



House of Representatives

General Assembly

File No. 393

February Session, 2016

Substitute House Bill No. 5425

House of Representatives, April 4, 2016

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 THE CREATION OF CONNECTICUT BROWNFIELD LAND BANKS, CERTAIN LENDER RESPONSIBILITY FOR RELEASES AT BROWNFIELDS AND REVISIONS TO THE BROWNFIELDS REMEDIATION AND DEVELOPMENT PROGRAM.

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

1 Section 1. Section 32-760 of the 2016 supplement to the general
2 statutes is repealed and the following is substituted in lieu thereof
3 (*Effective July 1, 2016*):

4 As used in this [section and sections 32-761 to 32-769, inclusive]
5 chapter:

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

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

11 (B) Such person made all appropriate inquiries, as set forth in 40
12 CFR Part 312, into the previous ownership and uses of the property in
13 accordance with generally accepted good commercial and customary
14 standards and practices, including, but not limited to, the standards
15 and practices set forth in the ASTM Standard Practice for
16 Environmental Site Assessments, Phase I Environmental Site
17 Assessment Process, in effect on the date such person acquired the
18 property. In the case of property in residential or other similar use at
19 the time of purchase by a nongovernmental or noncommercial entity, a
20 property inspection and a title search that reveal no basis for further
21 investigation shall be considered to satisfy the requirements of this
22 subparagraph;

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

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

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

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

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

43 (2) "Brownfield" means any abandoned or underutilized site where
44 redevelopment, reuse or expansion has not occurred due to the
45 presence or potential presence of pollution in the buildings, soil or
46 groundwater that requires investigation or remediation before or in
47 conjunction with the redevelopment, reuse or expansion of the
48 property;

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

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

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

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

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

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

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

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

80 (6) "Economic development agency" means (A) a municipal
81 economic development agency or entity created or operating under
82 chapter 130 or 132; (B) a nonprofit economic development corporation
83 formed to promote the common good, general welfare and economic
84 development of a municipality or a region that is funded, either
85 directly or through in-kind services, in part by one or more
86 municipalities; (C) a nonstock corporation or limited liability company
87 established or controlled by a municipality, municipal economic
88 development agency or an entity created or operating under chapter
89 130 or 132; or (D) an agency, as defined in section 32-327;

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

102 (8) "Financial assistance" means grants, loans or loan guarantees, or
103 any combination thereof;

104 (9) "Innocent landowner" has the same meaning as provided in

105 section 22a-452d;

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

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

111 (12) "Municipality" means a town, city, consolidated town and city
112 or consolidated town and borough. For purposes of sections 2 to 6,
113 inclusive, of this act, "municipality" includes a district, as defined in
114 section 7-324, a metropolitan area, as defined in section 7-333, and any
115 political subdivision of the state that has the power to levy taxes and to
116 issue bonds, notes or other obligations;

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

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

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

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

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

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

134 section 22a-134, as amended by this act;

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

136 (20) "UST regulations" means the regulations adopted pursuant to
137 subsection (d) of section 22a-449; [and]

138 (21) "Verification" has the same meaning as provided in section 22a-
139 134, as amended by this act; and

140 (22) "Connecticut brownfield land bank" means a Connecticut
141 nonstock corporation, certified by the Commissioner of Economic and
142 Community Development pursuant to section 2 of this act, established
143 for the purposes of (A) acquiring, retaining, remediating and selling
144 brownfields in the state for the benefit of municipalities, (B) educating
145 government officials, community leaders, economic development
146 agencies and nonprofit organizations on best practices for
147 redeveloping brownfields, and (C) engaging in all other activities in
148 accordance with sections 2 to 6, inclusive, of this act.

149 Sec. 2. (NEW) (*Effective July 1, 2016*) (a) Any Connecticut nonstock
150 corporation may apply to the Commissioner of Economic and
151 Community Development for certification as a Connecticut brownfield
152 land bank by submitting to the commissioner, on forms provided by
153 the commissioner, an application containing such information as the
154 commissioner deems necessary, including, but not limited to:

155 (1) The certificate of incorporation and bylaws of the applicant;

156 (2) A list of the current officers and directors of the applicant;

157 (3) A proposed land banking agreement with one or more
158 municipalities;

159 (4) Information concerning the financial and technical capability of
160 the applicant to fulfill the purposes of a Connecticut brownfield land
161 bank, as described in section 4 of this act;

162 (5) A letter of support from at least two municipalities; and

163 (6) A proposed business plan for such land bank.

164 (b) The commissioner may approve or reject any application for
165 certification properly submitted in accordance with this section. In
166 reviewing an application and determining whether to approve such
167 application, the commissioner shall consider the following criteria:

168 (1) The financial and technical capabilities of the applicant to fulfill
169 the purposes of a Connecticut brownfield land bank, as described in
170 section 4 of this act;

171 (2) The relative economic condition of the municipalities the
172 applicant intends to serve;

173 (3) The level of support for such applicant from municipalities;

174 (4) The quality of the applicant's business plan; and

175 (5) Such other criteria consistent with the purpose of sections 2 to 6,
176 inclusive, of this act, as the commissioner may establish.

177 (c) If the commissioner approves an application for certification as a
178 Connecticut brownfield land bank, the commissioner shall issue a
179 Connecticut brownfield land bank certificate to the successful
180 applicant and such applicant shall be granted the rights, privileges and
181 immunities provided under sections 2 to 6, inclusive, of this act.

182 (d) Not later than January thirty-first, annually, each Connecticut
183 brownfield land bank shall report to the commissioner on its activities
184 for the preceding year and provide the commissioner any such
185 information as the commissioner deems necessary, including, but not
186 limited to: (1) An updated list of its current officers and directors; (2)
187 an updated business plan; (3) a complete operating and financial
188 statement; and (4) a copy of any land banking agreements entered into
189 during the preceding year.

190 (e) The commissioner shall review the annual report of each
191 Connecticut brownfield land bank and determine whether each land

192 bank is in compliance with the provisions of subsection (d) of this
193 section. If the commissioner determines that a Connecticut brownfield
194 land bank is not in compliance with such provisions, the commissioner
195 shall notify the officers of such land bank, in writing, that the land
196 bank may be subject to decertification after the one-hundred-twentieth
197 day after the date of mailing the notice unless such noncompliance is
198 waived by the commissioner or such land bank submits an annual
199 report that the commissioner determines is compliant with the
200 provisions of subsection (d) of this section.

201 (f) Any Connecticut brownfield land bank that is decertified by the
202 commissioner shall not enter into any additional land banking
203 agreement. Decertification of a Connecticut brownfield land bank shall
204 not terminate the rights or obligations of such land bank under
205 sections 2 to 6, inclusive, of this act with respect to any property
206 acquired or land banking agreement entered into prior to the date of
207 decertification.

208 Sec. 3. (NEW) (*Effective July 1, 2016*) (a) The powers of a Connecticut
209 brownfield land bank shall be vested in and exercised by a board of
210 directors that shall consist of not less than five and not more than
211 eleven members, each with knowledge and expertise in matters related
212 to the purposes and activities of a Connecticut brownfield land bank,
213 as established in section 4 of this act. The board shall elect from its
214 members a chairperson and such other officers as it deems necessary
215 and shall adopt such bylaws and procedures it deems necessary to
216 carry out its functions. The board may establish committees and
217 subcommittees as necessary to conduct its business.

218 (b) Notwithstanding any provision of the general statutes, any
219 public officer shall be eligible to serve as a member of the board of
220 directors and the acceptance of the appointment shall neither
221 terminate nor impair such public office. For purposes of this section,
222 "public officer" means a person who is elected or appointed to any
223 state or municipal office. Any state or municipal employee shall be
224 eligible to serve as a board member.

225 (c) Members of the board of directors shall have the power to
226 organize and reorganize the executive, administrative, clerical and
227 other departments of a Connecticut brownfield land bank, and to fix
228 the duties, powers and compensation of all employees, agents and
229 consultants of a Connecticut brownfield land bank.

230 (d) Board members shall serve without compensation, provided
231 each board member shall be entitled to reimbursement for such
232 member's actual and necessary expenses incurred during the
233 performance of such member's official duties.

234 (e) Members of the board of directors shall not be liable personally
235 on the loans or other obligations or environmental liabilities of the
236 Connecticut brownfield land bank, and the rights of creditors shall be
237 solely against such land bank.

238 Sec. 4. (NEW) (*Effective July 1, 2016*) (a) The purposes of a
239 Connecticut brownfield land bank shall be to (1) acquire, retain,
240 remediate and sell brownfields in the state on behalf of municipalities
241 pursuant to land banking agreements with such municipalities, (2)
242 educate government officials, community leaders, economic
243 development agencies and nonprofit organizations on best practices
244 for redeveloping brownfields, and (3) engage in all other activities in
245 accordance with sections 2 to 6, inclusive, of this act. In addition to
246 those powers, rights, privileges and immunities granted under chapter
247 602 of the general statutes, a Connecticut brownfield land bank is
248 authorized and empowered to do the following in furtherance of its
249 purposes:

250 (A) Enter into land banking agreements with municipalities for the
251 acquisition, retention, remediation and sale of real property within
252 such municipalities on behalf of such municipalities.

