

No. 136

AN ACT

Amending the act of May 1, 1933 (P. L. 103), entitled "An act concerning townships of the second class; and amending, revising, consolidating, and changing the law relating thereto," making it unlawful to offer for recording or to record plans of land dedicated for road purposes prior to the approval of such plans.

The Second Class Township Code.

Subsection (b), section 1141, act of May 1, 1933, P. L. 103, reenacted and amended July 10, 1947, P. L. 1481, further amended.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. Subsection (b) of section 1141, act of May 1, 1933 (P. L. 103), known as "The Second Class Township Code," reenacted and amended July 10, 1947 (P. L. 1481), is amended to read:

Section 1141. Appeals Where Supervisors Refuse Approval; Recording of Approval and Plans.—* * *

(b) The action of the township supervisors, or of the court on appeal, in approving any such plans, and an approved duplicate copy of such plans, shall be recorded by the person applying for such approval in the office of the recorder of deeds of the county.

It shall be unlawful for any person to present to the recorder of deeds, or any employe thereof, any such plan which has not been approved by the township supervisors. Such approval shall be so indicated on the plan presented for recording. No recorder of deeds, or any employe thereof, shall record any such plan unless it has been so approved.

APPROVED—The 9th day of July, A. D. 1959.

DAVID L. LAWRENCE

No. 137

AN ACT

Relating to the public lands of the Commonwealth; defining such land; providing for the sale of vacant and unimproved public lands and the price to be paid therefor; providing for the conveyance of title to vacant and unappropriated public land to the Department of Forests and Waters for forest culture, forest reservation, or State park purposes; providing for the conveyance of title to all public lands for which applications have been made or warrants issued and to all persons having rights by settlement and improvement upon payment of the purchase price; providing for the release of liens for unpaid purchase price in certain cases; preventing the granting of title to lands and islands in the bed of navigable rivers and streams declared by law to be public highways except in certain cases; and prescribing the duties of the Department of Internal Affairs with respect to the administration of the public lands and the records thereof, including surveys of county and Commonwealth boundaries and documents having to do with early titles.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. Short Title.—This act shall be known and may be cited as the “Pennsylvania Public Lands Act.”

Pennsylvania
Public Lands
Act.

Section 2. Definitions.—The following words, terms and phrases, when used in this act, shall have the meaning ascribed to them in this section, except where the context clearly indicates a different meaning.

(a) “Public lands” shall include:

(1) All lands within the territorial limits of the Commonwealth which have not been confirmed to the former proprietaries or their grantees by the act of November 27, 1779 (Chapter 863), entitled “An act for vesting the estates of the late proprietaries of Pennsylvania in this commonwealth,” and which have not been granted, conveyed or patented by the Commonwealth to the United States of America, the Commonwealth, or any administrative branch or department of either, or to any person or corporation, public or private.

(2) All vacant and unappropriated lands, all lands for which application has been made or warrants have been granted by the Commonwealth, the titles to which have not been completed by the granting of patents, and all other lands which have been sold by commissioners appointed under acts of the General Assembly, the titles to which have not been completed by the granting of patents.

Public lands shall not include lands formerly granted, conveyed or patented by the proprietaries or the Commonwealth to any person or corporation, public or private, which have subsequently become the property of the Commonwealth by escheat, condemnation, confiscation, dedication, gift, grant, purchase, or otherwise.

(b) “Vacant lands” shall mean lands to which no office rights are outstanding.

(c) “Unappropriated lands” shall mean lands for which no patent has been issued by the Commonwealth.

(d) “Unimproved lands” shall mean lands which show no signs of occupancy or cultivation.

(e) “Department” shall mean the Department of Internal Affairs.

(f) “Department of Forests and Waters” or “Secretary of Forests and Waters” shall include its or his successor.

(g) “Bureau” shall mean the Bureau of Land Records in the Department of Internal Affairs.

