



# House of Representatives

**File No. 702**

General Assembly

February Session, 2014

**(Reprint of File No. 414)**

Substitute House Bill No. 5573  
As Amended by House Amendment  
Schedule "A"

Approved by the Legislative Commissioner  
April 28, 2014

**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 Section 22a-133x of the general statutes is repealed and  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 from passage*):

3 (a) For the purposes of this section: [, "applicant"]

4 (1) "Applicant" means the person who submits the environmental  
5 condition assessment form to the commissioner pursuant to this  
6 section; [.]

7 (2) "Interim verification" means a written opinion by a licensed  
8 environmental professional, on a form prescribed by the  
9 commissioner, that (A) the investigation of the parcel, portion of the  
10 parcel or release area has been performed in accordance with  
11 prevailing standards and guidelines, (B) the remediation has been  
12 completed in accordance with the remediation standards, except that,  
13 for remediation standards for groundwater, the selected remedy is in

14 operation but has not achieved the remediation standards for  
15 groundwater, (C) identifies the long-term remedy being implemented  
16 to achieve groundwater standards, the estimated duration of such  
17 remedy, and the ongoing operation and maintenance requirements for  
18 continued operation of such remedy, and (D) there are no exposure  
19 pathways to the groundwater area that have not yet met the  
20 remediation standards as of the date of such written opinion;

21 (3) "Release area" has the same meaning as provided in the  
22 regulations adopted by the commissioner pursuant to section 22a-133k;  
23 and

24 (4) "Verification" means the rendering of a written opinion by a  
25 licensed environmental professional on a form prescribed by the  
26 commissioner that an investigation of the parcel, portion of the parcel  
27 or release area has been performed in accordance with prevailing  
28 standards and guidelines and that the parcel, portion of the parcel or  
29 release area has been remediated in accordance with the remediation  
30 standards.

31 (b) Except as provided in section 22a-133y, any person may, at any  
32 time, submit to the commissioner an environmental condition  
33 assessment form for real property and an initial review fee in  
34 accordance with subsection [(e)] (g) of this section. Such applicant shall  
35 use a licensed environmental professional to verify the investigation  
36 and remediation, unless not later than thirty days after the  
37 commissioner's receipt of such form, the commissioner notifies such  
38 applicant, in writing, that review and written approval of any remedial  
39 action at such property by the commissioner will be required. The  
40 commissioner shall not process any such form submitted pursuant to  
41 this section unless such form is accompanied by the required initial  
42 review fee.

43 [(b)] (c) The applicant shall, on or before ninety days after the  
44 submission of an environmental condition assessment form, submit a  
45 statement of proposed actions for investigating and remediating the

46 parcel or a release area [, as defined in the regulations adopted by the  
47 commissioner pursuant to section 22a-133k,] and a schedule for  
48 implementing such actions. The commissioner may require the  
49 applicant to submit to the commissioner copies of technical plans and  
50 reports related to investigation and remediation of the parcel or release  
51 area. Notwithstanding any other provision of this section, the  
52 commissioner may determine that the commissioner's review and  
53 written approval of such technical plans and reports is necessary at  
54 any time, and in such case the commissioner shall notify the applicant  
55 of the need for the commissioner's review and written approval. The  
56 commissioner shall require that the certifying party submit to the  
57 commissioner all technical plans and reports related to the  
58 investigation and remediation of the parcel or release area if the  
59 commissioner receives a written request from any person for such  
60 information. The applicant shall advise the commissioner of any  
61 modifications to the proposed schedule. [Upon receipt of a verification  
62 by a licensed environmental professional that the parcel or release area  
63 has been investigated in accordance with prevailing standards and  
64 guidelines and remediated in accordance with the remediation  
65 standards, the applicant shall submit such verification to the  
66 commissioner on a form prescribed by the commissioner.]

