

## DERIVATION

Acts June 12, 1840, ch. 36, § 1, 5 Stat. 384; July 31, 1876, ch. 246, 19 Stat. 121.

## TRANSFER OF FUNCTIONS

"Secretary of the Interior or such officer as he may designate" was substituted for "Supervisor of Surveys" by 1946 Reorg. Plan No. 3, cited to text. See note under section 1 of this title.

## § 55. Field notes delivered to States; access to.

Under the authority and direction of the Secretary of the Interior or such officer as he may designate, any deputy surveyor or other agent of the United States shall have free access to any field notes, maps, records, and other papers, mentioned in section 53 of this title, for the purpose of taking extracts therefrom, or making copies thereof, without charge of any kind. (R. S. § 2220; 1946 Reorg. Plan No. 3, § 403, eff. July 16, 1946, 11 F. R. 7876, 60 Stat. 1100.)

## DERIVATION

Act Jan. 22, 1853, ch. 24, § 2, 10 Stat. 152.

## TRANSFER OF FUNCTIONS

"Secretary of the Interior or such officer as he may designate" was substituted for "Commissioner of the General Land Office" by 1946 Reorg. Plan No. 3, cited to text. See note under section 1 of this title.

## § 56. Conditions of delivery to States.

The field notes, maps, records, and other papers mentioned in section 53 of this title, shall in no case be turned over to the authorities of any State, until such State has provided by law for the reception and safe-keeping of the same as public records, and for the allowance of free access to the same by the authorities of the United States. (R. S. § 2221.)

## DERIVATION

Acts Jan. 22, 1853, ch. 24, § 3, 10 Stat. 152; June 6, 1874, ch. 223, § 3, 18 Stat. 62.

## § 57. Authenticated copies or extracts from records as evidence.

Any copy of or extract from the plats, field notes, records, or other papers of the offices of the former surveyors general for the districts of Oregon and California, when authenticated by the seal and signature of the Secretary of the Interior or such officer as he may designate, shall be evidence in all cases in which the original would be evidence. (R. S. § 2224; Mar. 3, 1925, ch. 462, 43 Stat. 1144; 1946 Reorg. Plan No. 3, § 403, eff. July 16, 1946, 11 F. R. 7876, 60 Stat. 1100.)

## DERIVATION

Act Mar. 3, 1853, ch. 145, §§ 2, 11, 10 Stat. 245, 248.

## TRANSFER OF FUNCTIONS

"Secretary of the Interior or such officer as he may designate" was substituted for "Supervisor of Surveys" by 1946 Reorg. Plan No. 3, cited to text. See note under section 1 of this title.

## FEDERAL RULES OF CIVIL PROCEDURE

Proof of official records, see Rule 44, following section 723c of Title 28, Judicial Code and Judiciary.

Effect of Rule 44 on this section, see note by Advisory Committee under said Rule 44.

## § 58. Transcripts from records of Louisiana.

Any copy of a plat of survey, or transcript from the records of the office of the former surveyor general of Louisiana, duly certified, shall be admitted as evi-

dence in all the courts of the United States and the Territories thereof. (R. S. § 2225.)

## DERIVATION

Act Mar. 3, 1831, ch. 116, § 5, 4 Stat. 493.

## FEDERAL RULES OF CIVIL PROCEDURE

Proof of official records, see Rule 44, following section 723c of Title 28, Judicial Code and Judiciary.

Effect of Rule 44 on this section, see note by Advisory Committee under said Rule 44.

## § 59. Official papers in office of surveyor general in California; copies.

All official books, papers, instruments of writing, documents, archives, official seals, stamps, or dies, which have been authorized by law to be collected and deposited in the surveyor general's office in California, shall be safely and securely kept by the Secretary of the Interior, or such officer as he may designate, in the archives of his office; and copies thereof, authenticated by the Secretary or such officer under his seal of office, shall be evidence in all cases where the originals would be evidence. (R. S. § 2229; Mar. 3, 1925, ch. 462, 43 Stat. 1144; 1946 Reorg. Plan No. 3, § 403, eff. July 16, 1946, 11 F. R. 7876, 60 Stat. 1100.)

## DERIVATION

Act May 18, 1858, ch. 39, § 1, 11 Stat. 289.

## TRANSFER OF FUNCTIONS

"Secretary of the Interior or such officer as he may designate" was substituted for "Supervisor of Surveys" by 1946 Reorg. Plan No. 3, cited to text. See note under section 1 of this title.

## FEDERAL RULES OF CIVIL PROCEDURE

Proof of official records, see Rule 44, following section 723c of Title 28, Judicial Code and Judiciary.

