



House of Representatives

File No. 761

General Assembly

February Session, 2016

(Reprint of File No. 393)

Substitute House Bill No. 5425
As Amended by House Amendment
Schedule "A"

Approved by the Legislative Commissioner
April 29, 2016

***AN ACT CONCERNING THE CREATION OF CONNECTICUT
BROWNFIELD LAND BANKS, CERTAIN LENDER RESPONSIBILITY
FOR RELEASES AT BROWNFIELDS AND REVISIONS TO
BROWNFIELD REMEDIATION AND DEVELOPMENT PROGRAMS.***

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2 statutes is repealed and the following is substituted in lieu thereof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; and

162 (5) A proposed business plan for such land bank.

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

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

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

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

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

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

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

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

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

191 bank is in compliance with the provisions of subsection (d) of this
192 section. If the commissioner determines that a Connecticut brownfield
193 land bank is not in compliance with such provisions, the commissioner
194 shall notify the officers of such land bank, in writing, that the
195 commissioner shall decertify the land bank after the one-hundred-
196 twentieth day after the date of mailing the notice unless such land
197 bank submits a revised annual report that the commissioner
198 determines is compliant with the provisions of subsection (d) of this
199 section. The commissioner, at his or her discretion, may grant a sixty-
200 day extension for such land bank to submit such revised annual report.

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. Any Connecticut brownfield land bank that is
208 decertified by the commissioner may apply for certification under
209 subsection (a) of this section.

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

220 (b) Notwithstanding any provision of the general statutes, any
221 public officer shall be eligible to serve as a member of the board of
222 directors and the acceptance of the appointment shall neither
223 terminate nor impair such public office. For purposes of this section,

224 "public officer" means a person who is elected or appointed to any
225 state or municipal office. Any state or municipal employee shall be
226 eligible to serve as a board member.

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

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

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

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

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

255 (B) Enter into contracts and agreements with municipalities for
256 staffing services to be provided to the Connecticut brownfield land
257 bank by such municipalities, or agencies or departments thereof, or for
258 a Connecticut brownfield land bank to provide such staffing services
259 to such municipalities, or agencies or departments thereof in relation
260 to the duties of such land bank.

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

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

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

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

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

286 Sec. 5. (NEW) (*Effective July 1, 2016*) The exercise of the powers
287 granted by sections 2 to 6, inclusive, of this act, shall be in all respects
288 for the benefit of the people of the state, for the increase of their
289 commerce, welfare and prosperity, and as the exercise of such powers
290 shall constitute the performance of an essential public function, a
291 Connecticut brownfield land bank shall not be required to pay any
292 taxes or assessments upon or in respect of any revenues or property
293 received, acquired, transferred or used by such Connecticut
294 brownfield land bank, or upon or in respect of the income from such
295 revenues or property. Any notes or other obligations issued under the
296 provisions of this section, their transfer and the income therefrom,
297 including any profit made on the sale of such notes or other
298 obligations, shall at all times be free from taxation of every kind by the
299 state and by the municipalities and other political subdivisions in the
300 state.

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

305 (b) A Connecticut brownfield land bank shall acquire only
306 brownfield sites and other real property, located adjacent or in close
307 proximity to brownfield sites to be acquired, that are identified in a
308 land banking agreement between such Connecticut brownfield land
309 bank and the municipality in which such properties are located.

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

313 (d) A Connecticut brownfield land bank shall determine and set
314 forth in policies and procedures the general terms and conditions for
315 consideration to be received by such land bank for the transfer to such
316 land bank of real property and interests in real property, which
317 consideration may take the form of monetary payments and secured

318 financial obligations, covenants and conditions related to the present
319 and future use of such real property, contractual commitments of the
320 transferee, and such other forms of consideration as determined by the
321 board of directors to be in the best interest of such land bank.

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

330 Sec. 7. Subsection (a) of section 12-81r of the general statutes is
331 repealed and the following is substituted in lieu thereof (*Effective July*
332 *1, 2016*):

333 (a) Any municipality may (1) enter into an agreement with the
334 owner of any real property to abate the property tax due as of the date
335 of the agreement for a period not to exceed seven years if the property
336 has been subject to a spill, as defined in section 22a-452c, and the
337 owner agrees to conduct any environmental site assessment,
338 demolition and remediation of the spill necessary to redevelop the
339 property. Any such tax abatement shall only be for the period of
340 remediation and redevelopment and shall be contingent upon the
341 continuation and completion of the remediation and redevelopment
342 process with respect to the purposes specified in the agreement. The
343 abatement shall cease upon the sale or transfer of the property for any
344 other purpose unless the municipality consents to its continuation. The
345 municipality may also establish a recapture provision in the event of
346 sale provided such recapture shall not exceed the original amount of
347 taxes abated and may not go back further than the date of the
348 agreement; (2) forgive all or a portion of the principal balance and
349 interest due on delinquent property taxes for the benefit of any
350 prospective purchaser who has obtained an environmental

351 investigation or remediation plan approved by the Commissioner of
352 Energy and Environmental Protection or a licensed environmental
353 professional under section 22a-133w, 22a-133x or 22a-133y and
354 completes such remediation plan for an establishment, as defined in
355 section 22a-134, as amended by this act, deemed by the municipality to
356 be abandoned or a brownfield, as defined in section 32-760 as
357 amended by this act; [or] (3) enter into an agreement with the owner of
358 any real property to fix the assessment of the property as of the last
359 assessment date prior to commencement of remediation activities for a
360 period not to exceed seven years, provided the property has been the
361 subject of a remediation approved by the Commissioner of Energy and
362 Environmental Protection or verified by a licensed environmental
363 professional pursuant to section 22a-133w, 22a-133x, 22a-133y or 22a-
364 134, as amended by this act; or (4) forgive all or a portion of the
365 principal balance and interest due on delinquent property taxes for the
366 benefit of any Connecticut brownfield land bank, as defined in section
367 32-760, as amended by this act, that has acquired or will acquire any
368 real property within the municipality.

