



# House of Representatives

General Assembly

**File No. 414**

February Session, 2014

Substitute House Bill No. 5573

*House of Representatives, April 7, 2014*

The Committee on Commerce reported through REP. PERONE of the 137th Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

## **AN ACT CONCERNING BROWNFIELD REMEDIATION AND DEVELOPMENT.**

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

1 Section 1. Section 22a-133x of the general statutes is repealed and  
2 the following is substituted in lieu thereof (*Effective October 1, 2014*):

3 (a) For the purposes of this section, "applicant" means the person  
4 who submits the environmental condition assessment form to the  
5 commissioner pursuant to this section. Except as provided in section  
6 22a-133y, any person may, at any time, submit to the commissioner an  
7 environmental condition assessment form for real property and an  
8 initial review fee in accordance with subsection (e) of this section. Such  
9 applicant shall use a licensed environmental professional to verify the  
10 investigation and remediation, unless not later than thirty days after  
11 the commissioner's receipt of such form, the commissioner notifies  
12 such applicant, in writing, that review and written approval of any  
13 remedial action at such property by the commissioner will be required.  
14 The commissioner shall not process any such form submitted pursuant

15 to this section unless such form is accompanied by the required initial  
16 review fee.

17 (b) The applicant shall, on or before ninety days after the  
18 submission of an environmental condition assessment form, submit a  
19 statement of proposed actions for investigating and remediating the  
20 parcel or a release area, as defined in the regulations adopted by the  
21 commissioner pursuant to section 22a-133k, and a schedule for  
22 implementing such actions. The commissioner may require the  
23 applicant to submit to the commissioner copies of technical plans and  
24 reports related to investigation and remediation of the parcel or release  
25 area. Notwithstanding any other provision of this section, the  
26 commissioner may determine that the commissioner's review and  
27 written approval of such technical plans and reports is necessary at  
28 any time, and in such case the commissioner shall notify the applicant  
29 of the need for the commissioner's review and written approval. The  
30 commissioner shall require that the certifying party submit to the  
31 commissioner all technical plans and reports related to the  
32 investigation and remediation of the parcel or release area if the  
33 commissioner receives a written request from any person for such  
34 information. The applicant shall advise the commissioner of any  
35 modifications to the proposed schedule. Upon receipt of an interim  
36 verification by a licensed environmental professional, the applicant  
37 may submit such interim verification to the commissioner on a form  
38 prescribed by the commissioner. Upon receipt of a verification by a  
39 licensed environmental professional that the parcel, portion of the  
40 parcel or release area has been investigated in accordance with  
41 prevailing standards and guidelines and remediated in accordance  
42 with the remediation standards, the applicant shall submit such  
43 verification to the commissioner on a form prescribed by the  
44 commissioner.

45 (c) If the commissioner notifies the applicant that the commissioner  
46 will formally review and approve in writing the investigation and  
47 remediation of the parcel, the applicant shall, on or before thirty days  
48 of the receipt of such notice, or such later date as may be approved in

49 writing by the commissioner, submit for the commissioner's review  
50 and written approval, a proposed schedule for: (1) Investigating and  
51 remediating the parcel or release area; and (2) submitting to the  
52 commissioner technical plans, technical reports and progress reports  
53 related to such investigation and remediation. Upon the  
54 commissioner's approval of such schedule, the applicant shall, in  
55 accordance with the approved schedule, submit technical plans,  
56 technical reports and progress reports to the commissioner for the  
57 commissioner's review and written approval. The applicant shall  
58 perform all actions identified in the approved technical plans, technical  
59 reports and progress reports in accordance with the approved  
60 schedule. The commissioner may approve, in writing, any  
61 modification proposed in writing by the applicant to such schedule or  
62 investigation and remediation and may notify the applicant, in  
63 writing, if the commissioner determines that it is appropriate to  
64 discontinue formal review and approval of the investigation or  
65 remediation.

