



707556

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/15/2013	.	
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	.	

The Committee on Judiciary (Bradley) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Subsections (1) and (3) of section 95.18,
Florida Statutes, are amended, and subsection (9) is added to
that section, to read:

95.18 Real property actions; adverse possession without
color of title.—

(1) When the occupant has, ~~or those under whom the occupant
claims have,~~ been in actual continued possession ~~occupation~~ of
real property for 7 years under a claim of title exclusive of
any other right in a manner consistent with subsection (9), but



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14 not founded on a written instrument, judgment, or decree, or
15 when those under whom the occupant claims meet these criteria,
16 the property actually possessed ~~occupied~~ is held adversely if
17 the person claiming adverse possession:

18 (a) Paid, subject to s. 197.3335, all taxes and matured
19 installments of special improvement liens levied against the
20 property by the state, county, and municipality for at least 2
21 consecutive years prior to making a return described in
22 subsection (3); and

23 (b) Promptly made a return, as required under subsection
24 (3), of the property by proper legal description to the property
25 appraiser of the county where it is located within 1 year after
26 complying with paragraph (a) ~~entering into possession~~ and has
27 subsequently paid, subject to s. 197.3335, all taxes and matured
28 installments of special improvement liens levied against the
29 property by the state, county, and municipality.

30 (3) A person claiming adverse possession under this section
31 must make a return of the property by providing to the property
32 appraiser a uniform return on a form provided by the Department
33 of Revenue. The return must include all of the following:

34 (a) The name and address of the person claiming adverse
35 possession.

36 (b) The date that the person claiming adverse possession
37 entered into possession of the property.

38 (c) A full and complete legal description of the property
39 that is subject to the adverse possession claim.

40 (d) A notarized attestation clause that states:

41

42 UNDER PENALTY OF PERJURY, I DECLARE THAT I HAVE READ



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43 THE FOREGOING RETURN AND THAT THE FACTS STATED IN IT
44 ARE TRUE AND CORRECT.

45
46 (e) A description of the use of the property by the person
47 claiming adverse possession.

48 (f) A receipt to be completed by the property appraiser.

49 (g) Dates of payment of the annual tax assessments for the
50 property subject to the adverse possession claim for at least 2
51 consecutive years preceding the making of the return.

52 (h) The following notice provision at the top of the first
53 page, printed in no less than 12 point, capitalized, boldfaced
54 type:

55
56 FILING THIS RETURN DOES NOT ENTITLE THE CLAIMANT TO
57 IMMEDIATE POSSESSION OR OWNERSHIP OF THE REAL PROPERTY
58 DESCRIBED BELOW. THIS RETURN DOES NOT OPERATE AS A
59 CLOUD ON TITLE AND MUST BE REFILED EVERY 3 MONTHS TO
60 REMAIN EFFECTIVE.

61
62 The property appraiser shall refuse to accept a return if it is
63 not the uniform return created by the Department of Revenue ~~does~~
64 ~~not comply with this subsection.~~ The executive director of the
65 Department of Revenue is authorized, and all conditions are
66 deemed met, to adopt emergency rules under ss. 120.536(1) and
67 120.54(4) for the purpose of implementing this subsection. The
68 emergency rules shall remain in effect for 6 months after
69 adoption and may be renewed during the pendency of procedures to
70 adopt rules addressing the subject of the emergency rules.

71 (9) For purposes of computing the time periods specified in



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72 subsection (1), no time shall be included for a "stay period,"
73 which, for purposes of this subsection, means the time during
74 which any real property sought to be adversely possessed is or
75 was subject to a pending action to foreclose a mortgage or to
76 foreclose a lien pursuant to chapter 718, chapter 719, chapter
77 720, or chapter 723.

78 (a) A person who occupies or attempts to occupy a
79 residential structure solely by claim of adverse possession
80 under this section after a stay period has commenced and while
81 it remains in effect commits trespass under s. 810.08.

82 (b) A person who occupies or attempts to occupy a
83 residential structure solely by claim of adverse possession
84 under this section after a stay period has commenced and while
85 it remains in effect and offers the property for lease to
86 another commits theft under s. 812.014.

87 Section 2. This act shall take effect July 1, 2013.

88
89 ===== T I T L E A M E N D M E N T =====

90 And the title is amended as follows:

91 Delete everything before the enacting clause
92 and insert:

93 A bill to be entitled
94 An act relating to adverse possession; amending s.
95 95.18, F.S.; revising terminology; requiring certain
96 conditions to be met before real property is legally
97 adversely possessed without color of title; requiring
98 a person claiming adverse possession to make a return
99 of the property by providing the return to the
100 property appraiser using a uniform return; specifying



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101 the contents of the return; requiring the return to
102 contain a notice; providing criminal penalties;
103 providing an effective date.