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**SUBSTITUTE HOUSE BILL 2584**

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**State of Washington**

**55th Legislature**

**1998 Regular Session**

**By** House Committee on Law & Justice (originally sponsored by Representatives Mielke, Pennington, Ogden, Boldt, Koster, Carlson, Sump, DeBolt, B. Thomas, Hatfield, Doumit, Carrell, Mulliken, Zellinsky, Alexander, Clements, Benson, Reams and Dunn)

Read first time 02/05/98. Referred to Committee on .

1 AN ACT Relating to adverse possession; amending RCW 7.28.010 and  
2 4.16.020; adding a new section to chapter 4.16 RCW; adding a new  
3 section to chapter 7.28 RCW; and declaring an emergency.

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

5 **Sec. 1.** RCW 7.28.010 and 1911 c 83 s 1 are each amended to read as  
6 follows:

7 Any person having a valid subsisting interest in real property, and  
8 a right to the possession thereof, may recover the same by action in  
9 the superior court of the proper county, to be brought against the  
10 tenant in possession; if there is no such tenant, then against the  
11 person claiming the title or some interest therein, and may have  
12 judgment in such action quieting or removing a cloud from plaintiff's  
13 title; an action to quiet title may be brought by the known heirs of  
14 any deceased person, or of any person presumed in law to be deceased,  
15 or by the successors in interest of such known heirs against the  
16 unknown heirs of such deceased person or against such person presumed  
17 to be deceased and his or her unknown heirs, and if it shall be made to  
18 appear in such action that the plaintiffs are heirs of the deceased  
19 person, or the person presumed in law to be deceased, or the successors

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

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

32 The period prescribed for the commencement of actions shall be as  
33 follows:

34 (1) Within (~~ten~~) twenty years:

35 (~~(1)~~) For actions for the recovery of real property, or for the  
36 recovery of the possession thereof; and no action shall be maintained  
37 for such recovery unless it appears that the plaintiff, his or her  
38 ancestor, predecessor or grantor was seized or possessed of the

1 premises in question within (~~ten~~) twenty years before the  
2 commencement of the action. In an action claiming adverse possession,  
3 continuity of possession for the requisite time limit is not  
4 established by privity between successive occupants holding adversely  
5 to the holder of the true title, unless the interest passed to the  
6 plaintiff pursuant to a will or by intestate succession.

7 (2) Within ten years:

8 (a) For an action upon a judgment or decree of any court of the  
9 United States, or of any state or territory within the United States,  
10 or of any territory or possession of the United States outside the  
11 boundaries thereof, or of any extraterritorial court of the United  
12 States, unless the ten-year period is extended in accordance with RCW  
13 6.17.020(3).

14 (~~(3)~~) (b) Of the eighteenth birthday of the youngest child named  
15 in the order for whom support is ordered for an action to collect past  
16 due child support that has accrued under an order entered after July  
17 23, 1989, by any of the above-named courts or that has accrued under an  
18 administrative order as defined in RCW 74.20A.020(6), which is issued  
19 after July 23, 1989.

20 NEW SECTION. Sec. 3. A new section is added to chapter 4.16 RCW  
21 to read as follows:

22 The prevailing party in any proceeding concerning adverse  
23 possession of real property must pay to the county auditor of the  
24 county in which the real property is located an amount equal to the  
25 property taxes paid by another party or owed with regard to the real  
26 property during the period of the adverse possession. The county  
27 auditor shall reimburse any party to the proceeding other than the  
28 prevailing party for any taxes actually paid with regard to the real  
29 property during the period of the adverse possession.

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

32 In any action involving adverse possession:

33 (1) It shall be an absolute defense to any claim of adverse  
34 possession, if proved by a preponderance of the evidence, that the  
35 person asserting adverse possession originally entered onto the land  
36 with the intent to acquire fee title or use rights in the property.

1 (2) The person asserting adverse possession must show a clearly  
2 identified boundary line demonstrating his or her use of the land for  
3 the period of limitations.

4 (3) If the landowner gave written notice, by certified mail to the  
5 person claiming adverse possession, that the landowner is aware of the  
6 trespass at any time during the statutory period of limitations, any  
7 use of the land subsequent to the date of notice by the person  
8 asserting adverse possession, or anyone else residing at the address  
9 where the notice was sent, shall be deemed to be permissive as of the  
10 date of the notice.

11 NEW SECTION. **Sec. 5.** This act is necessary for the immediate  
12 preservation of the public peace, health, or safety, or support of the  
13 state government and its existing public institutions, and takes effect  
14 immediately.

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