



Substitute House Bill No. 6830

Public Act No. 15-193

AN ACT CONCERNING THE REMEDIAL ACTION AND REDEVELOPMENT MUNICIPAL GRANT PROGRAM, THE TARGETED BROWNFIELD DEVELOPMENT LOAN PROGRAM AND THE REMEDIATION OF STATE-OWNED AND FORMERLY STATE-OWNED BROWNFIELDS.

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 Section 32-763 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2015*):

(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 to municipalities 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 shall not exceed four million dollars.

(b) A grant applicant shall submit an application to the Commissioner of Economic and Community Development on forms provided by the commissioner and with such information the commissioner deems necessary, including, but not limited to: (1) A description of the proposed project; (2) an explanation of the expected

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benefits of the project in relation to the purposes of this section; (3) information concerning the financial and technical capacity of the applicant to undertake the proposed project; (4) a project budget; and (5) 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) The commissioner may approve, reject or modify any application properly submitted in accordance with the provisions of this section. In reviewing an application and determining the amount of the grant, if any, to be provided, the commissioner shall consider the following criteria: (1) The availability of funds; (2) the estimated costs of assessing and remediating the brownfield, if known; (3) the relative economic condition of the municipality in which the brownfield is located; (4) the relative need of the project for financial assistance; (5) the degree to which a grant under this section is necessary to induce the applicant to undertake the project; (6) the public health and environmental benefits of the project; (7) 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) the time frame in which the contamination occurred; (9) the relationship of the applicant to the person or entity that caused the contamination; (10) the length of time the brownfield has been abandoned; (11) the taxes owed and the projected revenues that may be restored to the community; (12) the relative need for assessment of the brownfield within the municipality or region; and (13) such other criteria as the commissioner may establish consistent with the purposes of this section.

(d) The commissioner shall award grants on a competitive basis, based on a request for applications occurring on or before October

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first, annually. The commissioner may increase the frequency of requests for applications and awards depending upon the number of applicants and the availability of funding.

[(e) A grant recipient may make low-interest loans to a brownfield redeveloper if (1) such recipient coapplied for the grant under this section with such brownfield redeveloper, and (2) not later than ninety days after receiving the grant, such recipient enters into a written agreement with such brownfield redeveloper for an identified future reuse of such brownfield after remediation. Loan principal and interest payments shall be returned to the brownfield remediation and development account established pursuant to section 32-762, minus twenty per cent of the principal, which the eligible grant recipient shall retain. If the eligible grant recipient provides a loan, such loan may be secured by a state or municipal lien on the property.

(f) Any recipient of a loan pursuant to subsection (e) of this section, as a condition of such loan, shall enter a program for remediation of the property pursuant to section 22a-133x, 22a-133y, 32-768 or 32-769.]

(e) The commissioner, in consultation with the Commissioner of Energy and Environmental Protection and following the award of a grant to a municipality or economic development agency pursuant to subsections (c) and (d) of this section, may award an additional grant to such municipality or economic development agency to enable the completion of a brownfield remediation or assessment project, provided such project is identified as a priority by said commissioners and such additional grant funds (1) 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 subsection (b) of this section, (2) do not exceed fifty per cent of the original grant, and (3) will not result in more than four million dollars in total grants being awarded for a single brownfield remediation or assessment project.

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(f) The commissioner may award grants to any municipality, 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.

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

Sec. 2. Section 32-765 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2015*):

(a) The Department of Economic and Community Development shall establish a targeted brownfield development loan program to provide low-interest loans for the eligible costs of brownfield remediation projects to potential brownfield purchasers and current brownfield owners who (1) have no direct or related liability for the conditions of the brownfield, and (2) seek to develop brownfields for purposes of reducing blight or for industrial, commercial, residential or mixed use development.

(b) Notwithstanding subsection (a) of this section, a current owner of a brownfield on which a manufacturing facility is located shall be eligible for a loan under this section, provided neither such owner nor any partner, member, officer, manager, director, shareholder, subsidiary or affiliate of such owner (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,

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uncontrolled loss, seepage or filtration of the hazardous substance, material or waste; (3) is a member, officer, manager, director, shareholder, subsidiary, successor of, 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) has been found guilty of knowingly or wilfully violating any environmental law.

(c) An applicant for a loan pursuant to this section shall submit an application to the Commissioner of Economic and Community Development on forms provided by the commissioner and with such information the commissioner deems necessary, including, but not limited to: (1) A description of the proposed project; (2) an explanation of the expected benefits of the project in relation to the purposes of this section; (3) information concerning the financial and technical capacity of the applicant to undertake the proposed project; (4) a project budget; and (5) a description of the condition of the brownfield involved, including the results of any environmental assessment of the brownfield in the possession of or available to the applicant. The commissioner shall provide loans based upon project merit and viability, the economic and community development opportunity, municipal support, contribution to the community's tax base, past experience of the applicant, compliance history and ability to pay.

(d) If a loan recipient 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 if the loan funds are used 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.

