

SECOND REGULAR SESSION

# HOUSE BILL NO. 1664

## 96TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE POLLOCK.

5723L.01I

D. ADAM CRUMBLISS, Chief Clerk

### AN ACT

To amend chapter 442, RSMo, by adding thereto eight new sections relating to adverse possession.

*Be it enacted by the General Assembly of the state of Missouri, as follows:*

Section A. Chapter 442, RSMo, is amended by adding thereto eight new sections, to be known as sections 442.650, 442.652, 442.654, 442.656, 442.658, 442.660, 442.662, and 442.664, to read as follows:

**442.650. 1. A person or entity is an adverse possessor of real property when the person or entity occupies real property of another person or entity with or without knowledge of the other person's or entity's superior ownership rights, in a manner that would give the owner cause of action for ejectment.**

**2. An adverse possessor gains title to the occupied real property upon the expiration of the statute of limitations for an action to recover real property, provided that the occupancy, as described in sections 442.654 and 442.658, has been adverse, under claim of right, open and notorious, continuous, exclusive, and actual.**

**3. A "claim of right" means a reasonable basis for the belief that the property belongs to the adverse possessor or property owner, as the case may be. Notwithstanding any other provision of sections 442.650 to 442.664, claim of right shall not be required if the owner or owners of the real property throughout the statutory period cannot be ascertained in the records of recorder of deeds of the county where such real property is situated, and located by reasonable means.**

**442.652. If the occupant or those under whom the occupant claims entered into the possession of the premises under claim of right, exclusive of any other right, founding the**

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

3 claim upon a written instrument, as being a conveyance of the premises in question, or  
4 upon the decree or judgment of a court of competent jurisdiction, and there has been a  
5 continued occupation and possession of the premises included in the instrument, decree,  
6 or judgment, or some part thereof, for ten years, under the same claim, the premises so  
7 included are deemed to have been held adversely; except that when it consists of a tract  
8 divided into lots, the possession of one lot is not deemed a possession of any other lot.

442.654. For purposes of constituting an adverse possession, founded upon a  
2 written instrument or judgment or decree, land is deemed to have been possessed and  
3 occupied in any of the following cases:

4 (1) Where there have been acts sufficiently open to put a reasonably diligent owner  
5 on notice;

6 (2) Where it has been protected by a substantial enclosure, except as provided in  
7 section 442.664;

8 (3) Where although not enclosed, it has been used for the supply of fuel or fencing  
9 timber, either for the purposes of husbandry or the ordinary use of the occupant;

10 (4) Where a known farm or a single lot has been partly improved, the portion of the  
11 farm or a single lot that has been left not cleared or not enclosed, according to the usual  
12 course and custom of the adjoining country, is deemed to have been occupied for the same  
13 length of time as the part improved and cultivated.

442.656. Where there has been an actual continued occupation of premises under  
2 a claim of right, exclusive of any other right, but not founded upon a written instrument  
3 or a judgment or decree, the premises so actually occupied, and no others, are deemed to  
4 have been held adversely.

442.658. For purposes of constituting an adverse possession not founded upon a  
2 written instrument or a judgment or decree, land is deemed to have been possessed and  
3 occupied in either of the following cases, and no others:

4 (1) Where there have been acts sufficiently open to put a reasonably diligent owner  
5 on notice;

6 (2) Where it has been protected by a substantial enclosure, except as provided in  
7 subsection 1 of section 442.664.

442.660. Where the relation of landlord and tenant has existed, the possession of  
2 the tenant is deemed the possession of the landlord until the expiration of ten years after  
3 the termination of the tenancy, or where there has been no written leases until the  
4 expiration of ten years after the last payment of rent, notwithstanding that the tenant has  
5 acquired another title or has claimed to hold adversely to his or her landlord. However,

6 such presumption shall cease after the periods prescribed in this section and such tenant  
7 may then commence to hold adversely to his or her landlord.

442.662. Where the relation of tenants in common has existed, the occupancy of one  
2 tenant, personally or by his or her servant or tenant, is deemed to have been the possession  
3 of the other, notwithstanding that the tenant so occupying the premises has acquired  
4 another title or has claimed to hold adversely to the other. However, such presumption  
5 shall cease after the expiration of ten years of continuous exclusive occupancy by such  
6 tenant, personally or by his or her servant or tenant, or immediately upon an ouster by one  
7 tenant of the other and such occupying tenant may then commence to hold adversely to his  
8 or her cotenant.

442.664. 1. Notwithstanding any other provision of sections 442.650 to 442.664, the  
2 existence of de minimus nonstructural encroachments, including but not limited to fences,  
3 hedges, shrubbery, plantings, sheds, and nonstructural walls, shall be deemed to be  
4 permissive and nonadverse.

5 2. Notwithstanding any other provision of sections 442.650 to 442.664, the acts of  
6 lawn mowing or similar maintenance across the boundary line of an adjoining landowner's  
7 property shall be deemed permissive and nonadverse.

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