

with, and keeping an account thereof in the manner required by law.

Time  
of taking  
effect of act.

SEC. 6. This act shall take effect on the second Monday in January, 1911.

Passed by the House February 18, 1909.

Passed by the Senate March 4, 1909.

Approved March 18, 1909.

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## CHAPTER 231.

[H. B. 367.]

### RELATING TO GOVERNMENT TOWNSITES.

AN ACT prescribing rules and regulations for the execution of the trusts arising under an act of congress entitled "An act for the relief of the inhabitants of cities and towns upon the public lands," approved March 2, 1867 (sections 2386, 2387, 2388, 2389, 2391, 2392, 2393 and 2394 of the Revised Statutes of the United States) and all acts of congress amendatory thereof and supplemental thereto, including section 16 of an act of congress, entitled "An act to repeal timber culture laws, and for other purposes," approved March 3, 1891, and to repeal an act of the Legislature of Washington territory, entitled "An act prescribing rules and regulations for the execution of trusts arising under the act of congress, entitled 'An act for the relief of inhabitants of cities and towns upon the public lands,' approved March 2, 1867," approved January 31, 1888, fixing the time for doing certain acts, prescribing a limitation of time for the commencement of certain actions, prescribing the procedure therein, prescribing rules of evidence therein, and declaring an emergency.

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

Town  
to select  
limits.

SECTION 1. It is the duty of the city or town council of any city or town in this state situate upon public lands of the United States or lands, the legal and equitable title to which is in the United States of America, to enter at the proper land office of the United States such quantity of land as the inhabitants of any incorporated city or town may be entitled to claim, in the aggregate, according to their population, in the manner required by the laws of the United States and the regulations prescribed by the

secretary of the interior of the United States, and by order entered upon their minutes and proceedings, at a regular meeting, to authorize and direct the mayor and clerk of such council, attested by the corporate seal, to make and sign all necessary declaratory statements, certificates, and affidavits, or other instruments requisite to carry into effect the intentions of this act and the intentions of the act of congress of the United States entitled "An act for the relief of the inhabitants of cities and towns upon the public lands," approved March second, eighteen hundred and sixty-seven, and all acts of congress amendatory thereof and supplemental thereto, including section sixteen of an act of congress entitled "An act to repeal timber culture laws and for other purposes," approved March 3, 1891, and to make proof, when required, of the facts necessary to establish the claim of such inhabitants to the lands so granted by said acts of congress, and file in the proper United States land office a proper application in writing describing the tracts of land on which such city or town is situate, and make proof and payment for such tracts of land in the manner required by law.

SEC. 2. Said council must cause a survey to be made by some competent person, of the lands which the inhabitants of said city or town may be entitled to claim under the said act of congress, located according to the legal subdivisions of the sections and by the section lines of the United States, and the same must be distinctly marked by suitable monuments; such survey must further particularly designate all streets, roads, lanes and alleys, public squares, churches, school lots, cemeteries, commons and levees as the same exist and have been heretofore dedicated in any manner to public use, and by measurement the precise boundaries and area of each, and every lot or parcel of land and premises claimed by any person, corporations or associations within said city or townsite must, as far as known by the surveyor, be designated on the plat, showing the name or names of the possessor or occupants and claimants, and in case of any disputed claim as to lots, lands, premises or boundaries the said surveyor, if

Ch. 172, p.  
541, vol. 14.  
St. at L., §§  
2387-2394  
Rev. St.; vol.  
6, pp. 344-353  
Fed. St.  
Anno.

Ch. 561, p.  
1101, vol. 26,  
St. at L.; vol.  
6, p. 352,  
Fed. St.  
Anno.

Filing of  
application.

Survey.

Details  
platted.

the same be demanded by any person, shall designate the lines in different color from the body of the plat of such part of any premises so disputed or claimed adversely.

Scale  
of plats.

Plats,  
where filed.

SEC. 3. A plat thereof must be made in triplicate, on a scale of not less than eighty feet to one inch, which must be duly certified under oath by the surveyor, one of which must be filed with the county auditor of the county wherein the city or town is situated, one must be deposited in the proper United States land office, and one with the city or town clerk. These plats shall be considered public records, and each must be accompanied with a copy of the field-notes, and the county auditor must make a record of such plat in a book to be kept by him for that purpose, and such county auditor must file a copy of said field-notes in his office. The said surveyor must number the blocks as divided by the roads, highways and streets opened and generally used, and for which a public necessity exists at the time of making such survey, and must number the several lots consecutively in each block, and all other parcels of land within said town or city surveyed as herein provided, which said numbers must be a sufficient description of any parcel of land in said plats. Said survey and plat thereof shall conform as near as may be to the existing rights, interests and claims of the occupants thereof, but no lot in the central or business portion of such city or town shall exceed in area four thousand, two hundred square feet, and no suburban lot in such city or town shall exceed two acres in area.

Blocks  
and lots  
numbered.

Notice of  
survey.

SEC. 4. Before proceeding to make such survey, at least ten days' notice thereof must be given, by posting within the limits of such city or townsite, not less than five written or printed notices of the time when such survey shall commence, or by publication thereof in a newspaper published in the city or town, if one there be. The survey of said city or town lands must be made to the best advantage and at the least expense to the holders, claimants and occupants thereof; and the council is hereby authorized and directed to receive bids for such surveying, and to let the same by contract to the lowest competent bidder:

*Provided*, That the possessors, owners and claimants of water works, electric light, telegraph, telephone, pipe or power lines, sewers and like or similar property located in such roads, streets, alleys and other public places in such cities and towns shall be maintained and protected in the same, as the same shall exist at the time of the entry in the United States land office of the land embracing such city or town, and the right to continue to use such property for the purposes for which said property was intended, is hereby acknowledged and confirmed.

