

1 A bill to be entitled
2 An act relating to covenants and restrictions of
3 property owners; amending ss. 125.022 and 166.033,
4 F.S.; specifying situations in which a county or
5 municipality may use its police powers to amend,
6 release, or terminate certain documents related to
7 development permits; prohibiting a county or
8 municipality from delegating its police powers to
9 third parties in certain instances; declaring any
10 purported delegation void; creating s. 712.001, F.S.;
11 providing a short title; amending s. 712.01, F.S.;
12 defining and redefining terms; amending s. 712.05,
13 F.S.; revising the interests and rights protected by
14 filing for record within a specified timeframe;
15 authorizing a property owners' association to preserve
16 and protect certain covenants or restrictions from
17 extinguishment, subject to specified requirements;
18 providing that a failure in indexing does not affect
19 the validity of the notice; extending the length of
20 time certain covenants or restrictions are preserved;
21 deleting a provision requiring a two-thirds vote by
22 members of an incorporated homeowners' association to
23 file certain notices; conforming provisions to changes
24 made by the act; amending s. 712.06, F.S.; exempting a
25 specified summary notice from certain notice content

26 requirements; revising the contents required to be
27 specified by certain notices; conforming provisions to
28 changes made by the act; amending s. 712.11, F.S.;
29 conforming provisions to changes made by the act;
30 amending s. 720.303, F.S.; requiring a board to take
31 up certain provisions relating to notice filings at
32 the first board meeting; creating s. 720.3032, F.S.;
33 providing recording requirements for an association;
34 providing a document form for recording by an
35 association to preserve certain covenants or
36 restrictions; providing that failure to file one or
37 more notices does not affect the validity or
38 enforceability of a covenant or restriction or alter
39 the time before extinguishment under certain
40 circumstances; requiring a copy of the filed notice to
41 be sent to all members; requiring the original signed
42 notice to be recorded with the clerk of the circuit
43 court or other recorder; amending ss. 702.09 and
44 702.10, F.S.; conforming provisions to changes made by
45 the act; amending s. 712.095, F.S.; conforming a
46 cross-reference; amending ss. 720.403, 720.404,
47 720.405, and 720.407, F.S.; conforming provisions to
48 changes made by the act; providing for retroactive
49 applicability; providing an effective date.

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

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Section 1. Subsection (6) of section 125.022, Florida Statutes, is amended to read:

125.022 Development permits.—

(6) A county, in its sole discretion, may exercise its police powers to amend, release, or terminate a recorded or unrecorded restriction or covenant that it received or accepted during the approval or issuance of a development permit. A county may not delegate its police powers to third parties in connection with the approval or issuance of a development permit, and any purported delegation is void. ~~This section does not prohibit a county from providing information to an applicant regarding what other state or federal permits may apply.~~

Section 2. Subsection (6) of section 166.033, Florida Statutes, is amended to read:

166.033 Development permits.—

(6) A municipality, in its sole discretion, may exercise its police powers to amend, release, or terminate a recorded or unrecorded restriction or covenant that it received or accepted during the approval or issuance of a development permit. A municipality may not delegate its police powers to third parties in connection with the approval or issuance of a development permit, and any purported delegation is void. ~~This section does not prohibit a municipality from providing information to an~~

76 ~~applicant regarding what other state or federal permits may~~
 77 ~~apply.~~

78 Section 3. Section 712.001, Florida Statutes, is created
 79 to read:

80 712.001 Short title.—This chapter may be cited as the
 81 "Marketable Record Titles Act."

82 Section 4. Section 712.01, Florida Statutes, is reordered
 83 and amended to read:

84 712.01 Definitions.—As used in this chapter, the term ~~law~~:

85 (1) "Community covenant or restriction" means any
 86 agreement or limitation contained in a document recorded in the
 87 public records of the county in which a parcel is located which:

88 (a) Subjects the parcel to any use restriction that may be
 89 enforced by a property owners' association;

90 (b) Authorizes a property owners' association to impose a
 91 charge or assessment against the parcel or the parcel owner; or

92 (c) May be enforced by the Department of Environmental
 93 Protection pursuant to chapter 376 or chapter 403.

