

STATE OF OKLAHOMA

1st Session of the 49th Legislature (2003)

HOUSE BILL HB1584

By: Nations

AS INTRODUCED

An Act relating to property; amending 60 O.S. 2001, Section 333, which relates to title by prescription; providing method of acquiring title to real property by prescription; providing requirements necessary to establish title by lawsuit; providing applicability to boundary disputes; providing limitations to certain actions; and providing an effective date.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 60 O.S. 2001, Section 333, is amended to read as follows:

Section 333. A. Occupancy for the period prescribed by civil procedure and pursuant to the provisions of this section, or any law of this state as sufficient to bar an action for the recovery of the property, confers a title thereto, denominated a title by prescription, which is sufficient against all.

B. For the purpose of constituting title by prescription by a person claiming title not founded upon a written and recorded instrument or by judgment or decree, the land is deemed to have been possessed and occupied only:

1. Where it has been protected by a substantial enclosure and usually cultivated or improved; or

2. Where, though not enclosed, it has been used and occupied so openly and notoriously as to attract the attention of every other claimant, and so exclusively as to prevent actual occupation by another.

Title by prescription may be conferred only to that land so actually possessed and occupied.

C. For the purpose of constituting title by prescription by a person claiming good faith title founded upon a written and recorded instrument or by a judgment or decree, the land is deemed to have been possessed and occupied only:

1. Where it has been protected by a substantial enclosure and usually cultivated or improved; or

2. Where, though not enclosed, it has been used and occupied for the ordinary use of the occupant according to the usual course and custom of the adjoining properties.

Title may be conferred to that land which is described in the instrument, judgment, or decree even though only a portion of the described land is so possessed and occupied.

D. In any suit to establish title to land, no possession thereof shall be deemed adverse to the owner in such manner as to establish title or rights in and to such land unless the adverse possessor or claimant and any predecessors or grantors, shall have either:

1. Paid and discharged all taxes and assessments of every nature falling due on the land during the period the person claims to have possessed the same adversely; or

2. Sent notice annually by certified mail, return receipt requested, to the owner of record of the land during the period the person claims to have possessed the same adversely. The notice shall state that the claimant is adversely possessing the land or real estate.

E. Notwithstanding the provisions of subsections B, C, and D of this section, actions may be brought by any person owning land or any interest therein against the owner or any person interested in adjoining land to have boundary lines established, and the court shall determine any adverse claims in respect to any portion of the land involved which may be necessary to determine for a complete settlement of the boundary lines.

F. This section shall not bar any claim arising or existing prior to the effective date of this act.

SECTION 2. This act shall become effective November 1, 2003.

49-1-5100 MD 01/17/03