
SUBSTITUTE SENATE BILL 6055

State of Washington

56th Legislature

1999 Regular Session

By Senate Committee on Judiciary (originally sponsored by Senators Heavey, Rossi and Zarelli)

Read first time 03/03/1999.

1 AN ACT Relating to adverse possession and prescriptive easements;
2 amending RCW 4.16.020 and 7.28.010; adding a new section to chapter
3 7.28 RCW; creating new sections; and providing an effective date.

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

5 NEW SECTION. **Sec. 1.** The legislature finds the doctrines of
6 adverse possession and prescriptive use rights have the effect of
7 rewarding wrongdoers with title to land or use of land they have not
8 paid for and for which they have not paid taxes. The legislature
9 intends to modernize these doctrines to provide increased clarity and
10 certainty in the establishment of real property interests. The
11 legislature also intends to prevent unjust deprivation of title or use
12 of land and to encourage landowners and land users to ascertain and to
13 build within their boundary lines.

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

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

18 (1) Within ten years:

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

7 ~~((2))~~ (b) For an action upon a judgment or decree of any court of
8 the United States, or of any state or territory within the United
9 States, or of any territory or possession of the United States outside
10 the 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))~~ (c) 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 (2) Actions for the recovery of land against a person who is or may
20 be in adverse possession, or who is or may be making prescriptive use
21 thereof, shall be brought within fifteen years after commencement of
22 such possession or use where entry onto the land begins on or after
23 August 1, 1999; and no person shall gain title to or rights in
24 another's land by adverse possession or prescription until such
25 possession or use shall have been proven to have continued for fifteen
26 years.

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

29 (1) Except when subsection (2) of this section applies, any person
30 having a valid subsisting interest in real property, and a right to the
31 possession thereof, may recover the same by action in the superior
32 court of the proper county, to be brought against the tenant in
33 possession; if there is no such tenant, then against the person
34 claiming the title or some interest therein, and may have judgment in
35 such action quieting or removing a cloud from plaintiff's title; an
36 action to quiet title may be brought by the known heirs of any deceased
37 person, or of any person presumed in law to be deceased, or by the
38 successors in interest of such known heirs against the unknown heirs of

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

29 (2) Actions to quiet title that are based upon an allegation of
30 adverse possession or prescriptive use may not be brought sooner than
31 fifteen years after commencement of such possession or use where entry
32 onto the land begins on or after August 1, 1999; and no person shall
33 gain title to or rights in another's land by adverse possession or
34 prescription until such possession or use shall have been proven to
35 have continued for fifteen years.

36 NEW SECTION. Sec. 4. A new section is added to chapter 7.28 RCW
37 to read as follows:

38 The landowner shall be entitled to the following protection:

1 It shall be an affirmative defense to any claim of adverse
2 possession or prescriptive easement that the landowner gave permission
3 to use the land at any time during the applicable time period specified
4 in RCW 4.16.020 or 7.28.010 to the person claiming title by adverse
5 possession or a prescriptive easement. A certified letter, return
6 receipt requested, delivered at any time during the applicable time
7 period specified in RCW 4.16.020 or 7.28.010 by the landowner to the
8 person claiming title by adverse possession or a prescriptive easement
9 granting permission to use the land is conclusive evidence that
10 subsequent use is permissive.

11 NEW SECTION. **Sec. 5.** The title of this act shall be "Adverse
12 Possession beginning after August 1, 1999."

13 NEW SECTION. **Sec. 6.** This act takes effect August 1, 1999.

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