

CHAPTER 256.

[H. B. 495]

SELECTION, SURVEY, MANAGEMENT, RECLAMATION,
LEASE AND DISPOSITION OF STATE LANDS.

AN ACT amending sections 2134, 2135, 2146, 2179 of Ballinger's Annotated Codes and Statutes of Washington, and sections 2141, 2142, 2145, 2183 and 2192 of Volume three (Supplement) of Ballinger's Annotated Codes and Statutes of Washington, relating to the selection, survey, management, reclamation, lease and disposition of the State's granted, school, tide, oyster and other lands, harbor areas, and to the confirmation and completion of the several grants to the state by the United States; the creation of a Board of Appraisers and a board of harbor line commissioners, as required by articles 15 and 16 of the state constitution, to be generally known as the board of state land commissioners; and the defining of their duties.

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

SECTION 1. That section 2134 of Ballinger's Annotated Codes and Statutes of Washington, be and the same is hereby amended to read as follows: Section 2134. All lands described in the last section are "public lands" and the terms "public lands" and "state lands" shall be defined and deemed to be synonymous whenever either is used in this chapter. The selection, inspection and appraisal of land as hereinafter provided for in this chapter may be made by one of the members of the said board or Commission; but when it is deemed advisable and for the best interest of the State, the Commissioner of Public Lands, with the consent and approval of the Board of State Land Commissioners may employ one or more citizens of the State, familiar with such work to personally inspect, appraise or select lands, harbor areas.

SEC. 2. That section 2135 of said code be, and the same is hereby amended to read as follows: Sec. 2135. The compensation of such inspectors so appointed by the Commissioner of Public Lands with the consent and approval of the Board of State Land Commissioners shall not exceed seven dollars per diem for the time actually employed, and necessary expenses, which shall be submitted to the Commissioner of Public Lands in an itemized and verified account,

Terms defined.

Inspection, appraisal, etc.

Compensation of inspectors.

to be approved by the Commissioner of Public Lands.

SEC. 3. That section 2146 of said codes be, and the same is hereby amended to read as follows: Sec. 2146. All State lands shall be sold on the following terms: One-tenth to be paid on the date of sale, and one-tenth annually thereafter on the first day of March in each year until the full purchase price has been paid: *Provided*, That any purchaser may make full payment at any time. All deferred payments shall draw interest at the rate of six per cent. per annum. The first installment of interest shall become due and payable on the first day of March, next after the date of sale, and thereafter all interest shall become due and payable annually on the first day of March in each year. All remittances for payment of either principal or interest must be forwarded to the Commissioner of Public Lands. When the entire purchase price of any land shall have been fully paid, such fact shall be certified by the Commissioner of Public Lands to the Governor, whereupon he shall cause a patent to be issued to the purchaser. Patents shall be signed by the Governor and attested by the Secretary of State, with the seal of the State attached thereto, and shall be recorded in the office of the Commissioner of Public Lands, and no fee shall be required for any deed or patent of land issued by the Governor, other than the fee provided for in this chapter: *Provided further*, That each and every contract for the sale of any State lands, or deeds or patents to such State lands except deeds or patents issued pursuant to contracts heretofore made shall contain the following saving clause: "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, coal, 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 oil, gases, coal, ores, minerals, and fossils; and it also hereby expressly saves and reserves out of the grant hereby made, unto itself, its successors and

Terms of
sale.

Patent.

Minerals re-
served.

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 land 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 lands, whether herein expressed or not, reasonably necessary or convenient to render beneficial and efficient the complete enjoyment of the property and rights hereby expressly reserved": *Provided further*, That no rights shall be exercised under this 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 or sought to be exercised, full payment for all damages sustained by said owner, by reason of entering upon said land.

SEC. 4. That section 2179 of said codes be, and the same is hereby amended to read as follows: Sec. 2179. Tide or shore lands of the second class which are separated from the upland by navigable waters, shall be sold at not less than five dollars per acre; the applicant, at his own expense, shall survey and cause to be filed with his application a plat of the surveys of the land applied for. Such surveys shall be connected with, and the plat shall show, two or more connections with the United States survey of the upland. The applicant shall also file the field notes of the survey of said land with his application. The Com-

Sale of detached tide lands.