66 (d) (1) If, in accordance with the provisions of this section, the  
67 commissioner has approved in writing or, as applicable, a licensed  
68 environmental professional has verified, that the parcel, portion of the  
69 parcel or release area has been remediated in accordance with the  
70 remediation standards, such approval or verification may be used as  
71 the basis for submitting a Form II pursuant to sections 22a-134 to  
72 22a-134e, inclusive, provided there has been no additional discharge,  
73 spillage, uncontrolled loss, seepage or filtration of hazardous waste at  
74 or on the parcel subsequent to the date of the commissioner's approval  
75 or verification by a licensed environmental professional.

76 (2) If, in accordance with the provisions of this section, as  
77 applicable, a licensed environmental professional has submitted an  
78 interim verification for the parcel, portion of the parcel or release area,  
79 such interim verification may be used as the basis for submitting a  
80 Form IV pursuant to sections 22a-134 to 22a-134e, inclusive.

81 (e) The fee for submitting an environmental condition assessment

82 form to the commissioner pursuant to this section shall be three  
83 thousand two hundred fifty dollars and shall be paid at the time the  
84 environmental condition assessment form is submitted. Any fee paid  
85 pursuant to this section shall be deducted from any fee required by  
86 subsection (m) or (n) of section 22a-134e for the transfer of any parcel  
87 for which an environmental condition assessment form has been  
88 submitted within three years of such transfer.

89 (f) Nothing in this section shall be construed to affect or impair the  
90 voluntary site remediation process provided for in section 22a-133y.

91 (g) Prior to commencement of remedial action taken under this  
92 section, the applicant shall (1) publish notice of the remediation, in  
93 accordance with the schedule submitted pursuant to this section, in a  
94 newspaper having a substantial circulation in the area affected by the  
95 establishment, (2) notify the director of health of the municipality  
96 where the parcel is located of the remediation, and (3) either (A) erect  
97 and maintain for at least thirty days in a legible condition a sign not  
98 less than six feet by four feet on the parcel, which sign shall be clearly  
99 visible from the public highway, and shall include the words  
100 "ENVIRONMENTAL CLEAN-UP IN PROGRESS AT THIS SITE. FOR  
101 FURTHER INFORMATION CONTACT:" and include a telephone  
102 number for an office from which any interested person may obtain  
103 additional information about the remediation, or (B) mail notice of the  
104 remediation to each owner of record of property which abuts the  
105 parcel, at the last-known address of such owner on the last-completed  
106 grand list of the municipality where the parcel is located.

107 Sec. 2. Subsection (c) of section 22a-133y of the general statutes is  
108 repealed and the following is substituted in lieu thereof (*Effective*  
109 *October 1, 2014*):

110 (c) Any final remedial action report submitted to the commissioner  
111 for such a property or portion of such a property by a licensed  
112 environmental professional shall be deemed approved unless, [within]  
113 not later than sixty days [of] after such submittal, the commissioner  
114 determines, in his or her sole discretion, that an audit of such remedial

115 action is necessary to assess whether remedial action beyond that  
116 which is indicated in such report is necessary for the protection of  
117 human health or the environment. Such an audit shall be conducted  
118 [within] not later than six months [of] after such determination. After  
119 completing such audit, the commissioner may disapprove the report,  
120 provided (1) he or she shall give his or her reasons therefor in writing,  
121 and [further provided] (2) such owner may appeal such disapproval to  
122 the superior court in accordance with the provisions of section 4-183.  
123 Prior to approving a final remedial action report, the commissioner  
124 may enter into a memorandum of understanding with the owner of  
125 such property with regard to any further remedial action or  
126 monitoring activities on or at such property which the commissioner  
127 deems necessary for the protection of human health or the  
128 environment.

