

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~~ Opportunity to vote on amendments to residential
21 covenants, conditions, and restrictions. (1) ~~EXCEPT AS PROVIDED IN SUBSECTION (4), A A covenant on~~
22 ~~residential property may not last longer than 5 years~~ A residential covenant, condition, or restriction may not be
23 adopted or amended unless ALL OWNERS OF PROPERTY SUBJECT TO THE COVENANT HAVE THE OPPORTUNITY TO
24 VOTE ON THE COVENANT AND:

25 (a) ~~AT LEAST~~ a majority of owners of property subject to a covenant vote ~~THE OWNERS VOTE to~~
26 ~~sustain OR AMEND~~ the covenant pursuant to subsection (2) owners voting agree to adopt or amend the covenant,
27 condition, or restriction;

28 (b) ~~the covenant provides for a right to reenter or repossess land on account of a breach of the~~

1 covenant; or

2 (c) — the covenant is necessary to the maintenance of shared infrastructure or was required by an
3 approving government entity on establishment of the covenant.

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

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

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

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

17 ~~(5)(2)~~ AS USED IN THIS SECTION, "OPPORTUNITY TO VOTE" MEANS:

18 (A) THE PROVISION OF AT LEAST 30 DAYS' WRITTEN NOTICE PRIOR TO AN IN-PERSON VOTE OR A PERIOD OF
19 AT LEAST 30 DAYS TO VOTE BY MAIL OR BY OTHER ALLOWABLE WRITTEN MEANS, unless there is an emergency
20 necessitating a shorter period for the vote; AND

21 (B) THE ALLOWANCE OF VOTING BY WRITTEN PROXY.

22
23 NEW SECTION. Section 3. Codification instruction. [Sections 1 and 2] are intended to be codified
24 as an integral part of Title 70, chapter 17, part 2, and the provisions of Title 70, chapter 17, part 2, apply to
25 [sections 1 and 2].

26
27 NEW SECTION. SECTION 4. EFFECTIVE DATE. [THIS ACT] IS EFFECTIVE ON PASSAGE AND APPROVAL.

28

1 NEW SECTION. Section 5. Applicability. (1) [This act SECTION 1] applies to THE ENFORCEMENT OF
2 covenants on residential property filed ADOPTED OR AMENDED on or after [the effective date of the act].
3 (2) FOR A COVENANT ADOPTED OR AMENDED AFTER [THE EFFECTIVE DATE OF THIS ACT], THE 5-YEAR
4 PERIOD PROVIDED IN [SECTION 2(2)] BEGINS TO RUN ON THE DATE THE COVENANT IS ADOPTED OR AMENDED. [This act]
5 applies to covenants on residential property adopted or amended on or after [the effective date of this act].

- END -

AMENDED