

Said notice when published for five consecutive days in at least one daily newspaper or in two consecutive issues of a weekly newspaper, either paper having a general circulation in said district will serve as the written notice to owners of noncommercial timber lands.

Emergency.

SEC. 2. This act is necessary for the immediate preservation of the public peace, health and safety, the support of the state government and its existing public institutions, and shall take effect immediately.

Passed the Senate February 1, 1961.

Passed the House March 1, 1961.

Approved by the Governor March 8, 1961.

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## CHAPTER 73.

[ S. B. 105. ]

### PUBLIC LANDS.

AN ACT relating to public lands; providing for the administration and sale of land and valuable materials; providing for the regulation, administration, and granting of rights of way; authorizing the leasing of beds under navigable tidal waters and of agricultural and grant lands for designated purposes; providing for certain conditions in mining contracts; authorizing by contract the sale of stone on certain public lands and providing for conditions of said sale; permitting grants of property rights; amending section 33, chapter 255, Laws of 1927 as last amended by section 13, chapter 257, Laws of 1959, and RCW 79.01.340; amending section 42, chapter 255, Laws of 1927 as last amended by section 17, chapter 257, Laws of 1959, and RCW 79.01.168; amending section 50, chapter 255, Laws of 1927 as last amended by section 21, chapter 257, Laws of 1959, and RCW 79.01.200; amending section 51, chapter 255, Laws of 1927 as last amended by section 22, chapter 257, Laws of 1959, and RCW 79.01.204; amending section 85, chapter 255, Laws of 1927 as last amended by section 1, chapter 145, Laws of 1945, and RCW 79.01.340; amending section 96, chapter 255, Laws of 1927 as last amended by section 1, chapter 147, Laws of 1945, and RCW 79.01.384; amending section 97, chapter 255, Laws of 1927 as last amended by section 35, chapter 257, Laws of 1959, and RCW 79.01.388; amending

section 98, chapter 255, Laws of 1927 as last amended by section 36, chapter 257, Laws of 1959, and RCW 79.01.392; amending section 142, chapter 255, Laws of 1927 as last amended by section 39, chapter 271, Laws of 1951, and RCW 79.01.568; amending section 162, chapter 255, Laws of 1927 as last amended by section 38, chapter 257, Laws of 1959, and RCW 79.01.644; amending section 1, chapter 203, Laws of 1949, and RCW 79.12.570; and adding two new sections to chapter 79.01 RCW.

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

SECTION 1. Section 33, chapter 255, Laws of 1927, as last amended by section 13, chapter 257, Laws of 1959, and RCW 79.01.132 are each amended to read as follows:

RCW 79.01.132 amended.

When any timber, fallen timber, stone, gravel, or other valuable material on state lands is sold separate from the land, the full purchase price thereof shall be paid in cash: *Provided*, That upon the request of the purchaser, any sales over two thousand dollars appraised value shall be on the installment plan. When valuable materials are sold on an installment basis, a deposit not to exceed twenty-five percent of the purchase price, but not less than two thousand dollars, shall be made at the time of sale, either by cash or by certified check or by postal money order and the operator shall notify the commissioner before any timber is cut and before removal or processing of any valuable materials on the sale area, at which time the commissioner may require additional payment. The amount of payments shall at all times equal or exceed the value of timber cut and other valuable materials processed or removed and said deposit shall be maintained until all valuable materials are removed: *And provided further*, That said deposit may be applied as the final payment for said materials.

Public lands.  
Timber and valuable materials sold separately—  
Cash or installment payments—  
Time limit on removal—  
Reversion—  
Extension.