Survey.

missioner of Public Lands shall examine and attest said plat and field notes of survey, and if found incorrect or indefinite, he shall cause the same to be corrected or may reject the same and cause a new survey to be made.

SEC. 5. That section 2141 of volume three (supplement) of Ballinger's Annotated Codes and Statutes of Washington be, and the same is hereby amended to read as follows: Sec. 2141. That any person or company may make written application to the Board of Appraisers for the appraisal and sale of any lands belonging to the State, and the said Board shall cause to be prepared blank applications containing such instructions as will inform and aid intending purchasers in making application for the appraisal and sale of any lands. Each application must be accompanied with certificate of deposit or certified check upon any bank of this State, made payable to the Commissioner of Public Lands and equal in amount to ten cents per acre for the land described in such application: *Provided*, That such deposit may be made in cash or by post-office money order, but in no case shall such deposit be less than ten dollars. In case the lands described in such application are sold at the time they are offered for sale, in accordance with such application, the amount of such deposit shall be returned to such applicant. If such lands be not sold, through fault of said applicant at such sale, such deposit shall be forfeited to the State, and shall be so declared by the said Board, and the State Treasurer shall thereupon place said forfeited money to the credit of the general fund of the State. That when, in the judgment of the Board of Appraisers or the Commissioner of Public Lands, a sufficient number of applications have been received for the appraisal and sale of any lands belonging to the State, said Commissioner of Public Lands shall cause any of such lands so applied for to be personally inspected and appraised as to its character, topography, agriculture, timber, coal, mineral, stone or rock quarries, or grazing, its distance from any city, town, railroad,

Application
for sale of
State lands.

Deposit.

Inspection
and ap-
praisal.

river, irrigation ditch or other waterways, when irrigation is required, and fully report the same to said Board or Commissioner of Public Lands, together with the Commissioner's or Appraiser's judgment as to its present and prospective value, which said report shall be considered and thereupon a price per acre fixed for each quarter section, and subdivision thereof, or lot or block, which shall be not less than ten dollars per acre for lands granted for educational purposes: *Provided*, That no more than one hundred and sixty acres (160) of any school or granted lands of the State shall be offered for sale in one parcel, and all lands within the limits of any incorporated city or town or within two miles of the boundary of such incorporated city or town, where the valuation of such lands shall be found by appraisement to exceed one hundred (\$100.00) dollars per acre, shall, before the same be sold, be platted into lots and blocks of not more than five acres in a block, and not more than one block shall be offered for sale in one parcel, and said Board is hereby authorized to plat such lands into lots and blocks, and all plats shall be filed in the office of the Commissioner of Public Lands: *Provided further*, That whenever application is made to purchase less than a section, the said Commissioner of Public Lands may order the inspection of an entire section or sections: *Provided further*, That all school and granted lands for educational purposes may thereafter be sold at not less than the appraised value, when the purchase price realized for the timber thereon added to the appraised value of the land is \$10.00 per acre or in excess thereof: *And provided further*, That in no case shall any State or public lands or timber or other materials thereon be sold more than ninety days after the appraisal thereof by the Board of State Land Commissioners.

Size of parcel.

Land to be platted, when.

To be sold at not less than \$10 per acre.

Sale of materials.

SEC. 6. That section 2142 of volume three of said codes be, and the same is hereby amended to read as follows: Sec. 2142. That when applications are made for the purchase of timber, stone, fallen timber, hay or gravel or other valuable materials situated upon public lands of the State, the same inspection shall be had as for applications

