

58-3406. Notice required to preserve claim of interest in land, exception. (a) Any person claiming an interest in land may preserve and keep effective that interest by filing of record, during the twenty-five-year period immediately following the effective date of the root of title of the person whose record title would otherwise be marketable, a written notice, duly verified by oath, setting forth the nature of the claim. The notice shall have the effect of preserving the claim of right for a period of not longer than 25 years after its filing, unless again filed as required by this section. No disability or lack of knowledge of any kind on the part of anyone shall suspend the running of the twenty-five-year period. The notice may be filed of record by the claimant or by any other person acting on behalf of any claimant who is (1) under legal disability, (2) unable to assert a claim on the claimant's own behalf or (3) one of a class, but whose identity cannot be established or is uncertain at the time of filing the notice of claim for record.

(b) A period of possession shall be considered equivalent to the filing of the notice immediately preceding the termination of the twenty-five-year period described in subsection (a) if:

(1) The same record owner of any possessory interest in land has been in possession of the land continuously for a period of 25 years or more;

(2) during those 25 years no title transaction with respect to the interest appears of record in the record owner's chain of title;

(3) no notice has been filed by the record owner or on the record owner's behalf as provided in subsection (a); and

(4) the record owner's possession continues to the time when marketability is being determined.

(c) It shall not be necessary for the owner of a marketable record title to file a notice to protect the owner's marketable record title.

History: L. 1973, ch. 227, § 6; L. 1984, ch. 206, § 4; July 1.