

SENATE BILL 509

N1, D3
SB 837/15 – JPR

6lr2542
CF 6lr0485

By: **Senator Waugh**

Introduced and read first time: February 4, 2016

Assigned to: Judicial Proceedings

A BILL ENTITLED

1 AN ACT concerning

2 **Real Property – Actions to Quiet Title**

3 FOR the purpose of authorizing a certain action to be brought to establish title against
4 adverse claims to property; establishing that the court is deemed to have possession
5 and control for the purpose of an action under this Act; providing for the venue and
6 the application of certain rules in an action under this Act; establishing requirements
7 for a complaint, an answer to a complaint, naming of defendants, joinder of parties,
8 and service of process in an action under this Act; authorizing the court to take
9 certain actions in an action under this Act; authorizing the recording of a certain
10 judgment; providing for the effect of a judgment in an action under this Act;
11 providing for the construction of this Act; making stylistic changes; defining certain
12 terms; and generally relating to actions to quiet title.

13 BY repealing and reenacting, with amendments,
14 Article – Real Property
15 Section 14–108
16 Annotated Code of Maryland
17 (2015 Replacement Volume)

18 BY adding to
19 Article – Real Property
20 Section 14–601 through 14–621 to be under the new subtitle “Subtitle 6. Actions to
21 Quiet Title”
22 Annotated Code of Maryland
23 (2015 Replacement Volume)

24 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
25 That the Laws of Maryland read as follows:

26 **Article – Real Property**

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 14-108.

2 (a) Any person in actual peaceable possession of property, or, if the property is
3 vacant and unoccupied, in constructive and peaceable possession of it, either under color of
4 title or claim of right by reason of [his] **THE PERSON** or [his] **THE PERSON'S** predecessor's
5 adverse possession for the statutory period, when [his] **THE PERSON'S** title to the property
6 is denied or disputed, or when any other person claims, of record or otherwise to own the
7 property, or any part of it, or to hold any lien encumbrance on it, regardless of whether or
8 not the hostile outstanding claim is being actively asserted, and if an action at law or
9 proceeding in equity is not pending to enforce or test the validity of the title, lien,
10 encumbrance, or other adverse claim, the person may maintain a suit in [equity]
11 **ACCORDANCE WITH SUBTITLE 6 OF THIS TITLE** in **THE CIRCUIT COURT FOR THE**
12 county where the property [lies] **OR ANY PART OF THE PROPERTY IS LOCATED** to quiet
13 or remove any cloud from the title, or determine any adverse claim.

14 (b) The proceeding shall be deemed in rem or quasi in rem so long as the only
15 relief sought is a decree that the plaintiff has absolute ownership and the right of
16 disposition of the property, and an injunction against the assertion by the person named as
17 the party defendant, of [his] **THE PERSON'S** claim by any action at law or otherwise. Any
18 person who appears of record, or claims to have a hostile outstanding right, shall be made
19 a defendant in the proceedings.

20 **SUBTITLE 6. ACTIONS TO QUIET TITLE.**

21 **14-601.**

22 (A) **IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS**
23 **INDICATED.**

24 (B) **"CLAIM" INCLUDES A LEGAL OR EQUITABLE RIGHT, TITLE, ESTATE,**
25 **LIEN, OR INTEREST IN PROPERTY OR A CLOUD ON THE TITLE TO PROPERTY.**

26 (C) **"HOLDER" MEANS THE TRUSTEE, BENEFICIARY, NOMINEE, OR**
27 **ASSIGNEE OF RECORD, IF ANY, OF A SECURITY INSTRUMENT.**

28 (D) **"PROPERTY" MEANS REAL PROPERTY OR ANY INTEREST IN OR**
29 **APPURTENANT TO REAL PROPERTY, INCLUDING FIXTURES.**

30 (E) **"SECURITY INSTRUMENT" MEANS A RECORDED MORTGAGE OR DEED OF**
31 **TRUST OR AN ASSIGNMENT OF A RECORDED MORTGAGE OR DEED OF TRUST.**

32 **14-602.**

1 AN ACTION MAY BE BROUGHT UNDER THIS SUBTITLE TO ESTABLISH TITLE
2 AGAINST ADVERSE CLAIMS TO PROPERTY, INCLUDING ADVERSE CLAIMS DESCRIBED
3 IN § 14-108 OF THIS TITLE.

