

ADVERSE POSSESSION CLAIMS BY AND AGAINST MUNICIPALITIES

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House Bill 4747 as introduced
Sponsor: Rep. Holly Hughes
Committee: Judiciary
Complete to 10-27-15

Analysis available at
<http://www.legislature.mi.gov>

SUMMARY:

House Bill 4747 would amend the Revised Judicature Act by simplifying the language of the statute controlling adverse possession claims by and against municipalities. Additionally, the bill would clarify that adverse possession, laches, and periods of limitations do not apply when a municipality is asserting rights to land against an individual, but that the periods of limitations do apply to claims by an individual against a municipality or a political subdivision of the state.

In its current form, the statute states that even if a person has adversely possessed a piece of land for the requisite 15 years, the person may not assert that claim against the state in order to retain rights to that land. However, the person may assert that claim in order to seek equitable relief. House Bill 4747 retains that rule, while adjusting the language slightly.

The bill would rewrite subsection 2 of Section 5821 of the RJA. It expands upon the types of land and local units of government to which the subsection would apply. Subsection 2 of the bill adds "easement" to the already-included public highway, street, alley, or other public ground. Additionally, subsection 2 adds "political subdivision of this state" to the "municipal corporations" already listed in the statute. Finally, Subsection 2 expands protection for municipalities from merely periods of limitations claims, so that it would include the following three:

- Periods of limitations—already listed in the act, this dictates that a municipality may assert its right to land at any time, regardless of how much time has passed.
- Laches—this protects municipalities from an assertion that because the municipality failed to assert its right to the land for a certain period of time, it has "slept on" or ceded that right.
- A claim for adverse possession, acquiescence, or a prescriptive easement—this protects municipalities from a claim that, by not asserting its right to the land, it has implicitly allowed the person adversely possessing it access or title to the land.

House Bill 4747 also creates an additional section (the new subsection 3), stating that while the period of limitations is not a bar for claims brought by municipalities, it is a bar for claims brought by individuals against municipalities.

MCL 600.5821

FISCAL IMPACT:

A fiscal analysis is in process

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■ This analysis was prepared by nonpartisan House Fiscal Agency staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.