

Amend Patent Process (1798)

CHAPTER LV.

An ACT to amend and revise the act entitled "An Act for Encouraging and Granting Relief to Settlers"

Approved by the Kentucky General Assembly on February 10, 1798

SECTION 1. **WHEREAS** the law passed last February session, entitled "An Act for Encouraging and Granting Relief to Settlers" is found defective, and wants amending, and it appears most proper to draw the said recited act, with the necessary amendments, into one point of view: Therefore,

SECTION 2. **BE it enacted by the General Assembly**, That any widow, or any free male persons above the age of eighteen years, and every other free person having a family, who shall have, or may actually settle himself or herself on any vacant or unappropriated land, on the south side of Green river, on or before the first day of July next, clear and fence two acres of land, and tend the same in corn, shall be entitled to two and not less than one hundred acres, to include his or her settlement, in any part of the survey which he or she shall express in his or her entry: **Provided**, however, that no person shall obtain a certificate for a settlement made on the lands set apart by congress to any Indian tribe, or for any salt lick or spring with a 1000 acres around the same, laid off in a square to the cardinal points, as near as the interfering claims will admit, or for seminaries of learning.

SECTION 3. Every person who shall be entitled to a settlement by virtue of this act, shall lay in his or her claim before the commissioners hereinafter appointed, when sitting for that purpose, describing the bounds of his or her lands, and have there his or her witnesses to prove their rights of settlement.

SECTION 4. There shall be paid by every person to whom a settlement is granted agreeably to this act, into the treasury of this state, for each hundred acres of first rate land in that part of the country, sixty dollars; and for all lands of inferior quality, forty dollars; and every person who shall fail or neglect to pay the same accordingly, and obtain the auditor's quietus according to law for the same, within twelve months from the time of granting of such certificate, shall forfeit his or her lands to the state.

SECTION 5. Each settler obtaining a certificate agreeably to this act, shall enter the same with the surveyor of the county in which the land lies, and shall have the same surveyed as nearly in a square as the interfering claims will admit of, and return a plat and certificate of the survey, accompanied by the commissioner's certificate, to the register's office of this state, within twelve months from the time of obtaining such certificate, and the register shall demand and receive the usual fees, and issue a grant as in other cases: **Provided, however**, That a patent shall not issue until the claimant shall produce to the register the auditor's receipt for the payment of the money due for such claim into the treasury; and the surveyor shall record the commissioner's certificate in a well bound book provided for that purpose, and shall be entitled to receive the same fees as are allowed by law in like cases.

SECTION 6. And for the purpose of ascertaining who shall be entitled to a settlement agreeably to this act, there shall be appointed by the governor three persons, who shall be styled commissioners,

who, or any two of them, shall have power to hear and determine the right of settlement agreeably to this act; and to determine the class to which such land shall belong, according to the evidence which shall be produced to them, or from their own knowledge, at courts to be holden by them at the following places, viz: At the courthouse in Lincoln, on the first Tuesday in August, one thousand seven hundred and ninety-eight; at the courthouse of Green, on the third Tuesday in the same month, in the same year; at the courthouse of Warren, on the first Tuesday in September, in the same year; at the courthouse in Logan, on the first Tuesday in October, in the same year; at the courthouse of Christian, on the third Monday in October; and at Mr. Pastle's, se., on the waters of Livingston's creek in the said county, on the first Monday in November, and in the year aforesaid, to continue by adjournment at each place, until the business brought before them is completed. And should the aforesaid terms, at either of the aforesaid places, be not sufficiently lengthy to permit the commissioners to complete the business before them, they are hereby empowered, at the expiration of the term at such place or places where any business may be left unfinished, to appoint some other time to meet at said place or places where the business before them was left unfinished; which time so appointed shall by the said commissioners be notified in the most general and diffusive manner they can: **Provided, however,** there shall not be less than thirty days from the expiration of the term hereby allowed, and the second meeting of the commissioners, at the place or places where it shall be necessary to appoint such second meeting. And the said commissioners shall have power to compel the attendance of witnesses, and examine them touching any thing material in question; and shall have power to hear and determine all disputes between settlers during their sitting, who shall claim a right to settlement under this act, and award costs in the decision of any such contest as to them shall seem right. And in all disputes between settlers respecting the priority of settlement, the eldest improvement made since the first day of March 1797 shall have the preference, but no person shall obtain a certificate for more than one improvement: **Provided, however,** any person who may have actually settled him or herself on any vacant land as aforesaid, prior to the first day of March, one thousand seven hundred and ninety-seven and comply with the requisitions of this act, and reside thereon at the meeting of the commissioners, and who did not obtain a certificate from the former commissioners, shall be considered as the eldest improver; but in a dispute between settlers, concerning the priority of improvement under this act, no improvement shall be considered as sufficient, unless the person making the same shall have actually settled thereon, within four months from the time of improving, unless a sufficient reason can be alleged, to be adjudged of by the commissioners.

