

By Senator Passidomo

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1 A bill to be entitled
2 An act relating to covenants and restrictions of
3 property owners' associations; creating s. 712.001,
4 F.S.; providing a short title; amending s. 712.01,
5 F.S.; defining and redefining terms; amending s.
6 712.05, F.S.; revising the interests and rights
7 protected by filing for record within a specified
8 timeframe; authorizing a property owners' association
9 to preserve and protect certain covenants or
10 restrictions from extinguishment, subject to specified
11 requirements; providing that a failure in indexing
12 does not affect the validity of the notice; extending
13 the length of time certain covenants or restrictions
14 are preserved; deleting a provision requiring a two-
15 thirds vote by members of an incorporated homeowners'
16 association to file certain notices; conforming
17 provisions to changes made by the act; amending s.
18 712.06, F.S.; exempting a specified summary notice
19 from certain notice content requirements; revising the
20 contents required to be specified by certain notices;
21 conforming provisions to changes made by the act;
22 amending s. 712.11, F.S.; conforming provisions to
23 changes made by the act; amending s. 720.303, F.S.;
24 requiring a board to take up certain provisions
25 relating to notice filings at the first board meeting;
26 creating s. 720.3032, F.S.; providing recording
27 requirements for an association; providing a document
28 form for recording by an association to preserve
29 certain covenants or restrictions; providing that
30 failure to file one or more notices does not affect
31 the validity or enforceability of a covenant or
32 restriction or alter the time before extinguishment

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33 under certain circumstances; requiring a copy of the
34 filed notice to be sent to all members; requiring the
35 original signed notice to be recorded with the clerk
36 of the circuit court or other recorder; amending ss.
37 702.09 and 702.10, F.S.; conforming provisions to
38 changes made by the act; amending s. 712.095, F.S.;
39 conforming a cross-reference; amending ss. 720.403,
40 720.404, 720.405, and 720.407, F.S.; conforming
41 provisions to changes made by the act; providing an
42 effective date.

43
44 Be It Enacted by the Legislature of the State of Florida:

45
46 Section 1. Section 712.001, Florida Statutes, is created to
47 read:

48 712.001 Short title.—This chapter may be cited as the
49 “Marketable Record Titles Act.”

50 Section 2. Section 712.01, Florida Statutes, is reordered
51 and amended to read:

52 712.01 Definitions.—As used in this chapter, the term law:

53 (1) “Community covenant or restriction” means any agreement
54 or limitation contained in a document recorded in the public
55 records of the county in which a parcel is located which:

56 (a) Subjects the parcel to any use restriction that may be
57 enforced by a property owners’ association;

58 (b) Authorizes a property owners’ association to impose a
59 charge or assessment against the parcel or the parcel owner; or

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

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62 (4)~~(1)~~ The term "Person" includes the ~~as used herein~~
63 ~~denotes~~ singular or plural, natural or corporate, private or
64 governmental, including the state and any political subdivision
65 or agency thereof as the context for the use thereof requires or
66 denotes and including any property owners' ~~homeowners'~~
67 association.

68 (6)~~(2)~~ "Root of title" means any title transaction
69 purporting to create or transfer the estate claimed by any
70 person ~~and~~ which is the last title transaction to have been
71 recorded at least 30 years before ~~prior to~~ the time when
72 marketability is being determined. The effective date of the
73 root of title is the date on which it was recorded.

74 (7)~~(3)~~ "Title transaction" means any recorded instrument or
75 court proceeding that ~~which~~ affects title to any estate or
76 interest in land and that ~~which~~ describes the land sufficiently
77 to identify its location and boundaries.

78 (5)~~(4)~~ "Property owners' association" ~~The term "homeowners'~~
79 ~~association"~~ means a homeowners' association as defined in s.
80 720.301, a corporation or other entity responsible for the
81 operation of property in which the voting membership is made up
82 of the owners of the property or their agents, or a combination
83 thereof, and in which membership is a mandatory condition of
84 property ownership, or an association of parcel owners which is
85 authorized to enforce a community covenant or restriction ~~use~~
86 ~~restrictions~~ that is ~~are~~ imposed on the parcels.

