

1 A bill to be entitled
 2 An act relating to marketable record title; amending
 3 s. 712.03, F.S.; making grammatical changes; providing
 4 that marketable record title may not extinguish
 5 certain restrictions or covenants that are accepted by
 6 a governmental entity or any right, title, or interest
 7 that is held in trust for the public; amending s.
 8 712.04, F.S.; providing that ch. 712, F.S., does not
 9 affect any right, title, or interest of a political
 10 subdivision in this state; providing an effective
 11 date.

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

15 Section 1. Section 712.03, Florida Statutes, is amended to
 16 read:

17 712.03 Exceptions to marketability.—~~Such~~ Marketable record
 18 title may ~~shall~~ not affect or extinguish the following rights:

19 (1) Estates or interests, or easements and use
 20 restrictions disclosed by and defects inherent in the muniments
 21 of title on which the ~~said~~ estate is based, beginning with the
 22 root of title, ~~;~~ provided, However, ~~that~~ a general reference in
 23 any of such muniments to easements, use restrictions, or other
 24 interests created before ~~prior to~~ the root of title is ~~shall~~ not
 25 be sufficient to preserve them unless specific identification by
 26 reference to book and page of record or by name of recorded plat
 27 is ~~be~~ made ~~therein~~ to a recorded title transaction that ~~which~~
 28 imposed, transferred, or continued such easement, use

29 | restrictions, or other interests. This subsection is subject,
 30 | ~~however,~~ to the provisions of subsection (5).

31 | (2) Estates, interests, claims, or charges, or any
 32 | covenant or restriction, preserved by the filing of a proper
 33 | notice in accordance with this section ~~the provisions hereof~~.

34 | (3) Rights of any person in possession of the lands, ~~so~~
 35 | ~~long as such person is in such possession~~.

36 | (4) Estates, interests, claims, or charges arising out of
 37 | a title transaction that was ~~which has been~~ recorded after
 38 | ~~subsequent to~~ the effective date of the root of title.

39 | (5) Recorded or unrecorded easements or rights, interest,
 40 | or servitude in the nature of easements, rights-of-way, and
 41 | terminal facilities, including those of a public utility or of a
 42 | governmental agency, so long as the same are used and the use of
 43 | any part thereof shall except from the operation hereof the
 44 | right to the entire use thereof. ~~No~~ Notice does not need to be
 45 | filed in order to preserve the lien of any mortgage or deed of
 46 | trust or any supplement ~~thereto~~ encumbering any such recorded or
 47 | unrecorded easements, or rights, interest, or servitude in the
 48 | nature of easements, rights-of-way, and terminal facilities.
 49 | However, nothing in this subsection may ~~herein shall~~ be
 50 | construed as preserving to the mortgagee or grantee of any such
 51 | mortgage or deed of trust or any supplement to the mortgage or
 52 | deed ~~thereto~~ any greater rights than the rights of the mortgagor
 53 | or grantor.

54 | (6) Rights of any person in whose name the land is
 55 | assessed on the county tax rolls for the ~~such~~ period of time
 56 | that ~~as~~ the land is ~~so~~ assessed and the ~~which~~ rights are

57 | preserved for ~~a period of~~ 3 years after the land is last
 58 | assessed in that ~~such~~ person's name.

59 | (7) State title to lands beneath navigable waters acquired
 60 | by virtue of sovereignty.

61 | (8) A restriction or covenant recorded pursuant to chapter
 62 | 376 or chapter 403.

63 | (9) Any right, title, or interest held by the Board of
 64 | Trustees of the Internal Improvement Trust Fund, any water
 65 | management district created under chapter 373, or the United
 66 | States.

67 | (10) A restriction or covenant accepted by a governmental
 68 | entity in conjunction with the adoption of a comprehensive plan
 69 | or plan amendment or in conjunction with, or as a condition of,
 70 | the approval of a building permit, zoning permit, subdivision
 71 | approval, rezoning, certification, special exception, variance,
 72 | environmental regulatory permit, or any other official action
 73 | having the effect of permitting the development of land.

74 | (11) Any right, title, or interest held in trust for the
 75 | public, whether used or unused, including rights-of-way,
 76 | easements, reservations, parks, environmental preserves, beach
 77 | access, restrictive covenants, or public dedications.

78 | Section 2. Section 712.04, Florida Statutes, is amended to
 79 | read:

80 | 712.04 Interests extinguished by marketable record title.—
 81 | Subject to s. 712.03, a marketable record title is free and
 82 | clear of all estates, interests, claims, or charges, the
 83 | existence of which depends upon any act, title transaction,
 84 | event, or omission that occurred before the effective date of

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85 | the root of title. Except as provided in s. 712.03, all such
86 | estates, interests, claims, or charges, however denominated,
87 | whether they are or appear to be held or asserted by a person
88 | sui juris or under a disability, whether such person is within
89 | or without the state, natural or corporate, or private or
90 | governmental, are declared to be null and void. However, this
91 | chapter does not affect any right, title, or interest of the
92 | United States, this state ~~Florida~~, or any of its political
93 | subdivisions, officers, boards, commissions, or other agencies
94 | reserved in the patent or deed by which the United States, this
95 | state ~~Florida~~, or any of its political subdivisions or agencies
96 | parted with title.

97 | Section 3. This act shall take effect July 1, 2013.