



26 | creating s. 712.001, F.S.; providing a short title;  
27 | amending s. 712.01, F.S.; defining and redefining  
28 | terms; amending s. 712.04, F.S.; providing that a  
29 | marketable title to real property is free and clear of  
30 | all covenants or restrictions, the existence of which  
31 | depends upon any act, title transaction, event, zoning  
32 | requirement, building or development permit, or  
33 | omission that occurred before the effective date of  
34 | the root of title; providing for construction;  
35 | providing applicability; amending s. 712.05, F.S.;  
36 | revising the notice filing requirements for a person  
37 | claiming an interest in real property and other  
38 | rights; authorizing a property owners' association to  
39 | preserve and protect certain covenants or restrictions  
40 | from extinguishment, subject to specified  
41 | requirements; providing that a failure in indexing  
42 | does not affect the validity of the notice; extending  
43 | the length of time certain covenants or restrictions  
44 | affecting real property are preserved; deleting a  
45 | provision requiring a two-thirds vote by members of an  
46 | incorporated homeowners' association to file certain  
47 | notices; conforming provisions to changes made by the  
48 | act; amending s. 712.06, F.S.; exempting a specified  
49 | summary notice regarding real property from certain  
50 | notice content requirements; revising the contents

51 required to be specified by certain notices;  
52 conforming provisions to changes made by the act;  
53 amending s. 712.11, F.S.; conforming provisions to  
54 changes made by the act; creating s. 712.12, F.S.;  
55 defining terms; authorizing the parcel owners of a  
56 community not subject to a homeowners' association to  
57 use specified procedures to revive certain covenants  
58 or restrictions, subject to certain exceptions and  
59 requirements; authorizing a parcel owner to commence  
60 an action by a specified date under certain  
61 circumstances for a judicial determination that the  
62 covenants or restrictions did not govern that parcel  
63 as of a specified date and that any revitalization of  
64 such covenants or restrictions as to that parcel would  
65 unconstitutionally deprive the parcel owner of rights  
66 or property; providing applicability; amending s.  
67 720.303, F.S.; requiring a homeowners association  
68 board to take up certain provisions relating to notice  
69 filings at the first board meeting; creating s.  
70 720.3032, F.S.; providing recording requirements for  
71 an association; providing a document form for  
72 recording by an association to preserve certain  
73 covenants or restrictions affecting real property;  
74 providing that failure to file one or more notices  
75 does not affect the validity or enforceability of a

76 covenant or restriction or alter the time before  
 77 extinguishment under certain circumstances; requiring  
 78 a copy of the filed notice to be sent to all members;  
 79 requiring the original signed notice to be recorded  
 80 with the clerk of the circuit court or other recorder;  
 81 amending ss. 702.09 and 702.10, F.S.; conforming  
 82 provisions to changes made by the act; amending s.  
 83 712.095, F.S.; conforming a cross-reference; amending  
 84 ss. 720.403, 720.404, 720.405, and 720.407, F.S.;  
 85 conforming provisions to changes made by the act;  
 86 providing an effective date.

87

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

89

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

92 125.022 Development permits.—

93 (6) A county may not delegate its police power to a third  
 94 party by restriction, covenant, or otherwise. The imposition by  
 95 a county of a recorded or unrecorded restriction or covenant as  
 96 a condition of a county's approval or issuance of a development  
 97 permit does not preclude the county from exercising its police  
 98 power to later amend, release, or terminate the restriction or  
 99 covenant. Any such amendment, release, or termination of the  
 100 restriction or covenant must follow the procedural requirements

101 ~~in s. 125.66(4). This section does not prohibit a county from~~  
102 ~~providing information to an applicant regarding what other state~~  
103 ~~or federal permits may apply.~~

104 Section 2. Section 163.035, Florida Statutes, is created  
105 to read:

106 163.035 Ordinances or regulations relating to customary  
107 use of real property.--A local government shall not adopt or  
108 promulgate any ordinance or regulation that purports to  
109 establish a common law customary use of property.

110 Section 3. Subsection (6) of section 166.033, Florida  
111 Statutes, is amended to read:

112 166.033 Development permits.—

113 (6) A municipality may not delegate its police power to a  
114 third party by restriction, covenant, or otherwise. The  
115 imposition by a municipality of a recorded or unrecorded  
116 restriction or covenant as a condition of a municipality's  
117 approval or issuance of a development permit does not preclude a  
118 municipality from exercising its police power to later amend,  
119 release, or terminate the restriction or covenant. Any such  
120 amendment, release, or termination of the restriction or  
121 covenant must follow the procedural requirements in s.  
122 166.041(3)(c). ~~This section does not prohibit a municipality~~  
123 ~~from providing information to an applicant regarding what other~~  
124 ~~state or federal permits may apply.~~

125 Section 4. Section 702.12, Florida Statutes, is created to

126 read:

127 702.12 Actions in foreclosure.—

128 (1) (a) A lienholder, in an action to foreclose a mortgage  
129 encumbering an interest in real property, may submit any  
130 document the defendant filed in the defendant's bankruptcy case  
131 under penalty of perjury for use as an admission by the  
132 defendant.

