

Amends Patent Process (1825)

CHAPTER 79

An ACT to provide for the sale of the vacant lands west of the Tennessee River.

Approved by the Kentucky General Assembly on January 3, 1825

Section 1. **BE it enacted by the General Assembly of the Commonwealth of Kentucky**, That there shall be appointed by the Governor, with the advice and consent of the Senate, some fit person, to be styled the Receiver of Public Moneys for the Land District West of Tennessee river, who shall hold his office during the pleasure of the Governor for the time being, (and in case of vacancy by death, resignation or otherwise, it shall be filled as in other cases), whose duty it shall be to keep an office at the town of Waidborough, in the county of Calloway; which office shall be opened on the first Monday in June next.

Section 2. It shall be the duty of the Receiver of Public Moneys, as aforesaid, to expose to public sale to the highest bidder, for ready money, at the town of Waidborough, on the first Monday in October next, all the unappropriated sections and fractional sections of land in said district, and continue from day to day until completed, under the restrictions and limitations herein prescribed, except such sections or quarter sections, as have heretofore been sold or appropriated according to law, and such are reserved from sale by this act.

Section 3. The Receiver, in making the sales, shall not sell at the same time, a greater quantity than one quarter section, and if the same will not bring per acre, one dollar, it shall be stricken off to the State; nor shall the Receiver sell more than the sections in two townships in each day, beginning at the lowest number and selling the sections progressively.

Section 4. It shall be the duty of the Receiver to receive of the purchasers the amount of the purchase money, which they may have severally bid, and give such purchaser or purchasers a printed certificate, specifying the quantity of acres by him, her or them purchased, the price, number and situation of the quarter section, and in what township and range: **Provided**, that in any case where any one individual shall purchase a half, three-fourths, or whole section, he may give one certificate, including the whole land purchased; and upon the production of such certificate at the Register's office, the Register shall forthwith, as soon as practicable, issue a patent for the same to the original purchaser, his, her, or their assignee or assignees, or his, her or their heirs at law, and record the same in a separate book or books, as in other cases; which grant shall pass the title of this Commonwealth to the patentee; but in no case shall the Receiver give a certificate of sale, unless the whole purchase money has been paid. And if any person shall fail or refuse to pay immediately, the price by him or her bid for any land at such sale, when the same shall have been stricken off to such person, he or she shall forfeit and pay the sum of one hundred dollars, (to be recovered by information filed by the Attorney-General, in the General Court, to the use of the Commonwealth, upon application made to him by the Receiver), and the Receiver shall immediately proceed to sell the land to the highest bidder, again, as though the same had not been previously sold, and such first purchaser shall not be permitted to bid for or buy the same.

Section 5. It shall be the duty of the Receiver, in making such sales, to keep a correct record of the same, describing therein the particular quantity and situation of each parcel of land by him sold, and the price of the same, and the name of the purchaser or purchasers, to be by him kept as one of the record books of his office; and to enable the Receiver to perform this duty, it shall and may be lawful for him to employ one clerk, during the time of making such sales, at the rate of three dollars per day.

Section 6. When the Register issues any grant or grants, according to the provisions of this act, he shall carefully preserve the original certificate in his office, and record the same in a book or books to be by him procured for that purpose.

Section 7. The Receiver shall advertise the time and place of sale in some newspaper printed in the towns of Frankfort, Lexington, Louisville, Russellville, Henderson, Maysville and Hopkinsville, at least three months before the day of sale.

Section 8. The Receiver shall have power to employ a Crier to make said sales, whose compensation shall not exceed three dollars per day, for each day he may be employed in making the public sales; and the Receiver shall receive three hundred dollars per annum, as a stated salary for his services, payable quarterly out of the public Treasury, and three per cent on all moneys received and paid over to the Branch Bank of the Commonwealth at Princeton; which commission, he is hereby authorized to retain out of any moneys received by him: **Provided**, the salary and percentage shall, in no event, exceed eight hundred dollars, Commonwealth's money, annually.

Section 9. When any quarter section of land authorized to be sold by this act, shall have been offered for sale to the highest bidder, as herein directed, and stricken off to the State, the same may be entered with the Receiver, at the rate of one dollar per acre; and on the payment of the full amount of the purchase money for the same, the Receiver shall give him or her a certificate, as provided by the fourth section of this act, which shall entitle the purchaser or his assignees, or his, her, or their heirs at law, to a grant, in the same manner as if the same had been sold at public sale.

