

# MAINE STATE LEGISLATURE

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# 118th MAINE LEGISLATURE

## FIRST REGULAR SESSION-1997

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H.P. 539

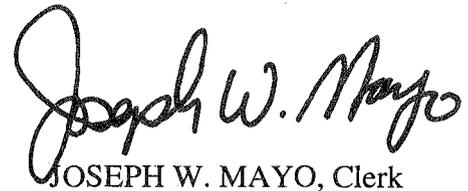
House of Representatives, February 4, 1997

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**An Act to Limit Adverse Possession.**

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Reference to the Committee on Judiciary suggested and ordered printed.

  
JOSEPH W. MAYO, Clerk

Presented by Representative SKOGLUND of St. George.  
Cosponsored by Representatives: CHARTRAND of Rockland, DESMOND of Mapleton,  
SIROIS of Caribou, Senators: DAGGETT of Kennebec, KILKELLY of Lincoln.

Be it enacted by the People of the State of Maine as follows:

2  
4       **Sec. 1. 14 MRSA §812**, as amended by PL 1971, c. 450, §1, is further amended to read:

6       **§812. Acquisition of rights-of-way and easements by adverse possession; notice to prevent**

8  
10       No person, class of persons or the public shall ~~may~~ acquire a right-of-way or other easement through, in, upon or over the land of another by the adverse use and enjoyment thereof, unless  
12       it is continued uninterruptedly for 20 years and unless the right-of-way or easement is necessary to gain access to otherwise  
14       landlocked property. If a ~~person~~ landowner apprehends that a right-of-way or other easement in or over ~~his~~ the landowner's  
16       land may be acquired by custom, use or otherwise by any person, class of persons or the public, ~~he~~ the landowner may give public  
18       notice of ~~his~~ intention to prevent the acquisition of such easement by causing a copy of such notice to be posted in some  
20       conspicuous place upon the premises for 6 successive days, or, in the case of land in the unorganized territory, by causing a copy  
22       of such notice to be recorded in the registry of deeds for the county where ~~his~~ the land lies, and such posting or recording  
24       ~~shall-prevent~~ prevents the acquiring of such easement by use for any length of time thereafter; or ~~he~~ the landowner may prevent a  
26       particular person or persons from acquiring such easement by causing an attested copy of such notice to be served by an  
28       officer qualified to serve civil process upon ~~him-or-them~~ that person or persons in hand or by leaving it at ~~his-or-their~~ that person's or those persons' dwelling house, or, if the person to  
30       whom such notice is to be given is not in the State, such copy may be left with the tenant or occupant of the estate, if any. If  
32       there is no such tenant or occupant, a copy of such notice shall must be posted for 6 successive days in some conspicuous place  
34       upon such estate. Such notice from the agent, guardian or conservator of the owner of land ~~shall-have~~ has the same effect  
36       as a notice from the owner ~~himself~~. A certificate by an officer qualified to serve civil process that such copy has been served  
38       or posted ~~by-him~~ as provided, if made upon original notice and recorded with it, within 3 months after the service or posting in  
40       the registry of deeds for the county or district in which the land lies, ~~shall-be~~ is conclusive evidence of such service or  
42       posting.

44       **Sec. 2. 14 MRSA §816** is amended to read:

46       **§816. Limitations of actions for uncultivated lands in incorporated places**

2 No real or mixed action for the recovery of uncultivated  
lands or of any undivided fractional part thereof, situated in  
4 any place incorporated for any purpose, shall may be commenced or  
maintained against any person, or entry made thereon on those  
6 lands, when such that person or those under whom he the person  
claims have, continuously for the 20 years next immediately prior  
8 to the commencement of such action or the making of such entry,  
claimed said those lands or said undivided fractional part  
thereof under recorded deeds; and have, during said that 20  
10 years, paid all taxes assessed on said the lands or on such  
undivided fractional part thereof, however said that tax may have  
12 been assessed whether on an undivided fractional part of said the  
lands or on a certain number of acres thereof equal approximately  
14 to the acreage of said the lands or of said the fractional part  
thereof; and have, during said the 20 years, held such exclusive,  
16 peaceable, continuous and adverse possession thereof as comports  
with the ordinary management of such lands or of undivided  
18 fractional parts of such lands in this State; and that land or  
undivided fractional part of that land is necessary as a  
20 right-of-way or easement to gain access to otherwise landlocked  
property.

