



# Senate

General Assembly

**File No. 297**

January Session, 2023

Substitute Senate Bill No. 1092

*Senate, March 29, 2023*

The Committee on Commerce reported through SEN. HARTLEY of the 15th Dist., Chairperson of the Committee on the part of the Senate, that the substitute bill ought to pass.

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

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

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 Section 32-760 of the general statutes is repealed and the  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

3 As used in this chapter:

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

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

9 (B) Such person made all appropriate inquiries, as set forth in 40 CFR  
10 Part 312, into the previous ownership and uses of the property in  
11 accordance with generally accepted good commercial and customary

12 standards and practices, including, but not limited to, the standards and  
13 practices set forth in the ASTM Standard Practice for Environmental Site  
14 Assessments, Phase I Environmental Site Assessment Process, in effect  
15 on the date such person acquired the property. In the case of property  
16 in residential or other similar use at the time of purchase by a  
17 nongovernmental or noncommercial entity, a property inspection and a  
18 title search that reveal no basis for further investigation shall be  
19 considered to satisfy the requirements of this subparagraph;

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

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

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

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

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

40 (2) "Brownfield" means any abandoned or underutilized site where  
41 redevelopment, reuse or expansion has not occurred due to the presence  
42 or potential presence of pollution in the buildings, soil or groundwater

43 that requires investigation or remediation before or in conjunction with  
44 the redevelopment, reuse or expansion of the property;

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

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

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

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

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

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

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

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

76 (6) "Economic development agency" means (A) a municipal economic  
77 development agency or entity created or operating under chapter 130 or  
78 132; (B) a nonprofit economic development corporation formed to  
79 promote the common good, general welfare and economic development  
80 of a municipality or a region that is funded, either directly or through  
81 in-kind services, in part by one or more municipalities; (C) a nonstock  
82 corporation or limited liability company established or controlled by a  
83 municipality, municipal economic development agency or an entity  
84 created or operating under chapter 130 or 132; or (D) an agency, as  
85 defined in section 32-327;

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

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

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

102 (10) "Interim verification" has the same meaning as provided in  
103 section 22a-134;

104 (11) "Manufacturing facility" means a business establishment

105 classified under sector 31, 32 or 33 of the North American Industrial  
106 Classification System;

107 (12) "Municipality" means a town, city, consolidated town and city or  
108 consolidated town and borough. For purposes of sections 32-771 to 32-  
109 775, inclusive, as amended by this act, "municipality" includes a district,  
110 as defined in section 7-324, a metropolitan area, as defined in section 7-  
111 333, and any political subdivision of the state that has the power to levy  
112 taxes and to issue bonds, notes or other obligations;

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

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

121 (15) "Planning region" has the same meaning as provided in section  
122 4-124i;

123 [(15)] (16) "Real property" means land, buildings and other structures  
124 and improvements thereto, subterranean or subsurface rights, any and  
125 all easements, air rights and franchises of any kind or nature;

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

128 [(16)] (18) "Regulated substance" has the same meaning as provided  
129 in section 22a-134g;

130 [(17)] (19) "Release" means any discharge, spillage, uncontrolled loss,  
131 seepage, filtration, leakage, injection, escape, dumping, pumping,  
132 pouring, emitting, emptying or disposal of a substance;

133 [(18)] (20) "Remediation standards" has the same meaning as

134 provided in section 22a-134;

135 [(19)] (21) "State" means the state of Connecticut;

136 [(20)] (22) "UST regulations" means the regulations adopted pursuant  
137 to subsection (d) of section 22a-449;

138 [(21)] (23) "Verification" has the same meaning as provided in section  
139 22a-134; and

140 [(22)] (24) "Connecticut brownfield land bank" means a Connecticut  
141 nonstock corporation, certified by the Commissioner of Economic and  
142 Community Development pursuant to section 32-771, established for  
143 the purposes of (A) acquiring, retaining, remediating and selling  
144 brownfields in the state for the benefit of municipalities, (B) educating  
145 government officials, community leaders, economic development  
146 agencies and nonprofit organizations on best practices for redeveloping  
147 brownfields, and (C) engaging in all other activities in accordance with  
148 sections 32-771 to 32-775, inclusive, as amended by this act.

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

151 (a) The purposes of a Connecticut brownfield land bank shall be to  
152 (1) acquire, retain, remediate and sell brownfields in the state on behalf  
153 of municipalities pursuant to land banking agreements with such  
154 municipalities, (2) acquire, retain, remediate and sell brownfields in the  
155 state for the purpose of enhancing the aquatic life and environmental  
156 quality of one or more rivers of the state, pursuant to land banking  
157 agreements with regional councils of governments that represent the  
158 municipalities in which such brownfields are located, (3) educate  
159 government officials, community leaders, economic development  
160 agencies and nonprofit organizations on best practices for redeveloping  
161 brownfields, and [(3)] (4) engage in all other activities in accordance  
162 with sections 32-771 to 32-775, inclusive, as amended by this act. In  
163 addition to those powers, rights, privileges and immunities granted  
164 under chapter 602, a Connecticut brownfield land bank is authorized

165 and empowered to do the following in furtherance of its purposes:

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

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

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

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

187 (E) Do all other things necessary or convenient to achieve the  
188 purposes of such Connecticut brownfield land bank and comply with  
189 any law relating to the purposes and responsibilities of such land bank.

