



House Bill No. 7001

September Special Session, Public Act No. 20-9

AN ACT REVISING PROVISIONS OF THE TRANSFER ACT AND AUTHORIZING THE DEVELOPMENT AND IMPLEMENTATION OF A RELEASE-BASED REMEDIATION PROGRAM.

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

Section 1. Section 22a-134 of the 2020 supplement to the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

For the purposes of this section and sections 22a-134a to [22a-134d] 22a-134e, inclusive, and sections 22a-134h and 22a-134i:

(1) "Transfer of establishment" means any transaction or proceeding, on or before the date regulations are adopted pursuant to section 19 of this act, through which an establishment undergoes a change in ownership, but does not mean:

(A) Conveyance or extinguishment of an easement;

(B) Conveyance of an establishment through (i) a foreclosure, as defined in subsection (b) of section 22a-452f, (ii) foreclosure of a municipal tax lien [or through] pursuant to section 12-181, (iii) a tax warrant sale pursuant to section 12-157, (iv) a transfer of title to a municipality by deed in lieu of foreclosure, (v) an exercise of eminent

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domain by a municipality or pursuant to section 8-128, 8-169e or 8-193 or by condemnation pursuant to section 32-224 or purchase pursuant to a resolution by the legislative body of a municipality authorizing the acquisition through eminent domain for establishments that also meet the definition of a brownfield, as defined in section 32-760, or (vi) a subsequent transfer by such municipality that has [foreclosed on the property, foreclosed municipal tax liens or that has acquired title to the property through section 12-157, or is within the pilot program established in subsection (c) of section 32-9cc of the general statutes, revision of 1958, revised to January 1, 2013, or] acquired the property pursuant to any mechanism described in subparagraphs (B)(i) to (B)(iii), inclusive, of this subdivision or pursuant to the remedial action and redevelopment municipal grant program established in section 32-763, [or has acquired such property through the exercise of eminent domain by a municipality or pursuant to section 8-128, 8-169e or 8-193 or by condemnation pursuant to section 32-224 or a resolution adopted in accordance with this subparagraph,] provided [(i) (I) the party acquiring the property from the municipality did not establish, create or contribute to the contamination at the establishment and is not affiliated with any person who established, created or contributed to such contamination or with any person who is or was an owner or certifying party for the establishment, and [(ii) (II) on or before the date the party acquires the property from the municipality, such party or municipality enters and subsequently remains in the voluntary remediation program administered by the commissioner pursuant to section 22a-133x and remains in compliance with schedules and approvals issued by the commissioner. For purposes of this subparagraph, subsequent transfer by a municipality includes any transfer to, from or between a municipality, municipal economic development agency or entity created or operating under chapter 130 or 132, a nonprofit economic development corporation formed to promote the common good, general welfare and economic development of a municipality that is funded, either directly or through in-kind services, in part by a municipality, a

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nonstock corporation or limited liability company controlled or established by a municipality, municipal economic development agency or entity created or operating under chapter 130 or 132, or a Connecticut brownfield land bank;

(C) Conveyance of a deed in lieu of foreclosure to a lender, as defined in and that qualifies for the secured lender exemption pursuant to subsection (b) of section 22a-452f;

(D) Conveyance of a security interest, as defined in subdivision (7) of subsection (b) of section 22a-452f;

(E) Termination of a lease and conveyance, assignment or execution of a lease for a period less than ninety-nine years including conveyance, assignment or execution of a lease with options or similar terms that will extend the period of the leasehold to ninety-nine years, or from the commencement of the leasehold, ninety-nine years, including conveyance, assignment or execution of a lease with options or similar terms that will extend the period of the leasehold to ninety-nine years, or from the commencement of the leasehold;

(F) Any change in ownership approved by the Probate Court;

(G) Devolution of title to a surviving joint tenant, or to a trustee, executor or administrator under the terms of a testamentary trust or will, or by intestate succession;

(H) Corporate reorganization not substantially affecting the ownership of the establishment;

(I) The issuance of stock or other securities of an entity which owns or operates an establishment;

(J) The transfer of stock, securities or other ownership interests representing [less than forty] fifty per cent or less of the ownership of

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the entity that owns or operates the establishment;

(K) Any conveyance of an interest in an establishment where the transferor is the sibling, spouse, child, parent, grandparent, child of a sibling or sibling of a parent of the transferee;

(L) Conveyance of an interest in an establishment to a trustee of an inter vivos trust created by the transferor solely for the benefit of one or more siblings, spouses, children, parents, grandchildren, children of a sibling or siblings of a parent of the transferor;

(M) Any conveyance of a portion of a parcel upon which portion no establishment is or has been located and upon which there has not occurred a discharge, spillage, uncontrolled loss, seepage or filtration of hazardous waste, provided either the area of such portion is not greater than fifty per cent of the area of such parcel or written notice of such proposed conveyance and an environmental condition assessment form for such parcel is provided to the commissioner sixty days prior to such conveyance;

(N) Conveyance of a service station, as defined in subdivision (5) of this section;

(O) Any conveyance of an establishment which, prior to July 1, 1997, had been developed solely for residential use and such use has not changed;

(P) Any conveyance of an establishment to any entity created or operating under chapter 130 or 132, or to an urban rehabilitation agency, as defined in section 8-292, or to a municipality under section 32-224, or to Connecticut Innovations, Incorporated or any subsidiary of the corporation;

(Q) Any conveyance of a parcel in connection with the acquisition of properties to effectuate the development of the overall project, as

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defined in section 32-651;

(R) The conversion of a general or limited partnership to a limited liability company;

(S) The transfer of general partnership property held in the names of all of its general partners to a general partnership which includes as general partners immediately after the transfer all of the same persons as were general partners immediately prior to the transfer;

(T) The transfer of general partnership property held in the names of all of its general partners to a limited liability company which includes as members immediately after the transfer all of the same persons as were general partners immediately prior to the transfer;

(U) Acquisition of an establishment by any governmental or quasi-governmental condemning authority;

[(V) Conveyance of any real property or business operation that would qualify as an establishment solely as a result of (i) the generation of more than one hundred kilograms of universal waste in a calendar month, (ii) the storage, handling or transportation of universal waste generated at a different location, or (iii) activities undertaken at a universal waste transfer facility, provided any such real property or business operation does not otherwise qualify as an establishment; there has been no discharge, spillage, uncontrolled loss, seepage or filtration of a universal waste or a constituent of universal waste that is a hazardous substance at or from such real property or business operation; and universal waste is not also recycled, treated, except for treatment of a universal waste pursuant to 40 CFR 273.13(a)(2) or (c)(2) or 40 CFR 273.33 (a)(2) or (c)(2), or disposed of at such real property or business operation;]

[(W)] (V) Conveyance of a unit in a residential common interest community; [in accordance with section 22a-134i;]

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[(X) Acquisition of an establishment that is in the abandoned brownfield cleanup program established pursuant to section 32-768 and all subsequent transfers of the establishment, provided the establishment is undergoing remediation or is remediated in accordance with subsection (f) of section 32-768;]

(W) Acquisition and all subsequent transfers of an establishment (i) that is in the abandoned brownfield cleanup program established pursuant to section 32-768 or the brownfield remediation and revitalization program established pursuant to section 32-769, provided such establishment is in compliance with any applicable provisions of the general statutes, or (ii) by a Connecticut brownfield land bank, provided such establishment was entered into a remediation or liability relief program under section 22a-133x, 22a-133y, 32-768 or 32-769 and the transferor of such establishment is in compliance with such program at the time of transfer of such establishment or has completed the requirements of such program;

[(Y)] (X) Any transfer of title from [a bankruptcy court or] a municipality to a nonprofit organization or from any entity to a nonprofit organization, as ordered or approved by a bankruptcy court;

[(Z) Acquisition of an establishment that is in the brownfield remediation and revitalization program and all subsequent transfers of the establishment, provided the establishment is in compliance with the brownfield investigation plan and remediation schedule, the commissioner has issued a no audit letter or successful audit closure letter in response to a verification or interim verification submitted regarding the remediation of such establishment under the brownfield remediation and revitalization program, or a one-hundred-eighty-day period has expired since a verification or interim verification submitted regarding the remediation of such establishment under the brownfield remediation and revitalization program without an audit decision from the Commissioner of Energy and Environmental Protection;

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(AA) Conveyance of an establishment in connection with the acquisition of properties to effectuate the development of a project certified and approved pursuant to section 32-9v, provided any such property is investigated and remediated in accordance with section 22a-133y;]

[(BB)] (Y) Conveyance from the Department of Transportation to the Connecticut Airport Authority of any properties comprising (i) Bradley International Airport and all related improvements and facilities now in existence and as hereafter acquired, added, extended, improved and equipped, including any property or facilities purchased with funds of, or revenues derived from, Bradley International Airport, and any other property or facilities allocated by the state, the Connecticut Airport Authority or otherwise to Bradley International Airport, (ii) the state-owned and operated general aviation airports, including Danielson Airport, Groton/New London Airport, Hartford Brainard Airport, Waterbury-Oxford Airport and Windham Airport and any such other airport as may be owned, operated or managed by the Connecticut Airport Authority and designated as general aviation airports, (iii) any other airport as may be owned, operated or managed by the Connecticut Airport Authority, and (iv) any airport site or any part thereof, including, but not limited to, any restricted landing areas and any air navigation facilities; or

[(CC) Conveyance of an establishment to a Connecticut brownfield land bank and all subsequent transfers of such establishment, provided (i) such establishment was entered into a remediation or liability relief program under section 22a-133x, 22a-133y, 32-768, or 32-769, and the conveyor or transferor of such establishment is in compliance with such program at the time of transfer of such establishment, and (ii) none of the activities described in subdivision (3) of this section were conducted at such establishment after the date such establishment was entered into such remediation or liability relief program;]

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(Z) The change in the name of a limited liability company as an amendment to such company's certificate of organization, pursuant to section 34-247a.

