

1                   A bill to be entitled  
2           An act relating to the Marketable Record Title Act;  
3           amending s. 712.03, F.S.; revising rights that are not  
4           affected or extinguished by marketable record titles;  
5           amending s. 712.04, F.S.; revising what types of  
6           interests are extinguished by a marketable record  
7           title; providing construction; creating s. 712.065,  
8           F.S.; defining the term "discriminatory restriction";  
9           providing that discriminatory restrictions are  
10          unlawful, unenforceable, and declared null and void;  
11          providing that certain discriminatory restrictions are  
12          extinguished and severed from recorded title  
13          transactions; specifying that the recording of certain  
14          notices does not reimpose or preserve a discriminatory  
15          restriction; providing requirements for a parcel owner  
16          to remove a discriminatory restriction from a covenant  
17          or restriction; amending s. 712.12, F.S.; revising the  
18          definition of the term "covenant or restriction";  
19          providing applicability; requiring persons with  
20          certain interests in land which may be extinguished by  
21          this act to file a specified notice to preserve such  
22          interests; providing a directive to the Division of  
23          Law Revision; providing an effective date.

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25   Be It Enacted by the Legislature of the State of Florida:

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Section 1. Subsection (1) of section 712.03, Florida Statutes, is amended to read:

712.03 Exceptions to marketability.—Such marketable record title shall not affect or extinguish the following rights:

(1) Estates or interests, easements and use restrictions disclosed by and defects inherent in the muniments of title on which said estate is based beginning with the root of title, + provided, ~~however,~~ that in the muniments of title those estates, interests, easements, or use restrictions created before the root of title are preserved by identification in the legal description of the property by specific reference to the official records book and page number, instrument number, or plat name or there is otherwise an affirmative statement in a muniment of title to preserve such estates, interests, easements, or use restrictions created before the root of title as identified by the official records book and page or instrument number ~~a general reference in any of such muniments to easements, use restrictions or other interests created prior to the root of title shall not be sufficient to preserve them unless specific identification by reference to book and page of record or by name of recorded plat be made therein to a recorded title transaction which imposed, transferred or continued such easement, use restrictions or other interests;~~ subject, however, to the provisions of subsection (5).

51 Section 2. Section 712.04, Florida Statutes, is amended to  
52 read:

53 712.04 Interests extinguished by marketable record title.-  
54 Subject to s. 712.03, a marketable record title is free and  
55 clear of all estates, interests, claims, covenants,  
56 restrictions, or charges, the existence of which depends upon  
57 any act, title transaction, event, zoning requirement, building  
58 or development permit, or omission that occurred before the  
59 effective date of the root of title. Except as provided in s.  
60 712.03, all such estates, interests, claims, covenants,  
61 restrictions, or charges, however denominated, whether they are  
62 or appear to be held or asserted by a person sui juris or under  
63 a disability, whether such person is within or without the  
64 state, natural or corporate, or private or governmental, are  
65 declared to be null and void. However, this chapter does not  
66 affect any right, title, or interest of the United States,  
67 Florida, or any of its officers, boards, commissions, or other  
68 agencies reserved in the patent or deed by which the United  
69 States, Florida, or any of its agencies parted with title. This  
70 section may not be construed to alter or invalidate:

71 (1) A comprehensive plan or plan amendment; zoning  
72 ordinance; land development regulation; building code;  
73 development permit; development order; or other law, regulation,  
74 or regulatory approval, to the extent such law, regulation, or  
75 regulatory approval operates independently of matters recorded

76 | in the official records; or

77 |       (2) Any recorded covenant or restriction that on the face  
 78 | of the first page of the document states that it was accepted by  
 79 | a governmental entity as part of, or as a condition of, any such  
 80 | comprehensive plan or plan amendment; zoning ordinance; land  
 81 | development regulation; building code; development permit;  
 82 | development order; or other law, regulation, or regulatory  
 83 | approval.

84 |       Section 3. Section 712.065, Florida Statutes, is created  
 85 | to read:

86 |       712.065 Extinguishment of discriminatory restrictions.—

87 |       (1) As used in this section, the term "discriminatory  
 88 | restriction" means a provision in a title transaction recorded  
 89 | in this state which restricts the ownership, occupancy, or use  
 90 | of any real property in this state by any natural person on the  
 91 | basis of a characteristic that has been held, or is held after  
 92 | the effective date of this act, by the United States Supreme  
 93 | Court or the Florida Supreme Court to be protected against  
 94 | discrimination under the Fourteenth Amendment to the United  
 95 | States Constitution or under s. 2, Art. I of the State  
 96 | Constitution, including race, color, national origin, religion,  
 97 | gender, or physical disability.

98 |       (2) A discriminatory restriction is not enforceable in  
 99 | this state, and all discriminatory restrictions contained in any  
 100 | title transaction recorded in this state are unlawful, are

101 unenforceable, and are declared null and void. Any  
102 discriminatory restriction contained in a previously recorded  
103 title transaction is extinguished and severed from the recorded  
104 title transaction and the remainder of the title transaction  
105 remains enforceable and effective. The recording of any notice  
106 preserving or protecting interests or rights pursuant to s.  
107 712.06 does not reimpose or preserve any discriminatory  
108 restriction that is extinguished under this section.

109 (3) Upon request of a parcel owner, a discriminatory  
110 restriction appearing in a covenant or restriction affecting the  
111 parcel may be removed from the covenant or restriction by an  
112 amendment approved by a majority vote of the board of directors  
113 of the respective property owners' association or an owners'  
114 association in which all owners may voluntarily join,  
115 notwithstanding any other requirements for approval of an  
116 amendment of the covenant or restriction. Unless the amendment  
117 also changes other provisions of the covenant or restriction,  
118 the recording of an amendment removing a discriminatory  
119 restriction does not constitute a title transaction occurring  
120 after the root of title for purposes of s. 712.03(4).

121 Section 4. Paragraph (b) of subsection (1) of section  
122 712.12, Florida Statutes, is amended to read:

123 712.12 Covenant or restriction revitalization by parcel  
124 owners not subject to a homeowners' association.—

125 (1) As used in this section, the term:

126 (b) "Covenant or restriction" means any agreement or  
127 limitation ~~imposed by a private party and not required by a~~  
128 ~~governmental agency as a condition of a development permit, as~~  
129 ~~defined in s. 163.3164, which is~~ contained in a document  
130 recorded in the public records of the county in which a parcel  
131 is located and which subjects the parcel to any use restriction  
132 that may be enforced by a parcel owner.

133 Section 5. The amendments to ss. 712.03, 712.04, and  
134 712.12, Florida Statutes, in this act are intended to clarify  
135 existing law, are remedial in nature, and apply to all estates,  
136 interests, claims, covenants, restrictions, and charges, whether  
137 imposed or accepted before, on, or after the effective date of  
138 this act.

139 Section 6. A person with an interest in land which may  
140 potentially be extinguished by this act, and whose interest has  
141 not been extinguished before July 1, 2020, must file a notice  
142 pursuant to s. 712.06, Florida Statutes, by July 1, 2021, to  
143 preserve such interest.

144 Section 7. The Division of Law Revision is directed to  
145 replace the phrase "the effective date of this act" wherever it  
146 occurs in this act with the date the act becomes a law.

147 Section 8. This act shall take effect upon becoming a law.