



Substitute Senate Bill No. 1092

Public Act No. 23-58

AN ACT CONCERNING THE ACQUISITION AND CONVEYANCE OF CERTAIN PROPERTIES BY CONNECTICUT BROWNFIELD LAND BANKS.

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

Section 1. Section 32-760 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2023*):

As used in this chapter:

(1) "Bona fide prospective purchaser" means a person who acquires ownership of a property after July 1, 2011, and establishes by a preponderance of the evidence that:

(A) All disposal of regulated substances at the property occurred before such person acquired the property;

(B) Such person made all appropriate inquiries, as set forth in 40 CFR Part 312, into the previous ownership and uses of the property in accordance with generally accepted good commercial and customary standards and practices, including, but not limited to, the standards and practices set forth in the ASTM Standard Practice for Environmental Site Assessments, Phase I Environmental Site Assessment Process, in effect on the date such person acquired the property. In the case of property

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in residential or other similar use at the time of purchase by a nongovernmental or noncommercial entity, a property inspection and a title search that reveal no basis for further investigation shall be considered to satisfy the requirements of this subparagraph;

(C) Such person provides all legally required notices with respect to the discovery or release of any regulated substances at the property;

(D) Such person exercises appropriate care with respect to regulated substances found at the property by taking reasonable steps to (i) stop any continuing release, (ii) prevent any threatened future release, and (iii) prevent or limit human, environmental or natural resource exposure to any previously released regulated substance;

(E) Such person provides full cooperation, assistance and access to persons authorized to conduct response actions or natural resource restoration at the property, including, but not limited to, the cooperation and access necessary for the installation, integrity, operation and maintenance of any complete or partial response actions or natural resource restoration at the property;

(F) Such person complies with any land use restrictions established or relied on in connection with the response action at the property and does not impede the effectiveness or integrity of any institutional control employed at the property in connection with a response action; and

(G) Such person complies with any request for information from the Commissioner of Energy and Environmental Protection;

(2) "Brownfield" means any abandoned or underutilized site where redevelopment, reuse or expansion has not occurred due to the presence or potential presence of pollution in the buildings, soil or groundwater that requires investigation or remediation before or in conjunction with the redevelopment, reuse or expansion of the property;

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

(4) "Contiguous property owner" means a person who owns real property contiguous to or otherwise similarly situated with respect to, and that is or may be contaminated by a release or threatened release of a regulated substance from, real property that is not owned by that person, provided:

(A) With respect to the property owned by such person, such person takes reasonable steps to (i) stop any continuing release of any regulated substance released on or from the property, (ii) prevent any threatened future release of any regulated substance released on or from the property, and (iii) prevent or limit human, environmental or natural resource exposure to any regulated substance released on or from the property;

(B) Such person provides full cooperation, assistance and access to persons authorized to conduct response actions or natural resource restoration at the property from which there has been a release or threatened release, including, but not limited to, the cooperation and access necessary for the installation, integrity, operation and maintenance of any complete or partial response action or natural resource restoration at the property;

(C) Such person complies with any land use restrictions established or relied on in connection with the response action at the property and does not impede the effectiveness or integrity of any institutional control employed in connection with a response action;

(D) Such person complies with any request for information from the Commissioner of Energy and Environmental Protection; and

(E) Such person provides all legally required notices with respect to the discovery or release of any hazardous substances at the property;

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

(6) "Economic development agency" means (A) a municipal economic development agency or entity created or operating under chapter 130 or 132; (B) a nonprofit economic development corporation formed to promote the common good, general welfare and economic development of a municipality or a region that is funded, either directly or through in-kind services, in part by one or more municipalities; (C) a nonstock corporation or limited liability company established or controlled by a municipality, municipal economic development agency or an entity created or operating under chapter 130 or 132; or (D) an agency, as defined in section 32-327;

(7) "Eligible costs" means the costs associated with the investigation, assessment, remediation and development of a brownfield, including, but not limited to, (A) soil, groundwater and infrastructure investigation, (B) assessment, (C) remediation, (D) abatement, (E) hazardous materials or waste disposal, (F) long-term groundwater or natural attenuation monitoring, (G) (i) environmental land use restrictions, (ii) activity and use limitations, or (iii) other forms of institutional control, (H) attorneys' fees, (I) planning, engineering and environmental consulting, and (J) building and structural issues, including demolition, asbestos abatement, polychlorinated biphenyls removal, contaminated wood or paint removal, and other infrastructure remedial activities;

(8) "Financial assistance" means grants, loans or loan guarantees, or any combination thereof;

(9) "Innocent landowner" has the same meaning as provided in section 22a-452d;

(10) "Interim verification" has the same meaning as provided in

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section 22a-134;

(11) "Manufacturing facility" means a business establishment classified under sector 31, 32 or 33 of the North American Industrial Classification System;

(12) "Municipality" means a town, city, consolidated town and city or consolidated town and borough. For purposes of sections 32-771 to 32-775, inclusive, as amended by this act, "municipality" includes a district, as defined in section 7-324, a metropolitan area, as defined in section 7-333, and any political subdivision of the state that has the power to levy taxes and to issue bonds, notes or other obligations;

(13) "PCB regulations" means the polychlorinated biphenyls manufacturing, processing, distribution in commerce and use prohibitions found at 40 CFR Part 761;

(14) "Person" means any individual, firm, partnership, association, syndicate, company, trust, corporation, nonstock corporation, limited liability company, municipality, economic development agency, agency or political or administrative subdivision of the state or any other legal entity;

(15) "Planning region" has the same meaning as provided in section 4-124j;