(2) "Commissioner" means the Commissioner of Energy and Environmental Protection or the designated agent of the commissioner;

(3) "Establishment" means any real property at which or any business operation from which (A) on or after November 19, 1980, there was generated more than one hundred kilograms of hazardous waste in any one month, (B) hazardous waste generated at a different location was recycled, reclaimed, reused, stored, handled, treated, transported or disposed of, (C) the process of dry cleaning was conducted on or after May 1, 1967, (D) furniture stripping was conducted on or after May 1, 1967, or (E) a vehicle body repair facility was located on or after May 1, 1967. For the purposes of subparagraph (A) of this subdivision, "hazardous waste" does not include universal waste. For the purposes of filing a Form I, Form II, Form III or Form IV after October 1, 2020, if a property or business operation is an establishment, such establishment includes the entire parcel or parcels on which any such establishment is located, except as otherwise provided in this subdivision. If a property is or has been leased to two or more tenants or is or was simultaneously occupied by the owner of such property and a tenant, "establishment" means the areas on which the business operation is or was located, including the entire portion of the property leased to such business operation and any other area of such property used or occupied by such business operation. If a property is a commercial or industrial unit in a common interest community, "establishment" means the unit, the limited common elements under exclusive use of the unit owner on which the establishment is or was operated and any portion of the common area used or occupied by such unit owner. If a business operation is an establishment, such establishment includes the real property on which such business operation is or was located and the

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entire portion of such property used or occupied by such business operation. "Establishment" does not include any real property or any business operation from which more than one hundred kilograms of hazardous waste was generated in any one month solely as a result of either:

(i) The one-time generation of hazardous waste in any one month, as a result of either the first time such waste was generated or such a one-time generation since the last time a Form I, Form II, Form III or Form IV was required to be submitted; or

(ii) One or more of the following:

(I) Remediation of polluted soil, groundwater or sediment;

(II) The removal or abatement of building materials or removal of materials used for maintaining or operating a building;

(III) The removal of unused chemicals or materials as a result of the emptying or clearing out of a building, provided such removal is supported by facts reasonably established at the time of such removal; or

(IV) The complete cessation of a business operation, provided the waste is removed not later than ninety days after such cessation and such cessation is supported by facts reasonably established at the time of such cessation. "Establishment" does not include any real property or business operation that qualifies as an establishment solely as a result of the generation of more than one hundred kilograms of universal waste in a calendar month, the storage, handling or transportation of universal waste generated at a different location, or activities undertaken at a universal waste transfer facility, provided any such real property or business operation does not otherwise qualify as an establishment; there has been no discharge, spillage, uncontrolled loss, seepage or filtration of a universal waste or a constituent of universal waste that is a

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hazardous substance at or from such real property or business operation; and universal waste is not also recycled, treated, except for treatment of a universal waste pursuant to 40 CFR 273.13(a)(2) or (c)(2) or 40 CFR 273.33(a)(2) or (c)(2), or disposed of at such real property or business operation. When transferring real property or a business that comprises the entire establishment, such real property or business shall not be an establishment if the conditions set forth in subdivisions (1) and (2) of subsection (l) of section 22a-134a apply to such real property or business, and the time for the commissioner to conduct an audit pursuant to subdivision (3) of subsection (g) of section 22a-134a passed without the commissioner requiring any further action or the commissioner issued a no audit letter or a successful audit closure letter pursuant to subdivision (3) of subsection (g) of section 22a-134a;

(4) "Hazardous waste" means any waste which is (A) hazardous waste identified in accordance with Section 3001 of the federal Resource Conservation and Recovery Act of 1976, 42 USC 6901 et seq., (B) hazardous waste identified by regulations adopted by the Commissioner of Energy and Environmental Protection, or (C) polychlorinated biphenyls in concentrations greater than fifty parts per million except that sewage, sewage sludge and lead paint abatement wastes shall not be considered to be hazardous waste for the purposes of this section and sections 22a-134a to 22a-134d, inclusive;

(5) "Service station" means a retail operation involving the resale of motor vehicle fuel including, but not limited to, gasoline, diesel fuel and kerosene and which operation does not otherwise meet the definition of an establishment;

(6) "Certifying party" means, in the case of a Form III or Form IV, a person associated with the transfer of an establishment who signs a Form III or Form IV and who agrees to investigate the parcel in accordance with prevailing standards and guidelines and to remediate pollution caused by any release at the establishment in accordance with

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the remediation standards and, in the case of a Form I or Form II, a transferor of an establishment who signs the certification on a Form I or II;

(7) "Party associated with the transfer of an establishment" means (A) the present or past owner or operator of the establishment, (B) the owner of the real property on which the establishment is located, (C) the transferor, transferee, lender, guarantor or indemnitor, (D) the business entity which operates or operated the establishment, or (E) the state;

(8) "Remediation standards" means regulations adopted by the commissioner pursuant to section 22a-133k;

(9) "Parcel" means piece, parcel or tract of land which constitutes an establishment, as defined in subdivision (3) of this section, or on which is or was located any business operation which constitutes an establishment;

(10) "Form I" means a written certification by the transferor of an establishment on a form prescribed and provided by the commissioner that: (A) No discharge, spillage, uncontrolled loss, seepage or filtration of hazardous waste or a hazardous substance has occurred at the establishment which certification is based on an investigation of the parcel in accordance with prevailing standards and guidelines, or (B) no discharge spillage, uncontrolled loss, seepage or filtration of hazardous waste has occurred at the establishment based upon an investigation of the parcel in accordance with the prevailing standards and guidelines and the commissioner has determined, in writing, or a licensed environmental professional has verified, in writing, that any discharge, spillage, uncontrolled loss, seepage or filtration of a hazardous substance has been remediated in accordance with the remediation standards and that since any such written approval or verification, including any approval or verification for a portion of an establishment, no discharge, spillage, uncontrolled loss, seepage or filtration of

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hazardous waste or hazardous substances has occurred at any portion of the establishment;

(11) "Form II" means a written certification by the transferor of an establishment on a form prescribed and provided by the commissioner that the parcel has been investigated in accordance with prevailing standards and guidelines and that (A) any pollution caused by a discharge, spillage, uncontrolled loss, seepage or filtration of hazardous waste or a hazardous substance which has occurred from the establishment has been remediated in accordance with the remediation standards and that the remediation has been approved in writing by the commissioner or has been verified pursuant to section 22a-133x or [section] 22a-134a₂ in writing₂ attached to such form by a licensed environmental professional to have been performed in accordance with the remediation standards and that since any such written approval or verification, including any approval or verification for a portion of an establishment, no discharge, spillage, uncontrolled loss, seepage or filtration of hazardous waste or hazardous substances has occurred at any portion of the establishment, (B) the commissioner has determined in writing or a licensed environmental professional has verified pursuant to section 22a-133x or [section] 22a-134a₂ in writing, attached to the form that no remediation is necessary to achieve compliance with the remediation standards, or (C) a Form IV verification was previously submitted to the commissioner and, since the date of the submission of the Form IV, no discharge, spillage, uncontrolled loss, seepage or filtration of hazardous waste or a hazardous substance has occurred at the establishment, which certification is based on an investigation of the parcel in accordance with prevailing standards and guidelines;

(12) "Form III" means a written certification signed by a certifying party on a form prescribed and provided by the commissioner, which certification states that (A) a discharge, spillage, uncontrolled loss, seepage or filtration of hazardous waste or a hazardous substance has

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occurred at the establishment or the environmental conditions at the establishment are unknown, and (B) that the person signing the certification agrees to investigate the parcel in accordance with prevailing standards and guidelines and to remediate pollution caused by any release of a hazardous waste or hazardous substance from the establishment in accordance with the remediation standards;

