



General Assembly

**Substitute Bill No. 218**

February Session, 2022



**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 Section 32-768 of the general statutes is repealed and the  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  
67 abandoned brownfield cleanup program, and who remains in  
68 compliance with subsection (f) of this section, shall not be responsible  
69 for investigating or remediating any pollution or source of pollution that  
70 has emanated from such property prior to such person taking title to  
71 such property, and shall not be liable to the state or any person for the  
72 release of any regulated substance at or from the eligible property prior  
73 to taking title to such eligible property except and only to the extent that  
74 such applicant caused or contributed to the release of a regulated  
75 substance that is subject to remediation or negligently or recklessly  
76 exacerbated 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. The applicant  
89 shall have two years from the date on which the commissioner  
90 designates such property for inclusion in the abandoned brownfield  
91 cleanup program to acquire title to the designated property. The  
92 commissioner may, at the commissioner's discretion, extend such  
93 deadline for acquiring such property upon the request of the applicant.

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

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

107 (m) (1) Not later than sixty days after the receipt of a verification, as  
108 defined in section 22a-133x, for such property or portion of such  
109 property, the Commissioner of Energy and Environmental Protection  
110 shall notify such eligible person and the Commissioner of Economic and  
111 Community Development whether the Commissioner of Energy and  
112 Environmental Protection will conduct an audit of such verification. The  
113 Commissioner of Energy and Environmental Protection shall conduct  
114 any such audit not later than one hundred eighty days after the  
115 department's receipt of such verification, except as provided in

116 subdivisions (2) and (3) of this subsection. Not later than fourteen days  
117 after the completion of any such audit, the Commissioner of Energy and  
118 Environmental Protection shall provide written audit findings to such  
119 eligible person, the Commissioner of Economic and Community  
120 Development and the licensed environmental professional that issued  
121 such verification. The written audit findings shall approve or  
122 disapprove of such verification, provided any written audit findings  
123 disapproving of such verification shall include the reasons for such  
124 disapproval.

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

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

149 determines that information exists that indicates that the remediation  
150 may have failed to prevent releases on the property that are a substantial  
151 threat to public health or the environment.

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

162 ~~[(m)]~~ (o) Upon completion of the requirements of subsection (f) of this  
163 section to the satisfaction of the Commissioner of Energy and  
164 Environmental Protection, such person shall qualify for a covenant not  
165 to sue from the Commissioner of Energy and Environmental Protection  
166 without fee, pursuant to section 22a-133aa.

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

182        [(o)] (q) Any person who acquires a property in the abandoned  
183 brownfield cleanup program shall apply to the Commissioner of  
184 Economic and Community Development on a form prescribed by the  
185 commissioner to determine if such person qualifies as an eligible party  
186 under the abandoned brownfield cleanup program. If the commissioner  
187 determines that such person is an eligible party, such eligible party shall  
188 be subject to the provisions of this section, and shall receive liability  
189 relief pursuant to subsections (g), (l), [(m)] (o) and [(n)] (p) of this  
190 section.

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

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

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

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



249 brownfield grant or loan program.

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

272 (d) (1) Properties otherwise eligible for the brownfield remediation  
273 and revitalization program currently being investigated and remediated  
274 in accordance with the state voluntary remediation programs under  
275 sections 22a-133x and 22a-133y, the property transfer program under  
276 section 22a-134 and the covenant not to sue programs under section 22a-  
277 133aa or 22a-133bb shall not be excluded from eligibility in said  
278 program, provided the other requirements set forth in this section are  
279 met.

280 (2) Properties otherwise eligible for the brownfield remediation and  
281 revitalization program that have been subject to a release requiring

282 action pursuant to the PCB regulations or that have been subject to a  
283 release requiring action pursuant to the UST regulations shall not be  
284 deemed ineligible, but no provision of this section shall affect any  
285 eligible party's obligation under such regulations to investigate or  
286 remediate the extent of any such release.

