Obligations and conditions necessary to meet the objectives of
575 the notice of activity and use limitation; and

576 (v) The nature and extent of pollution in the area that is the basis for
577 the notice of activity and use limitation, including a listing of
578 contaminants and concentrations for such contaminants, and the
579 horizontal and vertical extent of such contaminants.

580 (6) Upon transfer of any interest in or a right to use property, or a
581 portion of property, that is subject to a notice of activity and use
582 limitation, the owner of such land, any lessee of such land, and any

583 person who can sub-divide or sub-lease the property, shall incorporate
584 such notice either in full or by reference into all future deeds,
585 easements, mortgages, leases, licenses, occupancy agreements or any
586 other instrument of transfer. A notice of activity and land use
587 limitation shall survive foreclosure of a mortgage, lien or other
588 encumbrance.

589 Sec. 14. Section 22a-133p of the general statutes is repealed and the
590 following is substituted in lieu thereof (*Effective from passage*):

591 (a) The Attorney General, at the request of the commissioner, shall
592 institute a civil action in the superior court for the judicial district of
593 Hartford or for the judicial district wherein the subject land is located
594 for injunctive or other equitable relief to enforce an environmental use
595 restriction or sections 22a-134n to 22a-133q, inclusive, and regulations
596 adopted thereunder or to recover a civil penalty pursuant to
597 subsection (e) of this section.

598 (b) The commissioner may issue orders pursuant to sections 22a-6
599 and 22a-7 to enforce an environmental use restriction or sections 22a-
600 134n to 22a-133q, inclusive, and regulations adopted thereunder.

601 (c) In any administrative or civil proceeding instituted by the
602 commissioner to enforce an environmental use restriction or sections
603 22a-134n to 22a-133q, inclusive, and regulations adopted thereunder,
604 any other person may intervene as a matter of right.

605 (d) In any civil or administrative action to enforce an environmental
606 use restriction or sections 22a-134n to 22a-133q, inclusive, and
607 regulations adopted thereunder, the owner of the subject land, and any
608 lessee thereof, shall be strictly liable for any violation of such
609 restriction or sections 22a-134n to 22a-133q, inclusive, and regulations
610 adopted thereunder and shall be jointly and severally liable for abating
611 such violation.

612 (e) Any owner of land with respect to which an environmental use

613 restriction applies, and any lessee of such land, who violates any
614 provision of such restriction, fails to adhere to such restriction or
615 violates sections 22a-134n to 22a-133q, inclusive, and regulations
616 adopted thereunder shall be assessed a civil penalty under section 22a-
617 438. The penalty provided in this subsection shall be in addition to any
618 injunctive or other equitable relief.

619 Sec. 15. Sections 22a-133q of the general statutes is repealed and the
620 following is substituted in lieu thereof (*Effective from passage*):

621 The commissioner shall adopt regulations, in accordance with the
622 provisions of chapter 54, to carry out the purposes of sections 22a-133n
623 to 22a-133r, inclusive. Such regulations may include, but not be limited
624 to, provisions regarding the form, contents, fees, financial surety,
625 monitoring and reporting, filing procedure for, and release from,
626 environmental use restrictions.

627 Sec. 16. Section 2 of public act 10-135 is repealed and the following is
628 substituted in lieu thereof (*Effective from passage*):

629 (a) There is established a working group to examine the remediation
630 and development of brownfields in this state, including, but not
631 limited to, the remediation scheme for such properties, permitting
632 issues and liability issues, including those set forth by sections 22a-14
633 to 22a-20, inclusive, of the general statutes.

634 (b) The working group shall consist of the following [~~eleven~~]
635 thirteen members, each of whom shall have expertise related to
636 brownfield redevelopment in environmental law, engineering, finance,
637 development, consulting, insurance or another relevant field:

638 (1) [~~Two~~] Four appointed by the Governor;

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

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

- 641 (4) One appointed by the majority leader of the Senate;
- 642 (5) One appointed by the majority leader of the House of
643 Representatives;
- 644 (6) One appointed by the minority leader of the Senate;
- 645 (7) One appointed by the minority leader of the House of
646 Representatives;
- 647 (8) The Commissioner of Economic and Community Development
648 or the commissioner's designee, who shall serve ex officio;
- 649 (9) The Commissioner of Environmental Protection or the
650 commissioner's designee, who shall serve ex officio; and
- 651 (10) The Secretary of the Office of Policy and Management or the
652 secretary's designee, who shall serve ex officio.
- 653 (c) ~~[All] Any member of the working group~~ as of the effective date
654 ~~of this section shall continue to serve and all new~~ appointments to the
655 working group shall be made no later than thirty days after the
656 effective date of this section. Any vacancy shall be filled by the
657 appointing authority.
- 658 (d) The working group shall select chairpersons of the working
659 group from among the appointed members of the working group.
660 Such chairpersons shall schedule the first meeting of the working
661 group, which shall be held no later than sixty days after the effective
662 date of this section.
- 663 (e) On or before ~~[January 15, 2011]~~ February 15, 2012, the working
664 group shall report, in accordance with the provisions of section 11-4a
665 of the general statutes, on its findings and recommendations to the
666 joint standing committee of the General Assembly having cognizance
667 of matters relating to commerce.
- 668 Sec. 17. (NEW) (*Effective July 1, 2011*) (a) As used in this section:

