

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 repossess 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.

Amendment - 1st Reading-white - Requested by: Kenneth Bogner - (S) Local Government

- 2023

68th Legislature 2023

Drafter: Toni Henneman, 406-444-3593

SB0376.001.002

1

- END -

AMEND