



741928

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/18/2010	.	
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The Committee on Judiciary (Ring) recommended the following:

**Senate Amendment (with title amendment)**

Delete everything after the enacting clause  
and insert:

Section 1. Section 95.18, Florida Statutes, is amended 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 occupation of real  
property for 7 years under a claim of title exclusive of any  
other right, but not founded on a written instrument, judgment,  
or decree, the property actually occupied shall be held



741928

14 adversely if the person claiming adverse possession made a  
15 return, as required under subsection (3), of the property by  
16 proper legal description to the property appraiser of the county  
17 where it is located within 1 year after entering into possession  
18 and has subsequently paid, subject to s. 197.3335, all taxes and  
19 matured installments of special improvement liens levied against  
20 the property by the state, county, and municipality.

21 (2) For the purpose of this section, property shall be  
22 deemed to be possessed in any of the following cases only:

23 (a) When it has been protected by substantial enclosure.

24 (b) When it has been usually cultivated or improved.

25 (c) When it has been occupied and maintained.

26 (3) A person claiming adverse possession under this section  
27 must make a return of the property as required under subsection  
28 (1) by providing to the property appraiser a uniform return  
29 developed by the Department of Revenue. The return must include:

30 (a) The name and address of the person claiming adverse  
31 possession;

32 (b) The date that the person claiming adverse possession  
33 entered into possession of the property;

34 (c) A full and complete legal description of the property  
35 that is subject to the adverse possession claim;

36 (d) A notarized attestation clause that states:

37 UNDER PENALTY OF PERJURY, I DECLARE THAT I HAVE READ THE  
38 FOREGOING RETURN AND THAT THE FACTS STATED IN IT ARE TRUE AND  
39 CORRECT.;

40 (e) A description of the use of the property by the person  
41 claiming adverse possession; and

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



741928

43  
44 The property appraiser shall refuse to accept a return if it  
45 does not comply with this subsection. The executive director of  
46 the Department of Revenue is authorized, and all conditions are  
47 deemed met, to adopt emergency rules under ss. 120.536(1) and  
48 120.54(4) for the purpose of implementing this subsection. The  
49 emergency rules shall remain in effect for 6 months after  
50 adoption and may be renewed during the pendency of procedures to  
51 adopt rules addressing the subject of the emergency rules.

52 (4) Upon the submission of a return, the property appraiser  
53 shall:

54 (a) Send, via regular mail, a copy of the return to the  
55 owner of record of the property that is subject to the adverse  
56 possession claim, as identified by the property appraiser's  
57 records.

58 (b) Inform the owner of record that, under s. 197.335, any  
59 tax payment made by the owner of record prior to April 1  
60 following the year in which the tax is assessed will have  
61 priority over any tax payment made by an adverse possessor.

62 (c) Add a notation at the beginning of the first line of  
63 the legal description on the tax roll that an adverse possession  
64 claim has been submitted.

65 (d) Maintain the return in the property appraiser's  
66 records.

67 (5) A property appraiser shall remove the notation to the  
68 legal description on the tax roll that an adverse possession  
69 claim has been submitted and shall remove the return from the  
70 property appraiser's records if:

71 (a) The person claiming adverse possession notifies the



741928

72 property appraiser in writing that the adverse possession claim  
73 is withdrawn;

74 (b) The owner of record provides a certified copy of a  
75 court order, entered after the date the return was submitted to  
76 the property appraiser, establishing title in the owner of  
77 record;

78 (c) The property appraiser receives a certified copy of a  
79 recorded deed, filed after the date of the submission of the  
80 return, from the person claiming adverse possession to the owner  
81 of record transferring title of property with a legal  
82 description describing the same property subject to the adverse  
83 possession claim; or

84 (d) The owner of record or the tax collector provides to  
85 the property appraiser a receipt demonstrating that the owner of  
86 record has paid the annual tax assessment for the property  
87 subject to the adverse possession claim during the period that  
88 the person is claiming adverse possession.

89 (6) The property appraiser shall include a clear and  
90 obvious notation in the legal description of the parcel  
91 information of any public searchable property database  
92 maintained by the property appraiser that an adverse possession  
93 return has been submitted to the property appraiser for a  
94 particular parcel.

95 Section 2. Section 197.3335, Florida Statutes, is created  
96 to read:

97 197.3335 Tax payments when property is subject to adverse  
98 possession; refunds.—

99 (1) Upon the receipt of a subsequent payment for the same  
100 annual tax assessment for a particular parcel, the tax collector



741928

101 shall determine if an adverse possession return has been  
102 submitted on the particular parcel. If an adverse possession  
103 return has been submitted, the tax collector shall comply with  
104 subsection (2).

105 (2) If a person claiming adverse possession under s. 95.18  
106 pays an annual tax assessment on a parcel of property that is  
107 subject to an adverse possession claim before the assessment is  
108 paid by the owner of record, and the owner of record  
109 subsequently makes a payment of that same annual tax assessment  
110 prior to April 1 following the year in which the tax is  
111 assessed, the tax collector shall accept the payment made by the  
112 owner of record and refund within 60 days any payment made by  
113 the person claiming adverse possession. Such refunds do not  
114 require approval from the Department of Revenue.

115 Section 3. This act shall take effect July 1, 2010, and  
116 applies to adverse possession claims in which the return was  
117 submitted on or after the effective date, except for the  
118 procedural provisions governing the property appraiser's  
119 administration of adverse possession claims included in ss.  
120 95.18(4)(c) and (d) and 95.18(5), Florida Statutes, as created  
121 by this act, which shall apply to adverse possession claims in  
122 which the return was submitted before, on, or after the  
123 effective date.

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126 ===== T I T L E A M E N D M E N T =====

127 And the title is amended as follows:  
128 Delete everything before the enacting clause  
129 and insert:



741928

130                                   A bill to be entitled  
131                    An act relating to adverse possession; amending  
132                    s. 95.18, F.S.; specifying that occupation and  
133                    maintenance of property can satisfy possession for  
134                    purposes of gaining title to property via adverse  
135                    possession without color of title; requiring a person  
136                    seeking property by adverse possession to use a  
137                    uniform adverse possession return developed by the  
138                    Department of Revenue; requiring the property  
139                    appraiser to notify the owner of record of an adverse  
140                    possession claim; prescribing what information must be  
141                    included in the adverse possession return; requiring a  
142                    person claiming adverse possession to attest to the  
143                    truthfulness of the information provided in the return  
144                    under penalty of perjury; granting emergency  
145                    rulemaking authority to the Department of Revenue;  
146                    requiring that the property appraiser add certain  
147                    information related to the adverse possession claim to  
148                    the parcel information on the tax roll and prescribing  
149                    conditions for removal of that information; requiring  
150                    the property appraiser to include a notation of an  
151                    adverse possession filing in any searchable property  
152                    database maintained by the property appraiser;  
153                    creating s. 197.3335, F.S.; requiring the tax  
154                    collector to determine whether a duplicate tax payment  
155                    is made by an adverse possessor; providing for  
156                    priority of tax payments made by an owner of record  
157                    who is subject to an adverse possession claim;  
158                    providing for a refund of tax payments under certain



741928

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conditions; providing an effective date.