



Rep. Michael W. Tryon

Filed: 3/20/2015

09900HB3819ham002

LRB099 11200 MGM 33216 a

1 AMENDMENT TO HOUSE BILL 3819

2 AMENDMENT NO. \_\_\_\_\_. Amend House Bill 3819 on page 25,  
3 immediately below line 12, by inserting the following:

4 "Section 10. The Uniform Environmental Covenants Act is  
5 amended by changing Sections 2 and 11 as follows:

6 (765 ILCS 122/2)

7 Sec. 2. Definitions. In this Act:

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

11 ~~(2)~~ "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.

1       ~~(3)~~ "Common interest community" means a condominium,  
2 cooperative, or other real property with respect to which a  
3 person, by virtue of the person's ownership of a parcel of real  
4 property, is obligated to pay property taxes or insurance  
5 premiums, or for maintenance, or improvement of other real  
6 property described in a recorded covenant that creates the  
7 common interest community.

8       ~~(4)~~ "Environmental covenant" means a servitude that (i)  
9 arises arising under an environmental response project or under  
10 a court or Board order and (ii) that imposes activity and use  
11 limitations.

12       ~~(5)~~ "Environmental response project" means a plan or work  
13 that is:

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

15               (2) performed for environmental remediation of any  
16 site or facility in response to contamination at any one or  
17 more of real property at the following sites or facilities:

18               (A) ~~all~~ sites or facilities that are listed as  
19 proposed or final on the National Priorities List  
20 pursuant to Section 105 of the Comprehensive  
21 Environmental Response, Compensation and Liability Act  
22 of 1980, as amended (42 U.S.C. 9601 et seq.);

23               (B) ~~all~~ sites or facilities undergoing remediation  
24 pursuant to an administrative order issued pursuant to  
25 Section 106 of the Comprehensive Environmental  
26 Response, Compensation and Liability Act of 1980, as

1 amended (42 U.S.C. 9601 et seq.);

2 (C) ~~all~~ sites or facilities that are or were  
3 formerly owned or operated by a department, agency, or  
4 instrumentality of the United States that are  
5 undergoing remediation pursuant to Section 120 of the  
6 Comprehensive Environmental Response, Compensation and  
7 Liability Act of 1980, as amended (42 U.S.C. 9601 et  
8 seq.);

9 (D) ~~all~~ sites or facilities undergoing remediation  
10 pursuant to a settlement agreement pursuant to Section  
11 122 of the Comprehensive Environmental Response,  
12 Compensation and Liability Act of 1980, as amended (42  
13 U.S.C. 9601 et seq.);

14 (E) ~~all~~ sites or facilities undergoing remediation  
15 pursuant to Section 3008(h) of the Resource  
16 Conservation and Recovery Act of 1976 (42 U.S.C. 6901  
17 et seq.);

18 (F) ~~all~~ sites or facilities undergoing remediation  
19 pursuant to Section 7003 of the Resource Conservation  
20 and Recovery Act of 1976 (42 U.S.C. 6901 et seq.); ~~or~~

21 (G) ~~all~~ sites or facilities undergoing remediation  
22 pursuant to a court or Board ~~board~~ order issued  
23 pursuant to the Illinois Environmental Protection Act  
24 (415 ILCS 5/1 et seq.) with the approval of the Agency;  
25 or.

26 (H) sites or facilities undergoing remediation

1           pursuant to a Compliance Commitment Agreement entered  
2           into under Section 31 of the Environmental Protection  
3           Act.

4           ~~(6)~~ "Holder" means the grantee of an environmental covenant  
5 as specified in Section 3(a).

6           ~~(7)~~ "Person" means an individual, corporation, business  
7 trust, estate, trust, partnership, limited liability company,  
8 association, joint venture, public corporation, government,  
9 governmental subdivision, agency, or instrumentality, or any  
10 other legal or commercial entity.

11           ~~(8)~~ "Prior interest" means a preceding or senior interest,  
12 in time or in right, that is recorded with respect to the real  
13 property, including but not limited to a mortgage, easement, or  
14 other interest, lien, or encumbrance predating the recording of  
15 an environmental covenant.

16           ~~(9)~~ "Record", used as a noun, means information that is  
17 inscribed on a tangible medium or that is stored in an  
18 electronic or other medium and is retrievable in perceivable  
19 form.

20           ~~(10)~~ "State" means a state of the United States, the  
21 District of Columbia, Puerto Rico, the United States Virgin  
22 Islands, or any territory or insular possession subject to the  
23 jurisdiction of the United States.

24 (Source: P.A. 95-845, eff. 1-1-09.)

1           Sec. 11. Enforcement of environmental covenant.

2           (a) A civil action for injunctive or other equitable relief  
3 for violation of an environmental covenant may be maintained  
4 by:

5                 (1) A party to the covenant.

6                 (2) The agency or, if it is not the agency, the  
7 Illinois Environmental Protection Agency.

8                 (3) Any person to whom the covenant expressly grants  
9 power to enforce.

10                (4) A person whose interest in the real property or  
11 whose collateral or liability may be affected by the  
12 alleged violation of the covenant.

13                (5) A municipality or other unit of local government in  
14 which the real property subject to the covenant is located.

15                (6) Any agency that is enforcing the terms of any court  
16 or Board order.

17           (b) This Act does not limit the regulatory authority of the  
18 agency or the Illinois Environmental Protection Agency under  
19 law other than this Act with respect to an environmental  
20 response project.

21           (c) A person is not responsible for or subject to liability  
22 for environmental remediation solely because it has the right  
23 to enforce an environmental covenant.

24           (Source: P.A. 95-845, eff. 1-1-09.)".