133 (b) The lienholder's submission of a document the  
134 defendant filed in the defendant's bankruptcy case that  
135 evidences intention to surrender to the lienholder the property  
136 that is the subject of the foreclosure, which document has not  
137 been withdrawn by the defendant, together with the submission of  
138 a final order entered in the bankruptcy case that discharges the  
139 defendant's debts or confirms the defendant's repayment plan  
140 which intention is contained therein, creates a rebuttable  
141 presumption that the defendant has waived any defenses to the  
142 foreclosure.

143 (2) In addition to a request set forth in s. 90.203, the  
144 lienholder may request that the court take judicial notice of  
145 any final order entered in a bankruptcy case.

146 (3) This section does not preclude the defendant in a  
147 foreclosure action from raising a defense based upon the  
148 lienholder's conduct subsequent to the filing of the document  
149 filed in the bankruptcy case that evidenced the defendant's  
150 intention to surrender the mortgaged property to the lienholder.

151 (4) This section applies to any foreclosure action filed  
 152 on or after July 1, 2017.

153 Section 5. Section 712.001, Florida Statutes, is created  
 154 to read:

155 712.001 Short title.—This chapter may be cited as the  
 156 "Marketable Record Title Act."

157 Section 6. Section 712.01, Florida Statutes, is reordered  
 158 and amended to read:

159 712.01 Definitions.—As used in this chapter, the term ~~law~~:

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

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

165 (b) Authorizes a property owners' association to impose a  
 166 charge or assessment against the parcel or the parcel owner.

167 (2) ~~(6)~~ The term "Covenant or restriction" means any  
 168 agreement or limitation contained in a document recorded in the  
 169 public records of the county in which a parcel is located which  
 170 subjects the parcel to any use or other restriction or  
 171 obligation ~~which may be enforced by a homeowners' association or~~  
 172 ~~which authorizes a homeowners' association to impose a charge or~~  
 173 ~~assessment against the parcel or the owner of the parcel or~~  
 174 ~~which may be enforced by the Florida Department of Environmental~~  
 175 ~~Protection pursuant to chapter 376 or chapter 403.~~

176        (3)-(5) ~~The term~~ "Parcel" means real property that ~~which~~ is  
 177 used for residential purposes and that is subject to exclusive  
 178 ownership and ~~which is subject~~ to any covenant or restriction of  
 179 a property owners' homeowners' association.

180        (4)-(1) ~~The term~~ "Person" includes the as used herein  
 181 ~~denotes~~ singular or plural, natural or corporate, private or  
 182 governmental, including the state and any political subdivision  
 183 or agency thereof as the context for the use thereof requires or  
 184 denotes and including any property owners' homeowners'  
 185 association.

186        (5)-(4) "Property owners' association" ~~The term~~  
 187 "~~homeowners' association~~" means a homeowners' association as  
 188 defined in s. 720.301, a corporation or other entity responsible  
 189 for the operation of property in which the voting membership is  
 190 made up of the owners of the property or their agents, or a  
 191 combination thereof, and in which membership is a mandatory  
 192 condition of property ownership, or an association of parcel  
 193 owners which is authorized to enforce a community covenant or  
 194 restriction ~~use restrictions~~ that is ~~are~~ imposed on the parcels.

195        (6)-(2) "Root of title" means any title transaction  
 196 purporting to create or transfer the estate claimed by any  
 197 person ~~and~~ which is the last title transaction to have been  
 198 recorded at least 30 years before ~~prior to~~ the time when  
 199 marketability is being determined. The effective date of the  
 200 root of title is the date on which it was recorded.

201        ~~(7)(3)~~ "Title transaction" means any recorded instrument  
 202 or court proceeding that ~~which~~ affects title to any estate or  
 203 interest in land and that ~~which~~ describes the land sufficiently  
 204 to identify its location and boundaries.

