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JUDICIARY

HOUSE FILE 2335  
BY PETTENGILL

Passed House, Date \_\_\_\_\_ Passed Senate, Date \_\_\_\_\_  
Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_ Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_  
Approved \_\_\_\_\_

**A BILL FOR**

1 An Act relating to the possession and repossession of  
2 agricultural land, by restricting the application of the  
3 doctrine of adverse possession and providing for an action of  
4 ejectment.

5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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HF 2335

1 Section 1. Section 557.5, Code 2005, is amended to read as  
2 follows:

3 557.5 ADVERSE POSSESSION.

4 1. Adverse possession of-real-estate does not prevent any  
5 a person from selling-that transferring the person's interest  
6 in the-same real property.

7 2. A person does not acquire title to real property by  
8 asserting a claim of adverse possession, if, within ten years  
9 prior to the date on which an action is brought asserting a  
10 claim of adverse possession, the real property was assessed as  
11 agricultural land for purposes of property taxation.

12 Sec. 2. Section 614.1, subsection 5, Code 2005, is amended  
13 to read as follows:

14 5. WRITTEN CONTRACTS -- JUDGMENTS OF COURTS NOT OF RECORD  
15 -- RECOVERY OF REAL PROPERTY. Those founded on written  
16 contracts, or on judgments of any courts except those provided  
17 for in the next subsection, and those brought for the recovery  
18 of real property, within ten years. However, an action of  
19 ejectment may be brought within ten years from the last date  
20 that the real property was assessed as agricultural land for  
21 the purposes of property taxation and the possessor of the  
22 real property shall not have a counterclaim of adverse  
23 possession during that ten-year period.

24 EXPLANATION

25 This bill relates to the common law doctrine of adverse  
26 possession in which the wrongful possessor of real estate may  
27 nevertheless acquire title to the real property. The purpose  
28 of the doctrine is to quiet title and bar stale claims in the  
29 same way as a statute of limitations. The situation often  
30 arises when a person mistakenly possesses land by erecting a  
31 fence on neighboring property and both the person and the  
32 neighbor treat the fence as a legal boundary. In order to  
33 claim adverse possession, the possession of the land must be  
34 hostile, actual, open, exclusive, and continuous under a claim  
35 of right or color of title. Under common law, the depossessed

1 owner of the real property must bring an action of ejectment  
2 within a certain period time, e.g., 20 years. Code section  
3 614.1 amends the common law period by providing a 10-year  
4 statute of limitations for the recovery of such real property.  
5 See Carpenter v. Ruperto, 315 N.W.2d 782 (Iowa 1982), in which  
6 the supreme court recites the elements for a claim of adverse  
7 possession and holds that the claim must be proved by clear  
8 and convincing evidence after the 10-year period.

9 The bill limits the application of the doctrine of adverse  
10 possession and allows the depossessed titleholder of real  
11 property to bring an action of ejectment within 10 years prior  
12 to the date in which the real property was assessed as  
13 agricultural land for purposes of property taxation (see  
14 generally Code chapter 427).

15 The bill does not affect a claim of title based on an  
16 unbroken chain of title of record for 40 years or more as  
17 provided in Iowa's marketable record title law (Code sections  
18 614.29-614.38).

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