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LEGISLATIVE ACTION

Senate

House

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Floor: 1/AD/2R

04/25/2013 11:55 AM

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Senator Bradley moved the following:

**Senate Amendment (with title amendment)**

Delete everything after the enacting clause  
and insert:

Section 1. Subsections (1), (2), and (3) of section 95.18,  
Florida Statutes, are amended, and subsections (9) and (10) are  
added to that section, to read:

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

(1) When the possessor occupant has, ~~or those under whom  
the occupant claims have,~~ been in actual continued possession  
~~occupation~~ of real property for 7 years under a claim of title  
exclusive of any other right, but not founded on a written



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14 instrument, judgment, or decree, or when those under whom the  
15 possessor claims meet these criteria, the property actually  
16 possessed ~~occupied~~ is held adversely if the person claiming  
17 adverse possession:

18 (a) Paid, subject to s. 197.3335, all taxes and matured  
19 installments of special improvement liens levied against the  
20 property by the state, county, and municipality within 1 year  
21 after entering into possession;

22 (b) Made a return, as required under subsection (3), of the  
23 property by proper legal description to the property appraiser  
24 of the county where it is located within 30 days ~~1-year~~ after  
25 complying with paragraph (a) entering into possession and;

26 (c) Has subsequently paid, subject to s. 197.3335, all  
27 taxes and matured installments of special improvement liens  
28 levied against the property by the state, county, and  
29 municipality for all remaining years necessary to establish a  
30 claim of adverse possession.

31 (2) For the purpose of this section, property is deemed to  
32 be possessed if the property has been:

33 (a) Protected by substantial enclosure; or

34 (b) Cultivated, maintained, or improved in a usual manner;  
35 ~~or~~

36 ~~(c) Occupied and maintained.~~

37 (3) A person claiming adverse possession under this section  
38 must make a return of the property by providing to the property  
39 appraiser a uniform return on a form provided by the Department  
40 of Revenue. The return must include all of the following:

41 (a) The name and address of the person claiming adverse  
42 possession.



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

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

47 (d) A notarized attestation clause that states:

48  
49 UNDER PENALTY OF PERJURY, I DECLARE THAT I HAVE READ  
50 THE FOREGOING RETURN AND THAT THE FACTS STATED IN IT  
51 ARE TRUE AND CORRECT. I FURTHER ACKNOWLEDGE THAT THE  
52 RETURN DOES NOT CREATE ANY INTEREST ENFORCEABLE BY LAW  
53 IN THE DESCRIBED PROPERTY.

54  
55 (e) A description of the use of the property by the person  
56 claiming adverse possession.

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

58 (g) Dates of payment by the possessor of all outstanding  
59 taxes and matured installments of special improvement liens  
60 levied against the property by the state, county, or  
61 municipality under paragraph (1) (a).

62 (h) The following notice provision at the top of the first  
63 page, printed in at least 12-point uppercase and boldfaced type:

64  
65 THIS RETURN DOES NOT CREATE ANY INTEREST ENFORCEABLE  
66 BY LAW IN THE DESCRIBED PROPERTY.

67  
68 The property appraiser shall refuse to accept a return if it  
69 does not comply with this subsection. The executive director of  
70 the Department of Revenue is authorized, and all conditions are  
71 deemed met, to adopt emergency rules under ss. 120.536(1) and



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72 120.54(4) for the purpose of implementing this subsection. The  
73 emergency rules shall remain in effect for 6 months after  
74 adoption and may be renewed during the pendency of procedures to  
75 adopt rules addressing the subject of the emergency rules.

76 (9) A person who occupies or attempts to occupy a  
77 residential structure solely by claim of adverse possession  
78 under this section commits trespass under s. 810.08.

79 (10) A person who occupies or attempts to occupy a  
80 residential structure solely by claim of adverse possession  
81 under this section and offers the property for lease to another  
82 commits theft under s. 812.014.

83 Section 2. Subsection (1) of section 197.3335, Florida  
84 Statutes, is amended to read:

85 197.3335 Tax payments when property is subject to adverse  
86 possession; refunds.—

87 (1) Upon the receipt of a subsequent payment for the same  
88 annual tax assessment for a particular parcel of property, the  
89 tax collector must determine whether an adverse possession  
90 return has been submitted on the particular parcel. If an  
91 adverse possession return has been submitted, or is submitted  
92 within 30 days of the earlier payment, the tax collector must  
93 comply with subsection (2).

94 Section 3. This act shall take effect July 1, 2013.

95  
96 ===== T I T L E A M E N D M E N T =====

97 And the title is amended as follows:

98 Delete everything before the enacting clause  
99 and insert:

100 A bill to be entitled



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101 An act relating to adverse possession; amending s.  
102 95.18, F.S.; revising terminology; requiring certain  
103 conditions to be met before real property is legally  
104 adversely possessed without color of title; requiring  
105 a person claiming adverse possession to make a return  
106 of the property by providing the return to the  
107 property appraiser using a uniform return; specifying  
108 the contents of the return; requiring the return to  
109 contain a notice; providing criminal penalties;  
110 amending s. 197.3335, F.S.; revising provisions to  
111 conform to changes made by the act; providing an  
112 effective date.