Effect of Rule 44 on this section, see note by Advisory Committee under said Rule 44.

## § 60. Stationery for mineral surveys.

The stationery and drafting instruments purchased for exclusive use of the Secretary of the Interior or such officers as he may designate in the preparation of plats and field notes of mineral surveys, as also the rent of additional quarters that may be necessary for the execution of such work, shall be paid for out of the fund created by deposits made by individuals to the credit of the United States to cover the cost of office work on such mineral surveys. (Mar. 3, 1901, ch. 830, § 1, 31 Stat. 1003; Mar. 3, 1925, ch. 462, 43 Stat. 1144; 1946 Reorg. Plan No. 3, § 403, eff. July 16, 1946, 11 F. R. 7876, 60 Stat. 1100.)

## TRANSFER OF FUNCTIONS

"Secretary of the Interior or such officer as he may designate" was substituted for "Field Surveying Service" by 1946 Reorg. Plan No. 3, cited to text. See note under section 1 of this title.

## §§ 61-63. Repealed. Dec. 16, 1930, ch. 14, § 1, 46 Stat. 1029.

Sections, R. S. §§ 2230-2232, related to bonds and oath of deputy surveyors.

## Chapter 4.—DISTRICT LAND OFFICES

## Sec.

- 70, 71. Offices of register and receiver; consolidation and abolition; power of President.
- 72. Duties concerning sale of public lands.
- 73. Designation of chief clerk to act in case of death, resignation, removal, or disability of register.

- Sec.**
- 74. Transfer of duties of register.
  - 75. Administration of oaths.
  - 75a. Same; administration by employee acting as register.
  - 76-78. Registers; duration of office; residence.
  - 79. Bonds.
  - 79a, 79b. Compensation of registers.
  - 79c. Payment of fees, commissions, etc.; deposit in Treasury.
  - 80. Repealed.
  - 80a. Salary, fees, and commissions of receivers.
  - 81. Commencement of compensation.
  - 82. Fees and commissions.
  - 83. Transcripts of records as evidence.
  - 84. Fees for consolidated land offices.
  - 85. Excess of fees covered into Treasury.
  - 86. Accounting for fees for notices of cancellation of entries.
  - 87. Plats of townships and lists of lands sold; compensation.
  - 88. Illegal fees.
  - 89. Monthly returns of district land offices.
  - 90. Incurring expenses.
  - 91. Deposit in Treasury of unearned fees and unofficial moneys.
  - 92. Lists furnished with deposits.
  - 93. Deposit of moneys deposited by unknown parties.
  - 94. Reimbursement of sums disbursed as special disbursing agents.
  - 95. Repayment of purchase moneys paid under applications rejected.
  - 96. Repayment of excess payments.
  - 97. Certification of amount of excess moneys and repayment.
  - 98. Rules and regulations.
  - 98a. Application of sections 95-98 to statutes relating to disposition of public lands.
  - 99. Repayment of moneys deposited and covered into Treasury.
  - 100. Disqualification.
  - 101. Report of disqualification; designation of officer to act.
  - 102. Attendance of witnesses.
  - 103. Witnesses' fees.
  - 104. Disobedience to subpoena.
  - 105. Depositions of witnesses residing outside county.
  - 106. Continuing taking of depositions in behalf of opposite party.
  - 107. Penalty for false information.

**CROSS REFERENCES**

Transfer of records, etc., on abolition of last land office in a State, see sections 25-25b of this title.

**§§ 70, 71. Offices of register and receiver; consolidation and abolition; power of President.**

**CODIFICATION**

Sections, acts Oct. 28, 1921, ch. 114, § 1, 42 Stat. 208, and Mar. 3, 1925, ch. 462, 43 Stat. 1145, consolidated the offices of register and receiver and provided for a single officer to be known as register.

**§ 72. Duties concerning sale of public lands.**

The Secretary of the Interior or, subject to his direction and control, such officers as he may designate shall have charge of and attend to the sale of public and Indian lands, as provided by law and official regulations. (R. S. § 2234; Jan. 27, 1898, ch. 10, 30 Stat. 234; Oct. 28, 1921, ch. 114, § 1, 42 Stat. 208; Mar. 3, 1925, ch. 462, 43 Stat. 1145; 1946 Reorg. Plan No. 3, § 403, eff. July 16, 1946, 11 F. R. 7876, 60 Stat. 1100.)

