

By Senator Rodriguez

39-01426-22

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1                   A bill to be entitled  
2       An act relating to real property rights; amending s.  
3       712.03, F.S.; revising rights that are not affected or  
4       extinguished by marketable record titles; amending s.  
5       712.04, F.S.; revising the types of interests  
6       extinguished by marketable record titles; providing  
7       construction; amending s. 712.12, F.S.; revising the  
8       definition of the term "covenant or restriction";  
9       creating s. 715.075, F.S.; authorizing owners or  
10      operators of private property used for motor vehicle  
11      parking to establish rules, rates, and fines governing  
12      private persons parking on the property; prohibiting  
13      counties and municipalities from enacting any  
14      ordinance or regulation attempting to restrict or  
15      prohibit the owner or operator from adopting such  
16      rules, rates, or fines; providing that any ordinance  
17      or regulation making such attempt is a violation of  
18      this act and is null and void; providing  
19      applicability; requiring persons with certain  
20      interests in land which may be extinguished by the act  
21      to file a specified notice to preserve such interests;  
22      providing a directive to the Division of Law Revision;  
23      providing an effective date.

24  
25   Be It Enacted by the Legislature of the State of Florida:

26  
27       Section 1. Subsection (1) of section 712.03, Florida  
28   Statutes, is amended to read:

29       712.03 Exceptions to marketability.—Such marketable record

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30 title shall not affect or extinguish the following rights:

31 (1) Estates or interests, easements and use restrictions  
32 disclosed by and defects inherent in the muniments of title on  
33 which said estate is based beginning with the root of title,~~†~~  
34 provided, however, that in the muniments of title those estates,  
35 interests, easements, or use restrictions created before the  
36 root of title are preserved by identification in the legal  
37 description of the property by specific reference to the  
38 official records book and page number, instrument number, or  
39 plat name or there is otherwise an affirmative statement in a  
40 muniment of title to preserve such estates, interests,  
41 easements, or use restrictions created before the root of title  
42 as identified by the official records book and page or  
43 instrument number ~~a general reference in any of such muniments~~  
44 ~~to easements, use restrictions or other interests created prior~~  
45 ~~to the root of title shall not be sufficient to preserve them~~  
46 ~~unless specific identification by reference to book and page of~~  
47 ~~record or by name of recorded plat be made therein to a recorded~~  
48 ~~title transaction which imposed, transferred or continued such~~  
49 ~~easement, use restrictions or other interests; subject, however,~~  
50 ~~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

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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:

71 (1) A comprehensive plan or plan amendment; zoning  
72 ordinance; land development regulation; building code;  
73 development permit; development order; or other law, regulation,  
74 or regulatory approval, to the extent such law, regulation, or  
75 regulatory approval operates independently of matters recorded  
76 in the official records; or

77 (2) Any recorded covenant or restriction that on the face  
78 of the first page of the document states that it was accepted by  
79 a governmental entity as part of, or as a condition of, any such  
80 comprehensive plan or plan amendment; zoning ordinance; land  
81 development regulation; building code; development permit;  
82 development order; or other law, regulation, or regulatory  
83 approval.

84 Section 3. Paragraph (b) of subsection (1) of section  
85 712.12, Florida Statutes, is amended to read:

86 712.12 Covenant or restriction revitalization by parcel  
87 owners not subject to a homeowners' association.-

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

89 (b) "Covenant or restriction" means any agreement or  
90 limitation ~~imposed by a private party and not required by a~~  
91 ~~governmental agency as a condition of a development permit, as~~  
92 ~~defined in s. 163.3164, which is~~ contained in a document  
93 recorded in the public records of the county in which a parcel  
94 is located and which subjects the parcel to any use restriction  
95 that may be enforced by a parcel owner.

96 Section 4. Section 715.075, Florida Statutes, is created to  
97 read:

98 715.075 Vehicles parked on private property; rules and  
99 rates authorized.—

100 (1) The owner or operator of a private property used for  
101 motor vehicle parking may establish rules, rates, and fines that  
102 govern private persons parking motor vehicles on such private  
103 property. Such rules and rates may include parking charges and  
104 fines for violating the property owner's or operator's rules.

105 (2) A county or municipality may not enact an ordinance or  
106 a regulation restricting or prohibiting a right of a private  
107 property owner or operator established under subsection (1). Any  
108 such ordinance or regulation is a violation of this section and  
109 is null and void.

110 Section 5. The amendments to ss. 712.03, 712.04, and  
111 712.12, Florida Statutes, in this act are intended to clarify  
112 existing law, are remedial in nature, and apply to all estates,  
113 interests, claims, covenants, restrictions, and charges, whether  
114 imposed or accepted before, on, or after the effective date of  
115 this act.

116 Section 6. A person with an interest in land which may

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117 potentially be extinguished by this act, and whose interest has  
118 not been extinguished before July 1, 2022, must file a notice  
119 pursuant to s. 712.06, Florida Statutes, by July 1, 2023, to  
120 preserve such interest.

121 Section 7. The Division of Law Revision is directed to  
122 replace the phrase "the effective date of this act" wherever it  
123 occurs in this act with the date the act becomes a law.

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