Section 10. And the said Receiver shall, once in three months, (or oftener, if required by the Auditor), pay over to the Branch Bank of the Commonwealth at Princeton, all moneys received by him for the sale of lands in said district, (deducting therefrom the commission allowed by law), and take the Cashier's duplicate receipt for the same; which shall be placed as a deposit in said Bank, and shall be subject to the orders of the President and Directors of the principal Bank. And for the purpose of enabling the Cashier of the principal Bank to check for the same, under the order of the said President and Directors, it shall be the duty of the Receiver of Public Moneys for said land district, to file with the Auditor of Public Accounts, within twenty days after the date thereof, the receipt of the Cashier of the Branch Bank aforesaid, who shall issue a certificate of the amount to the Treasurer, which shall be the Treasurer's receipt for the amount thereof, as paid to the Bank of the Commonwealth of Kentucky, on the part of the State.

Section 11. The said Receiver, before he enters upon the duties of his office, shall enter into bond with good and sufficient security, to be approved of by the Governor, in the sum of fifty thousand dollars, conditioned for the faithful performance of the duties enjoined on him by law, and shall well

and truly pay over to the Branch Bank aforesaid, all public moneys arising from the sale of public lands, as herein prescribed; which bond shall be filed in the office of the Auditor of Public Accounts, and may be put in suit for a breach thereof. And the said Receiver shall, before he enters on the duties of his office, before some justice of the peace, take an oath faithfully to discharge the duties of the office of Receiver of Public Moneys for the Land District West of the Tennessee river, to the best of his skill and ability, without favor or affection to the rich or the poor, and that he will not, either directly or indirectly, purchase any land at the said sales, or enter the same thereafter.

Section 12. The Receiver shall not, either directly or indirectly, purchase any land at the sales hereby directed to be made; and should any such purchase be made, it shall be absolutely null and void.

Section 13. The Receiver, in making the sales provided for by this act, may receive in payment therefore, notes of the Bank of the Commonwealth and the Bank of Kentucky and their Branches, gold and silver, or the notes of any specie-paying Bank in the United States.

Section 14. If any lands sold under this act, shall be taken from the purchaser or his assignee, by a prior claim, adverse to the title acquired by the sale and purchase under this State, the said purchaser, or person claiming under him, shall receive the amount of the original purchase money, upon the production of the record and certificate of the Judge of the Court, that the said land was lost upon a fair and full trial upon the merits of the respective titles, to the Auditor of Public Accounts, who shall issue his warrant on the Treasury for the amount of the original purchase money, without interest.

Section 15. The Receiver's certificate that his Clerk and Crier have faithfully performed their duties, and of the number of days that they may have respectively acted, shall authorize the Auditor to issue his warrants on the Treasurer, for the compensation allowed by this act; and the Auditor is hereby authorized to make a reasonable allowance for advertising and stationary for said office, and issue his warrant therefore.

Section 16. The Receiver shall not sell, under the provisions of this act, any section or portion of a section of land, which may be included in any military entry or survey, provided he is satisfied of such interference, by an attested copy of such entry or survey being served on him, or otherwise.

And whereas many persons have heretofore settled upon the public lands west of the Tennessee river, and made improvements, under a hope that some liberal provision would be made for them by their government: ***Therefore,***

Section 17. **Be it further enacted,** That any person or persons, who were actual and bona fide settlers on any quarter section or fractional quarter section of land in said district, on the first day of November, 1824, who shall enter the same with the Receiver of Public Moneys aforesaid, and shall pay to said Receiver, the minimum price fixed by this act, at least ten days previous to the day of sale, shall be entitled to a preemption for the same, on his producing to the Receiver satisfactory testimony, that he or she was an actual and bona fide settler on the same, on the first day of November, 1824; and where his or her improvement shall extend to more than one quarter section, not occupied by an actual settler, he or she shall be entitled to a preemption for any number of quarter sections so improved on,

not exceeding two; and on the payment as aforesaid, it shall be the duty of the Receiver to give him or her a certificate, as in other cases; and the Register shall issue a grant therefor to the purchaser, or to his or her assignee, agreeably to the foregoing provisions of this act: **Provided**, in any case where there are two or more persons actual settlers on the same quarter section, the oldest settler shall be entitled to the preference.

And whereas there are many meritorious citizens, who, from the pressure of the times and the scarcity of a circulating medium, will be unable to enter and pay for their lands within the time prescribed by this act:

Section 18. **Be it further enacted**, That they shall be entitled to hold and occupy the same, for the term of three years, from and after the commencement of the sale, free from rent, subject to the provisions and restrictions of the nineteen and twentieth sections of an act entitled "An Act to Provide for the Sale of the Public Lands West of Tennessee River", approved December 21, 1821.

REF: "Acts of the Kentucky General Assembly", 1825, pages 85-90.