



Sen. David Koehler

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1 AMENDMENT TO SENATE BILL 1590

2 AMENDMENT NO. _____. Amend Senate Bill 1590 on page 25,
3 immediately below line 12, by inserting the following:

4 "Section 5. 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.)".