

March 2019

Dear Members of the House of Representatives,

We are writing to respectfully request you oppose SB 300, a misguided and bad bill for Montana homeowners residing in community associations (homeowners associations, condominiums, housing cooperatives). The legislation is very broad – to a fault. As written, the legislation would fundamentally change the way rules apply to residents. The only rules that would apply are the rules that exist when a resident purchases their home. This may sound logical; however, it will have many unintended consequences. The bill is akin to telling citizens they only must comply with laws that were on the books when they were born.

1. Individual homeowners could have different sets of covenants, codes, and restrictions based on the date they purchased their home and when rules were adopted.
2. Community associations would need to hire professionals to accurately manage and track homeowners' ownership dates and individual rules. These fees will be borne by each resident in the community which will undoubtedly increase the regular assessments paid by homeowners.
3. The democratic system in the community association will cease to exist. Community associations will no longer be able to create rules to help preserve the character, safety, and value of the community.

SB 300 is the state telling local communities they do not have the right to choose rules for what they believe is best for their community.

Homeowners associations and condominiums are deed-restricted communities with the community association board, elected by neighbors, managing the operations of the community association, to preserve property values and maintain covenant, codes, and restrictions. The governing documents are structured to require the homeowners to vote on changes to the covenants, codes, and restrictions and the process uses a democratic system whereby the majority vote prevails. This community-oriented self-governance is the key to creating communities by the residents for the residents.

The language in SB 300 is not part of the Uniform Common Interest Ownership Act (UCIOA) or the Uniform Condominium Act (UCA). The uniform act language clearly outlines the authority and duty of the boards of directors; which clearly requires votes and engagement of homeowners on new covenants.

SB 300 will create confusion for residents, impossible application of rules and covenants by association board members and will compromise the integrity of the community association housing model in Montana. Further and most disturbing, SB 300 will chaos, confusion, and lawsuits between residents and their associations

Please oppose SB 300.

Below you will find specific examples of how the language in SB 300 is broad sweeping and could impact any new rule or covenant. Here are a few examples of how SB 300 could negatively impact a rule change in the community:

Fire Safety: Communities are within the Montana Department of Natural Resources and Conservation (DNRC). Local fire departments often sponsor education for NW Montana community associations on the importance of creating Fire wise communities, especially in the Urban Interface Zones. We are very concerned that if an HOA wants to add architectural guidelines that prohibit homes from reroofing with non-flammable roof materials, it could not. Nor could it pose a new rule requiring paved driveways or Firewise landscape development.

Parking: Another example whereby a community may need to adopt a new rule is related to parking. Let's say the community is fully occupied and one-unit owner has ten cars from their company parked in all the guest parking lots. The current rule of the association doesn't address guest parking. But, this has become a problem and to balance the enjoyment for all community association residents and owners, a parking rule may need to be adopted. If SB 300 passed, the community would not be able to adopt a rule to address resident concerns and trending problems.

Community Financial Condition: For HOAs where the dues amount is in the CC&Rs, passage of SB 300 could prevent a community from being able to collect enough dues needed to operate or make improvements or force the HOA to make new owners pay more, creating an inequity. For HOAs that need to deal with a trend toward late- or non-paying members by creating or updating a collections policy, passage of SB 300 would make any effort in that direction moot – current owners who are not paying would be exempt from the new policy.

Property Safety and Care: In writing CC&Rs, developers may overlook certain important factors, such as the importance of requiring that condominium or townhome owners carry property insurance on their units, or that townhome or condominium owner remove snow from their decks to prevent rotting, water infiltration during spring thaw, etc., that can lead to expensive maintenance and repair costs for an HOA. Any new requirements adopted by the HOA to address these matters would not be enforceable on current owners.

Housing Finance: When Fannie Mae, Freddie Mac, and the Federal Housing Administration (FHA) consider loans in community associations, they consider rules related to meetings, elections, budgeting and building reserves for capital improvements, and maintenance. If these rules are unenforceable, mortgage finance may be at risk.

For example, for a condominium to qualify for project certification by HUD – which is required for a new homebuyer to receive an FHA loan, the condominium may not have transient housing – short-term rentals less than 30-days. While that may not matter to some condominium buildings, it may be very meaningful for affordable housing options for others. The association needs to have the ability to create a rule and enforce the rule fair and equitably to all residents. Residents have an opportunity to vote on these new rules.

For these reasons, we respectfully request you oppose SB 300.

Respectfully submitted,

See Page 3 for authorized signers opposing SB 300

Montana Community Associations – representing thousands of residents.

1. Arbor Grove Homeowners Association
2. Ashley Hills Home Owners Association – Kalispell, MT
3. Buffalo Commons Medical/Professional Property Owners Association
4. Buffalo Commons Retail/Commercial/Office Property Owners Association
5. Buffalo Commons Multi-Family Homeowners Association
6. Cherry Hill Yacht Club, Inc.
7. Crestview Terrace HOA - Bigfork, MT
8. Eagle Bend North HOA – Kalispell, MT
9. Eagle Bend West Community Association, Inc.
10. Eagle Bend Yacht Harbor Boat Slip Owners Association, Inc
11. Elk Highlands HOA - Whitefish, MT
12. Fairway Boulevard Homeowners Association
13. Fox Hollow Condominium Owners Association – Kalispell, MT
14. Great Northern HOA
15. Iron Horse Cabin Condominium Owners Association, Mindy Gutierrez, Community Manager, CMCA, AMS
16. Iron Horse Homeowners Association, Whitefish, MT, Mindy Gutierrez, Community Manager, CMCA, AMS
17. Lakeview Park Villas Homeowners Association
18. Many Lakes HOA – Kalispell, MT
19. Many Lakes East HOA
20. The Lakes Master HOA - Whitefish, MT
21. Meadow Lake Country Club Estates Homeowner's Association – Columbia Falls, MT
22. The Meadows I & II Homeowners Associations
23. The Monterra HOA - Whitefish, MT
24. Park Knoll HOA – Whitefish, MT
25. Park Manor Condo Owners Association
26. Ptarmigan Village – Whitefish, MT
27. Quail Ridge HOA- Kalispell, MT
28. Riverwalk Condominium Association, Inc.
29. Riverwood Park Community Association, Inc.
30. Rocky Cliff Estates Homeowners Association
31. The Shores Homeowners Association
32. Silverbrook Property Owners Association
33. Sunset Point Homeowners Association
34. Waterside Condominium Owners Association
35. Whitefish Hills Forest HOA- Whitefish, MT
36. Whitefish Hills Village HOA- Whitefish, MT

Community Management Companies

Montana Community Management Corporation - Bigfork, MT

Tailwind Management, LLC

Western Mountains Property Management - Kalispell, MT

Community Association Law Firms

Griffith & Cummings, PLLC

J.W. Anderson & Associates

Allied Organizations

Community Associations Institute

Montana Land Title Association