

House Bill 2855

Sponsored by COMMITTEE ON JUDICIARY

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

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 possession is [*under claim of right or*] with color of title. [*"Color of title" means the adverse possessor claims under a written conveyance of the property or by operation of law from one claiming under a written conveyance.*]

(b) Absent additional supporting facts, the grazing of livestock is insufficient to satisfy the requirements of subsection (1)(a) of this section.

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

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

SECTION 2. ORS 105.618 is amended to read:

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

NOTE: Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted. New sections are in **boldfaced** type.