**DERIVATION**

Acts Apr. 24, 1874, ch. 127, § 2, 18 Stat. 34; June 20, 1874, ch. 340, 18 Stat. 122; June 20, 1874, ch. 341, 18 Stat. 122; June 20, 1874, ch. 342, 18 Stat. 123; Jan. 11, 1875, ch. 12, § 2, 18 Stat. 295.

**TRANSFER OF FUNCTIONS**

Reference to registers of district land offices was changed to the Secretary of the Interior or, subject to his direction and control, such officers as he may designate, and provisions for appointment of registers in each land district and their accountability for moneys received were omitted on authority of 1946 Reorg. Plan No. 3, cited to text, which abolished registers. See note under section 1 of this title.

**§ 73. Designation of chief clerk to act in case of death, resignation, removal, or disability of register.**

**CODIFICATION**

Section, act Oct. 28, 1921, ch. 114, § 2, 42 Stat. 208, was rendered obsolete by 1946 Reorg. Plan No. 3, § 403, eff. July 16, 1946, 11 F. R. 7876, 60 Stat. 1100, which abolished registers and transferred their functions to the Secretary of the Interior. See note under section 1 of this title.

**§ 74. Transfer of duties of register.**

**CODIFICATION**

Section, R. S. § 2228, acts Oct. 28, 1921, ch. 114, § 1, 42 Stat. 208; Mar. 3, 1925, ch. 462, 43 Stat. 1145, authorizing the President to transfer the duties of register in any district to the Supervisor of Surveys, was rendered obsolete by 1946 Reorg. Plan No. 3, § 403, eff. July 16, 1946, 11 F. R. 7876, 60 Stat. 1100. See note under section 1 of this title.

**§ 75. Administration of oaths.**

The officer designated by the Secretary of the Interior is authorized, and it shall be his duty, to administer any oath required by law or the instructions of the Bureau of Land Management, in connection with the entry or purchase of any tract of the public lands; but he shall not charge or receive, directly or indirectly, any compensation for administering such oath. (R. S. § 2246; Oct. 28, 1921, ch. 114, § 1, 42 Stat. 208; Mar. 3, 1925, ch. 462, 43 Stat. 1145; 1946 Reorg. Plan No. 3, § 403, eff. July 16, 1946, 11 F. R. 7876, 60 Stat. 1100.)

**DERIVATION**

Act June 12, 1840, ch. 35, 5 Stat. 384.

**TRANSFER OF FUNCTIONS**

Reference to "register" was changed to "officer designated by the Secretary of the Interior" and "Bureau of Land Management" was substituted for "General Land Office" by 1946 Reorg. Plan No. 3, cited to text. See note under section 1 of this title.

**§ 75a. Same; administration by employee acting as register.**

**CODIFICATION**

Section, act May 17, 1936, ch. 303, 44 Stat. 558, which authorized the administration of oaths by an employee of the Department of the Interior designated to act as register pursuant to former section 73 of this title, was rendered obsolete by 1946 Reorg. Plan No. 3, § 403, eff. July 16, 1946, 11 F. R. 7876, 60 Stat. 1100. See note under section 1 of this title.

**§§ 76-78. Registers; duration of office; residence.**

**CODIFICATION**

Sections 76-78, R. S. §§ 2244, 2222, and 2235, respectively, as amended by acts Oct. 28, 1921, ch. 114, § 1, 42 Stat. 208; Mar. 3, 1925, ch. 462, 43 Stat. 1145, were rendered obsolete by 1946 Reorg. Plan No. 3, § 403, eff. July 16, 1946, 11 F. R. 7876, 60 Stat. 1100, which abolished registers and transferred their functions to the Secretary of the Interior. See note under section 1 of this title.

Section 76 related to term of office of registers.

Section 77 provided for continuation of duties and bond of the register after expiration of his commission.

Section 78 required the register to reside at the place where the land office was located.

**§ 79. Bonds.**

**CODIFICATION**

Section, R. S. § 2236, acts Oct. 28, 1921, ch. 114, § 1, 42 Stat. 208; Mar. 3, 1925, ch. 462, 43 Stat. 1145, which

required registers to give bond in the penal sum of \$10,000, was rendered obsolete by 1946 Reorg. Plan No. 3, § 403, eff. July 16, 1946, 11 F. R. 7876, 60 Stat. 1100. Said Reorg. Plan abolished registers and transferred their functions to the Secretary of the Interior to be performed by him or, subject to his direction and control, by such officers and agencies of the Department of the Interior as he may designate. See note under section 1 of this title.

