

**2007 DRAFTING REQUEST**

**Bill**

Received: **08/28/2006**

Received By: **pkahler**

Wanted: **As time permits**

Identical to LRB:

For: **Michael Sheridan (608) 266-7503**

By/Representing: **Heather Huhn**

This file may be shown to any legislator: **NO**

Drafter: **pkahler**

May Contact:

Addl. Drafters:

Subject: **Real Estate - miscellaneous**

Extra Copies:

Submit via email: **YES**

Requester's email: **Rep.Sheridan@legis.wisconsin.gov**

Carbon copy (CC:) to:

---

**Pre Topic:**

No specific pre topic given

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**Topic:**

Limiting adverse possession to the same owners over time

---

**Instructions:**

See Attached

---

**Drafting History:**

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?							Local
/1	pkahler 08/28/2006	wjackson 09/15/2006	sherritz 09/19/2006		lparisi 09/19/2006	sbasford 02/12/2007	

FE Sent For: */1 @ intro.  
3-9-2007*

<END>

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/?	pkahler	/1 wlj 9/14	sh 9/15	sh/ha 9/19			

FE Sent For:

<END>

*Drafts for next session*

**Kahler, Pam**

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**From:** Huhn, Heather  
**Sent:** Tuesday, June 27, 2006 9:54 AM  
**To:** Kahler, Pam  
**Cc:** Kelly, Tom  
**Subject:** Rep. Sheridan would like a draft for introduction.

Pam:

Representative Sheridan would like to introduce 2005 LRB-4840/P2 in the 2006-07 Legislative Session. If you could prepare the draft for introduction it would be greatly appreciated. There is no need to rush on the draft; anytime is fine.

If you have any questions, please contact Tom Kelly in our office.

Thanks

Heather Huhn  
Office of Representative Sheridan

# RESEARCH APPENDIX - Draft Transfer/Copy Request Form

- Atty's please complete this form and give to Mike Barman

(Request Made By: PJK) (Date: 8 / 28 / 06)



Please transfer the drafting file for

<sup>2005</sup>  
for 2003 LRB-4840 to the drafting file  
<sup>2007</sup>  
for 2005 LRB-0025

The final version of the 2003 draft and the final Request Sheet will be copied on yellow paper, and returned to the original 2003 drafting file. A new cover sheet will be created/included listing the new location of the drafting file's "guts".

For research purposes, because the 2003 draft was incorporated into a 2005 draft, the complete drafting file will be transferred, as a separate appendix, to the new 2005 drafting file. This request form will be inserted into the "guts" of the 2005 draft. If introduced, the appendix will be scanned/added to the electronic drafting file folder.

--- OR ---

Please copy the drafting file for

2005 LRB / \_\_\_\_\_ (include the version) and place it in the

drafting file for 2005 LRB \_\_\_\_\_

For research purposes, because the original 2005 draft was incorporated into another 2005 draft, the original drafting file will be copied on yellow paper (darkened/auto centered/reduced to 90%) and added, as a separate appendix, to the new 2005 drafting file. This request form will be inserted into the "guts" of the new 2005 draft. If introduced the appendix will be scanned/added to the electronic drafting file folder.

The original drafting file will then be returned, intact, to its folder and filed. For future reference, a copy of the transfer/copy request form will also be added to the "guts" of the original draft.



State of Wisconsin  
2005 - 2006 LEGISLATURE

2007 - 2008

0025/1  
LRB-4840/P2

PJK:jd:jf

Wj

rm is run

~~PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION~~

D. vote

SOON

LPS: Please  
proof amended  
stats. w/Folio.

Regen

- 1 AN ACT *to amend* 893.25 (1), 893.25 (2) (a), 893.26 (1), 893.26 (2) (a), 893.26 (2)
- 2 (c), 893.27 (1) and 893.27 (2) (b); and *to create* 893.25 (1m), 893.26 (1m) and
- 3 893.27 (1m) of the statutes; **relating to:** limiting adverse possession.

***Analysis by the Legislative Reference Bureau***

Under current law, a party who does not have actual legal title to real property, but who occupies, uses, or maintains the property for a specified, uninterrupted period of time under a claim of title may, in a court action, establish title to the property against the true legal owner of the property. This process is known as adverse possession. Generally, the adversely possessed property must be enclosed (by a fence, for example) and cultivated or improved.

If the adverse possessor's claim of title is not based on a written instrument or court judgment, the property must be adversely possessed uninterruptedly for 20 years for title to be established in the adverse possessor. If the adverse possessor's claim of title is based on a recorded written instrument or court judgment, the property must be adversely possessed uninterruptedly for ten years. If the adverse possessor's claim of title is based on a recorded written instrument or court judgment and the adverse possessor has paid the real estate taxes on the property for the entire time of adverse possession, the property must be adversely possessed uninterruptedly for seven years.

