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1 A bill to be entitled
2 An act relating to adverse possession; amending s. 95.18,
3 F.S.; specifying that occupation and maintenance of
4 property satisfies the requirements for possession for
5 purposes of gaining title to property via adverse
6 possession without color of title; requiring a person
7 seeking property by adverse possession to use a uniform
8 adverse possession return provided by the Department of
9 Revenue; requiring the property appraiser to notify the
10 owner of record of an adverse possession claim; requiring
11 that a person claiming adverse possession attest to the
12 truthfulness of the information provided in the return
13 under penalty of perjury; authorizing the Department of
14 Revenue to adopt emergency rules; requiring that the
15 property appraiser add certain information related to the
16 adverse possession claim to the parcel information on the
17 tax roll and prescribing conditions for removal of that
18 information; prescribing procedures and requirements for
19 adverse possession claims against a portion of an
20 identified parcel or against property to which the
21 property appraiser has not assigned a parcel number;
22 requiring the property appraiser to include a notation of
23 an adverse possession filing in any searchable property
24 database maintained by the property appraiser; amending s.
25 197.212, F.S.; excluding property subject to adverse
26 possession claims without color of title from provisions
27 authorizing the tax collector not to send a tax notice for
28 minimum tax bills; creating s. 197.3335, F.S.; requiring

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29 the tax collector to determine whether a duplicate tax
 30 payment is made by an adverse possessor; providing for
 31 priority of tax payments made by an owner of record who is
 32 subject to an adverse possession claim; providing for a
 33 refund of tax payments under certain conditions; providing
 34 for retroactive application of certain provisions
 35 governing procedures for administering a claim of adverse
 36 possession and establishing tax priority for owners of
 37 record; providing an effective date.

38

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

40

41 Section 1. Section 95.18, Florida Statutes, is amended to
 42 read:

43 95.18 Real property actions; adverse possession without
 44 color of title.—

45 (1) When the occupant has, or those under whom the
 46 occupant claims have, been in actual continued occupation of
 47 real property for 7 years under a claim of title exclusive of
 48 any other right, but not founded on a written instrument,
 49 judgment, or decree, the property actually occupied is ~~shall be~~
 50 held adversely if the person claiming adverse possession made a
 51 return, as required under subsection (3), of the property by
 52 proper legal description to the property appraiser of the county
 53 where it is located within 1 year after entering into possession
 54 and has subsequently paid, subject to s. 197.3335, all taxes and
 55 matured installments of special improvement liens levied against
 56 the property by the state, county, and municipality.

57 (2) For the purpose of this section, property is ~~shall be~~
 58 deemed to be possessed if the property has been ~~in the following~~
 59 ~~eases only:~~

60 (a) ~~When it has been~~ Protected by substantial enclosure;~~-~~

61 (b) ~~When it has been usually~~ Cultivated or improved in a
 62 usual manner; or-

63 (c) Occupied and maintained.

64 (3) A person claiming adverse possession under this
 65 section must make a return of the property by providing to the
 66 property appraiser a uniform return on a form provided by the
 67 Department of Revenue. The return must include all of the
 68 following:

69 (a) The name and address of the person claiming adverse
 70 possession.

71 (b) The date that the person claiming adverse possession
 72 entered into possession of the property.

73 (c) A full and complete legal description of the property
 74 that is subject to the adverse possession claim.

75 (d) A notarized attestation clause that states:
 76 UNDER PENALTY OF PERJURY, I DECLARE THAT I HAVE READ
 77 THE FOREGOING RETURN AND THAT THE FACTS STATED IN IT
 78 ARE TRUE AND CORRECT.

79 (e) A description of the use of the property by the person
 80 claiming adverse possession.

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

82
 83 The property appraiser shall refuse to accept a return if it
 84 does not comply with this subsection. The executive director of

85 the Department of Revenue is authorized, and all conditions are
 86 deemed met, to adopt emergency rules under ss. 120.536(1) and
 87 120.54(4) for the purpose of implementing this subsection. The
 88 emergency rules shall remain in effect for 6 months after
 89 adoption and may be renewed during the pendency of procedures to
 90 adopt rules addressing the subject of the emergency rules.

91 (4) Upon the submission of a return, the property
 92 appraiser shall:

93 (a) Send, via regular mail, a copy of the return to the
 94 owner of record of the property that is subject to the adverse
 95 possession claim, as identified by the property appraiser's
 96 records.

97 (b) Inform the owner of record that, under s. 197.3335,
 98 any tax payment made by the owner of record before April 1
 99 following the year in which the tax is assessed will have
 100 priority over any tax payment made by an adverse possessor.

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

104 (d) Maintain the return in the property appraiser's
 105 records.

106 (5) (a) If a person makes a claim of adverse possession
 107 under this section against a portion of a parcel of property
 108 identified by a unique parcel identification number in the
 109 property appraiser's records:

110 1. The person claiming adverse possession shall include in
 111 the return submitted under subsection (3) a full and complete
 112 legal description of the property sufficient to enable the

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113 property appraiser to identify the portion of the property
114 subject to the adverse possession claim.

115 2. The property appraiser may refuse to accept the return
116 if the portion of the property subject to the claim cannot be
117 identified by the legal description provided in the return, and
118 the person claiming adverse possession must obtain a survey of
119 the portion of the property subject to the claim in order to
120 submit the return.