67 [(c)] (d) If the commissioner notifies the applicant that the  
68 commissioner will formally review and approve in writing the  
69 investigation and remediation of the parcel, the applicant shall, on or  
70 before thirty days of the receipt of such notice, or such later date as  
71 may be approved in writing by the commissioner, submit for the  
72 commissioner's review and written approval [,] a proposed schedule  
73 for: (1) Investigating and remediating the parcel or release area; and (2)  
74 submitting to the commissioner technical plans, technical reports and  
75 progress reports related to such investigation and remediation. Upon  
76 the commissioner's approval of such schedule, the applicant shall, in  
77 accordance with the approved schedule, submit technical plans,  
78 technical reports and progress reports to the commissioner for the  
79 commissioner's review and written approval. The applicant shall

80 perform all actions identified in the approved technical plans, technical  
81 reports and progress reports in accordance with the approved  
82 schedule. The commissioner may approve, in writing, any  
83 modification proposed in writing by the applicant to such schedule or  
84 investigation and remediation and may notify the applicant, in  
85 writing, if the commissioner determines that it is appropriate to  
86 discontinue formal review and approval of the investigation or  
87 remediation.

88 (e) (1) Upon receipt of an interim verification by a licensed  
89 environmental professional, the applicant may submit such interim  
90 verification to the commissioner. Any applicant who submits an  
91 interim verification pursuant to this subdivision shall, until the  
92 remediation standards for groundwater are achieved: (A) Operate and  
93 maintain the long-term remedy for groundwater in accordance with  
94 such interim verification and any applicable approval by the  
95 commissioner or remedial action plan; (B) prevent exposure to the  
96 groundwater plume; and (C) submit annual status reports to the  
97 commissioner.

98 (2) Upon receipt of a verification by a licensed environmental  
99 professional, the applicant shall submit such verification to the  
100 commissioner.

101 [(d)] (f) If, in accordance with the provisions of this section, the  
102 commissioner has approved in writing or, as applicable, a licensed  
103 environmental professional has verified, that the parcel [or release  
104 area] has been remediated in accordance with the remediation  
105 standards, such approval or verification may be used as the basis for  
106 submitting a Form II pursuant to sections 22a-134 to 22a-134e,  
107 inclusive, as amended by this act, provided there has been no  
108 additional discharge, spillage, uncontrolled loss, seepage or filtration  
109 of hazardous waste at or on the parcel subsequent to the date of the  
110 commissioner's approval or verification by a licensed environmental  
111 professional.

112 [(e)] (g) The fee for submitting an environmental condition  
113 assessment form to the commissioner pursuant to this section shall be  
114 three thousand two hundred fifty dollars and shall be paid at the time  
115 the environmental condition assessment form is submitted. Any fee  
116 paid pursuant to this section shall be deducted from any fee required  
117 by subsection (m) or (n) of section 22a-134e for the transfer of any  
118 parcel for which an environmental condition assessment form has been  
119 submitted within three years of such transfer.

120 [(f)] (h) Nothing in this section shall be construed to affect or impair  
121 the voluntary site remediation process provided for in section 22a-  
122 133y.

123 [(g)] (i) Prior to commencement of remedial action taken under this  
124 section, the applicant shall (1) publish notice of the remediation, in  
125 accordance with the schedule submitted pursuant to this section, in a  
126 newspaper having a substantial circulation in the area affected by the  
127 [establishment] parcel, (2) notify the director of health of the  
128 municipality where the parcel is located of the remediation, and (3)  
129 either (A) erect and maintain for at least thirty days in a legible  
130 condition a sign not less than six feet by four feet on the parcel, which  
131 sign shall be clearly visible from the public highway, and shall include  
132 the words "ENVIRONMENTAL CLEAN-UP IN PROGRESS AT THIS  
133 SITE. FOR FURTHER INFORMATION CONTACT:" and include a  
134 telephone number for an office from which any interested person may  
135 obtain additional information about the remediation, or (B) mail notice  
136 of the remediation to each owner of record of property which abuts the  
137 parcel, at the last-known address of such owner on the last-completed  
138 grand list of the municipality where the parcel is located.

