



# RETURN OF REAL PROPERTY IN ATTEMPT TO ESTABLISH ADVERSE POSSESSION WITHOUT COLOR OF TITLE

Section 95.18, Florida Statutes

DR-452  
R. 07/13  
Provisional  
Effective 01/14

## THIS RETURN DOES NOT CREATE ANY INTEREST ENFORCEABLE BY LAW IN THE DESCRIBED PROPERTY

For residential structures, a person who occupies or attempts to occupy a residential structure solely by claim of adverse possession prior to making a return, commits trespass under s. 810.08, F.S. A person who occupies or attempts to occupy a residential structure solely by claim of adverse possession and offers the property for lease to another commits theft under s. 812.014, F.S.

### COMPLETED BY ADVERSE POSSESSION CLAIMANT

The person claiming adverse possession (claimant) must file this return with the property appraiser in the county where the property is located as required in [s. 95.18\(1\), F.S.](#)

Name of claimant(s)			
Mailing address		Phone	
		Parcel ID, if available	
		<input type="checkbox"/> the property claimed is only a portion of this parcel ID	
Date of filing		Date claimant entered into possession of property	

Legal description of property claimed Fields will expand online, or you may add pages.  
Must be full and complete. If the property appraiser cannot identify the property from the legal description, you may be required to obtain a survey.

This property has been: (Check all that apply.)	<input type="checkbox"/> protected by substantial enclosure	<input type="checkbox"/> cultivated, maintained, or improved in a usual manner
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Describe your use of the property, in detail below.

Dates of payments of any outstanding taxes or liens levied by the state, county or municipality:

Under penalty of perjury, I declare that I have read the foregoing return and that the facts stated in it are true and correct. I further acknowledge that the return does not create any interest enforceable by law in the described property.

Signature of claimant(s) \_\_\_\_\_  
\_\_\_\_\_

State of Florida  
County of \_\_\_\_\_

This instrument was sworn to and subscribed before me on \_\_\_\_\_ by \_\_\_\_\_,  
personally known to me or who produced \_\_\_\_\_ as identification.

\_\_\_\_\_  
Signature and seal, notary public

### COMPLETED BY PROPERTY APPRAISER

Received in the office of the property appraiser of \_\_\_\_\_ County, Florida, on \_\_\_\_\_.  
A signed copy of this return has been delivered to the claimant(s). A copy will be sent to the owner of record.

\_\_\_\_\_  
Signature, property appraiser or deputy

\_\_\_\_\_  
Date

### TO THE OWNER OF RECORD

A tax payment made by the owner of record before April 1 the year after the taxes were assessed will have priority over a payment made by the claimant. An adverse possession claim will be removed if the owner of record or tax collector furnishes a receipt to the property appraiser showing payment of taxes by the owner of record during the period of the claim. (S. 95.18, F.S.)

**This return is a public record and may be inspected by any person under s. 119.01, F.S.**

## Important Information:

The Lake County Property Appraiser's office **DOES NOT** provide legal advice on how to adversely possess property. We cannot advise you on steps to take to satisfy the requirements of law pertaining to adverse possession.

It is recommended that any person(s) or entity filing form DR-452 with the Property Appraiser review Florida Statutes [95.16](#) and [95.18](#) pertaining to adverse possession prior to such filing.

**Therefore, you are herein advised to seek and retain legal counsel in any adverse possession matter.**

By signing below I acknowledge that the Property Appraiser's role in Adverse Possession matters is administrative only as defined in Florida Statute 95.18. I understand that the Property Appraiser has no enforcement nor judicial authority in matters regarding adverse possession. I understand I have been advised to seek legal counsel to address any questions or concerns I have in this matter either currently or at a later date.

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Print Name

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Signature

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Date

The following information regarding adverse possession is being provided to assist in understanding the adverse possession process. The Lake County Property Appraiser does not provide legal advice and this information should not be construed as such. It is recommended that any person(s) or entity intending to file a form DR-452 with the Property Appraiser review Florida Statutes [95.16](#) and [95.18](#) pertaining to adverse possession and/or seek legal counsel.

## **Adverse Possession**

Ownership of real property is typically established by deed or other legal instrument. Adverse possession is a means of attempting to gain legal title to real property by continuous possession of the property for at least seven (7) successive years in an open, notorious, and visible manner such that it conflicts with the owner's right to the property.

In addition to the seven year requirement, Florida law requires that an adverse possessor meet either of the two following requirements:

Adverse Possession under Color of Title: The adverse possession claimant must have some sort of title on which to base a claim of title.

