



OLR RESEARCH REPORT

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BROWNFIELD PROGRAMS

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You asked for information on state brownfield programs. This report updates the information on brownfield programs provided in OLR Report [2011-R-0240](#) to incorporate changes from the 2011 and 2012 legislative sessions, but does not contain updated information on funding.

SUMMARY

There are several state programs that provide funding through grants, loans, or other forms of assistance to remediate brownfields. Table 1, below, provides information about these programs. There are also programs that provide tax incentives for remediating brownfields. Table 2 summarizes these.

While eligibility criteria for the programs vary, many of the programs are tailored to aid projects that will generate economic activity or create jobs. Many programs are specifically tailored to brownfield remediation (e.g., the Urban Sites Remedial Action Program), but funding may also be available through programs that provide funds for more general economic development purposes. The programs are primarily administered by the Department of Economic and Community Development (DECD) and the Department of Energy and Environmental Protection (DEEP), but the Connecticut Development Authority (CDA), a quasi-public state agency, also operates brownfields funding programs through its subsidiary, the Connecticut Brownfield Remediation Authority (CBRA).

In addition to providing funds for investigating and remediating brownfields, the state provides liability protection and regulatory relief to developers who do not receive funds but still perform these tasks according to state standards. As Table 3 shows, liability protection programs vary depending on whether the protection applies to state or third-party actions or to parties that subsequently acquire a property remediated under these programs.

Brownfield developers must participate in these programs to receive their benefits. Participation requires submitting investigation reports and remediation plans and certifying that the remediation met state standards. But, as Table 4 shows, some protections are available as a matter of policy. For example, the law, under certain conditions, protects property owners from third-party liability for contamination that occurred or existed on a property before the owner acquired it ([CGS § 22a-133ee](#)).

Besides providing liability protection, the law also offers brownfield owners relief from various regulatory requirements. As Table 5 shows, these range from exemptions from DEEP fees and the Transfer Act to the use of licensed environmental professionals (LEPs) and covenants not to sue.

Brownfield developers may also benefit from several generic regulatory relief policies and programs not included in the tables. For example, DECD's Office of Permit Ombudsman can help developers obtain required state permits. Developers may also benefit from a law requiring the DEEP commissioner to establish schedules for timely action on permit applications, including deadlines for the department to grant or deny a permit or identify deficiencies in an application ([CGS § 22a-6p](#)).

More information about many of the programs listed below is available on the DECD Office of Brownfield Remediation and Development's website: <http://www.ctbrownfields.gov/ctbrownfields/site/default.asp>. Information about CDA's programs is available at the following link: <http://www.ctcda.com/Financing/>.

BROWNFIELD PROGRAMS

Table 1: State Brownfield Remediation Funding Programs

Program and Statutory Cite	Administering Agency	Description	Eligibility Criteria
Urban Sites Remedial Action Program (CGS § 22a-133m)	DECD/DEEP	Funding for identifying and remediating contaminated sites with commercial potential in distressed municipalities, targeted investment communities, or state-acquired properties	DECD commissioner selects the sites in consultation with the DEEP commissioner based on: <ol style="list-style-type: none"> 1. estimated cost and complexity of evaluating the site, 2. estimated schedule and cost for cleaning up the site, 3. extent to which the restored site will benefit the state's economy, 4. whether the site would be remediated absent program assistance, and 5. any other factors the commissioners believe are relevant
Special Contaminated Properties Remediation and Insurance Fund (SCRIF) (CGS §§ 22a-133t and u)	DECD/DEEP	Low-interest, five-year loans to towns, businesses, and developers to assess sites, demolish structures, or remediate pollution	DECD-determined criteria, including: <ol style="list-style-type: none"> 1. property's anticipated commercial value, 2. potential tax revenue and community or economic development benefit to the municipality, 3. environmental or public health risk of the contamination, 4. status of previous program loans, and 5. potential for restoring an abandoned property
Municipal Brownfield Grant Program (CGS §§ 32-9cc and 32-9ee(b))	DECD	Grants for towns (or their economic development agencies) with untreated brownfields that hinder economic development Innocent third-party designation for participants, protecting them from liability to DEEP for clean-up costs if they meet certain requirements (see below)	DECD commissioner selects up to six towns annually to receive the grants, within available appropriations (four brownfields are selected based on population criteria and two without regard to population) DECD must consider the following criteria: <ol style="list-style-type: none"> 1. the economic opportunity that redevelopment and reuse provide, 2. project feasibility, 3. environmental and public health benefits, and 4. contribution to the town's tax base <p>Eligibility is limited to abandoned or underused sites that have not been redeveloped, reused, or expanded because real or potential pollution in the buildings, soil, or groundwater must be investigated or remediated before the site can be restored, redeveloped, reused, or expanded</p>
Remedial Action and Redevelopment Municipal Grant Program (CGS § 32-9kk(e))	DECD	Grants to municipalities and municipal economic development agencies for assessing, investigating, cleaning up, foreclosing on, and redeveloping brownfields	Program is open to municipalities and certain economic development agencies for redeveloping brownfields for a wide range of uses

