



General Assembly

Amendment

February Session, 2012

LCO No. 5199

HB0534305199HDO

Offered by:
REP. BERGER, 73rd Dist.

To: Subst. House Bill No. 5343 File No. 389 Cal. No. 299

**"AN ACT CONCERNING ECONOMIC DEVELOPMENT THROUGH
STREAMLINED AND IMPROVED BROWNFIELD REMEDIATION
PROGRAMS."**

1 After the last section, add the following and renumber sections and
2 internal references accordingly:

3 "Sec. 501. Subdivision (1) of section 22a-134 of the 2012 supplement
4 to the general statutes is repealed and the following is substituted in
5 lieu thereof (*Effective from passage*):

6 (1) "Transfer of establishment" means any transaction or proceeding
7 through which an establishment undergoes a change in ownership, but
8 does not mean:

9 (A) Conveyance or extinguishment of an easement;

10 (B) Conveyance of an establishment through a foreclosure, as
11 defined in subsection (b) of section 22a-452f, foreclosure of a municipal
12 tax lien or through a tax warrant sale pursuant to section 12-157, an
13 exercise of eminent domain pursuant to section 8-128, 8-169e or 8-193

14 or by condemnation pursuant to section 32-224 or purchase pursuant
15 to a resolution by the legislative body of a municipality authorizing the
16 acquisition through eminent domain for establishments that also meet
17 the definition of a brownfield, as defined in section 32-9kk or a
18 subsequent transfer by such municipality that has foreclosed on the
19 property, foreclosed municipal tax liens or that has acquired title to the
20 property through section 12-157, or is within the pilot program
21 established in subsection (c) of section 32-9cc, or has acquired such
22 property through the exercise of eminent domain pursuant to section
23 8-128, 8-169e or 8-193 or by condemnation pursuant to section 32-224
24 or a resolution adopted in accordance with this subparagraph,
25 provided (i) the party acquiring the property from the municipality
26 did not establish, create or contribute to the contamination at the
27 establishment and is not affiliated with any person who established,
28 created or contributed to such contamination or with any person who
29 is or was an owner or certifying party for the establishment, and (ii) on
30 or before the date the party acquires the property from the
31 municipality, such party or municipality enters and subsequently
32 remains in the voluntary remediation program administered by the
33 commissioner pursuant to section 22a-133x and remains in compliance
34 with schedules and approvals issued by the commissioner. For
35 purposes of this subparagraph, subsequent transfer by a municipality
36 includes any transfer to, from or between a municipality, municipal
37 economic development agency or entity created or operating under
38 chapter 130 or 132, a nonprofit economic development corporation
39 formed to promote the common good, general welfare and economic
40 development of a municipality that is funded, either directly or
41 through in-kind services, in part by a municipality, or a nonstock
42 corporation or limited liability company controlled or established by a
43 municipality, municipal economic development agency or entity
44 created or operating under chapter 130 or 132;

45 (C) Conveyance of a deed in lieu of foreclosure to a lender, as
46 defined in and that qualifies for the secured lender exemption
47 pursuant to subsection (b) of section 22a-452f;

48 (D) Conveyance of a security interest, as defined in subdivision (7)
49 of subsection (b) of section 22a-452f;

50 (E) Termination of a lease and conveyance, assignment or execution
51 of a lease for a period less than ninety-nine years including
52 conveyance, assignment or execution of a lease with options or similar
53 terms that will extend the period of the leasehold to ninety-nine years,
54 or from the commencement of the leasehold, ninety-nine years,
55 including conveyance, assignment or execution of a lease with options
56 or similar terms that will extend the period of the leasehold to ninety-
57 nine years, or from the commencement of the leasehold;

58 (F) Any change in ownership approved by the Probate Court;

59 (G) Devolution of title to a surviving joint tenant, or to a trustee,
60 executor or administrator under the terms of a testamentary trust or
61 will, or by intestate succession;

62 (H) Corporate reorganization not substantially affecting the
63 ownership of the establishment;

