WEST VIRGINIA CODE: §22-22B-9

§22-22B-9. Duration; amendment by court action.

(a) An environmental covenant is perpetual unless it is:

(1) By its terms limited to a specific duration or terminated by the occurrence of a specific event;

(2) Terminated by consent pursuant to section ten of this article;

(3) Terminated pursuant to subsection (b) of this section;

(4) Terminated by foreclosure of an interest that has priority over the environmental covenant; or

(5) Terminated or modified in an eminent domain proceeding, but only if:

(A) The agency that signed the covenant is a party to the proceeding;

(B) All persons identified in subsections (a) and (b), section ten of this article are given notice of the pendency of the proceeding; and

(C) The court determines, after hearing, that the termination or modification will not adversely affect human health or the environment.

(b) If the agency that signed an environmental covenant has determined that the intended benefits of the covenant can no longer be realized, a court, under the doctrine of changed circumstances, in an action in which all persons identified in subsections (a) and (b), section ten of this article have been given notice, may terminate the covenant or reduce its burden on the real property subject to the covenant. The agency's determination or its failure to make a determination upon request is subject to review pursuant to article five, chapter twenty-nine-a of this code.

(c) Except as otherwise provided in subsections (a) and (b) of this section, an environmental covenant may not be extinguished, limited or impaired through issuance of a tax deed, foreclosure of a tax lien, or application of the doctrine of adverse possession, prescription, abandonment, waiver, lack of enforcement, or acquiescence, or a similar doctrine.

(d) An environmental covenant may not be extinguished, limited, or impaired except as authorized by this article.

WV Legislature