



General Assembly

February Session, 2022

Raised Bill No. 218

LCO No. 1712



Referred to Committee on COMMERCE

Introduced by:
(CE)

AN ACT CONCERNING BROWNFIELD REMEDIATION.

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

1 Section 1. Section 32-768 of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective October 1, 2022*):

3 (a) There is established an abandoned brownfield cleanup program.
4 The Commissioner of Economic and Community Development shall
5 determine, in consultation with the Commissioner of Energy and
6 Environmental Protection, properties and persons eligible for said
7 program.

8 (b) For a person or a property to be eligible, the Commissioner of
9 Economic and Community Development shall determine if (1) the
10 property is a brownfield, as defined in section 32-760, that has been
11 unused or significantly underused for at least five years before an
12 application is filed with the commissioner pursuant to subsection (h) of
13 this section; (2) such person intends to acquire title to such property for
14 the purpose of redeveloping such property; (3) the redevelopment of
15 such property has a regional or municipal economic development

16 benefit; (4) such person did not establish or create a facility or condition
17 at or on such property that can reasonably be expected to create a source
18 of pollution to the waters of the state for the purposes of section 22a-432
19 and is not affiliated with any person responsible for such pollution or
20 source of pollution through any direct or indirect familial relationship
21 or any contractual, corporate or financial relationship other than a
22 relationship by which such owner's interest in such property is leased
23 for a term not exceeding five years or is to be conveyed or financed; (5)
24 such person is not otherwise required by law, an order or consent order
25 issued by the Commissioner of Energy and Environmental Protection or
26 a stipulated judgment to remediate pollution on or emanating from such
27 property; (6) the person responsible for pollution on or emanating from
28 the property is indeterminable, is no longer in existence, is required by
29 law to remediate releases on and emanating from the property or is
30 otherwise unable to perform necessary remediation of such property;
31 and (7) the property and the person meet any other criteria said
32 commissioner deems necessary.

33 (c) Notwithstanding the provisions of subsection (b) of this section, a
34 property owned by a municipality, a Connecticut brownfield land bank
35 or an economic development agency shall not be subject to subdivision
36 (6) of subsection (b) of this section.

37 (d) Notwithstanding the provisions of subsection (b) of this section, a
38 municipality or a Connecticut brownfield land bank may request the
39 Commissioner of Economic and Community Development to determine
40 if a property is eligible regardless of the person who currently owns
41 such property.

42 (e) Notwithstanding subsection (b) of this section, the Commissioner
43 of Economic and Community Development may waive the requirement
44 of subdivision (1) of subsection (b) of this section, if the person seeking
45 eligibility under this section otherwise demonstrates the eligibility of the
46 property and the value of the redevelopment of such property.

47 (f) Upon designation by the Commissioner of Economic and

48 Community Development, in consultation with the Commissioner of
49 Energy and Environmental Protection, of an eligible person who holds
50 title to such property, such eligible person shall (1) enter [and remain in]
51 the voluntary remediation program established in section 22a-133x [
52 (2)] not later than six months after the date such eligible person takes
53 title to such property, except that the Commissioner of Economic and
54 Community Development, in consultation with the Commissioner of
55 Energy and Environmental Protection, may allow such eligible person
56 to enter such voluntary remediation program later than six months after
57 the date such eligible person takes title to such property; (2) remain in
58 and comply with the requirements of such voluntary remediation
59 program; (3) investigate pollution on such property in accordance with
60 prevailing standards and guidelines and remediate pollution on such
61 property in accordance with regulations established for remediation
62 adopted by the Commissioner of Energy and Environmental Protection
63 and in accordance with applicable schedules; and [(3)] (4) eliminate
64 further emanation or migration of any pollution from such property.

65 (g) An eligible person who has been accepted by the commissioner or
66 that holds title to an eligible property designated to be in the abandoned
67 brownfield cleanup program, and who remains in compliance with
68 subsection (f) of this section, shall not be responsible for investigating or
69 remediating any pollution or source of pollution that has emanated
70 from such property prior to such person taking title to such property,
71 and shall not be liable to the state or any person for the release of any
72 regulated substance at or from the eligible property prior to taking title
73 to such eligible property except and only to the extent that such
74 applicant caused or contributed to the release of a regulated substance
75 that is subject to remediation or negligently or recklessly exacerbated
76 such condition.

77 (h) Any applicant seeking a designation of eligibility for a person or
78 a property under the abandoned brownfield cleanup program shall
79 apply to the Commissioner of Economic and Community Development
80 at such times and on such forms as the commissioner may prescribe.

81 (i) Not later than sixty days after receipt of the application, the
82 Commissioner of Economic and Community Development shall
83 determine if the application is complete and shall notify the applicant of
84 such determination.

85 (j) Not later than ninety days after determining that the application is
86 complete, the Commissioner of Economic and Community
87 Development shall determine whether to include the property and
88 applicant in the abandoned brownfield cleanup program.

89 (k) Designation of a property in the abandoned brownfield cleanup
90 program by the Commissioner of Economic and Community
91 Development shall not limit the applicant's or any other person's ability
92 to seek funding for such property under any other brownfield grant or
93 loan program administered by the Department of Economic and
94 Community Development, Connecticut Innovations, Incorporated or
95 the Department of Energy and Environmental Protection.

