



Substitute House Bill No. 6651

Public Act No. 13-308

AN ACT IMPLEMENTING THE RECOMMENDATIONS OF THE STATE OF CONNECTICUT BROWNFIELD WORKING GROUP AND CONCERNING BROWNFIELD LIABILITY RELIEF, NOTIFICATION REQUIREMENTS FOR CERTAIN CONTAMINATED PROPERTIES AND THE USE OF NOTICE OF ACTIVITY AND USE LIMITATIONS.

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

Section 1. (NEW) (*Effective July 1, 2013*) As used in this section, sections 3, 6, 7 and 8 of this act and sections 32-9cc, 32-9ee and 32-9kk to 32-9mm, inclusive, of the general statutes, as amended by this act:

(1) "Bona fide prospective purchaser" means a person who acquires ownership of a property after July 1, 2011, and establishes by a preponderance of the evidence that:

(A) All disposal of regulated substances at the property occurred before such person acquired the property;

(B) Such person made all appropriate inquiries, as set forth in 40 CFR Part 312, into the previous ownership and uses of the property in accordance with generally accepted good commercial and customary standards and practices, including, but not limited to, the standards and practices set forth in the ASTM Standard Practice for Environmental Site Assessments, Phase I Environmental Site

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Assessment Process, E1527-05, as may be amended from time to time. In the case of property in residential or other similar use at the time of purchase by a nongovernmental or noncommercial entity, a property inspection and a title search that reveal no basis for further investigation shall be considered to satisfy the requirements of this subparagraph;

(C) Such person provides all legally required notices with respect to the discovery or release of any regulated substances at the property;

(D) Such person exercises appropriate care with respect to regulated substances found at the property by taking reasonable steps to (i) stop any continuing release, (ii) prevent any threatened future release, and (iii) prevent or limit human, environmental or natural resource exposure to any previously released regulated substance;

(E) Such person provides full cooperation, assistance and access to persons authorized to conduct response actions or natural resource restoration at the property, including, but not limited to, the cooperation and access necessary for the installation, integrity, operation and maintenance of any complete or partial response actions or natural resource restoration at the property;

(F) Such person complies with any land use restrictions established or relied on in connection with the response action at the property and does not impede the effectiveness or integrity of any institutional control employed at the property in connection with a response action; and

(G) Such person complies with any request for information from the Commissioner of Energy and Environmental Protection;

(2) "Brownfield" means any abandoned or underutilized site where redevelopment, reuse or expansion has not occurred due to the presence or potential presence of pollution in the buildings, soil or

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groundwater that requires investigation or remediation before or in conjunction with the redevelopment, reuse or expansion of the property;

(3) "Commissioner" means the Commissioner of Economic and Community Development;

(4) "Contiguous property owner" means a person who owns real property contiguous to or otherwise similarly situated with respect to, and that is or may be contaminated by a release or threatened release of a regulated substance from, real property that is not owned by that person, provided:

(A) With respect to the property owned by such person, such person takes reasonable steps to (i) stop any continuing release of any regulated substance released on or from the property, (ii) prevent any threatened future release of any regulated substance released on or from the property, and (iii) prevent or limit human, environmental or natural resource exposure to any regulated substance released on or from the property;

(B) Such person provides full cooperation, assistance and access to persons authorized to conduct response actions or natural resource restoration at the property from which there has been a release or threatened release, including, but not limited to, the cooperation and access necessary for the installation, integrity, operation and maintenance of any complete or partial response action or natural resource restoration at the property;

(C) Such person complies with any land use restrictions established or relied on in connection with the response action at the property and does not impede the effectiveness or integrity of any institutional control employed in connection with a response action;

(D) Such person complies with any request for information from the

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Commissioner of Energy and Environmental Protection; and

(E) Such person provides all legally required notices with respect to the discovery or release of any hazardous substances at the property;

(5) "Department" means the Department of Economic and Community Development;

(6) "Economic development agency" means (A) a municipal economic development agency or entity created or operating under chapter 130 or 132 of the general statutes; (B) a nonprofit economic development corporation formed to promote the common good, general welfare and economic development of a municipality or a region that is funded, either directly or through in-kind services, in part by one or more municipalities; (C) a nonstock corporation or limited liability company established or controlled by a municipality, municipal economic development agency or an entity created or operating under chapter 130 or 132 of the general statutes; or (D) an agency, as defined in section 32-327 of the general statutes;

(7) "Eligible costs" means the costs associated with the investigation, assessment, remediation and development of a brownfield, including, but not limited to, (A) soil, groundwater and infrastructure investigation, (B) assessment, (C) remediation, (D) abatement, (E) hazardous materials or waste disposal, (F) long-term groundwater or natural attenuation monitoring, (G) (i) environmental land use restrictions, (ii) activity and use limitations, or (iii) other forms of institutional control, (H) attorneys' fees, (I) planning, engineering and environmental consulting, and (J) building and structural issues, including demolition, asbestos abatement, polychlorinated biphenyls removal, contaminated wood or paint removal, and other infrastructure remedial activities;

(8) "Financial assistance" means grants, loans or loan guarantees, or

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any combination thereof;

(9) "Innocent landowner" has the same meaning as provided in section 22a-452d of the general statutes;

(10) "Interim verification" has the same meaning as provided in section 22a-134 of the general statutes, as amended by this act;

(11) "Manufacturing facility" means a business establishment classified under sector 31, 32 or 33 of the North American Industrial Classification System;

(12) "Municipality" means a town, city, consolidated town and city or consolidated town and borough;

(13) "PCB regulations" means the polychlorinated biphenyls manufacturing, processing, distribution in commerce and use prohibitions found at 40 CFR Part 761;

(14) "Person" means any individual, firm, partnership, association, syndicate, company, trust, corporation, limited liability company, municipality, economic development agency, agency or political or administrative subdivision of the state or any other legal entity;

(15) "Real property" means land, buildings and other structures and improvements thereto, subterranean or subsurface rights, any and all easements, air rights and franchises of any kind or nature;

(16) "Regulated substance" has the same meaning as provided in section 22a-134g of the general statutes;

(17) "Release" means any discharge, spillage, uncontrolled loss, seepage, filtration, leakage, injection, escape, dumping, pumping, pouring, emitting, emptying or disposal of a substance;

(18) "Remediation standards" has the same meaning as provided in

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section 22a-134 of the general statutes, as amended by this act;

(19) "State" means the state of Connecticut;

(20) "UST regulations" means the regulations adopted pursuant to subsection (d) of section 22a-449 of the general statutes; and

(21) "Verification" has the same meaning as provided in section 22a-134 of the general statutes, as amended by this act.

Sec. 2. Section 32-9cc of the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2013*):

(a) There is established, within the Department of Economic and Community Development, an Office of Brownfield Remediation and Development. Such office shall be managed by a director, appointed by the commissioner in accordance with section 5-198. In addition to the other powers, duties and responsibilities provided for in this chapter, the office shall promote and encourage the [development and redevelopment] remediation and development of brownfields in the state. The Office of Brownfield Remediation and Development shall coordinate and cooperate with state and local agencies and individuals within the state on brownfield redevelopment initiatives, including program development and administration, community outreach, regional coordination and seeking federal funding opportunities.

(b) The office shall:

(1) Develop procedures and policies for streamlining the process for brownfield remediation and development;

(2) Identify existing and potential sources of funding for brownfield remediation and develop procedures for expediting the application for and release of such funds;

(3) Establish an office and maintain an informational Internet web

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site to provide assistance and information concerning the state's technical assistance, funding, regulatory and permitting programs for brownfield remediation and development;

(4) Provide a single point of contact for financial and technical assistance from the state and quasi-public agencies with regard to brownfield remediation and development;

(5) Develop a common application to be used by all state and quasi-public entities providing financial assistance for brownfield assessment, remediation and development;

(6) Identify and prioritize state-wide brownfield development opportunities, including, but not limited to, in consultation with the State Historic Preservation Office, municipal officials and regional planning organizations, the identification of abandoned and underutilized mills that are important assets to the [municipality or the region] municipalities or the regions in which such mills are located;

(7) Develop and [execute] administer a communication and outreach program to educate municipalities, economic development agencies, property owners, [and] potential property owners and other organizations and individuals with regard to state programs for brownfield remediation and redevelopment;

(8) At the office's discretion, enter into cooperative agreements with [qualified implementing] economic development agencies and may, where appropriate, make grants to [these] such organizations for the purpose of designing, implementing and supervising brownfield assessment and cleanups, or making further subgrants, provided each subgrant is in compliance with the terms and conditions of the original grant; and

(9) Create and maintain a web site independent of the department's other web sites that is specifically dedicated to marketing and

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promoting state-owned brownfields, and develop and implement a marketing campaign for such brownfields and web site.

[(c) Subject to the availability of funds, there shall be a state-funded municipal brownfield grant program to identify brownfield remediation economic opportunities in Connecticut municipalities annually. For each round of funding, the Commissioner of Economic and Community Development may select at least six municipalities, one of which shall have a population of less than fifty thousand, one of which shall have a population of more than fifty thousand but less than one hundred thousand, two of which shall have populations of more than one hundred thousand and two of which shall be selected without regard to population. The Commissioner of Economic and Community Development shall designate municipalities in which untreated brownfields hinder economic development and shall make grants under such program to these municipalities or economic development agencies associated with each of the selected municipalities that are likely to produce significant economic development benefit for the designated municipality.]

[[d)] (c) The Department of Energy and Environmental Protection, Connecticut Innovations, Incorporated, the Office of Policy and Management and the Department of Public Health shall each designate one or more staff members to act as a liaison between their offices and the Office of Brownfield Remediation and Development. The Commissioners of Economic and Community Development, Energy and Environmental Protection and Public Health, the Secretary of the Office of Policy and Management and the [executive director] chief executive officer of Connecticut Innovations, Incorporated shall enter into a memorandum of understanding concerning each entity's responsibilities with respect to the Office of Brownfield Remediation and Development. The Office of Brownfield Remediation and Development may recruit two volunteers from the private sector,

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including a person from the Connecticut chapter of the National Brownfield Association, with experience in different aspects of brownfield remediation and development. Said volunteers may assist the Office of Brownfield Remediation and Development in marketing the [brownfields] brownfield programs and redevelopment activities of the state.

[(e)] (d) The Office of Brownfield Remediation and Development may call upon any other department, board, commission or other agency of the state to supply such reports, information and assistance as said office determines is appropriate to carry out its duties and responsibilities. Each officer or employee of such office, department, board, commission or other agency of the state is authorized and directed to cooperate with the Office of Brownfield Remediation and Development and to furnish such reports, information and assistance.

[(f)] Brownfield sites identified for funding under the grant program established in subsection (c) of this section shall receive priority review status from the Department of Energy and Environmental Protection. Each property funded under this program shall be investigated in accordance with prevailing standards and guidelines and remediated in accordance with the regulations established for the remediation of such sites adopted by the Commissioner of Energy and Environmental Protection or pursuant to section 22a-133k and under the supervision of the department or a licensed environmental professional in accordance with the voluntary remediation program established in section 22a-133x. In either event, the department shall determine that remediation of the property has been fully implemented or that an audit will not be conducted upon submission of a report indicating that remediation has been verified by an environmental professional licensed in accordance with section 22a-133v. Not later than ninety days after submission of the verification report, the Commissioner of Energy and Environmental Protection shall notify the municipality or

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economic development agency as to whether the remediation has been performed and completed in accordance with the remediation standards, whether an audit will not be conducted, or whether any additional remediation is warranted. For purposes of acknowledging that the remediation is complete, the commissioner or a licensed environmental professional may indicate that all actions to remediate any pollution caused by any release have been taken in accordance with the remediation standards and that no further remediation is necessary to achieve compliance except postremediation monitoring or natural attenuation monitoring.

(g) All relevant terms in this subsection, subsection (h) of this section and sections 32-9dd to 32-9ff, inclusive, shall be defined in accordance with the definitions in chapter 445. For purposes of subdivision (12) of subsection (a) of section 32-9t, this subsection, subsection (h) of this section and sections 32-9dd to 32-9gg, inclusive, "brownfields" means any abandoned or underutilized site where redevelopment, reuse or expansion has not occurred due to the presence or potential presence of pollution in the buildings, soil or groundwater that requires investigation or remediation before or in conjunction with the restoration, redevelopment, reuse and expansion of the property.

(h) The Departments of Economic and Community Development and Energy and Environmental Protection shall administer the provisions of subdivision (1) of section 22a-134, section 32-1m, subdivision (12) of subsection (a) of section 32-9t and sections 32-9cc to 32-9gg, inclusive, within available appropriations and any funds allocated pursuant to sections 4-66c, 22a-133t and 32-9t.]

Sec. 3. (NEW) (*Effective July 1, 2013*) (a) There is established an account to be known as the "brownfield remediation and development account", which shall be a separate, nonlapsing account within the General Fund. There shall be deposited in the account: (1) The

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proceeds of bonds issued by the state for deposit into said account and used in accordance with this section; (2) repayments of assistance provided pursuant to subsection (c) of section 22a-133u of the general statutes; (3) interest or other income earned on the investment of moneys in the account; (4) funds recovered pursuant to sections 7 and 8 of this act; (5) any proceeds realized by the state from activities pursuant to section 32-9kk of the general statutes, as amended by this act, or section 6 of this act; and (6) all funds required by law to be deposited in the account. Any balance remaining in the account at the end of any fiscal year shall be carried forward in the account for the fiscal year next succeeding.

(b) All moneys received in consideration of financial assistance, including payments of principal and interest on any loans made pursuant to section 6 of this act, shall be credited to the account and shall become part of the assets of the account. At the discretion of the Commissioner of Economic and Community Development and subject to the approval of the Secretary of the Office of Policy and Management, any federal, private or other moneys received by the state in connection with projects undertaken pursuant to section 32-9kk of the general statutes, as amended by this act, or section 6 of this act shall be credited to the assets of the account.

(c) Notwithstanding any provision of the general statutes, proceeds from the sale of bonds available pursuant to subdivision (1) of subsection (b) of section 4-66c of the general statutes may, with the approval of the Governor and the State Bond Commission, be used to capitalize the account.

(d) The commissioner may use funds in the account (1) to provide financial assistance for the remediation and development of brownfields in the state pursuant to section 32-9kk of the general statutes, as amended by this act, or section 6 of this act, (2) to provide financial assistance to parcel owners required to perform mitigation

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actions pursuant to section 22a-6u of the general statutes, as amended by this act, and (3) for administrative costs not to exceed five per cent of such funds.

Sec. 4. Section 32-9kk of the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2013*):

[(a) As used in subsections (b) to (k), inclusive, of this section:

(1) "Brownfield" means any abandoned or underutilized site where redevelopment, reuse or expansion has not occurred due to the presence or potential presence of pollution in the buildings, soil or groundwater that requires investigation or remediation before or in conjunction with the restoration, redevelopment and reuse of the property;

(2) "Commissioner" means the Commissioner of Economic and Community Development;

(3) "Department" means the Department of Economic and Community Development;

(4) "Eligible applicant" means any municipality, a for-profit or nonprofit organization or entity, or economic development agency or any combination thereof;

(5) "Financial assistance" means grants, extensions of credit, loans or loan guarantees, participation interests in loans made to eligible applicants by Connecticut Innovations, Incorporated or combinations thereof;

(6) "Municipality" means a town, city, consolidated town and city or consolidated town and borough;

(7) "Eligible brownfield project" means the foreclosure, investigation, assessment, remediation and development of a

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brownfield undertaken pursuant to this subsection and subsections (b) to (k), inclusive, of this section;

(8) "Project area" means the area within which a brownfield development project is located;

(9) "Real property" means land, buildings and other structures and improvements thereto, subterranean or subsurface rights, any and all easements, air rights and franchises of any kind or nature;

(10) "State" means the state of Connecticut;

(11) "Eligible grant recipients" means municipalities or economic development agencies; and

(12) "Economic development agency" means (A) a municipal economic development agency or entity created or operating under chapter 130 or 132; (B) a nonprofit economic development corporation formed to promote the common good, general welfare and economic development of a municipality that is funded, either directly or through in-kind services, in part by a municipality; or (C) a nonstock corporation or limited liability company established or controlled by a municipality, municipal economic development agency or an entity created or operating under chapter 130 or 132.

(b) Subject to the availability of funds, the Commissioner of Economic and Community Development may, in consultation with the Commissioner of Energy and Environmental Protection, provide financial assistance pursuant to subsections (e) and (f) of this section in support of eligible brownfield projects, as defined in subdivision (7) of subsection (a) of this section.

(c) An eligible applicant, as defined in subdivision (4) of subsection (a) of this section, shall submit an application for financial assistance to the Commissioner of Economic and Community Development on

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forms provided by said commissioner and with such information said commissioner deems necessary, including, but not limited to: (1) A description of the proposed project; (2) an explanation of the expected benefits of the project in relation to the purposes of subsections (a) to (i), inclusive, of this section; (3) information concerning the financial and technical capacity of the eligible applicant to undertake the proposed project; (4) a project budget; (5) a description of the condition of the property involved including the results of any environmental assessment of the property; and (6) the names of any persons known to be liable for the remediation of the property.

(d) The commissioner may approve, reject or modify any application properly submitted. In reviewing an application and determining the type and amount of financial assistance, if any, to be provided, the commissioner shall consider the following criteria: (1) The availability of funds; (2) the estimated costs of assessing and remediating the site, if known; (3) the relative economic condition of the municipality; (4) the relative need of the eligible project for financial assistance; (5) the degree to which financial assistance is necessary as an inducement to the eligible applicant to undertake the project; (6) the public health and environmental benefits of the project; (7) relative economic benefits of the project to the municipality, the region and the state, including, but not limited to, the extent to which the project will likely result in a contribution to the municipality's tax base and the retention and creation of jobs; (8) the time frame in which the contamination occurred; (9) the relationship of the applicant to the person or entity that caused the contamination; (10) the length of time the property has been abandoned; (11) the taxes owed and the projected revenues that may be restored to the community; (12) the type of financial assistance requested pursuant to this section; and (13) such other criteria as the commissioner may establish consistent with the purposes of subsection (a) to (k), inclusive, of this section.]

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[(e) (1)] (a) There is established a remedial action and redevelopment municipal grant program to be administered by the Department of Economic and Community Development for the purpose of providing [financial assistance in the form of grants to eligible grant recipients. Eligible grant recipients may use grant funds for any development project, including manufacturing, retail, residential, municipal, educational, parks, community centers and mixed-use development, and the project's associated costs, including (A) soil, groundwater and infrastructure investigation, (B) assessment, (C) remediation, (D) abatement, (E) hazardous materials or waste disposal, (F) long-term groundwater or natural attenuation monitoring, (G) environmental land use restrictions, (H) attorneys' fees, (I) planning, engineering and environmental consulting, and (J) building and structural issues, including demolition, asbestos abatement, polychlorinated biphenyls removal, contaminated wood or paint removal, and other infrastructure remedial activities.] grants to municipalities and economic development agencies for the eligible costs of brownfield remediation projects, brownfield assessment projects and reasonable administrative expenses not to exceed five per cent of any grant awarded. A grant awarded under this section shall not exceed four million dollars.

(b) A grant applicant shall submit an application to the Commissioner of Economic and Community Development on forms provided by the commissioner and with such information the commissioner deems necessary, including, but not limited to: (1) A description of the proposed project; (2) an explanation of the expected benefits of the project in relation to the purposes of this section; (3) information concerning the financial and technical capacity of the applicant to undertake the proposed project; (4) a project budget; and (5) with respect to a brownfield remediation project, a description of the condition of the brownfield, including the results of any environmental assessment of the brownfield in the possession of or

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available to the applicant.

