

**§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).

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