96 (l) Designation of a property in the abandoned brownfield cleanup
97 program by the Commissioner of Economic and Community
98 Development shall exempt such eligible person from filing as an
99 establishment pursuant to sections 22a-134a to 22a-134d, inclusive, if
100 such real property or prior business operations constitute an
101 establishment.

102 (m) (1) Not later than sixty days after the receipt of a verification, as
103 defined in section 22a-133x, for such property or portion of such
104 property, the Commissioner of Energy and Environmental Protection
105 shall notify such eligible person and the Commissioner of Economic and
106 Community Development whether the Department of Energy and
107 Environmental Protection will conduct an audit of such verification.
108 Any such audit shall be conducted not later than one hundred eighty
109 days after the receipt of such verification by the Department of Energy
110 and Environmental Protection, except as provided in subdivisions (2)
111 and (3) of this subsection. Not later than fourteen days after the
112 completion of any such audit, the Commissioner of Energy and

113 Environmental Protection shall provide written audit findings to such
114 eligible person, the Commissioner of Economic and Community
115 Development and the licensed environmental professional that issued
116 such verification. The written audit findings shall approve or
117 disapprove of such verification, provided any written audit findings
118 disapproving of such verification shall include the reasons for such
119 disapproval.

120 (2) The Commissioner of Energy and Environmental Protection may
121 request additional information from an eligible person during any audit
122 of a verification. If such eligible person does not provide the requested
123 information to said commissioner within fourteen days of such request,
124 the time period to conduct an audit under subdivision (1) of this
125 subsection shall be suspended until such information is provided to said
126 commissioner.

127 (3) The Commissioner of Energy and Environmental Protection may
128 conduct an audit of any verification later than one hundred eighty days
129 after the receipt of such verification by the Department of Energy and
130 Environmental Protection (A) to the extent the time period to conduct
131 such audit is suspended pursuant to subdivision (2) of this subsection;
132 (B) if said commissioner has reason to believe that a verification was
133 obtained through the submittal of materially inaccurate or erroneous
134 information or otherwise misleading information material to the
135 verification or that material misrepresentations were made in
136 connection with the submittal of the verification; (C) if any post-
137 verification monitoring of operations and maintenance is required as
138 part of a verification and such monitoring has not been completed; (D)
139 if such verification relies upon an environmental land use restriction
140 that was not recorded on the land records of the municipality in which
141 such property is located, pursuant to section 22a-133o or any applicable
142 regulations; (E) if said commissioner determines that there has been a
143 violation of law material to the verification; or (F) if said commissioner
144 determines that information exists that indicates that the remediation
145 may have failed to prevent releases on the property that are a substantial
146 threat to public health or the environment.

147 (n) Not later than sixty days after such eligible person's receipt of a
148 notice of disapproval of a verification for a property from the
149 Commissioner of Energy and Environmental Protection, such eligible
150 person shall submit to the Commissioners of Energy and Environmental
151 Protection and Economic and Community Development a report of cure
152 of noted deficiencies. Not later than sixty days after the receipt of such
153 report of cure of noted deficiencies by the Commissioner of Energy and
154 Environmental Protection, said commissioner shall issue a successful
155 audit closure letter or a written disapproval of such report of cure of
156 noted deficiencies.

157 [(m)] (o) Upon completion of the requirements of subsection (f) of
158 this section to the satisfaction of the Commissioner of Energy and
159 Environmental Protection, such person shall qualify for a covenant not
160 to sue from the Commissioner of Energy and Environmental Protection
161 without fee, pursuant to section 22a-133aa.

162 [(n)] (p) Any person designated as an eligible person under the
163 abandoned brownfield cleanup program shall not be liable to the
164 Commissioner of Energy and Environmental Protection or any person
165 under section 22a-432, 22a-433, 22a-451 or 22a-452 or other similar
166 statute or common law for conditions preexisting or existing on the
167 brownfield property as of the date of acquisition or control as long as
168 the person (1) did not establish, cause or contribute to the discharge,
169 spillage, uncontrolled loss, seepage or filtration of such hazardous
170 substance, material, waste or pollution; (2) does not exacerbate the
171 conditions; [and] (3) complies with reporting of significant
172 environmental hazard requirements in section 22a-6u; and (4) remains
173 in compliance with subsection (f) of this section. To the extent that any
174 conditions are exacerbated, the person shall only be responsible for
175 responding to contamination exacerbated by its negligent or reckless
176 activities.

177 [(o)] (q) Any person who acquires a property in the abandoned
178 brownfield cleanup program shall apply to the Commissioner of
179 Economic and Community Development on a form prescribed by the

180 commissioner to determine if such person qualifies as an eligible party
181 under the abandoned brownfield cleanup program. If the commissioner
182 determines that such person is an eligible party, such eligible party shall
183 be subject to the provisions of this section, and shall receive liability
184 relief pursuant to subsections (g), (l), ~~[(m)]~~ (o) and ~~[(n)]~~ (p) of this
185 section.