205        Section 7. Section 712.04, Florida Statutes, is amended to  
 206 read:

207        712.04 Interests extinguished by marketable record title.—

208        (1) Subject to s. 712.03, a marketable record title is  
 209 free and clear of all estates, interests, claims, covenants,  
 210 restrictions, or charges, the existence of which depends upon  
 211 any act, title transaction, event, zoning requirement, building  
 212 or development permit, or omission that occurred before the  
 213 effective date of the root of title. Except as provided in s.  
 214 712.03, all such estates, interests, claims, covenants,  
 215 restrictions, or charges, however denominated, whether they are  
 216 or appear to be held or asserted by a person sui juris or under  
 217 a disability, whether such person is within or without the  
 218 state, natural or corporate, or private or governmental, are  
 219 declared to be null and void. However, this chapter does not  
 220 affect any right, title, or interest of the United States,  
 221 Florida, or any of its officers, boards, commissions, or other  
 222 agencies reserved in the patent or deed by which the United  
 223 States, Florida, or any of its agencies parted with title.

224        (2) This section may not be construed to alter or  
 225 invalidate a zoning ordinance, land development regulation,

226 building code, or other ordinance, rule, regulation, or law if  
 227 such ordinance, rule, regulation, or law operates independently  
 228 of matters recorded in the official records.

229 (3) This section is intended to clarify existing law, is  
 230 remedial in nature, and applies to all restrictions and  
 231 covenants whether imposed or accepted before, on, or after July  
 232 1, 2017.

233 Section 8. Section 712.05, Florida Statutes, is amended to  
 234 read:

235 712.05 Effect of filing notice.—

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

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

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

250 (b) A summary notice in substantial form and content as

251 required under s. 720.3032(2). Failure of a summary notice to be  
 252 indexed to the current owners of the affected property does not  
 253 affect the validity of the notice or vitiate the effect of the  
 254 filing of such notice.

255 (3) A ~~Such~~ notice under subsection (1) or subsection (2)  
 256 preserves an interest in land or other ~~such claim of right~~  
 257 subject to extinguishment under this chapter, or a ~~such~~ covenant  
 258 or restriction or portion of such covenant or restriction, for  
 259 not less than ~~up to~~ 30 years after filing the notice unless the  
 260 notice is filed again as required in this chapter. A person's  
 261 disability or lack of knowledge of any kind may not delay the  
 262 commencement of or suspend the running of the 30-year period.  
 263 Such notice may be filed for record by the claimant or by any  
 264 other person acting on behalf of a claimant who is:

- 265 (a) Under a disability;
- 266 (b) Unable to assert a claim on his or her behalf; or
- 267 (c) One of a class, but whose identity cannot be
- 268 established or is uncertain at the time of filing such notice of
- 269 claim for record.

270  
 271 ~~Such notice may be filed by a homeowners' association only if~~  
 272 ~~the preservation of such covenant or restriction or portion of~~  
 273 ~~such covenant or restriction is approved by at least two-thirds~~  
 274 ~~of the members of the board of directors of an incorporated~~  
 275 ~~homeowners' association at a meeting for which a notice, stating~~

276 ~~the meeting's time and place and containing the statement of~~  
 277 ~~marketable title action described in s. 712.06(1)(b), was mailed~~  
 278 ~~or hand delivered to members of the homeowners' association at~~  
 279 ~~least 7 days before such meeting.~~ The property owners'  
 280 ~~homeowners'~~ association or clerk of the circuit court is not  
 281 required to provide additional notice pursuant to s. 712.06(3).  
 282 The preceding sentence is intended to clarify existing law.

283 ~~(4)(2)~~ It is ~~shall~~ not ~~be~~ necessary for the owner of the  
 284 marketable record title, as described in s. 712.02 herein  
 285 ~~defined~~, to file a notice to protect his or her marketable  
 286 record title.

287 Section 9. Subsections (1) and (3) of section 712.06,  
 288 Florida Statutes, are amended to read:

289 712.06 Contents of notice; recording and indexing.—

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

293 (a) The name or description and mailing address of the  
 294 claimant or the property owners' ~~homeowners'~~ association  
 295 desiring to preserve any covenant or restriction ~~and the name~~  
 296 ~~and particular post office address of the person filing the~~  
 297 ~~claim or the homeowners' association.~~

298 (b) The name and mailing ~~post office~~ address of an owner,  
 299 or the name and mailing ~~post office~~ address of the person in  
 300 whose name the ~~said~~ property is assessed on the last completed

301 tax assessment roll of the county at the time of filing, who,  
 302 for purpose of such notice, shall be deemed to be an owner;  
 303 ~~provided,~~ however, if a property owners' ~~homeowners'~~ association  
 304 is filing the notice, ~~then~~ the requirements of this paragraph  
 305 may be satisfied by attaching to and recording with the notice  
 306 an affidavit executed by the appropriate member of the board of  
 307 directors of the property owners' ~~homeowners'~~ association  
 308 affirming that the board of directors of the property owners'  
 309 ~~homeowners'~~ association caused a statement in substantially the  
 310 following form to be mailed or hand delivered to the members of  
 311 that property owners' ~~homeowners'~~ association:

312  
 313 STATEMENT OF MARKETABLE TITLE ACTION  
 314

315 The [name of property owners' ~~homeowners'~~ association] (the  
 316 "Association") has taken action to ensure that the [name of  
 317 declaration, covenant, or restriction], recorded in Official  
 318 Records Book . . . ., Page . . . ., of the public records of . . . .  
 319 County, Florida, as may be amended from time to time, currently  
 320 burdening the property of each and every member of the  
 321 Association, retains its status ~~as the source of marketable~~  
 322 ~~title~~ with regard to the affected real property ~~the transfer of~~  
 323 ~~a member's residence~~. To this end, the Association shall cause  
 324 the notice required by chapter 712, Florida Statutes, to be  
 325 recorded in the public records of . . . . County, Florida. Copies

326 of this notice and its attachments are available through the  
327 Association pursuant to the Association's governing documents  
328 regarding official records of the Association.  
329

330 (c) A full and complete description of all land affected  
331 by such notice, which description shall be set forth in  
332 particular terms and not by general reference, but if said claim  
333 is founded upon a recorded instrument or a covenant or a  
334 restriction, ~~then~~ the description in such notice may be the same  
335 as that contained in such recorded instrument or covenant or  
336 restriction, provided the same shall be sufficient to identify  
337 the property.

338 (d) A statement of the claim showing the nature,  
339 description, and extent of such claim or other right subject to  
340 extinguishment under this chapter or, in the case of a covenant  
341 or restriction, a copy of the covenant or restriction, except  
342 that it is ~~shall~~ not ~~be~~ necessary to show the amount of any  
343 claim for money or the terms of payment.

344 (e) If such claim or other right subject to extinguishment  
345 under this chapter is based upon an instrument of record or a  
346 recorded covenant or restriction, such instrument of record or  
347 recorded covenant or restriction shall be deemed sufficiently  
348 described to identify the same if the notice includes a  
349 reference to the book and page in which the same is recorded.

350 (f) Such notice shall be acknowledged in the same manner

351 as deeds are acknowledged for record.

352 (3) The person providing the notice referred to in s.  
 353 712.05, other than a notice for preservation of a community  
 354 covenant or restriction, shall:

355 (a) Cause the clerk of the circuit court to mail by  
 356 registered or certified mail to the purported owner of said  
 357 property, as stated in such notice, a copy thereof and shall  
 358 enter on the original, before recording the same, a certificate  
 359 showing such mailing. For preparing the certificate, the  
 360 claimant shall pay to the clerk the service charge as prescribed  
 361 in s. 28.24(8) and the necessary costs of mailing, in addition  
 362 to the recording charges as prescribed in s. 28.24(12). If the  
 363 notice names purported owners having more than one address, the  
 364 person filing the same shall furnish a true copy for each of the  
 365 several addresses stated, and the clerk shall send one such copy  
 366 to the purported owners named at each respective address. Such  
 367 certificate shall be sufficient if the same reads substantially  
 368 as follows:

369  
 370 I hereby certify that I did on this ....., mail by  
 371 registered (or certified) mail a copy of the foregoing notice to  
 372 each of the following at the address stated:

373  
 374 ...(Clerk of the circuit court)...  
 375 of .... County, Florida,

376 By... (Deputy clerk)...

377

378 The clerk of the circuit court is not required to mail to the  
 379 purported owner of such property any such notice that pertains  
 380 solely to the preserving of any covenant or restriction or any  
 381 portion of a covenant or restriction; or

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

387 Section 10. Section 712.11, Florida Statutes, is amended  
 388 to read:

389 712.11 Covenant revitalization.—A property owners'  
 390 ~~homeowners'~~ association not otherwise subject to chapter 720 may  
 391 use the procedures set forth in ss. 720.403–720.407 to revive  
 392 covenants that have lapsed under the terms of this chapter.

393 Section 11. Section 712.12, Florida Statutes, is created  
 394 to read:

395 712.12 Covenant or restriction revitalization by parcel  
 396 owners not subject to a homeowners' association.—

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

398 (a) "Community" means a group of parcels near one another  
 399 sharing a common interest due to their proximity to one another  
 400 and sharing a neighborhood name or identity, which parcels are

401 or will be subject to covenants and restrictions which are  
402 recorded in the county where the property is located.

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

410 (c) "Parcel" means real property that is used for  
411 residential purposes and which is subject to exclusive ownership  
412 and any covenant or restriction that may be enforced by a parcel  
413 owner.

414 (d) "Parcel owner" means the record owner of legal title  
415 to a parcel.