139 Sec. 2. Subdivision (1) of section 22a-134 of the 2014 supplement to  
140 the general statutes is repealed and the following is substituted in lieu  
141 thereof (*Effective from passage*):

142 (1) "Transfer of establishment" means any transaction or proceeding  
143 through which an establishment undergoes a change in ownership, but

144 does not mean:

145 (A) Conveyance or extinguishment of an easement;

146 (B) Conveyance of an establishment through a foreclosure, as  
147 defined in subsection (b) of section 22a-452f, foreclosure of a municipal  
148 tax lien or through a tax warrant sale pursuant to section 12-157, an  
149 exercise of eminent domain by a municipality or pursuant to section 8-  
150 128, 8-169e or 8-193 or by condemnation pursuant to section 32-224 or  
151 purchase pursuant to a resolution by the legislative body of a  
152 municipality authorizing the acquisition through eminent domain for  
153 establishments that also meet the definition of a brownfield, as defined  
154 in section 32-760, or a subsequent transfer by such municipality that  
155 has foreclosed on the property, foreclosed municipal tax liens or that  
156 has acquired title to the property through section 12-157, or is within  
157 the pilot program established in subsection (c) of section 32-9cc of the  
158 general statutes, revision of 1958, revised to January 1, 2013, or the  
159 remedial action and redevelopment municipal grant program  
160 established in section 32-763, or has acquired such property through  
161 the exercise of eminent domain by a municipality or pursuant to  
162 section 8-128, 8-169e or 8-193 or by condemnation pursuant to section  
163 32-224 or a resolution adopted in accordance with this subparagraph,  
164 provided (i) the party acquiring the property from the municipality  
165 did not establish, create or contribute to the contamination at the  
166 establishment and is not affiliated with any person who established,  
167 created or contributed to such contamination or with any person who  
168 is or was an owner or certifying party for the establishment, and (ii) on  
169 or before the date the party acquires the property from the  
170 municipality, such party or municipality enters and subsequently  
171 remains in the voluntary remediation program administered by the  
172 commissioner pursuant to section 22a-133x, as amended by this act,  
173 and remains in compliance with schedules and approvals issued by the  
174 commissioner. For purposes of this subparagraph, subsequent transfer  
175 by a municipality includes any transfer to, from or between a  
176 municipality, municipal economic development agency or entity  
177 created or operating under chapter 130 or 132, a nonprofit economic

178 development corporation formed to promote the common good,  
179 general welfare and economic development of a municipality that is  
180 funded, either directly or through in-kind services, in part by a  
181 municipality, or a nonstock corporation or limited liability company  
182 controlled or established by a municipality, municipal economic  
183 development agency or entity created or operating under chapter 130  
184 or 132;

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

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

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

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

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

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

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

206 (J) The transfer of stock, securities or other ownership interests  
207 representing less than forty per cent of the ownership of the entity that

208 owns or operates the establishment;

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

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

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

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

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

229 (P) Any conveyance of an establishment to any entity created or  
230 operating under chapter 130 or 132, or to an urban rehabilitation  
231 agency, as defined in section 8-292, or to a municipality under section  
232 32-224, or to Connecticut Innovations, Incorporated or any subsidiary  
233 of the corporation;

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

237 (R) The conversion of a general or limited partnership to a limited

238 liability company;

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

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

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

249 (V) Conveyance of any real property or business operation that  
250 would qualify as an establishment solely as a result of (i) the  
251 generation of more than one hundred kilograms of universal waste in  
252 a calendar month, (ii) the storage, handling or transportation of  
253 universal waste generated at a different location, or (iii) activities  
254 undertaken at a universal waste transfer facility, provided any such  
255 real property or business operation does not otherwise qualify as an  
256 establishment; there has been no discharge, spillage, uncontrolled loss,  
257 seepage or filtration of a universal waste or a constituent of universal  
258 waste that is a hazardous substance at or from such real property or  
259 business operation; and universal waste is not also recycled, treated,  
260 except for treatment of a universal waste pursuant to 40 CFR  
261 273.13(a)(2) or (c)(2) or 40 CFR 273.33 (a)(2) or (c)(2), or disposed of at  
262 such real property or business operation;

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

265 (X) Acquisition of an establishment that is in the abandoned  
266 brownfield cleanup program established pursuant to section 32-768  
267 and all subsequent transfers of the establishment, provided the  
268 establishment is undergoing remediation or is remediated in

269 accordance with subsection (f) of section 32-768;

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

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

285 (AA) Conveyance of an establishment in connection with the  
286 acquisition of properties to effectuate the development of a project  
287 certified and approved pursuant to section 32-9v, provided any such  
288 property is investigated and remediated in accordance with section  
289 22a-133y; or