to purchase lands: *Provided*, That no standing timber or stone shall be sold for less than the appraised value thereof, and such timber, stone, hay and gravel may be sold separate from the land, when, in the judgment of the Board, it is for the best interest of the State to sell same, except when the estimated amount of timber shall exceed one million feet to the quarter section, in which case the timber shall be sold separate from the land: *Provided, however*, That whenever any public lands shall lie within the limits of any water shed from or through which is derived the water supply of any city or town of the State of Washington, in such case the said city or town desiring to purchase or condemn the same, may do so, and in case of purchase, shall have the right to buy the said land with the timber, stone, hay or gravel thereon and without a separate appraisalment: *And provided further*, That the full purchase price of such valuable materials shall be paid in cash when sold separate from the lands: *Provided*, That in all cases when the timber is sold separate from the land, said timber shall revert to the State if it has not been removed from the land within five years from the date of purchase thereof, except that in all cases when the purchasers are acting in good faith and removing the said timber, the Board of State Land Commissioners may extend the time of removal for a period not to exceed two years. When the time for removing timber is extended the person owning the timber shall pay to the State such compensation as the Board of State Land Commissioners may direct providing, that such compensation shall not be less than one dollar per acre per year, nor more than \$2.00 per acre per year. That in every appraisalment of land granted to this State the Board of Appraisers shall be and serve as the Board of Appraisers mentioned in section two of article sixteen of the State Constitution. And in every appraisalment under this chapter the said Board shall separately appraise all improvements placed upon any land of the State and found on such land at the time of the appraisalment; and shall also appraise all damages and waste done

Timber.

Time of removal.

Appraisal of improvements.

to said land by the cutting and removal of timber or the removal of stone or other materials by the person or persons claiming such improvements, or by his consent, and the damage to the land or materials thereon by reason of the use and occupancy of said land shall be considered in the appraisement, and the balance, after deducting such damages and waste appraised as aforesaid, shall be determined as the value of the improvements upon the land so appraised and every such appraisement shall be recorded in the proceedings of the Board of Appraisers: *Provided*, That this section shall not be considered to affect the right of the State to the value of such land: *Provided further*, That if the purchaser of such land from the State be not the owner of the improvements he shall deposit with the officer making the sale, at the time of the sale, the appraised value of such improvements; and if it be found by the said Board that the owner of said improvements was not holding adversely to the State in improving said land, or that said improvements were placed on said land in good faith by a lessee from the State or territory, or that said lessee had in all respects complied with the terms of his lease, and his leasehold interest, not forfeit or subject to a forfeiture then the board of appraisers shall direct the Commissioner of Public Lands to pay, and he shall pay to the owner of said improvements such sum so deposited; but if it be found by the said board of appraisers that the said improvements owned or made on said land by parties holding or claiming the land, adversely to the State, or by persons without license or lease from the State, or by a lessee who had not complied with the terms of his lease, then said Board shall direct the Commissioner of Public Lands to pay over such sum so deposited into the permanent school fund: *Provided further*, That if the said improvements were made by a lessee or other person with intent to defraud the State or the intending purchaser the sum so deposited shall be forfeited in the manner described above, to the State: *Provided further*, That in determining the value and nature of land and of improvements, the Board is hereby authorized to compel by subpœna the

Purchaser shall pay for improvements.

attendance of witnesses at such place as said Board may designate, and swear and examine witnesses as to the value of such land and of improvements and the damage and waste as well.

SEC. 7. That section 2145 of Volume Three of said Codes be and the same is hereby amended to read as follows: Sec. 2145. That the members of the said Board of Appraisers, or the county auditor conducting the sale, shall, upon making sale of any school land, or stone, mineral or timber thereon, report such sale to the said Board of Appraisers, as provided in this act, together with other information touching the same, as the said Board shall have prescribed, and within ten days from the date of the reception of such report by the Commissioner of Public Lands, if no affidavit showing that the interest of the State in such sale were injuriously affected by fraud or collusion shall have been filed with said Board, and it shall appear from such report that the sale was fairly conducted, and that the purchaser was the highest bidder at such sale, and that his bid was not less than the appraised value of the property sold, and if the said Board of State Land Commissioners shall be satisfied that the land sold would not, upon being readvertised and sold, sell for at least ten per cent. more than the price at which it shall have been sold, and that the payment required by law to be made at the time of making the sale has been made, and the best interests of the State may be thereby subserved, the Secretary of the Board of State Land Commissioners, by order of said Board shall enter upon his records a confirmation of said sale and thereupon the Commissioner of Public Lands shall issue to the purchaser a contract of sale, as in this act provided.

Report of
sale.

Confirma-
tion of sale.