416 (2) The parcel owners of a community not subject to a  
417 homeowners' association may use the procedures set forth in ss.  
418 720.403-720.407 to revive covenants or restrictions that have  
419 lapsed under the terms of this chapter, except:

420 (a) A reference to a homeowners' association or articles  
421 of incorporation or bylaws of a homeowners' association under  
422 ss. 720.403-720.407 is not required to revive the covenants or  
423 restrictions.

424 (b) The approval required under s. 720.405(6) must be in  
425 writing, and not at a meeting.

426        (c) The requirements under s. 720.407(2) may be satisfied  
427 by having the organizing committee execute the revived covenants  
428 or restrictions in the name of the community.

429        (d) The indexing requirements under s. 720.407(3) may be  
430 satisfied by indexing the community name in the covenants or  
431 restrictions as the grantee and the parcel owners as the  
432 grantors.

433        (3) With respect to any parcel that has ceased to be  
434 governed by covenants or restrictions as of July 1, 2017, the  
435 parcel owner may commence an action by July 1, 2018, for a  
436 judicial determination that the covenants or restrictions did  
437 not govern that parcel as of July 1, 2017, and that any  
438 revitalization of such covenants or restrictions as to that  
439 parcel would unconstitutionally deprive the parcel owner of  
440 rights or property.

441        (4) Revived covenants or restrictions that are implemented  
442 pursuant to this section do not apply to or affect the rights of  
443 the parcel owner which are recognized by any court order or  
444 judgment in any action commenced by July 1, 2018, and any such  
445 rights so recognized may not be subsequently altered by revived  
446 covenants or restrictions implemented under this section without  
447 the consent of the affected parcel owner.

448        Section 12. Paragraph (e) is added to subsection (2) of  
449 section 720.303, Florida Statutes, to read:

450        720.303 Association powers and duties; meetings of board;

451 | official records; budgets; financial reporting; association  
 452 | funds; recalls.—

453 |       (2) BOARD MEETINGS.—

454 |       (e) At the first board meeting, excluding the  
 455 | organizational meeting, which follows the annual meeting of the  
 456 | members, the board shall consider the desirability of filing  
 457 | notices to preserve the covenants or restrictions affecting the  
 458 | community or association from extinguishment under the  
 459 | Marketable Record Title Act, chapter 712, and to authorize and  
 460 | direct the appropriate officer to file notice in accordance with  
 461 | s. 720.3032.

462 |       Section 13. Section 720.3032, Florida Statutes, is created  
 463 | to read:

464 |       720.3032 Notice of association information; preservation  
 465 | from Marketable Record Title Act.—

466 |       (1) Not less than once every 5 years, if an association  
 467 | wishes to preserve its covenants and restrictions, the  
 468 | association must record in the official records of each county  
 469 | in which the community is located a notice specifying:

470 |       (a) The legal name of the association.

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

472 |       (c) The names of the affected subdivision plats and  
 473 | condominiums or, if not applicable, the common name of the  
 474 | community.

475 |       (d) The name, address, and telephone number for the

476 current community association management company or community  
477 association manager, if any.

478 (e) Indication as to whether the association desires to  
479 preserve the covenants or restrictions affecting the community  
480 or association from extinguishment under the Marketable Record  
481 Title Act, chapter 712.

482 (f) A listing by name and recording information of those  
483 covenants or restrictions affecting the community which the  
484 association desires to be preserved from extinguishment.

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

488 (h) The signature of a duly authorized officer of the  
489 association, acknowledged in the same manner as deeds are  
490 acknowledged for record.

491 (2) Recording a document in substantially the following  
492 form satisfies the notice obligation and constitutes a summary  
493 notice as specified in s. 712.05(2)(b) sufficient to preserve  
494 and protect the referenced covenants and restrictions from  
495 extinguishment under the Marketable Record Title Act, chapter  
496 712.

497  
498 Notice of ... (name of association) ... under s. 720.3032, Florida  
499 Statutes, and notice to preserve and protect covenants and  
500 restrictions from extinguishment under the Marketable Record

501 Title Act, chapter 712, Florida Statutes.

502  
503 Instructions to recorder: Please index both the legal name  
504 of the association and the names shown in item 3.

505 1. Legal name of association: ....

506 2. Mailing and physical addresses of association: ....

507 ....

508 3. Names of the subdivision plats, or, if none, common  
509 name of community: ....

510 4. Name, address, and telephone number for management  
511 company, if any: .....

512 5. This notice does .... does not .... constitute a notice  
513 to preserve and protect covenants or restrictions from  
514 extinguishment under the Marketable Record Title Act.

