

DRAFT

SUMMARY

Requires person claiming property by adverse possession to hold hostile possession of property with color of title based on written conveyance.

A BILL FOR AN ACT

Relating to adverse possession of property; amending ORS 105.618 and 105.620.

Be It Enacted by the People of the State of Oregon:

SECTION 1. ORS 105.620 is amended to read:

105.620. (1) A person may acquire fee simple title to real property by adverse possession only if:

(a) The person, and the predecessors in interest of the person, have maintained actual, open, notorious, exclusive, hostile and continuous possession of the property for a period of 10 years;

(b) At the time the person claiming by adverse possession, or the person's predecessors in interest, first entered into possession of the property, the person entering into possession had the honest belief that the person was the actual owner of the property and that belief:

(A) By the person, and the person's predecessor in interest, continued throughout the vesting period;

(B) Had an objective basis; and

(C) Was reasonable under the particular circumstances; and

(c) The person proves each of the elements set out in this section by clear and convincing evidence.

(2)(a) A person maintains "hostile possession" of property if the pos-

1 session is [*under claim of right or*] with color of title. [*“Color of title” means*
2 *the adverse possessor claims under a written conveyance of the property or by*
3 *operation of law from one claiming under a written conveyance.*]

4 (b) Absent additional supporting facts, the grazing of livestock is insuffi-
5 cient to satisfy the requirements of subsection (1)(a) of this section.

6 **(3) As used in this section, “color of title” means the adverse**
7 **possessor claims under a written conveyance of the property or by**
8 **operation of law from one claiming under a written conveyance.**

9 [(3)] (4) As used in this section and ORS 105.005 and 105.615, “person”
10 includes, but is not limited to, the state and its political subdivisions as
11 created by statute.

12 **SECTION 2.** ORS 105.618 is amended to read:

13 105.618. A person may not acquire by adverse possession, as [*defined*]
14 **described** in ORS 105.620, property owned by a railroad or used for a rail-
15 road operation.

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