Table 1: -Continued-

Program and Statutory Cite	Administering Agency	Description	Eligibility Criteria
<p>Targeted Brownfield Development Loan Program (CGS § 32-9kk(f))</p>	<p>DECD</p>	<p>Low-interest loans (up to \$2 million per year for two years) to applicants seeking to develop property for retaining or expanding jobs in the state or for developing housing for different purposes</p> <p>Loans can be for manufacturing, retail, residential, or mixed-use developments; expansions; or reuses</p> <p>Loan proceeds can be used for any purpose, including site investigation, assessment, remediation, and abatement</p>	<p>Program is open to (1) potential brownfield purchasers with no direct or related liability for the site conditions and (2) existing property owners who (a) are in good standing and compliant with DEEP's regulatory programs, (b) demonstrate funding need, and (c) cannot retain or expand jobs due to site investigation and remediation costs</p> <p>Eligibility criteria include:</p> <ol style="list-style-type: none"> 1. project merit and viability, 2. economic and community development opportunity, 3. municipal support, 4. contribution to community's tax base, 5. number of jobs and commitments to maintain or retain jobs, 6. applicant's experience, 7. compliance history, 8. ability to pay, and 9. other factors set by the commissioner
<p>Dry Cleaning Establishment Remediation Fund (CGS § 12-263m)</p>	<p>DECD</p>	<p>Grants to dry cleaning business owners or operators, or owners of sites previously occupied by dry cleaning establishments, for containing, removing, mitigating, or preventing environmental pollution</p>	<p>Program is open to dry cleaners "engaged in the cleaning of clothing or other fabrics using tetrachlorethylene, Stoddard solvent, or other chemicals" or a business that accepts items to be cleaned by another establishment using such chemicals</p> <p>Establishment must have been in business at the site for at least a year, and applicant must be current on state and local taxes</p> <p>Applicant must (1) demonstrate need, (2) certify that there is no outstanding litigation involving it or its representatives, and (3) identify the person responsible for completing the site investigation and remediation</p>
<p>Economic Development and Manufacturing Assistance Act -- Environmental Insurance Program (CGS § 32-220 et seq.)</p>	<p>DECD</p>	<p>Funds for purchasing insurance policies and paying deductibles for insurance policies to cover remediation costs</p>	<p>Open to towns, businesses, and nonprofit developers for manufacturing and other economic base business activities</p> <p>An economic base business is a business that will materially contribute to the economy by such things as creating jobs or encouraging innovation, among others</p> <p>Business qualification based on the types of goods or services the business makes or provides, whether it is an economic base business, or whether it belongs to a DECD-designated industry cluster</p>