4 14-603.

5 (A) IN AN ACTION UNDER THIS SUBTITLE, THE COURT IS DEEMED TO HAVE
6 OBTAINED POSSESSION AND CONTROL OF THE PROPERTY FOR THE PURPOSES OF
7 THE ACTION.

8 (B) THIS SUBTITLE DOES NOT LIMIT ANY AUTHORITY THE COURT MAY HAVE
9 TO GRANT ANY EQUITABLE RELIEF THAT MAY BE PROPER UNDER THE
10 CIRCUMSTANCES OF THE CASE.

11 14-604.

12 THE MARYLAND RULES APPLY TO ACTIONS UNDER THIS SUBTITLE, EXCEPT
13 TO THE EXTENT THEY ARE INCONSISTENT WITH THE PROVISIONS OF THIS SUBTITLE.

14 14-605.

15 (A) AT THE TIME A COMPLAINT IS FILED, THE PLAINTIFF SHALL SEND EACH
16 HOLDER THAT IS NOT NAMED AS A PARTY IN THE ACTION A COPY OF THE COMPLAINT
17 AND A STATEMENT THAT:

18 (1) THE HOLDER IS NOT A PARTY IN THE PROCEEDING AND ANY
19 JUDGMENT IN THE PROCEEDING WILL NOT AFFECT ANY CLAIM OF THE HOLDER; AND

20 (2) IF THE HOLDER ELECTS TO APPEAR IN THE PROCEEDING, THE
21 HOLDER WILL APPEAR AS A DEFENDANT AND BE BOUND BY ANY JUDGMENT
22 ENTERED IN THE PROCEEDING.

23 (B) THE COMPLAINT AND STATEMENT SHALL BE SENT BY FIRST-CLASS
24 MAIL TO THE HOLDER'S ADDRESS SET FORTH IN THE SECURITY INSTRUMENT.

25 14-606.

26 A COMPLAINT UNDER THIS SUBTITLE SHALL BE VERIFIED AND SHALL
27 INCLUDE:

28 (1) A DESCRIPTION OF THE PROPERTY THAT IS THE SUBJECT OF THE
29 ACTION, INCLUDING BOTH ITS LEGAL DESCRIPTION AND ITS STREET ADDRESS OR
30 COMMON DESIGNATION, IF ANY;

1 **(2) (I) THE TITLE OF THE PLAINTIFF AS TO WHICH A**
2 **DETERMINATION IS SOUGHT AND THE BASIS OF THE TITLE; AND**

3 **(II) IF THE TITLE IS BASED ON ADVERSE POSSESSION, THE**
4 **SPECIFIC FACTS CONSTITUTING THE ADVERSE POSSESSION;**

5 **(3) THE ADVERSE CLAIMS TO THE TITLE OF THE PLAINTIFF AGAINST**
6 **WHICH A DETERMINATION IS SOUGHT; AND**

7 **(4) A PRAYER FOR A DETERMINATION OF THE TITLE OF THE**
8 **PLAINTIFF AGAINST THE ADVERSE CLAIMS.**

9 **14-607.**

10 **(A) AN ANSWER TO A COMPLAINT UNDER THIS SUBTITLE SHALL BE**
11 **VERIFIED AND SHALL SET FORTH:**

12 **(1) ANY CLAIM THE DEFENDANT HAS TO THE PROPERTY THAT IS THE**
13 **SUBJECT OF THE ACTION;**

14 **(2) ANY FACTS TENDING TO CONTROVERT ANY MATERIAL**
15 **ALLEGATIONS OF THE COMPLAINT THAT THE DEFENDANT DOES NOT WISH TO BE**
16 **TAKEN AS TRUE; AND**

