

CERTIFICATION OF ENROLLMENT
ENGROSSED SUBSTITUTE SENATE BILL 6323

Chapter 57, Laws of 1998

55th Legislature
1998 Regular Session

LAW OF ADVERSE POSSESSION ON FOREST LAND--CLARIFICATIONS

EFFECTIVE DATE: 6/11/98

Passed by the Senate February 17, 1998
YEAS 42 NAYS 6

BRAD OWEN

President of the Senate

Passed by the House March 3, 1998
YEAS 95 NAYS 2

CLYDE BALLARD

**Speaker of the
House of Representatives**

Approved March 18, 1998

CERTIFICATE

I, Mike O Connell, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **ENGROSSED SUBSTITUTE SENATE BILL 6323** as passed by the Senate and the House of Representatives on the dates hereon set forth.

MIKE O'CONNELL

Secretary

FILED

March 18, 1998 - 6:19 p.m.

GARY LOCKE

Governor of the State of Washington

**Secretary of State
State of Washington**

ENGROSSED SUBSTITUTE SENATE BILL 6323

Passed Legislature - 1998 Regular Session

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.

Passed the Senate February 17, 1998.

Passed the House March 3, 1998.

Approved by the Governor March 18, 1998.

Filed in Office of Secretary of State March 18, 1998.