

SENATE BILL NO. 82

INTRODUCED BY S. FITZPATRICK

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A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING FOR RECOVERY OF ATTORNEY FEES IN QUIET TITLE ACTIONS INVOLVING CERTAIN SEVERED JOINT TENANCIES; AND AMENDING SECTION 70-28-112, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 70-28-112, MCA, is amended to read:

"70-28-112. Costs -- attorney fees. (1) If the defendant in a quiet title action disclaims in the answer any interest or estate in the property or allows judgment to be taken against the defendant without answer, the plaintiff may not recover costs. However, in actions that the plaintiff has brought under 30 U.S.C. 30 to determine an adverse claim, the plaintiff shall recover costs if the defendant does not relinquish in the proper United States land office or disclaim in writing any interest or estate in the property within 20 days from the filing of the adverse claim in the land office.

(2) The plaintiff in a quiet title action may recover costs and attorney fees if the defendant wrongfully filed a statement with the county clerk and recorder for transfer of property that had been owned in a joint tenancy severed under 72-2-814(2)(b). To be eligible to recover costs and fees, the plaintiff must have notified the defendant by certified mail that the defendant may be ordered to pay the plaintiff's costs and fees associated with a quiet title action unless the defendant executes documents to transfer the property to the plaintiff within 30 days or by a date mutually agreed to by the parties. The provisions of this subsection do not apply to joint tenancies revived under 72-2-814(5) unless subsequently severed. The provisions of this subsection do not preempt other remedies."

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