

No. 2000-88

AN ACT

HB 1443

Amending Title 68 (Real and Personal Property) of the Pennsylvania Consolidated Statutes, codifying and amending provisions on public lands; and making repeals.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. Part II of Title 68 of the Pennsylvania Consolidated Statutes is amended by adding a subpart to read:

SUBPART F
PUBLIC LANDS

Chapter

61. Vacant and Unimproved Public Lands

CHAPTER 61
VACANT AND UNIMPROVED PUBLIC LANDS

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§ 6101. Definitions.

The following words and phrases when used in this chapter shall have the meanings given to them in this section unless the context clearly indicates otherwise:

“Board.” The Board of Property.

“Commission.” The Pennsylvania Historical and Museum Commission.

“Department.” The Department of Conservation and Natural Resources of the Commonwealth.

“Institution.” Any:

- (1) healing, preventive mental health, educational, correctional or penal institution;
- (2) almshouse; or
- (3) county or city home;

operated by the Commonwealth or a political subdivision.

“Municipality authority.” A county, county authority, municipality authority, city, borough, town, township or school district.

“Public lands.” Includes all of the following:

(1) All lands within the territorial limits of the Commonwealth which have not been confirmed to the former proprietaries or their grantees by the act of November 27, 1779 (1 Sm.L.479, Ch.863), entitled “An act for vesting the estates of the late proprietaries of Pennsylvania in this commonwealth,” and which have not been granted, conveyed or patented by the Commonwealth to the United States, the Commonwealth or any administrative branch or department of either or to any person or corporation, public or private.

(2) All vacant and unappropriated lands; all lands for which application has been made or warrants have been granted by the Commonwealth, the titles to which have not been completed by the granting of patents; and all other lands which have been sold by commissioners appointed under acts of the General Assembly, the titles to which have not been completed by the granting of patents.

The term does not include lands formerly granted, conveyed or patented by the proprietaries or by the Commonwealth to a person which have subsequently become the property of the Commonwealth by escheat, condemnation, confiscation, dedication, gift, grant, purchase or otherwise.

“Secretary.” The Secretary of Conservation and Natural Resources of the Commonwealth.

“Unappropriated lands.” Lands for which no patent has been issued by the Commonwealth.

“Unimproved lands.” Lands which show no signs of occupancy or cultivation.

“Vacant lands.” Lands to which no office rights are outstanding.

§ 6102. Duties of commission.

The commission has the following powers and duties:

(1) To act as the Land Office of the Commonwealth, maintaining and preserving the records of all conveyances from the proprietaries and the Commonwealth to the purchasers of land, including applications, warrants, return of surveys and reports denying applications.

(2) To maintain and preserve:

(i) papers relating to the surveys of this Commonwealth and county lines;

(ii) reports of commissioners relating to the boundary lines of this Commonwealth;

- (iii) maps and other papers lodged with the Land Office and pertaining to the colonial history of this Commonwealth;
- (iv) the minutes of the Canal Commissioners;
- (v) contracts for section profile maps;
- (vi) other records relating to the public works; and
- (vii) relevant records relating to titles to real estate owned or to be acquired by the Commonwealth.

(3) To furnish copies of records and documents in accordance with statutory or regulatory fees.

(4) To promulgate regulations to administer this chapter.

§ 6103. Application.

(a) Commonwealth rights.—The right of a person to a patent for vacant or unappropriated lands is subject to the right of the department to formally acquire for the department on behalf of the Commonwealth and have vacant or unappropriated lands patented to the Commonwealth for State forest purposes or State park purposes as provided by section 6105 (relating to acquisition determination).

(b) Survey.—A person may apply for a warrant to have a survey made of any tract of vacant or unappropriated land.

(c) Investigation.—The department, with the cooperation of the commission, shall investigate to determine whether office rights have been granted for a tract of land and whether the tract of land is vacant or unappropriated if an applicant does all of the following:

(1) Completes an application prescribed by the department.

(2) Gives 30 days' notice of the filing of the application by publication once a week for three successive weeks in a newspaper of general circulation in the area where the land is situate. The applicant must furnish proof of publication to the department.

(3) Submits a certified abstract of title.

(4) Submits the survey under subsection (b).

§ 6104. Report.

(a) Total.—If the department determines that the land applied for is not vacant or unappropriated, it shall file its report.

(b) Partial.—If the report discloses that a part only of the land applied for is not vacant or unappropriated, the applicant may proceed with respect to the balance under section 6106 (relating to State forests).

(c) Appeal.—The report shall be conclusive upon the applicant, subject to the right of the applicant to appeal to the board within 30 days under regulations of the board.

§ 6105. Acquisition determination.

(a) Requirement.—If the department finds the land to be vacant and unimproved or unappropriated and unimproved, the secretary shall determine whether it is desirable and practicable for the department to formally acquire the land for State forest purposes or State park purposes.