669 (1) "Blight" means a pervasive condition in which property, whether
670 or not used for its intended purpose, is in a state of dilapidation or
671 decay, open to the elements, unable to provide shelter, or unable to
672 serve the purpose for which it was constructed due to damage,
673 dilapidation or decay;

674 (2) "Bona fide prospective purchaser" means a person that acquires
675 ownership of a property after January 1, 2012, and establishes by a
676 preponderance of the evidence that:

677 (A) All disposal of regulated substances at the property occurred
678 before the person acquired the facility;

679 (B) Such person made all appropriate inquiries, as set forth in 40
680 CFR Part 312, into the previous ownership and uses of the facility in
681 accordance with generally accepted good commercial and customary
682 standards and practices, including, but not limited to, the standards
683 and practices set forth in the ASTM Standard Practice for
684 Environmental Site Assessments, Phase I Environmental Site
685 Assessment Process, E1527-05. In the case of property in residential or
686 other similar use at the time of purchase by a nongovernmental or
687 noncommercial entity, a property inspection and title search that
688 reveal no basis for further investigation shall be considered to satisfy
689 the requirements of this subparagraph;

690 (C) Such person provides all legally required notices with respect to
691 the discovery or release of any regulated substances at the property;

692 (D) Such person exercises appropriate care with respect to regulated
693 substances found at the property by taking reasonable steps to stop
694 any continuing release; prevent any threatened future release and
695 prevent or limit human, environmental or natural resource exposure to
696 any previously released regulated substance;

697 (E) Such person provides full cooperation, assistance and access to
698 persons authorized to conduct response actions or natural resource

699 restoration at a property, including, but not limited to, the cooperation
700 and access necessary for the installation, integrity, operation and
701 maintenance of any complete or partial response actions or natural
702 resource restoration at the property;

703 (F) Such person complies with any land use restrictions established
704 or relied on in connection with the response action at the property and
705 does not impede the effectiveness or integrity of any institutional
706 control employed at the property in connection with a response action;
707 and

708 (G) Such person complies with any request for information or
709 administrative subpoena issued by the Commissioner of
710 Environmental Protection.

711 (3) "Brownfield" has the same meaning as provided in section 32-
712 9kk of the general statutes, as amended by this act.

713 (4) "Brownfield investigation plan and remediation schedule" means
714 a plan and schedule for investigation and a schedule for remediation
715 of an eligible property under this section. Such investigation plan and
716 remediation schedule shall include both interim status or other
717 appropriate interim target dates and a target date for project
718 completion not later than five years after the Commissioner of
719 Environmental Protection approves such plan and schedule, provided
720 the Commissioner of Environmental Protection may extend such dates
721 for good cause. The plan shall provide a schedule for activities
722 including, but not limited to, completion of the investigation of the
723 property in accordance with prevailing standards and guidelines,
724 submittal of a complete investigation report, submittal of a detailed
725 written plan for remediation, completion of remediation in accordance
726 with standards adopted by said commissioner pursuant to section 22a-
727 133k of the general statutes, as amended by this act, and submittal to
728 said commissioner of a final remedial action report. Except as
729 otherwise provided in this section, in any detailed written plan for
730 remediation submitted under this section, the applicant shall only be

731 required to investigate and remediate conditions existing within the
732 property boundaries and shall not be required to investigate or
733 remediate any pollution or contamination that exists outside of the
734 property's boundaries, including any contamination that may exist or
735 has migrated to sediments, rivers, streams or off site.

736 (5) "Contiguous property owner" means a person who owns real
737 property contiguous to or otherwise similarly situated with respect to,
738 and that is or may be contaminated by a release or threatened release
739 of a regulated substance from, real property that is not owned by that
740 person, provided:

741 (A) with respect to the property owned by such person, such person
742 takes reasonable steps to stop any continuing release of any regulated
743 substance released on or from the property, prevent any threatened
744 future release of any regulated substance released on or from the
745 property and prevent or limit human, environmental or natural
746 resource exposure to any regulated substance released on or from the
747 property;

748 (B) Such person provides full cooperation, assistance and access to
749 persons authorized to conduct response actions or natural resource
750 restoration at the property from which there has been a release or
751 threatened release, including, but not limited to, the cooperation and
752 access necessary for the installation, integrity, operation and
753 maintenance of any complete or partial response action or natural
754 resource restoration at the property;

755 (C) Such person complies with any land use restrictions established
756 or relied on in connection with the response action at the property and
757 does not impede the effectiveness or integrity of any institutional
758 control employed in connection with a response action;

759 (D) Such person complies with any request for information or
760 administrative subpoena issued by the Commissioner of
761 Environmental Protection; and

762 (E) Such person provides all legally required notices with respect to
763 the discovery or release of any hazardous substances at the property.