In all cases where timber, fallen timber, stone, gravel, or other valuable material, is sold separate

from the land, the same shall revert to the state if not removed from the land within the period specified in the sale contract. Said specified period shall not exceed five years from the date of the purchase thereof: *Provided*, That in all cases where, in the judgment of the commissioner of public lands, the purchaser is acting in good faith and endeavoring to remove such material, the commissioner may extend the time for the removal thereof for any period not exceeding ten years, upon payment to the state of a sum, to be fixed by the commissioner, of not less than one nor more than ten dollars per acre per annum: *Provided further*, That such sum shall not be less than ten dollars per extension: *And provided further*, That such sum for extensions of timber sales shall be based on the growing capacity of the land, and the commissioner shall pay into the state treasury all sums received for such extension and the same shall be credited to the fund to which was credited the original purchase price of the material so sold.

RCW 79.01.168 amended.

SEC. 2. Section 42, chapter 255, Laws of 1927, as last amended by section 17, chapter 257, Laws of 1959, and RCW 79.01.168 are each amended to read as follows:

Sale of valuable materials without application or deposit.

The commissioner of public lands may cause valuable materials on state lands to be inspected and appraised and offered for sale when authorized by the board of natural resources without an application having been filed, or deposit made, for the purchase of the same.

RCW 79.01.200 amended.

SEC. 3. Section 50, chapter 255, Laws of 1927, as last amended by section 21, chapter 257, Laws of 1959, and RCW 79.01.200 are each amended to read as follows:

Sale procedure. Sales at auction—Minimum price—Except-

All sales of land shall be at public auction, and all sales of valuable materials shall be at public auction or by sealed bid to the highest bidder, on the

terms prescribed by law and as specified in the notice hereinbefore provided, and no land or materials shall be sold for less than its appraised value: *Provided*, That on public lands granted to the state for educational purposes sealed bids may be accepted for sales of timber or stone only: *Provided further*, That when valuable material has been appraised at an amount not exceeding two thousand dollars, the commissioner of public lands, when authorized by the board of natural resources, may arrange for the sale at public auction of said valuable material and for its removal under such terms and conditions as the commissioner may prescribe, after said commissioner shall have caused to be published ten days prior to sale a notice of such sale in a newspaper of general circulation located nearest to property to be sold.

tion as to  
minor sales.

SEC. 4. Section 51, chapter 255, Laws of 1927, as last amended by section 22, chapter 257, Laws of 1959, and RCW 79.01.204 are each amended to read as follows:

RCW 79.01.204  
amended.

Such sales shall be conducted under the direction of the commissioner of public lands, by his authorized representative or by the county auditor of the county in which the sale is held. The commissioner's representative and the county auditor are hereinafter referred to as auctioneers. On or before the time specified in the notice of sale each bidder must deposit with the auctioneer, either in cash or by certified check, or by postal money order, payable to the order of the commissioner of public lands, an amount equal to the deposit specified in the notice of sale. The deposit shall include a specified amount of the appraised price for the land or valuable materials offered for sale, together with any fee required by law for the issuance of contracts, deeds or bills of sale. Said deposit may, when prescribed in notice of sale, be considered an opening bid of an amount not less than the minimum appraised price

Conduct of  
sales—  
Deposits—  
Memorandum  
of purchase.

established in the notice of sale. The successful bidder's deposit will be retained by the auctioneer and the difference, if any, between the deposit and the total amount due, shall on the day of the sale be paid in cash, certified check, draft, postal money order, or by personal check made payable to the commissioner. Other deposits, if any, will be returned to the respective bidders at the conclusion of each sale. The auctioneer shall deliver to the purchaser, a memorandum of his purchase containing a description of the land, or materials, purchased, the price bid and the terms of the sale. The auctioneer shall at once send to the commissioner such cash or certified check, draft or postal money order, and a copy of the memorandum delivered to the purchaser, together with such additional report of his proceedings with reference to such sales as may be required by the commissioner.

RCW 79.01.340  
amended.

SEC. 5. Section 85, chapter 255, Laws of 1927, as last amended by section 1, chapter 145, Laws of 1945, and RCW 79.01.340 are each amended to read as follows:

Right of way  
for roads or  
streets over or  
for county  
wharves upon  
public lands.