515 6. The following covenants or restrictions affecting the  
516 community which the association desires to be preserved from  
517 extinguishment:

518 ...(Name of instrument)...

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

520 ...(List of instruments)...

521 ...(List of recording information)...

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

525 This notice is filed on behalf of ...(Name of

526 association)... as of ...(Date)....  
 527 ...(Name of association)...  
 528  
 529 By: ....  
 530 ...(Name of individual officer)...  
 531 ...(Title of officer)...  
 532 ...(Notary acknowledgment)...  
 533

534 (3) The failure to file one or more notices does not  
 535 affect the validity or enforceability of any covenant or  
 536 restriction nor in any way alter the remaining time before  
 537 extinguishment by the Marketable Record Title Act, chapter 712.

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

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

544 Section 14. Section 702.09, Florida Statutes, is amended  
 545 to read:

546 702.09 Definitions.—For the purposes of ss. 702.07 and  
 547 702.08, the words "decree of foreclosure" shall include a  
 548 judgment or order rendered or passed in the foreclosure  
 549 proceedings in which the decree of foreclosure shall be  
 550 rescinded, vacated, and set aside; the word "mortgage" shall

551 mean any written instrument securing the payment of money or  
 552 advances and includes liens to secure payment of assessments  
 553 arising under chapters 718 and 719 and liens created pursuant to  
 554 the recorded covenants of a property owners' ~~homeowners'~~  
 555 association as defined in s. 712.01; the word "debt" shall  
 556 include promissory notes, bonds, and all other written  
 557 obligations given for the payment of money; the words  
 558 "foreclosure proceedings" shall embrace every action in the  
 559 circuit or county courts of this state wherein it is sought to  
 560 foreclose a mortgage and sell the property covered by the same;  
 561 and the word "property" shall mean and include both real and  
 562 personal property.

563 Section 15. Subsection (1) of section 702.10, Florida  
 564 Statutes, is amended to read:

565 702.10 Order to show cause; entry of final judgment of  
 566 foreclosure; payment during foreclosure.—

567 (1) A lienholder may request an order to show cause for  
 568 the entry of final judgment in a foreclosure action. For  
 569 purposes of this section, the term "lienholder" includes the  
 570 plaintiff and a defendant to the action who holds a lien  
 571 encumbering the property or a defendant who, by virtue of its  
 572 status as a condominium association, cooperative association, or  
 573 property owners' ~~homeowners'~~ association, may file a lien  
 574 against the real property subject to foreclosure. Upon filing,  
 575 the court shall immediately review the request and the court

576 file in chambers and without a hearing. If, upon examination of  
577 the court file, the court finds that the complaint is verified,  
578 complies with s. 702.015, and alleges a cause of action to  
579 foreclose on real property, the court shall promptly issue an  
580 order directed to the other parties named in the action to show  
581 cause why a final judgment of foreclosure should not be entered.

582 (a) The order shall:

583 1. Set the date and time for a hearing to show cause. The  
584 date for the hearing may not occur sooner than the later of 20  
585 days after service of the order to show cause or 45 days after  
586 service of the initial complaint. When service is obtained by  
587 publication, the date for the hearing may not be set sooner than  
588 30 days after the first publication.

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

591 3. State that the filing of defenses by a motion, a  
592 responsive pleading, an affidavit, or other papers before the  
593 hearing to show cause that raise a genuine issue of material  
594 fact which would preclude the entry of summary judgment or  
595 otherwise constitute a legal defense to foreclosure shall  
596 constitute cause for the court not to enter final judgment.

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

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

601 a verified or sworn answer, affidavits, or other papers or  
602 appears personally or by way of an attorney at the time of the  
603 hearing, the hearing time will be used to hear and consider  
604 whether the defendant's motion, answer, affidavits, other  
605 papers, and other evidence and argument as may be presented by  
606 the defendant or the defendant's attorney raise a genuine issue  
607 of material fact which would preclude the entry of summary  
608 judgment or otherwise constitute a legal defense to foreclosure.  
609 The order shall also state that the court may enter an order of  
610 final judgment of foreclosure at the hearing and order the clerk  
611 of the court to conduct a foreclosure sale.

612 6. State that, if a defendant fails to appear at the  
613 hearing to show cause or fails to file defenses by a motion or  
614 by a verified or sworn answer or files an answer not contesting  
615 the foreclosure, such defendant may be considered to have waived  
616 the right to a hearing, and in such case, the court may enter a  
617 default against such defendant and, if appropriate, a final  
618 judgment of foreclosure ordering the clerk of the court to  
619 conduct a foreclosure sale.