764 (6) "Distressed municipality" has the same meaning as provided in
765 section 32-9p of the general statutes.

766 (7) "Economic development agency" means a municipality,
767 municipal economic development agency or entity created or
768 operating under chapter 130 or 132 of the general statutes, nonprofit
769 economic development corporation formed to promote the common
770 good, general welfare and economic development of a municipality
771 that is funded, either directly or through in-kind services, in part by a
772 municipality, or nonstock corporation or limited liability company
773 established or controlled by a municipality, municipal economic
774 development agency or entity created or operating under chapter 130
775 or 132 of the general statutes.

776 (8) "Environmental justice" means the fair treatment and meaningful
777 involvement of all people regardless of race, color, national origin,
778 educational level or income with respect to the development,
779 implementation and enforcement of environmental laws.

780 (9) "Innocent landowner" has the same meaning as provided in
781 section 22a-452d of the general statutes.

782 (10) "Interim verification" has the same meaning as provided in
783 section 22a-134 of the general statutes.

784 (11) "Municipality" means any town, city or borough.

785 (12) "National priorities list" means the list of hazardous waste
786 disposal sites compiled by the United States Environmental Protection
787 Agency pursuant to 42 USC Section 9605.

788 (13) "Open space land" has the same meaning as provided in section
789 12-107b of the general statutes.

790 (14) "Person" means any individual, firm, partnership, association,
791 syndicate, company, trust, corporation, limited liability company,
792 municipality, economic development agency, agency or political or
793 administrative subdivision of the state and any other legal entity.

794 (15) "Principles of smart growth" means standards and objectives
795 that support and encourage smart growth when used to guide actions
796 and decisions, including, but not limited to, standards and criteria for
797 (A) integrated planning or investment that coordinates tax,
798 transportation, housing, environmental and economic development
799 policies at the state, regional and local level, (B) the reduction of
800 reliance on the property tax by municipalities by creating efficiencies
801 and coordination of services on the regional level while reducing
802 interlocal competition for grand list growth, (C) the redevelopment of
803 existing infrastructure and resources, including, but not limited to,
804 brownfields and historic places, (D) transportation choices that
805 provide alternatives to automobiles, including rail, public transit,
806 bikeways and walking, while reducing energy consumption, (E) the
807 development or preservation of housing affordable to households of
808 varying income in locations proximate to transportation or
809 employment centers or locations compatible with smart growth, (F)
810 concentrated, mixed-use, mixed income development proximate to
811 transit nodes and civic, employment or cultural centers, and (G) the
812 conservation and protection of natural resources by (i) preserving open
813 space, water resources, farmland, environmentally sensitive areas and
814 historic properties, and (ii) furthering energy efficiency.

815 (16) "Regulated substance" means any element, compound or
816 material that, when added to air, water, soil or sediment, may alter the
817 physical, chemical, biological or other characteristic of such air, water,
818 soil or sediment and for which there are remediation standards
819 adopted pursuant to section 22a-133k of the general statutes or for
820 which such remediation standards have a process for calculating the
821 numeric criteria of such substance.

822 (17) "Release" has the same meaning as provided in section 22a-6u
823 of the general statutes.

824 (18) "Smart growth" means economic, social and environmental
825 development that (A) promotes, through financial and other
826 incentives, economic competitiveness in the state while preserving
827 natural resources, and (B) utilizes a collaborative approach to
828 planning, decision-making and evaluation between and among all
829 levels of government and the communities and the constituents they
830 serve.

831 (19) "Transit oriented development" has the same meaning as
832 provided in section 13b-79o of the general statutes.

833 (20) "Verification" has the same meaning as provided in section 22a-
834 134 of the general statutes.

835 (b) The Office of Brownfield Remediation and Development shall
836 establish a brownfield remediation and revitalization program to
837 provide certain liability protections to program participants. Not more
838 than twenty properties at a time shall be accepted into the program
839 and a new property shall be added upon the withdrawal of a property
840 from the program or upon a notice of completion of remedy and no
841 further action letter issued pursuant to this section. Participation in the
842 program shall be by accepted application pursuant to subsection (c) of
843 this section or by nomination pursuant to subsection (d) of this section
844 and shall be based, by said office's discretion, on at least one of the
845 following criteria: (1) The likely creation of jobs, including, but not
846 limited to, those related to remediation, design, development and
847 construction; (2) the projected increase to the municipal grand list; (3)
848 the consistency of the property as remediated and developed with
849 municipal or regional planning objectives; and (4) the development
850 plan's support for and furtherance of principles of smart growth or
851 transit oriented development.

852 (c) The office shall accept applications for participation in the

853 program established pursuant to subsection (c) of this section from any
854 innocent landowner, bona fide prospective purchaser, municipality,
855 economic development agency, contiguous property owner
856 purchasing a brownfield who (1) did not establish, create or maintain a
857 source of pollution to the waters of the state for purposes of section
858 22a-432 of the general statutes and is not responsible pursuant to any
859 other provision of the general statutes for any pollution or source of
860 pollution on the property; and (2) is not affiliated with any person
861 responsible for such pollution or source of pollution through any
862 direct or indirect familial relationship or any contractual, corporate or
863 financial relationship other than that by which such purchaser's
864 interest in such property is to be conveyed or financed.

