

6317-S

Sponsor(s): Senate Committee on Law & Justice (originally sponsored by Senators Zarelli and Stevens)

Brief Title: Making adverse possession more difficult.

SB 6317-S - DIGEST

(DIGEST OF PROPOSED 1ST SUBSTITUTE)

Provides that, in any action involving adverse possession at common law: (1) It shall be an absolute defense to any claim of adverse possession at common law, if proved by a preponderance of the evidence, that the person asserting adverse possession originally entered onto the land with the intent to acquire fee title or use rights in the property.

(2) The superior court or any appellate court, may, in its discretion, order reasonable costs, including investigative fees, expert witness fees, and attorneys' fees, to the prevailing party, as justice requires.

(3) The person asserting adverse possession must show a clearly identified boundary line demonstrating his or her use of the land for the period of limitations.

(4) If the land owner gave written notice, by certified mail, to the person asserting adverse possession, that the land owner is aware of the trespass, at any time during the ten-year period of limitations, any use of the land, subsequent to the date of notice, by the person asserting adverse possession, or anyone else residing at the address where the notice was sent as of the date of the notice, shall be deemed to be permissive.