The adverse possessor need not be the same person for the entire time. The times during which property is uninterruptedly adversely possessed by any number of persons in succession are added together to reach the necessary total number of years. Likewise, the person who holds actual legal title to the property being

adversely possessed need not be the same person for the entire time during which the property is adversely possessed.

Under this bill, the requirements for adverse possession of real property are retained except for the parties involved. The bill provides that a person may not establish title to property by adverse possession unless the person has adversely possessed the property himself or herself for the entire number of years required under the statute. In addition, a legal titleholder of property cannot lose title through adverse possession unless that person has held title to the property for the entire time that the property was adversely possessed. Thus, for example, if title to property that is being adversely possessed is transferred to another person before the full number of years have elapsed, the adverse possession time must start over against the new titleholder.

For further information see the *local* fiscal estimate, which will be printed as an appendix to this bill.

---

*The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:*

1           **SECTION 1.** 893.25 (1) of the statutes is amended to read:

2           893.25 (1) ~~An~~ Subject to sub. (1m) (a) and (b), an action for the recovery or the  
3 possession of real estate and a defense or counterclaim based on title to real estate  
4 are barred by uninterrupted adverse possession of 20 years, except as provided by  
5 s. 893.14 and 893.29. ~~A~~ Subject to sub. (1m) (c), a person who, in connection with  
6 ~~his or her predecessors in interest,~~ is in uninterrupted adverse possession of real  
7 estate for 20 years, except as provided by s. 893.29, may commence an action to  
8 establish title under ch. 841.

9           **SECTION 2.** 893.25 (1m) of the statutes is created to read:

10          893.25 (1m) All of the following apply to sub. (1):

11          (a) An action for the recovery or the possession of real estate that is commenced  
12 on or after the effective date of this paragraph .... [revisor inserts date], is barred only  
13 if both of the following are satisfied:

1           1. The same person or persons adversely possessed the real estate for the full  
2           20 years during which the real estate was uninterruptedly adversely possessed.

3           2. A person currently holding title to the real estate has held title for the full  
4           20 years during which the real estate was uninterruptedly adversely possessed.

5           (b) A defense or counterclaim based on title to real estate that is made in an  
6           action commenced on or after the effective date of this paragraph .... [revisor inserts  
7           date], is barred only if par. (a) 1. and 2. ~~are~~ <sup>is</sup> satisfied.

8           (c) On or after the effective date of this paragraph .... [revisor inserts date], a  
9           person may commence an action to establish title to real estate under ch. 841 only  
10          if par. (a) 1. and 2. ~~are~~ <sup>is</sup> satisfied.

11           **SECTION 3.** 893.25 (2) (a) of the statutes is amended to read:

12           893.25 (2) (a) Only if the person possessing it, ~~in connection with his or her~~  
13           predecessors in interest, is in actual continued occupation under claim of title,  
14           exclusive of any other right; and

15           **SECTION 4.** 893.26 (1) of the statutes is amended to read:

16           893.26 (1) ~~An~~ Subject to sub. (1m) (a) and (b), an action for the recovery or the  
17           possession of real estate and a defense or counterclaim based upon title to real estate  
18           are barred by uninterrupted adverse possession of 10 years, except as provided by  
19           s. 893.14 and 893.29. ~~A~~ Subject to sub. (1m) (c), a person who in connection with  
20           his or her predecessors in interest is in uninterrupted adverse possession of real  
21           estate for 10 years, except as provided by s. 893.29, may commence an action to  
22           establish title under ch. 841.

23           **SECTION 5.** 893.26 (1m) of the statutes is created to read:

24           893.26 (1m) All of the following apply to sub. (1):

*the requirements under*

1 (a) An action for the recovery or the possession of real estate that is commenced  
2 on or after the effective date of this paragraph ... [revisor inserts date], is barred only  
3 if both of the following are satisfied:

4 1. The same person or persons adversely possessed the real estate for the full  
5 10 years during which the real estate was uninterruptedly adversely possessed.

6 2. A person currently holding title to the real estate has held title for the full  
7 10 years during which the real estate was uninterruptedly adversely possessed.

8 (b) A defense or counterclaim based on title to real estate that is made in an  
9 action commenced on or after the effective date of this paragraph ... [revisor inserts  
10 date], is barred only if par. (a) 1. and 2. <sup>W</sup>are satisfied.

11 (c) On or after the effective date of this paragraph ... [revisor inserts date], a  
12 person may commence an action to establish title to real estate under ch. 841 only  
13 if par. (a) 1. and 2. <sup>W</sup>are satisfied.

