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**Amendment**

LCO No. 4167

**\*SB0037604167SD0\***

Offered by:

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To: Senate Bill No. 376

File No. 282

Cal. No. 221

**"AN ACT CONCERNING THE COASTAL MANAGEMENT ACT AND SHORELINE FLOOD AND EROSION CONTROL STRUCTURES."**

1 Strike everything after the enacting clause and substitute the  
2 following in lieu thereof:

3 "Section 1. Section 22a-92 of the general statutes is repealed and the  
4 following is substituted in lieu thereof (*Effective October 1, 2012*):

5 (a) The following general goals and policies are established by this  
6 chapter:

7 (1) To [insure] ensure that the development, preservation or use of  
8 the land and water resources of the coastal area proceeds in a manner  
9 consistent with the rights of private property owners and the

10 capability of the land and water resources to support development,  
11 preservation or use without significantly disrupting either the natural  
12 environment or sound economic growth;

13 (2) To preserve and enhance coastal resources in accordance with  
14 the policies established by chapters 439, 440, 446i, 446k, 447, 474 and  
15 477;

16 (3) To give high priority and preference to uses and facilities which  
17 are dependent upon proximity to the water or the shorelands  
18 immediately adjacent to marine and tidal waters;

19 (4) To resolve conflicts between competing uses on the shorelands  
20 adjacent to marine and tidal waters by giving preference to uses that  
21 minimize adverse impacts on natural coastal resources while  
22 providing long term and stable economic benefits;

23 (5) To consider in the planning process the potential impact of a rise  
24 in sea level, coastal flooding and erosion patterns on coastal  
25 development so as to minimize damage to and destruction of life and  
26 property and [reduce] minimize the necessity of public expenditure  
27 and shoreline armoring to protect future new development from such  
28 hazards;

29 (6) To encourage public access to the waters of Long Island Sound  
30 by expansion, development and effective utilization of state-owned  
31 recreational facilities within the coastal area that are consistent with  
32 sound resource conservation procedures and constitutionally  
33 protected rights of private property owners;

34 (7) To conduct, sponsor and assist research in coastal matters to  
35 improve the data base upon which coastal land and water use  
36 decisions are made;

37 (8) To coordinate the activities of public agencies to [insure] ensure  
38 that state expenditures enhance development while affording  
39 maximum protection to natural coastal resources and processes in a

40 manner consistent with the state plan for conservation and  
41 development adopted pursuant to part I of chapter 297;

42 (9) To coordinate planning and regulatory activities of public  
43 agencies at all levels of government to [~~insure~~] ensure maximum  
44 protection of coastal resources while minimizing conflicts and  
45 disruption of economic development; and

46 (10) To [~~insure~~] ensure that the state and the coastal municipalities  
47 provide adequate planning for facilities and resources which are in the  
48 national interest as defined in section 22a-93, as amended by this act,  
49 and to [~~insure~~] ensure that any restrictions or exclusions of such  
50 facilities or uses are reasonable. Reasonable grounds for the restriction  
51 or exclusion of a facility or use in the national interest shall include a  
52 finding that such a facility or use: (A) May reasonably be sited outside  
53 the coastal boundary; (B) fails to meet any applicable federal and state  
54 environmental, health or safety standard or (C) unreasonably restricts  
55 physical or visual access to coastal waters. This policy does not exempt  
56 any nonfederal facility in use from any applicable state or local  
57 regulatory or permit program nor does it exempt any federal facility or  
58 use from the federal consistency requirements of Section 307 of the  
59 federal Coastal Zone Management Act.

60 (b) In addition to the policies stated in subsection (a), the following  
61 policies are established for federal, state and municipal agencies in  
62 carrying out their responsibilities under this chapter:

63 (1) Policies concerning development, facilities and uses within the  
64 coastal boundary are: (A) To manage uses in the coastal boundary  
65 through existing municipal planning, zoning and other local  
66 regulatory authorities and through existing state structures, dredging,  
67 wetlands, and other state siting and regulatory authorities, giving  
68 highest priority and preference to water-dependent uses and facilities  
69 in shorefront areas; (B) to locate and phase sewer and water lines so as  
70 to encourage concentrated development in areas which are suitable for  
71 development; and to disapprove extension of sewer and water services

72 into developed and undeveloped beaches, barrier beaches and tidal  
73 wetlands except that, when necessary to abate existing sources of  
74 pollution, sewers that will accommodate existing uses with limited  
75 excess capacity may be used; (C) to promote, through existing state  
76 and local planning, development, promotional and regulatory  
77 authorities, the development, reuse or redevelopment of existing  
78 urban and commercial fishing ports giving highest priority and  
79 preference to water dependent uses, including but not limited to  
80 commercial and recreational fishing and boating uses; to disallow uses  
81 which unreasonably congest navigation channels, or unreasonably  
82 preclude boating support facilities elsewhere in a port or harbor; and  
83 to minimize the risk of oil and chemical spills at port facilities; (D) to  
84 require that structures in tidal wetlands and coastal waters be  
85 designed, constructed and maintained to minimize adverse impacts on  
86 coastal resources, circulation and sedimentation patterns, water  
87 quality, and flooding and erosion, to reduce to the maximum extent  
88 practicable the use of fill, and to reduce conflicts with the riparian  
89 rights of adjacent landowners; (E) to disallow the siting within the  
90 coastal boundary of new tank farms and other new fuel and chemical  
91 storage facilities which can reasonably be located inland and to require  
92 any new storage tanks which must be located within the coastal  
93 boundary to abut existing storage tanks or to be located in urban  
94 industrial areas and to be adequately protected against floods and  
95 spills; (F) to make use of rehabilitation, upgrading and improvement of  
96 existing transportation facilities as the primary means of meeting  
97 transportation needs in the coastal area; (G) to encourage increased  
98 recreational boating use of coastal waters, where feasible, by (i)  
99 providing additional berthing space in existing harbors, (ii) limiting  
100 non-water-dependent land uses that preclude boating support  
101 facilities, (iii) increasing state-owned launching facilities, and (iv)  
102 providing for new boating facilities in natural harbors, new protected  
103 water areas and in areas dredged from dry land; (H) to protect coastal  
104 resources by requiring, where feasible, that such boating uses and  
105 facilities (i) minimize disruption or degradation of natural coastal  
106 resources, (ii) utilize existing altered, developed or redevelopment