186 Sec. 2. Section 32-769 of the general statutes is repealed and the
187 following is substituted in lieu thereof (*Effective October 1, 2022*):

188 (a) The commissioner shall, within available appropriations, establish
189 a brownfield remediation and revitalization program to provide certain
190 liability protections to program participants. Not more than thirty-two
191 properties per year shall be accepted into the program. Participation in
192 the program shall be by accepted application pursuant to this subsection
193 or by approved nomination pursuant to subsection (c) of this section. To
194 be considered for acceptance, an applicant shall submit to the
195 commissioner, on a form prescribed by the commissioner, a certification
196 that: (1) The applicant meets the definition of a bona fide prospective
197 purchaser, innocent landowner or contiguous property owner; (2) the
198 property meets the definition of a brownfield and has been subject to a
199 release of a regulated substance in an amount that is in excess of the
200 remediation standards; (3) the applicant did not establish, create or
201 maintain a source of pollution to the waters of the state for purposes of
202 section 22a-432 and is not responsible pursuant to any other provision
203 of the general statutes for any pollution or source of pollution on the
204 property; (4) the applicant is not affiliated with any person responsible
205 for such pollution or source of pollution through any direct or indirect
206 familial relationship or any contractual, corporate or financial
207 relationship other than that by which such ~~[purchaser's]~~ applicant's
208 interest in such property is leased for a term not exceeding five years or
209 is to be conveyed or financed; and (5) the property is not (A) currently
210 the subject of an enforcement action, including any consent order issued
211 by the Department of Energy and Environmental Protection or the
212 United States Environmental Protection Agency under any current
213 Department of Energy and Environmental Protection or United States

214 Environmental Protection Agency program, (B) listed on the national
215 priorities list of hazardous waste disposal sites compiled by the United
216 States Environmental Protection Agency pursuant to 42 USC 9605, (C)
217 listed on the State of Connecticut Superfund Priority List, or (D) subject
218 to corrective action as may be required by the federal Resource
219 Conservation and Recovery Act of 1976, 42 USC 6901 et seq. The
220 commissioner may review such certifications to ensure accuracy, in
221 consultation with the Commissioner of Energy and Environmental
222 Protection, and applications will not be considered if such certifications
223 are found inaccurate.

224 (b) To ensure a geographic distribution and a diversity of projects and
225 broad access to the brownfield remediation and revitalization program,
226 the commissioner, in consultation with the Commissioner of Energy and
227 Environmental Protection, shall review all applications received and
228 determine admission of eligible properties into the brownfield
229 remediation and revitalization program taking into consideration state-
230 wide portfolio factors including: (1) Job creation and retention; (2)
231 sustainability; (3) readiness to proceed; (4) geographic distribution of
232 projects; (5) population of the municipality where the property is
233 located; (6) project size; (7) project complexity; (8) duration and degree
234 to which the property has been underused; (9) projected increase to the
235 municipal grand list; (10) consistency of the property as remediated and
236 developed with municipal or regional planning objectives; (11)
237 development plan's support for and furtherance of principles of smart
238 growth, as defined in section 1 of public act 09-230, or transit-oriented
239 development, as defined in section 13b-79o; and (12) other factors as
240 may be determined by the commissioner. Admittance into the
241 brownfield remediation and revitalization program shall not indicate
242 approval or award of funding requested under any federal, state or
243 municipal grant or loan program, including, but not limited to, any state
244 brownfield grant or loan program.

245 (c) The commissioner shall accept nominations of properties for
246 participation in the program established pursuant to subsection (a) of
247 this section by a municipality or an economic development agency,

248 where no bona fide prospective purchaser, contiguous property owner
249 or innocent landowner has applied for participation in the program. For
250 a property to be considered for approval for nomination to the program
251 established pursuant to this section, a municipality shall submit to the
252 commissioner, on a form prescribed by the commissioner, a certification
253 that the property meets the eligibility requirements provided in
254 subdivisions (2) and (5) of subsection (a) of this section and any other
255 relevant factors, including state-wide portfolio factors provided in
256 subsection (b) of this section, as may be determined by the
257 commissioner. After the commissioner approves a property's
258 nomination, any subsequent applicant shall apply in accordance with
259 subsections (a) and (f) of this section. In any such application, the
260 applicant shall demonstrate it satisfies the eligibility requirements
261 provided in subdivisions (1), (3) and (4) of subsection (a) of this section
262 and shall demonstrate satisfaction of subdivisions (2) and (5) of
263 subsection (a) of this section for the period after the commissioner's
264 acceptance of the municipality's or economic development agency's
265 nomination of the property.

266 (d) (1) Properties otherwise eligible for the brownfield remediation
267 and revitalization program currently being investigated and remediated
268 in accordance with the state voluntary remediation programs under
269 sections 22a-133x and 22a-133y, the property transfer program under
270 section 22a-134 and the covenant not to sue programs under section 22a-
271 133aa or 22a-133bb shall not be excluded from eligibility in said
272 program, provided the other requirements set forth in this section are
273 met.

274 (2) Properties otherwise eligible for the brownfield remediation and
275 revitalization program that have been subject to a release requiring
276 action pursuant to the PCB regulations or that have been subject to a
277 release requiring action pursuant to the UST regulations shall not be
278 deemed ineligible, but no provision of this section shall affect any
279 eligible party's obligation under such regulations to investigate or
280 remediate the extent of any such release.

281 (e) Inclusion of a property within the brownfield remediation and
282 revitalization program by the commissioner shall not limit any person's
283 ability to seek funding for such property under any federal, state or
284 municipal grant or loan program, including, but not limited to, any state
285 brownfield grant or loan program. Admittance into the brownfield
286 remediation and revitalization program shall not indicate approval or
287 award of funding requested under any federal, state or municipal grant
288 or loan program, including, but not limited to, any state brownfield
289 grant or loan program.