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

296 (f) Any applicant seeking a designation of eligibility for a person or a  
297 property under the brownfield remediation and revitalization program  
298 shall apply to the commissioner at such times and on such forms as the  
299 commissioner may prescribe. The application shall include, but not be  
300 limited to, (1) a title search, (2) the Phase I Environmental Site  
301 Assessment conducted by or for the bona fide prospective purchaser or  
302 the contiguous property owner, which shall be prepared in accordance  
303 with prevailing standards and guidelines, (3) a current property  
304 inspection, if requested by the commissioner, (4) documentation  
305 demonstrating satisfaction of the eligibility criteria set forth in  
306 subsection (a) of this section, (5) information about the project that  
307 relates to the state-wide portfolio factors set forth in subsection (b) of  
308 this section, and (6) such other information as the commissioner may  
309 request to determine admission. The applicant shall have two years  
310 from the date on which the commissioner designates such property for  
311 inclusion in the brownfield remediation and revitalization program to  
312 acquire title to the designated property. The commissioner may, at the  
313 commissioner's discretion, extend such deadline for acquiring such  
314 property upon the request of the applicant.

315 (g) Any applicant accepted into the brownfield remediation and  
316 revitalization program by the commissioner shall pay the  
317 Commissioner of Energy and Environmental Protection a fee equal to  
318 five per cent of the assessed value of the land, as stated on the last-  
319 completed grand list of the relevant town. The fee shall be paid in two  
320 installments, each equal to fifty per cent of such fee, subject to potential  
321 reductions as specified in subsection (h) of this section. The first  
322 installment shall be due not later than one hundred eighty days after the  
323 later of the date such applicant is notified that the application has been  
324 accepted by the commissioner or the date that such applicant takes title  
325 to the eligible property. The second installment shall be due not later  
326 than four years after the acceptance date. Upon request by such  
327 applicant, a municipality, a Connecticut brownfield land bank or an  
328 economic development agency, the commissioner may, at the  
329 commissioner's discretion, extend either or both of the installment due  
330 dates. Such fee shall be deposited into the Special Contaminated  
331 Property Remediation and Insurance Fund established pursuant to  
332 section 22a-133t and shall be available for use by the Commissioner of  
333 Energy and Environmental Protection pursuant to section 22a-133u.

334 (h) (1) The first installment of the fee in subsection (g) of this section  
335 shall be reduced by ten per cent for any eligible party that completes  
336 and submits to the Commissioner of Energy and Environmental  
337 Protection documentation, approved in writing by a licensed  
338 environmental professional and on a form prescribed by said  
339 commissioner, that the investigation of the property has been completed  
340 in accordance with prevailing standards and guidelines within one  
341 hundred eighty days after the date the application is accepted by the  
342 commissioner.

343 (2) The second installment of the fee in subsection (g) of this section  
344 shall be eliminated for any eligible party that submits the remedial  
345 action report and verification or interim verification to the  
346 Commissioner of Energy and Environmental Protection within four  
347 years after the date the application is accepted by the commissioner. In

348 the event an eligible party submits a request for the Commissioner of  
349 Energy and Environmental Protection's approval, where such approval  
350 is required pursuant to the remediation standard and where said  
351 commissioner issues a decision on such request beyond sixty days after  
352 submittal, such four-year period shall be extended by the number of  
353 days equal to the number of days between the sixtieth day and the date  
354 a decision is issued by said commissioner, but not including the number  
355 of days that a request by said commissioner for supplemental  
356 information remains pending with the eligible party.

357 (3) The second installment of the fee in subsection (g) of this section  
358 shall be reduced by, or any eligible party shall receive a refund in the  
359 amount equal to, twice the reasonable environmental service costs of  
360 such investigation, as determined by the Commissioner of Energy and  
361 Environmental Protection, for any eligible party that completes and  
362 submits to the Commissioner of Energy and Environmental Protection  
363 documentation, approved in writing by a licensed environmental  
364 professional and on a form that may be prescribed by said  
365 commissioner, that the investigation of the nature and extent of any  
366 contamination that has migrated from the property has been completed  
367 in accordance with prevailing standards and guidelines. Such refund  
368 shall not exceed the amount of the second installment of the fee in  
369 subsection (g) of this section.