Table 1: -Continued-

Program and Statutory Cite	Administering Agency	Description	Eligibility Criteria
Underground Storage Tank Petroleum Clean-up Program (CGS § 22a-449a et seq.)	DEEP	Reimburses responsible parties for investigation and remediation costs incurred because of leaking diesel or gasoline fuel tanks	Federally regulated commercial petroleum underground storage tanks (USTs) for which financial responsibility is required State-owned petroleum USTs are eligible, federally-owned USTs are not
EPA State-wide Brownfield Revolving Loan Fund (40 C.F.R. Part 31)	DECD	Grants or loans for environmental clean-up of non-residential properties	Open to non-profit organizations, municipalities, or for-profit businesses Applicants or owners must not be responsible for the contamination Priority for properties in distressed municipalities Among other criteria, property must have been purchased after September 11, 2002
CT EPA Site Assessment Program (40 C.F.R. Part 31)	DECD	Funds for environmental assessment and preparation of a work plan so that remediation and redevelopment can occur	Open to municipalities, regional planning commissions, and non-profits that partner with a municipality and are not potentially liable for the contamination or affiliated with any party that is
Tax Increment Financing (TIF) (CGS §§ 8-134 and 8-134a, 32-23zz)	CBRA/CDA	CDA-issued bonds backed by incremental property tax revenues for clean-up and redevelopment of brownfield projects	Any brownfield site whose remediation will generate future incremental property tax revenues
Direct Loans (CGS § 32-11a)	CBRA/CDA	Senior and subordinated loans for specified purposes, including brownfield remediation and redevelopment	Economic base businesses that will maintain or create employment Not available for residential, non-owner occupied real estate; retail or personal services; or non-profits
Loan Guarantees (CGS §§ 32-11a and 22b)	CBRA/CDA	Loan guarantees to help private-sector lenders meet their borrower's financing requirements Available for specified purposes, including brownfield remediation and redevelopment	Companies that contribute to state's economic base, where the borrower is unable to satisfy the lender's standard loan underwriting criteria Not available for residential, non-owner occupied real estate; retail or personal services; or not-for-profits
Environmental Assistance Revolving Loan Fund (CGS § 32-23gg)	CDA	Grants, loans, and loan guarantees to remediate and develop contaminated properties	Towns and businesses with annual gross revenues under \$25 million and up to 150 employees

Table 2: State Brownfield Remediation Tax Benefit Programs

Program and Statutory Cite	Agency	Description	Eligibility Criteria
Urban and Industrial Sites Reinvestment Tax Credit (CGS § 32-9t)	DECD	Up to \$100 million in corporate business tax credits over 10-year period to businesses that build, expand, or rehabilitate new facilities	Eligible industrial site investment project is one that is made in a property that has been subject to environmental contamination Investment must return the property to a viable business condition that will add significant new economic activity, increase employment, and generate additional tax revenue to the state and the municipality where the property is located
Property Tax Abatement or Forgiveness program (CGS § 12-81r)	Not applicable	Towns can (1) forgive back taxes on potentially contaminated abandoned properties, (2) abate the taxes on remediated sites, and (3) fix the property assessment as of the last assessment date before clean-up activities began	Need legislative body approval and compliance with its specified conditions
Property Tax Assessment Deferral (CGS § 12-65e)	Not applicable	Towns can defer an increased property tax assessment on a property in a designated rehabilitation area if the property is a brownfield site	Property owner must agree to build certain specified structures such as a common interest community (i.e., condo), multifamily rental housing, or a mixed-use or commercial structure on the site

Table 3: Brownfield Remediation Liability Protection Programs

Program	Administering Agency	Description	Eligibility Criteria
Abandoned Brownfield Cleanup (ABC) Program (CGS § 32-9ll)	DECD	Exempts participants from investigating and remediating contamination that emanated from the property before they acquired it	Property qualifies if: <ol style="list-style-type: none"> it has been unused or significantly underused for at least five years before the filing of the application to the program and the party that contaminated it is unable to clean it up, can no longer be identified, or no longer exists Applicants qualify if they: <ol style="list-style-type: none"> plan to acquire title to redevelop the property, did not create or cause the contamination, are unaffiliated with the party that did, and are not obligated by law or regulation to remediate the contamination
Liability Protection Program (CGS § 32-9mm)	DECD	Liability protection from the state and third parties for cleaning up brownfields according to specified procedure Limited to 32 brownfields per year	Property qualifies if: <ol style="list-style-type: none"> its redevelopment benefits the economy and contamination levels exceed DEEP standards for protecting environment, health, and public welfare Applicant qualifies if it: <ol style="list-style-type: none"> is an “innocent landowner” (i.e., a party who acquired a property that someone else contaminated), is “bona fide prospective purchaser” (i.e. a party that can, among other things, show that it acquired a brownfield after it was contaminated and is complying with environmental protection requirements), or owns property contiguous to the brownfield (i.e., “contiguous owner”)

