



PA 19-75—sSB 1030
Commerce Committee

AN ACT CONCERNING THE TRANSFER OF HAZARDOUS WASTE ESTABLISHMENTS

SUMMARY: This act excludes certain property and businesses from Connecticut’s property transfer law (i.e., the Transfer Act) by narrowing the types of hazardous waste that count towards the 100 kilogram threshold that triggers the law’s application. (The law generally requires the disclosure of (1) environmental conditions and (2) in some cases, investigation and remediation (CGS §§ 22a-134 to 134e).)

The act also (1) shortens, from three years to one year, the window for commencing audits of Transfer Act final verifications received on or after October 1, 2019, and (2) requires the Department of Energy and Environmental Protection (DEEP) to complete such audits within three years after receiving the final verification. As under existing law, both of these deadlines may be extended under certain conditions.

Lastly, the act requires the Commerce and Environment committee chairpersons to convene a working group to examine the Transfer Act and recommend potential legislative changes to it. The working group must report its findings and recommendations to the committees by February 1, 2020.

EFFECTIVE DATE: October 1, 2019, except that the working group provision is effective upon passage.

§ 1 — PROPERTY AND BUSINESS OPERATIONS EXEMPT FROM THE TRANSFER ACT

The Transfer Act applies to the transfer of certain real property and business operations, known as “establishments.” Under prior law, establishments included real property and business operations from which more than 100 kilograms (about 220 pounds) of hazardous waste was generated in any one month after November 18, 1980, except waste generated from (1) remediating polluted soil, groundwater, or sediment or (2) removing or abating building materials.

The act narrows the definition of “establishment” by additionally excluding property and businesses where this amount of waste was generated solely (1) one time in any one month, either for the first time or since the last time a Transfer Act form (I-IV; see **BACKGROUND**) was required to be submitted or (2) by removing one or more of the following:

1. building maintenance or operating materials;
2. unused chemicals or materials from emptying or clearing out a building, as long as the removal is supported by facts reasonably established at the time of the removal; and

OLR PUBLIC ACT SUMMARY

3. waste within 90 days of a business ceasing operations, as long as the cessation is supported by facts reasonably established at the time of such cessation.

§ 2 — TRANSFER ACT AUDITS

Under prior law, the DEEP commissioner could audit a final verification for an entire establishment (i.e., a written opinion by a licensed environmental professional stating that an establishment has been remediated according to specific standards) within three years after the verification's submission. For verifications submitted on or after October 1, 2019, the act (1) shortens, from three years to one year, the period of time after the verification's submission during which DEEP may begin an audit and (2) requires the commissioner to complete such audits within three years after receiving the final verification, except as described below.

The act makes a conforming change to a provision allowing the DEEP commissioner to audit a final verification after the audit window under certain conditions. Under the act, if these conditions exist, the commissioner (1) may begin an audit more than one year after receiving the final verification and (2) need not complete the audit within three years after receiving the final verification.

As under existing law, the conditions include the commissioner determining the following:

1. the verification was based on materially inaccurate, erroneous, or misleading information or that misrepresentations were made when the verification was submitted;
2. required monitoring, operations, or maintenance has not been done; or
3. information exists showing that the remediation may not prevent a substantial threat to public health or the environment.

As under existing law, the commissioner (1) must send written audit findings to the certifying party and the verifying licensed environmental professional and (2) may suspend audits if she requests information that is not provided in a timely manner.

§ 3 — TRANSFER ACT WORKING GROUP

The act requires the Commerce and Environment committee chairpersons to convene a working group to examine the Transfer Act law and recommend potential legislative changes to it. The working group must report its findings and recommendations to the committees by February 1, 2020.

The working group must be composed of (1) the committee chairpersons, or their designees; (2) the DEEP and Department of Economic and Community Development commissioners, or their designees; and (3) environmental transaction attorneys, commercial real estate brokers, and licensed environmental professionals, each selected by the committee chairpersons. It may also include additional members of the Commerce or Environment committees selected by the

OLR PUBLIC ACT SUMMARY

chairpersons.

The Commerce and Environment committee chairpersons must select the working group's chairperson, who must schedule and hold the group's first meeting by August 27, 2019. The group must meet monthly thereafter until it submits its final report. The working group terminates on the date it submits its final report or February 1, 2020, whichever is later.

BACKGROUND

Transfer Act Forms

To certify an establishment's condition, the Transfer Act requires that certain forms (Forms I to IV) be completed and filed with DEEP, which reviews them for completeness and contacts the appropriate party if it needs more information. Based on the information provided, further investigation and remediation or monitoring may be required by DEEP or a licensed environmental professional.