370 (4) No municipality, Connecticut brownfield land bank or economic  
371 development agency seeking designation of eligibility shall be required  
372 to pay a fee, provided, upon transfer of the eligible property from the  
373 municipality, Connecticut brownfield land bank or economic  
374 development agency to an eligible person, that eligible person shall pay  
375 to the Commissioner of Energy and Environmental Protection the fee in  
376 subsection (g) of this section in accordance with the applicable  
377 requirements in this subsection.

378 (5) A municipality, Connecticut brownfield land bank or economic  
379 development agency may submit a fee waiver request to the  
380 commissioner to waive a portion or the entire fee for an eligible property

381 located within that municipality. The commissioner, at his or her  
382 discretion, shall consider the following factors in determining whether  
383 to approve a fee waiver or reduction: (A) Location of the brownfield  
384 within a distressed municipality, as defined in section 32-9p; (B)  
385 demonstration by the municipality, Connecticut brownfield land bank  
386 or economic development agency that the project is of significant  
387 economic impact; (C) demonstration by the municipality, Connecticut  
388 brownfield land bank or economic development agency that the project  
389 has a significant community benefit to the municipality; (D)  
390 demonstration that the eligible party is a governmental or nonprofit  
391 entity; and (E) demonstration that the fee required will have a  
392 detrimental effect on the overall success of the project.

393 (i) (1) An applicant whose application has been accepted into the  
394 brownfield remediation and revitalization program and who remains in  
395 compliance with such program's obligations pursuant to this section  
396 shall not be liable to the state or any person for the release of any  
397 regulated substance at or from the eligible property, except and only to  
398 the extent that such applicant (A) caused or contributed to the release of  
399 a regulated substance that is subject to remediation or exacerbated such  
400 condition, or (B) the Commissioner of Energy and Environmental  
401 Protection determines the existence of any of the conditions set forth in  
402 subdivision (4) of subsection (m) of this section.

403 (2) If such applicant conveys or, prior to July 1, 2017, conveyed a  
404 security interest, as defined in section 22a-452f, in the eligible property  
405 to a lender, as defined in section 22a-452f, and such lender (A) did not  
406 establish, create or maintain a source of pollution to the waters of the  
407 state for purposes of section 22a-432, (B) is not responsible pursuant to  
408 any other provision of the general statutes for any pollution or source of  
409 pollution on the eligible property, and (C) is not affiliated with any  
410 person responsible for such pollution or source of pollution through any  
411 direct or indirect familial relationship or any contractual, corporate or  
412 financial relationship other than that creating the security interest in the  
413 eligible property, such lender shall not be liable to the state or any

414 person for the release of any regulated substance at or from the eligible  
415 property.

416 (j) (1) An applicant whose application to the brownfield remediation  
417 and revitalization program has been accepted by the commissioner (A)  
418 shall investigate the release or threatened release of any regulated  
419 substance within the boundaries of the property in accordance with  
420 prevailing standards and guidelines and remediate such release or  
421 threatened release within the boundaries of such property in accordance  
422 with the brownfield investigation plan and remediation schedule and  
423 this section, and (B) shall not be required to characterize, abate and  
424 remediate the release of a regulated substance beyond the boundary of  
425 the eligible property, except for releases caused or contributed to by  
426 such applicant.

427 (2) Not later than one hundred eighty days after the first installment  
428 due date, including any extension thereof by the commissioner, of the  
429 fee required pursuant to subsection (g) of this section, the eligible party  
430 shall submit to the commissioner and the Commissioner of Energy and  
431 Environmental Protection a brownfield investigation plan and  
432 remediation schedule that is signed and stamped by a licensed  
433 environmental professional. Unless otherwise approved in writing by  
434 the Commissioner of Energy and Environmental Protection, such  
435 brownfield investigation plan and remediation schedule shall provide  
436 that (A) the investigation shall be completed not later than two years  
437 after the first installment due date, including any extension thereof by  
438 the commissioner, of the fee required pursuant to subsection (g) of this  
439 section, (B) remediation shall be initiated not later than three years from  
440 the first installment due date, including any extension thereof by the  
441 commissioner, of the fee required pursuant to subsection (g) of this  
442 section, and (C) remediation shall be completed sufficiently to support  
443 either a verification or interim verification not later than eight years after  
444 the first installment due date, including any extension thereof by the  
445 commissioner, of the fee required pursuant to subsection (g) of this  
446 section. The schedule shall also include a schedule for providing public