865 (d) The office shall accept nominations for participation in the
866 program established pursuant to subsection (c) of this section from a
867 municipality or an economic development agency.

868 (e) The director of said office may adopt regulations in accordance
869 with the provisions of chapter 54 of the general statutes to implement
870 the program established pursuant to this section.

871 (f) (1) Any eligible person making application must demonstrate to
872 the director that: (A) The property meets the definition of a brownfield,
873 and (B) there has been a release at the property of a regulated
874 substance in an amount that exceeds the remediation standard
875 regulations adopted by the Commissioner of Environmental Protection
876 pursuant to section 22a-133k of the general statutes, as amended by
877 this act.

878 (2) A property that is currently the subject of an enforcement action,
879 including any consent order issued by the Department of
880 Environmental Protection or the United States Environmental
881 Protection Agency under any current Department of Environmental
882 Protection or United States Environmental Protection Agency program
883 or that is listed on the national priorities list shall not be eligible to
884 participate in the comprehensive brownfield remediation and

885 revitalization program.

886 (3) Properties otherwise eligible for the comprehensive brownfield
887 remediation and revitalization program currently being investigated
888 and remediated in accordance with the State Voluntary Remediation
889 programs under sections 22a-133x and 22a-133y of the general statutes
890 and the covenant not to sue programs under sections 22a-133aa and
891 22a-133bb of the general statutes may participate in said program.

892 (g) Every application used by all state and quasi-public entities
893 providing financial assistance for brownfield assessment remediation
894 and redevelopment pursuant to subdivision (5) of subsection (b) of
895 section 32-9cc of the general statutes shall demonstrate, and the state
896 and quasi-public entities reviewing such applications shall consider in
897 deciding whether to grant the application, the following: (1) The likely
898 creation of jobs, including, but not limited to, those related to
899 remediation, design, development and construction; (2) the likely
900 addition of amounts to the municipal tax base; (3) the consistency of
901 the property as remediated and developed with municipal or regional
902 planning objectives; (4) the development plan's support for and
903 furtherance of sustainable development or transit oriented
904 development; and (5) the development plan's consideration of
905 properties in an environmental justice community as defined in section
906 22a-20a of the general statutes.

907 (h) Inclusion of a property within the comprehensive brownfield
908 remediation and revitalization program by the director shall not limit
909 any person's ability to seek funding for such property under any
910 federal, state or municipal grant or loan program, including, but not
911 limited to, any state brownfield grant or loan program.

912 (i) Any applicant seeking a designation of eligibility for a person or
913 a property under the comprehensive brownfield remediation and
914 revitalization program shall apply to the director at such times and on
915 such forms as said director may prescribe and shall pay the Office of
916 Brownfield Remediation and Development a fee of three thousand

917 dollars along with its completed application. The application shall
918 include a completed environmental condition assessment form, as
919 defined in subdivision (17) of section 22a-134 of the general statutes,
920 for the eligible property and documentation demonstrating satisfaction
921 of the eligibility criteria set forth in this section. The applicant shall
922 certify to the director, in writing, that the information contained in its
923 application is correct and accurate to the best of the applicant's
924 knowledge and belief. Not later than thirty days after receipt of the
925 application, the director shall notify the applicant whether the
926 application is complete or incomplete. If the director fails to notify the
927 applicant within thirty days after his or her receipt of an application,
928 the application shall be deemed complete.

929 (j) (1) Not later than sixty days after the application is determined or
930 deemed to be complete, the director shall notify the applicant whether
931 the eligible property is included or not included in the comprehensive
932 brownfield remediation and revitalization program. If the director fails
933 to notify the applicant within sixty days, the application shall be
934 deemed accepted into the comprehensive brownfield remediation and
935 revitalization program. An applicant may appeal rejection of its
936 application to the Superior Court in accordance with the provisions of
937 section 4-183 of the general statutes.

938 (2) A person whose application has been accepted or deemed
939 accepted into the comprehensive brownfield remediation and
940 revitalization program shall not be liable to the state or any third party
941 for the release of any regulated substance at or from the eligible
942 property except and only to the extent that such applicant (A) caused
943 or contributed to the release of a regulated substance that is subject to
944 remediation or exacerbated such condition, or (B) the Commissioner of
945 Environmental Protection determines the existence of any of the
946 conditions set forth in this section.

947 (k) (1) A person whose application to the comprehensive brownfield
948 remediation and revitalization program has been approved or deemed

949 approved by the director (A) shall investigate the release or threatened
950 release of any regulated substance within the boundaries of the
951 property in accordance with prevailing standards and guidelines and
952 remediate such release or threatened release within the boundaries of
953 such property in accordance with the brownfield investigation plan
954 and remediation schedule, and (B) shall not be required to
955 characterize, abate and remediate the release of a regulated substance
956 beyond the boundary of the eligible property.