290 (BB) Conveyance from the Department of Transportation to the  
291 Connecticut Airport Authority of any properties comprising (i)  
292 Bradley International Airport and all related improvements and  
293 facilities now in existence and as hereafter acquired, added, extended,  
294 improved and equipped, including any property or facilities  
295 purchased with funds of, or revenues derived from, Bradley  
296 International Airport, and any other property or facilities allocated by  
297 the state, the Connecticut Airport Authority or otherwise to Bradley  
298 International Airport, (ii) the state-owned and operated general  
299 aviation airports, including Danielson Airport, Groton/New London  
300 Airport, Hartford Brainard Airport, Waterbury-Oxford Airport and

301 Windham Airport and any such other airport as may be owned,  
302 operated or managed by the Connecticut Airport Authority and  
303 designated as general aviation airports, (iii) any other airport as may  
304 be owned, operated or managed by the Connecticut Airport Authority,  
305 and (iv) any airport site or any part thereof, including, but not limited  
306 to, any restricted landing areas and any air navigation facilities.

307 Sec. 3. Subdivision (3) of section 22a-134 of the 2014 supplement to  
308 the general statutes is repealed and the following is substituted in lieu  
309 thereof (*Effective from passage*):

310 (3) "Establishment" means any real property at which or any  
311 business operation from which (A) on or after November 19, 1980,  
312 there was generated, except as the result of (i) remediation of polluted  
313 soil, groundwater or sediment, or (ii) the removal or abatement of  
314 building materials, more than one hundred kilograms of hazardous  
315 waste in any one month, (B) hazardous waste generated at a different  
316 location was recycled, reclaimed, reused, stored, handled, treated,  
317 transported or disposed of, (C) the process of dry cleaning was  
318 conducted on or after May 1, 1967, (D) furniture stripping was  
319 conducted on or after May 1, 1967, or (E) a vehicle body repair facility  
320 was located on or after May 1, 1967;

321 Sec. 4. Subsection (g) of section 22a-134a of the general statutes is  
322 repealed and the following is substituted in lieu thereof (*Effective from*  
323 *passage*):

324 (g) (1) (A) Except as provided in subsection (h) of this section, the  
325 certifying party to a Form III shall, not later than seventy-five days  
326 after the receipt of the notice that such form is complete or such later  
327 date as may be approved in writing by the commissioner, submit a  
328 schedule for the investigation of the parcel and remediation of the  
329 establishment. Such schedule shall, unless a later date is specified in  
330 writing by the commissioner, provide that the investigation shall be  
331 completed within two years of the date of receipt of such notice,  
332 remediation shall be initiated not later than three years after the date of

333 receipt of such notice and remediation shall be completed sufficient to  
334 support either a verification or interim verification within a time frame  
335 set forth in subparagraphs (B) and (C) of this subdivision. The  
336 schedule shall also include a schedule for providing public notice of  
337 the remediation prior to the initiation of such remediation in  
338 accordance with subsection (i) of this section. Not later than two years  
339 after the date of the receipt of the notice that the Form III is complete,  
340 unless the commissioner has specified a later day, in writing, the  
341 certifying party shall submit to the commissioner documentation,  
342 approved in writing by a licensed environmental professional and in a  
343 form prescribed by the commissioner, that the investigation has been  
344 completed in accordance with prevailing standards and guidelines.  
345 Not later than three years after the date of the receipt of the notice that  
346 the Form III is complete, unless the commissioner has specified a later  
347 day in writing, the certifying party shall notify the commissioner in a  
348 form prescribed by the commissioner that the remediation has been  
349 initiated, and shall submit to the commissioner a remedial action plan  
350 approved in writing by a licensed environmental professional in a  
351 form prescribed by the commissioner. Notwithstanding any other  
352 provision of this section, the commissioner may determine at any time  
353 that the commissioner's review and written approval is necessary and  
354 in such case shall notify the certifying party that the commissioner's  
355 review and written approval is necessary. Such certifying party shall  
356 investigate the parcel and remediate the establishment in accordance  
357 with the schedule or the schedule specified by the commissioner.

358 (B) For a certifying party that submitted a Form III or Form IV  
359 before October 1, 2009, when remediation of the entire establishment is  
360 complete, the certifying party shall achieve the remediation standards  
361 for the establishment sufficient to support a final verification and shall  
362 submit to the commissioner a final verification by a licensed  
363 environmental professional.

