
By: **Allegany County Delegation**
Introduced and read first time: February 7, 2003
Assigned to: Environmental Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Real Property - Unpossessed Vacant Land**

3 FOR the purpose of providing that, with respect to unpossessed vacant land, a
4 certificate of reservation for public use remains in effect until a unit of State
5 government or a court of competent jurisdiction determines that a person who
6 has claimed legal title to the land has established legal title to the land;
7 authorizing a person who claims title to unpossessed vacant land for which a
8 certificate of reservation for public use has been issued to file a certain written
9 claim; requiring that if a unit of State government that reserved land for public
10 use determines that a claimant has legal title to the land, the unit of State
11 government shall either mail a certain payment to the claimant or notify the
12 Commissioner of Land Patents that the land is no longer needed for public use;
13 providing that any action taken by a unit of State government pursuant to this
14 Act is subject to approval by the Board of Public Works; requiring that, if a unit
15 of State government that reserved land for public use determines that the
16 claimant does not have legal title to the property, the unit of State government
17 shall issue a written denial of the claimant's claim; authorizing a claimant who
18 is aggrieved by the denial of a claim under this Act to file a certain action;
19 providing that a claim under this Act is barred unless the claimant files a claim
20 within a certain amount of time; authorizing an applicant for a certificate of
21 reservation for public use of unpossessed vacant land to submit a certain legal
22 description of the land in lieu of a certain survey; providing that certain
23 provisions of the law related to escheated property do not apply to any portion of
24 a decedent's estate comprised of land that is the subject of an application for a
25 certificate of reservation for public use; authorizing the Department of Natural
26 Resources to apply for a certificate of reservation for public use of unpossessed
27 vacant land; defining certain terms; and generally relating to unpossessed
28 vacant land.

29 BY repealing and reenacting, with amendments,
30 Article - Real Property
31 Section 13-101, 13-106, and 13-306
32 Annotated Code of Maryland
33 (1996 Replacement Volume and 2002 Supplement)

1 BY adding to
2 Article - Real Property
3 Section 13-107
4 Annotated Code of Maryland
5 (1996 Replacement Volume and 2002 Supplement)

6 BY repealing and reenacting, with amendments,
7 Article - Estates and Trusts
8 Section 3-105
9 Annotated Code of Maryland
10 (2001 Replacement Volume and 2002 Supplement)

11 BY repealing and reenacting, with amendments,
12 Article - Natural Resources
13 Section 5-207
14 Annotated Code of Maryland
15 (2000 Replacement Volume and 2002 Supplement)

16 Preamble

17 WHEREAS, The State owns and manages over 400,000 acres of State forests
18 and parks; and

19 WHEREAS, Small, isolated tracts of land that are not owned by the State are
20 located entirely within and adjacent to the State forest and parks, particularly
21 Greenridge State Forest; and

22 WHEREAS, The owners of the tracts of land are unknown, the title to the tracts
23 of land is uncertain, and no person has actually been in possession of the tracts of
24 land, under claim of title or otherwise, for a continuous period of 20 years; and

25 WHEREAS, The presence of small, isolated, private tracts of land within a State
26 forest or park makes it difficult for the State to manage the entire forest as a whole
27 for the benefit of the public; and

28 WHEREAS, It is in the public interest to return the isolated tracts of land to
29 public use and at the same time to preserve the rights of the actual owners of the
30 tracts of land in the event that such unknown owners subsequently come forward to
31 claim title to the tracts of land; now, therefore,

32 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
33 MARYLAND, That the Laws of Maryland read as follows:

1 **Article - Real Property**

2 13-101.

3 (a) In this title the following words have the meanings indicated unless
4 otherwise apparent from context.

5 (b) "Certificate of reservation" means a certificate issued by the Commissioner
6 at the request of a governmental body upon a determination that vacant land exists
7 and the governmental body wishes to reserve the land for public use.

8 (c) "Commission" means the Hall of Records Commission.

9 (d) "Commissioner" means the State Archivist who, while performing the
10 duties and exercising the powers provided in this title, is known as the
11 "Commissioner of Land Patents".

12 (e) "Expense" includes any charge, cost, deposit, fee, or tax incurred in
13 connection with a land patent proceeding.

14 (f) "Governmental body" includes any unit of State government, any county or
15 municipal corporation, or any agency or instrumentality of any county or municipal
16 corporation.

17 (g) (1) "Land" means any area of land in the State, including any two or
18 more areas of land with a common boundary for at least part of their perimeters.

19 (2) "Land" includes vacant land.

20 (3) "Land" does not include any area covered by navigable water unless
21 it was included in a patent issued before March 3, 1862.

22 (h) "Mail" means to deposit in the United States mails, postage prepaid,
23 endorsed "Restricted Delivery -- Return Receipt Requested".