#### §§ 79a, 79b. Compensation of registers.

##### CODIFICATION

Sections 79a, 79b, act Apr. 24, 1944, ch. 177, §§ 1, 2, 58 Stat. 215, which placed registers of district land offices under sections 661-663, 664-669, 670-672, 673, and 674 of Title 5, and authorized appropriations for their compensation, were rendered obsolete by 1947 Reorg. Plan No. 3, § 403, eff. July 16, 1946, 11 F. R. 7876, 60 Stat. 1100. Said Reorg. Plan abolished registers and transferred their functions to the Secretary of the Interior. See note under section 1 of this title.

#### § 79c. Payment of fees, commissions, etc.; deposit in Treasury.

No provision of sections 79a-79c of this title shall relieve any public land applicant or claimant from the necessity of making payment of fees, commissions, or other moneys required by law or regulation. Commencing sixty days after the approval of such sections, the officials of district land offices shall not receive any compensation based on fees, commissions, or other receipts and all amounts collected by them shall be covered into the Treasury of the United States. (Apr. 24, 1944, ch. 177, § 3, 58 Stat. 215; 1946 Reorg. Plan No. 3, § 403, eff. July 16, 1946, 11 F. R. 7876, 60 Stat. 1100.)

##### REPEALS

Section 4 of act Apr. 24, 1944, cited to text, provided: "Sections 2237 and 2240 of the Revised Statutes and the act of May 21, 1928 (45 Stat. 684; 43 U. S. C., sec. 80), as amended, are hereby repealed, and all other provisions of law inconsistent with this Act [sections 79a-79c of this title] are repealed to the extent of such inconsistency."

##### ALASKA, EXTENSION TO

Section 5 of act Apr. 24, 1944, cited to text, provided: "The provisions of this Act [sections 79a-79c of this title] shall not extend to the Territory of Alaska." For provisions similar to this section applicable to Alaska, see section 367a of Title 48.

##### TRANSFER OF FUNCTIONS

Words "officials of district land offices" were substituted for "registers" by 1946 Reorg. Plan No. 3, cited to text. See note under section 1 of this title.

#### § 80. Repealed. Act Apr. 24, 1944, ch. 177, § 4, 58 Stat. 215.

Section, R. S. §§ 2237, 2240; acts Oct. 28, 1921, ch. 114, § 1, 42 Stat. 208; May 21, 1928, ch. 661, 45 Stat. 684; Aug. 22, 1935, ch. 602, 49 Stat. 680; Oct. 9, 1942, ch. 584, § 7, 56 Stat. 779, provided for salary, fees, and commissions of former registers, which is now covered by section 79c of this title.

#### § 80a. Salary, fees, and commissions of receivers.

##### CODIFICATION

Section, R. S. §§ 2237, 2240, provided that receivers should be paid \$500 per annum together with fees and commissions. The office of receiver was abolished and the functions thereof transferred to the office of former register by acts Oct. 28, 1921, ch. 114, § 1, 42 Stat. 208 and Mar. 3, 1925, ch. 462, 43 Stat. 1145 (sections 70 and 71 of this title).

#### § 81. Commencement of compensation.

##### CODIFICATION

Section, R. S. § 2243; acts Oct. 28, 1921, ch. 114, § 1, 42 Stat. 208; Mar. 3, 1925, ch. 462, 43 Stat. 1145, which

provided that compensation of registers should commence when they entered on the discharge of their duties, was rendered obsolete by 1946 Reorg. Plan No. 3, § 403, eff. July 16, 1946, 11 F. R. 7876, 60 Stat. 1100. See note under section 1 of this title.

#### § 82. Fees and commissions.

District land offices shall collect the following fees and commissions, namely:

First. A fee of \$1 for each declaratory statement filed.

Second. Obsolete.

Third. A commission to be paid by the homestead applicant, at the time of entry, of 1 per centum on the cash price, as fixed by law, of the land applied for; and a like commission when the claim is finally established, and the certificate therefor issued as the basis of a patent.

Fourth. For locating military bounty land warrants, issued since the 11th day of February, 1847, and for locating agricultural college land scrip, the same commission, to be paid by the holder or assignee of each warrant or scrip, as is allowed for sales of the public lands for cash, at the rate of \$1.25 per acre.

Fifth. A fee in donation cases of \$5 for each final certificate for one hundred and sixty acres of land, \$10 for three hundred and twenty acres, and \$15 for six hundred and forty acres.

Sixth. In the location of lands by States and corporations under grants from Congress for railroads and other purposes (except for agricultural colleges), a fee of \$1 for each final location of one hundred and sixty acres; to be paid by the State or corporation making such location.

