



General Assembly

Substitute Bill No. 1042

January Session, 2023



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:

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 Section 32-763 of the general statutes is repealed and the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

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

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

13 [(b)] (2) A grant applicant shall submit an application for a grant
14 under this subsection to the Commissioner of Economic and
15 Community Development on forms provided by the commissioner
16 and with such information the commissioner deems necessary,
17 including, but not limited to: [(1)] (A) A description of the proposed

18 project; [(2)] (B) an explanation of the expected benefits of the project
19 in relation to the purposes of this section; [(3)] (C) information
20 concerning the financial and technical capacity of the applicant to
21 undertake the proposed project; [(4)] (D) a project budget; and [(5)] (E)
22 with respect to a brownfield remediation project, a description of the
23 condition of the brownfield, including the results of any environmental
24 assessment of the brownfield in the possession of or available to the
25 applicant.

26 [(c)] (3) The commissioner may approve, reject or modify any
27 application properly submitted in accordance with the provisions of
28 this [section] subsection. The commissioner may not reject an
29 application solely because a municipality has submitted more than one
30 application in response to a request for applications. In reviewing an
31 application and determining the amount of the grant, if any, to be
32 provided, the commissioner shall consider the following criteria: [(1)]
33 (A) The availability of funds; [(2)] (B) the estimated costs of assessing
34 and remediating the brownfield, if known; [(3)] (C) the relative
35 economic condition of the municipality in which the brownfield is
36 located; [(4)] (D) the relative need of the project for financial assistance;
37 [(5)] (E) the degree to which a grant under this [section] subsection is
38 necessary to induce the applicant to undertake the project; [(6)] (F) the
39 public health and environmental benefits of the project; [(7)] (G) the
40 relative benefits of the project to the municipality, the region and the
41 state, including, but not limited to, the extent to which the project will
42 likely result in a contribution to the municipality's tax base, the
43 retention and creation of jobs and the reduction of blight; [(8)] (H) the
44 time frame in which the contamination occurred; [(9)] (I) the
45 relationship of the applicant to the person or entity that caused the
46 contamination; [(10)] (J) the length of time the brownfield has been
47 abandoned; [(11)] (K) the taxes owed and the projected revenues that
48 may be restored to the community; [(12)] (L) the relative need for
49 assessment of the brownfield within the municipality or region; [(13)]
50 (M) whether the brownfield is located in a federally designated
51 opportunity zone; and [(14)] (N) such other criteria as the

52 commissioner may establish consistent with the purposes of this
53 [section] subsection.

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

63 [(e)] (5) If a grant recipient under this subsection is not subject to
64 section 22a-134a, such recipient shall enter a program for remediation
65 of the property pursuant to either section 22a-133x, 22a-133y, 32-768 or
66 32-769, as determined by the commissioner, except no such recipient
67 shall be required to enter such a program if the grant funds are used
68 [(1)] (A) for the abatement of hazardous building materials and such
69 recipient demonstrates to the satisfaction of the Commissioners of
70 Economic and Community Development and Energy and
71 Environmental Protection that such hazardous building materials
72 represent the sole or sole remaining environmental contamination on
73 the property, [(2)] (B) solely for assessment of the brownfield, or [(3)]
74 (C) as provided in subdivision (7) of this subsection. [(g) of this
75 section.]

76 [(f)] (6) The commissioner, in consultation with the Commissioner of
77 Energy and Environmental Protection and following the award of a
78 grant under this subsection to a municipality, Connecticut brownfield
79 land bank or economic development agency pursuant to [subsections
80 (c) and (d) of this section] subdivisions (3) and (4) of this subsection,
81 may award an additional grant to such municipality, Connecticut
82 brownfield land bank or economic development agency to enable the
83 completion of a brownfield remediation or assessment project,
84 provided such project is identified as a priority by said commissioners

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

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

104 (c) (1) The commissioner may award capacity building grants for
105 operational expenses to any Connecticut brownfield land bank,
106 provided such land bank (A) matches any state funds awarded
107 pursuant to this subsection, and (B) has entered into at least one land
108 banking agreement with at least two municipalities that are parties to
109 such agreement. A grant awarded under this subsection shall not
110 exceed fifty thousand dollars.

