

By the Committee on Judiciary; and Senator Bradley

590-04344-13

20131166c1

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 make a return  
7           of the property by providing the return to the  
8           property appraiser using a uniform return; specifying  
9           the contents of the return; requiring the return to  
10          contain a notice; providing criminal penalties;  
11          providing an effective date.

12  
13 Be It Enacted by the Legislature of the State of Florida:

14  
15           Section 1. Subsections (1) and (3) of section 95.18,  
16 Florida Statutes, are amended, and subsection (9) is added to  
17 that section, to read:

18           95.18 Real property actions; adverse possession without  
19 color of title.—

20           (1) When the occupant has, ~~or those under whom the occupant~~  
21 ~~claims have,~~ been in actual continued possession ~~occupation~~ of  
22 real property for 7 years under a claim of title exclusive of  
23 any other right in a manner consistent with subsection (9), but  
24 not founded on a written instrument, judgment, or decree, or  
25 when those under whom the occupant claims meet these criteria,  
26 the property actually possessed ~~occupied~~ is held adversely if  
27 the person claiming adverse possession:

28           (a) Paid, subject to s. 197.3335, all taxes and matured  
29 installments of special improvement liens levied against the

590-04344-13

20131166c1

30 property by the state, county, and municipality for at least 2  
31 consecutive years prior to making a return described in  
32 subsection (3); and

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

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

44 (a) The name and address of the person claiming adverse  
45 possession.

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

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

50 (d) A notarized attestation clause that states:

51  
52 UNDER PENALTY OF PERJURY, I DECLARE THAT I HAVE READ  
53 THE FOREGOING RETURN AND THAT THE FACTS STATED IN IT  
54 ARE TRUE AND CORRECT.

55  
56 (e) A description of the use of the property by the person  
57 claiming adverse possession.

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

590-04344-13

20131166c1

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

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

65  
66 FILING THIS RETURN DOES NOT ENTITLE THE CLAIMANT TO  
67 IMMEDIATE POSSESSION OR OWNERSHIP OF THE REAL PROPERTY  
68 DESCRIBED BELOW. THIS RETURN DOES NOT OPERATE AS A  
69 CLOUD ON TITLE AND MUST BE REFILED EVERY 3 MONTHS TO  
70 REMAIN EFFECTIVE.

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

81 (9) For purposes of computing the time periods specified in  
82 subsection (1), no time shall be included for a "stay period,"  
83 which, for purposes of this subsection, means the time during  
84 which any real property sought to be adversely possessed is or  
85 was subject to a pending action to foreclose a mortgage or to  
86 foreclose a lien pursuant to chapter 718, chapter 719, chapter  
87 720, or chapter 723.

590-04344-13

20131166c1

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

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

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