Franchises  
continued.

SEC. 5. Such plat must show as follows:

(a) All streets, alleys, avenues, roads and highways, and the width thereof.

(b) All parks, squares and all other grounds reserved for public uses, with the boundaries and dimensions thereof.

Contents  
of plat.

(c) All lots and blocks, with their boundaries, designating such lots and blocks by numbers, and giving the dimensions of every lot.

(d) The angles of intersection of all boundary lines of the lots and block, whenever the angle of intersection is not a right angle.

(e) The location of all stone or iron monuments set to establish street lines.

(f) The exterior boundaries of the piece of land so platted, giving such boundaries by true courses and distances.

(g) The location of all section corners, quarter section or meander corners of sections within the limits of said plat.

(h) In case no such section or quarter section or meander corners are within the limits of the plat, it must show a connection line to some corner or initial point of the government surveys, or a government mineral monument, if there be any within one mile of such townsite. All distances marked on the plat must be in feet and decimals of a foot.

SEC. 6. Such surveyor must mark all corners of blocks or lots shown on the plat by substantial stakes or monuments, and must set stone or iron monuments at the points

Corners to  
be marked.

of intersection of the center lines of all the streets, where practicable, or as near as possible to such points, and their location must be shown by marking on the plat the distances to the block corners adjacent thereto. The top of such monument must be placed one foot below the surface of the ground, and in size must be at least six inches by six inches by six inches, and be placed in the ground to the depth of one foot.

Monuments.  
how placed.

SEC. 7. If a stone is used as a monument, it must have a cross cut in the top at the point of intersection of the center lines of streets, or a hole may be drilled in the stone to mark such point. If an iron monument is used it must be at least two inches in diameter by two and one-half feet in length, and may be either solid iron or pipe. The dimensions of the monuments must be marked on the plat, and reference thereto made in the field-notes, and establish permanently the lines of all the streets. The surveyor must make and subscribe on the plat a certificate that such survey was made in accordance with the provisions of this act, stating the date of survey, and verify the same by his oath.

Markings  
on monu-  
ments.

SEC. 8. All such plats must be made on mounted drawing paper, and filed and recorded in the office of the county auditor, and he must keep the original plat for public inspection. The fee of such county auditor for filing and recording each of such plats and the field-notes accompanying the same shall be the sum of \$10.00.

Original  
plat filed.

Auditor's  
fee.

SEC. 9. Each lot or parcel of said lands having thereon valuable improvements or buildings ordinarily used as dwellings or for business purposes, not exceeding one-tenth of one acre in area, shall be rated and assessed by the said corporate authorities at the sum of one dollar; each lot or parcel of such lands exceeding one-tenth and not exceeding one-eighth of one acre in area, shall be rated and assessed at the sum of one dollar and fifty cents; each lot or parcel of such lands exceeding in area one-eighth of one acre and not exceeding one-quarter of an acre in area, shall be rated and assessed at the sum of two dollars; and each lot or parcel of such lands exceeding one-quarter of

Assessments.

an acre and not exceeding one-half of one acre in area, shall be rated and assessed at the sum of two dollars and fifty cents; and each lot or parcel of land so improved exceeding one-half acre in area shall be assessed at the rate of two dollars and fifty cents for each half an acre or fractional part over half an acre; and every lot or parcel of land enclosed, which may not otherwise be improved, claimed by any person, corporation, or association, shall be rated and assessed at the rate of two dollars per acre or fractional part over an acre; and where upon one parcel of land there shall be two or more separate buildings occupied or used ordinarily as dwellings or for business purposes each such building, for the purposes of this section, shall be considered as standing on a separate lot of land; but the whole of such premises may be conveyed in one deed; which moneys so assessed must be received by the clerk and be paid by him into the city or town treasury.

SEC. 10. Every person, company, corporation or association claimant of any city or town lot or parcel of land within the limits of such city or townsite, must present to the council, by filing the same with the clerk thereof, within three months after the patent (or certified copy thereof) from the United States has been filed in the office of the county auditor, his, her, its or their affidavit, (or by guardian or next friend where the claimant is under disability), verified in person or by duly authorized agent, attorney, guardian or next friend, in which must be concisely stated the facts constituting the possession or right of possession of the claimant, and that the claimant is entitled to the possession thereof and to a deed therefor as against all other persons, to the best of his knowledge and belief, and stating who was an occupant of such lot or parcel of land at the time of the entry of such townsite at the United States land office, to which must be attached a copy of so much of the plat of said city or townsite as will fully exhibit the particular lot or parcel of land so claimed, and every such claimant, at the time of filing such affidavit, must pay to such clerk such sum of money as

Notice of  
ownership.

said clerk shall certify to be due for the assessment mentioned in the preceding section, together with the further sum of four dollars, to be appropriated to the payment of expenses incurred in carrying out the provisions of this act, and the said clerk must thereupon give to such claimant a certificate, attested by the corporate seal, containing a description of the lot or parcel of land claimed, and setting forth the amounts paid thereon by such claimant. The council of every such city or town must procure a bound book, wherein the clerk must make proper entries of the substantial matters contained in every such certificate issued by him, numbering the same in consecutive order, setting forth the name of the claimant or claimants in full, date of issue, and description of lot or lands claimed.