620 7. State that if the mortgage provides for reasonable  
621 attorney fees and the requested attorney fees do not exceed 3  
622 percent of the principal amount owed at the time of filing the  
623 complaint, it is unnecessary for the court to hold a hearing or  
624 adjudge the requested attorney fees to be reasonable.

625 8. Attach the form of the proposed final judgment of

626 foreclosure which the movant requests the court to enter at the  
627 hearing on the order to show cause.

628 9. Require the party seeking final judgment to serve a  
629 copy of the order to show cause on the other parties in the  
630 following manner:

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

636 b. If a defendant has not been served pursuant to chapter  
637 48 with the complaint and original process, the order to show  
638 cause, together with the summons and a copy of the complaint,  
639 shall be served on the party in the same manner as provided by  
640 law for original process.

641  
642 Any final judgment of foreclosure entered under this subsection  
643 is for in rem relief only. This subsection does not preclude the  
644 entry of a deficiency judgment where otherwise allowed by law.  
645 The Legislature intends that this alternative procedure may run  
646 simultaneously with other court procedures.

647 (b) The right to be heard at the hearing to show cause is  
648 waived if a defendant, after being served as provided by law  
649 with an order to show cause, engages in conduct that clearly  
650 shows that the defendant has relinquished the right to be heard

651 on that order. The defendant's failure to file defenses by a  
652 motion or by a sworn or verified answer, affidavits, or other  
653 papers or to appear personally or by way of an attorney at the  
654 hearing duly scheduled on the order to show cause presumptively  
655 constitutes conduct that clearly shows that the defendant has  
656 relinquished the right to be heard. If a defendant files  
657 defenses by a motion, a verified answer, affidavits, or other  
658 papers or presents evidence at or before the hearing which raise  
659 a genuine issue of material fact which would preclude entry of  
660 summary judgment or otherwise constitute a legal defense to  
661 foreclosure, such action constitutes cause and precludes the  
662 entry of a final judgment at the hearing to show cause.

663 (c) In a mortgage foreclosure proceeding, when a final  
664 judgment of foreclosure has been entered against the mortgagor  
665 and the note or mortgage provides for the award of reasonable  
666 attorney fees, it is unnecessary for the court to hold a hearing  
667 or adjudge the requested attorney fees to be reasonable if the  
668 fees do not exceed 3 percent of the principal amount owed on the  
669 note or mortgage at the time of filing, even if the note or  
670 mortgage does not specify the percentage of the original amount  
671 that would be paid as liquidated damages.

672 (d) If the court finds that all defendants have waived the  
673 right to be heard as provided in paragraph (b), the court shall  
674 promptly enter a final judgment of foreclosure without the need  
675 for further hearing if the plaintiff has shown entitlement to a

676 final judgment and upon the filing with the court of the  
677 original note, satisfaction of the conditions for establishment  
678 of a lost note, or upon a showing to the court that the  
679 obligation to be foreclosed is not evidenced by a promissory  
680 note or other negotiable instrument. If the court finds that a  
681 defendant has not waived the right to be heard on the order to  
682 show cause, the court shall determine whether there is cause not  
683 to enter a final judgment of foreclosure. If the court finds  
684 that the defendant has not shown cause, the court shall promptly  
685 enter a judgment of foreclosure. If the time allotted for the  
686 hearing is insufficient, the court may announce at the hearing a  
687 date and time for the continued hearing. Only the parties who  
688 appear, individually or through an attorney, at the initial  
689 hearing must be notified of the date and time of the continued  
690 hearing.

691 Section 16. Section 712.095, Florida Statutes, is amended  
692 to read:

693 712.095 Notice required by July 1, 1983.—Any person whose  
694 interest in land is derived from an instrument or court  
695 proceeding recorded subsequent to the root of title, which  
696 instrument or proceeding did not contain a description of the  
697 land as specified by s. 712.01(7) ~~s. 712.01(3)~~, and whose  
698 interest had not been extinguished prior to July 1, 1981, shall  
699 have until July 1, 1983, to file a notice in accordance with s.  
700 712.06 to preserve the interest.

701 Section 17. Section 720.403, Florida Statutes, is amended  
 702 to read:

703 720.403 Preservation of ~~residential~~ communities; revival  
 704 of declaration of covenants.—

705 (1) Consistent with required and optional elements of  
 706 local comprehensive plans and other applicable provisions of the  
 707 Community Planning Act, property owners ~~homeowners~~ are  
 708 encouraged to preserve existing residential and other  
 709 communities, promote available and affordable housing, protect  
 710 structural and aesthetic elements of their ~~residential~~  
 711 community, and, as applicable, maintain roads and streets,  
 712 easements, water and sewer systems, utilities, drainage  
 713 improvements, conservation and open areas, recreational  
 714 amenities, and other infrastructure and common areas that serve  
 715 and support the ~~residential~~ community by the revival of a  
 716 previous declaration of covenants and other governing documents  
 717 that may have ceased to govern some or all parcels in the  
 718 community.

