

By the Committee on Rules; and Senator Rodriguez

595-03063-22

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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; requiring  
13          certain invoices to have a specified statement;  
14          prohibiting counties and municipalities from enacting  
15          any ordinance or regulation attempting to restrict or  
16          prohibit the owner or operator from adopting such  
17          rules, rates, or fines; providing that any ordinance  
18          or regulation making such attempt is a violation of  
19          this act and is null and void; providing  
20          applicability; requiring persons with certain  
21          interests in land which may be extinguished by the act  
22          to file a specified notice to preserve such interests;  
23          providing a directive to the Division of Law Revision;  
24          providing an effective date.

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

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

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30           712.03 Exceptions to marketability.—Such marketable record  
31 title shall not affect or extinguish the following rights:

32           (1) Estates or interests, easements and use restrictions  
33 disclosed by and defects inherent in the muniments of title on  
34 which said estate is based beginning with the root of title,<sup>+</sup>  
35 ~~provided, however,~~ that in the muniments of title those estates,  
36 interests, easements, or use restrictions created before the  
37 root of title are preserved by identification in the legal  
38 description of the property by specific reference to the  
39 official records book and page number, instrument number, or  
40 plat name or there is otherwise an affirmative statement in a  
41 muniment of title to preserve such estates, interests,  
42 easements, or use restrictions created before the root of title  
43 as identified by the official records book and page or  
44 instrument number ~~a general reference in any of such muniments~~  
45 ~~to easements, use restrictions or other interests created prior~~  
46 ~~to the root of title shall not be sufficient to preserve them~~  
47 ~~unless specific identification by reference to book and page of~~  
48 ~~record or by name of recorded plat be made therein to a recorded~~  
49 ~~title transaction which imposed, transferred or continued such~~  
50 ~~easement, use restrictions or other interests; subject, however,~~  
51 ~~to the provisions of subsection (5).~~

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

54           712.04 Interests extinguished by marketable record title.—  
55 Subject to s. 712.03, a marketable record title is free and  
56 clear of all estates, interests, claims, covenants,  
57 restrictions, or charges, the existence of which depends upon  
58 any act, title transaction, event, zoning requirement, building

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59 or development permit, or omission that occurred before the  
60 effective date of the root of title. Except as provided in s.  
61 712.03, all such estates, interests, claims, covenants,  
62 restrictions, or charges, however denominated, whether they are  
63 or appear to be held or asserted by a person sui juris or under  
64 a disability, whether such person is within or without the  
65 state, natural or corporate, or private or governmental, are  
66 declared to be null and void. However, this chapter does not  
67 affect any right, title, or interest of the United States,  
68 Florida, or any of its officers, boards, commissions, or other  
69 agencies reserved in the patent or deed by which the United  
70 States, Florida, or any of its agencies parted with title. This  
71 section may not be construed to alter or invalidate:

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

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

85 Section 3. Paragraph (b) of subsection (1) of section  
86 712.12, Florida Statutes, is amended to read:

87 712.12 Covenant or restriction revitalization by parcel

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88 owners not subject to a homeowners' association.—

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

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

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

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

101 (1) The owner or operator of a private property used for  
102 motor vehicle parking may establish rules, rates, and fines that  
103 govern private persons parking motor vehicles on such private  
104 property. Such rules and rates may include parking charges and  
105 finances for violating the property owner's or operator's rules. An  
106 invoice for rates or fines issued under this section must  
107 include the following statement in uppercase type:

108  
109 THIS INVOICE IS PRIVATELY ISSUED, IS NOT ISSUED BY A  
110 GOVERNMENTAL AUTHORITY, AND IS NOT SUBJECT TO CRIMINAL  
111 PENALTIES.

112  
113 (2) A county or municipality may not enact an ordinance or  
114 a regulation restricting or prohibiting a right of a private  
115 property owner or operator established under subsection (1). Any  
116 such ordinance or regulation is a violation of this section and

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117 is null and void.

118       Section 5. The amendments to ss. 712.03, 712.04, and  
119 712.12, Florida Statutes, in this act are intended to clarify  
120 existing law, are remedial in nature, and apply to all estates,  
121 interests, claims, covenants, restrictions, and charges, whether  
122 imposed or accepted before, on, or after the effective date of  
123 this act.

124       Section 6. A person with an interest in land which may  
125 potentially be extinguished by this act, and whose interest has  
126 not been extinguished before July 1, 2022, must file a notice  
127 pursuant to s. 712.06, Florida Statutes, by July 1, 2023, to  
128 preserve such interest.

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

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