

§3009. Duration; amendment by court action

1. Perpetual duration. An environmental covenant is perpetual unless it is:

A. By its terms limited to a specific duration or terminated by the occurrence of a specific event; [PL 2005, c. 370, §1 (NEW).]

B. Terminated by consent pursuant to section 3010; [PL 2005, c. 370, §1 (NEW).]

C. Terminated pursuant to subsection 2; [PL 2005, c. 370, §1 (NEW).]

D. Terminated by operation of other laws of this State governing priority of interests; or [PL 2005, c. 370, §1 (NEW).]

E. Terminated or modified in an eminent domain proceeding, but only if:

(1) The agency that signed the covenant is a party to the proceeding;

(2) All persons identified in section 3010, subsections 1 and 2 are given notice of the pendency of the proceeding; and

(3) The court determines, after hearing, that the termination or modification will not adversely affect human health or the environment. [PL 2005, c. 370, §1 (NEW).]

[PL 2005, c. 370, §1 (NEW).]

2. Intended benefits can no longer be realized. If the agency that signed an environmental covenant has determined that the intended benefits of the covenant can no longer be realized, a court, under the doctrine of changed circumstances, in an action in which all persons identified in section 3010, subsections 1 and 2 have been given notice, may terminate the covenant or reduce its burden on the real property subject to the covenant.

[PL 2005, c. 370, §1 (NEW).]

3. Extinguished, limited or impaired. Except as otherwise provided in subsections 1 and 2, an environmental covenant may not be extinguished, limited or impaired through issuance of a tax deed or foreclosure of a tax lien or application of the doctrine of adverse possession, prescription, abandonment, waiver, lack of enforcement or acquiescence or a similar doctrine.

[PL 2005, c. 370, §1 (NEW).]

4. Laws governing marketable title and dormant mineral interests. An environmental covenant may not be extinguished, limited or impaired by application of laws governing marketable title and dormant mineral interests.

[PL 2005, c. 370, §1 (NEW).]

SECTION HISTORY

PL 2005, c. 370, §1 (NEW).

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