[(15)] (16) "Real property" means land, buildings and other structures and improvements thereto, subterranean or subsurface rights, any and all easements, air rights and franchises of any kind or nature;

(17) "Regional council of governments" has the same meaning as provided in section 4-124s;

[(16)] (18) "Regulated substance" has the same meaning as provided in section 22a-134g;

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[(17)] (19) "Release" means any discharge, spillage, uncontrolled loss, seepage, filtration, leakage, injection, escape, dumping, pumping, pouring, emitting, emptying or disposal of a substance;

[(18)] (20) "Remediation standards" has the same meaning as provided in section 22a-134;

[(19)] (21) "State" means the state of Connecticut;

[(20)] (22) "UST regulations" means the regulations adopted pursuant to subsection (d) of section 22a-449;

[(21)] (23) "Verification" has the same meaning as provided in section 22a-134; and

[(22)] (24) "Connecticut brownfield land bank" means a Connecticut nonstock corporation, certified by the Commissioner of Economic and Community Development pursuant to section 32-771, established for the purposes of (A) acquiring, retaining, remediating and selling brownfields in the state for the benefit of municipalities, (B) educating government officials, community leaders, economic development agencies and nonprofit organizations on best practices for redeveloping brownfields, and (C) engaging in all other activities in accordance with sections 32-771 to 32-775, inclusive, as amended by this act.

Sec. 2. Section 32-773 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2023*):

(a) The purposes of a Connecticut brownfield land bank shall be to (1) acquire, retain, remediate and sell brownfields in the state on behalf of municipalities pursuant to land banking agreements with such municipalities, (2) acquire, retain, remediate and sell brownfields in the state pursuant to land banking agreements with regional councils of governments that represent the municipalities in which such brownfields are located, (3) educate government officials, community

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leaders, economic development agencies and nonprofit organizations on best practices for redeveloping brownfields, and [(3)] (4) engage in all other activities in accordance with sections 32-771 to 32-775, inclusive, as amended by this act. In addition to those powers, rights, privileges and immunities granted under chapter 602, a Connecticut brownfield land bank is authorized and empowered to do the following in furtherance of its purposes:

(A) Enter into land banking agreements with (i) municipalities for the acquisition, retention, remediation and sale of real property within such municipalities on behalf of such municipalities, or (ii) regional councils of governments for the acquisition, retention, remediation and sale of real property located within the planning regions of such regional councils of governments.

(B) Enter into contracts and agreements with municipalities or regional councils of governments for staffing services to be provided to the Connecticut brownfield land bank by such municipalities, regional councils of governments or agencies or departments thereof, or for a Connecticut brownfield land bank to provide such staffing services to such municipalities, regional councils of governments or agencies or departments thereof in relation to the duties of such land bank.

(C) Obtain grant funds or borrow from private lenders, municipalities, regional councils of governments, the state or the federal government, as may be necessary, for the operation of such Connecticut brownfield land bank.

(D) Procure insurance or guarantees from the state or federal government of the payments of any debts, or parts thereof, incurred by such Connecticut brownfield land bank, and to pay premiums in connection therewith.

(E) Do all other things necessary or convenient to achieve the

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purposes of such Connecticut brownfield land bank and comply with any law relating to the purposes and responsibilities of such land bank.

(F) Acquire real property, as described in subsection (b) of section 32-775, as amended by this act, by purchase contracts, lease purchase agreements, installment sales contracts, land contracts and foreclosure of municipal tax liens. A Connecticut brownfield land bank may accept transfers of real property from municipalities upon such terms and conditions as agreed to by the brownfield land bank and the municipality. Notwithstanding any provision of the general statutes or of any special act, municipal charter or home rule ordinance, any municipality may transfer and convey to a Connecticut brownfield land bank real property and interests in real property located in the municipality on such terms and conditions and according to such procedures as determined by the municipality.

(b) A Connecticut brownfield land bank shall neither possess nor exercise the power of eminent domain.

Sec. 3. Section 32-775 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2023*):

(a) A Connecticut brownfield land bank shall hold in its own name all real property acquired by such land bank irrespective of the identity of the transferor of such property.

(b) A Connecticut brownfield land bank shall acquire only brownfield sites and other real property, located adjacent or in close proximity to brownfield sites to be acquired, that are (1) identified in a land banking agreement between such Connecticut brownfield land bank and the municipality in which such properties are located, or (2) identified in a land banking agreement between such Connecticut brownfield land bank and the regional council of governments that represents the municipality in which such properties are located.

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(c) A Connecticut brownfield land bank shall maintain and make available for public review and inspection an inventory of all real property held by such land bank.

(d) A Connecticut brownfield land bank shall determine and set forth in policies and procedures the general terms and conditions for consideration to be received by such land bank for the transfer to such land bank of real property and interests in real property, which consideration may take the form of monetary payments and secured financial obligations, covenants and conditions related to the present and future use of such real property, contractual commitments of the transferee, and such other forms of consideration as determined by the board of directors to be in the best interest of such land bank.

(e) A Connecticut brownfield land bank may convey, exchange, sell, transfer, lease as lessee, grant, release and demise, pledge and hypothecate any and all interests in, upon or to real property of the brownfield land bank, provided such land bank may only convey, exchange, transfer or sell real property with the approval of (1) the municipality in which such real property is located pursuant to the terms of a land banking agreement entered into with such municipality, or (2) the regional council of governments that represents the municipality in which such real property is located, pursuant to the terms of a land banking agreement entered into with such regional council of governments.

Approved June 26, 2023