

MAINE STATE LEGISLATURE

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125th MAINE LEGISLATURE

FIRST REGULAR SESSION-2011

Legislative Document

No. 621

S.P. 202

In Senate, February 17, 2011

An Act To Clarify Adverse Possession

Reference to the Committee on Judiciary suggested and ordered printed.

Joseph G. Carleton Jr.

JOSEPH G. CARLETON, JR.
Secretary of the Senate

Presented by Senator BLISS of Cumberland.

Cosponsored by Senators: GOODALL of Sagadahoc, HILL of York, Representatives: DILL of Cape Elizabeth, MOULTON of York, PRIEST of Brunswick.

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

2 **Sec. 1. 14 MRSA §817** is enacted to read:

3 **§817. Permissive and nonadverse acts**

4 For the purposes of determining the validity of a claim of adverse possession:

5 **1. De minimus encroachments.** The existence of de minimus nonstructural
6 encroachments, including but not limited to fences, hedges, shrubbery, plantings, sheds
7 and nonstructural walls, are deemed to be permissive and nonadverse; and

8 **2. Maintenance across boundary lines.** The act of lawn mowing or similar
9 maintenance across the boundary line of an adjoining landowner's property is deemed
10 permissive and nonadverse.

11 **SUMMARY**

12 This bill amends the adverse possession law to clarify in statute that certain actions
13 taken near property lines do not support a claim for adverse possession. De minimus
14 nonstructural encroachments and maintenance across boundary lines are deemed to be
15 permissive and not adverse, therefore defeating a claim that the actions show possession
16 and use of the property as actual, open, notorious, hostile, under claim of right,
17 continuous and exclusive for a period of at least 20 years. Examples of de minimus
18 nonstructural encroachments include but are not limited to fences, hedges, shrubbery,
19 plantings, sheds and nonstructural walls.

20 This bill is modeled on New York Laws of 2008, chapter 269, codified as Real
21 Property Actions and Proceedings Law, section 543. It is consistent with Weeks v.
22 Krysa, 2008 ME 120.