



**Substitute Senate Bill No. 218**

**Public Act No. 22-68**

***AN ACT CONCERNING BROWNFIELD REMEDIATION.***

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

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 Section 32-768 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2022*):

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

(b) For a person or a property to be eligible, the Commissioner of Economic and Community Development shall determine if (1) the property is a brownfield, as defined in section 32-760, that has been unused or significantly underused for at least five years before an application is filed with the commissioner pursuant to subsection (h) of this section; (2) such person intends to acquire title to such property for the purpose of redeveloping such property; (3) the redevelopment of such property has a regional or municipal economic development benefit; (4) such person did not establish or create a facility or condition at or on such property that can reasonably be expected to create a source of pollution to the waters of the state for the purposes of section 22a-432

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and is not affiliated with any person responsible for such pollution or source of pollution through any direct or indirect familial relationship or any contractual, corporate or financial relationship other than a relationship by which such owner's interest in such property is leased for a term not exceeding five years or is to be conveyed or financed; (5) such person is not otherwise required by law, an order or consent order issued by the Commissioner of Energy and Environmental Protection or a stipulated judgment to remediate pollution on or emanating from such property; (6) the person responsible for pollution on or emanating from the property is indeterminable, is no longer in existence, is required by law to remediate releases on and emanating from the property or is otherwise unable to perform necessary remediation of such property; and (7) the property and the person meet any other criteria said commissioner deems necessary.

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

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

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

(f) Upon designation by the Commissioner of Economic and Community Development, in consultation with the Commissioner of

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

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

(h) Any applicant seeking a designation of eligibility for a person or a property under the abandoned brownfield cleanup program shall apply to the Commissioner of Economic and Community Development

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at such times and on such forms as the commissioner may prescribe.

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

(j) Not later than ninety days after determining that the application is complete, the Commissioner of Economic and Community Development shall determine whether to include the property and applicant in the abandoned brownfield cleanup program. The applicant shall have two years from the date on which the commissioner designates such property for inclusion in the abandoned brownfield cleanup program to acquire title to the designated property. The commissioner may, at the commissioner's discretion, extend such deadline for acquiring such property upon the request of the applicant.

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

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

(m) (1) Not later than sixty days after the receipt of a verification, as defined in section 22a-133x, for such property or portion of such

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property, the Commissioner of Energy and Environmental Protection shall notify such eligible person and the Commissioner of Economic and Community Development whether the Commissioner of Energy and Environmental Protection will conduct an audit of such verification. 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, except as provided in subdivisions (2) and (3) of this subsection. Not later than fourteen days after the completion of any such audit, the Commissioner of Energy and Environmental Protection shall provide written audit findings to such eligible person, the Commissioner of Economic and Community Development and the licensed environmental professional that issued such verification. The written audit findings shall approve or disapprove of such verification, provided any written audit findings disapproving of such verification shall include the reasons for such disapproval.

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

(3) The Commissioner of Energy and Environmental Protection may conduct an audit of any verification later than one hundred eighty days after the receipt of such verification by the Department of Energy and Environmental Protection (A) to the extent the time period to conduct such audit is suspended pursuant to subdivision (2) of this subsection; (B) if said commissioner has reason to believe that a verification was obtained through the submittal of materially inaccurate or erroneous information or otherwise misleading information material to the

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verification or that material misrepresentations were made in connection with the submittal of the verification; (C) if any post-verification monitoring of operations and maintenance is required as part of a verification and such monitoring has not been completed; (D) if such verification relies upon an environmental land use restriction that was not recorded on the land records of the municipality in which such property is located, pursuant to section 22a-133o or any applicable regulations; (E) if said commissioner determines that there has been a violation of law material to the verification; or (F) if said commissioner determines that information exists that indicates that the remediation may have failed to prevent releases on the property that are a substantial threat to public health or the environment.

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

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

~~[(n)]~~ (p) Any person designated as an eligible person under the abandoned brownfield cleanup program shall not be liable to the Commissioner of Energy and Environmental Protection or any person under section 22a-432, 22a-433, 22a-451 or 22a-452 or other similar

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statute or common law for conditions preexisting or existing on the brownfield property as of the date of acquisition or control as long as the person (1) did not establish, cause or contribute to the discharge, spillage, uncontrolled loss, seepage or filtration of such hazardous substance, material, waste or pollution; (2) does not exacerbate the conditions; [and] (3) complies with reporting of significant environmental hazard requirements in section 22a-6u; and (4) remains in compliance with subsection (f) of this section. To the extent that any conditions are exacerbated, the person shall only be responsible for responding to contamination exacerbated by its negligent or reckless activities.

