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SB 64: Uniform Environmental Covenants Act (UECA)

A primary interest of this office is to streamline and remove obstacles that inhibit business, commerce or the transfer of property without reducing expectations for public health, safety and a healthy environment. SB 64 achieves that.

In 2003, the Uniform Law Commissioners created a Uniform Environmental Covenants Act to overcome inadequate common law rules. An environmental covenant allows for the sale of property with use limitations to mitigate risk. Alaska is one of only seven states that does not have an environmental covenant law.

SB 64 protects the buyer and seller of contaminated property while allowing the fullest and best use of the property until the contamination reaches safe levels. The bill creates a legal mechanism to safely transfer contaminated property through an environmental covenant.

An environmental covenant is a specific recordable interest in real estate that will be tracked through a Department of Environmental Conservation (DEC) database. The covenant is specific to the risks at a particular site and restricts activities that could result in exposure while allowing other uses to occur. Such a process is often all that is necessary to make property transferable, as well as economically and functionally viable.

Use restrictions imposed by the covenant are developed by the responsible party and DEC - exactly as they are now for Institutional Controls - utilizing risk assessments and scientific principles.

A covenant provides transparency throughout the life of the property and provides assurances to buyers and sellers that risks will be safely managed. Other states have found that covenants help communities transform blighted property into marketable assets.

A simple process for amending or removing covenants is included in the legislation. A covenant would not supplant or impose current contamination removal standards, which will continue to be managed as they are currently. The act would not affect the liability of the principally-responsible parties, but would provide a method for minimizing exposure to third parties.

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