

CHAPTER 2022-171

Committee Substitute for Senate Bill No. 1380

An act relating to real property rights; amending s. 712.03, F.S.; revising rights that are not affected or extinguished by marketable record titles; amending s. 712.04, F.S.; revising the types of interests extinguished by marketable record titles; providing construction; amending s. 712.12, F.S.; revising the definition of the term “covenant or restriction”; creating s. 715.075, F.S.; authorizing owners or operators of private property used for motor vehicle parking to establish rules and rates governing private persons parking on the property; requiring that such rules and rates be posted and clearly visible to persons parking motor vehicles on the property; requiring certain invoices to have a specified statement; prohibiting counties and municipalities from enacting any ordinance or regulation attempting to restrict or prohibit the owner or operator from adopting such rules, rates, or fines; providing that any ordinance or regulation making such attempt is a violation of this act and is null and void; providing applicability; requiring persons and certain counties with certain interests in land which may be extinguished by the act to file a specified notice to preserve such interests; providing a directive to the Division of Law Revision; providing an effective date.

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

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

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

(1) Estates or interests, easements and use restrictions disclosed by and defects inherent in the muniments of title on which said estate is based beginning with the root of title,~~;~~ provided, however, that in the muniments of title those estates, interests, easements, or use restrictions created before the root of title are preserved by identification in the legal description of the property by specific reference to the official records book and page number, instrument number, or plat name or there is otherwise an affirmative statement in a muniment of title to preserve such estates, interests, easements, or use restrictions created before the root of title as identified by the official records book and page or instrument number ~~a general reference in any of such muniments to easements, use restrictions or other interests created prior to the root of title shall not be sufficient to preserve them unless specific identification by reference to book and page of record or by name of recorded plat be made therein to a recorded title transaction which imposed, transferred or continued such easement, use restrictions or other interests; subject, however, to the provisions of subsection (5).~~

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

712.04 Interests extinguished by marketable record title.—Subject to s. 712.03, a marketable record title is free and clear of all estates, interests, claims, covenants, restrictions, or charges, the existence of which depends upon any act, title transaction, event, zoning requirement, building or development permit, or omission that occurred before the effective date of the root of title. Except as provided in s. 712.03, all such estates, interests, claims, covenants, restrictions, or charges, however denominated, whether they are or appear to be held or asserted by a person sui juris or under a disability, whether such person is within or without the state, natural or corporate, or private or governmental, are declared to be null and void. However, this chapter does not affect any right, title, or interest of the United States, Florida, or any of its officers, boards, commissions, or other agencies reserved in the patent or deed by which the United States, Florida, or any of its agencies parted with title. This section may not be construed to alter or invalidate:

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

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

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

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

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

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

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

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

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

must be posted and clearly visible to persons parking motor vehicles on such private property. An invoice for parking charges issued under this section must include the following statement in uppercase type:

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

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

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

Section 6. A person with an interest in land which may potentially be extinguished by this act, and whose interest has not been extinguished before July 1, 2022, must file a notice pursuant to s. 712.06, Florida Statutes, by July 1, 2023, to preserve such interest. Any county as defined in s. 125.011(1), Florida Statutes, with an interest in land which may potentially be extinguished by this act, and whose interest has not been extinguished before July 1, 2022, must file a notice pursuant to s. 712.06, Florida Statutes, by July 1, 2025, to preserve such interest.

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

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

Approved by the Governor June 7, 2022.

Filed in Office Secretary of State June 7, 2022.