Any county or city or the United States of America or state agency desiring to locate, establish and construct a road or street over and across any public lands of the state of Washington, or any county desiring to construct any wharf on tide or shore lands, shall by resolution of the board of county commissioners of such county, or city council or other governing body of such city, or proper agency of the United States of America, or state agency, cause to be filed in the office of the commissioner of public lands a petition for a right of way for such road or street, setting forth the reasons for the establishment thereof, accompanied by a duly attested copy of a plat made by the county or city engineer or proper agency of the United States of America, or state agency, showing the location of the proposed

road or street with reference to the legal subdivisions, or lots and blocks of the official plat, or the lands, over and across which such right of way is desired, the amount of land to be taken and the amount of land remaining in each portion of each legal subdivision or lot or block bisected by such proposed road or street.

Upon the filing of such petition and plat the commissioner of public lands, if he deem it for the best interest of the state to grant the petition, shall cause the land proposed to be taken to be inspected and shall appraise the value of any timber thereon and notify the petitioner of such appraised value.

If there be no timber on the proposed right of way, or upon the payment of the appraised value of any timber thereon, to the commissioner of public lands in cash, or by certified check drawn upon any bank in this state, or postal money order, except for all rights of way granted to the department of natural resources on which the timber, if any, shall be sold at public auction or by sealed bid, the commissioner may approve the plat filed with the petition and file and enter the same in the records of his office, and such approval and record shall constitute a grant of such right of way from the state.

SEC. 6. Section 96, chapter 255, Laws of 1927 as last amended by section 1, chapter 147, Laws of 1945 and RCW 79.01.384 are each amended to read as follows:

RCW 79.01.384 amended.

A right of way through, over and across any state lands, tidelands, shorelands, beds of navigable waters, oyster reserves belonging to the state, the reversionary interest of the state in oyster lands, or state forest lands, may be granted to any municipal or private corporation, company, association, individual, or the United States of America, constructing or proposing to construct, or which has heretofore constructed, any telephone line, ditch, flume

Right of way for utility pipe lines, transmission lines, etc.

or pipe line for the domestic water supply of any municipal corporation or transmission line for the purpose of generating or transmitting electricity for light, heat or power.

RCW 79.01.388  
amended.

SEC. 7. Section 97, chapter 255, Laws of 1927, as last amended by section 35, chapter 257, Laws of 1959, and RCW 79.01.388 are each amended to read as follows:

—Procedure to  
acquire.

In order to obtain the benefits of the grant made in RCW 79.01.384, the municipal or private corporation or company, association, individual, or the United States of America, constructing or proposing to construct, or which has heretofore constructed, such telephone line, ditch, flume, pipe line or transmission line, shall file, with the commissioner of public lands, a map, accompanied by the field notes of the survey and location of such telephone line, ditch, flume, pipe line or transmission line, and shall make payment therefor as provided in RCW 79.01-.392. The land within the right of way shall be limited to an amount necessary for the construction of said telephone line, ditch, flume, pipe line or transmission line sufficient for the purposes required, together with sufficient land on either side thereof for ingress and egress to maintain and repair the same, and the grant shall include the right to cut all standing timber, and/or reproduction within said right of way. The grant shall also include the right to cut trees marked as danger trees by the applicant outside of the right of way, which shall be dangerous to the operation and maintenance of the telephone line, ditch, flume, pipe line or transmission line upon full payment of the appraised value thereof.

RCW 79.01.392  
amended.

SEC. 8. Section 98, chapter 255, Laws of 1927, as last amended by section 36, chapter 257, Laws of 1959, and RCW 79.01.392 are each amended to read as follows:

Upon the filing of the plat and field notes, as provided in RCW 79.01.388, the land applied for and the standing timber and/or reproduction on the right of way applied for, and the marked danger trees to be felled off the right of way, if any, and the improvements included in the right of way applied for, if any, shall be appraised as in the case of an application to purchase state lands. Upon full payment of the appraised value of the land applied for, or upon payment of an annual rental when the department of natural resources deems a rental to be in the best interest of the state, and upon full payment of the appraised value of the standing timber, reproduction, and improvements, if any, the commissioner of public lands shall issue to the applicant a certificate of the grant of such right of way stating the terms and conditions thereof and shall enter the same in the abstracts and records in his office, and thereafter any sale or lease of the lands affected by such right of way shall be subject to the easement of such right of way. Should the corporation, company, association, individual, or the United States of America, securing such right of way ever abandon the use of the same for the purposes for which it was granted, the right of way shall revert to the state, or the state's grantee.