94 (4) ~~(1)~~ The term "Person" includes the as used herein
 95 ~~denotes~~ singular or plural, natural or corporate, private or
 96 governmental, including the state and any political subdivision
 97 or agency thereof as the context for the use thereof requires or
 98 denotes and including any property owners' ~~homeowners'~~
 99 association.

100 (6) ~~(2)~~ "Root of title" means any title transaction

101 purporting to create or transfer the estate claimed by any
102 person ~~and~~ which is the last title transaction to have been
103 recorded at least 30 years before ~~prior to~~ the time when
104 marketability is being determined. The effective date of the
105 root of title is the date on which it was recorded.

106 ~~(7)(3)~~ "Title transaction" means any recorded instrument
107 or court proceeding that ~~which~~ affects title to any estate or
108 interest in land and that ~~which~~ describes the land sufficiently
109 to identify its location and boundaries.

110 ~~(5)(4)~~ "Property owners' association" ~~The term~~
111 "~~homeowners' association~~" means a homeowners' association as
112 defined in s. 720.301, a corporation or other entity responsible
113 for the operation of property in which the voting membership is
114 made up of the owners of the property or their agents, or a
115 combination thereof, and in which membership is a mandatory
116 condition of property ownership, or an association of parcel
117 owners which is authorized to enforce a community covenant or
118 restriction ~~use restrictions~~ that is ~~are~~ imposed on the parcels.

119 ~~(3)(5)~~ ~~The term~~ "Parcel" means real property that ~~which~~ is
120 used for residential purposes and that is subject to exclusive
121 ownership and ~~which is subject~~ to any covenant or restriction of
122 a property owners' homeowners' association.

123 ~~(2)(6)~~ ~~The term~~ "Covenant or restriction" means any
124 agreement or limitation contained in a document recorded in the
125 public records of the county in which a parcel is located which

126 subjects the parcel to any use or other restriction or
127 obligation ~~which may be enforced by a homeowners' association or~~
128 ~~which authorizes a homeowners' association to impose a charge or~~
129 ~~assessment against the parcel or the owner of the parcel or~~
130 ~~which may be enforced by the Florida Department of Environmental~~
131 ~~Protection pursuant to chapter 376 or chapter 403.~~

132 Section 5. Section 712.05, Florida Statutes, is amended to
133 read:

134 712.05 Effect of filing notice.—

135 (1) A person claiming an interest in land or other right
136 subject to extinguishment under this chapter ~~a homeowners'~~
137 ~~association desiring to preserve a covenant or restriction~~ may
138 preserve and protect such interest or right ~~the same~~ from
139 extinguishment by the operation of this chapter ~~act~~ by filing
140 for record, at any time during the 30-year period immediately
141 following the effective date of the root of title, a written
142 notice in accordance with s. 712.06 ~~this chapter~~.

143 (2) A property owners' association may preserve and
144 protect a community covenant or restriction from extinguishment
145 by the operation of this chapter by filing for record, at any
146 time during the 30-year period immediately following the
147 effective date of the root of title:

148 (a) A written notice in accordance with s. 712.06; or

149 (b) A summary notice in substantial form and content as
150 required under s. 720.3032(2). Failure of a summary notice to be

151 indexed to the current owners of the affected property does not
152 affect the validity of the notice or vitiate the effect of the
153 filing of such notice.

