

By Senator Bennett

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1 A bill to be entitled

2 An act relating to the encroachment onto real property
3 of others; providing that, in the absence of an
4 easement or agreement, a person may not erect a
5 building or other structure on his or her own land if
6 any part of the building or structure encroaches upon
7 the adjoining premises; requiring the landowner to
8 remove the encroaching building or structure, or
9 specified portions thereof; providing that the owner
10 of the land encroached upon has a cause of action
11 against the landowner who encroaches on the adjoining
12 premises; providing for an award of injunctive relief,
13 actual damages, costs, and attorney's fees to the
14 prevailing party; providing an effective date.

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

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18 Section 1. (1) In the absence of an easement or agreement,
19 a person may not erect a building or other structure on his or
20 her own land if any part of the building or structure, however
21 small, extends beyond the person's legally recorded boundary,
22 either above or below the surface, to encroach upon the
23 adjoining premises.

24 (2) The owner of the land on which the encroaching building
25 or structure is located shall remove all or that part of the
26 building or structure which extends beyond the boundary.

27 (3) The owner of the land encroached upon has a cause of
28 action in a court of competent jurisdiction against the
29 landowner whose building or structure encroaches on the

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30 adjoining premises. The court may award to the prevailing party
31 actual damages, costs, including reasonable attorney's fees, and
32 injunctive relief.

33 Section 2. This act shall take effect July 1, 2010.