
HOUSE BILL 2238

State of Washington 54th Legislature 1996 Regular Session

By Representatives Cairnes, D. Schmidt, Cooke, Clements, Dellwo,
Thompson and Hargrove

Read first time 01/08/96. Referred to Committee on Law & Justice.

1 AN ACT Relating to actions relating to real property; amending RCW
2 4.16.020 and 7.28.010; adding a new section to chapter 4.16 RCW;
3 creating a new section; and repealing RCW 7.28.050, 7.28.060, 7.28.070,
4 7.28.080, and 7.28.090.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

6 NEW SECTION. **Sec. 1.** The purpose of this act is to abolish the
7 doctrine of adverse possession and the doctrine of prescriptive
8 easement prospectively, but retain those doctrines as the doctrines
9 existed prior to the effective date of this act limited to situations
10 where all the requirements applicable to either doctrine had been met
11 prior to the effective date of this act to alter the ownership of real
12 property or an easement.

13 **Sec. 2.** RCW 4.16.020 and 1994 c 189 s 2 are each amended to read
14 as follows:

15 The period prescribed for the commencement of actions shall be as
16 follows:

17 Within ten years:

1 (1) (~~For actions for the recovery of real property, or for the~~
2 ~~recovery of the possession thereof; and no action shall be maintained~~
3 ~~for such recovery unless it appears that the plaintiff, his or her~~
4 ~~ancestor, predecessor or grantor was seized or possessed of the~~
5 ~~premises in question within ten years before the commencement of the~~
6 ~~action.~~

7 (2)) For an action upon a judgment or decree of any court of the
8 United States, or of any state or territory within the United States,
9 or of any territory or possession of the United States outside the
10 boundaries thereof, or of any extraterritorial court of the United
11 States, unless the ten-year period is extended in accordance with RCW
12 6.17.020(3).

13 (~~(3))~~ (2) Of the eighteenth birthday of the youngest child named
14 in the order for whom support is ordered for an action to collect past
15 due child support that has accrued under an order entered after July
16 23, 1989, by any of the above-named courts or that has accrued under an
17 administrative order as defined in RCW 74.20A.020(6), which is issued
18 after July 23, 1989.

19 **Sec. 3.** RCW 7.28.010 and 1911 c 83 s 1 are each amended to read as
20 follows:

21 Any person having a valid subsisting interest in real property, and
22 a right to the possession thereof, may recover the same by action in
23 the superior court of the proper county, to be brought against the
24 tenant in possession; if there is no such tenant, then against the
25 person claiming the title or some interest therein, and may have
26 judgment in such action quieting or removing a cloud from plaintiff's
27 title(~~(; an action to quiet title may be brought by the known heirs of~~
28 ~~any deceased person, or of any person presumed in law to be deceased,~~
29 ~~or by the successors in interest of such known heirs against the~~
30 ~~unknown heirs of such deceased person or against such person presumed~~
31 ~~to be deceased and his unknown heirs, and if it shall be made to appear~~
32 ~~in such action that the plaintiffs are heirs of the deceased person, or~~
33 ~~the person presumed in law to be deceased, or the successors in~~
34 ~~interest of such heirs, and have been in possession of the real~~
35 ~~property involved in such action for ten years preceding the time of~~
36 ~~the commencement of such action, and that during said time no person~~
37 ~~other than the plaintiff in the action or his grantors has claimed or~~
38 ~~asserted any right or title or interest in said property, the court may~~

1 ~~adjudge and decree the plaintiff or plaintiffs in such action to be the~~
2 ~~owners of such real property, free from all claims of any unknown heirs~~
3 ~~of such deceased person, or person presumed in law to be deceased; and~~
4 ~~an action to quiet title may be maintained by any person in the actual~~
5 ~~possession of real property against the unknown heirs of a person known~~
6 ~~to be dead, or against any person where it is not known whether such~~
7 ~~person is dead or not, and against the unknown heirs of such person,~~
8 ~~and if it shall thereafter transpire that such person was at the time~~
9 ~~of commencing such action dead the judgment or decree in such action~~
10 ~~shall be as binding and conclusive on the heirs of such person as~~
11 ~~though they had been known and named; and in all actions, under this~~
12 ~~section, to quiet or remove a cloud from the title to real property, if~~
13 ~~the defendant be absent or a nonresident of this state, or cannot,~~
14 ~~after due diligence, be found within the state, or conceals himself to~~
15 ~~avoid the service of summons, service may be made upon such defendant~~
16 ~~by publication of summons as provided by law; and the court may appoint~~
17 ~~a trustee for such absent or nonresident defendant, to make or cancel~~
18 ~~any deed or conveyance of whatsoever nature, or do any other act to~~
19 ~~carry into effect the judgment or the decree of the court)).~~

20 NEW SECTION. **Sec. 4.** A new section is added to chapter 4.16 RCW
21 to read as follows:

22 (1) Except as provided under subsection (2) of this section,
23 actions to recover real property may be maintained at any time.

24 (2) A person who met the conditions necessary to obtain ownership
25 of real property or an easement on real property under the doctrine of
26 adverse possession or the doctrine of prescriptive easement, as those
27 doctrines existed under RCW 4.16.020, 7.28.050, 7.28.070, and 7.28.080,
28 prior to amendment or repeal by this act, and common law prior to the
29 effective date of this act, may maintain an action to quiet title
30 following the procedures, conditions, and restrictions as they existed
31 prior to the effective date of this act, including, but limited to,
32 recognition of RCW 59.04.050.

33 NEW SECTION. **Sec. 5.** The following acts or parts of acts are each
34 repealed:

35 (1) RCW 7.28.050 and 1893 c 11 s 1;

36 (2) RCW 7.28.060 and 1893 c 11 s 2;

37 (3) RCW 7.28.070 and 1893 c 11 s 3;

1 (4) RCW 7.28.080 and 1893 c 11 s 4; and
2 (5) RCW 7.28.090 and 1977 ex.s. c 80 s 7, 1971 ex.s. c 292 s 7, &
3 1893 c 11 s 5.

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