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(e) Loans made pursuant to this section shall have such terms and conditions and be subject to such eligibility and loan approval criteria as determined by the commissioner. Such loans shall be for a period not to exceed twenty years.

(f) If a loan recipient sells a property subject to a loan granted pursuant to this section before the loan is repaid, the loan shall be payable upon closing of such sale, according to its terms, unless the commissioner agrees otherwise. The commissioner may carry the loan forward as an encumbrance to the purchaser with the same terms and conditions as the original loan.

(g) A loan recipient may be eligible for a loan of not more than [two] four million dollars per year, [for not more than two years,] subject to agency underwriting and reasonable and customary requirements to assure performance. If additional funds are required, the commissioner may recommend that the project be funded through other programs administered by the commissioner.

(h) The commissioner may modify the terms of any loan made pursuant to this section to provide for forgiveness of interest, principal, or both, or delay in repayment of interest, principal, or both, when the commissioner determines such forgiveness or delay is in the best interest of the state from an economic or community development perspective.

(i) The provisions of sections 32-5a and 32-701 shall not apply to loans provided pursuant to this section.

Sec. 3. Section 24 of public act 11-1 of the October special session is repealed and the following is substituted in lieu thereof (*Effective July 1, 2015*):

(a) The Department of Economic and Community Development, in consultation with the Department of Energy and Environmental

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Protection, shall identify, market and remediate five geographically diverse state-owned or formerly state-owned brownfields from the priority [brownfield] list established pursuant to subsection (b) of this section. Selection of brownfields shall be in accordance with the provisions of subsection (c) of this section.

(b) On or before January 1, [2012] 2016, the Department of Economic and Community Development shall develop a priority list of [eligible] state-owned and formerly state-owned brownfields to be marketed and remediated based on criteria to include, but not be limited to, [state-owned] brownfields that (1) have economic development viability, (2) [have a predetermined end use, (3)] are located in a municipality with an unemployment rate that exceeds the state's average unemployment rate, [(4)] (3) have access to transportation or other infrastructure, [(5)] (4) are of an environmentally urgent nature, [(6)] (5) the development of which would be consistent with the state plan of conservation and development, and [(7)] (6) the transfer of which to a private party would not conflict with state law or process.

(c) The Department of Economic and Community Development shall solicit proposals from companies interested in purchasing any of the state-owned brownfields on the priority list developed pursuant to subsection (b) of this section. The Commissioner of Economic and Community Development (1) shall review proposals, match up to five of the state-owned brownfields with companies, and sell, notwithstanding chapter 59 of the general statutes, prepermitted, cleaned sites to the selected companies, and (2) may remediate [one of] the brownfields on said priority list without identification of a specific commercial purchaser.

Sec. 4. Section 25 of public act 11-1 of the October special session is repealed and the following is substituted in lieu thereof (*Effective July 1, 2015*):

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(a) For the purposes described in subsection (b) of this section, the State Bond Commission shall have the power, from time to time to authorize the issuance of bonds of the state in one or more series and in principal amounts not exceeding in the aggregate twenty million dollars.

(b) The proceeds of the sale of said bonds, to the extent of the amount stated in subsection (a) of this section, shall be used by the Department of Economic and Community Development for the purpose of identifying, marketing and remediating five [state-owned] brownfields pursuant to section 24 of [this act] public act 11-1 of the October special session.

(c) All provisions of section 3-20 of the general statutes, or the exercise of any right or power granted thereby, which are not inconsistent with the provisions of this section are hereby adopted and shall apply to all bonds authorized by the State Bond Commission pursuant to this section, and temporary notes in anticipation of the money to be derived from the sale of any such bonds so authorized may be issued in accordance with said section 3-20 and from time to time renewed. Such bonds shall mature at such time or times not exceeding twenty years from their respective dates as may be provided in or pursuant to the resolution or resolutions of the State Bond Commission authorizing such bonds. None of said bonds shall be authorized except upon a finding by the State Bond Commission that there has been filed with it a request for such authorization which is signed by or on behalf of the Secretary of the Office of Policy and Management and states such terms and conditions as said commission, in its discretion, may require. Said bonds issued pursuant to this section shall be general obligations of the state and the full faith and credit of the state of Connecticut are pledged for the payment of the principal of and interest on said bonds as the same become due, and accordingly and as part of the contract of the state with the holders of

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said bonds, appropriation of all amounts necessary for punctual payment of such principal and interest is hereby made, and the State Treasurer shall pay such principal and interest as the same become due.

Sec. 5. Section 32-760 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2015*):

As used in this section and sections 32-761 to 32-769, inclusive:

(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, [E1527-05, as may be amended from time to time] in effect on the date such person acquired the property. In the case of property 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

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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;

(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:

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(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;

(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

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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 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;

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(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, limited liability company, municipality, economic development agency, agency or political or administrative subdivision of the state or any other legal entity;

(15) "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;

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

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

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

(19) "State" means the state of Connecticut;

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

(21) "Verification" has the same meaning as provided in section 22a-134.

Approved July 2, 2015