107 areas, (iii) are located to assure optimal distribution of state-owned  
108 facilities to the state-wide boating public, and (iv) utilize ramps and  
109 dry storage rather than slips in environmentally sensitive areas; (I) to  
110 protect and where feasible, upgrade facilities serving the commercial  
111 fishing and recreational boating industries; to maintain existing  
112 authorized commercial fishing and recreational boating harbor space  
113 unless the demand for these facilities no longer exists or adequate  
114 space has been provided; to design and locate, where feasible,  
115 proposed recreational boating facilities in a manner which does not  
116 interfere with the needs of the commercial fishing industry; [and] (J) to  
117 require reasonable mitigation measures where development would  
118 adversely impact historical, archaeological, or paleontological  
119 resources that have been designated by the state historic preservation  
120 officer; and (K) to encourage, where practical, the strategic realignment  
121 of development, over a period of several decades, for coastal lands that  
122 contain structures that are subject to repetitive substantial damage.

123 (2) Policies concerning coastal land and water resources within the  
124 coastal boundary are: (A) To manage coastal bluffs and escarpments so  
125 as to preserve their slope and toe; to discourage uses which do not  
126 permit continued natural rates of erosion and to disapprove uses that  
127 accelerate slope erosion and alter essential patterns and supply of  
128 sediments to the littoral transport system; (B) to manage rocky  
129 shorefronts so as to [insure] ensure that development proceeds in a  
130 manner which does not irreparably reduce the capability of the system  
131 to support a healthy intertidal biological community; to provide  
132 feeding grounds and refuge for shorebirds and finfish, and to dissipate  
133 and absorb storm and wave energies; (C) to preserve the dynamic form  
134 and integrity of natural beach systems in order to provide critical  
135 wildlife habitats, a reservoir for sand supply, a buffer for coastal  
136 flooding and erosion, and valuable recreational opportunities; to  
137 [insure] ensure that coastal uses are compatible with the capabilities of  
138 the system and do not unreasonably interfere with natural processes of  
139 erosion and sedimentation, and to encourage the restoration and  
140 enhancement of disturbed or modified beach systems; (D) to manage

141 intertidal flats so as to preserve their value as a nutrient source and  
142 reservoir, a healthy shellfish habitat and a valuable feeding area for  
143 invertebrates, fish and shorebirds; to encourage the restoration and  
144 enhancement of degraded intertidal flats; to allow coastal uses that  
145 minimize change in the natural current flows, depth, slope,  
146 sedimentation, and nutrient storage functions and to disallow uses that  
147 substantially accelerate erosion or lead to significant despoliation of  
148 tidal flats; (E) to preserve tidal wetlands and to prevent the  
149 despoliation and destruction thereof in order to maintain their vital  
150 natural functions; to encourage the rehabilitation and restoration of  
151 degraded tidal wetlands and where feasible and environmentally  
152 acceptable, to encourage the creation of wetlands for the purposes of  
153 shellfish and finfish management, habitat creation and dredge spoil  
154 disposal; (F) to manage coastal hazard areas so as to [~~insure~~] ensure  
155 that development proceeds in such a manner that hazards to life and  
156 property are minimized and to promote nonstructural solutions to  
157 flood and erosion problems except in those instances where structural  
158 alternatives prove unavoidable and necessary to protect [~~existing~~]  
159 inhabited structures constructed as of January 1, 1995, infrastructural  
160 facilities or water dependent uses; (G) to promote, through existing  
161 state and local planning, development, promotional and regulatory  
162 programs, the use of existing developed shorefront areas for marine-  
163 related uses, including but not limited to, commercial and recreational  
164 fishing, boating and other water-dependent commercial, industrial and  
165 recreational uses; (H) to manage undeveloped islands in order to  
166 promote their use as critical habitats for those bird, plant and animal  
167 species which are indigenous to such islands or which are increasingly  
168 rare on the mainland; to maintain the value of undeveloped islands as  
169 a major source of recreational open space; and to disallow uses which  
170 will have significant adverse impacts on islands or their resource  
171 components; (I) to regulate shoreland use and development in a  
172 manner which minimizes adverse impacts upon adjacent coastal  
173 systems and resources; and (J) to maintain the natural relationship  
174 between eroding and depositional coastal landforms and to minimize  
175 the adverse impacts of erosion and sedimentation on coastal land uses

176 through the promotion of nonstructural mitigation measures.  
177 Structural solutions are permissible when necessary and unavoidable  
178 for the protection of infrastructural facilities, water-dependent uses, or  
179 [existing] inhabited structures constructed as of January 1, 1995, and  
180 where there is no feasible, less environmentally damaging alternative  
181 and where all reasonable mitigation measures and techniques have  
182 been provided to minimize adverse environmental impacts.