(13) "Form IV" means a written certification signed by one or more certifying parties on a form prescribed and provided by the commissioner and which is accompanied by a written determination by the commissioner or by a verification by a licensed environmental professional pursuant to section 22a-134a or 22a-133x, which certification states and is accompanied by documentation demonstrating that the parcel has been investigated in accordance with prevailing standards and guidelines and that (A) there has been a discharge, spillage, uncontrolled loss, seepage or filtration of hazardous waste or a hazardous substance on the establishment, and (B) all actions to remediate any pollution caused by any release at the establishment have been taken in accordance with the remediation standards except [postremediation] groundwater monitoring [, natural attenuation monitoring] or the recording of an environmental [land] use restriction, and (C) the person or persons signing the certification agree, in accordance with the representations made in the form, to conduct [postremediation] groundwater monitoring [or natural attenuation monitoring] in accordance with the remediation standards and if further investigation and remediation are necessary to take further action to investigate the establishment in accordance with prevailing standards and guidelines and to remediate the establishment in accordance with the remediation standards;

(14) "Person" means person, as defined in section 22a-2;

(15) "Remediate" means to contain, remove or abate pollution, potential sources of pollution and substances in soil or sediment which

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pose an unacceptable risk to human health or the environment and includes, but is not limited to, the reduction of pollution by natural attenuation;

(16) "Licensed environmental professional" means an environmental professional licensed pursuant to section 22a-133v;

(17) "Environmental condition assessment form" means a form prescribed and provided by the commissioner, prepared under the supervision of a licensed environmental professional, and executed by (A) the certifying party under sections 22a-134 to 22a-134e, inclusive, or (B) the owner of the property under section 22a-133x which form describes the environmental conditions at the parcel;

(18) "Pollution" means pollution, as defined in section 22a-423;

(19) "Verification" means the rendering of a written opinion by a licensed environmental professional on a form prescribed by the commissioner that an investigation of the parcel has been performed in accordance with prevailing standards and guidelines and that the establishment has been remediated in accordance with the remediation standards;

(20) "Vehicle" means any motorized device for conveying persons or objects except for an aircraft, boat, railroad car or engine, or farm tractor;

(21) "Business operation" means any business that has, or any series of substantially similar businesses that have, operated continuously or with only brief interruption on the same parcel, either with a single owner or successive owners;

(22) "Corporate reorganization not substantially affecting the ownership of an establishment" means implementation of a business plan to restructure a corporation through a merger, spin-off or other plan or reorganization under which the direct owner of the

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establishment does not change;

(23) "Form IV verification" means the rendering of a written opinion by a licensed environmental professional, after a Form IV has been filed, that [postremediation] groundwater monitoring [, natural attenuation] or the recording of an environmental [land] use restriction has been completed in accordance with the Form IV;

(24) "Hazardous substance" means hazardous substance, as defined in Section 101 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, 42 USC 9601, or a petroleum product or by-product for which there are remediation standards adopted pursuant to section 22a-133k or for which such remediation standards have a process for calculating the numeric criteria of such substance;

(25) "Sediment" means unconsolidated material occurring in a stream, pond, wetland estuary or other water body;

(26) "Universal waste" means batteries, pesticides, thermostats, lamps and used electronics regulated as a universal waste under regulations adopted pursuant to subsection (c) of section 22a-449. "Universal waste" does not mean (A) batteries, pesticides, thermostats and lamps that are not covered under 40 CFR Part 273, or (B) used electronics that are not regulated as a universal waste under regulations adopted pursuant to subsection (c) of section 22a-449;

(27) "Universal waste transfer facility" means any facility related to transportation, including loading docks, parking areas, storage areas and other similar areas where shipments of universal waste are held during the normal course of transportation for ten days or less;

(28) "Interim verification" means a written opinion by a licensed environmental professional, on a form prescribed by the commissioner, that (A) the investigation has been performed in accordance with

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prevailing standards and guidelines, (B) the remediation has been completed in accordance with the remediation standards, except that, for remediation standards for groundwater, the selected remedy is in operation but has not achieved the remediation standards for groundwater, (C) identifies the long-term remedy being implemented to achieve groundwater standards, the estimated duration of such remedy, and the ongoing operation and maintenance requirements for continued operation of such remedy, and (D) there are no current exposure pathways to the groundwater area that have not yet met the remediation standards; [.]

(29) "Connecticut brownfield land bank" has the same meaning as provided in section 32-760.

Sec. 2. Subsections (g) to (m), inclusive, of section 22a-134a of the 2020 supplement to the general statutes are repealed and the following is substituted in lieu thereof (*Effective from passage*):

(g) (1) (A) Except as provided in subsection (h) of this section, the certifying party to a Form III shall, not later than seventy-five days after the receipt of the notice that such form is complete or such later date as may be approved in writing by the commissioner, submit a schedule for the investigation of the parcel and remediation of the establishment. Such schedule shall, unless a later date is specified in writing by the commissioner, provide that the investigation shall be completed within two years of the date of receipt of such notice, remediation shall be initiated not later than three years after the date of receipt of such notice and remediation shall be completed sufficient to support either a verification or interim verification within a time frame set forth in subparagraphs (B) and (C) of this subdivision. The schedule shall also include a schedule for providing public notice of the remediation prior to the initiation of such remediation in accordance with subsection (i) of this section. Not later than two years after the date of the receipt of the notice that the Form III is complete, unless the commissioner has

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specified a later day, in writing, the certifying party shall submit to the commissioner documentation, approved in writing by a licensed environmental professional and in a form prescribed by the commissioner, that the investigation has been completed in accordance with prevailing standards and guidelines. Not later than three years after the date of the receipt of the notice that the Form III is complete, unless the commissioner has specified a later day in writing, the certifying party shall notify the commissioner in a form prescribed by the commissioner that the remediation has been initiated, and shall submit to the commissioner a remedial action plan approved in writing by a licensed environmental professional in a form prescribed by the commissioner. Notwithstanding any other provision of this section, the commissioner may determine at any time that the commissioner's review and written approval is necessary and in such case shall notify the certifying party that the commissioner's review and written approval is necessary. Such certifying party shall investigate the parcel and remediate the establishment in accordance with the schedule or the schedule specified by the commissioner.

(B) For a certifying party that submitted a Form III or Form IV before October 1, 2009, when remediation of the entire establishment is complete, the certifying party shall achieve the remediation standards for the establishment sufficient to support a final verification and shall submit to the commissioner a final verification by a licensed environmental professional.

(C) For a certifying party that submits a Form III or Form IV after October 1, 2009, not later than eight years after the date of receipt of the notice that the Form III or Form IV is complete, unless the commissioner has specified a later date in writing, the certifying party shall achieve the remediation standards for the establishment sufficient to support a final or interim verification and shall submit to the commissioner such final or interim verification by a licensed environmental professional.

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Any such final verification may include and rely upon a verification for a portion of the establishment submitted pursuant to subdivision (2) of this subsection. Verifications shall be submitted on a form prescribed by the commissioner. The certifying party may request a verification or interim verification filing extension. The commissioner shall grant a reasonable extension if the certifying party demonstrates to the commissioner's satisfaction that: (i) Such certifying party has made reasonable progress toward investigation and remediation of the establishment; and (ii) despite best efforts, circumstances beyond the control of the certifying party have significantly delayed the remediation of the establishment.

(D) A certifying party who submits an interim verification shall, until the remediation standards for groundwater are achieved, operate and maintain the long-term remedy for groundwater in accordance with the remedial action plan, the interim verification and any approvals by the commissioner, prevent exposure to the groundwater plume and submit annual status reports to the commissioner.

(E) The certifying party to a Form IV shall submit with the Form IV a schedule for the groundwater monitoring and recording of an environmental [land] use restriction, as applicable.

(2) (A) Notwithstanding the date the Form III or Form IV was submitted, if a certifying party completes the remediation for a portion of an establishment, such party may submit a verification or an interim verification by a licensed environmental professional for any such portion of an establishment. The certifying party shall be deemed to have satisfied the requirements of this subsection for that portion of the establishment covered by any such verification or interim verification. If any portion of an establishment for which a verification or interim verification is submitted pursuant to this subdivision is transferred or conveyed or undergoes a change in ownership before remediation of the entire establishment is complete that would not otherwise be subject to

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the provisions of sections 22a-134 to 22a-134e, inclusive, and sections 22a-134h and 22a-134i, the certifying party shall provide notice to the commissioner of such transfer, conveyance or change in ownership not later than thirty days after any such transfer, conveyance or change in ownership.

(B) Any certifying party who submits an interim verification for a portion of an establishment on or before December 31, 2014, shall not be required to record any environmental [land] use restriction, in accordance with section 22a-133o, prior to submitting such interim verification, provided such certifying party shall record such environmental [land] use restriction, in accordance with section 22a-133o, on or before September 1, 2015, or a later date as approved, in writing, by the commissioner. If such environmental [land] use restriction is not recorded on or before September 1, 2015, or such later date, such interim verification shall be invalid and shall not be recognized by the commissioner.

