

# MAINE STATE LEGISLATURE

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# 119th MAINE LEGISLATURE

## FIRST REGULAR SESSION-1999

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Legislative Document

No. 860

H.P. 620

House of Representatives, February 2, 1999

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**An Act to Limit the Adverse Possession Laws.**

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Reference to the Committee on Judiciary suggested and ordered printed.

A handwritten signature in black ink that reads "Joseph W. Mayo".

JOSEPH W. MAYO, Clerk

Presented by Representative SKOGLUND of St. George.

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 it is continued uninterruptedly for 20 years and unless the right-of-way or easement is necessary to gain access to otherwise landlocked property. If a ~~person~~ landowner apprehends that a right-of-way or other easement in or over his the landowner's land may be acquired by custom, use or otherwise by any person, class of persons or the public, he the landowner may give public notice of his intention to prevent the acquisition of such easement by causing a copy of such notice to be posted in some conspicuous place upon the premises for 6 successive days, or, in the case of land in the unorganized territory, by causing a copy of such notice to be recorded in the registry of deeds for the county where his the land lies, and such posting or recording ~~shall-prevent~~ prevents the acquiring of such easement by use for any length of time thereafter; or he the landowner may prevent a particular person or persons from acquiring such easement by causing an attested copy of such notice to be served by an 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 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 there is no such tenant or occupant, a copy of such notice shall must be posted for 6 successive days in some conspicuous place upon such estate. Such notice from the agent, guardian or conservator of the owner of land ~~shall-have~~ has the same effect as a notice from the owner ~~himself~~. A certificate by an officer qualified to serve civil process that such copy has been served or posted ~~by-him~~ as provided, if made upon original notice and recorded with it, within 3 months after the service or posting in the registry of deeds for the county or district in which the land lies, ~~shall-be~~ is conclusive evidence of such service or 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  
4 lands or of any undivided fractional part thereof, situated in  
6 any place incorporated for any purpose, shall ~~may~~ be commenced or  
8 maintained against any person, or entry made ~~thereon~~ on those  
10 lands, when such that person has built a building that mistakenly  
12 lies across the boundary line or when those under whom he ~~the~~  
14 person claims have, continuously for the 20 years ~~next~~  
16 immediately prior to the commencement of such action or the  
18 making of such entry, claimed ~~said~~ those lands or ~~said~~ undivided  
20 fractional part thereof under recorded deeds; and have, during  
22 said that 20 years, paid all taxes assessed on ~~said the~~ lands or  
on such undivided fractional part thereof, however ~~said that~~ tax  
may have been assessed whether on an undivided fractional part of  
said the lands or on a certain number of acres thereof equal  
approximately to the acreage of ~~said the~~ lands or of ~~said the~~  
fractional part thereof; and have, during ~~said the~~ 20 years, held  
such exclusive, peaceable, continuous and adverse possession  
thereof as comports with the ordinary management of such lands or  
of undivided fractional parts of such lands in this State; and  
that land or undivided fractional part of that land is necessary  
as a right-of-way or easement to gain access to otherwise  
landlocked property.

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

26 **§6658. Action by owners of wild land**

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

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

46 **§1286. Limitation on recovery of tax sold real estate in  
unorganized places**

48 When the State has taxed real estate in unorganized  
50 territory, and the State Tax Assessor has conveyed it, or part of  
it, for nonpayment of tax, by deed purporting to convey the  
interest of the State by forfeiture for such nonpayment, or it or  
52 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 or the  
23 person built a building that mistakenly lies across the boundary  
24 line, and it further appears that during such period no former  
25 owner, or person claiming under him, a former owner has paid any  
26 such tax, or any assessment by the county commissioners, or done  
27 any other act indicative of ownership, no action may be  
28 maintained by a former owner, or those claiming under him, a  
29 former owner to recover such real estate or to avoid such deed,  
30 unless commenced within those 20 years. That payment shall-give  
31 gives the grantee or person claiming, his or the grantee's or  
32 claimant's heirs or assigns, a right of entry and seizin in the  
33 whole, or such part, in common and undivided, of the whole tract  
34 as the deed states, or as the number of acres in the deed is to  
the number of acres assessed.

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

40

## 42 SUMMARY

42

44 This bill limits adverse possession in certain instances as  
45 a method by which to gain title to property by allowing it only  
46 when necessary to gain access to landlocked property or when the  
47 person claiming adverse possession builds a building that  
48 mistakenly lies across the boundary line.

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