Section 3. Duties of Department.—The department shall act as the Land Office of the Commonwealth, maintaining and preserving the records of all conveyances from the proprietaries and the Commonwealth to the purchasers of land, including applications, warrants, return of surveys, and reports denying the application of any person. The department shall also maintain and preserve the papers relating to the surveys of the Commonwealth and county lines, and the reports of commissioners relating to the boundary lines of the Commonwealth, maps and other papers heretofore lodged with the Land Office and pertaining to the colonial history of Pennsylvania, the minutes of the Canal Commissioners, contracts for section profile maps and other records of and relating to the public works, and all other relevant records relating to titles to real estate now or heretofore owned or hereafter to be acquired by the Commonwealth.

It shall be the duty of the department to arrange the records in its custody by filing, recording and indexing so as to facilitate searches, examinations and inspections, and to furnish copies of all records, documents, entries and papers to such persons as shall apply for the same and pay such fees as may be prescribed by law or by rule or regulation. The department may make rules and regulations for the enforcement and administration of this act.

Section 4. Application for Warrant and Patent.—Subject to the right of the Department of Forests and Waters to acquire and have the lands patented to the Commonwealth for forest culture, forest reservation or State park purposes, as provided by section 6 of this act, any person may make application for a warrant to have a survey made of any tract of vacant or unappropriated land, and on the return thereof, together with proofs of advertisement, have a patent issued thereon to the named applicant by the department, with the approval of the Governor, provided any caveat entered is finally disposed of in favor of applicant and the applicant has complied with all applicable laws and regulations.

Section 5. Procedure on Application.—Upon receipt of an application, on a form approved by the department, for vacant or unappropriated public lands, together with abstract of title, duly certified, and survey, the department shall cause an investigation to be made to determine whether any office rights have been granted for the land described in said application, and to determine whether or not said land is vacant or unappropriated. If the department shall determine that the land applied for is not vacant or unappropriated, it shall file its report, which shall be conclusive upon the applicant,

subject to the right of the applicant to appeal to the Board of Property under such rules as the said board may adopt. If the report discloses that a part only of the land applied for is not vacant or unappropriated, the applicant may proceed with respect to the balance.

Section 6. Procedure; Department of Forests and Waters.—If the department finds the land to be vacant and unimproved or unappropriated and unimproved, and the applicant is not the Secretary of Forests and Waters, the department shall notify the Secretary of Forests and Waters of the application and the results of the investigation, whereupon it shall be the duty of the Secretary of Forests and Waters to determine whether it is desirable and practicable to acquire such land for forest culture, forest reservation or State park purposes, and to make application if that is the case. If the Department of Forests and Waters fails to make application for said lands within two months of the receipt of notice, the department shall notify the original applicant and, if the application is for vacant land, arrange to cause the land to be appraised. The applicant shall give thirty days' notice of the filing of such application by publication once a week for three successive weeks in a newspaper of general circulation in the area where the land is situate and furnish proof of publication to the department.

Section 7. Application by Department of Forests and Waters.—The application of the Department of Forests and Waters for vacant unimproved or unappropriated unimproved land shall be signed by the Secretary of Forests and Waters and be accompanied by an abstract with certificate and survey. On approval of the application, abstract, certificate and survey, a patent to the land shall issue, on approval of the Governor, to the Department of Forests and Waters for forest culture, forest reservation or State park purposes, without the payment of purchase money, interest or fees.

Section 8. Board of Appraisers.—Upon application for vacant land, the land shall be appraised by a board of appraisers, comprising three disinterested persons appointed by the department, who are residents of the county or counties wherein the land is situate, of whom one shall be an attorney at law who shall act as chairman, one a registered professional engineer, and one a licensed real estate broker.

