

1                                   A bill to be entitled  
2           An act relating to preservation of covenants or  
3           restrictions; amending s. 712.01, F.S.;  
4           revising and adding definitions; amending ss.  
5           712.03, 712.05, and 712.06, F.S.; protecting  
6           certain covenants or restrictions from  
7           extinguishment; providing for preservation of  
8           certain covenants or restrictions under certain  
9           circumstances; authorizing certain homeowners'  
10          associations to file for preservation of  
11          covenants or restrictions on behalf of certain  
12          parcel owners; providing a limitation; revising  
13          certain notice provisions to conform; providing  
14          an exception; providing an effective date.

15  
16 Be It Enacted by the Legislature of the State of Florida:

17  
18           Section 1. Subsection (1) of section 712.01, Florida  
19          Statutes, is amended, and subsections (4), (5), and (6) are  
20          added to said section, to read:

21           712.01 Definitions.--As used in this law:

22           (1) The term "person" as used herein denotes singular  
23          or plural, natural or corporate, private or governmental,  
24          including the state and any political subdivision or agency  
25          thereof as the context for the use thereof requires or denotes  
26          and including any homeowners' association.

27           (4) The term "homeowner's association" means a  
28          homeowner's association as defined in s. 617.301(7), or an  
29          association of parcel owners which is authorized to enforce  
30          use restrictions that are imposed on the parcels.

31

1           (5) The term "parcel" means real property which is  
2 used for residential purposes that is subject to exclusive  
3 ownership and which is subject to any covenant or restriction  
4 of a homeowners' association.

5           (6) The term "covenant or restriction" means any  
6 agreement or limitation contained in a document recorded in  
7 the public records of the county in which a parcel is located  
8 which subjects the parcel to any use restriction which may be  
9 enforced by a homeowners' association or which authorizes a  
10 homeowners' association to impose a charge or assessment  
11 against the parcel or the owner of the parcel.

12           Section 2. Subsection (2) of section 712.03, Florida  
13 Statutes, is amended to read:

14           712.03 Exceptions to marketability.--Such marketable  
15 record title shall not affect or extinguish the following  
16 rights:

17           (2) Estates, interests, claims, or charges, or any  
18 covenant or restriction, preserved by the filing of a proper  
19 notice in accordance with the provisions hereof.

20           Section 3. Subsection (1) of section 712.05, Florida  
21 Statutes, is amended to read:

22           712.05 Effect of filing notice.--

23           (1) Any person claiming an interest in land or a  
24 homeowners' association desiring to preserve any covenant or  
25 restriction or any portion of a covenant or restriction may  
26 preserve and protect the same from extinguishment by the  
27 operation of this act by filing for record, during the 30-year  
28 period immediately following the effective date of the root of  
29 title, a notice, in writing, in accordance with the provisions  
30 hereof, which notice shall have the effect of so preserving  
31 such claim of right or such covenant or restriction or portion

1 of such covenant or restriction for a period of not longer  
2 than 30 years after filing the same unless again filed as  
3 required herein. No disability or lack of knowledge of any  
4 kind on the part of anyone shall delay the commencement of or  
5 suspend the running of said 30-year period. Such notice may be  
6 filed for record by the claimant or by any other person acting  
7 on behalf of any claimant who is:

8 (a) Under a disability,

9 (b) Unable to assert a claim on his behalf, or

10 (c) One of a class, but whose identity cannot be  
11 established or is uncertain at the time of filing such notice  
12 of claim for record.

13  
14 Such notice may be filed by a homeowners' association only if  
15 the preservation of such covenant or restriction or portion of  
16 such covenant or restriction is approved by a majority vote at  
17 a meeting of the membership where a quorum is present.

18 Section 4. Subsections (1) and (3) of section 712.06,  
19 Florida Statutes, are amended to read:

20 712.06 Contents of notice; recording and indexing.--

21 (1) To be effective, the notice above referred to  
22 shall contain:

23 (a) The name or description of the claimant or the  
24 homeowners' association desiring to preserve any covenant or  
25 restriction and the name and particular post-office address of  
26 the person filing the claim or the homeowners' association.

27 (b) The name and post-office address of an owner, or  
28 the name and post-office address of the person in whose name  
29 said property is assessed on the last completed tax assessment  
30 roll of the county at the time of filing, who, for the purpose  
31 of such notice, shall be deemed to be an owner.

1           (c) A full and complete description of all land  
2 affected by such notice, which description shall be set forth  
3 in particular terms and not by general reference, but if said  
4 claim is founded upon a recorded instrument or a covenant or a  
5 restriction, then the description in such notice may be the  
6 same as that contained in such recorded instrument or covenant  
7 or restriction, provided the same shall be sufficient to  
8 identify the property.

9           (d) A statement of the claim showing the nature,  
10 description, and extent of such claim or, in the case of a  
11 covenant or restriction, a copy of the covenant or  
12 restriction, except that it shall not be necessary to show the  
13 amount of any claim for money or the terms of payment.

14           (e) If such claim is based upon an instrument of  
15 record or a recorded covenant or restriction, such instrument  
16 shall be sufficiently described to identify the same,  
17 including reference to the book and page in which the same is  
18 recorded.

19           (f) Such notice shall be acknowledged in the same  
20 manner as deeds are acknowledged for record.

21           (3) The clerk of the circuit court shall, upon such  
22 filing, mail by registered or certified mail to the purported  
23 owner of said property, as stated in such notice, a copy  
24 thereof and shall enter on the original, before recording the  
25 same, a certificate showing such mailing. For preparing the  
26 certificate, the claimant shall pay to the clerk the service  
27 charge as prescribed in s. 28.24(11) and the necessary costs  
28 of mailing, in addition to the recording charges as prescribed  
29 in s. 28.24(15). If the notice names purported owners having  
30 more than one address, the person filing the same shall  
31 furnish a true copy for each of the several addresses stated,

1 and the clerk shall send one such copy to the purported owners  
2 named at each respective address. Such certificate shall be  
3 sufficient if the same reads substantially as follows:  
4

5 I hereby certify that I did on this ....., mail by  
6 registered (or certified) mail a copy of the foregoing notice  
7 to each of the following at the address stated:  
8 ...(Clerk of the circuit court)...  
9 of .... County, Florida,  
10 By ...(Deputy clerk)...

11  
12 The clerk of the circuit court is not required to mail to the  
13 purported owner of such property any such notice that pertains  
14 solely to the preserving of any covenant or restriction or any  
15 portion of a covenant or restriction.

16 Section 5. This act shall take effect October 1, 1997.  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31