

ASSEMBLY, No. 653

STATE OF NEW JERSEY 221st LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2024 SESSION

Sponsored by:

Assemblyman SEAN T. KEAN

District 30 (Monmouth and Ocean)

SYNOPSIS

Establishes time periods for adverse possession of certain property.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel.



1 AN ACT concerning certain property rights, supplementing Title 2A
2 of the New Jersey Statutes and repealing parts of the statutory
3 law.
4

5 **BE IT ENACTED** by the Senate and General Assembly of the State
6 of New Jersey:
7

8 1. If a person, for 20 years, has possessed real estate, all claims
9 that may be made by any person for the recovery of the real estate
10 shall be barred from any claim of right and that person shall have
11 good title in the real estate, except as otherwise set forth in sections
12 2 and 3 of P.L. , c. (C.) (pending before the Legislature as
13 this bill), provided that during that period the possession has been:

- 14 a. actual, open and notorious, of a kind that would notify others
15 of the claim to the property;
16 b. inconsistent with ownership of the property by others; and
17 c. continued uninterruptedly for the requisite period by the
18 person and the person's predecessors by occupancy, descent,
19 conveyance or otherwise.
20

21 2. Except as provided in section 3 of
22 P.L. , c. (C.) (pending before the Legislature as this bill),
23 this act shall not limit the estate, right, title or interest of, or bar any
24 claim or action by:

- 25 a. The State, any agency thereof, or any political subdivision of
26 the State, including, but not limited to, its instrumentalities and
27 independent authorities, or any county or municipality, or any
28 agency or authority of a county or municipality, with respect to real
29 property or any estate, right, title or interest therein, that was at any
30 time used or intended to be used for a public or transportation,
31 environmental, recreational, governmental, educational, charitable,
32 institutional or other similar purpose or held in public trust, whether
33 such use be at the time of acquisition or sometime thereafter; or
34 b. A public utility, as the same is defined in R.S.48:2-13, with
35 respect to real property or any estate, right, title or interest therein,
36 used or intended to be used, for the provision of utility service to
37 the public.
38 c. A non-profit or charitable entity with respect to unimproved
39 land used or intended to be used for the purpose of conservation,
40 recreation, education or environmental protection.
41

42 3. If a person, for 40 years, has possessed real estate that was
43 tidal-flowed prior to that period and not tidal-flowed at any time
44 thereafter, the State shall be barred from any claim of riparian rights
45 and the person shall have good title in the real estate, subject
46 nevertheless to applicable laws regarding land use and
47 environmental regulation, provided that the possession:

- 1 a. meets the conditions of subsections a., b., and c. of section 1
2 of P.L. , c. (C.) (pending before the Legislature as this
3 bill);
4 b. has been based on an instrument describing the property that
5 has been recorded as provided by law; and
6 c. has been accompanied by payment of all real estate taxes
7 and other assessments on the property.
8
9 4. The period of possession of real estate required by
10 P.L. , c. (C.) (pending before the Legislature as this bill)
11 shall include possession by the person and all others with whom the
12 person is in privity.
13
14 5. N.J.S.2A:14-6, N.J.S.2A:14-7, N.J.S.2A:14-8, N.J.S.2A:14-
15 30 and N.J.S.2A:14-31 are repealed.
16
17 6. This act shall take effect immediately and shall apply to
18 periods of possession of real estate occurring prior to, on, and after
19 the effective date.
20
21