The persons so appointed shall swear or affirm, before an officer authorized to administer oaths, faithfully to perform the duties herein prescribed, and that they are not directly or indirectly interested in the application. They shall proceed to value the land by going upon it

and taking into consideration soil, timber, fisheries, minerals, location and other advantages, and shall determine the value thereof. In the case of improved land, the value of the improvements shall not be included in the valuation. The chairman of the board shall prepare and transmit the report of the board to the department. Having agreed upon the valuation, the chairman shall certify the same to the department in his report within thirty days after the appointment of the board. If any of the board of appraisers so appointed shall fail, neglect or refuse to perform any of their duties within thirty days of their appointment, the department may vacate the appointment and appoint another board of appraisers to perform the work in the same manner as the original board. The members of the board shall be entitled to a fee of twenty-five dollars (\$25.00) each and the chairman shall receive an additional twenty-five dollars (\$25.00) for the preparation of the report.

Section 9. Expenses.—Upon receipt of the certificate and report of the appraisers, the department shall notify the applicant, requesting the amount due the Commonwealth. The expenses incident to the investigation, advertising, survey and appraisal, shall be paid by the applicant. Upon payment of the said amount, the department shall, upon approval of the survey and other instruments required by this act and regulations of the department, with the approval of the Governor, issue a patent from the Commonwealth.

Section 10. Abandonment of Application.—If, within three months from the request for payment of the purchase price and expenses, the applicant shall fail to pay the department, he shall be deemed to have abandoned his application, and the department may grant a patent to any subsequent applicant upon payment of the purchase price, as fixed by said appraisal, and expenses: Provided, That if more than one year has elapsed since the receipt of the certificate of the appraisers, the department may, in its discretion, require a current appraisal.

Section 11. Prohibitions and Exceptions.—No application shall be accepted and no warrants, easements or other office rights shall be granted for any land or island lying in the beds of navigable rivers or in beds of streams which are by law declared to be public highways, except

(1) Warrants or other office rights may be granted and appraisals made on such lands as intervene between former islands for which patents have been granted, and the former mainland of navigable rivers, where such intervening lands form an obstruction to navigation, and are without the ordinary low water lines of such naviga-

ble rivers, as shown by the certificate of the United States Secretary of Defense or his successor. No such warrant, or other office right, shall be granted, unless and until written approval of the Water and Power Resources Board of the Department of Forests and Waters has been obtained, following the submission of formal application and plans to said board showing the manner in which the said lands within the flood water channel of the navigable river will be occupied and used, and the extent to which the flood carrying capacity of the channel will be reduced and modified: Provided, however, That preference in granting any such patent shall be given, with the approval of the Governor, to applications of owners of the land abutting the land intervening between the former islands to which patents have been granted and the former mainland of navigable rivers. Such patents, with the approval of the Governor, may be issued in accordance with any agreement entered into by all such landowners, providing for an allotment of the land intervening between the former islands.

(2) Easements may be granted for sewage treatment plants and intercepting sewer systems and facilities necessary and incidental thereto, under, across, and in the beds of navigable rivers or streams which are, by law, declared public highways for the purpose of diverting sewage and industrial wastes from said rivers or streams to sewage treatment plants, where permits for the construction thereof have been issued by, or by authorization of, the Sanitary Water Board, the Water and Power Resources Board, and the United States Secretary of Defense. The department shall, on application by any municipality authority or institution, make such grants to such municipality of such easements in the name of the Commonwealth, with the approval of the Governor, and in such form as shall be approved by the Attorney General without the payment of purchase money, interest or fees. The department shall not be required to submit, to the Department of Forests and Waters, any copies of such applications as is required in applications for vacant lands generally. As used herein, "municipality authority or institution" means any county, county authority, municipality authority, city, borough, town, township, school district, and any healing, preventive mental health, educational, correctional and penal institution, almshouse and county and city homes, operated by the Commonwealth or a political subdivision thereof, the sewage from which is not admitted to a public sewer system.

