

SB1706



103RD GENERAL ASSEMBLY

State of Illinois

2023 and 2024

SB1706

Introduced 2/9/2023, 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".

LRB103 25656 LNS 52005 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.)