

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; providing  
 6           an effective date.

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

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

12           95.18 Real property actions; adverse possession without  
 13   color of title.—

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

29 | upon the property. All municipal, county, and state taxes must  
 30 | have accrued against the property, without payment, for at least  
 31 | 2 years. A person or entity may not apply for adverse possession  
 32 | for more than one property in this state at the same time. The  
 33 | adverse possessor, or those persons under whom the possessor  
 34 | claims a possessory right, may not enter any structure on the  
 35 | possessed property until the end of the adverse possession  
 36 | period.

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

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

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

- 48 | (a) The name and address of the person claiming adverse  
 49 | possession.
- 50 | (b) The date that the person claiming adverse possession  
 51 | entered into controlled possession of the property.
- 52 | (c) A full and complete legal description of the property  
 53 | that is subject to the adverse possession claim.
- 54 | (d) A notarized attestation clause that states:

55 | UNDER PENALTY OF PERJURY, I DECLARE THAT I HAVE READ THE  
 56 | FOREGOING RETURN AND THAT THE FACTS STATED IN IT ARE TRUE AND

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57 CORRECT.

58 (e) A description of the use of the property by the person  
59 claiming adverse possession.

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

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

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