

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2023

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HOUSE BILL 642

Short Title: Marketable Title Act-Restrictive Covenants. (Public)

Sponsors: Representative Stevens.

For a complete list of sponsors, refer to the North Carolina General Assembly web site.

Referred to: Judiciary 2, if favorable, Rules, Calendar, and Operations of the House

April 18, 2023

1 A BILL TO BE ENTITLED
2 AN ACT TO CLARIFY THE EFFECT OF MARKETABLE RECORD TITLE UPON
3 RESTRICTIVE COVENANTS IN THE MARKETABLE TITLE ACT.

4 The General Assembly of North Carolina enacts:

5 SECTION 1. G.S. 47B-3 reads as rewritten:

6 "§ 47B-3. Exceptions.

7 Such marketable record title shall not affect or extinguish the following rights:

8 (1) Rights, estates, interests, claims or charges disclosed by and defects inherent
9 in the muniments of title of which such 30-year chain of record title is formed,
10 provided, however, that a general reference in any of such muniments to
11 rights, estates, interests, claims or charges created prior to such 30-year period
12 shall not be sufficient to preserve them unless specific identification by
13 reference to book and page of record be made therein to a recorded title
14 transaction which imposed, transferred or continued such rights, estates,
15 interests, claims or charges.

16 ...

17 (12) Rights, estates, interests, claims or charges with respect to any real property
18 registered under the Torrens Law as provided by Chapter 43 of the General
19 Statutes of North Carolina.

20 (13) ~~Covenants-Restrictive covenants~~ applicable to a general or uniform scheme of
21 ~~development which restrict the property to residential use only, single-family~~
22 ~~or multifamily residential development,~~ provided said covenants are
23 otherwise enforceable. ~~The excepted covenant may restrict the property to~~
24 ~~multi family or single family residential use or simply to residential use.~~
25 Restrictive covenants other than those mentioned ~~herein which limit the~~
26 ~~property to residential use only in this subdivision~~ are not excepted from the
27 provisions of ~~Chapter 47B.~~ this Chapter.

28 (14) Notwithstanding anything in this section to the contrary, provisions contained
29 in any declaration of covenants that are applicable to any of the following:

- 30 a. A condominium created under Chapter 47A or 47C of the General
31 Statutes of North Carolina.
32 b. A cooperative, as defined in G.S. 47F-1-103(8).
33 c. A planned community, other than a planned community in which all
34 lots are restricted exclusively to nonresidential purposes, whenever
35 created, to which any of the provisions of Chapter 47F of the General



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1 Statutes of North Carolina apply; provided, however, that if such
2 planned community was created prior to January 1, 1999, this
3 exemption shall not apply unless it is governed by an owners'
4 association in existence as of July 1, 2022."

5 **SECTION 2.** This act is effective when it becomes law.