17 **(3) A STATEMENT OF ANY NEW MATTER CONSTITUTING A DEFENSE.**

18 **(B) IF THE DEFENDANT DISCLAIMS ANY CLAIM IN THE ANSWER OR ALLOWS**
19 **JUDGMENT TO BE TAKEN WITHOUT ANSWER, THE PLAINTIFF MAY NOT RECOVER**
20 **COSTS.**

21 **14-608.**

22 **(A) THE PLAINTIFF SHALL NAME AS DEFENDANTS IN AN ACTION UNDER**
23 **THIS SUBTITLE THE PERSONS HAVING ADVERSE CLAIMS TO THE TITLE OF THE**
24 **PLAINTIFF THAT ARE OF RECORD OR KNOWN TO THE PLAINTIFF OR REASONABLY**
25 **APPARENT FROM AN INSPECTION OF THE PROPERTY AGAINST WHICH A**
26 **DETERMINATION IS SOUGHT.**

27 **(B) IF THE PLAINTIFF ADMITS THE VALIDITY OF ANY ADVERSE CLAIM, THE**
28 **PLAINTIFF SHALL STATE THE ADMISSION IN THE COMPLAINT.**

29 **14-609.**

1 (A) IF THE NAME OF A PERSON REQUIRED TO BE NAMED AS A DEFENDANT
2 IS NOT KNOWN TO THE PLAINTIFF, THE PLAINTIFF SHALL STATE IN THE COMPLAINT
3 THAT THE NAME IS UNKNOWN AND SHALL NAME AS PARTIES ALL PERSONS
4 UNKNOWN IN THE MANNER PROVIDED IN § 14-613 OF THIS SUBTITLE.

5 (B) (1) IF THE CLAIM OR THE SHARE OR QUANTITY OF THE CLAIM OF A
6 PERSON REQUIRED TO BE NAMED AS A DEFENDANT IS UNKNOWN, UNCERTAIN, OR
7 CONTINGENT, THE PLAINTIFF SHALL STATE THOSE FACTS IN THE COMPLAINT.

8 (2) IF THE LACK OF KNOWLEDGE, UNCERTAINTY, OR CONTINGENCY
9 IS CAUSED BY A TRANSFER TO AN UNBORN OR UNASCERTAINED PERSON OR CLASS
10 MEMBER, OR BY A TRANSFER IN THE FORM OF A CONTINGENT REMAINDER, VESTED
11 REMAINDER SUBJECT TO DEFEASANCE, EXECUTORY INTEREST, OR SIMILAR
12 DISPOSITION, THE PLAINTIFF SHALL ALSO STATE IN THE COMPLAINT, SO FAR AS IS
13 KNOWN TO THE PLAINTIFF, THE NAME, AGE, AND LEGAL DISABILITY, IF ANY, OF THE
14 PERSON IN BEING WHO WOULD BE ENTITLED TO THE CLAIM HAD THE CONTINGENCY
15 ON WHICH THE CLAIM DEPENDS OCCURRED BEFORE THE COMMENCEMENT OF THE
16 ACTION.

17 14-610.

18 (A) IF A PERSON REQUIRED TO BE NAMED AS A DEFENDANT IS DEAD AND
19 THE PLAINTIFF KNOWS OF A PERSONAL REPRESENTATIVE, THE PLAINTIFF SHALL
20 JOIN THE PERSONAL REPRESENTATIVE AS A DEFENDANT.

21 (B) (1) IF A PERSON REQUIRED TO BE NAMED AS A DEFENDANT IS DEAD,
22 OR IS BELIEVED BY THE PLAINTIFF TO BE DEAD, AND THE PLAINTIFF KNOWS OF NO
23 PERSONAL REPRESENTATIVE, THE PLAINTIFF SHALL STATE THOSE FACTS IN AN
24 AFFIDAVIT FILED WITH THE COMPLAINT.

