



AN ACT REVISING COVENANT LAWS; AND AMENDING SECTION 70-17-210, MCA.

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

Section 1. Section 70-17-210, MCA, is amended to read:

"70-17-210. Covenant enforcement and abandonment. (1) ~~An association or any party to an interest in land subject to a covenant, condition, or restriction~~ The following persons may initiate a legal action to enforce covenants, conditions, or restrictions: :

(a) a party to an agreement containing real property covenants, conditions, or restrictions or the party's successors in interest;

(b) the owner of an interest in real property burdened or benefited by a covenant, condition, or restriction; or

(c) a homeowners' association or other governing body of a real property development subject to covenants, conditions, or restrictions.

(2) ~~A parcel-~~The owner of an interest in real property subject to a covenant, condition, or restriction 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 ~~or governing body,~~ by recording a notice of abandonment or amendment in the office of the county clerk and recorder of the county where the ~~development~~property 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~~ of an interest in real property subject to the abandoned covenant, condition, or restriction.

(3) (a) Except as provided in subsection (3)(b), an association or governing body of a real property development that has not met for a period of 15 years is prohibited from taking an enforcement action against a ~~parcel owner~~ the owner of an interest in real property subject to a covenant, condition, or restriction whose use of the ~~parcel~~ property is substantially similar to the nature and scope of the use of other ~~parcels~~ properties 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~~ serving the real properties burdened or benefited by the covenants, conditions, or restrictions;
- (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."

- END -

I hereby certify that the within bill,
HB 325, originated in the House.

Chief Clerk of the House

Speaker of the House

Signed this _____ day
of _____, 2025.

President of the Senate

Signed this _____ day
of _____, 2025.

HOUSE BILL NO. 325

INTRODUCED BY S. FITZPATRICK

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