253 (B) Enter into contracts and agreements with municipalities for
254 staffing services to be provided to the Connecticut brownfield land
255 bank by such municipalities, or agencies or departments thereof, or for
256 a Connecticut brownfield land bank to provide such staffing services

257 to such municipalities, or agencies or departments thereof in relation
258 to the duties of such land bank.

259 (C) Obtain grant funds or borrow from private lenders,
260 municipalities, the state or the federal government, as may be
261 necessary, for the operation of such Connecticut brownfield land bank.

262 (D) Procure insurance or guarantees from the state or federal
263 government of the payments of any debts, or parts thereof, incurred by
264 such Connecticut brownfield land bank, and to pay premiums in
265 connection therewith.

266 (E) Do all other things necessary or convenient to achieve the
267 purposes of such Connecticut brownfield land bank and comply with
268 any law relating to the purposes and responsibilities of such land
269 bank.

270 (F) Acquire real property, as described in subsection (b) of section 6
271 of this act, by purchase contracts, lease purchase agreements,
272 installment sales contracts, land contracts and foreclosure of municipal
273 tax liens. A Connecticut brownfield land bank may accept transfers of
274 real property from municipalities upon such terms and conditions as
275 agreed to by the brownfield land bank and the municipality.
276 Notwithstanding any provision of the general statutes or of any special
277 act, municipal charter or home rule ordinance, any municipality may
278 transfer and convey to a Connecticut brownfield land bank real
279 property and interests in real property located in the municipality on
280 such terms and conditions and according to such procedures as
281 determined by the municipality.

282 (b) A Connecticut brownfield land bank shall neither possess nor
283 exercise the power of eminent domain.

284 Sec. 5. (NEW) (*Effective July 1, 2016*) The exercise of the powers
285 granted by sections 2 to 6, inclusive, of this act, shall be in all respects
286 for the benefit of the people of the state, for the increase of their
287 commerce, welfare and prosperity, and as the exercise of such powers

288 shall constitute the performance of an essential public function, a
289 Connecticut brownfield land bank shall not be required to pay any
290 taxes or assessments upon or in respect of any revenues or property
291 received, acquired, transferred or used by such Connecticut
292 brownfield land bank, or upon or in respect of the income from such
293 revenues or property. Any notes or other obligations issued under the
294 provisions of this section, their transfer and the income therefrom,
295 including any profit made on the sale of such notes or other
296 obligations, shall at all times be free from taxation of every kind by the
297 state and by the municipalities and other political subdivisions in the
298 state.

299 Sec. 6. (NEW) (*Effective July 1, 2016*) (a) A Connecticut brownfield
300 land bank shall hold in its own name all real property acquired by
301 such land bank irrespective of the identity of the transferor of such
302 property.

303 (b) A Connecticut brownfield land bank shall acquire only
304 brownfield sites and other real property, located adjacent or in close
305 proximity to brownfield sites to be acquired, that is advantageous to
306 the redevelopment of such brownfield sites.

307 (c) A Connecticut brownfield land bank shall maintain and make
308 available for public review and inspection an inventory of all real
309 property held by such land bank.

310 (d) A Connecticut brownfield land bank shall determine and set
311 forth in policies and procedures the general terms and conditions for
312 consideration to be received by such land bank for the transfer to such
313 land bank of real property and interests in real property, which
314 consideration may take the form of monetary payments and secured
315 financial obligations, covenants and conditions related to the present
316 and future use of such real property, contractual commitments of the
317 transferee, and such other forms of consideration as determined by the
318 board of directors to be in the best interest of such land bank.

319 (e) A Connecticut brownfield land bank may convey, exchange, sell,

320 transfer, lease as lessee, grant, release and demise, pledge and
321 hypothecate any and all interests in, upon or to real property of the
322 brownfield land bank, provided such land bank may only convey,
323 exchange, transfer or sell real property with the approval of the
324 municipality in which such real property is located pursuant to the
325 terms of a land banking agreement entered into with such
326 municipality.

327 Sec. 7. Subsection (a) of section 12-81r of the general statutes is
328 repealed and the following is substituted in lieu thereof (*Effective July*
329 *1, 2016*):

330 (a) Any municipality may (1) enter into an agreement with the
331 owner of any real property to abate the property tax due as of the date
332 of the agreement for a period not to exceed seven years if the property
333 has been subject to a spill, as defined in section 22a-452c, and the
334 owner agrees to conduct any environmental site assessment,
335 demolition and remediation of the spill necessary to redevelop the
336 property. Any such tax abatement shall only be for the period of
337 remediation and redevelopment and shall be contingent upon the
338 continuation and completion of the remediation and redevelopment
339 process with respect to the purposes specified in the agreement. The
340 abatement shall cease upon the sale or transfer of the property for any
341 other purpose unless the municipality consents to its continuation. The
342 municipality may also establish a recapture provision in the event of
343 sale provided such recapture shall not exceed the original amount of
344 taxes abated and may not go back further than the date of the
345 agreement; (2) forgive all or a portion of the principal balance and
346 interest due on delinquent property taxes for the benefit of any
347 prospective purchaser who has obtained an environmental
348 investigation or remediation plan approved by the Commissioner of
349 Energy and Environmental Protection or a licensed environmental
350 professional under section 22a-133w, 22a-133x or 22a-133y and
351 completes such remediation plan for an establishment, as defined in
352 section 22a-134, as amended by this act, deemed by the municipality to
353 be abandoned or a brownfield, as defined in section 32-760 as

354 amended by this act; [or] (3) enter into an agreement with the owner of
355 any real property to fix the assessment of the property as of the last
356 assessment date prior to commencement of remediation activities for a
357 period not to exceed seven years, provided the property has been the
358 subject of a remediation approved by the Commissioner of Energy and
359 Environmental Protection or verified by a licensed environmental
360 professional pursuant to section 22a-133w, 22a-133x, 22a-133y or 22a-
361 134, as amended by this act; or (4) forgive all or a portion of the
362 principal balance and interest due on delinquent property taxes for the
363 benefit of any Connecticut brownfield land bank, as defined in section
364 32-760, as amended by this act, that has acquired or will acquire any
365 real property within the municipality.

366 Sec. 8. Section 22a-133dd of the general statutes is repealed and the
367 following is substituted in lieu thereof (*Effective July 1, 2016*):

368 (a) Any municipality or any licensed environmental professional
369 employed or retained by a municipality may enter, without liability,
370 upon any property within such municipality for the purpose of
371 performing an environmental site assessment or investigation on
372 behalf of the municipality if: (1) The owner of such property cannot be
373 located; (2) such property is encumbered by a lien for taxes due such
374 municipality; (3) upon a filing of a notice of eminent domain; (4) the
375 municipality's legislative body finds that such investigation is in the
376 public interest to determine if the property is underutilized or should
377 be included in any undertaking of development, redevelopment or
378 remediation pursuant to this chapter or chapter 130, 132 or 581; or (5)
379 any official of the municipality reasonably finds such investigation
380 necessary to determine if such property presents a risk to the safety,
381 health or welfare of the public or a risk to the environment. A
382 Connecticut brownfield land bank or any licensed environmental
383 professional employed or retained by such Connecticut brownfield
384 land bank may enter, without liability, upon any property under the
385 control of such Connecticut brownfield land bank for the purpose of
386 performing an environmental site assessment or investigation on
387 behalf of such Connecticut brownfield land bank if such

388 environmental site assessment or investigation is required under a
389 land banking agreement between a municipality and such Connecticut
390 brownfield land bank or the property owner has entered into a
391 voluntary agreement with such municipality or such land bank for the
392 performance of an environmental site assessment or investigation,
393 except such land bank or licensed environmental professional shall be
394 liable in the case of gross negligence or intentional misconduct. The
395 municipality or, if applicable, the Connecticut brownfield land bank
396 shall give at least forty-five days' notice of such entry before the first
397 such entry by certified mail to the property owner's last known
398 address of record.

399 (b) A municipality or Connecticut brownfield land bank accessing
400 or entering a property to perform an investigation pursuant to this
401 section shall not be liable for preexisting conditions pursuant to section
402 22a-432, 22a-433, 22a-451 or 22a-452, or to the property owner or any
403 third party, provided the municipality or Connecticut brownfield land
404 bank (1) did not establish, cause or contribute to the discharge,
405 spillage, uncontrolled loss, seepage or filtration of such hazardous
406 substance, material, waste or pollution; (2) does not negligently or
407 recklessly exacerbate the conditions; and (3) complies with reporting of
408 significant environmental hazard requirements pursuant to section
409 22a-6u. To the extent that any conditions are negligently or recklessly
410 exacerbated, the municipality or Connecticut brownfield land bank
411 shall only be responsible for responding to contamination exacerbated
412 by its activities.

413 (c) The owner of the property may object to such access and entry
414 by the municipality or a Connecticut brownfield land bank by filing an
415 action in the Superior Court not later than thirty days after receipt of
416 the notice provided pursuant to subsection (a) of this section, provided
417 any objection be limited to the issue of whether access is necessary and
418 only upon proof by the owner that the owner has (1) completed or is in
419 the process of completing in a timely manner a comprehensive
420 environmental site assessment or investigation report; (2) provided the
421 party seeking access with a copy of the assessment or report or will do

422 so not later than thirty days after the delivery of such assessment or
423 report to the owner; and (3) paid any delinquent property taxes
424 assessed against the property for which access is being sought.