87 (3)~~(5)~~ The term "Parcel" means real property that ~~which~~ is
88 used for residential purposes and that is subject to exclusive
89 ownership and ~~which is subject~~ to any covenant or restriction of
90 a property owners' ~~homeowners'~~ association.

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91 ~~(2)(6) The term "Covenant or restriction" means any~~
 92 agreement or limitation contained in a document recorded in the
 93 public records of the county in which a parcel is located which
 94 subjects the parcel to any use or other restriction or
 95 obligation ~~which may be enforced by a homeowners' association or~~
 96 ~~which authorizes a homeowners' association to impose a charge or~~
 97 ~~assessment against the parcel or the owner of the parcel or~~
 98 ~~which may be enforced by the Florida Department of Environmental~~
 99 ~~Protection pursuant to chapter 376 or chapter 403.~~

100 Section 3. Section 712.05, Florida Statutes, is amended to
 101 read:

102 712.05 Effect of filing notice.—

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

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

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

117 (b) A summary notice in substantial form and content as
 118 required under s. 720.3032(2). Failure of a summary notice to be
 119 indexed to the current owners of the affected property does not

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120 affect the validity of the notice or vitiate the effect of the
 121 filing of such notice.

122 (3) A ~~Such~~ notice under subsection (1) or subsection (2)
 123 preserves an interest in land or other ~~such claim of~~ right
 124 subject to extinguishment under this chapter, or a ~~such~~ covenant
 125 or restriction or portion of such covenant or restriction, for
 126 not less than ~~up to~~ 30 years after filing the notice unless the
 127 notice is filed again as required in this chapter. A person's
 128 disability or lack of knowledge of any kind may not delay the
 129 commencement of or suspend the running of the 30-year period.
 130 Such notice may be filed for record by the claimant or by any
 131 other person acting on behalf of a claimant who is:

132 (a) Under a disability;
 133 (b) Unable to assert a claim on his or her behalf; or
 134 (c) One of a class, but whose identity cannot be
 135 established or is uncertain at the time of filing such notice of
 136 claim for record.

137
 138 ~~Such notice may be filed by a homeowners' association only if~~
 139 ~~the preservation of such covenant or restriction or portion of~~
 140 ~~such covenant or restriction is approved by at least two thirds~~
 141 ~~of the members of the board of directors of an incorporated~~
 142 ~~homeowners' association at a meeting for which a notice, stating~~
 143 ~~the meeting's time and place and containing the statement of~~
 144 ~~marketable title action described in s. 712.06(1)(b), was mailed~~
 145 ~~or hand delivered to members of the homeowners' association at~~
 146 ~~least 7 days before such meeting. The property owners'~~
 147 ~~homeowners' association or clerk of the circuit court is not~~
 148 ~~required to provide additional notice pursuant to s. 712.06(3).~~

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149 The preceding sentence is intended to clarify existing law.

150 ~~(4)(2)~~ It is ~~shall~~ not be necessary for the owner of the
151 marketable record title, as described in s. 712.02 herein
152 ~~defined~~, to file a notice to protect his or her marketable
153 record title.

154 Section 4. Subsections (1) and (3) of section 712.06,
155 Florida Statutes, are amended to read:

156 712.06 Contents of notice; recording and indexing.—

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

160 (a) The name or description and mailing address of the
161 claimant or the property owners' homeowners' association
162 desiring to preserve any covenant or restriction ~~and the name~~
163 ~~and particular post office address of the person filing the~~
164 ~~claim or the homeowners' association.~~

165 (b) The name and mailing ~~post office~~ address of an owner,
166 or the name and mailing ~~post office~~ address of the person in
167 whose name the ~~said~~ property is assessed on the last completed
168 tax assessment roll of the county at the time of filing, who,
169 for purpose of such notice, shall be deemed to be an owner;
170 ~~provided~~, however, if a property owners' homeowners' association
171 is filing the notice, ~~then~~ the requirements of this paragraph
172 may be satisfied by attaching to and recording with the notice
173 an affidavit executed by the appropriate member of the board of
174 directors of the property owners' homeowners' association
175 affirming that the board of directors of the property owners'
176 ~~homeowners'~~ association caused a statement in substantially the
177 following form to be mailed or hand delivered to the members of