64 (I) The issuance of stock or other securities of an entity which owns
65 or operates an establishment;

66 (J) The transfer of stock, securities or other ownership interests
67 representing less than forty per cent of the ownership of the entity that
68 owns or operates the establishment;

69 (K) Any conveyance of an interest in an establishment where the
70 transferor is the sibling, spouse, child, parent, grandparent, child of a
71 sibling or sibling of a parent of the transferee;

72 (L) Conveyance of an interest in an establishment to a trustee of an
73 inter vivos trust created by the transferor solely for the benefit of one
74 or more siblings, spouses, children, parents, grandchildren, children of
75 a sibling or siblings of a parent of the transferor;

76 (M) Any conveyance of a portion of a parcel upon which portion no

77 establishment is or has been located and upon which there has not
78 occurred a discharge, spillage, uncontrolled loss, seepage or filtration
79 of hazardous waste, provided either the area of such portion is not
80 greater than fifty per cent of the area of such parcel or written notice of
81 such proposed conveyance and an environmental condition
82 assessment form for such parcel is provided to the commissioner sixty
83 days prior to such conveyance;

84 (N) Conveyance of a service station, as defined in subdivision (5) of
85 this section;

86 (O) Any conveyance of an establishment which, prior to July 1, 1997,
87 had been developed solely for residential use and such use has not
88 changed;

89 (P) Any conveyance of an establishment to any entity created or
90 operating under chapter 130 or 132, or to an urban rehabilitation
91 agency, as defined in section 8-292, or to a municipality under section
92 32-224, or to the Connecticut Development Authority or any
93 subsidiary of the authority;

94 (Q) Any conveyance of a parcel in connection with the acquisition of
95 properties to effectuate the development of the overall project, as
96 defined in section 32-651;

97 (R) The conversion of a general or limited partnership to a limited
98 liability company under section 34-199;

99 (S) The transfer of general partnership property held in the names of
100 all of its general partners to a general partnership which includes as
101 general partners immediately after the transfer all of the same persons
102 as were general partners immediately prior to the transfer;

103 (T) The transfer of general partnership property held in the names
104 of all of its general partners to a limited liability company which
105 includes as members immediately after the transfer all of the same
106 persons as were general partners immediately prior to the transfer;

107 (U) Acquisition of an establishment by any governmental or quasi-
108 governmental condemning authority;

109 (V) Conveyance of any real property or business operation that
110 would qualify as an establishment solely as a result of (i) the
111 generation of more than one hundred kilograms of universal waste in
112 a calendar month, (ii) the storage, handling or transportation of
113 universal waste generated at a different location, or (iii) activities
114 undertaken at a universal waste transfer facility, provided any such
115 real property or business operation does not otherwise qualify as an
116 establishment; there has been no discharge, spillage, uncontrolled loss,
117 seepage or filtration of a universal waste or a constituent of universal
118 waste that is a hazardous substance at or from such real property or
119 business operation; and universal waste is not also recycled, treated,
120 except for treatment of a universal waste pursuant to 40 CFR
121 273.13(a)(2) or (c)(2) or 40 CFR 273.33 (a)(2) or (c)(2), or disposed of at
122 such real property or business operation;

123 (W) Conveyance of a unit in a residential common interest
124 community in accordance with section 22a-134i;

125 (X) Acquisition of an establishment that is in the abandoned
126 brownfield cleanup program established pursuant to section 32-9ll and
127 all subsequent transfers of the establishment, provided the
128 establishment is undergoing remediation or is remediated in
129 accordance with subsection (g) of said section 32-9ll;

130 (Y) Any transfer of title from a bankruptcy court or a municipality
131 to a nonprofit organization; [or]

132 (Z) Acquisition of an establishment that is in the brownfield
133 remediation and revitalization program and all subsequent transfers of
134 the establishment, provided the establishment is in compliance with
135 the brownfield investigation plan and remediation schedule, the
136 commissioner has issued a no audit letter or successful audit closure
137 letter in response to a verification or interim verification submitted
138 regarding the remediation of such establishment under the brownfield

