

## CHAPTER 275.

[ H. B. 319. ]

## IRRIGATION AND RECLAMATION DISTRICTS.

AN Act relating to irrigation and reclamation districts contracting or intending to contract with the United States with respect to the Columbia Basin Project and other Federal Reclamation projects, or divisions thereof hereafter undertaken, in the state and to the lands which are or may be included therein; declaring the policy of the state in relation thereto; authorizing such districts to cooperate and contract with the United States pursuant to the Federal reclamation laws; authorizing the United States to segregate lands within such districts into farm units and file for record plats thereof; authorizing and empowering such districts to enter into contracts with the United States containing certain provisions with respect to the lands within their boundaries and to the delivery of water thereto; providing that lands within such districts shall be governed by the provisions and limitations included in such contracts, notwithstanding other provisions of law; providing that the provisions of certain contracts may be made covenants running with the land; providing criminal penalties and civil remedies for certain offenses and acts in connection with such contracts or transactions with respect to lands covered thereby; providing that certain conveyances, mortgages or liens with respect to lands covered by such contract shall be invalid and unenforceable; authorizing the filing for record of certain documents and the imparting of legal notice thereby; directing and authorizing the inclusion of state lands in such districts; authorizing the Board of County Commissioners to contract with United States with regard to county owned lands within such districts; accepting certain acts of Congress in relation to such districts; repealing chapter 14, Laws of 1939, (sections 7525-5 to 7525-12, consecutively and both inclusive, Remington's Revised Statutes Supp.), and all other acts or parts of same inconsistent or in conflict with this act or any part thereof, saving certain rights and authority under former law; providing that each section and provision of the act is separable from every other and no part thereof to be held invalid on account of the unconstitutionality of any other part; and declaring that this act shall take effect immediately.

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

SECTION 1. It is hereby declared to be the policy of the State of Washington in connection with lands

Declaration  
of policy.

within the scope of this act that may be irrigated through works of Federal reclamation projects to assist the United States in the reduction or prevention of speculation in such lands and in limiting the size of the holdings of such lands entitled to receive water from, through, or by means of the works of such projects, and otherwise to cooperate with the United States with respect to such projects. In furtherance of this policy this statute is enacted.

Application  
of act.

SEC. 2. The provisions of this act shall be applicable to any irrigation or reclamation district organized under the laws of this state contracting or intending to contract with the United States under the Federal reclamation laws with respect to a water supply for irrigation from the Columbia Basin Project or from any project or division of a project hereafter undertaken in this state by the United States under those laws, and shall govern as to any lands which are now or may hereafter be included in any such district and as to the relationship between any such district and any such lands. The prospect of the construction of the irrigation features of the Columbia Basin Project and of other works under the Federal reclamation laws for the irrigation of lands in this state requires the granting of authority to irrigation and reclamation districts and to state and county officers to assist the United States, in accordance with the policy of this enactment, in meeting the problems of land speculation and in limiting the size of holdings of lands that may be benefited by such works, and otherwise to cooperate with the United States in connection with the irrigation of lands in this state. The provisions of this act, however, are supplemental to other provisions of the law of the state, not inconsistent herewith, which pertain to such districts.

Supple-  
mental to  
other acts.

SEC. 3. As used in this act,

Definitions.

The term "Secretary" shall mean the Secretary of the Interior of the United States, or his duly authorized representative.

The term "appraised value" shall mean the value of lands within the scope of this act appraised or reappraised by the Secretary without reference to or increment on account of the irrigation works built or to be built by the United States.

The term "district" shall mean an irrigation or reclamation district governed by this act as provided in section 2.

The term "Federal reclamation laws" shall mean the Act of Congress of June 17, 1902 (32 Stat. 388) and acts amendatory thereof or supplemental thereto including the Act of Congress entitled "An Act to amend the Act approved May 27, 1937 (Ch. 269, 50 Stat. 208), by providing substitute and additional authority for the prevention of speculation in lands of the Columbia Basin project, and substitute an additional authority related to the settlement and development of the project, and for other purposes, enacted and approved in the Seventy-Eighth Session."

The term "lands" shall mean, unless otherwise indicated, lands within the boundaries of a district contracting or intending to contract with the United States under the terms of this act.

The term "owner," "landowner," and "any one landowner" shall mean any person, corporation, joint stock association or family owning lands that are within the scope of this act.

The term "family" shall mean a group consisting of either or both husband and wife, together with their children under eighteen years of age, or all of such children if both parents are dead, the term "their children" including the issue and lawfully adopted children of either or both husband

Definitions.

and wife. Within the meaning of this act, lands shall be deemed to be held by a family if held as separate property of husband or wife, or if held as a part or all of their community property, or if they are the property of any or all of their children under eighteen years of age.

