

Committee on Judiciary

SB 1142 — Adverse Possession

by Senator Dockery

Under the statute governing adverse possession, a person who occupies land continuously without color of title (i.e., without any legal document to support a claim for title) may seek title to the property. The person must file a return with the county property appraiser's office within one year of entry onto the property and pay all property taxes and any assessed liens during the possession of the property for seven consecutive years. The adverse possessor may demonstrate possession of the property by showing that he or she protected the property by a substantial enclosure (typically a fence) or cultivated or improved the property.

The bill amends the current statutory process for gaining title to real property via an adverse possession claim without color of title. Specifically, the bill:

- Includes occupation and maintenance as one of the forms of proof of possession of property subject to an adverse possession claim;
- Requires the property appraiser to provide notice to the owner of record that an adverse possession claim was made;
- Specifies that the Department of Revenue must develop a uniform adverse possession return;
- Requires the adverse possessor to provide a "full and complete" legal description of the property on the return;
- Requires the adverse possessor to attest to the truthfulness of the information provided in the return under penalty of perjury;
- Requires an adverse possessor to describe, on the return, how he or she is using the property subject to the adverse possession claim;
- Includes emergency rulemaking authority for the Department of Revenue related to the adverse possession return;
- Prescribes procedures governing an adverse possession claim against a portion of an identified parcel of property, or against property that does not currently have a unique parcel identification number;
- Specifies when the property appraiser may add and remove the adverse possessor to and from the parcel information on the tax roll;
- Requires property appraisers to include a notation of an adverse possession claim in any searchable property database maintained by the property appraiser;
- Provides for priority of property tax payments made by owners of record by allowing for refunds of tax payments made by adverse possessors who submit a payment prior to the owner of record; and
- Provides that tax notices must be sent to the owner of property subject to an adverse possession claim even if the county commission has authorized the tax collector to not send out tax notices for bills under a certain amount.

If approved by the Governor, these provisions take effect July 1, 2011. The provisions apply to adverse possession claims in which the return was submitted on or after that date, except for the procedural provisions governing the property appraiser's administration of the adverse possession claims included in proposed s. 95.18(4)(c) and (d) (requiring the property appraiser to add a notation of the adverse possession filing and maintain a copy of the return) and (7), F.S. (delineating when the property appraiser shall remove the adverse possession notation). These latter provisions will apply to adverse possession claims in which the return was submitted before, on, or after July 1, 2011.

Vote: Senate 39-0; House 117-0