

Marketable Title Act

893.29 No adverse possession against the state or political subdivisions. (1) No title to or interest in real property belonging to the gee or a city, village, town, county, school district, sewerage commission, sewerage district or any other unit of government within this state may be obtained by adverse possession, prescription or user under s. 893.25, 893.26, 893.27 or 893.28 unless the adverse possession, prescription or user continues uninterruptedly for more than 20 years and is based upon a continuously maintained fence line which has been mutually agreed upon by the current landowners,

(2m) Subsection (1) does not affect title to or interest in real property obtained by adverse possession, prescription of user under s. 893.25, 893.26, 893.27 or 893.28 before April 29, 1998.

History: 1979 c. 323; 1983 a. 178; 1983 a. 189 s. 329 (16); 1997 a. 108.

Judicial Council Committee's Note, 1979: This section is based on present s. 893. 10 (1), but the period for adverse possession against the state is reduced from 40 to 30 [20] years. The previous provision presumably applied to the property of political subdivisions of the state, but this has been made express in this section. Note that regardless of which of ss. 893.25 to 893.28 apply against a private owner, this section requires 30 [20] years for the obtaining of any rights in public land.

Because of the 30-year [20-year] period, adverse possession of the kind described in the 20-year statute is sufficient so that recording and good faith affect only the type of possession required and the amount of land possessed (see s. 893.26 (3) and (4)). Payment of taxes is irrelevant. [Bill 326-A]

Adverse possession provisions have prospective application only. Possession must be taken after the provision goes into effect. *Petropoulos v. City of West Aliis*, 148 Wis. 2d 762, 436 N.W2d 880 (Ct. App. 1989).

This section does not apply to a railroad, A railroad right-of-way is subject to adverse possession, the same as other lands. *Maiers v. Wang*, 192 Wis. 2d 11 5, 531 N.W.2d 54 (1995).