

# MAINE STATE LEGISLATURE

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10/8

L.D. 1559

DATE: 6-3-05

(Filing No. S-328)

JUDICIARY

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STATE OF MAINE
SENATE
122ND LEGISLATURE
FIRST SPECIAL SESSION

COMMITTEE AMENDMENT A to S.P. 543, L.D. 1559, Bill, "An Act To Adopt the Uniform Environmental Covenants Act"

Amend the bill in section 1 in that part designated "§3002." by striking out all of subsection 4 and inserting in its place the following:

'4. Environmental covenant; covenant. "Environmental covenant" or "covenant" means a servitude arising under an environmental response project and documented in a recordable instrument that imposes activity and use limitations. "Environmental covenant" does not include a municipal ordinance, a voluntary or other remedial action plan or a condition added thereto or an administrative or judicial order, whether unilateral or by consent, that may impose activity or use limitations.'

Further amend the bill in section 1 in that part designated "§3002." in subsection 5 in paragraph A in the last line (page 1, line 48 in L.D.) by inserting after the following: "13-B" the following: ', or the voluntary response action program under Title 38, section 343-E'

Further amend the bill in section 1 in that part designated "§3003." in subsection 1 by inserting at the end the following: 'Notwithstanding section 568, subsection 5-A and section 1364, subsection 7 or any other provision of law, the department may be a holder of an environmental covenant and approval of the board is not required.'

COMMITTEE AMENDMENT

Further amend the bill in section 1 in that part designated "~~§3003.~~" by striking out all of subsection 4 and inserting in its place the following:

'4. Priority of recorded interests. The priority of recorded interests is governed by other law, including law relating to the police powers of the State and public policies protecting health and the environment, and is unaffected by this Act, except as provided in section 3009, subsection 3 for tax liens.'

Further amend the bill in section 1 in that part designated "~~§3004.~~" in subsection 1 in paragraph E in the last line (page 3, line 29 in L.D.) by inserting after the following: "covenant" the following: ', except that the agency may not waive signature by an owner of the fee simple who is the current occupant of the real estate, if any'

Further amend the bill in section 1 in that part designated "~~§3009.~~" in subsection 2 by striking out all of the last underlined sentence (page 7, lines 4 to 6 in L.D.)

Further amend the bill in section 1 in that part designated "~~§3010.~~" in subsection 1 by striking out all of paragraph D and inserting in its place the following:

'D. The holder, unless the holder waived in a signed record the right to consent or except as otherwise provided in subsection 4, paragraph B.'

Further amend the bill in section 1 by striking out all of that part designated "~~§3012.~~"

Further amend the bill in section 1 by renumbering any nonconsecutive sections to read consecutively.

Further amend the bill by inserting after section 1 the following:

**'Sec. 2. Appropriations and allocations.** The following appropriations and allocations are made.

**ENVIRONMENTAL PROTECTION, DEPARTMENT OF**

**Remediation and Waste Management 0247**

Initiative: Provides for costs associated with environmental covenants.

R. G. S.

R.O.S.

COMMITTEE AMENDMENT "A" to S.P. 543, L.D. 1559

	2005-06	2006-07
2 OTHER SPECIAL REVENUE FUNDS		
All Other	\$0	\$30,000
4 OTHER SPECIAL REVENUE FUNDS TOTAL	\$0	\$30,000'

SUMMARY

This amendment makes the following changes.

1. It refines the definition of "environmental covenant" to include the element that it is documented in a recordable instrument. It also specifies that an "environmental covenant" does not include a municipal ordinance, a voluntary or other remedial action plan or an administrative or judicial order that may impose activity or use limitations.

2. It revises the definition of "environmental response project" to include remediations under the State's voluntary response action program.

3. It clarifies that the Department of Environmental Protection may be a holder of an environmental covenant without approval of the Board of Environmental Protection.

4. It amends the language stating that the priority of recorded interest is determined by other law to correct a typographical error and to specifically mention that the other law that governs includes law relating to the police powers of the State and public policies protecting health and the environment.

5. It eliminates a reference to the Maine Administrative Procedure Act's review process concerning an agency determination of whether the benefits under the covenant can no longer be realized.

6. It prohibits the agency from waiving the requirement of the signature on the covenant by an owner of the fee simple if the owner is the current occupant of the real estate that is the subject of the covenant.

7. It allows amendment of the environmental covenant without the holder's consent if the holder has already waived the right to consent to an amendment in a signed record.

8. It deletes the section that required the Department of Environmental Protection to maintain a list of environmental covenants and specified a process for ensuring recording and record keeping. It also renumbers the sections and adds an appropriation.

FISCAL NOTE REQUIRED  
(See attached)

COMMITTEE AMENDMENT



# 122nd MAINE LEGISLATURE

LD 1559

LR 2059(02)

## An Act To Adopt the Uniform Environmental Covenants Act

Fiscal Note for Bill as Amended by Committee Amendment "A"

Committee: Judiciary

Fiscal Note Required: Yes

### Fiscal Note

	2005-06	2006-07	Projections 2007-08	Projections 2008-09
<b>Appropriations/Allocations</b>				
Other Special Revenue Funds	\$0	\$30,000	\$30,000	\$30,000

#### Correctional and Judicial Impact Statements

This bill may increase the number of civil suits filed in the court system.

The collection of additional filing fees may increase General Fund revenue by minor amounts.

#### Fiscal Detail and Notes

This bill includes an Other Special Revenue Funds allocation to the Department of Environmental Protection of \$30,000 annually beginning in fiscal year 2006-07 for costs associated with environmental covenants.