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178 that property owners' ~~homeowners'~~ association:

179
180 STATEMENT OF MARKETABLE TITLE ACTION

181
182 The [name of property owners' ~~homeowners'~~ association] (the
183 "Association") has taken action to ensure that the [name of
184 declaration, covenant, or restriction], recorded in Official
185 Records Book, Page, of the public records of
186 County, Florida, as may be amended from time to time, currently
187 burdening the property of each and every member of the
188 Association, retains its status ~~as the source of marketable~~
189 ~~title~~ with regard to the affected real property ~~the transfer of~~
190 ~~a member's residence~~. To this end, the Association shall cause
191 the notice required by chapter 712, Florida Statutes, to be
192 recorded in the public records of County, Florida. Copies
193 of this notice and its attachments are available through the
194 Association pursuant to the Association's governing documents
195 regarding official records of the Association.

196
197 (c) A full and complete description of all land affected by
198 such notice, which description shall be set forth in particular
199 terms and not by general reference, but if said claim is founded
200 upon a recorded instrument or a covenant or a restriction, ~~then~~
201 the description in such notice may be the same as that contained
202 in such recorded instrument or covenant or restriction, provided
203 the same shall be sufficient to identify the property.

204 (d) A statement of the claim showing the nature,
205 description, and extent of such claim or other right subject to
206 extinguishment under this chapter or, in the case of a covenant

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207 or restriction, a copy of the covenant or restriction, except
208 that it is ~~shall~~ not ~~be~~ necessary to show the amount of any
209 claim for money or the terms of payment.

210 (e) If such claim or other right subject to extinguishment
211 under this chapter is based upon an instrument of record or a
212 recorded covenant or restriction, such instrument of record or
213 recorded covenant or restriction shall be deemed sufficiently
214 described to identify the same if the notice includes a
215 reference to the book and page in which the same is recorded.

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

218 (3) The person providing the notice referred to in s.
219 712.05, other than a notice for preservation of a community
220 covenant or restriction, shall:

221 (a) Cause the clerk of the circuit court to mail by
222 registered or certified mail to the purported owner of said
223 property, as stated in such notice, a copy thereof and shall
224 enter on the original, before recording the same, a certificate
225 showing such mailing. For preparing the certificate, the
226 claimant shall pay to the clerk the service charge as prescribed
227 in s. 28.24(8) and the necessary costs of mailing, in addition
228 to the recording charges as prescribed in s. 28.24(12). If the
229 notice names purported owners having more than one address, the
230 person filing the same shall furnish a true copy for each of the
231 several addresses stated, and the clerk shall send one such copy
232 to the purported owners named at each respective address. Such
233 certificate shall be sufficient if the same reads substantially
234 as follows:
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236 I hereby certify that I did on this, mail by
237 registered (or certified) mail a copy of the foregoing notice to
238 each of the following at the address stated:

239
240 ...(Clerk of the circuit court)...
241 of County, Florida,
242 By...(Deputy clerk)...

243
244 The clerk of the circuit court is not required to mail to the
245 purported owner of such property any such notice that pertains
246 solely to the preserving of any covenant or restriction or any
247 portion of a covenant or restriction; or

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

253 Section 5. Section 712.11, Florida Statutes, is amended to
254 read:

255 712.11 Covenant revitalization.—A property owners'
256 ~~homeowners'~~ association not otherwise subject to chapter 720 may
257 use the procedures set forth in ss. 720.403-720.407 to revive
258 covenants that have lapsed under the terms of this chapter.

