

## ISLANDS AND ABANDONED RIVER CHANNELS

### **568.1 Sale authorized.**

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 the state of Iowa, and all within the jurisdiction of the state of Iowa shall be sold and disposed of in the manner hereinafter provided.

[S13, § 2900-a2; C24, 27, 31, 35, 39, § **10221**; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, § 568.1]

**568.2 Application by county auditor.** Repealed by 94 Acts, ch 1173, §42.

### **568.3 Application by prospective purchaser.**

A person desiring to purchase land described in section 568.1 may file a written application with the secretary of state, asking that the land be surveyed, appraised, and sold.

[S13, § 2900-a3; C24, 27, 31, 35, 39, § **10223**; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, § 568.3]

94 Acts, ch 1173, §37

### **568.4 Form of application.**

The application shall contain an accurate description of the land, stating whether the land is abandoned river channel, or land within the abandoned river channel, or an island or a sand bar in a navigable stream, and giving the number of township and range in which it is located, and the section numbers if possible, and also the estimated acreage.

[S13, § 2900-a3; C24, 27, 31, 35, 39, § **10224**; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, § 568.4]

94 Acts, ch 1173, §38

### **568.5 Survey.**

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 wherein the land is situated, and in case of the refusal or inability of such county surveyor to make such survey then the secretary of state shall appoint some other competent surveyor to make such survey.

[S13, § 2900-a4; C24, 27, 31, 35, 39, § **10225**; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, § 568.5]

### **568.6 Report of survey.**

When such survey is made, a full report thereof, with field notes, shall be filed with the clerk of the state land office, which report and field notes shall constitute the official survey of such land.

[S13, § 2900-a4; C24, 27, 31, 35, 39, § **10226**; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, § 568.6]

### **568.7 Appraisement.**

Upon the filing of such report, with the accompanying field notes, the secretary of state shall thereupon appoint a commission of three disinterested freeholders of the county wherein the land is situated, to view the land and make appraisement of the value thereof, which appraisement shall be returned and filed with the clerk of the state land office in the office of the secretary of state.

The secretary of state, if the secretary deems it necessary, may either go in person or send the clerk of the state land office into the county to make proper selection of the said commissioners.

[S13, § 2900-a5; C24, 27, 31, 35, 39, § **10227**; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, § 568.7]

#### **568.8 Contract for survey.**

The secretary of state shall make a contract with some surveyor for making such survey; the surveyor to furnish all the chainpersons and other attendants and pay all necessary expenses, which contract before it becomes binding shall be submitted to and approved by the executive council.

[S13, § 2900-a6; C24, 27, 31, 35, 39, § **10228**; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, § 568.8]

#### **568.9 Commissioners' compensation and expenses.**

Commissioners, for their services in making such appraisement shall be paid a per diem as specified in section 7E.6 and shall be reimbursed for actual and necessary expenses. All per diem moneys paid to the commissioners shall be paid from funds appropriated to the secretary of state.

[C24, 27, 31, 35, 39, § **10229**; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, § 568.9]

90 Acts, ch 1256, §50

#### **568.10 Sale how effected rights of occupants.**

Such lands shall be sold in the following manner: Any person who has in fact lived upon any such land and occupied the same, as a home, continuously for a period of three or more years immediately prior to the time of the appraisement thereof, and such occupancy has been in good faith for the purpose of procuring title thereto, whenever by law such title could be vested in the occupant by purchase from the proper authority, or any person who has acquired possession of such land by inheritance, or by purchase made in good faith from a former occupant, or occupants, whose occupancy dates back over a period of three years prior to the date of appraisement of the land, shall have first right to purchase such land at the appraised value; provided such bona fide occupant shall file an application for the purchase thereof at the appraised value with the secretary of state within sixty days after the day the appraisement is made, and shall accompany such application with affidavits showing proof of such bona fide occupancy. If no application has been filed by such bona fide occupant within the sixty-day period above provided, then the secretary of state shall advertise the sale of such land once each week for four consecutive weeks in two newspapers of general circulation published in the county wherein the land is situated, and proof of publication shall be filed with the secretary of state. The sale shall be made upon written bids addressed to the secretary of state and the advertisements shall fix the time when such bids will be received and opened. All bids shall be opened by the secretary of state or by the clerk of the state land office at the time fixed, and the land thereupon may be sold to the highest bidder and at not less than the appraised value.

Any such sale shall be subject to the permanent right of a utility association, company or corporation to continue in possession of a right of way for its underground and aerial plant, including cables, wires, poles, fixtures, piers and abutments, where such right of way has existed on lands which have become subject to sale under section 568.1.