183 (c) In addition to the policies stated in subsections (a) and (b), the  
184 following policies are established for federal and state agencies in  
185 carrying out their responsibilities under this chapter:

186 (1) Policies concerning development, facilities and uses within the  
187 coastal boundary are: (A) To minimize the risk of spillage of petroleum  
188 products and hazardous substances, to provide effective containment  
189 and cleanup facilities for accidental spills and to disallow offshore oil  
190 receiving systems that have the potential to cause catastrophic oil spills  
191 in the Long Island Sound estuary; (B) to disallow any filling of tidal  
192 wetlands and nearshore, offshore and intertidal waters for the purpose  
193 of creating new land from existing wetlands and coastal waters which  
194 would otherwise be undevelopable, unless it is found that the adverse  
195 impacts on coastal resources are minimal; (C) to initiate in cooperation  
196 with the federal government and the continuing legislative committee  
197 on state planning and development a long-range planning program for  
198 the continued maintenance and enhancement of federally-maintained  
199 navigation facilities in order to effectively and efficiently plan and  
200 provide for environmentally sound dredging and disposal of dredged  
201 materials; to encourage, through the state permitting program for  
202 dredging activities, the maintenance and enhancement of existing  
203 federally-maintained navigation channels, basins and anchorages and  
204 to discourage the dredging of new federally-maintained navigation  
205 channels, basins and anchorages; (D) to reduce the need for future  
206 dredging by requiring that new or expanded navigation channels,  
207 basins and anchorages take advantage of existing or authorized water  
208 depths, circulation and siltation patterns and the best available  
209 technologies for reducing controllable sedimentation; (E) to disallow

210 new dredging in tidal wetlands except where no feasible alternative  
211 exists and where adverse impacts to coastal resources are minimal; (F)  
212 to require that new or improved shoreline rail corridors be designed  
213 and constructed so as (i) to prevent tidal and circulation restrictions  
214 and, when practicable, to eliminate any such existing restrictions, (ii) to  
215 improve or have a negligible adverse effect on coastal access and  
216 recreation and (iii) to enhance or not unreasonably impair the visual  
217 quality of the shoreline; (G) to require that coastal highways and  
218 highway improvements, including bridges, be designed and  
219 constructed so as to minimize adverse impacts on coastal resources; to  
220 require that coastal highway and highway improvements give full  
221 consideration to mass transportation alternatives and to require that  
222 coastal highways and highway improvements where possible enhance,  
223 but in no case decrease coastal access and recreational opportunities;  
224 (H) to disallow the construction of major new airports and to  
225 discourage the substantial expansion of existing airports within the  
226 coastal boundary; to require that any expansion or improvement of  
227 existing airports minimize adverse impacts on coastal resources,  
228 recreation or access; (I) to manage the state's fisheries in order to  
229 promote the economic benefits of commercial and recreational fishing,  
230 enhance recreational fishing opportunities, optimize the yield of all  
231 species, prevent the depletion or extinction of indigenous species,  
232 maintain and enhance the productivity of natural estuarine resources  
233 and preserve healthy fisheries resources for future generations; (J) to  
234 make effective use of state-owned coastal recreational facilities in order  
235 to expand coastal recreational opportunities including the  
236 development or redevelopment of existing state-owned facilities where  
237 feasible; (K) to require as a condition in permitting new coastal  
238 structures, including but not limited to, groins, jetties or breakwaters,  
239 that access to, or along, the public beach below mean high water must  
240 not be unreasonably impaired by such structures and to encourage the  
241 removal of illegal structures below mean high water which  
242 unreasonably obstruct passage along the public beach; and (L) to  
243 promote the revitalization of inner city urban harbors and waterfronts  
244 by encouraging appropriate reuse of historically developed

245 shorefronts, which may include minimized alteration of an existing  
246 shorefront in order to achieve a significant net public benefit, provided  
247 (i) such shorefront site is permanently devoted to a water dependent  
248 use or a water dependent public use such as public access or recreation  
249 for the general public and the ownership of any filled lands remain  
250 with the state or an instrumentality thereof in order to secure public  
251 use and benefit in perpetuity, (ii) landward development of the site is  
252 constrained by highways, railroads or other significant infrastructure  
253 facilities, (iii) no other feasible, less environmentally damaging  
254 alternatives exist, (iv) the adverse impacts to coastal resources of any  
255 shorefront alteration are minimized and compensation in the form of  
256 resource restoration is provided to mitigate any remaining adverse  
257 impacts, and (v) such reuse is consistent with the appropriate  
258 municipal coastal program or municipal plan of development.

259 (2) Policies concerning coastal land and other resources within the  
260 coastal boundary are: (A) To manage estuarine embayments so as to  
261 [insure] ensure that coastal uses proceed in a manner that assures  
262 sustained biological productivity, the maintenance of healthy marine  
263 populations and the maintenance of essential patterns of circulation,  
264 drainage and basin configuration; to protect, enhance and allow  
265 natural restoration of eelgrass flats except in special limited cases,  
266 notably shellfish management, where the benefits accrued through  
267 alteration of the flat may outweigh the long-term benefits to marine  
268 biota, waterfowl, and commercial and recreational finfisheries and (B)  
269 to maintain, enhance, or, where feasible, restore natural patterns of  
270 water circulation and fresh and saltwater exchange in the placement or  
271 replacement of culverts, tide gates or other drainage or flood control  
272 structures.

273 (d) In addition to the policies in this section, the policies of the state  
274 plan of conservation and development adopted pursuant to part I of  
275 chapter 297 shall be applied to the area within the coastal boundary in  
276 accordance with the requirements of section 16a-31.