Records.

Additional assessments.

SEC. 11. If it is found that the amounts hereinbefore specified as assessments and fees for costs and expenses prove to be insufficient to cover and defray all the necessary expenses, the council must estimate the deficiency and assess such deficiency *pro rata* upon all the lots and parcels of land in such city or town, and declare the same upon the basis set down in section nine of this act, which additional amount, if any, may be paid by the claimant at the time when the certificate hereinafter [hereinbefore] mentioned, or at the time when the deed of conveyance hereinbefore [hereinafter] provided for, is issued.

Council to execute deeds.

SEC. 12. At the expiration of six months after the time of filing of such patent, or a certified copy thereof in the office of the county auditor, if there has been no adverse claim filed in the meantime, the council must execute and deliver to such claimant, his or her, its or their heirs, executors, administrators, grantees, successors or assigns a good and sufficient deed of the premises described in the application of the claimant originally filed, if proper proof shall have been made, which said deed must be signed and acknowledged by the mayor or other presiding officer of the council, and attested by the corporate seal of such city or town. No conveyance of any such lands made as in this act provided, concludes the rights of third persons:

but such third persons may have their action in the premises, to determine their alleged interest in such lands and their right to the legal title thereto against such grantee, his, her, its or their heirs, successors or assigns, to which they may deem themselves entitled either in law or equity; but no action for the recovery or possession of such premises, or any portion thereof, or to establish the right to the legal title thereto, must be maintained in any court against the grantee named therein, or against his, her, its or their legal representatives or assigns, unless such action shall be commenced within six months after such deed shall have been filed for record in the office of the county auditor of the county where such lands are situate; nothing herein shall be construed to extend the time of limitation prescribed by law for the commencement of actions upon the possessory claim or title to real estate, when such action is barred by law at the time of the passage of this act.

Interests  
of third  
persons not  
precluded.

SEC. 13. That townsite entries may be made by incorporated towns or cities on the mineral lands of the United States, but no title shall be acquired by such towns or cities to any vein of gold, silver, cinnabar, copper or lead, or to any valid mining claim or possession held under existing law. When mineral veins are possessed within the limits of an incorporated town or city, and such possession is recognized by local authority or by the laws of the United States, the title to town lots shall be subject to such recognized possession and the necessary use thereof and when entry has been made or patent issued for such townsites to such incorporated town or city, the possessor of such mineral vein may enter and receive patent for such mineral vein, and the surface ground appertaining thereto: *Provided*, That no entry shall be made by such mineral vein claimant for surface ground where the owner or occupier of the surface ground shall have had possession of the same before the inception of the title of the mineral vein applicant.

Townsites  
on mineral  
lands.

SEC. 14. In all cases of adverse claims or disputes arising out of conflicting claims to lands or concerning boundary lines, the adverse claimants may submit the de-



Boundary  
disputes.

cision thereof to the council of such city or town by an agreement in writing specifying particularly the subject matter in dispute, and may agree that their decision shall be final. The council must hear the proofs, and shall order a deed to be executed or denied in accordance with the facts; but in all other cases of adverse claims, the party out of possession shall commence his action in a court of competent jurisdiction within six months after the time of filing of the patent from the United States (or a certified copy thereof), in the office of the county auditor. In case such action be commenced, the plaintiff must serve a notice of *lis pendens* upon the mayor, who must thereupon stay all proceedings in the matter of granting any deed to the land in dispute until the final decision in such suit; and upon presentation of a certified copy of the final judgment of such court in such action, the council must cause to be executed and delivered a deed of such premises, in accordance with the judgment, adjudging the claimant to have been an occupant of any particular lot or lots at the time of the entry of such townsite in the United States land office, or to be the successor in interest of such occupant. If in any action brought under this act, or under said acts of congress, the right to the ground in controversy shall not be established by either party, the court or jury shall so find and judgment shall be entered accordingly. In such case costs shall not be allowed to either party, and neither party shall be entitled to a deed to the ground in controversy, and in such action it shall be incumbent upon each claimant to establish that he, she or it was an occupant of the ground in controversy within the meaning of the said acts of congress at the time of the entry of said townsite in the United States land office, or is the successor in interest of such occupant.

*Lis pendens.*

Costs.

Notice by  
council.

SEC. 15. The said council must give public notice by advertising for four weeks in a newspaper published in said city or town, or, if there be no newspaper published in said city or town, then by publication in some newspaper having general circulation in such city or town, and not less than five written or printed notices must be posted in

public places within the limits of such city or townsite; such notice must state that patent for said townsite (or certified copy thereof) has been filed in the county auditor's office. If any person, company, association or any other claimant of lands in such city or town fails, neglects or refuses to make application to the council for a deed of conveyance to the lands so claimed, and to pay the sums of money specified in this act, within three months after filing of such patent, or a certified copy thereof, in the office of the county auditor, shall be deemed to have abandoned the same and to have forfeited all right, title and interest therein or thereto both in law and in equity as against the trustee of said townsite, and such abandoned or forfeited lot or lots shall be sold as unoccupied lands, and the proceeds thereof placed in the special fund in this act mentioned.

Laches of claimants.