~~—Appraisal—  
Certificate—  
Reversion for  
nonuser.~~

SEC. 9. Section 142, chapter 255, Laws of 1927, as last amended by section 39, chapter 271, Laws of 1951, and RCW 79.01.568 are each amended to read as follows:

RCW 79.01.568  
amended.

The beds of all navigable tidal waters in this state lying below extreme low tide not in front of any incorporated city or town, nor within two miles on either side thereof, shall be subject to lease for the purpose of planting and cultivating thereon artificial oyster beds, or for the purpose of cultivating clams and other edible shellfish for periods not to

Leasing for  
artificial  
oyster beds  
authorized.

exceed ten years and in quantities not to exceed forty acres, to any one person or corporation.

RCW 79.12.570 amended.

SEC. 10. Section 1, chapter 203, Laws of 1949, and RCW 79.12.570 are each amended to read as follows:

Share crop lease authorized—Terms—Application.

The commissioner of public lands may lease agricultural school and granted lands on a share crop basis. Share crop leases shall be on such terms and conditions and for such length of time, not to exceed ten years, as the commissioner may prescribe. Upon receipt of a written application to lease agricultural school and granted lands, the commissioner shall make such investigations as he shall deem necessary and if he finds that such a lease would be advantageous to the state, he may proceed with the leasing of such land on said basis.

New section.

SEC. 11. There is added to chapter 79.01 RCW a new section to read as follows:

Sale of rock, gravel, sand and silt from public lands on royalty basis.

The commissioner of public lands, upon application by any person, firm or corporation, may enter into a contract providing for the sale and removal of rock, gravel, sand and silt located upon state lands or state forest lands, and providing for payment to be made therefor on a royalty basis. The issuance of a contract shall be made after public auction and such contract shall not be issued for less than the appraised value of the material.

Each application made pursuant to this section shall set forth the estimated quantity and kind of materials desired to be removed and shall be accompanied by a map or plat showing the area from which the applicant wishes to remove such materials. The commissioner of public lands may in his discretion include in any contract entered into pursuant to this section, such terms and conditions protecting the interests of the state as he may require. In each such contract the commissioner of public lands shall provide for a right of forfeiture by the state, upon

Right of forfeiture.

a failure to operate under the contract or pay royalties for periods therein stipulated, and he may require a bond with a surety company authorized to transact a surety business in this state, as surety, to secure the performance of the terms and conditions of such contract including the payment of royalties. The right of forfeiture shall be exercised by entry of a declaration of forfeiture in the records of the commissioner of public lands. The amount of rock, gravel, sand, or silt taken under the contract shall be reported monthly by the purchaser to the commissioner of public lands and payment therefor made on the basis of the royalty provided in the contract.

Bonds.

The commissioner of public lands may inspect and audit books, contracts and accounts of each person removing rock, gravel, sand, or silt pursuant to any such contract and make such other investigation and secure or receive any other evidence necessary to determine whether or not the state is being paid the full amount payable to it for the removal of such materials.

Sec. 12. There is added to chapter 79.01 RCW a new section to read as follows:

New section.

The department of natural resources may grant to any person such easements and rights in state lands, tidelands, shorelands, oyster reserves, or state forest lands as the applicant applying therefor may acquire in privately owned lands through proceedings in eminent domain. No grant shall be made under this section until such time as the full market value of the estate or interest granted together with damages to all remaining property of the state of Washington has been ascertained and safety secured to the state.

Easements and rights in state lands, grants authorized.

Passed the Senate February 13, 1961.

Passed the House March 1, 1961.

Approved by the Governor March 8, 1961.