Secretary may segregate lands.

SEC. 4. In connection with any district contracting or intending to contract with the United States under this act, authority is hereby granted to the Secretary for the purpose of administering the Federal reclamation laws and to the end of carrying out the policy enunciated in this act, to segregate such lands, or any part thereof, into farm units of sufficient acreage for the support of an average-sized family at a suitable living level, having in mind the character of soil, topography, location with respect to the irrigation system and such other relevant factors as enter into the determination of the area and boundaries thereof. No farm unit shall contain more than one hundred and sixty or less than ten acres of irrigable land, except that any nominal quarter section comprising more than one hundred and sixty acres of irrigable land may be included in one farm unit, and except that lands owned by the United States may be established into units of lesser size for part-time farming purposes. Plats showing the established farm units or revisions thereof when approved may be filed by the United States for record with the County Auditors of the county in which the land is located. Lands in excess of one farm unit held by any one landowner shall, except as otherwise provided in this act, be deemed excess land.

Size of farm unit.

District may contract with U. S.

SEC. 5. Any district may enter into repayment and other contracts with the United States under the terms of the Federal reclamation laws in matters relating to Federal reclamation projects, and may, with respect to lands within its boundaries,

include in any such repayment contract, among others, provisions of substantially the following character in whole or in part:

Contract provisions.

(a) An agreement that: The district will not deliver water from, through, or by means of the works provided by the United States (hereinafter called project works) to or for lands not conforming in area and boundaries to the farm units as established under the provisions of section 4 of this act, nor to be for more than one farm unit held by any one landowner, except that as to lands held by the one having equitable or legal title on May 27, 1937, (or the date on which the project or division becomes authorized in the case of projects other than the Columbia Basin Project) or the heir or devisee of such owner, delivery may be made to or for a total irrigable area not exceeding one hundred and sixty acres or a nominal quarter section if the latter comprises more than one hundred and sixty acres. These limitations shall not apply, however, to lands owned by the United States or any agency or instrumentality thereof, corporate or otherwise; and in case of excess land acquired by foreclosure or other process of law, by conveyance in satisfaction of mortgages, by inheritance or by devise, water therefor may be furnished temporarily for a period not exceeding five years from the effective date of such acquisition, delivery of water, thereafter ceasing until the transfer thereof to a landowner duly qualified to secure water therefor.

Water deliveries limited.

Exceptions.

(b) An agreement that: As a condition to receiving water from, through, or by means of the project works, each landowner in the district shall be required to execute, within six months from the date of the execution of the repayment contract between the United States and the district within which the land is located, a recordable contract covering all his lands within that district, agreeing as

Owner to execute repayment contract.

Time limit.

to such lands for and on behalf of himself, his heirs, successors, and assigns to any or all of the provisions set forth below in this subsection: *Provided*, That any landowner, having failed to execute such a contract within this period, may be permitted to execute such contract within one year after the date of judicial confirmation of the validity of the repayment contract between the United States and the district but only in accordance with such rules and regulations as may be prescribed by the Secretary concerning this privilege.

Contract provisions.

Landowner to conform areas and boundaries.

Secretary may sell excess at appraised value.

U. S. to have option to buy.

U. S. sales for cash.

Sales limited to appraisal value.

Each such recordable contract may provide any or all of the following: (i) That the landowner will conform his lands by purchase, sale or exchange at the appraised value to the area and boundaries of the pertinent farm unit or units established as provided in section 4 of this act and will dispose of excess land then or thereafter owned by him at its appraised value; that the Secretary is thereby given an irrevocable power of attorney to sell in behalf of the landowner any such excess land at said appraised value; and that the United States is thereby given, without further consideration, an option to buy any such excess land at said appraised value: *Provided*, That sales under such power or such option, unless otherwise provided in writing by said owner, shall be only for cash and only such that surrender of possession by the owner of any area of excess lands then operated as a single unit for dry farming or grazing may be effected substantially at one time.

(ii) That in the period from the date of execution thereof and to a date five years from the time water becomes available for the lands covered thereby, no conveyance of or contract to convey a freehold estate in such lands, whether excess or non-excess lands, shall be made for a consideration exceeding its appraised value, and in connection with

any conveyance of, or contract to convey, such an estate within such period the grantor or vendor or the grantee or vendees or any lien holder thereof shall, within thirty days from the date of such conveyance or contract, file in the office of the County Auditor in the county or counties in which the land is located an affidavit describing the conveyance or contract and the consideration therefor.

Affidavit to show consideration.

