

Appropriation.

SEC. 7. It is hereby appropriated from the general fund of the state a sum of twenty-five thousand dollars (\$25,000) for the biennium, to be divided in amounts not to exceed three thousand five hundred dollars (\$3,500) per annum equally between the state 4-H Club fair, the five district fairs created by this act and other county or community fairs referred to in section 6, providing that the allocation to any district failing to meet the requirements of the Director of Agriculture shall revert to the state.

Passed the House March 7, 1939.

Passed the Senate March 6, 1939.

Approved by the Governor March 17, 1939.

CHAPTER 201.

[H. B. 382.]

COUNTY OWNED LANDS AS HOMESITE LANDS.

AN ACT giving county commissioners the power to designate county owned lands as homesite lands; providing for the settlement, improvement and deeding of such lands; and repealing all acts and parts of acts in conflict herewith.

Be it enacted by the Legislature of the State of Washington:

Definitions: SECTION 1. The following words and phrases wherever used in this act shall have the meaning as in this section ascribed to them, unless where used the context thereof shall clearly indicate to the contrary:

"County Commissioner."

(a) "County commissioner." The duly elected, qualified and acting Board of County Commissioners of their respective counties.

"Homesite or homesite lands."

(b) "Homesite or homesite lands." Any tract of land listed by the County Commissioners and contained in the list certified by the County Engineer to the County Auditor.

(c) "Entryman." Any qualified person making and filing the application and affidavit herein required with the County Auditor. "Entryman."

(d) "Settler." Any qualified person making and filing the application and affidavit herein required with the County Auditor and having in accordance therewith settled upon a homesite tract. "Settler."

(e) "Tract." Any piece or parcel of land separately described and listed by the County Commissioners and by the County Engineer filed with the County Auditor. "Tract."

SEC. 2. Every person who is the head of a family as defined by the laws of this state or who has arrived at the age of twenty-one years, is a citizen of the United States or who has filed his declaration of intention to become such as required by the naturalization laws of the United States, shall be entitled to enter upon eighty acres or a less quantity of land selected and designated by the County Commissioners of any county in this state as county homesite lands. Eligibility.

SEC. 3. The County Commissioners may at any time designate and select county owned lands as county homesite lands, subject to settlement and conveyance by the county as in this act provided. A list of county lands so selected shall be furnished to the County Engineer whose duty it shall be to check the descriptions of such listed lands, to approve the same and to file such list with the County Auditor. Upon receiving such list from the County Engineer the County Auditor shall publish a notice by posting the same in three public places in his county and by publication thereof in at least three issues of the official county paper, stating that descriptions of the land in said list are on file in his office, are open to inspection by the public and at any time after thirty days from the date of the first County-owned lands designated as homesite lands. Notice.

publication of such notice said lands shall be open for entry as in this act provided.

Application.

SEC. 4. Any person applying to enter land under the preceding sections shall first make and subscribe before a person authorized by the laws of the State of Washington to administer an oath and affidavit that he or she is the head of a family and that such application is honestly and in good faith made for the purpose of actual settlement and cultivation and not for the benefit of any person or corporation, and that he or she will faithfully and honestly endeavor to comply with all of the requirements of law as to settlement, residence and cultivation necessary to acquire title to the land applied for; that he or she is not acting as agent of any person, corporation or syndicate in making such entry nor in collusion with any person, corporation or syndicate to give them the benefit of the land entered or any part thereof or the timber thereon; that he or she does not apply to enter the same for the purpose of speculation but in good faith to obtain a home for himself or herself and that he or she has not directly or indirectly made and will not make any agreement or contract in any way or manner with any person or persons, corporation or syndicate, whatsoever, by which the title which he or she might acquire from the county should enure in whole or in part for the benefit of any person except himself or herself, and upon filing such affidavit with the County Auditor, on payment of five dollars (\$5.00) he or she will thereupon be permitted to enter the amount of land specified.

Forms.

SEC. 5. The County Auditor shall furnish forms of application and affidavit containing the statements herein required and shall administer the oath to any person making such application and affidavit, without any fee therefor.

SEC. 6. The County Commissioners in selecting and designating such homesite properties shall have the right to determine the amount of acreage in any tract, not however to exceed eighty acres, and on the list of homesite properties as furnished by the engineer, filed in the office of the Auditor as in this act provided, the approximate acreage of each tract shall be stated.

Acreage of tracts.