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

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

(a) The commissioner shall, within available appropriations, establish a brownfield remediation and revitalization program to provide certain liability protections to program participants. Not more than thirty-two properties per year shall be accepted into the program. Participation in the program shall be by accepted application pursuant to this subsection or by approved nomination pursuant to subsection (c) of this section. To be considered for acceptance, an applicant shall submit to the commissioner, on a form prescribed by the commissioner, a certification that: (1) The applicant meets the definition of a bona fide prospective

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purchaser, innocent landowner or contiguous property owner; (2) the property meets the definition of a brownfield and has been subject to a release of a regulated substance in an amount that is in excess of the remediation standards; (3) the applicant did not establish, create or maintain a source of pollution to the waters of the state for purposes of section 22a-432 and is not responsible pursuant to any other provision of the general statutes for any pollution or source of pollution on the property; (4) the applicant is not affiliated with any person responsible for such pollution or source of pollution through any direct or indirect familial relationship or any contractual, corporate or financial relationship other than that by which such [purchaser's] applicant's interest in such property is leased for a term not exceeding five years or is to be conveyed or financed; and (5) the property is not (A) currently the subject of an enforcement action, including any consent order issued by the Department of Energy and Environmental Protection or the United States Environmental Protection Agency under any current Department of Energy and Environmental Protection or United States Environmental Protection Agency program, (B) listed on the national priorities list of hazardous waste disposal sites compiled by the United States Environmental Protection Agency pursuant to 42 USC 9605, (C) listed on the State of Connecticut Superfund Priority List, or (D) subject to corrective action as may be required by the federal Resource Conservation and Recovery Act of 1976, 42 USC 6901 et seq. The commissioner may review such certifications to ensure accuracy, in consultation with the Commissioner of Energy and Environmental Protection, and applications will not be considered if such certifications are found inaccurate.

(b) To ensure a geographic distribution and a diversity of projects and broad access to the brownfield remediation and revitalization program, the commissioner, in consultation with the Commissioner of Energy and Environmental Protection, shall review all applications received and determine admission of eligible properties into the brownfield



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remediation and revitalization program taking into consideration state-wide portfolio factors including: (1) Job creation and retention; (2) sustainability; (3) readiness to proceed; (4) geographic distribution of projects; (5) population of the municipality where the property is located; (6) project size; (7) project complexity; (8) duration and degree to which the property has been underused; (9) projected increase to the municipal grand list; (10) consistency of the property as remediated and developed with municipal or regional planning objectives; (11) development plan's support for and furtherance of principles of smart growth, as defined in section 1 of public act 09-230, or transit-oriented development, as defined in section 13b-79o; and (12) other factors as may be determined by the commissioner. Admittance into the brownfield remediation and revitalization program shall not indicate approval or award of funding requested under any federal, state or municipal grant or loan program, including, but not limited to, any state brownfield grant or loan program.

(c) The commissioner shall accept nominations of properties for participation in the program established pursuant to subsection (a) of this section by a municipality, a Connecticut brownfield land bank or an economic development agency, where no bona fide prospective purchaser, contiguous property owner or innocent landowner has applied for participation in the program. For a property to be considered for approval for nomination to the program established pursuant to this section, a municipality shall submit to the commissioner, on a form prescribed by the commissioner, a certification that the property meets the eligibility requirements provided in subdivisions (2) and (5) of subsection (a) of this section and any other relevant factors, including state-wide portfolio factors provided in subsection (b) of this section, as may be determined by the commissioner. After the commissioner approves a property's nomination, any subsequent applicant shall apply in accordance with subsections (a) and (f) of this section. In any such application, the applicant shall demonstrate it satisfies the eligibility

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requirements provided in subdivisions (1), (3) and (4) of subsection (a) of this section and shall demonstrate satisfaction of subdivisions (2) and (5) of subsection (a) of this section for the period after the commissioner's acceptance of the municipality's, a Connecticut brownfield land bank's or economic development agency's nomination of the property.

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

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

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

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

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

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economic development agency, the commissioner may, at the commissioner's discretion, extend either or both of the installment due dates. Such fee shall be deposited into the Special Contaminated Property Remediation and Insurance Fund established pursuant to section 22a-133t and shall be available for use by the Commissioner of Energy and Environmental Protection pursuant to section 22a-133u.

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

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

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

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

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

(5) A municipality, Connecticut brownfield land bank or economic development agency may submit a fee waiver request to the commissioner to waive a portion or the entire fee for an eligible property located within that municipality. The commissioner, at his or her discretion, shall consider the following factors in determining whether to approve a fee waiver or reduction: (A) Location of the brownfield within a distressed municipality, as defined in section 32-9p; (B) demonstration by the municipality, Connecticut brownfield land bank or economic development agency that the project is of significant economic impact; (C) demonstration by the municipality, Connecticut brownfield land bank or economic development agency that the project has a significant community benefit to the municipality; (D)

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demonstration that the eligible party is a governmental or nonprofit entity; and (E) demonstration that the fee required will have a detrimental effect on the overall success of the project.

