

January 28, 1965.
Place on Calendar.

House File 115
By JUDICIARY COMMITTEE
(Judiciary Committee).

Passed House, Date 2-2-65

Passed Senate, Date 3-8-65

Vote: Ayes 102 Nays 13

Vote: Ayes 52 Nays 1

Approved March 15, 1965

Deferred 2/2 - Motion Lost 2/2

*Passed on file 2/2/65
Judiciary 2/3
Pass 2/10*

A BILL FOR

An Act relating to limitations of actions in regard to restrictions and reversions on real estate.

Be It Enacted by the General Assembly of the State of Iowa:

1 Chapter six hundred fourteen (614), Code 1962, is amended

2 by adding the following new sections thereto:

1 Section 1. No action based upon any claim arising or exist-

2 ing by reason of the provisions of any deed or conveyance or

3 contract or will reserving or providing for any reversion,

4 reverted interests or use restrictions in and to the land there-

5 in described shall be maintained either at law or in equity in

6 any court to recover real estate in this state or to recover or

7 establish any interest therein or claim thereto, legal or equi-

8 table, against the holder of the record title to such real

9 estate in possession after twenty-one years from the recording

10 of such deed of conveyance or contract or after twenty-one years

11 from the admission of said will to probate unless the claimant

12 shall, by himself, or by his attorney or agent, or if he is a

13 minor or under legal disability, by his guardian, trustee, or

14 either parent or next friend, shall file a verified claim with

15 the recorder of the county wherein said real estate is located

16 within said twenty-one year period. In the event said deed was

17 recorded or will was admitted to probate more than twenty years

18 prior to the effective date of this Act, then said claim may

19 be filed on or before one year after the effective date of this
20 Act. Such claims shall set forth the nature thereof, also the
21 time and manner in which such interest was acquired. For the
22 purposes of this section, the claimant shall be any person or
23 persons claiming any interest in and to said land or in and to
24 such reversion, reverter interest or use restriction, whether
25 the same is a present interest or an interest which would come
26 into existence if the happening or contingency provided in said
27 deed or will were to happen at once. Said claimant further
28 shall include any member of a class of persons entitled to or
29 claiming such rights or interests.

1 Sec. 2. The filing of such claim shall extend for a further
2 period of twenty-one years the time within which such action
3 may be brought by any person entitled thereto, and successive
4 claims for further like extensions may be filed.

1 Sec. 3. The provisions of section six hundred fourteen point
2 eighteen (614.18) of the Code are made applicable to the provi-
3 sions of these sections.

1 Sec. 4. The provisions of section six hundred fourteen
2 point eight (614.8) of the Code as to the rights of minors and
3 insane persons shall not be applicable against the provisions
4 of these sections.

1 Sec. 5. The provisions of these sections, or the filing
2 of a claim or claims, hereunder, shall not revive or permit
3 an action to be brought or maintained upon any claim or cause
4 of action which is barred by any other statute. Provided
5 further, that nothing contained in these sections shall affect
6 litigation pending on the effective date of this Act.

EXPLANATION OF HOUSE FILE 115

This bill will provide a limitation within which stale reversions and use restrictions on real estate can be asserted where the people entitled to assert them no longer have any substantial interest. The bill provides, however, a means of keeping such interest alive where interested parties desire to do so.

A discussion of the bill together with strong approval of its purposes is found in "Improvement of Conveyancing by Legislation" by Simes and Taylor and the Committee on Improvement of Conveyancing Section of Real Property Probate and Trust Law, American Bar Association (1960) at page 212. The constitutionality of similar acts is discussed in the above work commencing at page 253 and the "Iowa Marketable Title Act" (Section 614.17 Code), commonly referred to as "Affidavit of Possession" is discussed in the said work at page 306. Iowa is given credit in this study for being a pioneer in this type of act.

It has been the contention of many title authorities that the present Act, Section 614.17 Code, might well be construed by the Court as already being sufficient to bar stale uses and reversions, but because of the serious questions raised by some and the lack of judicial construction it is thought wise to amend Section 614.17 Code by adding the suggested provisions.

Stale Uses and Reversions are discussed at length in "Iowa Title Opinions and Standards" Marshall, Section 12.3, pages 281-300. See also note Drake Law Review, Volume 12, page 99.