129 Sec. 3. Subdivision (1) of section 22a-134 of the 2014 supplement to  
130 the general statutes is repealed and the following is substituted in lieu  
131 thereof (*Effective October 1, 2014*):

132 (1) "Transfer of establishment" means any transaction or proceeding  
133 through which an establishment undergoes a change in ownership, but  
134 does not mean:(A) Conveyance or extinguishment of an easement;

135 (B) Conveyance of an establishment through a foreclosure, as  
136 defined in subsection (b) of section 22a-452f, foreclosure of a municipal  
137 tax lien or through a tax warrant sale pursuant to section 12-157, an  
138 exercise of eminent domain by a municipality or pursuant to section 8-  
139 128, 8-169e or 8-193 or by condemnation pursuant to section 32-224 or  
140 purchase pursuant to a resolution by the legislative body of a  
141 municipality authorizing the acquisition through eminent domain for  
142 establishments that also meet the definition of a brownfield, as defined  
143 in section 32-760, or a subsequent transfer by such municipality that  
144 has foreclosed on the property, foreclosed municipal tax liens or that  
145 has acquired title to the property through section 12-157, or is within  
146 the pilot program established in subsection (c) of section 32-9cc of the  
147 general statutes, revision of 1958, revised to January 1, 2013, or the

148 remedial action and redevelopment municipal grant program  
149 established in section 32-763, or has acquired such property through  
150 the exercise of eminent domain by a municipality or pursuant to  
151 section 8-128, 8-169e or 8-193 or by condemnation pursuant to section  
152 32-224 or a resolution adopted in accordance with this subparagraph,  
153 provided (i) the party acquiring the property from the municipality  
154 did not establish, create or contribute to the contamination at the  
155 establishment and is not affiliated with any person who established,  
156 created or contributed to such contamination or with any person who  
157 is or was an owner or certifying party for the establishment, and (ii) on  
158 or before the date the party acquires the property from the  
159 municipality, such party or municipality enters and subsequently  
160 remains in the voluntary remediation program administered by the  
161 commissioner pursuant to section 22a-133x and remains in compliance  
162 with schedules and approvals issued by the commissioner. For  
163 purposes of this subparagraph, subsequent transfer by a municipality  
164 includes any transfer to, from or between a municipality, municipal  
165 economic development agency or entity created or operating under  
166 chapter 130 or 132, a nonprofit economic development corporation  
167 formed to promote the common good, general welfare and economic  
168 development of a municipality that is funded, either directly or  
169 through in-kind services, in part by a municipality, or a nonstock  
170 corporation or limited liability company controlled or established by a  
171 municipality, municipal economic development agency or entity  
172 created or operating under chapter 130 or 132;

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

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

178 (E) Termination of a lease and conveyance, assignment or execution  
179 of a lease for a period less than ninety-nine years including  
180 conveyance, assignment or execution of a lease with options or similar

181 terms that will extend the period of the leasehold to ninety-nine years,  
182 or from the commencement of the leasehold, ninety-nine years,  
183 including conveyance, assignment or execution of a lease with options  
184 or similar terms that will extend the period of the leasehold to ninety-  
185 nine years, or from the commencement of the leasehold;

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

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

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

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

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

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

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

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

211 days prior to such conveyance;

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

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

217 (P) Any conveyance of an establishment to any entity created or  
218 operating under chapter 130 or 132, or to an urban rehabilitation  
219 agency, as defined in section 8-292, or to a municipality under section  
220 32-224, or to Connecticut Innovations, Incorporated or any subsidiary  
221 of the corporation;

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

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

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

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

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

237 (V) Conveyance of any real property or business operation that  
238 would qualify as an establishment solely as a result of (i) the  
239 generation of more than one hundred kilograms of universal waste in

240 a calendar month, (ii) the storage, handling or transportation of  
241 universal waste generated at a different location, or (iii) activities  
242 undertaken at a universal waste transfer facility, provided any such  
243 real property or business operation does not otherwise qualify as an  
244 establishment; there has been no discharge, spillage, uncontrolled loss,  
245 seepage or filtration of a universal waste or a constituent of universal  
246 waste that is a hazardous substance at or from such real property or  
247 business operation; and universal waste is not also recycled, treated,  
248 except for treatment of a universal waste pursuant to 40 CFR  
249 273.13(a)(2) or (c)(2) or 40 CFR 273.33 (a)(2) or (c)(2), or disposed of at  
250 such real property or business operation;

