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Client Alert: Mandate Under s. 720.303(2)(e), Florida Statutes Requires HOA Boards to Consider MRTA at First Regular Board Meeting Each Year

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The Florida Marketable Record Title Act (MRTA) is a statute that can have harsh consequences, including the ability to extinguish an Association's deed restrictions if an Association does not take timely remedial measures, such as preservation of its deed restrictions. Due to Associations failing to take appropriate actions to protect their deed restrictions from the consequences of MRTA, the Florida legislature implemented a requirement that an Association's board of directors address the applicability of MRTA at the first board meeting, following the organizational meeting, each year.

Specifically, section 720.303(2)(e), Florida Statutes, states as follows:

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

This requirement may seem excessive, but forcing an Association's board to address MRTA each year helps to ensure that an Association is aware of MRTA and will timely take the appropriate actions to ensure its deed restrictions do not unintentionally expire.

With MRTA operating in 30-year periods, an Association can easily lose track of compliance, especially as Association board members change over the years. However, for Associations nearing the time to preserve

their restrictions, this yearly discussion should be more extensive, serving as an important reminder of the upcoming deadline and opportunity for boards to develop a plan of action for the preservation process. Property managers and board members who are aware of MRTA can easily opt to timely preserve an Association's deed restrictions prior to expiration, rather than having to attempt to revitalize the deed restrictions subsequent to the deed restrictions beginning to extinguish.