277 (e) For the purposes of this section, "feasible, less environmentally

278 damaging alternative" includes, but is not limited to, relocation of an  
279 inhabited structure to a landward location, elevation of an inhabited  
280 structure, restoration or creation of a dune or vegetated slope, or living  
281 shorelines techniques utilizing a variety of structural and organic  
282 materials, such as tidal wetland plants, submerged aquatic vegetation,  
283 coir fiber logs, sand fill and stone to provide shoreline protection and  
284 maintain or restore costal resources and habitat; and "reasonable  
285 mitigation measures and techniques" includes, but is not limited to,  
286 provisions for upland migration of on-site tidal wetlands,  
287 replenishment of the littoral system and the public beach with suitable  
288 sediment at a frequency and rate equivalent to the sediment removed  
289 from the site as a result of the proposed structural solution, or on-site  
290 or off-site removal of existing shoreline flood and erosion control  
291 structures from public or private shoreline property to the same or  
292 greater extent as the area of shoreline impacted by the proposed  
293 structural solution.

294 (f) In the case of any application for a shoreline flood and erosion  
295 control structure that is denied on the basis of a finding that there may  
296 be feasible, less environmentally damaging alternatives to such  
297 structure or that reasonable mitigation measures and techniques have  
298 not been provided, the commissioner or the municipal commission, as  
299 applicable, shall propose on the record, in writing, the types of feasible  
300 alternatives or mitigation measures and techniques that the applicant  
301 may investigate, provided this subsection shall not be construed to  
302 shift the burden from the applicant to prove that such applicant is  
303 entitled to approval of the proposed shoreline flood and erosion  
304 control structure or to present alternatives to such structure.

305 Sec. 2. Section 22a-93 of the general statutes is amended by adding  
306 subdivision (19) as follows (*Effective October 1, 2012*):

307 (NEW) (19) "Rise in sea level" means the arithmetic mean of the  
308 most recent equivalent per decade rise in the surface level of the tidal  
309 and coastal waters of the state, as documented for an annual, decadal  
310 or centenary period, at any sites specified in the state in National

311 Oceanographic and Atmospheric online or printed publications.

312 Sec. 3. Subsections (a) to (c), inclusive, of section 22a-109 of the  
313 general statutes are repealed and the following is substituted in lieu  
314 thereof (*Effective from passage*):

315 (a) A coastal site plan shall be filed with the municipal zoning  
316 commission to aid in determining the conformity of a proposed  
317 building, use, structure or shoreline flood and erosion control  
318 structure, as defined in subsection (c) of this section, fully or partially  
319 within the coastal boundary, with the specific provisions of the zoning  
320 regulations of the municipality and the provisions of sections 22a-105  
321 and 22a-106, and in the case of shoreline flood and erosion control  
322 structures, the provisions of sections 22a-359 to 22a-363, inclusive, as  
323 amended by this act, and any regulations adopted thereunder. A  
324 coastal site plan required under this section may be modified or denied  
325 if it fails to comply with the requirements already set forth in the  
326 zoning regulations of the municipality and, in addition, the coastal site  
327 plan may be modified, conditioned or denied in accordance with the  
328 procedures and criteria listed in sections 22a-105 and 22a-106. A  
329 coastal site plan for a shoreline flood and erosion control structure may  
330 be modified, conditioned or denied if it fails to comply with the  
331 requirements, standards and criteria of sections 22a-359 to 22a-363,  
332 inclusive, as amended by this act, and any regulations adopted  
333 thereunder. A coastal site plan for a shoreline flood and erosion  
334 structure shall be approved if the commission makes specific written  
335 findings that such structure is necessary and unavoidable for the  
336 protection of infrastructural facilities, cemetery or burial grounds,  
337 water-dependent uses or inhabited structures constructed as of  
338 January 1, 1995, that there is no feasible, less environmentally  
339 damaging alternative and that all reasonable mitigation measures and  
340 techniques are implemented to minimize adverse environmental  
341 impacts. Review of a coastal site plan under the requirements of this  
342 section shall supersede any review required by the municipality under  
343 subsection (g) of section 8-3 and shall be in addition to any applicable  
344 zoning regulations of any special district exercising zoning authority

345 under special act. The provisions of this section shall not be construed  
346 to limit the authority of the Commissioner of Energy and  
347 Environmental Protection under sections 22a-359 to 22a-363, inclusive,  
348 as amended by this act.

349 (b) The zoning commission may by regulation exempt any or all of  
350 the following uses from the coastal site plan review requirements of  
351 this chapter: (1) Minor additions to or modifications of existing  
352 buildings or detached accessory buildings, such as garages and utility  
353 sheds; (2) construction of new or modification of existing structures  
354 incidental to the enjoyment and maintenance of residential property  
355 including but not limited to walks, terraces, driveways, swimming  
356 pools, tennis courts, docks and detached accessory buildings; (3)  
357 construction of new or modification of existing on-premise structures  
358 including fences, walls, pedestrian walks and terraces, underground  
359 utility connections, essential electric, gas, telephone, water and sewer  
360 service lines, signs and such other minor structures as will not  
361 substantially alter the natural character of coastal resources or restrict  
362 access along the public beach; (4) construction of an individual single-  
363 family residential structure except when such structure is located on  
364 an island not connected to the mainland by an existing road bridge or  
365 causeway or except when such structure is in or within one hundred  
366 feet of the following coastal resource areas: Tidal wetlands, coastal  
367 bluffs and escarpments and beaches and dunes; (5) activities  
368 conducted for the specific purpose of conserving or preserving soil,  
369 vegetation, water, fish, shellfish, wildlife and other coastal land and  
370 water resources; (6) interior modifications to buildings; and (7) minor  
371 changes in use of a building, structure or property except those  
372 changes occurring on property adjacent to or abutting coastal waters.  
373 Gardening, grazing and the harvesting of crops shall be exempt from  
374 the requirements of this chapter. Notwithstanding the provisions of  
375 this subsection, shoreline flood and erosion control structures as  
376 defined in subsection (c) of this section shall not be exempt from the  
377 requirements of this chapter.