SEC. 16. All lots in such city or townsite which were unoccupied at the time of the entry of said townsite in the United States land office shall be sold by the corporate authorities of such city or town, or under their direction, at public auction to the highest bidder for cash, each lot to be sold separately, and notice of such sale or sales shall be given by posting five written or printed notices in public places within said townsite, giving the time and particular place of sale, which notices must be posted for at least thirty days prior to the date of said sale, and by publishing a like notice for four consecutive weeks prior to such sale in a newspaper published in such city or town, or, if no such newspaper be published in such city or town, then in some newspaper having general circulation in such city or town, and deeds shall be given therefor to the several purchasers: *Provided*, That no such unoccupied lot shall be sold for less than five dollars in addition to an assessment equivalent to assessment provided in section 9 of this act, and all moneys arising from such sale, after deducting the costs and expenses of such sale or sales, shall be placed in the treasury of such city or town.

Corporate authorities to sell lots.

Notice of sale.

Minimum price of lots.

SEC. 17. All school lots or parcels of land, reserved or occupied for school purposes, must be conveyed to the

School sites.

school district in which such city or town is situated, without cost or charge of any kind whatever. All lots or parcels of land reserved or occupied for municipal purposes must be conveyed to such city or town without cost or charge of any kind whatever. All expenses necessarily incurred or contracted by the carrying into effect of the provisions of this act are a charge against the city or town on behalf of which the work was done, and such expenses necessarily incurred, either before or after the incorporation thereof, shall be paid out of the treasury of such city or town upon the order of the council thereof; and all moneys paid for lands or to defray the expenses of carrying into effect the provisions of this act shall be paid into the city or town treasury by the officer or officers receiving the same, and shall constitute a special fund, from which shall be paid all expenses, and the surplus, if any there be, shall be expended under the direction of the city or town council for public improvements in such city or town.

Property conveyed to city free.

Expenses incident to this act.

SEC. 18. No mere informality, failure or omission on the part of any of the persons or officers named in this act invalidates the acts of such person or officer; but every certificate or deed granted to any person pursuant to the provisions of this act is *prima facie* evidence that all preliminary proceedings in relation thereto have been correctly taken and performed, and that the recitals therein are true and correct.

Omissions not to affect proceedings.

SEC. 19. Such corporate authorities shall promptly execute and perform all duties imposed upon them by the provisions of this act.

Duties of corporate authorities.

SEC. 20. No deed to any lot or parcel of land in such townsite entry shall be made or delivered to any alleged occupant thereof before proof shall have been made under oath showing such claimant to have been an occupant of such lot or parcel of land within the meaning of said laws of congress at the time of the entry of such townsite at the proper United States land office, but the grantees, heirs, successors in interest or assigns of such occupant of any lot, as such, may receive such deed.

Initiation of claim to lot.

SEC. 21. It is the duty of the judge of the superior court of any county in this state to enter at the proper land office of the United States such quantity of land as the inhabitants of any unincorporated town, situate upon lands the legal and equitable title to which is in the United States of America, or situate upon public lands of the United States within the county wherein such superior court is held, may be entitled to claim in the aggregate, according to their population, in the manner required by the laws of the United States, and valid regulations prescribed by the secretary of the interior of the United States, and to make and sign all necessary declaratory statements, certificates and affidavits, or other instruments requisite to carry into effect the intentions of this act, and the intention of the act of congress of the United States, entitled "An act for the relief of the inhabitants of cities and towns upon the public lands," approved March second, eighteen hundred and sixty-seven, and all acts of congress amendatory thereof and supplemental thereto, and to file in the proper United States land office a proper application in writing, describing the tracts of land on which such unincorporated town is situated, and all lands entitled to be embraced in such government townsite entry, and make proof and payment for such tracts of land in the manner required by law.

Superior judge to file claim for inhabitants.

SEC. 22. The judge of the superior court of any county in this state, whenever he is so requested by a petition signed by not less than five residents, householders in any such unincorporated town, whose names appear upon the assessment roll for the year preceding such application in the county wherein such unincorporated town is situated— which petition shall set forth the existence, name and locality of such town, whether such town is situated on surveyed or unsurveyed lands, and if on surveyed lands an accurate description according to the government survey of the legal subdivisions sought to be entered as a government townsite must be stated; the estimated number of its inhabitants; the approximate number of separate lots or parcels of land within such townsite, and the amount of

Petition to superior judge.

Contents of petition.

land to which they are entitled under such acts of congress—must estimate the cost of entering such land, and of the survey, platting and recording of the same, and must endorse such estimate upon such petition, and upon receiving from any of the parties interested the amount of money mentioned in such estimate, the said judge may cause an enumeration of the inhabitants of such town to be made by some competent person, exhibiting therein the names of all persons residing in said proposed townsite and the names of occupants of lots, lands, or premises within such townsite, alphabetically arranged, verified by his oath, and cause such enumeration to be presented to such judge.

Judge  
to cause  
survey of  
townsite.

SEC. 23. Such judge must thereupon cause a survey to be made by some competent person, of the lands which the inhabitants of said town may be entitled to claim under said acts of congress, located according to the legal subdivisions of the sections according to the government survey thereof, and the same must be distinctly marked by suitable monuments; such survey must further particularly designate all streets, roads, lanes, and alleys, public squares, churches, school lots, cemeteries, commons, and levees, as the same exist and have been heretofore dedicated, in any manner to public use, and by measurement the precise boundaries and area of each and every lot or parcel of land and premises claimed by any person, corporation, or association within said townsite must, as far as known by the surveyor, be designated on the plat, showing the name or names of the possessor, occupant or claimant; and in case of any disputed claim as to lots, lands, premises or boundaries, the said surveyor, if the same be demanded by any person, shall designate the lines in different color from the body of the plat of such part of any premises so disputed or claimed adversely; said surveyor shall survey, lay out and plat all of said lands, whether occupied or not, into lots, blocks, streets and alleys.