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

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

385 Connecticut brownfield land bank or any licensed environmental
386 professional employed or retained by such Connecticut brownfield
387 land bank may enter, without liability, upon any property subject to a
388 land banking agreement between such Connecticut brownfield land
389 bank and the municipality in which such property is located for the
390 purpose of performing an environmental site assessment or
391 investigation on behalf of such Connecticut brownfield land bank if:
392 (A) Such environmental site assessment or investigation is required
393 under a land banking agreement between such municipality and such
394 Connecticut brownfield land bank, and such municipality is otherwise
395 authorized under this subsection to enter such property without
396 liability, or (B) the property owner has entered into a voluntary
397 agreement with such municipality or such land bank for the
398 performance of an environmental site assessment or investigation. The
399 municipality or, if applicable, the Connecticut brownfield land bank
400 shall give at least forty-five days' notice of such entry before the first
401 such entry by certified mail to the property owner's last known
402 address of record.

403 (b) A municipality or Connecticut brownfield land bank accessing
404 or entering a property to perform an investigation pursuant to this
405 section shall not be liable for preexisting conditions pursuant to section
406 22a-432, 22a-433, 22a-451 or 22a-452, or to the property owner or any
407 third party, provided the municipality or Connecticut brownfield land
408 bank (1) did not establish, cause or contribute to the discharge,
409 spillage, uncontrolled loss, seepage or filtration of such hazardous
410 substance, material, waste or pollution; (2) does not negligently or
411 recklessly exacerbate the conditions; and (3) complies with reporting of
412 significant environmental hazard requirements pursuant to section
413 22a-6u. To the extent that any conditions are negligently or recklessly
414 exacerbated, the municipality or Connecticut brownfield land bank
415 shall only be responsible for responding to contamination exacerbated
416 by its activities.

417 (c) The owner of the property may object to such access and entry
418 by the municipality or a Connecticut brownfield land bank by filing an

419 action in the Superior Court not later than thirty days after receipt of
420 the notice provided pursuant to subsection (a) of this section, provided
421 any objection be limited to the issue of whether access is necessary and
422 only upon proof by the owner that the owner has (1) completed or is in
423 the process of completing in a timely manner a comprehensive
424 environmental site assessment or investigation report; (2) provided the
425 party seeking access with a copy of the assessment or report or will do
426 so not later than thirty days after the delivery of such assessment or
427 report to the owner; and (3) paid any delinquent property taxes
428 assessed against the property for which access is being sought.

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

440 Sec. 9. Subsection (a) of section 22a-133ii of the general statutes is
441 repealed and the following is substituted in lieu thereof (*Effective July*
442 *1, 2016*):

443 (a) For the purposes of this section:

444 (1) "Applicant" means any (A) municipality, (B) economic
445 development agency or entity established pursuant to chapter 130 or
446 132, (C) nonprofit economic development corporation formed to
447 promote the common good, general welfare and economic
448 development of a municipality and that is funded, either directly or
449 through in-kind services, in part by a municipality, [or] (D) [a]
450 nonstock corporation or limited liability company controlled or

451 established by a municipality, municipal economic development
452 agency or entity created or operating pursuant to chapter 130 or 132, or
453 (E) Connecticut brownfield land bank, as defined in section 32-760, as
454 amended by this act;

455 (2) "Municipality" has the same meaning as provided in section 8-
456 187;

457 (3) "Brownfield" has the same meaning as provided in section 32-
458 760, as amended by this act;

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

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

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

465 Sec. 10. Subdivision (1) of section 22a-134 of the general statutes is
466 repealed and the following is substituted in lieu thereof (*Effective July*
467 *1, 2016*):

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

471 (A) Conveyance or extinguishment of an easement;

472 (B) Conveyance of an establishment through a foreclosure, as
473 defined in subsection (b) of section 22a-452f, foreclosure of a municipal
474 tax lien or through a tax warrant sale pursuant to section 12-157, an
475 exercise of eminent domain by a municipality or pursuant to section 8-
476 128, 8-169e or 8-193 or by condemnation pursuant to section 32-224 or
477 purchase pursuant to a resolution by the legislative body of a
478 municipality authorizing the acquisition through eminent domain for
479 establishments that also meet the definition of a brownfield, as defined

