

§135. Validity

A working waterfront covenant is valid and enforceable notwithstanding any of the following conditions. [PL 2005, c. 574, §1 (NEW).]

1. Not appurtenant to interest in real property. The working waterfront covenant is not appurtenant and does not run with an interest in real property.

[PL 2005, c. 574, §1 (NEW).]

2. Assignable to another holder. The working waterfront covenant can be or has been assigned to another qualified holder.

[PL 2005, c. 574, §1 (NEW).]

3. Not recognized at common law. The working waterfront covenant is not of a character traditionally recognized at common law.

[PL 2005, c. 574, §1 (NEW).]

4. Imposes negative burden. The working waterfront covenant imposes a negative burden.

[PL 2005, c. 574, §1 (NEW).]

5. Imposes affirmative obligations. The working waterfront covenant imposes affirmative obligations upon the owner of an interest in the burdened property or upon the qualified holder.

[PL 2005, c. 574, §1 (NEW).]

6. Benefit does not touch or concern real property. The benefit of the working waterfront covenant is held by a qualified holder who has not retained property that would benefit from enforcement of the working waterfront covenant, or the benefit does not touch or concern real property in any other way.

[PL 2005, c. 574, §1 (NEW).]

7. No privity of estate or contract. There is no privity of estate or privity of contract.

[PL 2005, c. 574, §1 (NEW).]

8. Does not run to successors or assigns. The working waterfront covenant does not run to the successors or assigns of the qualified holder.

[PL 2005, c. 574, §1 (NEW).]

9. Unreasonable restraint on alienability. The working waterfront covenant may be considered to be an unreasonable restraint on alienability.

[PL 2005, c. 574, §1 (NEW).]

10. In violation of rule against perpetuities. The working waterfront covenant may violate the rule against perpetuities.

[PL 2005, c. 574, §1 (NEW).]

SECTION HISTORY

PL 2005, c. 574, §1 (NEW).

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