957 (2) Not later than one hundred eighty days after the application is
958 determined to be or is deemed complete, or such longer period
959 approved by the Commissioner of Environmental Protection upon
960 good cause shown, the applicant shall submit to said commissioner
961 and the director a brownfield investigation plan and remediation
962 schedule. Said commissioner shall issue notice of his or her receipt of
963 such plan and schedule on the Department of Environmental
964 Protection's Internet web site and in the Connecticut Law Journal in
965 accordance with this section, stating that such plan and schedule is
966 available for review. Any person may provide comments to said
967 commissioner, the director or the applicant on such plan and schedule
968 not later than thirty days after the posting of said documents on the
969 web site.

970 (3) Not later than sixty days after receiving such plan and schedule,
971 said commissioner shall notify the applicant and the director as to
972 whether such plan and schedule is approved in full or in part or
973 rejected in full or in part, with an explanation of the reasons for the
974 decision. If said commissioner neither approves nor rejects such plan
975 and schedule within such timeframe, such plan and schedule shall be
976 deemed approved. The applicant shall have thirty days to respond to
977 any disapproval or rejection by said commissioner and the time frames
978 set forth in this section for comment and response shall continue until
979 said commissioner approves such plan and schedule, such plan and
980 schedule is deemed approved or the applicant has notified said
981 commissioner of its withdrawal from the program's application

982 process.

983 (4) Before commencement of remedial action pursuant to the
984 approved plan and schedule, the applicant shall: (A) Publish notice of
985 the remedial action in a newspaper having a substantial circulation in
986 the town where the property is located, (B) notify the director of health
987 of the municipality where the parcel is located, and (C) either (i) erect
988 and maintain for at least thirty days in a legible condition a sign not
989 less than six feet by four feet on the property, which sign shall be
990 clearly visible from the public highway, and shall include the words
991 "ENVIRONMENTAL CLEAN-UP IN PROGRESS AT THIS SITE. FOR
992 FURTHER INFORMATION CONTACT:" and include a telephone
993 number for an office from which any interested person may obtain
994 additional information about the remedial action, or (ii) mail notice of
995 the remedial action to each owner of record of property which abuts
996 such property, at the address on the last-completed grand list of the
997 relevant town.

998 (5) The remedial action shall be conducted under the supervision of
999 a licensed environmental professional and the final remedial action
1000 report shall be submitted to the Commissioner of Environmental
1001 Protection and the Office of Brownfield Remediation and Development
1002 by a licensed environmental professional. In preparing such report, the
1003 licensed environmental professional shall issue a verification or
1004 interim verification, in which he or she shall render an opinion, in
1005 accordance with the standard of care provided for in subsection (c) of
1006 section 22a-133w of the general statutes, that the action taken to
1007 contain, remove or mitigate the release of regulated substances within
1008 the boundaries of such property is in accordance with the remediation
1009 standards adopted by said commissioner pursuant to section 22a-133k
1010 of the general statutes, as amended by this act.

1011 (6) All applications for permits required to implement such plan
1012 and schedule in this section shall be submitted to the permit
1013 ombudsman within the Department of Economic and Community

1014 Development.

1015 (7) Each applicant participating in the comprehensive brownfield
1016 remediation and revitalization program shall maintain all records
1017 related to its implementation of such plan and schedule and
1018 completion of the remedial action of the property for a period of not
1019 less than ten years and shall make such records available to said
1020 commissioner or the director at any time upon request by either.

1021 (8) Any final remedial action report submitted to said commissioner
1022 and the director for such a property by a licensed environmental
1023 professional shall be deemed approved unless, not later than sixty
1024 days after such submittal, said commissioner determines, in his or her
1025 sole discretion, and provides notice of such determination to the
1026 applicant and the director, that an audit of such remedial action is
1027 necessary to assess whether remedial action beyond that which is
1028 detailed in such report is necessary for the protection of human health
1029 or the environment. Such an audit shall be conducted not later than six
1030 months after such determination. Not later than thirty days after
1031 completing such audit, said commissioner may disapprove the report,
1032 provided he or she shall give his or her reasons therefore, in writing, to
1033 the applicant and the director and further provided the applicant may
1034 appeal such disapproval to the Superior Court in accordance with the
1035 provisions of section 4-183 of the general statutes.

1036 (l) Not later than sixty days after receiving a notice of disapproval of
1037 remedial action report from the Commissioner of Environmental
1038 Protection, the applicant may submit to said commissioner and to the
1039 director a report of cure of noted deficiencies. Not later than sixty days
1040 after receiving such report of cure of noted deficiencies by said
1041 commissioner, unless disapproved, in writing, prior to by said
1042 commissioner, such report of cure of noted deficiencies will be deemed
1043 approved and said commissioner shall issue a notice of completion of
1044 remedy and no further action letter. The applicant may also appeal a
1045 disapproval of the report of cure of noted deficiencies to the Superior

1046 Court in accordance with the provisions of section 4-183 of the general
1047 statutes.

1048 (m) Before approving a final remedial action report or the remedial
1049 action report being deemed approved, the Commissioner of
1050 Environmental Protection may enter into a memorandum of
1051 understanding with the applicant with regard to any further remedial
1052 action or monitoring activities on or at such property that said
1053 commissioner deems necessary for the protection of human health or
1054 the environment.