(3) (A) The commissioner may conduct an audit of any verification or interim verification submitted pursuant to this section, but shall not conduct an audit of a final verification of an entire establishment submitted pursuant to subdivision (1) of this subsection after three years have passed since the date of the commissioner's receipt of such final verification unless an exception listed in subparagraph (D) of this subdivision applies. Upon completion of an audit, the commissioner shall send written audit findings to the certifying party and the licensed environmental professional who verified. The three-year time frame for an audit of a final verification of an entire establishment shall apply to such final verifications received by the commissioner after October 1, 2007, and before October 1, 2019.

(B) The commissioner may conduct an audit of any verification or interim verification submitted pursuant to this section, but shall not commence an audit of a final verification of an entire establishment

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submitted pursuant to subdivision (1) of this subsection if more than one year has passed since the date of the commissioner's receipt of such final verification unless an exception listed in subparagraph (D) of this subdivision applies. If the commissioner commences an audit of such final verification, the commissioner shall complete such audit not later than three years after the commissioner's receipt of such final verification subject to such audit, unless an exception listed in subparagraph (D) of this subdivision applies. Upon completion of an audit, the commissioner shall send written audit findings to the certifying party and the licensed environmental professional who verified. The one-year time frame for commencing an audit of a final verification of an entire establishment and the three-year time frame for completion of such an audit shall apply to any final verification received by the commissioner on or after October 1, 2019.

(C) The commissioner may request additional information during an audit. If such information has not been provided to the commissioner within ninety days of the commissioner's request for such information or any longer time as the commissioner may determine in writing, the commissioner may either (i) suspend the audit, which for a final verification shall suspend the running of the three-year audit time frame for completing the audit until such time as the commissioner receives all the information requested, or (ii) complete the audit based upon the information provided in the verification before the request for additional information.

(D) The commissioner may commence an audit of a final verification of an entire establishment pursuant to this subdivision after the applicable time frame established in subparagraph (A) or (B) of this subdivision, and need not complete any such audit within three years, if (i) the 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 misrepresentations were made in connection with the submittal of the verification, (ii) a verification is submitted pursuant to an order of the commissioner pursuant to subsection (j) of this section, (iii) any post-verification monitoring, or operations and maintenance, is required as part of a verification and which has not been done, (iv) a verification that relies upon an environmental [land] 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, (v) the commissioner determines that there has been a violation of sections 22a-134 to 22a-134e, inclusive, or sections 22a-134h and 22a-134i, or (vi) the commissioner determines that information exists indicating that the remediation may have failed to prevent a substantial threat to public health or the environment.

(h) (1) If the commissioner notifies the certifying party to a Form III or Form IV that the commissioner's review and written approval of the investigation of the parcel and remediation of the establishment is required, such certifying party shall, not later than thirty days after the receipt of such notice or such later date as may be approved in writing by the commissioner, submit for the commissioner's review and written approval a proposed schedule for: (A) Investigating the parcel and remediating the establishment; (B) submitting to the commissioner scopes of work, technical plans, technical reports and progress reports related to such investigation and remediation; and (C) providing public notice of the remediation prior to the initiation of such remediation in accordance with subsection (i) of this section. Upon the commissioner's approval of such schedule, such certifying party shall, in accordance with the approved schedule, submit scopes of work, technical plans, technical reports and progress reports to the commissioner for the commissioner's review and written approval. Such certifying party shall perform all actions identified in the approved scopes of work, technical plans, technical reports and progress reports in accordance with the approved schedule. The commissioner may approve in writing any

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modification proposed in writing by such certifying party to such schedule or investigation and remediation. The commissioner may, at any time, notify such certifying party in writing that the commissioner's review and written approval is not required and that a licensed environmental professional may verify that the remediation has been performed in accordance with the remediation standards.

(2) A certifying party may complete the remediation of a portion of an establishment and request that the commissioner determine that the requirements of this subsection have been satisfied for any such portion of the establishment. If the commissioner determines that any such remediation is complete, the certifying party shall be deemed to have satisfied the requirements of this subsection for any such portion of an establishment. Any determination by the commissioner that remediation at the entire establishment has been completed may include and rely upon any determination made pursuant to this subdivision that remediation is complete at a portion of an establishment. If any portion of an establishment for which the commissioner determines that remediation is complete pursuant to this subdivision is transferred or conveyed or undergoes a change in ownership before remediation of the entire establishment is complete that would not otherwise be subject to the provisions of sections 22a-134 to 22a-134e, inclusive, and sections 22a-134h and 22a-134i, the certifying party shall provide notice to the commissioner of such transfer, conveyance or change in ownership not later than thirty days after any such transfer, conveyance or change in ownership.

(i) The certifying party to a Form III or Form IV shall (1) publish notice of the remediation, in accordance with the schedule submitted pursuant to this section, in a newspaper having a substantial circulation in the area affected by the establishment, (2) notify the director of health of the municipality where the establishment is located of the remediation, and (3) either (A) erect and maintain for at least thirty days in a legible

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condition a sign not less than six feet by four feet on the establishment, which sign 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 remediation, or (B) mail notice of the remediation to each owner of record of property which abuts the parcel, at the address for such property on the last-completed grand list of the municipality where the establishment is located.

(j) The commissioner may issue an order to any person who fails to comply with any provision of sections 22a-134 to 22a-134e, inclusive, and sections 22a-134h and 22a-134i, including, but not limited to, any person who fails to file a form, or files an incomplete or incorrect form or to any person who fails to carry out any activities to which that person agreed in a Form III or Form IV. If no form is filed or if an incomplete or incorrect form is filed for a transfer of an establishment, the commissioner may issue an order to the transferor, the transferee, or both, requiring a filing. The commissioner may also request that the Attorney General bring an action in the superior court for the judicial district of Hartford to enjoin any person who fails to comply with any provision of sections 22a-134 to 22a-134e, inclusive, and sections 22a-134h and 22a-134i, including, but not limited to, any person who fails to file a form, improperly files a Form I, Form II, Form III or Form IV or the certifying party to a Form III or Form IV to take any actions necessary to prevent or abate any pollution at, or emanating from, the subject establishment. Any person to whom such an order is issued may appeal such order in accordance with the procedures set forth in sections 22a-436 and 22a-437.

(k) Notwithstanding the exemptions provided in section 22a-134a, nothing contained in sections 22a-134 to 22a-134e, inclusive, and sections 22a-134h and 22a-134i shall be construed as creating an

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innocent landowner defense for purposes of section 22a-452d.

(l) Notwithstanding any other provisions of this section, no person shall be required to comply with the provisions of sections 22a-134 to 22a-134e, inclusive, and sections 22a-134h and 22a-134i when transferring real property (1) (A) for which a Form I or Form II has been filed for the transfer of the parcel on or after October 1, 1995, or (B) for which parcel a Form III or Form IV has been filed and which has been remediated and such remediation has been approved in writing by the commissioner or has been verified in writing in accordance with this section by a licensed environmental professional that an investigation has been performed in accordance with prevailing standards and guidelines and that the remediation has been performed in accordance with the remediation standards, and (2) at which no activities described in subdivision (3) of section 22a-134 have been conducted since (A) the date of [such approval or verification] the commissioner's approval of the remediation, (B) the date to which the verification applies, as designated on the form submitted to the commissioner in connection with a Form III or Form IV verification, or (C) the date on which the Form I or Form II was filed.

(m) Failure of the commissioner to notify any party in accordance with the provisions of this section in no way limits the ability of the commissioner to enforce the provisions of sections 22a-134 to 22a-134e, inclusive, and sections 22a-134h and 22a-134i.

Sec. 3. Section 22a-134i of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

(a) [Notwithstanding the provisions of this chapter, a conveyance of a unit in a residential common interest community shall not be subject to the requirements of sections 22a-134 to 22a-133e, inclusive, provided the declarant for the residential common interest community of which the unit is a part is a certifying party, as defined in section 22a-134, for

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purposes of remediation of any establishment, as defined in section 22a-134, within such community and provides to the Commissioner of Energy and Environmental Protection a surety bond or other form of financial assurance acceptable to the commissioner.] Prior to the conveyance of a unit in a residential common interest community that is an establishment, as defined in section 22a-134, the declarant for the residential common interest community of which the unit is a part or the declarant's immediate predecessor in title shall (1) become a certifying party, as defined in section 22a-134 for the purpose of investigation and remediation of the parcel on which such community is located; (2) provide financial assurance pursuant to subsection (b) of this section; and (3) record notice on the land records in the municipality where the common interest community is located that the parcel on which the common interest community is located is being investigated and remediated pursuant to sections 22a-134 to 22a-134e, inclusive. Such notice shall identify the volume and page number of any recorded environmental use restriction, as defined in section 22a-133o. If the declarant or the declarant's immediate predecessor in title fails to become a certifying party for the purpose of investigation and remediation of the parcel on which such community is located, or fails to provide financial assurance pursuant to subsection (b) of this section, an individual or entity authorized to act on behalf of the common interest community shall provide written notice to the commissioner of such failure prior to the conveyance of any such unit. If the declarant fails to record such notice, the commissioner may record or require an individual or entity authorized to act on behalf of the common interest community to record on the land records in the municipality where the common interest community is located a notice that contains the information required by subdivision (3) of this subsection.

