

State of South Dakota

NINETY-SECOND SESSION
LEGISLATIVE ASSEMBLY, 2017

147Y0538

SENATE BILL NO. 127

Introduced by: Senator Frerichs and Representative Marty

1 FOR AN ACT ENTITLED, An Act to provide certain defenses to adverse possession claims.

2 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

3 Section 1. That chapter 15-3 be amended by adding a NEW SECTION to read:

4 No person claiming title to real property by adverse possession may prevail against an owner
5 of record if the owner of record has regularly paid all taxes legally assessed on such property
6 unless:

7 (1) The adverse possessor has also regularly paid all taxes legally assessed on such
8 property; and

9 (2) Possession of the property by the adverse possessor has been open, notorious, and
10 continuous for twenty years; and

11 (3) The owner of record had actual knowledge of the adverse possessor's open
12 possession of the property; and

13 (4) The owner of record took no action during the twenty years of open possession to
14 contest the adverse possessor's exercise of dominion.

15 Section 2. That chapter 15-3 be amended by adding a NEW SECTION to read:



1 No person claiming title to real property by adverse possession may prevail against an owner
2 of record if:

3 (1) The adverse possessor was the owner of property directly bordering property of the
4 owner of record; and

5 (2) The possession and dominion exercised by the adverse possessor extended uniformly
6 along the boundary line in a manner indicating that the two parties were mutually
7 mistaken about the location of the actual boundary line between the properties.