

# SB3844



## 102ND GENERAL ASSEMBLY

### State of Illinois

2021 and 2022

**SB3844**

Introduced 1/21/2022, by Sen. Adriane Johnson

#### SYNOPSIS AS INTRODUCED:

765 ILCS 122/2

Amends the Uniform Environmental Covenants Act. Removes language providing that "environmental response project" includes a plan or work that is performed for environmental remediation of any site or facility in response to contamination at specified sites or facilities. Provides instead that "environmental response project" includes a plan or work that is performed or conducted to clean up, remediate, eliminate, investigate, minimize, mitigate, or prevent the release or threatened release of contaminants affecting real property in order to protect public health or welfare or the environment. Removes the definition of "State".

LRB102 23424 LNS 32593 b

A BILL FOR

1 AN ACT concerning civil law.

2 **Be it enacted by the People of the State of Illinois,**  
3 **represented in the General Assembly:**

4 Section 5. The Uniform Environmental Covenants Act is  
5 amended by changing Section 2 as follows:

6 (765 ILCS 122/2)

7 Sec. 2. Definitions. In this Act:

8 "Activity and use limitations" means restrictions or  
9 obligations created under this Act with respect to real  
10 property.

11 "Agency" means the Illinois Environmental Protection  
12 Agency or any other State or federal agency that determines or  
13 approves the environmental response project pursuant to which  
14 the environmental covenant is created.

15 "Board" means the Pollution Control Board established by  
16 the Environmental Protection Act.

17 "Common interest community" means a condominium,  
18 cooperative, or other real property with respect to which a  
19 person, by virtue of the person's ownership of a parcel of real  
20 property, is obligated to pay property taxes or insurance  
21 premiums, or for maintenance, or improvement of other real  
22 property described in a recorded covenant that creates the  
23 common interest community.

1 "Environmental covenant" means a servitude that (i) arises  
2 under an environmental response project or under a court or  
3 Board order and (ii) imposes activity and use limitations.

4 "Environmental response project" means a plan or work that  
5 is:

6 (1) approved or overseen by an agency; and

7 (2) performed or conducted to clean up, remediate,  
8 eliminate, investigate, minimize, mitigate, or prevent the  
9 release or threatened release of contaminants affecting  
10 real property in order to protect public health or welfare  
11 or the environment, including, but not limited to ~~for~~  
12 ~~environmental remediation of any site or facility in~~  
13 ~~response to contamination at any one or more of the~~  
14 ~~following sites or facilities:~~

15 (A) under a federal or State program governing  
16 environmental remediation of real property, including,  
17 but not limited to, programs under the Comprehensive  
18 Environmental Response, Compensation and Liability Act  
19 of 1980, as amended (42 U.S.C. 9601 et seq.), the  
20 Resource Conservation and Recovery Act of 1976, as  
21 amended (42 U.S.C. 6901 et seq.), the Environmental  
22 Protection Act, or any rule or regulation adopted  
23 thereunder ~~sites or facilities that are listed as~~  
24 ~~proposed or final on the National Priorities List~~  
25 ~~pursuant to Section 105 of the Comprehensive~~  
26 ~~Environmental Response, Compensation and Liability Act~~

1 ~~of 1980, as amended (42 U.S.C. 9601 et seq.);~~

2 (B) incident to the closure of a solid or  
3 hazardous waste management unit, if the closure is  
4 conducted with the approval of an agency sites or  
5 facilities undergoing remediation pursuant to an  
6 administrative order issued pursuant to Section 106 of  
7 the Comprehensive Environmental Response, Compensation  
8 and Liability Act of 1980, as amended (42 U.S.C. 9601  
9 et seq.);

10 (C) under a State voluntary clean-up program  
11 authorized under the Environmental Protection Act or  
12 any rule adopted thereunder sites or facilities that  
13 are or were formerly owned or operated by a  
14 department, agency, or instrumentality of the United  
15 States that are undergoing remediation pursuant to  
16 Section 120 of the Comprehensive Environmental  
17 Response, Compensation and Liability Act of 1980, as  
18 amended (42 U.S.C. 9601 et seq.);

19 (D) (blank) sites or facilities undergoing  
20 remediation pursuant to a settlement agreement  
21 pursuant to Section 122 of the Comprehensive  
22 Environmental Response, Compensation and Liability Act  
23 of 1980, as amended (42 U.S.C. 9601 et seq.);

24 (E) (blank) sites or facilities undergoing  
25 remediation pursuant to Section 3008(h) of the  
26 Resource Conservation and Recovery Act of 1976 (42

1 ~~U.S.C. 6901 et seq.);~~

2 (F) (blank) ~~sites or facilities undergoing~~  
3 ~~remediation pursuant to Section 7003 of the Resource~~  
4 ~~Conservation and Recovery Act of 1976 (42 U.S.C. 6901~~  
5 ~~et seq.);~~

6 (G) (blank) ~~sites or facilities undergoing~~  
7 ~~remediation pursuant to a court or Board order issued~~  
8 ~~pursuant to the Illinois Environmental Protection Act~~  
9 ~~(415 ILCS 5/1 et seq.) with the approval of the Agency;~~  
10 or

11 (H) (blank) ~~sites or facilities undergoing~~  
12 ~~remediation pursuant to a Compliance Commitment~~  
13 ~~Agreement entered into under Section 31 of the~~  
14 ~~Environmental Protection Act.~~

15 "Holder" means the grantee of an environmental covenant as  
16 specified in Section 3(a).

17 "Person" means an individual, corporation, business trust,  
18 estate, trust, partnership, limited liability company,  
19 association, joint venture, public corporation, government,  
20 governmental subdivision, agency, or instrumentality, or any  
21 other legal or commercial entity.

22 "Prior interest" means a preceding or senior interest, in  
23 time or in right, that is recorded with respect to the real  
24 property, including but not limited to a mortgage, easement,  
25 or other interest, lien, or encumbrance predating the  
26 recording of an environmental covenant.

1 "Record", used as a noun, means information that is  
2 inscribed on a tangible medium or that is stored in an  
3 electronic or other medium and is retrievable in perceivable  
4 form.

5 ~~"State" means a state of the United States, the District~~  
6 ~~of Columbia, Puerto Rico, the United States Virgin Islands, or~~  
7 ~~any territory or insular possession subject to the~~  
8 ~~jurisdiction of the United States.~~

9 (Source: P.A. 99-396, eff. 8-18-15.)