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

253 (X) Acquisition of an establishment that is in the abandoned  
254 brownfield cleanup program established pursuant to section 32-768  
255 and all subsequent transfers of the establishment, provided the  
256 establishment is undergoing remediation or is remediated in  
257 accordance with subsection (f) of section 32-768;

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

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

273 (AA) Conveyance of an establishment in connection with the  
274 acquisition of properties to effectuate the development of a project  
275 certified and approved pursuant to section 32-9v, provided any such  
276 property is investigated and remediated in accordance with section  
277 22a-133y; or

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

295 Sec. 4. Subdivision (3) of section 22a-134 of the 2014 supplement to  
296 the general statutes is repealed and the following is substituted in lieu  
297 thereof (*Effective October 1, 2014*):

298 (3) "Establishment" means any real property at which or any  
299 business operation from which (A) on or after November 19, 1980,  
300 there was generated, except as the result of (i) remediation of polluted  
301 soil, groundwater or sediment, or (ii) the removal or abatement of  
302 hazardous building materials, more than one hundred kilograms of  
303 hazardous waste in any one month, (B) hazardous waste generated at a  
304 different location was recycled, reclaimed, reused, stored, handled,  
305 treated, transported or disposed of, (C) the process of dry cleaning was

306 conducted on or after May 1, 1967, (D) furniture stripping was  
307 conducted on or after May 1, 1967, or (E) a vehicle body repair facility  
308 was located on or after May 1, 1967;

309 Sec. 5. Subdivision (11) of section 22a-134 of the 2014 supplement to  
310 the general statutes is repealed and the following is substituted in lieu  
311 thereof (*Effective October 1, 2014*):

312 (11) "Form II" means a written certification by the transferor of an  
313 establishment on a form prescribed and provided by the commissioner  
314 that the parcel or portion of the parcel has been investigated in  
315 accordance with prevailing standards and guidelines and that (A) any  
316 pollution caused by a discharge, spillage, uncontrolled loss, seepage or  
317 filtration of hazardous waste or a hazardous substance which has  
318 occurred from the establishment or portion of a parcel of such  
319 establishment has been remediated in accordance with the remediation  
320 standards and that the remediation has been approved in writing by  
321 the commissioner or has been verified pursuant to section 22a-133x or  
322 section 22a-134a in writing attached to such form by a licensed  
323 environmental professional to have been performed in accordance  
324 with the remediation standards and that since any such written  
325 approval or verification, including any approval or verification for a  
326 portion of an establishment, no discharge, spillage, uncontrolled loss,  
327 seepage or filtration of hazardous waste or hazardous substances has  
328 occurred at any portion of the establishment, (B) the commissioner has  
329 determined in writing or a licensed environmental professional has  
330 verified pursuant to section 22a-133x or section 22a-134a in writing,  
331 attached to the form that no remediation is necessary to achieve  
332 compliance with the remediation standards, or (C) a Form IV  
333 verification was previously submitted to the commissioner and, since  
334 the date of the submission of the Form IV, no discharge, spillage,  
335 uncontrolled loss, seepage or filtration of hazardous waste or a  
336 hazardous substance has occurred at the establishment or portion of a  
337 parcel of such establishment, which certification is based on an  
338 investigation of the parcel in accordance with prevailing standards and  
339 guidelines;

340 Sec. 6. Subdivision (13) of section 22a-134 of the 2014 supplement to  
341 the general statutes is repealed and the following is substituted in lieu  
342 thereof (*Effective October 1, 2014*):