480 in section 32-760, as amended by this act, or a subsequent transfer by
481 such municipality that has foreclosed on the property, foreclosed
482 municipal tax liens or that has acquired title to the property through
483 section 12-157, or is within the pilot program established in subsection
484 (c) of section 32-9cc of the general statutes, revision of 1958, revised to
485 January 1, 2013, or the remedial action and redevelopment municipal
486 grant program established in section 32-763, as amended by this act, or
487 has acquired such property through the exercise of eminent domain by
488 a municipality or pursuant to section 8-128, 8-169e or 8-193 or by
489 condemnation pursuant to section 32-224 or a resolution adopted in
490 accordance with this subparagraph, provided (i) the party acquiring
491 the property from the municipality did not establish, create or
492 contribute to the contamination at the establishment and is not
493 affiliated with any person who established, created or contributed to
494 such contamination or with any person who is or was an owner or
495 certifying party for the establishment, and (ii) on or before the date the
496 party acquires the property from the municipality, such party or
497 municipality enters and subsequently remains in the voluntary
498 remediation program administered by the commissioner pursuant to
499 section 22a-133x and remains in compliance with schedules and
500 approvals issued by the commissioner. For purposes of this
501 subparagraph, subsequent transfer by a municipality includes any
502 transfer to, from or between a municipality, municipal economic
503 development agency or entity created or operating under chapter 130
504 or 132, a nonprofit economic development corporation formed to
505 promote the common good, general welfare and economic
506 development of a municipality that is funded, either directly or
507 through in-kind services, in part by a municipality, [or] a nonstock
508 corporation or limited liability company controlled or established by a
509 municipality, municipal economic development agency or entity
510 created or operating under chapter 130 or 132, or a Connecticut
511 brownfield land bank;

512 (C) Conveyance of a deed in lieu of foreclosure to a lender, as
513 defined in and that qualifies for the secured lender exemption

514 pursuant to subsection (b) of section 22a-452f;

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

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

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

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

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

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

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

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

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

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

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

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

556 (P) Any conveyance of an establishment to any entity created or
557 operating under chapter 130 or 132, or to an urban rehabilitation
558 agency, as defined in section 8-292, or to a municipality under section
559 32-224, or to Connecticut Innovations, Incorporated or any subsidiary
560 of the corporation;

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

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

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

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

573 persons as were general partners immediately prior to the transfer;

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

576 (V) Conveyance of any real property or business operation that
577 would qualify as an establishment solely as a result of (i) the
578 generation of more than one hundred kilograms of universal waste in
579 a calendar month, (ii) the storage, handling or transportation of
580 universal waste generated at a different location, or (iii) activities
581 undertaken at a universal waste transfer facility, provided any such
582 real property or business operation does not otherwise qualify as an
583 establishment; there has been no discharge, spillage, uncontrolled loss,
584 seepage or filtration of a universal waste or a constituent of universal
585 waste that is a hazardous substance at or from such real property or
586 business operation; and universal waste is not also recycled, treated,
587 except for treatment of a universal waste pursuant to 40 CFR
588 273.13(a)(2) or (c)(2) or 40 CFR 273.33 (a)(2) or (c)(2), or disposed of at
589 such real property or business operation;

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

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

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

599 (Z) Acquisition of an establishment that is in the brownfield
600 remediation and revitalization program and all subsequent transfers of
601 the establishment, provided the establishment is in compliance with
602 the brownfield investigation plan and remediation schedule, the
603 commissioner has issued a no audit letter or successful audit closure

604 letter in response to a verification or interim verification submitted
605 regarding the remediation of such establishment under the brownfield
606 remediation and revitalization program, or a one-hundred-eighty-day
607 period has expired since a verification or interim verification
608 submitted regarding the remediation of such establishment under the
609 brownfield remediation and revitalization program without an audit
610 decision from the Commissioner of Energy and Environmental
611 Protection;

612 (AA) Conveyance of an establishment in connection with the
613 acquisition of properties to effectuate the development of a project
614 certified and approved pursuant to section 32-9v, provided any such
615 property is investigated and remediated in accordance with section
616 22a-133y; [or]

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

634 (CC) Conveyance of an establishment to a Connecticut brownfield
635 land bank and all subsequent transfers of such establishment,
636 provided (i) such establishment was entered into a remediation or

637 liability relief program under section 22a-133x, 22a-133y, 32-768, as
638 amended by this act, or 32-769, as amended by this act, and the
639 conveyor or transferor of such establishment is in compliance with
640 such program at the time of transfer of such establishment, and (ii)
641 none of the activities described in subdivision (3) of this section were
642 conducted at such establishment after the date such establishment was
643 entered into such remediation or liability relief program;

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

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

648 Sec. 12. Section 32-763 of the 2016 supplement to the general statutes
649 is repealed and the following is substituted in lieu thereof (*Effective July*
650 *1, 2016*):

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

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

669 the condition of the brownfield, including the results of any
670 environmental assessment of the brownfield in the possession of or
671 available to the applicant.

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

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

699 (e) The commissioner, in consultation with the Commissioner of
700 Energy and Environmental Protection and following the award of a
701 grant to a municipality, Connecticut brownfield land bank or economic

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

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

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

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

731 (c) Notwithstanding the provisions of subsection (b) of this section,
732 a property owned by a municipality or a Connecticut brownfield land
733 bank shall not be subject to subdivision (6) of subsection (b) of this

734 section.

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

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

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

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

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

800 (c) The commissioner shall accept nominations of properties for

801 participation in the program established pursuant to subsection (a) of
802 this section by [a municipality or an economic development agency,]
803 municipalities, Connecticut brownfield land banks and economic
804 development agencies where no bona fide prospective purchaser,
805 contiguous property owner or innocent landowner has applied for
806 participation in the program. For a property to be considered for
807 approval for nomination to the program established pursuant to this
808 section, a municipality, Connecticut brownfield land bank or economic
809 development agency shall submit to the commissioner, on a form
810 prescribed by the commissioner, a certification that the property meets
811 the eligibility requirements provided in subdivisions (2) and (5) of
812 subsection (a) of this section and any other relevant factors, including
813 state-wide portfolio factors provided in subsection (b) of this section,
814 as may be determined by the commissioner. After the commissioner
815 approves a property's nomination, any subsequent applicant shall
816 apply in accordance with subsections (a) and (f) of this section. In any
817 such application, the applicant shall demonstrate it satisfies the
818 eligibility requirements provided in subdivisions (1), (3) and (4) of
819 subsection (a) of this section and shall demonstrate satisfaction of
820 subdivisions (2) and (5) of subsection (a) of this section for the period
821 after the commissioner's acceptance of the municipality's, Connecticut
822 brownfield land bank's or economic development agency's nomination
823 of the property.

