

A BILL

FOR AN ACT TO REPEAL CHAPTER ONE HUNDRED AND EIGHTY-FIVE (185) OF THE ACTS OF THE THIRTIETH GENERAL ASSEMBLY AND ENACT A SUBSTITUTE THEREFOR, RELATING TO THE SURVEY, APPRAISEMENT AND SALE OF ABANDONED CHANNELS OF THE NAVIGABLE STREAMS, OF THE STATE, AND ISLAND OR BARS SITUATED IN SAID NAVIGABLE STREAMS AND AUTHORIZING THE APPOINTMENT OF A COMMISSION TO ASCERTAIN AND ESTABLISH THE BOUNDARY LINES BETWEEN THE STATE OF IOWA AND ADJOINING STATES.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

That chapter one hundred and eighty-five (185) of the acts of the Thirtieth General Assembly be and the same is hereby repealed and the following enacted in lieu thereof:

Section 1. That all land between high water mark and the center of the former channel of any navigable stream, where such channel has been abandoned, so that it is no longer capable of use, and is not likely again to be used, for the purposes of navigation, and all land within such abandoned river channels, and all bars or islands in the channels of navigable streams not heretofore surveyed or platted by the United States or by the state of Iowa, and all within the jurisdiction of the state of Iowa, shall be sold and disposed of in the manner hereafter provided.

Sec. 2. It shall be the duty of the county Auditor to file a written application with the Secretary of State, asking that certain land located within the county be surveyed, appraised and sold, whenever he is satisfied that such land is of the character contemplated by section one (1) of this act. If the county Auditor fails or neglects to make such application, then any person desiring to purchase such land can file a written application with the Secretary of State, asking that the said land be surveyed, appraised and sold. The said applications, whether made by the county Auditor or by a person desiring to purchase the land, shall contain an accurate description thereof, stating whether the land is the abandoned channel, a navigable stream or an island or sand bar in a navigable stream and giving the number of the township and range in which it is located, and the section numbers if possible, and also the estimated acreage.

Sec. 3. Upon receiving such application, it shall be the duty of the Secretary of State to order a complete survey of such land to be made by the county surveyor of the county where-

3 in the land is situated, and in case of the refusal or inability of such county surveyor to make
4 such survey then the Secretary of State shall appoint some other competent surveyor to make
5 such survey. When such survey is made a full report thereof, with field notes, shall be filed
6 with the clerk of the state land office, and recorded in a book prepared and kept for that
7 purpose in the office of the Secretary of State, which report and field notes shall constitute the
8 official survey of such land.

Sec. 4. Upon the filing of such report, with the accompanying field notes, the Secretary of
2 State shall thereupon appoint a commission of three disinterested freeholders of the
3 county wherein the land is situated, to view the land and make appraisement of the value
4 thereof, which appraisement shall be returned and filed with the clerk of the State Land
5 Office in the office of the Secretary of State. The Secretary of State, if he deems it necessary,
6 may either go himself in person or send the clerk of the State Land Office into the county to
7 make proper selection of the said commissioners, and the necessary expenses of such trip shall
8 be paid in the manner hereinafter provided.

Sec. 5 The surveyor making such survey shall be entitled to receive the sum of five dollars
2 per day for his services as such surveyor and such additional amount as may be agreed upon
3 and necessary for the services of chairmen and other attendants and other necessary expenses.
4 The commissioners, for their services in making such appraisement shall each be entitled to
5 receive five dollars per day, for the actual time employed.

Sec. 6. Such lands shall be sold in the following manner: Any person who has in fact lived
2 upon any such land and occupied the same, as a home, continuously for a period of three or
3 more years immediately prior to the time of the appraisement thereof, and such occupancy
4 has been in good faith under claim of right or color of title, or any person who has acquired
5 possession of such land by inheritance, or by purchase made in good faith from a former
6 occupant or occupants, whose occupancy dates back over a period of three years prior to the
7 date of the appraisement of the land, and the said heir or purchaser occupies the land in good
8 faith under claim of right or color of title, shall be deemed a bona fide occupant, and such
9 bona fide occupant shall have first right to purchase such land at the appraised value; provided
10 such bona fide occupant shall file his application for the purchase thereof at the appraised
11 value with the Secretary of State within sixty (60) days after the day the appraisement is
12 made, and shall accompany such application with affidavits showing proof of such bona fide
13 occupancy. If no application has been filed by such bona fide occupant within the sixty (60)
14 day period above provided, then the Secretary of State shall advertise the sale of such land
15 once each week for four consecutive weeks in two newspapers of general circulation published
16 in the county wherein the land is situated, and proof of publication shall be filed with the
17 Secretary of State. The sale shall be made upon written bids addressed to the Secretary of State
18 and the advertisements shall fix the time when such bids will be received and opened. All

19 bids shall be opened by the Secretary of State or by the clerk of the State Land Office at the
20 time fixed, and the land thereupon may be sold to the highest bidder and at not less than the
21 appraised value.

