

MAINE STATE LEGISLATURE

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118th MAINE LEGISLATURE

FIRST REGULAR SESSION-1997

Legislative Document

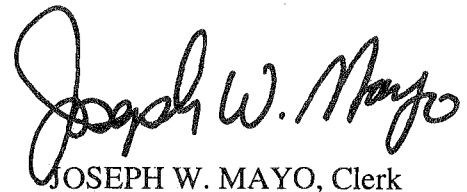
No. 730

H.P. 539

House of Representatives, February 4, 1997

An Act to Limit Adverse Possession.

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

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

40 SUMMARY

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