Plats in  
triplicate.

SEC. 24. The plat thereof must be made in triplicate on a scale of not less than eighty feet to an inch, which must be duly certified under oath by the surveyor, one of

which must be filed with the county auditor of the county wherein such unincorporated town is situated, one must be deposited in the proper United States land office, and one with such judge. These plats shall constitute public records, and must each be accompanied by a copy of the field notes, and the county auditor must make a record of such plat in a book to be kept by him for that purpose, and such county auditor must file such copy of said field notes in his office. The said surveyor must number and survey the blocks as divided by the roads, and streets opened and generally used and for which a public necessity exists, at the time of making such survey, and must number the several lots consecutively in each block, and all other parcels of land within said unincorporated town as herein provided, which said numbers must be a sufficient description of any parcel of land represented on said plats. Said survey and plat thereof shall conform as nearly as may be to the existing rights, interest, and claims of the occupants thereof, but no lot in the center or business portion of said unincorporated town shall exceed in area four thousand two hundred feet, and no suburban lot in such unincorporated town shall exceed two acres in area.

Survey to include, what.

SEC. 25. Before proceeding to make such survey, at least ten days' notice thereof must be given, by posting within the limits of such townsite, not less than five written or printed notices of the time when such survey shall commence, or by publication thereof in a newspaper published in said town, if one there be. The survey of said townsite must be made to the best advantage and at the least expense to the holders, claimants, possessors and occupants thereof. The said judge is hereby authorized and directed to receive bids for such surveying, platting and furnishing copies of the field notes, and to let the same by contract to the lowest competent bidder: *Provided*, That the possessors, owners, or claimants of water works, electric light, telegraph, telephone, pipe or power lines, sewers, irrigating ditches, drainage ditches, and like or similar property located in such townsites or in the roads, streets, alleys

Notice of intention to survey.

Public service franchises.

or highways therein or in other public places in such townsite, shall be maintained and protected in the same as the same shall exist at the time of the entry in the United States land office of the land embraced in such government townsite, and the right to continue to use such property, for the purposes for which said property was intended, is hereby acknowledged and confirmed.

SEC. 26. Such plat must show as follows:

Contents  
of plats.

(a) All streets, alleys, avenues, roads and highways, and the width thereof.

(b) All parks, squares and all other ground reserved for public uses, with the boundaries and dimensions thereof.

(c) All lots and blocks, with their boundaries, designating such lots and blocks by numbers, and giving the dimensions of every lot.

(d) The angles of intersection of all boundary lines of the lots and block, whenever the angle of intersection is not a right angle.

(e) The location of all stone or iron monuments set to establish street lines.

(f) The exterior boundaries of the piece of land so platted, giving such boundaries by true courses and distances.

(g) The location of all section corners, or legal subdivision corners of sections within the limits of said plat.

(h) In case no such section or subdivision corners are within the limits of the plat, it must show a connection line to some corner or initial point of the government surveys, or a government mineral monument, if there be any within one mile of such townsite. All distances marked on the plat must be in feet and decimals of a foot.

Corners,  
how marked.

SEC. 27. Such surveyor must mark all corners of blocks or lots shown on the plat by substantial stakes or monuments, and must set stone or iron monuments at the points of intersection of the center lines of all the streets, where practicable, or as near as possible to such points, and their location must be shown by marking on the plat the distances to the block corners adjacent thereto. The top of such monument must be placed one foot below the surface

of the ground, and in size must be at least six inches by six inches by six inches, and be placed in the ground to the depth of one foot.

SEC. 28. If a stone is used as a monument it must have a cross cut in the top at the point of intersection of center lines of streets, or a hole may be drilled in the stone to mark such point. If an iron monument is used it must be at least two inches in diameter by two and one-half feet in length, and may be either solid iron or pipe. The dimensions of the monuments must be marked on the plat, and reference thereto made in the field notes, and establish permanently the lines of all the streets. The surveyor must make and subscribe on the plat a certificate that such survey was made in accordance with the provisions of this act, stating the date of survey, and verify the same by his oath.

Monuments,  
how marked.

SEC. 29. All such plats must be made on mounted drawing paper, and filed and recorded in the office of the county auditor, and he must keep the original plat for public inspection. The fee of such county auditor for filing and recording each of such plats, and the field notes accompanying the same shall be the sum of \$10.00.

Maps,  
how drawn.

Fee for  
filing plats.

SEC. 30. Each lot or parcel of said lands having thereon valuable improvements or buildings ordinarily used as dwellings or for business purposes, not exceeding one-tenth of one acre in area, shall be rated and assessed by the said judge at the sum of one dollar; each lot or parcel of such lands exceeding one-tenth, and not exceeding one-eighth of one acre in area, shall be rated and assessed at the sum of one dollar and five [fifty] cents; each lot or parcel of such lands exceeding in area one-eighth of one acre and not exceeding one-quarter of an acre in area, shall be rated and assessed at the sum of two dollars; and each lot or parcel of such lands exceeding one-quarter of an acre and not exceeding one-half of one acre in area, shall be rated and assessed at the sum of two dollars and fifty cents; and each lot or parcel of land so improved, exceeding one-half acre in area, shall be assessed at the rate of two dollars and fifty cents for each half an acre

Assessments.