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

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

(j) (1) An applicant whose application to the brownfield remediation and revitalization program has been accepted by the commissioner (A) shall investigate the release or threatened release of any regulated substance within the boundaries of the property in accordance with prevailing standards and guidelines and remediate such release or

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threatened release within the boundaries of such property in accordance with the brownfield investigation plan and remediation schedule and this section, and (B) shall not be required to characterize, abate and remediate the release of a regulated substance beyond the boundary of the eligible property, except for releases caused or contributed to by such applicant.

(2) Not later than one hundred eighty days after the first installment due date, including any extension thereof by the commissioner, of the fee required pursuant to subsection (g) of this section, the eligible party shall submit to the commissioner and the Commissioner of Energy and Environmental Protection a brownfield investigation plan and remediation schedule that is signed and stamped by a licensed environmental professional. Unless otherwise approved in writing by the Commissioner of Energy and Environmental Protection, such brownfield investigation plan and remediation schedule shall provide that (A) the investigation shall be completed not later than two years after the first installment due date, including any extension thereof by the commissioner, of the fee required pursuant to subsection (g) of this section, (B) remediation shall be initiated not later than three years from the first installment due date, including any extension thereof by the commissioner, of the fee required pursuant to subsection (g) of this section, and (C) remediation shall be completed sufficiently to support either a verification or interim verification not later than eight years after the first installment due date, including any extension thereof by the commissioner, of the fee required pursuant to subsection (g) of this section. The schedule shall also include a schedule for providing public notice of the remediation prior to the initiation of such remediation in accordance with subdivision (1) of subsection (j) of this section. Not later than two years after the first installment due date, including any extension thereof by the commissioner, of the fee required pursuant to subsection (g) of this section, unless the Commissioner of Energy and Environmental Protection has specified a later day, in writing, the

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eligible party shall submit to the Commissioner of Energy and Environmental Protection documentation, approved in writing by a licensed environmental professional and in a form prescribed by the Commissioner of Energy and Environmental Protection, that the investigation of the property has been completed in accordance with prevailing standards and guidelines. Not later than three years after the first installment due date, including any extension thereof by the commissioner, of the fee required pursuant to subsection (g) of this section, unless the Commissioner of Energy and Environmental Protection has specified a later day, in writing, the eligible party shall notify the Commissioner of Energy and Environmental Protection and the commissioner in a form prescribed by the Commissioner of Energy and Environmental Protection that the remediation has been initiated, and shall submit to the Commissioner of Energy and Environmental Protection a remedial action plan, approved in writing by a licensed environmental professional in a form prescribed by the Commissioner of Energy and Environmental Protection. Not later than eight years after the first installment due date, including any extension thereof by the commissioner, of the fee required pursuant to subsection (g) of this section, unless the Commissioner of Energy and Environmental Protection has specified a later day, in writing, the eligible party shall complete remediation of the property and submit the remedial action report and verification or interim verification to the Commissioner of Energy and Environmental Protection and the commissioner. The Commissioner of Energy and Environmental Protection shall grant a reasonable extension if the eligible party demonstrates to the satisfaction of the Commissioner of Energy and Environmental Protection that: (i) Such eligible party has made reasonable progress toward investigation and remediation of the eligible property; and (ii) despite best efforts, circumstances beyond the control of the eligible party have significantly delayed the remediation of the eligible property.



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(3) The eligible party may complete the investigation and remediation of a portion of the eligible property and submit a verification or an interim verification for such portion to the Commissioner of Energy and Environmental Protection and the commissioner, provided the eligible party (A) is in compliance with the provisions of this section and the brownfield investigation plan and remediation schedule, and (B) has, prior to submitting such verification or interim verification for such portion: (i) Timely submitted documentation to the Commissioner of Energy and Environmental Protection that the investigation of the entire property is complete in accordance with prevailing standards and guidelines, in accordance with subdivision (2) of this subsection, (ii) timely notified the Commissioner of Energy and Environmental Protection that the remediation was initiated and submitted to said commissioner a remedial action plan for the entire property originally accepted into the brownfield remediation and revitalization program, in accordance with subdivision (2) of this subsection, and (iii) demonstrated to the satisfaction of the Commissioner of Energy and Environmental Protection and the commissioner that it will complete the remediation of the remainder of the eligible property in accordance with the remediation schedule. For any verification or interim verification of a portion of the eligible property, the remediation of releases on and from such portion shall extend to the boundaries of the eligible property as a whole.