(c) The commissioner may approve, reject or modify any application properly submitted in accordance with the provisions of this section. In reviewing an application and determining the amount of the grant, if any, to be provided, the commissioner shall consider the following criteria: (1) The availability of funds; (2) the estimated costs of assessing and remediating the brownfield, if known; (3) the relative economic condition of the municipality in which the brownfield is located; (4) the relative need of the project for financial assistance; (5) the degree to which a grant under this section is necessary to induce the applicant to undertake the project; (6) the public health and environmental benefits of the project; (7) the relative benefits of the project to the municipality, the region and the state, including, but not limited to, the extent to which the project will likely result in a contribution to the municipality's tax base, the retention and creation of jobs and the reduction of blight; (8) the time frame in which the contamination occurred; (9) the relationship of the applicant to the person or entity that caused the contamination; (10) the length of time the brownfield has been abandoned; (11) the taxes owed and the projected revenues that may be restored to the community; (12) the relative need for assessment of the brownfield within the municipality or region; and (13) such other criteria as the commissioner may establish consistent with the purposes of this section.

[(2)] (d) The [Commissioner of Economic and Community Development] commissioner shall award grants on a competitive basis, based [at a minimum on an annual request for applications, the first of which shall be issued on October 1, 2008, and the following to be issued on June first each year, with awards being made by the following January first] on a request for applications occurring on or before October first, annually. The commissioner [, at the commissioner's discretion,] may increase the frequency of requests for

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applications and awards depending upon the number of applicants and the availability of funding.

[(3) A grant awarded pursuant to this section shall not exceed four million dollars. If the eligible costs exceed four million dollars, the commissioner may request and seek funding through other state programs.

(4) If the eligible grant recipient develops and sells the property, such applicant shall return any money received pursuant to this subsection, to the brownfield remediation and development account established pursuant to subsection (l) of this section, minus twenty per cent, which such eligible grant recipient shall retain to cover costs of oversight, administration, development and, if applicable, lost tax revenue.

(5) Any eligible grant recipient shall be immune from liability to the extent provided in subsection (a) of section 32-9ee.]

[(6) The eligible] (e) A grant recipient may make low-interest loans to a brownfield redeveloper [, if the future reuse is known and an agreement with the redeveloper is in place and the private party is a coapplicant] if (1) such recipient coapplied for the grant under this section with such brownfield redeveloper, and (2) not later than ninety days after receiving the grant, such recipient enters into a written agreement with such brownfield redeveloper for an identified future reuse of such brownfield after remediation. Loan principal and interest payments shall be returned to the brownfield remediation and development account established pursuant to [subsection (l) of this section] section 3 of this act, minus twenty per cent of the principal, which the eligible grant recipient shall retain. If the eligible grant recipient provides a loan, such loan may be secured by a state or municipal lien on the property.

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[(7) Any eligible grant recipients that provide a loan pursuant to subdivision (6) of this subsection shall require the loan recipient to enter a voluntary program pursuant to section 22a-133x or 22a-133y with the Commissioner of Energy and Environmental Protection for brownfield remediation. The commissioner may use not more than five per cent of eligible grant or loan proceeds for reasonable administrative expenses.]

(f) Any recipient of a loan pursuant to subsection (e) of this section, as a condition of such loan, shall enter a program for remediation of the property pursuant to section 22a-133x, 22a-133y, 32-9ll or 32-9mm, as amended by this act.

(g) The provisions of sections 32-5a and 32-701 shall not apply to grants provided pursuant to this section.

[(8) Notwithstanding section 22a-134a, the eligible grant recipient may acquire and convey its interest in the property without such recipient or the subsequent purchaser incurring liability, including any such liability incurred pursuant to section 22a-134a, provided the property was remediated pursuant to section 22a-133x or 22a-133y or pursuant to an order issued by the Commissioner of Energy and Environmental Protection and such remediation was performed in accordance with the standards adopted pursuant to section 22a-133k as determined by said commissioner or, if authorized by said commissioner, verified by a licensed environmental professional unless such verification has been rejected by said commissioner subsequent to an audit conducted by said commissioner and provided the subsequent purchaser has no direct or related liability for the site conditions.

(f) (1) The Department of Economic and Community Development shall develop a targeted brownfield development loan program to provide financial assistance in the form of low-interest loans to eligible

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applicants who are potential brownfield purchasers who have no direct or related liability for the site conditions and eligible applicants who are existing property owners who (A) are currently in good standing and otherwise compliant with the Department of Energy and Environmental Protection's regulatory programs, (B) demonstrate an inability to fund the investigation and cleanup themselves, and (C) cannot retain or expand jobs due to the costs associated with the investigating and remediating of the contamination.

(2) The commissioner shall provide low-interest loans to eligible applicants who are purchasers or existing property owners pursuant to this section who seek to develop property for purposes of retaining or expanding jobs in the state or for developing affordable housing units, suitable for first-time home buyers, incentive housing zones, workforce housing and other residential purposes, as approved by the commissioner. Loans shall be available to manufacturing, retail, residential or mixed-use developments, expansions or reuses. The commissioner shall provide loans based upon project merit and viability, the economic and community development opportunity, municipal support, contribution to the community's tax base, number of jobs, past experience of the applicant, compliance history and ability to pay.

(3) Any loan recipient who is a brownfields purchaser and who (A) receives a loan in excess of thirty thousand dollars, or (B) uses loan proceeds to perform a Phase II environmental investigation, shall be subject to section 22a-134a or shall enter a voluntary program for remediation of the property with the Department of Energy and Environmental Protection. Any loan recipient who is an existing property owner shall enter a voluntary program with the Department of Energy and Environmental Protection.

(4) Loans made pursuant to this subsection shall have such terms and conditions and shall be subject to such eligibility, loan approval

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and criteria, as determined by the commissioner. Such conditions shall include, but not be limited to, performance requirements and commitments to maintain or retain jobs or provide a specified number of affordable housing units. Loan repayment shall coincide with the restoration of the site to a productive use or the completion of the expansion. Such loans shall be for a period not to exceed twenty years.

(5) If the property is sold before loan repayment, the loan is payable upon closing, with interest, unless the commissioner agrees otherwise. The commissioner may carry the loan forward as an encumbrance to the purchaser with the same terms and conditions as the original loan.

(6) Loans made pursuant to this subsection may be used for any purpose, including the present or past costs of investigation, assessment, remediation, abatement, hazardous materials or waste disposal, long-term groundwater or natural attenuation monitoring, costs associated with an environmental land use restriction, attorneys' fees, planning, engineering and environmental consulting costs, and building and structural issues, including demolition, asbestos abatement, polychlorinated biphenyls removal, contaminated wood or paint removal, and other infrastructure remedial activities.

(7) For any loan made pursuant to this subsection that is greater than fifty thousand dollars, the applicant shall submit a redevelopment plan that describes how the property will be used or reused for commercial, industrial, residential or mixed-use development and how it will result in jobs and private investment in the community. For any residential development loan pursuant to this subsection, the developer shall agree that the development will provide the affordable housing needs reasonable and appropriate for first-time home buyers or for workforce housing or recent college graduates looking to remain in this state.

(8) The loan program established pursuant to this subsection shall

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be available to all qualified new and existing property owners. Recipients who use loans for commercial, industrial or mixed-use development shall agree to retain or add jobs, during the term of the loan, unless otherwise agreed to by the Department of Economic and Community Development, Connecticut Innovations, Incorporated and the Connecticut Brownfield Redevelopment Authority. The residential developer shall agree to retire the loan upon sale of the units unless the development will be apartments.

(9) Each loan recipient pursuant to this subsection may be eligible for up to two million dollars per year for up to two years, subject to agency underwriting and reasonable and customary requirements to assure performance. If additional funds are needed, the Commissioner of Economic and Community Development may recommend that the project be funded through the State Bond Commission.

(10) The loan program established pursuant to this subsection shall be available to all municipalities and economic development agencies, and the commissioner may modify the terms of any such loan to a municipality or economic development agency to provide for forgiveness of interest, principal, or both, or delay in repayment of interest, principal, or both, when the commissioner has determined such forgiveness or delay is in the best interest of the state.

(g) The Commissioner of Economic and Community Development shall approve applications submitted in accordance with subsection (c) of this section before awarding any financial assistance to an eligible applicant or purchasing any participation interest in a loan made by Connecticut Innovations, Incorporated for the benefit of an eligible applicant. Notwithstanding any other provision of this section, if the applicant's request for financial assistance involves the department purchasing a participation interest in a loan made by Connecticut Innovations, Incorporated, such authority may submit such application and other information as is required of eligible applicants

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under subsection (c) of this section on behalf of such eligible applicant and no further application shall be required of such eligible applicant. No financial assistance shall exceed fifty per cent of the total project cost, provided in the case of (1) planning or site evaluation projects, and (2) financial assistance to any project in a targeted investment community, such assistance shall not exceed ninety per cent of the project cost. Upon approval of the commissioner, a nonstate share of the total project cost, if any, may be satisfied entirely or partially from noncash contributions, including contributions of real property, from private sources or, to the extent permitted by federal law, from moneys received by the municipality under any federal grant program.

(h) Financial assistance may be made available for (1) site investigation and assessment, (2) planning and engineering, including, but not limited to, the reasonable cost of environmental consultants, laboratory analysis, investigatory and remedial contractors, architects, attorneys' fees, feasibility studies, appraisals, market studies and related activities, (3) the acquisition of real property, provided financial assistance for such acquisition shall not exceed fair market value as appraised as if clean, (4) the construction of site and infrastructure improvements related to the site remediation, (5) demolition, asbestos abatement, hazardous waste removal, PCB removal and related infrastructure remedial activities, (6) remediation, groundwater monitoring, including, but not limited to, natural attenuation groundwater monitoring and costs associated with filing an environmental land use restriction, (7) environmental insurance, and (8) other reasonable expenses the commissioner determines are necessary or appropriate for the initiation, implementation and completion of the project. The department may purchase participation interests in loans made by Connecticut Innovations, Incorporated for the foregoing purposes.

(i) The commissioner may establish the terms and conditions of any

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financial assistance provided pursuant to subsections (a) to (k), inclusive, of this section. The commissioner may make any stipulation in connection with an offer of financial assistance the commissioner deems necessary to implement the policies and purposes of such sections, including, but not limited to the following: (1) Providing assurances that the eligible applicant will discharge its obligations in connection with the project; and (2) requiring that the eligible applicant provide the department with appropriate security for such financial assistance, including, but not limited to, a letter of credit, a lien on real property or a security interest in goods, equipment, inventory or other property of any kind.

(j) The commissioner may use any available funds for financial assistance under the provisions of subsections (a) to (k), inclusive, of this section and may use such funds for the staffing, marketing and web site development for the programs established pursuant to subsections (a) to (k), inclusive, of this section and the administration of the Office of Brownfield Remediation and Development established pursuant to section 32-9cc, provided such costs do not exceed four per cent of any such funds authorized.

(k) Whenever funds are used pursuant to subsections (a) to (k), inclusive, of this section for purposes of environmental assessments or remediation of a brownfield, the Commissioner of Energy and Environmental Protection may seek reimbursement of the costs and expenses incurred by requesting the Attorney General to bring a civil action to recover such costs and expenses from any party responsible for such pollution, provided no such action shall be brought separately from any action to recover costs and expenses incurred by the Commissioner of Energy and Environmental Protection in pursuing action to contain, remove or mitigate any pollution on such site. The costs and expenses recovered may include, but shall not be limited to, (1) the actual cost of identifying, evaluating, planning for and

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undertaking the remediation of the site; (2) any administrative costs not exceeding ten per cent of the actual costs; (3) the costs of recovering the reimbursement; and (4) interest on the actual costs at a rate of ten per cent a year from the date such expenses were paid. The defendant in any civil action brought pursuant to this subsection shall have no cause of action or claim for contribution against any person with whom the Commissioner of Energy and Environmental Protection has entered into a covenant not to sue pursuant to sections 22a-133aa and 22a-133bb with respect to pollution on or emanating from the property that is the subject of said civil action. Funds recovered pursuant to this section shall be deposited in the brownfield remediation and development account established pursuant to subsections (l) to (o), inclusive, of this section. The provisions of this subsection shall be in addition to any other remedies provided by law.

(l) There is established a separate nonlapsing account within the General Fund to be known as the "brownfield remediation and development account". There shall be deposited in the account: (1) The proceeds of bonds issued by the state for deposit into said account and used in accordance with this section; (2) repayments of assistance provided pursuant to subsection (c) of section 22a-133u; (3) interest or other income earned on the investment of moneys in the account; (4) funds recovered pursuant to subsections (i) and (k) of this section; and (5) all funds required by law to be deposited in the account. Repayment of principal and interest on loans made pursuant to subsections (a) to (k), inclusive, of this section shall be credited to such account and shall become part of the assets of the account. Any balance remaining in such account at the end of any fiscal year shall be carried forward in the account for the fiscal year next succeeding.

(m) All moneys received in consideration of financial assistance, including payments of principal and interest on any loans, shall be credited to the account. At the discretion of the Commissioner of

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Economic and Community Development and subject to the approval of the Secretary of the Office of Policy and Management, any federal, private or other moneys received by the state in connection with projects undertaken pursuant to subsections (a) to (k), inclusive, of this section shall be credited to the assets of the account.

(n) Notwithstanding any provision of law, proceeds from the sale of bonds available pursuant to subdivision (1) of subsection (b) of section 4-66c may, with the approval of the Governor and the State Bond Commission, be used to capitalize the brownfield remediation and development account created by subsections (l) to (o), inclusive, of this section.

(o) The commissioner may, with the approval of the Secretary of the Office of Policy and Management, provide financial assistance pursuant to subsections (a) to (k), inclusive, of this section from the account established under subsection (l) to (o), inclusive, of this section.]

Sec. 5. Section 32-9ee of the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2013*):

(a) [Any municipality, economic development agency or entity established under chapter 130 or 132, nonprofit economic development corporation formed to promote the common good, general welfare and economic development of a municipality that is funded, either directly or through in-kind services, in part by a municipality, or a nonstock corporation or limited liability company controlled or established by a municipality, municipal economic development agency or entity created or operating under chapter 130 or 132 that receives grants through the Office of Brownfield Remediation and Development or the Department of Economic and Community Development, including those municipalities designated by the Commissioner of Economic and Community Development as part of the municipal brownfield grant

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program established in subsection (c) of section 32-9cc for the investigation and remediation of a brownfield property shall be considered an innocent party and] Any recipient of a grant pursuant to section 32-9kk, as amended by this act, or subsection (c) of section 32-9cc of the general statutes, revision of 1958, revised to January 1, 2013, shall not be liable under section 22a-427, 22a-432, 22a-433, 22a-451 or 22a-452 for conditions pre-existing or existing on the brownfield property as of the date of acquisition or control, [as long as the municipality, economic development agency or entity established under chapter 130 or 132, nonprofit economic development corporation formed to promote the common good, general welfare and economic development of a municipality that is funded, either directly or through in-kind services, in part by a municipality, or a nonstock corporation or limited liability company controlled or established by a municipality, municipal economic development agency or entity created or operating under chapter 130 or 132] provided such recipient (1) did not establish, create, cause or contribute to the discharge, spillage, uncontrolled loss, seepage or filtration of such hazardous substance, material, waste or pollution that is subject to remediation under section 22a-133k and funded by the Office of Brownfield Remediation and Development or the Department of Economic and Community Development; (2) does not exacerbate the conditions; and (3) complies with reporting of significant environmental hazard requirements in section 22a-6u, as amended by this act. To the extent that any conditions are exacerbated, [the municipality, economic development agency or entity established under chapter 130 or 132, nonprofit economic development corporation formed to promote the common good, general welfare and economic development of a municipality that is funded, either directly or through in-kind services, in part by a municipality, or nonstock corporation or limited liability company controlled or established by a municipality, municipal economic development agency or entity created or operating under chapter 130 or 132] such recipient shall only be responsible for

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responding to contamination exacerbated by its negligent or reckless activities.

(b) [In determining what funds shall be made available for an eligible brownfield remediation, the Commissioner of Economic and Community Development shall consider (1) the economic development opportunities such reuse and redevelopment may provide, (2) the feasibility of the project, (3) the environmental and public health benefits of the project, and (4) the contribution of the reuse and redevelopment to the municipality's tax base.] Upon remediation (1) as approved by the Department of Energy and Environmental Protection, or (2) in accordance with section 22a-133x, 22a-134a, 32-99ll or 32-9mm, as amended by this act, of a brownfield property by a recipient of a grant pursuant to section 32-9kk, as amended by this act, such recipient may transfer the property to any person, provided such person is not otherwise liable under section 22a-427, 22a-432, 22a-433, 22a-451 or 22a-452 with respect to the property. Any person who acquires title pursuant to this section shall not be liable under section 22a-427, 22a-432, 22a-433, 22a-451 or 22a-452 with respect to preexisting conditions on the property, provided such person (A) does not cause or contribute to the discharge, spillage, uncontrolled loss, seepage or filtration of such hazardous substance, material or waste, and (B) such person is not a member, officer, manager, director, shareholder, subsidiary, successor of, related to, or affiliated with, directly or indirectly, the person who is otherwise liable under section 22a-427, 22a-432, 22a-433, 22a-451 or 22a-452 with respect to the property. The Commissioner of Energy and Environmental Protection shall provide such person with a covenant not to sue pursuant to section 22a-133aa and shall not require the prospective purchaser or owner to pay a fee in exchange for such covenant.

(c) No person shall acquire title to or hold, possess or maintain any

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interest in a property that has been remediated [in accordance with the municipal brownfield grant program established in subsection (c) of section 32-9cc] with grant funds awarded pursuant to section 32-9kk, as amended by this act, if such person (1) is liable under section 22a-427, 22a-432, 22a-433, 22a-451 or 22a-452 [;] with respect to the property, (2) is otherwise responsible, directly or indirectly, for the discharge, spillage, uncontrolled loss, seepage or filtration of such hazardous substance, material or waste, [;] (3) is a member, officer, manager, director, shareholder, subsidiary, successor of, related to, or affiliated with, directly or indirectly, the person who is otherwise liable [to] under section 22a-427, 22a-432, 22a-433, 22a-451 or 22a-452 [;] with respect to the property, or (4) is or was an owner, operator or tenant of the property. If such person elects to acquire title to or hold, possess or maintain any interest in the property, that person shall reimburse the state of Connecticut, the municipality and the economic development agency for any and all costs expended to perform the investigation and remediation of the property, plus interest at a rate of eighteen per cent.

(d) Notwithstanding section 22a-134a, a recipient of a grant pursuant to section 32-9kk, as amended by this act, may acquire and convey its interest in the property without such recipient or the subsequent purchaser incurring liability, including any such liability incurred pursuant to section 22a-134a, provided the property (1) was remediated pursuant to section 22a-133x, 22a-133y, 32-9ll or 32-9mm, as amended by this act, or pursuant to an order issued by the Commissioner of Energy and Environmental Protection and such remediation was (A) performed in accordance with the standards adopted pursuant to section 22a-133k, as determined by said commissioner, or (B) if authorized by said commissioner, verified by a licensed environmental professional unless such verification has been rejected by said commissioner subsequent to an audit conducted by said commissioner and provided the subsequent purchaser has no direct or related liability for the site conditions; and (2) is not an

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establishment, as defined in section 22a-134, based on business operations occurring after such recipient remediated the property.

Sec. 6. (NEW) (*Effective July 1, 2013*) (a) The Department of Economic and Community Development shall establish a targeted brownfield development loan program to provide low-interest loans for the eligible costs of brownfield remediation projects to potential brownfield purchasers and current brownfield owners who (1) have no direct or related liability for the conditions of the brownfield, and (2) seek to develop brownfields for purposes of reducing blight or for industrial, commercial, residential or mixed use development.

(b) Notwithstanding subsection (a) of this section, a current owner of a brownfield on which a manufacturing facility is located shall be eligible for a loan under this section, provided neither such owner nor any partner, member, officer, manager, director, shareholder, subsidiary or affiliate of such owner (1) is liable under section 22a-427, 22a-432, 22a-433, 22a-451 or 22a-452 of the general statutes with respect to the property; (2) is otherwise responsible, directly or indirectly, for the discharge, spillage, uncontrolled loss, seepage or filtration of the hazardous substance, material or waste; (3) is a member, officer, manager, director, shareholder, subsidiary, successor of, or affiliated with, directly or indirectly, the person who is otherwise liable under section 22a-427, 22a-432, 22a-433, 22a-451 or 22a-452 of the general statutes with respect to the property; or (4) has been found guilty of knowingly or wilfully violating any environmental law.