154 (3) A ~~Such~~ notice under subsection (1) or subsection (2)
155 preserves an interest in land or other ~~such claim of right~~
156 subject to extinguishment under this chapter, or a ~~such~~ covenant
157 or restriction or portion of such covenant or restriction, for
158 not less than ~~up to~~ 30 years after filing the notice unless the
159 notice is filed again as required in this chapter. A person's
160 disability or lack of knowledge of any kind may not delay the
161 commencement of or suspend the running of the 30-year period.
162 Such notice may be filed for record by the claimant or by any
163 other person acting on behalf of a claimant who is:

- 164 (a) Under a disability;
- 165 (b) Unable to assert a claim on his or her behalf; or
- 166 (c) One of a class, but whose identity cannot be
167 established or is uncertain at the time of filing such notice of
168 claim for record.

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170 ~~Such notice may be filed by a homeowners' association only if~~
171 ~~the preservation of such covenant or restriction or portion of~~
172 ~~such covenant or restriction is approved by at least two-thirds~~
173 ~~of the members of the board of directors of an incorporated~~
174 ~~homeowners' association at a meeting for which a notice, stating~~
175 ~~the meeting's time and place and containing the statement of~~

176 ~~marketable title action described in s. 712.06(1)(b), was mailed~~
177 ~~or hand delivered to members of the homeowners' association at~~
178 ~~least 7 days before such meeting. The property owners'~~
179 ~~homeowners' association or clerk of the circuit court is not~~
180 required to provide additional notice pursuant to s. 712.06(3).
181 The preceding sentence is intended to clarify existing law.

182 ~~(4)(2)~~ It is ~~shall~~ not be necessary for the owner of the
183 marketable record title, as described in s. 712.02 herein
184 ~~defined~~, to file a notice to protect his or her marketable
185 record title.

186 Section 6. Subsections (1) and (3) of section 712.06,
187 Florida Statutes, are amended to read:

188 712.06 Contents of notice; recording and indexing.—

189 (1) To be effective, the notice referred to in s. 712.05,
190 other than the summary notice referred to in s. 712.05(2)(b),
191 must ~~shall~~ contain:

192 (a) The name or description and mailing address of the
193 claimant or the property owners' ~~homeowners'~~ association
194 desiring to preserve any covenant or restriction ~~and the name~~
195 ~~and particular post office address of the person filing the~~
196 ~~claim or the homeowners' association.~~

197 (b) The name and mailing ~~post office~~ address of an owner,
198 or the name and mailing ~~post office~~ address of the person in
199 whose name the ~~said~~ property is assessed on the last completed
200 tax assessment roll of the county at the time of filing, who,

201 for purpose of such notice, shall be deemed to be an owner;
 202 ~~provided,~~ however, if a property owners' ~~homeowners'~~ association
 203 is filing the notice, ~~then~~ the requirements of this paragraph
 204 may be satisfied by attaching to and recording with the notice
 205 an affidavit executed by the appropriate member of the board of
 206 directors of the property owners' ~~homeowners'~~ association
 207 affirming that the board of directors of the property owners'
 208 ~~homeowners'~~ association caused a statement in substantially the
 209 following form to be mailed or hand delivered to the members of
 210 that property owners' ~~homeowners'~~ association:

211
 212 STATEMENT OF MARKETABLE TITLE ACTION
 213

214 The [name of property owners' ~~homeowners'~~ association] (the
 215 "Association") has taken action to ensure that the [name of
 216 declaration, covenant, or restriction], recorded in Official
 217 Records Book, Page, of the public records of
 218 County, Florida, as may be amended from time to time, currently
 219 burdening the property of each and every member of the
 220 Association, retains its status ~~as the source of marketable~~
 221 ~~title~~ with regard to the affected real property ~~the transfer of~~
 222 ~~a member's residence~~. To this end, the Association shall cause
 223 the notice required by chapter 712, Florida Statutes, to be
 224 recorded in the public records of County, Florida. Copies
 225 of this notice and its attachments are available through the

226 Association pursuant to the Association's governing documents
 227 regarding official records of the Association.

228
 229 (c) A full and complete description of all land affected
 230 by such notice, which description shall be set forth in
 231 particular terms and not by general reference, but if said claim
 232 is founded upon a recorded instrument or a covenant or a
 233 restriction, ~~then~~ the description in such notice may be the same
 234 as that contained in such recorded instrument or covenant or
 235 restriction, provided the same shall be sufficient to identify
 236 the property.