(4) An eligible party who submits an interim verification for an eligible property or a portion of an eligible property, and any subsequent owner of such eligible property, shall, until the remediation standards for groundwater are achieved, (A) operate and maintain the long-term remedy for groundwater in accordance with the remedial action plan, the interim verification and any approvals issued by the Commissioner of Energy and Environmental Protection, (B) prevent exposure to any groundwater plume containing a regulated substance

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in excess of the remediation standards on the property, (C) take all reasonable action to contain any groundwater plume on the property, and (D) submit annual status reports to the Commissioner of Energy and Environmental Protection and the commissioner.

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

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

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

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

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

(9) (A) Not later than sixty days after receiving a remedial action report signed and stamped by a licensed environmental professional and a verification or interim verification for the eligible property or a portion of the eligible property, the Commissioner of Energy and Environmental Protection shall notify the eligible party and the commissioner whether the Commissioner of Energy and Environmental Protection will conduct an audit of such remedial action. [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 and verification or interim verification, plus any additional time permitted pursuant to subparagraph (B) of this subdivision, except as provided in subparagraph (C) of this subdivision. Not later than fourteen days after

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completion of an audit, the Commissioner of Energy and Environmental Protection shall send written audit findings to the eligible party, the commissioner and the licensed environmental professional. The audit findings may approve or disapprove the report, provided any disapproval shall set forth the reasons for such disapproval.

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

(C) The Commissioner of Energy and Environmental Protection shall not conduct an audit of a verification or interim verification for the eligible property or a portion of the eligible property pursuant to this subdivision after one hundred eighty days from receipt of such verification, plus any additional time permitted pursuant to subparagraph (B) of this subdivision, unless (i) said commissioner has reason to believe that a verification was obtained through the submittal of materially inaccurate or erroneous information, or otherwise misleading information material to the verification or that material misrepresentations were made in connection with the submittal of the verification, (ii) any post-verification monitoring or operations and maintenance is required as part of a verification and has not been done, (iii) a verification that relies upon an environmental use restriction was not recorded on the land records of the municipality in which such land is located in accordance with section 22a-133o and applicable regulations, (iv) said commissioner determines that there has been a violation of law material to the verification, or (v) said commissioner

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determines that information exists indicating that the remediation may have failed to prevent a substantial threat to public health or the environment for releases on the property.

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

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

(m) (1) An eligible party who has been accepted into the brownfield remediation and revitalization program shall have no obligation as part of its plan and schedule to characterize, abate and remediate any release of a regulated substance outside the boundaries of the eligible property originally accepted into the brownfield remediation and revitalization program, provided the notification requirements of section 22a-6u pertaining to significant environmental hazards shall continue to apply to the property and the eligible party shall not be required to characterize, abate or remediate any such significant environmental hazard outside the boundaries of the subject property unless such significant environmental hazard arises from the actions of the eligible party after its acquisition of or control over the property from which

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such significant environmental hazard has emanated outside its own boundaries. If an eligible party who has been accepted into the brownfield remediation and revitalization program conveys or otherwise transfers its ownership of the subject property and such eligible party is in compliance with the provisions of this section and the brownfield investigation plan and remediation schedule at the time of conveyance or transfer of ownership, the provisions of this section shall apply to such transferee, if such transferee meets the eligibility criteria set forth in this section, complies with the obligations undertaken by the eligible party under this section, and timely pays the greater of: (A) Any fee required by subsection (g) or (h) of this section not yet paid by such eligible party, or (B) a fee of ten thousand dollars. In such case, all references to applicant or eligible party shall mean the subsequent owner or transferee.

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

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

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

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

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

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

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



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

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

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comprehensive brownfield remediation and revitalization program shall have no liability to the state or any person for any future investigation and remediation of the release of any regulated substance at the eligible property addressed in the verification or interim verification, provided the immediate prior owner has complied with any legal obligation such owner had with respect to investigation and remediation of releases at and from the property, and provided further the immediate prior owner shall retain any and all liability such immediate prior owner would otherwise have for the investigation and remediation of the release of any regulated substance beyond the boundary of the eligible property. In any event, the immediate prior owner shall remain liable for (A) penalties or fines, if any, relating to the release of any regulated substance at or from the eligible property, (B) costs and expenses, if any, recoverable or reimbursable pursuant to sections 22a-134b, 22a-451 and 22a-452, and (C) obligations of the immediate prior owner as a certifying party on a Form III or IV submitted pursuant to sections 22a-134 to 22a-134e, inclusive.

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

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

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