(b) The [surety bond or other form of] financial assurance required pursuant to subsection (a) of this section shall (1) identify [both] the [Department] Commissioner of Energy and Environmental Protection

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[and the unit owners association for the common interest community as beneficiaries, and] as the beneficiary, (2) be in an amount and in a form approved by the commissioner that is [, at all times when the real property comprising the common interest community is an establishment,] equal to the cost of investigation and remediation of the contaminants on the subject property, [. In calculating such remediation costs, the amount of the bond or other form of financial assurance may be reduced] subject to the standards specified in sections 22a-134 to 22a-133e, inclusive, and (3) be used solely at the affected common interest community for the sole purpose of investigation and remediation of such property for the benefit of the unit owners of such community. The commissioner may reduce the amount of such financial assurance from time to time as work [covered by the bond] is completed. [, may exclude] Such financial assurance need not include the costs of any improvements to the real estate not required to remediate the contamination [, and may exclude] or the costs of remediation work already completed or on parcels of real estate that may be added to the common interest community by the exercise of development rights pursuant to section 47-229.

[(c) Each time a seller conveys to a purchaser a unit in a common interest community that is an establishment, the seller shall provide a notice to the purchaser that summarizes (1) the status of the environmental condition of the common interest community, (2) any investigation or remediation activities, and (3) any environmental land use restrictions. Such notice requirement applies to all such conveyances, including those conveyances otherwise excepted from the requirement for delivery of a public offering statement or of a resale certificate under subsection (b) of section 47-262 and section 47-270.]

Sec. 4. Subsection (a) of section 47-270 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

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(a) Except in the case of a sale in which delivery of a public offering statement is required under either this chapter or chapter 825, or unless exempt under subsection (b) of section 47-262, a unit owner shall furnish to a purchaser or such purchaser's attorney, before the earlier of conveyance or transfer of the right to possession of a unit, a copy of the declaration, other than any surveys and plans, the bylaws, the rules or regulations of the association, and a certificate containing: (1) A statement disclosing the effect on the proposed disposition of any right of first refusal or other restraint on the free alienability of the unit held by the association; (2) a statement setting forth the amount of the periodic common expense assessment and any unpaid common expense or special assessment currently due and payable from the selling unit owner; (3) a statement of any other fees payable by the owner of the unit being sold; (4) a statement of any capital expenditures in excess of one thousand dollars approved by the executive board for the current and next succeeding fiscal year; (5) a statement of the amount of any reserves for capital expenditures; (6) the current operating budget of the association; (7) a statement of any unsatisfied judgments against the association and the existence of any pending suits or administrative proceedings in which the association is a party, including foreclosures but excluding other collection matters; (8) a statement of the insurance coverage provided for the benefit of unit owners, including any schedule of standard fixtures, improvements and betterments in the units covered by the association's insurance that the association prepared pursuant to subsection (b) of section 47-255; (9) a statement of any restrictions in the declaration affecting the amount that may be received by a unit owner on sale, condemnation, casualty loss to the unit or the common interest community or termination of the common interest community; (10) in a cooperative, an accountant's statement, if any was prepared, as to the deductibility for federal income tax purposes by the unit owner of real property taxes and interest paid by the association; (11) if the association is unincorporated, the name of the statutory agent for service of process filed with the Secretary of the

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State pursuant to section 47-244a; (12) a statement describing any pending sale or encumbrance of common elements; (13) a statement disclosing the effect on the unit to be conveyed of any restrictions on the owner's right to use or occupy the unit or to lease the unit to another person; (14) a statement disclosing the number of units whose owners are at least sixty days' delinquent in paying their common charges on a specified date within sixty days of the date of the statement; (15) a statement disclosing the number of foreclosure actions brought by the association during the past twelve months and the number of such actions pending on a specified date within sixty days of the date of the statement; (16) a statement disclosing (A) the most recent fiscal period within the five years preceding the date on which the certificate is being furnished for which an independent certified public accountant reported on a financial statement, and (B) whether such report on a financial statement was a compilation, review or audit; [and] (17) any established maintenance standards adopted by the association pursuant to subsection (e) of section 47-257; (18) a copy of any notice recorded on land records pursuant to subsection (a) of section 22a-134i; and (19) a statement that provides the volume and page number from the applicable municipal land records of any environmental use restriction, as defined in section 22a-133n, that encumbers the parcel or any portion of the parcel on which the common interest community is located.

Sec. 5. Section 47-264 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

(a) Except as provided in subsection (b) of this section, a public offering statement shall contain or fully and accurately disclose:

(1) The name and principal address of the declarant and of the common interest community, and a statement that the common interest community is either a condominium, cooperative or planned community;

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(2) A general description of the common interest community, including to the extent known, the types, number and declarant's schedule of commencement and completion of construction of buildings and amenities that the declarant anticipates including in the common interest community;

(3) The number of units in the common interest community;

(4) Copies of the declaration, including any surveys and plans, and any other recorded covenants, conditions, restrictions and reservations created by the declarant affecting the common interest community; the bylaws, and any rules or regulations of the association; any deeds, contracts and leases to be signed by or delivered to purchasers at closing, and copies of and a brief narrative description of any contracts or leases that will or may be subject to cancellation by the association under section 47-247;

(5) A projected budget for the association, either within or as an exhibit to the public offering statement, for one year after the date of the first conveyance to a purchaser, and thereafter the current budget of the association, a statement of who prepared the budget, and a statement of the budget's assumptions concerning occupancy and inflation factors. The budget shall include, without limitation: (A) A statement of the amount, or a statement that there is no amount, included in the budget as a reserve for repairs and replacement; (B) a statement of any other reserves; (C) the projected common expense assessment by category of expenditures for the association; and (D) the projected monthly common expense assessment for each type of unit;

(6) Any services not reflected in the budget that the declarant provides, or expenses that he pays and which he expects may become at any subsequent time a common expense of the association and the projected common expense assessment attributable to each of those services or expenses for the association and for each type of unit;

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(7) Any initial or special fee due from the purchaser at closing, together with a description of the purpose and method of calculating the fee;

(8) A brief narrative description of any liens, defects or encumbrances on or affecting the title to the common interest community not otherwise disclosed under subdivision (4) of this subsection;

(9) A description of any financing offered or arranged by the declarant;

(10) The terms and significant limitations of any warranties provided by the declarant, including statutory warranties and limitations on the enforcement thereof or on damages;

(11) A statement that: (A) Within fifteen days after receipt of a public offering statement a purchaser, before conveyance, may cancel any contract for purchase of a unit from a declarant, and (B) if a declarant fails to provide a public offering statement to a purchaser before conveying a unit, that purchaser may recover from the declarant ten per cent of the sales price of the unit plus ten per cent of the share, proportionate to his common expense liability, of any indebtedness of the association secured by security interests encumbering the common interest community;

(12) A statement of any unsatisfied judgments or pending suits against the association, and the status of any pending suits material to the common interest community of which a declarant has actual knowledge;

(13) A statement that any deposit made in connection with the purchase of a unit will be held in an escrow account until closing and will be returned to the purchaser if the purchaser cancels the contract pursuant to section 47-269, together with the name and address of the escrow agent;

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(14) Any restraints on alienation of any portion of the common interest community and any restrictions (A) on use, occupancy and alienation of the units, and (B) on the amount for which a unit may be sold or on the amount that may be received by a unit owner on sale, condemnation or casualty loss to the unit or to the common interest community, or on termination of the common interest community;

(15) A description of the insurance coverage provided for the benefit of unit owners;

(16) Any current or expected fees or charges to be paid by unit owners for the use of the common elements and other facilities related to the common interest community;

(17) The extent to which financial arrangements have been provided for completion of all improvements that the declarant is obligated to build pursuant to section 47-280;

(18) A brief narrative description of any zoning and other land use requirements affecting the common interest community;

(19) All unusual and material circumstances, features and characteristics of the common interest community and the units;

(20) In a cooperative, (A) either a statement that the unit owners will be entitled, for federal, state and local income tax purposes, to a pass-through of deductions for payments made by the association for real property taxes and interest paid the holder of a security interest encumbering the cooperative, or a statement that no assurances are made in that regard, and (B) a statement as to the effect on every unit owner if the association fails to pay real property taxes or payments due the holder of a security interest encumbering the cooperative; [and]

(21) A description of any arrangement described in section 47-219a; [.] and

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(22) A statement, if it is determined that the residential common interest community, of which the unit is a part, is an establishment subject to the requirements of sections 22a-134 to 22a-134e, inclusive, and sections 22a-134h and 22a-134i, that summarizes (A) the status of the environmental condition of the common interest community, (B) any investigation or remediation activities, and (C) any environmental use restriction placed or required to be placed on such residential common interest community as a result of such investigation and remediation. The determination under this subdivision shall be based solely upon actual knowledge, a notice on the land records or, if there is no such notice, an inquiry to the Department of Energy and Environmental Protection of whether a Form I, Form II, Form III or Form IV, as defined in section 22a-134, was submitted to the Department of Energy and Environmental Protection for the residential common interest community of which the unit is a part.

