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CS/CS/HB 435

2010 Legislature

1 A bill to be entitled
2 An act relating to marketable record title; amending s.
3 712.03, F.S.; revising the exceptions to marketability by
4 including any right, title, or interest held by the Board
5 of Trustees of the Internal Improvement Trust Fund, any
6 water management district, or the United States; amending
7 s. 712.04, F.S.; conforming provisions to changes made by
8 the act; amending s. 712.06, F.S.; providing requirements
9 for a recorded notice to preserve a claim of right;
10 providing an effective date.

11

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

13

14 Section 1. Subsection (9) is added to section 712.03,
15 Florida Statutes, to read:

16 712.03 Exceptions to marketability.—Such marketable record
17 title shall not affect or extinguish the following rights:

18 (9) Any right, title, or interest held by the Board of
19 Trustees of the Internal Improvement Trust Fund, any water
20 management district created under chapter 373, or the United
21 States.

22 Section 2. Section 712.04, Florida Statutes, is amended to
23 read:

24 712.04 Interests extinguished by marketable record title.—
25 Subject to ~~the matters stated in~~ s. 712.03, a ~~such~~ marketable
26 record title ~~is shall be~~ free and clear of all estates,
27 interests, claims, or charges ~~whatsoever~~, the existence of which
28 depends upon any act, title transaction, event, or omission that

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29 | occurred before ~~prior to~~ the effective date of the root of
 30 | title. Except as provided in s. 712.03, all such estates,
 31 | interests, claims, or charges, however denominated, whether they
 32 | ~~such estates, interests, claims, or charges~~ are or appear to be
 33 | held or asserted by a person sui juris or under a disability,
 34 | whether such person is within or without the state, ~~whether such~~
 35 | ~~person is~~ natural or corporate, or ~~is~~ private or governmental,
 36 | are ~~hereby~~ declared to be null and void. However, ~~except that~~
 37 | this chapter does ~~shall not be deemed to~~ affect any right,
 38 | title, or interest of the United States, Florida, or any of its
 39 | officers, boards, commissions, or other agencies reserved in the
 40 | patent or deed by which the United States, Florida, or any of
 41 | its agencies parted with title.

42 | Section 3. Subsection (3) of section 712.06, Florida
 43 | Statutes, is amended to read:

44 | 712.06 Contents of notice; recording and indexing.—

45 | (3) The person providing the notice referred to in s.
 46 | 712.05 shall:

47 | (a) Cause the clerk of the circuit court to ~~shall, upon~~
 48 | ~~such filing,~~ mail by registered or certified mail to the
 49 | purported owner of said property, as stated in such notice, a
 50 | copy thereof and shall enter on the original, before recording
 51 | the same, a certificate showing such mailing. For preparing the
 52 | certificate, the claimant shall pay to the clerk the service
 53 | charge as prescribed in s. 28.24(8) and the necessary costs of
 54 | mailing, in addition to the recording charges as prescribed in
 55 | s. 28.24(12). If the notice names purported owners having more
 56 | than one address, the person filing the same shall furnish a

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57 true copy for each of the several addresses stated, and the
58 clerk shall send one such copy to the purported owners named at
59 each respective address. Such certificate shall be sufficient if
60 the same reads substantially as follows:

61
62 I hereby certify that I did on this _____, mail by
63 registered (or certified) mail a copy of the foregoing notice to
64 each of the following at the address stated:

65
66 ... (Clerk of the circuit court) ...
67 of _____ County, Florida,
68 By ... (Deputy clerk) ...

69
70 The clerk of the circuit court is not required to mail to the
71 purported owner of such property any such notice that pertains
72 solely to the preserving of any covenant or restriction or any
73 portion of a covenant or restriction; or

74 (b) Publish once a week, for 2 consecutive weeks, the
75 notice referred to in s. 712.05, with the official record book
76 and page number in which such notice was recorded, in a
77 newspaper as defined in chapter 50 in the county in which the
78 property is located.

79 Section 4. This act shall take effect July 1, 2010.