237 (d) A statement of the claim showing the nature,
 238 description, and extent of such claim or other right subject to
 239 extinguishment under this chapter or, in the case of a covenant
 240 or restriction, a copy of the covenant or restriction, except
 241 that it is ~~shall~~ not be necessary to show the amount of any
 242 claim for money or the terms of payment.

243 (e) If such claim or other right subject to extinguishment
 244 under this chapter is based upon an instrument of record or a
 245 recorded covenant or restriction, such instrument of record or
 246 recorded covenant or restriction shall be deemed sufficiently
 247 described to identify the same if the notice includes a
 248 reference to the book and page in which the same is recorded.

249 (f) Such notice shall be acknowledged in the same manner
 250 as deeds are acknowledged for record.

251 (3) The person providing the notice referred to in s.
 252 712.05, other than a notice for preservation of a community
 253 covenant or restriction, shall:

254 (a) Cause the clerk of the circuit court to mail by
 255 registered or certified mail to the purported owner of said
 256 property, as stated in such notice, a copy thereof and shall
 257 enter on the original, before recording the same, a certificate
 258 showing such mailing. For preparing the certificate, the
 259 claimant shall pay to the clerk the service charge as prescribed
 260 in s. 28.24(8) and the necessary costs of mailing, in addition
 261 to the recording charges as prescribed in s. 28.24(12). If the
 262 notice names purported owners having more than one address, the
 263 person filing the same shall furnish a true copy for each of the
 264 several addresses stated, and the clerk shall send one such copy
 265 to the purported owners named at each respective address. Such
 266 certificate shall be sufficient if the same reads substantially
 267 as follows:

268
 269 I hereby certify that I did on this, mail by
 270 registered (or certified) mail a copy of the foregoing notice to
 271 each of the following at the address stated:

272
 273 ... (Clerk of the circuit court) ...
 274 of County, Florida,
 275 By... (Deputy clerk) ...

276
277 The clerk of the circuit court is not required to mail to the
278 purported owner of such property any such notice that pertains
279 solely to the preserving of any covenant or restriction or any
280 portion of a covenant or restriction; or

281 (b) Publish once a week, for 2 consecutive weeks, the
282 notice referred to in s. 712.05, with the official record book
283 and page number in which such notice was recorded, in a
284 newspaper as defined in chapter 50 in the county in which the
285 property is located.

286 Section 7. Section 712.11, Florida Statutes, is amended to
287 read:

288 712.11 Covenant revitalization.—A property owners'
289 ~~homeowners'~~ association not otherwise subject to chapter 720 may
290 use the procedures set forth in ss. 720.403-720.407 to revive
291 covenants that have lapsed under the terms of this chapter.

292 Section 8. Paragraph (e) is added to subsection (2) of
293 section 720.303, Florida Statutes, to read:

294 720.303 Association powers and duties; meetings of board;
295 official records; budgets; financial reporting; association
296 funds; recalls.—

297 (2) BOARD MEETINGS.—

298 (e) At the first board meeting, excluding the
299 organizational meeting, which follows the annual meeting of the
300 members, the board shall consider the desirability of filing

301 notices to preserve the covenants or restrictions affecting the
 302 community or association from extinguishment under the
 303 Marketable Record Titles Act, chapter 712, and to authorize and
 304 direct the appropriate officer to file notice in accordance with
 305 s. 720.3032.

306 Section 9. Section 720.3032, Florida Statutes, is created
 307 to read:

308 720.3032 Notice of association information; preservation
 309 from Marketable Record Titles Act.—

310 (1) Not less than once every 5 years, each association
 311 shall record in the official records of each county in which the
 312 community is located a notice specifying:

313 (a) The legal name of the association.

314 (b) The mailing and physical addresses of the association.