447 notice of the remediation prior to the initiation of such remediation in  
448 accordance with subdivision (1) of subsection (j) of this section. Not later  
449 than two years after the first installment due date, including any  
450 extension thereof by the commissioner, of the fee required pursuant to  
451 subsection (g) of this section, unless the Commissioner of Energy and  
452 Environmental Protection has specified a later day, in writing, the  
453 eligible party shall submit to the Commissioner of Energy and  
454 Environmental Protection documentation, approved in writing by a  
455 licensed environmental professional and in a form prescribed by the  
456 Commissioner of Energy and Environmental Protection, that the  
457 investigation of the property has been completed in accordance with  
458 prevailing standards and guidelines. Not later than three years after the  
459 first installment due date, including any extension thereof by the  
460 commissioner, of the fee required pursuant to subsection (g) of this  
461 section, unless the Commissioner of Energy and Environmental  
462 Protection has specified a later day, in writing, the eligible party shall  
463 notify the Commissioner of Energy and Environmental Protection and  
464 the commissioner in a form prescribed by the Commissioner of Energy  
465 and Environmental Protection that the remediation has been initiated,  
466 and shall submit to the Commissioner of Energy and Environmental  
467 Protection a remedial action plan, approved in writing by a licensed  
468 environmental professional in a form prescribed by the Commissioner  
469 of Energy and Environmental Protection. Not later than eight years after  
470 the first installment due date, including any extension thereof by the  
471 commissioner, of the fee required pursuant to subsection (g) of this  
472 section, unless the Commissioner of Energy and Environmental  
473 Protection has specified a later day, in writing, the eligible party shall  
474 complete remediation of the property and submit the remedial action  
475 report and verification or interim verification to the Commissioner of  
476 Energy and Environmental Protection and the commissioner. The  
477 Commissioner of Energy and Environmental Protection shall grant a  
478 reasonable extension if the eligible party demonstrates to the  
479 satisfaction of the Commissioner of Energy and Environmental  
480 Protection that: (i) Such eligible party has made reasonable progress  
481 toward investigation and remediation of the eligible property; and (ii)

482 despite best efforts, circumstances beyond the control of the eligible  
483 party have significantly delayed the remediation of the eligible  
484 property.

485 (3) The eligible party may complete the investigation and  
486 remediation of a portion of the eligible property and submit a  
487 verification or an interim verification for such portion to the  
488 Commissioner of Energy and Environmental Protection and the  
489 commissioner, provided the eligible party (A) is in compliance with the  
490 provisions of this section and the brownfield investigation plan and  
491 remediation schedule, and (B) has, prior to submitting such verification  
492 or interim verification for such portion: (i) Timely submitted  
493 documentation to the Commissioner of Energy and Environmental  
494 Protection that the investigation of the entire property is complete in  
495 accordance with prevailing standards and guidelines, in accordance  
496 with subdivision (2) of this subsection, (ii) timely notified the  
497 Commissioner of Energy and Environmental Protection that the  
498 remediation was initiated and submitted to said commissioner a  
499 remedial action plan for the entire property originally accepted into the  
500 brownfield remediation and revitalization program, in accordance with  
501 subdivision (2) of this subsection, and (iii) demonstrated to the  
502 satisfaction of the Commissioner of Energy and Environmental  
503 Protection and the commissioner that it will complete the remediation  
504 of the remainder of the eligible property in accordance with the  
505 remediation schedule. For any verification or interim verification of a  
506 portion of the eligible property, the remediation of releases on and from  
507 such portion shall extend to the boundaries of the eligible property as a  
508 whole.

509 (4) An eligible party who submits an interim verification for an  
510 eligible property or a portion of an eligible property, and any  
511 subsequent owner of such eligible property, shall, until the remediation  
512 standards for groundwater are achieved, (A) operate and maintain the  
513 long-term remedy for groundwater in accordance with the remedial  
514 action plan, the interim verification and any approvals issued by the



515 Commissioner of Energy and Environmental Protection, (B) prevent  
516 exposure to any groundwater plume containing a regulated substance  
517 in excess of the remediation standards on the property, (C) take all  
518 reasonable action to contain any groundwater plume on the property,  
519 and (D) submit annual status reports to the Commissioner of Energy  
520 and Environmental Protection and the commissioner.