425 (d) For purposes of this section, (1) "municipality" includes any (A)
426 municipality, (B) municipal economic development agency or entity
427 created or operating under chapter 130 or 132, (C) nonprofit economic
428 development corporation formed to promote the common good,
429 general welfare and economic development of a municipality that is
430 funded, either directly or through in-kind services, in part by a
431 municipality, or (D) nonstock corporation or limited liability company
432 established and controlled by a municipality, municipal economic
433 development agency or entity created or operating under chapter 130
434 or 132; and (2) "Connecticut brownfield land bank" has the same
435 meaning as provided in section 32-760, as amended by this act.

436 Sec. 9. Subsection (a) of section 22a-133ii of the general statutes is
437 repealed and the following is substituted in lieu thereof (*Effective July*
438 *1, 2016*):

439 (a) For the purposes of this section:

440 (1) "Applicant" means any (A) municipality, (B) economic
441 development agency or entity established pursuant to chapter 130 or
442 132, (C) nonprofit economic development corporation formed to
443 promote the common good, general welfare and economic
444 development of a municipality and that is funded, either directly or
445 through in-kind services, in part by a municipality, [or] (D) [a]
446 nonstock corporation or limited liability company controlled or
447 established by a municipality, municipal economic development
448 agency or entity created or operating pursuant to chapter 130 or 132, or
449 (E) Connecticut brownfield land bank, as defined in section 32-760, as
450 amended by this act;

451 (2) "Municipality" has the same meaning as provided in section 8-
452 187;

453 (3) "Brownfield" has the same meaning as provided in section 32-
454 760, as amended by this act;

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

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

459 (6) "Person" has the same meaning as provided in section 22a-2, as
460 amended by this act.

461 Sec. 10. Subdivision (1) of section 22a-134 of the general statutes is
462 repealed and the following is substituted in lieu thereof (*Effective July*
463 *1, 2016*):

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

467 (A) Conveyance or extinguishment of an easement;

468 (B) Conveyance of an establishment through a foreclosure, as
469 defined in subsection (b) of section 22a-452f, foreclosure of a municipal
470 tax lien or through a tax warrant sale pursuant to section 12-157, an
471 exercise of eminent domain by a municipality or pursuant to section 8-
472 128, 8-169e or 8-193 or by condemnation pursuant to section 32-224 or
473 purchase pursuant to a resolution by the legislative body of a
474 municipality authorizing the acquisition through eminent domain for
475 establishments that also meet the definition of a brownfield, as defined
476 in section 32-760, as amended by this act, or a subsequent transfer by
477 such municipality that has foreclosed on the property, foreclosed
478 municipal tax liens or that has acquired title to the property through
479 section 12-157, or is within the pilot program established in subsection
480 (c) of section 32-9cc of the general statutes, revision of 1958, revised to
481 January 1, 2013, or the remedial action and redevelopment municipal
482 grant program established in section 32-763, as amended by this act, or
483 has acquired such property through the exercise of eminent domain by

484 a municipality or pursuant to section 8-128, 8-169e or 8-193 or by
485 condemnation pursuant to section 32-224 or a resolution adopted in
486 accordance with this subparagraph, provided (i) the party acquiring
487 the property from the municipality did not establish, create or
488 contribute to the contamination at the establishment and is not
489 affiliated with any person who established, created or contributed to
490 such contamination or with any person who is or was an owner or
491 certifying party for the establishment, and (ii) on or before the date the
492 party acquires the property from the municipality, such party or
493 municipality enters and subsequently remains in the voluntary
494 remediation program administered by the commissioner pursuant to
495 section 22a-133x and remains in compliance with schedules and
496 approvals issued by the commissioner. For purposes of this
497 subparagraph, subsequent transfer by a municipality includes any
498 transfer to, from or between a municipality, municipal economic
499 development agency or entity created or operating under chapter 130
500 or 132, a nonprofit economic development corporation formed to
501 promote the common good, general welfare and economic
502 development of a municipality that is funded, either directly or
503 through in-kind services, in part by a municipality, [or] a nonstock
504 corporation or limited liability company controlled or established by a
505 municipality, municipal economic development agency or entity
506 created or operating under chapter 130 or 132, or a Connecticut
507 brownfield land bank;

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

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

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

517 or from the commencement of the leasehold, ninety-nine years,
518 including conveyance, assignment or execution of a lease with options
519 or similar terms that will extend the period of the leasehold to ninety-
520 nine years, or from the commencement of the leasehold;

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

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

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

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

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

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

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

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

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

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

552 (P) Any conveyance of an establishment to any entity created or
553 operating under chapter 130 or 132, or to an urban rehabilitation
554 agency, as defined in section 8-292, or to a municipality under section
555 32-224, or to Connecticut Innovations, Incorporated or any subsidiary
556 of the corporation;

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

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

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

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

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

572 (V) Conveyance of any real property or business operation that
573 would qualify as an establishment solely as a result of (i) the
574 generation of more than one hundred kilograms of universal waste in
575 a calendar month, (ii) the storage, handling or transportation of
576 universal waste generated at a different location, or (iii) activities

577 undertaken at a universal waste transfer facility, provided any such
578 real property or business operation does not otherwise qualify as an
579 establishment; there has been no discharge, spillage, uncontrolled loss,
580 seepage or filtration of a universal waste or a constituent of universal
581 waste that is a hazardous substance at or from such real property or
582 business operation; and universal waste is not also recycled, treated,
583 except for treatment of a universal waste pursuant to 40 CFR
584 273.13(a)(2) or (c)(2) or 40 CFR 273.33 (a)(2) or (c)(2), or disposed of at
585 such real property or business operation;

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

588 (X) Acquisition of an establishment that is in the abandoned
589 brownfield cleanup program established pursuant to section 32-768, as
590 amended by this act, and all subsequent transfers of the establishment,
591 provided the establishment is undergoing remediation or is
592 remediated in accordance with subsection (f) of section 32-768;

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

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

608 (AA) Conveyance of an establishment in connection with the

609 acquisition of properties to effectuate the development of a project
610 certified and approved pursuant to section 32-9v, provided any such
611 property is investigated and remediated in accordance with section
612 22a-133y; [or]

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

630 (CC) Conveyance of an establishment to a Connecticut brownfield
631 land bank and all subsequent transfers of such establishment,
632 provided (i) such establishment was entered into a remediation or
633 liability relief program under section 22a-133x, 22a-133y, 32-768, as
634 amended by this act, or 32-769, as amended by this act, and the
635 conveyor or transferor of such establishment is in compliance with
636 such program at the time of transfer of such establishment, and (ii)
637 none of the activities described in subdivision (3) of this section were
638 conducted at such establishment after the date such establishment was
639 entered into such remediation or liability relief program.

640 Sec. 11. Section 22a-134 of the general statutes is amended by adding
641 subdivision (29) as follows (*Effective July 1, 2016*):

642 (NEW) (29) "Connecticut brownfield land bank" has the same
643 meaning as provided in section 32-760, as amended by this act.

644 Sec. 12. Section 32-763 of the 2016 supplement to the general statutes
645 is repealed and the following is substituted in lieu thereof (*Effective July*
646 *1, 2016*):

647 (a) There is established a remedial action and redevelopment
648 municipal grant program to be administered by the Department of
649 Economic and Community Development for the purpose of providing
650 grants to municipalities, Connecticut brownfield land banks and
651 economic development agencies for the eligible costs of brownfield
652 remediation projects, brownfield assessment projects and reasonable
653 administrative expenses not to exceed five per cent of any grant
654 awarded. A grant awarded under this section shall not exceed four
655 million dollars.

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

668 (c) The commissioner may approve, reject or modify any application
669 properly submitted in accordance with the provisions of this section.
670 In reviewing an application and determining the amount of the grant,
671 if any, to be provided, the commissioner shall consider the following
672 criteria: (1) The availability of funds; (2) the estimated costs of
673 assessing and remediating the brownfield, if known; (3) the relative
674 economic condition of the municipality in which the brownfield is

675 located; (4) the relative need of the project for financial assistance; (5)
676 the degree to which a grant under this section is necessary to induce
677 the applicant to undertake the project; (6) the public health and
678 environmental benefits of the project; (7) the relative benefits of the
679 project to the municipality, the region and the state, including, but not
680 limited to, the extent to which the project will likely result in a
681 contribution to the municipality's tax base, the retention and creation
682 of jobs and the reduction of blight; (8) the time frame in which the
683 contamination occurred; (9) the relationship of the applicant to the
684 person or entity that caused the contamination; (10) the length of time
685 the brownfield has been abandoned; (11) the taxes owed and the
686 projected revenues that may be restored to the community; (12) the
687 relative need for assessment of the brownfield within the municipality
688 or region; and (13) such other criteria as the commissioner may
689 establish consistent with the purposes of this section.

690 (d) The commissioner shall award grants on a competitive basis,
691 based on a request for applications occurring on or before October
692 first, annually. The commissioner may increase the frequency of
693 requests for applications and awards depending upon the number of
694 applicants and the availability of funding.