or fractional part over half an acre; and every lot or parcel of land enclosed, which may not otherwise be improved, claimed by any person, corporation, or association, shall be rated and assessed at the rate of two dollars per acre or fractional part over an acre; and where upon one parcel of land there shall be two or more separate buildings occupied or used ordinarily as dwellings or for business purposes, each such building, for the purposes of this section, shall be considered as standing on a separate lot of land; but the whole of such premises may be conveyed in one deed; which moneys so assessed must constitute a fund from which must be reimbursed or paid the moneys necessary to pay the government of the United States for said townsite lands, and interest thereon, if such moneys have been loaned or advanced for the purpose and expenses of their location, entry and purchase, and cost and expenses attendant upon the making of such survey, plats, publishing and recording, including a reasonable attorney's fee for legal services necessarily performed, and the persons or occupants in such townsite procuring said townsite entry to be made, may employ an attorney to assist them in so doing and to assist such judge in the execution of his trust, and he shall be allowed by such judge out of said fund a reasonable compensation for his services.

SEC. 31. Every person, company, corporation, or association, claimant of any town lot or parcel of land, within the limits of such townsite, must present to such judge, within three months after the patent (or a certified copy thereof), from the United States has been filed in the office of the county auditor, his, her, its or their affidavit, (or by guardian or next friend where the claimant is under disability), verified in person, or by duly authorized agent or attorney, guardian or next friend, in which must be concisely stated the facts constituting the possession or right of possession of the claimant and that the claimant is entitled to the possession thereof and to a deed therefor as against all other persons or claimants, to the best of his knowledge and belief, and in which must be stated who

Filing of  
claims  
to lots.

Requisites  
of claim.

was an occupant of such lot or parcel of land at the time of the entry of such townsite at the United States land office, to which must be attached a copy of so much of the plat of said townsite as will fully exhibit the particular lots or parcels of land so claimed; and every such claimant, at the time of presenting and filing such affidavit with said judge, must pay to such judge such sum of money as said judge shall certify to be due for the assessment mentioned in section thirty of this act, together with the further sum of \$4.00, to be appropriated to the payment of cost and expenses incurred in carrying out the provisions of this act, and the said judge must thereupon give to such claimant a certificate, signed by him and attested by the seal of the superior court, containing a description of the lot or parcel of land claimed, and setting forth the amounts paid thereon by such claimant. Such judge must procure a bound book for each unincorporated government townsite in his county wherein he must make proper entries of the substantial matters contained in such certificate issued by him, numbering the same in consecutive order, setting forth the name of the claimant or claimants in full, date of issue, and description of the lot or lands claimed.

Fee for  
filing claim.

Judge  
to keep  
record.

SEC. 32. If it is found that the amounts hereinbefore specified as assessments and fees for costs and expenses, prove to be insufficient to cover and defray all the necessary expenses, the said judge must estimate the deficiency and assess such deficiency *pro rata* upon all the lots and parcels of land in such government townsite, and declare the same upon the basis set down in section thirty of this act; which additional amount, if any, may be paid by the claimant at the time when the certificate hereinbefore mentioned, or at the time when the deed of conveyance herein-after provided for, is issued.

Additional  
assessments.

SEC. 33. At the expiration of six months after the time of filing such patent, or certified copy thereof, in the office of the county auditor, if there has been no adverse claim filed in the meantime, said judge must execute and deliver to such claimant or to his, her, its or their heirs, executor,

Deeds issued,  
when.

administrator, grantee, successor or assigns a good and sufficient deed of the premises described in the application of the claimant originally filed, if proper proof shall have been made, which said deed must be signed and acknowledged by such judge as trustee, and attested by the seal of the superior court. No conveyance of any such lands made as in this act provided, concludes the rights of third persons; but such third persons may have their action in the premises, to determine their alleged interest in such lands, and their right to the legal title thereto, against such grantee, his, her, its or their heirs, executors, administrators, successors or assigns, to which they may deem themselves entitled, either in law or in equity; but no action for the recovery or possession of such premises, or any portion thereof, or to establish the right to the legal title thereto, must be maintained in any court against the grantee named therein, or against his, her, its or their heirs, executors, administrators, successors or assigns, unless such action shall be commenced within six months after such deed shall have been filed for record in the office of the county auditor of the county where such lands are situated; nothing herein shall be construed to extend the time of limitation prescribed by law for the commencement of actions upon a possessory claim or title to real estate, when such action is barred by law at the time of the taking effect of this act.

Rights  
of third  
persons.

Time of  
commencing  
actions.

Entries on  
mineral  
lands.

Title to  
mineral  
lands.

SEC. 34. That townsite entries may be made by such judge on mineral lands of the United States, but no title shall be acquired by such judge to any vein of gold, silver, cinnabar, copper or lead, or to any valid mining claim or possession held under existing laws. When mineral veins are possessed within the limits of an unincorporated town, and such possession is recognized by local authority, or by the laws of the United States, the title to town lots shall be subject to such recognized possession and the necessary use thereof, and when entry has been made or patent issued for such townsite to such judge, the possessor of such mineral vein may enter and receive patent for such mineral vein, and the surface ground appertaining thereto: *Pro-*

*vided*, That no entry shall be made by such mineral vein claimant for surface ground where the owner or occupier of the surface ground shall have had possession of the same before the inception of the title of the mineral vein applicant.

