



WHY YOUR STATE SHOULD ADOPT THE UNIFORM ENVIRONMENTAL COVENANTS ACT (UECA)

The **Uniform Environmental Covenants Act** allows for the long-term enforcement of clean-up controls (restrictions on certain uses, prohibitions on using wells, protection of concrete “caps,” maintenance of monitoring equipment, etc.) to be contained in a statutorily-defined agreement known as an “environmental covenant” which will be binding on subsequent purchasers of the property and be listed in the local land records. The purpose of this act is to remove various legal impediments to the use of such restrictions and to thereby lessen liability concerns of sellers and lenders associated with the redevelopment and sale of “brownfields” while at the same time requiring state approval of the remediation and control plan as well as notice to surrounding landowners, local governments, and other parties in interest. By ensuring such “institutional controls” are maintained and enforced, UECA helps fulfill the dual purposes of such restrictions – the protection of human health and the economically viable reuse of the property in question.

- UECA helps to return previously contaminated property to the stream of commerce, by allowing the owners of that property to engage in responsible risk-based cleanups and then transfer or sell the property subject to state-approved controls on its use.
- UECA gives a broad array of interested parties the ability to enforce the use and activity restrictions contained in an environmental covenant, thereby helping to ensure those controls will remain in place and prevent secondary harms.
- UECA protects valid environmental covenants from being inadvertently extinguished by application of various common law doctrines, adverse possession, tax lien foreclosures, less-restrictive zoning changes, and marketable title statutes.
- UECA requires the state environmental agency to be a signatory to the covenant, thereby ensuring that risk assessments and control mechanisms are based on sound science, adequately protect human health and surrounding properties, and that notice of the covenant and associated controls is provided to affected third parties.
- UECA does not supplant or impose substantive cleanup standards or liability; rather it validates approved site-specific controls resulting from an environmental response project, and makes sure those controls are maintained as long as necessary to meet the objective for which they were approved.

The **Uniform Environmental Covenants Act** is an important tool in revitalizing inner cities and other areas where vacant and underused properties are preventing vital redevelopment. It was drafted with the participation of state and federal regulators, public and private land owners, banking interests, environmentalists, and land use experts. Its enactment will provide the owners of contaminated land the confidence to invest in long-term remediation strategies and use controls, while at the same time protecting human health and allowing those properties to be developed and thus bring economic revitalization to blighted areas and sites.

For further information about UECA, please contact ULC Chief Counsel Benjamin Orzeske at (312) 450-6621 or borzeske@uniformlaws.org.