

**SENATE BILL 5362**

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**State of Washington**

**52nd Legislature**

**1991 Regular Session**

**By** Senators Rasmussen, McCaslin and Roach.

Read first time January 29, 1991. Referred to Committee on Law & Justice.

1 AN ACT Relating to real property; amending RCW 4.16.020, 7.28.010,  
2 7.28.050, 7.28.070, and 7.28.080; adding a new section to chapter 7.28  
3 RCW; and creating a new section.

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

5 **Sec. 1.** RCW 4.16.020 and 1989 c 360 s 1 are each amended to read  
6 as follows:

7 The period prescribed for the commencement of actions shall be as  
8 follows:

9 Within (~~ten~~) twenty years:

10 (1) For actions for the recovery of real property, or for the  
11 recovery of the possession thereof; and no action shall be maintained  
12 for such recovery unless it appears that the plaintiff, his ancestor,  
13 predecessor or grantor was seized or possessed of the premises in  
14 question within (~~ten~~) twenty years before the commencement of the  
15 action.

1 (2) For an action upon a judgment or decree of any court of the  
2 United States, or of any state or territory within the United States,  
3 or of any territory or possession of the United States outside the  
4 boundaries thereof, or of any extraterritorial court of the United  
5 States.

6 (3) Of the eighteenth birthday of the youngest child named in the  
7 order for whom support is ordered for an action to collect past due  
8 child support that has accrued under an order entered after (~~the~~  
9 ~~effective date of this act~~) July 23, 1989, by any of the above-named  
10 courts or that has accrued under an administrative order as defined in  
11 RCW 74.20A.020(6)(~~, which is~~) issued after (~~the effective date of~~  
12 ~~this act~~) July 23, 1989.

13 **Sec. 2.** RCW 7.28.010 and 1911 c 83 s 1 are each amended to read as  
14 follows:

15 Any person having a valid subsisting interest in real property, and  
16 a right to the possession thereof, may recover the same by action in  
17 the superior court of the proper county, to be brought against the  
18 tenant in possession; if there is no such tenant, then against the  
19 person claiming the title or some interest therein, and may have  
20 judgment in such action quieting or removing a cloud from plaintiff's  
21 title; an action to quiet title may be brought by the known heirs of  
22 any deceased person, or of any person presumed in law to be deceased,  
23 or by the successors in interest of such known heirs against the  
24 unknown heirs of such deceased person or against such person presumed  
25 to be deceased and his unknown heirs, and if it shall be made to appear  
26 in such action that the plaintiffs are heirs of the deceased person, or  
27 the person presumed in law to be deceased, or the successors in  
28 interest of such heirs, and have been in possession of the real  
29 property involved in such action for (~~ten~~) twenty years preceding the

1 time of the commencement of such action, and that during said time no  
2 person other than the plaintiff in the action or his grantors has  
3 claimed or asserted any right or title or interest in said property,  
4 the court may adjudge and decree the plaintiff or plaintiffs in such  
5 action to be the owners of such real property, free from all claims of  
6 any unknown heirs of such deceased person, or person presumed in law to  
7 be deceased; and an action to quiet title may be maintained by any  
8 person in the actual possession of real property against the unknown  
9 heirs of a person known to be dead, or against any person where it is  
10 not known whether such person is dead or not, and against the unknown  
11 heirs of such person, and if it shall thereafter transpire that such  
12 person was at the time of commencing such action dead the judgment or  
13 decree in such action shall be as binding and conclusive on the heirs  
14 of such person as though they had been known and named; and in all  
15 actions, under this section, to quiet or remove a cloud from the title  
16 to real property, if the defendant be absent or a nonresident of this  
17 state, or cannot, after due diligence, be found within the state, or  
18 conceals himself to avoid the service of summons, service may be made  
19 upon such defendant by publication of summons as provided by law; and  
20 the court may appoint a trustee for such absent or nonresident  
21 defendant, to make or cancel any deed or conveyance of whatsoever  
22 nature, or do any other act to carry into effect the judgment or the  
23 decree of the court.

24 **Sec. 3.** RCW 7.28.050 and 1893 c 11 s 1 are each amended to read as  
25 follows:

26 That all actions brought for the recovery of any lands, tenements  
27 or hereditaments of which any person may be possessed by actual, open  
28 and notorious possession for (~~seven~~) fifteen successive years, having  
29 a connected title in law or equity deducible of record from this state

1 or the United States, or from any public officer, or other person  
2 authorized by the laws of this state to sell such land for the  
3 nonpayment of taxes, or from any sheriff, marshal or other person  
4 authorized to sell such land on execution or under any order, judgment  
5 or decree of any court of record, shall be brought within ((seven))  
6 fifteen years next after possession being taken as aforesaid, but when  
7 the possessor shall acquire title after taking such possession, the  
8 limitation shall begin to run from the time of acquiring title.

9       **Sec. 4.** RCW 7.28.070 and 1893 c 11 s 3 are each amended to read as  
10 follows:

11       Every person in actual, open and notorious possession of lands or  
12 tenements under claim and color of title, made in good faith, and who  
13 shall for ((seven)) fifteen successive years continue in possession,  
14 and shall also during said time pay all taxes legally assessed on such  
15 lands or tenements, shall be held and adjudged to be the legal owner of  
16 said lands or tenements, to the extent and according to the purport of  
17 his or her paper title. All persons holding under such possession, by  
18 purchase, devise or descent, before said ((seven)) fifteen years shall  
19 have expired, and who shall continue such possession and continue to  
20 pay the taxes as aforesaid, so as to complete the possession and  
21 payment of taxes for the term aforesaid, shall be entitled to the  
22 benefit of this section.

23       **Sec. 5.** RCW 7.28.080 and 1893 c 11 s 4 are each amended to read as  
24 follows:

25       Every person having color of title made in good faith to vacant and  
26 unoccupied land, who shall pay all taxes legally assessed thereon for  
27 ((seven)) fifteen successive years, he or she shall be deemed and  
28 adjudged to be the legal owner of said vacant and unoccupied land to

1 the extent and according to the purport of his or her paper title. All  
2 persons holding under such taxpayer, by purchase, devise or descent,  
3 before said ((seven)) fifteen years shall have expired, and who shall  
4 continue to pay the taxes as aforesaid, so as to complete the payment  
5 of said taxes for the term aforesaid, shall be entitled to the benefit  
6 of this section: PROVIDED, HOWEVER, If any person having a better  
7 paper title to said vacant and unoccupied land shall, during the said  
8 term of ((seven)) fifteen years, pay the taxes as assessed on said land  
9 for any one or more years of said term of ((seven)) fifteen years, then  
10 and in that case such taxpayer, his heirs or assigns, shall not be  
11 entitled to the benefit of this section.

12 NEW SECTION. **Sec. 6.** A new section is added to chapter 7.28 RCW  
13 to read as follows:

14 In any action under this chapter for adverse possession, the court  
15 shall award any prevailing defendant his or her reasonable attorneys'  
16 fees.

17 NEW SECTION. **Sec. 7.** Sections 1 through 6 of this act shall  
18 apply only to actions commenced after the effective date of this act.