

BILL ANALYSIS

Senate Research Center
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S.B. 947
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Jurisprudence
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AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Adverse possession is a legal means of obtaining property without holding title to the land through peaceful and continuous possession. It is a useful tool to resolve disputed property boundaries or to cultivate truly abandoned rural property, but some people in suburban areas of the state have tried to frivolously apply the law to steal homes when residents temporarily leave them vacant, casually known as "squatting." Stricter laws are needed to deter these unscrupulous activities.

S.B. 947 clarifies that an affidavit of adverse possession is not a document of title and requires a person claiming adverse possession to give 30 days notice to anyone holding an interest in the land under a deed. Further, the bill voids any affidavit of adverse possession that does not give a legal description of the property, include a copy of the 30-day notice, or the date the affiant took possession of the property.

As proposed, S.B. 947 amends current law relating to requirements for an affidavit of adverse possession of real property.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Subchapter B, Chapter 16, Civil Practice and Remedies Code, by adding Section 16.0235, as follows:

Sec. 16.0235. AFFIDAVIT OF ADVERSE POSSESSION. (a) Defines "affidavit of adverse possession" in this section.

(b) Provides an affidavit of adverse possession is not a document of title.

(c) Requires the affiant, not later than the 30th day before the date an affidavit of adverse possession is filed, to send written notice of the affiant's intent to adversely possess property to the last known address of each person who holds an interest in the property under a deed or other instrument filed in the deed records of the county in which the property is located.

(d) Requires that an affidavit of adverse possession be filed in the deed records of the county in which the real property is located. Requires that the affidavit include a legal description of the property that is the subject of the adverse possession, a copy of each notice sent as required by Subsection (c), and the date the affiant took actual and visible possession of the property.

(e) Prohibits the county clerk from recording an affidavit of adverse possession that does not comply with the requirements of this section.

(f) Provides that an affidavit that does not comply with the requirements of this section is void and is not admissible in evidence against any party in litigation to support a claim or defense based on a limitations period under this chapter.

SECTION 2. Makes application of this Act prospective.

SECTION 3. Effective date: September 1, 2013.