



General Assembly

February Session, 2012

**Raised Bill No. 5130**

LCO No. 967

\*00967 \_\_\_\_\_ ENV\*

Referred to Committee on Environment

Introduced by:  
(ENV)

**AN ACT CONCERNING THE DAM SAFETY PROGRAM.**

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

1 Section 1. Section 22a-401 of the general statutes is repealed and the  
2 following is substituted in lieu thereof (*Effective October 1, 2012*):

3 All dams, dikes, reservoirs and other similar structures, with their  
4 appurtenances, without exception and without further definition or  
5 enumeration herein, which, by breaking away or otherwise, might  
6 endanger life or property, shall be subject to the jurisdiction conferred  
7 by this chapter. The Commissioner of Energy and Environmental  
8 Protection shall formulate all rules, definitions and regulations  
9 necessary to carry out the provisions of this chapter and not  
10 inconsistent therewith. The commissioner or his authorized  
11 representatives may enter upon private property to make such  
12 investigations and gather such data concerning dams, watersheds,  
13 sites, structures and general conditions as may be necessary in the  
14 public interest for a proper inspection, review and study of the design  
15 and construction of such structures and of the environmental impact of  
16 such structures on the inland wetlands of the state. The commissioner

17 may, when necessary, employ or make such agreements with  
18 geologists, other engineers, expert consultants and such assistants as  
19 may be reasonably necessary to carry out the provisions of this  
20 chapter. [The owner of any dam, dike or similar structure under the  
21 jurisdiction conferred by this chapter shall notify the commissioner, by  
22 registered or certified mail return receipt requested, of the transfer of  
23 ownership of any such dam, dike or similar structure not later than ten  
24 days after the date of such transfer.]

25 Sec. 2. Subsection (b) of section 22a-403 of the general statutes is  
26 repealed and the following is substituted in lieu thereof (*Effective*  
27 *October 1, 2012*):

28 (b) The commissioner or his representative, engineer or consultant  
29 shall determine the impact of the construction work on the  
30 environment, on the safety of persons and property and on the tidal  
31 wetlands and inland wetlands and watercourses of the state in  
32 accordance with the provisions of sections [22a-36] 22a-28 to 22a-45,  
33 inclusive, and shall further determine the need for a fishway in  
34 accordance with the provisions of section 26-136, and shall examine the  
35 documents and inspect the site, and, upon approval thereof, the  
36 commissioner shall issue a permit authorizing the proposed  
37 construction work under such conditions as the commissioner may  
38 direct. The commissioner shall send a copy of the permit to the town  
39 clerk in any municipality in which the structure is located or any  
40 municipality which will be affected by the structure. An applicant for a  
41 permit issued under this section to alter, rebuild, repair or remove an  
42 existing dam shall not be required to obtain a permit under sections  
43 [22a-36] 22a-28 to 22a-45a, inclusive, or section 22a-342, 22a-361 or 22a-  
44 368. An applicant for a permit issued under this section to construct a  
45 new dam shall not be required to obtain a permit under sections [22a-  
46 36] 22a-28 to 22a-45a, inclusive, for such construction. An applicant for  
47 a dam safety permit shall not be required to obtain approval of a  
48 certification under section 25-68d.

49 Sec. 3. Section 22a-404 of the general statutes is repealed and the  
50 following is substituted in lieu thereof (*Effective October 1, 2012*):

51 (a) The [commissioner or his representative] dam owner or his or  
52 her representative supervising the work on any dam or other like  
53 structure subject to the commissioner's jurisdiction pursuant to this  
54 chapter shall [inspect the work or] cause [it] the work to be inspected  
55 by a registered professional engineer licensed in the state of  
56 Connecticut to the extent necessary to determine whether the structure  
57 will be safe and secure. Not later than thirty days after the date the  
58 work is completed, the dam owner shall submit to the commissioner a  
59 sworn statement from the engineer who completed such inspection.  
60 Such sworn statement shall (1) attest that such engineer inspected the  
61 work and determined the dam or like structure to be safe within the  
62 parameters of the design of such dam or like structure, (2) attest that  
63 all appurtenances to such dam or like structure have been built,  
64 repaired, altered or removed in conformance with plans, specifications  
65 and drawings approved by the commissioner pursuant to a permit for  
66 construction or an order issued pursuant to section 22a-402, and (3)  
67 bear the engineer's professional seal. The commissioner may, when in  
68 his or her judgment circumstances warrant, place a competent  
69 inspector on the work, and the compensation for such inspector shall  
70 be [shared equally by the state and by the owner] assessed against the  
71 dam owner or any other person having care of and control over the  
72 dam or other like structure. When the work has been completed to the  
73 satisfaction of the commissioner, the owner shall file with the  
74 commissioner plans and descriptions of the work as actually  
75 constructed, together with any other pertinent data.

76 (b) The commissioner shall adopt regulations in accordance with the  
77 provisions of chapter 54 establishing the manner in which a dam  
78 owner or any other person having care of and control over the dam or  
79 other like structure shall receive notice of and appeal any assessment  
80 fixed by the commissioner pursuant to subsection (a) of this section.

81 Sec. 4. Section 22a-409 of the general statutes is repealed and the  
82 following is substituted in lieu thereof (*Effective October 1, 2012*):

83 (a) The commissioner shall cause a survey and maps to be made of  
84 each town showing the location of any dams or similar structures  
85 within such town, and shall file a copy of such map with the town  
86 clerk. On and after October 1, 2007, the owner of real property where a  
87 high hazard or significant hazard dam is located shall cause to be  
88 recorded on the land records in the municipality where the property is  
89 located a document that identifies the existence of the dam and  
90 whether the dam is categorized as a high hazard dam or a significant  
91 hazard dam. The commissioner shall publish a standardized form to  
92 be used for such purposes.

