

ADVERSE POSSESSION

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House Bill 4364

Sponsor: Rep. Dave Agema

Committee: Judiciary

Complete to 5-4-11

A SUMMARY OF HOUSE BILL 4364 AS INTRODUCED 3-2-11

The bill would amend provisions regarding adverse possession contained in the Revised Judicature Act (MCL 600.5867 and 600.5867a). Under one amendment, beginning on the bill's effective date, a claim of adverse possession could not be maintained if the person against whom the claim was made (the person holding legal title) had paid all state and local taxes and special assessments levied against the real property during the time period prescribed in Section 5801 of the act.

Adverse possession, sometimes referred to as "squatter's rights," allows a person to lay claim to real property under certain conditions. In general, a person can get title to land owned by someone else by using the land exclusively, out in the open, without permission by the owner, and continuously and without interruption for the time period contained in state law (typically 15 years, but in some situations it can be as short as five years). Most frequently, adverse possession occurs when a person places a fence on a neighbor's lawn; if the neighbor does not contest the action within the statutory time limit, the person can claim legal title to that property.

Currently, Section 5867 of the act specifies that in every action for the recovery or possession of real estate, the person establishing the legal title to the premises is presumed to have been in possession of the premises within the time limited by law for bringing such action, except for two specified situations. One of those situations is when the property had been possessed adversely to legal title by a person making claim to the property or by those from or under whom he or she claims. House Bill 4364 would amend this provision in the following ways:

- Make a claim of adverse possession subject to Section 5867a of the act, which would be added by the bill and is discussed below.
- Replace the terms "real estate" and "premises" with "real property."
- Add that the occupation of the real property by any other person was presumed to be in subordination to the legal title except in specified situations.
- Replace "time limited by law" with "limits prescribed in Section 5801 of the act."
- Make several changes of an editorial nature for clarity.

New Section 5867a. The bill would create an exception that would prevent a claim of adverse possession from going forward. Beginning on the bill's effective date, a claim of adverse possession could not be maintained if the person against whom the claim was

made (the person holding legal title) had paid all state and local taxes and special assessments levied against the real property during the time period prescribed in Section 5801 of the act.

FISCAL IMPACT:

The bill would have no significant fiscal impact on state and local government.

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■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.