(c) An applicant for a loan pursuant to this section shall submit an application to the Commissioner of Economic and Community Development on forms provided by the commissioner and with such information the commissioner deems necessary, including, but not limited to: (1) A description of the proposed project; (2) an explanation of the expected benefits of the project in relation to the purposes of this section; (3) information concerning the financial and technical capacity

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of the applicant to undertake the proposed project; (4) a project budget; and (5) a description of the condition of the brownfield involved, including the results of any environmental assessment of the brownfield in the possession of or available to the applicant. The commissioner shall provide loans based upon project merit and viability, the economic and community development opportunity, municipal support, contribution to the community's tax base, past experience of the applicant, compliance history and ability to pay.

(d) If a loan recipient is not subject to section 22a-134a of the general statutes, such recipient shall enter a program for remediation of the property pursuant to either section 22a-133x, 22a-133y, 32-9ll or 32-9mm of the general statutes, as amended by this act, as determined by the commissioner.

(e) Loans made pursuant to this section shall have such terms and conditions and be subject to such eligibility and loan approval criteria as determined by the commissioner. Such loans shall be for a period not to exceed twenty years.

(f) If a loan recipient sells a property subject to a loan granted pursuant to this section before the loan is repaid, the loan shall be payable upon closing of such sale, according to its terms, unless the commissioner agrees otherwise. The commissioner may carry the loan forward as an encumbrance to the purchaser with the same terms and conditions as the original loan.

(g) A loan recipient may be eligible for a loan of not more than two million dollars per year for not more than two years, subject to agency underwriting and reasonable and customary requirements to assure performance. If additional funds are required, the commissioner may recommend that the project be funded through other programs administered by the commissioner.

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(h) The commissioner may modify the terms of any loan made to a municipality or economic development agency pursuant to this section to provide for forgiveness of interest, principal, or both, or delay in repayment of interest, principal, or both, when the commissioner determines such forgiveness or delay is in the best interest of the state.

(i) The provisions of sections 32-5a and 32-701 of the general statutes shall not apply to loans provided pursuant to this section.

Sec. 7. (NEW) (*Effective July 1, 2013*) The Commissioner of Economic and Community Development shall establish the terms and conditions of any financial assistance provided pursuant to section 32-9kk of the general statutes, as amended by this act, or section 6 of this act. The commissioner may make any stipulation in connection with an offer of financial assistance the commissioner deems necessary to implement the policies and purposes of section 32-9kk of the general statutes, as amended by this act, or section 6 of this act, including, but not limited to, (1) a requirement of assurance from a grant or loan recipient that such recipient will discharge its obligations in connection with the project, (2) a requirement that a grant or loan recipient provide the department with appropriate security for such financial assistance, including, but not limited to, a letter of credit, a lien on real property or a security interest in goods, equipment, inventory or other property of any kind, and (3) a requirement that a grant or loan recipient reimburse the state for such financial assistance in the event that it receives funds for remediation from other sources.

Sec. 8. (NEW) (*Effective July 1, 2013*) (a) Whenever funds are used pursuant to section 32-9kk of the general statutes, as amended by this act, or section 6 of this act, for purposes of environmental assessments or remediation of a brownfield, the Commissioner of Energy and Environmental Protection may seek reimbursement of the costs and expenses incurred by requesting the Attorney General to bring a civil action to recover such costs and expenses from any party responsible

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for such pollution, provided no such action shall be brought separately from any action to recover costs and expenses incurred by the Commissioner of Energy and Environmental Protection in pursuing action to contain, remove or mitigate any pollution on such site. The costs and expenses recovered in an action brought pursuant to this section may include, but shall not be limited to: (1) The actual cost of identifying, evaluating, planning for and undertaking the remediation of the site; (2) any administrative costs not exceeding ten per cent of the actual costs; (3) the costs of recovering the reimbursement; and (4) interest on the actual costs at a rate of ten per cent per year from the date such expenses were paid.

(b) The defendant in any civil action brought pursuant to this subsection shall have no cause of action or claim for contribution against any person with whom the Commissioner of Energy and Environmental Protection has entered into a covenant not to sue pursuant to section 22a-133aa or 22a-133bb of the general statutes with respect to pollution on or emanating from the property that is the subject of said civil action.

(c) Any funds recovered pursuant to this section shall be deposited in the brownfield remediation and development account established pursuant to section 3 of this act. The provisions of this section shall be in addition to any other remedies provided by law.

Sec. 9. Section 32-911 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2013*):

(a) There is established an abandoned brownfield cleanup program. The Commissioner of Economic and Community Development shall determine, in consultation with the Commissioner of Energy and Environmental Protection, properties and persons eligible for said program.

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(b) For a person [, a municipality] or a property to be eligible, the Commissioner of Economic and Community Development shall determine if (1) the property is a brownfield, as defined in section [32-9kk, and such property] 1 of this act, that has been unused or significantly underused for at least five years before an application is filed with the commissioner pursuant to subsection [(g)] (h) of this section; (2) such person [or municipality] intends to acquire title to such property for the purpose of redeveloping such property; (3) the redevelopment of such property has a regional or municipal economic development benefit; (4) such person [or municipality] did not establish or create a facility or condition at or on such property that can reasonably be expected to create a source of pollution to the waters of the state for the purposes of section 22a-432 and is not affiliated with any person responsible for such pollution or source of pollution through any direct or indirect familial relationship or any contractual, corporate or financial relationship other than a relationship by which such owner's interest in such property is to be conveyed or financed; (5) such person [or municipality] is not otherwise required by law, an order or consent order issued by the Commissioner of Energy and Environmental Protection or a stipulated judgment to remediate pollution on or emanating from such property; (6) the person responsible for pollution on or emanating from the property is indeterminable, is no longer in existence, is required by law to remediate releases on and emanating from the property or is otherwise unable to perform necessary remediation of such property; and (7) the property and the person meet any other criteria said commissioner deems necessary.

[(c) For the purposes of this section, "municipality" means a municipality, economic development agency or entity established under chapter 130 or 132, nonprofit economic development corporation formed to promote the common good, general welfare and economic development of a municipality that is funded, either directly

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or through in-kind services, in part by a municipality, or a nonstock corporation or limited liability company controlled or established by a municipality, municipal economic development agency or entity created or operating under chapter 130 or 132.]

[(d)] (c) Notwithstanding the provisions of subsection (b) of this section, a property owned by a municipality shall not be subject to subdivision (6) of subsection (b) of this section.

[(e)] (d) Notwithstanding the provisions of subsection (b) of this section, a municipality may request the Commissioner of Economic and Community Development to determine if a property is eligible regardless of the person who currently owns such property.

[(f)] (e) Notwithstanding subsection (b) of this section, the Commissioner of Economic and Community Development may waive the requirement of subdivision (1) of subsection (b) of this section, if the person [or municipality] seeking eligibility under this section otherwise demonstrates the eligibility of the property and the value of the redevelopment of such property.

[(g)] (f) Upon designation by the Commissioner of Economic and Community Development, in consultation with the Commissioner of Energy and Environmental Protection, of an eligible person [or municipality that] who holds title to such property, such eligible person [, or municipality] shall (1) enter and remain in the voluntary remediation program established in section 22a-133x; (2) investigate pollution on such property in accordance with prevailing standards and guidelines and remediate pollution on such property in accordance with regulations established for remediation adopted by the Commissioner of Energy and Environmental Protection and in accordance with applicable schedules; and (3) eliminate further emanation or migration of any pollution from such property.

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[(h)] (g) An eligible person [or municipality that] who has been accepted by the commissioner or that holds title to an eligible property designated to be in the abandoned brownfield cleanup program shall not be responsible for investigating or remediating any pollution or source of pollution that has emanated from such property prior to such person taking title to such property, and shall not be liable to the state or any [third party] person for the release of any regulated substance at or from the eligible property prior to taking title to such eligible property except and only to the extent that such applicant caused or contributed to the release of a regulated substance that is subject to remediation or negligently or recklessly exacerbated such condition.

[(i)] (h) Any applicant seeking a designation of eligibility for a person or a property under the abandoned brownfield cleanup program shall apply to the Commissioner of Economic and Community Development at such times and on such forms as the commissioner may prescribe.

[(j)] (i) Not later than sixty days after receipt of the application, the Commissioner of Economic and Community Development shall determine if the application is complete and shall notify the applicant of such determination.

[(k)] (j) Not later than ninety days after determining that the application is complete, the Commissioner of Economic and Community Development shall determine whether to include the property and applicant in the abandoned brownfield cleanup program.

[(l)] (k) Designation of a property in the abandoned brownfield cleanup program by the Commissioner of Economic and Community Development shall not limit the applicant's or any other person's ability to seek funding for such property under any other brownfield grant or loan program administered by the Department of Economic and Community Development, Connecticut Innovations, Incorporated

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or the Department of Energy and Environmental Protection.

[(m)] (l) Designation of a property in the abandoned brownfield cleanup program by the Commissioner of Economic and Community Development shall exempt such eligible person [or eligible municipality] from filing as an establishment pursuant to sections 22a-134a to 22a-134d, inclusive, if such real property or prior business operations constitute an establishment.

[(n)] (m) Upon completion of the requirements of subsection [(g)] (f) of this section to the satisfaction of the Commissioner of Energy and Environmental Protection, such person [or municipality] shall qualify for a covenant not to sue from the Commissioner of Energy and Environmental Protection without fee, pursuant to section 22a-133aa, as amended by this act.

[(o)] (n) Any person [or municipality] designated as an eligible person under the abandoned brownfield cleanup program [shall be considered an innocent party and] shall not be liable to the Commissioner of Energy and Environmental Protection or any person under section 22a-432, 22a-433, 22a-451 or 22a-452 or other similar statute or common law for conditions preexisting or existing on the brownfield property as of the date of acquisition or control as long as the person [or municipality] (1) did not establish, cause or contribute to the discharge, spillage, uncontrolled loss, seepage or filtration of such hazardous substance, material, waste or pollution; (2) does not exacerbate the conditions; and (3) complies with reporting of significant environmental hazard requirements in section 22a-6u, as amended by this act. To the extent that any conditions are exacerbated, the person [or municipality] shall only be responsible for responding to contamination exacerbated by its negligent or reckless activities.

[(p)] (o) Any person [or municipality that] who acquires a property in the abandoned brownfield cleanup program shall apply to the

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Commissioner of Economic and Community Development on a form prescribed by [said] the commissioner to determine if such person [or municipality] qualifies as an eligible party under the abandoned brownfield cleanup program. If the [Commissioner of Economic and Community Development] commissioner determines that such person [or municipality] is an eligible party, such eligible party shall be subject to the provisions of this section, and shall receive liability relief pursuant to subsections [(h), (m), (n) and (o)] (g), (l), (m) and (n) of this section.

Sec. 10. Section 32-9mm of the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2013*):

[(a) As used in this section:

(1) "Bona fide prospective purchaser" means a person that acquires ownership of a property after July 1, 2011, and establishes by a preponderance of the evidence that:

(A) All disposal of regulated substances at the property occurred before the person acquired the property;

(B) Such person made all appropriate inquiries, as set forth in 40 CFR Part 312, into the previous ownership and uses of the property in accordance with generally accepted good commercial and customary standards and practices, including, but not limited to, the standards and practices set forth in the ASTM Standard Practice for Environmental Site Assessments, Phase I Environmental Site Assessment Process, E1527-05, as may be amended from time to time. In the case of property in residential or other similar use at the time of purchase by a nongovernmental or noncommercial entity, a property inspection and a title search that reveal no basis for further investigation shall be considered to satisfy the requirements of this subparagraph;

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(C) Such person provides all legally required notices with respect to the discovery or release of any regulated substances at the property;

(D) Such person exercises appropriate care with respect to regulated substances found at the property by taking reasonable steps to (i) stop any continuing release, (ii) prevent any threatened future release, and (iii) prevent or limit human, environmental or natural resource exposure to any previously released regulated substance;

(E) Such person provides full cooperation, assistance and access to persons authorized to conduct response actions or natural resource restoration at the property, including, but not limited to, the cooperation and access necessary for the installation, integrity, operation and maintenance of any complete or partial response actions or natural resource restoration at the property;

(F) Such person complies with any land use restrictions established or relied on in connection with the response action at the property and does not impede the effectiveness or integrity of any institutional control employed at the property in connection with a response action; and

(G) Such person complies with any request for information from the Commissioner of Energy and Environmental Protection.

(2) "Brownfield" has the same meaning as provided in section 32-9kk.

(3) "Brownfield investigation plan and remediation schedule" means a plan and schedule for investigation and a schedule for remediation of an eligible property under this section. Such investigation plan and remediation schedule shall include both interim status or other appropriate interim target dates and a date for project completion not later than eight years after a licensed environmental professional submits such investigation plan and remediation schedule to the

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Commissioner of Energy and Environmental Protection, provided the Commissioner of Energy and Environmental Protection may extend such dates for good cause. The plan shall provide a schedule for activities including, but not limited to, completion of the investigation of the property in accordance with prevailing standards and guidelines, submittal of a complete investigation report, submittal of a detailed written plan for remediation, publication of notice of remedial actions, completion of remediation in accordance with standards adopted by said commissioner pursuant to section 22a-133k and submittal to said commissioner of a remedial action report. Except as otherwise provided in this section, in any detailed written plan for remediation submitted under this section, the applicant shall only be required to investigate and remediate conditions existing within the property boundaries and shall not be required to investigate or remediate any pollution or contamination that exists outside of the property's boundaries, including any contamination that may exist or has migrated to sediments, rivers, streams or off site.

(4) "Commissioner" means the Commissioner of Economic and Community Development.

(5) "Contiguous property owner" means a person who owns real property contiguous to or otherwise similarly situated with respect to, and that is or may be contaminated by a release or threatened release of a regulated substance from, real property that is not owned by that person, provided:

(A) With respect to the property owned by such person, such person takes reasonable steps to (i) stop any continuing release of any regulated substance released on or from the property, (ii) prevent any threatened future release of any regulated substance released on or from the property, and (iii) prevent or limit human, environmental or natural resource exposure to any regulated substance released on or from the property;

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(B) Such person provides full cooperation, assistance and access to persons authorized to conduct response actions or natural resource restoration at the property from which there has been a release or threatened release, including, but not limited to, the cooperation and access necessary for the installation, integrity, operation and maintenance of any complete or partial response action or natural resource restoration at the property;

(C) Such person complies with any land use restrictions established or relied on in connection with the response action at the property and does not impede the effectiveness or integrity of any institutional control employed in connection with a response action;

(D) Such person complies with any request for information from the Commissioner of Energy and Environmental Protection; and

(E) Such person provides all legally required notices with respect to the discovery or release of any hazardous substances at the property.

(6) "Distressed municipality" has the same meaning as provided in section 32-9p.

(7) "Economic development agency" means a municipality, municipal economic development agency or entity created or operating under chapter 130 or 132, nonprofit economic development corporation formed to promote the common good, general welfare and economic development of a municipality that is funded, either directly or through in-kind services, in part by a municipality, or nonstock corporation or limited liability company established or controlled by a municipality, municipal economic development agency or entity created or operating under chapter 130 or 132.

(8) "Innocent landowner" has the same meaning as provided in section 22a-452d.

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(9) "Interim verification" has the same meaning as provided in section 22a-134.

(10) "Municipality" has the same meaning as in section 32-9kk.

(11) "National priorities list" means the list of hazardous waste disposal sites compiled by the United States Environmental Protection Agency pursuant to 42 USC 9605.

(12) "PCB regulations" means the polychlorinated biphenyls manufacturing, processing, distribution in commerce and use prohibitions found at 40 CFR Part 761.

(13) "Person" means any individual, firm, partnership, association, syndicate, company, trust, corporation, limited liability company, municipality, economic development agency, agency or political or administrative subdivision of the state and any other legal entity.

(14) "Principles of smart growth" means standards and objectives that support and encourage smart growth when used to guide actions and decisions, including, but not limited to, standards and criteria for (A) integrated planning or investment that coordinates tax, transportation, housing, environmental and economic development policies at the state, regional and local level, (B) the reduction of reliance on the property tax by municipalities by creating efficiencies and coordination of services on the regional level while reducing interlocal competition for grand list growth, (C) the redevelopment of existing infrastructure and resources, including, but not limited to, brownfields and historic places, (D) transportation choices that provide alternatives to automobiles, including rail, public transit, bikeways and walking, while reducing energy consumption, (E) the development or preservation of housing affordable to households of varying income in locations proximate to transportation or employment centers or locations compatible with smart growth, (F)

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concentrated, mixed-use, mixed income development proximate to transit nodes and civic, employment or cultural centers, and (G) the conservation and protection of natural resources by (i) preserving open space, water resources, farmland, environmentally sensitive areas and historic properties, and (ii) furthering energy efficiency.

(15) "Regulated substance" means any element, compound or material that, when added to air, water, soil or sediment, may alter the physical, chemical, biological or other characteristic of such air, water, soil or sediment.

(16) "Release" means any discharge, spillage, uncontrolled loss, seepage, filtration, leakage, injection, escape, dumping, pumping, pouring, emitting, emptying or disposal of a substance.

(17) "Remediation standards" has the same meaning as provided in section 22a-134.

(18) "RCRA" means the Resource Conservation and Recovery Act promulgated pursuant to 42 USC.

(19) "Smart growth" means economic, social and environmental development that (A) promotes, through financial and other incentives, economic competitiveness in the state while preserving natural resources, and (B) uses a collaborative approach to planning, decision-making and evaluation between and among all levels of government and the communities and the constituents they serve.

(20) "State of Connecticut Superfund Priority List" means the list of hazardous waste disposal sites compiled by the Connecticut Department of Energy and Environmental Protection pursuant to section 22a-133f.

(21) "Transit-oriented development" has the same meaning as provided in section 13b-79o.

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(22) "UST regulations" means regulations adopted pursuant to subsection (d) of section 22a-449.

(23) "Verification" has the same meaning as provided in section 22a-134.]

[(b)] (a) The commissioner shall, within available appropriations, establish a brownfield remediation and revitalization program to provide certain liability protections to program participants. Not more than thirty-two properties [a] per year shall be accepted into the program. Participation in the program shall be by accepted application pursuant to this subsection or by approved nomination pursuant to subsection [(d)] (c) of this section. To be considered for acceptance, an applicant shall submit to the commissioner, on a form prescribed by the commissioner, a certification that: (1) The applicant meets the definition of a bona fide prospective purchaser, innocent [land owner] landowner or contiguous property owner; (2) the property meets the definition of a brownfield and has been subject to a release of a regulated substance in an amount that is in excess of the remediation standards; (3) the applicant did not establish, create or maintain a source of pollution to the waters of the state for purposes of section 22a-432 and is not responsible pursuant to any other provision of the general statutes for any pollution or source of pollution on the property; (4) the applicant is not affiliated with any person responsible for such pollution or source of pollution through any direct or indirect familial relationship or any contractual, corporate or financial relationship other than that by which such purchaser's interest in such property is to be conveyed or financed; and (5) the property is not (A) currently the subject of an enforcement action, including any consent order issued by the Department of Energy and Environmental Protection or the United States Environmental Protection Agency under any current Department of Energy and Environmental Protection or United States Environmental Protection Agency

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program, (B) listed on the national priorities list [,] of hazardous waste disposal sites compiled by the United States Environmental Protection Agency pursuant to 42 USC 9605, (C) listed on the State of Connecticut Superfund Priority List, or (D) subject to corrective action as may be required by [RCRA] the federal Resource Conservation and Recovery Act of 1976, 42 USC 6901 et seq. The commissioner may review such certifications to ensure accuracy, in consultation with the Commissioner of Energy and Environmental Protection, and applications will not be considered if such certifications are found inaccurate.