SEC. 35. In all cases of adverse claims or disputes arising out of conflicting claims to land or concerning boundary lines, the adverse claimants may submit the decision thereof to said judge by an agreement in writing specifying particularly the subject matter in dispute and may agree that his decision shall be final. The said judge must hear the proofs, and shall execute a deed or deny the execution of a deed in accordance with the facts; but in all other cases of adverse claims the party out of possession shall commence his action in a court of competent jurisdiction within six months after the filing of the patent (or a certified copy thereof) from the United States, in the office of the county auditor. In case such action be commenced within the time herein limited, the plaintiff must serve notice of *lis pendens* upon such judge, who must thereupon stay all proceedings in the matter of granting or executing any deed to the land in dispute until the final decision in such suit; upon presentation of a certified copy of the final judgment in such action, such judge must execute and deliver a deed of the premises, in accordance with the judgment, adjudging the claimant to have been an occupant of any particular lot or lots at the time of the entry of such townsite in the United States land office, or to be the successor in interest of such occupant.

SEC. 36. If in any action brought under this act, or under said acts of congress, the right to the ground in controversy shall not be established by either party, the court or jury shall so find and judgment shall be entered accordingly. In such case costs shall not be allowed to either party, and neither party shall be entitled to a deed to the ground in controversy, and in such action it shall be incumbent upon each claimant or claimants to establish that he, she, it or they, was or were, an occupant of the ground in controversy within the meaning of said acts of congress

Adverse claims.

Hearing on.

*lis pendens.*

Costs.

at the time of the entry of said townsite in the United States land office, or is or are the successor, or successors in interest of such occupant.

Notice of  
filing of  
patent.

SEC. 37. Said judge must promptly give public notice by advertising for four weeks in any newspaper published in such town, or if there be no newspaper published in such town, then by publication in some newspaper having general circulation in such town, and not less than five written or printed notices must be posted in public places within the limits of such townsite; such notice must state that the patent for said townsite (or a certified copy thereof) has been filed in the county auditor's office.

Abandonment  
of claims.

SEC. 38. If any person, company, association, or any other claimant of lands in such townsite fails, neglects or refuses to make application to said judge for a deed of conveyance to said land so claimed, and pay the sums of money specified in this act, within three months after the filing of such patent, or a certified copy thereof, in the office of the county auditor, shall be deemed to have abandoned the claim to such land and to have forfeited all right, title, claim and interest therein or thereto both in law and in equity as against the trustee of said townsite, and such abandoned or forfeited lot or lots may be sold by such trustee as unoccupied lands, and the proceeds thereof placed in the fund heretofore mentioned in this act.

Sale of  
unclaimed  
lots.

SEC. 39. All lots in such townsite which were unoccupied within the meaning of the said acts of congress at the time of the entry of said townsite in the United States land office shall be sold by such judge or under his direction, at public auction to the highest bidder for cash, each lot to be sold separately, and notice of such sale, or sales, shall be given by posting five written or printed notices in public places within said townsite, giving the time and particular place of sale, which notices must be posted at least thirty days prior to the date of any such sale, and by publishing a like notice for four consecutive weeks prior to any such sale in a newspaper published in such town, or if no newspaper be published in such town, then in some newspaper having general circulation in such

town. And deed shall be given therefor to the several purchasers: *Provided*, That no such unoccupied lot shall be sold for less than five dollars in addition to an assessment equivalent to assessment provided for in section thirty of this act, and all moneys arising from such sale or sales after deducting the cost and expenses of such sale or sales shall be placed in the fund hereinbefore mentioned.

Minimum  
price per lot.

SEC. 40. All school lots or parcels of land reserved or occupied for school purposes, must be conveyed to the school district in which such town is situated without cost or charge of any kind whatever. All lots or parcels of land reserved or occupied for public purposes must be set apart and dedicated to such public purposes without cost or charge of any kind whatever. All expenses necessarily incurred or contracted by the carrying into effect of the provisions of this act or said acts of congress are a charge against the fund herein provided for.

School sites.

SEC. 41. Any sum of money remaining in said fund after defraying all necessary expenses of location, entry, surveying, platting, advertising, filing and recording, reimbursement of moneys loaned or advanced and paying the cost and expenses herein authorized and provided for must be deposited in the county treasury by such judge to the credit of a special fund of each particular town, and kept separate by the county treasurer to be paid out by him only upon the written order of such judge in payment for making public improvements, or for public purposes, in such town.

Proceeds of  
sales and  
assessments.

SEC. 42. No mere informality, failure, or omission on the part of any persons or officers named in this act invalidates the acts of such person or officers; but every certificate or deed granted to any person pursuant to the provisions of this act is *prima facie* evidence that all preliminary proceedings in relation thereto have been taken and performed and that the recitals therein are true and correct.

Regularity  
of proceed-  
ings.

SEC. 43. No deed to any lot in such unincorporated town or unincorporated government townsite entry shall

Proof  
of claims  
required.

be made or delivered to any alleged occupant thereof before proof shall have been made under oath, showing such claimant to have been an occupant of such lot or parcel of land within the meaning of said laws of congress at the time of the entry of such townsite at the proper United States land office, but the grantees, heirs, executors, administrators, successors in interest or assigns of such occupant of any lot, as such, may receive such deed.

Streets  
and roads  
dedicated to  
public use.