378 (c) For the purposes of this section, "shoreline flood and erosion

379 control structure" means any structure the purpose or effect of which is  
380 to control flooding or erosion from tidal, coastal or navigable waters  
381 and includes breakwaters, bulkheads, groins, jetties, revetments,  
382 riprap, seawalls and the placement of concrete, rocks or other  
383 significant barriers to the flow of flood waters or the movement of  
384 sediments along the shoreline. The term shall not include: (1) [any]  
385 Any addition, reconstruction, change or adjustment to any walled and  
386 roofed building which is necessary for such building to comply with  
387 the requirements of the Code of Federal Regulations, Title 44, Part 50,  
388 and any municipal regulation adopted thereunder, or (2) any activity,  
389 including, but not limited to, living shorelines projects, for which the  
390 primary purpose or effect is the restoration or enhancement of tidal  
391 wetlands, beaches, dunes or intertidal flats.

392 Sec. 4. Section 22a-359 of the general statutes is repealed and the  
393 following is substituted in lieu thereof (*Effective October 1, 2012*):

394 (a) The Commissioner of Energy and Environmental Protection  
395 shall regulate dredging and the erection of structures and the  
396 placement of fill, and work incidental thereto, in the tidal, coastal or  
397 navigable waters of the state waterward of the [high tide] coastal  
398 jurisdiction line. Any decisions made by the commissioner pursuant to  
399 this section shall be made with due regard for indigenous aquatic life,  
400 fish and wildlife, the prevention or alleviation of shore erosion and  
401 coastal flooding, the use and development of adjoining uplands, the  
402 improvement of coastal and inland navigation for all vessels, including  
403 small craft for recreational purposes, the use and development of  
404 adjacent lands and properties and the interests of the state, including  
405 pollution control, water quality, recreational use of public water and  
406 management of coastal resources, with proper regard for the rights  
407 and interests of all persons concerned.

408 (b) After consultation with the Commissioner of Transportation, the  
409 Commissioner of Energy and Environmental Protection may consider  
410 any sunken or grounded vessel, scow, lighter or similar structure lying  
411 within the tidal, coastal or navigable waters of the state to be an

412 encroachment subject to the provisions of this section and sections 22a-  
413 360 to 22a-363, inclusive.

414 (c) As used in this section and sections 22a-360 to [22a-363] 22a-  
415 363b, inclusive, ["high tide line"] "coastal jurisdiction line" means [a  
416 line or mark left upon tide flats, beaches, or along shore objects that  
417 indicates the intersection of the land with the water's surface at the  
418 maximum height reached by a rising tide. The mark may be  
419 determined by (1) a line of oil or scum along shore objects, (2) a more  
420 or less continuous deposit of fine shell or debris on the foreshore or  
421 berm, (3) physical markings or characteristics, vegetation lines, tidal  
422 gauge, or (4) by any other suitable means delineating the general  
423 height reached by a rising tide. The term includes spring high tides  
424 and other high tides that occur with periodic frequency but does not  
425 include storm surges in which there is a departure from the normal or  
426 predicted reach of the tide due to the piling up of water against a coast  
427 by strong winds such as those accompanying a hurricane or other  
428 intense storm] the location of the topographical elevation of the highest  
429 predicted tide for the period beginning in 1983 and ending in 2001,  
430 referenced to the most recent National Tidal Datum Epoch as  
431 published by the National Oceanographic and Atmospheric  
432 Administration and described in terms of feet of elevation above the  
433 North American Vertical Datum of 1988. For the tidal epoch in effect as  
434 of October 1, 2012, such elevations, as indicated in feet of elevation,  
435 shall be as follows for each municipality adjacent to the tidal, coastal or  
436 navigable waters of the state: Ansonia 5.4', Branford 4.4', Bridgeport  
437 5.0', Chester 2.9', Clinton 3.8', Cromwell 3.3', Darien 5.2', Deep River  
438 2.9', Derby 5.4', East Hartford 3.8', East Haddam 3.0', East Hampton  
439 3.0', East Haven 4.5', East Lyme 2.3', East Windsor 3.9', Enfield 4.0',  
440 Essex 2.8', Fairfield 5.1', Glastonbury 3.5', Greenwich 5.3', Groton 2.0',  
441 Guilford 4.1', Haddam 3.0', Hartford 3.8', Ledyard 2.3', Lyme 2.9',  
442 Madison 4.0', Middletown 3.1', Milford (Housatonic River) 5.1' and  
443 Milford 4.7', Montville 2.3', New Haven 4.6', New London 2.0',  
444 Norwalk 5.2', Norwich 2.4', Old Lyme (Connecticut River) 2.9' and Old  
445 Lyme 2.5', Old Saybrook (Connecticut River) 2.9' and Old Saybrook

446 3.2', Orange 5.4', Portland 3.3', Preston 2.3', Rocky Hill 3.4', Shelton 5.4',  
447 South Windsor 3.9', Stamford 5.3', Stonington 2.0', Stratford  
448 (Housatonic River) 5.0' and Stratford 4.8', Suffield 4.0', Waterford 2.1',  
449 West Haven 4.6', Westbrook 3.3', Westport 5.2', Wethersfield 3.6',  
450 Windsor 3.9', and Windsor Locks 3.9'. The commissioner may adopt  
451 regulations pursuant to chapter 54 to establish the coastal jurisdiction  
452 line for each municipality adjacent to the tidal, coastal or navigable  
453 waters of the state for tidal epochs commencing on and after 2020.