SEC. 8. That section 2183 of Volume Three of said Codes be and the same is hereby amended to read as follows: Sec. 2183. The Board of State Land Commissioners shall have power to lease the right to build and maintain wharves, docks, and other structures upon the harbor areas laid out or which shall hereafter be laid out in pursuance of the provisions of Article XV of the Constitution of the

Lease of
right to
build
wharves,
etc.

State of Washington for such rental and under such general rules as said Board shall prescribe, except in so far as the same are or may be prescribed by law; but no such lease shall be made for any term longer than thirty years.

Rental.

The rental fixed and reserved to the State of Washington in each such lease shall be such sum as said Board shall fix. Said Board shall require of each such lessee a bond

Bond of lessee.

with sufficient surety, to be approved by the Commissioner of Public Lands, in such penalty, and not exceeding twice the amount of the annual rental, but in no case less than five hundred dollars, as may be prescribed by the Board, conditioned for the payment by the lessee of the rental reserved in his lease at or prior to the time of payment therein specified, during the term of such lease or during such part thereof as the Board in its discretion shall require to be covered by such bond; and in case only a part of the term of such lease shall be covered thereby, said Board shall require of such lessee another like bond, to be executed and delivered within three months and not less than one month prior to the expiration of the period covered by the previous bond, covering the remainder of the term of the lease, or such part thereof as the Board in its discretion shall require to be covered thereby. The Board shall have power at any time to summon sureties upon any bond and to examine into the sufficiency thereof, and if it shall find the same to be insufficient it shall require the lessee to file a new and sufficient bond within thirty days after receiving notice so to do, under penalty of cancellation of the lease; and the Board shall have power to cancel any lease for a substantial breach by the lessee of any of the conditions thereof, or for lack of a bond therewith as herein required. The application for or the making or acceptance of any lease herein authorized shall not work any estoppel against either party thereto or against those in priority with either party as to any right or claim which might otherwise be made or contested. Any holder of any lease made prior to and in full force on the 1st day of March, 1899, who has theretofore fully complied with all the requirements of law relative to such

leases, but no other person, shall be entitled upon making application therefor to said Board to have the rental reserved by his lease adjusted in conformity with the provisions of this section; but such adjustment shall not apply to any rental previously paid or accrued. If the person, association or corporation having the preference right to lease any part of such harbor area has not exercised or shall not exercise such right within such time and in such manner as may be prescribed by said Board, in its rules and regulations, then said Board whenever it shall deem it advisable that such part should be leased shall give thirty days' notice by publication that a lease of such part of such harbor area for such rental and under such general rules within the limitations of this section as said Board shall have prescribed will be sold, at a time and place to be specified in said notices, to the person, association or corporation offering at such public sale to pay to the State the highest sum as a cash bonus for such lease; and upon the giving of such notices such lease shall be sold and made and delivered, accordingly, the payment of the sum offered by the successful bidder being required at the time of such sale. All the rentals derived from the leases herein authorized shall be paid into the State treasury under such regulations as said Board may prescribe, and shall constitute a harbor fund to be used as the Legislature may direct. Notwithstanding any such lease now or hereafter existing, the State shall ever retain and does hereby reserve the right to regulate the rates of wharfage, dockage or other tolls to be imposed by the lessee or his assigns upon commerce for any of the purposes for which the leased area may be used, and the right to prevent extortion and discrimination in such use thereof.

Publication
of notice.

SEC. 9. That section 2192 of Volume Three of said Codes be and the same is hereby amended to read as follows: Sec. 2192. That the Commissioner of Public Lands for services performed by him as such may charge and collect the following fees: (1) For a copy of any record, document or paper on file in his office, fifteen cents per folio; (2) for affixing a certificate and seal, \$1.00; (3) for each

Fees of
Commis-
sioner.

original contract of sale, lease, or bill of sale, \$2.00; (4) for each deed, \$5.00; (5) issuance of harbor area lease and approval of bond, \$5.00; (6) approval of each assignment of contract, lease, or bill of sale, \$1.00; (7) for each copy of the plat of a township or any portion thereof, not less than \$2.00; (8) for subdivision and issuance of new contracts, after the original has been entered on the records, \$2.00 for each new contract.

Passed the House March 7th, 1907.

Passed the Senate March 8th, 1907.

Approved by the Governor March 20th, 1907.