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SENATE BILL 5129

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State of Washington                      56th Legislature                      1999 Regular Session

By Senators Heavey, McCaslin, Deccio and Roach

Read first time 01/13/1999. Referred to Committee on Judiciary.

1            AN ACT Relating to adverse possession; and adding new sections to  
2 chapter 7.28 RCW.

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

4            NEW SECTION.    **Sec. 1.** The legislature finds that the statutory law  
5 governing the elements of adverse possession should be explicitly  
6 stated in the statute in order to allow people to more clearly  
7 understand property rights in this state. Section 2 of this act sets  
8 forth the common law elements presently required in Washington before  
9 a claim for adverse possession of real property will be granted. The  
10 legislature intends to add the element of "honest belief" to the common  
11 law elements of adverse possession, which are: Actual, open,  
12 notorious, exclusive, hostile, and continuous possession. The  
13 legislature intends that prior to taking property from the true owner,  
14 the adverse possessor must hold an honest belief that he or she is the  
15 true owner of the property in question.

16            The provisions of this section are not intended to change any of  
17 the statutory law or common law elements of adverse possession relating  
18 to colorable title or payment of taxes.

1        NEW SECTION.    **Sec. 2.**    (1) A person may acquire title to real  
2 property by adverse possession only if:

3        (a) The person has maintained actual, open, notorious, exclusive,  
4 hostile, and continuous possession of the property for the period set  
5 forth in RCW 4.16.020;

6        (b) At the time the person claiming by adverse possession first  
7 entered into possession of the property, the person entering into  
8 possession had the honest belief that he or she was the actual owner of  
9 the property and that belief:

10        (i) By the person continued throughout the vesting period;

11        (ii) Had an objective basis; and

12        (iii) Was reasonable under the particular circumstances; and

13        (c) The person proves each of the elements set forth in this  
14 section by clear and convincing evidence.

15        (2) A person maintains hostile possession of property if the  
16 possession is adverse to that of the true owner.

17        (3) The adverse possessor obtains the same interest in the property  
18 that the person who owned the present possessory estate held when the  
19 adverse possession began.

20        (4) If a person is claiming property under this section by  
21 utilizing the interests of a predecessor in interest, that predecessor  
22 in interest must also have met the requirements of subsection (1)(a),  
23 (b), and (c) of this section.

24        (5) This section applies to civil actions filed on or after July 1,  
25 1999.

26        NEW SECTION.    **Sec. 3.**    Sections 1 and 2 of this act are each added  
27 to chapter 7.28 RCW.

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