343 (13) "Form IV" means a written certification signed by one or more  
344 certifying parties on a form prescribed and provided by the  
345 commissioner and which is accompanied by a written determination  
346 by the commissioner or by a verification or interim verification by a  
347 licensed environmental professional pursuant to section 22a-134a or  
348 22a-133x, which certification states and is accompanied by  
349 documentation demonstrating that the parcel or portion of the parcel  
350 has been investigated in accordance with prevailing standards and  
351 guidelines and that (A) there has been a discharge, spillage,  
352 uncontrolled loss, seepage or filtration of hazardous waste or a  
353 hazardous substance on the establishment, and (B) all actions to  
354 remediate any pollution caused by any release at the establishment  
355 have been taken in accordance with the remediation standards except  
356 postremediation monitoring, natural attenuation monitoring or the  
357 recording of an environmental land use restriction, and (C) the person  
358 or persons signing the certification agree, in accordance with the  
359 representations made in the form, to conduct postremediation  
360 monitoring or natural attenuation monitoring in accordance with the  
361 remediation standards and if further investigation and remediation are  
362 necessary to take further action to investigate the establishment in  
363 accordance with prevailing standards and guidelines and to remediate  
364 the establishment in accordance with the remediation standards;

365 Sec. 7. Subdivision (19) of section 22a-134 of the 2014 supplement to  
366 the general statutes is repealed and the following is substituted in lieu  
367 thereof (*Effective October 1, 2014*):

368 (19) "Verification" means the rendering of a written opinion by a  
369 licensed environmental professional on a form prescribed by the  
370 commissioner that an investigation of the parcel or portion of the  
371 parcel has been performed in accordance with prevailing standards  
372 and guidelines and that the establishment or portion of a parcel of

373 such establishment has been remediated in accordance with the  
374 remediation standards;

375 Sec. 8. Subdivision (28) of section 22a-134 of the 2014 supplement to  
376 the general statutes is repealed and the following is substituted in lieu  
377 thereof (*Effective October 1, 2014*):

378 (28) "Interim verification" means a written opinion by a licensed  
379 environmental professional, on a form prescribed by the  
380 commissioner, that (A) the investigation of the parcel or portion of the  
381 parcel has been performed in accordance with prevailing standards  
382 and guidelines, (B) the remediation has been completed in accordance  
383 with the remediation standards, except that, for remediation standards  
384 for groundwater, the selected remedy is in operation but has not  
385 achieved the remediation standards for groundwater, (C) identifies the  
386 long-term remedy being implemented to achieve groundwater  
387 standards, the estimated duration of such remedy, and the ongoing  
388 operation and maintenance requirements for continued operation of  
389 such remedy, and (D) there are no current exposure pathways to the  
390 groundwater area that have not yet met the remediation standards.

391 Sec. 9. Section 22a-134 of the 2014 supplement to the general statutes  
392 is amended by adding subdivision (29) as follows (*Effective October 1,*  
393 *2014*):

394 (NEW) (29) "Hazardous building material" means any building  
395 material that contains polychlorinated biphenyls, asbestos, any  
396 hazardous substance or any toxic substance identified in accordance  
397 with the Toxic Substances Control Act (15 USC 2601 et seq.).

398 Sec. 10. Subsection (g) of section 22a-134a of the general statutes is  
399 repealed and the following is substituted in lieu thereof (*Effective*  
400 *October 1, 2014*):

401 (g) (1) (A) Except as provided in subsection (h) of this section, the  
402 certifying party to a Form III shall, not later than seventy-five days  
403 after the receipt of the notice that such form is complete or such later