25 (2) IF THE PLAINTIFF STATES IN AN AFFIDAVIT UNDER PARAGRAPH
26 (1) OF THIS SUBSECTION THAT A PERSON IS DEAD, THE PLAINTIFF MAY JOIN AS
27 DEFENDANTS "THE TESTATE AND INTESTATE SUCCESSORS OF _____ (NAMING
28 THE DECEASED PERSON), DECEASED, AND ALL PERSONS CLAIMING BY, THROUGH,
29 OR UNDER THE DECEDENT".

30 (3) IF THE PLAINTIFF STATES IN AN AFFIDAVIT UNDER PARAGRAPH
31 (1) OF THIS SUBSECTION THAT A PERSON IS BELIEVED TO BE DEAD, THE PLAINTIFF
32 MAY JOIN THE PERSON AS A DEFENDANT, AND MAY ALSO JOIN "THE TESTATE AND
33 INTESTATE SUCCESSORS OF _____ (NAMING THE PERSON), BELIEVED TO BE
34 DECEASED, AND ALL PERSONS CLAIMING BY, THROUGH, OR UNDER THE PERSON
35 BELIEVED TO BE DECEASED".

1 14-611.

2 THE COURT ON ITS OWN MOTION OR ON MOTION OF ANY PARTY MAY ISSUE ANY
3 APPROPRIATE ORDER TO REQUIRE:

4 (1) JOINDER OF ANY ADDITIONAL PARTIES THAT ARE NECESSARY OR
5 PROPER; AND

6 (2) THE PLAINTIFF TO PROCURE A TITLE REPORT SUPPORTED BY AN
7 AFFIDAVIT BY THE PERSON MAKING THE SEARCH THAT A COMPLETE SEARCH OF THE
8 PUBLIC RECORDS HAS BEEN PERFORMED IN ACCORDANCE WITH GENERALLY
9 ACCEPTED STANDARDS OF TITLE EXAMINATION FOR THE APPROPRIATE PERIOD AS
10 DETERMINED BY THE COURT, AND DESIGNATE A PLACE WHERE THE TITLE REPORT
11 SHALL BE KEPT FOR INSPECTION, USE, AND COPYING BY THE PARTIES.

12 14-612.

13 ANY PERSON WHO HAS A CLAIM TO THE PROPERTY DESCRIBED IN A
14 COMPLAINT UNDER THIS SUBTITLE MAY APPEAR IN THE PROCEEDING.

15 14-613.

16 IN ADDITION TO THE PERSONS REQUIRED TO BE NAMED AS DEFENDANTS IN
17 AN ACTION UNDER THIS SUBTITLE, THE PLAINTIFF MAY NAME AS DEFENDANTS “ALL
18 PERSONS UNKNOWN, CLAIMING ANY LEGAL OR EQUITABLE RIGHT, TITLE, ESTATE,
19 LIEN, OR INTEREST IN THE PROPERTY DESCRIBED IN THE COMPLAINT ADVERSE TO
20 THE PLAINTIFF’S TITLE, OR ANY CLOUD ON THE PLAINTIFF’S TITLE TO THE
21 PROPERTY”.

22 14-614.

23 THE COURT ON ITS OWN MOTION OR ON MOTION OF ANY PARTY MAY ISSUE AN
24 ORDER FOR APPOINTMENT OF AN ATTORNEY TO PROTECT THE INTEREST OF ANY
25 PARTY TO THE SAME EXTENT AND EFFECT AS PROVIDED UNDER RULE 2-203 OF THE
26 MARYLAND RULES WITH RESPECT TO INDIVIDUALS NOT IN BEING.

27 14-615.

