

CHAPTER 2013-246

Committee Substitute for House Bill No. 903

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.

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

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

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

(b) 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 30 days 1 year after complying with paragraph (a) entering into possession and;

(c) 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 for all remaining years necessary to establish a claim of adverse possession.

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

(a) Protected by substantial enclosure; or

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

~~(c) Occupied and maintained.~~

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

- (a) The name and address of the person claiming adverse possession.
- (b) The date that the person claiming adverse possession entered into possession of the property.
- (c) A full and complete legal description of the property that is subject to the adverse possession claim.
- (d) A notarized attestation clause that states:

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

- (e) A description of the use of the property by the person claiming adverse possession.
- (f) A receipt to be completed by the property appraiser.
- (g) Dates of payment by the possessor of all outstanding taxes and matured installments of special improvement liens levied against the property by the state, county, or municipality under paragraph (1)(a).
- (h) The following notice provision at the top of the first page, printed in at least 12-point uppercase and boldfaced type:

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

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

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

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

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

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

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

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

Approved by the Governor June 28, 2013.

Filed in Office Secretary of State June 28, 2013.