(b) A declarant promptly shall amend the public offering statement to report any material change in the information required to be included in the public offering statement.

Sec. 6. Subsection (a) of section 22a-134a of the 2020 supplement to the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

(a) No person shall transfer an establishment except in accordance with the provisions of sections 22a-134 to 22a-134e, inclusive, and sections 22a-134h and 22a-134i. Notwithstanding any provision of sections 22a-134 to 22a-134e, inclusive, and sections 22a-134h and 22a-134i a person appointed by the Superior Court or any other court to sell, convey or partition real property or a person appointed as a trustee in bankruptcy shall not be deemed a party associated with the transfer of an establishment and shall not be required to comply with the provisions of sections 22a-134 to 22a-134e, inclusive, and sections 22a-134h and 22a-134i.

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Sec. 7. Subsection (a) of section 22a-134b of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

(a) Failure of the transferor to comply with any of the provisions of sections 22a-134 to 22a-134e, inclusive, and sections 22a-134h and 22a-134i entitles the transferee to recover damages from the transferor, and renders the transferor of the establishment strictly liable, without regard to fault, for all remediation costs and for all direct and indirect damages.

Sec. 8. Section 22a-134c of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

The provisions of sections 22a-134 to 22a-134e, inclusive, and sections 22a-134h and 22a-134i shall not affect the authority of the commissioner under any other statute or regulation, including, but not limited to, the authority to issue any order to the transferor or transferee of an establishment.

Sec. 9. Section 22a-134d of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

Any person who violates any provision of sections 22a-134a to 22a-134e, inclusive, and sections 22a-134h and 22a-134i or regulations issued in accordance with the provisions of said sections shall be assessed a civil penalty or shall be fined in accordance with section 22a-438.

Sec. 10. Section 22a-133r of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

In the event that a court of competent jurisdiction finds for any reason that an environmental [land] use restriction or notice of activity and use limitation is void or without effect for any reason, the owner of the subject land, in accordance with a schedule prescribed by the commissioner, shall promptly abate pollution thereon consistently with

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standards adopted under section 22a-133k for remediation of land used for residential or recreational purposes.

Sec. 11. Subsection (b) of section 22a-133aa of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

(b) Any covenant entered into under this section shall release only those claims said commissioner may have which are related to pollution or contamination on or emanating from the property, which contamination resulted from a discharge, spillage, uncontrolled loss, seepage or filtration on such property prior to the effective date of the covenant. Such covenant shall provide that the commissioner will not take any action against the holder of the covenant to require remediation of the parcel or any other action against such holder related to such discharge, spillage, uncontrolled loss, seepage or filtration unless (1) prior to the commissioner's approval of a detailed written plan for remediation pursuant to a brownfields investigation plan and remediation schedule, the commissioner finds that there is substantial noncompliance with such investigation plan and remediation schedule and there has not been a good faith effort to substantially comply therewith, (2) such property is not remediated in accordance with the detailed written plan approved by the commissioner and incorporated by reference in such covenant, (3) prior to completion of remediation in accordance with such plan, the commissioner finds that there is substantial noncompliance with any such plan and there has not been a good faith effort to substantially comply therewith, (4) remediation of the parcel in accordance with any detailed written plan for remediation did not comply with standards adopted by the commissioner pursuant to section 22a-133k which were in effect as of the effective date of either the covenant or the commissioner's approval of the detailed written plan for remediation, whichever is later, (5) if required by the standards adopted by the commissioner pursuant to section 22a-133k, an

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environmental [land] use restriction has not been recorded in accordance with section 22a-133o or there has been a failure to comply with the provisions of such a restriction, (6) for a property subject to the brownfield plan and remediation schedule, the commissioner does not approve a detailed written plan for remediation, or (7) the prospective buyer or owner fails to pay the fee, including the failure to pay in accordance with any payment schedule pursuant to subsection (c) of this section.

Sec. 12. Subsection (d) of section 22a-133bb of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

(d) Any covenant entered into under this section shall release claims said commissioner may have which are related to pollution or contamination on or emanating from the property, which contamination resulted from a discharge, spillage, uncontrolled loss, seepage or filtration on such property prior to the effective date of the covenant. Such covenant shall provide that the commissioner will not take any action to require remediation of the parcel or any other action related to such discharge, spillage, uncontrolled loss, seepage or filtration unless (1) such property is not remediated in accordance with the detailed written plan submitted to the commissioner and incorporated by reference in such covenant, (2) prior to completion of remediation in accordance with such plan, the commissioner finds that there is substantial noncompliance with such plan and there has not been a good faith effort to substantially comply therewith, (3) remediation of the property in accordance with such plan did not comply with standards adopted by the commissioner pursuant to section 22a-133k which were in effect as of the date of the covenant, or (4) if required by the standards adopted by the commissioner pursuant to section 22a-133k, an environmental use restriction has not been recorded in accordance with section 22a-133o or if the provisions of an environmental [land] use

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restriction were not complied with.

Sec. 13. Subsection (b) of section 22a-133ee of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

(b) This section shall not relieve any such liability where (1) an owner failed to file or comply with the provisions of an environmental [land] use restriction created pursuant to section 22a-133o for such real property or with the conditions of a variance for the real property that was approved by the commissioner in accordance with regulations adopted pursuant to section 22a-133k, or (2) the commissioner, at any time, determines that an owner provided information that the owner knew or had reason to know was false or misleading or otherwise failed to satisfy all of the requirements of subsection (a) of this section. Nothing in this section shall be construed to relieve an owner of any liability for pollution or sources of pollution on or emanating from such property that occurred or were created after the owner took title to such property. Nothing in this section shall be construed to hold an innocent landowner, as defined in section 22a-452d, who meets the requirements of this section liable to this state for costs or damages in an amount greater than the amount that an innocent landowner may be held liable pursuant to section 22a-432.

Sec. 14. Subparagraph (C) of subdivision (9) of subsection (j) of section 32-769 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

(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

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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 [land] 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 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.

Sec. 15. (NEW) (*Effective from passage*) For the purposes of this section and sections 16 to 23, inclusive, of this act:

(1) "Commissioner" means the Commissioner of Energy and Environmental Protection;

(2) "Brownfields program" means the brownfields liability relief program established pursuant to section 32-764 of the general statutes, the abandoned brownfields program authorized by section 32-769 of the general statutes, the brownfield remediation and revitalization program authorized by section 32-769 of the general statutes, or the municipal brownfield liability relief program authorized by section 22a-133ii of the general statutes;

(3) "Land and waters of the state" means all waters, as defined in section 22a-423 of the general statutes, and any land surface, including improved or unimproved surfaces, soils or subsurface strata;

(4) "Municipality" has the same meaning as provided in section 22a-

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423 of the general statutes;

(5) "Person" means any individual, partnership, association, firm, limited liability company, corporation or other entity, the federal government, the state or any instrumentality or subdivision of the state, including any municipality, and any officer or governing or managing body of any partnership, association, firm or corporation or any member or manager of a limited liability company, provided (A) any such officer, body, member or manager is in a position of responsibility that allows the person to influence corporate policies or activities; (B) there is a nexus between the officer, body, member or manager's actions or inactions in such position and the violation of sections 16 to 22, inclusive, of this act such that such officer, body, member or manager influenced the corporate actions that constituted the violation; and (C) the actions or inactions of the officer, body, member or manager facilitated such violation;

(6) "Release" means any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping or disposing into or onto the land and waters of the state, not authorized under title 22a of the general statutes, of oil or petroleum or chemical liquids or solids, liquid or gaseous products or hazardous waste as defined in section 22a-448 of the general statutes. "Release" does not include automotive exhaust or the application of fertilizer or pesticides consistent with their labeling;

(7) "Remediation" means determining the nature and extent of a release, in accordance with prevailing standards and guidelines, and the containment, removal and mitigation of such release, and includes, but is not limited to, the reduction of pollution by monitored natural attenuation;

(8) "Report" means to notify the commissioner of a release in accordance with the provisions of sections 16 to 19, inclusive, of this act

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and in the manner specified by the commissioner; and

(9) "Verification" means the written opinion of a licensed environmental professional on a form prescribed by the commissioner that the remediation of a release satisfies the standards established in regulations adopted pursuant to this act.

Sec. 16. (NEW) (*Effective from passage*) No person shall create or maintain a release to the land and waters of the state in violation of any provision of sections 17 to 21, inclusive, of this act.

