

CHAPTER 557

ACTIONS RELATING TO REAL PROPERTY

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NOTE: For rules of civil procedure, district court, see Appendix 8.

557.01 NONRESIDENT, AGENT TO ACCEPT SERVICE. Any nonresident person or corporation owning or claiming any interest or lien in or upon lands in the state may file with the secretary of state a writing, executed and acknowledged in the manner of a conveyance, appointing a resident agent, whose place of residence shall be stated, to accept service of process or summons in any action or proceeding in the courts of the state concerning such interest or lien, except actions or proceedings for the collection of taxes, and consenting that service of such process or summons upon such agent shall be binding upon the person executing the same. Such writing shall be recorded by the secretary. No service by publication of summons shall be made upon any such nonresident who has complied with the provisions hereof, but in all such cases service of such process or summons, or of any writ or notice in the action or proceedings, shall be made upon such agent in the manner provided by law for such service upon residents of the state, and have the same effect as personal service within the state upon such owner or claimant; but, if such party appears by attorneys therein, the service of papers shall thereafter be upon such attorney. The authority of such agent may be revoked by writing similarly executed and acknowledged and recorded, but no revocation shall affect any action or proceeding then pending. For filing and recording such papers the secretary shall be entitled to 15 cents for each folio.

[*R L s 4387*] (9520)

NOTE: See Rules of Civil Procedure, Rules 4.044, 5.02, 86.01 and 86.02.

557.02 NOTICE OF LIS PENDENS. In all actions in which the title to, or any interest in or lien upon, real property is involved or affected, or is brought in question by either party, any party thereto, at the time of filing the complaint, or at any time thereafter during the pendency of such action, may file for record with the register of deeds of each county in which any part of the premises lies a notice of the pendency of the action, containing the names of the parties, the object of the action, and a description of the real property in such county involved, affected or brought in question thereby. From the time of the filing of such notice, and from such time only, the pendency of the action shall be notice to purchasers and encumbrancers of the rights and equities of the party filing the same to the premises. When any pleading is amended in such action, so as to alter the description of, or to extend the claim against, the premises affected, a new notice may be filed, with like effect. Such notice shall be recorded in the same book and in the same manner in which mortgages are recorded, and may be discharged by an entry to that effect in the margin of the record by the party filing the same, or his attorney, in the presence of the register, or by writing executed and acknowledged in the manner of conveyance, whereupon the register shall enter a minute thereof on the margin of such record. The filing of such lis pendens at the time of filing the complaint and before the commencement of the action shall have no force, effect, or validity against the premises described in the lis pendens, unless the filing of the complaint is followed by the service of the summons in the action within 90 days after the filing of the complaint therein. Any party claiming any title or interest in or to the real property involved or affected may on such notice as the court shall in each case prescribe, make application to the district court in the county in which the action is pending or in which the real property involved or affected is situated, for an order discharging the lis pendens of record, when any such action has not been brought on for trial within two years after the filing of the lis pendens and in case the court orders the lis pendens discharged of record

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upon the filing of a certified copy of the order of the court in the office of the register of deeds, where the real property is situated, the lis pendens shall be void and of no force nor effect.

[R. L. s. 4389; 1907 c. 332 s. 1; 1919 c. 527 s. 1] (9521)

NOTE: All lis pendens filed prior to April 25, 1919, becomes void at the expiration of 15 years from the date of their filing. [1919 c. 527 s. 1]

557.021 LIS PENDENS; NOTICE; LIMIT, TEN YEARS. On and after January 1, 1948, no lis pendens now of record or hereafter filed shall be notice, either actual or constructive, of the pendency of any action or of any of the matters referred to in the court files and records pertaining to the action noticed by such lis pendens, after such lis pendens has been of record for ten years unless a new notice of lis pendens in the same action is filed within said ten years.

[1947 c. 326 s. 1]

557.022 PRESERVATION OF NOTICE. The effect of any lis pendens which has been of record for ten years at the date of Laws 1947, Chapter 326, or which shall have been of record for ten years before January 1, 1948, may be preserved by the filing of a new notice of lis pendens in the same action on or before December 31, 1947.

[1947 c. 326 s. 2]

557.023 APPLICATION. Nothing in sections 557.021 to 557.023 shall increase the effect or lengthen the term for which a lis pendens is notice under any existing law, nor create a right to renew the operation of a lis pendens already barred by some other law.

[1947 c. 326 s. 3]

557.03 NOTICE OF NO PERSONAL CLAIM. When in any such action there are defendants against whom no personal claim is made, the plaintiff may serve upon them, at the time of the service of the summons, a notice subscribed by him or his attorney, and setting forth the general object of the action, a description of the property affected by it, and that no personal claim is made against such defendants. If any defendant on whom such notice is served unreasonably defends the action, he shall pay full costs to the plaintiff.

[R. L. s. 4390] (9522)

557.04 [Superseded, Rules of Civil Procedure, Rules 70, 86.01 and 86.02]

557.05 REVERSIONER MAY SUE. A person seized of an estate in remainder or reversion may maintain a civil action for any injury done to the inheritance, notwithstanding an intervening estate for life or years.

[R. L. s. 4444] (9578)

557.06 ACTION AGAINST COTENANT. One joint tenant or tenant in common, and his executors or administrators, may maintain an action against his cotenant for receiving more than his just proportion of the rents and profits of the estate owned by them as joint tenants or tenants in common.

[R. L. s. 4445] (9579)

557.07 SETTLER; ACTION FOR POSSESSION. Any person who has settled on not more than 160 acres, consisting of not more than two distinct tracts, of the lands belonging to the United States, on which settlement is not prohibited by the general government, may maintain an action for injuries done thereto, or to recover the possession thereof, provided he has made improvements thereon of the value of \$50 and has actually occupied or cultivated the same. A neglect to occupy or cultivate such land, continued for six months, shall be deemed an abandonment, and preclude such person from maintaining such action.

[R. L. s. 4453] (9589)

557.08 FORCIBLE EVICTION; TREBLE DAMAGES. If a person who is put out of real property in a forcible manner without lawful authority, or who, being so put out, is afterwards kept out by force, shall recover damages therefor, judgment may be entered for three times the amount at which the actual damages are assessed.

[R. L. s. 4451] (9587)

557.09 FORCIBLE ENTRY; TREBLE DAMAGES. In case of forcible entry and detention, if a person, claiming in good faith, under color of title, to be rightfully in possession, so put out or kept out, shall recover damages therefor, judgment may be entered in his favor for three times the amount at which the actual damages are assessed.

[R. L. s. 4452] (9588)