404 date as may be approved in writing by the commissioner, submit a  
405 schedule for the investigation of the parcel and remediation of the  
406 establishment. Such schedule shall, unless a later date is specified in  
407 writing by the commissioner, provide that the investigation shall be  
408 completed within two years of the date of receipt of such notice,  
409 remediation shall be initiated not later than three years after the date of  
410 receipt of such notice and remediation shall be completed sufficient to  
411 support either a verification or interim verification within a time frame  
412 set forth in subparagraphs (B) and (C) of this subdivision. The  
413 schedule shall also include a schedule for providing public notice of  
414 the remediation prior to the initiation of such remediation in  
415 accordance with subsection (i) of this section. Not later than two years  
416 after the date of the receipt of the notice that the Form III is complete,  
417 unless the commissioner has specified a later day, in writing, the  
418 certifying party shall submit to the commissioner documentation,  
419 approved in writing by a licensed environmental professional and in a  
420 form prescribed by the commissioner, that the investigation has been  
421 completed in accordance with prevailing standards and guidelines.  
422 Not later than three years after the date of the receipt of the notice that  
423 the Form III is complete, unless the commissioner has specified a later  
424 day in writing, the certifying party shall notify the commissioner in a  
425 form prescribed by the commissioner that the remediation has been  
426 initiated, and shall submit to the commissioner a remedial action plan  
427 approved in writing by a licensed environmental professional in a  
428 form prescribed by the commissioner. Notwithstanding any other  
429 provision of this section, the commissioner may determine at any time  
430 that the commissioner's review and written approval is necessary and  
431 in such case shall notify the certifying party that the commissioner's  
432 review and written approval is necessary. Such certifying party shall  
433 investigate the parcel and remediate the establishment in accordance  
434 with the schedule or the schedule specified by the commissioner.

435 (B) For a certifying party that submitted a Form III or Form IV  
436 before October 1, 2009, when remediation of the entire establishment is  
437 complete, the certifying party shall achieve the remediation standards  
438 for the establishment sufficient to support a final verification and shall

439 submit to the commissioner a final verification by a licensed  
440 environmental professional.

441 (C) For a certifying party that submits a Form III or Form IV after  
442 October 1, 2009, not later than eight years after the date of receipt of  
443 the notice that the Form III or Form IV is complete, unless the  
444 commissioner has specified a later date in writing, the certifying party  
445 shall achieve the remediation standards for the establishment sufficient  
446 to support a final or interim verification and shall submit to the  
447 commissioner such final or interim verification by a licensed  
448 environmental professional. Any such final verification may include  
449 and rely upon a verification for a portion of the establishment  
450 submitted pursuant to subdivision (2) of this subsection. Verifications  
451 shall be submitted on a form prescribed by the commissioner. The  
452 certifying party may request a verification or interim verification filing  
453 extension. The commissioner shall grant a reasonable extension if the  
454 certifying party demonstrates to the commissioner's satisfaction that:  
455 (i) Such certifying party has made reasonable progress toward  
456 investigation and remediation of the establishment; and (ii) despite  
457 best efforts, circumstances beyond the control of the certifying party  
458 have significantly delayed the remediation of the establishment.

459 (D) A certifying party who submits an interim verification shall,  
460 until the remediation standards for groundwater are achieved, operate  
461 and maintain the long-term remedy for groundwater in accordance  
462 with the remedial action plan, the interim verification and any  
463 approvals by the commissioner, prevent exposure to the groundwater  
464 plume and submit annual status reports to the commissioner.

465 (E) The certifying party to a Form IV shall submit with the Form IV  
466 a schedule for the groundwater monitoring and recording of an  
467 environmental land use restriction, as applicable.

468 (2) If a certifying party completes the remediation for a portion of an  
469 establishment, such party may submit a verification or an interim  
470 verification by a licensed environmental professional for any such  
471 portion of an establishment. The certifying party shall be deemed to

472 have satisfied the requirements of this subsection for that portion of  
473 the establishment covered by any such verification or interim  
474 verification. If any portion of an establishment for which a verification  
475 or interim verification is submitted pursuant to this subdivision is  
476 transferred or conveyed or undergoes a change in ownership before  
477 remediation of the entire establishment is complete that would not  
478 otherwise be subject to the provisions of sections 22a-134 to 22a-134e,  
479 inclusive, the certifying party shall provide notice to the commissioner  
480 of such transfer, conveyance or change in ownership not later than  
481 thirty days after any such transfer, conveyance or change in  
482 ownership.