(iii) That in the event that within such period such a conveyance of, or contract to convey, is made without filing within said thirty days the affidavit required in (ii) of this subsection, or is made for a consideration in excess of the appraised value, the Secretary, at any time within two years of the day on which there is filed for recording in the official county records the contract or deed involved, whichever is filed earliest in the event both the contract and deed are filed in a given transaction, may cancel the right of such estate to receive water from, through, or by means of the project works by a written notice of cancellation: *Provided*, That said power to cancel as to any given parcel of land may be waived by the Secretary at any time within said two-year period by a written notice of waiver: *And provided further*, That after any such cancellation a water right for the estate involved from, through, or by means of the project works may be acquired only on terms and conditions satisfactory to the Secretary.

Secretary may cancel water right for failure.

Power may be waived.

Secretary to make terms.

(iv) That should any freeheld estate in land covered thereby be conveyed or contracted to be conveyed within the period defined in (ii) of this subsection, the transaction, and any mortgage or other lien covering any deferred consideration thereunder, shall be subject to all the provisions of subsection 7 (b) of this act.

Freehold estate mortgage and liens subject to act

(c) An agreement that: All lands within the district not covered by recordable contracts pro-

Ineligible  
lands sub-  
ject to  
assessment.

vided for under subsection 5 (b) or otherwise not eligible to receive water from, through, or by means of the project works shall be subject to assessment in the same manner and to the same extent as like lands eligible to receive water, subject to such provisions as the Secretary may prescribe for postponement in payment of all or part of such assessment but not beyond the expiration of the period during which the price limit under subsection 5 (b) applies.

Procedure  
for with-  
drawal of  
lands.

(d) An agreement that: Without compliance with other provisions of state law for the exclusion of lands, lands may be withdrawn from the district by filing a written notice of withdrawal with the district board on or before such date fixed by such board between a date ten days after the official notice of the election on the repayment contract between the United States and the district and the date of such election. The date limiting the time of such filing shall be announced in the official notice of the proposed election, and lands for which such notice is filed shall be deemed excluded from the district for all purposes as of the time of such filing. Thereafter lands so withdrawn and excluded so long as they remain in private ownership shall not be entitled to receive water from, through, or by means of the project works.

Covenants  
may run  
with land.

SEC. 6. (a) Any or all the provisions of subsection 5 (b) that may be required to be included in recordable contracts may be made covenants running with any tract of land covered by such a contract by expressly so providing in the particular recordable contract.

U. S. repay-  
ment con-  
tract governs

(b) Such of the limitations and provisions of subsections (a) through (d) of section 5 as are included in the repayment contract between the district and the United States shall govern all the lands within the district unless otherwise provided in such con-



tract and shall govern notwithstanding any other provisions of the laws of this state.

SEC. 7. (a) Fraudulent misrepresentation as to the true consideration involved in the conveyance of, or contract to convey, any freehold estate in land covered by a recordable contract made under subsection 5 (b) hereof, in the affidavit required by that subsection shall constitute a misdemeanor punishable by a fine not exceeding \$500 or by imprisonment not exceeding six months, or by both such fine and imprisonment.

Penalty for misrepresenting consideration.

(b) Should any freehold estate in lands subject to the recordable contract made under subsection 5 (b) hereof be conveyed or contracted to be conveyed, after the date of execution of such recordable contract and within five (5) years from the time water becomes available for such lands, at a consideration in excess of the appraised value of said estate, the transaction, and any mortgage or other lien covering any deferred consideration thereunder, shall be invalid and unenforceable by the vendor or grantor, his successors or assigns as to that part of the consideration in excess of the appraised value of the estate involved. In the case of any such transaction involving deferred payments, said invalid portion of the consideration shall be deducted first from the deferred payments in the inverse order of their due dates.

Excessive contracts invalid.

The vendee or grantee in any such transaction at any time within two years from the date of any such conveyance or contract and on filing a correct affidavit as required in subsection 5 (b) (ii), may recover from the vendor or grantor, or the successors or assigns thereof, an amount equal to the payments made in excess of the appraised value.

Right of recovery.

In connection with any judgment or decree hereunder in favor of a vendee or grantee, said vendee

Costs and attorney fees.

or grantee shall have the right to recover court costs and reasonable attorneys' fees.

Filing of records.

SEC. 8. There may be filed for record in the office of the County Auditor in the county in which the land lies any of the following: (a) Copies of any plat of established farm units approved by the Secretary as provided in section 4 hereof, when authenticated in the manner authorized by law; (b) copies of any instrument, action, determination, rule or regulation of the Secretary made in connection with the provisions of section 5 hereof or otherwise under the Federal reclamation laws and which is or may be determinative of title to lands or interest in lands, when authenticated in the manner authorized by law; and (c) any contract or instrument required to be executed by an owner, land purchaser or other person in connection with provisions incorporated in repayment contracts between a district and the United States as authorized by section 5 hereof. Such filing shall impart legal notice to the public of the matters and things set out therein.