315 (c) The names of the affected subdivision plats and
 316 condominiums or, if not applicable, the common name of the
 317 community.

318 (d) The name, address, and telephone number for the
 319 current community association management firm or community
 320 association manager, if any.

321 (e) Indication as to whether the association desires to
 322 preserve the covenants or restrictions affecting the community
 323 or association from extinguishment under the Marketable Record
 324 Titles Act, chapter 712.

325 (f) A listing by name and recording information of those

326 covenants or restrictions affecting the community which the
 327 association desires to be preserved from extinguishment.

328 (g) The legal description of the community affected by the
 329 covenants or restrictions, which may be satisfied by a reference
 330 to a recorded plat.

331 (h) The signature of a duly authorized officer of the
 332 association, acknowledged in the same manner as deeds are
 333 acknowledged for record.

334 (2) Recording a document in substantially the following
 335 form satisfies the notice obligation and constitutes a summary
 336 notice as specified in s. 712.05(2)(b) sufficient to preserve
 337 and protect the referenced covenants and restrictions from
 338 extinguishment under the Marketable Record Titles Act, chapter
 339 712.

341 Notice of ... (name of association) ... under s. 720.3032, Florida
 342 Statutes, and notice to preserve and protect covenants and
 343 restrictions from extinguishment under the Marketable Record
 344 Titles Act, chapter 712, Florida Statutes.

345
 346 Instructions to recorder: Please index both the legal name
 347 of the association and the names shown in item 3.

348 1. Legal name of association:

349 2. Mailing and physical addresses of association:

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377 (3) The failure to file one or more notices does not
378 affect the validity or enforceability of any covenant or
379 restriction nor in any way alter the remaining time before
380 extinguishment by the Marketable Record Titles Act, chapter 712.

381 (4) A copy of the notice, as filed, must be included as
382 part of the next notice of meeting or other mailing sent to all
383 members.

384 (5) The original signed notice must be recorded in the
385 official records of the clerk of the circuit court or other
386 recorder for the county.

387 Section 10. Section 702.09, Florida Statutes, is amended
388 to read:

389 702.09 Definitions.—For the purposes of ss. 702.07 and
390 702.08, the words "decree of foreclosure" shall include a
391 judgment or order rendered or passed in the foreclosure
392 proceedings in which the decree of foreclosure shall be
393 rescinded, vacated, and set aside; the word "mortgage" shall
394 mean any written instrument securing the payment of money or
395 advances and includes liens to secure payment of assessments
396 arising under chapters 718 and 719 and liens created pursuant to
397 the recorded covenants of a property owners' ~~homeowners'~~
398 association as defined in s. 712.01; the word "debt" shall
399 include promissory notes, bonds, and all other written
400 obligations given for the payment of money; the words

401 "foreclosure proceedings" shall embrace every action in the
402 circuit or county courts of this state wherein it is sought to
403 foreclose a mortgage and sell the property covered by the same;
404 and the word "property" shall mean and include both real and
405 personal property.

406 Section 11. Subsection (1) of section 702.10, Florida
407 Statutes, is amended to read:

408 702.10 Order to show cause; entry of final judgment of
409 foreclosure; payment during foreclosure.—

410 (1) A lienholder may request an order to show cause for
411 the entry of final judgment in a foreclosure action. For
412 purposes of this section, the term "lienholder" includes the
413 plaintiff and a defendant to the action who holds a lien
414 encumbering the property or a defendant who, by virtue of its
415 status as a condominium association, cooperative association, or
416 property owners' ~~homeowners'~~ association, may file a lien
417 against the real property subject to foreclosure. Upon filing,
418 the court shall immediately review the request and the court
419 file in chambers and without a hearing. If, upon examination of
420 the court file, the court finds that the complaint is verified,
421 complies with s. 702.015, and alleges a cause of action to
422 foreclose on real property, the court shall promptly issue an
423 order directed to the other parties named in the action to show
424 cause why a final judgment of foreclosure should not be entered.