521 (5) Before commencement of remedial action pursuant to the plan  
522 and schedule, the eligible party shall: (A) Publish notice of the remedial  
523 action in a newspaper having a substantial circulation in the town where  
524 the property is located, (B) notify the director of health of the  
525 municipality where the property is located, and (C) either (i) erect and  
526 maintain for at least thirty days in a legible condition a sign not less than  
527 six feet by four feet on the property, which shall be clearly visible from  
528 the public highway and shall include the words "ENVIRONMENTAL  
529 CLEAN-UP IN PROGRESS AT THIS SITE. FOR FURTHER  
530 INFORMATION CONTACT:" and include a telephone number for an  
531 office from which any interested person may obtain additional  
532 information about the remedial action, or (ii) mail notice of the remedial  
533 action to each owner of record of property which abuts such property,  
534 at the address on the last-completed grand list of the relevant town.  
535 Public comments shall be directed to the eligible party for a thirty-day  
536 period starting with the last provided public notice provision and such  
537 eligible party shall provide all comments and any responses to the  
538 Commissioner of Energy and Environmental Protection prior to  
539 commencing remedial action.

540 (6) The remedial action shall be conducted under the supervision of  
541 a licensed environmental professional and the remedial action report  
542 shall be submitted to the commissioner and the Commissioner of  
543 Energy and Environmental Protection signed and stamped by a licensed  
544 environmental professional. In such report, the licensed environmental  
545 professional shall include a detailed description of the remedial actions  
546 taken and issue a verification or interim verification for the eligible  
547 property or a portion of the eligible property, in which he or she shall

548 render an opinion, in accordance with the standard of care provided in  
549 subsection (c) of section 22a-133w and the regulations adopted pursuant  
550 to subsection (c) of section 22a-133v, that the action taken to contain,  
551 remove or mitigate the release of regulated substances within the  
552 boundaries of such property is in accordance with the remediation  
553 standards.

554 (7) Copies of all applications for permits required to implement such  
555 plan and schedule in this section shall be submitted to the permit  
556 ombudsman within the Department of Economic and Community  
557 Development.

558 (8) Each eligible party participating in the brownfield remediation  
559 and revitalization program shall maintain all records related to its  
560 implementation of such plan and schedule and completion of the  
561 remedial action of the property for a period of not less than ten years  
562 and shall make such records available to the commissioner or the  
563 Commissioner of Energy and Environmental Protection at any time  
564 upon request by either.

565 (9) (A) Not later than sixty days after receiving a remedial action  
566 report signed and stamped by a licensed environmental professional  
567 and a verification or interim verification for the eligible property or a  
568 portion of the eligible property, the Commissioner of Energy and  
569 Environmental Protection shall notify the eligible party and the  
570 commissioner whether the Commissioner of Energy and Environmental  
571 Protection will conduct an audit of such remedial action. [Any] The  
572 Commissioner of Energy and Environmental Protection shall conduct  
573 any such audit [shall be conducted] not later than one hundred eighty  
574 days after the [Commissioner of Energy and Environmental Protection  
575 receives] receipt of such remedial action report and verification or  
576 interim verification, plus any additional time permitted pursuant to  
577 subparagraph (B) of this subdivision, except as provided in  
578 subparagraph (C) of this subdivision. Not later than fourteen days after  
579 completion of an audit, the Commissioner of Energy and Environmental  
580 Protection shall send written audit findings to the eligible party, the

581 commissioner and the licensed environmental professional. The audit  
582 findings may approve or disapprove the report, provided any  
583 disapproval shall set forth the reasons for such disapproval.

584 (B) The Commissioner of Energy and Environmental Protection may  
585 request additional information during an audit conducted pursuant to  
586 this subdivision. If such information has not been provided to said  
587 commissioner within fourteen days of such request, the time frame for  
588 said commissioner to complete the audit shall be suspended until the  
589 information is provided to said commissioner. The Commissioner of  
590 Energy and Environmental Protection may choose to conduct such  
591 audit if and when the eligible party fails to provide a response to said  
592 commissioner's request for additional information within sixty days.

