

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1322 Session of 2009

INTRODUCED BY WHEATLEY, BISHOP, DeLUCA, GEIST, JOHNSON, McGEEHAN, PAYTON, PRESTON, SIPTROTH, K. SMITH, J. TAYLOR, WAGNER, YOUNGBLOOD AND MURT, APRIL 22, 2009

AS REPORTED FROM COMMITTEE ON URBAN AFFAIRS, HOUSE OF REPRESENTATIVES, AS AMENDED, MAY 3, 2010

AN ACT

1 Amending Title 42 (Judiciary and Judicial Procedure) of the
2 Pennsylvania Consolidated Statutes, further providing for the
3 period of limitation in the doctrine of RELATING TO CLAIMS OF
4 adverse possession under certain circumstances; and making
5 related repeals PROVIDING FOR UNIFORM NOTICE, FOR MESNE
6 PROFITS AND FOR REIMBURSEMENT.



7 The General Assembly of the Commonwealth of Pennsylvania
8 hereby enacts as follows:

9 Section 1. Title 42 of the Pennsylvania Consolidated
10 Statutes is amended by adding a section SECTIONS to read:



11 § 5527.1. Ten-year limitation.

12 ~~Notwithstanding the provisions of section 5530(a)(1)~~
13 ~~(relating to twenty one year limitation), an action for the~~
14 ~~possession of real property on which there is an occupied single~~
15 ~~family dwelling on a lot of one acre or less where the~~
16 ~~unimproved land is incidental to the residence must be commenced~~
17 ~~within ten years. If the person in actual possession of the real~~
18 ~~property possesses the property under claim and color of title~~
19 ~~made in good faith and shall have been in continuous possession~~



1 ~~for three successive years, the action must be commenced within~~
2 ~~three years. If the person in actual possession of the real~~
3 ~~property shall have been in continuous possession for seven~~
4 ~~successive years and shall have paid all taxes legally assessed~~
5 ~~on the real property during that time, the action must be~~
6 ~~commenced within seven years.~~

7 (A) ADVERSE POSSESSION.--TITLE TO REAL PROPERTY MAY BE
8 ACQUIRED AFTER NO LESS THAN TEN YEARS OF ACTUAL, CONTINUOUS,
9 EXCLUSIVE, VISIBLE, NOTORIOUS, DISTINCT AND HOSTILE POSSESSION
10 OF THE REAL PROPERTY.

11 (B) CONTIGUOUS LOTS.--

12 (1) WHERE AN ADDITIONAL LOT ABUTS AND IS CONTIGUOUS TO
13 REAL PROPERTY AND HAS BEEN REGULARLY USED AS PART OF AN
14 INCIDENT TO THE REAL PROPERTY, A POSSESSOR WHO SEEKS TO
15 ACQUIRE TITLE TO REAL PROPERTY PURSUANT TO THIS SECTION MAY
16 ALSO INCLUDE THE CONTIGUOUS LOT IN THE ACTION TO QUIET TITLE
17 UNDER SUBSECTION (C).

18 (2) IN ORDER TO ACQUIRE TITLE TO THE CONTIGUOUS LOT, THE
19 POSSESSOR MUST SHOW THAT:

20 (I) THE AREA OF THE CONTIGUOUS LOT AS DESCRIBED BY
21 THE METES AND BOUNDS DOES NOT EXCEED A TOTAL AREA OF ONE
22 ACRE WHEN COMBINED WITH THE REAL PROPERTY.

23 (II) THE POSSESSOR HAS MADE ACTUAL, CONTINUOUS,
24 EXCLUSIVE, VISIBLE, NOTORIOUS, DISTINCT AND HOSTILE
25 POSSESSION OF THE CONTIGUOUS LOT FOR A PERIOD OF NOT LESS
26 THAN TEN YEARS.

27 (C) QUIET TITLE ACTION REQUIRED.--

28 (1) A POSSESSOR WHO SEEKS TO ACQUIRE TITLE TO REAL
29 PROPERTY PURSUANT TO THIS SECTION MUST, AFTER MEETING THE
30 REQUIREMENTS OF SUBSECTIONS (A) AND (B), COMMENCE A QUIET

1 TITLE ACTION AND PROVIDE NOTICE AS REQUIRED IN THIS SECTION.

2 (2) NOTICE OF THE ACTION SHALL INCLUDE INFORMATION
3 RELATING TO THE RESPONDENT'S OPPORTUNITY TO CURE AS SPECIFIED
4 IN SUBSECTION (D) AND SHALL BE PROVIDED TO THE RECORD OWNERS,
5 THEIR HEIRS, SUCCESSORS AND ASSIGNS IN THE MANNER DESCRIBED
6 IN THIS SECTION, SECTION 5527.2 (RELATING TO UNIFORM NOTICE)
7 AND THE PENNSYLVANIA RULES OF CIVIL PROCEDURE.

8 (D) ONE-YEAR NOTICE.--

9 (1) THE RECORD OWNERS OR THEIR HEIRS, SUCCESSORS AND
10 ASSIGNS SHALL HAVE ONE YEAR IN WHICH TO RESPOND BY COMMENCING
11 AN ACTION IN EJECTMENT AGAINST THE POSSESSOR, WHICH ACTION
12 DISPUTES THE CLAIM OF ADVERSE POSSESSION.