425 (a) The order shall:

426 1. Set the date and time for a hearing to show cause. The
427 date for the hearing may not occur sooner than the later of 20
428 days after service of the order to show cause or 45 days after
429 service of the initial complaint. When service is obtained by
430 publication, the date for the hearing may not be set sooner than
431 30 days after the first publication.

432 2. Direct the time within which service of the order to
433 show cause and the complaint must be made upon the defendant.

434 3. State that the filing of defenses by a motion, a
435 responsive pleading, an affidavit, or other papers before the
436 hearing to show cause that raise a genuine issue of material
437 fact which would preclude the entry of summary judgment or
438 otherwise constitute a legal defense to foreclosure shall
439 constitute cause for the court not to enter final judgment.

440 4. State that a defendant has the right to file affidavits
441 or other papers before the time of the hearing to show cause and
442 may appear personally or by way of an attorney at the hearing.

443 5. State that, if a defendant files defenses by a motion,
444 a verified or sworn answer, affidavits, or other papers or
445 appears personally or by way of an attorney at the time of the
446 hearing, the hearing time will be used to hear and consider
447 whether the defendant's motion, answer, affidavits, other
448 papers, and other evidence and argument as may be presented by
449 the defendant or the defendant's attorney raise a genuine issue
450 of material fact which would preclude the entry of summary

451 judgment or otherwise constitute a legal defense to foreclosure.
452 The order shall also state that the court may enter an order of
453 final judgment of foreclosure at the hearing and order the clerk
454 of the court to conduct a foreclosure sale.

455 6. State that, if a defendant fails to appear at the
456 hearing to show cause or fails to file defenses by a motion or
457 by a verified or sworn answer or files an answer not contesting
458 the foreclosure, such defendant may be considered to have waived
459 the right to a hearing, and in such case, the court may enter a
460 default against such defendant and, if appropriate, a final
461 judgment of foreclosure ordering the clerk of the court to
462 conduct a foreclosure sale.

463 7. State that if the mortgage provides for reasonable
464 attorney fees and the requested attorney fees do not exceed 3
465 percent of the principal amount owed at the time of filing the
466 complaint, it is unnecessary for the court to hold a hearing or
467 adjudge the requested attorney fees to be reasonable.

468 8. Attach the form of the proposed final judgment of
469 foreclosure which the movant requests the court to enter at the
470 hearing on the order to show cause.

471 9. Require the party seeking final judgment to serve a
472 copy of the order to show cause on the other parties in the
473 following manner:

474 a. If a party has been served pursuant to chapter 48 with
475 the complaint and original process, or the other party is the

476 plaintiff in the action, service of the order to show cause on
477 that party may be made in the manner provided in the Florida
478 Rules of Civil Procedure.

479 b. If a defendant has not been served pursuant to chapter
480 48 with the complaint and original process, the order to show
481 cause, together with the summons and a copy of the complaint,
482 shall be served on the party in the same manner as provided by
483 law for original process.

484

485 Any final judgment of foreclosure entered under this subsection
486 is for in rem relief only. This subsection does not preclude the
487 entry of a deficiency judgment where otherwise allowed by law.
488 The Legislature intends that this alternative procedure may run
489 simultaneously with other court procedures.

490 (b) The right to be heard at the hearing to show cause is
491 waived if a defendant, after being served as provided by law
492 with an order to show cause, engages in conduct that clearly
493 shows that the defendant has relinquished the right to be heard
494 on that order. The defendant's failure to file defenses by a
495 motion or by a sworn or verified answer, affidavits, or other
496 papers or to appear personally or by way of an attorney at the
497 hearing duly scheduled on the order to show cause presumptively
498 constitutes conduct that clearly shows that the defendant has
499 relinquished the right to be heard. If a defendant files
500 defenses by a motion, a verified answer, affidavits, or other

501 papers or presents evidence at or before the hearing which raise
502 a genuine issue of material fact which would preclude entry of
503 summary judgment or otherwise constitute a legal defense to
504 foreclosure, such action constitutes cause and precludes the
505 entry of a final judgment at the hearing to show cause.