1055 (n) (1) An applicant who has been accepted into the comprehensive
1056 brownfield remediation and revitalization program shall have no
1057 obligation as part of its plan and schedule to characterize, abate and
1058 remediate any plume of a regulated substance outside the boundaries
1059 of the subject property, provided the notification requirements of
1060 section 22a-6u of the general statutes pertaining to significant
1061 environmental hazards shall continue to apply to the property and the
1062 applicant shall not be required to characterize, abate or remediate any
1063 such significant environmental hazard outside the boundaries of the
1064 subject property unless such significant environmental hazard arises
1065 from the actions of the applicant after its acquisition of or control over
1066 the property from which such significant environmental hazard has
1067 emanated outside its own boundaries. If an applicant who has been
1068 accepted into the comprehensive brownfield remediation and
1069 revitalization program conveys or otherwise transfers its ownership of
1070 the subject property, the provisions of this section shall apply to such
1071 transferee, if such transferee meets the eligibility criteria set forth in
1072 this section and such transferee complies with all the obligations
1073 undertaken by the applicant under this section.

1074 (2) With the Commissioner of Environmental Protection's approval
1075 of a final remedial action report or upon the deemed approval of such
1076 report, said commissioner shall issue a notice of completion of remedy
1077 and no further action letter that shall provide that the applicant is not

1078 liable to the state or any third party for costs incurred in the
1079 remediation of, equitable relief relating to, or damages resulting from
1080 the release of regulated substances addressed in the brownfield
1081 investigation plan and remediation schedule and also any liability to
1082 the state or any third party for historic off-site impacts including air
1083 deposition, waste disposal, impacts to sediments and natural resource
1084 damages.

1085 (A) The notice of completion of remedy and no further action letter
1086 issued by the Commissioner of Environmental Protection shall extend
1087 to any person who acquires title to all or part of the property for which
1088 a remedial action report has been approved pursuant provided (i)
1089 there is payment of a fee of three thousand dollars to said
1090 commissioner for each such extension, and (ii) such person acquiring
1091 all or part of the property meets the criteria of this section.

1092 (B) A notice of completion of remedy and no further action letter
1093 issued pursuant to this section shall not preclude the Commissioner of
1094 Environmental Protection from taking any appropriate action,
1095 including, but not limited to, any action to require remediation of the
1096 property by the applicant or, as applicable, to its successor, if said
1097 commissioner determines that:

1098 (i) The notice of completion of remedy and no further action letter
1099 was based on information provided by the person seeking such letter
1100 that the Commissioner of Environmental Protection can show that
1101 such person knew, or had reason to know, was false or misleading,
1102 and in the case of the successor to an applicant that such successor was
1103 aware or had reason to know that such information was false or
1104 misleading;

1105 (ii) New information confirms the existence of previously unknown
1106 contamination that resulted from a release that occurred before the
1107 date that an application has been accepted or deemed accepted into the
1108 comprehensive brownfield remediation and revitalization program;

1109 (iii) The applicant who received the notice of completion of remedy
1110 and no further action letter has materially failed to complete the
1111 remedial action required by the brownfield investigation plan and
1112 remediation schedule or to carry out or comply with monitoring,
1113 maintenance or operating requirements pertinent to a remedial action
1114 including the requirements of any environmental land use restriction;
1115 or

1116 (iv) The threat to human health or the environment is increased
1117 beyond an acceptable level due to substantial changes in exposure
1118 conditions at such property, including, but not limited to, a change
1119 from nonresidential to residential use of such property.

1120 (C) The applicant may appeal a determination made by the
1121 Commissioner of Environmental Protection under this subsection to
1122 the Superior Court in accordance with the provisions of section 4-183
1123 of the general statutes.

1124 (3) To the extent that a licensed environmental professional verifies
1125 that a site that has been accepted into the program has been
1126 investigated and remediated in compliance with the standards set
1127 forth in this section and the Commissioner of Environmental
1128 Protection has approved the final remedial action report or the final
1129 remedial action report has been deemed approved, such person who
1130 undertook that earlier remediation, regardless of its own eligibility to
1131 participate in the comprehensive brownfield remediation and
1132 revitalization program, will receive the same protections from liability
1133 and additional remedial action as an applicant approved to participate
1134 in the comprehensive brownfield remediation and revitalization
1135 program, provided such person shall retain any liability the person
1136 would otherwise have to characterize and remediate any continuing
1137 migration or threatened migration beyond the boundaries of the
1138 eligible property if such characterization and remediation has not been
1139 included in the remedial action report submitted by the applicant and
1140 approved or deemed approved by said commissioner.

