

**455I.5 Validity — effect on other instruments.**

1. An environmental covenant that complies with this chapter runs with the land.
2. An environmental covenant that is otherwise effective is valid and enforceable even if any of the following applies to the environmental covenant:
  - a. The environmental covenant is not appurtenant to an interest in real property.
  - b. The environmental covenant can be or has been assigned to a person other than the original holder.
  - c. The environmental covenant is not of a character that has been recognized traditionally at common law.
  - d. The environmental covenant imposes a negative burden.
  - e. The environmental covenant imposes an affirmative obligation on a person having an interest in the real property or on the holder.
  - f. The benefit or burden does not touch or concern real property.
  - g. There is no privity of estate or contract.
  - h. The holder dies, ceases to exist, resigns, or is replaced.
  - i. The owner of an interest subject to the environmental covenant and the holder are the same person.
3. 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 July 1, 2005, is valid and enforceable and is not rendered invalid or unenforceable based upon any of the potential 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.
4. This chapter does not invalidate or render unenforceable any interest, whether designated as an environmental covenant or other interest, that was created prior to July 1, 2005, or that is otherwise enforceable under the laws of this state.

2005 Acts, ch 102, §9; 2006 Acts, ch 1030, §43, 89

[SP] 2006 amendment to subsection 4 is retroactively applicable to January 1, 2005, and applies on and after that date; 2006 Acts, ch 1030, §89