593 (C) The Commissioner of Energy and Environmental Protection shall  
594 not conduct an audit of a verification or interim verification for the  
595 eligible property or a portion of the eligible property pursuant to this  
596 subdivision after one hundred eighty days from receipt of such  
597 verification, plus any additional time permitted pursuant to  
598 subparagraph (B) of this subdivision, unless (i) said commissioner has  
599 reason to believe that a verification was obtained through the submittal  
600 of materially inaccurate or erroneous information, or otherwise  
601 misleading information material to the verification or that material  
602 misrepresentations were made in connection with the submittal of the  
603 verification, (ii) any post-verification monitoring or operations and  
604 maintenance is required as part of a verification and has not been done,  
605 (iii) a verification that relies upon an environmental use restriction was  
606 not recorded on the land records of the municipality in which such land  
607 is located in accordance with section 22a-133o and applicable  
608 regulations, (iv) said commissioner determines that there has been a  
609 violation of law material to the verification, or (v) said commissioner  
610 determines that information exists indicating that the remediation may  
611 have failed to prevent a substantial threat to public health or the  
612 environment for releases on the property.

613 (k) Not later than sixty days after receiving a notice of disapproval of

614 a verification or interim verification for the eligible property or a portion  
615 of the eligible property from the Commissioner of Energy and  
616 Environmental Protection, the eligible party shall submit to said  
617 commissioner and to the commissioner a report of cure of noted  
618 deficiencies. Within sixty days after receiving such report of cure of  
619 noted deficiencies by said commissioner, said commissioner shall issue  
620 a successful audit closure letter or a written disapproval of such report  
621 of cure of noted deficiencies.

622 (l) Before approving a verification or interim verification for the  
623 eligible property or a portion of the eligible property, the Commissioner  
624 of Energy and Environmental Protection may enter into a memorandum  
625 of understanding with the eligible party with regard to any further  
626 remedial action or monitoring activities on or at such property that said  
627 commissioner deems necessary for the protection of human health or  
628 the environment.

629 (m) (1) An eligible party who has been accepted into the brownfield  
630 remediation and revitalization program shall have no obligation as part  
631 of its plan and schedule to characterize, abate and remediate any release  
632 of a regulated substance outside the boundaries of the eligible property  
633 originally accepted into the brownfield remediation and revitalization  
634 program, provided the notification requirements of section 22a-6u  
635 pertaining to significant environmental hazards shall continue to apply  
636 to the property and the eligible party shall not be required to  
637 characterize, abate or remediate any such significant environmental  
638 hazard outside the boundaries of the subject property unless such  
639 significant environmental hazard arises from the actions of the eligible  
640 party after its acquisition of or control over the property from which  
641 such significant environmental hazard has emanated outside its own  
642 boundaries. If an eligible party who has been accepted into the  
643 brownfield remediation and revitalization program conveys or  
644 otherwise transfers its ownership of the subject property and such  
645 eligible party is in compliance with the provisions of this section and the  
646 brownfield investigation plan and remediation schedule at the time of

647 conveyance or transfer of ownership, the provisions of this section shall  
648 apply to such transferee, if such transferee meets the eligibility criteria  
649 set forth in this section, complies with the obligations undertaken by the  
650 eligible party under this section, and timely pays the greater of: (A) Any  
651 fee required by subsection (g) or (h) of this section not yet paid by such  
652 eligible party, or (B) a fee of ten thousand dollars. In such case, all  
653 references to applicant or eligible party shall mean the subsequent  
654 owner or transferee.