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

832 (2) Properties otherwise eligible for the brownfield remediation and
833 revitalization program that have been subject to a release requiring
834 action pursuant to the PCB regulations or that have been subject to a

835 release requiring action pursuant to the UST regulations shall not be
836 deemed ineligible, but no provision of this section shall affect any
837 eligible party's obligation under such regulations to investigate or
838 remediate the extent of any such release.

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

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

862 (g) Any applicant accepted into the brownfield remediation and
863 revitalization program by the commissioner shall pay the
864 Commissioner of Energy and Environmental Protection a fee equal to
865 five per cent of the assessed value of the land, as stated on the last-
866 completed grand list of the relevant town. The fee shall be paid in two
867 installments, each equal to fifty per cent of such fee, subject to potential

868 reductions as specified in subsection (h) of this section. The first
869 installment shall be due not later than one hundred eighty days after
870 the later of the date such applicant is notified that the application has
871 been accepted by the commissioner or the date that such applicant
872 takes title to the eligible property. The second installment shall be due
873 not later than four years after the acceptance date. Upon request by
874 such applicant, a municipality, a Connecticut brownfield land bank or
875 an economic development agency, the commissioner may, at the
876 commissioner's discretion, extend either or both of the installment due
877 dates. Such fee shall be deposited into the Special Contaminated
878 Property Remediation and Insurance Fund established pursuant to
879 section 22a-133t and shall be available for use by the Commissioner of
880 Energy and Environmental Protection pursuant to section 22a-133u.

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

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

902 number of days that a request by said commissioner for supplemental
903 information remains pending with the eligible party.

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

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

926 (5) A municipality, ~~Connecticut brownfield land bank~~ or economic
927 development agency may submit a fee waiver request to the
928 commissioner to waive a portion or the entire fee for an eligible
929 property located within [that] ~~such~~ municipality. The commissioner, at
930 his or her discretion, shall consider the following factors in
931 determining whether to approve a fee waiver or reduction: (A)
932 Location of the brownfield within a distressed municipality, as defined
933 in section 32-9p; (B) demonstration by the municipality, ~~Connecticut~~
934 ~~brownfield land bank~~ or economic development agency that the

935 project is of significant economic impact; (C) demonstration by the
936 municipality, Connecticut brownfield land bank or economic
937 development agency that the project has a significant community
938 benefit to the municipality; (D) demonstration that the eligible party is
939 a governmental or nonprofit entity; and (E) demonstration that the fee
940 required will have a detrimental effect on the overall success of the
941 project.

942 (i) An applicant whose application has been accepted into the
943 brownfield remediation and revitalization program shall not be liable
944 to the state or any person for the release of any regulated substance at
945 or from the eligible property, except and only to the extent that such
946 applicant [(A)] (1) caused or contributed to the release of a regulated
947 substance that is subject to remediation or exacerbated such condition,
948 or [(B)] (2) the Commissioner of Energy and Environmental Protection
949 determines the existence of any of the conditions set forth in
950 subdivision (4) of subsection (m) of this section. The provisions of this
951 subsection shall extend to any lender to whom such applicant conveys
952 a security interest in such eligible property, provided such lender is
953 not liable for such release under any other provision of the general
954 statutes, and shall not alter any limitation of such lender's liability
955 pursuant to section 22a-452f or any other provision of the general
956 statutes.

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

968 (2) Not later than one hundred eighty days after the first installment
969 due date, including any extension thereof by the commissioner, of the
970 fee required pursuant to subsection (g) of this section, the eligible party
971 shall submit to the commissioner and the Commissioner of Energy and
972 Environmental Protection a brownfield investigation plan and
973 remediation schedule that is signed and stamped by a licensed
974 environmental professional. Unless otherwise approved in writing by
975 the Commissioner of Energy and Environmental Protection, such
976 brownfield investigation plan and remediation schedule shall provide
977 that (A) the investigation shall be completed not later than two years
978 after the first installment due date, including any extension thereof by
979 the commissioner, of the fee required pursuant to subsection (g) of this
980 section, (B) remediation shall be initiated not later than three years
981 from the first installment due date, including any extension thereof by
982 the commissioner, of the fee required pursuant to subsection (g) of this
983 section, and (C) remediation shall be completed sufficiently to support
984 either a verification or an interim verification not later than eight years
985 after 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. The schedule shall also include a schedule for providing public
988 notice of the remediation prior to the initiation of such remediation in
989 accordance with subdivision (1) of subsection (j) of this section. Not
990 later than two years after the first installment due date, including any
991 extension thereof by the commissioner, of the fee required pursuant to
992 subsection (g) of this section, unless the Commissioner of Energy and
993 Environmental Protection has specified a later day, in writing, the
994 eligible party shall submit to the Commissioner of Energy and
995 Environmental Protection documentation, approved in writing by a
996 licensed environmental professional and in a form prescribed by the
997 Commissioner of Energy and Environmental Protection, that the
998 investigation of the property has been completed in accordance with
999 prevailing standards and guidelines. Not later than three years after
1000 the first installment due date, including any extension thereof by the
1001 commissioner, of the fee required pursuant to subsection (g) of this
1002 section, unless the Commissioner of Energy and Environmental

