

NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION ACT (EXCERPT)

Act 451 of 1994

Subpart 6

SALE AND RECLAMATION OF SWAMP LANDS

324.2120 Swamp lands; adoption of notes of surveys on file; sale; restrictions; procurement of records.

Sec. 2120.

(1) The department shall adopt the notes of the surveys on file in the surveyor general's office as the basis upon which they will receive the swamp lands granted to the state by an act of congress of September 28, 1850.

(2) Swamp lands described in subsection (1) shall only be sold in the same legal subdivisions in which they are received by the state, and none of the lands are subject to private entry until the lands have been offered for sale at public auction as provided in former Act No. 187 of the Public Acts of 1851.

(3) The department may procure all necessary books, maps, or plats of swamp lands as required for the speedy and systematic transaction of the business of the department, and all proper charges for the books, maps, or plats shall be paid out of funds received from the sale of lands under former Act No. 187 of the Public Acts of 1851.

History: Add. 1995, Act 60, Imd. Eff. May 24, 1995

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324.2120a Conveyance of certain land in Calhoun County; legislative findings; identification of current de facto owner; reimbursement for expenses; conveyance to adjacent de facto owner; legal description as approximate; legal effect of interest, right, or obligation; cause of action not created; quitclaim deed; "de facto owner" defined.

Sec. 2120a.

(1) This section applies and sections 2120 and 2121 do not apply to the receipt of the following lands by patent or otherwise from the United States or to the conveyance of those lands by the department as provided in this section:

Property located in Clarence Township, Calhoun County, Township 1 South, Range 4 West, Michigan Meridian:

- (a) Government lots 1 to 10 in section 23.
- (b) Government lots 1 to 3 in section 24.
- (c) Government lot 1 in section 25.
- (d) Government lots 1 to 7 and 10 to 13 in section 26.
- (e) Government lots 1 to 4 in section 27.
- (f) Government lot 1 in section 35.

(2) The legislature finds all of the following:

(a) Under statutes of the United States enacted in 1850 and subsequently, the governor of this state has had the power to request the conveyance of swamplands from the United States to this state.

(b) Some conveyances described in subdivision (a) have been requested and made to this state in the past.

(c) However, although the property described in subsection (1) has been eligible for a request and conveyance as described in subdivision (a), no such request and conveyance has ever been made.

(d) A number of citizens of this state are occupants and de facto owners under color of title of portions of the property described in subsection (1). These individuals have made improvements to, maintained, and paid taxes on those portions of the property held under color of title.

(e) It is the intent of the legislature, through this section, to obtain title from the United States to the property described in subsection (1) and to convey the property to the appropriate citizens.

(3) If the governor applies to the bureau of land management of the department of the interior of the United States, or to any other official or agency of the United States that the governor determines is appropriate, for the conveyance of the lands described in subsection (1) to this state, by patent or otherwise, under an 1850 act of congress, chapter 84, 9 Stat. 519, under 43 USC 981 to 986, or under any other applicable law, and if the lands are conveyed to this state, the department shall use its best efforts to determine the identity of the current de facto owners of the lands. In making the determination required by this subsection, the department shall consult with the department of the attorney general.

(4) The department may require a person claiming to be a de facto owner of any of the lands to reimburse the department, in advance of the conveyance of the property if the department determines necessary, for any expense incurred by the department or the department of the attorney general in making the determination under subsection (3) and in conveying the property under subsection (6).

(5) The department is not required to take any steps to make a determination under subsection (3) other than the steps that the department, in its discretion, determines are reasonably necessary. If the department is unable to determine a de facto owner for a portion of the land or is unable to determine which of 1 or more potential de facto owners has the most legitimate claim to a portion of the land, the department is not required to bring or actively participate in a quiet title action or any other legal action with respect to the property. If the department determines that there is no de facto owner for a portion of the property, the department, in its sole discretion, may convey the portion to an adjacent de facto owner.

(6) After making a determination under subsection (3), the department shall convey a portion or portions of the property described in subsection (1) to a de facto owner as determined under subsections (3) and (5).

(7) The legal description in subsection (1) is approximate for purposes of this section. If the department determines that there is a discrepancy between the legal description in subsection (1) and the legal description of property received by this state under this section, the department, as directed by the department of attorney general, may adjust the description accordingly in any deeds prepared under this section.

(8) The department is not responsible for recording a deed prepared under this section or any costs or fees for or associated with the recording.

(9) Any interests or rights in, or obligations connected to, land conveyed under subsection (6) created before the conveyance under subsection (6) have the same legal effect as if the conveyance under subsection (6) preceded the creation of the interest, right, or obligation, including, but not limited to, any of the following:

- (a) A street or highway right of way.
- (b) A utility, drain, or other easement.
- (c) A mortgage.
- (d) A leasehold.
- (e) Mineral rights.
- (f) A construction lien.
- (g) An interest resulting from an attachment, execution, or other judicial process.
- (h) A tax or tax lien, whether federal, state, or local.
- (i) A special assessment.
- (j) Any other governmental lien.
- (k) Any other lien.

(10) Subsection (9) is intended to affirm title to real property and does not create a cause of action for or otherwise constitute a basis for a tax refund or a property tax appeal.

(11) The department shall make a conveyance under subsection (6) by quitclaim deed, approved by the department of attorney general.

(12) As used in this section, "de facto owner" means a person that could reasonably be considered the owner of the land despite not having good legal title, as indicated by 1 or more of the following:

- (a) A purported chain of title that would show marketable title in the person if a valid governmental patent or other conveyance had been given to the appropriate predecessor in the chain of title.
- (b) Payment of property taxes on the land by the person.
- (c) Possession of and improvement to or maintenance of the land by the person.
- (d) Any other similar factor that the department in its discretion determines should be considered.

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