695 (e) The commissioner, in consultation with the Commissioner of
696 Energy and Environmental Protection and following the award of a
697 grant to a municipality, Connecticut brownfield land bank or economic
698 development agency pursuant to subsections (c) and (d) of this section,
699 may award an additional grant to such municipality, Connecticut
700 brownfield land bank or economic development agency to enable the
701 completion of a brownfield remediation or assessment project,
702 provided such project is identified as a priority by said commissioners
703 and such additional grant funds (1) will be used to address unexpected
704 cost overruns or costs related to remedial activities that will provide a
705 greater environmental benefit than originally proposed pursuant to
706 subsection (b) of this section, (2) do not exceed fifty per cent of the
707 original grant, and (3) will not result in more than four million dollars
708 in total grants being awarded for a single brownfield remediation or

709 assessment project.

710 (f) The commissioner may award grants to any municipality,
711 Connecticut brownfield land bank, economic development agency or
712 regional council of governments organized under sections 4-124i to 4-
713 124p, inclusive, for the eligible costs of developing a comprehensive
714 plan for the remediation and redevelopment of multiple brownfields
715 whenever such plan is consistent with the state plan of conservation
716 and development, adopted pursuant to chapter 297, and the plan of
717 conservation and development, adopted pursuant to section 8-23, for
718 each municipality in which such brownfields are located. For purposes
719 of this subsection, "eligible costs" shall also include expenditures
720 associated with the development of any such plan for remediation and
721 redevelopment.

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

724 Sec. 13. Subsections (c) and (d) of section 32-768 of the general
725 statutes are repealed and the following is substituted in lieu thereof
726 (*Effective July 1, 2016*):

727 (c) Notwithstanding the provisions of subsection (b) of this section,
728 a property owned by a municipality or a Connecticut brownfield land
729 bank shall not be subject to subdivision (6) of subsection (b) of this
730 section.

731 (d) Notwithstanding the provisions of subsection (b) of this section,
732 a municipality or a Connecticut brownfield land bank may request the
733 Commissioner of Economic and Community Development to
734 determine if a property is eligible regardless of the person who
735 currently owns such property.

736 Sec. 14. Section 32-769 of the general statutes is repealed and the
737 following is substituted in lieu thereof (*Effective July 1, 2016*):

738 (a) The commissioner shall, within available appropriations,
739 establish a brownfield remediation and revitalization program to

740 provide certain liability protections to program participants. Not more
741 than thirty-two properties per year shall be accepted into the program.
742 Participation in the program shall be by accepted application pursuant
743 to this subsection or by approved nomination pursuant to subsection
744 (c) of this section. To be considered for acceptance, an applicant shall
745 submit to the commissioner, on a form prescribed by the
746 commissioner, a certification that: (1) The applicant meets the
747 definition of a bona fide prospective purchaser, innocent landowner or
748 contiguous property owner; (2) the property meets the definition of a
749 brownfield and has been subject to a release of a regulated substance
750 in an amount that is in excess of the remediation standards; (3) the
751 applicant did not establish, create or maintain a source of pollution to
752 the waters of the state for purposes of section 22a-432 and is not
753 responsible pursuant to any other provision of the general statutes for
754 any pollution or source of pollution on the property; (4) the applicant
755 is not affiliated with any person responsible for such pollution or
756 source of pollution through any direct or indirect familial relationship
757 or any contractual, corporate or financial relationship other than that
758 by which such purchaser's interest in such property is to be conveyed
759 or financed; and (5) the property is not (A) currently the subject of an
760 enforcement action, including any consent order issued by the
761 Department of Energy and Environmental Protection or the United
762 States Environmental Protection Agency under any current
763 Department of Energy and Environmental Protection or United States
764 Environmental Protection Agency program, (B) listed on the national
765 priorities list of hazardous waste disposal sites compiled by the United
766 States Environmental Protection Agency pursuant to 42 USC 9605, (C)
767 listed on the State of Connecticut Superfund Priority List, or (D)
768 subject to corrective action as may be required by the federal Resource
769 Conservation and Recovery Act of 1976, 42 USC 6901 et seq. The
770 commissioner may review such certifications to ensure accuracy, in
771 consultation with the Commissioner of Energy and Environmental
772 Protection, and applications will not be considered if such
773 certifications are found inaccurate.

774 (b) To ensure a geographic distribution and a diversity of projects

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

796 (c) The commissioner shall accept nominations of properties for
797 participation in the program established pursuant to subsection (a) of
798 this section by [a municipality or an economic development agency,]
799 municipalities, Connecticut brownfield land banks and economic
800 development agencies where no bona fide prospective purchaser,
801 contiguous property owner or innocent landowner has applied for
802 participation in the program. For a property to be considered for
803 approval for nomination to the program established pursuant to this
804 section, a municipality, Connecticut brownfield land bank or economic
805 development agency shall submit to the commissioner, on a form
806 prescribed by the commissioner, a certification that the property meets
807 the eligibility requirements provided in subdivisions (2) and (5) of
808 subsection (a) of this section and any other relevant factors, including
809 state-wide portfolio factors provided in subsection (b) of this section,

810 as may be determined by the commissioner. After the commissioner
811 approves a property's nomination, any subsequent applicant shall
812 apply in accordance with subsections (a) and (f) of this section. In any
813 such application, the applicant shall demonstrate it satisfies the
814 eligibility requirements provided in subdivisions (1), (3) and (4) of
815 subsection (a) of this section and shall demonstrate satisfaction of
816 subdivisions (2) and (5) of subsection (a) of this section for the period
817 after the commissioner's acceptance of the municipality's, Connecticut
818 brownfield land bank's or economic development agency's nomination
819 of the property.

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

828 (2) Properties otherwise eligible for the brownfield remediation and
829 revitalization program that have been subject to a release requiring
830 action pursuant to the PCB regulations or that have been subject to a
831 release requiring action pursuant to the UST regulations shall not be
832 deemed ineligible, but no provision of this section shall affect any
833 eligible party's obligation under such regulations to investigate or
834 remediate the extent of any such release.

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

843 state brownfield grant or loan program.

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

858 (g) Any applicant accepted into the brownfield remediation and
859 revitalization program by the commissioner shall pay the
860 Commissioner of Energy and Environmental Protection a fee equal to
861 five per cent of the assessed value of the land, as stated on the last-
862 completed grand list of the relevant town. The fee shall be paid in two
863 installments, each equal to fifty per cent of such fee, subject to potential
864 reductions as specified in subsection (h) of this section. The first
865 installment shall be due not later than one hundred eighty days after
866 the later of the date such applicant is notified that the application has
867 been accepted by the commissioner or the date that such applicant
868 takes title to the eligible property. The second installment shall be due
869 not later than four years after the acceptance date. Upon request by
870 such applicant, a municipality, a Connecticut brownfield land bank or
871 an economic development agency, the commissioner may, at the
872 commissioner's discretion, extend either or both of the installment due
873 dates. Such fee shall be deposited into the Special Contaminated
874 Property Remediation and Insurance Fund established pursuant to
875 section 22a-133t and shall be available for use by the Commissioner of
876 Energy and Environmental Protection pursuant to section 22a-133u.

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

886 (2) The second installment of the fee in subsection (g) of this section
887 shall be eliminated for any eligible party that submits the remedial
888 action report and verification or interim verification to the
889 Commissioner of Energy and Environmental Protection within four
890 years after the date the application is accepted by the commissioner. In
891 the event an eligible party submits a request for the Commissioner of
892 Energy and Environmental Protection's approval, where such approval
893 is required pursuant to the remediation standard and where said
894 commissioner issues a decision on such request beyond sixty days
895 after submittal, such four-year period shall be extended by the number
896 of days equal to the number of days between the sixtieth day and the
897 date a decision is issued by said commissioner, but not including the
898 number of days that a request by said commissioner for supplemental
899 information remains pending with the eligible party.

900 (3) The second installment of the fee in subsection (g) of this section
901 shall be reduced by, or any eligible party shall receive a refund in the
902 amount equal to, twice the reasonable environmental service costs of
903 such investigation, as determined by the Commissioner of Energy and
904 Environmental Protection, for any eligible party that completes and
905 submits to the Commissioner of Energy and Environmental Protection
906 documentation, approved in writing by a licensed environmental
907 professional and on a form that may be prescribed by said
908 commissioner, that the investigation of the nature and extent of any
909 contamination that has migrated from the property has been
910 completed in accordance with prevailing standards and guidelines.

911 Such refund shall not exceed the amount of the second installment of
912 the fee in subsection (g) of this section.

913 (4) [No] Notwithstanding the provisions of this subsection and
914 subsection (g) of this section, no municipality, Connecticut brownfield
915 land bank or economic development agency seeking designation of
916 eligibility shall be required to pay a fee, provided, upon transfer of the
917 eligible property from the municipality, Connecticut brownfield land
918 bank or economic development agency to an eligible person, [that]
919 such eligible person shall pay to the Commissioner of Energy and
920 Environmental Protection the fee in subsection (g) of this section in
921 accordance with the applicable requirements in this subsection.

922 (5) A municipality, Connecticut brownfield land bank or economic
923 development agency may submit a fee waiver request to the
924 commissioner to waive a portion or the entire fee for an eligible
925 property located within [that] such municipality. The commissioner, at
926 his or her discretion, shall consider the following factors in
927 determining whether to approve a fee waiver or reduction: (A)
928 Location of the brownfield within a distressed municipality, as defined
929 in section 32-9p; (B) demonstration by the municipality, Connecticut
930 brownfield land bank or economic development agency that the
931 project is of significant economic impact; (C) demonstration by the
932 municipality, Connecticut brownfield land bank or economic
933 development agency that the project has a significant community
934 benefit to the municipality; (D) demonstration that the eligible party is
935 a governmental or nonprofit entity; and (E) demonstration that the fee
936 required will have a detrimental effect on the overall success of the
937 project.

