

SENATE BILL NO. 400

INTRODUCED BY K. BOGNER

A BILL FOR AN ACT ENTITLED: "AN ACT ALLOWING OWNERS TO VOTE TO ADD, REMOVE, OR AMEND EASEMENTS AND COVENANTS; PROVIDING A PROCESS TO AMEND EASEMENTS AND COVENANTS; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND AN APPLICABILITY DATE."

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

NEW SECTION. Section 1. Opportunity to vote on easements, covenants, conditions, and restrictions -- ownership rights -- alternative amendment procedures. (1) (a) An easement, covenant, condition, or restriction on residential property pursuant to a recorded document such as a declaration of covenants or similar document that applies to multiple properties may not be adopted, removed, or amended unless all owners of property subject to the easement, covenant, condition, or restriction have the opportunity to vote on the adoption, removal, or amendment and at least a majority of LOT owners voting vote to adopt, remove, or amend the easement, covenant, condition, or restriction, EXCEPT THAT IF ALL OWNERS OF LOTS SUBJECT TO THE EASEMENT, COVENANT, CONDITION, OR RESTRICTION CONSENT IN WRITING TO ADOPT, REMOVE, OR AMEND THE EASEMENT, COVENANT, CONDITION, OR RESTRICTION AFTER NOTICE IS PROVIDED, THEN THE NEED FOR A VOTE MAY BE WAIVED.

(b) Nothing in this subsection (1) prevents owners of property subject to an easement, covenant, condition, or restriction from requiring a vote threshold greater than a majority of owners voting to adopt, remove, or amend an easement, covenant, condition, or restriction.

(2) A EXCEPT AS PROVIDED IN SUBSECTION (1), a person OR ENTITY ~~who~~ THAT owns property subject to easements, covenants, conditions, or restrictions may not be deprived for any reason while the person OR ENTITY continues to own the property of the opportunity to:

(a) vote on easements, covenants, conditions, or restrictions, or amendments to easements, covenants, conditions, or restrictions, and to view the results of the vote as long as the owner is in good

Amendment - 1st Reading/2nd House-blue - Requested by: Kenneth Bogner - (H) Local Government

- 2025

69th Legislature 2025

Drafter: Toni Henneman,

SB0400.002.001

1 standing;

2 (b) vote, unless the easement, covenant, condition, or restriction provides for the appointment of
3 officers or leaders, for officers or leaders of a homeowners' association or other governing owners' association
4 as long as the owner is in good standing;

5 (c) speak for a reasonable amount of time at meetings of a homeowners' association or other
6 governing owners' association;

7 (d) vote on a matter raised at a meeting of a homeowners' association or other governing owners'
8 association and to view the result of a vote;

9 (e) run for or, if duly elected by a majority of owners, serve on a board or committee of a
10 homeowners' association or other governing owners' association, AS LONG AS THE OWNER IS IN GOOD STANDING;

11 (f) vote on an increase in dues or assessments, EXCEPT THE 30-DAY PERIOD MAY BE SHORTENED IF
12 THERE IS AN EMERGENCY; and

13 (g) vote on whether a homeowners' association or other governing owners' association may initiate
14 litigation if the owner may be required to contribute financial support for the litigation, EXCEPT THE 30-DAY PERIOD
15 MAY BE SHORTENED IF THERE IS AN EMERGENCY.

16 (3) ~~SUBSECTIONS (1) AND (2) DO NOT PREVENT~~ Nothing in subsection (2) prevents OWNERS OF
17 PROPERTY SUBJECT TO AN EASEMENT, COVENANT, CONDITION, OR RESTRICTION FROM REQUIRING HIGHER vote
18 THRESHOLDS TO ADOPT, REMOVE, OR AMEND A RESIDENTIAL EASEMENT, COVENANT, CONDITION, OR RESTRICTION OR
19 FROM REQUIRING A LONGER PERIOD OF NOTICE AND OPPORTUNITY TO VOTE THAN THOSE PROVIDED.

20 ~~(3)(4)~~ (a) If the A document creating an easement, covenant, condition, or restriction imposed in a
21 common interest community or subject to enforcement by a homeowners' association requires unanimous
22 consent to adopt, remove, or amend, or if the document creating the easement, covenant, condition, or
23 restriction imposed in a common interest community or subject to enforcement by a homeowners' association
24 does not contain a procedure for adopting, removing, or amending, the owners of property subject to the
25 easement, covenant, condition, or restriction may adopt, remove, or amend the easement, covenant, condition,
26 or restriction through the following process:

27 (i) providing notice by certified mail of the proposed adoption, removal, or amendment to every

Amendment - 1st Reading/2nd House-blue - Requested by: Kenneth Bogner - (H) Local Government

- 2025

69th Legislature 2025

Drafter: Toni Henneman,

SB0400.002.001

1 owner of property subject to the easement, covenant, condition, or restriction;

2 (ii) providing an opportunity to vote on the change for at least a 30-day period set forth in
3 subsection ~~(4)~~ (5);

4 (iii) ensuring that no owner of property subject to the easement, covenant, condition, or restriction
5 objects or requests additional information within the 30-day period; and

6 (iv) recording with the office of the county clerk and recorder of the county where the real property
7 is situated the adopted, removed, or amended easement, covenant, condition, or restriction, together with an
8 affidavit or declaration stating that no owner of property subject to the adopted, removed, or amended
9 easement, covenant, condition, or restriction has objected to the adoption, removal, or amendment.

10 (b) Nothing in this subsection ~~(3)~~ (4) prevents owners of property subject to an easement,
11 covenant, condition, or restriction from requiring a longer period of notice and opportunity to vote than that
12 provided by this section.

13 (c) If any owner objects to the proposed adoption, removal, or amendment or requests additional
14 information during the 30-day period, or any longer period provided, then the easement, covenant, condition, or
15 restriction may not be adopted, removed, or amended unless the owner who objected or requested additional
16 information confirms in writing that the owner does not object to the adoption, removal, or amendment.

17 ~~(4)(5)~~ As used in this section, the following definitions apply:

18 (a) "Good standing" means an owner of property that is subject to an easement, covenant,
19 condition, or restriction and who does not have any financial delinquencies, including late dues, fees, or other
20 penalties, owed to the homeowners' association or common interest community.

21 (b) "opportunity~~Opportunity~~ to vote" means:

22 ~~(a)(i)~~ the provision of at least 30 days' written notice prior to an in-person vote or a period of at least
23 30 days to vote by mail or other allowable written means; and

24 ~~(b)(ii)~~ the allowance of voting by written proxy.

25

26 NEW SECTION. Section 2. Codification instruction. [Section 1] is intended to be codified as an
27 integral part of Title 70, chapter 17, part 2, and the provisions of Title 70, chapter 17, part 2, apply to [section 1].