[(c)] (b) To ensure a geographic distribution and a diversity of projects and broad access to the brownfield remediation and revitalization program, the commissioner, in consultation with the Commissioner of Energy and Environmental Protection, shall review all applications received and determine admission of eligible properties into the brownfield remediation and revitalization program taking into consideration state-wide portfolio factors including: (1) Job creation and retention; (2) sustainability; (3) readiness to proceed; (4) geographic distribution of projects; (5) population of the municipality where the property is located; (6) project size; (7) project complexity; (8) duration and degree to which the property has been underused; (9) projected increase to the municipal grand list; (10) consistency of the property as remediated and developed with municipal or regional planning objectives; (11) development plan's support for and furtherance of principles of smart growth, as defined in section 1 of public act 09-230, or transit-oriented development, as defined in section 13b-79o; and (12) other factors as may be determined by the commissioner. Admittance into the brownfield remediation and revitalization program shall not indicate approval or award of funding requested under any federal, state or municipal grant or loan program, including, but not limited to, any state brownfield grant or loan program.

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[(d)] (c) The commissioner shall accept nominations of properties for participation in the program established pursuant to subsection [(b)] (a) of this section by a municipality or an economic development agency, where no bona fide prospective purchaser, contiguous property owner or innocent [land owner] landowner has applied for participation in the program. For a property to be considered for approval for nomination to the program established pursuant to this section, a municipality shall submit to the commissioner, on a form prescribed by the commissioner, a certification that the property meets the eligibility requirements provided in subdivisions (2) and (5) of subsection [(b)] (a) of this section and any other relevant factors, including state-wide portfolio factors provided in subsection [(c)] (b) of this section, as may be determined by the commissioner. After the commissioner approves a property's nomination, any subsequent applicant shall apply in accordance with subsections [(b) and (g)] (a) and (f) of this section. In any such application, the applicant shall demonstrate it satisfies the eligibility requirements provided in subdivisions (1), (3) and (4) of subsection [(b)] (a) of this section and shall demonstrate satisfaction of subdivisions (2) and (5) of subsection [(b)] (a) of this section for the period after the commissioner's acceptance of the municipality's or economic development agency's nomination of the property.

[(e)] (d) (1) Properties otherwise eligible for the brownfield remediation and revitalization program currently being investigated and remediated in accordance with the state voluntary remediation programs under sections 22a-133x and 22a-133y, the property transfer program under section 22a-134, as amended by this act, and the covenant not to sue programs under section 22a-133aa or 22a-133bb shall not be excluded from eligibility in said program, provided the other requirements set forth in this section are met.

(2) Properties otherwise eligible for the brownfield remediation and

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revitalization program that have been subject to a release requiring action pursuant to the PCB regulations or that have been subject to a release requiring action pursuant to the UST regulations shall not be deemed ineligible, but no provision of this section shall affect any eligible party's obligation under such regulations to investigate or remediate the extent of any such release.

[(f)] (e) Inclusion of a property within the brownfield remediation and revitalization program by the commissioner shall not limit any person's ability to seek funding for such property under any federal, state or municipal grant or loan program, including, but not limited to, any state brownfield grant or loan program. Admittance into the brownfield remediation and revitalization program shall not indicate approval or award of funding requested under any federal, state or municipal grant or loan program, including, but not limited to, any state brownfield grant or loan program.

[(g)] (f) Any applicant seeking a designation of eligibility for a person or a property under the brownfield remediation and revitalization program shall apply to the commissioner at such times and on such forms as the commissioner may prescribe. The application shall include, but not be limited to, (1) a title search, (2) the Phase I Environmental Site Assessment conducted by or for the bona fide prospective purchaser or the contiguous property owner, which shall be prepared in accordance with prevailing standards and guidelines, (3) a current property inspection, (4) documentation demonstrating satisfaction of the eligibility criteria set forth in subsection [(b)] (a) of this section, (5) information about the project that relates to the state-wide portfolio factors set forth in subsection [(c)] (b) of this section, and (6) such other information as the commissioner may request to determine admission.

[(h)] (g) Any applicant accepted into the brownfield remediation and revitalization program by the commissioner shall pay the

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Commissioner of Energy and Environmental Protection a fee equal to five per cent of the assessed value of the land, as stated on the last-completed grand list of the relevant town. The fee shall be paid in two installments, each equal to fifty per cent of such fee, subject to potential reductions as specified in subsection [(i)] (h) of this section. The first installment shall be due not later than one hundred eighty days after the later of the date [the eligible] such applicant is notified that the application has been accepted by the commissioner or the date that [the eligible] such applicant takes title to the eligible property. The second installment shall be due not later than four years after the acceptance date. Upon request by [an eligible] such applicant, a municipality or an economic development agency, the commissioner may, at the commissioner's discretion, extend either or both of the installment due dates. Such fee shall be deposited into the Special Contaminated Property Remediation and Insurance Fund established pursuant to section 22a-133t and shall be available for use by the Commissioner of Energy and Environmental Protection pursuant to section 22a-133u, as amended by this act.

[(i)] (h) (1) The first installment of the fee in subsection [(h)] (g) of this section shall be reduced by ten per cent for any eligible party that completes and submits to the Commissioner of Energy and Environmental Protection documentation, approved in writing by a licensed environmental professional and on a form prescribed by said commissioner, that the investigation of the property has been completed in accordance with prevailing standards and guidelines within one hundred eighty days after the date the application is accepted by the commissioner.

(2) The second installment of the fee in subsection [(h)] (g) of this section shall be eliminated for any eligible party that submits the remedial action report and verification or interim verification to the Commissioner of Energy and Environmental Protection within four

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years after the date the application is accepted by the commissioner. In the event an eligible party submits a request for the Commissioner of Energy and Environmental Protection's approval, where such approval is required pursuant to the remediation standard and where said commissioner issues a decision on such request beyond sixty days after submittal, such four-year period shall be extended by the number of days equal to the number of days between the sixtieth day and the date a decision is issued by said commissioner, but not including the number of days that a request by said commissioner for supplemental information remains pending with the eligible party.

(3) The second installment of the fee in subsection [(h)] (g) of this section shall be reduced by, or any eligible party shall receive a refund in the amount equal to, twice the reasonable environmental service costs of such investigation, as determined by the Commissioner of Energy and Environmental Protection, for any eligible party that completes and submits to the Commissioner of Energy and Environmental Protection documentation, approved in writing by a licensed environmental professional and on a form that may be prescribed by said commissioner, that the investigation of the nature and extent of any contamination that has migrated from the property has been completed in accordance with prevailing standards and guidelines. Such refund shall not exceed the amount of the second installment of the fee in subsection [(h)] (g) of this section.

(4) No municipality or economic development agency seeking designation of eligibility shall be required to pay a fee, provided, upon transfer of the eligible property from the municipality or economic development agency to an eligible person, that eligible person shall pay to the Commissioner of Energy and Environmental Protection the fee in subsection [(h)] (g) of this section in accordance with the applicable requirements in this subsection.

(5) A municipality or economic development agency may submit a

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fee waiver request to the commissioner to waive a portion or the entire fee for an eligible property located within that municipality. The commissioner, at his or her discretion, shall consider the following factors in determining whether to approve a fee waiver or reduction: (A) Location of the [eligible project] brownfield within a distressed municipality, as defined in section 32-9p; (B) demonstration by the municipality or economic development agency that the project is of significant economic impact; (C) demonstration by the municipality or economic development agency that the project has a significant community benefit to the municipality; (D) demonstration that the eligible party is a governmental or nonprofit entity; and (E) demonstration that the fee required will have a detrimental effect on the overall success of the project.

[(j)] (i) An applicant whose application has been accepted into the brownfield remediation and revitalization program shall not be liable to the state or any [third party] person for the release of any regulated substance at or from the eligible property, except and only to the extent that such applicant (A) caused or contributed to the release of a regulated substance that is subject to remediation or exacerbated such condition, or (B) the Commissioner of Energy and Environmental Protection determines the existence of any of the conditions set forth in subdivision (4) of subsection [(n)] (m) of this section.

[(k)] (j) (1) An applicant whose application to the brownfield remediation and revitalization program has been accepted by the commissioner (A) shall investigate the release or threatened release of any regulated substance within the boundaries of the property in accordance with prevailing standards and guidelines and remediate such release or threatened release within the boundaries of such property in accordance with the brownfield investigation plan and remediation schedule and this section, and (B) shall not be required to characterize, abate and remediate the release of a regulated substance

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beyond the boundary of the eligible property, except for releases caused or contributed to by such applicant.

(2) Not later than one hundred eighty days after the first installment due date, including any extension thereof by the commissioner, of the fee required pursuant to subsection [(h)] (g) of this section, the eligible party shall submit to the commissioner and the Commissioner of Energy and Environmental Protection a brownfield investigation plan and remediation schedule that is signed and stamped by a licensed environmental professional. Unless otherwise approved in writing by the Commissioner of Energy and Environmental Protection, [the eligible party shall submit a] such brownfield investigation plan and remediation schedule [which provides] shall provide that (A) the investigation shall be completed not later than two years after the first installment due date, including any extension thereof by the commissioner, of the fee required pursuant to subsection [(h)] (g) of this section, (B) remediation shall be initiated not later than three years from the first installment due date, including any extension thereof by the commissioner, of the fee required pursuant to subsection [(h)] (g) of this section, and (C) remediation shall be completed sufficiently to support either a verification or interim verification not later than eight years after the first installment due date, including any extension thereof by the commissioner, of the fee required pursuant to subsection [(h)] (g) of this section. The schedule shall also include a schedule for providing public notice of the remediation prior to the initiation of such remediation in accordance with subdivision (1) of subsection [(k)] (j) of this section. Not later than two years after the first installment due date, including any extension thereof by the commissioner, of the fee required pursuant to subsection [(h)] (g) of this section, unless the Commissioner of Energy and Environmental Protection has specified a later day, in writing, the eligible party shall submit to the Commissioner of Energy and Environmental Protection documentation, approved in writing by a licensed environmental

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professional and in a form prescribed by the Commissioner of Energy and Environmental Protection, that the investigation of the property has been completed in accordance with prevailing standards and guidelines. Not later than three years after the first installment due date, including any extension thereof by the commissioner, of the fee required pursuant to subsection [(h)] (g) of this section, unless the Commissioner of Energy and Environmental Protection has specified a later day, in writing, the eligible party shall notify the Commissioner of Energy and Environmental Protection and the commissioner in a form prescribed by the Commissioner of Energy and Environmental Protection that the remediation has been initiated, and shall submit to the Commissioner of Energy and Environmental Protection a remedial action plan, approved in writing by a licensed environmental professional in a form prescribed by the Commissioner of Energy and Environmental Protection. Not later than eight years after the first installment due date, including any extension thereof by the commissioner, of the fee required pursuant to subsection [(h)] (g) of this section, unless the Commissioner of Energy and Environmental Protection has specified a later day, in writing, the eligible party shall complete remediation of the property and submit the remedial action report and verification or interim verification to the Commissioner of Energy and Environmental Protection and the commissioner. The Commissioner of Energy and Environmental Protection shall grant a reasonable extension if the eligible party demonstrates to the satisfaction of the Commissioner of Energy and Environmental Protection that: [(A)] (i) Such eligible party has made reasonable progress toward investigation and remediation of the eligible property; and [(B)] (ii) despite best efforts, circumstances beyond the control of the eligible party have significantly delayed the remediation of the eligible property.

(3) An eligible party who submits an interim verification for an eligible property, and any subsequent owner of such eligible property,

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shall, until the remediation standards for groundwater are achieved, (A) operate and maintain the long-term remedy for groundwater in accordance with the remedial action plan, the interim verification and any approvals issued by the Commissioner of Energy and Environmental Protection, (B) prevent exposure to any groundwater plume containing a regulated substance in excess of the remediation standards on the property, (C) take all reasonable action to contain any groundwater plume on the property, and (D) submit annual status reports to the Commissioner of Energy and Environmental Protection and the commissioner.

(4) Before commencement of remedial action pursuant to the plan and schedule, the eligible party shall: (A) Publish notice of the remedial action in a newspaper having a substantial circulation in the town where the property is located, (B) notify the director of health of the municipality where the property is located, and (C) either (i) erect and maintain for at least thirty days in a legible condition a sign not less than six feet by four feet on the property, which shall be clearly visible from the public highway and shall include the words "ENVIRONMENTAL CLEAN-UP IN PROGRESS AT THIS SITE. FOR FURTHER INFORMATION CONTACT:" and include a telephone number for an office from which any interested person may obtain additional information about the remedial action, or (ii) mail notice of the remedial action to each owner of record of property which abuts such property, at the address on the last-completed grand list of the relevant town. Public comments shall be directed to the eligible party for a thirty-day period starting with the last provided public notice provision and such eligible party shall provide all comments and any responses to the Commissioner of Energy and Environmental Protection prior to commencing remedial action.

(5) The remedial action shall be conducted under the supervision of a licensed environmental professional and the remedial action report

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shall be submitted to the commissioner and the Commissioner of Energy and Environmental Protection signed and stamped by a licensed environmental professional. In such report, the licensed environmental professional shall include a detailed description of the remedial actions taken and issue a verification or interim verification, in which he or she shall render an opinion, in accordance with the standard of care provided in subsection (c) of section 22a-133w, that the action taken to contain, remove or mitigate the release of regulated substances within the boundaries of such property is in accordance with the remediation standards.

(6) All applications for permits required to implement such plan and schedule in this section shall be submitted to the permit ombudsman within the Department of Economic and Community Development.

(7) Each eligible party participating in the brownfield remediation and revitalization program shall maintain all records related to its implementation of such plan and schedule and completion of the remedial action of the property for a period of not less than ten years and shall make such records available to the commissioner or the Commissioner of Energy and Environmental Protection at any time upon request by either.

(8) (A) [Within] Not later than sixty days [of] after receiving a remedial action report signed and stamped by a licensed environmental professional and a verification or interim verification, the Commissioner of Energy and Environmental Protection shall notify the eligible party and the commissioner whether the Commissioner of Energy and Environmental Protection will conduct an audit of such remedial action. Any such audit shall be conducted not later than one hundred eighty days after the Commissioner of Energy and Environmental Protection receives a remedial action report signed and stamped by a licensed environmental professional and a verification or

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interim verification. [Within] Not later than fourteen days [of] after completion of an audit, the Commissioner of Energy and Environmental Protection shall send written audit findings to the eligible party, the commissioner and the licensed environmental professional. The audit findings may approve or disapprove the report, provided any disapproval shall set forth the reasons for such disapproval.

(B) The Commissioner of Energy and Environmental Protection may request additional information during an audit conducted pursuant to this subdivision. If such information has not been provided to said commissioner within fourteen days of such request, the time frame for said commissioner to complete the audit shall be suspended until the information is provided to said commissioner. The Commissioner of Energy and Environmental Protection may choose to conduct such audit if and when the eligible party fails to provide a response to said commissioner's request for additional information within sixty days.

(C) The Commissioner of Energy and Environmental Protection shall not conduct an audit of a verification or interim verification pursuant to this subdivision after one hundred eighty days from receipt of such verification unless (i) said commissioner has reason to believe that a verification was obtained through the submittal of materially inaccurate or erroneous information, or otherwise misleading information material to the verification or that material misrepresentations were made in connection with the submittal of the verification, (ii) any post-verification monitoring or operations and maintenance is required as part of a verification and has not been done, (iii) a verification that relies upon an environmental land use restriction was not recorded on the land records of the municipality in which such land is located in accordance with section 22a-133o, as amended by this act, and applicable regulations, (iv) said commissioner determines that there has been a violation of law

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material to the verification, or (v) said commissioner determines that information exists indicating that the remediation may have failed to prevent a substantial threat to public health or the environment for releases on the property.

[(l)] (k) Not later than sixty days after receiving a notice of disapproval or a verification or interim verification from the Commissioner of Energy and Environmental Protection, the eligible party shall submit to said commissioner and to the commissioner a report of cure of noted deficiencies. Within sixty days after receiving such report of cure of noted deficiencies by said commissioner, said commissioner shall issue a successful audit closure letter or a written disapproval of such report of cure of noted deficiencies.

[(m)] (l) Before approving a verification or interim verification, the Commissioner of Energy and Environmental Protection may enter into a memorandum of understanding with the eligible party with regard to any further remedial action or monitoring activities on or at such property that said commissioner deems necessary for the protection of human health or the environment.

[(n)] (m) (1) An eligible party who has been accepted into the brownfield remediation and revitalization program shall have no obligation as part of its plan and schedule to characterize, abate and remediate any plume of a regulated substance outside the boundaries of the subject property, provided the notification requirements of section 22a-6u, as amended by this act, pertaining to significant environmental hazards shall continue to apply to the property and the eligible party shall not be required to characterize, abate or remediate any such significant environmental hazard outside the boundaries of the subject property unless such significant environmental hazard arises from the actions of the eligible party after its acquisition of or control over the property from which such significant environmental hazard has emanated outside its own boundaries. If an eligible party

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who has been accepted into the brownfield remediation and revitalization program conveys or otherwise transfers its ownership of the subject property and such eligible party is in compliance with the provisions of this section and the brownfield investigation plan and remediation schedule at the time of conveyance or transfer of ownership, the provisions of this section shall apply to such transferee, if such transferee meets the eligibility criteria set forth in this section, pays the fee required by subsection [(h)] (g) of this section and complies with all the obligations undertaken by the eligible party under this section. In such case, all references to applicant or eligible party shall mean the subsequent owner or transferee.

(2) After the Commissioner of Energy and Environmental Protection issues either a no audit letter or a successful audit closure letter, or no audit decision has been made by said commissioner within one hundred eighty days after the submittal of the remedial action report and verification or interim verification, such eligible party shall not be liable to the state or any [third party] person for (A) costs incurred in the remediation of, equitable relief relating to, or damages resulting from the release of regulated substances addressed in the brownfield investigation plan and remediation schedule, and (B) historical off-site impacts including air deposition, waste disposal, impacts to sediments and natural resource damages. No eligible party shall be afforded any relief from liability such eligible party may have from a release requiring action pursuant to the PCB regulations or a release requiring action pursuant to the UST regulations.

(3) The provisions of this section concerning liability shall extend to any person who acquires title to all or part of the property for which a remedial action report and verification or interim verification have been submitted pursuant to this section, provided (A) there is payment of a fee of ten thousand dollars to said commissioner for each such extension, (B) such person acquiring all or part of the property meets

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the criteria of this section, and (C) the Commissioner of Energy and Environmental Protection has issued either a successful audit closure letter or no audit letter, or no audit decision has been made by said commissioner [within] not later than one hundred eighty days after the submittal of the remedial action report and verification or interim verification. No municipality or economic development agency that acquires title to all or part of the property shall be required to pay a fee, provided the municipality or economic development agency shall collect and pay the fee upon transfer of the property to another person for purposes of development. Such fee shall be deposited into the Special Contaminated Property Remediation and Insurance Fund established under section 22a-133t and such funds shall be for the exclusive use by the Department of Energy and Environmental Protection.

(4) Neither a successful audit closure nor no audit letter issued pursuant to this section, nor the expiration of one hundred eighty days after the submittal of the remedial action report and verification or interim verification without an audit decision by the Commissioner of Energy and Environmental Protection, shall preclude said commissioner from taking any appropriate action, including, but not limited to, any action to require remediation of the property by the eligible party or, as applicable, to its successor, if said commissioner determines that:

(A) The successful audit closure, no audit letter, or the expiration of one hundred eighty days after the submittal of the remedial action report and verification or interim verification without an audit decision by the Commissioner of Energy and Environmental Protection was based on information provided by the person submitting such remedial action report and verification or interim verification that the Commissioner of Energy and Environmental Protection can show that such person knew, or had reason to know,

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was false or misleading, and, in the case of the successor to an applicant, that such successor was aware or had reason to know that such information was false or misleading;

(B) New information confirms the existence of previously unknown contamination that resulted from a release that occurred before the date that an application has been accepted into the brownfield remediation and revitalization program;

(C) The eligible party who received the successful audit closure or no audit letter or where one hundred eighty days lapsed without an audit decision by the Commissioner of Energy and Environmental Protection has materially failed to complete the remedial action required by the brownfield investigation plan and remediation schedule or to carry out or comply with monitoring, maintenance or operating requirements pertinent to a remedial action including the requirements of any environmental land use restriction; or

(D) The threat to human health or the environment is increased beyond an acceptable level due to substantial changes in exposure conditions at such property, including, but not limited to, a change from nonresidential to residential use of such property.

