

OFFICE OF LEGISLATIVE RESEARCH  
PUBLIC ACT SUMMARY



PA 12-196—sHB 5343

*Commerce Committee*

*Environment Committee*

**AN ACT CONCERNING ECONOMIC DEVELOPMENT THROUGH  
STREAMLINED AND IMPROVED BROWNFIELD REMEDIATION  
PROGRAMS, EXEMPTING CERTAIN AIRPORT CONVEYANCES  
FROM THE DEPARTMENT OF TRANSPORTATION TO THE  
CONNECTICUT AIRPORT AUTHORITY FROM THE HAZARDOUS  
WASTE ESTABLISHMENT TRANSFER ACT, AND HOLDING  
HARMLESS AND INDEMNIFYING THE CONNECTICUT AIRPORT  
AUTHORITY AND ITS EMPLOYEES AND DIRECTORS**

**SUMMARY:** This act exempts from the Hazardous Waste Establishment Transfer Act (i.e., the Transfer Act) airport property the Department of Transportation (DOT) conveys to the Connecticut Airport Authority (CAA), which the legislature created to develop, improve, and operate Bradley International Airport, the state's five general aviation airports, and any other general aviation airports. The Transfer Act requires the parties to a real estate transaction involving contaminated property to notify the Department of Energy and Environmental Protection (DEEP) commissioner about the contamination and the party that will investigate and remediate it.

The act requires the state to hold harmless and indemnify CAA and its directors and employees from liability related to title defects and contamination that existed on airport property before it was conveyed to CAA. It also allows CAA and its directors and employees to bring an action in Superior Court to compel the state to enforce the act's protections, which do not extend to title defects or environmental issues that arise after a property was leased, assigned, transferred, sold, or disposed of to CAA.

The act requires the DEEP commissioner to report, by January 1, 2013, to the governor and the Commerce and Environment committees on (1) the results of his on-going review of brownfield remediation and development laws and regulations and (2) his recommendations for statutory and regulatory changes and new programs for responding to hazardous waste spills.

EFFECTIVE DATE: Upon passage, except for a technical change, which takes effect January 1, 2014.

**DOT AIRPORT-RELATED CONVEYANCES**

*Transfer Act Exemptions*

PA 11-148 authorized DOT, which exercises most airport related powers, duties, and functions, to transfer them and airport property to CAA through a memorandum of understanding with CAA. This act exempts from the Transfer

## OLR PUBLIC ACT SUMMARY

Act the following airport related property DOT conveys to CAA:

1. Bradley International Airport and all related improvements and facilities;
2. state-owned and -operated general aviation airports, including Danielson, Groton/New London, Hartford Brainard, Waterbury-Oxford, and Windham airports, and any other airport conveyed to CAA for it to own, operate, and manage as a general aviation airport;
3. other airports conveyed to CAA for it to own, operate, and manage; and
4. any airport site or part of one, including restricted landing areas and air navigation facilities, conveyed to CAA.

The Bradley property includes property DOT owns and conveys to CAA and property it subsequently acquires, adds, extends, improves, and equips and conveys to CAA.

### *Indemnity*

Besides exempting DOT-conveyed property and facilities from the Transfer Act, the act indemnifies and holds harmless CAA and its directors from liability, financial losses, and legal and other expenses resulting from certain defects in a conveyed property's or facility's title. This protection applies to any claim, demand, order, penalty, lien, assessment, suit, or judgment arising from defects relating to specific environmental conditions existing at a conveyed site or originating or emanating from it. Such conditions include pollution, contamination, hazardous waste, hazardous substances, or hazardous building materials.

The act's protection does not extend to title defects and environmental issues that arise after these transactions occur and are unrelated to any preexisting defects for conditions.

### DEEP REPORT

The act requires the DEEP commissioner to report on the status of his ongoing review of the state's brownfield laws and regulations to the governor and Commerce and Environment committees. The report, which is due January 1, 2013, must include any recommendations for changing laws and regulations or creating new programs for responding to releases of hazardous materials.

In developing the recommendations, the act requires the commissioner to consider DEEP's 2011 evaluation of the state's brownfield remediation programs plus three sets of factors. First, he must consider how the recommendations could affect:

1. federally delegated programs, municipalities, and small businesses;
2. the protection of human health and the environment; and
3. improvements in how the state responds to hazardous material releases, including the greater use of licensed environmental professionals (LEPs) in overseeing the investigation and remediation of brownfields.

The commissioner must also consider how the recommendations would facilitate the clean up and redevelopment of brownfields, including those that are currently required to be remediated.

## OLR PUBLIC ACT SUMMARY

In preparing the report, the commissioner must also consider new and expanded measures for periodically evaluating and auditing the effectiveness and efficiency of the report's recommended changes and proposed new programs. The measures must ensure that (1) LEPs have the authority needed to certify investigations and cleanups and (2) parties responsible for a hazardous waste release address it in a timely and effective manner.

Lastly, the commissioner must consider the most effective way to implement a recommended new program, including how it affects (1) programs DEEP administers under federal law and (2) brownfields being investigated and remediated under existing law.

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