1003 Protection has specified a later day, in writing, the eligible party shall
1004 notify the Commissioner of Energy and Environmental Protection and
1005 the commissioner in a form prescribed by the Commissioner of Energy
1006 and Environmental Protection that the remediation has been initiated,
1007 and shall submit to the Commissioner of Energy and Environmental
1008 Protection a remedial action plan, approved in writing by a licensed
1009 environmental professional in a form prescribed by the Commissioner
1010 of Energy and Environmental Protection. Not later than eight years
1011 after the first installment due date, including any extension thereof by
1012 the commissioner, of the fee required pursuant to subsection (g) of this
1013 section, unless the Commissioner of Energy and Environmental
1014 Protection has specified a later day, in writing, the eligible party shall
1015 complete remediation of the property and submit the remedial action
1016 report and verification or interim verification to the Commissioner of
1017 Energy and Environmental Protection and the commissioner. The
1018 Commissioner of Energy and Environmental Protection shall grant a
1019 reasonable extension if the eligible party demonstrates to the
1020 satisfaction of the Commissioner of Energy and Environmental
1021 Protection that: (i) Such eligible party has made reasonable progress
1022 toward investigation and remediation of the eligible property; and (ii)
1023 despite best efforts, circumstances beyond the control of the eligible
1024 party have significantly delayed the remediation of the eligible
1025 property.

1026 (3) An eligible party who submits an interim verification for an
1027 eligible property, and any subsequent owner of such eligible property,
1028 shall, until the remediation standards for groundwater are achieved,
1029 (A) operate and maintain the long-term remedy for groundwater in
1030 accordance with the remedial action plan, the interim verification and
1031 any approvals issued by the Commissioner of Energy and
1032 Environmental Protection, (B) prevent exposure to any groundwater
1033 plume containing a regulated substance in excess of the remediation
1034 standards on the property, (C) take all reasonable action to contain any
1035 groundwater plume on the property, and (D) submit annual status
1036 reports to the Commissioner of Energy and Environmental Protection

1037 and the commissioner.

1038 (4) Before commencement of remedial action pursuant to the plan
1039 and schedule, the eligible party shall: (A) Publish notice of the
1040 remedial action in a newspaper having a substantial circulation in the
1041 town where the property is located, (B) notify the director of health of
1042 the municipality where the property is located, and (C) either (i) erect
1043 and maintain for at least thirty days in a legible condition a sign not
1044 less than six feet by four feet on the property, which shall be clearly
1045 visible from the public highway and shall include the words
1046 "ENVIRONMENTAL CLEAN-UP IN PROGRESS AT THIS SITE. FOR
1047 FURTHER INFORMATION CONTACT:" and include a telephone
1048 number for an office from which any interested person may obtain
1049 additional information about the remedial action, or (ii) mail notice of
1050 the remedial action to each owner of record of property which abuts
1051 such property, at the address on the last-completed grand list of the
1052 relevant town. Public comments shall be directed to the eligible party
1053 for a thirty-day period starting with the last provided public notice
1054 provision and such eligible party shall provide all comments and any
1055 responses to the Commissioner of Energy and Environmental
1056 Protection prior to commencing remedial action.

1057 (5) The remedial action shall be conducted under the supervision of
1058 a licensed environmental professional and the remedial action report
1059 shall be submitted to the commissioner and the Commissioner of
1060 Energy and Environmental Protection signed and stamped by a
1061 licensed environmental professional. In such report, the licensed
1062 environmental professional shall include a detailed description of the
1063 remedial actions taken and issue a verification or interim verification,
1064 in which he or she shall render an opinion, in accordance with the
1065 standard of care provided in subsection (c) of section 22a-133w, that
1066 the action taken to contain, remove or mitigate the release of regulated
1067 substances within the boundaries of such property is in accordance
1068 with the remediation standards.

1069 (6) All applications for permits required to implement such plan

1070 and schedule in this section shall be submitted to the permit
1071 ombudsman within the Department of Economic and Community
1072 Development.

1073 (7) Each eligible party participating in the brownfield remediation
1074 and revitalization program shall maintain all records related to its
1075 implementation of such plan and schedule and completion of the
1076 remedial action of the property for a period of not less than ten years
1077 and shall make such records available to the commissioner or the
1078 Commissioner of Energy and Environmental Protection at any time
1079 upon request by either.

1080 (8) (A) Not later than sixty days after receiving a remedial action
1081 report signed and stamped by a licensed environmental professional
1082 and a verification or interim verification, the Commissioner of Energy
1083 and Environmental Protection shall notify the eligible party and the
1084 commissioner whether the Commissioner of Energy and
1085 Environmental Protection will conduct an audit of such remedial
1086 action. Any such audit shall be conducted not later than one hundred
1087 eighty days after the Commissioner of Energy and Environmental
1088 Protection receives a remedial action report signed and stamped by a
1089 licensed environmental professional and a verification or interim
1090 verification. Not later than fourteen days after completion of an audit,
1091 the Commissioner of Energy and Environmental Protection shall send
1092 written audit findings to the eligible party, the commissioner and the
1093 licensed environmental professional. The audit findings may approve
1094 or disapprove the report, provided any disapproval shall set forth the
1095 reasons for such disapproval.