290 (f) Any applicant seeking a designation of eligibility for a person or a
291 property under the brownfield remediation and revitalization program
292 shall apply to the commissioner at such times and on such forms as the
293 commissioner may prescribe. The application shall include, but not be
294 limited to, (1) a title search, (2) the Phase I Environmental Site
295 Assessment conducted by or for the bona fide prospective purchaser or
296 the contiguous property owner, which shall be prepared in accordance
297 with prevailing standards and guidelines, (3) a current property
298 inspection, if requested by the commissioner, (4) documentation
299 demonstrating satisfaction of the eligibility criteria set forth in
300 subsection (a) of this section, (5) information about the project that
301 relates to the state-wide portfolio factors set forth in subsection (b) of
302 this section, and (6) such other information as the commissioner may
303 request to determine admission.

304 (g) Any applicant accepted into the brownfield remediation and
305 revitalization program by the commissioner shall pay the
306 Commissioner of Energy and Environmental Protection a fee equal to
307 five per cent of the assessed value of the land, as stated on the last-
308 completed grand list of the relevant town. The fee shall be paid in two
309 installments, each equal to fifty per cent of such fee, subject to potential
310 reductions as specified in subsection (h) of this section. The first
311 installment shall be due not later than one hundred eighty days after the
312 later of the date such applicant is notified that the application has been
313 accepted by the commissioner or the date that such applicant takes title
314 to the eligible property. The second installment shall be due not later

315 than four years after the acceptance date. Upon request by such
316 applicant, a municipality or an economic development agency, the
317 commissioner may, at the commissioner's discretion, extend either or
318 both of the installment due dates. Such fee shall be deposited into the
319 Special Contaminated Property Remediation and Insurance Fund
320 established pursuant to section 22a-133t and shall be available for use
321 by the Commissioner of Energy and Environmental Protection pursuant
322 to section 22a-133u.

323 (h) (1) The first installment of the fee in subsection (g) of this section
324 shall be reduced by ten per cent for any eligible party that completes
325 and submits to the Commissioner of Energy and Environmental
326 Protection documentation, approved in writing by a licensed
327 environmental professional and on a form prescribed by said
328 commissioner, that the investigation of the property has been completed
329 in accordance with prevailing standards and guidelines within one
330 hundred eighty days after the date the application is accepted by the
331 commissioner.

332 (2) The second installment of the fee in subsection (g) of this section
333 shall be eliminated for any eligible party that submits the remedial
334 action report and verification or interim verification to the
335 Commissioner of Energy and Environmental Protection within four
336 years after the date the application is accepted by the commissioner. In
337 the event an eligible party submits a request for the Commissioner of
338 Energy and Environmental Protection's approval, where such approval
339 is required pursuant to the remediation standard and where said
340 commissioner issues a decision on such request beyond sixty days after
341 submittal, such four-year period shall be extended by the number of
342 days equal to the number of days between the sixtieth day and the date
343 a decision is issued by said commissioner, but not including the number
344 of days that a request by said commissioner for supplemental
345 information remains pending with the eligible party.

346 (3) The second installment of the fee in subsection (g) of this section
347 shall be reduced by, or any eligible party shall receive a refund in the

348 amount equal to, twice the reasonable environmental service costs of
349 such investigation, as determined by the Commissioner of Energy and
350 Environmental Protection, for any eligible party that completes and
351 submits to the Commissioner of Energy and Environmental Protection
352 documentation, approved in writing by a licensed environmental
353 professional and on a form that may be prescribed by said
354 commissioner, that the investigation of the nature and extent of any
355 contamination that has migrated from the property has been completed
356 in accordance with prevailing standards and guidelines. Such refund
357 shall not exceed the amount of the second installment of the fee in
358 subsection (g) of this section.

359 (4) No municipality or economic development agency seeking
360 designation of eligibility shall be required to pay a fee, provided, upon
361 transfer of the eligible property from the municipality or economic
362 development agency to an eligible person, that eligible person shall pay
363 to the Commissioner of Energy and Environmental Protection the fee in
364 subsection (g) of this section in accordance with the applicable
365 requirements in this subsection.

366 (5) A municipality or economic development agency may submit a
367 fee waiver request to the commissioner to waive a portion or the entire
368 fee for an eligible property located within that municipality. The
369 commissioner, at his or her discretion, shall consider the following
370 factors in determining whether to approve a fee waiver or reduction: (A)
371 Location of the brownfield within a distressed municipality, as defined
372 in section 32-9p; (B) demonstration by the municipality or economic
373 development agency that the project is of significant economic impact;
374 (C) demonstration by the municipality or economic development
375 agency that the project has a significant community benefit to the
376 municipality; (D) demonstration that the eligible party is a
377 governmental or nonprofit entity; and (E) demonstration that the fee
378 required will have a detrimental effect on the overall success of the
379 project.

380 (i) (1) An applicant whose application has been accepted into the

381 brownfield remediation and revitalization program and who remains in
382 compliance with such program's obligations pursuant to this section
383 shall not be liable to the state or any person for the release of any
384 regulated substance at or from the eligible property, except and only to
385 the extent that such applicant (A) caused or contributed to the release of
386 a regulated substance that is subject to remediation or exacerbated such
387 condition, or (B) the Commissioner of Energy and Environmental
388 Protection determines the existence of any of the conditions set forth in
389 subdivision (4) of subsection (m) of this section.