(5) If an eligible party who has been accepted into the brownfield remediation and revitalization program conveys or otherwise transfers all or part of its ownership interest in the subject property at any time before the issuance of a successful audit closure or no audit letter or the expiration of one hundred eighty days after the submittal of the remedial action report and verification or interim verification without an audit decision by the Commissioner of Energy and Environmental Protection, the eligible party conveying or otherwise transferring its ownership interest shall not be liable to the state or any [third party] person for (A) costs incurred in the remediation of, equitable relief relating to, or damages resulting from the release of regulated

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substances addressed in the brownfield investigation plan and remediation schedule, and (B) historical off-site impacts including air deposition, waste disposal, impacts to sediments and natural resource damages, provided the eligible party complied with its obligations under this section during the period when the eligible party held an ownership interest in the subject property. Nothing in this subsection shall provide any relief from liability such eligible party may have related to a release requiring action pursuant to the PCB regulations, or a release requiring action pursuant to the UST regulations.

(6) Upon the Commissioner of Energy and Environmental Protection's issuance of a successful audit closure letter, no audit letter, or one hundred eighty days have passed since the submittal of a verification or interim verification and said commissioner has not audited the verification or interim verification, the immediate prior owner regardless of its own eligibility to participate in the comprehensive brownfield remediation and revitalization program shall have no liability to the state or any [third party] person for any future investigation and remediation of the release of any regulated substance at the eligible property addressed in the verification or interim verification, provided the immediate prior owner has complied with any legal obligation such owner had with respect to investigation and remediation of releases at and from the property, and provided further the immediate prior owner shall retain any and all liability such immediate prior owner would otherwise have for the investigation and remediation of the release of any regulated substance beyond the boundary of the eligible property. In any event, the immediate prior owner shall remain liable for (A) penalties or fines, if any, relating to the release of any regulated substance at or from the eligible property, (B) costs and expenses, if any, recoverable or reimbursable pursuant to sections 22a-134b, 22a-451 and 22a-452, and (C) obligations of the immediate prior owner as a certifying party on a Form III or IV submitted pursuant to sections 22a-134 to 22a-134e,

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inclusive, as amended by this act.

[(o)] (n) A person whose application to the brownfield remediation and revitalization program has been accepted by the commissioner or any subsequent eligible party whose application to the brownfield remediation and revitalization program has been accepted by the commissioner shall be exempt for filing as an establishment pursuant to sections 22a-134a to 22a-134d, inclusive, if such real property or prior business operations constitute an establishment. Nothing in this section shall be construed to alter any existing legal requirement applicable to any certifying party at a property under sections 22a-134 and 22a-134a to 22a-134e, inclusive, as amended by this act.

[(p)] (o) Notwithstanding the provisions of this section, eligible parties shall investigate and remediate, and remain subject to all applicable statutes and requirements, the extent of any new release that occurs during their ownership of the property.

Sec. 11. Section 12-65e of the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2013*):

Any municipality which has adopted a resolution, in accordance with the provisions of section 12-65d, designating such municipality or any part thereof as a rehabilitation area, may, upon application of the owner of any real property located in such area who agrees to rehabilitate such property or construct (1) new multifamily rental housing or cooperative housing on such property, or (2) if such property is a brownfield, as defined in [section 32-9cc] section 1 of this act, new multifamily rental housing, cooperative housing, common interest communities or mixed-use or commercial structures on such property, enter into an agreement to fix the assessment of the property, during the period of rehabilitation or construction, as of the date of the agreement, but for not longer than seven years, and upon completion of such rehabilitation or construction, to defer any increase in

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assessment attributable to such rehabilitation or construction for a period not to exceed eleven years, contingent upon the continued use of the property for the purposes specified in the agreement, provided such property meets the criteria established by such municipality in accordance with section 12-65d and provided further such deferral shall be determined as follows: For the first year following completion of such rehabilitation or construction, the entire increase shall be deferred; thereafter a minimum of ten per cent of the increase shall be assessed against the property each year until one hundred per cent of such increase has been so assessed. The agreement shall provide that, in the event of a general revaluation by the municipality in the year in which such rehabilitation or construction is completed resulting in any increase in the assessment on such property, only that portion of the increase resulting from such rehabilitation or construction shall be deferred; and in the event of a general revaluation in any year after the year in which such rehabilitation or construction is completed, such deferred assessment shall be increased or decreased in proportion to the increase or decrease in the total assessment on such property as a result of such general revaluation. Such agreement shall further provide that such rehabilitation or construction shall be completed by a date fixed by the municipality and that the completed rehabilitation or construction shall be subject to inspection and certification by the local building official as being in conformance with the criteria established under section 12-65d and such provisions of the state building and health codes and the local housing code as may apply. Any such tax deferral shall be contingent upon the continued use of the property for those purposes specified in the agreement creating such deferral and such deferral shall cease upon the sale or transfer of the property for any other purpose unless the municipality shall have consented thereto.

Sec. 12. Subsection (a) of section 12-217mm of the general statutes is repealed and the following is substituted in lieu thereof (*Effective July*

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1, 2013):

(a) As used in this section:

(1) "Allowable costs" means the amounts chargeable to a capital account, including, but not limited to: (A) Construction or rehabilitation costs; (B) commissioning costs; (C) architectural and engineering fees allocable to construction or rehabilitation, including energy modeling; (D) site costs, such as temporary electric wiring, scaffolding, demolition costs and fencing and security facilities; and (E) costs of carpeting, partitions, walls and wall coverings, ceilings, lighting, plumbing, electrical wiring, mechanical, heating, cooling and ventilation but "allowable costs" does not include the purchase of land, any remediation costs or the cost of telephone systems or computers;

(2) "Brownfield" has the same meaning as in [subsection (g) of section 32-9cc] section 1 of this act;

(3) "Eligible project" means a real estate development project that is designed to meet or exceed the applicable LEED Green Building Rating System gold certification or other certification determined by the Commissioner of Energy and Environmental Protection to be equivalent, but if a single project has more than one building, "eligible project" means only the building or buildings within such project that is designed to meet or exceed the applicable LEED Green Building Rating System gold certification or other certification determined by the Commissioner of Energy and Environmental Protection to be equivalent;

(4) "Energy Star" means the voluntary labeling program administered by the United States Environmental Protection Agency designed to identify and promote energy-efficient products, equipment and buildings;

(5) "Enterprise zone" means an area in a municipality designated by

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the Commissioner of Economic and Community Development as an enterprise zone in accordance with the provisions of section 32-70;

(6) "LEED Accredited Professional Program" means the professional accreditation program for architects, engineers and other building professionals as administered by the United States Green Building Council;

(7) "LEED Green Building Rating System" means the Leadership in Energy and Environmental Design green building rating system developed by the United States Green Building Council as of the date that the project is registered with the United States Green Building Council;

(8) "Mixed-use development" means a development consisting of one or more buildings that includes residential use and in which no more than seventy-five per cent of the interior square footage has at least one of the following uses: (A) Commercial use; (B) office use; (C) retail use; or (D) any other nonresidential use that the Secretary of the Office of Policy and Management determines does not pose a public health threat or nuisance to nearby residential areas;

(9) "Secretary" means the Secretary of the Office of Policy and Management; and

(10) "Site improvements" means any construction work on, or improvement to, streets, roads, parking facilities, sidewalks, drainage structures and utilities.

Sec. 13. Subsection (a) of section 12-81r of the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2013*):

(a) Any municipality may (1) enter into an agreement with the owner of any real property to abate the property tax due as of the date

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of the agreement for a period not to exceed seven years if the property has been subject to a spill, as defined in section 22a-452c, and the owner agrees to conduct any environmental site assessment, demolition and remediation of the spill necessary to redevelop the property. Any such tax abatement shall only be for the period of remediation and redevelopment and shall be contingent upon the continuation and completion of the remediation and redevelopment process with respect to the purposes specified in the agreement. The abatement shall cease upon the sale or transfer of the property for any other purpose unless the municipality consents to its continuation. The municipality may also establish a recapture provision in the event of sale provided such recapture shall not exceed the original amount of taxes abated and may not go back further than the date of the agreement; (2) forgive all or a portion of the principal balance and interest due on delinquent property taxes for the benefit of any prospective purchaser who has obtained an environmental investigation or remediation plan approved by the Commissioner of Energy and Environmental Protection or a licensed environmental professional under section 22a-133w, 22a-133x or 22a-133y and completes such remediation plan for an establishment, as defined in section 22a-134, as amended by this act, deemed by the municipality to be abandoned or a brownfield, as defined in [subdivision (1) of subsection (a) of section 32-9kk] section 1 of this act; or (3) enter into an agreement with the owner of any real property to fix the assessment of the property as of the last assessment date prior to commencement of remediation activities for a period not to exceed seven years, provided the property has been the subject of a remediation approved by the Commissioner of Energy and Environmental Protection or verified by a licensed environmental professional pursuant to section 22a-133w, 22a-133x, 22a-133y or 22a-134, as amended by this act.

Sec. 14. Subsection (c) of section 22a-2d of the general statutes is repealed and the following is substituted in lieu thereof (*Effective July*

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1, 2013):

(c) Wherever the words "Commissioner of Environmental Protection" are used or referred to in the following sections of the general statutes, the words "Commissioner of Energy and Environmental Protection" shall be substituted in lieu thereof: 3-7, 3-100, 4-5, 4-168, 4a-57, 4a-67d, 4b-15a, 4b-21, 5-238a, 7-121d, 7-131, 7-131a, 7-131d, 7-131e, 7-131f, 7-131g, 7-131i, 7-131l, 7-131t, 7-131u, 7-136h, 7-137c, 7-147, 7-151a, 7-151b, 7-245, 7-246, 7-246f, 7-247, 7-249a, 7-323o, 7-374, 7-487, 8-336f, 10-231b, 10-231c, 10-231d, 10-231g, 10-382, 10-388, 10-389, 10-391, 12-81, 12-81r, as amended by this act, 12-107d, 12-217mm, as amended by this act, 12-263m, 12-407, 12-412, 13a-80i, 13a-94, 13a-142a, 13a-142b, 13a-142e, 13a-175j, 13b-11a, 13b-38x, 13b-51, 13b-56, 13b-57, 13b-329, 14-21e, 14-21i, 14-21s, 14-65a, 14-67l, 14-80a, 14-100b, 14-164c, 14-164h, 14-164i, 14-164k, 14-164o, 15-11a, 15-121, 15-125, 15-127, 15-130, 15-133a, 15-133c, 15-140a, 15-140c, 15-140d, 15-140e, 15-140f, 15-140j, 15-140o, 15-140u, 15-140v, 15-141, 15-142, 15-143, 15-144, 15-145, 15-149a, 15-149b, 15-150a, 15-151, 15-154, 15-154a, 15-155, 15-155d, 15-156, 15-174, 16-2, 16-11a, 16-19e, 16-19g, 16-50c, 16-50d, 16-50j, 16-261a, 16a-3, 16a-21a, 16a-27, 16a-35h, 16a-38k, 16a-103, 16a-106, 19a-35a, 19a-47, 19a-102a, 19a-330, 19a-341, 21-84b, 22-6c, 22-11h, 22-26cc, 22-81a, 22-91c, 22-350a, 22-358, 22a-1g, 22a-2a, 22a-5b, 22a-5c, 22a-6, as amended by this act, 22a-6a, 22a-6b, 22a-6e, 22a-6f, 22a-6g, 22a-6h, 22a-6i, 22a-6j, 22a-6k, 22a-6l, 22a-6m, 22a-6n, 22a-6p, 22a-6s, 22a-6u, as amended by this act, 22a-6v, 22a-6w, 22a-6y, 22a-6z, 22a-6aa, 22a-6bb, 22a-6cc, 22a-7a, 22a-7b, 22a-8a, 22a-10, 22a-13, 22a-16a, 22a-21, 22a-21b, 22a-21c, 22a-21d, 22a-21h, 22a-21j, 22a-22, 22a-25, 22a-26, 22a-27, 22a-27f, 22a-27l, 22a-27p, 22a-27r, 22a-27s, 22a-27t, 22a-27u, 22a-27v, 22a-27w, 22a-29, 22a-35a, 22a-38, 22a-42a, 22a-44, 22a-45a, 22a-45b, 22a-45c, 22a-45d, 22a-47, 22a-54, 22a-54a, 22a-56a, 22a-66a, 22a-66c, 22a-66j, 22a-66k, 22a-66l, 22a-66y, 22a-66z, 22a-68, 22a-93, 22a-106a, 22a-109, 22a-113n, 22a-113t, 22a-114, 22a-115, 22a-118, 22a-122, 22a-133a, 22a-133b, 22a-133k, 22a-133l, 22a-133m, 22a-133n, 22a-133u, as amended by this

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act, 22a-133v, 22a-133w, 22a-133y, 22a-133z, 22a-133aa, as amended by this act, 22a-133bb, 22a-133ee, 22a-134, as amended by this act, 22a-134e, 22a-134f, 22a-134g, 22a-134h, 22a-134i, 22a-134k, 22a-134l, 22a-134m, 22a-134n, 22a-134p, 22a-134s, 22a-135, 22a-136, 22a-137, 22a-148, 22a-149, 22a-150, 22a-151, 22a-153, 22a-154, 22a-155, 22a-156, 22a-158, 22a-160, 22a-162, 22a-170, 22a-171, 22a-173, 22a-174c, 22a-174d, 22a-174e, 22a-174f, 22a-174g, 22a-174h, 22a-174i, 22a-174j, 22a-174k, 22a-174l, 22a-174m, 22a-180, 22a-182a, 22a-183, 22a-186, 22a-188, 22a-188a, 22a-191, 22a-191a, 22a-192, 22a-193, 22a-194a, 22a-194c, 22a-194f, 22a-198, 22a-199, 22a-200, 22a-200a, 22a-200b, 22a-200c, 22a-201a, 22a-201b, 22a-207, 22a-208a, 22a-208b, 22a-208d, 22a-208e, 22a-208f, 22a-208g, 22a-208h, 22a-208j, 22a-208o, 22a-208p, 22a-208q, 22a-208v, 22a-208w, 22a-208x, 22a-208y, 22a-208aa, 22a-208bb, 22a-209a, 22a-209b, 22a-209d, 22a-209f, 22a-209g, 22a-209h, 22a-209i, 22a-213a, 22a-214, 22a-219b, 22a-219c, 22a-219e, 22a-220, 22a-220a, 22a-220d, 22a-222, 22a-223, 22a-225, 22a-227, 22a-228, 22a-230, 22a-231, 22a-233a, 22a-235, 22a-235a, 22a-237, 22a-238, 22a-239, 22a-240, 22a-240a, 22a-241, 22a-241a, 22a-241b, 22a-241g, 22a-241h, 22a-241j, 22a-245, 22a-245a, 22a-245b, 22a-245d, 22a-248, 22a-250, 22a-250a, 22a-250b, 22a-250c, 22a-252, 22a-255b, 22a-255c, 22a-255d, 22a-255f, 22a-255h, 22a-256b, 22a-256c, 22a-256i, 22a-256m, 22a-256o, 22a-256q, 22a-256r, 22a-256v, 22a-256y, 22a-256aa, 22a-260, 22a-264, 22a-283, 22a-285a, 22a-285d, 22a-285e, 22a-285g, 22a-285h, 22a-285j, 22a-295, 22a-300, 22a-308, 22a-309, 22a-314, 22a-315, 22a-316, 22a-317, 22a-318, 22a-319, 22a-320, 22a-321, 22a-322, 22a-324, 22a-326, 22a-328, 22a-336, 22a-337, 22a-339a, 22a-339b, 22a-339c, 22a-339d, 22a-339f, 22a-339g, 22a-339h, 22a-342a, 22a-349, 22a-349a, 22a-351, 22a-352, 22a-354b, 22a-354c, 22a-354d, 22a-354e, 22a-354f, 22a-354h, 22a-354i, 22a-354j, 22a-354k, 22a-354l, 22a-354p, 22a-354q, 22a-354t, 22a-354u, 22a-354v, 22a-354w, 22a-354x, 22a-354z, 22a-354aa, 22a-354bb, 22a-354cc, 22a-355, 22a-357, 22a-359, 22a-361, 22a-361a, 22a-363b, 22a-364, 22a-367, 22a-368a, 22a-378a, 22a-381, 22a-401, 22a-402, 22a-406, 22a-409, 22a-416, 22a-423, 22a-426, 22a-430b, 22a-430c, 22a-434a, 22a-439, 22a-439a, 22a-444, 22a-445, 22a-449, 22a-449e, 22a-449f, 22a-449g, 22a-449h, 22a-449i,

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22a-449j, 22a-449k, 22a-449l, 22a-449n, 22a-449p, 22a-449q, 22a-450a, 22a-452a, 22a-452e, 22a-453a, 22a-454c, 22a-457a, 22a-457b, 22a-458, 22a-459, 22a-461, 22a-462, 22a-463, 22a-471, 22a-472, 22a-474, 22a-475, 22a-482, 22a-485, 22a-497, 22a-500, 22a-501, 22a-517, 22a-521, 22a-522, 22a-523, 22a-524, 22a-525, 22a-526, 22a-527, 22a-601, 22a-602, 22a-605, 22a-613, 22a-616, 22a-626, 22a-627, 22a-629, 22a-630, 22a-634, 22a-637, 22a-638, 22a-902, 23-4, 23-5, 23-5b, 23-6, 23-7, 23-8, 23-8b, 23-9a, 23-9b, 23-10, 23-10b, 23-10c, 23-10e, 23-10i, 23-11, 23-12, 23-13, 23-14, 23-15a, 23-15b, 23-16, 23-16a, 23-17, 23-18, 23-20, 23-21, 23-22, 23-23, 23-24, 23-24a, 23-25, 23-26b, 23-26c, 23-26d, 23-26f, 23-26g, 23-30, 23-31, 23-32, 23-32a, 23-33, 23-37a, 23-37b, 23-41, 23-61a, 23-61b, 23-61f, 23-65, 23-65f, 23-65g, 23-65h, 23-65i, 23-65j, 23-65l, 23-65m, 23-65n, 23-65o, 23-65p, 23-65q, 23-73, 23-75, 23-77, 23-101, 23-102, 24-2, 25-33e, 25-33k, 25-33m, 25-33o, 25-34, 25-68b, 25-68i, 25-68k, 25-68l, 25-68m, 25-68n, 25-71, 25-72, 25-74, 25-76, 25-80, 25-83a, 25-94, 25-95, 25-97, 25-102a, 25-102d, 25-102e, 25-102f, 25-102t, 25-102ii, 25-102qq, 25-102xx, 25-109e, 25-109q, 25-131, 25-139, 25-155, 25-157, 25-178, 25-199, 25-199a, 25-201, 25-231, 26-1, 26-3, 26-3a, 26-3b, 26-3c, 26-5, 26-6, 26-6a, 26-7, 26-15, 26-17a, 26-18, 26-25a, 26-25b, 26-27, 26-27b, 26-27c, 26-27d, 26-28b, 26-29c, 26-30, 26-31, 26-31a, 26-40a, 26-40c, 26-46, 26-55, 26-65, 26-65a, 26-67b, 26-67c, 26-67e, 26-74, 26-80a, 26-86a, 26-86c, 26-86e, 26-91, 26-103, 26-107f, 26-107h, 26-107i, 26-115, 26-119, 26-141a, 26-141b, 26-141c, 26-142a, 26-142b, 26-157c, 26-157d, 26-157e, 26-157h, 26-157i, 26-159a, 26-186a, 26-192j, 26-297, 26-313, 26-314, 26-315, 26-316, 28-1b, 28-31, 29-32b, 32-1e, [32-9dd,] 32-9kk, 32-9ll, as amended by this act, 32-11a, 32-23x, 32-242, 32-242a, 32-664, 38a-684, 47-46a, 47-59b, 47-65, 47-65a, 47-66, 47-66d, 47-66g, 51-164n, 52-192, 52-473a, 53-190, 53a-44a, 53a-54b and 53a-217e.