454 (d) For any tidal, coastal or navigable waters of the state located  
455 upstream of a tide gate, weir, or other device that modifies the flow of  
456 tidal waters, the coastal jurisdiction line for such tidal, coastal or  
457 navigable waters shall be the elevation of mean high water as found at  
458 the downstream location of such device.

459 (e) As used in this section and sections 22a-360 to 22a-363a,  
460 inclusive, "navigable waters" means Long Island Sound, any cove, bay  
461 or inlet of Long Island Sound, and that portion of any tributary, river  
462 or stream that empties into Long Island Sound upstream to the first  
463 permanent obstruction to navigation for watercraft from Long Island  
464 Sound.

465 Sec. 5. Section 22a-360 of the general statutes is repealed and the  
466 following is substituted in lieu thereof (*Effective October 1, 2012*):

467 In order to carry out the purposes of sections 22a-359 to 22a-363,  
468 inclusive, as amended by this act, the commissioner is authorized to  
469 establish boundaries waterward of the [high tide] coastal jurisdiction  
470 line along tidal, coastal and navigable waters for equitable regulation  
471 of use, dredging, obstruction and encroachment thereof, and to  
472 establish areas for development of small boat basins or other facilities,  
473 provided such establishments shall be made in accordance with a  
474 general plan prepared for the orderly development of the area or  
475 region.

476 Sec. 6. Subsection (a) of section 22a-361 of the general statutes is  
477 repealed and the following is substituted in lieu thereof (*Effective*

478 *October 1, 2012*):

479 (a) (1) No person, firm or corporation, public, municipal or private,  
480 shall dredge, erect any structure, place any fill, obstruction or  
481 encroachment or carry out any work incidental thereto or retain or  
482 maintain any structure, dredging or fill, in the tidal, coastal or  
483 navigable waters of the state waterward of the [high tide] coastal  
484 jurisdiction line until such person, firm or corporation has submitted  
485 an application and has secured from the Commissioner of Energy and  
486 Environmental Protection a certificate or permit for such work and has  
487 agreed to carry out any conditions necessary to the implementation of  
488 such certificate or permit.

489 (A) Except as provided in subdivision (3) of this subsection, each  
490 application for a permit, except for an emergency authorization, for  
491 any structure, filling or dredging which uses or occupies less than five  
492 thousand five hundred square feet in water surface area based on the  
493 perimeters of the project shall be accompanied by a fee equal to eighty  
494 cents per square foot provided such fee shall not be less than six  
495 hundred sixty dollars.

496 (B) Except as provided in subdivision (3) of this subsection, each  
497 application for a permit for any structure, filling or dredging which  
498 uses or occupies five thousand five hundred square feet or more but  
499 less than five acres in water surface area based on the perimeters of the  
500 project shall be accompanied by a fee of three thousand five hundred  
501 fifty dollars plus ten cents per square foot for each square foot in  
502 excess of five thousand five hundred square feet.

503 (C) Except as provided in subdivision (3) of this subsection, each  
504 application for a permit for any structure, filling or dredging which  
505 uses or occupies five or more acres in water surface area based on the  
506 perimeters of the project shall be accompanied by a fee of nineteen  
507 thousand four hundred seventy-five dollars plus five hundred twenty-  
508 five dollars per acre for each acre or part thereof in excess of five acres.

509 (D) Except as provided in subdivision (3) of this subsection, each

510 application for a mooring area or multiple mooring facility, regardless  
511 of the area to be occupied by moorings, shall be accompanied by a fee  
512 of six hundred sixty dollars provided that such mooring areas or  
513 facilities shall not include fixed or floating docks, slips or berths.

514 (E) Application fees for aquaculture activities shall not be based on  
515 areal extent.

516 (2) The commissioner may waive or reduce any fee payable  
517 pursuant to subdivision (1) of this subsection for (A) a tidal wetlands  
518 or coastal resource restoration or enhancement activity, (B)  
519 experimental activities or demonstration projects, (C) nonprofit  
520 academic activities, or (D) public access activities in tidal, coastal or  
521 navigable waters, provided no fee shall be waived or reduced for  
522 activities required by statute, regulation, permit, order or enforcement  
523 action. The application fee for the retention of a structure built in  
524 violation of this subsection where such structure is ineligible for a  
525 certificate of permission under section 22a-363b, as amended by this  
526 act, shall be four times the fee calculated in accordance with  
527 subparagraphs (A) to (D), inclusive, of subdivision (1) of this  
528 subsection. The commissioner may lower any such fee based upon the  
529 commissioner's finding of significant extenuating circumstances,  
530 including, but not limited to, whether the applicant acquired such real  
531 estate interest in the work site after the date of the unauthorized  
532 activity and is not otherwise liable for the unauthorized activity as a  
533 result of actions taken prior to the acquisition and did not know and  
534 had no reason to know of the unauthorized activity. As used in this  
535 section, "resource restoration or enhancement activity" means an action  
536 taken to return a wetland or coastal resource to a prior natural  
537 condition or to improve the natural functions or habitat value of such  
538 resource, but shall not include actions required pursuant to an  
539 enforcement action of the commissioner, and "public access activities"  
540 means activities whose principal purpose is to provide or increase  
541 access for the general public to tidal, coastal or navigable waters,  
542 including, but not limited to, boardwalks, boat ramps, observation  
543 areas and fishing piers.

544 (3) The commissioner may adopt regulations in accordance with the  
545 provisions of chapter 54 to vary the permit fees described in  
546 subdivision (1) of this subsection and the cost of public notice required  
547 pursuant to section 22a-6h, provided such regulations shall contain a  
548 simplified schedule that promotes expedited approval of applications  
549 that are consistent with all applicable standards and criteria. In the  
550 event the commissioner adopts such regulations, such permit fees shall  
551 be the amount established in such regulations.