111 (2) Any Connecticut brownfield land bank may apply to the
112 Commissioner of Economic and Community Development, in the form
113 and manner prescribed by the commissioner, for a capacity building
114 grant in an amount indicated by the Connecticut brownfield land
115 bank. The Connecticut brownfield land bank shall include such
116 information the commissioner deems necessary to determine whether
117 to award such capacity building grant, in whole or in part, and to

118 verify that such land bank has sufficient funds to match such amount
119 and has entered into at least one land banking agreement as specified
120 under subdivision (1) of this subsection.

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

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

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

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

140 (d) The commissioner may use funds in the account (1) to provide
141 financial assistance for the remediation and development of
142 brownfields in the state pursuant to subsection (b) of section 32-763, as
143 amended by this act, (2) to provide financial
144 assistance to parcel owners required to perform mitigation actions
145 pursuant to section 22a-6u, and (3) for administrative costs not to
146 exceed five per cent of such funds.

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

149 (a) Any recipient of a grant pursuant to subsection (b) of section 32-
150 763, as amended by this act, or subsection (c) of section 32-9cc of the
151 general statutes, revision of 1958, revised to January 1, 2013, shall not
152 be liable under section 22a-427, 22a-432, 22a-433, 22a-451 or 22a-452 for
153 conditions pre-existing or existing on the brownfield property as of the
154 date of acquisition or control, provided such recipient (1) did not
155 establish, create, cause or contribute to the discharge, spillage,
156 uncontrolled loss, seepage or filtration of such hazardous substance,
157 material, waste or pollution that is subject to remediation under
158 section 22a-133k and funded by the Office of Brownfield Remediation
159 and Development or the Department of Economic and Community
160 Development; (2) does not exacerbate the conditions; and (3) complies
161 with reporting of significant environmental hazard requirements in
162 section 22a-6u. To the extent that any conditions are exacerbated, such
163 recipient shall only be responsible for responding to contamination
164 exacerbated by its negligent or reckless activities.

165 (b) Upon remediation (1) as approved by the Department of Energy
166 and Environmental Protection, or (2) in accordance with section 22a-
167 133x, 22a-134a, 32-768 or 32-769 of a brownfield property by a recipient
168 of a grant pursuant to subsection (b) of section 32-763, as amended by
169 this act, such recipient may transfer the property to any person,
170 provided such person is not otherwise liable under section 22a-427,
171 22a-432, 22a-433, 22a-451 or 22a-452 with respect to the property. Any
172 person who acquires title pursuant to this section shall not be liable
173 under section 22a-427, 22a-432, 22a-433, 22a-451 or 22a-452 with
174 respect to preexisting conditions on the property, provided such
175 person (A) does not cause or contribute to the discharge, spillage,
176 uncontrolled loss, seepage or filtration of such hazardous substance,
177 material or waste, and (B) such person is not a member, officer,
178 manager, director, shareholder, subsidiary, successor of, related to, or
179 affiliated with, directly or indirectly, the person who is otherwise liable
180 under section 22a-427, 22a-432, 22a-433, 22a-451 or 22a-452 with
181 respect to the property. The Commissioner of Energy and
182 Environmental Protection shall provide such person with a covenant

183 not to sue pursuant to section 22a-133aa and shall not require the
184 prospective purchaser or owner to pay a fee in exchange for such
185 covenant.

