

HB 1664 -- Adverse Possession

Sponsor: Pollock

This bill establishes requirements for the taking of real property by adverse possession. In its main provisions, the bill:

- (1) Specifies that a person or entity is an adverse possessor of real property when the person or entity occupies another's property, with or without knowledge of the other person's or entity's ownership rights, that would give the owner a cause of action for ejectment;
- (2) Specifies that an adverse possessor gains title to the occupied property after the statute of limitations for an action to recover property has expired if the adverse possession claim has been right, open and notorious, continuous, exclusive, and actual;
- (3) Prohibits a claim of right from being required if the property owner cannot be ascertained in the records of the appropriate county recorder of deeds. A "claim of right" means a reasonable basis for the belief that the property belongs to the adverse possessor or property owner;
- (4) Specifies the instances where land will be deemed to have been possessed and occupied for the purposes of constituting an adverse possession founded upon a written instrument or a judgment or decree and specifies the instances where it is not founded upon a written instrument or a judgment or decree;
- (5) Deems a premises to have been adversely held if there has been continued occupation of the premises under a claim of right;
- (6) Specifies that possession of a tenant is deemed the possession of the landlord until 10 years after the tenancy terminates or the last payment of rent. After that time, a tenant may commence an adverse possession action; and
- (7) Prohibits adverse possession in regard to the existence of certain encroachments, including fences, hedges, shrubbery, sheds, and nonstructural walls and the acts of lawn mowing or similar maintenance across property boundary lines.