



General Assembly

February Session, 2018

Raised Bill No. 5436

LCO No. 1983



Referred to Committee on COMMERCE

Introduced by:
(CE)

**AN ACT CONCERNING CERTAIN PROPERTY TAX AGREEMENTS
BETWEEN MUNICIPALITIES AND PROSPECTIVE PURCHASERS OF
BROWNFIELDS AND ABANDONED PROPERTIES AND
ESTABLISHING A BROWNFIELD REMEDIATION TAX CREDIT.**

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

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2 the general statutes is repealed and the following is substituted in lieu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

4 (a) Any municipality may (1) enter into an agreement with the
5 owner or prospective owner of any real property to abate the property
6 tax due as of the date of the agreement for a period not to exceed seven
7 years if the property has been subject to a spill, as defined in section
8 22a-452c, and the owner or prospective owner agrees to conduct any
9 environmental site assessment, demolition and remediation of the spill
10 necessary to redevelop the property. Any such tax abatement shall
11 only be for the period of remediation and redevelopment and shall be
12 contingent upon the continuation and completion of the remediation
13 and redevelopment process with respect to the purposes specified in
14 the agreement. The abatement shall cease upon the sale or transfer of
15 the property for any other purpose unless the municipality consents to

16 its continuation. The municipality may also establish a recapture
17 provision in the event of sale provided such recapture shall not exceed
18 the original amount of taxes abated and may not go back further than
19 the date of the agreement; (2) enter into an agreement with a
20 prospective purchaser of any real property that is a brownfield, as
21 defined in section 32-760, or deemed by the municipality to be
22 abandoned, to forgive all or a portion of the principal balance and
23 interest due on delinquent property taxes for the benefit of [any] such
24 prospective purchaser, [who has obtained an environmental
25 investigation or remediation plan approved by the Commissioner of
26 Energy and Environmental Protection or a licensed environmental
27 professional under section 22a-133w, 22a-133x or 22a-133y and
28 completes such remediation plan for an establishment, as defined in
29 section 22a-134, deemed by the municipality to be abandoned or a
30 brownfield, as defined in section 32-760] provided such prospective
31 purchaser has agreed to (A) enter into a program for the remediation
32 of the property pursuant to section 22a-133x, 22a-133y, 32-768 or 32-
33 769, or (B) complete the investigation and remediation of the property
34 pursuant to section 22a-134; (3) enter into an agreement with the
35 owner or prospective owner of any real property to fix the assessment
36 of the property as of the last assessment date prior to commencement
37 of remediation activities for a period not to exceed seven years,
38 provided the [property has been the subject of a remediation approved
39 by the Commissioner of Energy and Environmental Protection or
40 verified by a licensed environmental professional pursuant to section
41 22a-133w, 22a-133x, 22a-133y or 22a-134] owner or prospective owner
42 has agreed to (A) enter into a program for remediation of the property
43 pursuant to section 22a-133x, 22a-133y, 32-768 or 32-769, or (B)
44 complete the investigation and remediation of the property pursuant
45 to section 22a-134; or (4) forgive all or a portion of the principal balance
46 and interest due on delinquent property taxes for the benefit of any
47 Connecticut brownfield land bank, as defined in section 32-760, that
48 has acquired or will acquire any real property within the municipality.

49 Sec. 2. (NEW) *(Effective July 1, 2018, and applicable to income years*

50 *commencing on or after January 1, 2018*) (a) As used in this section, the
51 following terms shall have the following meanings unless the context
52 clearly indicates another meaning:

53 (1) "Brownfield" has the same meaning as provided in section 32-760
54 of the general statutes;

55 (2) "Brownfield remediation plan" means any written narrative or
56 plan for the substantial remediation of a brownfield, including, but not
57 limited to, the investigation and remediation of any release or
58 threatened release of pollution to soil or groundwater at the
59 brownfield or the abatement of hazardous building materials, that is
60 submitted to and approved by the commissioner, in consultation with
61 the Commissioner of Energy and Environmental Protection;

62 (3) "Commissioner" means the Commissioner of Economic and
63 Community Development;

64 (4) "Completion of the brownfield remediation" means the
65 documentation by an owner of the completion of a brownfield
66 remediation plan to the satisfaction of the commissioner, including,
67 but not limited to, the filing of either a verification or interim
68 verification that meets the requirements of section 22a-133x, 22a-133y
69 or 22a-134 of the general statutes, or the written determination by the
70 Commissioner of Energy and Environmental Protection that (A) the
71 investigation of the brownfield has been performed in accordance with
72 prevailing standards and guidelines, (B) the remediation has been
73 completed in accordance with the remediation standards, except that,
74 for remediation standards for groundwater, the selected remedy is in
75 operation but has not achieved the remediation standards for
76 groundwater, (C) there is an identified long-term remedy being
77 implemented to achieve groundwater standards, along with an
78 estimated duration for such remedy, and established ongoing
79 operation and maintenance requirements for continued operation of
80 such remedy, and (D) there are not current exposure pathways to the
81 groundwater area that have not yet met the remediation standards;

82 (5) "Department" means the Department of Economic and
83 Community Development;