259 Section 6. Paragraph (e) is added to subsection (2) of
260 section 720.303, Florida Statutes, to read:

261 720.303 Association powers and duties; meetings of board;
262 official records; budgets; financial reporting; association
263 funds; recalls.—

264 (2) BOARD MEETINGS.—

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265 (e) At the first board meeting, excluding the
266 organizational meeting, which follows the annual meeting of the
267 members, the board shall consider the desirability of filing
268 notices to preserve the covenants or restrictions affecting the
269 community or association from extinguishment under the
270 Marketable Record Titles Act, chapter 712, and to authorize and
271 direct the appropriate officer to file notice in accordance with
272 s. 720.3032.

273 Section 7. Section 720.3032, Florida Statutes, is created
274 to read:

275 720.3032 Notice of association information; preservation
276 from Marketable Record Titles Act.—

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

280 (a) The legal name of the association.

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

282 (c) The names of the affected subdivision plats and
283 condominiums or, if not applicable, the common name of the
284 community.

285 (d) The name, address, and telephone number for the current
286 community association management firm or community association
287 manager, if any.

288 (e) Indication as to whether the association desires to
289 preserve the covenants or restrictions affecting the community
290 or association from extinguishment under the Marketable Record
291 Titles Act, chapter 712.

292 (f) A listing by name and recording information of those
293 covenants or restrictions affecting the community which the

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294 association desires to be preserved from extinguishment.

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

298 (h) The signature of a duly authorized officer of the
299 association, acknowledged in the same manner as deeds are
300 acknowledged for record.

301 (2) Recording a document in substantially the following
302 form satisfies the notice obligation and constitutes a summary
303 notice as specified in s. 712.05(2)(b) sufficient to preserve
304 and protect the referenced covenants and restrictions from
305 extinguishment under the Marketable Record Titles Act, chapter
306 712.

307
308 Notice of ...(name of association)... under s. 720.3032, Florida
309 Statutes, and notice to preserve and protect covenants and
310 restrictions from extinguishment under the Marketable Record
311 Titles Act, chapter 712, Florida Statutes.

312
313 Instructions to recorder: Please index both the legal name
314 of the association and the names shown in item 3.

- 315 1. Legal name of association:
- 316 2. Mailing and physical addresses of association:
- 317 3. Names of the subdivision plats, or, if none, common name
318 of community:

319 4. Name, address, and telephone number for management
320 company, if any:

321 5. This notice does does not constitute a notice
322 to preserve and protect covenants or restrictions from

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323 extinguishment under the Marketable Record Titles Act.

324 6. The following covenants or restrictions affecting the
325 community which the association desires to be preserved from
326 extinguishment:

327 ...(Name of instrument)...

328 ...(Official Records Book where recorded & page)...

329 ...(List of instruments)...

330 ...(List of recording information)...

331 7. The legal description of the community affected by the
332 listed covenants or restrictions is: ...(Legal description,
333 which may be satisfied by reference to a recorded plat)...

334 This notice is filed on behalf of ...(Name of
335 association) ... as of ...(Date)....

336 ...(Name of association)...

338 By:

339 ...(Name of individual officer)...

340 ...(Title of officer)...

341 ...(Notary acknowledgment)...

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

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

350 (5) The original signed notice must be recorded in the
351 official records of the clerk of the circuit court or other

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352 recorder for the county.

353 Section 8. Section 702.09, Florida Statutes, is amended to
354 read:

355 702.09 Definitions.—For the purposes of ss. 702.07 and
356 702.08, the words “decree of foreclosure” shall include a
357 judgment or order rendered or passed in the foreclosure
358 proceedings in which the decree of foreclosure shall be
359 rescinded, vacated, and set aside; the word “mortgage” shall
360 mean any written instrument securing the payment of money or
361 advances and includes liens to secure payment of assessments
362 arising under chapters 718 and 719 and liens created pursuant to
363 the recorded covenants of a property owners’ ~~homeowners’~~
364 association as defined in s. 712.01; the word “debt” shall
365 include promissory notes, bonds, and all other written
366 obligations given for the payment of money; the words
367 “foreclosure proceedings” shall embrace every action in the
368 circuit or county courts of this state wherein it is sought to
369 foreclose a mortgage and sell the property covered by the same;
370 and the word “property” shall mean and include both real and
371 personal property.

