

Chapter 6 Occupying Claimants

57-6-1 Stay of execution of judgment of possession.

Where an occupant of real estate has color of title to the real estate, and in good faith has made valuable improvements on the real estate, and is afterwards in a proper action found not to be the owner, no execution shall issue to put the owner in possession of the real estate after the filing of a complaint as hereinafter provided, until the provisions of this chapter have been complied with.

Amended by Chapter 299, 1995 General Session

57-6-2 Claimant to commence action -- Complaint -- Trial of issues.

Such complaint must set forth the grounds on which the defendant seeks relief, stating as accurately as practicable the value of the real estate, exclusive of the improvements thereon made by the claimant or the claimant's grantors, and the value of such improvements. The issues joined thereon must be tried as in law actions, and the value of the real estate and of such improvements must be separately ascertained on the trial.

Amended by Chapter 365, 2024 General Session

57-6-3 Rights of parties -- Acquiring other's interest or holding as tenants in common.

The plaintiff in the main action may thereupon pay the appraised value of the improvements and take the property, but should the plaintiff fail to do so after a reasonable time, to be fixed by the court, the defendant may take the property upon paying its value, exclusive of the improvements. If this is not done within a reasonable time, to be fixed by the court, the parties will be held to be tenants in common of all the real estate, including the improvements, each holding an interest proportionate to the values ascertained on the trial.

Amended by Chapter 365, 2024 General Session

57-6-4 Certain persons considered to hold under color of title.

- (1) A purchaser in good faith at any judicial or tax sale made by the proper person or officer has color of title within the meaning of this chapter, whether or not the person or officer has sufficient authority to sell, unless the want of authority was known to the purchaser at the time of the sale.
- (2)
 - (a) Any person has color of title who has occupied a tract of real estate by himself, or by those under whom he claims, for the term of five years, or who has occupied it for less time, if he, or those under whom he claims, have at any time during the occupancy with the knowledge or consent, express or implied, of the real owner made any valuable improvements on the real estate, or if he or those under whom he claims have at any time during the occupancy paid the ordinary county taxes on the real estate for any one year, and two years have elapsed without a repayment by the owner, and the occupancy is continued up to the time at which the action is brought by which the recovery of the real estate is obtained.
 - (b) The person's rights shall pass to his assignees or representatives.

(3) Nothing in this chapter shall be construed to give tenants color of title against their landlords or give any person a claim under color of title to school and institutional trust lands as defined in Section 53C-1-103.

Amended by Chapter 39, 2005 General Session

57-6-5 Settlers under state or federal law or contract deemed occupying claimants.

When any person 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 for the purchase thereof, or under any law of, or by virtue of any purchase from, the United States, and shall have made valuable improvements thereon, and shall be found not to be the owner thereof, or not to have acquired a right to purchase the same from the state or the United States, such person shall be an occupying claimant within the meaning of this chapter.

No Change Since 1953

57-6-6 Setoff against claim for improvements.

In the cases above provided for, if the occupying claimant has committed any injury to the real estate by cutting timber, or otherwise, the plaintiff may set the same off against any claim for improvements made by the claimant.

No Change Since 1953

57-6-7 When execution on judgment of possession may issue.

The plaintiff in the main action is entitled to an execution to put the plaintiff in possession of the plaintiff's property in accordance with the provisions of this chapter, but not otherwise.

Amended by Chapter 365, 2024 General Session

57-6-8 Improvements made by occupants of land granted to state.

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 injury otherwise to such real estate, at any time before the person is evicted therefrom, or the person may claim and have the benefit of this chapter by proceeding as herein directed.

Amended by Chapter 365, 2024 General Session