139 remediation and revitalization program, or one hundred eighty days
140 has expired since a verification or interim verification submitted
141 regarding the remediation of such establishment under the brownfield
142 remediation and revitalization program without an audit decision
143 from the Commissioner of Energy and Environmental Protection; or

144 (AA) Conveyance from the Department of Transportation to the
145 Connecticut Airport Authority of any properties comprising (i)
146 Bradley International Airport and all related improvements and
147 facilities now in existence and as hereafter acquired, added, extended,
148 improved and equipped, including any property or facilities
149 purchased with funds of, or revenues derived from, Bradley
150 International Airport, and any other property or facilities allocated by
151 the state, the Connecticut Airport Authority or otherwise to Bradley
152 International Airport, (ii) the state-owned and operated general
153 aviation airports, including Danielson Airport, Groton/New London
154 Airport, Hartford Brainard Airport, Waterbury-Oxford Airport and
155 Windham Airport and any such other airport as may be owned,
156 operated or managed by the Connecticut Airport Authority and
157 designated as general aviation airports, (iii) any other airport as may
158 be owned, operated or managed by the Connecticut Airport Authority,
159 and (iv) any airport site or any part thereof, including, but not limited
160 to, any restricted landing areas and any air navigation facilities.

161 Sec. 502. Subdivision (1) of section 22a-134 of the 2012 supplement
162 to the general statutes, as amended by section 53 of public act 11-241, is
163 repealed and the following is substituted in lieu thereof (*Effective*
164 *January 1, 2014*):

165 (1) "Transfer of establishment" means any transaction or proceeding
166 through which an establishment undergoes a change in ownership, but
167 does not mean:

168 (A) Conveyance or extinguishment of an easement;

169 (B) Conveyance of an establishment through a foreclosure, as
170 defined in subsection (b) of section 22a-452f, foreclosure of a municipal

171 tax lien or through a tax warrant sale pursuant to section 12-157, an
172 exercise of eminent domain pursuant to section 8-128, 8-169e or 8-193
173 or by condemnation pursuant to section 32-224 or purchase pursuant
174 to a resolution by the legislative body of a municipality authorizing the
175 acquisition through eminent domain for establishments that also meet
176 the definition of a brownfield, as defined in section 32-9kk, or a
177 subsequent transfer by such municipality that has foreclosed on the
178 property, foreclosed municipal tax liens or that has acquired title to the
179 property through section 12-157, or is within the pilot program
180 established in subsection (c) of section 32-9cc, or has acquired such
181 property through the exercise of eminent domain pursuant to section
182 8-128, 8-169e or 8-193 or by condemnation pursuant to section 32-224
183 or a resolution adopted in accordance with this subparagraph,
184 provided (i) the party acquiring the property from the municipality
185 did not establish, create or contribute to the contamination at the
186 establishment and is not affiliated with any person who established,
187 created or contributed to such contamination or with any person who
188 is or was an owner or certifying party for the establishment, and (ii) on
189 or before the date the party acquires the property from the
190 municipality, such party or municipality enters and subsequently
191 remains in the voluntary remediation program administered by the
192 commissioner pursuant to section 22a-133x and remains in compliance
193 with schedules and approvals issued by the commissioner. For
194 purposes of this subparagraph, subsequent transfer by a municipality
195 includes any transfer to, from or between a municipality, municipal
196 economic development agency or entity created or operating under
197 chapter 130 or 132, a nonprofit economic development corporation
198 formed to promote the common good, general welfare and economic
199 development of a municipality that is funded, either directly or
200 through in-kind services, in part by a municipality, or a nonstock
201 corporation or limited liability company controlled or established by a
202 municipality, municipal economic development agency or entity
203 created or operating under chapter 130 or 132;

204 (C) Conveyance of a deed in lieu of foreclosure to a lender, as

205 defined in and that qualifies for the secured lender exemption
206 pursuant to subsection (b) of section 22a-452f;