372 Section 9. Subsection (1) of section 702.10, Florida
373 Statutes, is amended to read:

374 702.10 Order to show cause; entry of final judgment of
375 foreclosure; payment during foreclosure.—

376 (1) A lienholder may request an order to show cause for the
377 entry of final judgment in a foreclosure action. For purposes of
378 this section, the term “lienholder” includes the plaintiff and a
379 defendant to the action who holds a lien encumbering the
380 property or a defendant who, by virtue of its status as a

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381 condominium association, cooperative association, or property
382 owners' ~~homeowners'~~ association, may file a lien against the
383 real property subject to foreclosure. Upon filing, the court
384 shall immediately review the request and the court file in
385 chambers and without a hearing. If, upon examination of the
386 court file, the court finds that the complaint is verified,
387 complies with s. 702.015, and alleges a cause of action to
388 foreclose on real property, the court shall promptly issue an
389 order directed to the other parties named in the action to show
390 cause why a final judgment of foreclosure should not be entered.

391 (a) The order shall:

392 1. Set the date and time for a hearing to show cause. The
393 date for the hearing may not occur sooner than the later of 20
394 days after service of the order to show cause or 45 days after
395 service of the initial complaint. When service is obtained by
396 publication, the date for the hearing may not be set sooner than
397 30 days after the first publication.

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

400 3. State that the filing of defenses by a motion, a
401 responsive pleading, an affidavit, or other papers before the
402 hearing to show cause that raise a genuine issue of material
403 fact which would preclude the entry of summary judgment or
404 otherwise constitute a legal defense to foreclosure shall
405 constitute cause for the court not to enter final judgment.

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

409 5. State that, if a defendant files defenses by a motion, a

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410 verified or sworn answer, affidavits, or other papers or appears
411 personally or by way of an attorney at the time of the hearing,
412 the hearing time will be used to hear and consider whether the
413 defendant's motion, answer, affidavits, other papers, and other
414 evidence and argument as may be presented by the defendant or
415 the defendant's attorney raise a genuine issue of material fact
416 which would preclude the entry of summary judgment or otherwise
417 constitute a legal defense to foreclosure. The order shall also
418 state that the court may enter an order of final judgment of
419 foreclosure at the hearing and order the clerk of the court to
420 conduct a foreclosure sale.

421 6. State that, if a defendant fails to appear at the
422 hearing to show cause or fails to file defenses by a motion or
423 by a verified or sworn answer or files an answer not contesting
424 the foreclosure, such defendant may be considered to have waived
425 the right to a hearing, and in such case, the court may enter a
426 default against such defendant and, if appropriate, a final
427 judgment of foreclosure ordering the clerk of the court to
428 conduct a foreclosure sale.

429 7. State that if the mortgage provides for reasonable
430 attorney fees and the requested attorney fees do not exceed 3
431 percent of the principal amount owed at the time of filing the
432 complaint, it is unnecessary for the court to hold a hearing or
433 adjudge the requested attorney fees to be reasonable.

434 8. Attach the form of the proposed final judgment of
435 foreclosure which the movant requests the court to enter at the
436 hearing on the order to show cause.

437 9. Require the party seeking final judgment to serve a copy
438 of the order to show cause on the other parties in the following

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439 manner:

440 a. If a party has been served pursuant to chapter 48 with
441 the complaint and original process, or the other party is the
442 plaintiff in the action, service of the order to show cause on
443 that party may be made in the manner provided in the Florida
444 Rules of Civil Procedure.

445 b. If a defendant has not been served pursuant to chapter
446 48 with the complaint and original process, the order to show
447 cause, together with the summons and a copy of the complaint,
448 shall be served on the party in the same manner as provided by
449 law for original process.

450
451 Any final judgment of foreclosure entered under this subsection
452 is for in rem relief only. This subsection does not preclude the
453 entry of a deficiency judgment where otherwise allowed by law.
454 The Legislature intends that this alternative procedure may run
455 simultaneously with other court procedures.

