

FOR CONSIDERATION By the Committee on Judiciary

590-01088A-10

20107058

1 A bill to be entitled
2 An act relating to adverse possession; amending s.
3 95.18, F.S.; requiring a person seeking property by
4 adverse possession to use a uniform adverse possession
5 return developed by the Department of Revenue;
6 prescribing what information must be included in the
7 adverse possession return; requiring a person claiming
8 adverse possession to attest to the truthfulness of
9 the information provided in the return under penalty
10 of perjury; requiring that the person claiming adverse
11 possession provide notice of the claim to the owner of
12 record and provide proof of compliance with the notice
13 requirement to the property appraiser; requiring that
14 the property appraiser add certain information related
15 to the adverse possession claim to the parcel
16 information on the tax roll and prescribing conditions
17 for removal of that information; requiring the
18 property appraiser to include a notation of an adverse
19 possession filing in any searchable property database
20 maintained by the property appraiser; creating s.
21 197.3335, F.S.; prescribing the method for a person
22 claiming adverse possession to make a tax payment;
23 providing for priority of tax payments made by an
24 owner of record who is subject to an adverse
25 possession claim; providing for a refund of tax
26 payments under certain conditions; providing an
27 effective date.

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

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

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

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

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

(3) A person claiming adverse possession under this section must:

(a) Make a return of the property as required under subsection (1) by providing to the property appraiser a uniform return developed by the Department of Revenue. The return must include:

1. The name and address of the person claiming adverse possession;

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59 2. The date that the person claiming adverse possession
60 entered into possession of the property;

61 3. A full and complete legal description of the property
62 that is subject to the adverse possession claim;

63 4. A notarized attestation clause that states:

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

67 5. A description of the use of the property by the person
68 claiming adverse possession; and

69 6. A receipt to be completed by the property appraiser upon
70 submission of the proof of mailing by the person claiming
71 adverse possession.

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73 The property appraiser shall refuse to accept a return if it
74 does not comply with this subsection.

75 (b) Send, via certified mail, a copy of the return to the
76 owner of record of the property that is subject to the adverse
77 possession claim, as identified by the property appraiser's
78 records.

79 (c) Submit a copy of the proof of mailing of the return
80 required under paragraph (b) to the property appraiser within 15
81 business days after submitting the return to the property
82 appraiser.

83 1. Upon receipt of the proof of mailing from the person
84 claiming adverse possession, the property appraiser shall add a
85 notation to the first line of the legal description on the tax
86 roll that an adverse possession claim has been filed, and may
87 not add the name of the person claiming adverse possession as an

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88 owner on the tax roll. The property appraiser shall maintain the
89 return in the property appraiser's official records.

90 2. If the property appraiser does not receive the proof of
91 mailing within 15 business days after the person claiming
92 adverse possession submits the return, the property appraiser:

93 a. May not add a notation to the legal description on the
94 tax roll that an adverse possession claim has been filed; and

95 b. Shall remove the return from the property appraiser's
96 official records.

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98 Paragraphs (b) and (c) do not apply if an owner of record cannot
99 be determined from a review of the property appraiser's records
100 or cannot otherwise be located by reasonable means.

101 (4) A property appraiser shall remove the notation to the
102 legal description on the tax roll that an adverse possession
103 claim has been filed and shall remove the return from the
104 property appraiser's official records if:

105 (a) The person claiming adverse possession notifies the
106 property appraiser in writing that the adverse possession claim
107 is withdrawn;

108 (b) The owner of record provides a certified copy of a
109 court order establishing title in the owner of record;

110 (c) The property appraiser receives a deed transferring
111 title of the subject property from the person claiming adverse
112 possession to the owner of record; or

113 (d) The owner of record submits to the property appraiser a
114 receipt demonstrating that the owner of record has paid the
115 annual tax assessment for the property subject to the adverse
116 possession claim during the period that the person is claiming

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117 adverse possession.

118 (5) The property appraiser shall include a clear and
119 obvious notation in the parcel information of any public
120 searchable property database maintained by the property
121 appraiser that an adverse possession return has been submitted
122 to the property appraiser for a particular parcel.

123 Section 2. Section 197.3335, Florida Statutes, is created
124 to read:

125 197.3335 Tax payments when property is subject to adverse
126 possession; refunds.-

127 (1) When a person claiming adverse possession pays taxes
128 and matured installments as required under s. 95.18 in person or
129 by mail, the person must include with the tax payment a copy of
130 the return that was submitted to the property appraiser. If the
131 person claiming adverse possession pays the taxes and matured
132 installments by electronic or other means, the person must, via
133 regular mail, provide to the tax collector within 7 business
134 days a copy of the return that was submitted to the property
135 appraiser.

136 (2) If a person claiming adverse possession under s. 95.18
137 pays an annual tax assessment on a parcel of property that is
138 subject to an adverse possession claim before the assessment is
139 paid by the owner of record, and the owner of record
140 subsequently makes a timely payment of that same annual tax
141 assessment, the tax collector shall accept the payment made by
142 the owner of record and refund within 60 days any payment made
143 by the person claiming adverse possession. Such refunds do not
144 require approval from the Department of Revenue.

145 Section 3. This act shall take effect July 1, 2010.