SEC. 44. All streets, roads, lanes and alleys, public squares, cemeteries, parks, levees, school lots, and commons, surveyed, marked and platted, on the map of any townsite, as prescribed and directed by the provisions of this act, are hereby declared to be dedicated to public use, by the filing of such town plat in the office of the county auditor, and are inalienable, unless by special order of the board of commissioners of the county, so long as such town shall remain unincorporated; and if such town at any time thereafter becomes incorporated, the same becomes the property of such town or city, and must be under the care and subject to the control of the council or other municipal authority of such town or city.

Duties of  
county clerk.

SEC. 45. All clerical work under this act where a judge of the superior court is trustee must be performed by the clerk of the superior court.

Judge to  
account for  
moneys  
received.

SEC. 46. Such judge when fulfilling the duties imposed upon him by said acts of congress, and by this act, must keep a correct account of all moneys received and paid out by him. He must deposit all surplus money with the treasurer of the proper county, and he must promptly settle up all the affairs relating to his trust pertaining to such town.

Records  
filed with  
county clerk.

SEC. 47. Whenever the affairs pertaining to such trust shall be finally settled and disposed of by such judge, he shall deposit all books and papers relating thereto in the office of the county clerk of the proper county to be thereafter kept in the custody of such county clerk as public records, and the county clerk's fee, for the use of his county therefor, shall be the sum of \$10.00.

SEC. 48. Every such judge when fulfilling the duties imposed upon him by said acts of congress, and by this act, shall be deemed and held to be acting as a trustee for the purposes of fulfilling the purposes of said acts and not as a superior court, and such judge shall be deemed to be disqualified to sit as judge of such superior court in any action or proceeding wherein is involved the execution of such trust or rights involved therein.

Judge is  
mere trustee.

SEC. 49. Appeals and writs of review may be prosecuted to the supreme court from a superior court from the judgment of [or] orders of the superior court in all cases arising under this act or said acts of congress as in other cases and the general statutes as to the commencement of actions, bringing the same to trial, making an entry of judgment, the taking and perfecting appeals, and the making up of the records on appeal and relating to writs of review in the superior and supreme court, and all other procedure in the superior and supreme courts shall be applicable to actions under this act and under said acts of congress.

Appeals.

SEC. 50. The act of the legislature of Washington territory, entitled "An act prescribing rules and regulations for the execution of trusts arising under the act of congress, entitled 'An act for the relief of inhabitants upon public land,' approved March second, 1867," approved January 31, 1888, be and the same is hereby repealed.

Ch. 124, pp.  
216-220, L.  
'87-8.

SEC. 51. The successors in office of such superior court judge shall be his successors as trustee of such trust.

Trust  
attaches  
to office.

SEC. 52. The judge of the superior court of any county is hereby declared to be the successor as trustee of any territorial probate judge in such county who was trustee under any such acts of congress, and may as such succeeding trustee perform any unperformed duties of his predecessor in office as such trustee, agreeably to the provisions of this act as nearly as may be. And when entry was made by any such probate judge under any of said acts of congress and subsequent to such entry, the city or town situated upon such townsite entry has been incorpor-

Succession  
of trustees.



Title to lands  
formerly  
reserved.

ated according to law, and the corporate authorities thereof have or have attempted to vacate any common, plaza, public square, public park or the like, in such government townsite, and where thereafter, any person, or corporation, has placed permanent improvements on such land so vacated or attempted to be vacated, exceeding in value the sum of five thousand dollars, with the knowledge, consent, or acquiescence of the corporate authorities of such city or town and with the general consent and approval of the inhabitants of said city or town and such improvements have been made for more than five years and such person or corporation making such improvements has been in the open, notorious and peaceable possession of such lands and premises for a period of more than five years, such superior court judge, as trustee, of such government townsite, and successor as trustee to such judge of probate, trustee of such government townsite, shall have the power and authority to make and deliver to such person or corporation, or to his or its heirs, executors, administrators, successors or assigns, a deed for such lands and premises, conveying a fee simple title to such lands and premises upon such terms and for such price as he shall deem just and reasonable under all the facts and surrounding circumstances of the case, and the consideration paid for such deed, one dollar or more, shall be placed in the city or town treasury of such city or town, in the general fund.

Controversies,  
by whom  
settled.

SEC. 53. Except as hereinbefore specially provided, the city or town council in incorporated cities and towns, and the judge of the superior court, as trustee, in cases of unincorporated government townsites, are hereby expressly given power and jurisdiction to hear and determine all questions arising under this act and under said acts of congress and the right to ascertain who were the occupants of lots in such government townsites at the time of the entry thereof in the United States land office, and to determine from sworn testimony who are and who are not entitled to deeds of conveyance to specific lots in such

government townsite, subject to review by courts of competent jurisdiction.

SEC. 54. An emergency exists and this act shall take effect immediately.

Passed by the House February 25, 1909.

Passed by the Senate March 5, 1909.

Approved March 20, 1909, except as to emergency clause.

House bill No. 367 is transmitted herewith, approved except as to the emergency clause.

Respectfully submitted,

M. E. HAY, *Acting Governor.*

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## CHAPTER 232,

[H. B. 155.]

### PROVIDING FOR THE NOMINATION OF CANDIDATES BY DISTRICTS.

AN ACT relating to the nomination of candidates for county commissioner.

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

SECTION 1. The qualified electors of each county commissioner district, and they only, shall nominate from among their own number, candidates for the office of county commissioner of such commissioner district to be voted for at the following general biennial election. Such candidates shall be nominated in the same manner as candidates for other county and district offices are nominated, except as above provided.

District  
nominations.

Passed by the House February 16, 1909.

Passed by the Senate March 9, 1909.

Approved March 22, 1909.