938 (i) An applicant whose application has been accepted into the
939 brownfield remediation and revitalization program shall not be liable
940 to the state or any person for the release of any regulated substance at
941 or from the eligible property, except and only to the extent that such
942 applicant [(A)] (1) caused or contributed to the release of a regulated
943 substance that is subject to remediation or exacerbated such condition,

944 or [(B)] (2) the Commissioner of Energy and Environmental Protection
945 determines the existence of any of the conditions set forth in
946 subdivision (4) of subsection (m) of this section. If an applicant whose
947 application has been accepted into the brownfield remediation and
948 revitalization program conveys or has conveyed a security interest, as
949 defined in section 22a-452f, in the eligible property to a lender, as
950 defined in section 22a-452f, and such lender (A) did not establish,
951 create or maintain a source of pollution to the waters of the state for
952 purposes of section 22a-432, (B) is not responsible pursuant to any
953 other provision of the general statutes for any pollution or source of
954 pollution on the property, and (C) is not affiliated with any person
955 responsible for such pollution or source of pollution through any
956 direct or indirect familial relationship or any contractual, corporate or
957 financial relationship other than that creating the security interest in
958 the eligible property, such lender shall not be liable to the state or any
959 person for the release of any regulated substance at or from the eligible
960 property.

961 (j) (1) An applicant whose application to the brownfield remediation
962 and revitalization program has been accepted by the commissioner (A)
963 shall investigate the release or threatened release of any regulated
964 substance within the boundaries of the property in accordance with
965 prevailing standards and guidelines and remediate such release or
966 threatened release within the boundaries of such property in
967 accordance with the brownfield investigation plan and remediation
968 schedule and this section, and (B) shall not be required to characterize,
969 abate and remediate the release of a regulated substance beyond the
970 boundary of the eligible property, except for releases caused or
971 contributed to by such applicant.

972 (2) Not later than one hundred eighty days after the first installment
973 due date, including any extension thereof by the commissioner, of the
974 fee required pursuant to subsection (g) of this section, the eligible party
975 shall submit to the commissioner and the Commissioner of Energy and
976 Environmental Protection a brownfield investigation plan and
977 remediation schedule that is signed and stamped by a licensed

978 environmental professional. Unless otherwise approved in writing by
979 the Commissioner of Energy and Environmental Protection, such
980 brownfield investigation plan and remediation schedule shall provide
981 that (A) the investigation shall be completed not later than two years
982 after the first installment due date, including any extension thereof by
983 the commissioner, of the fee required pursuant to subsection (g) of this
984 section, (B) remediation shall be initiated not later than three years
985 from the first installment due date, including any extension thereof by
986 the commissioner, of the fee required pursuant to subsection (g) of this
987 section, and (C) remediation shall be completed sufficiently to support
988 either a verification or an interim verification not later than eight years
989 after the first installment due date, including any extension thereof by
990 the commissioner, of the fee required pursuant to subsection (g) of this
991 section. The schedule shall also include a schedule for providing public
992 notice of the remediation prior to the initiation of such remediation in
993 accordance with subdivision (1) of subsection (j) of this section. Not
994 later than two years after the first installment due date, including any
995 extension thereof by the commissioner, of the fee required pursuant to
996 subsection (g) of this section, unless the Commissioner of Energy and
997 Environmental Protection has specified a later day, in writing, the
998 eligible party shall submit to the Commissioner of Energy and
999 Environmental Protection documentation, approved in writing by a
1000 licensed environmental professional and in a form prescribed by the
1001 Commissioner of Energy and Environmental Protection, that the
1002 investigation of the property has been completed in accordance with
1003 prevailing standards and guidelines. Not later than three years after
1004 the first installment due date, including any extension thereof by the
1005 commissioner, of the fee required pursuant to subsection (g) of this
1006 section, unless the Commissioner of Energy and Environmental
1007 Protection has specified a later day, in writing, the eligible party shall
1008 notify the Commissioner of Energy and Environmental Protection and
1009 the commissioner in a form prescribed by the Commissioner of Energy
1010 and Environmental Protection that the remediation has been initiated,
1011 and shall submit to the Commissioner of Energy and Environmental
1012 Protection a remedial action plan, approved in writing by a licensed

1013 environmental professional in a form prescribed by the Commissioner
1014 of Energy and Environmental Protection. Not later than eight years
1015 after the first installment due date, including any extension thereof by
1016 the commissioner, of the fee required pursuant to subsection (g) of this
1017 section, unless the Commissioner of Energy and Environmental
1018 Protection has specified a later day, in writing, the eligible party shall
1019 complete remediation of the property and submit the remedial action
1020 report and verification or interim verification to the Commissioner of
1021 Energy and Environmental Protection and the commissioner. Any time
1022 after completion of the investigation of the eligible property, the
1023 eligible party may complete the remediation of a portion of such
1024 property and submit a verification or an interim verification for such
1025 portion to the Commissioner of Energy and Environmental Protection
1026 and the commissioner. The Commissioner of Energy and
1027 Environmental Protection shall grant a reasonable extension if the
1028 eligible party demonstrates to the satisfaction of the Commissioner of
1029 Energy and Environmental Protection that: (i) Such eligible party has
1030 made reasonable progress toward investigation and remediation of the
1031 eligible property; and (ii) despite best efforts, circumstances beyond
1032 the control of the eligible party have significantly delayed the
1033 remediation of the eligible property.

1034 (3) An eligible party who submits an interim verification for an
1035 eligible property, and any subsequent owner of such eligible property,
1036 shall, until the remediation standards for groundwater are achieved,
1037 (A) operate and maintain the long-term remedy for groundwater in
1038 accordance with the remedial action plan, the interim verification and
1039 any approvals issued by the Commissioner of Energy and
1040 Environmental Protection, (B) prevent exposure to any groundwater
1041 plume containing a regulated substance in excess of the remediation
1042 standards on the property, (C) take all reasonable action to contain any
1043 groundwater plume on the property, and (D) submit annual status
1044 reports to the Commissioner of Energy and Environmental Protection
1045 and the commissioner.

1046 (4) Before commencement of remedial action pursuant to the plan

1047 and schedule, the eligible party shall: (A) Publish notice of the
1048 remedial action in a newspaper having a substantial circulation in the
1049 town where the property is located, (B) notify the director of health of
1050 the municipality where the property is located, and (C) either (i) erect
1051 and maintain for at least thirty days in a legible condition a sign not
1052 less than six feet by four feet on the property, which shall be clearly
1053 visible from the public highway and shall include the words
1054 "ENVIRONMENTAL CLEAN-UP IN PROGRESS AT THIS SITE. FOR
1055 FURTHER INFORMATION CONTACT:" and include a telephone
1056 number for an office from which any interested person may obtain
1057 additional information about the remedial action, or (ii) mail notice of
1058 the remedial action to each owner of record of property which abuts
1059 such property, at the address on the last-completed grand list of the
1060 relevant town. Public comments shall be directed to the eligible party
1061 for a thirty-day period starting with the last provided public notice
1062 provision and such eligible party shall provide all comments and any
1063 responses to the Commissioner of Energy and Environmental
1064 Protection prior to commencing remedial action.

1065 (5) The remedial action shall be conducted under the supervision of
1066 a licensed environmental professional and the remedial action report
1067 shall be submitted to the commissioner and the Commissioner of
1068 Energy and Environmental Protection signed and stamped by a
1069 licensed environmental professional. In such report, the licensed
1070 environmental professional shall include a detailed description of the
1071 remedial actions taken and issue a verification or interim verification,
1072 in which he or she shall render an opinion, in accordance with the
1073 standard of care provided in subsection (c) of section 22a-133w, that
1074 the action taken to contain, remove or mitigate the release of regulated
1075 substances within the boundaries of such property is in accordance
1076 with the remediation standards.

1077 (6) All applications for permits required to implement such plan
1078 and schedule in this section shall be submitted to the permit
1079 ombudsman within the Department of Economic and Community
1080 Development.

1081 (7) Each eligible party participating in the brownfield remediation
1082 and revitalization program shall maintain all records related to its
1083 implementation of such plan and schedule and completion of the
1084 remedial action of the property for a period of not less than ten years
1085 and shall make such records available to the commissioner or the
1086 Commissioner of Energy and Environmental Protection at any time
1087 upon request by either.

1088 (8) (A) Not later than sixty days after receiving a remedial action
1089 report signed and stamped by a licensed environmental professional
1090 and a verification or interim verification, the Commissioner of Energy
1091 and Environmental Protection shall notify the eligible party and the
1092 commissioner whether the Commissioner of Energy and
1093 Environmental Protection will conduct an audit of such remedial
1094 action. Any such audit shall be conducted not later than one hundred
1095 eighty days after the Commissioner of Energy and Environmental
1096 Protection receives a remedial action report signed and stamped by a
1097 licensed environmental professional and a verification or interim
1098 verification. Not later than fourteen days after completion of an audit,
1099 the Commissioner of Energy and Environmental Protection shall send
1100 written audit findings to the eligible party, the commissioner and the
1101 licensed environmental professional. The audit findings may approve
1102 or disapprove the report, provided any disapproval shall set forth the
1103 reasons for such disapproval.