1096 (B) The Commissioner of Energy and Environmental Protection may
1097 request additional information during an audit conducted pursuant to
1098 this subdivision. If such information has not been provided to said
1099 commissioner within fourteen days of such request, the time frame for
1100 said commissioner to complete the audit shall be suspended until the
1101 information is provided to said commissioner. The Commissioner of
1102 Energy and Environmental Protection may choose to conduct such

1103 audit if and when the eligible party fails to provide a response to said
1104 commissioner's request for additional information within sixty days.

1105 (C) The Commissioner of Energy and Environmental Protection
1106 shall not conduct an audit of a verification or interim verification
1107 pursuant to this subdivision after one hundred eighty days from
1108 receipt of such verification unless (i) said commissioner has reason to
1109 believe that a verification was obtained through the submittal of
1110 materially inaccurate or erroneous information, or otherwise
1111 misleading information material to the verification or that material
1112 misrepresentations were made in connection with the submittal of the
1113 verification, (ii) any post-verification monitoring or operations and
1114 maintenance is required as part of a verification and has not been
1115 done, (iii) a verification that relies upon an environmental land use
1116 restriction was not recorded on the land records of the municipality in
1117 which such land is located in accordance with section 22a-133o and
1118 applicable regulations, (iv) said commissioner determines that there
1119 has been a violation of law material to the verification, or (v) said
1120 commissioner determines that information exists indicating that the
1121 remediation may have failed to prevent a substantial threat to public
1122 health or the environment for releases on the property.

1123 (k) Not later than sixty days after receiving a notice of disapproval
1124 or a verification or interim verification from the Commissioner of
1125 Energy and Environmental Protection, the eligible party shall submit
1126 to said commissioner and to the commissioner a report of cure of noted
1127 deficiencies. Within sixty days after receiving such report of cure of
1128 noted deficiencies by said commissioner, said commissioner shall issue
1129 a successful audit closure letter or a written disapproval of such report
1130 of cure of noted deficiencies.

1131 (l) Before approving a verification or interim verification, the
1132 Commissioner of Energy and Environmental Protection may enter into
1133 a memorandum of understanding with the eligible party with regard
1134 to any further remedial action or monitoring activities on or at such
1135 property that said commissioner deems necessary for the protection of

1136 human health or the environment.

1137 (m) (1) An eligible party who has been accepted into the brownfield
1138 remediation and revitalization program shall have no obligation as
1139 part of its plan and schedule to characterize, abate and remediate any
1140 [plume] release of a regulated substance outside the boundaries of the
1141 subject property, provided the notification requirements of section 22a-
1142 6u pertaining to significant environmental hazards shall continue to
1143 apply to the property and the eligible party shall not be required to
1144 characterize, abate or remediate any such significant environmental
1145 hazard outside the boundaries of the subject property unless such
1146 significant environmental hazard arises from the actions of the eligible
1147 party after its acquisition of or control over the property from which
1148 such significant environmental hazard has emanated outside its own
1149 boundaries. If an eligible party who has been accepted into the
1150 brownfield remediation and revitalization program conveys or
1151 otherwise transfers its ownership of the subject property and such
1152 eligible party is in compliance with the provisions of this section and
1153 the brownfield investigation plan and remediation schedule at the time
1154 of conveyance or transfer of ownership, the provisions of this section
1155 shall apply to such transferee, if such transferee meets the eligibility
1156 criteria set forth in this section, timely pays [the] (A) ten thousand
1157 dollars, or (B) any fee required by subsection (g) or (h) of this section
1158 not yet paid by such eligible party, whichever is greater, and complies
1159 with all the obligations undertaken by the eligible party under this
1160 section. In such case, all references to applicant or eligible party shall
1161 mean the subsequent owner or transferee.

1162 (2) After the Commissioner of Energy and Environmental Protection
1163 issues either a no audit letter or a successful audit closure letter, or no
1164 audit decision has been made by said commissioner within one
1165 hundred eighty days after the submittal of the remedial action report
1166 and verification or interim verification, such eligible party shall not be
1167 liable to the state or any person for (A) costs incurred in the
1168 remediation of, equitable relief relating to, or damages resulting from
1169 the release of regulated substances addressed in the brownfield

1170 investigation plan and remediation schedule, and (B) historical off-site
1171 impacts including air deposition, waste disposal, impacts to sediments
1172 and natural resource damages. No eligible party shall be afforded any
1173 relief from liability such eligible party may have from a release
1174 requiring action pursuant to the PCB regulations or a release requiring
1175 action pursuant to the UST regulations.

1176 (3) The provisions of this section concerning liability shall extend to
1177 any person who acquires title to all or part of the property for which a
1178 remedial action report and verification or interim verification have
1179 been submitted pursuant to this section, provided (A) there is payment
1180 of a fee of ten thousand dollars to said commissioner for each such
1181 extension, (B) such person acquiring all or part of the property meets
1182 the criteria of this section, and (C) the Commissioner of Energy and
1183 Environmental Protection has issued either a successful audit closure
1184 letter or no audit letter, or no audit decision has been made by said
1185 commissioner not later than one hundred eighty days after the
1186 submittal of the remedial action report and verification or interim
1187 verification. No municipality, Connecticut brownfield land bank or
1188 economic development agency that acquires title to all or part of the
1189 property shall be required to pay a fee, provided the municipality,
1190 Connecticut brownfield land bank or economic development agency
1191 shall collect and pay the fee upon transfer of the property to another
1192 person for purposes of development. Such fee shall be deposited into
1193 the Special Contaminated Property Remediation and Insurance Fund
1194 established under section 22a-133t and such funds shall be for the
1195 exclusive use by the Department of Energy and Environmental
1196 Protection.