Sec. 15. Subsection (d) of section 22a-2d of the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2013*):

(d) Wherever the words "Department of Environmental Protection"

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are used or referred to in the following sections of the general statutes, the words "Department of Energy and Environmental Protection" shall be substituted in lieu thereof: 1-84, 1-206, 1-217, 2-20a, 4-38c, 4-66c, 4-66aa, 4-89, 4a-53, 5-142, 7-131e, 7-151a, 7-151b, 7-252, 8-387, 10-282, 10-291, 10-413, 10a-119e, 12-63e, 12-263m, 13a-142b, 13a-142c, 13a-142d, 13b-38a, 14-386, 15-129, 15-130a, 15-140e, 15-140f, 15-140j, 15-154, 15-155, 16-19h, 16-19o, 16-50j, 16-50k, 16-50p, 16-243q, 16-244d, 16-244j, 16-245l, 16-245y, 16-262m, 16-262n, 19a-197b, 19a-320, 20-420, 21-84b, 22-11f, 22-11g, 22-11h, 22-26cc, 22-91e, 22-455, 22a-1d, 22a-2a, 22a-2c, 22a-5b, 22a-6, as amended by this act, 22a-6f, 22a-6g, 22a-6l, 22a-6p, 22a-6r, 22a-6u, as amended by this act, 22a-6x, 22a-6cc, 22a-10, 22a-11, 22a-20a, 22a-21, 22a-21a, 22a-21b, 22a-21c, 22a-21i, 22a-21j, 22a-21k, 22a-22, 22a-25, 22a-26, 22a-26a, 22a-27j, 22a-27l, 22a-27s, 22a-29, 22a-33, 22a-40, 22a-47a, 22a-58, 22a-61, 22a-66z, 22a-68, 22a-115, 22a-118, 22a-119, 22a-122, 22a-123, 22a-126, 22a-132, 22a-133v, 22a-133w, 22a-134i, 22a-135, 22a-170, 22a-174, 22a-174l, 22a-186, 22a-188a, 22a-196, 22a-198, 22a-200b, 22a-200c, 22a-200d, 22a-207, 22a-208a, 22a-209f, 22a-223, 22a-233a, 22a-239a, 22a-244, 22a-245a, 22a-247, 22a-248, 22a-250, 22a-255h, 22a-256m, 22a-256y, 22a-259, 22a-260, 22a-264, 22a-275, 22a-314, 22a-315, 22a-336, 22a-352, 22a-355, 22a-361, 22a-363b, 22a-416, 22a-426, 22a-446, 22a-449f, 22a-449l, 22a-449n, 22a-454a, 22a-475, 22a-477, 22a-509, 22a-521, 22a-601, 22a-629, 22a-630, 22a-635, 23-5c, 23-8, 23-8b, 23-10b, 23-10d, 23-15, 23-15b, 23-19, 23-20, 23-24a, 23-32a, 23-61a, 23-65f, 23-65h, 23-65i, 23-65k, 23-67, 23-68, 23-72, 23-73, 23-101, 23-102, 23-103, 25-32d, 25-33p, 25-37d, 25-37e, 25-37i, 25-43c, 25-102e, 25-102f, 25-128, 25-131, 25-157, 25-157a, 25-157b, 25-157n, 25-175, 25-201, 25-206, 25-231, 26-6a, 26-15, 26-15a, 26-15b, 26-17a, 26-27b, 26-31, 26-40a, 26-55, 26-55a, 26-59, 26-66a, 26-66b, 26-72, 26-86f, 26-105, 26-142a, 26-157d, 26-192k, 26-300, 26-304, 26-314, 28-31, 29-28, 29-36f, 30-55a, 32-1e, 32-9t, [32-9dd,] 32-9kk, 32-9ll, 32-11a, 32-23d, 32-23x, 32-242, 32-242a, 32-726, as amended by this act, 46b-220, 47-46a, 47-64, 52-557b, 53-204, 53-205, 53-206d, 53a-44a, 53a-217e, 54-56g and 54-143.

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Sec. 16. Subsections (i) to (k), inclusive, of section 22a-6 of the general statutes are repealed and the following is substituted in lieu thereof (*Effective July 1, 2013*):

(i) Notwithstanding the provisions of subsection (a) of this section, no person shall be required to pay any fee established by the commissioner pursuant to section 22a-133x, 22a-133aa, as amended by this act, 22a-134a or 22a-134e for any new or pending application, provided such person has received financial assistance from any department, institution, agency or authority of the state for the purpose of investigation or remediation, or both, of a brownfield, [site, as defined in section 32-9kk] as defined in section 1 of this act, and such activity would otherwise require a fee to be paid to the commissioner for the activity conducted with such financial assistance.

(j) Notwithstanding the provisions of subsection (a) of this section, no department, institution, agency or authority of the state or the state system of higher education shall be required to pay any fee established by the commissioner pursuant to section 22a-133x, 22a-133aa, as amended by this act, 22a-134a or 22a-134e for any new or pending application, provided such division of the state is conducting an investigation or remediation, or both, of a brownfield, [site, as defined in section 32-9kk] as defined in section 1 of this act, and siting a state facility on such brownfield site.

(k) Notwithstanding the provisions of subsection (a) of this section, no person shall be required to pay any fee associated with a brownfield, as defined in [section 32-9kk] section 1 of this act, due to the commissioner resulting from the actions of another party prior to their acquisition of such brownfield, provided such person intends to investigate and remediate such brownfield.

Sec. 17. Subsection (b) of section 22a-133u of the general statutes is repealed and the following is substituted in lieu thereof (*Effective July*

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1, 2013):

(b) The Commissioner of Economic and Community Development may use any funds deposited into the Special Contaminated Property Remediation and Insurance Fund pursuant to section 3 of public act 96-250 for (1) loans to municipalities, individuals or firms for Phase II environmental site assessments, Phase III investigations of real property or for any costs of demolition, including related lead and asbestos removal or abatement costs or costs related to the remediation of environmental pollution, undertaken to prepare contaminated real property for development subsequent to any Phase III investigation, (2) expenses related to administration of this subsection provided such expenses may not exceed one hundred twenty-five thousand dollars per year, (3) funding the remedial action and redevelopment municipal grant program established pursuant to [subsection (e) of] section 32-9kk, as amended by this act, and (4) funding the targeted brownfield development loan program developed pursuant to [subsection (f) of section 32-9kk] section 6 of this act.

Sec. 18. Subsection (g) of section 22a-133aa of the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2013*):

(g) Any prospective purchaser or municipality remediating property pursuant to the abandoned brownfield cleanup program established pursuant to section 32-9ll, as amended by this act, shall qualify for a covenant not to sue from the Commissioner of Energy and Environmental Protection without fee. Such covenant not to sue shall be transferable to subsequent owners provided the property is undergoing remediation or is remediated in accordance with subsection [(g)] (f) of [said] section 32-9ll, as amended by this act.

Sec. 19. Subdivision (1) of section 22a-134 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective July*

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1, 2013):

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

(A) Conveyance or extinguishment of an easement;

(B) Conveyance of an establishment through a foreclosure, as defined in subsection (b) of section 22a-452f, foreclosure of a municipal tax lien or through a tax warrant sale pursuant to section 12-157, an exercise of eminent domain pursuant to section 8-128, 8-169e or 8-193 or by condemnation pursuant to section 32-224 or purchase pursuant to a resolution by the legislative body of a municipality authorizing the acquisition through eminent domain for establishments that also meet the definition of a brownfield, as defined in section [32-9kk] 1 of this act, or a subsequent transfer by such municipality that has foreclosed on the property, foreclosed municipal tax liens or that has acquired title to the property through section 12-157, or is within the pilot program established in subsection (c) of section 32-9cc of the general statutes, revision of 1958, revised to January 1, 2013, or the remedial action and redevelopment municipal grant program established in section 32-9kk, as amended by this act, or has acquired such property through the exercise of eminent domain pursuant to section 8-128, 8-169e or 8-193 or by condemnation pursuant to section 32-224 or a resolution adopted in accordance with this subparagraph, provided (i) the party acquiring the property from the municipality did not establish, create or contribute to the contamination at the establishment and is not affiliated with any person who established, created or contributed to such contamination or with any person who is or was an owner or certifying party for the establishment, and (ii) on or before the date the party acquires the property from the municipality, such party or municipality enters and subsequently remains in the voluntary remediation program administered by the commissioner

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pursuant to section 22a-133x and remains in compliance with schedules and approvals issued by the commissioner. For purposes of this subparagraph, subsequent transfer by a municipality includes any transfer to, from or between a municipality, municipal economic development agency or entity created or operating under chapter 130 or 132, a nonprofit economic development corporation formed to promote the common good, general welfare and economic development of a municipality that is funded, either directly or through in-kind services, in part by a municipality, or a nonstock corporation or limited liability company controlled or established by a municipality, municipal economic development agency or entity created or operating under chapter 130 or 132;

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

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

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

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

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

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

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

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

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

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

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

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

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

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(P) Any conveyance of an establishment to any entity created or operating under chapter 130 or 132, or to an urban rehabilitation agency, as defined in section 8-292, or to a municipality under section 32-224, or to Connecticut Innovations, Incorporated or any subsidiary of the corporation;

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

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

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

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

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

(V) Conveyance of any real property or business operation that would qualify as an establishment solely as a result of (i) the generation of more than one hundred kilograms of universal waste in a calendar month, (ii) the storage, handling or transportation of universal waste generated at a different location, or (iii) activities undertaken at a universal waste transfer facility, provided any such real property or business operation does not otherwise qualify as an establishment; there has been no discharge, spillage, uncontrolled loss, seepage or filtration of a universal waste or a constituent of universal

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waste that is a hazardous substance at or from such real property or business operation; and universal waste is not also recycled, treated, except for treatment of a universal waste pursuant to 40 CFR 273.13(a)(2) or (c)(2) or 40 CFR 273.33 (a)(2) or (c)(2), or disposed of at such real property or business operation;

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

(X) Acquisition of an establishment that is in the abandoned brownfield cleanup program established pursuant to section 32-9ll, as amended by this act, and all subsequent transfers of the establishment, provided the establishment is undergoing remediation or is remediated in accordance with subsection [(g)] (f) of [said] section 32-9ll, as amended by this act;

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

(Z) Acquisition of an establishment that is in the brownfield remediation and revitalization program and all subsequent transfers of the establishment, provided the establishment is in compliance with the brownfield investigation plan and remediation schedule, the commissioner has issued a no audit letter or successful audit closure letter in response to a verification or interim verification submitted regarding the remediation of such establishment under the brownfield remediation and revitalization program, or one hundred eighty days has expired since a verification or interim verification submitted regarding the remediation of such establishment under the brownfield remediation and revitalization program without an audit decision from the Commissioner of Energy and Environmental Protection;

(AA) Conveyance of an establishment in connection with the acquisition of properties to effectuate the development of a project

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certified and approved pursuant to section 32-9v, provided any such property is investigated and remediated in accordance with section 22a-133y; or

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

Sec. 20. Subdivision (1) of section 22a-134 of the general statutes, as amended by section 53 of public act 11-241, section 7 of public act 12-32, section 7 of public act 12-183 and section 3 of public act 12-196, is repealed and the following is substituted in lieu thereof (*Effective January 1, 2014*):

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

(A) Conveyance or extinguishment of an easement;

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(B) Conveyance of an establishment through a foreclosure, as defined in subsection (b) of section 22a-452f, foreclosure of a municipal tax lien or through a tax warrant sale pursuant to section 12-157, an exercise of eminent domain pursuant to section 8-128, 8-169e or 8-193 or by condemnation pursuant to section 32-224 or purchase pursuant to a resolution by the legislative body of a municipality authorizing the acquisition through eminent domain for establishments that also meet the definition of a brownfield, as defined in section [32-9kk] 1 of this act, or a subsequent transfer by such municipality that has foreclosed on the property, foreclosed municipal tax liens or that has acquired title to the property through section 12-157, or is within the pilot program established in subsection (c) of section 32-9cc of the general statutes, revision of 1958, revised to January 1, 2013, or the remedial action and redevelopment municipal grant program established in section 32-9kk, as amended by this act, or has acquired such property through the exercise of eminent domain pursuant to section 8-128, 8-169e or 8-193 or by condemnation pursuant to section 32-224 or a resolution adopted in accordance with this subparagraph, provided (i) the party acquiring the property from the municipality did not establish, create or contribute to the contamination at the establishment and is not affiliated with any person who established, created or contributed to such contamination or with any person who is or was an owner or certifying party for the establishment, and (ii) on or before the date the party acquires the property from the municipality, such party or municipality enters and subsequently remains in the voluntary remediation program administered by the commissioner pursuant to section 22a-133x and remains in compliance with schedules and approvals issued by the commissioner. For purposes of this subparagraph, subsequent transfer by a municipality includes any transfer to, from or between a municipality, municipal economic development agency or entity created or operating under chapter 130 or 132, a nonprofit economic development corporation formed to promote the common good, general welfare and economic

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development of a municipality that is funded, either directly or through in-kind services, in part by a municipality, or a nonstock corporation or limited liability company controlled or established by a municipality, municipal economic development agency or entity created or operating under chapter 130 or 132;

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

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

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

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

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

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

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

(J) The transfer of stock, securities or other ownership interests

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representing less than forty per cent of the ownership of the entity that owns or operates the establishment;

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

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

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

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

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

(P) Any conveyance of an establishment to any entity created or operating under chapter 130 or 132, or to an urban rehabilitation agency, as defined in section 8-292, or to a municipality under section 32-224, or to Connecticut Innovations, Incorporated or any subsidiary of the corporation;

(Q) Any conveyance of a parcel in connection with the acquisition of

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properties to effectuate the development of the overall project, as defined in section 32-651;

(R) The conversion of a general or limited partnership to a limited liability company;

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

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

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

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

(W) Conveyance of a unit in a residential common interest

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community in accordance with section 22a-134i;

(X) Acquisition of an establishment that is in the abandoned brownfield cleanup program established pursuant to section 32-9ll, as amended by this act, and all subsequent transfers of the establishment, provided the establishment is undergoing remediation or is remediated in accordance with subsection [(g)] (f) of [said] section 32-9ll, as amended by this act;

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

(Z) Acquisition of an establishment that is in the brownfield remediation and revitalization program and all subsequent transfers of the establishment, provided the establishment is in compliance with the brownfield investigation plan and remediation schedule, the commissioner has issued a no audit letter or successful audit closure letter in response to a verification or interim verification submitted regarding the remediation of such establishment under the brownfield remediation and revitalization program, or a one-hundred-eighty-day period has expired since a verification or interim verification submitted regarding the remediation of such establishment under the brownfield remediation and revitalization program without an audit decision from the Commissioner of Energy and Environmental Protection;

(AA) Conveyance of an establishment in connection with the acquisition of properties to effectuate the development of a project certified and approved pursuant to section 32-9v, provided any such property is investigated and remediated in accordance with section 22a-133y; or

(BB) Conveyance from the Department of Transportation to the Connecticut Airport Authority of any properties comprising (i)

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Bradley International Airport and all related improvements and facilities now in existence and as hereafter acquired, added, extended, improved and equipped, including any property or facilities purchased with funds of, or revenues derived from, Bradley International Airport, and any other property or facilities allocated by the state, the Connecticut Airport Authority or otherwise to Bradley International Airport, (ii) the state-owned and operated general aviation airports, including Danielson Airport, Groton/New London Airport, Hartford Brainard Airport, Waterbury-Oxford Airport and Windham Airport and any such other airport as may be owned, operated or managed by the Connecticut Airport Authority and designated as general aviation airports, (iii) any other airport as may be owned, operated or managed by the Connecticut Airport Authority, and (iv) any airport site or any part thereof, including, but not limited to, any restricted landing areas and any air navigation facilities.

Sec. 21. Subsection (e) of section 25-68d of the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2013*):

(e) The use of a mill that is located on a brownfield, as defined in section [32-9kk] 1 of this act, shall be exempt from the certification requirements of subdivision (4) of subsection (b) of this section, provided the agency demonstrates: (1) The activity is subject to the environmental remediation requirements of the regulations adopted pursuant to section 22a-133k, (2) the activity is limited to the areas of the property where historical mill uses occurred, (3) any critical activity is above the five-hundred-year flood elevation, and (4) the activity complies with the provisions of the National Flood Insurance Program.

Sec. 22. Subdivision (8) of subsection (a) of section 32-1m of the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2013*):

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(8) (A) A summary of the department's brownfield-related efforts and activities within the Office of Brownfield Remediation and Development established pursuant to subsections (a) to [(f)] (d), inclusive, of section 32-9cc in the preceding state fiscal year, except for activity under the Special Contaminated Property Remediation and Insurance Fund program. Such efforts shall include, but not be limited to, (i) total portfolio investment in brownfield remediation projects, (ii) total investment in brownfield remediation projects in the preceding state fiscal year, (iii) total number of brownfield remediation projects, (iv) total number of brownfield remediation projects in the preceding state fiscal year, (v) total of reclaimed and remediated acreage, (vi) total of reclaimed and remediated acreage in the preceding state fiscal year, (vii) leverage ratio for the total portfolio investment in brownfield remediation projects, and (viii) leverage ratio for the total portfolio investment in brownfield remediation projects in the preceding state fiscal year. Such summary shall include a list of such brownfield remediation projects and, for each such project, the name of the developer and the location by street address and municipality and a tracking of all funds administered through or by said office;

(B) A summary of the department's efforts with regard to the Special Contaminated Property Remediation and Insurance Fund, including, but not limited to, (i) the number of applications received in the preceding state fiscal year, (ii) the number and amounts of loans made in such year, (iii) the names of the applicants for such loans, (iv) the average time period between submission of application and the decision to grant or deny the loan, (v) a list of the applications approved and the applications denied and the reasons for such denials, and (vi) for each project, the location by street address and municipality; and

(C) A summary of the department's efforts with regard to the dry cleaning grant program, established pursuant to section 12-263m,

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including, but not limited to, (i) information as to the number of applications received, (ii) the number and amounts of grants made since the inception of the program, (iii) the names of the applicants, (iv) the time period between submission of application and the decision to grant or deny the loan, (v) which applications were approved and which applications were denied and the reasons for any denials, and (vi) a recommendation as to whether the surcharge and grant program established pursuant to section 12-263m should continue.

Sec. 23. Section 32-22b of the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2013*):

Connecticut Innovations, Incorporated may establish a loan guarantee program to provide guarantees of not more than thirty per cent of the loan to lenders who provide financing to [eligible developers or eligible property owners as defined in subsection (a) of section 32-9kk] recipients of financial assistance pursuant to section 32-9kk, as amended by this act, or section 6 of this act.

Sec. 24. Subsection (b) of section 32-276 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2013*):

(b) (1) The commissioner shall establish an office of the permit ombudsman for the purpose of expediting review of permit applications for projects that would (A) create at least one hundred jobs, (B) create fifty jobs, if such project is to be located in an enterprise zone designated pursuant to section 32-70, (C) be located in a brownfield, as defined in section [32-9cc] 1 of this act, (D) be compatible with the state's responsible growth initiatives, (E) be considered transit-oriented development, as defined in section 13b-79kk, (F) develop green technology business, or (G) meet the criteria set forth in subdivision (2) of this subsection. Projects ineligible for

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review under this section are projects for which the primary purpose is to (i) effect the final disposal of solid waste, biomedical waste or hazardous waste in this state, (ii) produce electrical power, unless the production of electricity is incidental and not the primary function of the project, (iii) extract natural resources, (iv) produce oil, or (v) construct, maintain or operate an oil, petroleum, natural gas or sewage pipeline. For purposes of this section, "responsible growth initiatives" includes the principles of smart growth, as defined in section 1 of public act 09-230, and "green technology business" means an eligible business with not less than twenty-five per cent of its employment positions being positions in which green technology is employed or developed and may include the occupation codes identified as green jobs by the Department of Economic and Community Development and the Labor Department for such purposes.

(2) Notwithstanding the provisions of subdivision (1) of this subsection, the commissioner may, upon consideration of the economic impact factors of the project that include, but are not limited to: (A) The proposed wage and skill levels relative to those existing in the area in which the project may be located, (B) the project's potential to diversify and strengthen the state and local economy, (C) the amount of capital investment, and (D) in the judgment of the commissioner, after consultation with the Departments of Energy and Environmental Protection, Transportation and Public Health that there is consistency with the strategic economic development priorities of the state and the municipality, deem projects eligible for expedited permitting pursuant to this section.

