

ASSEMBLY, No. 95

STATE OF NEW JERSEY

Introduced Pending Technical Review by Legislative Counsel

PRE-FILED FOR INTRODUCTION IN THE 1996 SESSION

By Assemblyman ROONEY

1 AN ACT prohibiting adverse possession of State-owned property and  
2 supplementing Title 2A of the New Jersey Statutes.

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4 **BE IT ENACTED** by the Senate and General Assembly of the State  
5 of New Jersey:

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7 1. a. Notwithstanding any other provision of law, title to real  
8 property owned by the State, any agency thereof, or any political  
9 subdivision of the State, whether or not the real property is dedicated  
10 to or used for a public purpose, cannot be acquired by adverse  
11 possession. Actions brought by the State, any agency thereof, or any  
12 political subdivision of this State for the recovery of any publicly  
13 owned real property shall not be time-barred.

14 b. As used in this act, "real property" shall mean lands, structures,  
15 franchises and interests in land, including air space and air rights,  
16 waters, lands under water and riparian rights, and any and all things  
17 and rights encompassed by the said term, and includes, not only fees  
18 simple absolute but also any and all lesser interests, including, but not  
19 limited to easements, rights of way, uses, leases and licenses.

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21 2. This act shall take effect immediately.

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STATEMENT

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26 In *Devins v. Borough of Bogota*, 124 N.J. 570 (1991), the New  
27 Jersey Supreme Court held that municipally owned property which has  
28 not been dedicated or used for a public purpose is subject to  
29 acquisition by adverse possession. Prior to the *Devins* ruling, it had  
30 been generally held that property owned by any governmental entity  
31 could not be acquired by adverse possession. This bill would reverse  
32 the holding in *Devins* and provide that property held by a  
33 governmental entity, whether dedicated for a public purpose or not,  
34 cannot be acquired by adverse possession.

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3 Exempts government-owned property from adverse possession and

4 eliminates statute of limitation period for recovery.