

224.80-180 Covenant to exist in perpetuity except under certain circumstances -- Petition to court to terminate or reduce burden of environmental covenant.

- (1) An environmental covenant shall be perpetual except under the following circumstances:
 - (a) By its terms, the environmental covenant is limited to a specific duration or is terminated by the occurrence of a specific event;
 - (b) The environmental covenant is terminated pursuant to KRS 224.80-190;
 - (c) The environmental covenant is terminated by foreclosure of an interest that has priority over the environmental covenant; or
 - (d) The environmental covenant is terminated or modified in an eminent domain proceeding and the following conditions exist:
 1. The cabinet is a party to the eminent domain proceeding;
 2. All persons identified in KRS 224.80-190(1) and (2) are given notice of the pendency of the eminent domain proceeding; and
 3. A court of competent jurisdiction determines, after hearing, that the termination or modification of the environmental covenant will not adversely affect human health or the environment.
- (2) If the cabinet or if any holder determines that the intended benefits of an environmental covenant can no longer be realized, Franklin Circuit Court, under the doctrine of changed circumstances, in an action in which all persons identified in KRS 224.80-190(1) and (2) have been given notice, may terminate the environmental covenant or reduce its burden on the real property subject to the environmental covenant.
- (3) Except as otherwise provided in subsections (1) and (2) of this section, an environmental covenant may not be extinguished, limited, or impaired through the issuance of a tax deed, foreclosure of a tax lien, or application of the doctrine of adverse possession, prescription, abandonment, waiver, lack of enforcement, acquiescence, or a similar doctrine.

Effective: June 20, 2005

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