Sec. 25. Subsection (b) of section 32-329 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2013*):

(b) The proceeds of the sale of said bonds, to the extent of the amount stated in subsection (a) of this section, shall be used by the

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Department of Economic and Community Development for the purposes of [section] sections 32-328, 32-9kk, as amended by this act, and section 6 of this act.

Sec. 26. Section 2 of public act 10-135, as amended by section 15 of public act 11-141 and section 12 of public act 12-183, is repealed and the following is substituted in lieu thereof (*Effective from passage*):

(a) There is established a working group to examine the remediation and development of brownfields in this state, including, but not limited to, the remediation scheme for such properties, permitting issues and liability issues, including those set forth by sections 22a-14 to 22a-20, inclusive, of the general statutes.

(b) The working group shall consist of the following [thirteen] members, each of whom shall have expertise related to brownfield redevelopment in environmental law, engineering, finance, development, consulting, insurance or another relevant field:

(1) Four appointed by the Governor;

(2) [One] Two appointed by the president pro tempore of the Senate, one of whom shall represent the Connecticut Conference of Municipalities;

(3) [One] Two appointed by the speaker of the House of Representatives, one of whom shall represent an environmental organization;

(4) One appointed by the majority leader of the Senate;

(5) One appointed by the majority leader of the House of Representatives;

(6) One appointed by the minority leader of the Senate;

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(7) One appointed by the minority leader of the House of Representatives;

(8) The Commissioner of Economic and Community Development, or the commissioner's designee, who shall serve ex officio;

(9) The Commissioner of Energy and Environmental Protection, or the commissioner's designee, who shall serve ex officio; [and]

(10) The Secretary of the Office of Policy and Management, or the secretary's designee, who shall serve ex officio; and

(11) The Commissioner of Public Health, or the commissioner's designee, who shall serve ex officio.

(c) Any member of the working group as of the effective date of this section shall continue to serve and all new appointments to the working group shall be made no later than thirty days after the effective date of this section. Any vacancy shall be filled by the appointing authority.

(d) The working group shall select chairpersons of the working group. Such chairpersons shall schedule the first meeting of the working group, which shall be held no later than sixty days after the effective date of this section.

(e) On or before January 15, [2013] 2015, the working group shall report, in accordance with the provisions of section 11-4a of the general statutes, on its findings and recommendations to the Governor and the joint standing committees of the General Assembly having cognizance of matters relating to commerce and the environment.

Sec. 27. (*Effective July 1, 2013*) Any funds in (1) the Connecticut brownfields remediation account established pursuant to section 32-9ff of the general statutes, revision of 1958, revised to January 1, 2013, (2)

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the Brownfield Remediation and Development Account established pursuant to subsection (1) of section 32-9kk of the general statutes, revision of 1958, revised to January 1, 2013, or (3) any other account from which the Commissioner of Economic and Community Development may use funds to provide financial assistance for the remediation or development of brownfields shall be transferred to the brownfield remediation and development account established pursuant to section 3 of this act and shall become part of the assets of said account.

Sec. 28. (NEW) (*Effective from passage*) The Commissioner of Energy and Environmental Protection, in consultation with the Commissioner of Public Health, shall evaluate risk-based decision making related to the remediation of contaminated sites. The commissioner shall, within existing resources, engage independent experts in the field, with broad national experience, to conduct such evaluation and prepare a report that includes an assessment of the existing process of risk-based decision making including risk assessment and risk management tools utilized to protect public health, general welfare and the environment. Such evaluation and report shall also include identification of best practices in ecological and human health risk assessment and risk management used by the United States Environmental Protection Agency and other regulatory agencies, and those published by the National Academy of Sciences. The commissioner shall provide opportunities for public review and input during the evaluation process. Upon completion of the evaluation and report, the commissioner shall consider the evaluation and report and make recommendations for statutory and regulatory changes to the risk-based decision making process including, but not limited to, those in section 22a-6u of the general statutes, as amended by this act, not later than October 1, 2014. For purposes of this section, "commissioner" means the Commissioner of Energy and Environmental Protection.

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Sec. 29. (NEW) (*Effective from passage*) Notwithstanding any provision of the general statutes, in any regulation that the Commissioner of Energy and Environmental Protection adopts on or after July 1, 2014, concerning the establishment of a unified clean-up program to address releases, including oil and hazardous substances, the commissioner shall include provisions that shorten the time frames within which the commissioner shall determine whether to audit a final verification submitted by a licensed environmental professional or other person, if authorized by law, and to indicate at the end of such process that no further action is required, including reopeners, as appropriate.

Sec. 30. (NEW) (*Effective July 1, 2013*) (a) For the purposes of this section:

(1) "Applicant" means any (A) municipality, (B) economic development agency or entity established pursuant to chapter 130 or 132 of the general statutes, (C) nonprofit economic development corporation formed to promote the common good, general welfare and economic development of a municipality and that is funded, either directly or through in-kind services, in part by a municipality, or (D) a nonstock corporation or limited liability company controlled or established by a municipality, municipal economic development agency or entity created or operating pursuant to chapter 130 or 132 of the general statutes;

(2) "Municipality" has the same meaning as provided in section 8-187 of the general statutes;

(3) "Brownfield" has the same meaning as provided in section 1 of this act;

(4) "Commissioner" means the Commissioner of Energy and Environmental Protection;

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(5) "Regulated substance" means any oil or petroleum or chemical liquid or solid, liquid or gaseous product or hazardous waste; and

(6) "Person" has the same meaning as provided in section 22a-2 of the general statutes.

(b) There is established a brownfield liability relief program to assist applicants with the redevelopment of eligible brownfields and to provide such applicants with liability relief for such brownfields. The Commissioner of Energy and Environmental Protection shall administer such relief program and accept brownfields into such program based on the eligibility criteria, as established in this section.

(c) Prior to acquiring a brownfield, any applicant may apply to the commissioner, on such forms as the commissioner prescribes, to obtain liability relief as described in subsection (d) of this section. Any brownfield shall be eligible for the program if the commissioner determines that: (1) The property is a brownfield; (2) such applicant intends to acquire title to such brownfield for the purpose of redeveloping or facilitating the redevelopment of such brownfield; (3) such applicant did not establish or create a facility or condition at or on such brownfield that can reasonably be expected to create a source of pollution, as defined in section 22a-423 of the general statutes, to the waters of the state; (4) such applicant is not affiliated with any person responsible for such pollution or source of pollution through any contractual, corporate or financial relationship other than a municipality's exercise of such municipality's police, regulatory or tax powers or a contractual relationship in which such person's interest in such brownfield will be conveyed or financed; (5) such applicant is not otherwise required by law, an order or consent order issued by the commissioner or a stipulated judgment to remediate pollution on or emanating from such brownfield; and (6) such brownfield and applicant meet any other criteria that said commissioner deems necessary.

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(d) (1) Upon the acceptance of any brownfield into such program by the commissioner and upon such applicant taking title to such property, such applicant shall not be liable to the state or any person for the release of any regulated substance at or from the eligible brownfield that occurred prior to such applicant taking title to such brownfield, except such applicant shall be liable to the state or any person to the extent that such applicant caused or contributed to the release of a regulated substance that is subject to remediation and to the extent that such applicant negligently or recklessly exacerbated the condition of such brownfield.

(2) Any applicant that owns a brownfield that is accepted in such brownfield liability relief program shall not be liable to the commissioner or any person under section 22a-427, 22a-430, 22a-432, 22a-433, 22a-451 or 22a-452 of the general statutes nor under any theory of common law for any prior existing condition on such brownfield or any existing condition on such brownfield property as of the date of taking title to such brownfield provided such applicant (A) did not establish, cause or contribute to the discharge, spillage, uncontrolled loss, seepage or filtration of such hazardous substance, material, waste or pollution, (B) does not exacerbate any such condition on such brownfield, (C) complies with the reporting and mitigation or abatement of significant environmental hazard requirements in section 22a-6u of the general statutes, as amended by this act, and (D) makes good faith efforts to minimize the risk to public health and the environment posed by such brownfield and the conditions or materials present at such brownfield. To the extent that any preexisting releases on such brownfield are exacerbated by such applicant, such applicant shall only be responsible for responding to contamination exacerbated by such applicant's negligent or reckless activities.

(e) After acceptance of any brownfield into such program by the

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commissioner and upon such applicant taking title to such property, such applicant shall (1) submit a plan and schedule that outlines an applicant's intention to facilitate the investigation, remediation and redevelopment of such brownfield; and (2) continue to minimize risk to public health and the environment potentially posed by such brownfield and the conditions and materials present at such brownfield.

(f) The commissioner shall determine whether an application submitted pursuant to this section is complete. If the commissioner determines that an application is complete and that such brownfield and applicant meet the requirements for eligibility, as established in subsection (c) of this section, the commissioner shall notify such applicant that such brownfield has been accepted into the brownfield liability relief program.

(g) Acceptance of a brownfield in such brownfield liability relief program shall not limit such applicant's or any other person's ability to seek funding for such brownfield under any other brownfield grant or loan program administered by the Department of Economic and Community Development, the Connecticut Brownfield Redevelopment Authority, or the Department of Energy and Environmental Protection.

(h) Acceptance of a brownfield in such brownfield liability relief program shall exempt such applicant from the requirement to file as an establishment pursuant to sections 22a-134a to 22a-134d, inclusive, of the general statutes, if such brownfield constitutes an establishment, as defined in section 22a-134 of the general statutes, as amended by this act.

Sec. 31. Subsections (a) to (g), inclusive, of section 22a-6u of the general statutes are repealed and the following is substituted in lieu thereof (*Effective July 1, 2015*):

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(a) For the purposes of this section:

(1) "Commissioner" means the Commissioner of Energy and Environmental Protection, or his designee;

(2) "Mitigation" means actions, including, but not limited to, placement of gravel or pavement, fencing, water filtration or such other interim measures, taken to control the contamination or condition that reasonably prevent exposure, including continuing inspection, maintenance or monitoring as necessary for the specific measures taken;

[(2)] (3) "Parcel" means a piece, tract or lot of land, together with buildings and other improvements situated thereon, a legal description of which piece, parcel, tract or lot is contained in a deed or other instrument of conveyance and which piece, tract or lot is not the subject of an order or consent order of the commissioner which involves requirements for investigation or reporting regarding environmental contamination;

[(3)] (4) "Person" means person, as defined in section 22a-2;

[(4)] (5) "Pollution" means pollution, as defined in section 22a-423;

[(5)] (6) "Release" means any discharge, uncontrolled loss, seepage, filtration, leakage, injection, escape, dumping, pumping, pouring, emitting, emptying or disposal of oil or petroleum or chemical liquids or solids, liquid or gaseous products or hazardous wastes;

[(6)] (7) "Residential activity" means any activity related to (A) a residence or dwelling, including, but not limited to, a house, apartment, or condominium, or (B) a school, hospital, day care center, playground or outdoor recreational area;

[(7)] (8) "Substance" means an element, compound or material

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which, when added to air, water, soil or sediment, may alter the physical, chemical, biological or other characteristics of such air, water, soil or sediment;

[(8)] (9) "Upgradient direction" means in the direction of an increase in hydraulic head; and

[(9)] (10) "Technical environmental professional" means an individual, including, but not limited to, an environmental professional licensed pursuant to section 22a-133v, who collects soil, water, vapor or air samples for purposes of investigating and remediating sources of pollution to soil or waters of the state and who may be directly employed by, or retained as a consultant by, a public or private employer.

(b) (1) If a technical environmental professional determines in the course of investigating or remediating pollution after [October 1, 1998] July 1, 2015, which pollution is on or emanating from a parcel, that such pollution is causing or has caused contamination of a public or private drinking water well with: [a] (A) A substance for which the Commissioner of Energy and Environmental Protection has established a [ground water] groundwater protection criterion in regulations adopted pursuant to section 22a-133k at a concentration above the [ground water] groundwater protection criterion for such substance, or (B) the presence of nonaqueous phase liquid, such professional shall notify his or her client and the owner of the parcel, if the owner of the parcel that is the source of such contamination can reasonably be identified, not later than twenty-four hours after determining that the contamination exists. If, seven days after such determination, the owner of the subject parcel has not notified the commissioner, the client of the professional shall notify the commissioner. If the owner notifies the commissioner, the owner shall provide documentation to the client of the professional which verifies that the owner has notified the commissioner.

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(2) The owner of a parcel on which exists a source of contamination to soil or waters of the state shall notify the commissioner if such owner becomes aware that such pollution is causing or has caused contamination of a private or public drinking water well with either (A) a substance for which the commissioner has established a [ground water] groundwater protection criterion in regulations adopted pursuant to section 22a-133k at a concentration at or above the [ground water] groundwater protection criterion for such substance, or (B) the presence of nonaqueous phase liquid. Notice under this section shall be given to the commissioner [(A) orally] verbally, not later than one business day after such person becomes aware that the contamination exists, and [(B)] in writing, not later than five days after such [oral] verbal notice.

(3) Not later than thirty days after the date the owner of such parcel that is the source of the contamination becomes aware of such contamination, such owner shall determine the presence of any other water supply wells located within five hundred feet of the polluted well by conducting a receptor survey and such owner shall seek access to sample drinking water supply wells that are located on adjacent parcels of property if such wells are within five hundred feet of the polluted well. If such access is granted, such owner shall sample and analyze the water quality of such wells. Not later than thirty days after becoming aware of such contamination, the owner of such parcel shall submit a report to the commissioner that includes proposals, as necessary, for further action to identify and eliminate exposure to contaminants on an ongoing basis.

(c) (1) If a technical environmental professional determines in the course of investigating or remediating pollution after [October 1, 1998] July 1, 2015, which pollution is on or emanating from a parcel, that such pollution is causing or has caused contamination of a public or private drinking water well with: (A) A substance for which the

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commissioner has established a [ground water] groundwater protection criterion in regulations adopted pursuant to section 22a-133k at a concentration less than such [ground water] groundwater protection criterion for such substance; or (B) any other substance resulting from the release which is the subject of the investigation or remediation, such professional shall notify his client and the owner of the parcel, if the owner can reasonably be identified, not later than seven days after determining that the contamination exists.

(2) The owner of a parcel on which exists a source of pollution to soil or the waters of the state shall notify the commissioner if such owner becomes aware that such pollution is causing or has caused contamination of a private or public drinking water well with: (A) A substance for which the commissioner has established a [ground water] groundwater protection criterion in regulations adopted pursuant to section 22a-133k at a concentration less than such [ground water] groundwater protection criterion for such substance; or (B) any other substance which was part of the release which caused such pollution. Notice under this subdivision shall be given in writing not later than [seven] thirty days after the time such person becomes aware that the contamination exists.

(3) Not later than thirty days after the date such owner becomes aware that such contamination exists, such owner shall perform confirmatory sampling of the well. Not later than thirty days after the date such owner becomes aware of such contamination pursuant to subdivision (1) of subsection (c) of this section, such owner shall submit a report concerning such confirmatory sampling to the commissioner that includes proposals, as necessary, for any further action to identify and eliminate exposure to contaminants on an ongoing basis. If such confirmatory sampling demonstrates a concentration above the groundwater protection criterion for such substance, such owner shall proceed in accordance with the provisions

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of subdivisions (2) and (3) of subsection (b) of this section.

(d) (1) If a technical environmental professional determines in the course of investigating or remediating pollution after [October 1, 1998] July 1, 2015, which pollution is on or emanating from a parcel, that such pollution of soil within two feet of the ground surface contains a substance [, except for total petroleum hydrocarbon,] at a concentration at or above thirty times the industrial/commercial direct exposure criterion for such substance if the parcel is in industrial or commercial use, or at or above fifteen times the industrial/commercial direct exposure criterion for antimony, arsenic, barium, beryllium, cadmium, chromium, copper, cyanide, lead, mercury, nickel, selenium, silver, thallium, vanadium, zinc or polychlorinated biphenyls, excluding arsenic or lead from the lawful application of pesticides, if the parcel is in industrial or commercial use and such soil pollution is not more than three hundred feet from any residence, school, park, playground or daycare facility, or at or above fifteen times the residential direct exposure criterion if the parcel is in residential use, which criteria are specified in regulations adopted pursuant to section 22a-133k, such professional shall notify his client and the owner of the parcel, if such owner is reasonably identified, not later than seven days after determining that the contamination exists, except that notice will not be required if [the] either: (A) The land-use of such parcel is not residential activity and the substance is one of the following: Acetone, 2-butanone, chlorobenzene, 1,2-dichlorobenzene, 1,3-dichlorobenzene, 1,1-dichloroethane, cis-1,2-dichloroethylene, trans-1,2-dichloroethylene, ethylbenzene, methyl-tert-butyl-ether, methyl isobutyl ketone, styrene, toluene, 1,1,1-trichloroethane, xylenes, acenaphthylene, anthracene, butyl benzyl phthalate, 2-chlorophenol, di-n-butyl phthalate, di-n-octyl phthalate, 2,4-dichlorophenol, fluoranthene, fluorene, naphthalene, phenanthrene, phenol and pyrene, (B) the substance is total petroleum hydrocarbons, or (C) the substance is antimony, arsenic, barium, beryllium, cadmium,

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chromium, copper, cyanide, lead, mercury, nickel, selenium, silver, thallium, vanadium, zinc, or polychlorinated biphenyls below thirty times industrial/commercial direct exposure criteria at an area of an industrial/commercial property that is covered with pavement that is maintained in a manner that preserves the integrity of such coverage or fenced off from the general public.

(2) The owner of the subject parcel shall notify the commissioner in writing not later than ninety days after the time such owner becomes aware that the contamination exists except that notification will not be required if by the end of said ninety days: (A) The contaminated soil is remediated in accordance with regulations adopted pursuant to section 22a-133k; (B) the contaminated soil is inaccessible soil as that term is defined in regulations adopted pursuant to section 22a-133k; [or] (C) the contaminated soil which exceeds thirty or fifteen times such criterion, as applicable, is treated or disposed of in accordance with all applicable laws and regulations; or (D) the substance is lead on a residential property that is already in a lead abatement program administered by the local health department for the town in which such residential property is located. Any owner who is not required to notify the commissioner pursuant to subparagraph (A), (B) or (C) of this subdivision may voluntarily submit a notification at any time to the commissioner and the department shall issue a certificate of completion for purposes of this section if the area that exceeds fifteen or thirty times such criterion, as applicable, was treated or disposed of in accordance with all applicable laws and regulations. The department shall wait until ninety days after the notice is received before determining whether to post a notification received under this subsection on its Internet web site list of notices received under this subsection.

(3) If notice is not otherwise exempted pursuant to the provisions of subdivision (2) of this subsection, not later than ninety days after the

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owner becomes aware of such contamination, such owner shall, at a minimum: (A) Evaluate the extent of such contaminated soil that exceeds fifteen or thirty times the applicable direct exposure criteria, as applicable, (B) prevent exposure to such soil, and (C) submit, with the required notification, a report on such evaluation and prevention to the commissioner that includes proposals for other action, as necessary, including, but not limited to, maintenance and monitoring of interim controls to prevent exposure to soil that exceeds fifteen or thirty times, as applicable, the applicable criteria.

(e) (1) If a technical environmental professional determines in the course of investigating or remediating pollution after [October 1, 1998] July 1, 2015, which pollution is on or emanating from a parcel, that such pollution is causing or has caused [~~ground water~~] groundwater within fifteen feet [~~beneath~~] of an industrial or commercial building to be contaminated with a volatile organic substance at a concentration at or above [~~thirty~~] ten times the industrial/commercial volatilization criterion for [~~ground water~~] groundwater for such substance or, if such contamination is [~~beneath~~] within fifteen feet of a residential building, at a concentration at or above [~~thirty~~] ten times the residential volatilization criterion, which criteria are specified in regulations adopted pursuant to section 22a-133k, such professional shall, not later than seven days after determining that the contamination exists, notify his client and the owner of the subject parcel, if such owner can reasonably be identified.