719 (2) In order to preserve a ~~residential~~ community and the  
 720 associated infrastructure and common areas for the purposes  
 721 described in this section, the parcel owners in a community that  
 722 was previously subject to a declaration of covenants that has  
 723 ceased to govern one or more parcels in the community may revive  
 724 the declaration and the ~~homeowners'~~ association for the  
 725 community upon approval by the parcel owners to be governed

726 thereby as provided in this act, and upon approval of the  
 727 declaration and the other governing documents for the  
 728 association by the Department of Economic Opportunity in a  
 729 manner consistent with this act.

730 (3) Part III of this chapter is intended to provide  
 731 mechanisms for the revitalization of covenants or restrictions  
 732 for all types of communities and property associations and is  
 733 not limited to residential communities.

734 Section 18. Section 720.404, Florida Statutes, is amended  
 735 to read:

736 720.404 Eligible ~~residential~~ communities; requirements for  
 737 revival of declaration.—Parcel owners in a community are  
 738 eligible to seek approval from the Department of Economic  
 739 Opportunity to revive a declaration of covenants under this act  
 740 if all of the following requirements are met:

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

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

746 (3) The revived declaration may not contain covenants that  
 747 are more restrictive on the parcel owners than the covenants  
 748 contained in the previous declaration, except that the  
 749 declaration may:

750 (a) Have an effective term of longer duration than the

751 term of the previous declaration;

752 (b) Omit restrictions contained in the previous  
753 declaration;

754 (c) Govern fewer than all of the parcels governed by the  
755 previous declaration;

756 (d) Provide for amendments to the declaration and other  
757 governing documents; and

758 (e) Contain provisions required by this chapter for new  
759 declarations that were not contained in the previous  
760 declaration.

761 Section 19. Subsections (1), (3), (5), and (6) of section  
762 720.405, Florida Statutes, are amended to read:

763 720.405 Organizing committee; parcel owner approval.—

764 (1) The proposal to revive a declaration of covenants and  
765 an a-homeowners<sup>1</sup> association for a community under the terms of  
766 this act shall be initiated by an organizing committee  
767 consisting of not less than three parcel owners located in the  
768 community that is proposed to be governed by the revived  
769 declaration. The name, address, and telephone number of each  
770 member of the organizing committee must be included in any  
771 notice or other document provided by the committee to parcel  
772 owners to be affected by the proposed revived declaration.

773 (3) The organizing committee shall prepare the full text  
774 of the proposed articles of incorporation and bylaws of the  
775 revived ~~homeowners~~<sup>1</sup> association to be submitted to the parcel

776 owners for approval, unless the association is then an existing  
777 corporation, in which case the organizing committee shall  
778 prepare the existing articles of incorporation and bylaws to be  
779 submitted to the parcel owners.

780 (5) A copy of the complete text of the proposed revised  
781 declaration of covenants, the proposed new or existing articles  
782 of incorporation and bylaws of the ~~homeowners'~~ association, and  
783 a graphic depiction of the property to be governed by the  
784 revived declaration shall be presented to all of the affected  
785 parcel owners by mail or hand delivery not less than 14 days  
786 before the time that the consent of the affected parcel owners  
787 to the proposed governing documents is sought by the organizing  
788 committee.

789 (6) A majority of the affected parcel owners must agree in  
790 writing to the revived declaration of covenants and governing  
791 documents of the ~~homeowners'~~ association or approve the revived  
792 declaration and governing documents by a vote at a meeting of  
793 the affected parcel owners noticed and conducted in the manner  
794 prescribed by s. 720.306. Proof of notice of the meeting to all  
795 affected owners of the meeting and the minutes of the meeting  
796 recording the votes of the property owners shall be certified by  
797 a court reporter or an attorney licensed to practice in the  
798 state.

799 Section 20. Subsection (3) of section 720.407, Florida  
800 Statutes, is amended to read:

801           720.407 Recording; notice of recording; applicability and  
802 effective date.—

803           (3) The recorded documents shall include the full text of  
804 the approved declaration of covenants, the articles of  
805 incorporation and bylaws of the ~~homeowners'~~ association, the  
806 letter of approval by the department, and the legal description  
807 of each affected parcel of property. For purposes of chapter  
808 712, the association is deemed to be and shall be indexed as the  
809 grantee in a title transaction and the parcel owners named in  
810 the revived declaration are deemed to be and shall be indexed as  
811 the grantors in the title transaction.

812           Section 21. This act shall take effect July 1, 2017.