



July 2013

NEW BROWNFIELD LIABILITY RELIEF PROGRAM MAY ASSIST MUNICIPALITIES IN BROWNFIELD REDEVELOPMENT

Public Act 13-308, entitled “*An Act Implementing the Recommendations of the State of Connecticut Brownfield Working Group and Concerning Brownfield Liability Relief, Notification Requirements for Certain Contaminated Properties and the Use of Notice of Activity and Use Limitations*,” establishes a new brownfield liability relief program for certain applicants, including municipalities, economic development agencies, and nonprofit economic development corporations. The program provides participating municipalities with relief from liability for past releases of hazardous substances and exempts eligible brownfields from the Transfer Act, effective July 1, 2013.

The program assists applicants with the redevelopment of eligible brownfields by shielding such applicants from liability under state programs so long as: (1) the applicant did not contribute to the pollution; (2) the applicant has no legal affiliation with a party responsible for the pollution; (3) the applicant is not already obligated to remediate the pollution on the property; and (4) the applicant meets any further criteria that the Department of Energy and Environmental Protection (DEEP) deems necessary. After acceptance into the program, the applicant must submit a plan outlining efforts to investigate, remediate and redevelop the brownfield. Acceptance into the program does not limit a municipality’s ability to seek funding under Connecticut’s brownfield grant or loan programs.

Many municipalities, previously reluctant to foreclose on properties that required hefty environmental remediation, support the act as a way to bolster economic development. DEEP Commissioner Daniel C. Esty hopes the act will provide municipalities “the tools they need to acquire derelict brownfield properties and position them for cleanup and redevelopment.” If you plan to acquire a brownfield for redevelopment, you may be eligible for protection from liability under this program.

However, municipalities will still be required to comply with other brownfield remediation requirements, such as those found in Connecticut General Statutes section 22a-6u, also amended by Public Act 13-308, which imposes new significant hazard reporting requirements, effective on July 1, 2015. Those requirements increase the number of conditions to be reported during investigation and may require mitigation and abatement. These new requirements may actually offset some of the benefits of the act and actually discourage brownfield redevelopment. More information on how the act expands section 22a-6u is discussed in the following [client bulletin](#).

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If you have any questions about the issues addressed here, or any other matters involving Municipal Law, please feel free to contact:

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Public Act No.: 13-308, § 30; Effective Date of Liability Relief Program: July 1, 2013.



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