

224.80-140 Environmental covenant to run with the land -- When covenants to be deemed valid and enforceable -- Validity of instruments recorded before June 20, 2005.

- (1) An environmental covenant in compliance with the provisions of KRS 224.80-100 to 224.80-210 shall run with the land.
- (2) An environmental covenant that is otherwise effective shall be deemed valid and shall be enforceable even if:
 - (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 in 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; or
 - (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 June 20, 2005, shall not be invalidated or deemed unenforceable due to:
 - (a) Any of the limitations on enforcement of interests described in paragraphs (a) to (i) of subsection (2) of this section; or
 - (b) The identification of the instrument as an easement, servitude, deed restriction, or other interest.
- (4) KRS 224.80-100 to 224.80-210 shall not invalidate or render unenforceable any interest, whether designated as an environmental covenant or other interest, that is otherwise enforceable under the law.

Effective: June 20, 2005

History: Created 2005 Ky. Acts ch. 92, sec. 5, effective June 20, 2005.