

By Senator Abruzzo

25-01219-13

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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.

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

14
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 restrictions
20 disclosed by and defects inherent in the muniments of title on
21 which the said estate is based, beginning with the root of
22 title, ~~provided,~~ However, ~~that~~ a general reference in any of
23 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,~~

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30 ~~however,~~ to the provisions of subsection (5).

31 (2) Estates, interests, claims, or charges, or any covenant
32 or restriction, preserved by the filing of a proper notice in
33 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 a
37 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 assessed
55 on the county tax rolls for the ~~such~~ period of time that ~~as~~ the
56 land is ~~so~~ assessed and the ~~which~~ rights are preserved for ~~a~~
57 ~~period of~~ 3 years after the land is last assessed in that ~~such~~
58 person's name.

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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
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

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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.