655 (2) After the Commissioner of Energy and Environmental Protection  
656 issues either a no audit letter or a successful audit closure letter, or no  
657 audit decision has been made by said commissioner within one hundred  
658 eighty days, plus any additional time permitted pursuant to  
659 subparagraph (B) of subdivision (9) of subsection (j) of this section, after  
660 the submittal of the remedial action report and verification or interim  
661 verification, for the eligible property or a portion of the eligible  
662 property, such eligible party shall not be liable to the state or any person  
663 for (A) costs incurred in the remediation of, equitable relief relating to,  
664 or damages resulting from the release of regulated substances  
665 addressed in such verification or interim verification, and (B) historical  
666 impacts off the eligible property as a whole, including air deposition,  
667 waste disposal, impacts to sediments and natural resource damages. No  
668 eligible party shall be afforded any relief from liability such eligible  
669 party may have from a release requiring action pursuant to the PCB  
670 regulations or a release requiring action pursuant to the UST  
671 regulations.

672 (3) The provisions of this section concerning liability shall extend to  
673 any person who acquires title to all or part of the property for which a  
674 remedial action report and verification or interim verification have been  
675 submitted pursuant to this section, provided (A) there is payment of a  
676 fee of ten thousand dollars to said commissioner for each such  
677 extension, (B) such person acquiring all or part of the property meets the  
678 criteria of this section, and (C) the Commissioner of Energy and  
679 Environmental Protection has issued either a successful audit closure

680 letter or no audit letter, or no audit decision has been made by said  
681 commissioner not later than one hundred eighty days, plus any  
682 additional time permitted pursuant to subparagraph (B) of subdivision  
683 (9) of subsection (j) of this section, after the submittal of the remedial  
684 action report and verification or interim verification. No municipality,  
685 Connecticut brownfield land bank or economic development agency  
686 that acquires title to all or part of the property shall be required to pay a  
687 fee, provided the municipality, Connecticut brownfield land bank or  
688 economic development agency shall collect and pay the fee upon  
689 transfer of the property to another person for purposes of development.  
690 Such fee shall be deposited into the Special Contaminated Property  
691 Remediation and Insurance Fund established under section 22a-133t  
692 and such funds shall be for the exclusive use by the Department of  
693 Energy and Environmental Protection.

694 (4) Neither a successful audit closure nor no audit letter issued  
695 pursuant to this section, nor the expiration of one hundred eighty days,  
696 plus any additional time permitted pursuant to subparagraph (B) of  
697 subdivision (9) of subsection (j) of this section, after the submittal of the  
698 remedial action report and verification or interim verification without  
699 an audit decision by the Commissioner of Energy and Environmental  
700 Protection, shall preclude said commissioner from taking any  
701 appropriate action, including, but not limited to, any action to require  
702 remediation of the property by the eligible party or, as applicable, to its  
703 successor, if said commissioner determines that:

704 (A) The successful audit closure, no audit letter, or the expiration of  
705 one hundred eighty days, plus any additional time permitted pursuant  
706 to subparagraph (B) of subdivision (9) of subsection (j) of this section,  
707 after the submittal of the remedial action report and verification or  
708 interim verification without an audit decision by the Commissioner of  
709 Energy and Environmental Protection was based on information  
710 provided by the person submitting such remedial action report and  
711 verification or interim verification that the Commissioner of Energy and  
712 Environmental Protection can show that such person knew, or had

713 reason to know, was false or misleading, and, in the case of the successor  
714 to an applicant, that such successor was aware or had reason to know  
715 that such information was false or misleading;

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

720 (C) The eligible party who received the successful audit closure or no  
721 audit letter or where one hundred eighty days, plus any additional time  
722 permitted pursuant to subparagraph (B) of subdivision (9) of subsection  
723 (j) of this section, lapsed without an audit decision by the Commissioner  
724 of Energy and Environmental Protection has materially failed to  
725 complete the remedial action required by the brownfield investigation  
726 plan and remediation schedule or to carry out or comply with  
727 monitoring, maintenance or operating requirements pertinent to a  
728 remedial action including the requirements of any environmental land  
729 use restriction; or

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

734 (5) If an eligible party who has been accepted into the brownfield  
735 remediation and revitalization program conveys or otherwise transfers  
736 all or part of its ownership interest in the subject property at any time  
737 before the issuance of a successful audit closure or no audit letter or the  
738 expiration of one hundred eighty days, plus any additional time  
739 permitted pursuant to subparagraph (B) of subdivision (9) of subsection  
740 (j) of this section, after the submittal of the remedial action report and  
741 verification or interim verification without an audit decision by the  
742 Commissioner of Energy and Environmental Protection, the eligible  
743 party conveying or otherwise transferring its ownership interest shall  
744 not be liable to the state or any person, for the portion of the property