(3) Whenever, to promote sanitation, prevent floods, improve navigation, or for other purposes, the government of the United States, by its proper officers or by

Act of Congress, shall authorize the widening, straightening or improvement of the main channel of any navigable river or stream, under agreement with the owners of any land to be taken for any of the purposes aforesaid, and shall permit the abandonment and filling up of other parts of such river or stream, which may thereby be no longer useful for the ordinary purposes of navigation, the department is hereby authorized, on behalf of the Commonwealth, to have a survey and appraisal made, both at the expense of the applicant, and issue a patent, with the approval of the Governor, of so much of the bed of such river or stream, below low water mark, as shall be no longer useful for the ordinary purposes of navigation and shall be so abandoned. Preference in granting any such patent shall be given to applications of owners of land abutting the portion of the bed of such river or stream as shall be subject to patent and a patent, with the approval of the Governor, may issue in accordance with any agreement entered into by all such landowners providing for an allotment of the land so abandoned and subject to patent.

(4) The evidence that any part of such river or stream has ceased to be useful for the ordinary purposes of navigation and is the subject of warrant, survey and patent, shall include a certified copy of any Act of Congress which may be passed in relation thereto, and a copy of any agreement entered into between the United States of America and such owners of the land accompanied by proper plans showing the land to be taken, the river or stream as widened, straightened or improved, and the portion of such river or stream which is to be abandoned, which copy of such agreement and which plans shall be certified, under the hand and seal of the United States Secretary of Defense or his successor, and filed in the Office of the Secretary of Internal Affairs of this Commonwealth.

Section 12. Issuance of Patents for Unappropriated Lands.—In all cases where it shall appear from the records of the department that there have been warrants granted by the Commonwealth for lands authorized to be sold under Acts of the General Assembly, or by commissioners appointed under Acts of the General Assembly, the titles to which have not been completed by the granting of patents, the department shall, upon the presentation and approval of an application with satisfactory proof of ownership, including current survey and abstract of title, and the payment of patent fees amounting to twenty-five dollars (\$25.00), * with the approval of the Governor, grant the patent of the Commonwealth.

* "the department shall" deleted from original.

Section 13. Satisfaction of Claims.—In all cases where there are outstanding office rights, hitherto granted prior to January 1, 1935, for land lying within the Commonwealth, the department is authorized to cancel any and all liens, bonds, and mortgages held by the department for unpaid purchase money and interest thereon, and to make proper entry of satisfaction in the lien docket and mortgage book or other records of the said department as well as issue certificate of the action taken, upon the payment of a fee of twenty-five dollars (\$25.00) for each tract of land upon which the lien or bond and mortgage is released.

Section 14. Prohibition of Warrants.—No warrant or other office right shall issue for any tract or piece of public land on which settlement has been made, or which may be either in whole or in part cleared and fenced or otherwise improved, used or occupied and held by defined boundaries, unless to such person or persons who have made the settlement, clearing, fencing or improvement, their heirs, legal representatives, successors or assigns; but in any case where the settlement or improvement has been abandoned continuously since January 1, 1935, the land shall be deemed to be vacant or unappropriated.

Section 15. Caveats.—Any person having or asserting any claim for land to which application has been made, may file a caveat with the department prior to the granting of the patent, whereupon the department shall notify the original applicant of the filing of the caveat and forward the application for warrant and the caveat, with all related instruments, to the Board of Property for decision.

The entry of such caveat shall suspend issuance of the patent until the Board of Property has disposed of the claim. No caveat shall be recognized for any land after the patent of the Commonwealth has been granted therefor. When in any case presented to the Board of Property by caveat or appeal, the board shall decide against the issuing of a warrant or other office right, the purchase money, if any has been paid, shall be returned to the applicant, less all expenses incurred by the department and board.

Section 16. Deposit Required with Caveats.—No caveat shall be recognized and processed unless the caveator shall deposit, with the caveat, fees as determined by the department, and including purchase money in the case of vacant land. The purchase money shall be returned to the caveator, less all costs and fees determined by the board as incurred by the caveator, * in the event the

* "as" deleted from original.

board's decision is against the caveator and the caveator does not appeal from the decision of the Board of Property. If the caveator appeals from the decision of the Board of Property, any purchase money deposited shall be held and disposed of as directed by the court making the final decision thereon.

