

ESHB 1026 - S AMD 402

By Senators Kline, Pflug

ADOPTED 04/21/2011

1 Strike everything after the enacting clause and insert the
2 following:

3 "NEW SECTION. **Sec. 1.** A new section is added to chapter 7.28 RCW
4 to read as follows:

5 (1) A party who prevails against the holder of record title at the
6 time an action asserting title to real property by adverse possession
7 was filed, or against a subsequent purchaser from such holder, may be
8 required to:

9 (a) Reimburse such holder or purchaser for part or all of any taxes
10 or assessments levied on the real property during the period the
11 prevailing party was in possession of the real property in question and
12 which are proven by competent evidence to have been paid by such holder
13 or purchaser; and

14 (b) Pay to the treasurer of the county in which the real property
15 is located part or all of any taxes or assessments levied on the real
16 property after the filing of the adverse possession claim and which are
17 due and remain unpaid at the time judgment on the claim is entered.

18 (2) If the court orders reimbursement for taxes or assessments paid
19 or payment of taxes or assessments due under subsection (1) of this
20 section, the court shall determine how to allocate taxes or assessments
21 between the property acquired by adverse possession and the property
22 retained by the title holder. In making its determination, the court
23 shall consider all the facts and shall order such reimbursement or
24 payment as appears equitable and just.

25 (3) The prevailing party in an action asserting title to real
26 property by adverse possession may request the court to award costs and
27 reasonable attorneys' fees. The court may award all or a portion of
28 costs and reasonable attorneys' fees to the prevailing party if, after
29 considering all the facts, the court determines such an award is
30 equitable and just.

1 NEW SECTION. **Sec. 2.** This act applies to actions filed on or
2 after July 1, 2012."

ESHB 1026 - S AMD

By Senators Kline, Pflug

ADOPTED 04/21/2011

3 On page 1, line 1 of the title, after "possession;" strike the
4 remainder of the title and insert "adding a new section to chapter 7.28
5 RCW; and creating a new section."

EFFECT: Removes the requirement that a person asserting a claim
of adverse possession must prove each element of his or her case by
clear, cogent, and convincing evidence.

Removes the provision that allowed the court to award all or a
portion of costs and attorneys' fees to the prevailing party in an
action asserting title to real property by adverse possession.

--- END ---