

1                                   A bill to be entitled  
 2           An act relating to marketable record titles to real  
 3           property; amending s. 712.01, F.S.; providing a  
 4           definition; amending s. 712.03, F.S.; revising the  
 5           exceptions to marketability by including homeowners'  
 6           association and mandatory property owners' association  
 7           covenants and restrictions; providing exceptions;  
 8           amending s. 712.05, F.S.; authorizing a mandatory  
 9           property owners' association to file a notice to  
 10          preserve a covenant or restriction; amending s.  
 11          712.11, F.S.; authorizing certain homeowners'  
 12          associations and mandatory property owners'  
 13          associations to revive certain covenants and  
 14          restrictions that have lapsed; providing an effective  
 15          date.

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

19           Section 1. Subsection (7) is added to section 712.01,  
 20 Florida Statutes, to read:

21           712.01 Definitions.—As used in this law:

22           (7) The term "mandatory property owners' association"  
 23 means a Florida corporation responsible for the operation of  
 24 property in which the voting membership is made up of the owners  
 25 of property or their agents, or a combination thereof, and in  
 26 which membership is a mandatory condition of property ownership,

27 and which is authorized to impose assessments that, if unpaid,  
 28 may become a lien on the property. The term does not include a  
 29 community development district or similar special taxing  
 30 district created by law.

31 Section 2. Subsection (10) is added to section 712.03,  
 32 Florida Statutes, to read:

33 712.03 Exceptions to marketability.—Such marketable record  
 34 title shall not affect or extinguish the following rights:

35 (10) A covenant or restriction of a homeowners'  
 36 association or mandatory property owners' association that is  
 37 recorded in the public records. However, this subsection does  
 38 not apply:

39 (a) To a covenant or restriction that was extinguished by  
 40 operation of this chapter before July 1, 2016;

41 (b) If the terms of the covenant or restriction as  
 42 originally recorded, or subsequently amended, provide for  
 43 expiration of the covenant or restriction;

44 (c) If a property owner attests in an affidavit that the  
 45 association has been administratively dissolved and no longer  
 46 has responsibility under a government permit; or

47 (d) To a covenant or restriction of an association if a  
 48 circuit court finds in a declaratory judgment action that the  
 49 association has been abandoned, no vote of the membership is  
 50 practical, continued enforcement of the covenant or restriction  
 51 is not equitable, and as a result thereof the covenant or  
 52 restriction is void, terminated, or released.

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

55 712.05 Effect of filing notice.—

56 (1) A person claiming an interest in land or a homeowners'  
57 association or mandatory property owners' association that is  
58 desiring to preserve a covenant or restriction may preserve and  
59 protect the same from extinguishment by the operation of this  
60 act or by operation of the covenant or restriction by filing for  
61 record, during the 30-year period immediately following the  
62 effective date of the root of title, a written notice in  
63 accordance with this chapter. Such notice preserves such claim  
64 of right or such covenant or restriction or portion of such  
65 covenant or restriction for up to 30 years after filing the  
66 notice unless the notice is filed again as required in this  
67 chapter. A person's disability or lack of knowledge of any kind  
68 may not delay the commencement of or suspend the running of the  
69 30-year period. Such notice may be filed for record by the  
70 claimant or by any other person acting on behalf of a claimant  
71 who is:

72 (a) Under a disability;

73 (b) Unable to assert a claim on his or her behalf; or

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

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78 Such notice may be filed by a homeowners' association or a

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79 mandatory property owners' association only if the preservation  
80 of such covenant or restriction or portion of such covenant or  
81 restriction is approved by at least two-thirds of the members of  
82 the board of directors of an incorporated ~~homeowners'~~  
83 association at a meeting for which a notice, stating the  
84 meeting's time and place and containing the statement of  
85 marketable title action described in s. 712.06(1)(b), was mailed  
86 or hand delivered to members of the ~~homeowners'~~ association at  
87 least 7 days before such meeting. The ~~homeowners'~~ association or  
88 clerk of the circuit court is not required to provide additional  
89 notice pursuant to s. 712.06(3). The preceding sentence is  
90 intended to clarify existing law.

91 Section 4. Section 712.11, Florida Statutes, is amended to  
92 read:

93 712.11 Covenant and restriction revitalization.—A  
94 homeowners' association or mandatory property owners'  
95 association not otherwise subject to chapter 720 may use the  
96 procedures ~~set forth~~ in ss. 720.403-720.407 to revive covenants  
97 and restrictions that have lapsed under the terms of this  
98 chapter.

99 Section 5. This act shall take effect July 1, 2016.