



## Ohio Revised Code

### Section 5301.85 Environmental covenant runs with land - enforceability.

Effective: December 30, 2004

Legislation: House Bill 516 - 125th General Assembly

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(A) An environmental covenant that complies with sections 5301.80 to 5301.92 of the Revised Code runs with the land.

(B) An environmental covenant that is otherwise effective is valid and enforceable even if any of the following limitations on enforcement of interests applies:

(1) It is not appurtenant to an interest in real property.

(2) It can be or has been assigned to a person other than the original holder.

(3) It is not of a character that has been recognized traditionally at common law.

(4) It imposes a negative burden.

(5) It imposes an affirmative obligation on a person having an interest in the real property or on the holder.

(6) The benefit or burden of the environmental covenant does not touch or concern real property.

(7) There is no privity of estate or contract.

(8) The holder dies, ceases to exist, resigns, or is replaced.

(9) The owner of an interest that is subject to the environmental covenant and the holder are the same person.

(C) 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 the



effective date of sections 5301.80 to 5301.92 of the Revised Code is not invalid or unenforceable because of any of the limitations on enforcement of interests described in division (B) of this section or because it was identified as an easement, servitude, deed restriction, or other interest. Sections 5301.80 to 5301.92 of the Revised Code do not apply in any other respect to such an instrument.

(D) Sections 5301.80 to 5301.92 of the Revised Code do not invalidate or render unenforceable any interest, whether designated as an environmental covenant or other interest, that is otherwise enforceable under the laws of this state.

(E) Nothing in sections 5301.80 to 5301.92 of the Revised Code shall be construed to restrict, affect, or impair the rights of any person under the Revised Code or common law to enter into or record a restrictive covenant, institutional control, easement, servitude, or other restriction on the use of property that does not satisfy the requirements of division (A) of section 5301.82 of the Revised Code and does not have the permission, approval, or consent of an agency, political subdivision, regulatory body, or other unit of government. However, a restrictive covenant, institutional control, easement, servitude, or other restriction on the use of property entered into or recorded without such permission, approval, or consent is not an environmental covenant and is not binding on an agency, political subdivision, regulatory body, or other unit of government.