24 (i) "Patent" means:

25 (1) Any grant confirmed by Article 5 of the Declaration of Rights of the
26 State Constitution;

27 (2) Any valid grant made under prior law by the State of its interests in
28 any vacant, resurveyed, escheat, or confiscated land; or

29 (3) Any grant made under this title by the State of its interest in any
30 land.

31 (j) "Public use" means use by or for the benefit of the public.

32 (k) "Survey", whether used as a noun or as a verb in any form or tense, means:

1 (1) The act of surveying any vacant land in order to obtain a patent for
2 the land; or

3 (2) The act of resurveying any land for which a patent previously was
4 issued in order to obtain a new patent for the land.

5 (l) "Surveyor" means any professional land surveyor or property line surveyor
6 licensed under the Maryland Professional Land Surveyors Act.

7 (m) "UNPOSSESSED VACANT LAND" MEANS VACANT LAND THAT HAS
8 BOUNDARIES THAT ARE LOCATED WITHIN OR CONTIGUOUS TO A STATE FOREST OR
9 PARK FOR WHICH A PATENT MAY HAVE BEEN ISSUED BUT WHICH HAS NOT BEEN
10 ACTUALLY POSSESSED BY A PERSON, UNDER CLAIM OF TITLE OR OTHERWISE, FOR A
11 CONTINUOUS PERIOD OF 20 YEARS IMMEDIATELY PRECEDING THE DATE OF AN
12 APPLICATION FOR A CERTIFICATE OF RESERVATION FOR PUBLIC USE BY A UNIT OF
13 STATE GOVERNMENT.

14 (N) "Vacant land" means land for which a patent never has been issued or for
15 which the applicant believes that a patent never has been issued.

16 [(n)] (O) "Verify" means to state in writing, under penalties of perjury, that the
17 matters and facts set forth in the document to which the statement relates are true
18 and complete to the best of the knowledge, information, and belief of the person
19 making the statement.

20 13-106.

21 (a) (1) A governmental body may reserve vacant land by obtaining from the
22 Commissioner a certificate of reservation for public use.

23 (2) Except as otherwise provided, the provisions of this title applicable to
24 the granting of land patents are applicable to the granting of certificates of
25 reservation.

26 (b) (1) In order to reserve vacant land for public use, a unit of State
27 government must notify and obtain the approval of the Board of Public Works.

28 (2) If the Board approves the request, the unit shall immediately apply
29 for a certificate of reservation.

30 (c) (1) (i) The application of a governmental body for a certificate of
31 reservation takes precedence over an application of a person for a patent to all or part
32 of the same land.

33 (ii) The application of a unit of State government takes precedence
34 over the application of any other governmental body.

35 (2) As a condition of granting a certificate of reservation, the
36 Commissioner may order a governmental body to pay the reasonable expenses of a
37 person whose application for a patent has been superseded.

1 (d) If no objection to an application for a reservation of land is filed and the
2 Commissioner determines that a vacancy exists, the Commissioner may decide the
3 matter without holding a hearing.

4 (e) (1) A certificate of reservation remains in effect:

5 (I) [until] UNTIL the Board of Public Works or, in the case of a
6 governmental body other than a unit of State government, the appropriate local
7 authority determines that the land is no longer needed for public use by the
8 governmental body and notifies the Commissioner of this determination; OR

9 (II) WITH RESPECT TO UNPOSSESSED VACANT LAND, UNTIL A UNIT
10 OF STATE GOVERNMENT OR A COURT OF COMPETENT JURISDICTION DETERMINES
11 THAT A PERSON WHO HAS CLAIMED LEGAL TITLE TO THE LAND HAS ESTABLISHED
12 LEGAL TITLE TO THE LAND.

13 (2) (i) Upon application by another governmental body, the
14 Commissioner may transfer the certificate to that body with the approval of the
15 Board of Public Works or the appropriate local authority, as the case may be.

16 (ii) In the absence of such a transfer, the Commissioner may issue a
17 patent for the land in accordance with the applicable procedures of this title.

18 13-107.

19 (A) IN THIS SECTION, "CLAIMANT" MEANS A PERSON WHO CLAIMS TITLE TO
20 UNPOSSESSED VACANT LAND FOR WHICH A CERTIFICATE OF RESERVATION FOR
21 PUBLIC USE HAS BEEN ISSUED.

22 (B) A CLAIMANT MAY FILE A WRITTEN CLAIM WITH THE UNIT OF STATE
23 GOVERNMENT THAT RESERVED THE LAND FOR PUBLIC USE.

24 (C) IF THE UNIT OF STATE GOVERNMENT THAT RESERVED THE LAND FOR
25 PUBLIC USE DETERMINES THAT THE CLAIMANT HAS LEGAL TITLE TO THE LAND, THE
26 UNIT OF STATE GOVERNMENT SHALL EITHER:

27 (1) PAY THE CLAIMANT FAIR MARKET VALUE FOR THE LAND, AS
28 DETERMINED BY THE LOWER OF TWO INDEPENDENT APPRAISALS OF THE LAND; OR

29 (2) NOTIFY THE COMMISSIONER THAT THE LAND IS NO LONGER
30 NEEDED FOR PUBLIC USE.