[S13, SS15, § 2900-a7; C24, 27, 31, 35, 39, § **10230**; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, § 568.10]

#### **568.11 Lease authorized lands readvertised sale.**

If no application is filed for the purchase of the land within the sixty-day period by a bona fide occupant, and if no bids are received for the purchase thereof, on or before the date of the sale as advertised, then the secretary of state is authorized to lease the land for a period of from one to five years, upon as favorable terms as the secretary can obtain. At the expiration of such lease the secretary shall readvertise the land for sale in the manner provided in section 568.10. If no bids for the purchase of the land are received on the date of the second advertised sale, then the secretary of state shall submit the matter to the executive council, and they may either order the land reappraised in the manner provided in section 568.7, and then advertised and sold in the manner provided in section 568.10, or if they deem it advisable, they may authorize the secretary of state to sell the land for less than the appraised value. In such event the secretary of state shall readvertise the land for sale in the manner provided in section 568.10, and such advertisement shall also state that the land will be sold to the highest bidder without restrictions as to the appraised value.

[S13, § 2900-a8; C24, 27, 31, 35, 39, § **10231**; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, § 568.11]

#### **568.12 Deed or patent.**

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

[S13, § 2900-a9; C24, 27, 31, 35, 39, § **10232**; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, § 568.12]

#### **568.13 Previous survey.**

When any such land shall be found to have been previously surveyed under and by virtue of any order of a court of record, and the record of such survey has been duly made and preserved, then and in that event, in the discretion of the secretary of state, a duly certified transcript of such record, together with the field notes accompanying the same, if obtainable, may be filed with the clerk of the state land office in the office of secretary of state, and when so filed shall obviate the necessity for any further survey of such land except when such survey becomes necessary for the purpose of execution of conveyance thereof, and the record of such transcript, when filed, shall constitute the official survey of such land.

[S13, § 2900-a10; C24, 27, 31, 35, 39, § **10233**; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, § 568.13]

#### **568.14 Boundary commission.**

If in any proceeding contemplated by the provisions of this chapter, it shall become necessary to determine the boundary line between this state and either of the states adjoining, the matter shall then be at once referred to the executive council, who shall thereupon proceed to confer with the proper authority of such adjoining state, and if the co-operation of the proper authority of such adjoining state shall be obtained, then the executive council shall appoint a commission of three disinterested, competent persons, who shall, in conjunction with the parties acting for such adjoining state, have authority to ascertain and locate the true

boundary line between this state and such adjoining state, so far as the particular land under consideration at the time is concerned. The report of the commissioners with a statement of their findings shall be submitted to the executive council, who shall file the same with the clerk of the state land office in the office of the secretary of state. The line so ascertained and located shall constitute the true and permanent boundary line between this state and such other state to the extent such line shall be so ascertainable and located.

[S13, § 2900-a11; C24, 27, 31, 35, 39, § **10234**; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, § 568.14]

#### **568.15 How constituted.**

The members of the commission shall be selected with reference to their fitness for the duties required and at least one of them shall be a competent surveyor and civil engineer.

[S13, § 2900-a12; C24, 27, 31, 35, 39, § **10235**; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, § 568.15]

#### **568.16 Purchase money refunded.**

If the grantee of the state, or the grantee's successors, administrators, or assigns, shall be deprived of the land conveyed by the state under this chapter by the final decree of a court of record for the reason that the conveyance by the state passed no title whatever to the land therein described, because title thereto had previously for any reason been vested in others, then the money so paid the state for the said land shall be refunded by the state to the person or persons entitled thereto, provided the said grantee, or the grantee's successors, administrators, or assigns, shall file a certified copy of the transcript of the said final decree with the executive council within one year from the date of the issuance of such decree, and shall also file satisfactory proof with the executive council that the action over the title to the land was commenced within ten years from the date of the issuance of patent or deed by the state. The amount of money to be refunded under the provisions of this section shall be certified by the executive council to the director of the department of administrative services, who shall draw a warrant therefor, and the same shall be paid out of the general fund.

[S13, § 2900-a13; C24, 27, 31, 35, 39, § **10236**; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, § 568.16]

2003 Acts, ch 145, §286

#### **568.17 Sales and leases for cash.**

All sales and leases of land under the provisions of this chapter shall be for cash. All money received for such sales and leases shall be paid into the state treasury by the secretary of state.

[S13, § 2900-a14; C24, 27, 31, 35, 39, § **10237**; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, § 568.17]

#### **568.18 Good faith possession preference.**

If any lands in the present or in any former channel of any navigable river, or island therein, or any lands formed by accretion or avulsion in consequence of the changes of the channel of any such river, have been for ten years or more in the possession of any person, company, or corporation, or of its grantors or predecessors in interest under a bona fide claim of ownership, and the person, company or corporation so in possession, or its grantors or predecessors in interest, have paid state or county taxes upon said lands for a period of five years, and have in good faith and under bona fide claim of title made valuable improvements thereon, and also in any other case where, in the judgment of the executive council, the person in possession of any land subject to the provisions of this chapter, has, in equity and good conscience, a substantial interest therein, then the said lands shall be sold to the person, company, or corporation so in possession thereof as hereinafter provided.