506 (c) In a mortgage foreclosure proceeding, when a final
507 judgment of foreclosure has been entered against the mortgagor
508 and the note or mortgage provides for the award of reasonable
509 attorney fees, it is unnecessary for the court to hold a hearing
510 or adjudge the requested attorney fees to be reasonable if the
511 fees do not exceed 3 percent of the principal amount owed on the
512 note or mortgage at the time of filing, even if the note or
513 mortgage does not specify the percentage of the original amount
514 that would be paid as liquidated damages.

515 (d) If the court finds that all defendants have waived the
516 right to be heard as provided in paragraph (b), the court shall
517 promptly enter a final judgment of foreclosure without the need
518 for further hearing if the plaintiff has shown entitlement to a
519 final judgment and upon the filing with the court of the
520 original note, satisfaction of the conditions for establishment
521 of a lost note, or upon a showing to the court that the
522 obligation to be foreclosed is not evidenced by a promissory
523 note or other negotiable instrument. If the court finds that a
524 defendant has not waived the right to be heard on the order to
525 show cause, the court shall determine whether there is cause not

526 to enter a final judgment of foreclosure. If the court finds
 527 that the defendant has not shown cause, the court shall promptly
 528 enter a judgment of foreclosure. If the time allotted for the
 529 hearing is insufficient, the court may announce at the hearing a
 530 date and time for the continued hearing. Only the parties who
 531 appear, individually or through an attorney, at the initial
 532 hearing must be notified of the date and time of the continued
 533 hearing.

534 Section 12. Section 712.095, Florida Statutes, is amended
 535 to read:

536 712.095 Notice required by July 1, 1983.—Any person whose
 537 interest in land is derived from an instrument or court
 538 proceeding recorded subsequent to the root of title, which
 539 instrument or proceeding did not contain a description of the
 540 land as specified by s. 712.01(7) ~~s. 712.01(3)~~, and whose
 541 interest had not been extinguished prior to July 1, 1981, shall
 542 have until July 1, 1983, to file a notice in accordance with s.
 543 712.06 to preserve the interest.

544 Section 13. Section 720.403, Florida Statutes, is amended
 545 to read:

546 720.403 Preservation of ~~residential~~ communities; revival
 547 of declaration of covenants.—

548 (1) Consistent with required and optional elements of
 549 local comprehensive plans and other applicable provisions of the
 550 Community Planning Act, property owners ~~homeowners~~ are

551 encouraged to preserve existing residential and other
552 communities, promote available and affordable housing, protect
553 structural and aesthetic elements of their ~~residential~~
554 community, and, as applicable, maintain roads and streets,
555 easements, water and sewer systems, utilities, drainage
556 improvements, conservation and open areas, recreational
557 amenities, and other infrastructure and common areas that serve
558 and support the ~~residential~~ community by the revival of a
559 previous declaration of covenants and other governing documents
560 that may have ceased to govern some or all parcels in the
561 community.

562 (2) In order to preserve a ~~residential~~ community and the
563 associated infrastructure and common areas for the purposes
564 described in this section, the parcel owners in a community that
565 was previously subject to a declaration of covenants that has
566 ceased to govern one or more parcels in the community may revive
567 the declaration and the ~~homeowners'~~ association for the
568 community upon approval by the parcel owners to be governed
569 thereby as provided in this act, and upon approval of the
570 declaration and the other governing documents for the
571 association by the Department of Economic Opportunity in a
572 manner consistent with this act.

573 (3) Part III of this chapter is intended to provide
574 mechanisms for the revitalization of covenants or restrictions
575 for all types of communities and property associations and is

576 | not limited to residential communities.

