

CHAPTER 560
OCCUPYING CLAIMANTS

Eviction or distress for rent during military service; §29A.101

560.1 Right to improvements.
560.2 "Color of title" defined.
560.3 Petition — trial — appraisalment.
560.4 Rights of parties to property.
560.5 Tenants in common.
560.6 Waste by claimant.
560.7 Option to remove improvements.

560.1 Right to improvements.

Where an occupant of real estate has color of title thereto and has in good faith made valuable improvements thereon, and is thereafter adjudged not to be the owner, no execution shall issue to put the owner of the land in possession of the same, after the filing of a petition as hereinafter provided, until the provisions of this chapter have been complied with.

[C51, §1233; R60, §2264; C73, §1976; C97, §2964; C24, 27, 31, 35, 39, §10128; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §560.1]

560.2 "Color of title" defined.

Persons of each of the classes hereinafter enumerated shall be deemed to have color of title within the meaning of this chapter, but nothing contained herein shall be construed as giving a tenant color of title against the tenant's landlord:

1. Purchaser at judicial or tax sale. A purchaser in good faith at any judicial or tax sale made by the proper officer, whether said officer had sufficient authority to make said sale or not, unless want of authority in such officer was known to the purchaser at the time of the sale.

2. Occupancy for five years. A person who has alone or together with those under whom the person claims, occupied the premises for a period of five years continuously.

3. Occupancy and improvements. A person whose occupancy of the premises has been for a shorter period than five years, if during such occupancy the occupant or those under whom the person claims have, with the knowledge or consent of the real owner, express or implied, made any valuable improvements thereon.

4. Occupancy and payment of taxes. A person whose occupancy of the premises has been for a shorter period than five years, if such occupant or those under whom the person claims have at any time during such occupancy paid the ordinary county taxes thereon for any one year, and two years have elapsed without a repayment or offer of repayment of the same by the owner thereof, and such occupancy has continued to the time the action is brought by which the recovery of the real estate is obtained.

5. Occupancy under state or federal law or contract. A person who has settled upon any real estate and occupied the same for three years under or by virtue of any law, or contract with the proper officers of the state or of the United States for the purchase thereof and shall have made valuable improvements thereon.

[C51, §1239, 1240; R60, §2268, 2269; C73, §1982 – 1984; C97, §2967, 2968; C24, 27, 31, 35, 39, §10129; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §560.2]

560.3 Petition — trial — appraisalment.

The petition of the occupant must set forth the grounds upon which the occupant seeks relief, and state as accurately as practicable the value of the real estate, exclusive of the improvements made thereon by the claimant or the claimant's grantors, and the value of such improvements. The issue joined thereon must be tried as in ordinary actions and the value of the real estate and of such improvements separately ascertained.

[C51, §1234, 1235; R60, §2265, 2266; C73, §1977, 1978; C97, §2965; C24, 27, 31, 35, 39, §10130; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §560.3]

560.4 Rights of parties to property.

The owner of the land may thereupon pay to the clerk of the court, for the benefit of the occupying claimant, the appraised value of the improvements and take the property and an

execution may issue for the purpose of putting the owner of the land in possession thereof. Should the owner fail to make such payment within such reasonable time as the court may fix, the occupying claimant may pay to the clerk of the court, within such time as the court may fix, for the use of the owner of the land, the value of the property exclusive of the improvements and take and retain the property together with the improvements.

[C51, §1236 – 1238, 1243; R60, §2267, 2272; C73, §1979 – 1981, 1986; C97, §2966, 2970; C24, 27, 31, 35, 39, §10131; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §560.4]

Referred to in [§560.5](#)

560.5 Tenants in common.

Should the owner of the land fail to pay for the improvements and the occupying claimant fail to pay for the land within the time fixed by the court as provided in [section 560.4](#), the parties shall be held to be tenants in common of all the real estate including the improvements, each holding an undivided interest proportionate to the values ascertained on the trial.

[C51, §1236 – 1238; R60, §2267; C73, §1979 – 1981; C97, §2966; C24, 27, 31, 35, 39, §10132; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §560.5]

560.6 Waste by claimant.

If the occupying claimant has committed any injury to the real estate by cutting timber or otherwise, the owner may set the same off against any claim for improvements made by such claimant.

[C51, §1241; R60, §2270; C73, §1985; C97, §2969; C24, 27, 31, 35, 39, §10133; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §560.6]

560.7 Option to remove improvements.

Any person having improvements on any real estate granted to the state in aid of any work of internal improvement, whose title thereto is questioned by another, may remove such improvements without other injury to such real estate at any time before that person is evicted therefrom, or that person may have the benefit of [this chapter](#) by proceeding as herein directed.

[C73, §1987; C97, §2971; C24, 27, 31, 35, 39, §10134; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §560.7]