



SENATE OF PENNSYLVANIA BILL SUMMARY

House Bill 352 Printer's No. 364

Prime Sponsor: Representative L. Schlegel Culver
Committee: Judiciary

SYNOPSIS:

Amends Title 42 (Judiciary and Judicial Procedure) to establish a new timeline and procedure for claiming title to real property by adverse possession.

SUMMARY:

Allows title to real property to be acquired after no less than ten years of "actual, continuous, exclusive, visible, notorious, distinct and hostile possession of the real property."

Applicability

This bill does not apply to real property that is part of a common interest ownership community, such as condominiums, cooperatives, or planned communities. It does not apply to real property owned by the United States, the Commonwealth, a local government, or any agency, authority, or other unit of the federal, state, or local government. The bill does not apply to redevelopment authorities, municipal authorities, or school districts. It does not supersede the Municipalities Planning Code, a zoning ordinance, or the authority of a zoning officer or zoning hearing board.

Contiguous Lots

When a person asserts adverse possession of real property, the person may include a contiguous lot that has been used regularly as part of the real property for at least ten years, as long as the contiguous lot does not exceed a total area of one-half acre when combined with the real property.

Quiet Title Action

In order to acquire title to real property by adverse possession, a person who has possessed the property for at least ten years must commence an action to quiet title. The person must provide notice to the record owners, their heirs, successors, and assigns on a form approved by rule of the Supreme Court. The notice shall include the metes and bounds description, deed reference, street address, postal zip code, uniform parcel identifier or tax parcel number, and a notice that the owners, heirs, successors, or assigns have one year to respond by commencing an action in ejectment against the possessor.

If the record owner files an action in ejectment against the possessor, and the court rules in favor of the record owner, then the court shall toll the statute of limitations for adverse possession and dispose of the possessor's action to quiet title. Thus, the period for running the statute of limitations for a new action to quiet title would not commence until the date of the judgment in the ejectment action. As a

part of the action in ejectment, the record owner or successor may seek mesne profits (i.e., profits realized during the detention of the land) for the six-year period ending with the commencement of the action in ejectment. The defendant in the ejectment action, however, may recover costs for maintenance, improvements, repairs, renovations, taxes, or other such expenses that benefit the real estate if the defendant can prove that these costs were the responsibility of the record owner.

If no ejectment action is filed within the one-year period, then the court may enter judgment and grant to the possessor title to the real property by adverse possession. A judgment granting title to the property by adverse possession does not relieve the possessor of any other interest in the property, such as an easement, covenant, mortgage, lien, judgment, or lease, nor does it supersede a state law or municipal ordinance to which the property is subject. The relief offered by this bill regarding adverse possession is not intended to be exclusive of any other rights or remedies that may be available, such as the determination of title to a decedent's interest in real estate.

Definitions

"Real property" is defined in the bill as real estate not exceeding one-half acre that is improved by a single-family dwelling and that is identified as a separate lot in a recorded conveyance, recorded subdivision plan, or recorded official map or plan of a municipality.

"Single-family dwelling" is defined as a residence that is designed for occupancy by one household, whether detached from or attached to other structures.

COMMENT:

Under current law, a person who claims title by adverse possession must prove "actual, continuous, exclusive, visible, notorious, distinct and hostile possession of the land for twenty-one years." Each of these elements must exist, or else the possession of the property will not confer title.

EFFECTIVE DATE:

This bill is effective in one year.

BILL HISTORY:

Passed the House of Representatives on May 9, 2017 by a vote of 167-28.

Prepared by: Cawley 9/29/2017