552 Sec. 7. Section 22a-363a of the general statutes is repealed and the  
553 following is substituted in lieu thereof (*Effective October 1, 2012*):

554 For the purposes of this section and sections 22a-361, as amended by  
555 this act, 22a-361a, 22a-362, 22a-363b, as amended by this act, and 22a-  
556 363d to 22a-363f, inclusive: "Substantial maintenance" means  
557 rebuilding, reconstructing, or reestablishing to a preexisting condition  
558 and dimension any structure, fill, obstruction or encroachment;  
559 "routine maintenance" means replacement and repair of out-of-water  
560 structures including the surfaces of docks, piers, wharves and bridges,  
561 replacement or repair in any year of up to twenty-five per cent of all  
562 pilings approved in accordance with section 22a-361, as amended by  
563 this act, and seasonal installation, reinstallation or repair of floating  
564 docks, provided that all locations, dimensions, elevations and  
565 materials shall remain the same as or equivalent to that approved in  
566 accordance with said section; "perimeter permit" means a permit  
567 issued in accordance with said section, establishing boundaries  
568 waterward of the [high tide] coastal jurisdiction line within which  
569 recreational marinas layout of in-water slips, docks and moorings may  
570 be reconfigured; "work" means any activity, construction, or site  
571 preparation, erection of structures or placement of fill, including but  
572 not limited to grading, excavating, dredging or disposing of dredged  
573 material, depositing of soil, stones, sand, gravel, mud, aggregate or  
574 construction materials, filling, removing vegetation or other material,  
575 or other modification of a site within the tidal, coastal or navigable  
576 waters of the state waterward of the [high tide] coastal jurisdiction  
577 line.

578 Sec. 8. Subsection (a) of section 22a-363b of the general statutes is  
579 repealed and the following is substituted in lieu thereof (*Effective*  
580 *October 1, 2012*):

581 (a) Routine maintenance of permitted structures, fill, obstructions or  
582 encroachments or routine maintenance of structures, fill, obstructions  
583 or encroachments in place prior to June 24, 1939, and continuously  
584 maintained and serviceable since that date shall be exempt from the  
585 requirements of obtaining certificates of permission or permits  
586 pursuant to section 22a-363a, as amended by this act, this section or  
587 section 22a-361, as amended by this act. The following activities may  
588 be eligible for a certificate of permission, in accordance with the  
589 provisions of subsections (c) and (d) of this section: (1) Substantial  
590 maintenance or repair of existing structures, fill, obstructions or  
591 encroachments authorized pursuant to section 22a-33 or 22a-361, as  
592 amended by this act; (2) substantial maintenance of any structures, fill,  
593 obstructions or encroachments in place prior to June 24, 1939, and  
594 continuously maintained and serviceable since such time; (3)  
595 maintenance dredging of areas which have been dredged and  
596 continuously maintained and serviceable as authorized pursuant to  
597 section 22a-33 or 22a-361, as amended by this act; (4) activities allowed  
598 pursuant to a perimeter permit and requiring authorization by the  
599 commissioner; (5) the removal of derelict structures or vessels; (6)  
600 minor alterations or amendments to permitted activities consistent  
601 with the original permit; (7) minor alterations or amendments to  
602 activities completed prior to June 24, 1939; (8) placement of temporary  
603 structures for water-dependent uses, as defined in section 22a-93, as  
604 amended by this act; (9) open water marsh management, tidal wetland  
605 restoration, resource restoration or enhancement activity, as defined in  
606 subsection (a) of section 22a-361, as amended by this act, and  
607 conservation activities undertaken by or under the supervision of the  
608 Department of Energy and Environmental Protection; (10) the  
609 placement or reconfiguration of piers, floats, docks or moorings within  
610 existing waterward boundaries of recreational marinas or yacht clubs  
611 which have been authorized pursuant to section 22a-33 or 22a-361, as

612 amended by this act; and (11) substantial maintenance or repair of  
613 structures, fill, obstructions or encroachments placed landward of the  
614 mean high waterline and waterward of the [high tide] coastal  
615 jurisdiction line completed prior to October 1, 1987, and continuously  
616 maintained and serviceable since said date. Notwithstanding the  
617 provisions of sections 22a-29 to 22a-35, inclusive, the commissioner  
618 may issue a certificate of permission for activities enumerated in this  
619 subsection which are to be conducted in tidal wetlands. Upon  
620 issuance, such certificate shall be in lieu of the permit required  
621 pursuant to section 22a-32.

622 Sec. 9. Section 16a-27 of the 2012 supplement to the general statutes  
623 is repealed and the following is substituted in lieu thereof (*Effective*  
624 *October 1, 2012*):

625 (a) The secretary, after consultation with all appropriate state,  
626 regional and local agencies and other appropriate persons, shall, prior  
627 to March 1, 2012, complete a revision of the existing plan and enlarge it  
628 to include, but not be limited to, policies relating to transportation,  
629 energy and air. Any revision made after May 15, 1991, shall identify  
630 the major transportation proposals, including proposals for mass  
631 transit, contained in the master transportation plan prepared pursuant  
632 to section 13b-15. Any revision made after July 1, 1995, shall take into  
633 consideration the conservation and development of greenways that  
634 have been designated by municipalities and shall recommend that  
635 state agencies coordinate their efforts to support the development of a  
636 state-wide greenways system. The Commissioner of Energy and  
637 Environmental Protection shall identify state-owned land for inclusion  
638 in the plan as potential components of a state greenways system.

