

1 SENATE BILL NO. 376

2 INTRODUCED BY K. BOGNER

3  
4 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING COVENANT LAW; PROVIDING THAT COVENANTS  
5 ON RESIDENTIAL PROPERTY MAY NOT PROHIBIT THE OCCUPANCY OR RENTAL OF ACCESSORY  
6 DWELLING UNITS OR PROHIBIT THE PROVISION OF CHILD CARE; PROVIDING THAT COVENANTS ON  
7 RESIDENTIAL PROPERTY MAY NOT LAST LONGER THAN 5 YEARS UNLESS RERATIFIED BY A  
8 MAJORITY OF OWNERS OF PROPERTY SUBJECT TO THE COVENANT; ALLOWING OWNERS TO VOTE  
9 TO SUSTAIN OR AMEND A COVENANT; REQUIRING RECORDING OF COVENANTS; AND PROVIDING  
10 AN APPLICABILITY DATE AND AN IMMEDIATE EFFECTIVE DATE."

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

13  
14 NEW SECTION. Section 1. Prohibitions on covenants on residential property. A covenant on  
15 residential property may not:

- 16 (1) prohibit the occupancy or rental of accessory dwelling units;
- 17 (2) prohibit the provision of child care.

18  
19 NEW SECTION. Section 2. Affirmation, amendment, or removal of covenants on residential  
20 property -- recording required to sustain covenants. (1) Except as provided in subsection (4), Aa covenant  
21 on residential property may not last longer than 5 years unless all owners of property subject to the covenant  
22 have the opportunity to vote on the covenant and:

23 (a) ~~at least~~ a majority of ~~owners of property subject to a covenant vote~~ the owners vote to sustain  
24 or amend the covenant pursuant to subsection (2);

25 (b) ~~the covenant provides for a right to reenter or reposess land on account of a breach of the~~  
26 ~~covenant; or~~

27 (c) ~~the covenant is necessary to the maintenance of shared infrastructure or was required by an~~  
28 ~~approving government entity on establishment of the covenant.~~

1 (2) A vote to sustain or amend a covenant must extend the covenant for no more than 5 years at a  
2 time and must be made or recorded documented in writing, whether on one or more documents.

3 (3) If a covenant is sustained or amended pursuant to subsections (1) and (2), the affirmation or  
4 amendment must be recorded with the office of the county clerk and recorder of the county where the real  
5 property is situated within 5 years of the previous recording date and must include evidence of the owners  
6 voting for or against sustaining or amending the covenant. Any owner of property subject to the covenant or any  
7 governing owners' association may accomplish the recording.

8 (4) (a) Nothing in this section prevents an owner from claiming the benefit of the protections  
9 provided in 70-17-901 based on expired covenants.

10 (b) This section does not apply to a covenant that allows for an easement or right-of-way, is  
11 necessary for the maintenance of shared infrastructure, was required by an approving government entity on the  
12 establishment of the covenant, is required by a court order, or is required by federal, state, or local law or  
13 regulation.

14 (5) As used in this section, "opportunity to vote" means:

15 (a) the provision of at least 30 days' written notice prior to an in-person vote or a period of at least  
16 30 days to vote by mail or by other allowable written means; and

17 (b) the allowance of voting by written proxy.

18  
19 **NEW SECTION. Section 3. Codification instruction.** [Sections 1 and 2] are intended to be codified  
20 as an integral part of Title 70, chapter 17, part 2, and the provisions of Title 70, chapter 17, part 2, apply to  
21 [sections 1 and 2].

22  
23 **NEW SECTION. Section 4. Effective date.** [This act] is effective on passage and approval.  
24

25 **NEW SECTION. Section 5. Applicability.** (1) [This act Section 1] applies to the enforcement of  
26 covenants on residential property filed adopted or amended on or after [the effective date of the act].

27 (2) For a covenant adopted or amended after [the effective date of this act], the 5-year period  
28 provided in [section 2(2)] begins to run on the date the covenant is adopted or amended.