14 SECTION 6. 893.26 (2) (a) of the statutes is amended to read:

15 893.26 (2) (a) The person possessing the real estate ~~or his or her predecessor~~  
16 ~~in interest~~, originally entered into possession of the real estate under a good faith  
17 claim of title, exclusive of any other right, founded upon a written instrument as a  
18 conveyance of the real estate or upon a judgment of a competent court;

19 SECTION 7. 893.26 (2) (c) of the statutes is amended to read:

20 893.26 (2) (c) The person possessing the real estate, ~~in connection with his or~~  
21 ~~her predecessors in interest~~, is in actual continued occupation of all or a material  
22 portion of the real estate described in the written instrument or judgment after the  
23 original entry as provided by par. (a), under claim of title, exclusive of any other right.

24 SECTION 8. 893.27 (1) of the statutes is amended to read:

*The requirements under*

1           893.27 (1) ~~An~~ Subject to sub. (1m) (a) and (b), an action for the recovery or the  
 2 possession of real estate and a defense or counterclaim based upon title to real estate  
 3 are barred by uninterrupted adverse possession of 7 years, except as provided by s.  
 4 893.14 or 893.29. ~~A~~ Subject to sub. (1m) (c), a person who in connection with his or  
 5 ~~her predecessors in interest~~ is in uninterrupted adverse possession of real estate for  
 6 7 years, except as provided by s. 893.29, may commence an action to establish title  
 7 under ch. 841.

8           **SECTION 9.** 893.27 (1m) of the statutes is created to read:

9           893.27 (1m) All of the following apply to sub. (1):

10           (a) An action for the recovery or the possession of real estate that is commenced  
 11 on or after the effective date of this paragraph .... [revisor inserts date], is barred only  
 12 if both of the following are satisfied:

13           1. The same person or persons adversely possessed the real estate for the full  
 14 7 years during which the real estate was uninterruptedly adversely possessed.

15           2. A person currently holding title to the real estate has held title for the full  
 16 7 years during which the real estate was uninterruptedly adversely possessed.

17           (b) A defense or counterclaim based on title to real estate that is made in an  
 18 action commenced on or after the effective date of this paragraph .... [revisor inserts  
 19 date], is barred only if par. (a) 1. and 2. ~~are~~ <sup>are</sup> satisfied.

20           (c) On or after the effective date of this paragraph .... [revisor inserts date], a  
 21 person may commence an action to establish title to real estate under ch. 841 only  
 22 if par. (a) 1. and 2. ~~are~~ <sup>are</sup> satisfied.

23           **SECTION 10.** 893.27 (2) (b) of the statutes is amended to read:

*the requirements under*

1           893.27 (2) (b) The person possessing it ~~or his or her predecessor in interest~~ pays  
2           all real estate taxes, or other taxes levied, or payments required, in lieu of real estate  
3           taxes for the 7-year period after the original entry.

4

(END)

Insert 6-3 ✓

D-note ✓

2007-2008 DRAFTING INSERT  
FROM THE  
LEGISLATIVE REFERENCE BUREAU

LRB-0025/lins

PK → .....

INSERT 6-3

1           **SECTION ~~#~~ Initial applicability.**

2           (1) The treatment of sections 893.25 (2) (a), 893.26 (2) (a) and (c), and 893.27

3           (2) (b) of the statutes first applies in actions that are commenced on the effective date

4           of this subsection.

(END OF INSERT 6-3)

**DRAFTER'S NOTE**  
**FROM THE**  
**LEGISLATIVE REFERENCE BUREAU**

LRB-0025/1dn

PJK:/.....

Wlj

This draft is LRB 05-4840/P2 converted to an introducible 2007-08 draft. I have added a nonstatutory initial applicability section for the sections without in-text initial applicabilities.

Pamela J. Kahler  
Senior Legislative Attorney  
Phone: (608) 266-2682  
E-mail: [pam.kahler@legis.state.wi.us](mailto:pam.kahler@legis.state.wi.us)

**DRAFTER'S NOTE**  
**FROM THE**  
**LEGISLATIVE REFERENCE BUREAU**

LRB-0025/1dn  
PJK:wlj:sh

September 19, 2006

This draft is LRB 05-4840/P2 converted to an introducible 2007-08 draft. I have added a nonstatutory initial applicability section for the sections without in-text initial applicabilities.

Pamela J. Kahler  
Senior Legislative Attorney  
Phone: (608) 266-2682  
E-mail: [pam.kahler@legis.state.wi.us](mailto:pam.kahler@legis.state.wi.us)

**Basford, Sarah**

---

**From:** Kelly, Tom  
**Sent:** Monday, February 12, 2007 1:27 PM  
**To:** LRB.Legal  
**Subject:** Draft Review: LRB 07-0025/1 Topic: Limiting adverse possession to the same owners over time

Please Jacket LRB 07-0025/1 for the ASSEMBLY.