(2) The owner of such parcel shall notify the commissioner in writing not later than thirty days after such person becomes aware that the contamination exists except that notification is not required if: (A) The concentration of such substance in the soil vapor beneath such building is at or below [~~thirty~~] ten times the soil vapor volatilization criterion, appropriate for the land-use for the parcel, for such substance as specified in regulations adopted pursuant to section 22a-

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133k; (B) the concentration of such substance in groundwater is below [thirty] ten times a site-specific volatilization criterion for [ground water] groundwater for such substance calculated in accordance with regulations adopted pursuant to section 22a-133k; (C) [ground water] groundwater volatilization criterion, appropriate for the land-use of the parcel, for such substance specified in regulations adopted pursuant to section 22a-133k is fifty thousand parts per billion; [or] (D) not later than thirty days after the time such person becomes aware that the contamination exists, an indoor air monitoring program is initiated in accordance with subdivision (3) of this subsection; (E) the parcel contains a building that is not occupied, provided the owner shall submit the required notification not later than the date such building is reoccupied, unless by the date of reoccupancy data confirms concentrations no longer exceed the notification threshold or another exception in this subdivision applies; or (F) the parcel contains a building in an industrial/commercial use and such volatile organic compounds are used in industrial activities, and the use of such volatile organic compounds in such building is regulated by the federal Occupational Safety and Health Administration.

(3) An indoor air quality monitoring program for the purposes of this subsection shall consist of sampling of indoor air once every two months for a duration of not less than one year, sampling of indoor air immediately overlying such contaminated [ground water] groundwater, and analysis of air samples for any volatile organic substance which exceeded [thirty] ten times the volatilization criterion as specified in or calculated in accordance with regulations adopted pursuant to section 22a-133k. The owner of the subject parcel shall notify the commissioner if: (A) The concentration in any indoor air sample exceeds [thirty] ten times the target indoor air concentration, appropriate for the land-use of the parcel, as specified in regulations adopted pursuant to section 22a-133k; or (B) the indoor air monitoring program is not conducted in accordance with this subdivision. Notice

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shall be given to the commissioner in writing not later than seven days after the time such person becomes aware that such a condition exists.

(4) Not later than thirty days after the date the owner becomes aware of such contamination, the owner shall submit to the commissioner with the required notification a proposed plan to mitigate exposure to or permanently abate the contamination or condition.

(f) (1) If a technical environmental professional determines in the course of investigating or remediating pollution after [October 1, 1998] July 1, 2015, which pollution is on or emanating from a parcel, that such pollution is causing or has caused contamination of [ground water] groundwater which is discharging to surface water and such [ground water] groundwater is contaminated with: [a substance] (A) A substance for which an acute aquatic life criterion is listed in appendix D of the most recent water quality standards adopted by the commissioner at a concentration which exceeds ten times [(A)] (i) such criterion for such substance in said appendix D, or [(B)] (ii) such criterion for such substance times a site specific dilution factor calculated in accordance with regulations adopted pursuant to section 22a-133k, or (B) a nonaqueous phase liquid, such professional shall notify his client and the owner of such parcel, if such owner can reasonably be identified, not later than seven days after determining that the contamination exists.

(2) [The] For nonaqueous phase liquid that is not otherwise reported to the commissioner pursuant to the general statutes or regulations of Connecticut state agencies, the owner of such parcel shall notify the commissioner (A) verbally, not later than one business day after such person becomes aware such contamination entered a surface water body, and (B) in writing, not later than thirty days after the date such owner becomes aware of such contamination. For contamination with a substance, as described in subdivision (1) of this subsection, such

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owner shall notify the commissioner, in writing, not later than [seven] thirty days after the time such person becomes aware that the contamination exists. [except that notice] Notice shall not be required pursuant to this subdivision if such person knows that the polluted discharge at that concentration [has been] or in such physical state was reported to the commissioner, in writing, within the preceding year.

(3) For any contamination with a substance as described in subdivision (1) of this subsection, not later than the date written notification is due pursuant to this subsection, the owner shall submit with such notification a proposed plan to monitor, abate or mitigate the contamination or condition.

(g) (1) If a technical environmental professional determines in the course of investigating or remediating pollution after [October 1, 1998] July 1, 2015, which pollution is on or emanating from a parcel, that such pollution is causing or has caused contamination of [ground water] groundwater within five hundred feet in an upgradient direction or two hundred feet in any direction of a private or public drinking water well which [ground water] groundwater is contaminated with a substance resulting from a release for which the commissioner has established a [ground water] groundwater protection criterion in regulations adopted pursuant to section 22a-133k at a concentration at or above the [ground water] groundwater protection criterion for such substance, such technical environmental professional shall notify his client and the owner of the subject parcel, if such owner can reasonably be identified, not later than seven days after determining that the contamination exists.

(2) The owner of the subject parcel shall notify the commissioner in writing not later than [seven] thirty days after the time such owner becomes aware that the contamination exists.

(3) Not later than thirty days after the date such owner becomes

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aware of such contamination, such owner shall determine the presence of any other water supply wells located within five hundred feet of such polluted groundwater by conducting a receptor survey. Such owner shall seek access for the purpose of sampling drinking water supply wells that are on adjacent properties if such wells are within five hundred feet of such polluted groundwater. If such access is granted, such owner shall sample and analyze the water quality of such wells. Not later than thirty days after the date such owner becomes aware of such polluted groundwater, such owner shall submit with the required notification a report to the commissioner concerning such evaluation that includes proposals, as necessary, for further action to identify and eliminate any exposure to contaminants on an ongoing basis.

Sec. 32. Subsections (j) to (m), inclusive, of section 22a-6u of the general statutes are repealed and the following is substituted in lieu thereof (*Effective July 1, 2015*):

(j) All notices, oral or written, provided under this section shall include the nature of the contamination or condition, the address of the property where the contamination or condition is located, the location of such contamination or condition, any property known to be affected by such contamination or condition, any steps being taken to abate, remediate or monitor such contamination or condition, and the name and address of the person making such notification. Written notification shall be clearly marked as notification required by this section and shall be either personally delivered to the [Water Management Bureau] Remediation Division of the Department of Energy and Environmental Protection or sent by certified mail, return receipt requested, to the [Water Management Bureau] Remediation Division of the Department of Energy and Environmental Protection.

(k) (1) The commissioner shall provide written acknowledgment of receipt of a written notice pursuant to this section not later than ten

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days after receipt of such notice [. Such acknowledgment shall be accompanied by (1) a statement that] and in such acknowledgement may provide any information that the commissioner deems appropriate.

(2) In accordance with the time frames specified in this section, the owner of the parcel [has up to ninety days within which to] shall submit to the commissioner either (A) (i) a mitigation plan to prevent exposures, (ii) a plan to remediate the contamination or condition, or (iii) a plan to abate the contamination or condition, (B) documentation that the contamination or condition was mitigated and that there are no exposure pathways from the contamination, along with a plan to maintain such mitigation measures, or (C) documentation that describes how the contamination or condition was abated, as applicable. Submittals described in this subsection may be submitted concomitantly with other notices required in this section.

(3) If such plan, as described in subdivision (2) of this subsection, is not submitted or is [not approved] disapproved by the commissioner, the commissioner shall prescribe the action to be taken [, or (2)] or issue a directive as to action required to [remediate] mitigate or abate the contamination or condition. If a plan is submitted which details actions to be taken, or a report is submitted which details actions taken, to mitigate or abate the contamination or conditions [such that notice under this section would not be required,] and such plan or report is acceptable to the commissioner, the commissioner shall approve such plan or report in writing. When [actions implementing an approved plan are completed] a report is submitted that demonstrates permanent abatement of the contamination or condition, such that notice under this section would not be required, the commissioner shall issue a certificate of compliance upon finding such report to be acceptable.

(l) An owner who has submitted written notice pursuant to this

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section shall, not later than five days after the commencement of an activity by any person that increases the likelihood of human exposure to known contaminants, including, but not limited to, construction, demolition, significant soil disruption or the installation of utilities, post such notice in a conspicuous place on such property and, in the case of a place of business, in a conspicuous place inside the place of business. An owner who violates this [subsection] section shall pay a civil penalty of one hundred dollars for each offense. Each violation shall be a separate and distinct offense and, in the case of a continuing violation, each day's continuance thereof shall be deemed to be a separate and distinct offense. The Attorney General, upon complaint of the commissioner, shall institute an action in the superior court for the judicial district of Hartford to recover such penalty.

(m) Not later than ten days after receipt of any written notice received under this section, the commissioner shall [:(1) Forward] forward a copy of such notice to the chief elected official of the municipality in which the subject pollution was discovered [by the technical environmental professional, (2) forward a copy of such notice to the state senator and state representative representing the area in which the subject pollution was discovered by the technical environmental professional, (3) forward a copy of such notice to the Labor Commissioner where the Division of Occupational Safety and Health, within the Labor Department, has jurisdiction over the employers, employees and places of employment on the subject property, (4) forward a copy of such notice to the employee representatives who request such reports, (5) forward a copy of such notice to the federal Occupational Safety and Health Administration, and (6) maintain a list on the department's Internet web site of all the notices received under this section] and to the local health director of such municipality or region. Any forwarding of such notice, as required by this subsection, may be performed by electronic means. The commissioner shall maintain a list of all notices received under

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this section that pertain to conditions that have not been mitigated or permanently abated at the time of notification. Such list shall be on the department's Internet web site and shall be amended to remove notices after the condition is mitigated or permanently abated.

Sec. 33. Section 22a-133o of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2013*):

(a) An owner of land may execute and record an environmental use restriction under sections 22a-133n to 22a-133r, inclusive, as amended by this act, on the land records of the municipality in which such land is located if (1) the commissioner has adopted standards for the remediation of contaminated land pursuant to section 22a-133k and adopted regulations pursuant to section 22a-133q, as amended by this act, (2) the commissioner, or in the case of land for which remedial action was supervised under section 22a-133y or for a notice of activity and use limitation, a licensed environmental professional, determines, as evidenced by his signature on such restriction, that it is consistent with the purposes and requirements of sections 22a-133n to 22a-133r, inclusive, as amended by this act, and of such standards and regulations, and (3) such restriction will effectively protect public health and the environment from the hazards of pollution. Such environmental use restriction may be in the form of an environmental land use restriction, as described in subsection (b) of this section, or a notice of activity and use limitation, as described in subsection (c) of this section.

(b) (1) No owner of land may record an environmental land use restriction on the land records of the municipality in which such land is located unless he simultaneously records documents which demonstrate that each person holding an interest in such land or any part thereof, including without limitation each mortgagee, lessee, lienor and encumbrancer, irrevocably subordinates such interest to the environmental land use restriction, provided the commissioner may

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waive such requirement if he finds that the interest in such land is so minor as to be unaffected by the environmental land use restriction. The commissioner shall waive the requirement to obtain subordination agreements for any interest in land that, when acted upon, is not capable of creating a condition contrary to any purpose of such environmental land use restriction. An environmental land use restriction shall run with land, shall bind the owner of the land and his successors and assigns, and shall be enforceable notwithstanding lack of privity of estate or contract or benefit to particular land.

[(c)] (2) Within seven days after executing an environmental land use restriction and receiving thereon the signature of the commissioner or licensed environmental professional, as the case may be, the owner of the land involved therein shall record such restriction and documents required under [subsection (b) of this section] subdivision (1) of this subsection on the land records of the municipality in which such land is located and shall submit to the commissioner a certificate of title certifying that each interest in such land or any part thereof is irrevocably subordinated to the environmental land use restriction in accordance with [said subsection (b)] subdivision (1) of this subsection.

[(d)] (3) An owner of land with respect to which an environmental land use restriction applies may be released, wholly or in part, permanently or temporarily, from the limitations of such restriction only with the commissioner's written approval which shall be consistent with the regulations adopted pursuant to section 22a-133q, as amended by this act, and shall be recorded on the land records of the municipality in which such land is located. The commissioner may waive the requirement to record such release if he finds that the activity which is the subject of such release does not affect the overall purpose for which the environmental land use restriction was implemented, or for a temporary release, the activity is sufficiently limited in scope and duration, and does not alter the size of the area

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subject to the environmental land use restriction. The commissioner shall not approve any such permanent release unless the owner demonstrates that he has remediated the land, or such portion thereof as would be affected by the release, in accordance with the standards established pursuant to section 22a-133k.

[(e)] (4) An environmental land use restriction shall survive foreclosure of a mortgage, lien or other encumbrance.

(c) (1) A notice of activity and use limitation may be used and recorded for releases remediated in accordance with the regulations adopted pursuant to sections 22a-133k and 22a-133q, as amended by this act, for the following purposes:

(A) To achieve compliance with industrial/commercial direct exposure criteria, groundwater volatilization criteria, and soil vapor criteria, as established in regulations adopted pursuant to section 22a-133k, by preventing residential activity and use of the area to be affected through the notice of activity and use limitation, provided such property is zoned for industrial or commercial use, is not used for any residential use, and no holder of an interest in such property, other than such owner, has a right of residential use, as defined in regulations adopted pursuant to section 22a-133k;

(B) To prevent disturbance of polluted soil that exceeds the applicable direct exposure criteria but that is inaccessible soil, in compliance with the provisions of the regulations adopted pursuant to section 22a-133k, provided pollutant concentrations in such inaccessible soil do not exceed ten times the applicable direct exposure criteria;

(C) To prevent disturbance of an engineered control to the extent such engineered control is for the sole remedial purpose of eliminating exposure to polluted soil that exceeds the direct exposure criteria,

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provided pollutant concentrations in such soil do not exceed ten times the applicable direct exposure criteria;

(D) To prevent demolition of a building or permanent structure that renders polluted soil environmentally isolated, provided: (i) The pollutant concentrations in the environmentally isolated soil do not exceed ten times the applicable direct exposure criteria and the applicable pollutant mobility criteria, or (ii) the total volume of soil that is environmentally isolated that exceeds ten times the applicable direct exposure criteria and the applicable pollutant mobility criteria is less than or equal to ten cubic yards; or

(E) Any other purpose the commissioner may prescribe by regulations adopted in accordance with the provisions of chapter 54.

(2) No owner shall record a notice of activity and use limitation on the land records of the municipality in which such land is located unless such owner, not later than sixty days prior to such recordation, provides written notice to each person who holds an interest in such land or any part thereof, including each mortgagee, lessee, lienor and encumbrancer. Such written notice of the proposed notice of activity and use limitation shall be sent by certified mail, return receipt requested, and shall include notice of the existence and location of pollution within such area and the terms of such proposed activity and use limitation. Any such person who holds an interest may waive such sixty-day-notice period in relation to such interest provided such waiver is in writing.

(3) A notice of activity and use limitation recorded pursuant to this subsection shall be implemented and adhered to by the owner and subsequent holders of interests in the property, such owner's successors and assigns, and any person who has a license to use such property or to conduct remediation on any portion of such property.

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(4) Any notice of activity and use limitation shall be effective when recorded on the land records of the municipality in which such property is located.

(5) (A) Any notice of activity and use limitation document, as described in this subsection, shall be prepared on a form prescribed by the commissioner.

(B) A notice of activity and use limitation decision document, signed by the commissioner or signed and sealed by a licensed environmental professional, shall be referenced in and recorded with any such notice of activity and use limitation, and shall specify:

(i) Why the notice of activity and use limitation is appropriate for achieving and maintaining compliance with the regulations adopted pursuant to section 22a-133k;

(ii) Any activities and uses that are inconsistent with maintaining compliance with such regulations;

(iii) Any activities and uses to be permitted;

(iv) Any obligations and conditions necessary to meet the objectives of the notice of activity and use limitation; and

(v) The nature and extent of pollution in the area that is the basis for the notice of activity and use limitation, including a listing of contaminants and concentrations for such contaminants, and the horizontal and vertical extent of such contaminants.

(6) A notice of activity and use limitation shall not be used in any area where a prior holder of interest in the property has an interest that allows for the conduct of an activity that interferes with the conditions or purposes described in subparagraphs (A) to (E), inclusive, of subdivision (1) of this subsection or if such interest allows for intrusion

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into the polluted soil.

(7) Upon transfer of any interest in or a right to use property, or a portion of property that is subject to a notice of activity and use limitation, the owner of such land, any lessee of such land and any person who has the right to subdivide or sublease such property, shall incorporate such notice in full or by reference into all future deeds, easements, mortgages, leases, licenses, occupancy agreements and any other instrument of transfer provided the failure to incorporate such notice shall not affect the enforceability of any such notice of activity and use limitation.

(8) If a notice of activity and use limitation is extinguished by foreclosure of a mortgage, lien or other encumbrance, the owner of the subject land shall promptly, but not later than one year from the date of such foreclosure, or other schedule if approved in writing by the commissioner, remediate the pollution that was the subject of the notice of activity and use limitation consistent with standards adopted under section 22a-133k. In the event a notice of activity and use limitation is extinguished by such foreclosure, if notice to the commissioner is not otherwise provided as part of the foreclosure proceedings the owner shall, not later than thirty days from the date of such foreclosure, provide written notice to the commissioner by certified mail, return receipt requested, of such foreclosure, the name of the owner, the address of the land, and the identification of the notice of activity and use limitation.

(9) Any owner of a parcel of property that is subject to a notice of activity and use limitation may remediate the pollution on such parcel in accordance with the regulations adopted pursuant to sections 22a-133k and 22a-133q, as amended by this act. Such owner, upon completion of such remediation, may terminate the notice of activity and use limitation in accordance with regulations adopted pursuant to section 22a-133q, as amended by this act.

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Sec. 34. Section 22a-133p of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2013*):

(a) The Attorney General, at the request of the commissioner, shall institute a civil action in the superior court for the judicial district of Hartford or for the judicial district wherein the subject land is located for injunctive or other equitable relief to enforce an environmental land use restriction, a notice of activity and use limitation or the provisions of sections 22a-133n to 22a-133q, inclusive, as amended by this act, and regulations adopted [thereunder] pursuant to said sections or to recover a civil penalty pursuant to subsection (e) of this section.

(b) The commissioner may issue orders pursuant to sections 22a-6, as amended by this act, and 22a-7 to enforce an environmental land use restriction, a notice of activity and use limitation or the provisions of sections 22a-133n to 22a-133q, inclusive, as amended by this act, and regulations adopted [thereunder] pursuant to said sections.

(c) In any administrative or civil proceeding instituted by the commissioner to enforce an environmental land use restriction, a notice of activity and use limitation or the provisions of sections 22a-133n to 22a-133q, inclusive, as amended by this act, and regulations adopted [thereunder] pursuant to said sections, any other person may intervene as a matter of right.

(d) In any civil or administrative action to enforce an environmental land use restriction, a notice of activity and use limitation or the provisions of sections 22a-133n to 22a-133q, inclusive, as amended by this act, and regulations adopted thereunder, the owner of the subject land, and any lessee thereof, shall be strictly liable for any violation of such restriction, limitation or the provisions of sections 22a-133n to 22a-133q, inclusive, as amended by this act, and regulations adopted [thereunder] pursuant to said sections and shall be jointly and severally liable for abating such violation.

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(e) Any owner of land with respect to which an environmental land use restriction or a notice of activity and use limitation applies, and any lessee of such land, who violates any provision of such restriction or limitation or violates the provisions of sections 22a-133n to 22a-133q, inclusive, as amended by this act, and regulations adopted [thereunder] pursuant to said sections shall be assessed a civil penalty under section 22a-438. The penalty provided in this subsection shall be in addition to any injunctive or other equitable relief.

Sec. 35. Section 22a-133q of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2013*):

The commissioner shall adopt regulations, in accordance with the provisions of chapter 54, to carry out the purposes of sections 22a-133n to 22a-133r, inclusive, as amended by this act. Such regulations may include, but not be limited to, provisions regarding the form, contents, fees, financial surety, monitoring and reporting, filing procedure for, and release from, environmental land use restrictions and notice of activity and use limitations.

Sec. 36. Section 22a-133r of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2013*):

In the event that a court of competent jurisdiction finds for any reason that an environmental land use restriction or notice of activity and use limitation is void or without effect for any reason, the owner of the subject land, in accordance with a schedule prescribed by the commissioner, shall promptly abate pollution thereon consistently with standards adopted under section 22a-133k for remediation of land used for residential or recreational purposes.

Sec. 37. Sections 32-9dd, 32-9ff and 32-9gg of the general statutes are repealed. (*Effective July 1, 2013*)

Approved July 12, 2013