483 (3) (A) The commissioner may conduct an audit of any verification  
484 or interim verification submitted pursuant to this section, but shall not  
485 conduct an audit of a final verification of an entire establishment  
486 submitted pursuant to subdivision (1) of this subsection after three  
487 years have passed since the date of the commissioner's receipt of such  
488 final verification unless an exception listed in subparagraph (C) of this  
489 subdivision applies. Upon completion of an audit, the commissioner  
490 shall send written audit findings to the certifying party and the  
491 licensed environmental professional who verified. The three-year time  
492 frame for an audit of a final verification of an entire establishment shall  
493 apply to such final verifications received by the commissioner after  
494 October 1, 2007.

495 (B) The commissioner may request additional information during an  
496 audit. If such information has not been provided to the commissioner  
497 within ninety days of the commissioner's request for such information  
498 or any longer time as the commissioner may determine in writing, the  
499 commissioner may either (i) suspend the audit, which for a final  
500 verification shall suspend the running of the three-year audit time  
501 frame until such time as the commissioner receives all the information  
502 requested, or (ii) complete the audit based upon the information  
503 provided in the verification before the request for additional  
504 information.

505 (C) The commissioner shall not conduct an audit of a final  
506 verification of an entire establishment after three years from receipt of  
507 such verification pursuant to this subdivision unless (i) the  
508 commissioner has reason to believe that a verification was obtained  
509 through the submittal of materially inaccurate or erroneous  
510 information, or otherwise misleading information material to the  
511 verification or that misrepresentations were made in connection with  
512 the submittal of the verification, (ii) a verification is submitted  
513 pursuant to an order of the commissioner pursuant to subsection (j) of  
514 this section, (iii) any post-verification monitoring, or operations and  
515 maintenance, is required as part of a verification and which has not  
516 been done, (iv) a verification that relies upon an environmental land  
517 use restriction was not recorded on the land records of the  
518 municipality in which such land is located in accordance with section  
519 22a-133o and applicable regulations, (v) the commissioner determines  
520 that there has been a violation of sections 22a-134 to 22a-134e, or (vi)  
521 the commissioner determines that information exists indicating that  
522 the remediation may have failed to prevent a substantial threat to  
523 public health or the environment.

|   |                        |             |
|---|------------------------|-------------|
| This act shall take effect as follows and shall amend the following sections: |                        |             |
| Section 1   | <i>October 1, 2014</i> | 22a-133x    |
| Sec. 2  | <i>October 1, 2014</i> | 22a-133y(c) |
| Sec. 3  | <i>October 1, 2014</i> | 22a-134(1)  |
| Sec. 4  | <i>October 1, 2014</i> | 22a-134(3)  |
| Sec. 5  | <i>October 1, 2014</i> | 22a-134(11) |
| Sec. 6  | <i>October 1, 2014</i> | 22a-134(13) |
| Sec. 7  | <i>October 1, 2014</i> | 22a-134(19) |
| Sec. 8  | <i>October 1, 2014</i> | 22a-134(28) |
| Sec. 9  | <i>October 1, 2014</i> | 22a-134     |
| Sec. 10   | <i>October 1, 2014</i> | 22a-134a(g) |

**CE**      *Joint Favorable Subst.*

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

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**OFA Fiscal Note****State Impact:** None**Municipal Impact:** None**Explanation**

The bill (1) gives property owners investigating and remediating contaminated sites more options for complying with the Department of Energy and Environmental Protection's (DEEP) requirements for these tasks, (2) allows those participating in DEEP's voluntary cleanup programs to submit interim verifications to the agency, and (3) exempts certain property from the Transfer Act.

As the bill does not require additional clean-up, there is no state or municipal fiscal impact anticipated.

**The Out Years****State Impact:** None**Municipal Impact:** None

**OLR Bill Analysis****sHB 5573*****AN ACT CONCERNING BROWNFIELD REMEDIATION AND DEVELOPMENT.*****SUMMARY:**

This bill gives property owners investigating and remediating contaminated property more options for complying with the Department of Energy and Environmental Protection's (DEEP) requirements for completing such tasks. It allows those participating in DEEP's voluntary cleanup programs to submit interim verifications, signifying that the site was remediated according to DEEP standards. It also allows participants to (1) submit interim or final verifications for a portion of the site instead of waiting until the entire site is remediated and (2) use the results to show that the site complies with the Transfer Act.