SECTION 7. The commissioners shall appoint a clerk, whose duty it shall be to make out a certificate to each person to whom a claim is granted, describing particularly the bounds of the land, agreeably to the location, handed into the court by the person claiming the same; which certificate shall be signed by the commissioners; and the said clerk shall enter the locations in a book or books to be by him provided for that purpose, and such book or books, after being signed by the commissioners, shall be lodged in the register's office, and shall be admitted as testimony, or a copy therefrom attested by the register, in any future disputes between settlers.

SECTION 8. And for the purpose of paying the said commissioners and their clerk, as also for books and paper, there shall be paid to the clerk, one dollar by each person to whom a claim is granted, before

he delivers to such person a certificate, to be disposed of as hereinafter directed; and the sheriff of the county in which the commissioners are sitting, shall attend by himself or deputy, to perform to them the necessary duties of his office, and he shall be entitled to the usual fees for any services he may perform, to be paid by the party requiring the same, exclusive of six shillings per day, which he shall receive for his attendance on the said court, to be paid by the clerk out of the tax arising on certificates granted by this act.

SECTION 9. Each of the said commissioners shall receive for his services twelve shillings per day, and the clerk twelve shillings, whilst they are traveling to, attending on, and returning from said court: and the clerk shall moreover be entitled to one shilling for each certificate for a settlement as aforesaid, and one shilling for entering the same in a book; and the clerk after paying the commissioners and sheriff, and retaining as much as will satisfy him for his services agreeably to this act, and for the books and papers furnished by him, according to the allowance that shall be made him by the commissioners, shall pay the balance of the money coming into his hands by virtue of this act, if any, into the public treasury, and obtain the auditor's quietus, according to law.

SECTION 10. The surveyors of the counties including any part of the boundary on the south side of Green river, known by the name of the military boundary, shall immediately apply to the surveyors of the Virginia state and continental lines residing in this state, for copies of all entries in their respective offices, made on military warrants in the boundary aforesaid, and the surveyors of said lines shall give to such surveyors copies of all entries within three months from the passage of this act, if the same is not already done, and may demand and receive from the surveyors to whom they deliver them, six pence for each entry, to be paid by said surveyors; and the surveyors of the county aforesaid, on receiving the copies of such entries, shall enter the same in well bound books, to be provided by him for that purpose; and such surveyors may demand and receive for a copy of each entry furnished by them, one shilling from the person receiving the same.

SECTION 11. Any person who shall obtain a settlement by virtue of this act, and shall not reside thereon, either by himself or his or her representatives, at least one year next succeeding the date of his or her certificate, shall forfeit all his or her right, title, interest and claim in such settlement, and the same shall revert to this commonwealth, and be disposed of in such manner as the legislature may direct; and no persons who obtained a certificate from the commissioners appointed under the authority of an act, entitled "An Act for the Relief of Settlers on the South Side of Green River", shall be entitled to a certificate for a settlement under this act.

SECTION 12. Any person who obtained a certificate for a settlement agreeably to the before recited act and have failed to pay the amount thereof into the treasury, as by the said act is directed, shall have the further time of nine months to pay the same, without any forfeiture of the land, by paying six per cent per annum, and he shall pay the money into the treasury as is by this act directed in case of other settlers: **Provided, however**, that if the principal and interest is not paid within nine months from the date hereof, the lands not paid for, shall be at the further disposition of the legislature, and the state shall have a perpetual lien on the same, until the whole amount due thereon is paid.

SECTION 13. Any person who obtained a certificate for settlement, and neglected to enter the same within the time limited by law with the surveyor of the county, shall have the further time of six months to enter the same in the surveyor's office, and shall proceed to complete his title as by the aforesaid act is required.

SECTION 14. Any person who by a mistake may have settled on a military claim, and shall have obtained a certificate from the commissioners for such settlement, in conformity to the before recited act, shall have the further time of twelve months from the passage hereof, to remove and settle him or herself on any vacant and unappropriated land on the south side of Green river, not before excepted, and shall make an entry of the land on which he or she may so settle, in the surveyor's office of the county in which the land on which such person has so settled, may be, and shall have the same surveyed in twelve months from the time of removal, and return a plat and certificate of survey to the register's office, and the register shall issue a grant accordingly: **Provided, however,** that a grant shall not issue unless the auditor's receipt shall be produced of the payment of the money for the same, into the treasury: **Provided, also,** that no claim so removed shall be divided or interfere with any other claims whatsoever, or any salt lick or spring with one thousand acres around the same, to be laid off in a square as near to the cardinal points as the interfering claims will admit; and no surveyor shall receive an entry from any person so removing, unless satisfactory proof is produced to such surveyor, either by the oath of the party or other testimony, that he or she hath obtained a certificate for a settlement made on a military claim, which shall be filed in the surveyor's office.

The act passed last February session, entitled "An Act for Encouraging and Granting Relief to Settlers," shall be, and the same is hereby repealed.

This act shall commence and be in force from and after the passage thereof.

REF: "The Statute Law of Kentucky", Vol. II., by William Littell, pp. 91-96.