364 (C) For a certifying party that submits a Form III or Form IV after  
365 October 1, 2009, not later than eight years after the date of receipt of  
366 the notice that the Form III or Form IV is complete, unless the

367 commissioner has specified a later date in writing, the certifying party  
368 shall achieve the remediation standards for the establishment sufficient  
369 to support a final or interim verification and shall submit to the  
370 commissioner such final or interim verification by a licensed  
371 environmental professional. Any such final verification may include  
372 and rely upon a verification for a portion of the establishment  
373 submitted pursuant to subdivision (2) of this subsection. Verifications  
374 shall be submitted on a form prescribed by the commissioner. The  
375 certifying party may request a verification or interim verification filing  
376 extension. The commissioner shall grant a reasonable extension if the  
377 certifying party demonstrates to the commissioner's satisfaction that:  
378 (i) Such certifying party has made reasonable progress toward  
379 investigation and remediation of the establishment; and (ii) despite  
380 best efforts, circumstances beyond the control of the certifying party  
381 have significantly delayed the remediation of the establishment.

382 (D) A certifying party who submits an interim verification shall,  
383 until the remediation standards for groundwater are achieved, operate  
384 and maintain the long-term remedy for groundwater in accordance  
385 with the remedial action plan, the interim verification and any  
386 approvals by the commissioner, prevent exposure to the groundwater  
387 plume and submit annual status reports to the commissioner.

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

391 (2) [If] (A) Notwithstanding the date the Form III or Form IV was  
392 submitted, if a certifying party completes the remediation for a portion  
393 of an establishment, such party may submit a verification or an interim  
394 verification by a licensed environmental professional for any such  
395 portion of an establishment. The certifying party shall be deemed to  
396 have satisfied the requirements of this subsection for that portion of  
397 the establishment covered by any such verification or interim  
398 verification. If any portion of an establishment for which a verification  
399 or interim verification is submitted pursuant to this subdivision is

400 transferred or conveyed or undergoes a change in ownership before  
401 remediation of the entire establishment is complete that would not  
402 otherwise be subject to the provisions of sections 22a-134 to 22a-134e,  
403 inclusive, as amended by this act, the certifying party shall provide  
404 notice to the commissioner of such transfer, conveyance or change in  
405 ownership not later than thirty days after any such transfer,  
406 conveyance or change in ownership.

407 (B) Any certifying party who submits an interim verification for a  
408 portion of an establishment on or before December 31, 2014, shall not  
409 be required to record any environmental land use restriction, in  
410 accordance with section 22a-133o, prior to submitting such interim  
411 verification, provided such certifying party shall record such  
412 environmental land use restriction, in accordance with section 22a-  
413 133o, on or before September 1, 2015, or a later date as approved, in  
414 writing, by the commissioner. If such environmental land use  
415 restriction is not recorded on or before September 1, 2015, or such later  
416 date, such interim verification shall be invalid and shall not be  
417 recognized by the commissioner.

418 (3) (A) The commissioner may conduct an audit of any verification  
419 or interim verification submitted pursuant to this section, but shall not  
420 conduct an audit of a final verification of an entire establishment  
421 submitted pursuant to subdivision (1) of this subsection after three  
422 years have passed since the date of the commissioner's receipt of such  
423 final verification unless an exception listed in subparagraph (C) of this  
424 subdivision applies. Upon completion of an audit, the commissioner  
425 shall send written audit findings to the certifying party and the  
426 licensed environmental professional who verified. The three-year time  
427 frame for an audit of a final verification of an entire establishment shall  
428 apply to such final verifications received by the commissioner after  
429 October 1, 2007.

430 (B) The commissioner may request additional information during an  
431 audit. If such information has not been provided to the commissioner  
432 within ninety days of the commissioner's request for such information

433 or any longer time as the commissioner may determine in writing, the  
434 commissioner may either (i) suspend the audit, which for a final  
435 verification shall suspend the running of the three-year audit time  
436 frame until such time as the commissioner receives all the information  
437 requested, or (ii) complete the audit based upon the information  
438 provided in the verification before the request for additional  
439 information.