84 (6) "Owner" means any person, firm, limited liability company,
85 nonprofit or for-profit corporation or other business entity or
86 municipality that (A) holds title to a brownfield and undertakes a
87 brownfield remediation plan, and (B) did not establish, create or
88 maintain a source of pollution to the waters of the state for purposes of
89 section 22a-432 of the general statutes and is not responsible pursuant
90 to any other provision of the general statutes for any pollution or
91 source of pollution on such brownfield;

92 (7) "Qualified expenditures" means the expenditures associated with
93 the investigation, assessment and remediation of a brownfield,
94 including, but not limited to: (A) Soil, groundwater and infrastructure
95 investigation; (B) assessment; (C) remediation of soil, sediments,
96 groundwater or surface water; (D) abatement; (E) hazardous materials
97 or waste removal and disposal; (F) long-term groundwater or natural
98 attenuation monitoring; (G) (i) environmental land use restrictions, (ii)
99 activity and use limitations, or (iii) other forms of institutional control;
100 (H) reasonable attorneys' fees; (I) planning, engineering and
101 environmental consulting; and (J) remedial activity to address building
102 and structural issues, including, but not limited to, demolition,
103 asbestos abatement, polychlorinated biphenyls removal, contaminated
104 wood or paint removal and other infrastructure remedial activities.
105 "Qualified expenditures" do not include expenditures funded for such
106 investigation, assessment, remediation and development directly
107 through other state brownfield programs administered by the
108 commissioner.

109 (b) (1) The department shall administer a system of tax credit
110 vouchers within the resources, requirements and purposes of this
111 section for the remediation of a brownfield by an owner.

112 (2) The credit authorized by this section shall be available in the tax
113 year in which the completion of the brownfield remediation takes

114 place. In the case of a brownfield remediation plan that is completed in
115 phases, the tax credit shall be prorated to the identifiable portion of the
116 completed brownfield remediation. If the tax credit is more than the
117 amount owed by the taxpayer for the year in which the completion of
118 the brownfield remediation takes place, the amount that is more than
119 the taxpayer's tax liability may be carried forward and credited against
120 the taxes imposed for the succeeding five years or until the full credit
121 is used, whichever occurs first. A tax credit that is reserved pursuant to
122 this section may be carried forward (A) to the year in which the
123 completion of the brownfield remediation takes place, (B) in the case of
124 a brownfield remediation plan that is completed in phases, to the year
125 in which the phase is completed, provided the tax credit is prorated to
126 the identifiable portion of the completed brownfield remediation, or
127 (C) as otherwise provided in this subdivision.

128 (3) In the case of a brownfield remediation plan that is completed in
129 phases, the department may issue vouchers for the identifiable portion
130 of the completed brownfield remediation.

131 (4) If a credit is allowed under this section for the remediation of a
132 brownfield with multiple owners, such credit shall be passed through
133 to such owners, or persons designated as partners or members of such
134 owners, pro rata or pursuant to an agreement among such owners, or
135 persons designated as partners or members of such owners,
136 documenting an alternative distribution method without regard to
137 other tax or economic attributes of such owners.

138 (5) Any owner entitled to a credit under this section may sell, assign
139 or otherwise transfer such credit, in whole or in part, to one or more
140 persons, as defined in section 12-1 of the general statutes, provided
141 any credit, after issuance, may be sold, assigned or otherwise
142 transferred, in whole or in part, not more than three times. Such
143 transferee shall be entitled to offset the tax imposed under chapter 207,
144 208, 209, 210, 211 or 212 of the general statutes as if such transferee had
145 incurred the qualified expenditure.

146 (6) If a credit under this section is sold, assigned or otherwise
147 transferred, whether by the owner or any subsequent transferee, the
148 transferor and transferee shall jointly submit written notification of
149 such transfer to the department not later than thirty days after such
150 transfer. The notification after each transfer shall include the credit
151 voucher number, the date of the transfer, the amount of the credit
152 transferred, the tax credit balance before and after the transfer, the tax
153 identification numbers for both the transferor and the transferee and
154 any other information required by the Commissioner of Revenue
155 Services. Failure to comply with this subsection shall result in a
156 disallowance of the tax credit until there is full compliance on the part
157 of the transferor and the transferee, and for a second or third transfer,
158 on the part of all subsequent transferors and transferees.

159 (7) The department shall provide a list to the Commissioner of
160 Revenue Services, on an annual basis, detailing the credits that have
161 been approved for the most recent fiscal year and all sales,
162 assignments and transfers thereof that were made under this section
163 for said fiscal year.

