

**Testimony of Gary B. O'Connor**  
**Co-Chair, Brownfield Working Group**  
**Before the Commerce Committee of the General Assembly**  
**In support of**  
**Raised Bill No. 961**  
**An Act Concerning The Remediation of State Owned Brownfields**  
**Raised Bill No. 6830**  
**An Act Revising The Remedial Action And Redevelopment Municipal Grant Program and**  
**Targeted Brownfield Development Loan Program**  
**February 24, 2015**

Good morning, my name is Gary O'Connor and I am a partner at the law firm of Pullman & Comley. I have practiced law for over 30 years concentrating in the areas of environmental law and real estate development. I serve with Ann Catino as co-chair of the Brownfield Working Group appointed by the General Assembly. I would like to thank the Commerce Committee for the opportunity to speak today in support of Raised Bill No. 961 An Act Concerning The Remediation of State Owned Brownfields and Raised Bill No. 6830 An Act Revising The Remedial Action And Redevelopment Municipal Grant Program and Targeted Brownfield Development Loan Program. I would also like to acknowledge and thank Senator Hartley Representative Perone and the other members of the Commerce Committee for your leadership and support of brownfield redevelopment as an important catalyst for revitalizing our communities, restoring properties to beneficial reuse and enhancing the quality of life in Connecticut.

Since the creation of the Brownfield Working Group (f/k/a the Brownfield Task Force) in 2006, we have examined issues relating to the remediation and redevelopment of brownfields in this state, the regulatory scheme for remediating such properties, funding requirements and liability concerns. Over the years, we have made recommendations to the Commerce Committee on reducing the barriers to brownfield redevelopment by creating more certainty, streamlining regulatory requirements, providing certain liability immunities, reducing the cost and time of remediation and providing cleanup funds to eligible businesses, developers and municipalities. Many of these recommendations have become law and have greatly assisted stakeholders in revitalizing Connecticut's brownfields. The proposed bills continue to advance the State's brownfields initiative.

Raised Bill No. 961 eliminates a limitation in P.A. 11-1 which authorized \$20 million in bond funds to identify, market and remediate state-owned brownfields. It has become apparent that the sites with the most potential benefit from this initiative are formally state-owned brownfields. The proposed bill essentially broadens the scope of P.A. 11 – 1 to include formally state-owned properties. I would make one technical revision to Revised Bill No. 961 by adding the phrase "or formally state-owned" before the word "brownfields" on the third line of subsection (a) of Section 1.

Raised Bill No. 6830 makes a number of technical revisions to the Remedial Action and Remediation Municipal Grant Program in the Targeted Brownfield Development Loan Program:

1. It creates an area-wide planning grant program, which will help municipalities develop a master plan for redeveloping brownfield properties. The proposed language will allow municipalities to plan their brownfield redevelopment initiatives on an area-wide basis, which in turn, will allow them to utilize their brownfields dollars in a more efficient and strategic manner that takes into account the impact of a particular brownfields project on the redevelopment of the entire area. Generally, a greater impact on the entire area will result in a greater return on the public sector's financial investment in a particular brownfield project. This analysis is extremely important for municipalities.

2. The proposed bill would permit acquisition costs to be an eligible use of loan funds. This technical change did not receive unanimous consensus from the members of the Brownfield Working Group. There was a concern that the revision would cause the State's limited brownfield funds to be diverted from the actual remediation of sites to their acquisition. The Brownfield Working Group will be meeting with DECD officials to clarify and refine this particular provision.

3. The proposed bill empowers the DECD Commissioner with the discretion to "top up" existing grants from the amount of funding originally requested and grant applications in circumstances where there have been cost overruns due to unexpected contamination or changes in remediation methodology. The ability to "top up" would be subject to the availability of grant funding, limited to 50% of the originally-requested funds and require co-approval from the Commissioner of DEEP. Brownfield remediation and redevelopment is not an exact science. Often, additional contamination is discovered while the developer or business owner is in the middle of the planned remediation of the site. The discovery of additional contamination and the increased cost of remediation can derail good projects. The proposed provision allowing the Commissioner of DECD to "top up" existing grants will help to avoid this problem and will allow brownfield sites to be restored to productive use.

4. The proposed bill equalizes the allowable dollar limits on loans and grants. Currently the State can make grants to municipalities in an amount not exceeding \$4 million; however, it can only make loans to developers or business owners in an amount not exceeding \$2 million. As the real estate market continues to rebound in Connecticut, there is a greater need for loans to the private sector in greater amounts. Equalizing the grant and loan dollar limitations makes a great deal of sense because it helps to encourage increased amounts of private sector investment and results in a greater leverage of public sector funds.

5. The proposed bill eliminates municipalities' ability to use grant proceeds to make loans to developers from municipal grant proceeds received from the State. I am not aware of any municipality that has made a loan to a developer under this provision of the current statute, so eliminating this provision will not disrupt existing programs. The underwriting of brownfield grants and loans is complex and requires specialized experience and expertise that rarely can be found at the local level. Connecticut is a small state and these underwriting issues can be handled at the state level by DECD.

6. The proposed bill exempts recipients of loans for building materials abatement or disposal from being required to enter the Voluntary Cleanup Program. This provision eliminates an unnecessary and expensive requirement in situations where the business owners or developers

are simply seeking funding to defray the cost of hazardous building materials abatement or disposal when there is no other requirement to investigate or remediate the soil or groundwater at the site. The current law operates as a disincentive to business owners and developers from seeking funding to abate or dispose of hazardous building materials in their buildings.

In sum, Raised Bill No. 961 and Raised Bill No. 6830 make small but necessary revisions to the State's brownfields statutes. They are worthy of your consideration. I would like to end by reminding everyone present, today, that the most effective tool for brownfields revitalization is money. It is crucial, now, as the real estate market has rebounded to promote smart growth through brownfields redevelopment. There is an increasing demand for financial assistance from the State. Accordingly, we ask that you consider raising funding to brownfields grant and loan programs to \$40 million in each of the next two fiscal years. Thank you again for the opportunity to speak before your committee.