

IC 32-20-4

Chapter 4. Notice of Claim

IC 32-20-4-1

Notice of claim; filing

Sec. 1. (a) A person claiming an interest in land may preserve and keep effective that interest by filing for record during the fifty (50) year period immediately following the effective date of the root of title of the person whose record title would otherwise be marketable, a notice in writing, verified by oath, setting forth the nature of the claim. A disability or lack of knowledge of any kind on the part of anyone does not suspend the running of the fifty (50) year period. Notice may be filed for record by the claimant or by a person acting on behalf of any claimant who is:

- (1) under a disability;
- (2) unable to assert a claim on the claimant's behalf; or
- (3) one (1) of a class whose identity cannot be established or is uncertain at the time of filing the notice of claim for record.

(b) If the same record owner of any possessory interest in land has been in possession of the land continuously for a period of at least fifty (50) years, during which period:

- (1) title transaction with respect to the interest does not appear of record in the record owner's chain of title;
- (2) notice has not been filed by the record owner or on behalf of the record owner as provided in subsection (a); and
- (3) possession continues to the time when marketability is being determined;

the period of possession is considered equivalent to the filing of the notice immediately preceding the termination of the fifty (50) year period described in subsection (a).

(c) If:

- (1) a person claims the benefit of an equitable restriction or servitude that is one (1) of a number of substantially identical mutual restrictions on the use of tracts in a platted subdivision, the plat of which is recorded as provided by law; and
- (2) the subdivision plan provides for an association, corporation, committee, or other similar group that is empowered to determine whether the restrictions are to be terminated or continued at the expiration of a stated period not exceeding fifty (50) years, and, by the terms of this provision, it is determined that:

- (A) the restrictions are not to be terminated; or
- (B) the restrictions are to be continued because no determination to terminate has been made;

then the officer or other person authorized to represent the association, corporation, committee, or other similar group may preserve and keep in effect all the restrictions by filing a notice as provided in subsection (a) on behalf of all owners of land in the

subdivision for the benefit of whom the restrictions exist.
As added by P.L.2-2002, SEC.5.

IC 32-20-4-2

Notice of claim; contents; indexing by county recorder

Sec. 2. (a) To be effective and to be entitled to be recorded, the notice referred to in section 1 of this chapter must contain the following:

- (1) An accurate and full description of all land affected by the notice in specific terms. However, if the claim is founded upon a recorded instrument, then the description in the notice may be the same as that contained in the recorded instrument.
- (2) The name and address of the claimant.
- (3) The name and address of the person preparing the notice if other than the claimant.

This notice must be filed for record in the office of the recorder of a county where the land described is situated.

(b) A county recorder shall accept all notices presented to the recorder that describe land located in the county that the recorder serves. The recorder shall enter and record full copies of the notice in the same way that deeds are recorded. Each recorder shall charge the same fees for recording a notice as are charged for recording deeds.

(c) Each recorder shall index the notices in the same manner that deeds are indexed. Until the notice is recorded and correctly indexed, a notice does not comply with section 1 of this chapter regarding notice.

As added by P.L.2-2002, SEC.5.

IC 32-20-4-3

Notice of claim; effect of failure to file on lease or easement

Sec. 3. (a) Failure to file the notice required under this chapter does not bar:

- (1) a lessor or the lessor's successor as a reversioner of the lessor's right to possession on the expiration of any lease; or
- (2) a lessee or the lessee's successor of the lessee's rights in and to any lease.

(b) Failure to file the notice required under this chapter does not bar or extinguish any easement, interest in the nature of an easement, or any rights appurtenant to an easement granted, excepted, or reserved by the instrument creating the easement or interest, including any rights for future use, if the existence of the easement or interest is evidenced by the location beneath, upon, or above any part of the land described in the instrument of any pipe, valve, road, wire, cable, conduit, duct, sewer, track, pole, tower, or other physical facility and whether or not the existence of the facility is observable. However, equitable restrictions or servitudes on the use of land are not considered easements or interests in the nature of easements as that phrase is used in this section.

As added by P.L.2-2002, SEC.5.