State lands included in act.

SEC. 9. Whenever a district to which this act applies is organized or in process of organization, the State of Washington, by and through its proper officials, is authorized and directed to have any state lands within the exterior boundaries of such district included as a part of the lands of such district. The state hereby consents to the assessment by the district of such state lands so included in any such irrigation district, and to the enforcement of the payment of such assessments in like manner and to the same extent as applicable to private lands in such districts, except that the payment of such assessment against such state lands shall not be enforced by transfer of title, by tax sale, tax foreclosure or otherwise, until the state has sold or transferred such lands to a private party.

SEC. 10. In the case of state lands within a district have been segregated into farm units as provided in section 4 and the appraised value thereof established, the State of Washington, by and through its proper officials, is authorized and directed: (a) to recognize and accept such appraisal as ascertaining and determining the market value of such lands in the manner provided by law; and (b) to offer the state lands for sale for cash on the following terms and conditions:

State shall accept appraisal.

(i) Sales shall be made only at the appraised value; (ii) only one farm unit shall be sold to any person; (iii) applicants for the purchase of a farm unit shall be selected, as nearly as practicable, in accordance with the provisions of subsection C of section 4 of the Act of Congress of December 5, 1924 (43 Stat. 702); and (iv) each applicant shall be required to execute a recordable contract as provided in section 5 hereof if such a contract is required as a condition to the delivery of water under the terms of the district's repayment contract with the United States. (c) The State of Washington, by and through its proper officials, is hereby authorized and directed to cooperate with the Secretary in carrying out the purposes of this act, and in connection therewith, may execute recordable contracts as provided in section 5 hereof covering any state land.

Provisions for sale of state lands.

SEC. 11. In the case of any county owned land within any district has been segregated into farm units as provided in section 4 and the appraised value thereof established, the Board of County Commissioners of the county shall have authority at its option of entering into a contract with the United States to bring any of such county lands as the county board shall determine under the provisions of the recordable contracts provided for in section 5 hereof, whenever such contracts are required as

County lands may be included.

a condition to the delivery of water under the terms of the contract between the district and the United States, upon such terms as shall be agreed upon between the county and the United States: *Provided*, That such contract shall not obligate the county to pay any district assessments levied against such lands except such, if any, as the Board of County Commissioners of said county shall elect to pay: *Provided further*, That nothing herein contained shall be construed to deprive the district of the right to assess such lands, if otherwise assessable and to enforce the collection of the same in the manner provided by law.

Repeals.

SEC. 12. That Chapter 14, Laws of 1939, being sections 7525-5 to 7525-12, consecutively and both inclusive, Remington's Revised Statutes of Washington be and the same is hereby repealed: *Provided*, That this section shall not be construed as impairing any contract heretofore entered into under authority of said chapter 14, Laws of 1939, or of any part thereof, nor as affecting the validity of any irrigation district organized, or any action heretofore taken by any state, county or district official, under or in compliance with said chapter 14, Laws of 1939 or of any part thereof.

Existing contracts not impaired.

Inconsistent acts repealed.

SEC. 13. Subject to the proviso in section 12 of this act, any act or any part of an act that is inconsistent, or in conflict, with the provisions of this act or any part thereof, is hereby repealed.

Act of Congress controlling.

SEC. 14. The provisions and limitations of subsection 5 (b) and 5 (c) of the Act of Congress, as above entitled in section 3 of this act, concerning assessment and taxation of lands within the Columbia Basin Project while legal title remains vested in the United States are hereby accepted; and assessment and taxation by the state, political subdivisions thereof, and districts are hereby authorized to

be made in accordance with such provisions and limitations.

SEC. 15. The foregoing provisions of this Act are deemed to be an adoption, authorization, ratification, enactment of, and consent to each and all the provisions of the Act of Congress, as above entitled in section 3 of this act in so far as the provisions of the Federal Act or any part of the same come within the scope of state jurisdiction or authority, or may be applicable to state lands.

SEC. 16. Each section and provision of this act shall be considered separable from every other section and provision of the act, and should any section or provision thereof be held unconstitutional, the unconstitutionality of such section or provision shall not affect or impair the validity of the remainder of the act, but in that event the unconstitutional section or provision shall be eliminated and the remainder of the act remain in full force and effect. Saving clause.

SEC. 17. This act is necessary for the immediate preservation of the public peace, health and safety, support of the state government and its existing public institutions, and shall take effect immediately. Effective immediately.

Passed the House March 10, 1943.

Passed the Senate March 10, 1943.

Approved by the Governor March 22, 1943.