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ENGROSSED SUBSTITUTE SENATE BILL 6323

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State of Washington

55th Legislature

1998 Regular Session

By Senate Committee on Law & Justice (originally sponsored by Senators Roach, Long, Heavey, Swecker, Snyder, McCaslin, Goings and Rasmussen)

Read first time 02/06/98.

1 AN ACT Relating to adverse possession affecting forest land; 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) In any action seeking to establish an adverse claimant as the  
7 legal owner of a fee or other interest in forest land based on a claim  
8 of adverse possession, and in any defense to an action brought by the  
9 holder of record title for recovery of title to or possession of a fee  
10 or other interest in forest land where such defense is based on a claim  
11 of adverse possession, the adverse claimant shall not be deemed to have  
12 established open and notorious possession of the forest lands at issue  
13 unless, as a minimum requirement, the adverse claimant establishes by  
14 clear and convincing evidence that the adverse claimant has made or  
15 erected substantial improvements, which improvements have remained  
16 entirely or partially on such lands for at least ten years. If the  
17 interests of justice so require, the making, erecting, and continuous  
18 presence of substantial improvements on the lands at issue, in the

1 absence of additional acts by the adverse claimant, may be found  
2 insufficient to establish open and notorious possession.

3 (2) This section shall not apply to any adverse claimant who  
4 establishes by clear and convincing evidence that the adverse claimant  
5 occupied the lands at issue and made continuous use thereof for at  
6 least ten years in good faith reliance on location stakes or other  
7 boundary markers set by a registered land surveyor purporting to  
8 establish the boundaries of property to which the adverse claimant has  
9 record title.

10 (3) For purposes of this section:

11 (a) "Adverse claimant" means any person, other than the holder of  
12 record title, occupying the lands at issue together with any prior  
13 occupants of the land in privity with such person by purchase, devise,  
14 or descent;

15 (b) "Claim of adverse possession" does not include a claim asserted  
16 under RCW 7.28.050, 7.28.070, or 7.28.080;

17 (c) "Forest land" has the meaning given in RCW 84.33.100; and

18 (d) "Substantial improvement" means a permanent or semipermanent  
19 structure or enclosure for which the costs of construction exceeded  
20 fifty thousand dollars.

21 (4) This section shall not apply to any adverse claimant who,  
22 before the effective date of this act, acquired title to the lands in  
23 question by adverse possession under the law then in effect.

24 (5) This section shall not apply to any adverse claimant who seeks  
25 to assert a claim or defense of adverse possession in an action against  
26 any person who, at the time such action is commenced, owns less than  
27 twenty acres of forest land in the state of Washington.

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