440 (C) The commissioner shall not conduct an audit of a final  
441 verification of an entire establishment after three years from receipt of  
442 such verification pursuant to this subdivision unless (i) the  
443 commissioner has reason to believe that a verification was obtained  
444 through the submittal of materially inaccurate or erroneous  
445 information, or otherwise misleading information material to the  
446 verification or that misrepresentations were made in connection with  
447 the submittal of the verification, (ii) a verification is submitted  
448 pursuant to an order of the commissioner pursuant to subsection (j) of  
449 this section, (iii) any post-verification monitoring, or operations and  
450 maintenance, is required as part of a verification and which has not  
451 been done, (iv) a verification that relies upon an environmental land  
452 use restriction was not recorded on the land records of the  
453 municipality in which such land is located in accordance with section  
454 22a-133o and applicable regulations, (v) the commissioner determines  
455 that there has been a violation of sections 22a-134 to 22a-134e,  
456 inclusive, as amended by this act, or (vi) the commissioner determines  
457 that information exists indicating that the remediation may have failed  
458 to prevent a substantial threat to public health or the environment.

459 Sec. 5. Subsection (p) of section 22a-134e of the general statutes is  
460 repealed and the following is substituted in lieu thereof (*Effective from*  
461 *passage*):

462 (p) Notwithstanding any other provision of this section, the fee for  
463 filing a Form II or Form IV for an establishment for which the  
464 commissioner has issued a written approval of a remediation under  
465 subsection [(c)] (d) of section 22a-133x, as amended by this act, within

466 three years of the date of the filing of the form shall be the total fee for  
467 a Form III specified in subsection (n) of this section and shall be due  
468 upon the filing of the Form II or Form IV.

469 Sec. 6. Subsection (b) of section 32-11e of the 2014 supplement to the  
470 general statutes is repealed and the following is substituted in lieu  
471 thereof (*Effective from passage*):

472 (b) (1) Without limiting the authority of the corporation with respect  
473 to establishing other subsidiaries pursuant to subsection (a) of this  
474 section, the corporation may establish one or more subsidiaries to  
475 stimulate, encourage and carry out the remediation, development and  
476 financing of contaminated property within this state, in coordination  
477 with the Department of Energy and Environmental Protection, and to  
478 provide financial, developmental and environmental expertise to  
479 others including, but not limited to, municipalities, interested in or  
480 undertaking such remediation, development or financing which are  
481 determined to be public purposes for which public funds may be  
482 expended. The corporation may transfer to any such subsidiary any  
483 moneys and real or personal property.

484 (2) Neither the Connecticut Brownfields Redevelopment Authority  
485 nor any other subsidiary formed under this subsection may provide  
486 for any bonded indebtedness of the state for the cost of any liability or  
487 contingent liability for the remediation of contaminated real property  
488 unless such indebtedness is specifically authorized by an act of the  
489 General Assembly. Each such subsidiary may do all things necessary  
490 or convenient to carry out the purposes of this subsection, section 12-  
491 81r, subsection (h) of section 22a-133m, subsection [(a)] (b) of section  
492 22a-133x, as amended by this act, sections 22a-133aa, 22a-133bb and  
493 22a-133dd, subsection (l) of section 22a-134a and sections 22a-452f, 32-  
494 7e and 32-23pp to 32-23rr, inclusive, including, but not limited to, (A)  
495 solicit, receive and accept aid, grants or contributions from any source  
496 of money, property or labor or other things of value, to be held, used  
497 and applied to carry out the purposes of this subsection, section 12-81r,  
498 subsection (h) of section 22a-133m, subsection [(a)] (b) of section 22a-