577 | Section 14. Section 720.404, Florida Statutes, is amended
578 | to read:

579 | 720.404 Eligible ~~residential~~ communities; requirements for
580 | revival of declaration.—Parcel owners in a community are
581 | eligible to seek approval from the Department of Economic
582 | Opportunity to revive a declaration of covenants under this act
583 | if all of the following requirements are met:

584 | (1) All parcels to be governed by the revived declaration
585 | must have been once governed by a previous declaration that has
586 | ceased to govern some or all of the parcels in the community;

587 | (2) The revived declaration must be approved in the manner
588 | provided in s. 720.405(6); and

589 | (3) The revived declaration may not contain covenants that
590 | are more restrictive on the parcel owners than the covenants
591 | contained in the previous declaration, except that the
592 | declaration may:

593 | (a) Have an effective term of longer duration than the
594 | term of the previous declaration;

595 | (b) Omit restrictions contained in the previous
596 | declaration;

597 | (c) Govern fewer than all of the parcels governed by the
598 | previous declaration;

599 | (d) Provide for amendments to the declaration and other
600 | governing documents; and

601 (e) Contain provisions required by this chapter for new
602 declarations that were not contained in the previous
603 declaration.

604 Section 15. Subsections (1), (3), (5), and (6) of section
605 720.405, Florida Statutes, are amended to read:

606 720.405 Organizing committee; parcel owner approval.—

607 (1) The proposal to revive a declaration of covenants and
608 an ~~a homeowners'~~ association for a community under the terms of
609 this act shall be initiated by an organizing committee
610 consisting of not less than three parcel owners located in the
611 community that is proposed to be governed by the revived
612 declaration. The name, address, and telephone number of each
613 member of the organizing committee must be included in any
614 notice or other document provided by the committee to parcel
615 owners to be affected by the proposed revived declaration.

616 (3) The organizing committee shall prepare the full text
617 of the proposed articles of incorporation and bylaws of the
618 revived ~~homeowners'~~ association to be submitted to the parcel
619 owners for approval, unless the association is then an existing
620 corporation, in which case the organizing committee shall
621 prepare the existing articles of incorporation and bylaws to be
622 submitted to the parcel owners.

623 (5) A copy of the complete text of the proposed revised
624 declaration of covenants, the proposed new or existing articles
625 of incorporation and bylaws of the ~~homeowners'~~ association, and

626 a graphic depiction of the property to be governed by the
627 revived declaration shall be presented to all of the affected
628 parcel owners by mail or hand delivery not less than 14 days
629 before the time that the consent of the affected parcel owners
630 to the proposed governing documents is sought by the organizing
631 committee.

632 (6) A majority of the affected parcel owners must agree in
633 writing to the revived declaration of covenants and governing
634 documents of the ~~homeowners'~~ association or approve the revived
635 declaration and governing documents by a vote at a meeting of
636 the affected parcel owners noticed and conducted in the manner
637 prescribed by s. 720.306. Proof of notice of the meeting to all
638 affected owners of the meeting and the minutes of the meeting
639 recording the votes of the property owners shall be certified by
640 a court reporter or an attorney licensed to practice in the
641 state.

642 Section 16. Subsection (3) of section 720.407, Florida
643 Statutes, is amended to read:

644 720.407 Recording; notice of recording; applicability and
645 effective date.—

646 (3) The recorded documents shall include the full text of
647 the approved declaration of covenants, the articles of
648 incorporation and bylaws of the ~~homeowners'~~ association, the
649 letter of approval by the department, and the legal description
650 of each affected parcel of property. For purposes of chapter

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651 712, the association is deemed to be and shall be indexed as the
652 grantee in a title transaction and the parcel owners named in
653 the revived declaration are deemed to be and shall be indexed as
654 the grantors in the title transaction.

655 Section 17. The amendments made by this act to ss. 125.022
656 and 166.033, Florida Statutes, relating to development permits,
657 are remedial in nature and apply retroactively.

658 Section 18. This act shall take effect July 1, 2017.