390 (2) If such applicant conveys or, prior to July 1, 2017, conveyed a
391 security interest, as defined in section 22a-452f, in the eligible property
392 to a lender, as defined in section 22a-452f, and such lender (A) did not
393 establish, create or maintain a source of pollution to the waters of the
394 state for purposes of section 22a-432, (B) is not responsible pursuant to
395 any other provision of the general statutes for any pollution or source of
396 pollution on the eligible property, and (C) is not affiliated with any
397 person responsible for such pollution or source of pollution through any
398 direct or indirect familial relationship or any contractual, corporate or
399 financial relationship other than that creating the security interest in the
400 eligible property, such lender shall not be liable to the state or any
401 person for the release of any regulated substance at or from the eligible
402 property.

403 (j) (1) An applicant whose application to the brownfield remediation
404 and revitalization program has been accepted by the commissioner (A)
405 shall investigate the release or threatened release of any regulated
406 substance within the boundaries of the property in accordance with
407 prevailing standards and guidelines and remediate such release or
408 threatened release within the boundaries of such property in accordance
409 with the brownfield investigation plan and remediation schedule and
410 this section, and (B) shall not be required to characterize, abate and
411 remediate the release of a regulated substance beyond the boundary of
412 the eligible property, except for releases caused or contributed to by
413 such applicant.

414 (2) Not later than one hundred eighty days after the first installment
415 due date, including any extension thereof by the commissioner, of the
416 fee required pursuant to subsection (g) of this section, the eligible party
417 shall submit to the commissioner and the Commissioner of Energy and
418 Environmental Protection a brownfield investigation plan and
419 remediation schedule that is signed and stamped by a licensed
420 environmental professional. Unless otherwise approved in writing by
421 the Commissioner of Energy and Environmental Protection, such
422 brownfield investigation plan and remediation schedule shall provide
423 that (A) the investigation shall be completed not later than two years
424 after the first installment due date, including any extension thereof by
425 the commissioner, of the fee required pursuant to subsection (g) of this
426 section, (B) remediation shall be initiated not later than three years from
427 the first installment due date, including any extension thereof by the
428 commissioner, of the fee required pursuant to subsection (g) of this
429 section, and (C) remediation shall be completed sufficiently to support
430 either a verification or interim verification not later than eight years after
431 the first installment due date, including any extension thereof by the
432 commissioner, of the fee required pursuant to subsection (g) of this
433 section. The schedule shall also include a schedule for providing public
434 notice of the remediation prior to the initiation of such remediation in
435 accordance with subdivision (1) of subsection (j) of this section. Not later
436 than two years after the first installment due date, including any
437 extension thereof by the commissioner, of the fee required pursuant to
438 subsection (g) of this section, unless the Commissioner of Energy and
439 Environmental Protection has specified a later day, in writing, the
440 eligible party shall submit to the Commissioner of Energy and
441 Environmental Protection documentation, approved in writing by a
442 licensed environmental professional and in a form prescribed by the
443 Commissioner of Energy and Environmental Protection, that the
444 investigation of the property has been completed in accordance with
445 prevailing standards and guidelines. Not later than three years after the
446 first installment due date, including any extension thereof by the
447 commissioner, of the fee required pursuant to subsection (g) of this
448 section, unless the Commissioner of Energy and Environmental

449 Protection has specified a later day, in writing, the eligible party shall
450 notify the Commissioner of Energy and Environmental Protection and
451 the commissioner in a form prescribed by the Commissioner of Energy
452 and Environmental Protection that the remediation has been initiated,
453 and shall submit to the Commissioner of Energy and Environmental
454 Protection a remedial action plan, approved in writing by a licensed
455 environmental professional in a form prescribed by the Commissioner
456 of Energy and Environmental Protection. Not later than eight years after
457 the first installment due date, including any extension thereof by the
458 commissioner, of the fee required pursuant to subsection (g) of this
459 section, unless the Commissioner of Energy and Environmental
460 Protection has specified a later day, in writing, the eligible party shall
461 complete remediation of the property and submit the remedial action
462 report and verification or interim verification to the Commissioner of
463 Energy and Environmental Protection and the commissioner. The
464 Commissioner of Energy and Environmental Protection shall grant a
465 reasonable extension if the eligible party demonstrates to the
466 satisfaction of the Commissioner of Energy and Environmental
467 Protection that: (i) Such eligible party has made reasonable progress
468 toward investigation and remediation of the eligible property; and (ii)
469 despite best efforts, circumstances beyond the control of the eligible
470 party have significantly delayed the remediation of the eligible
471 property.

472 (3) The eligible party may complete the investigation and
473 remediation of a portion of the eligible property and submit a
474 verification or an interim verification for such portion to the
475 Commissioner of Energy and Environmental Protection and the
476 commissioner, provided the eligible party (A) is in compliance with the
477 provisions of this section and the brownfield investigation plan and
478 remediation schedule, and (B) has, prior to submitting such verification
479 or interim verification for such portion: (i) Timely submitted
480 documentation to the Commissioner of Energy and Environmental
481 Protection that the investigation of the entire property is complete in
482 accordance with prevailing standards and guidelines, in accordance

483 with subdivision (2) of this subsection, (ii) timely notified the
484 Commissioner of Energy and Environmental Protection that the
485 remediation was initiated and submitted to said commissioner a
486 remedial action plan for the entire property originally accepted into the
487 brownfield remediation and revitalization program, in accordance with
488 subdivision (2) of this subsection, and (iii) demonstrated to the
489 satisfaction of the Commissioner of Energy and Environmental
490 Protection and the commissioner that it will complete the remediation
491 of the remainder of the eligible property in accordance with the
492 remediation schedule. For any verification or interim verification of a
493 portion of the eligible property, the remediation of releases on and from
494 such portion shall extend to the boundaries of the eligible property as a
495 whole.