Under that act, the parties about to convey or transfer a potentially contaminated site must first notify DEEP about its environmental status and indicate whether it was investigated and remediated. When doing so, the bill allows them to investigate and remediate a portion of the site and submit the required forms documenting its environmental status.

Lastly, the bill exempts more property from the Transfer Act. It exempts sites where hazardous building materials were removed or abated, not just those where remediation activities generated hazardous waste, as under current law. The bill also exempts from the act sites municipalities take by eminent domain under any statute, not just those authorizing takings for redevelopment, and further exempts these sites from the act when a municipality conveys the site to another party, as current law allows for sites taken under the redevelopment statutes.

EFFECTIVE DATE: October 1, 2014

## **INTERIM AND PARTIAL SITE VERIFICATIONS**

### ***Voluntary Remediation Program***

The bill gives property owners more latitude for remediating sites under DEEP's Voluntary Remediation Program, which allows property owners to have a licensed environmental professional (LEP) investigate and remediate a site before they decide to convey or transfer it. Under current law, property owners must completely investigate and remediate the site before the LEP can verify that they did so according to DEEP standards.

The bill allows the LEP to make a verification before the site is completely remediated by submitting an "interim verification," which signifies that the site was investigated and remediated according to DEEP standards except for contaminated groundwater undergoing long-term remediation and monitoring. It also allows the LEP to investigate and remediate part of a site and submit a separate verification for each part.

The bill specifically allows the owner to use an interim verification as the basis for submitting certain forms to DEEP under the Transfer Act about the site's environmental status. It allows the owner to use the verification as the basis for submitting a Form II, the document certifying that any prior contamination was remediated. Under current law, the owner can use verification only if the entire site or area where hazardous waste was released ("release area") was completely remediated.

The bill also allows the owner to use the verifications as a basis for submitting a Form IV, the document certifying that the site was remediated according to DEEP standards. It allows the owner to do so with respect to the entire site, part of it, or the release area.

### ***Voluntary Remediation Program in Designated Groundwater Areas***

DEEP's runs a separate voluntary remediation program for sites in

areas where the groundwater is (1) suitable for specific industrial purposes, but not human consumption (classified as GB) or subject to municipal and industrial discharge and unsuitable for human consumption (GC). In these areas, the bill allows an owner, under a LEP's supervision, to investigate and remediate parts of the site and submit a final verification for each remediated part.

### ***Conveyances under the Transfer Act***

The bill allows property owners who have not participated in a voluntary remediation program and who are conveying or transferring contaminated sites to investigate and remediate a part of the site and submit the required forms for that part instead of waiting until the entire site is remediated. It allows them to do so for interim and final verifications.

## **TRANSFER ACT EXEMPTIONS**

### ***Hazardous Building Materials***

The bill expands the range of property exempted from the Transfer Act, which requires one of the parties in a real estate transaction to notify DEEP if a hazardous waste or substance was released at a site and, if so, who will investigate and remediate it.

Current law exempts from the act property where the remediation activities generated hazardous waste. The bill also exempts property where the removal or abatement of hazardous building materials generated the waste. Such material contains polychlorinated biphenyls, asbestos, hazardous substances, or toxic substances identified in the federal Toxic Substances Control Act (USC 2601 et seq.).

### ***Municipal Takings***

The bill exempts from the Transfer Act any property a municipality takes by eminent domain, not just property taken under specified municipal development statutes. The bill also exempts the property from the act if the municipality subsequently conveys it to another party. The law generally exempts such transfers from the act if the

party acquiring the property did not pollute it and the party or the municipality voluntarily agrees to remediate it.

**BACKGROUND**

***Related Bill***

HB 5544, favorably reported by the Environment Committee, also allows interim verification for a part of a site.

**COMMITTEE ACTION**

Commerce Committee

Joint Favorable Substitute

Yea 17    Nay 0    (03/20/2014)