28 (A) (1) IF, ON AFFIDAVIT OF THE PLAINTIFF, IT APPEARS TO THE
29 SATISFACTION OF THE COURT THAT THE PLAINTIFF HAS USED REASONABLE
30 DILIGENCE TO ASCERTAIN THE IDENTITY AND RESIDENCE OF AND TO SERVE A
31 SUMMONS ON THE PERSONS NAMED AS UNKNOWN DEFENDANTS AND PERSONS

1 JOINED AS TESTATE OR INTESTATE SUCCESSORS OF A PERSON KNOWN OR BELIEVED
2 TO BE DEAD, THE COURT SHALL ORDER SERVICE BY PUBLICATION IN ACCORDANCE
3 WITH RULE 2-122 OF THE MARYLAND RULES AND THE PROVISIONS OF THIS
4 SUBTITLE.

5 (2) THE ORDER SHALL DIRECT THAT A COPY OF THE SUMMONS, THE
6 COMPLAINT, AND THE ORDER FOR PUBLICATION BE MAILED IMMEDIATELY TO THE
7 PARTY IF THE PARTY'S ADDRESS IS ASCERTAINED BEFORE EXPIRATION OF THE TIME
8 PRESCRIBED FOR PUBLICATION OF THE SUMMONS.

9 (B) THIS SECTION DOES NOT AUTHORIZE SERVICE BY PUBLICATION ON ANY
10 PERSON NAMED AS AN UNKNOWN DEFENDANT WHO IS IN OPEN AND ACTUAL
11 POSSESSION OF THE PROPERTY.

12 14-616.

13 (A) IF THE COURT ORDERS SERVICE BY PUBLICATION, THE PLAINTIFF
14 SHALL:

15 (1) POST, NOT LATER THAN 10 DAYS AFTER THE DATE THE ORDER IS
16 ISSUED, A COPY OF THE SUMMONS AND COMPLAINT IN A CONSPICUOUS PLACE ON
17 THE PROPERTY THAT IS THE SUBJECT OF THE ACTION; AND

18 (2) FILE PROOF THAT THE SUMMONS HAS BEEN SERVED, POSTED,
19 AND PUBLISHED AS REQUIRED IN THE ORDER.

20 (B) (1) IF THE COURT ORDERS SERVICE BY PUBLICATION, THE
21 PUBLICATION SHALL USE THE LEGAL DESCRIPTION OF THE PROPERTY ALONG WITH
22 ITS STREET ADDRESS, OR OTHER COMMON DESIGNATION, IF ANY.

23 (2) IF A LEGAL DESCRIPTION OF THE PROPERTY IS GIVEN, THE
24 VALIDITY OF THE PUBLICATION MAY NOT BE AFFECTED BY THE FACT THAT THE
25 STREET ADDRESS OR OTHER COMMON DESIGNATION RECITED IS ERRONEOUS OR
26 THAT THE STREET ADDRESS OR OTHER COMMON DESIGNATION IS OMITTED.

27 14-617.

28 (A) IN ALL CASES THE PLAINTIFF SHALL SUBMIT EVIDENCE ESTABLISHING
29 THE PLAINTIFF'S TITLE AND THE COURT MAY HEAR OR TAKE ANY EVIDENCE
30 OFFERED RESPECTING THE CLAIMS OF ANY DEFENDANT, OTHER THAN CLAIMS THE
31 VALIDITY OF WHICH IS ADMITTED BY THE PLAINTIFF IN THE COMPLAINT.

