

PLEASE NOTE: Legislative Information **cannot** perform research, provide legal advice, or interpret Maine law. For legal assistance, please contact a qualified attorney.

An Act To Clarify Adverse Possession

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

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

§ 817. Permissive and nonadverse acts

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

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

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

SUMMARY

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

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