

§3005. Validity; effect on other instruments

1. Runs with land. An environmental covenant that complies with this chapter runs with the land. [PL 2005, c. 370, §1 (NEW).]

2. Valid and enforceable. An environmental covenant that is otherwise effective is valid and enforceable even if:

- A. It is not appurtenant to an interest in real property; [PL 2005, c. 370, §1 (NEW).]
- B. It can be or has been assigned to a person other than the original holder; [PL 2005, c. 370, §1 (NEW).]
- C. It is not of a character that has been recognized traditionally at common law; [PL 2005, c. 370, §1 (NEW).]
- D. It imposes a negative burden; [PL 2005, c. 370, §1 (NEW).]
- E. It imposes an affirmative obligation on a person having an interest in the real property or on the holder; [PL 2005, c. 370, §1 (NEW).]
- F. The benefit or burden does not touch or concern real property; [PL 2005, c. 370, §1 (NEW).]
- G. There is no privity of estate or contract; [PL 2005, c. 370, §1 (NEW).]
- H. The holder dies, ceases to exist, resigns or is replaced; or [PL 2005, c. 370, §1 (NEW).]
- I. The owner of an interest subject to the environmental covenant and the holder are the same person. [PL 2005, c. 370, §1 (NEW).]

[PL 2005, c. 370, §1 (NEW).]

3. Instrument recorded prior to effective date of chapter. An instrument that creates restrictions or obligations with respect to real property that would qualify as activity and use limitations except for the fact that the instrument was recorded before the effective date of this chapter is not invalid or unenforceable because of any of the limitations on enforcement of interests described in subsection 2 or because it was identified as an easement, servitude, deed restriction or other interest. This chapter does not apply in any other respect to such an instrument.

[PL 2005, c. 370, §1 (NEW).]

4. Not invalidate or render unenforceable. This chapter does not invalidate or render unenforceable any interest, condition, declaration, covenant or environmental covenant, regardless of how designated, that is otherwise enforceable under the law of this State, whether created before or after the adoption of this chapter, including, without limitation, those adopted pursuant to section 343-E. [PL 2005, c. 370, §1 (NEW).]

SECTION HISTORY

PL 2005, c. 370, §1 (NEW).

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