456 (b) The right to be heard at the hearing to show cause is
457 waived if a defendant, after being served as provided by law
458 with an order to show cause, engages in conduct that clearly
459 shows that the defendant has relinquished the right to be heard
460 on that order. The defendant's failure to file defenses by a
461 motion or by a sworn or verified answer, affidavits, or other
462 papers or to appear personally or by way of an attorney at the
463 hearing duly scheduled on the order to show cause presumptively
464 constitutes conduct that clearly shows that the defendant has
465 relinquished the right to be heard. If a defendant files
466 defenses by a motion, a verified answer, affidavits, or other
467 papers or presents evidence at or before the hearing which raise

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468 a genuine issue of material fact which would preclude entry of
469 summary judgment or otherwise constitute a legal defense to
470 foreclosure, such action constitutes cause and precludes the
471 entry of a final judgment at the hearing to show cause.

472 (c) In a mortgage foreclosure proceeding, when a final
473 judgment of foreclosure has been entered against the mortgagor
474 and the note or mortgage provides for the award of reasonable
475 attorney fees, it is unnecessary for the court to hold a hearing
476 or adjudge the requested attorney fees to be reasonable if the
477 fees do not exceed 3 percent of the principal amount owed on the
478 note or mortgage at the time of filing, even if the note or
479 mortgage does not specify the percentage of the original amount
480 that would be paid as liquidated damages.

481 (d) If the court finds that all defendants have waived the
482 right to be heard as provided in paragraph (b), the court shall
483 promptly enter a final judgment of foreclosure without the need
484 for further hearing if the plaintiff has shown entitlement to a
485 final judgment and upon the filing with the court of the
486 original note, satisfaction of the conditions for establishment
487 of a lost note, or upon a showing to the court that the
488 obligation to be foreclosed is not evidenced by a promissory
489 note or other negotiable instrument. If the court finds that a
490 defendant has not waived the right to be heard on the order to
491 show cause, the court shall determine whether there is cause not
492 to enter a final judgment of foreclosure. If the court finds
493 that the defendant has not shown cause, the court shall promptly
494 enter a judgment of foreclosure. If the time allotted for the
495 hearing is insufficient, the court may announce at the hearing a
496 date and time for the continued hearing. Only the parties who

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497 appear, individually or through an attorney, at the initial
498 hearing must be notified of the date and time of the continued
499 hearing.

500 Section 10. Section 712.095, Florida Statutes, is amended
501 to read:

502 712.095 Notice required by July 1, 1983.—Any person whose
503 interest in land is derived from an instrument or court
504 proceeding recorded subsequent to the root of title, which
505 instrument or proceeding did not contain a description of the
506 land as specified by s. 712.01(7) ~~s. 712.01(3)~~, and whose
507 interest had not been extinguished prior to July 1, 1981, shall
508 have until July 1, 1983, to file a notice in accordance with s.
509 712.06 to preserve the interest.

510 Section 11. Section 720.403, Florida Statutes, is amended
511 to read:

512 720.403 Preservation of ~~residential~~ communities; revival of
513 declaration of covenants.—

514 (1) Consistent with required and optional elements of local
515 comprehensive plans and other applicable provisions of the
516 Community Planning Act, property owners ~~homeowners~~ are
517 encouraged to preserve existing residential and other
518 communities, promote available and affordable housing, protect
519 structural and aesthetic elements of their ~~residential~~
520 community, and, as applicable, maintain roads and streets,
521 easements, water and sewer systems, utilities, drainage
522 improvements, conservation and open areas, recreational
523 amenities, and other infrastructure and common areas that serve
524 and support the ~~residential~~ community by the revival of a
525 previous declaration of covenants and other governing documents

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526 that may have ceased to govern some or all parcels in the
527 community.

528 (2) In order to preserve a ~~residential~~ community and the
529 associated infrastructure and common areas for the purposes
530 described in this section, the parcel owners in a community that
531 was previously subject to a declaration of covenants that has
532 ceased to govern one or more parcels in the community may revive
533 the declaration and the ~~homeowners'~~ association for the
534 community upon approval by the parcel owners to be governed
535 thereby as provided in this act, and upon approval of the
536 declaration and the other governing documents for the
537 association by the Department of Economic Opportunity in a
538 manner consistent with this act.

