

By Senator Powell

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1 A bill to be entitled
 2 An act relating to errors in deeds; creating s.
 3 689.041, F.S.; defining terms; providing that a deed
 4 containing a scrivener's error conveys title as if
 5 there had been no such error if certain requirements
 6 are met; providing a form for a curative notice;
 7 authorizing the clerks of the circuit court to accept
 8 and record curative notices; providing for the
 9 operation of a curative notice; providing
 10 construction; providing an effective date.

11
 12 Be It Enacted by the Legislature of the State of Florida:

13
 14 Section 1. Section 689.041, Florida Statutes, is created to
 15 read:

16 689.041 Curative procedure for scrivener's errors in
 17 deeds.-

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

19 (a) "Erroneous deed" means any deed, other than a quitclaim
 20 deed, which contains a scrivener's error.

21 (b) "Intended real property" means the real property vested
 22 in the grantor and intended to be conveyed by the grantor in the
 23 erroneous deed.

24 (c) "Scrivener's error" means a single error or omission in
 25 the legal description of the intended real property in no more
 26 than one of the following categories:

27 1. An error or omission in no more than one of the lot or
 28 block identifications of a recorded platted lot; however, the
 29 transposition of the lot and block identifications is considered

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30 one error for the purposes of this subparagraph;

31 2. An error or omission in no more than one of the unit,
32 building, or phase identifications of a condominium or
33 cooperative unit; or

34 3. An error or omission in no more than one directional
35 designation or numerical fraction of a tract of land that is
36 described as a fractional portion of a section, township, or
37 range; however, an error or omission in the directional
38 description and numerical fraction of the same call is
39 considered one error for the purposes of this subparagraph.

40
41 The term "scrivener's error" does not include any error in a
42 document that contains multiple errors.

43 (2) A deed that contains a scrivener's error conveys title
44 to the intended real property as if there had been no
45 scrivener's error, and, likewise, each subsequent erroneous deed
46 containing the identical scrivener's error conveys title to the
47 intended real property as if there had been no such error if all
48 of the following apply:

49 (a) Record title to the intended real property was held by
50 the grantor of the first erroneous deed at the time the first
51 erroneous deed was executed.

52 (b) Within the 5 years before the record date of the
53 erroneous deed, the grantor of any erroneous deed did not hold
54 title to any other real property in the same subdivision,
55 condominium, or cooperative development or in the same section,
56 township, and range, described in the erroneous deed.

57 (c) The intended real property is not described exclusively
58 by a metes and bounds legal description.

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59 (d) A curative notice is recorded in the official records
60 of the county in which the intended real property is located
61 which evidences the intended real property to be conveyed by the
62 grantor.

63 (3) A curative notice must be in substantially the
64 following form:

65
66 Curative Notice, Per Sec. 95.2311, F.S.
67 Scrivener's Error in Legal Description
68

69 The undersigned does hereby swear and affirm:
70

71 1. The deed which transferred title from ...(Insert
72 Name)... to ...(Insert Name)... on ...(Date)... and recorded on
73 ...(Record Date)... in O.R. Book, Page, and/or
74 Instrument No., of the official records of ...(Name of
75 County)..., Florida, (hereinafter referred to as "first
76 erroneous deed") contained the following erroneous legal
77 description:

78
79 ...(Insert Erroneous Legal Description)...
80

81 2. The deed transferring title from ...(Insert Name)... to
82 ...(Insert Name)... and recorded on ...(Record Date)... in O.R.
83 Book, Page, and/or Instrument No., of the
84 official records of ...(Name of County)..., Florida, contains
85 the same erroneous legal description described in the first
86 erroneous deed.
87

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88 ...(Insert and repeat paragraph 2. as necessary to include
89 each subsequent erroneous deed in the chain of title containing
90 the same erroneous legal description)...

91
92 3. I have examined the official records of the county in
93 which the intended real property is located and have determined
94 that the deed dated ...(Date)..., and recorded on ...(Record
95 Date)... in O.R. Book, Page and/or Instrument No.
96, official records of ...(Name of County)..., Florida,
97 establishes that record title to the intended real property was
98 held by the grantor of the first erroneous deed at the time the
99 first erroneous deed was executed.

100
101 4. I have examined or have had someone else examine the
102 official records of ...(Name of County)..., Florida, and certify
103 that:

104 a. Record title to the intended real property was held by
105 the grantor of the first erroneous deed, ...(Insert Name)..., at
106 the time that deed was executed.

107 b. The grantor of the first erroneous deed and the grantors
108 of any subsequent erroneous deeds listed above did not hold
109 record title to any property other than the intended real
110 property in either the same subdivision, condominium or
111 cooperative or the same section, township and range, if
112 described in this manner, at any time within the 5 years before
113 the date that the erroneous deed was executed.

114 c. The intended real property is not described by a metes
115 and bounds legal description.

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117 5. This notice is made to establish that the real property
118 described as ... (insert legal description of the intended real
119 property) ... (hereinafter referred to as the "intended real
120 property") was the real property that was intended to be
121 conveyed in the first erroneous deed and all subsequent
122 erroneous deeds.

124 ... (Signature) ...

125 ... (Printed Name) ...

128 Sworn to (or affirmed) and subscribed before me this
129 day of, ... (year) ..., by ... (name of person making
130 statement)

131 ... (Signature of Notary Public - State of Florida) ...

132 ... (Print, Type, or Stamp Commissioned Name of Notary
133 Public) ...

134
135 Personally Known OR Produced Identification

136 Type of Identification Produced.....
137

138 (4) The clerks of the circuit court for the circuit in
139 which any intended real property is located may accept and
140 record curative notices in the form described in subsection (3)
141 as evidence of the intent of the grantor in the erroneous deed
142 to convey the intended real property to the grantee in the
143 erroneous deed.

144 (5) A curative notice recorded pursuant to this section
145 operates as a correction of the first erroneous deed and all

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146 subsequent erroneous deeds containing the same scrivener's error
147 described in the curative notice and releases any cloud or
148 encumbrance that any of the erroneous deeds may have created as
149 to any property other than the intended real property. The
150 correction relates back to the record date of the first
151 erroneous deed.

152 (6) The remedies under this section are not exclusive and
153 do not abrogate any right or remedy under the laws of this state
154 other than this section.

155 Section 2. This act shall take effect July 1, 2020.