496 (4) An eligible party who submits an interim verification for an
497 eligible property or a portion of an eligible property, and any
498 subsequent owner of such eligible property, shall, until the remediation
499 standards for groundwater are achieved, (A) operate and maintain the
500 long-term remedy for groundwater in accordance with the remedial
501 action plan, the interim verification and any approvals issued by the
502 Commissioner of Energy and Environmental Protection, (B) prevent
503 exposure to any groundwater plume containing a regulated substance
504 in excess of the remediation standards on the property, (C) take all
505 reasonable action to contain any groundwater plume on the property,
506 and (D) submit annual status reports to the Commissioner of Energy
507 and Environmental Protection and the commissioner.

508 (5) Before commencement of remedial action pursuant to the plan
509 and schedule, the eligible party shall: (A) Publish notice of the remedial
510 action in a newspaper having a substantial circulation in the town where
511 the property is located, (B) notify the director of health of the
512 municipality where the property is located, and (C) either (i) erect and
513 maintain for at least thirty days in a legible condition a sign not less than
514 six feet by four feet on the property, which shall be clearly visible from
515 the public highway and shall include the words "ENVIRONMENTAL
516 CLEAN-UP IN PROGRESS AT THIS SITE. FOR FURTHER

517 INFORMATION CONTACT:" and include a telephone number for an
518 office from which any interested person may obtain additional
519 information about the remedial action, or (ii) mail notice of the remedial
520 action to each owner of record of property which abuts such property,
521 at the address on the last-completed grand list of the relevant town.
522 Public comments shall be directed to the eligible party for a thirty-day
523 period starting with the last provided public notice provision and such
524 eligible party shall provide all comments and any responses to the
525 Commissioner of Energy and Environmental Protection prior to
526 commencing remedial action.

527 (6) The remedial action shall be conducted under the supervision of
528 a licensed environmental professional and the remedial action report
529 shall be submitted to the commissioner and the Commissioner of
530 Energy and Environmental Protection signed and stamped by a licensed
531 environmental professional. In such report, the licensed environmental
532 professional shall include a detailed description of the remedial actions
533 taken and issue a verification or interim verification for the eligible
534 property or a portion of the eligible property, in which he or she shall
535 render an opinion, in accordance with the standard of care provided in
536 subsection (c) of section 22a-133w and the regulations adopted pursuant
537 to subsection (c) of section 22a-133v, that the action taken to contain,
538 remove or mitigate the release of regulated substances within the
539 boundaries of such property is in accordance with the remediation
540 standards.

541 (7) Copies of all applications for permits required to implement such
542 plan and schedule in this section shall be submitted to the permit
543 ombudsman within the Department of Economic and Community
544 Development.

545 (8) Each eligible party participating in the brownfield remediation
546 and revitalization program shall maintain all records related to its
547 implementation of such plan and schedule and completion of the
548 remedial action of the property for a period of not less than ten years
549 and shall make such records available to the commissioner or the

550 Commissioner of Energy and Environmental Protection at any time
551 upon request by either.

552 (9) (A) Not later than sixty days after receiving a remedial action
553 report signed and stamped by a licensed environmental professional
554 and a verification or interim verification for the eligible property or a
555 portion of the eligible property, the Commissioner of Energy and
556 Environmental Protection shall notify the eligible party and the
557 commissioner whether the Commissioner of Energy and Environmental
558 Protection will conduct an audit of such remedial action. Any such audit
559 shall be conducted not later than one hundred eighty days after the
560 Commissioner of Energy and Environmental Protection receives such
561 remedial action report and verification or interim verification, plus any
562 additional time permitted pursuant to subparagraph (B) of this
563 subdivision, except as provided in subparagraph (C) of this subdivision.
564 Not later than fourteen days after completion of an audit, the
565 Commissioner of Energy and Environmental Protection shall send
566 written audit findings to the eligible party, the commissioner and the
567 licensed environmental professional. The audit findings may approve
568 or disapprove the report, provided any disapproval shall set forth the
569 reasons for such disapproval.

570 (B) The Commissioner of Energy and Environmental Protection may
571 request additional information during an audit conducted pursuant to
572 this subdivision. If such information has not been provided to said
573 commissioner within fourteen days of such request, the time frame for
574 said commissioner to complete the audit shall be suspended until the
575 information is provided to said commissioner. The Commissioner of
576 Energy and Environmental Protection may choose to conduct such
577 audit if and when the eligible party fails to provide a response to said
578 commissioner's request for additional information within sixty days.

