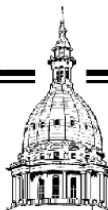




Senate Fiscal Agency
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Lansing, Michigan 48909-7536

BILL ANALYSIS



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Senate Bills 631 and 632 (as introduced 9-12-95)
Sponsor: Senator Joe Conroy
Committee: Financial Services

Date Completed: 9-17-96

CONTENT

Senate Bills 631 and 632 would amend the Revised Judicature Act and Public Act 200 of 1945 (which provides for marketable record title to an interest in land), respectively, to abolish the doctrine of adverse possession, unless the required period of continuous possession had run in its entirety before the effective date of Senate Bill 631. The bills are tie-barred to each other.

("Adverse possession" refers to the method by which a person can gain legal title to the land of another by possessing the property exclusively and continuously for a certain length of time, in a manner that is adverse or hostile to the interests of the owner, and under circumstances that give clear notice to the owner of the possession. As a rule, under Michigan law, 15 years is the period required for adverse possession claims. Pursuant to Public Act 35 of 1988, adverse possession claims cannot be made against the State, although a party may seek other equitable relief.)

Senate Bill 631

The bill provides that, beginning on its effective date, the doctrine of securing title to real property by adverse possession would be abolished in this State. A claim of title to adverse possession could be made, however, if the period of continuous possession of the real property, as required by law, had run in its entirety before the bill's effective date.

Currently, the Revised Judicature Act provides that, in every action for the recovery or possession of real estate, the person establishing the legal title to the property is presumed to have been in possession of it within the time limited by law for bringing the action, unless it appears that the property has been possessed adversely to the legal title by the defendant or those from or under whom he or she claims. Under the bill, the property would have to have been possessed adversely for the period described in the bill.

Senate Bill 632

Under Public Act 200 of 1945, if a person has the legal capacity to own land in this State and has an unbroken chain of title of record to any interest in land for 40 years, at the end of that period the person generally must be considered to have marketable record title to that interest. A person may not be considered to have marketable record title, however, if the land has been in the hostile

possession of another. Under the bill, the land would have to have been in the hostile possession of another for the period required by Senate Bill 631.

MCL 600.5867 et al. (S.B. 631)
565.101 (S.B. 632)

Legislative Analyst: S. Margules

FISCAL IMPACT

The bills would have an indeterminate fiscal impact depending on the reduction in the numbers of claims made for title to real property by adverse possession. The bills eventually would decrease the amount of court time involved in handling these types of cases.

Fiscal Analyst: M. Ortiz

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.