

**LEGISLATIVE SERVICES AGENCY
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS**

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FISCAL IMPACT STATEMENT

LS 6348
BILL NUMBER: SB 38

NOTE PREPARED: Feb 8, 2021
BILL AMENDED:

SUBJECT: Adverse Possession Statute of Limitations.

FIRST AUTHOR: Sen. Doriot
FIRST SPONSOR:

BILL STATUS: 2nd Reading - 1st House

FUNDS AFFECTED: **GENERAL**
 DEDICATED
 FEDERAL

IMPACT: State & Local

Summary of Legislation: This bill amends the statute concerning the statute of limitations for actions for the recovery of the possession of real estate to provide that such an action that: (1) involves a line located and established by a professional surveyor; and (2) accrues before the lines are located and established by the surveyor; must be commenced before the expiration of the appeal period set forth in the statute governing county surveyors.

The bill amends the provision concerning the establishment of property lines by means of a legal survey to specify that the lines established are binding on all affected landowners, including a landowner who claims title under a claim of adverse possession. It also provides that certain information must be contained in a notice of survey sent to adjoining landowners, and that a legible copy of the plat of the legal survey must be enclosed with the notice.

Effective Date: July 1, 2021.

Explanation of State Expenditures:

Explanation of State Revenues: This bill reduces the time limit for filing an action for the recovery of the possession of real estate under certain conditions from 10 years to either:

- 90 days if the owner is a county resident or,
- One year if the owner does not reside in the county.

This change could potentially reduce the number of civil actions filed as well as the revenue generated by

court fees. However, any decrease in revenue would likely be minimal.

Additional Information—A civil costs fee of \$100 is assessed when a civil case is filed, 70% of which is deposited in the state General Fund if the case is filed in a court of record or 55% if the case is filed in a city or town court.

In addition, some or all of the judicial salaries fee (\$20), public defense administration fee (\$5), court administration fee (\$5), and the judicial insurance adjustment fee (\$1) are deposited into the state General Fund. Revenue from the pro bono services fee (\$1) is transferred by the State Auditor to the Indiana Bar Foundation for use to assist with pro bono legal services programs in Indiana and proceeds from the automated record keeping fee (\$20) are deposited into the State User Fee Fund. Additional fees may be collected at the discretion of the judge and depending upon the particular type of case.

Explanation of Local Expenditures:

Explanation of Local Revenues: A decrease in civil actions would decrease court fee revenue to local governments. However, any decrease in revenue would likely be minimal.

Additional Information- If a civil action is filed in a county court, the county would receive 27% of the \$100 court costs fee that is assessed in a court of record. Cities and towns maintaining a law enforcement agency that prosecutes at least 50% of its ordinance violations in a court of record may receive 3% of court costs fees. If the case is filed in a city or town court, 20% of the court costs fee would be deposited in the county general fund and 25% would be deposited in the city or town general fund. Additional fees may be collected at the discretion of the judge, depending upon the particular type of case.

Persons filing a civil case are also required to pay a document storage fee of \$5, which is deposited into the Clerk Record Perpetuation Fund. Document fees of \$1 per page are charged for preparing transcripts or copies of record or certificate under seal and a civil garnishee defendant service fee (\$10) is collected from the filing party for each defendant beyond the first three garnishee defendants cited in the lawsuit.

State Agencies Affected:

Local Agencies Affected: Trial courts, city and town courts.

Information Sources: Indiana Trial Court Fee Manual

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