1141 (o) On and after the effective date of this section, no person shall be
1142 required to comply with the provisions of sections 22a-134 to 22a-134e,
1143 inclusive, of the general statutes in connection with the transfer of a
1144 business or real property at which no activities described in
1145 subdivision (3) of section 22a-134 have been conducted since the date
1146 of such approval and for which (1) an application has been accepted or
1147 deemed accepted into the comprehensive brownfield remediation and
1148 revitalization program, or (2) a brownfield investigation plan and
1149 remediation schedule or a final remedial action report hereunder has
1150 been approved or deemed approved by the Commissioner of
1151 Environmental Protection.

1152 Sec. 18. Section 32-23zz of the general statutes is repealed and the
1153 following is substituted in lieu thereof (*Effective July 1, 2011*):

1154 (a) For the purpose of assisting (1) any information technology
1155 project, as defined in subsection (ee) of section 32-23d, which is located
1156 in an eligible municipality, as defined in subdivision (12) of subsection
1157 (a) of section 32-9t, or (2) any remediation project, as defined in
1158 subsection (ii) of section 32-23d, the Connecticut Development
1159 Authority may, upon a resolution of the legislative body of a
1160 municipality, issue and administer bonds which are payable solely or
1161 in part from and secured by: (A) A pledge of and lien upon any and all
1162 of the income, proceeds, revenues and property of such a project,
1163 including the proceeds of grants, loans, advances or contributions from
1164 the federal government, the state or any other source, including
1165 financial assistance furnished by the municipality or any other public
1166 body, (B) taxes or payments or grants in lieu of taxes allocated to and
1167 payable into a special fund of the Connecticut Development Authority
1168 pursuant to the provisions of subsection (b) of this section, or (C) any
1169 combination of the foregoing. Any such bonds of the Connecticut
1170 Development Authority shall mature at such time or times not
1171 exceeding thirty years from their date of issuance and shall be subject
1172 to the general terms and provisions of law applicable to the issuance of
1173 bonds by the Connecticut Development Authority, except that such

1174 bonds shall be issued without a special capital reserve fund as
1175 provided in subsection (b) of section 32-23j and, for purposes of section
1176 32-23f, only the approval of the board of directors of the authority shall
1177 be required for the issuance and sale of such bonds. Any pledge made
1178 by the municipality or the Connecticut Development Authority for
1179 bonds issued as provided in this section shall be valid and binding
1180 from the time when the pledge is made, and revenues and other
1181 receipts, funds or moneys so pledged and thereafter received by the
1182 municipality or the Connecticut Development Authority shall be
1183 subject to the lien of such pledge without any physical delivery thereof
1184 or further act. The lien of such pledge shall be valid and binding
1185 against all parties having claims of any kind in tort, contract or
1186 otherwise against the municipality or the Connecticut Development
1187 Authority, even if the parties have no notice of such lien. Recording of
1188 the resolution or any other instrument by which such a pledge is
1189 created shall not be required. In connection with any such assignment
1190 of taxes or payments in lieu of taxes, the Connecticut Development
1191 Authority may, if the resolution so provides, exercise the rights
1192 provided for in section 12-195h of an assignee for consideration of any
1193 lien filed to secure the payment of such taxes or payments in lieu of
1194 taxes. All expenses incurred in providing such assistance may be
1195 treated as project costs.

1196 (b) Any proceedings authorizing the issuance of bonds under this
1197 section may contain a provision that taxes or a specified portion
1198 thereof, if any, identified in such authorizing proceedings and levied
1199 upon taxable real or personal property, or both, in a project each year,
1200 or payments or grants in lieu of such taxes or a specified portion
1201 thereof, by or for the benefit of any one or more municipalities,
1202 districts or other public taxing agencies, as the case may be, shall be
1203 divided as follows: (1) In each fiscal year that portion of the taxes or
1204 payments or grants in lieu of taxes which would be produced by
1205 applying the then current tax rate of each of the taxing agencies to the
1206 total sum of the assessed value of the taxable property in the project on
1207 the date of such authorizing proceedings, adjusted in the case of grants

