
HOUSE BILL 2292

State of Washington 63rd Legislature 2014 Regular Session

By Representatives Pike, Stonier, Vick, Blake, Moeller, and Short

Read first time 01/15/14. Referred to Committee on Judiciary.

1 AN ACT Relating to adverse possession; amending RCW 4.16.020,
2 7.28.010, and 7.28.083; adding a new section to chapter 7.28 RCW; and
3 creating a new section.

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

5 **Sec. 1.** RCW 4.16.020 and 2002 c 261 s 2 are each amended to read
6 as follows:

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

9 (1) Within ten years:

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

16 ~~((2))~~ (b) For an action upon a judgment or decree of any court of
17 the United States, or of any state or territory within the United
18 States, or of any territory or possession of the United States outside

1 the boundaries thereof, or of any extraterritorial court of the United
2 States, unless the period is extended under RCW 6.17.020 or a similar
3 provision in another jurisdiction.

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

10 (2) Actions for the recovery of land against a person who is or may
11 be in adverse possession must be brought within twenty years after the
12 commencement of the possession where entry onto the land begins on or
13 after the effective date of this section. A person may not gain title
14 to or rights in another's land by adverse possession until the
15 possession is proven to have continued for twenty years.

16 **Sec. 2.** RCW 7.28.010 and 2011 c 336 s 170 are each amended to read
17 as follows:

18 (1) Except when subsection (2) of this section applies, any person
19 having a valid subsisting interest in real property, and a right to the
20 possession thereof, may recover the same by action in the superior
21 court of the proper county, to be brought against the tenant in
22 possession; if there is no such tenant, then against the person
23 claiming the title or some interest therein, and may have judgment in
24 such action quieting or removing a cloud from plaintiff's title; an
25 action to quiet title may be brought by the known heirs of any deceased
26 person, or of any person presumed in law to be deceased, or by the
27 successors in interest of such known heirs against the unknown heirs of
28 such deceased person or against such person presumed to be deceased and
29 his or her unknown heirs, and if it shall be made to appear in such
30 action that the plaintiffs are heirs of the deceased person, or the
31 person presumed in law to be deceased, or the successors in interest of
32 such heirs, and have been in possession of the real property involved
33 in such action for ten years preceding the time of the commencement of
34 such action, and that during said time no person other than the
35 plaintiff in the action or his or her grantors has claimed or asserted
36 any right or title or interest in said property, the court may adjudge
37 and decree the plaintiff or plaintiffs in such action to be the owners

1 of such real property, free from all claims of any unknown heirs of
2 such deceased person, or person presumed in law to be deceased; and an
3 action to quiet title may be maintained by any person in the actual
4 possession of real property against the unknown heirs of a person known
5 to be dead, or against any person where it is not known whether such
6 person is dead or not, and against the unknown heirs of such person,
7 and if it shall thereafter transpire that such person was at the time
8 of commencing such action dead the judgment or decree in such action
9 shall be as binding and conclusive on the heirs of such person as
10 though they had been known and named; and in all actions, under this
11 section, to quiet or remove a cloud from the title to real property, if
12 the defendant be absent or a nonresident of this state, or cannot,
13 after due diligence, be found within the state, or conceals himself or
14 herself to avoid the service of summons, service may be made upon such
15 defendant by publication of summons as provided by law; and the court
16 may appoint a trustee for such absent or nonresident defendant, to make
17 or cancel any deed or conveyance of whatsoever nature, or do any other
18 act to carry into effect the judgment or the decree of the court.

19 (2) Actions to quiet title that are based upon an allegation of
20 adverse possession must be brought within twenty years after the
21 commencement of the possession where entry onto the land begins on or
22 after the effective date of this section. A person may not gain title
23 to or rights in another's land by adverse possession until the
24 possession is proven to have continued for twenty years.

25 NEW SECTION. Sec. 3. A new section is added to chapter 7.28 RCW
26 to read as follows:

27 A landowner is entitled to the following protection:

28 It is an affirmative defense to any claim of adverse possession
29 that the landowner gave permission to use the land at any time during
30 the applicable time period specified in RCW 4.16.020 or 7.28.010 to the
31 person claiming title by adverse possession. A certified letter,
32 return receipt requested, delivered at any time during the applicable
33 time period specified in RCW 4.16.020 or 7.28.010 by the landowner to
34 the person claiming title by adverse possession granting permission to
35 use the land is conclusive evidence that subsequent use is permissive.

1 **Sec. 4.** RCW 7.28.083 and 2011 c 255 s 1 are each amended to read
2 as follows:

3 (1) A party who prevails against the holder of record title at the
4 time an action asserting title to real property by adverse possession
5 was filed, or against a subsequent purchaser from such holder, may be
6 required to:

7 (a) Reimburse such holder or purchaser for part or all of any taxes
8 or assessments levied on the real property during the period the
9 prevailing party was in possession of the real property in question and
10 which are proven by competent evidence to have been paid by such holder
11 or purchaser; and

12 (b) Pay to the treasurer of the county in which the real property
13 is located part or all of any taxes or assessments levied on the real
14 property after the filing of the adverse possession claim and which are
15 due and remain unpaid at the time judgment on the claim is entered.

16 (2) If the court orders reimbursement for taxes or assessments paid
17 or payment of taxes or assessments due under subsection (1) of this
18 section, the court shall determine how to allocate taxes or assessments
19 between the property acquired by adverse possession and the property
20 retained by the title holder. In making its determination, the court
21 shall consider all the facts and shall order such reimbursement or
22 payment as appears equitable and just.

23 (3) The prevailing party in an action asserting title to real
24 property by adverse possession may request the court to award costs and
25 reasonable attorneys' fees(~~(-)~~), and the court ((may)) **must** award ((all
26 ~~or a portion of)) costs and reasonable attorneys' fees to the~~
27 prevailing party ~~((if, after considering all the facts, the court~~
28 ~~determines such an award is equitable and just))~~.

29 NEW SECTION. **Sec. 5.** Sections 1 through 3 of this act apply only
30 to actions commenced after the effective date of this section.

--- END ---