31 (D) ANY ACTION TAKEN BY A UNIT OF STATE GOVERNMENT PURSUANT TO
32 SUBSECTION (C) OF THIS SECTION IS SUBJECT TO APPROVAL BY THE BOARD OF
33 PUBLIC WORKS.

34 (E) (1) IF A UNIT OF STATE GOVERNMENT THAT RESERVED LAND FOR
35 PUBLIC USE DETERMINES THAT A CLAIMANT DOES NOT HAVE LEGAL TITLE TO THE
36 LAND, THE UNIT OF STATE GOVERNMENT SHALL ISSUE A WRITTEN DENIAL OF THE
37 CLAIMANT'S CLAIM.

1 SUBJECT OF AN APPLICATION FOR A CERTIFICATE OF RESERVATION FOR PUBLIC
2 USE UNDER TITLE 13, SUBTITLE 3 OF THE REAL PROPERTY ARTICLE.

3 (2) (i) If an individual was a recipient of long-term care benefits
4 under the Maryland Medical Assistance Program at the time of the individual's death,
5 the net estate shall be converted to cash and paid to the Department of Health and
6 Mental Hygiene, and shall be applied for the administration of the program.

7 (ii) If the provisions of subparagraph (i) of this paragraph are not
8 applicable, the net estate shall be converted to cash and paid to the board of education
9 in the county in which the letters were granted, and shall be applied for the use of the
10 public schools in the county.

11 (b) (1) After payment has been made to the Department of Health and
12 Mental Hygiene or to the board of education, if a claim for refund is filed by a relative
13 within the fifth degree living at the death of the decedent or by the personal
14 representative of the relative, and the claim is allowed, the claimant shall be entitled
15 to a refund, without interest, of the sum paid.

16 (2) A claim for refund under this subsection may not be filed after the
17 later of:

18 (i) 3 years after the death of the decedent; or

19 (ii) 1 year after the time of distribution of the property.

20

Article - Natural Resources

21 5-207.

22 (a) (1) The Department may purchase and manage lands in the name of the
23 State, suitable for forest culture, reserves, watershed protection, State parks, scenic
24 preserves, historic monuments, parkways, and State recreational reserves, using for
25 these purposes any special appropriation or surplus money not otherwise
26 appropriated, which is standing to the credit of the Forest Reserve or Park Reserve
27 Fund. However, an individual tract of land or easement in excess of 100 acres may not
28 be purchased in Garrett County, except with the approval of the County
29 Commissioners of that county. The Department may accept any gift of land in the
30 name of the State to be held, protected, and administered by the Department as State
31 parks, forests, or other reserves, and used to demonstrate the practical utility of the
32 land for recreational areas, State parks, scenic preserves, parkways, historic
33 monuments, timber culture, water conservation, and as a breeding place for wildlife.
34 Any gift shall be absolute except for the reservation of mineral and mining rights over
35 and under the land, and a stipulation that it shall be administered for State forest,
36 park, or recreation purposes.

37 (2) The Department shall meet its needs for land in Garrett County by
38 acquiring the land only from willing sellers, provided that the Department may
39 acquire by condemnation easements of the minimal extent necessary for access or

1 utility service to lands of the Department if there is no alternative location or means
2 of providing the access or service.

3 (3) THE DEPARTMENT MAY APPLY FOR A CERTIFICATE OF
4 RESERVATION FOR PUBLIC USE OF UNPOSSESSED VACANT LAND PURSUANT TO
5 TITLE 13 OF THE REAL PROPERTY ARTICLE.

6 (b) The Department may accept gifts, donations, or contributions of land from
7 the federal government or any of its agencies, enter into agreements with the federal
8 government or any of its agencies, and acquire by lease, purchase, or otherwise, lands
9 the Department deems suitable for State forests or parks. The Department may make
10 expenditures from any funds not otherwise obligated for the management,
11 development, and utilization of the lands. It may sell or dispose of products from the
12 lands, and make rules and regulations necessary to carry out the provisions of this
13 subsection. Any revenue received from the lands shall be paid into the State Treasury
14 to the credit of the Forest or Park Reserve Fund in accordance with the provisions of
15 § 5-212. However, at least 50 percent of the gross revenues derived from the lands
16 may be devoted to the payment of any obligations for the purchase incurred under the
17 provisions of this subsection, until the obligations are fully paid.

18 (c) Notwithstanding any other provision of law, a lease into which the
19 Department enters after July 1, 1979 for any land acquired under this title is not
20 subject to redemption of the tenant, unless the lease expressly provides otherwise.

21 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
22 October 1, 2003.