

HB 7031

2016

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; amending s. 712.05, F.S.;  
 8           authorizing a mandatory property owners' association  
 9           to file a notice to preserve a covenant or  
 10          restriction; amending s. 712.11, F.S.; authorizing  
 11          certain homeowners' associations and mandatory  
 12          property owners' associations to revive certain  
 13          covenants and restrictions that have lapsed; providing  
 14          an effective date.

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

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

20           712.01 Definitions.—As used in this law:

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

HB 7031

2016

27 may become a lien on the property. The term does not include a  
28 community development district or similar special taxing  
29 district created by law.

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

32 712.03 Exceptions to marketability.—Such marketable record  
33 title shall not affect or extinguish the following rights:

34 (10) A covenant or restriction of a homeowners'  
35 association or mandatory property owners' association.

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

38 712.05 Effect of filing notice.—

39 (1) A person claiming an interest in land or a homeowners'  
40 association or mandatory property owners' association that is  
41 desiring to preserve a covenant or restriction may preserve and  
42 protect the same from extinguishment by the operation of this  
43 act or by operation of the covenant or restriction by filing for  
44 record, during the 30-year period immediately following the  
45 effective date of the root of title, a written notice in  
46 accordance with this chapter. Such notice preserves such claim  
47 of right or such covenant or restriction or portion of such  
48 covenant or restriction for up to 30 years after filing the  
49 notice unless the notice is filed again as required in this  
50 chapter. A person's disability or lack of knowledge of any kind  
51 may not delay the commencement of or suspend the running of the  
52 30-year period. Such notice may be filed for record by the

HB 7031

2016

53 claimant or by any other person acting on behalf of a claimant  
54 who is:

- 55 (a) Under a disability;
- 56 (b) Unable to assert a claim on his or her behalf; or
- 57 (c) One of a class, but whose identity cannot be  
58 established or is uncertain at the time of filing such notice of  
59 claim for record.

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61 Such notice may be filed by a homeowners' association or a  
62 mandatory property owners' association only if the preservation  
63 of such covenant or restriction or portion of such covenant or  
64 restriction is approved by at least two-thirds of the members of  
65 the board of directors of an incorporated ~~homeowners'~~  
66 association at a meeting for which a notice, stating the  
67 meeting's time and place and containing the statement of  
68 marketable title action described in s. 712.06(1)(b), was mailed  
69 or hand delivered to members of the ~~homeowners'~~ association at  
70 least 7 days before such meeting. The ~~homeowners'~~ association or  
71 clerk of the circuit court is not required to provide additional  
72 notice pursuant to s. 712.06(3). The preceding sentence is  
73 intended to clarify existing law.

74 Section 4. Section 712.11, Florida Statutes, is amended to  
75 read:

76 712.11 Covenant and restriction revitalization.—A  
77 homeowners' association or mandatory property owners'  
78 association not otherwise subject to chapter 720 may use the

HB 7031

2016

79 | procedures ~~set forth~~ in ss. 720.403-720.407 to revive covenants  
80 | and restrictions that have lapsed under the terms of this  
81 | chapter.

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