

1 SENATE BILL NO. 376

2 INTRODUCED BY K. BOGNER

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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."

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

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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.

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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), A A~~  
21 covenant on residential property may not last longer than 5 years unless ALL OWNERS OF PROPERTY SUBJECT TO  
22 ~~THE COVENANT 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  
24 sustain ~~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 share d infrastructure or was required by an~~  
28 ~~approving government entity on establishment of the covenant.~~

(2) — A vote to sustain ~~OR AMEND~~ a covenant must extend the covenant ~~FOR NO MORE THAN 5 years AT A TIME~~ and must be made or recorded ~~DOCUMENTED~~ in writing, whether on one or more documents.

(3) — ~~IF A COVENANT IS SUSTAINED OR AMENDED PURSUANT TO SUBSECTIONS (1) AND (2), THE AFFIRMATION OR AMENDMENT MUST BE RECORDED WITH THE OFFICE OF THE COUNTY CLERK AND RECORDER OF THE COUNTY WHERE THE REAL PROPERTY IS SITUATED WITHIN 5 YEARS OF THE PREVIOUS RECORDING DATE AND MUST INCLUDE EVIDENCE OF THE OWNERS VOTING FOR OR AGAINST SUSTAINING OR AMENDING THE COVENANT. ANY OWNER OF PROPERTY SUBJECT TO THE COVENANT OR ANY GOVERNING OWNERS' ASSOCIATION MAY ACCOMPLISH THE RECORDING.~~

(4) — (A) ~~NOTHING IN THIS SECTION PREVENTS AN OWNER FROM CLAIMING THE BENEFIT OF THE PROTECTIONS PROVIDED IN 70-17-901 BASED ON EXPIRED COVENANTS.~~

(B) — ~~THIS SECTION DOES NOT APPLY TO A COVENANT THAT ALLOWS FOR AN EASEMENT OR RIGHT-OF-WAY, IS NECESSARY FOR THE MAINTENANCE OF SHARED INFRASTRUCTURE, WAS REQUIRED BY AN APPROVING GOVERNMENT ENTITY ON THE ESTABLISHMENT OF THE COVENANT, IS REQUIRED BY A COURT ORDER, OR IS REQUIRED BY FEDERAL, STATE, OR LOCAL LAW OR REGULATION.~~

(5) — ~~AS USED IN THIS SECTION, "OPPORTUNITY TO VOTE" MEANS:~~

(A) — ~~THE PROVISION OF AT LEAST 30 DAYS' WRITTEN NOTICE PRIOR TO AN IN-PERSON VOTE OR A PERIOD OF AT LEAST 30 DAYS TO VOTE BY MAIL OR BY OTHER ALLOWABLE WRITTEN MEANS; AND~~

(B) — ~~THE ALLOWANCE OF VOTING BY WRITTEN PROXY.~~

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

**NEW SECTION. Section 3. EFFECTIVE DATE.** ~~[THIS ACT] IS EFFECTIVE ON PASSAGE AND APPROVAL.~~

**NEW SECTION. Section 4. Applicability.** (1) ~~[This act SECTION 4 This act]~~ applies to ~~THE ENFORCEMENT OF~~ covenants on residential property filed ~~ADOPTED OR AMENDED~~ on or after [the effective date of the act].

(2) — ~~FOR A COVENANT ADOPTED OR AMENDED AFTER [THE EFFECTIVE DATE OF THIS ACT], THE 5-YEAR~~

1 ~~PERIOD PROVIDED IN [SECTION 2(2)] BEGINS TO RUN ON THE DATE THE COVENANT IS ADOPTED OR AMENDED.~~

2 - END -

AMENDED