539 (3) Part III of this chapter is intended to provide
540 mechanisms for the revitalization of covenants or restrictions
541 for all types of communities and property associations and is
542 not limited to residential communities.

543 Section 12. Section 720.404, Florida Statutes, is amended
544 to read:

545 720.404 Eligible ~~residential~~ communities; requirements for
546 revival of declaration.—Parcel owners in a community are
547 eligible to seek approval from the Department of Economic
548 Opportunity to revive a declaration of covenants under this act
549 if all of the following requirements are met:

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

553 (2) The revived declaration must be approved in the manner
554 provided in s. 720.405(6); and

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555 (3) The revived declaration may not contain covenants that
556 are more restrictive on the parcel owners than the covenants
557 contained in the previous declaration, except that the
558 declaration may:

559 (a) Have an effective term of longer duration than the term
560 of the previous declaration;

561 (b) Omit restrictions contained in the previous
562 declaration;

563 (c) Govern fewer than all of the parcels governed by the
564 previous declaration;

565 (d) Provide for amendments to the declaration and other
566 governing documents; and

567 (e) Contain provisions required by this chapter for new
568 declarations that were not contained in the previous
569 declaration.

570 Section 13. Subsections (1), (3), (5), and (6) of section
571 720.405, Florida Statutes, are amended to read:

572 720.405 Organizing committee; parcel owner approval.-

573 (1) The proposal to revive a declaration of covenants and
574 an a homeowners' association for a community under the terms of
575 this act shall be initiated by an organizing committee
576 consisting of not less than three parcel owners located in the
577 community that is proposed to be governed by the revived
578 declaration. The name, address, and telephone number of each
579 member of the organizing committee must be included in any
580 notice or other document provided by the committee to parcel
581 owners to be affected by the proposed revived declaration.

582 (3) The organizing committee shall prepare the full text of
583 the proposed articles of incorporation and bylaws of the revived

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584 ~~homeowners'~~ association to be submitted to the parcel owners for
585 approval, unless the association is then an existing
586 corporation, in which case the organizing committee shall
587 prepare the existing articles of incorporation and bylaws to be
588 submitted to the parcel owners.

589 (5) A copy of the complete text of the proposed revised
590 declaration of covenants, the proposed new or existing articles
591 of incorporation and bylaws of the ~~homeowners'~~ association, and
592 a graphic depiction of the property to be governed by the
593 revived declaration shall be presented to all of the affected
594 parcel owners by mail or hand delivery not less than 14 days
595 before the time that the consent of the affected parcel owners
596 to the proposed governing documents is sought by the organizing
597 committee.

598 (6) A majority of the affected parcel owners must agree in
599 writing to the revived declaration of covenants and governing
600 documents of the ~~homeowners'~~ association or approve the revived
601 declaration and governing documents by a vote at a meeting of
602 the affected parcel owners noticed and conducted in the manner
603 prescribed by s. 720.306. Proof of notice of the meeting to all
604 affected owners of the meeting and the minutes of the meeting
605 recording the votes of the property owners shall be certified by
606 a court reporter or an attorney licensed to practice in the
607 state.

608 Section 14. Subsection (3) of section 720.407, Florida
609 Statutes, is amended to read:

610 720.407 Recording; notice of recording; applicability and
611 effective date.—

612 (3) The recorded documents shall include the full text of

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613 the approved declaration of covenants, the articles of
614 incorporation and bylaws of the ~~homeowners'~~ association, the
615 letter of approval by the department, and the legal description
616 of each affected parcel of property. For purposes of chapter
617 712, the association is deemed to be and shall be indexed as the
618 grantee in a title transaction and the parcel owners named in
619 the revived declaration are deemed to be and shall be indexed as
620 the grantors in the title transaction.

621 Section 15. This act shall take effect October 1, 2017.