



**Senate Bill No. 268**

**Public Act No. 18-85**

**AN ACT CONCERNING MODIFICATIONS TO BROWNFIELD REMEDIATION GRANT AND LOAN PROGRAMS, THE APPLICATION OF NOTICES OF ACTIVITY AND USE LIMITATION TO CERTAIN PRIOR HOLDERS OF INTEREST IN PROPERTY, PROPERTY TAX AGREEMENTS BETWEEN MUNICIPALITIES AND PROSPECTIVE PURCHASERS OF BROWNFIELDS AND ENVIRONMENTAL IMPACT EVALUATION EXEMPTIONS FOR CERTAIN FEDERALLY APPROVED PROJECTS.**

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

Section 1. Subsection (e) of section 32-765 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2018, and applicable to loans issued on or after July 1, 2018*):

(e) Loans made pursuant to this section shall have such terms and conditions and be subject to such eligibility and loan approval criteria as determined by the commissioner. Such loans shall be for a period not to exceed [twenty] thirty years.

Sec. 2. Section 22a-133n of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2018*):

For the purposes of sections 22a-133n to 22a-133r, inclusive: "Commissioner" means the Commissioner of Energy and Environmental Protection; "person" has the same meaning as provided

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in section 22a-2; and "environmental use restriction" means [a limitation in any instrument] an environmental land use restriction or notice of activity and use limitation executed and recorded as prescribed in section 22a-133o, as amended by this act, the purpose of which is to minimize the risk of human exposure to pollutants and hazards to the environment by (1) preventing the use of specified real property for certain purposes, or (2) prohibiting or requiring certain activities on such property.

Sec. 3. Subdivision (3) of subsection (c) of section 22a-133o of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2018*):

(3) A notice of activity and use limitation recorded pursuant to this subsection shall be implemented and adhered to by the owner and subsequent holders of interests in the property, such owner's successors and assigns, [and] any person who has a license to use such property or to conduct remediation on any portion of such property and, as described in subdivision (6) of this section, any prior holder of an interest in the property who signs such notice of activity and use limitation.

Sec. 4. Subdivision (6) of subsection (c) of section 22a-133o of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2018*):

(6) A notice of activity and use limitation shall not be used in any area where a prior holder of interest in the property has an interest that allows for the conduct of an activity that interferes with the conditions or purposes described in subparagraphs (A) to (E), inclusive, of subdivision (1) of this subsection, [or if such interest allows for intrusion into the polluted soil] except a notice of activity and use limitation may be used in an area where one or more prior holders of an interest in the property have an interest that allows for the conduct

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of an activity that interferes with the conditions or purposes of such notice if such prior holder of an interest in the property agrees, by signing such notice, to subject such interest to the conditions or purposes described in such notice.

Sec. 5. Section 32-763 of the 2018 supplement to the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2018*):

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

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

(c) The commissioner may approve, reject or modify any application properly submitted in accordance with the provisions of this section.

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

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

(e) If a grant recipient is not subject to section 22a-134a, such recipient shall enter a program for remediation of the property pursuant to either section 22a-133x, 22a-133y, 32-768 or 32-769, as determined by the commissioner, except no such recipient shall be required to enter such a program if the grant funds are used (1) for the abatement of hazardous building materials and such recipient

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demonstrates to the satisfaction of the Commissioners of Economic and Community Development and Energy and Environmental Protection that such hazardous building materials represent the sole or sole remaining environmental contamination on the property, (2) solely for assessment of the brownfield, or (3) as provided in subsection (g) of this section.

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

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

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associated with the development of any such plan for remediation and redevelopment.

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

Sec. 6. Subsection (a) of section 12-81r of the 2018 supplement to the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2018*):

(a) Any municipality may (1) enter into an agreement with the owner or prospective owner of any real property to abate the property tax due as of the date of the agreement for a period not to exceed seven years if the property has been subject to a spill, as defined in section 22a-452c, and the owner or prospective owner agrees to conduct any environmental site assessment, demolition and remediation of the spill necessary to redevelop the property. Any such tax abatement shall only be for the period of remediation and redevelopment and shall be contingent upon the continuation and completion of the remediation and redevelopment process with respect to the purposes specified in the agreement. The abatement shall cease upon the sale or transfer of the property for any other purpose unless the municipality consents to its continuation. The municipality may also establish a recapture provision in the event of sale provided such recapture shall not exceed the original amount of taxes abated and may not go back further than the date of the agreement; (2) enter into an agreement with a prospective owner of any real property that is a brownfield, as defined in section 32-760, or deemed by the municipality to be abandoned, to forgive all or a portion of the principal balance and interest due on delinquent property taxes for the benefit of [any] such prospective [purchaser who has obtained an environmental investigation or remediation plan approved by the Commissioner of Energy and Environmental Protection or a licensed environmental professional under section 22a-133w, 22a-133x or 22a-133y and completes such

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remediation plan for an establishment, as defined in section 22a-134, deemed by the municipality to be abandoned or a brownfield, as defined in section 32-760] owner, provided such prospective owner has agreed to (A) enter into a program for the remediation of the property pursuant to section 22a-133x, 22a-133y, 32-768 or 32-769, or (B) complete the investigation and remediation of the property in accordance with section 22a-134a; (3) enter into an agreement with the owner or prospective owner of any real property to fix the assessment of the property as of the last assessment date prior to commencement of remediation activities for a period not to exceed seven years, provided the [property has been the subject of a remediation approved by the Commissioner of Energy and Environmental Protection or verified by a licensed environmental professional pursuant to section 22a-133w, 22a-133x, 22a-133y or 22a-134] owner or prospective owner has agreed to (A) enter into a program for remediation of the property pursuant to section 22a-133x, 22a-133y, 32-768 or 32-769, or (B) complete the investigation and remediation of the property in accordance with section 22a-134a; or (4) forgive all or a portion of the principal balance and interest due on delinquent property taxes for the benefit of any Connecticut brownfield land bank, as defined in section 32-760, that has acquired or will acquire any real property within the municipality.

Sec. 7. Section 22a-1f of the general statutes is amended by adding subsection (e) as follows (*Effective from passage*):

(NEW) (e) Environmental impact evaluations shall not be required for actions in furtherance of the implementation of any approved program, as defined in 15 CFR Part 700, for the construction of nuclear submarines if such approved program has been given the priority rating of DX in accordance with said part on or before the effective date of this section under the United States Department of Defense Defense Priorities and Allocations System.

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Approved June 6, 2018