Adverse Possession without Color of Title: The adverse possession claimant has no claim to title and must have paid property taxes on the land claimed to be adversely possessed.

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### **Adverse Possession under Color of Title**

Florida Statute 95.16, relating to Adverse Possession under Color of Title, reads as follows:

*When the occupant, or those under whom the occupant claims, entered into possession of real property under a claim of title exclusive of any other right, founding the claim on a written instrument as being a conveyance of the property, or on a decree or judgment, and has for 7 years been in continued possession of the property included in the instrument, decree, or judgment, the property is held adversely. If the property is divided into lots, the possession of one lot shall not be deemed a possession of any other lot of the same tract. Adverse possession commencing after December 31, 1945, shall not be deemed adverse possession under color of title until the instrument upon which the claim of title is founded is recorded in the office of the clerk of the circuit court of the county where the property is located.*

An adverse possessor can claim property under color of title if he meets the following two conditions:

1. The adverse possessor must show that the claim of title to the land is based on a recorded written document (even if faulty). The adverse possessor must genuinely believe this document to be the correct claim of title.

**NOTE:** This sometimes occurs when a record owner dies and the owners' heirs convey the property to another person without probating the estate first to establish the heirs of the estate. We normally suggest that the occupant see an attorney before filing their adverse possession under color of title claim as this sometimes can be cleared up with a simple probate of an estate.

2. The adverse possessor must show possession of the property by doing one of the following to the land for at least seven years: (a.) cultivating or making improvements; (b.) protecting by a substantial enclosure (usually a fence).

### **Adverse Possession without Color of Title**

The definition of Adverse Possession without Color of Title is taken from Florida Statute 95.18.

*When the occupant or those under whom the occupant claims have been in actual continued occupation of real property for 7 years under a claim of title exclusive of any other right, but not founded on a written instrument, judgment, or decree, the property actually occupied shall be held adversely if the person claiming adverse possession made a return of the property by proper legal description to the property appraiser of the county where it is located within 1 year after entering into possession and has subsequently paid all taxes and matured installments of special improvement liens levied against the property by the state, county and municipality.*

When an individual continuously occupies a property for seven consecutive years, without a legal document to support a claim to the land's title, he may establish adverse possession by doing both of the following:

1. Filing a return (DR-452) including a full and complete legal description with the county Property Appraiser's office within one (1) year of entry onto the property.

**NOTE:** Per Florida Statute 95.18 our office is required to accept a claim of adverse possession when presented to this office provided that the form contains a complete legal description and is properly completed. We are not required to substantiate the claim and do not take it upon ourselves to make that determination. We are required by the statute to notify the owner of record so they are aware that a claim of adverse possession has been filed against their property and can seek legal advice. Additionally, we are required to place a notation on the first line of the tax roll legal description that a form DR-452 is on file.

2. Paying all taxes and liens assessed during possession of the property

The property is considered adversely possessed only if the individual cultivated or improved the land, protected the land by a substantial enclosure, which is usually a fence, or occupied and maintained the property.

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### **Frequently Asked Question:**

1. **How can I get the adverse possession claim removed from my property?**

According to statute, an adverse possession claim can be removed one of four ways:

- i. The person claiming adverse possession notifies the property appraiser in writing that their adverse possession claim is withdrawn;
- ii. The owner of record provides a certified copy of a court order entered after the date of the claim establishing title in the owner of record;

- iii. The property appraiser receives a certified copy of a recorded deed, filed after submission of the adverse possession claim, from the person claiming adverse possession to the owner of record describing the same property subject to the adverse possession claim;
- iv. The owner of record or the tax collector provides to the property appraiser a receipt demonstrating that the owner of record has paid the annual tax assessment for the property subject to the adverse possession claim during the period that the person is claiming adverse possession.

According to F.S. 197.3335 if the adverse possession claimant pays the taxes on a parcel and then the owner of record pays his/her taxes prior to April 1<sup>st</sup> the tax payment made by the adverse possession claimant will be refunded and their adverse possession claim can be removed.

**Note: Statutory changes that took effect July 1, 2011 apply to adverse possession claims in which the return was submitted on or after that date, except for the procedural provisions governing the property appraiser's administration of adverse possession claims included in s. 95.18(4)(c) and (d) and (7), Florida Statutes, and the provisions governing the payment of taxes included in s. 197.3335, Florida Statutes, as created by this act, which apply to adverse possession claims for which the return was submitted before, on, or after that date.**