Sec. 17. (NEW) (*Effective from passage*) (a) Any person who creates or maintains a release to the land and waters of the state on or after the date when regulations are first adopted pursuant to section 19 of this act shall, upon discovery of such release: (1) Report the release, if such a report is required by the regulations adopted pursuant to section 19 of this act, and (2) remediate any release to the standards identified in regulations adopted pursuant to section 19 of this act. If any person fails to comply with the provisions of this section and section 19 of this act, such person shall be liable for any costs incurred by the commissioner in accordance with section 22a-451 of the general statutes, or costs incurred by any other person who contains or removes or otherwise mitigates the effects of such release in accordance with section 22a-452 of the general statutes.

(b) A release shall not be deemed discovered if the only evidence of such release is data available or generated before the date when regulations are first adopted pursuant to section 19 of this act.

(c) On any parcel required to be investigated and remediated pursuant to sections 22a-134 to 22a-134e, inclusive, of the general statutes, and sections 22a-134h to 22a-134i, inclusive, of the general statutes:

(1) Only releases that occurred prior to the filing of a Form I, Form II,

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Form III or Form IV but that were not discovered until (A) after the date of the commissioner's approval of the remediation, or (B) the date to which the verification applies, as designated on the form submitted to the commissioner in connection with a Form III or Form IV verification, or (C) the date on which the Form I or Form II was filed shall be subject to the requirements of sections 16 to 23, inclusive, of this act;

(2) Any release that occurs after the filing of a Form I, Form II, Form III or Form IV shall be subject to the requirements of sections 16 to 23, inclusive, of this act, except that when a Phase II investigation has been completed after the filing of a Form III or Form IV, only releases which occur after the date of the Phase II investigation shall be subject to the requirements of sections 16 to 23, inclusive, of this act; and

(3) For the purposes of this subsection, "parcel", "Form I", "Form II", "Form III" and "Form IV" have the same meanings as provided in section 22a-134 of the general statutes.

(d) On any brownfield site accepted into a brownfields program:

(1) Releases that are discovered before the date on which the remediation requirements of the applicable brownfields program are fully satisfied shall continue to be subject to the applicable brownfields program and shall not be subject to sections 16 to 23, inclusive, of this act;

(2) Releases that are discovered after but which occur prior to the date on which the remediation requirements of the applicable brownfields program are fully satisfied shall continue to be subject to such program and shall not be subject to sections 16 to 23, inclusive, of this act. Nothing in sections 16 to 23, inclusive, of this act shall be construed to affect any liability protection afforded by any applicable brownfields program or a covenant not to sue entered into by the commissioner;

(3) Releases that occur after the date on which the requirements of the

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applicable brownfields program are fully satisfied shall be subject to sections 16 to 23, inclusive, of this act. Liability for any such releases shall remain subject to the provisions of section 21 of this act concerning liability protection afforded or a covenant not to sue entered into by the commissioner.

(e) Within available resources, the department shall provide a publicly accessible Internet database that contains all reports and verifications submitted as required by this section. Such database shall provide for the electronic submission of reports and verifications and search functionality. If such a system is not available at the time regulations are first adopted pursuant to section 19 of this act, the department shall file an update on its progress for publication in the Environmental Monitor.

Sec. 18. (NEW) (*Effective from passage*) (a) (1) If the commissioner finds that any person created or maintained a release to the land and waters of the state on or after the date when regulations are first adopted pursuant to section 19 of this act, the commissioner may order such person to take the necessary steps to comply with the provisions of sections 16 to 19, inclusive, of this act. Each order issued under this section shall be served by certified mail, return receipt requested, or by service by a state marshal or indifferent person. If the order is served by a state marshal or indifferent person, a true copy of the order shall be served, and the original, with a return of such service endorsed thereon, shall be filed with the commissioner. The order shall be deemed to be issued upon service or upon deposit in the mail. Any order issued pursuant to this section shall state the basis on which it is issued and shall specify a reasonable time for compliance.

(2) Any person who receives an order pursuant to this section shall have the right to a hearing. Unless a person who receives an order files a written request for a hearing before the commissioner within thirty days after the date of issuance, such order shall become final. A request

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for a hearing shall be a condition precedent to any appeal of such order.

(3) The provisions of section 22a-434 of the general statutes regarding filing an order on the land records, notice and a certificate of compliance or revocation shall apply to any order that becomes final under this subsection.

(b) If two or more persons are issued the same order pursuant to subsection (a) of this section or are responsible for a violation of any provision of sections 16 to 19, inclusive, of this act or any regulation or order adopted or issued under sections 16 to 19, inclusive, of this act, such persons shall be jointly and severally liable under this subsection.

(c) If any person violates any provision of sections 16 to 19, inclusive, of this act or any regulation or order adopted or issued under sections 16 to 19, inclusive, of this act, the commissioner may request the Attorney General to bring an action in the superior court for the judicial district of Hartford to enjoin such person from such violation and to order remedial measures to prevent, control or abate such violation. All actions brought by the Attorney General pursuant to the provisions of this section shall have precedence in the order of trial as provided in section 52-191 of the general statutes.

(d) Any person who violates any provision of sections 16 to 19, inclusive, of this act shall be liable for the penalties provided in section 22a-438 of the general statutes, provided any provisions of said section concerning a continuing violation shall not apply to a person or municipality during the time when a hearing on an order issued pursuant to this section or an appeal is pending. The Attorney General, upon complaint of the commissioner, shall institute a civil action in the superior court for the judicial district of Hartford to recover such penalty.

(e) Any person who violates any provision of sections 16 to 19,

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inclusive, of this act shall be liable for the penalties provided in subsections (b) and (c) of section 22a-438 of the general statutes.

(f) The commissioner may, pursuant to section 22a-6b of the general statutes, adopt a schedule for administrative civil penalties for violations of the provisions of sections 16 to 19, inclusive, of this act.

(g) Whenever the commissioner finds, after investigation, that any person is creating or maintaining a release to the land and waters of the state in violation of the requirements of sections 16 to 19, inclusive, of this act, and such violations are substantial and continuous and it appears prejudicial to the interest of the people of the state to delay action, the commissioner may, without prior hearing, issue a cease and desist order, in writing, to such person to discontinue creating or maintaining such release. The provisions of subsections (b) to (d), inclusive, of section 22a-7 of the general statutes shall apply to any order issued pursuant to this subsection.

Sec. 19. (NEW) (*Effective from passage*) (a) The commissioner shall adopt, amend or repeal regulations, in accordance with the provisions of chapter 54 of the general statutes, as are necessary and proper to carry out the purposes of sections 15 to 23, inclusive, of this act.

(b) The commissioner, or his or her designee, shall co-chair and convene, in conjunction with the Commissioner of Economic and Community Development, or his or her designee, a working group in the department for the purpose of providing advice and feedback for regulations to be adopted by the commissioner in accordance with the provisions of this section. The Commissioner of Economic and Community Development, or his or her designee, shall serve as co-chair of such working group. The membership of the working group shall include: (1) The chairpersons and ranking members of the joint standing committees of the General Assembly having cognizance of matters relating to the environment and commerce; (2) environmental

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transaction attorneys; (3) commercial real estate brokers; (4) licensed environmental professionals; (5) representatives from the Connecticut Manufacturers' Collaborative; (6) representatives of environmental advocacy groups; (7) representatives of the Environmental Professionals Organization of Connecticut; (8) municipal representatives; (9) representatives from the brownfields working group established pursuant to section 32-770 of the general statutes; (10) representatives of the Connecticut Conference of Municipalities and the Connecticut Council of Small Towns; (11) representatives of the Council on Environmental Quality; and (12) any other interested members of the public designated by the commissioner. The commissioner shall convene monthly meetings of such working group until such time as regulations are adopted pursuant to this section.

(c) Such regulations shall include, but need not be limited to, provisions regarding (1) reporting requirements for any releases required to be reported pursuant to sections 16 to 19, inclusive, of this act, including, but not limited to, reportable quantities and concentrations above which a release shall be reported in accordance with said sections; (2) procedures and deadlines for remediation, including public participation; (3) standards for remediation for any release to the land and waters of the state, including environmental use restrictions, as defined in section 22a-133o of the general statutes; (4) verification and commissioner's audit of remediation; (5) supervision of remediation based on pollutant type, concentration or volume, or based on the imminence of harm to public health; and (6) any required fees.

(d) In any regulation adopted pursuant to subsection (a) of this section, the commissioner shall specify tiers of releases based on risk, as determined by the commissioner, and that, based on the tier to which such release is assigned, certain releases may be remediated under the supervision of a licensed environmental professional, without the supervision of the commissioner, and may be remediated without being

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verified. Tiers of releases shall be specified based on: (1) The existence, source, nature and extent of a release; (2) the nature and extent of danger to public health, safety, welfare and the environment, both immediate and over time; (3) the magnitude and complexity of the actions necessary to assess, contain or remove the release; (4) the extent to which the proposed remediation will not remove the release, in its entirety, from the land and waters of the state but will instead leave behind pollutants to be managed using a risk mitigation approach authorized by regulations adopted pursuant to this section; and (5) the extent to which the oversight of the commissioner is necessary to ensure compliance with the provisions of sections 16 to 19, inclusive, of this act.