(b) Action.—Within two months of receipt of the application, the department shall do all of the following:

(1) Make one of the following determinations:

(i) To maintain the land on behalf of the Commonwealth. A determination under this subparagraph must be signed by the secretary and be accompanied by an abstract with certificate and a survey.

(ii) To relinquish the Commonwealth's rights to the land.

(2) Notify the applicant of the determination under paragraph (1).

§ 6106. State forests.

Upon a determination under section 6105(b)(1)(i) (relating to acquisition determination), a patent to the land shall issue, on approval of the Governor, to the department for State forest purposes or State park purposes without the payment of purchase money, interest or fees.

§ 6107. Appraisals.

(a) Requirement.—Upon a determination under section 6105(b)(1)(ii) (relating to acquisition determination), the land shall be appraised by a certified independent real estate appraiser selected by the department.

(b) Procedure.

(1) The appraiser must swear or affirm before an officer authorized to administer oaths:

(i) faithfully to perform the duties prescribed in this section; and

(ii) that the appraiser is not directly or indirectly interested in the application.

(2) The appraiser shall determine the value of the real estate, taking into consideration soil, timber, fisheries, minerals, location and other natural characteristics of the land. In the case of improved land, the value of the improvements not made by the Commonwealth may not be included in the valuation.

(3) The appraiser shall prepare and transmit the appraisal to the department.

§ 6108. Patents.

(a) Costs.—Upon receipt of an appraisal under section 6107 (relating to appraisals), the department shall notify the applicant and request the amount due the Commonwealth. The expenses incident to the investigation, advertising, survey and appraisal must be paid by the applicant.

(b) Issuance.—The department shall issue a patent to an applicant upon completion of all of the following:

(1) Approval by the department of the material required by section 6103(c)(4) (relating to application).

(2) Payment of the amount under subsection (a). If the applicant does not make payment within three months from the request under subsection (a), the applicant shall be deemed to have abandoned the application, and the department may:

(i) grant a patent to a subsequent applicant upon payment of the amount under subsection (a); or

(ii) if more than one year has elapsed since the receipt of the appraisal, require a current appraisal.

(3) Compliance with law, including regulations promulgated by the department.

(4) Final disposition in the applicant's favor of any entered caveat.

(5) Approval by the Governor.

§ 6109. Prohibitions and exceptions.

(a) Prohibition.—Except as set forth in subsection (b), no application shall be accepted and no warrant, easement or other office right shall be granted for land, including an island, lying in the bed of a navigable river or stream declared by law to be a public highway.

(b) Exceptions.—Subsection (a) does not apply as follows:

(1) A warrant or other office right may be granted and an appraisal made on land intervening between former islands for which patents have been granted and the former mainland of a navigable river where the intervening lands form an obstruction to navigation and are without the ordinary low water lines of such navigable rivers, as shown by the certificate of the United States Secretary of Defense. A warrant or office right under this paragraph requires written approval of the department, following the submission of formal application and plans showing the manner in which the land within the flood water channel of the navigable river will be occupied and used and the extent to which the flood carrying capacity of the channel will be reduced and modified. Preference in granting a patent shall be given, with the approval of the Governor, to the owner of the land abutting the land intervening between the former island to which a patent has been granted and the former mainland of the navigable rivers. A patent, with the approval of the Governor, may be issued in accordance with any agreement entered into by all abutting landowners providing for an allotment of the land intervening between the former islands.

(2) An easement may be granted for a sewage treatment plant and intercepting sewer system and facility necessary and incidental to the plant under, across and in the bed of a navigable river or stream declared by law to be a public highway for the purpose of diverting sewage and industrial wastes from the river or stream to the sewage treatment plant if construction permits have been issued by the Sanitary Water Board, the department and the United States Secretary of Defense. The department shall, on application by a municipality authority or institution, make a grant to the municipality of the easement in the name of the Commonwealth, upon approval of the Governor and in a form approved by the Attorney General, without the payment of purchase money, interest or fees.

(3) The following apply:

(i) The department is authorized to have a survey and appraisal made under this chapter and issue a patent, upon the approval of the Governor, of so much of the bed of a river or stream below low water mark as is no longer useful for the ordinary purposes of navigation and is abandoned if the Federal Government:

(A) enters an agreement with the owners of land to be taken to promote sanitation, prevent floods or improve navigation or for other purposes; and

(B) authorizes the widening, straightening or improvement of the main channel of a navigable river or stream; and

(C) permits the abandonment and filling up of other parts of the river or stream which are no longer useful for the ordinary purposes of navigation.

(ii) Preference in granting a patent under this paragraph shall be given to an owner of land abutting the portion of the bed of a river or stream which (portion) is subject to patent. A patent, with the approval of the Governor, may issue in accordance with an agreement entered into by all abutting landowners providing for an allotment of the land abandoned and subject to patent.

