

HOUSE BILL NO. 325

INTRODUCED BY S. FITZPATRICK

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A BILL FOR AN ACT ENTITLED: "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.