207 (D) Conveyance of a security interest, as defined in subdivision (7)
208 of subsection (b) of section 22a-452f;

209 (E) Termination of a lease and conveyance, assignment or execution
210 of a lease for a period less than ninety-nine years including
211 conveyance, assignment or execution of a lease with options or similar
212 terms that will extend the period of the leasehold to ninety-nine years,
213 or from the commencement of the leasehold, ninety-nine years,
214 including conveyance, assignment or execution of a lease with options
215 or similar terms that will extend the period of the leasehold to ninety-
216 nine years, or from the commencement of the leasehold;

217 (F) Any change in ownership approved by the Probate Court;

218 (G) Devolution of title to a surviving joint tenant, or to a trustee,
219 executor or administrator under the terms of a testamentary trust or
220 will, or by intestate succession;

221 (H) Corporate reorganization not substantially affecting the
222 ownership of the establishment;

223 (I) The issuance of stock or other securities of an entity which owns
224 or operates an establishment;

225 (J) The transfer of stock, securities or other ownership interests
226 representing less than forty per cent of the ownership of the entity that
227 owns or operates the establishment;

228 (K) Any conveyance of an interest in an establishment where the
229 transferor is the sibling, spouse, child, parent, grandparent, child of a
230 sibling or sibling of a parent of the transferee;

231 (L) Conveyance of an interest in an establishment to a trustee of an
232 inter vivos trust created by the transferor solely for the benefit of one
233 or more siblings, spouses, children, parents, grandchildren, children of

234 a sibling or siblings of a parent of the transferor;

235 (M) Any conveyance of a portion of a parcel upon which portion no
236 establishment is or has been located and upon which there has not
237 occurred a discharge, spillage, uncontrolled loss, seepage or filtration
238 of hazardous waste, provided either the area of such portion is not
239 greater than fifty per cent of the area of such parcel or written notice of
240 such proposed conveyance and an environmental condition
241 assessment form for such parcel is provided to the commissioner sixty
242 days prior to such conveyance;

243 (N) Conveyance of a service station, as defined in subdivision (5) of
244 this section;

245 (O) Any conveyance of an establishment which, prior to July 1, 1997,
246 had been developed solely for residential use and such use has not
247 changed;

248 (P) Any conveyance of an establishment to any entity created or
249 operating under chapter 130 or 132, or to an urban rehabilitation
250 agency, as defined in section 8-292, or to a municipality under section
251 32-224, or to the Connecticut Development Authority or any
252 subsidiary of the authority;

253 (Q) Any conveyance of a parcel in connection with the acquisition of
254 properties to effectuate the development of the overall project, as
255 defined in section 32-651;

256 (R) The transfer of general partnership property held in the names
257 of all of its general partners to a general partnership which includes as
258 general partners immediately after the transfer all of the same persons
259 as were general partners immediately prior to the transfer;

260 (S) The transfer of general partnership property held in the names of
261 all of its general partners to a limited liability company which includes
262 as members immediately after the transfer all of the same persons as
263 were general partners immediately prior to the transfer;

264 (T) Acquisition of an establishment by any governmental or quasi-
265 governmental condemning authority;

266 (U) Conveyance of any real property or business operation that
267 would qualify as an establishment solely as a result of (i) the
268 generation of more than one hundred kilograms of universal waste in
269 a calendar month, (ii) the storage, handling or transportation of
270 universal waste generated at a different location, or (iii) activities
271 undertaken at a universal waste transfer facility, provided any such
272 real property or business operation does not otherwise qualify as an
273 establishment; there has been no discharge, spillage, uncontrolled loss,
274 seepage or filtration of a universal waste or a constituent of universal
275 waste that is a hazardous substance at or from such real property or
276 business operation; and universal waste is not also recycled, treated,
277 except for treatment of a universal waste pursuant to 40 CFR
278 273.13(a)(2) or (c)(2) or 40 CFR 273.33 (a)(2) or (c)(2), or disposed of at
279 such real property or business operation; [or]

