

SENATE
STATE OF MINNESOTA
NINETY-THIRD SESSION

S.F. No. 3311

(SENATE AUTHORS: DRAHEIM)

DATE	D-PG	OFFICIAL STATUS
04/28/2023	6608	Introduction and first reading Referred to Judiciary and Public Safety

1.1A bill for an act

1.2relating to real property; authorizing the use of an affidavit of interruption to

1.3interrupt adverse possession of real estate; proposing coding for new law in

1.4Minnesota Statutes, chapter 507.

1.5BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.6Section 1. **[507.60] AFFIDAVIT OF INTERRUPTION OF ADVERSE POSSESSION.**

1.7Subdivision 1. **Definitions.** (a) For purposes of this section, the following terms have

1.8the meanings given.

1.9(b) "Affidavit of interruption" means an affidavit that satisfies the requirements under

1.10subdivision 3.

1.11(c) "County recorder" means the office of the county recorder for the county in which

1.12the record title holder's parcel is located.

1.13(d) "Neighbor" means a person who holds record title to real estate abutting the record

1.14title holder's real estate.

1.15(e) "Survey" means a property survey that complies with chapter 505 and that contains

1.16a certification by a professional land surveyor that the survey shows all visible encroachments

1.17on the surveyed land.

1.18Subd. 2. **Interruption by affidavit.** (a) A record title holder may interrupt adverse

1.19possession of real estate under section 541.02 if the record holder:

1.20(1) records with the county recorder an affidavit of interruption and a survey of the

1.21record title holder's parcel certified within the preceding five years;

2.1 (2) provides notice of the recorded affidavit of interruption as described in subdivision
2.2 4; and

2.3 (3) records proof that notice was provided under subdivision 4 with the county recorder.

2.4 (b) A notice of the recorded affidavit under this paragraph shall include a legal description
2.5 of the neighbor's abutting parcel and of the record title holder's parcel. If the record holder
2.6 provides notice under subdivision 4, paragraph (a), the record holder must record on the
2.7 neighbor's abutting parcel the following within 90 days of the date the neighbor received
2.8 the notice:

2.9 (1) notice of the recorded affidavit of interruption;

2.10 (2) a copy of the recorded affidavit of interruption; and

2.11 (3) the survey.

2.12 Subd. 3. **Affidavit of interruption.** A record title holder shall include in an affidavit to
2.13 interrupt adverse possession of property under section 541.02 the following:

2.14 (1) a legal description of the parcel of land that contains the real estate that is being
2.15 adversely possessed;

2.16 (2) a statement that the person executing the affidavit is the record title holder of the
2.17 parcel;

2.18 (3) a general description of the adverse possession that the record title holder intends to
2.19 interrupt by recording the affidavit;

2.20 (4) a statement that the adverse possession of real estate is interrupted and that a new
2.21 period of adverse possession may begin the day after the affidavit is recorded; and

2.22 (5) a statement that the record title holder will provide notice as required under
2.23 subdivision 4.

2.24 Subd. 4. **Notice.** (a) If the record title holder knows, or has reason to believe, that the
2.25 person who is adversely possessing the record title holder's real estate is a neighbor, the
2.26 record title holder must provide notice to the neighbor by sending the following by certified
2.27 mail, return receipt requested, to the neighbor's address as listed on the tax roll:

2.28 (1) a copy of the recorded affidavit of interruption including the attached survey; and

2.29 (2) a notice of the record title holder's intent to, within 90 days of the date the notice is
2.30 received, record a notice of the affidavit of interruption on the neighbor's real estate that
2.31 abuts the record title holder's parcel.

3.1 (b) If the record title holder knows the identity of the person who is adversely possessing
3.2 the record title holder's real estate and the person is not a neighbor, the record title holder
3.3 must provide notice to the person by sending the person a copy of the recorded affidavit of
3.4 interruption including the attached survey by certified mail, return receipt requested, to the
3.5 person's last known address.

3.6 (c) If the person who is adversely possessing the record title holder's real estate is
3.7 unknown to the record title holder at the time the affidavit of interruption is recorded, the
3.8 record title holder must provide notice by publication in a qualified newspaper, as defined
3.9 in section 331A.01, subdivision 8, in the county in which the record title holder recorded
3.10 the affidavit of interruption. The published notice must include all of the following:

3.11 (1) a statement that the record title holder recorded an affidavit of interruption;

3.12 (2) the recording information for the recorded affidavit of interruption; and

3.13 (3) the street or physical address for the parcel on which the affidavit of interruption
3.14 was recorded.

3.15 (d) If certified mail sent by a record title holder under paragraph (a) or (b) is returned
3.16 to the record title holder as undeliverable, the record title holder shall provide notice by
3.17 publication under paragraph (c).

3.18 (e) All notices must include a reference to this section.

3.19 Subd. 5. **Effect of record.** An affidavit of interruption disrupts, discontinues, or interrupts
3.20 any period of adverse possession under section 541.02 as of the date on which the affidavit
3.21 of interruption is recorded on the record title holder's property. A new period of adverse
3.22 possession may begin after the date on which the affidavit of interruption is recorded on
3.23 the record title holder's parcel.

3.24 Subd. 6. **Publication.** The county recorder shall record affidavits of interruption, proofs
3.25 of notice under subdivision 4, paragraph (c), and notices of affidavits of interruption under
3.26 subdivision 4, paragraph (d), in the index maintained under section 386.03.

3.27 Subd. 7. **Not exclusive.** The procedure for interrupting adverse possession set forth in
3.28 this section is not exclusive.