22 STATEMENT

23
24 This bill establishes a statutory scheme for adverse possession by
25 repealing conflicting statutes and establishing a 20-year adverse
26 possession period. The bill also clarifies certain case law
27 concerning publicly owned property, and protects the rights of
28 owners of certain property that was tidal-flowed more than 40 years
29 ago.
30 ADVERSE POSSESSION: Currently, N.J.S.2A:14-30 and 2A:14-31
31 provide that an adverse possessor can acquire title to real estate
32 after 30 years' uninterrupted possession (or after 60 years if the
33 property consists of woodlands or uncultivated tracts). However,
34 these provisions are not consistent with two other statutes,
35 N.J.S.2A:14-6 and 2A:14-7, which set out a 20-year statute of
36 limitations for actions concerning real estate, such as actions by a
37 record owner to recover possession.
38 In *J & M Land Co. v. First Union Nat'l Bank*, 166 N.J. 493
39 (2001), the New Jersey Supreme Court held that an adverse
40 possessor does not acquire title after 20 years, though after 20 years
41 the adverse possessor may defeat an action by a record owner to
42 recover possession. The adverse possessor can acquire title only
43 after 30 years' possession (or, where applicable, 60 years'
44 possession). The Supreme Court noted that the Legislature might
45 choose to clarify the matter by enacting appropriate legislation, 166
46 N.J. at 521, and this bill is intended, in part, to provide clarification
47 by establishing a 20-year adverse possession period.

1 Under section 1 of the bill, if a person, for 20 years, has
2 possessed real estate, all claims that may be made by any person for
3 the recovery of the real estate are barred from any claim of right
4 and that person will have good title in the real estate, except as
5 otherwise set forth in sections 2 and 3 of the bill, provided that
6 during that period the possession has been:

- 7 -- actual, open and notorious, of a kind that notifies others of the
8 claim to the property;
9 -- inconsistent with ownership of the property by others; and
10 -- continued uninterruptedly for the requisite period by the person
11 and the person's predecessors by occupancy, descent, conveyance
12 or otherwise.

13 PUBLICLY-OWNED OR PUBLIC UTILITY PROPERTY: Section 2 of the
14 bill provides that except as provided in section 3, the bill does not
15 limit the estate, right, title or interest of, or bar any claim or action
16 by:

- 17 -- the State, any State agency, or any political subdivision of the
18 State, with respect to real property that was used or intended to be
19 used for a public or transportation, environmental, recreational,
20 governmental, educational, charitable, institutional or other similar
21 purpose or held in public trust;
22 -- a public utility with respect to real property or any estate, right,
23 title or interest therein, used or intended to be used, for the
24 provision of utility service to the public; or
25 -- a non-profit or charitable entity with respect to unimproved land
26 used or intended to be used for the purpose of conservation,
27 recreation, education or environmental protection.

28 TIDAL-FLOWED PROPERTY: Section 3 of the bill provides that the
29 20-year adverse possession period also does not apply to certain
30 property that was previously tidal-flowed for which the State may
31 have a claim for rights. The bill provides that if a person, for 40
32 years, had possessed such property and paid taxes on it; if title was
33 properly recorded as required by law; and if the property was tidal-
34 flowed prior to the 40-year period of possession but not tidal-
35 flowed at any time thereafter, the State's claim to the property is
36 barred and the person is given good title in the real estate, subject
37 nevertheless to applicable laws regarding land use and
38 environmental regulation. As a result, this previously tidal-flowed
39 property requires a greater, 40-year adverse possession period
40 against the State and other conditions, instead of the 20-year period
41 otherwise applicable to adverse possession claims pursuant to the
42 bill.

43 FURTHER PROVISIONS:

44 Section 4 of the bill provides that the required period of
45 possession of real estate includes possession by the person and all
46 others with whom the person is in privity.

1 To effectuate changes to the State's adverse possession law,
2 section 5 of the bill repeals N.J.S.2A:14-6, N.J.S.2A:14-7,
3 N.J.S.2A:14-8, N.J.S.2A:14-30 and N.J.S.2A:14-31 concerning
4 adverse possession.

5 Section 6 provides for the bill to take effect immediately and to
6 apply to periods of possession of real estate occurring prior to, on,
7 and after the effective date.

8 The bill is based, in part, on recommendations by the New Jersey
9 Law Revision Commission in its 2008 report relating to adverse
10 possession.