SEC. 7. The County Auditor shall note all applications under the provisions of this act on tract books and plats to be kept in his office and shall keep a ledger of all such entries and make return thereof to the Board of County Commissioners, together with the proof upon which they have been founded.

Records.

SEC. 8. Upon an applicant entering land as in this act provided there shall be issued to him by the County Auditor a certificate of entry showing the day, date and time of such entry, and the description of the property entered as substantially the same appears upon the list certified to the Auditor by the County Engineer.

Certificate of entry.

SEC. 9. No conveyance of said property shall be given or issued therefor until the expiration of five years from the date of such entry, and if, at the expiration of such time or at any time within two years thereafter, the person making such entry, or if he be dead, his widow, or in the case of her death, his heirs and devisees, or in the case of a woman making such entry, her heirs, or devisees in case of her death, or if she be dead, her widower proves by himself and by two creditable witnesses that he, she or they, have a habitable house upon the land and have actually resided upon and have by the construction of such house and the clearing and/or cultivation of such land, improved the same to the extent of not less than five hundred dollars (\$500) in value, and makes affidavit that no part of such land has been alienated, and that he, she or they, will bear true allegiance to

Conveyance, when.

Leave of
absence.

Death before
final proof.

Cultivation.

Improve-
ments.

the government of the United States, then, in that case, she, he or they, shall be entitled to a deed duly executed by the County Commissioners as in other cases provided by law, conveying and transferring said lands to him, her or them: *Provided*, That upon filing in the office of the County Auditor notice of the beginning of such absence the entryman shall be entitled to a continuous leave of absence from the land for a period not exceeding three months in each year after established residence and upon the termination of such absence the entryman shall file a notice of such termination in the office of the Auditor: *Provided further*, That the County Commissioners may, if they find just cause therefor, extend such leave of absence period, not however exceeding six months in any one year: *Provided further*, That when the person making entry dies before the offer of final proof, those succeeding to the entry must show that the entryman had complied with the law in all respects to the date of his death and that they have since complied with the law in all respects as would have been required of the entryman had he lived: *Provided further*, That the entryman shall, in order to comply with the requirements of clearing and/or cultivation herein provided, cultivate not less than 5 per cent (5%) of a homesite tract of forty or more acres, ten per cent (10%) of a homesite tract containing twenty or more acres, and twenty per cent (20%) of a homesite containing ten acres, more or less.

During the first year the entryman must either improve the property by constructing a habitable home thereon or do not less than ten per cent (10%) of the clearing and/or cultivation required.

During the second year the entryman shall have constructed a habitable home upon the homesite tract and in addition thereto shall do not less than ten per cent (10%) of the clearing and/or cultiva-

tion required. The entryman must during the remaining period do the balance of the clearing and/or cultivation required under this act but the County Commissioners may, upon a satisfactory showing, reduce the required area to be cleared and/or cultivated.

SEC. 10. Where two or more persons claim to be the first entryman to file on a homesite tract, or where said persons claim to have filed simultaneously upon the same homesite tract, it shall be the duty of the Board of County Commissioners and they are empowered to determine to what person the certificate of entry shall be issued. Before a final determination is made by the Board of County Commissioners they shall give each claimant notice of an opportunity to be heard at a stated time and place not less than five days from the time of service of such notice, such notice to be served as provided by law for the service of a summons in a civil action.

Two or more claimants.

SEC. 11. The marriage of a homesite entryman to a homesite entrywoman, after each shall have fulfilled the requirements of this act for one year next preceding such marriage, shall not impair the right of either to a deed so long as they comply with the provisions of this act as to each homesite.

Marriage of entryman and entrywoman.

SEC. 12. If at any time after the filing of the application and affidavit as required in section 4, and before the expiration of the five years mentioned in section 9 of this act, it is proved, after due notice to the entryman to the satisfaction of the Board of County Commissioners that the person having filed such application and affidavit has failed to establish residence within six months after the date of entry or abandoned the land for more than six months at any time, then, and in that event, the land so entered shall revert to the county: *Provided*, That if, during the first year the entryman does the clearing and/or cultivation in this act required, it shall not be neces-

Failure to establish residence or abandonment of land.

sary for him to establish actual permanent residence upon the land during such year: *And provided further*, That where there may be climatic reasons, sickness, or other unavoidable cause, the Board of County Commissioners may, in their discretion, allow the settler reasonable additional time in which to commence his residence upon said land: *Providing*, Such entryman does the clearing and/or cultivation in this act required.

Separation
of husband
and wife.