(iii) Evidence that any part of a river or stream has ceased to be useful for the ordinary purposes of navigation and is the subject of warrant, survey and patent must include all of the following:

(A) A certified copy of any Federal statute in relation to the area.

(B) A copy of any agreement entered into between the United States and the owners of the land, accompanied by proper plans showing the land to be taken; the river or stream as widened, straightened or improved; and the portion of the river or stream which is to be abandoned. The copy of the agreement and plans must be certified under the hand and seal of the United States Secretary of Defense and filed in the office of the secretary.

§ 6110. Issuance of patents for unappropriated lands.

The department shall, upon the presentation and approval of an application with satisfactory proof of ownership, including current survey and abstract of title, and the payment of patent fees amounting to \$25, with the approval of the Governor, grant a patent if all of the following apply:

(1) The records of the commission demonstrate that there have been warrants granted by the Commonwealth for lands authorized to be sold by statute or by statutorily appointed commissioners.

(2) Titles to the warrants under paragraph (1) have not been completed by the granting of patents.

§ 6111. Satisfaction of claims.

(a) Scope.—This section applies to land in this Commonwealth for which there is an outstanding office right granted before January 1, 1935.

(b) Authorization.—Upon payment of the fee under subsection (c), the department may do all of the following:

- (1) Cancel liens, bonds and mortgages held by the department for unpaid purchase money and interest.
- (2) Record the satisfaction of the obligation under paragraph (1).
- (3) Certify the action taken under this subsection.

(c) Fee.—There is a fee of \$25 for each tract of land upon which an obligation is released under this section.

§ 6112. Prohibition of warrants.

(a) General rule.—Except as set forth in subsection (b), a warrant or other office right shall not issue for public land if any of the following apply:

- (1) Settlement has been made on the land. This paragraph does not apply if the settlement has been abandoned continuously since January 1, 1935. If the settlement has been abandoned continuously since January 1, 1935, the land shall be deemed to be vacant or unappropriated.
- (2) The land is totally or partially cleared and fenced.
- (3) The land is otherwise improved, used or occupied and held by defined boundaries. This paragraph does not apply if the improvement has been abandoned continuously since January 1, 1935. If the improvement has been abandoned continuously since January 1, 1935, the land shall be deemed to be vacant or unappropriated.

(b) Exception.—A warrant or other office right for public land may issue to the person that has made the settlement or done the clearing, fencing or improvement. This subsection applies to any successor in interest to the person.

§ 6113. Caveats.

(a) Authority.—A person with a claim on land for which a warrant application has been made under this chapter may file a caveat with the department.

(b) Costs.—The caveator must deposit with the caveat a filing fee determined by the department and, in the case of vacant land, purchase money. The purchase money shall be returned to the caveator, less costs incurred by the board, if the board decides against the caveator and the caveator does not appeal the decision. If the caveator appeals the decision, the purchase money shall be held and disposed of as directed by the court making the final decision on the appeal.

(c) Limitation.—A caveat must be filed prior to the granting of the patent. No caveat shall be recognized for land after the patent of the Commonwealth has been granted for the land.

(d) Procedure.—Upon filing of a caveat, the department shall notify the original applicant and forward the application for warrant and the caveat, with all related instruments, to the board for decision.

(e) Effect.—The filing of a caveat shall suspend issuance of the patent until the board disposes of the matter.

(f) Perfection.—If the board decides in favor of the caveator, the caveator must proceed promptly to perfect title under this chapter and in compliance with regulations of the department, or the caveator shall be deemed to have abandoned the claim and right.

§ 6114. Refund.

If the board decides against the issuing of a warrant or other office right, any purchase money paid shall be returned to the applicant, less all expenses incurred by the department and board.

Section 2. The following acts and parts of acts are repealed:

Act of June 13, 1907 (P.L.621, No.483), entitled, as amended, “An act authorizing and directing the Secretary of Community Affairs to compile and publish connected warrantee tract maps of each of the several counties of this Commonwealth; making an appropriation for the work of compilation, and directing the manner of sale and distribution of the same.”

Act of June 30, 1959 (P.L.492, No.117), entitled, as amended, “An act fixing the fees to be charged by the Department of Community Affairs.”

Act of July 9, 1959 (P.L.510, No.137), known as the Pennsylvania Public Lands Act.

Section 3. The addition of 68 Pa.C.S. Ch. 61 is a codification of the act of July 9, 1959 (P.L.510, No.137), known as the Pennsylvania Public Lands Act, and shall be construed a continuation of that act.

Section 4. This act shall take effect in 60 days.

APPROVED—The 22nd day of November, A.D. 2000.

THOMAS J. RIDGE