

SAMOA

Arrangement of Provisions

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| 1. Short title and commencement | 5. Actions to recover land or register title |
| 2. Interpretation | 6. Accrual of right of action in case of future interest |
| 3. Application of the Act | |
| 4. Reference to repealed Ordinance | |

2012, No. 4**AN ACT to amend the Limitation Act 1975.***[26th January 2012]*

BE IT ENACTED by the Legislative Assembly of Samoa in Parliament assembled as follows:

1. Short title and commencement-(1) This Act may be cited as the Limitation Amendment Act 2012 and shall be read together with and form part of the Limitation Act 1975 (“Principal Act”).

(2) This Act commences on the day it is assented to by the Head of State.

2. Interpretation - In section 2(1) of the Principal Act, insert the following in correct alphabetical order:

““land of the Government” has the same meaning as “public land” which is provided for in Article 101(4) of the Constitution, and includes land acquired by the Government by reparation;

“registered owner”:

- (a) includes a person who has a registrable interest in land, including a statutory trustee, an administrator appointed by statute, an executor, a trustee, a liquidator, and a trustee in bankruptcy; but
- (b) does not include a person adversely possessing the property or a person who receives the property from an adverse possessor.”.

3. Application of the Act-(1) This Act does not apply to the following types of actions that were filed with the Supreme Court, served upon the other party or parties and defended or resisted by the defendant party on the grounds of adverse possession before or on the day this Act commenced:

- (a) actions to recover land;
 - (b) actions to evict a party from the land;
 - (c) actions to redefine boundaries of land.
- (2) After section 14(3) of the Act, insert:

“(4) This section applies only to the following types of actions that were filed with the Supreme Court, served upon the other party or parties and defended or resisted by the defendant party on the grounds of adverse possession before or on the day the Limitation Amendment Act 2012 commenced:

- (a) actions to recover land;
- (b) actions to evict a party from the land;
- (c) actions to redefine boundaries of land.”.

4. Reference to repealed Ordinance - In section 8(1) of the Principal Act:

- (a) for “Land Ordinance 1959”, substitute “Lands, Surveys and Environment Act 1989, the Land Titles Registration Act 2008”; and

- (b) after “so far as this Act is” insert “not”; and
- (c) for “Ordinance”, where secondly occurring, substitute “Acts”.

5. Actions to recover land or register title - For section 9 of the Principal Act, substitute:

“9. Actions to recover land or register title-(1) Subject to section 3(1) of the Limitation Amendment Act 2012 and to this Part, from the date the Limitation Amendment Act 2012 commenced:

- (a) no right, title or interest in or to land adverse to or in derogation of the title of the registered owner shall be acquired by any length of possession by virtue of any adverse possession relating to real property; and
- (b) no right, title or interest in or to land adverse to or in derogation of the title of the registered owner shall be registered by virtue of a claim to title by adverse possession; and
- (c) no title of any such registered owner shall be extinguished by the operation of any statute of limitation.

(2) Subject to section 3(1) of the Limitation Amendment Act 2012 and to this Part, from the date the Limitation Amendment Act 2012 commenced:

- (a) no right, title or interest in or to land shall be acquired by adverse possession; and
- (b) no right, title or interest in or to land shall be registered by virtue of a claim to title by adverse possession; and
- (c) no party shall raise adverse possession to defend or resist any claim by a registered owner to -
 - (i) recover land; or
 - (ii) evict a party; or
 - (iii) redefine boundaries of land.”.

6. Accrual of right of action in case of future interest - For section 11(3) of the Principal Act, substitute:

“(3) The foregoing provisions of this section shall not apply where the preceding estate or interest is:

(a) a defence raised by a party to -

(i) resist a claim by the registered owner to recover the land because the party holds the property by way of adverse possession; or

(ii) evict the party adversely possessing property; or

(iii) redefine boundaries of land because the party argues that he or she holds the property by way of adverse possession; or

(b) a leasehold interest other than one which is determinable with life or lives or with the cesser of a determinable life interest.”.

**The Limitation Amendment Act 2012
is administered by the Office of the Attorney General.**

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by authority of the Legislative Assembly.**