In any case of separation between husband and wife, after filing of a homesite entry, as in this act provided, either party may succeed to such right by agreement or by decree of a competent court and in such event, upon complying with the terms of this act, shall be entitled to the benefits thereof.

Sale or
transfer of
right.

SEC. 13. Any *bona fide* entryman may, with the consent of the Board of County Commissioners, sell and transfer his right as such entryman, to any person qualified under the terms of this act to have himself made such entry.

Reservations
contained in
application
forms.

SEC. 14. The form of application which the County Auditor is by this act required to furnish shall clearly state and each conveyance to land acquired under the terms of this act shall contain the following reservation which shall be effective from the time of entry:

“The party of the first part hereby expressly saves, excepts and reserves out of the grant hereby made, unto itself, its successors, and assigns, forever, all oils, gases, coals, ores, minerals and fossils of every name, kind or description, and which may be in or upon said lands above described; or any part thereof, and the right to explore the same for such oils, gases, coal, ores, minerals and fossils; and it also hereby expressly saves reserves out of the grant hereby made, unto itself, its successors and assigns, forever, the right to enter by itself, its agents, attorneys and servants upon said lands, or any part or

parts thereof, at any and all times, for the purpose of opening, developing and working mines thereon, and taking out and removing therefrom all such oils, gases, coal, ores, minerals and fossils, and to that end it further expressly reserves out of the grant hereby made, unto itself, its successors and assigns, forever, the right by its or their agents, servants and attorneys at any and all times to erect, construct, maintain and use all such buildings, machinery, roads and railroads, sink such shafts, remove such soil, and to remain on said lands or any part thereof, for the business of mining and to occupy as much of said lands as may be necessary or convenient for the successful prosecution of such mining business, hereby expressly reserving to itself, its successors and assigns, as aforesaid, generally, all rights and powers in, to and over, said land, whether herein expressed or not, reasonably necessary or convenient to render beneficial and efficient the complete enjoyment of the property and the rights hereby expressly reserved. No rights shall be exercised under the foregoing reservation, by the state, its successors or assigns, until provision has been made by the state, its successors or assigns, to pay to the owner of the land upon which the rights herein reserved to the state, its successors or assigns, are sought to be exercised, full payment for all damages sustained by said owner, by reason of entering upon said land: *Provided*, That if said owner from any cause whatever refuses or neglects to settle said damages, then the state, its successors or assigns, or any applicant for a lease or contract from the state for the purpose of prospecting for or mining valuable minerals, or operation contract, or lease, for mining coal, or lease for extracting petroleum or natural gas, shall have the right to institute such legal proceedings in the Superior Court of the county wherein the land is

Reservation.

situated, as may be necessary to determine the damages which said owner of said land may suffer.”

Conflicting laws repealed.

SEC. 15. All laws and parts of laws in conflict herewith are hereby repealed.

Partial invalidity.

SEC. 16. If any part of this act shall be declared invalid by a court of competent jurisdiction, the remainder thereof shall be and remain in full force and effect.

Passed the House February 25, 1939.

Passed the Senate March 9, 1939.

Approved by the Governor March 17, 1939.

CHAPTER 202.

[H. B. 425.]

INHERITANCE TAX.

AN ACT relating to revenue and taxation; providing for the levy and collection of taxes on estates, gifts and transfers in contemplation or to take effect upon death, legacies, inheritances, bequests, devises and successions applicable to property whether held jointly or severally, and to insurance payable upon death; providing for certain exemptions; providing for the appointment and fixing compensation of appraisers; providing for a penalty for delinquency; providing for the application of the act to pending cases; providing for the amendment of sections 2, 12 and 13, chapter 55, Laws of 1901, as amended; section 1, chapter 93, Laws of 1905, as amended; section 8, chapter 55, Laws of 1917, as amended; section 4, chapter 146, Laws of 1917, as amended; section 95, chapter 156, Laws of 1917, as amended; sections 4, 7 and 9, chapter 134, Laws of 1931, as amended; sections 107 and 115, chapter 180, Laws of 1935; declaring an emergency and that this act shall take effect immediately.

Be it enacted by the Legislature of the State of Washington:

SECTION 1. That section 2 of chapter 55 of the Laws of 1901, as amended (section 11202 of Remington's Revised Statutes (Sup.)); section 7030-166 of Pierce's Code), is amended to read as follows:

Amends
§ 11202 Rem.
Rev. Stat.
(Sup.);
§ 7030-166
P. C.