

Secretary of State of the State of Montana

House Bills ---

Senate Bills: --- SB247

Resolutions: ---



Dated this 8th day of MAY 2023

Em Krissovich
Em Krissovich

[Signature] 5/9/24
Received by: Legislative Services



Montana Legislative Services Division

Office of the Code Commissioner

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May 8, 2024

Montana Secretary of State, Christi Jacobsen
State Capitol Building
Helena, MT 59601

RE: Re-enrollment and Passage and Approval of the Legally Correct Version of
Senate Bill No. 247 (Ch. 665, L. 2023) Lawfully Passed by the 68th Legislature

Secretary of State Jacobsen,

The purpose of this letter is to provide a record for Secretary of State files on Chapter 665, Laws of Montana 2023, regarding the re-enrollment and passage and approval of the legally correct version of Senate Bill No. 247 lawfully passed by the 68th Legislature during the 2023 Session.

My statutory duties as the Code Commissioner for the State of Montana require that the Session Laws of Montana and the Montana Code Annotated accurately reflect the true and correct version of the laws duly and lawfully enacted by the Montana Legislature.

It was brought to my attention in early April 2024 that the incorrect enrolled version of Senate Bill No. 247 (Ch. 665, L. 2023) was signed by the Governor and sent to the Secretary of State's Office for processing and assignment of Chapter No. 665.

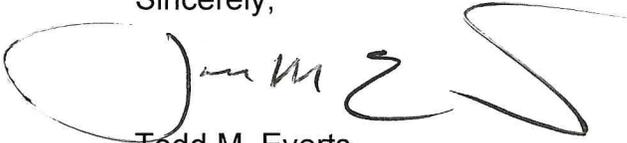
Specifically, during the 2023 Legislative Session, a conference committee amended Senate Bill No. 247 (now Ch. 665, L. 2023). The conference committee report was adopted by both chambers. However, the version of the bill that was transmitted to the Governor and signed by him on May 19, 2023, did not include the conference committee amendments.

The corrected version of the bill that included the conference committee amendments was delivered to the Governor on April 23, 2024, and was returned to the Secretary of State on May 3, 2024. The Governor did not sign the corrected version, nor did he veto it.

When my office receives the correct version of Chapter 665, it will be re-codified and posted on the Legislative Branch website. I will also re-issue an updated Folio version of the Montana Code Annotated and send out errata sheets on the correct version of codified law. In addition, my office will send out a press release and notification to Montana citizens and to the Montana legal community.

Thank you for your assistance in ensuring that laws of Montana accurately reflect the true and correct version of the laws duly and lawfully enacted by the Montana Legislature.

Sincerely,

A handwritten signature in black ink, appearing to read "Todd M. Everts". The signature is stylized with a large initial "T" and "E".

Todd M. Everts
Code Commissioner

cc: President Jason Ellsworth, Montana Senate
Speaker Matt Regier, Montana House of Representatives
Majority Leader Steve Fitzpatrick, Montana Senate
Anita Milanovich, General Counsel, Office of the Governor
Jerry Howe, Executive Director, Legislative Services Division



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~~on any contract, covenant, obligation, or liability founded ~~upon~~on an instrument in writing is within 8 years.

(2) The period prescribed for the commencement of an action ~~upon~~on 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~~on an obligation or liability, other than a contract, account, or promise, not founded ~~upon~~on 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].

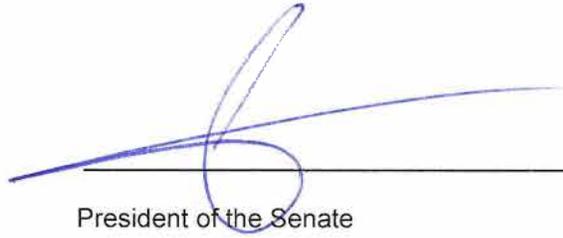
Section 4. Effective date. [This act] is effective on passage and approval.

- END -

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



Secretary of the Senate



President of the Senate

Signed this _____ 23rd day
of _____ April _____, 2024.



Speaker of the House

Signed this _____ 23rd day
of _____ APRIL _____, 2024.

CHAPTER # 665

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."

STATE OF MONTANA

FILED

5/03/2024

Secretary of State

By

Susan Peters

This bill was received by the Governor

this 23rd day

of April, 2024

By Hannah Slusser

Approved _____, 2024

Governor