13 (2) IF AN ACTION IN EJECTMENT IS SO FILED AND SERVED
14 WITHIN THE ONE-YEAR PERIOD AND JUDGMENT IS AWARDED TO THE
15 PLAINTIFF IN THE EJECTMENT ACTION, THE STATUTE OF LIMITATIONS
16 IS TOLLED.

17 (3) IF NO ACTION IN EJECTMENT IS SO FILED AND SERVED
18 WITHIN THE ONE-YEAR PERIOD, THEN JUDGMENT MAY BE ENTERED BY
19 THE COURT GRANTING TITLE TO THE REAL PROPERTY BY ADVERSE
20 POSSESSION PURSUANT TO THIS SECTION AND THE PENNSYLVANIA
21 RULES OF CIVIL PROCEDURE.

22 (E) NONAPPLICABILITY.--THIS SECTION SHALL NOT APPLY TO REAL
23 PROPERTY THAT IS PART OF A COMMON INTEREST OWNERSHIP COMMUNITY
24 ESTABLISHED UNDER 68 PA.C.S. PT. II SUBPTS. B (RELATING TO
25 CONDOMINIUMS), C (RELATING TO COOPERATIVES) AND D (RELATING TO
26 PLANNED COMMUNITIES).

27 (F) DEFINITION.--AS USED IN THIS SECTION, "REAL PROPERTY"
28 MEANS REAL ESTATE NOT EXCEEDING ONE ACRE IN AREA THAT IS:

29 (1) IMPROVED BY A SINGLE-FAMILY RESIDENTIAL DWELLING
30 THAT IS AND HAS BEEN OCCUPIED BY A PERSON SEEKING TITLE UNDER

1 THIS SECTION FOR THE FULL TEN YEARS.

2 (2) IDENTIFIED AS A SEPARATE LOT IN A RECORDED
3 CONVEYANCE, RECORDED SUBDIVISION PLAN OR RECORDED OFFICIAL
4 MAP OR PLAN OF A MUNICIPALITY.

5 § 5527.2 UNIFORM NOTICE.

6 NOTICE SHALL BE PROVIDED IN A FORM APPROVED BY RULE OF THE
7 PENNSYLVANIA SUPREME COURT, WHICH FORM SHALL INCLUDE THE METES
8 AND BOUNDS DESCRIPTION, DEED REFERENCE, STREET ADDRESS, POSTAL
9 ZIP CODE, UNIFORM PARCEL IDENTIFIER OR TAX PARCEL NUMBER AND THE
10 NOTICE OF THE ONE-YEAR PERIOD TO CURE AS STATED IN SECTION
11 5527.1(D) (RELATING TO TEN-YEAR LIMITATION).

12 § 5527.3 MESNE PROFITS.

13 RECORD OWNERS, THEIR HEIRS, SUCCESSORS AND ASSIGNS SHALL HAVE
14 THE RIGHT SEEK ANY MESNE PROFITS IN AN ACTION IN EJECTMENT FILED
15 IN RESPONSE TO THE NOTICE SERVED UNDER SECTION 5527.1 (RELATING
16 TO TEN-YEAR LIMITATION) OR WAIVE THE RIGHT TO SUCH RECOVERY.
17 RECOVERY SHALL BE LIMITED TO THE MESNE PROFITS APPLICABLE TO THE
18 SIX-YEAR PERIOD ENDING WITH THE COMMENCEMENT OF THE ACTION IN
19 EJECTMENT PURSUANT TO SECTION 5527(B) (RELATING TO SIX YEAR
20 LIMITATION).

21 § 5527.4 REIMBURSEMENT.

22 THE DEFENDANT IN THE EJECTMENT ACTION SHALL HAVE THE RIGHT TO
23 RECOVER SUCH COSTS FOR MAINTENANCE, IMPROVEMENTS, REPAIRS,
24 RENOVATIONS, TAXES OR OTHER SUCH EXPENSES TO BENEFIT THE REAL
25 PROPERTY AS THE DEFENDANT CAN PROVE BY A PREPONDERANCE OF THE
26 EVIDENCE THAT WERE OR SHOULD HAVE BEEN THE RESPONSIBILITY OF THE
27 RECORD OWNERS, THEIR HEIRS, SUCCESSORS AND ASSIGNS.

28 Section 2. Section 5530(a)(1) of Title 42 is amended to
29 read:

30 § 5530. Twenty-one year limitation.

1 (a) General rule.--The following actions and proceedings
2 must be commenced within 21 years:

3 (1) [An] Except as provided in section 5527.1 (relating
4 to ten-year limitation), an action for the possession of real
5 property.

6 * * *

7 ~~Section 3. (a) The act of May 31, 1901 (P.L.352, No.217),~~ ←
8 ~~entitled "An act to provide for the recording, in certain~~
9 ~~instances, of titles to real estate acquired by twenty one~~
10 ~~years' adverse possession," is repealed insofar as it is~~
11 ~~inconsistent with this act.~~

12 ~~(b) All other acts and parts of acts are repealed insofar as~~
13 ~~they are inconsistent with this act.~~

14 ~~Section 4. This act shall not affect the title to real~~
15 ~~property which is the subject of an action commenced prior to~~
16 ~~the effective date of this section.~~

17 ~~Section 5 3. This act shall take effect in one year.~~ ←