

SHB 1026 - H AMD 15

By Representative Shea

ADOPTED 02/23/2011

1 After the enacting clause strike all material in sections 1 and 2
2 and insert the following:

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

5 (1) In an action asserting title to real property by adverse
6 possession, the person asserting the claim must prove each element of
7 the claim by clear, cogent, and convincing evidence.

8 (2) The prevailing party in an action asserting title to real
9 property by adverse possession may request the court to award costs and
10 reasonable attorneys' fees. The court may award all or a portion of
11 costs and reasonable attorneys' fees to the prevailing party if, after
12 considering all the facts, the court determines such an award is
13 equitable and just.

14 (3) This section does not apply to claims of adverse possession
15 brought under RCW 7.28.050, 7.28.070, or 7.28.085.

16 NEW SECTION. **Sec. 2.** A new section is added to chapter 7.28 RCW
17 to read as follows:

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

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

27 (b) Pay to the treasurer of the county in which the real property
28 is located part or all of any taxes or assessments levied on the real

1 property after the filing of the adverse possession claim and which are
2 due and remain unpaid at the time judgment on the claim is entered.

3 (2) If the court orders reimbursement for taxes or assessments paid
4 or payment of taxes or assessments due under subsection (1) of this
5 section, the court shall determine how to allocate taxes or assessments
6 between the property acquired by adverse possession and the property
7 retained by the title holder. In making its determination, the court
8 shall consider all the facts and shall order such reimbursement or
9 payment as appears equitable and just."

10 Correct the title.

EFFECT: Allows a court to award all or a portion of costs and reasonable attorneys' fees to the prevailing party in an adverse possession action as is equitable and just, rather than to only the person defending against the claim of adverse possession.

Specifies that the court shall determine how to allocate taxes or assessments between the property acquired by adverse possession and the property retained by the title holder as appears equitable and just, if the court orders reimbursement or payment of taxes or assessments by a party who prevails against the holder of record title.

Makes technical changes.

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