



**Substitute Senate Bill No. 1042**

**Public Act No. 23-57**

**AN ACT AUTHORIZING THE DEPARTMENT OF ECONOMIC AND COMMUNITY DEVELOPMENT TO PROVIDE CAPACITY BUILDING GRANTS TO CONNECTICUT BROWNFIELD LAND BANKS.**

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

Section 1. Section 32-763 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2023*):

(a) There is established a remedial action and redevelopment municipal grant program to be administered by the Department of Economic and Community Development for the purpose of providing grants pursuant to subsections (b) and (c) of this section.

(b) (1) Grants may be provided to municipalities, Connecticut brownfield land banks and economic development agencies for the eligible costs of brownfield remediation projects, brownfield assessment projects and reasonable administrative expenses not to exceed five per cent of any grant awarded. A grant awarded under this [section] subsection shall not exceed four million dollars.

[(b)] (2) A grant applicant shall submit an application for a grant under this subsection to the Commissioner of Economic and Community Development on forms provided by the commissioner and with such information the commissioner deems necessary, including,

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but not limited to: [(1)] (A) A description of the proposed project; [(2)] (B) an explanation of the expected benefits of the project in relation to the purposes of this section; [(3)] (C) information concerning the financial and technical capacity of the applicant to undertake the proposed project; [(4)] (D) a project budget; and [(5)] (E) with respect to a brownfield remediation project, a description of the condition of the brownfield, including the results of any environmental assessment of the brownfield in the possession of or available to the applicant.

[(c)] (3) The commissioner may approve, reject or modify any application properly submitted in accordance with the provisions of this [section] subsection. The commissioner may not reject an application solely because a municipality has submitted more than one application in response to a request for applications. In reviewing an application and determining the amount of the grant, if any, to be provided, the commissioner shall consider the following criteria: [(1)] (A) The availability of funds; [(2)] (B) the estimated costs of assessing and remediating the brownfield, if known; [(3)] (C) the relative economic condition of the municipality in which the brownfield is located; [(4)] (D) the relative need of the project for financial assistance; [(5)] (E) the degree to which a grant under this [section] subsection is necessary to induce the applicant to undertake the project; [(6)] (F) the public health and environmental benefits of the project; [(7)] (G) the relative benefits of the project to the municipality, the region and the state, including, but not limited to, the extent to which the project will likely result in a contribution to the municipality's tax base, the retention and creation of jobs and the reduction of blight; [(8)] (H) the time frame in which the contamination occurred; [(9)] (I) the relationship of the applicant to the person or entity that caused the contamination; [(10)] (J) the length of time the brownfield has been abandoned; [(11)] (K) the taxes owed and the projected revenues that may be restored to the community; [(12)] (L) the relative need for assessment of the brownfield within the municipality or region; [(13)] (M) whether the brownfield is located in a

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federally designated opportunity zone; and [(14)] (N) such other criteria as the commissioner may establish consistent with the purposes of this [section] subsection.

[(d)] (4) The commissioner shall award grants under this subsection on a competitive basis, based on a request for applications occurring at least twice annually. The commissioner may increase the frequency of requests for applications and awards depending upon the number of applicants and the availability of funding. A municipality may submit more than one application in response to a request for applications. On and after July 1, 2019, the commissioner shall give priority to grant applications for brownfields located in federally designated opportunity zones.

[(e)] (5) If a grant recipient under this subsection is not subject to section 22a-134a, such recipient shall enter a program for remediation of the property pursuant to either section 22a-133x, 22a-133y, 32-768 or 32-769, as determined by the commissioner, except no such recipient shall be required to enter such a program if the grant funds are used [(1)] (A) for the abatement of hazardous building materials and such recipient demonstrates to the satisfaction of the Commissioners of Economic and Community Development and Energy and Environmental Protection that such hazardous building materials represent the sole or sole remaining environmental contamination on the property, [(2)] (B) solely for assessment of the brownfield, or [(3)] (C) as provided in subdivision (7) of this subsection. [(g) of this section.]

[(f)] (6) The commissioner, in consultation with the Commissioner of Energy and Environmental Protection and following the award of a grant under this subsection to a municipality, Connecticut brownfield land bank or economic development agency pursuant to [subsections (c) and (d) of this section] subdivisions (3) and (4) of this subsection, may award an additional grant to such municipality, Connecticut brownfield land bank or economic development agency to enable the completion of

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a brownfield remediation or assessment project, provided such project is identified as a priority by said commissioners and such additional grant funds [(1)] (A) will be used to address unexpected cost overruns or costs related to remedial activities that will provide a greater environmental benefit than originally proposed pursuant to subdivision (2) of this subsection, [(b) of this section, (2)] (B) do not exceed fifty per cent of the original grant, and [(3)] (C) will not result in more than four million dollars in total grants being awarded for a single brownfield remediation or assessment project.