1197 (4) Neither a successful audit closure nor no audit letter issued
1198 pursuant to this section, nor the expiration of one hundred eighty days
1199 after the submittal of the remedial action report and verification or
1200 interim verification without an audit decision by the Commissioner of
1201 Energy and Environmental Protection, shall preclude said
1202 commissioner from taking any appropriate action, including, but not
1203 limited to, any action to require remediation of the property by the

1204 eligible party or, as applicable, to its successor, if said commissioner
1205 determines that:

1206 (A) The successful audit closure, no audit letter, or the expiration of
1207 one hundred eighty days after the submittal of the remedial action
1208 report and verification or interim verification without an audit
1209 decision by the Commissioner of Energy and Environmental
1210 Protection was based on information provided by the person
1211 submitting such remedial action report and verification or interim
1212 verification that the Commissioner of Energy and Environmental
1213 Protection can show that such person knew, or had reason to know,
1214 was false or misleading, and, in the case of the successor to an
1215 applicant, that such successor was aware or had reason to know that
1216 such information was false or misleading;

1217 (B) New information confirms the existence of previously unknown
1218 contamination that resulted from a release that occurred before the
1219 date that an application has been accepted into the brownfield
1220 remediation and revitalization program;

1221 (C) The eligible party who received the successful audit closure or
1222 no audit letter or where one hundred eighty days lapsed without an
1223 audit decision by the Commissioner of Energy and Environmental
1224 Protection has materially failed to complete the remedial action
1225 required by the brownfield investigation plan and remediation
1226 schedule or to carry out or comply with monitoring, maintenance or
1227 operating requirements pertinent to a remedial action including the
1228 requirements of any environmental land use restriction; or

1229 (D) The threat to human health or the environment is increased
1230 beyond an acceptable level due to substantial changes in exposure
1231 conditions at such property, including, but not limited to, a change
1232 from nonresidential to residential use of such property.

1233 (5) If an eligible party who has been accepted into the brownfield
1234 remediation and revitalization program conveys or otherwise transfers
1235 all or part of its ownership interest in the subject property at any time

1236 before the issuance of a successful audit closure or no audit letter or
1237 the expiration of one hundred eighty days after the submittal of the
1238 remedial action report and verification or interim verification without
1239 an audit decision by the Commissioner of Energy and Environmental
1240 Protection, the eligible party conveying or otherwise transferring its
1241 ownership interest shall not be liable to the state or any person for (A)
1242 costs incurred in the remediation of, equitable relief relating to, or
1243 damages resulting from the release of regulated substances addressed
1244 in the brownfield investigation plan and remediation schedule, and (B)
1245 historical off-site impacts including air deposition, waste disposal,
1246 impacts to sediments and natural resource damages, provided the
1247 eligible party complied with its obligations under this section during
1248 the period when the eligible party held an ownership interest in the
1249 subject property. Nothing in this subsection shall provide any relief
1250 from liability such eligible party may have related to a release
1251 requiring action pursuant to the PCB regulations, or a release requiring
1252 action pursuant to the UST regulations.

1253 (6) Upon the Commissioner of Energy and Environmental
1254 Protection's issuance of a successful audit closure letter, no audit letter,
1255 or one hundred eighty days have passed since the submittal of a
1256 verification or interim verification and said commissioner has not
1257 audited the verification or interim verification, the immediate prior
1258 owner regardless of its own eligibility to participate in the
1259 comprehensive brownfield remediation and revitalization program
1260 shall have no liability to the state or any person for any future
1261 investigation and remediation of the release of any regulated substance
1262 at the eligible property addressed in the verification or interim
1263 verification, provided the immediate prior owner has complied with
1264 any legal obligation such owner had with respect to investigation and
1265 remediation of releases at and from the property, and provided further
1266 the immediate prior owner shall retain any and all liability such
1267 immediate prior owner would otherwise have for the investigation
1268 and remediation of the release of any regulated substance beyond the
1269 boundary of the eligible property. In any event, the immediate prior

1270 owner shall remain liable for (A) penalties or fines, if any, relating to
1271 the release of any regulated substance at or from the eligible property,
1272 (B) costs and expenses, if any, recoverable or reimbursable pursuant to
1273 sections 22a-134b, 22a-451 and 22a-452, and (C) obligations of the
1274 immediate prior owner as a certifying party on a Form III or IV
1275 submitted pursuant to sections 22a-134 to 22a-134e, inclusive, as
1276 amended by this act.

1277 (n) A person whose application to the brownfield remediation and
1278 revitalization program has been accepted by the commissioner or any
1279 subsequent eligible party whose application to the brownfield
1280 remediation and revitalization program has been accepted by the
1281 commissioner shall be exempt for filing as an establishment pursuant
1282 to sections 22a-134a to 22a-134d, inclusive, if such real property or
1283 prior business operations constitute an establishment. Nothing in this
1284 section shall be construed to alter any existing legal requirement
1285 applicable to any certifying party at a property under sections 22a-134,
1286 as amended by this act, and 22a-134a to 22a-134e, inclusive.