Sec. 7. If no application is filed for the purchase of the land within the sixty (60) day period
2 by a bona fide occupant, and if no bids are received for the purchase thereof, on or before the
3 date of the sale as advertised, then the Secretary of State is authorized, if he deems expedient,
4 to lease the land for a period of from one to five years, upon as favorable terms as he can
5 obtain. And at the expiration of such lease he shall re-advertise the land for sale in the man-
6 ner provided in section six (6) hereof. And if no bids for the purchase of the land are
7 received on the date of the second advertised sale, then the Secretary of State shall submit the
8 matter to the Executive Council, and they can either order the land to be re-appraised in the
9 manner provided in section four (4) hereof, and then advertised and sold in the manner provided
10 in section six (6) hereof, or if they deem it advisable, they may authorize the Secretary of
11 State to sell the land for less than the appraised value. In such event the Secretary of State
12 shall re-advertise the land for sale in the manner provided in section six (6) hereof, and such
13 advertisement shall also state that the land will be sold to the highest bidder without
14 restrictions as to the appraised value.

Sec. 8. When, upon full compliance with the conditions of this act, any person shall
2 become entitled to a deed or patent for any land, a deed or patent shall thereupon be executed
3 and delivered to such person by the Governor, on behalf of the State, duly attested with the seal
4 of the State attached thereto, which deed shall, in addition to the usual formalities, also recite
5 the name of the party making application to have the land surveyed, appraised and sold, the
6 date and the amount of the appraisement, the name of the party making final payment and
7 entitled to a deed therefor, whether as bona fide occupant or as highest bidder, and also that
8 such deed is given for the purpose of conveying such title and interest in the land as the State
9 may at the time own and possess, and has a right to convey. A record of such conveyance
10 shall be made and kept by the clerk of the State Land Office in the office of the Secretary of
11 State.

Sec. 9. Whenever any such land shall be found to have been previously surveyed under
2 and by virtue of any order of a court of record, and the record of such survey has been duly
3 made and preserved, then and in that event, in the discretion of the Secretary of State, a duly
4 certified copy transcript of such record, together with the field notes accompanying the same,
5 if obtainable, may be filed with the clerk of the State Land Office in the office of Secretary of
6 State, and when so filed shall obviate the necessity for any further survey of such land except
7 when such survey becomes necessary for the purpose of execution of conveyances thereof, and
8 the record of such transcript, when filed, shall constitute the official survey of such land.

Sec. 10. If in any proceeding contemplated by the provisions of this act, it shall become

2 necessary to determine the boundary line between the state of Iowa and either of the states
3 adjoining, the matter shall then be at once referred to the executive council, who shall there-
4 upon proceed to confer with the proper authority of such adjoining state, and if the co-opera-
5 tion of the proper authority of such adjoining state shall be obtained, then the Executive
6 Council shall appoint a commission of three disinterested, competent persons, who shall, in
7 conjunction with the parties acting for such adjoining state, have authority to ascertain and
8 locate the true boundary line between the state of Iowa and such adjoining state, so far as the
9 particular land under consideration at the time, is concerned. The report of the commissioners
10 with a statement of their findings shall be submitted to the Executive Council, who shall file
11 the same with the clerk of the State Land Office in the office of the Secretary of State. The
12 line so ascertained and located shall constitute the true and permanent boundary line between
13 the state of Iowa and such other state to the extent such line shall be so ascertainable and
14 located.

Sec. 11. The members of the commission shall be selected with reference to their fitness
2 for the duties required, and at least one of them shall be a competent surveyor and civil
3 engineer. They shall receive for their services such amount as the executive Council may
4 deem reasonable, to be certified by the Executive Council to the Auditor of State, who shall
5 draw his warrant for the amount, and the same shall be paid out of the general fund.

Sec. 12. If the grantee of the State, or his successors, administrators or assigns, shall be
2 deprived of the land conveyed by the state under this act by the final decree of a court of
3 record for the reason that the conveyance by the state passed no title whatever to the land
4 therein described, because title thereto had previously for any reason been vested in others,
5 then the money so paid the state for the said land, shall be refunded by the state to the person
6 or persons entitled thereto, provided the said grantee, or his successors, administrators or
7 assigns, shall file a certified copy of the transcript of the said final decree with the executive
8 council within one year from the date of the issuance of such decree, and shall also file satis-
9 factory proof with the executive council that the action over the title to the land was com-
10 menced within ten (10) years from the date of the issuance of patent or deed by the state.
11 The amount of money to be refunded under the provisions of this section shall be certified by
12 the Executive Council to the Auditor of State, who shall draw his warrant therefor, and the
13 same shall be paid out of the general fund.

Sec. 13. All sales and leases of land under the provisions of this act shall be for cash. All
2 money received for such sales and leases, shall be paid into the state treasury by the Secretary
3 of State.

Sec. 14. The expenses of the survey and the appraisement, the expenses of the Secretary
2 of State or the clerk of the State Land Office in making the trip into the county to select the
3 commissioners to appraise the land, the expenses of advertising and re-advertising the sale of

4 the land, and the expenses of re-appraising whenever such re-appraisement is deemed neces-
5 sary, shall be certified by the Secretary of State to the Auditor of State, who shall draw his
6 warrant for the amounts, and the same shall be paid out of the general fund.

Sec. 15. This act, being deemed of immediate importance, shall take effect and be in force
2 from and after its publication in the Register and Leader and the Des Moines Daily Capital,
3 two newspapers published in Des Moines, Iowa.