1104 (B) The Commissioner of Energy and Environmental Protection may
1105 request additional information during an audit conducted pursuant to
1106 this subdivision. If such information has not been provided to said
1107 commissioner within fourteen days of such request, the time frame for
1108 said commissioner to complete the audit shall be suspended until the
1109 information is provided to said commissioner. The Commissioner of
1110 Energy and Environmental Protection may choose to conduct such
1111 audit if and when the eligible party fails to provide a response to said
1112 commissioner's request for additional information within sixty days.

1113 (C) The Commissioner of Energy and Environmental Protection

1114 shall not conduct an audit of a verification or interim verification
1115 pursuant to this subdivision after one hundred eighty days from
1116 receipt of such verification unless (i) said commissioner has reason to
1117 believe that a verification was obtained through the submittal of
1118 materially inaccurate or erroneous information, or otherwise
1119 misleading information material to the verification or that material
1120 misrepresentations were made in connection with the submittal of the
1121 verification, (ii) any post-verification monitoring or operations and
1122 maintenance is required as part of a verification and has not been
1123 done, (iii) a verification that relies upon an environmental land use
1124 restriction was not recorded on the land records of the municipality in
1125 which such land is located in accordance with section 22a-133o and
1126 applicable regulations, (iv) said commissioner determines that there
1127 has been a violation of law material to the verification, or (v) said
1128 commissioner determines that information exists indicating that the
1129 remediation may have failed to prevent a substantial threat to public
1130 health or the environment for releases on the property.

1131 (k) Not later than sixty days after receiving a notice of disapproval
1132 or a verification or interim verification from the Commissioner of
1133 Energy and Environmental Protection, the eligible party shall submit
1134 to said commissioner and to the commissioner a report of cure of noted
1135 deficiencies. Within sixty days after receiving such report of cure of
1136 noted deficiencies by said commissioner, said commissioner shall issue
1137 a successful audit closure letter or a written disapproval of such report
1138 of cure of noted deficiencies.

1139 (l) Before approving a verification or interim verification, the
1140 Commissioner of Energy and Environmental Protection may enter into
1141 a memorandum of understanding with the eligible party with regard
1142 to any further remedial action or monitoring activities on or at such
1143 property that said commissioner deems necessary for the protection of
1144 human health or the environment.

1145 (m) (1) An eligible party who has been accepted into the brownfield
1146 remediation and revitalization program shall have no obligation as

1147 part of its plan and schedule to characterize, abate and remediate any
1148 plume or release of a regulated substance outside the boundaries of the
1149 subject property, provided the notification requirements of section 22a-
1150 6u pertaining to significant environmental hazards shall continue to
1151 apply to the property and the eligible party shall not be required to
1152 characterize, abate or remediate any such significant environmental
1153 hazard outside the boundaries of the subject property unless such
1154 significant environmental hazard arises from the actions of the eligible
1155 party after its acquisition of or control over the property from which
1156 such significant environmental hazard has emanated outside its own
1157 boundaries. If an eligible party who has been accepted into the
1158 brownfield remediation and revitalization program conveys or
1159 otherwise transfers its ownership of the subject property and such
1160 eligible party is in compliance with the provisions of this section and
1161 the brownfield investigation plan and remediation schedule at the time
1162 of conveyance or transfer of ownership, the provisions of this section
1163 shall apply to such transferee, if such transferee meets the eligibility
1164 criteria set forth in this section, timely pays [the] any fee required by
1165 subsection (g) or (h) of this section not yet paid by such eligible party
1166 and complies with all the obligations undertaken by the eligible party
1167 under this section. In such case, all references to applicant or eligible
1168 party shall mean the subsequent owner or transferee.

1169 (2) After the Commissioner of Energy and Environmental Protection
1170 issues either a no audit letter or a successful audit closure letter, or no
1171 audit decision has been made by said commissioner within one
1172 hundred eighty days after the submittal of the remedial action report
1173 and verification or interim verification, such eligible party shall not be
1174 liable to the state or any person for (A) costs incurred in the
1175 remediation of, equitable relief relating to, or damages resulting from
1176 the release of regulated substances addressed in the brownfield
1177 investigation plan and remediation schedule, and (B) historical off-site
1178 impacts including air deposition, waste disposal, impacts to sediments
1179 and natural resource damages. No eligible party shall be afforded any
1180 relief from liability such eligible party may have from a release
1181 requiring action pursuant to the PCB regulations or a release requiring

1182 action pursuant to the UST regulations.

1183 (3) The provisions of this section concerning liability shall extend to
1184 any person who acquires title to all or part of the property for which a
1185 remedial action report and verification or interim verification have
1186 been submitted pursuant to this section, provided (A) there is payment
1187 of a fee of ten thousand dollars to said commissioner for each such
1188 extension, (B) such person acquiring all or part of the property meets
1189 the criteria of this section, and (C) the Commissioner of Energy and
1190 Environmental Protection has issued either a successful audit closure
1191 letter or no audit letter, or no audit decision has been made by said
1192 commissioner not later than one hundred eighty days after the
1193 submittal of the remedial action report and verification or interim
1194 verification. No municipality, Connecticut brownfield land bank or
1195 economic development agency that acquires title to all or part of the
1196 property shall be required to pay a fee, provided the municipality,
1197 Connecticut brownfield land bank or economic development agency
1198 shall collect and pay the fee upon transfer of the property to another
1199 person for purposes of development. Such fee shall be deposited into
1200 the Special Contaminated Property Remediation and Insurance Fund
1201 established under section 22a-133t and such funds shall be for the
1202 exclusive use by the Department of Energy and Environmental
1203 Protection.

1204 (4) Neither a successful audit closure nor no audit letter issued
1205 pursuant to this section, nor the expiration of one hundred eighty days
1206 after the submittal of the remedial action report and verification or
1207 interim verification without an audit decision by the Commissioner of
1208 Energy and Environmental Protection, shall preclude said
1209 commissioner from taking any appropriate action, including, but not
1210 limited to, any action to require remediation of the property by the
1211 eligible party or, as applicable, to its successor, if said commissioner
1212 determines that:

1213 (A) The successful audit closure, no audit letter, or the expiration of
1214 one hundred eighty days after the submittal of the remedial action

1215 report and verification or interim verification without an audit
1216 decision by the Commissioner of Energy and Environmental
1217 Protection was based on information provided by the person
1218 submitting such remedial action report and verification or interim
1219 verification that the Commissioner of Energy and Environmental
1220 Protection can show that such person knew, or had reason to know,
1221 was false or misleading, and, in the case of the successor to an
1222 applicant, that such successor was aware or had reason to know that
1223 such information was false or misleading;

1224 (B) New information confirms the existence of previously unknown
1225 contamination that resulted from a release that occurred before the
1226 date that an application has been accepted into the brownfield
1227 remediation and revitalization program;

1228 (C) The eligible party who received the successful audit closure or
1229 no audit letter or where one hundred eighty days lapsed without an
1230 audit decision by the Commissioner of Energy and Environmental
1231 Protection has materially failed to complete the remedial action
1232 required by the brownfield investigation plan and remediation
1233 schedule or to carry out or comply with monitoring, maintenance or
1234 operating requirements pertinent to a remedial action including the
1235 requirements of any environmental land use restriction; or

1236 (D) The threat to human health or the environment is increased
1237 beyond an acceptable level due to substantial changes in exposure
1238 conditions at such property, including, but not limited to, a change
1239 from nonresidential to residential use of such property.

1240 (5) If an eligible party who has been accepted into the brownfield
1241 remediation and revitalization program conveys or otherwise transfers
1242 all or part of its ownership interest in the subject property at any time
1243 before the issuance of a successful audit closure or no audit letter or
1244 the expiration of one hundred eighty days after the submittal of the
1245 remedial action report and verification or interim verification without
1246 an audit decision by the Commissioner of Energy and Environmental
1247 Protection, the eligible party conveying or otherwise transferring its

1248 ownership interest shall not be liable to the state or any person for (A)
1249 costs incurred in the remediation of, equitable relief relating to, or
1250 damages resulting from the release of regulated substances addressed
1251 in the brownfield investigation plan and remediation schedule, and (B)
1252 historical off-site impacts including air deposition, waste disposal,
1253 impacts to sediments and natural resource damages, provided the
1254 eligible party complied with its obligations under this section during
1255 the period when the eligible party held an ownership interest in the
1256 subject property. Nothing in this subsection shall provide any relief
1257 from liability such eligible party may have related to a release
1258 requiring action pursuant to the PCB regulations, or a release requiring
1259 action pursuant to the UST regulations.