1287 (o) Notwithstanding the provisions of this section, eligible parties
1288 shall investigate and remediate, and remain subject to all applicable
1289 statutes and requirements, the extent of any new release that occurs
1290 during their ownership of the property.

1291 Sec. 15. Subsection (b) of section 22a-2 of the general statutes is
1292 repealed and the following is substituted in lieu thereof (*Effective July*
1293 *1, 2016*):

1294 (b) As used in this chapter, and chapters 263, 268, 348, 360, 440,
1295 446d, 446i, 446k, 447, 448, 449, 452, 462, 474, 476, 477, 478, 479, 490 and
1296 495, except where otherwise provided, "person" means any individual,
1297 firm, partnership, association, syndicate, company, trust, corporation,
1298 nonstock corporation, limited liability company, municipality, agency
1299 or political or administrative subdivision of the state, or other legal
1300 entity of any kind.

1301 Sec. 16. Subdivision (8) of section 22a-115 of the general statutes is

1302 repealed and the following is substituted in lieu thereof (*Effective July*
1303 *1, 2016*):

1304 (8) "Person" means any individual, corporation, nonstock
1305 corporation, limited liability company, joint venture, public benefit
1306 corporation, partnership, association, trust or estate, the state and its
1307 agencies and political subdivisions, the federal government and its
1308 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	<i>July 1, 2016</i>	32-760
Sec. 2	<i>July 1, 2016</i>	New section
Sec. 3	<i>July 1, 2016</i>	New section
Sec. 4	<i>July 1, 2016</i>	New section
Sec. 5	<i>July 1, 2016</i>	New section
Sec. 6	<i>July 1, 2016</i>	New section
Sec. 7	<i>July 1, 2016</i>	12-81r(a)
Sec. 8	<i>July 1, 2016</i>	22a-133dd
Sec. 9	<i>July 1, 2016</i>	22a-133ii(a)
Sec. 10	<i>July 1, 2016</i>	22a-134(1)
Sec. 11	<i>July 1, 2016</i>	22a-134
Sec. 12	<i>July 1, 2016</i>	32-763
Sec. 13	<i>July 1, 2016</i>	32-768(c) and (d)
Sec. 14	<i>July 1, 2016</i>	32-769
Sec. 15	<i>July 1, 2016</i>	22a-2(b)
Sec. 16	<i>July 1, 2016</i>	22a-115(8)

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 - Potential Revenue Loss	See Below	See Below
Department of Energy and Environmental Protection	GF - Revenue Impact	Potential	Potential

Note: GF=General Fund; Various=Various

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.

The bill also alters the fee, from any fee to the greater of \$10,000 or a certain percentage of the land assessment that certain eligible parties must pay to the Department of Energy and Environmental Protection (DEEP) for the brownfield remediation program. This may result in a revenue gain to DEEP, to the extent \$10,000 is greater than the current first installment fee.

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.

House "A" alters the fee that certain eligible parties must pay to the DEEP for the brownfield remediation program. This results in the impact listed above.

House "A" also makes various modifications to the framework for operating CBLBs which have no impact.

The Out Years

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

OLR Bill Analysis**sHB 5425 (as amended by House "A")******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 specifies that the liability protection afforded developers under DECD's Brownfield Remediation and Revitalization Program (see BACKGROUND) applies to lenders given a security interest in a property being remediated under the program as long as they are not responsible for polluting it under any statute. The program protects participating developers from liability to the state and third parties for cleaning up brownfields according to the program's requirements.

Current law already protects lenders from liability when they hold or obtain a security interest in a remediated property as long as they do not participate in its management (CGS § 22a-452f). The bill specifies that any protection a lender receives under current law for a property is not affected if that property is being remediated under the program.

The bill also changes one of the conditions for extending the program's protections to a party that acquires a property being remediated under the program (i.e., transferee). Under current law, among other things, the transferee must pay the same fee as the property's initial owner. The bill requires the transferee to pay a \$10,000 fee or the balance of any unpaid fee, whichever is greater.

*House Amendment "A" (1) deletes a requirement that applications for brownfield land bank certification include a letter from at least two municipalities approving the certification; (2) requires, rather than allows, the DECD commissioner to decertify brownfield land banks if certain conditions are not met; (3) allows her to give those facing decertification more time to comply with the bill's requirements; (4) allows decertified brownfield land banks to reapply for certification; (5) deletes a provision allowing property owners to remediate a property in sections under the Brownfield Remediation and Revitalization Program after completely investigating the entire property; and (6) makes minor and technical changes.

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 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 organization 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. its proposed business plan, and
6. any other information the commissioner requires.

Approval Criteria

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

1. whether 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.

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 will decertify the organization 120 days after the mailing date unless CBLB submits a revised report the commissioner determines provides the required information. The commissioner may extend the 120-day deadline for an additional 60 days.

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. A decertified CBLB may reapply for certification.

§ 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 bylaws and procedures needed to perform its 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 applicable laws.

The bill complements the CBLBs' property acquisition powers by allowing municipalities to transfer or convey land and buildings 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 identified in the land banking agreement between the CBLB and the municipality where the property is located. They must hold this property in their own names 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 this.

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, on, 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 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 it employs can enter a property it controls for the same purposes.

The CBLB or its LEP may enter the property subject to a land banking agreement between the CBLB and the municipality if:

1. the land banking agreement requires it to be investigated and assessed and the municipality is authorized to enter the property or
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 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 that 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 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), or 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)

Finance, Revenue and Bonding Committee

Joint Favorable

Yea 46 Nay 0 (04/18/2016)