

1 A bill to be entitled
 2 An act relating to marketable record title; amending s.
 3 712.03, F.S.; revising the exceptions to marketability by
 4 including any right, title, or interest held by the Board
 5 of Trustees of the Internal Improvement Trust Fund, a
 6 water management district, or the United States; amending
 7 s. 712.04, F.S.; conforming provisions to changes made by
 8 the act; providing an effective date.

9
 10 Be It Enacted by the Legislature of the State of Florida:

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 12 Section 1. Section 712.03, Florida Statutes, is amended to
 13 read:

14 712.03 Exceptions to marketability.—A ~~Such~~ marketable
 15 record title does ~~shall~~ not affect or extinguish the following
 16 rights:

17 (1) Estates or interests, easements, and use restrictions
 18 disclosed by and defects inherent in the muniments of title on
 19 which the said estate is based, beginning with the root of
 20 title, + ~~provided, however,~~ that a general reference in any ~~of~~
 21 ~~such~~ muniments to easements, use restrictions, or other
 22 interests created before ~~prior to~~ the root of title is ~~shall~~ not
 23 be sufficient to preserve them unless specific identification by
 24 reference to book and page of record or by name of recorded plat
 25 is ~~be~~ made therein to a recorded title transaction which
 26 imposed, transferred, or continued such easement, use
 27 restrictions, or other interests; subject, however, to ~~the~~
 28 ~~provisions of~~ subsection (5).

29 (2) Estates, interests, claims, or charges, or any
 30 covenant or restriction, preserved by the filing of a proper
 31 notice in accordance with this chapter ~~the provisions hereof~~.

32 (3) Rights of any person in possession of the lands, so
 33 long as such person is in such possession.

34 (4) Estates, interests, claims, or charges arising out of
 35 a title transaction that ~~which~~ has been recorded after
 36 ~~subsequent to~~ the effective date of the root of title.

37 (5) Recorded or unrecorded easements or rights, interest
 38 or servitude in the nature of easements, rights-of-way, and
 39 terminal facilities, including those of a public utility or ~~of a~~
 40 governmental agency, so long as such easements or rights,
 41 interest or servitude, rights-of-way, and terminal facilities
 42 ~~the same~~ are in use. ~~used and~~ The use of any part of a recorded
 43 or unrecorded easement or right, interest or servitude in the
 44 nature of an easement, right-of-way, or terminal facility
 45 excepts thereof shall except from the operation hereof the right
 46 to the entire use of such easement or right, interest or
 47 servitude, right-of-way, or terminal facility thereof. ~~No~~ Notice
 48 need not be filed in order to preserve the lien of any mortgage
 49 or deed of trust or any supplement thereto encumbering any such
 50 recorded or unrecorded easements, ~~or~~ rights, interest, ~~or~~
 51 servitude in the nature of easements, rights-of-way, and
 52 terminal facilities. However, this subsection does not preserve
 53 ~~nothing herein shall be construed as preserving~~ to the mortgagee
 54 or grantee of any such mortgage or deed of trust or any
 55 supplement thereto any greater rights than the rights of the
 56 mortgagor or grantor.

57 (6) Rights of any person in whose name the land is
 58 assessed on the county tax rolls for such period of time as the
 59 land is so assessed and which rights are preserved for a period
 60 of 3 years after the land is last assessed in such person's
 61 name.

62 (7) State title to lands beneath navigable waters acquired
 63 by virtue of sovereignty.

64 (8) A restriction or covenant recorded pursuant to chapter
 65 376 or chapter 403.

66 (9) Any right, title, or interest held by the Board of
 67 Trustees of the Internal Improvement Trust Fund, a water
 68 management district created under chapter 373, or the United
 69 States.

70 Section 2. Section 712.04, Florida Statutes, is amended to
 71 read:

72 712.04 Interests extinguished by marketable record title.-
 73 Subject to ~~the matters stated in s. 712.03, a~~ such marketable
 74 record title ~~is~~ shall be free and clear of all estates,
 75 interests, claims, or charges ~~whatsoever,~~ the existence of which
 76 depends upon any act, title transaction, event, or omission that
 77 occurred before ~~prior to~~ the effective date of the root of
 78 title. Except as provided in s. 712.03, all such estates,
 79 interests, claims, or charges, however denominated, whether they
 80 ~~such estates, interests, claims, or charges~~ are or appear to be
 81 held or asserted by a person sui juris or under a disability,
 82 whether such person is within or without the state, ~~whether such~~
 83 ~~person is~~ natural or corporate, or ~~is~~ private or governmental,
 84 are ~~hereby declared to be null and void.~~ However, except that

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85 | this chapter does ~~shall~~ not be deemed to affect any right,
86 | title, or interest of the United States, Florida, or any of its
87 | officers, boards, commissions, or other agencies reserved in the
88 | patent or deed by which the United States, Florida, or any of
89 | its agencies parted with title.

90 | Section 3. This act shall take effect July 1, 2010.