(e) (1) In any regulation adopted pursuant to subsection (a) of this section, the commissioner shall specify the types of releases to be reported and the timeframe for such reporting. When specifying the types of releases that shall be reported and the timeframes for reporting releases, the commissioner shall consider the factors specified in subdivisions (1), (2), (3) and (5) of subsection (b) of this section.

(2) Such regulations may exempt the requirement for a report if remediation can be accomplished through containment, removal or mitigation of a release upon discovery and in a manner and by a timeframe specified in the regulations adopted pursuant to subsection (a) of this section, provided such regulations shall specify that certain records be maintained by the person performing a cleanup and a schedule for the retention of such records.

(3) Such regulations may require any such report be made in a timeframe commensurate with the severity of the risk posed by such release, with the shortest reporting time corresponding to releases that pose an imminent or substantial threat to human health or the environment, including, but not limited to, residential areas, parks and schools, or releases that exist near drinking water supplies or that present a higher risk to human health or the environment. Such

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regulations shall permit a longer timeframe for a report of a release that does not pose an imminent or significant threat to human health or the environment.

(4) Such regulations shall provide for a process to amend or retract release reports that were reported in error.

(5) No release required to be reported by regulations adopted pursuant to section 22a-450 of the general statutes shall also be required to be reported by regulations adopted pursuant to subsection (a) of this section.

(f) In establishing standards for remediation adopted pursuant to subsection (a) of this section, the commissioner shall (1) consider the standards for remediation set forth in regulations adopted pursuant to section 22a-133k of the general statutes; (2) give preference to cleanup methods that are permanent, if feasible; (3) provide flexibility, when appropriate, for licensed environmental professionals to establish and implement risk-based alternative cleanup standards developed in consideration of site use, exposure assumptions, geologic and hydrogeologic conditions and physical and chemical properties of each substance that comprise a release; (4) consider any factor the commissioner deems appropriate, including, but not limited to, groundwater classification of the site; and (5) provide for standards of remediation less stringent than those required for residential land use for polluted properties that (A) are located in areas classified as GB or GC under the standards adopted by the commissioner for classification of groundwater, (B) have historically been used for industrial or commercial purposes, and (C) are not subject to an order issued by the commissioner regarding such release, consent order or stipulated judgment regarding such release, provided an environmental use restriction is executed for any such property subsequent to the remedial action, in accordance with the provisions of section 22a-133aa of the general statutes, and such regulations specify the types of industrial or

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commercial land uses to which any such property may be put subsequent to such remedial action.

(g) The regulations adopted pursuant to subsection (a) of this section regarding audits shall:

(1) Authorize the commissioner to audit any verification;

(2) Set goals for the number of audits to be conducted. Such goals shall be consistent with the requirements of section 20 of this act and shall, at a minimum, set a goal of auditing twenty per cent of verifications rendered for releases from at least one tier and set a goal of auditing verifications rendered for releases from the other tiers at a frequency that is based on the number of verifications submitted for releases in each tier;

(3) Prioritize the auditing of higher risk releases that may jeopardize human health or the environment;

(4) Utilize multiple levels of auditing. The levels of auditing may include:

(A) Screening documents or forms submitted to the department;

(B) Conducting a thorough evaluation of the verification, including, but not limited to, inspecting a property or requesting additional supporting information regarding an investigation or remediation of a release; and

(C) Auditing focused on specific issues identified in screening documents or forms, conditions specific to a particular release or issues that present a higher risk to human health or the environment; and

(5) Provide certain timeframes for commencing audits that shall be no later than one year after verification and provide opportunities to reopen a remediation when: (A) The commissioner has reason to believe

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that a verification was obtained through the submittal of materially inaccurate or erroneous information, or otherwise misleading information material to the verification, or that misrepresentations were made in connection with the submittal of the verification, (B) a verification is submitted pursuant to an order of the commissioner, in accordance with section 18 of this act, (C) any post-verification monitoring, or operations and maintenance, is required as part of a verification and which is not completed, (D) a verification that relies upon an environmental land use restriction was not recorded on the land records of the municipality in which such land is located in accordance with section 22a-133o of the general statutes and applicable regulations, (E) the commissioner determines that there has been a violation of the provisions of sections 16 to 19, inclusive, of this act, or (F) the commissioner determines that information exists indicating that the remediation may have failed to prevent a substantial threat to public health or the environment.

(h) In adopting the regulations prescribed by this section, the commissioner shall incorporate the requirements of other cleanup provisions of the general statutes to assure consistency, clarity and efficiency in the application of remediation requirements contained in the general statutes and other applicable provisions of the regulations of Connecticut state agencies by the commissioner and members of the regulated community.

Sec. 20. (NEW) (*Effective from passage*) (a) The commissioner shall audit a sufficient number of verifications submitted pursuant to regulations adopted pursuant to section 19 of this act to ensure the protection of human health and the environment and a high frequency of compliance with the regulations adopted pursuant to section 19 of this act.

(b) Beginning two years after the date regulations are first adopted pursuant to section 19 of this act, and annually thereafter, the

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commissioner shall provide to the Governor and the joint standing committees of the General Assembly having cognizance of matters relating to the environment and commerce a report regarding the auditing of verifications submitted during the previous year pursuant to regulations adopted pursuant to section 19 of this act. Such report shall also be published on the department's Internet web site. Any such report shall include, but not be limited to, the number of releases reported, the number of verifications submitted, the number of audits conducted, the results of the audits conducted and any recommendations for improving the auditing of verifications. Such recommendations may include, but need not be limited to, staffing levels or the adequacy of such audits.

Sec. 21. (NEW) (*Effective from passage*) (a) The provisions of sections 16 to 19, inclusive, of this act shall have no effect upon nor be interpreted or construed as changing any covenant not to sue entered into pursuant to section 22a-133aa or 22a-133bb of the general statutes, any liability protection afforded under section 22a-133ee or 32-764 of the general statutes, or any liability protections granted pursuant to any brownfields program.

(b) Notwithstanding any provision of the general statutes, and except as provided in this section, no owner of real property shall be liable for any costs or damages to any person other than this state, any other state or the federal government, with respect to any release on or emanating from such owner's real property that occurred or existed prior to such owner taking title to such property, provided:

(1) Such owner did not create the release on such property and is not responsible for the creation of such release pursuant to any other provision of the general statutes;

(2) Such owner is not affiliated with any person responsible for such release through any direct or indirect familial relationship, or any

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contractual, corporate or financial relationship other than that by which such owner's interest in the property was conveyed or financed; and

(3) The release on such owner's real property has been remediated in accordance with the regulations adopted pursuant to section 19 of this act, as demonstrated in a verification prepared by a licensed environmental professional and the commissioner has approved in writing, or has determined not to audit, such verification. Remediation undertaken to meet the criteria of this section shall satisfy any requirements to provide public notice, or notice to nearby property owners, specified in regulations adopted pursuant to section 19 of this act.

(c) This section shall not relieve any such liability where (1) any owner of a parcel on which a release was remediated has failed to comply with the requirements regarding the filing of an environmental use restriction or failed to comply with the provisions of an environmental use restriction created pursuant to section 22a-133o of the general statutes for such real property or with the conditions of a variance for the real property that was approved by the commissioner in accordance with regulations adopted pursuant to section 19 of this act, or (2) the commissioner, at any time, determines that an owner provided information that the owner knew or had reason to know was false or misleading or otherwise failed to satisfy all of the requirements of subsection (a) of this section. Nothing in this section shall be construed to relieve an owner of any liability for releases on or emanating from such property that occurred or were created after the owner took title to such property. Nothing in this section shall be construed to hold an innocent landowner, as defined in section 22a-452d of the general statutes, who meets the requirements of this section liable to this state for costs or damages in an amount greater than the amount that an innocent landowner may be held liable pursuant to section 22a-432 of the general statutes.

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Sec. 22. (NEW) (*Effective from passage*) Nothing contained in sections 16 to 21, inclusive, of this act shall be construed to infringe upon or otherwise limit any liability limitations or protections for persons provided for under any provision of the general statutes. Nothing contained in this act shall be construed to authorize the use or application of the innocent landowner defense, established pursuant to section 22a-452d of the general statutes, to the provisions of sections 16 to 21, inclusive, of this act.

Sec. 23. (NEW) (*Effective from passage*) Nothing contained in sections 16 to 22, inclusive, of this act shall be construed to affect the authority of the Commissioner of Energy and Environmental Protection pursuant to any other statute or regulation.

Approved October 2, 2020