

- SUBJECT:** Relating to adverse possession of real property as a legal defense
- COMMITTEE:** Business and Industry — favorable, without amendment
- VOTE:** 6 ayes — Bohac, Orr, E. Rodriguez, Villalba, Walle, Workman
0 nays
1 absent — Oliveira
- SENATE VOTE:** On final passage, May 2 — 31-0, on Local and Uncontested Calendar
- WITNESSES:** No public hearing
- BACKGROUND:** Penal Code, sec. 30.02 defines burglary as entering a building not then open to the public or remaining concealed in a residence or building, without the consent of the owner and with the intent to commit a felony, theft, or assault, or entering a building and committing or attempting to commit a felony, theft, or assault.
- Under Civil Practice and Remedies Code, ch. 16 adverse possession consists of the actual and visible appropriation of real property that is conducted in a manner inconsistent with another person having any claim to the property. Sec. 16.030 states that when a civil claim for the recovery of real property is barred under this chapter, the person peaceably holding the property in adverse possession has full title to that property, unless the property was for public use.
- DIGEST:** SB 947 would amend Penal Code, sec. 30.02 to provide that an actor attempting to take ownership of real property through adverse possession or claiming adverse possession would not be able to assert this action as a defense to the prosecution for burglary. This restriction on the defense against prosecution for burglary would not apply if the actor had full title to the property, subject to Civil Practice and Remedies Code, sec. 16.030.
- The bill would take effect on September 1, 2013. The bill would only apply to an offense committed on or after the bill's effective date.