1 **(B) (1) A JUDGMENT IN AN ACTION UNDER THIS SUBTITLE MAY BE**
2 **RECORDED IN THE LAND RECORDS OF THE COUNTY IN WHICH ANY PORTION OF THE**
3 **PROPERTY IS LOCATED.**

4 **(2) IF THE JUDGMENT IS RECORDED, THE CLERK SHALL INDEX THE**
5 **JUDGMENT IN ACCORDANCE WITH § 3-302 OF THIS ARTICLE, WITH THE PARTIES**
6 **AGAINST WHOM THE JUDGMENT IS ENTERED AS GRANTOR AND THE PARTY IN WHOSE**
7 **FAVOR THE JUDGMENT IS ENTERED AS GRANTEE.**

8 **14-618.**

9 **A JUDGMENT IN AN ACTION UNDER THIS SUBTITLE IS BINDING AND**
10 **CONCLUSIVE, REGARDLESS OF ANY LEGAL DISABILITY, ON:**

11 **(1) ALL PERSONS KNOWN AND UNKNOWN WHO WERE PARTIES TO THE**
12 **ACTION AND WHO HAVE ANY CLAIM TO THE PROPERTY, WHETHER PRESENT OR**
13 **FUTURE, VESTED OR CONTINGENT, LEGAL OR EQUITABLE, SEVERAL OR UNDIVIDED;**
14 **AND**

15 **(2) EXCEPT AS PROVIDED IN § 14-619 OF THIS SUBTITLE, ALL**
16 **PERSONS WHO WERE NOT PARTIES TO THE ACTION AND WHO HAVE ANY CLAIM TO**
17 **THE PROPERTY THAT WAS NOT OF RECORD AT THE TIME THE ACTION WAS**
18 **COMMENCED.**

19 **14-619.**

20 **(A) A JUDGMENT IN AN ACTION UNDER THIS SUBTITLE DOES NOT AFFECT A**
21 **CLAIM IN THE PROPERTY OR PART OF THE PROPERTY OF ANY PERSON WHO WAS NOT**
22 **A PARTY TO THE ACTION, IF, AT THE TIME THE ACTION WAS COMMENCED:**

23 **(1) THE CLAIM WAS OF RECORD; OR**

24 **(2) THE CLAIM WAS ACTUALLY KNOWN TO THE PLAINTIFF OR WOULD**
25 **HAVE BEEN REASONABLY APPARENT FROM AN INSPECTION OF THE PROPERTY.**

26 **(B) THIS SECTION MAY NOT BE CONSTRUED TO IMPAIR THE RIGHTS OF A**
27 **BONA FIDE PURCHASER OR ENCUMBRANCER FOR VALUE DEALING WITH THE**
28 **PLAINTIFF OR THE PLAINTIFF'S SUCCESSORS IN INTEREST.**

29 **14-620.**

30 **ANY RELIEF GRANTED IN AN ACTION OR PROCEEDING DIRECTLY OR**
31 **COLLATERALLY ATTACKING A JUDGMENT ENTERED UNDER THIS SUBTITLE,**

1 WHETHER BASED ON LACK OF ACTUAL NOTICE TO A PARTY OR OTHERWISE, MAY NOT
2 IMPAIR THE RIGHTS OF A PURCHASER OR ENCUMBRANCER FOR VALUE OF THE
3 PROPERTY ACTING IN RELIANCE ON THE JUDGMENT WITHOUT KNOWLEDGE OF ANY
4 DEFECTS OR IRREGULARITIES IN THE JUDGMENT OR THE PROCEEDINGS.

5 14-621.

6 NOTWITHSTANDING ANY OTHER PROVISION OF THIS SUBTITLE, A JUDGMENT
7 IN AN ACTION UNDER THIS SUBTITLE IS NOT BINDING OR CONCLUSIVE ON:

8 (1) THE STATE, UNLESS INDIVIDUALLY JOINED AS A PARTY TO THE
9 ACTION AND STATE LAW AUTHORIZES THE JUDGMENT TO BE BINDING OR
10 CONCLUSIVE AS TO ITS INTERESTS; OR

11 (2) THE UNITED STATES, UNLESS THE UNITED STATES IS
12 INDIVIDUALLY JOINED AS A PARTY TO THE ACTION AND FEDERAL LAW AUTHORIZES
13 THE JUDGMENT TO BE BINDING OR CONCLUSIVE AS TO ITS INTERESTS.

14 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
15 October 1, 2016.