

1 A bill to be entitled

2 An act relating to the Marketable Record Title Act;
3 amending s. 712.03, F.S.; revising rights that are not
4 affected or extinguished by marketable record titles;
5 amending s. 712.04, F.S.; revising what types of
6 interests are extinguished by a marketable record
7 title; providing construction; creating s. 712.065,
8 F.S.; defining the term "discriminatory restriction";
9 providing that discriminatory restrictions are
10 unlawful, unenforceable, and declared null and void;
11 providing that certain discriminatory restrictions are
12 extinguished and severed from recorded title
13 transactions; specifying that the recording of certain
14 notices does not reimpose or preserve a discriminatory
15 restriction; providing requirements for a parcel owner
16 to remove a discriminatory restriction from a covenant
17 or restriction; amending s. 712.12, F.S.; revising the
18 definition of the term "covenant or restriction";
19 providing applicability; requiring persons with
20 certain interests in land which may be extinguished by
21 this act to file a specified notice to preserve such
22 interests; providing a directive to the Division of
23 Law Revision; providing an effective date.

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

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Section 1. Subsection (1) of section 712.03, Florida Statutes, is amended to read:

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

(1) Estates or interests, easements and use restrictions disclosed by and defects inherent in the muniments of title on which said estate is based beginning with the root of title, + provided, ~~however,~~ that in the muniments of title those estates, interests, easements, or use restrictions created before the root of title are preserved by identification in the legal description of the property by specific reference to the official records book and page number, instrument number, or plat name or there is otherwise an affirmative statement in a muniment of title to preserve such estates, interests, easements, or use restrictions created before the root of title as identified by the official records book and page or instrument number ~~a general reference in any of such muniments to easements, use restrictions or other interests created prior to the root of title shall not be sufficient to preserve them unless specific identification by reference to book and page of record or by name of recorded plat be made therein to a recorded title transaction which imposed, transferred or continued such easement, use restrictions or other interests;~~ subject, however, to the provisions of subsection (5).

51 Section 2. Section 712.04, Florida Statutes, is amended to
52 read:

53 712.04 Interests extinguished by marketable record title.-
54 Subject to s. 712.03, a marketable record title is free and
55 clear of all estates, interests, claims, covenants,
56 restrictions, or charges, the existence of which depends upon
57 any act, title transaction, event, zoning requirement, building
58 or development permit, or omission that occurred before the
59 effective date of the root of title. Except as provided in s.
60 712.03, all such estates, interests, claims, covenants,
61 restrictions, or charges, however denominated, whether they are
62 or appear to be held or asserted by a person sui juris or under
63 a disability, whether such person is within or without the
64 state, natural or corporate, or private or governmental, are
65 declared to be null and void. However, this chapter does not
66 affect any right, title, or interest of the United States,
67 Florida, or any of its officers, boards, commissions, or other
68 agencies reserved in the patent or deed by which the United
69 States, Florida, or any of its agencies parted with title. This
70 section may not be construed to alter or invalidate a zoning
71 ordinance, land development regulation, building code, or other
72 law or regulation to the extent it operates independently of
73 matters recorded in the official records.

74 Section 3. Section 712.065, Florida Statutes, is created
75 to read:

712.065 Extinguishment of discriminatory restrictions.—

(1) As used in this section, the term "discriminatory restriction" means a provision in a title transaction recorded in this state which restricts the ownership, occupancy, or use of any real property in this state by any natural person on the basis of a characteristic that has been held, or is held after the effective date of this act, by the United States Supreme Court or the Florida Supreme Court to be protected against discrimination under the Fourteenth Amendment to the United States Constitution or under s. 2, Art. I of the State Constitution, including race, color, national origin, religion, gender, or physical disability.

(2) A discriminatory restriction is not enforceable in this state, and all discriminatory restrictions contained in any title transaction recorded in this state are unlawful, are unenforceable, and are declared null and void. Any discriminatory restriction contained in a previously recorded title transaction is extinguished and severed from the recorded title transaction and the remainder of the title transaction remains enforceable and effective. The recording of any notice preserving or protecting interests or rights pursuant to s. 712.06 does not reimpose or preserve any discriminatory restriction that is extinguished under this section.

(3) Upon request of a parcel owner, a discriminatory restriction appearing in a covenant or restriction affecting the

101 parcel may be removed from the covenant or restriction by an
 102 amendment approved by a majority vote of the board of directors
 103 of the respective property owners' association or an owners'
 104 association in which all owners may voluntarily join,
 105 notwithstanding any other requirements for approval of an
 106 amendment of the covenant or restriction. Unless the amendment
 107 also changes other provisions of the covenant or restriction,
 108 the recording of an amendment removing a discriminatory
 109 restriction does not constitute a title transaction occurring
 110 after the root of title for purposes of s. 712.03(4).

111 Section 4. Paragraph (b) of subsection (1) of section
 112 712.12, Florida Statutes, is amended to read:

113 712.12 Covenant or restriction revitalization by parcel
 114 owners not subject to a homeowners' association.—

115 (1) As used in this section, the term:

116 (b) "Covenant or restriction" means any agreement or
 117 limitation ~~imposed by a private party and not required by a~~
 118 ~~governmental agency as a condition of a development permit, as~~
 119 ~~defined in s. 163.3164, which is~~ contained in a document
 120 recorded in the public records of the county in which a parcel
 121 is located and which subjects the parcel to any use restriction
 122 that may be enforced by a parcel owner.

123 Section 5. The amendments to ss. 712.03, 712.04, and
 124 712.12, Florida Statutes, in this act are intended to clarify
 125 existing law, are remedial in nature, and apply to all estates,

126 | interests, claims, covenants, restrictions, and charges, whether
127 | imposed or accepted before, on, or after the effective date of
128 | this act.

129 | Section 6. A person with an interest in land which may
130 | potentially be extinguished by this act, and whose interest has
131 | not been extinguished before July 1, 2020, must file a notice
132 | pursuant to s. 712.06, Florida Statutes, by July 1, 2021, to
133 | preserve such interest.

134 | Section 7. The Division of Law Revision is directed to
135 | replace the phrase "the effective date of this act" wherever it
136 | occurs in this act with the date the act becomes a law.

137 | Section 8. This act shall take effect upon becoming a law.