745 transferred, for (A) costs incurred in the remediation of, equitable relief  
746 relating to, or damages resulting from the release of regulated  
747 substances addressed in the brownfield investigation plan and  
748 remediation schedule, and (B) historical impacts off the eligible property  
749 as a whole, including air deposition, waste disposal, impacts to  
750 sediments and natural resource damages, provided the eligible party  
751 complied with its obligations under this section during the period when  
752 the eligible party held an ownership interest in the subject property.  
753 Nothing in this subsection shall provide any relief from liability such  
754 eligible party may have related to a release requiring action pursuant to  
755 the PCB regulations, or a release requiring action pursuant to the UST  
756 regulations.

757 (6) Upon the Commissioner of Energy and Environmental  
758 Protection's issuance of a successful audit closure letter or no audit letter  
759 for the entire eligible property originally accepted into the brownfield  
760 remediation and revitalization program, or after one hundred eighty  
761 days, plus any additional time permitted pursuant to subparagraph (B)  
762 of subdivision (9) of subsection (j) of this section, have passed since the  
763 submittal of a verification or interim verification and said commissioner  
764 has not audited the verification or interim verification, the immediate  
765 prior owner regardless of its own eligibility to participate in the  
766 comprehensive brownfield remediation and revitalization program  
767 shall have no liability to the state or any person for any future  
768 investigation and remediation of the release of any regulated substance  
769 at the eligible property addressed in the verification or interim  
770 verification, provided the immediate prior owner has complied with  
771 any legal obligation such owner had with respect to investigation and  
772 remediation of releases at and from the property, and provided further  
773 the immediate prior owner shall retain any and all liability such  
774 immediate prior owner would otherwise have for the investigation and  
775 remediation of the release of any regulated substance beyond the  
776 boundary of the eligible property. In any event, the immediate prior  
777 owner shall remain liable for (A) penalties or fines, if any, relating to the  
778 release of any regulated substance at or from the eligible property, (B)



779 costs and expenses, if any, recoverable or reimbursable pursuant to  
780 sections 22a-134b, 22a-451 and 22a-452, and (C) obligations of the  
781 immediate prior owner as a certifying party on a Form III or IV  
782 submitted pursuant to sections 22a-134 to 22a-134e, inclusive.

783 (n) A person whose application to the brownfield remediation and  
784 revitalization program has been accepted by the commissioner or any  
785 subsequent eligible party whose application to the brownfield  
786 remediation and revitalization program has been accepted by the  
787 commissioner shall be exempt for filing as an establishment pursuant to  
788 sections 22a-134a to 22a-134d, inclusive, if such real property or prior  
789 business operations constitute an establishment. Nothing in this section  
790 shall be construed to alter any existing legal requirement applicable to  
791 any certifying party at a property under sections 22a-134 and 22a-134a  
792 to 22a-134e, inclusive.

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

This act shall take effect as follows and shall amend the following sections:		
Section 1	October 1, 2022	32-768
Sec. 2	October 1, 2022	32-769

**Statement of Legislative Commissioners:**

In Section 1(m)(1), "Department of Energy and Environmental Protection" was changed to "Commissioner of Energy and Environmental Protection" for consistency with standard drafting conventions and "Any such audit shall be conducted not later than one hundred eighty days after the receipt of such verification by the Department of Energy and Environmental Protection" was changed to "The Commissioner of Energy and Environmental Protection shall conduct any such audit not later than one hundred eighty days after the department's receipt of such verification" for grammar, clarity and consistency with other provisions of the Subdiv.; and in Section

2(j)(9)(A), "Any such audit shall be conducted not later than one hundred eighty days after the Commissioner of Energy and Environmental Protection receives the receipt of such remedial action report" was changed to "[any] The Commissioner of Energy and Environmental Protection shall conduct any such audit [shall be conducted] not later than one hundred eighty days after the [Commissioner of Energy and Environmental Protection receives] receipt of such remedial action report" for grammar, clarity and statutory consistency.

**CE**      *Joint Favorable Subst.*