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SENATE BILL 5495

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State of Washington

55th Legislature

1997 Regular Session

By Senator Heavey

Read first time 01/29/97. Referred to Committee on Law & Justice.

1 AN ACT Relating to adverse possession not under claim of title; and  
2 adding a new section to chapter 7.28 RCW.

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

4 NEW SECTION. **Sec. 1.** A new section is added to chapter 7.28 RCW  
5 to read as follows:

6 (1) Where there has been an actual continued occupation of lands or  
7 tenements, or a portion of them, by a person or persons other than the  
8 holder of the title of record to those lands or tenements, not founded  
9 upon any written instrument, such an occupation is presumed to be with  
10 the consent of the holder of the record title to those lands or  
11 tenements, and is not presumed to be adverse to the holder of the title  
12 of record.

13 (2) The presumption under subsection (1) of this section may be  
14 overcome only by clear and convincing evidence that:

15 (a) Substantial improvements have been made or erected on the land  
16 claimed; or

17 (b) It has been protected by a substantial enclosure for a period  
18 of ten years or more.

1 For the purposes of (b) of this subsection, "substantial" means  
2 permanent or semipermanent structures that were valued at more than  
3 fifty thousand dollars at the time of construction.

4 (3) In any action brought under this section the court may make  
5 those orders regarding maintenance and/or disposition of any  
6 substantial improvements, including but not limited to the remedies  
7 available under RCW 7.28.150 through 7.28.180, as necessary to avoid a  
8 manifest injustice.

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