

Sec. 22a-133ii. Brownfield liability relief program. Application. Eligibility. Liability. Plan and schedule for remediation and redevelopment. Acceptance in program. (a) For the purposes of this section:

(1) “Applicant” means any (A) municipality, (B) economic development agency or entity established pursuant to chapter 130 or 132, (C) nonprofit economic development corporation formed to promote the common good, general welfare and economic development of a municipality and that is funded, either directly or through in-kind services, in part by a municipality, or (D) a nonstock corporation or limited liability company controlled or established by a municipality, municipal economic development agency or entity created or operating pursuant to chapter 130 or 132;

(2) “Municipality” has the same meaning as provided in section 8-187;

(3) “Brownfield” has the same meaning as provided in section 32-760;

(4) “Commissioner” means the Commissioner of Energy and Environmental Protection;

(5) “Regulated substance” means any oil or petroleum or chemical liquid or solid, liquid or gaseous product or hazardous waste; and

(6) “Person” has the same meaning as provided in section 22a-2.

(b) There is established a brownfield liability relief program to assist applicants with the redevelopment of eligible brownfields and to provide such applicants with liability relief for such brownfields. The Commissioner of Energy and Environmental Protection shall administer such relief program and accept brownfields into such program based on the eligibility criteria, as established in this section.

(c) Prior to acquiring a brownfield, any applicant may apply to the commissioner, on such forms as the commissioner prescribes, to obtain liability relief as described in subsection (d) of this section. Any brownfield shall be eligible for the program if the commissioner determines that: (1) The property is a brownfield; (2) such applicant intends to acquire title to such brownfield for the purpose of redeveloping or facilitating the redevelopment of such brownfield; (3) such applicant did not establish or create a facility or condition at or on such brownfield that can reasonably be expected to create a source of pollution, as defined in section 22a-423, to the waters of the state; (4) such applicant is not affiliated with any person responsible for such pollution or source of pollution through any contractual, corporate or financial relationship other than a municipality’s exercise of such municipality’s police, regulatory or tax powers or a contractual relationship in which such person’s interest

in such brownfield will be conveyed or financed; (5) such applicant is not otherwise required by law, an order or consent order issued by the commissioner or a stipulated judgment to remediate pollution on or emanating from such brownfield; and (6) such brownfield and applicant meet any other criteria that said commissioner deems necessary.

(d) (1) Upon the acceptance of any brownfield into such program by the commissioner and upon such applicant taking title to such property, such applicant shall not be liable to the state or any person for the release of any regulated substance at or from the eligible brownfield that occurred prior to such applicant taking title to such brownfield, except such applicant shall be liable to the state or any person to the extent that such applicant caused or contributed to the release of a regulated substance that is subject to remediation and to the extent that such applicant negligently or recklessly exacerbated the condition of such brownfield.

(2) Any applicant that owns a brownfield that is accepted in such brownfield liability relief program shall not be liable to the commissioner or any person under section 22a-427, 22a-430, 22a-432, 22a-433, 22a-451 or 22a-452 nor under any theory of common law for any prior existing condition on such brownfield or any existing condition on such brownfield property as of the date of taking title to such brownfield provided such applicant (A) did not establish, cause or contribute to the discharge, spillage, uncontrolled loss, seepage or filtration of such hazardous substance, material, waste or pollution, (B) does not exacerbate any such condition on such brownfield, (C) complies with the reporting and mitigation or abatement of significant environmental hazard requirements in section 22a-6u, and (D) makes good faith efforts to minimize the risk to public health and the environment posed by such brownfield and the conditions or materials present at such brownfield. To the extent that any preexisting releases on such brownfield are exacerbated by such applicant, such applicant shall only be responsible for responding to contamination exacerbated by such applicant's negligent or reckless activities.

(e) After acceptance of any brownfield into such program by the commissioner and upon such applicant taking title to such property, such applicant shall (1) submit a plan and schedule that outlines an applicant's intention to facilitate the investigation, remediation and redevelopment of such brownfield; and (2) continue to minimize risk to public health and the environment potentially posed by such brownfield and the conditions and materials present at such brownfield.

(f) The commissioner shall determine whether an application submitted pursuant to this section is complete. If the commissioner determines that an application is complete and that such brownfield and applicant meet the requirements for eligibility, as established in subsection (c) of this section, the commissioner shall notify such

applicant that such brownfield has been accepted into the brownfield liability relief program.

(g) Acceptance of a brownfield in such brownfield liability relief program shall not limit such applicant's or any other person's ability to seek funding for such brownfield under any other brownfield grant or loan program administered by the Department of Economic and Community Development, the Connecticut Brownfield Redevelopment Authority, or the Department of Energy and Environmental Protection.

(h) Acceptance of a brownfield in such brownfield liability relief program shall exempt such applicant from the requirement to file as an establishment pursuant to sections 22a-134a to 22a-134d, inclusive, if such brownfield constitutes an establishment, as defined in section 22a-134.

(P.A. 13-308, S. 30.)

History: P.A. 13-308 effective July 1, 2013.