186 (c) No person shall acquire title to or hold, possess or maintain any
187 interest in a property that has been remediated with grant funds
188 awarded pursuant to subsection (b) of section 32-763, as amended by
189 this act, if such person (1) is liable under section 22a-427, 22a-432, 22a-
190 433, 22a-451 or 22a-452 with respect to the property, (2) is otherwise
191 responsible, directly or indirectly, for the discharge, spillage,
192 uncontrolled loss, seepage or filtration of such hazardous substance,
193 material or waste, (3) is a member, officer, manager, director,
194 shareholder, subsidiary, successor of, related to, or affiliated with,
195 directly or indirectly, the person who is otherwise liable under section
196 22a-427, 22a-432, 22a-433, 22a-451 or 22a-452 with respect to the
197 property, or (4) is or was an owner, operator or tenant of the property.
198 If such person elects to acquire title to or hold, possess or maintain any
199 interest in the property, that person shall reimburse the state of
200 Connecticut, the municipality and the economic development agency
201 for any and all costs expended to perform the investigation and
202 remediation of the property, plus interest at a rate of eighteen per cent.

203 (d) Notwithstanding section 22a-134a, a recipient of a grant
204 pursuant to subsection (b) of section 32-763, as amended by this act,
205 may acquire and convey its interest in the property without such
206 recipient or the subsequent purchaser incurring liability, including any
207 such liability incurred pursuant to section 22a-134a, provided the
208 property (1) was remediated pursuant to section 22a-133x, 22a-133y,
209 32-768 or 32-769 or pursuant to an order issued by the Commissioner
210 of Energy and Environmental Protection and such remediation was
211 (A) performed in accordance with the standards adopted pursuant to
212 section 22a-133k, as determined by said commissioner, or (B) if
213 authorized by said commissioner, verified by a licensed environmental
214 professional unless such verification has been rejected by said
215 commissioner subsequent to an audit conducted by said commissioner

216 and provided the subsequent purchaser has no direct or related
217 liability for the site conditions; and (2) is not an establishment, as
218 defined in section 22a-134, based on business operations occurring
219 after such recipient remediated the property.

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

223 (a) Whenever funds are used pursuant to subsection (b) of section
224 32-763, as amended by this act, or section 32-765, for purposes of
225 environmental assessments or remediation of a brownfield, the
226 Commissioner of Energy and Environmental Protection may seek
227 reimbursement of the costs and expenses incurred by requesting the
228 Attorney General to bring a civil action to recover such costs and
229 expenses from any party responsible for such pollution, provided no
230 such action shall be brought separately from any action to recover
231 costs and expenses incurred by the Commissioner of Energy and
232 Environmental Protection in pursuing action to contain, remove or
233 mitigate any pollution on such site. The costs and expenses recovered
234 in an action brought pursuant to this section may include, but shall not
235 be limited to: (1) The actual cost of identifying, evaluating, planning
236 for and undertaking the remediation of the site; (2) any administrative
237 costs not exceeding ten per cent of the actual costs; (3) the costs of
238 recovering the reimbursement; and (4) interest on the actual costs at a
239 rate of ten per cent per year from the date such expenses were paid.

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

242 The Commissioner of Economic and Community Development shall
243 establish the terms and conditions of any financial assistance provided
244 pursuant to section 32-763, as amended by this act, or section 32-765.
245 The commissioner may make any stipulation in connection with an
246 offer of financial assistance the commissioner deems necessary to
247 implement the policies and purposes of subsection (b) of section 32-

248 763, as amended by this act, or section 32-765, including, but not
249 limited to, (1) a requirement of assurance from a grant or loan recipient
250 that such recipient will discharge its obligations in connection with the
251 project, (2) a requirement that a grant or loan recipient provide the
252 department with appropriate security for such financial assistance,
253 including, but not limited to, a letter of credit, a lien on real property or
254 a security interest in goods, equipment, inventory or other property of
255 any kind, and (3) a requirement that a grant or loan recipient
256 reimburse the state for such financial assistance in the event that it
257 receives funds for remediation from other sources.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2023</i>	32-763
Sec. 2	<i>October 1, 2023</i>	32-762(b) to (d)
Sec. 3	<i>October 1, 2023</i>	32-764
Sec. 4	<i>October 1, 2023</i>	32-767(a)
Sec. 5	<i>October 1, 2023</i>	32-766

CE *Joint Favorable Subst.*