

**§133. Judicial actions**

**1. Owners; qualified holders.** An action affecting a working waterfront covenant may be brought or intervened in by:

- A. An owner of an interest in the real property burdened by the covenant; [PL 2005, c. 574, §1 (NEW).]
  - B. A qualified holder of the benefit of the working waterfront covenant; [PL 2005, c. 574, §1 (NEW).]
  - C. The municipality in which the real property burdened by the covenant is located; or [PL 2005, c. 574, §1 (NEW).]
  - D. The Attorney General. [PL 2005, c. 574, §1 (NEW).]
- [PL 2005, c. 574, §1 (NEW).]

**2. Power of court.** The court has the following powers.

- A. The court may enforce a working waterfront covenant by injunction or other proceeding at law or in equity. [PL 2005, c. 574, §1 (NEW).]
  - B. Acting in accordance with charitable trust principles, the court may modify, terminate or deny equitable enforcement of a working waterfront covenant in an action brought by a party pursuant to subsection 1. In taking such an action, the court must find that, due to a change in circumstance, the covenant no longer serves the public interest in protecting or enhancing the commercial marine fisheries or related businesses of the State. The Attorney General must be made a party to any action under this paragraph and written notice must be provided to the Commissioner of Marine Resources. [PL 2005, c. 574, §1 (NEW).]
  - C. If the court modifies, terminates or denies equitable enforcement of a working waterfront covenant, the court may order payment by the landowner of money or other damages to the holder or the State, which shall apply the same in a manner consistent with the purposes of this law as approved by the court. [PL 2005, c. 574, §1 (NEW).]
- [PL 2005, c. 574, §1 (NEW).]

The fact that a working waterfront property might be used for more valuable economic purposes may not be considered in determining whether a working waterfront covenant is no longer in the public interest. [PL 2005, c. 574, §1 (NEW).]

**SECTION HISTORY**

PL 2005, c. 574, §1 (NEW).

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