**§125. Validity**

An affordable housing covenant is valid and enforceable even when any of the following apply. [PL 1991, c. 373 (NEW).]

**1. Not appurtenant to interest in real property.**  The affordable housing covenant is not appurtenant and does not run with an interest in real property.

[PL 1991, c. 373 (NEW).]

**2. Assignable to another holder.**  The affordable housing covenant can be or has been assigned to another qualified holder.

[PL 1991, c. 373 (NEW).]

**3. Not recognized at common law.**  The affordable housing covenant is not of a character traditionally recognized at common law.

[PL 1991, c. 373 (NEW).]

**4. Imposes a negative burden.**  The affordable housing covenant imposes a negative burden.

[PL 1991, c. 373 (NEW).]

**5. Imposes affirmative obligations.**  The affordable housing covenant imposes affirmative obligations upon the owner of an interest in the burdened property or upon the qualified holder.

[PL 1991, c. 373 (NEW).]

**6. Benefit does not touch or concern real property.**  The benefit of the affordable housing covenant is held by a qualified holder who has not retained property that would benefit from enforcement of the affordable housing covenant against the burdened property, or the benefit does not touch or concern real property in any other way.

[PL 1991, c. 373 (NEW).]

**7. No privity of estate or contract.**  There is no privity of estate or privity of contract.

[PL 1991, c. 373 (NEW).]

**8. Does not run to successors or assigns.**  The affordable housing covenant does not run to the successors or assigns of the qualified holder.

[PL 1991, c. 373 (NEW).]

**9. Unreasonable restraint on alienability.**  The affordable housing covenant may be construed by a court to be an unreasonable restraint on alienability.

[PL 1991, c. 373 (NEW).]

**10. In violation of rule against perpetuities.**  The affordable housing covenant may be construed by a court to violate the rule against perpetuities.

[PL 1991, c. 373 (NEW).]

SECTION HISTORY

PL 1991, c. 373 (NEW).

The State of Maine claims a copyright in its codified statutes. If you intend to republish this material, we require that you include the following disclaimer in your publication:

*All copyrights and other rights to statutory text are reserved by the State of Maine. The text included in this publication reflects changes made through the Second Regular Session of the 131st Maine Legislature and is current through January 1, 2025
. The text is subject to change without notice. It is a version that has not been officially certified by the Secretary of State. Refer to the Maine Revised Statutes Annotated and supplements for certified text.*

The Office of the Revisor of Statutes also requests that you send us one copy of any statutory publication you may produce. Our goal is not to restrict publishing activity, but to keep track of who is publishing what, to identify any needless duplication and to preserve the State's copyright rights.

PLEASE NOTE: The Revisor's Office cannot perform research for or provide legal advice or interpretation of Maine law to the public. If you need legal assistance, please contact a qualified attorney.