22 **Sec. 3. 14 MRSA §6658** is amended to read:

24 **§6658. Action by owners of wild land**

26 Any person or persons claiming an estate of freehold in wild  
28 lands or ~~in~~ an interest in common and undivided therein, if the  
plaintiff and those under whom he the plaintiff claims has have  
30 for 4 years next immediately prior to the filing of the complaint  
held such open, exclusive, peaceable, continuous and adverse  
32 possession thereof as comports with the ordinary management of  
wild lands in this State and if that land or undivided fractional  
34 part of that land is necessary as a right-of-way or easement to  
gain access to otherwise landlocked property, may maintain an  
36 action to quiet or establish the title thereto or to remove a  
cloud from the title thereto, as provided in sections 6655 to  
38 6657.

40 **Sec. 4. 36 MRSA §1286**, as amended by PL 1981, c. 706, §16, is  
further amended to read:

42 **§1286. Limitation on recovery of tax sold real estate in**  
44 **unorganized places**

46 When the State has taxed real estate in unorganized  
territory, and the State Tax Assessor has conveyed it, or part of  
48 it, for nonpayment of tax, by deed purporting to convey the  
interest of the State by forfeiture for such nonpayment, or it or  
50 a part of it has been conveyed under authority given by the

2 Legislature by a deed purporting to convey the interest of the  
State acquired under sections 1281 to 1283, and the pertinent  
4 records of the State Tax Assessor show that the grantee, ~~his or~~  
the grantee's heirs or assigns, ~~has~~ have paid the state and  
6 county taxes thereon, or on ~~his~~ those acres or interest therein,  
as stated in the deed, continuously for the 20 years subsequent  
8 to such deed; and when a person claims under a recorded deed  
describing real estate in unorganized territory taxed by the  
10 State, and the pertinent records of the State Tax Assessor show  
that he the person has, ~~by himself personally~~ or by ~~his~~ the  
person's predecessors under that deed, paid the state and county  
12 taxes thereon, or on ~~his~~ those acres or interest therein as  
stated in the deed, continuously for 20 years subsequent to  
14 recording that deed; and whenever, in either case, it appears  
that the person claiming under such a deed, and those under whom  
16 he the person claims, have, during that period, held such  
exclusive, peaceable, continuous and adverse possession thereof  
18 as comports with the ordinary management of real estate in  
unorganized territory in this State and the land being claimed  
20 under such a deed constitutes a right-of-way or easement that is  
necessary to gain access to otherwise landlocked property, and it  
22 further appears that during such period no former owner, or  
person claiming under ~~him~~, a former owner has paid any such tax,  
24 or any assessment by the county commissioners, or done any other  
act indicative of ownership, no action may be maintained by a  
26 former owner, or those claiming under ~~him~~, a former owner to  
recover such real estate or to avoid such deed, unless commenced  
28 within those 20 years. That payment ~~shall give~~ gives the grantee  
or person claiming, ~~his or the grantee's or claimant's~~ heirs or  
30 assigns, a right of entry and seizin in the whole, or such part,  
in common and undivided, of the whole tract as the deed states,  
32 or as the number of acres in the deed is to the number of acres  
assessed.

34  
36 This section ~~shall apply~~ applies to rights and interests  
acquired under tax sales made by the State Tax Assessor for the  
38 nonpayment of taxes.

#### 40 SUMMARY

42 This bill limits adverse possession as a method by which to  
gain title to property by allowing it only when necessary to gain  
44 access to landlocked property.