

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  
15 COVENANTS, CONDITIONS, OR RESTRICTIONS.

16 (2) A COVENANT, CONDITION, OR RESTRICTION IS DEEMED ABANDONED FOR PURPOSES OF ENFORCEMENT  
17 IF NO ENFORCEMENT ACTION HAS BEEN UNDERTAKEN FOR THE PRESCRIBED PERIOD IN 27-2-202. ONCE A COVENANT,  
18 CONDITION, OR RESTRICTION IS ABANDONED PURSUANT TO THIS SECTION, THE GOVERNING BODY IS PRECLUDED FROM  
19 UNDERTAKING A DIFFERENT INTERPRETATION OR ENFORCEMENT ACTION AGAINST A SIMILARLY SITUATED PARCEL OWNER  
20 IN THE SAME DEVELOPMENT.

21 (3) WHEN THE GOVERNING BODY FORMED WITHIN COVENANTS, CONDITIONS, OR RESTRICTIONS HAS NOT  
22 MET FOR A PERIOD OF 15 YEARS, IT CONSTITUTES SUBSTANTIAL NONCOMPLIANCE, AND THE GOVERNING BODY IS  
23 PROHIBITED FROM TAKING ANY ENFORCEMENT ACTION REGARDING THE COVENANTS, CONDITIONS, OR RESTRICTIONS  
24 RECORDED AGAINST THE LAND TO THE EXTENT THE COVENANTS, CONDITIONS, OR RESTRICTIONS ARE NOT OTHERWISE  
25 NECESSARY TO COMPLY WITH APPLICABLE FEDERAL, STATE, AND LOCAL LAWS, ORDINANCES, AND REGULATIONS.

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

28 **"27-2-202. Actions based on contract or other obligation.** (1) The period prescribed for the

1 commencement of an action ~~upon~~on any contract, covenant, obligation, or liability founded ~~upon~~on an  
2 instrument in writing is within 8 years.

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

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

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8 NEW SECTION. SECTION 3. CODIFICATION INSTRUCTION. [SECTION 1] IS INTENDED TO BE CODIFIED AS AN  
9 INTEGRAL PART OF TITLE 70, CHAPTER 17, PART 2, AND THE PROVISIONS OF TITLE 70, CHAPTER 17, PART 2, APPLY TO  
10 [SECTION 1].

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

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