1260 (6) Upon the Commissioner of Energy and Environmental
1261 Protection's issuance of a successful audit closure letter, no audit letter,
1262 or one hundred eighty days have passed since the submittal of a
1263 verification or interim verification and said commissioner has not
1264 audited the verification or interim verification, the immediate prior
1265 owner regardless of its own eligibility to participate in the
1266 comprehensive brownfield remediation and revitalization program
1267 shall have no liability to the state or any person for any future
1268 investigation and remediation of the release of any regulated substance
1269 at the eligible property addressed in the verification or interim
1270 verification, provided the immediate prior owner has complied with
1271 any legal obligation such owner had with respect to investigation and
1272 remediation of releases at and from the property, and provided further
1273 the immediate prior owner shall retain any and all liability such
1274 immediate prior owner would otherwise have for the investigation
1275 and remediation of the release of any regulated substance beyond the
1276 boundary of the eligible property. In any event, the immediate prior
1277 owner shall remain liable for (A) penalties or fines, if any, relating to
1278 the release of any regulated substance at or from the eligible property,
1279 (B) costs and expenses, if any, recoverable or reimbursable pursuant to
1280 sections 22a-134b, 22a-451 and 22a-452, and (C) obligations of the
1281 immediate prior owner as a certifying party on a Form III or IV
1282 submitted pursuant to sections 22a-134 to 22a-134e, inclusive, as

1283 amended by this act.

1284 (n) A person whose application to the brownfield remediation and
1285 revitalization program has been accepted by the commissioner or any
1286 subsequent eligible party whose application to the brownfield
1287 remediation and revitalization program has been accepted by the
1288 commissioner shall be exempt for filing as an establishment pursuant
1289 to sections 22a-134a to 22a-134d, inclusive, if such real property or
1290 prior business operations constitute an establishment. Nothing in this
1291 section shall be construed to alter any existing legal requirement
1292 applicable to any certifying party at a property under sections 22a-134a,
1293 as amended by this act, and 22a-134a to 22a-134e, inclusive.

1294 (o) Notwithstanding the provisions of this section, eligible parties
1295 shall investigate and remediate, and remain subject to all applicable
1296 statutes and requirements, the extent of any new release that occurs
1297 during their ownership of the property.

1298 Sec. 15. Subsection (b) of section 22a-2 of the general statutes is
1299 repealed and the following is substituted in lieu thereof (*Effective July*
1300 *1, 2016*):

1301 (b) As used in this chapter, and chapters 263, 268, 348, 360, 440,
1302 446d, 446i, 446k, 447, 448, 449, 452, 462, 474, 476, 477, 478, 479, 490 and
1303 495, except where otherwise provided, "person" means any individual,
1304 firm, partnership, association, syndicate, company, trust, corporation,
1305 nonstock corporation, limited liability company, municipality, agency
1306 or political or administrative subdivision of the state, or other legal
1307 entity of any kind.

1308 Sec. 16. Subdivision (8) of section 22a-115 of the general statutes is
1309 repealed and the following is substituted in lieu thereof (*Effective July*
1310 *1, 2016*):

1311 (8) "Person" means any individual, corporation, nonstock
1312 corporation, limited liability company, joint venture, public benefit
1313 corporation, partnership, association, trust or estate, the state and its

1314 agencies and political subdivisions, the federal government and its
 1315 agencies, and any other entity, public or private, however organized;

This act shall take effect as follows and shall amend the following sections:		
Section 1	July 1, 2016	32-760
Sec. 2	July 1, 2016	New section
Sec. 3	July 1, 2016	New section
Sec. 4	July 1, 2016	New section
Sec. 5	July 1, 2016	New section
Sec. 6	July 1, 2016	New section
Sec. 7	July 1, 2016	12-81r(a)
Sec. 8	July 1, 2016	22a-133dd
Sec. 9	July 1, 2016	22a-133ii(a)
Sec. 10	July 1, 2016	22a-134(1)
Sec. 11	July 1, 2016	22a-134
Sec. 12	July 1, 2016	32-763
Sec. 13	July 1, 2016	32-768(c) and (d)
Sec. 14	July 1, 2016	32-769
Sec. 15	July 1, 2016	22a-2(b)
Sec. 16	July 1, 2016	22a-115(8)

Statement of Legislative Commissioners:

In Sections 2 (a)(4) and 2 (b)(1), "as described in Section 4 of this act" was added for clarity. Also, in Section 6 (d), "the transfer of real property" was changed to " the transfer of real property to such land bank", for clarity and consistency with said Subsections.

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.

OFA Fiscal Note

State Impact:

Agency Affected	Fund-Effect	FY 17 \$	FY 18 \$
Treasurer, Debt Serv.	GF - Acceleration of Debt Service Costs	Potential	Potential
Department of Revenue Services; Various Agencies	Various - Potential Revenue Loss	See Below	See Below

Note: Various=Various; GF=General Fund

Municipal Impact:

Municipalities	Effect	FY 17 \$	FY 18 \$
Various Municipalities	Grand List Reduction/ Revenue Loss	None	Potential

Explanation

The bill allows the creation of Connecticut Brownfield Land Banks (CBLBs) for the purpose of remediating brownfields which results in the state and municipal impacts listed below.

DECD Brownfield Grant Program

The bill extends eligibility for grants under the Department of Economic and Community Development's (DECD) Brownfield Remedial Action and Redevelopment Municipal Grant Program ("program"). The bill however does not change General Obligation (GO) bond authorizations for the purposes of funding CBLBs.

DECD's program is funded by GO bond funds and currently available only to municipalities and local economic development

agencies. Future General Fund debt service costs may be incurred sooner under the bill to the degree that the bill causes authorized GO bond funds to be expended more rapidly than they otherwise would have been.

As of April 1st, the unallocated balance available to DECD's brownfields program is \$17.1 million.

State Revenue Impact

The bill exempts CBLBs from paying state taxes on revenue they receive, acquire, transfer, or use as well as any income derived from these sources. The bill does not explicitly enumerate from which state taxes the CBLBs are exempt, so it is presumably all state taxes.

To the extent that CBLBs derive revenue that otherwise would be taxable (e.g. real estate conveyance tax on properties acquired), there may be a revenue loss to the state. The actual impact is uncertain and would be dependent upon (1) the number of CBLBs created and (2) the level of business activity by any given CBLB that would otherwise be taxable.

Municipal Impact

The bill exempts CBLBs from property taxes. In a municipality that has land purchased by a CBLB, this results in a grand list reduction, which will result in a loss of property tax revenue given a constant mill rate.

The bill also allows municipalities to forgive delinquent property taxes owed on property purchased by CBLBs. This results in an additional revenue loss, to the extent that municipalities choose to do this.

The Out Years

The annualized ongoing fiscal impact identified above would continue into the future subject to inflation.

OLR Bill Analysis**sHB 5425*****AN ACT CONCERNING THE CREATION OF CONNECTICUT BROWNFIELD LAND BANKS, CERTAIN LENDER RESPONSIBILITY FOR RELEASES AT BROWNFIELDS AND REVISIONS TO THE BROWNFIELDS REMEDIATION AND DEVELOPMENT PROGRAM.*****SUMMARY:**

This bill establishes a framework for organizing and operating local nonprofit land banks for acquiring, remediating, and selling brownfields. These entities must be certified by the Department of Economic and Community Development (DECD) and operate under a land banking agreement with one or more municipalities. The bill allows these banks to access the same brownfield remediation tools and incentives available to municipalities.

The bill also gives brownfield developers more latitude under DECD's Brownfield Remediation and Revitalization Program and makes minor and technical changes. The program protects participating developers from liability to the state and third parties for cleaning up brownfields according to the program's requirements (see BACKGROUND).

The bill also extends the program's liability protections to lenders that acquire or acquired a security interest in a property being remediated under the program as long as they meet the same statutory criteria developers must meet to qualify for the program. Consequently, the program protects a lender with a security interest from liability if the lender did not pollute the state's waters, is not responsible for polluting the property or creating the source that did, and is not affiliated with the party responsible for the pollution.

The bill also allows developers remediating brownfields under the

program to do so in sections after they have completely investigated the entire brownfield site. Developers that take this approach must submit the required verification documents to the Department of Energy and Environmental Protection (DEEP) after they remediate a section. The documents verify that the property was remediated according to state standards or, as in the case of ground water contamination, is being remediated according to a long-term remedy.

EFFECTIVE DATE: July 1, 2016

§ 1 & 2 — CONNECTICUT BROWNFIELD LAND BANK CERTIFICATION PROCESS

Purpose

The bill establishes a process for certifying nonprofit organizations as Connecticut Brownfield Land Banks (CBLBs). Organizations seeking CBLB certification must apply to DECD. The certification authorizes CBLBs to:

1. acquire, retain, remediate, and sell brownfields for municipalities' benefit;
2. educate government officials, community leaders, economic development agencies, and nonprofit organizations on brownfield redevelopment best practices; and
3. engage in the other activities the bill authorizes.

As discussed below, CBLBs operate on behalf of municipalities under a land banking agreement. Municipalities include cities, towns, consolidated cities and towns, boroughs, special taxing districts, and any other political subdivision with taxing and bonding powers. They also include any U.S. Census Bureau-designated metropolitan area, which is a city with at least 25,000 people and those surrounding municipalities within 15 miles of its boundary.

Application Content

A nonprofit organizations applying for CBLB certification must

provide:

1. its certificate of incorporation and bylaws,
2. a list of its current officers and directors,
3. a proposed land banking agreement with one or more municipalities,
4. proof that it has the financial and technical capacity to fulfill the purposes of a CBLB,
5. a letter from at least two municipalities supporting its certification,
6. its proposed business plan, and
7. any other information the commissioner requires.

Approval Criteria

In reviewing an application for certification, the commissioner must consider:

1. if the applicant has the financial and technical wherewithal to fulfill the purposes of a CBLB,
2. the relative economic conditions of the municipalities the organization proposes to serve,
3. the degree to which these municipalities support the organization's certification,
4. the quality of the organization's business plan, and
5. any other criteria the commissioner establishes to fulfill the bill's purposes.

