

1 SENATE BILL NO. 247

2 INTRODUCED BY S. FITZPATRICK

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4 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING COVENANT LAWS; PROVIDING THAT THE 8-YEAR  
5 STATUTE OF LIMITATIONS FOR OBLIGATIONS ON A CONTRACT APPLIES TO COVENANTS; LIMITING  
6 WHO MAY INITIATE LEGAL ACTION TO ENFORCE COVENANTS; REVISING WHEN A COVENANT IS  
7 DEEMED ABANDONED; LIMITING WHEN COVENANTS MAY BE ENFORCED IF A GOVERNING BODY  
8 HAS NOT MET FOR A PERIOD OF TIME; AND AMENDING SECTION 27-2-202, MCA; AND PROVIDING AN  
9 IMMEDIATE EFFECTIVE DATE."

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11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

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13 NEW SECTION. Section 1. Covenant enforcement and abandonment. (1) Only the governing  
14 body of a development or a parcel owner within a development can initiate a legal action to enforce covenants,  
15 conditions, or restrictions.

16 (2) A covenant, condition, or restriction is deemed abandoned for purposes of enforcement if no  
17 enforcement action has been undertaken for the prescribed period in 27-2-202. Once a covenant, condition, or  
18 restriction is abandoned pursuant to this section, the governing body is precluded from undertaking a different  
19 interpretation or enforcement action against a similarly situated parcel owner in the same development.

20 (3) When the governing body formed within covenants, conditions, or restrictions has not met for a  
21 period of 15 years, it constitutes substantial noncompliance, and the governing body is prohibited from taking  
22 any enforcement action regarding the covenants, conditions, or restrictions recorded against the land to the  
23 extent the covenants, conditions, or restrictions are not otherwise necessary to comply with applicable federal,  
24 state, and local laws, ordinances, and regulations.

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26 **Section 2.** Section 27-2-202, MCA, is amended to read:

27 **"27-2-202. Actions based on contract or other obligation.** (1) The period prescribed for the  
28 commencement of an action ~~upon~~on any contract, covenant, obligation, or liability founded ~~upon~~on an

1 instrument in writing is within 8 years.

2 (2) The period prescribed for the commencement of an action ~~upon~~on a contract, account, or  
3 promise not founded on an instrument in writing is within 5 years.

4 (3) The period prescribed for the commencement of an action ~~upon~~on an obligation or liability,  
5 other than a contract, account, or promise, not founded ~~upon~~on an instrument in writing is within 3 years."

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7 **NEW SECTION. Section 3. Codification instruction.** [Section 1] is intended to be codified as an  
8 integral part of Title 70, chapter 17, part 2, and the provisions of Title 70, chapter 17, part 2, apply to [section 1].

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10 **NEW SECTION. Section 4. Effective date.** [This act] is effective on passage and approval.

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