93 (b) The owner of any dam or similar structure shall register on or  
94 before July 1, 1984, with the Commissioner of Energy and  
95 Environmental Protection on a form prescribed by him, the location  
96 and dimensions of such dam or structure and such other information  
97 as the commissioner may require. [The fee for registration shall be as  
98 follows: (1) Dams or similar structures five feet or more in height but  
99 less than fifteen feet, fifty dollars; (2) dams or similar structures fifteen  
100 feet or more in height but less than twenty-five feet, one hundred  
101 dollars; and (3) dams or similar structures twenty-five feet or more in  
102 height, two hundred dollars. Dams or similar structures less than five  
103 feet in height shall be registered without fee. As used in this  
104 subsection, "height" means the vertical distance from the crest of a dam  
105 or similar structure to the downstream toe of such dam or similar  
106 structure.] The owner of any dam or similar structure shall notify the  
107 commissioner by registered or certified mail, return receipt requested,  
108 of a transfer of ownership of such dam or similar structure not later  
109 than ten days after the date of such transfer. The commissioner shall  
110 adopt regulations in accordance with the provisions of chapter 54  
111 establishing the fees for registration and transfer of registration.

112 (c) The owner of any dam or similar structure registered pursuant to

113 subsection (b) of this section shall cause such structure to be inspected  
114 in accordance with regulations adopted pursuant to this subsection by  
115 a registered professional engineer licensed in the state of Connecticut  
116 and shall submit the results of such inspection to the commissioner on  
117 a form prescribed by him or her. The commissioner shall periodically  
118 inspect dams registered pursuant to subsection (b) of this section for  
119 quality assurance, when an owner fails to undertake a regularly  
120 scheduled inspection and as necessary after a flood event. [The fee for  
121 such inspection shall be six hundred sixty dollars.] Any dam which  
122 impounds less than three acre-feet of water or any dam which the  
123 commissioner finds has a potential for negligible damage in the event  
124 of a failure, after an initial inspection, shall be exempt from the  
125 provisions of this subsection except upon determination by the  
126 commissioner that such dam poses a unique hazard. The  
127 commissioner shall adopt regulations in accordance with the  
128 provisions of chapter 54 establishing (1) a schedule for the frequency of  
129 and procedures for inspection of dams, (2) the inspection fees for  
130 [regularly scheduled] inspections undertaken by the department,  
131 sufficient to cover the reasonable cost of such inspections, (3)  
132 procedures for registration and criteria for waiver of registration and  
133 inspection fees, and (4) criteria for determining whether a dam has a  
134 potential for negligible damage in the event of a failure.

135 (d) The commissioner may audit any inspection report submitted  
136 pursuant to this section by the owner of a dam or similar structure.  
137 When conducting such audit, the commissioner may request in writing  
138 any information the commissioner deems necessary to carry out such  
139 audit, including additional information or field inspections. If the  
140 commissioner determines that the inspection report is materially  
141 inaccurate, incomplete or misleading, the commissioner may require  
142 that another inspection be independently undertaken by a  
143 disinterested registered professional engineer licensed in the state of  
144 Connecticut. For purposes of this subsection, "disinterested" means  
145 that such engineer (1) does not have any financial interest other than  
146 the expectation of reasonable compensation for his or her services, (2)

147 did not engage in any activities associated with the development or  
148 preparation of the inspection being audited, and (3) is not under the  
149 same employ as the owner of the dam or similar structure or the  
150 engineer who performed the inspection being audited. Such  
151 independent inspection shall be performed at the expense of the owner  
152 of the dam or similar structure. The commissioner shall adopt  
153 regulations in accordance with the provisions of chapter 54  
154 establishing the manner in which the owner of the dam or similar  
155 structure shall receive notice and appeal the cost of an independent  
156 inspection.

157 (e) The owner or owners of real property on which a high or  
158 significant hazard dam is located shall pay a fee. Such fee shall be due  
159 and payable on July first annually, commencing July 1, 2013. Fees shall  
160 be four thousand five hundred dollars for each Class C high hazard  
161 dam and two thousand five hundred dollars for each Class B  
162 significant hazard dam. This provision shall not apply to dams owned  
163 by the state of Connecticut.

164 Sec. 5. (NEW) (*Effective October 1, 2012*) The owner of any high or  
165 significant hazard dam or similar structure shall develop and  
166 implement an emergency action plan. The emergency action plan shall  
167 be updated every two years and copies shall be filed with the  
168 Commissioner of Energy and Environmental Protection and the chief  
169 executive officer of any municipality that would potentially be affected  
170 in the event of an emergency. The Commissioner of Energy and  
171 Environmental Protection shall adopt regulations in accordance with  
172 the provisions of chapter 54 of the general statutes establishing the  
173 content of such emergency action plans, including, but not limited to,  
174 (1) criteria and standards for inundation studies and inundation zone  
175 mapping; (2) procedures for monitoring the dam or structure during  
176 periods of heavy rainfall and runoff, including personnel assignments  
177 and features of the dam to be inspected at given intervals during such  
178 periods; and (3) a formal notification system to alert appropriate local  
179 officials who are responsible for the warning and evacuation of

180 residents in the inundation zone in the event of an emergency.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2012</i>	22a-401
Sec. 2	<i>October 1, 2012</i>	22a-403(b)
Sec. 3	<i>October 1, 2012</i>	22a-404
Sec. 4	<i>October 1, 2012</i>	22a-409
Sec. 5	<i>October 1, 2012</i>	New section

**Statement of Purpose:**

To transfer responsibility for inspections of privately owned dams from the Department of Energy and Environmental Protection to the dam owners and to require owners of high and significant hazard dams to adopt emergency action plans.

*[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.]*