If the decision of the Board of Property is in favor of the caveator, he shall proceed promptly to perfect his title under the provisions of this act and in compliance with the rules and regulations of the department, or he shall be deemed to have abandoned his claim and right.

Section 17. Repeals.—The following acts, or parts of acts, are hereby repealed absolutely:

(a) The act of March 6, 1793 (3 Smith's Laws 93), entitled "An act directing the sale of certain islands in the river Susquehanna."

(b) The act of January 27, 1806 (4 Smith's Laws 268), entitled "An act directing the sale of unappropriated Islands in such parts of the rivers Delaware, Ohio and Allegheny, and their branches, as are by law declared public highways."

(c) The act of April 2, 1822 (7 Smith's Laws 549), entitled "An act for the prevention of nuisances in the river Susquehanna."

(d) The act of April 14, 1874 (P. L. 58), entitled "An act relative to the issuing of warrants to survey vacant lands."

(e) The act of May 5, 1899 (P. L. 229), entitled "An act relative to the liens of the Commonwealth against unpatented lands; providing for their adjustment, and for the granting of patents."

(f) The act of May 3, 1909 (P. L. 413), entitled "An act relating to the granting of titles by the Commonwealth of Pennsylvania to vacant or unappropriated land, the price to be paid for the same, the conveyance to the State Forestry Reservation Commission, where desirable for forest culture or forest preservation, preventing the granting of warrants for the beds of navigable rivers, and providing for acceptance of returns of surveys without limitation as to excess or surplus."

(g) The act of April 29, 1911 (P. L. 106), entitled "An act providing for the cancellation of certain liens, bonds, and mortgages, now held by the Department of Internal Affairs for unpaid purchase money and interest on lands for which patents have been issued, and which remain unsatisfied on the lien docket and other records of that department; and providing for the forwarding by the Secretary of Internal Affairs of certified statements of the cancellation to the respective counties

affected, that such statements may be recorded in the counties where the land lies; and that the record thereof or certified copies thereof shall be evidence where the said certified statement would be evidence.”

(h) The act of June 27, 1913 (P. L. 665), entitled “An act authorizing and regulating the survey, appraisal, and patenting of lands in beds of navigable rivers or streams, permitted by the Government of the United States to be abandoned and filled as no longer of use for ordinary purposes of navigation.”

Section 18. Effective Date.—This act shall take effect immediately. Act effective immediately.

APPROVED—The 9th day of July, A. D. 1959.

DAVID L. LAWRENCE

—
No. 138

AN ACT

Amending the act of June 23, 1931 (P. L. 932), entitled “An act relating to cities of the third class; and amending, revising, and consolidating the law relating thereto,” limiting the provisions relating to the annexation of boroughs by petition to those having a population of less than ten thousand inhabitants, and establishing a procedure for the annexation of boroughs having a population of ten thousand or more.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows: The Third Class City Code.

Section 1. Section 501, act of June 23, 1931 (P. L. 932), known as “The Third Class City Code,” reenacted and amended June 28, 1951 (P. L. 662) and amended April 1, 1959 (Act No. 12), is amended to read:

Section 501, act of June 23, 1931, P. L. 932, reenacted and amended June 28, 1951, P. L. 662, and amended April 1, 1959, Act No. 12, further amended.

Section 501. Petition for Annexation of Boroughs or Townships and Parts of Townships.—Any borough *having a population of less than ten thousand inhabitants*, or any township or part of a township, contiguous to any city, whether wholly or partially within the same or different counties, may become annexed to any such city in the following manner:

(a) In the case of a borough, the borough council may pass an ordinance for such annexation, whenever three-fifths of the taxable inhabitants of such borough shall present a petition, accompanied with the written consent of a majority in number and interest of property owners of the borough, asking for such annexation.

(b) In the case of a township, or part thereof, whenever three-fifths of the taxable inhabitants of such township or part thereof shall present a petition to the council