639 (b) Any revision made after August 20, 2003, shall take into account  
640 (1) economic and community development needs and patterns of  
641 commerce, and (2) linkages of affordable housing objectives and land  
642 use objectives with transportation systems.

643 (c) Any revision made after March 1, 2006, shall (1) take into

644 consideration risks associated with natural hazards, including, but not  
645 limited to, flooding, high winds and wildfires; (2) identify the potential  
646 impacts of natural hazards on infrastructure and property; and (3)  
647 make recommendations for the siting of future infrastructure and  
648 property development to minimize the use of areas prone to natural  
649 hazards, including, but not limited to, flooding, high winds and  
650 wildfires.

651 (d) Any revision made after July 1, 2005, shall describe the progress  
652 towards achievement of the goals and objectives established in the  
653 previously adopted state plan of conservation and development and  
654 shall identify (1) areas where it is prudent and feasible (A) to have  
655 compact, transit accessible, pedestrian-oriented mixed-use  
656 development patterns and land reuse, and (B) to promote such  
657 development patterns and land reuse, (2) priority funding areas  
658 designated under section 16a-35c, and (3) corridor management areas  
659 on either side of a limited access highway or a rail line. In designating  
660 corridor management areas, the secretary shall make  
661 recommendations that (A) promote land use and transportation  
662 options to reduce the growth of traffic congestion; (B) connect  
663 infrastructure and other development decisions; (C) promote  
664 development that minimizes the cost of new infrastructure facilities  
665 and maximizes the use of existing infrastructure facilities; and (D)  
666 increase intermunicipal and regional cooperation.

667 (e) Any revision made after October 1, 2008, shall (1) for each policy  
668 recommended (A) assign a priority; (B) estimate funding for  
669 implementation and identify potential funding sources; (C) identify  
670 each entity responsible for implementation; and (D) establish a  
671 schedule for implementation; and (2) for each growth management  
672 principle, determine three benchmarks to measure progress in  
673 implementation of the principles, one of which shall be a financial  
674 benchmark.

675 (f) Any revision made after October 1, 2009, shall take into  
676 consideration the protection and preservation of Connecticut Heritage

677 Areas.

678 (g) Any revision made after December 1, 2011, shall take into  
679 consideration (1) the state water supply and resource policies  
680 established in sections 22a-380 and 25-33c, and (2) the list prepared by  
681 the Commissioner of Public Health pursuant to section 25-33q.

682 (h) Any revision made after October 1, 2012, shall (1) take into  
683 consideration risks associated with increased coastal erosion,  
684 depending on site topography, caused by a rise in sea level, as defined  
685 in section 22a-93, as amended by this act, (2) identify the impacts of  
686 such increased erosion on infrastructure and natural resources, and (3)  
687 make recommendations for the siting of future infrastructure and  
688 property development to minimize the use of areas prone to such  
689 erosion.

690 [(h)] (i) Thereafter on or before March first in each revision year the  
691 secretary shall complete a revision of the plan of conservation and  
692 development.

693 Sec. 10. (NEW) (*Effective October 1, 2012*) (a) The Commissioner of  
694 Energy and Environmental Protection may, within available  
695 appropriations, establish a pilot program to encourage innovative and  
696 low-impact approaches to shoreline protection and adaptation to a rise  
697 in sea level. Such approaches may include living shorelines techniques  
698 utilizing a variety of structural and organic materials, including, but  
699 not limited to, tidal wetland plants, submerged aquatic vegetation, coir  
700 fiber logs, sand fill and stone to provide shoreline protection and  
701 maintain or restore coastal resources and habitat. The commissioner  
702 may solicit proposals for site-specific pilot projects utilizing such  
703 approaches and may offer technical assistance for such projects.  
704 Whenever such projects are proposed within the Department of  
705 Energy and Environmental Protection's regulatory jurisdiction under  
706 section 22a-32 or 22a-361 of the general statutes, as amended by this  
707 act, the commissioner may select not more than three projects per year  
708 to receive expedited regulatory approval pursuant to section 22a-363b

709 of the general statutes, as amended by this act.

710 (b) The Commissioner of Energy and Environmental Protection,  
 711 within available appropriations, may, in conjunction with academic  
 712 institutions, nongovernmental organizations or federal agencies, seek  
 713 funds for and prepare a shoreline management study for the purpose  
 714 of enhancing the resilience of coastal communities to coastal hazards  
 715 and a rise in sea level, with special consideration for areas significantly  
 716 impacted by coastal storms.

717 (c) The University of Connecticut and the Connecticut State  
 718 University System may, within available appropriations, in  
 719 conjunction with other academic institutions and state and federal  
 720 agencies, seek funds for and establish a program to develop and  
 721 maintain science and engineering capacity within the state to support  
 722 shoreline planning and management to enhance the resilience of  
 723 coastal communities to coastal hazards and a rise in sea level."

|   |                        |                   |
|---|------------------------|-------------------|
| This act shall take effect as follows and shall amend the following sections: |                        |                   |
| Section 1   | <i>October 1, 2012</i> | 22a-92            |
| Sec. 2  | <i>October 1, 2012</i> | 22a-93            |
| Sec. 3  | <i>from passage</i>    | 22a-109(a) to (c) |
| Sec. 4  | <i>October 1, 2012</i> | 22a-359           |
| Sec. 5  | <i>October 1, 2012</i> | 22a-360           |
| Sec. 6  | <i>October 1, 2012</i> | 22a-361(a)        |
| Sec. 7  | <i>October 1, 2012</i> | 22a-363a          |
| Sec. 8  | <i>October 1, 2012</i> | 22a-363b(a)       |
| Sec. 9  | <i>October 1, 2012</i> | 16a-27            |
| Sec. 10   | <i>October 1, 2012</i> | New section       |