

1 HB626
2 168743-1
3 By Representative Carns
4 RFD: Judiciary
5 First Read: 07-MAY-15

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8 SYNOPSIS: Currently, title to land may be acquired by
9 adverse possession based on statutory adverse
10 possession or based on the common law doctrine of
11 adverse possession by prescription.

12 This bill would provide that use of real
13 property made pursuant to licenses, servitudes,
14 implication, or created expressly by implication,
15 or by necessity may not be construed as adverse to
16 the interest of the owner of the real property.

17
18 A BILL
19 TO BE ENTITLED
20 AN ACT

21
22 To amend Section 6-5-200, Code of Alabama 1975,
23 relating to statutory rights to land by adverse possession; to
24 provide that use of real property made pursuant to licenses,
25 servitudes, implication, or created expressly by implication,
26 or by necessity may not be construed as adverse to the
27 interest of the owner of the real property.

1 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

2 Section 1. Section 6-5-200, Code of Alabama 1975, is
3 amended to read as follows:

4 "§6-5-200.

5 "(a) Adverse possession cannot confer or defeat
6 title to land unless:

7 "(1) The party setting it up ~~shall show~~ shows that a
8 deed or other color of title purporting to convey title to him
9 or her has been duly recorded in the office of the judge of
10 probate of the county in which the land lies for 10 years
11 before the commencement of the action;

12 "(2) He or she and those through whom he or she
13 claims shall have annually listed the land for taxation in the
14 proper county for 10 years prior to the commencement of the
15 action if the land is subject to taxation; or

16 "(3) He or she derives title by descent cast or
17 devise from a predecessor in the title who was in possession
18 of the land.

19 "(b) If the period during which the party's deed or
20 color of title has been on record, added to the time during
21 which the deeds or color of title of those through whom he or
22 she claims have been on record, amounts to 10 years, he or she
23 may defend or prosecute on his or her adverse possession, and
24 an inadvertent failure to list the land for taxation, any
25 unintentional mistake in the description of the assessment or
26 unintentional omission of any part of it from the assessment

1 during the period of 10 years shall not bar the party of his
2 or her action or defense on his or her adverse possession.

3 "(c) This section shall not be construed to affect
4 in any way a title perfect by adverse possession before the
5 adoption of this Code, nor to deprive any person of his or her
6 rights under Sections 6-6-286 through 6-6-289, nor to affect
7 cases involving a question as to boundaries between
8 coterminous owners.

9 "(d) Use of real property made pursuant to licenses,
10 servitudes, implication, or created expressly by implication,
11 or by necessity may not be construed as adverse to the
12 interest of the owner of the real property."

13 Section 2. This act shall become effective
14 immediately following its passage and approval by the
15 Governor, or its otherwise becoming law.