[(g)] (7) The commissioner may award grants under this subsection to any municipality, Connecticut brownfield land bank, economic development agency or regional council of governments organized under sections 4-124i to 4-124p, inclusive, for the eligible costs of developing a comprehensive plan for the remediation and redevelopment of multiple brownfields whenever such plan is consistent with the state plan of conservation and development, adopted pursuant to chapter 297, and the plan of conservation and development, adopted pursuant to section 8-23, for each municipality in which such brownfields are located. For purposes of this subsection, "eligible costs" shall also include expenditures associated with the development of any such plan for remediation and redevelopment.

(c) (1) The commissioner may award capacity building grants for operational expenses to any Connecticut brownfield land bank, provided such land bank (A) matches any state funds awarded pursuant to this subsection, and (B) has not previously been awarded a capacity building grant under this subsection. A grant awarded under this subsection shall not exceed fifty thousand dollars.

(2) Any Connecticut brownfield land bank may apply to the Commissioner of Economic and Community Development, in the form and manner prescribed by the commissioner, for a capacity building grant in an amount indicated by the Connecticut brownfield land bank.

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The Connecticut brownfield land bank shall include such information the commissioner deems necessary to determine whether to award such capacity building grant, in whole or in part, and to verify that such land bank has sufficient funds to match such amount and has not previously been awarded a capacity building grant under this subsection.

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

Sec. 2. Subsections (b) to (d), inclusive, of section 32-762 of the general statutes are repealed and the following is substituted in lieu thereof (*Effective October 1, 2023*):

(b) All moneys received in consideration of financial assistance, including payments of principal and interest on any loans made pursuant to section 32-765, shall be credited to the account and shall become part of the assets of the account. At the discretion of the Commissioner of Economic and Community Development and subject to the approval of the Secretary of the Office of Policy and Management, any federal, private or other moneys received by the state in connection with projects undertaken pursuant to subsection (b) of section 32-763, as amended by this act, or section 32-765 shall be credited to the assets of the account.

(c) Notwithstanding any provision of the general statutes, proceeds from the sale of bonds available pursuant to subdivision (1) of subsection (b) of section 4-66c may, with the approval of the Governor and the State Bond Commission, be used to capitalize the account.

(d) The commissioner may use funds in the account (1) to provide financial assistance for the remediation and development of brownfields in the state pursuant to subsection (b) of section 32-763, as amended by this act, or section 32-765, (2) to provide financial assistance to parcel owners required to perform mitigation actions pursuant to

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section 22a-6u, and (3) for administrative costs not to exceed five per cent of such funds.

Sec. 3. Section 32-764 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2023*):

(a) Any recipient of a grant pursuant to subsection (b) of section 32-763, as amended by this act, or subsection (c) of section 32-9cc of the general statutes, revision of 1958, revised to January 1, 2013, shall not be liable under section 22a-427, 22a-432, 22a-433, 22a-451 or 22a-452 for conditions pre-existing or existing on the brownfield property as of the date of acquisition or control, provided such recipient (1) did not establish, create, cause or contribute to the discharge, spillage, uncontrolled loss, seepage or filtration of such hazardous substance, material, waste or pollution that is subject to remediation under section 22a-133k and funded by the Office of Brownfield Remediation and Development or the Department of Economic and Community Development; (2) does not exacerbate the conditions; and (3) complies with reporting of significant environmental hazard requirements in section 22a-6u. To the extent that any conditions are exacerbated, such recipient shall only be responsible for responding to contamination exacerbated by its negligent or reckless activities.

