

Amendment No.

CHAMBER ACTION

Senate

House

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Representative Davis offered the following:

Amendment (with title amendment)

Remove 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 instrument, judgment, or decree, or when those under whom the possessor claims meet these criteria, the property actually

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16 possessed ~~occupied~~ is held adversely if the person claiming
17 adverse possession:

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

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

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

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

34 (a) Protected by substantial enclosure; or

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

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

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

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43 (a) The name and address of the person claiming adverse
44 possession.

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

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

49 (d) A notarized attestation clause that states:

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

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

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

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

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

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

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70 The property appraiser shall refuse to accept a return if it
71 does not comply with this subsection. The executive director of
72 the Department of Revenue is authorized, and all conditions are
73 deemed met, to adopt emergency rules under ss. 120.536(1) and
74 120.54(4) for the purpose of implementing this subsection. The
75 emergency rules shall remain in effect for 6 months after
76 adoption and may be renewed during the pendency of procedures to
77 adopt rules addressing the subject of the emergency rules.

78 (9) A person who occupies or attempts to occupy a
79 residential structure solely by claim of adverse possession
80 under this section prior to making a return as required under
81 subsection (3), commits trespass under s. 810.08.

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

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

88 197.3335 Tax payments when property is subject to adverse
89 possession; refunds.—

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

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

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

Remove everything before the enacting clause and insert:

A bill to be entitled

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