579 (C) The Commissioner of Energy and Environmental Protection shall
580 not conduct an audit of a verification or interim verification for the
581 eligible property or a portion of the eligible property pursuant to this
582 subdivision after one hundred eighty days from receipt of such

583 verification, plus any additional time permitted pursuant to
584 subparagraph (B) of this subdivision, unless (i) said commissioner has
585 reason to believe that a verification was obtained through the submittal
586 of materially inaccurate or erroneous information, or otherwise
587 misleading information material to the verification or that material
588 misrepresentations were made in connection with the submittal of the
589 verification, (ii) any post-verification monitoring or operations and
590 maintenance is required as part of a verification and has not been done,
591 (iii) a verification that relies upon an environmental use restriction was
592 not recorded on the land records of the municipality in which such land
593 is located in accordance with section 22a-133o and applicable
594 regulations, (iv) said commissioner determines that there has been a
595 violation of law material to the verification, or (v) said commissioner
596 determines that information exists indicating that the remediation may
597 have failed to prevent a substantial threat to public health or the
598 environment for releases on the property.

599 (k) Not later than sixty days after receiving a notice of disapproval of
600 a verification or interim verification for the eligible property or a portion
601 of the eligible property from the Commissioner of Energy and
602 Environmental Protection, the eligible party shall submit to said
603 commissioner and to the commissioner a report of cure of noted
604 deficiencies. Within sixty days after receiving such report of cure of
605 noted deficiencies by said commissioner, said commissioner shall issue
606 a successful audit closure letter or a written disapproval of such report
607 of cure of noted deficiencies.

608 (l) Before approving a verification or interim verification for the
609 eligible property or a portion of the eligible property, the Commissioner
610 of Energy and Environmental Protection may enter into a memorandum
611 of understanding with the eligible party with regard to any further
612 remedial action or monitoring activities on or at such property that said
613 commissioner deems necessary for the protection of human health or
614 the environment.

615 (m) (1) An eligible party who has been accepted into the brownfield

616 remediation and revitalization program shall have no obligation as part
617 of its plan and schedule to characterize, abate and remediate any release
618 of a regulated substance outside the boundaries of the eligible property
619 originally accepted into the brownfield remediation and revitalization
620 program, provided the notification requirements of section 22a-6u
621 pertaining to significant environmental hazards shall continue to apply
622 to the property and the eligible party shall not be required to
623 characterize, abate or remediate any such significant environmental
624 hazard outside the boundaries of the subject property unless such
625 significant environmental hazard arises from the actions of the eligible
626 party after its acquisition of or control over the property from which
627 such significant environmental hazard has emanated outside its own
628 boundaries. If an eligible party who has been accepted into the
629 brownfield remediation and revitalization program conveys or
630 otherwise transfers its ownership of the subject property and such
631 eligible party is in compliance with the provisions of this section and the
632 brownfield investigation plan and remediation schedule at the time of
633 conveyance or transfer of ownership, the provisions of this section shall
634 apply to such transferee, if such transferee meets the eligibility criteria
635 set forth in this section, complies with the obligations undertaken by the
636 eligible party under this section, and timely pays the greater of: (A) Any
637 fee required by subsection (g) or (h) of this section not yet paid by such
638 eligible party, or (B) a fee of ten thousand dollars. In such case, all
639 references to applicant or eligible party shall mean the subsequent
640 owner or transferee.

641 (2) After the Commissioner of Energy and Environmental Protection
642 issues either a no audit letter or a successful audit closure letter, or no
643 audit decision has been made by said commissioner within one hundred
644 eighty days, plus any additional time permitted pursuant to
645 subparagraph (B) of subdivision (9) of subsection (j) of this section, after
646 the submittal of the remedial action report and verification or interim
647 verification, for the eligible property or a portion of the eligible
648 property, such eligible party shall not be liable to the state or any person
649 for (A) costs incurred in the remediation of, equitable relief relating to,

650 or damages resulting from the release of regulated substances
651 addressed in such verification or interim verification, and (B) historical
652 impacts off the eligible property as a whole, including air deposition,
653 waste disposal, impacts to sediments and natural resource damages. No
654 eligible party shall be afforded any relief from liability such eligible
655 party may have from a release requiring action pursuant to the PCB
656 regulations or a release requiring action pursuant to the UST
657 regulations.

658 (3) The provisions of this section concerning liability shall extend to
659 any person who acquires title to all or part of the property for which a
660 remedial action report and verification or interim verification have been
661 submitted pursuant to this section, provided (A) there is payment of a
662 fee of ten thousand dollars to said commissioner for each such
663 extension, (B) such person acquiring all or part of the property meets the
664 criteria of this section, and (C) the Commissioner of Energy and
665 Environmental Protection has issued either a successful audit closure
666 letter or no audit letter, or no audit decision has been made by said
667 commissioner not later than one hundred eighty days, plus any
668 additional time permitted pursuant to subparagraph (B) of subdivision
669 (9) of subsection (j) of this section, after the submittal of the remedial
670 action report and verification or interim verification. No municipality or
671 economic development agency that acquires title to all or part of the
672 property shall be required to pay a fee, provided the municipality or
673 economic development agency shall collect and pay the fee upon
674 transfer of the property to another person for purposes of development.
675 Such fee shall be deposited into the Special Contaminated Property
676 Remediation and Insurance Fund established under section 22a-133t
677 and such funds shall be for the exclusive use by the Department of
678 Energy and Environmental Protection.

