

## 2009 Public Acts Affecting Programs of the Remediation Division [Public Act 09-235 and Public Act 09-3]

In the 2009 Regular Session and the June Special Session of the General Assembly, legislative changes were made to the Connecticut General Statutes that affect Remediation Division programs. These legislative changes are summarized below, and the specific sections of the statutes that were revised are linked below.

**Public Act 09-235** – “An Act Concerning Brownfields Development Projects” was signed by the Governor on July 9, 2009, with an effective date of October 1, 2009, unless otherwise noted below, for changes affecting the following sections:

PA 09-235 section (effective date)	STATUTE AFFECTED	NATURE OF CHANGE / TOPIC
§1 (7/9/09)	<b>CGS 25-68d</b> Certification of activity or critical activity within or affecting the floodplain. Exemption.	25-68d(e) facilitates the redevelopment of mill sites located in floodplains. [Brownfields Program]
§2 (7/9/09)	<b>CGS 22a-134</b> Transfer of hazardous waste establishments: Definitions.	22a-134(1)(B) expands the list of municipal transfers of real property which are exempt from the requirements of the Transfer Act when acquiring and conveying establishments. [Property Transfer Program]
§3 (7/1/09)	<b>CGS 32-9dd</b> Transfer of remediated brownfields.	32-9dd(a) is revised to expand liability protections for developers acquiring remediated brownfields. [Brownfields Program]
§4 (7/1/09)	<b>CGS 32-9ee</b> Brownfield remediation pilot program and grants.	32-9ee is revised to expand the municipal innocent party designation and to define that an otherwise innocent party under this statute is responsible for contamination exacerbated by their negligent or reckless acts. [Brownfields Program]
§5 (7/9/09)	<b>CGS 22a-134b</b> Damages.	22a-134b is revised by the addition of subsections (b) and (c), which impose a new six-year deadline for a transferee to initiate an action to recover damages resulting from the transferor's failure to comply with the Transfer Act.  An action to recover damages shall be commenced not later than six years after the later of either: <ul style="list-style-type: none"> <li>• the due date for filing the appropriate transfer form, or</li> <li>• the actual filing date of the appropriate transfer form.</li> </ul> [Property Transfer Program]

PA 09-235 section (effective date)	STATUTE AFFECTED	NATURE OF CHANGE / TOPIC
§6 (7/9/09)	<b>CGS 22a-133dd</b> Entry onto property to perform environmental site assessment or investigation on behalf of municipality.	<p>22a-133dd is revised to clarify circumstances under which municipalities and others on behalf of a municipality can enter property to perform an environmental site assessment or investigation on behalf of a municipality.</p> <p>The Act describes in greater detail the municipal protection from liability and the conditions which must be met for the municipality to be protected from liability. The grounds for an appeal by the property owner are also described, and the term “municipality” is newly defined for this section to include:</p> <ul style="list-style-type: none"> <li>• the municipality,</li> <li>• a municipal economic development agency or entity,</li> <li>• a non-profit economic development corporation that is funded, either directly or through in-kind services, in part by a municipality, or</li> <li>• a non-stock corporation or limited liability company established and controlled by a municipality or a municipal economic development agency or entity.</li> </ul> <p>[various Programs]</p>
§7 (10/1/09)	<b>New</b> – Abandoned Brownfield Cleanup Program	Establishes an Abandoned Brownfield Cleanup Program [Brownfields Program]
§8 (10/1/09)	<b>CGS 22a-134</b> Transfer of hazardous waste establishments: Definitions.	22a-134(28) adds the definition of “interim verification”. [Property Transfer Program]
§9 (10/1/09)	<b>CGS 22a-134a</b> Transfer of hazardous waste establishments: Forms, verification, schedules, audits, approval, notification requirements, orders, exceptions.	<p>22a-134a(g)(1) is revised to incorporate a new requirement for a certifying party to complete remediation within 8 years for Form III and Form IV filings submitted after 10/1/09.</p> <p>If a certifying party submits an interim verification, certain conditions are imposed until remediation standards for groundwater are achieved:</p> <ol style="list-style-type: none"> <li>1. operate and maintain long-term remedy for groundwater,</li> <li>2. prevent exposure to the groundwater plume, and</li> <li>3. submit annual status reports to the Commissioner.</li> </ol> <p>For Form IV filings after 10/1/09, the certifying party must submit a schedule for groundwater monitoring and recording of an environmental land use restriction, as applicable. [Property Transfer Program]</p>

PA 09-235 section (effective date)	STATUTE AFFECTED	NATURE OF CHANGE / TOPIC
§10 (10/1/09)	<b>CGS 22a-133x</b> Investigation and remediation of contaminated real property. Submission of forms. Review by commissioner. Fee. Notification required.	22a-133x is revised to make this voluntary program available to <u>any</u> person (not just the property owner or a political subdivision of the State) for the investigation and remediation of <u>any</u> real property or release area. [Voluntary Remediation Program]
§11 (10/1/09)	<b>New</b> - Green Remediation Technologies at Brownfield Properties	The act requires state agencies and quasi-public agencies to provide for the use of green remediation technologies when soliciting bids, requesting proposals, or negotiating contracts for remediating brownfields. [Brownfields Program]

**Public Act 09-3** – “An Act Concerning Expenditures and Revenue for the Biennium Ending June 30, 2011” became law on September 8, 2009, with an effective date of October 1, 2009 for changes affecting the following sections:

PA 09-3 section (effective date)	STATUTE AFFECTED	NATURE OF CHANGE / TOPIC
§404 (10/1/09)	<b>CGS 22a-133v</b> Fees.	22a-133v is revised to increase fees for LEP examination to \$235 and to increase the annual renewal fee to \$425. [LEP Program]
§405 (10/1/09)	<b>CGS 22a-133x</b> Fees.	22a-133x is revised to increase fees for entry into the voluntary program to \$3,250. [Voluntary Remediation Program]
§406 (10/1/09)	<b>CGS 22a-134e</b> Fees.	22a-134e is revised to increase fees for Form I and Form II filings to \$375 and \$1,300 respectively.  <i>Initial</i> fees, which are due at the time of submittal of Form III or Form IV filings, remain unchanged at \$3,000.  <i>Total</i> fees for Form III and Form IV filings have increased, so <i>subsequent</i> fees (total fee – initial \$3,000 fee) for such filings (which are due <i>only</i> if review and approval of investigation and remediation by the Commissioner is required) have increased as a result. [Property Transfer Program]