-Table 3: -Continued-

Program	Administering Agency	Description	Eligibility Criteria
Voluntary Remediation Program for Property Located on Contaminated Groundwater (CGS § 22a-133y)	DEEP	Parties voluntarily cleaning up a brownfield may use a LEP to investigate and remediate it	Property qualifies if it is: 1. located in areas where DEEP determines the groundwater is affected by contamination and 2. not subject to a DEEP order, consent order, or stipulated judgment regarding a spill
Voluntary Remediation Program for Contaminated Property Regardless of Location (CGS § 22a-133x)	DEEP	Same as above	Party must submit a DEEP environmental condition assessment form and pay \$3,250 application fee
Municipal Brownfield Program, Innocent Third-Party Status (CGS § 32-9ee)	DECD	Protects program participants from liability to DEEP for clean-up costs	Applicants qualify if they: 1. investigated and remediated a brownfield with Municipal Brownfield Program funds, 2. did not cause, contribute to, or exacerbate contamination, and 3. complied with DEEP requirements

Table 4: Brownfield Remediation Liability Protection Policies

Program	Administering Agency	Description	Eligibility Criteria
Liability Protection when Acquiring Municipally Remediated Property (CGS § 32-9dd)	DEEP	Protects parties acquiring municipally remediated brownfields from liability to DEEP	Party did not contaminate the property and is not related to the party liable for the clean-up
Third-Party Liability Protection (CGS § 22a-133ee)	DEEP	Protects owners from liability to third parties (but not the government) for contamination that existed before the owner acquired the property	Owner is protected if: 1. it did not pollute state waters or create any other pollution or pollution source, per DEEP, 2. it is unaffiliated with the party that contaminated the property, and 3. DEEP approved its investigation and remediation reports

Table 5: Brownfield Remediation Regulatory Relief Policies

Policy	Administering Agency	Description
Fee Exemptions (CGS § 22a-6)	DEEP	State, municipal, and private organizations exempted from paying DEEP fees for permits needed to remediate brownfields
Certifying Party's Responsibility Under Transfer Act (CGS § 22a-134a)	DEEP	Certifying party exempted from investigating and remediating contamination that occurs after it cleaned up a brownfield
Transfer Act Exemptions for Private Entities (CGS § 22a-134)	DEEP	Exemptions from complying with the Transfer Act's reporting requirements for certain specified parties acquiring brownfields, under certain conditions
Licensed Environmental Professionals (CGS § 22a-133v)	DEEP	Program licensing environmental professionals to investigate and remediate contaminated property according to DEEP standards
Interim Verification under the Transfer Act (CGS § 22a-134)	DEEP	When brownfield contamination affects groundwater, LEPs may certify to DEEP that: <ul style="list-style-type: none"> 1. the soil has been remediated according to DEEP standards, 2. the groundwater is being remediated under a long-term remedy, and 3. there is no pathway allowing polluted groundwater to escape
Environmental Use Restriction (EUR) Waivers (CGS § 22a-133o)	DEEP	Easements recorded in land records prohibiting specific uses or activities harmful to human health and environment
Regulated Activities in Aquifer Protection Areas (CGS §§ 22a-354h and 22a-354cc)	DEEP	Regulated activities are allowed in aquifer protection areas if they: <ul style="list-style-type: none"> 1. are being conducted on a municipally owned site undergoing remediation and 2. did not substantially begin or actively operate for five years before the area's designation <p>Anyone conducting the activity for 10 years must register it on a DEEP form</p>
Covenants Not to Sue (CGS §§ 22a-133aa and 22a-133bb)	DEEP	Agreement exempting a party from further remediation if it initially remediated the property according to DEEP standards and subsequently discovered more contamination <p>Party qualifies for a release of claims by DEEP if it:</p> <ul style="list-style-type: none"> 1. did not contaminate the property or was not involved with the party that did and 2. agrees to clean up and redevelop the property
Redeveloping Mills in Floodplains (CGS § 25-68d)	DEEP	Makes it easier for agencies to use or allow others to use a mill on a brownfield by exempting them from certifying that a project meets specified criteria <p>Use or activity must:</p> <ul style="list-style-type: none"> 1. meet DEEP remediation standards, 2. be limited to the area of the mill's historic use, 3. comply with the National Flood Insurance Program, and 4. be above the 500-year flood elevation

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