

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."

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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.

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), 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 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
2 A 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
4 OR AMENDMENT MUST BE RECORDED WITH THE OFFICE OF THE COUNTY CLERK AND RECORDER OF THE COUNTY WHERE
5 THE REAL PROPERTY IS SITUATED WITHIN 5 YEARS OF THE PREVIOUS RECORDING DATE AND MUST INCLUDE EVIDENCE OF
6 THE OWNERS VOTING FOR OR AGAINST SUSTAINING OR AMENDING THE COVENANT. ANY OWNER OF PROPERTY SUBJECT
7 TO THE COVENANT OR ANY GOVERNING OWNERS' ASSOCIATION MAY ACCOMPLISH THE RECORDING.

8 (4) (A) NOTHING IN THIS SECTION PREVENTS AN OWNER FROM CLAIMING THE BENEFIT OF THE
9 PROTECTIONS 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,
11 IS NECESSARY FOR THE MAINTENANCE OF SHARED INFRASTRUCTURE, WAS REQUIRED BY AN APPROVING GOVERNMENT
12 ENTITY ON THE ESTABLISHMENT OF THE COVENANT, IS REQUIRED BY A COURT ORDER, OR IS REQUIRED BY FEDERAL,
13 STATE, OR LOCAL LAW OR 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
16 AT LEAST 30 DAYS TO VOTE BY MAIL OR BY OTHER ALLOWABLE WRITTEN MEANS; AND

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

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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].

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

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

