AN ACT REVISING COVENANT LAWS; PROVIDING THAT THE 8-YEAR STATUTE OF LIMITATIONS FOR OBLIGATIONS ON A CONTRACT APPLIES TO COVENANTS; LIMITING WHO MAY INITIATE LEGAL ACTION TO ENFORCE CERTAIN COVENANTS; PROVIDING WHEN A PARCEL OWNER CAN ASSERT A DEFENSE THAT A COVENANT HAS BEEN ABANDONED; LIMITING WHEN COVENANTS MAY BE ENFORCED IF A GOVERNING BODY HAS NOT MET FOR A PERIOD OF TIME; AMENDING SECTION 27-2-202, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.”

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

Section 1. Covenant enforcement and abandonment. (1) An association or any party to an interest in land subject to a covenant, condition, or restriction may initiate a legal action to enforce covenants, conditions, or restrictions.

(2) A parcel owner may assert a defense that a covenant, condition, or restriction has been abandoned for purposes of enforcement by offering evidence that no enforcement action has been undertaken for the prescribed period in 27-2-202. Once a covenant, condition, or restriction is abandoned by a court order or agreed to have been abandoned by the approval of the appropriate association, by recording a notice of abandonment or amendment in the office of the county clerk and recorder of the county where the development is situated, all persons are precluded from undertaking a different interpretation or enforcement action of the abandoned covenant, condition, or restriction against a similarly situated parcel owner in the same development.

(3) (a) Except as provided in subsection (3)(b), an association that has not met for a period of 15 years is prohibited from taking an enforcement action against a parcel owner whose use of the parcel is substantially similar to the nature and scope of the use of other parcels in the development.

(b) Covenants, conditions, and restrictions are still valid and enforceable under this subsection (3)
if they are otherwise necessary:

(i) to comply with applicable federal, state, and local laws, ordinances, and regulations;
(ii) for an easement or right-of-way;
(iii) for the maintenance of infrastructure or improvements in the development;
(iv) to comply with a court order or the approval provided by a government on the establishment of
the covenants, conditions, and restrictions;
(v) for the installation, maintenance, or removal of utilities; or
(vi) to abate a nuisance.

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

"27-2-202. Actions based on contract or other obligation. (1) The period prescribed for the
commencement of an action upon any contract, covenant, obligation, or liability founded upon an
instrument in writing is within 8 years.

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

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

Section 3. Codification instruction. [Section 1] 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 [section 1].

Section 4. Effective date. [This act] is effective on passage and approval.

- END -
I hereby certify that the within bill, SB 247, originated in the Senate.

___________________________________________
Secretary of the Senate

___________________________________________
President of the Senate

Signed this _______________________________ day
of _________________________________, 2024.

___________________________________________
Speaker of the House

Signed this _______________________________ day
of _________________________________, 2024.
SENATE BILL NO. 247
INTRODUCED BY S. FITZPATRICK

AN ACT REVISING COVENANT LAWS; PROVIDING THAT THE 8-YEAR STATUTE OF LIMITATIONS FOR OBLIGATIONS ON A CONTRACT APPLIES TO COVENANTS; LIMITING WHO MAY INITIATE LEGAL ACTION TO ENFORCE CERTAIN COVENANTS; PROVIDING WHEN A PARCEL OWNER CAN ASSERT A DEFENSE THAT A COVENANT HAS BEEN ABANDONED; LIMITING WHEN COVENANTS MAY BE ENFORCED IF A GOVERNING BODY HAS NOT MET FOR A PERIOD OF TIME; AMENDING SECTION 27-2-202, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.”