

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1022 Session of 2011

INTRODUCED BY WHEATLEY, THOMAS, BOBACK, BUXTON, D. COSTA,
CREIGHTON, DALEY, FABRIZIO, GEIST, GINGRICH, HORNAMAN,
JOHNSON, JOSEPHS, KIRKLAND, KORTZ, KULA, MATZIE, MCGEEHAN,
MILNE, PASHINSKI, PAYTON, RAVENSTAHL, SANTARSIERO,
VULAKOVICH, WAGNER AND YOUNGBLOOD, MARCH 14, 2011

REFERRED TO COMMITTEE ON URBAN AFFAIRS, MARCH 14, 2011

AN ACT

1 Amending Title 42 (Judiciary and Judicial Procedure) of the
2 Pennsylvania Consolidated Statutes, in limitation of time,
3 further providing for the period of limitation relating to
4 claims of adverse possession under certain circumstances; and
5 providing for uniform notice, for mesne profits and for
6 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 sections to read:

11 § 5527.1. Ten-year limitation.

12 (a) Adverse possession.--Title to real property may be
13 acquired after no less than ten years of actual, continuous,
14 exclusive, visible, notorious, distinct and hostile possession
15 of the real property.

16 (b) Contiguous lots.--

17 (1) Where an additional lot abuts and is contiguous to
18 real property and has been regularly used as part of and

1 incident to the real property, a possessor who seeks to
2 acquire title to real property pursuant to this section may
3 also include the contiguous lot in the action to quiet title
4 under subsection (c).

5 (2) In order to acquire title to the contiguous lot, the
6 possessor must show that:

7 (i) The area of the contiguous lot as described by
8 the metes and bounds does not exceed a total area of
9 one-half acre when combined with the real property.

10 (ii) The possessor has made actual, continuous,
11 exclusive, visible, notorious, distinct and hostile
12 possession of the contiguous lot for a period of not less
13 than ten years.

14 (c) Quiet title action required.--

15 (1) A possessor who seeks to acquire title to real
16 property pursuant to this section must, after meeting the
17 requirements of subsections (a) and (b), commence a quiet
18 title action and provide notice as required in this section.

19 (2) Notice of the action shall include information
20 relating to the respondent's opportunity to cure as specified
21 in subsection (d) and shall be provided to the record owners,
22 their heirs, successors and assigns.

23 (3) Notice shall be provided in a form approved by rule
24 of the Pennsylvania Supreme Court, which form shall include
25 the metes and bounds description, deed reference, street
26 address, postal zip code, uniform parcel identifier or tax
27 parcel number and the notices of the one-year period to cure
28 as stated in subsection (d).

29 (d) One-year notice.--

30 (1) The record owners or their heirs, successors and

1 assigns shall have one year in which to respond by commencing
2 an action in ejectment against the possessor, which action
3 disputes the claim of adverse possession.

4 (2) (i) If an action in ejectment is so filed and
5 served in accordance with the requirements of this
6 section and the verdict and judgment in the ejectment
7 action are rendered in favor of the record owners, or
8 their heirs, successors and assigns, then both the ten-
9 year statute of limitations set forth in this section and
10 the 21-year statute of limitations set forth in section
11 5530 (relating to twenty-one year limitation) are tolled,
12 and the court shall render a judgment in favor of the
13 record owners, or their heirs, successors and assigns,
14 disposing of the quiet title action.

15 (ii) The period for running the statute of
16 limitations for any subsequent claim seeking title by
17 adverse possession under this section or section 5530
18 shall commence at a date not earlier than the date of the
19 judgment granting the relief requested in the ejectment
20 action.

21 (3) If no action in ejectment is so filed and served
22 within the one-year period, then judgment may be entered by
23 the court granting title to the real property by adverse
24 possession pursuant to this section and the Pennsylvania
25 Rules of Civil Procedure.

26 (4) A judgment granting title by adverse possession
27 pursuant to this section shall not, in and of itself:

28 (i) discharge, terminate or give rise to a
29 presumption of satisfaction or release of any interest in
30 the property that runs with title to the property,

1 including, but not limited to, easements, profits,
2 covenants, mortgages, liens, judgments and leases; or
3 (ii) otherwise extend or limit the period of time in
4 which claims relating to the property may be asserted
5 against a possessor granted title by a judgment of
6 adverse possession.

7 (e) Nonapplicability.--This section shall not apply to real
8 property that is part of a common interest ownership community
9 established under 68 Pa.C.S. Pt. II Subpts. B (relating to
10 condominiums), C (relating to cooperatives) and D (relating to
11 planned communities).

12 (f) Definition.--As used in this section, "real property"
13 means real estate not exceeding one-half acre in area that is:

14 (1) Improved by a single-family residential dwelling
15 that is and has been occupied by a person seeking title under
16 this section for the full ten years.

17 (2) Identified as a separate lot in a recorded
18 conveyance, recorded subdivision plan or recorded official
19 map or plan of a municipality.

20 § 5527.2. Mesne profits.

21 (a) General rule.--Record owners, their heirs, successors
22 and assigns shall have the right to seek any mesne profits in an
23 action in ejectment filed in response to the notice served under
24 section 5527.1 (relating to ten-year limitation) or waive the
25 right to such recovery.

26 (b) Limitation on recovery.--Recovery shall be limited to
27 the mesne profits applicable to the six-year period ending with
28 the commencement of the action in ejectment pursuant to section
29 5527(b) (relating to six year limitation).

30 § 5527.3. Reimbursement.

1 The defendant in the ejectment action pursuant to section
2 5527.1 (relating to ten-year limitation) shall have the right to
3 recover such costs for maintenance, improvements, repairs,
4 renovations, taxes or other such expenses to benefit the real
5 property as the defendant can prove by a preponderance of the
6 evidence that were or should have been the responsibility of the
7 record owners, their heirs, successors and assigns.

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

10 § 5530. Twenty-one year limitation.

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

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

16 * * *

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