1208 in lieu of taxes to reflect the applicable statutory rate of
1209 reimbursement, shall be allocated to and when collected shall be paid
1210 into the funds of the respective taxing agencies in the same manner as
1211 taxes by or for said taxing agencies on all other property are paid; and
1212 (2) that portion of the assessed taxes or the payments or grants in lieu
1213 of taxes, or both, each fiscal year in excess of the amount referred to in
1214 subdivision (1) of this subsection shall be allocated to and when
1215 collected shall be paid into a special fund of the Connecticut
1216 Development Authority to be used in each fiscal year, in the discretion
1217 of the Connecticut Development Authority, to pay the principal of and
1218 interest due in such fiscal year on bonds issued by the Connecticut
1219 Development Authority to finance, refinance or otherwise assist such
1220 project, to purchase bonds issued for such project, or to reimburse the
1221 provider of or reimbursement party with respect to any guarantee,
1222 letter of credit, policy of bond insurance, funds deposited in a debt
1223 service reserve fund, funds deposited as capitalized interest or other
1224 credit enhancement device used to secure payment of debt service on
1225 any bonds issued by the Connecticut Development Authority to
1226 finance, refinance or otherwise assist such project, to the extent of any
1227 payments of debt service made therefrom. Unless and until the total
1228 assessed valuation of the taxable property in a project exceeds the total
1229 assessed value of the taxable property in such project as shown by the
1230 last assessment list referred to in subdivision (1) of this subsection, all
1231 of the taxes levied and collected and all of the payments or grants in
1232 lieu of taxes due and collected upon the taxable property in such
1233 project shall be paid into the funds of the respective taxing agencies.
1234 When such bonds and interest thereof, and such debt service
1235 reimbursement to the provider of or reimbursement party with respect
1236 to such credit enhancement, have been paid in full, all moneys
1237 thereafter received from taxes or payments or grants in lieu of taxes
1238 upon the taxable property in such development project shall be paid
1239 into the funds of the respective taxing agencies in the same manner as
1240 taxes on all other property are paid. The total amount of bonds issued
1241 pursuant to this section which are payable from grants in lieu of taxes

1242 payable by the state shall not exceed an amount of bonds, the debt
1243 service on which in any state fiscal year is, in total, equal to one million
1244 dollars.

1245 (c) The authority may make grants or provide loans or other forms
1246 of financial assistance from the proceeds of special or general
1247 obligation notes or bonds of the authority issued without the security
1248 of a special capital reserve fund within the meaning of subsection (b)
1249 of section 32-23j, which bonds are payable from and secured by, in
1250 whole or in part, the pledge and security provided for in section 8-134,
1251 8-192, 32-227 or this section, all on such terms and conditions,
1252 including such agreements with the municipality and the developer of
1253 the project, as the authority determines to be appropriate in the
1254 circumstances, provided any such project in an area designated as an
1255 enterprise zone pursuant to section 32-70 receiving such financial
1256 assistance shall be ineligible for any fixed assessment pursuant to
1257 section 32-71, and the authority, as a condition of such grant, loan or
1258 other financial assistance, may require the waiver, in whole or in part,
1259 of any property tax exemption with respect to such project otherwise
1260 available under subsection (59) or (60) of section 12-81.

1261 (d) As used in this section, "bonds" means any bonds, including
1262 refunding bonds, notes, temporary notes, interim certificates,
1263 debentures or other obligations; "legislative body" has the meaning
1264 provided in subsection (w) of section 32-222; and "municipality" means
1265 a town, city, consolidated town or city or consolidated town and
1266 borough.

1267 (e) For purposes of this section, references to the Connecticut
1268 Development Authority shall include any subsidiary of the
1269 Connecticut Development Authority established pursuant to
1270 subsection (l) of section 32-11a, and a municipality may act by and
1271 through its implementing agency, as defined in subsection (k) of
1272 section 32-222.

1273 [(f) No commitments for new projects shall be approved by the

1274 authority under this section on or after July 1, 2012.]

1275 [(g)] (f) In the case of a remediation project, as defined in subsection
 1276 (ii) of section 32-23d, that involves buildings that are vacant,
 1277 underutilized or in deteriorating condition and as to which municipal
 1278 real property taxes are delinquent, in whole or in part, for more than
 1279 one fiscal year, the amount determined in accordance with subdivision
 1280 (1) of subsection (b) of this section may, if the resolution of the
 1281 municipality so provides, be established at an amount less than the
 1282 amount so determined, but not less than the amount of municipal
 1283 property taxes actually paid during the most recently completed fiscal
 1284 year. If the Connecticut Development Authority issues bonds for the
 1285 remediation project, the amount established in the resolution shall be
 1286 used for all purposes of subsection (a) of this section.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>July 1, 2011</i>	32-9cc
Sec. 2	<i>July 1, 2011</i>	32-9ee
Sec. 3	<i>July 1, 2011</i>	32-9ff
Sec. 4	<i>from passage</i>	22a-134a
Sec. 5	<i>from passage</i>	22a-133k
Sec. 6	<i>from passage</i>	22a-426
Sec. 7	<i>from passage</i>	New section
Sec. 8	<i>July 1, 2011</i>	32-9kk(a)(1)
Sec. 9	<i>from passage</i>	22a-6
Sec. 10	<i>July 1, 2011</i>	32-9ll
Sec. 11	<i>from passage</i>	22a-134(1)
Sec. 12	<i>from passage</i>	22a-133aa
Sec. 13	<i>from passage</i>	22a-133o
Sec. 14	<i>from passage</i>	22a-133p
Sec. 15	<i>from passage</i>	22a-133q
Sec. 16	<i>from passage</i>	PA 10-135, Sec. 2
Sec. 17	<i>July 1, 2011</i>	New section
Sec. 18	<i>July 1, 2011</i>	32-23zz

Statement of Purpose:

To encourage the development of the state's brownfields.

[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.]