280 (V) Conveyance of a unit in a residential common interest
281 community in accordance with section 22a-134i; or

282 (W) Conveyance from the Department of Transportation to the
283 Connecticut Airport Authority of any properties comprising (i)
284 Bradley International Airport and all related improvements and
285 facilities now in existence and as hereafter acquired, added, extended,
286 improved and equipped, including any property or facilities
287 purchased with funds of, or revenues derived from, Bradley
288 International Airport, and any other property or facilities allocated by
289 the state, the Connecticut Airport Authority or otherwise to Bradley
290 International Airport, (ii) the state-owned and operated general
291 aviation airports, including Danielson Airport, Groton/New London
292 Airport, Hartford Brainard Airport, Waterbury-Oxford Airport and
293 Windham Airport and any such other airport as may be owned,
294 operated or managed by the Connecticut Airport Authority and
295 designated as general aviation airports, (iii) any other airport as may
296 be owned, operated or managed by the Connecticut Airport Authority,

297 and (iv) any airport site or any part thereof, including, but not limited
298 to, any restricted landing areas and any air navigation facilities.

299 Sec. 503. (NEW) (*Effective from passage*) (a) The state shall hold
300 harmless and indemnify the Connecticut Airport Authority and any
301 employee and any director of the authority from any liability, financial
302 loss and expense, including legal fees and costs, if any, arising out of
303 any claim, demand, order, penalty, lien, assessment, suit or judgment
304 by reason of any title defects relating to, or any pollution,
305 contamination, hazardous waste, hazardous substance, or hazardous
306 building material, including, but not limited to, asbestos, asbestos-
307 containing materials, lead or lead-containing materials,
308 polychlorinated biphenyls (PCB) in building and infrastructure, mold,
309 fluorescent and high intensity discharge (HID) lamps, mercury, PCB
310 ballasts, lead-acid battery electrolytes, fluorocarbons, equipment
311 coolant, hydraulic fluids, radioactive materials, explosives, military
312 ordinance, gasoline and petroleum products or any other
313 environmental condition existing at, originating or emanating from or
314 relating to, the real property, facilities and other improvements
315 comprising Bradley Airport, the general aviation airports, any other
316 airports, any airport site or any part thereof that are part of any lease,
317 assignment, transfer, sale or other disposition from the Department of
318 Transportation to the authority of such real property, facilities and
319 other improvements which title defects or environmental issues were
320 in existence as of the date of any such lease, assignment, transfer, sale
321 or other disposition. The state shall not hold harmless nor indemnify
322 the authority for any title defects or environmental issues arising after
323 the date of any such lease, assignment, transfer, sale or other
324 disposition which are not related to or attributable to any preexisting
325 title defects or environmental issues.

326 (b) The authority or any such employee or director may bring an
327 action in the Superior Court against the state to enforce the provisions
328 of this section.

329 (c) For purposes of this section, "pollution", "contamination",

330 "hazardous waste", "hazardous substance" and "environmental
 331 condition" have the same meanings as in applicable federal, state or
 332 local laws, whether now in force or as amended or enacted in the
 333 future, pertaining to public health or the environment and including,
 334 without limitation, title 22a of the general statutes and any regulations
 335 or guidance promulgated by the Department of Energy and
 336 Environmental Protection, the Comprehensive Environmental
 337 Response, Compensation and Liability Act of 1980, the Resource
 338 Conservation and Recovery Act of 1976 and the Superfund
 339 Amendments and Reauthorization Act of 1987, as may be amended
 340 from time to time, and "hazardous building material" has the same
 341 meaning commonly ascribed to it in the environmental remediation
 342 context and in any regulations or guidance promulgated by the
 343 Department of Energy and Environmental Protection or the
 344 Department of Construction Services."

This act shall take effect as follows and shall amend the following sections:		
Sec. 501	<i>from passage</i>	22a-134(1)
Sec. 502	<i>January 1, 2014</i>	22a-134(1)
Sec. 503	<i>from passage</i>	New section