121 (b) Upon submission of the return, the property appraiser
122 shall follow the procedures under subsection (4), and may not
123 create a unique parcel identification number for the portion of
124 property subject to the claim.

125 (c) The property appraiser shall assign a fair and just
126 value to the portion of the property, as provided in s. 193.011,
127 and provide this value to the tax collector to facilitate tax
128 payment under s. 197.3335(3).

129 (6) (a) If a person makes a claim of adverse possession
130 under this section against property to which the property
131 appraiser has not assigned a parcel identification number:

132 1. The person claiming adverse possession must include in
133 the return submitted under subsection (3) a full and complete
134 legal description of the property which is sufficient to enable
135 the property appraiser to identify the property subject to the
136 adverse possession claim.

137 2. The property appraiser may refuse to accept a return if
138 the property subject to the claim cannot be identified by the
139 legal description provided in the return, and the person
140 claiming adverse possession must obtain a survey of the property

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141 subject to the claim in order to submit the return.

142 (b) Upon submission of the return, the property appraiser
143 shall:

144 1. Assign a parcel identification number to the property
145 and assign a fair and just value to the property as provided in
146 s. 193.011;

147 2. Add a notation at the beginning of the first line of
148 the legal description on the tax roll that an adverse possession
149 claim has been submitted; and

150 3. Maintain the return in the property appraiser's
151 records.

152 (7) A property appraiser must remove the notation to the
153 legal description on the tax roll that an adverse possession
154 claim has been submitted and shall remove the return from the
155 property appraiser's records if:

156 (a) The person claiming adverse possession notifies the
157 property appraiser in writing that the adverse possession claim
158 is withdrawn;

159 (b) The owner of record provides a certified copy of a
160 court order, entered after the date the return was submitted to
161 the property appraiser, establishing title in the owner of
162 record;

163 (c) The property appraiser receives a certified copy of a
164 recorded deed, filed after the date of the submission of the
165 return, from the person claiming adverse possession to the owner
166 of record transferring title of property along with a legal
167 description describing the same property subject to the adverse
168 possession claim; or

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169 (d) The owner of record or the tax collector provides to
170 the property appraiser a receipt demonstrating that the owner of
171 record has paid the annual tax assessment for the property
172 subject to the adverse possession claim during the period that
173 the person is claiming adverse possession.

174 (8) The property appraiser shall include a clear and
175 obvious notation in the legal description of the parcel
176 information of any public searchable property database
177 maintained by the property appraiser that an adverse possession
178 return has been submitted to the property appraiser for a
179 particular parcel.

180 Section 2. Section 197.212, Florida Statutes, is amended
181 to read:

182 197.212 Minimum tax bill.—On the recommendation of the
183 county tax collector, the board of county commissioners may
184 adopt a resolution instructing the collector not to mail tax
185 notices to a taxpayer if ~~when~~ the amount of taxes shown on the
186 tax notice is less than an amount up to \$30. The resolution
187 shall also instruct the property appraiser that he or she may
188 ~~shall~~ not make an extension on the tax roll for any parcel for
189 which the tax would amount to less than an amount up to \$30. The
190 minimum tax bill so established may not exceed an amount up to
191 \$30. This section does not apply to a parcel of property that is
192 subject to an adverse possession claim pursuant to s. 95.18.

193 Section 3. Section 197.3335, Florida Statutes, is created
194 to read:

195 197.3335 Tax payments when property is subject to adverse
196 possession; refunds.—

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197 (1) Upon the receipt of a subsequent payment for the same
198 annual tax assessment for a particular parcel of property, the
199 tax collector must determine whether an adverse possession
200 return has been submitted on the particular parcel. If an
201 adverse possession return has been submitted, the tax collector
202 must comply with subsection (2).

203 (2) If a person claiming adverse possession under s. 95.18
204 pays an annual tax assessment on a parcel of property before the
205 assessment is paid by the owner of record, and the owner of
206 record subsequently makes a payment of that same annual tax
207 assessment before April 1 following the year in which the tax is
208 assessed, the tax collector shall accept the payment made by the
209 owner of record and refund within 60 days any payment made by
210 the person claiming adverse possession. Such refunds do not
211 require approval from the department.

212 (3) For claims of adverse possession for a portion of a
213 parcel of property as provided in s. 95.18(5), the tax collector
214 may accept a tax payment, based upon the value of the property
215 assigned by the property appraiser under s. 95.18(5)(c), from a
216 person claiming adverse possession for the portion of the
217 property subject to the claim. If the owner of record makes a
218 payment of the annual tax assessment for the whole parcel before
219 April 1 following the year in which the tax is assessed, the tax
220 collector shall refund within 60 days any payment previously
221 made for the portion of the parcel subject to the claim by the
222 person claiming adverse possession.

223 Section 4. This act shall take effect July 1, 2011, and
224 applies to adverse possession claims in which the return was

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225 | submitted on or after that date, except for the procedural
226 | provisions governing the property appraiser's administration of
227 | adverse possession claims included in s. 95.18(4)(c) and (d) and
228 | (7), Florida Statutes, and the provisions governing the payment
229 | of taxes included in s. 197.3335, Florida Statutes, as created
230 | by this act, which apply to adverse possession claims for which
231 | the return was submitted before, on, or after that date.