(b) Upon remediation (1) as approved by the Department of Energy and Environmental Protection, or (2) in accordance with section 22a-133x, 22a-134a, 32-768 or 32-769 of a brownfield property by a recipient of a grant pursuant to subsection (b) of section 32-763, as amended by this act, such recipient may transfer the property to any person, provided such person is not otherwise liable under section 22a-427, 22a-432, 22a-433, 22a-451 or 22a-452 with respect to the property. Any person who acquires title pursuant to this section shall not be liable under section 22a-427, 22a-432, 22a-433, 22a-451 or 22a-452 with respect to preexisting conditions on the property, provided such person (A) does not cause or contribute to the discharge, spillage, uncontrolled loss,

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seepage or filtration of such hazardous substance, material or waste, and (B) such person is not a member, officer, manager, director, shareholder, subsidiary, successor of, related to, or affiliated with, directly or indirectly, the person who is otherwise liable under section 22a-427, 22a-432, 22a-433, 22a-451 or 22a-452 with respect to the property. The Commissioner of Energy and Environmental Protection shall provide such person with a covenant not to sue pursuant to section 22a-133aa and shall not require the prospective purchaser or owner to pay a fee in exchange for such covenant.

(c) No person shall acquire title to or hold, possess or maintain any interest in a property that has been remediated with grant funds awarded pursuant to subsection (b) of section 32-763, as amended by this act, if such person (1) is liable under section 22a-427, 22a-432, 22a-433, 22a-451 or 22a-452 with respect to the property, (2) is otherwise responsible, directly or indirectly, for the discharge, spillage, uncontrolled loss, seepage or filtration of such hazardous substance, material or waste, (3) is a member, officer, manager, director, shareholder, subsidiary, successor of, related to, or affiliated with, directly or indirectly, the person who is otherwise liable under section 22a-427, 22a-432, 22a-433, 22a-451 or 22a-452 with respect to the property, or (4) is or was an owner, operator or tenant of the property. If such person elects to acquire title to or hold, possess or maintain any interest in the property, that person shall reimburse the state of Connecticut, the municipality and the economic development agency for any and all costs expended to perform the investigation and remediation of the property, plus interest at a rate of eighteen per cent.

(d) Notwithstanding section 22a-134a, a recipient of a grant pursuant to subsection (b) of section 32-763, as amended by this act, may acquire and convey its interest in the property without such recipient or the subsequent purchaser incurring liability, including any such liability incurred pursuant to section 22a-134a, provided the property (1) was

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remediated pursuant to section 22a-133x, 22a-133y, 32-768 or 32-769 or pursuant to an order issued by the Commissioner of Energy and Environmental Protection and such remediation was (A) performed in accordance with the standards adopted pursuant to section 22a-133k, as determined by said commissioner, or (B) if authorized by said commissioner, verified by a licensed environmental professional unless such verification has been rejected by said commissioner subsequent to an audit conducted by said commissioner and provided the subsequent purchaser has no direct or related liability for the site conditions; and (2) is not an establishment, as defined in section 22a-134, based on business operations occurring after such recipient remediated the property.

Sec. 4. Subsection (a) of section 32-767 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2023*):

(a) Whenever funds are used pursuant to subsection (b) of section 32-763, as amended by this act, or section 32-765, for purposes of environmental assessments or remediation of a brownfield, the Commissioner of Energy and Environmental Protection may seek reimbursement of the costs and expenses incurred by requesting the Attorney General to bring a civil action to recover such costs and expenses from any party responsible for such pollution, provided no such action shall be brought separately from any action to recover costs and expenses incurred by the Commissioner of Energy and Environmental Protection in pursuing action to contain, remove or mitigate any pollution on such site. The costs and expenses recovered in an action brought pursuant to this section may include, but shall not be limited to: (1) The actual cost of identifying, evaluating, planning for and undertaking the remediation of the site; (2) any administrative costs not exceeding ten per cent of the actual costs; (3) the costs of recovering the reimbursement; and (4) interest on the actual costs at a rate of ten per cent per year from the date such expenses were paid.



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Sec. 5. Section 32-766 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2023*):

The Commissioner of Economic and Community Development shall establish the terms and conditions of any financial assistance provided pursuant to section 32-763, as amended by this act, or section 32-765. The commissioner may make any stipulation in connection with an offer of financial assistance the commissioner deems necessary to implement the policies and purposes of subsection (b) of section 32-763, as amended by this act, or section 32-765, including, but not limited to, (1) a requirement of assurance from a grant or loan recipient that such recipient will discharge its obligations in connection with the project, (2) a requirement that a grant or loan recipient provide the department with appropriate security for such financial assistance, including, but not limited to, a letter of credit, a lien on real property or a security interest in goods, equipment, inventory or other property of any kind, and (3) a requirement that a grant or loan recipient reimburse the state for such financial assistance in the event that it receives funds for remediation from other sources.

Approved June 26, 2023