499 133x, as amended by this act, sections 22a-133aa, 22a-133bb and 22a-  
500 133dd, subsection (l) of section 22a-134a and sections 22a-452f, 32-7e  
501 and 32-23pp to 32-23rr, inclusive, subject to the conditions upon which  
502 such grants and contributions may be made, including, but not limited  
503 to, gifts, grants or loans, from any department, agency or quasi-public  
504 agency of the United States or the state; (B) enter into agreements with  
505 persons upon such terms and conditions as are consistent with the  
506 purposes of such subsidiary to acquire or facilitate the remediation,  
507 development or financing of contaminated real or personal property;  
508 (C) to acquire, take title, lease, purchase, own, manage, hold and  
509 dispose of real and personal property and lease, convey or deal in or  
510 enter into agreements with respect to such property; (D) examine,  
511 inspect, rehabilitate, remediate or improve real or personal property or  
512 engage others to do so on such subsidiary's behalf, or enter into  
513 contracts therefor; (E) mortgage, convey or dispose of its assets and  
514 pledge its revenues to secure any borrowing, for the purpose of  
515 financing, refinancing, rehabilitating, remediating, improving or  
516 developing its assets, provided each such borrowing or mortgage shall  
517 be a special obligation of such subsidiary, which obligation may be in  
518 the form of notes, bonds, bond anticipation notes and other obligations  
519 issued by or to such subsidiary to the extent permitted under this  
520 section and sections 32-11c and 32-11d to fund and refund the same  
521 and provide for the rights of the holders thereof, and to secure the  
522 same by pledge of revenues, notes or other assets and which shall be  
523 payable solely from the assets, revenues and other resources of such  
524 subsidiary; (F) to create real estate investment trusts or similar entities  
525 or to become a member of a limited liability company or to become a  
526 partner in limited or general partnerships or establish other contractual  
527 arrangements with private and public sector entities as such subsidiary  
528 deems necessary to remediate, develop or finance environmentally  
529 contaminated property in the state; and (G) any other powers  
530 necessary or appropriate to carry out the purposes of this subsection,  
531 subsection (h) of section 22a-133m, subsection [(a)] (b) of section 22a-  
532 133x, as amended by this act, sections 22a-133aa, 22a-133bb and 22a-  
533 133dd, subsection (l) of section 22a-134a and sections 22a-452f, 32-7e

534 and 32-23pp to 32-23rr, inclusive. The board of directors, chief  
 535 executive officer, officers and staff of the corporation may serve as  
 536 members of any advisory or other board which may be established to  
 537 carry out the purposes of this subsection, subsection (h) of section 22a-  
 538 133m, subsection [(a)] (b) of section 22a-133x, as amended by this act,  
 539 sections 22a-133aa, 22a-133bb and 22a-133dd, subsection (l) of section  
 540 22a-134a and sections 22a-452f, 32-7e and 32-23pp to 32-23rr, inclusive.

541 Sec. 7. Subsection (h) of section 32-765 of the 2014 supplement to the  
 542 general statutes is repealed and the following is substituted in lieu  
 543 thereof (*Effective from passage*):

544 (h) The commissioner may modify the terms of any loan made [to a  
 545 municipality or economic development agency] pursuant to this  
 546 section to provide for forgiveness of interest, principal, or both, or  
 547 delay in repayment of interest, principal, or both, when the  
 548 commissioner determines such forgiveness or delay is in the best  
 549 interest of the state from an economic or community development  
 550 perspective.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>from passage</i>	22a-133x
Sec. 2	<i>from passage</i>	22a-134(1)
Sec. 3	<i>from passage</i>	22a-134(3)
Sec. 4	<i>from passage</i>	22a-134a(g)
Sec. 5	<i>from passage</i>	22a-134e(p)
Sec. 6	<i>from passage</i>	32-11e(b)
Sec. 7	<i>from passage</i>	32-765(h)

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 (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 fiscal impact anticipated.

House "A" replaces the underlying bill with the impact described above.

### ***The Out Years***

***State Impact:*** None

***Municipal Impact:*** None

**OLR Bill Analysis**

**sHB 5573 (as amended by House "A")\***

***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 program to submit interim verifications, signifying that a site was remediated according to DEEP standards, except for groundwater undergoing long-term remediation and monitoring. It also allows participants to submit interim or final verifications for part of a site instead of waiting until the entire site is remediated.

By law, property owners may begin to investigate and remediate a site under the voluntary program before they must do so under the Transfer Act, which sets deadlines for completing these actions. The bill allows the party responsible for certifying the site's investigation and remediation under the program to submit an interim instead of a final verification. It also provides a narrow window during which it may delay recording in the land records restrictions on how the remediated site may be used.

The bill exempts more property from the Transfer Act. By law, a property owner must comply with the act if the property generated more than 100 kilograms (220 pounds) of hazardous waste in any month. Current law exempts property if the waste was generated by soil, groundwater, or sediment remediation. The bill also exempts

property if the waste consists of removed or abated building materials, such as asbestos.

