

Senate Bill 739

Sponsored by Senator JOHNSON

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**.

Authorizes court to award damages to party losing property to adverse possession.

A BILL FOR AN ACT

Relating to adverse possession; creating new provisions; and amending ORS 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) A court may, in its discretion and after a separate evidentiary hearing, enter a supplemental judgment and money award for damages in favor of a party losing title to real property by adverse possession against the party prevailing in the claim to title. Damages may not exceed the value of the property lost plus the amount of property taxes and assessments paid on the property lost in the 10 years preceding the judgment of adverse possession. If the property lost was not separately taxed or assessed from the remainder of the property, the court shall equitably apportion the value of the property to the portion of the owner's property lost by adverse possession including, as appropriate, taking into account the nature, character and value of the property lost and of the remainder. A party awarded damages under this subsection is not a prevailing party for the purpose of awarding costs

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.

1 **or fees.**

2 [(3)] (4) As used in this section and ORS 105.005 and 105.615, “person” includes, but is not lim-
3 ited to, the state and its political subdivisions as created by statute.

4 **SECTION 2. The amendments to ORS 105.620 by section 1 of this 2021 Act apply to claims**
5 **for adverse possession filed on or after January 1, 2021.**

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