If the commissioner approves the application, she must issue a certificate granting the organization all of the rights, privileges, and immunities the bill grants to CBLBs.

Annual Reviews

CBLBs must annually report to the commissioner by January 31, describing their activities for the previous year. At a minimum, they must provide:

1. the CBLB's updated business plan and list of current officers and directors,
2. the CBLB's complete operating and financial statement, and
3. copies of any land banking agreements the CBLB entered into during the preceding year.

The commissioner must review the report to determine if it includes this information. If it does not, she must notify the CBLB's officers by mail that she may decertify the organization 120 days after the mailing date unless she decides to waive its noncompliant status or the CBLB submits a new report providing the required information.

If the commissioner decertifies the CBLB, it cannot enter into any new land banking agreements, but continues to enjoy the rights and remains bound by the obligations with respect to any property it acquired under a land banking agreement it executed before it was decertified.

§ 3 — CBLB DIRECTORS AND OFFICERS

CBLBs exercise their powers through their boards of directors, which must consist of between five and 11 members, each with knowledge and expertise in the land bank's purposes and activities. The board must elect its chairman from among the members and any other officers it deems necessary. It may establish committees and subcommittees and adopt any bylaws and procedures needed to perform the CBLB's functions.

Members must serve without compensation, but are entitled to reimbursement for the actual and necessary expenses they incur while performing their official duties. The members are not personally liable

for CBLB's loans, other financial obligations, or environmental liabilities. Nor are they subject to creditors' rights, which apply only against the CBLB.

State and local elected and appointed officers may serve on CBLB boards, and their appointment neither terminates nor impairs their public duties. State and municipal employees may also serve on the boards.

Board members may organize and reorganize a CBLB's executive, administrative, clerical, and other departments, and can specify the duties, powers, and compensation of the CBLB's employees, agents, and consultants.

§ 4 — CBLB'S PURPOSES

The bill gives CBLBs broad contractual, financial, and development powers, except the power to take property by eminent domain. A CBLB can:

1. enter into land banking agreements with municipalities to acquire, retain, remediate, and sell land and buildings in those municipalities on their behalf;
2. enter into contracts and agreement with municipalities to receive or provide staffing support;
3. obtain grants or borrow money from private lenders, municipalities, and state and federal agencies to fund its operations;
4. secure the payment of some or all of its debt by procuring insurance or state and federal guarantees and making the necessary premium payments;
5. acquire property by purchase contracts, land contracts, and foreclosure of municipal tax liens; and
6. do all things necessary to fulfill its purposes and comply with

any applicable laws.

The bill complements the CBLBs' property acquisition powers by allowing municipalities to transfer or convey land and building and interests therein to a CBLB. A municipality may do this regardless of any conflicting statute, special act, charter, or home rule ordinance. The CBLB can accept property from the municipality according to the terms and conditions specified in their land banking agreement. The CBLB may also convey the property as its procedures allow.

§5 — TAX EXEMPTION

CBLBs must exercise their powers to benefit the people of the state, specifically to increase commerce, wealth, and prosperity. Consequently, the bill deems their function an essential public function and exempts them from paying state and local taxes on:

1. the revenue or property they receive, acquire, transfer, or use;
2. any income derived from these sources; and
3. any notes or other obligations issued or transferred, including the income they derive from these transactions.

§ 6 — SPECIFIED LAND ACQUISITION AND DISPOSITION POWERS

CBLBs may acquire only brownfields and adjacent or nearby property whose acquisition would make it easier to redevelop a brownfield. They must hold this property in their own name regardless of the entity that transferred it to them. CBLBs must also maintain an inventory of all the real property they acquire and allow the public to review and inspect the inventory.

CBLBs must adopt policies and procedures specifying their terms and conditions for acquiring real property or property interests. Those terms and conditions may allow for different types of compensation, including (1) monetary payments; (2) secured financial obligations, covenants, or conditions related to the property's current or future use; (3) contractual commitments imposed on the party transferring the

property; and (4) other forms a CBLB's directors determine are in the CBLB's best interest.

CBLBs may also dispose of the property they acquire, as their land banking agreements allow. They can convey, exchange, sell, transfer, lease as lessee, grant, release, demise and pledge as collateral any and all interests in, upon, or to the property as long as the municipality where the property is located approves the transaction, as specified in the land bank agreement.

BROWNFIELD REMEDIATION TOOLS AND INCENTIVES

The bill allows CBLBs to access the same brownfield remediation tools and incentives already available to municipalities.

§ 7 — Local Option Property Tax Abatement (CGS § 12-81r)

Current law allows municipalities to provide various types of property relief to developers that clean up and redevelop brownfields. The relief includes:

1. abating the property taxes for up to seven years on a property the owner agrees to remediate according to state standards;
2. forgiving the delinquent taxes on a property for a party that intends to acquire, investigate, and remediate it according to state standards; and
3. taxing a remediated property for up to seven years based on its pre remediation fair market value (i.e., fixing the assessment).

The bill specifically allows each municipality to forgive all or a portion of the principal and interest due on delinquent property taxes for a property the CBLB acquires or plans to acquire in the municipality.

§ 8 — Conducting Environmental Site Assessments (CGS § 22a-133dd)

Current law sets conditions under which a municipality or a licensed environmental professional (LEP) working for it can enter a

property without liability to assess or investigate it. The bill sets similar conditions under which a CBLB or an LEP working for it can enter a property it controls for the same purposes.

The CBLB or its LEP may enter the property if (1) the land banking agreement requires it to be investigated and assessed and (2) the property's owner and the municipality or CBLB entered into a voluntary agreement allowing the property's environmental condition to be investigated or assessed. The bill's liability protection does not protect the CBLB or the LEP from any gross negligence or intentional misconduct on their part. The CBLB or the LEP must give the property owner 45-days' notice before entering the property.

§9 — DEEP Liability Relief Program (CGS § 22a-133ii)

The bill makes CBLBs eligible to participate in DEEP's liability relief program, which is currently open to municipalities, economic development agencies, municipally-formed nonprofit economic development corporations, and nonstock or limited liability companies these corporations form and control. The program protects these entities from liability for contamination that happened before they acquired the property.

§ 10 & 11 — Transfer Act Exemptions (CGS § 22a-134)

The bill exempts from the transfer act property municipalities convey to CBLBs. The transfer act requires parties to a real estate transaction involving contaminated property to notify DEEP about the contamination and identify the party that will investigate and remediate it. Current law already exempts property municipalities convey after they have foreclosed on it, remediated under DECD's municipal brownfield grant program (CGS § 32-376), or acquired by eminent domain.

The bill also sets conditions exempting a property from the transfer act a CBLB remediates and subsequently transfers. The transfer is exempted if the property was remediated under a DEEP or DECD liability relief program, is still compliant with that program when the

transfer occurs, and was not used to generate hazardous waste after it entered the program.

§ 12 — Remedial Action and Redevelopment Municipal Grant Program (CGS § 32-763)

The bill makes CBLBs eligible for DECD remedial action and redevelopment grants, which are currently available only to municipalities and local economic development agencies. The grants are for investigating, assessing, and cleaning up contaminated properties.

§ 13 — Abandoned Brownfield Cleanup Program (CGS § 32-768)

The bill allows CBLBs to recommend property for remediation under DECD's Abandoned Brownfield Cleanup Program under the same conditions that currently apply to municipalities. It allows CBLBs to recommend property regardless of whether they own it and exempts them having to meet the program's responsible party criteria (i.e., the party that contaminated the property cannot be determined, no longer exists, or is unable to remediate it).

The program exempts participants from investigating and remediating contamination that emanated from the property before they acquired it and limits their liability to the state or third parties for the contamination as long as they did not cause or contribute to it or negligently or recklessly exacerbate it.

§ 14 — Liability Protection Program (CGS § 32-769)

The bill allows CBLBs to nominate property for remediation under the existing Brownfield Remediation and Revitalization Program under the same conditions that apply to municipalities (see BACKGROUND). A CBLB can nominate a property only if certain parties did not already nominate it, namely the owners of contiguous property, a party proposing to acquire it (i.e., bona fide prospective purchaser), and its current owner, as long as that owner did not contaminate it.

BACKGROUND

Liability Protection Program (CGS § 32-769)

The program protects developers from liability to the state and third parties for cleaning up brownfields according to its requirements. But the protection is not absolute; developers accepted into the program are liable for any contamination they cause, including exacerbating the contamination that was there before they acquired the brownfield. The program's protection during or after remediation extends to the brownfield's immediate prior owner and the party that subsequently acquires it from the developer.

The program is open to people, businesses, nonprofit organizations, municipalities, public and nonprofit municipal economic development agencies, and state agencies. These entities and the property they propose to remediate must meet specific criteria. The DECD commissioner may accept up to 32 brownfields per year into the program based on the law's selection criteria.

The program protects participants from liability if they investigate and remediate the property according to DEEP standards. The law specifies the timeframe and process for completing these tasks. The protection continues after they transfer a property to another party as long as they complied with its provisions.

COMMITTEE ACTION

Commerce Committee

Joint Favorable Substitute

Yea 20 Nay 0 (03/15/2016)