The bill also exempts sites municipalities take by eminent domain under any statute, not just those authorizing takings for redevelopment purpose, 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.

Lastly, the bill allows the Department of Economic and Community Development (DECD) commissioner to forgive or delay repayments of brownfield loans made to private developers, not just municipalities and regional entities, as current law allows.

\*House Amendment "A":

1. specifies the conditions a licensed environmental professional (LEP) must meet to submit an interim verification under the voluntary program,
2. drops a provision allowing interim verification under DEEP's voluntary program for remediating sites where the groundwater is unsuitable for human consumption,
3. adds a provision for submitting interim verification under the Transfer Act,
4. exempts from the act property where building materials are being removed or abated,
5. adds the provision allowing the DECD commissioner to forgive brownfield loans made to private developers, and
6. makes technical changes.

EFFECTIVE DATE: October 1, 2014

**INTERIM AND PARTIAL SITE VERIFICATIONS**

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

The bill gives the parties responsible for certifying a site's environmental status and its remediation (certifying parties) more latitude for remediating sites under DEEP's Voluntary Remediation Program, which allows them to undertake these tasks before they must do so under the Transfer Act. The program also requires them to retain an LEP to verify that these tasks were completed according to DEEP standards, unless DEEP notifies the property owner that it will perform the tasks.

Under current law, the LEP can verify that the entire site or the release area was investigated according to those standards. (The release area is that part of a site where hazardous waste was discharged, spilled, or released.) The bill allows (1) the site to be investigated and remediated in sections and (2) for the LEP to verify that each section was investigated and remediated according to DEEP standards, instead of waiting for the entire site to be investigated and remediated.

The bill also allows the LEP to verify that the site, part of the site, or the release area was investigated and remediated except for contaminated groundwater undergoing long-term remediation and monitoring (interim verification). The LEP may do so by submitting his or her written opinion on a DEEP form indicating that:

1. the investigation was performed according to the prevailing DEEP standards and guidelines;
2. remediation was completed according to DEEP's remediation standards, except for the groundwater;
3. the groundwater is undergoing remediation, but has not been remediated according to the applicable groundwater remediation standards; and
4. exposed pathways to the groundwater area meet DEEP's remediation standards.

The bill authorizes the commissioner to audit interim verifications under the same conditions he may audit final verifications under current law.

### ***Conveyance Under the Transfer Act***

The bill also gives property owners who did not participate in the voluntary program latitude when investigating and remediating sites under the Transfer Act. Current law allows them to convey or transfer all or part of a site only after the certifying party verifies that the site or part of the site was investigated and completely remediated (final verification).

The bill allows property owners to convey or transfer all or part of the site after completing an interim verification. It allows them do so regardless of the date on the forms they submitted under the act indicating the site's environmental status and remediation plan or certifying that the remediation was completed according to DEEP standards.

In allowing certifying parties to submit interim verifications, the bill tacitly requires them to record an environmental land use restriction (ELUR) in the local land records when they submit such verifications to DEEP. (ELURs restrict how a remediated property can be redeveloped.) But it also creates a narrow window under which an owner may delay recording an ELUR.

Under the bill, a certifying party that submits the interim verification for a site on or before December 31, 2014 does not have to record an ELUR until September 1, 2015. When the certifying party records the ELUR, it must do so as existing law requires. If the certifying party fails to meet the September 1 recording deadline, the interim verification is invalid and the DEEP commissioner cannot recognize interim verification.

### **MODIFYING BROWNFIELD LOAN REPAYMENT TERMS**

The bill allows the DECD commissioner to modify the terms and

conditions of brownfield remediation loans made to private developers, not just those made to municipalities, economic development agencies, regional development agencies, and regional planning organizations, as current law allows. Under current law, she may modify the terms and conditions by delaying or forgiving principal, interest, or principal and interest payments if she determines that it is in the state’s best interest to do so. Under the bill, she may do these things if she determines that it is in the state’s best interest from an economic or community development perspective, which the bill does not define.

**BACKGROUND**

***Related Bill***

HB 5544 (File 449) allows interim verification under the Transfer Act for a portion of a site.

**COMMITTEE ACTION**

Commerce Committee

Joint Favorable Substitute

Yea 17 Nay 0 (03/20/2014)