679 (4) Neither a successful audit closure nor no audit letter issued
680 pursuant to this section, nor the expiration of one hundred eighty days,
681 plus any additional time permitted pursuant to subparagraph (B) of
682 subdivision (9) of subsection (j) of this section, after the submittal of the
683 remedial action report and verification or interim verification without

684 an audit decision by the Commissioner of Energy and Environmental
685 Protection, shall preclude said commissioner from taking any
686 appropriate action, including, but not limited to, any action to require
687 remediation of the property by the eligible party or, as applicable, to its
688 successor, if said commissioner determines that:

689 (A) The successful audit closure, no audit letter, or the expiration of
690 one hundred eighty days, plus any additional time permitted pursuant
691 to subparagraph (B) of subdivision (9) of subsection (j) of this section,
692 after the submittal of the remedial action report and verification or
693 interim verification without an audit decision by the Commissioner of
694 Energy and Environmental Protection was based on information
695 provided by the person submitting such remedial action report and
696 verification or interim verification that the Commissioner of Energy and
697 Environmental Protection can show that such person knew, or had
698 reason to know, was false or misleading, and, in the case of the successor
699 to an applicant, that such successor was aware or had reason to know
700 that such information was false or misleading;

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

705 (C) The eligible party who received the successful audit closure or no
706 audit letter or where one hundred eighty days, plus any additional time
707 permitted pursuant to subparagraph (B) of subdivision (9) of subsection
708 (j) of this section, lapsed without an audit decision by the Commissioner
709 of Energy and Environmental Protection has materially failed to
710 complete the remedial action required by the brownfield investigation
711 plan and remediation schedule or to carry out or comply with
712 monitoring, maintenance or operating requirements pertinent to a
713 remedial action including the requirements of any environmental land
714 use restriction; or

715 (D) The threat to human health or the environment is increased

716 beyond an acceptable level due to substantial changes in exposure
717 conditions at such property, including, but not limited to, a change from
718 nonresidential to residential use of such property.

719 (5) If an eligible party who has been accepted into the brownfield
720 remediation and revitalization program conveys or otherwise transfers
721 all or part of its ownership interest in the subject property at any time
722 before the issuance of a successful audit closure or no audit letter or the
723 expiration of one hundred eighty days, plus any additional time
724 permitted pursuant to subparagraph (B) of subdivision (9) of subsection
725 (j) of this section, after the submittal of the remedial action report and
726 verification or interim verification without an audit decision by the
727 Commissioner of Energy and Environmental Protection, the eligible
728 party conveying or otherwise transferring its ownership interest shall
729 not be liable to the state or any person, for the portion of the property
730 transferred, for (A) costs incurred in the remediation of, equitable relief
731 relating to, or damages resulting from the release of regulated
732 substances addressed in the brownfield investigation plan and
733 remediation schedule, and (B) historical impacts off the eligible property
734 as a whole, including air deposition, waste disposal, impacts to
735 sediments and natural resource damages, provided the eligible party
736 complied with its obligations under this section during the period when
737 the eligible party held an ownership interest in the subject property.
738 Nothing in this subsection shall provide any relief from liability such
739 eligible party may have related to a release requiring action pursuant to
740 the PCB regulations, or a release requiring action pursuant to the UST
741 regulations.

742 (6) Upon the Commissioner of Energy and Environmental
743 Protection's issuance of a successful audit closure letter or no audit letter
744 for the entire eligible property originally accepted into the brownfield
745 remediation and revitalization program, or after one hundred eighty
746 days, plus any additional time permitted pursuant to subparagraph (B)
747 of subdivision (9) of subsection (j) of this section, have passed since the
748 submittal of a verification or interim verification and said commissioner
749 has not audited the verification or interim verification, the immediate

750 prior owner regardless of its own eligibility to participate in the
751 comprehensive brownfield remediation and revitalization program
752 shall have no liability to the state or any person for any future
753 investigation and remediation of the release of any regulated substance
754 at the eligible property addressed in the verification or interim
755 verification, provided the immediate prior owner has complied with
756 any legal obligation such owner had with respect to investigation and
757 remediation of releases at and from the property, and provided further
758 the immediate prior owner shall retain any and all liability such
759 immediate prior owner would otherwise have for the investigation and
760 remediation of the release of any regulated substance beyond the
761 boundary of the eligible property. In any event, the immediate prior
762 owner shall remain liable for (A) penalties or fines, if any, relating to the
763 release of any regulated substance at or from the eligible property, (B)
764 costs and expenses, if any, recoverable or reimbursable pursuant to
765 sections 22a-134b, 22a-451 and 22a-452, and (C) obligations of the
766 immediate prior owner as a certifying party on a Form III or IV
767 submitted pursuant to sections 22a-134 to 22a-134e, inclusive.

768 (n) A person whose application to the brownfield remediation and
769 revitalization program has been accepted by the commissioner or any
770 subsequent eligible party whose application to the brownfield
771 remediation and revitalization program has been accepted by the
772 commissioner shall be exempt for filing as an establishment pursuant to
773 sections 22a-134a to 22a-134d, inclusive, if such real property or prior
774 business operations constitute an establishment. Nothing in this section
775 shall be construed to alter any existing legal requirement applicable to
776 any certifying party at a property under sections 22a-134 and 22a-134a
777 to 22a-134e, inclusive.

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

This act shall take effect as follows and shall amend the following sections:

Section 1	<i>October 1, 2022</i>	32-768
Sec. 2	<i>October 1, 2022</i>	32-769

Statement of Purpose:

To (1) allow short-term lessees of eligible brownfields to apply to the abandoned brownfield cleanup and the brownfield remediation and revitalization programs, and (2) establish audit deadlines for the abandoned brownfield cleanup program.

[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.]