

Public Law 87-851

AN ACT

October 23, 1962
[S. 3451]

To provide relief for residential occupants of unpatented mining claims upon which valuable improvements have been placed, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior may convey to any occupant of an unpatented mining claim which is determined by the Secretary to be invalid an interest, up to and including a fee simple, in and to an area within the claim of not more than (a) five acres or (b) the acreage actually occupied by him, whichever is less. The Secretary may make a like conveyance to any occupant of an unpatented mining claim who, after notice from a qualified officer of the United States that the claim is believed to be invalid, relinquishes to the United States all right in and to such claim which he may have under the mining laws. Any conveyance authorized by this section, however, shall be made only to a qualified applicant, as that term is defined in section 2 of this Act, who applies therefor within five years from the date of this Act and upon payment of an amount established in accordance with section 5 of this Act.

Occupants of
unpatented mining
claims.
Land convey-
ances.

As used in this section, the term "qualified officer of the United States" means the Secretary of the Interior or an employee of the Department of the Interior so designated by him: *Provided*, That the Secretary may delegate his authority to designate qualified officers to the head of any other department or agency of the United States with respect to lands within the administrative jurisdiction of that department or agency.

"Qualified
officer of the
U. S."

SEC. 2. For the purposes of this Act a qualified applicant is a residential occupant-owner, as of the date of enactment of this Act, of valuable improvements in an unpatented mining claim which constitute for him a principal place of residence and which he and his predecessors in interest were in possession of for not less than seven years prior to July 23, 1962.

"Qualified
applicant."

SEC. 3. Where the lands for which application is made under section 1 of this Act have been withdrawn in aid of a function of a Federal department or agency other than the Department of the Interior, or of a State, county, municipality, water district, or other local governmental subdivision or agency, the Secretary of the Interior may convey an interest therein only with the consent of the head of the governmental unit concerned and under such terms and conditions as said head may deem necessary.

SEC. 4. (a) If the Secretary of the Interior determines that conveyance of an interest under section 1 of this Act is otherwise justified but the consent required by section 3 of this Act is not given, he may, in accordance with such procedural rules and regulations as he may prescribe, grant the applicant a right to purchase, for residential use, an interest in another tract of land, five acres or less in area, from tracts made available by him for sale under this Act (1) from the unappropriated and unreserved lands of the United States, or (2) from lands subject to classification under section 7 of the Taylor Grazing Act (48 Stat. 1272), as amended (43 U.S.C. 315f). Said right shall not be granted until arrangements satisfactory to the Secretary have been made for termination of the applicant's occupancy of his unpatented mining claim and for settlement of any liability for the unauthorized use thereof which may have been incurred and shall expire five years from the date on which it was granted unless sooner exercised. The amount to be paid for the interest shall be determined in accordance with section 5 of this Act.

Purchase of
substitute lands.

49 Stat. 1976.

(b) Any conveyance of less than a fee made under this Act shall include provision for removal from the tract of any improvements or other property of the applicant at the close of the period for which the conveyance is made, or if it be an interest terminating on the death of the applicant, within one year thereafter.

Purchase price.
Determination.

SEC. 5. The Secretary of the Interior, prior to any conveyance under this Act, shall determine the fair market value of the interest to be conveyed, exclusive of the value of any improvements placed on the lands involved by the applicant or his predecessors in interest. Said value shall be determined as of the date of appraisal. In establishing the purchase price to be paid by the applicant for the interest, the Secretary shall take into consideration any equities of the applicant and his predecessors in interest, including conditions of prior use and occupancy. In any event the purchase price for any interest conveyed shall not exceed its fair market value nor be less than \$5 per acre. The Secretary may, in his discretion, allow payment to be made in installments.

Occupant's
liabilities.

SEC. 6. (a) The execution of a conveyance as authorized by section 1 of this Act shall not relieve any occupant of the land conveyed of any liability, existing on the date of said conveyance, to the United States for unauthorized use of the land in and to which an interest is conveyed.

(b) Except where a mining claim embracing land applied for under this Act by a qualified applicant was located at a time when the land included therein was withdrawn or otherwise not subject to such location, no trespass charges shall be sought or collected by the United States from any qualified applicant who has filed an application for land in the mining claim pursuant to this Act, based upon occupancy of such claim, whether residential or otherwise, for any period preceding the final administrative determination of the invalidity of the mining claim by the Secretary of the Interior or the voluntary relinquishment of the mining claim, whichever occurs earlier. Nothing contained in this Act shall be construed as creating any liability for trespass to the United States which would not exist in the absence of this Act. Relief under this section shall be limited to persons who file applications for conveyances pursuant to section 1 of this Act within five years from the date of its enactment.

Reservation of
mineral rights.

SEC. 7. In any conveyance under this Act the mineral interests of the United States in the lands conveyed are hereby reserved for the term of the estate conveyed. Minerals locatable under the mining laws or disposable under the Act of July 31, 1947 (61 Stat. 681), as amended (30 U.S.C. 601-604), are hereby withdrawn from all forms of entry and appropriation for the term of the estate. The underlying oil, gas and other leasable minerals of the United States are hereby reserved for exploration and development purposes, but without the right of surface ingress and egress, and may be leased by the Secretary under the mineral leasing laws.

64 Stat. 571.

SEC. 8. Rights and privileges to qualify as an applicant under this Act shall not be assignable, but may pass through devise or descent.

Disposition of
fees, etc.

SEC. 9. Payments of filing fees and survey costs, and the payments of the purchase price for patents in fee shall be disposed of by the Secretary of the Interior as are such fees, costs, and purchase prices in the disposition of public lands. All payments and fees for occupancy in conveyances of less than the fee, or for permits for life or shorter periods, shall be disposed of by the administering department or agency as are other receipts for the use of the lands involved.

Approved October 23, 1962.