190 (F) Acquire real property, as described in subsection (b) of section 32-  
191 775, as amended by this act, by purchase contracts, lease purchase  
192 agreements, installment sales contracts, land contracts and foreclosure  
193 of municipal tax liens. A Connecticut brownfield land bank may accept  
194 transfers of real property from municipalities upon such terms and  
195 conditions as agreed to by the brownfield land bank and the

196 municipality. Notwithstanding any provision of the general statutes or  
197 of any special act, municipal charter or home rule ordinance, any  
198 municipality may transfer and convey to a Connecticut brownfield land  
199 bank real property and interests in real property located in the  
200 municipality on such terms and conditions and according to such  
201 procedures as determined by the municipality.

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

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

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

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

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

220 (d) A Connecticut brownfield land bank shall determine and set forth  
221 in policies and procedures the general terms and conditions for  
222 consideration to be received by such land bank for the transfer to such  
223 land bank of real property and interests in real property, which  
224 consideration may take the form of monetary payments and secured  
225 financial obligations, covenants and conditions related to the present  
226 and future use of such real property, contractual commitments of the



227 transferee, and such other forms of consideration as determined by the  
228 board of directors to be in the best interest of such land bank.

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

This act shall take effect as follows and shall amend the following sections:		
Section 1	July 1, 2023	32-760
Sec. 2	July 1, 2023	32-773
Sec. 3	July 1, 2023	32-775

**CE** Joint Favorable Subst.

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

**OFA Fiscal Note**

**State Impact:**

Agency Affected	Fund-Effect	FY 24 \$	FY 25 \$
Revenue Serv., Dept.	Various - Potential Revenue Loss	See below	See below

Note: Various=Various

**Municipal Impact:**

Municipalities	Effect	FY 24 \$	FY 25 \$
Various Municipalities	Potential Revenue Loss	See below	See below

**Explanation**

The bill results in a potential revenue loss to the state and certain municipalities by extending the types of properties that Connecticut brownfield land banks (CBLBs) can acquire, retain, remediate, and sell to brownfields that enhance the aquatic life and environmental quality of rivers in the state under land banking agreements with regional councils of governments.

C.G.S. 32-774 exempts CBLBs from paying state and local taxes and assessments on (1) the revenue or property they receive, acquire, transfer, or use and (2) any income derived from these sources. This exemption would extend to additional properties acquired under the bill and therefore potentially result in revenue loss to the state and certain municipalities.

Any revenue loss would vary based on the number of properties acquired by land banks under this bill, their value, and any related

income generated.

***The Out Years***

The annualized ongoing fiscal impact identified above would continue into the future subject to inflation.

**OLR Bill Analysis****sSB 1092*****AN ACT CONCERNING THE ACQUISITION AND CONVEYANCE OF CERTAIN PROPERTIES BY CONNECTICUT BROWNFIELD LAND BANKS.*****SUMMARY**

This bill authorizes Connecticut brownfield land banks (CBLBs) to enter into land banking agreements with regional councils of governments (RCOGs) to acquire, retain, remediate, and sell property in an RCOG's planning region. Under current law, CBLBs may only enter into land banking agreements with municipalities, and the agreements are required for CBLBs to acquire brownfield sites or adjacent properties.

The bill makes corresponding changes to treat RCOGs the same as municipalities under the current CBLB law. These changes (1) allow a CBLB to acquire brownfield sites or adjacent properties identified in the land banking agreement with the RCOG; (2) require the RCOG's approval before the CBLB conveys, exchanges, transfers, or sells the property; (3) allow CBLBs to enter into contracts and agreements with RCOGs to provide staffing to the CBLB; and (4) allow CBLBs to get grant funds or borrow from RCOGs for the CBLB's operations.

The bill also expands the statutory purpose of CBLBs to include acquiring, retaining, remediating, and selling brownfields in the state to enhance rivers' aquatic life and environmental quality, under land banking agreements with RCOGs. In doing so, it requires the economic and community development commissioner, when determining whether to approve an application for CBLB certification, to consider whether the applicant is financially and technically capable of fulfilling this new purpose, in addition to the other purposes specified in current

law (CGS § 32-771). Under current law, a CBLB's purposes also include (1) acquiring, retaining, remediating, and selling brownfields to benefit municipalities and (2) educating government officials, community leaders, economic development agencies, and nonprofit organizations on best practices for redeveloping brownfields.

EFFECTIVE DATE: July 1, 2023

**COMMITTEE ACTION**

Commerce Committee

Joint Favorable Substitute

Yea 23 Nay 1 (03/14/2023)