164 (c) For the purpose of seeking a tax credit voucher pursuant to
165 subsection (b) of this section, prior to beginning any brownfield
166 remediation, the owner shall submit to the commissioner a tax credit
167 application on forms provided by the commissioner and with such
168 information the commissioner deems necessary, including, but not
169 limited to: (1) A brownfield remediation plan; (2) a description of the
170 proposed brownfield remediation and redevelopment project; (3) an
171 explanation of the expected benefits of the proposed project; (4)
172 information concerning the financial and technical capacity of the
173 applicant to undertake the proposed project; (5) an estimate of the
174 qualified expenditures; and (6) if the owner plans to undertake the
175 brownfield remediation in phases, a complete description of each such
176 phase, with anticipated schedules for the completion of brownfield
177 remediation and an estimate of the qualified expenditures in each
178 phase. The commissioner may charge any owner seeking a tax credit
179 voucher pursuant to this subsection an application fee in an amount

180 not to exceed five thousand dollars to cover the cost of administering
181 the program established pursuant to this section. If an application is
182 not approved in one fiscal year but is resubmitted in a subsequent
183 fiscal year, the commissioner may waive the application fee for the
184 resubmitted application.

185 (d) The commissioner may approve, reject or modify any
186 application properly submitted in accordance with the provisions of
187 this section. In reviewing an application and determining whether to
188 issue tax credit vouchers, the commissioner shall consider the
189 following criteria: (1) The availability of tax credits for the applicable
190 fiscal year; (2) the estimated eligible costs; (3) the relative economic
191 condition of the municipality in which the brownfield is located; (4)
192 the degree to which a tax credit under this section is necessary to
193 induce the applicant to undertake the project; (5) the public health and
194 environmental benefits of the project; (6) the relative benefits of the
195 project to the municipality, the region and the state, including, but not
196 limited to, the extent to which the project will likely result in a
197 contribution to the municipality's tax base, the retention and creation
198 of jobs and the reduction of blight; (7) the time frame in which the
199 contamination occurred; (8) the length of time the brownfield has been
200 abandoned; and (9) such other criteria as the commissioner may
201 establish consistent with the purposes of this section.

202 (e) The commissioner shall issue tax credit vouchers on a
203 competitive basis, based on a request for applications occurring
204 semiannually in April and October. The commissioner may increase
205 the frequency of requests for applications and awards depending on
206 the number of applicants and the availability of tax credits for the
207 applicable fiscal year.

208 (f) If the commissioner approves an application for a tax credit
209 voucher, the department shall reserve for the benefit of the owner an
210 allocation for a tax credit equivalent to the lesser of (1) fifty per cent of
211 the projected qualified expenditures, or (2) two million dollars.

212 (g) Following the completion of the brownfield remediation plan in
213 its entirety or in phases to an identifiable portion of the brownfield,
214 any owner who seeks a tax credit voucher pursuant to subsection (b) of
215 this section shall notify the commissioner that such completion of the
216 brownfield remediation has occurred. Such owner shall provide the
217 department with documentation of the remediation performed on the
218 brownfield, evidence of the completion of the brownfield remediation
219 and certification by a licensed environmental professional of the
220 qualified expenditures incurred as part of the completion of the
221 brownfield remediation plan. The commissioner, in consultation with
222 the Commissioner of Energy and Environmental Protection, shall
223 review such remediation and verify its compliance with the brownfield
224 remediation plan. Following such verification, the department shall
225 issue a tax credit voucher to such owner in an amount equivalent to
226 the amount of the qualified expenditure, provided such amount does
227 not exceed the amount reserved under subsection (f) of this section. In
228 order to obtain a credit against any state tax due that is specified in
229 subsection (h) of this section, the holder of the tax credit voucher shall
230 file the voucher with the holder's state tax return.

231 (h) The Commissioner of Revenue Services shall grant a tax credit to
232 a taxpayer holding the tax credit voucher issued in accordance with
233 subsections (b) to (g), inclusive, of this section against any tax due
234 under chapter 207, 208, 209, 210, 211 or 212 of the general statutes in
235 the amount specified in the tax credit voucher. Such taxpayer shall
236 submit the voucher and the corresponding tax return to the
237 Department of Revenue Services.

238 (i) The aggregate amount of all tax credit vouchers that may be
239 reserved by the department upon approval of tax credit applications
240 pursuant to subsections (b) to (h), inclusive, of this section shall not
241 exceed ten million dollars in any fiscal year. No project may receive tax
242 credits in an amount exceeding two million dollars.

243 (j) The commissioner may adopt regulations, in accordance with
244 chapter 54 of the general statutes, to implement the provisions of this

245 section.

246 (k) Not later than October 1, 2019, and annually thereafter, the
 247 department shall report, in accordance with section 11-4a of the
 248 general statutes, the total amount of tax credit vouchers reserved for
 249 the prior fiscal year pursuant to subsections (b) to (j), inclusive, of this
 250 section, to the joint standing committees of the General Assembly
 251 having cognizance of matters relating to commerce and finance,
 252 revenue and bonding. Each such report shall include the following
 253 information for each project for which a tax credit voucher has been
 254 reserved: (1) The total project costs; and (2) the value of the tax credit
 255 vouchers reserved pursuant to subsection (f) of this section.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2018</i>	12-81r(a)
Sec. 2	<i>July 1, 2018, and applicable to income years commencing on or after January 1, 2018</i>	New section

Statement of Purpose:

To authorize municipalities and prospective purchasers of brownfields and abandoned properties to enter into certain agreements concerning property taxes and to establish a tax credit for costs associated with the remediation of a brownfield.

[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]