[S13, § 2900-a16; C24, 27, 31, 35, 39, § **10238**; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, § 568.18]

**568.19 Notice action to determine title and value patent.**

When any person, company, or corporation so in possession of any such lands shall give to the secretary of state written notice of its claim, or whenever the executive council shall deem it advisable, it shall be the duty of the attorney general to bring an action in equity, in the district court of the county in which said lands are situated, against the party in possession thereof to determine the title of the state to such lands, and the value thereof, exclusive of improvements made thereon by the occupant or by its grantors or predecessors in interest. If the person, company, or corporation in possession of such land shall, after the court has determined the value thereof as herein provided, tender to the secretary of state the amount adjudged to be the value of said lands, exclusive of improvements made thereon by the occupant or by its grantors or predecessors in interest, a deed or patent of such land shall be executed by the governor, attested by the secretary of state, and delivered to the person, company, or corporation making such tender, as provided by law. If the person, company, or corporation so in possession shall fail to pay to the state the amount so adjudged within six months after the final determination of the action so brought by the state, then said lands shall be subject to the other provisions of this chapter.

[S13, § 2900-a17; C24, 27, 31, 35, 39, § **10239**; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, § 568.19]

**568.20 Withholding patent deposit money refunded.**

If the land described in any application is covered by the provisions of sections 568.18 and 568.19, and notice thereof is given to the secretary of state as provided in section 568.19, no deed or patent of such land, or any part thereof, shall be executed or issued until the title thereto shall have been established by the court as herein provided. If the party making such application, or the party's assignee, does not desire to prosecute the application, or if the party or assignee does not purchase the land under this chapter, then all of the money deposited by the party or assignee with the secretary of state under the provisions of this chapter shall be repaid to said applicant by the secretary of state; and if any part of the money so deposited has been expended by the secretary of state, then the amount so expended shall be certified by the secretary of state to the director of the department of administrative services, who shall draw a warrant upon the general fund in favor of the person entitled thereto.

[S13, § 2900-a18; C24, 27, 31, 35, 39, § **10240**; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, § 568.20]

2003 Acts, ch 145, §286

**568.21 Sale or lease authorized.**

The executive council of the state is hereby authorized and empowered to sell, convey, lease, or demise any of the islands belonging to the state which are within the meandered banks of rivers in the state, and to execute and deliver a patent or lease thereof. Nothing in this and sections 568.22 to 568.25 shall be construed to apply to islands in the Mississippi or Missouri rivers.

[S13, § 2900-a28; C24, 27, 31, 35, 39, § **10241**; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, § 568.21]

**568.22 Survey appraisement sale.**

Before a sale of any island is made under the provisions of section 568.21, the executive council shall cause a survey and plat of such island to be made, showing its location and area, and the plat and notes of such survey shall be filed with the secretary of state. The land composing the island shall then be appraised by a commission appointed by the governor, consisting of three disinterested freeholders of the state, who shall

report their appraisal to the executive council. The sale of the island shall then be advertised once each week for four consecutive weeks in some newspaper of general circulation published in the county where the island is located, and proof of such publication filed with the executive council. The sale shall be made upon written bids addressed to the executive council of the state, and the advertisement shall fix the time when such bids will be received and opened. All bids shall be opened by the executive council at the time fixed, and the island may thereupon be sold to the highest bidder and at not less than its appraised value.

[S13, § 2900-a29; C24, 27, 31, 35, 39, § **10242**; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, § 568.22]

#### **568.23 Lease.**

If it shall be deemed expedient to lease any such island, a lease thereof may be made upon written bids addressed to the executive council, and the island proposed to be leased shall be surveyed and platted, and notice of the leasing thereof and of the receiving and opening of bids shall be published, in the manner provided in section 568.22, but no appraisal shall be necessary. Upon the opening of the bids received by the executive council it may make a lease of such island to the highest bidder for such term as is deemed advisable.

[S13, § 2900-a30; C24, 27, 31, 35, 39, § **10243**; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, § 568.23]

#### **568.24 Sales and leases for cash expenses.**

All sales and leases must be for cash, and the money received therefor shall be paid into the state treasury. All expenses incurred in making the survey, plat, appraisal, sale, or lease of any such island shall be certified by the executive council to the director of the department of administrative services, who shall draw a warrant upon the state treasury for the amount, and the same shall be paid from the general fund.

[S13, § 2900-a31; C24, 27, 31, 35, 39, § **10244**; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, § 568.24]

2003 Acts, ch 145, §286

#### **568.25 Patent or lease.**

When any sale or lease of any island belonging to the state is made by the executive council as herein provided, the governor shall execute and deliver to the purchaser or lessee a patent or a lease thereof, as the case may be, duly attested by the seal of the state.

[S13, § 2900-a32; C24, 27, 31, 35, 39, § **10245**; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, § 568.25]