



General Assembly

Substitute Bill No. 1092

January Session, 2023



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 Section 32-760 of the general statutes is repealed and the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
10 CFR 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
13 and practices set forth in the ASTM Standard Practice for
14 Environmental Site Assessments, Phase I Environmental Site
15 Assessment Process, in effect on the date such person acquired the
16 property. In the case of property in residential or other similar use at

17 the time of purchase by a nongovernmental or noncommercial entity, a
18 property inspection and a title search that reveal no basis for further
19 investigation shall be considered to satisfy the requirements of this
20 subparagraph;

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

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

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

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

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

41 (2) "Brownfield" means any abandoned or underutilized site where
42 redevelopment, reuse or expansion has not occurred due to the
43 presence or potential presence of pollution in the buildings, soil or
44 groundwater that requires investigation or remediation before or in
45 conjunction with the redevelopment, reuse or expansion of the
46 property;

47 (3) "Commissioner" means the Commissioner of Economic and
48 Community Development;

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

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

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

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

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

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

76 (5) "Department" means the Department of Economic and

77 Community Development;

78 (6) "Economic development agency" means (A) a municipal
79 economic development agency or entity created or operating under
80 chapter 130 or 132; (B) a nonprofit economic development corporation
81 formed to promote the common good, general welfare and economic
82 development of a municipality or a region that is funded, either
83 directly or through in-kind services, in part by one or more
84 municipalities; (C) a nonstock corporation or limited liability company
85 established or controlled by a municipality, municipal economic
86 development agency or an entity created or operating under chapter
87 130 or 132; or (D) an agency, as defined in section 32-327;

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

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

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

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

106 (11) "Manufacturing facility" means a business establishment
107 classified under sector 31, 32 or 33 of the North American Industrial

108 Classification System;

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

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

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

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

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

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

131 [(16)] (18) "Regulated substance" has the same meaning as provided
132 in section 22a-134g;

133 [(17)] (19) "Release" means any discharge, spillage, uncontrolled
134 loss, seepage, filtration, leakage, injection, escape, dumping, pumping,
135 pouring, emitting, emptying or disposal of a substance;

136 [(18)] (20) "Remediation standards" has the same meaning as
137 provided in section 22a-134;

138 [(19)] (21) "State" means the state of Connecticut;

139 [(20)] (22) "UST regulations" means the regulations adopted
140 pursuant to subsection (d) of section 22a-449;

141 [(21)] (23) "Verification" has the same meaning as provided in
142 section 22a-134; and

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

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

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

167 this act. In addition to those powers, rights, privileges and immunities
168 granted under chapter 602, a Connecticut brownfield land bank is
169 authorized and empowered to do the following in furtherance of its
170 purposes:

171 (A) Enter into land banking agreements with (i) municipalities for
172 the acquisition, retention, remediation and sale of real property within
173 such municipalities on behalf of such municipalities, or (ii) regional
174 councils of governments for the acquisition, retention, remediation and
175 sale of real property located within the planning regions of such
176 regional councils of governments.

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

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

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

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

196 (F) Acquire real property, as described in subsection (b) of section
197 32-775, as amended by this act, by purchase contracts, lease purchase

198 agreements, installment sales contracts, land contracts and foreclosure
199 of municipal tax liens. A Connecticut brownfield land bank may accept
200 transfers of real property from municipalities upon such terms and
201 conditions as agreed to by the brownfield land bank and the
202 municipality. Notwithstanding any provision of the general statutes or
203 of any special act, municipal charter or home rule ordinance, any
204 municipality may transfer and convey to a Connecticut brownfield
205 land bank real property and interests in real property located in the
206 municipality on such terms and conditions and according to such
207 procedures as determined by the municipality.

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

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

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

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

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

226 (d) A Connecticut brownfield land bank shall determine and set
227 forth in policies and procedures the general terms and conditions for
228 consideration to be received by such land bank for the transfer to such

229 land bank of real property and interests in real property, which
230 consideration may take the form of monetary payments and secured
231 financial obligations, covenants and conditions related to the present
232 and future use of such real property, contractual commitments of the
233 transferee, and such other forms of consideration as determined by the
234 board of directors to be in the best interest of such land bank.

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

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

CE *Joint Favorable Subst.*