

By Senator Bradley

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1 A bill to be entitled
2 An act relating to adverse possession; amending s.
3 95.18, F.S.; revising terminology; requiring certain
4 conditions to be met before real property is legally
5 adversely possessed without color of title; requiring
6 a person claiming adverse possession to provide to the
7 property appraiser certain attestations from the owner
8 of the property on a uniform return; providing an
9 effective date.

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

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13 Section 1. Subsections (1), (2), and (3) of section 95.18,
14 Florida Statutes, are amended to read:

15 95.18 Real property actions; adverse possession without
16 color of title.—

17 (1) When the adverse possessor ~~occupant~~ has, or those under
18 whom the adverse possessor ~~occupant~~ claims have, been in actual
19 continued control ~~occupation~~ of real property for 7 years under
20 a claim of title exclusive of any other right, but not founded
21 on a written instrument, judgment, or decree, the property, when
22 actually controlled through maintenance or improvement of the
23 exterior of any structure or the land, ~~occupied~~ is held
24 adversely if the person claiming adverse possession made a
25 return, as required under subsection (3), of the property by
26 proper legal description to the property appraiser of the county
27 where it is located within 1 year after entering into possession
28 and has subsequently paid, subject to s. 197.3335, all taxes and
29 matured installments of special improvement liens levied against

7-01177-13

20131166

30 the property by the state, county, and municipality, as well as
31 all mortgages and liens upon the property. All municipal,
32 county, and state taxes must have accrued against the property,
33 without payment, for at least 2 years. A person or entity may
34 not apply for adverse possession for more than one property in
35 this state at the same time. The adverse possessor, or those
36 persons under whom the possessor claims a possessory right, may
37 not enter any structure on the possessed property until the end
38 of the adverse possession period and after a deed has been
39 issued to the possessor.

40 (2) For the purpose of this section, property is deemed to
41 be possessed if the property has been:

- 42 (a) Protected by substantial enclosure;
43 (b) Cultivated or improved in a usual manner; or
44 (c) Maintained without entering any of the structures
45 ~~Occupied and maintained.~~

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

50 (a) The name and address of the person claiming adverse
51 possession.

52 (b) The date that the person claiming adverse possession
53 entered into controlled possession of the property.

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

56 (d) A notarized attestation from the owner or entity
57 currently listed as the owner affirming that the property is
58 known to be adversely possessed. In order to assist the property

7-01177-13

20131166

59 appraiser in satisfying his or her legal obligations under
60 subsection (4), the notarized attestation must include the
61 owner's current mailing address and telephone number.

62 (e)~~(d)~~ A notarized attestation clause that states:

63
64 UNDER PENALTY OF PERJURY, I DECLARE THAT I HAVE READ THE
65 FOREGOING RETURN AND THAT THE FACTS STATED IN IT ARE TRUE AND
66 CORRECT.

67
68 (f)~~(e)~~ A description of the use of the property by the
69 person claiming adverse possession.

70 (g)~~(f)~~ A receipt to be completed by the property appraiser.

71
72 The property appraiser shall refuse to accept a return if it
73 does not comply with this subsection. The executive director of
74 the Department of Revenue is authorized, and all conditions are
75 deemed met, to adopt emergency rules under ss. 120.536(1) and
76 120.54(4) for the purpose of implementing this subsection. The
77 emergency rules shall remain in effect for 6 months after
78 adoption and may be renewed during the pendency of procedures to
79 adopt rules addressing the subject of the emergency rules.

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