Seventh. A fee of \$5 for filing and acting upon each application for patent or adverse claim filed for mineral lands, to be paid by the respective parties.

Eighth. A fee at the rate of 15 cents per hundred words for testimony reduced to writing for claimants in establishing desert-land and homestead rights.

Ninth. A like fee as provided in the preceding subdivision when such writing is done in the land office in establishing claims for mineral lands.

Tenth. District land offices in California, Oregon, Washington, Nevada, Colorado, Idaho, New Mexico, Arizona, Utah, Wyoming, and Montana are entitled to collect and receive 50 per centum on the fees and commissions provided for in the first, third, and eighth subdivisions of this section.

Eleventh. A fee of 10 cents per hundred words for each transcript of the records in their office made and furnished to individuals.

Twelfth. A fee of \$1 for giving notice to contestant of a homestead entry that the contested entry has been cancelled, which fee shall be paid by the contestant.

Thirteenth. Obsolete. (R. S. § 2238; Mar. 21, 1864, ch. 38, § 6, 13 Stat. 36; May 14, 1880, ch. 89, § 2, 21 Stat. 141; Dec. 17, 1880, ch. 2, 21 Stat. 311; July 26, 1892, ch. 251, 27 Stat. 270; Mar. 22, 1904, ch. 748, 33 Stat. 144; May 29, 1908, ch. 220, § 14, 35 Stat. 468; Oct. 28, 1921, ch. 114, § 1, 42 Stat. 208; Jan. 24, 1923, ch. 42, 42 Stat. 1179; June 5, 1924, ch. 264, 43 Stat. 395; Mar. 3, 1925, ch. 462, 43 Stat. 1145; Oct. 9, 1942, ch. 584, § 5, 56 Stat. 779; Apr. 24, 1944, ch. 177, § 3,

58 Stat. 215; 1946 Reorg. Plan No. 3, § 403, eff. July 16, 1946, 11 F. R. 7876, 60 Stat. 1100.)

#### DERIVATION

Acts Sept. 4, 1841, ch. 16, § 12, 5 Stat. 456; Mar. 21, 1864, ch. 38, § 4, 13 Stat. 35.

#### CODIFICATION

References to registers were changed to district land offices by 1946 Reorg. Plan No. 3, cited to text and set out in note under section 1 of this title. Provisions of the opening paragraph that registers should be allowed the fees listed in addition to their salaries and provisions of par. Second for a commission of 2% on all moneys received and of par. Thirteenth for a fee of \$5 per diem for superintending public land sales were omitted as obsolete in view of Acts Oct. 9, 1942, and Apr. 24, 1944, cited to text and set out as sections 79c of this title and 367a of Title 48, which abolished compensation of registers based on fees and commissions and required such fees and commissions to be covered into the Treasury.

#### § 83. Transcripts of records as evidence.

Transcripts of the records in the district land offices, when made and duly certified to by the Secretary of the Interior or such officers as he may designate for individuals, shall be admitted as evidence in all courts of the United States and the Territories thereof, and before all officials authorized to receive evidence, with the same force and effect as the original records. (Mar. 22, 1904, ch. 748, 33 Stat. 144; Oct. 28, 1921, ch. 114, § 1, 42 Stat. 208; Mar. 3, 1925, ch. 462, 43 Stat. 1145; 1946 Reorg. Plan No. 3, § 403, eff. July 16, 1946, 11 F. R. 7876, 60 Stat. 1100.)

#### TRANSFER OF FUNCTIONS

Words "district land offices" were substituted for "offices of registers" and "the Secretary of the Interior or such officers as he may designate" for "them" by 1946 Reorg. Plan No. 3, cited to text. See note under section 1 of this title.

#### CROSS REFERENCES

Authenticated copies of records, papers, etc., furnished by Secretary of Interior or other department heads to be admissible in evidence equally with originals, see section 490 of Title 5, Executive Departments and Government Officers and Employees.

#### FEDERAL RULES OF CIVIL PROCEDURE

Proof of official records, see Rule 44, following section 723c of Title 28, Judicial Code and Judiciary.

Effect of Rule 44 on this section, see note by Advisory Committee under said Rule 44.

#### § 84. Fees for consolidated land offices.

The Secretary of the Interior or such officer as he may designate for any consolidated land district, in addition to the fees now allowed by law, shall be entitled to charge and receive for making transcripts for individuals, or furnishing any other record information respecting public lands or land titles in his consolidated land district, such fees as are properly authorized by the tariff existing in the local courts of his district. (R. S. § 2239; Oct. 28, 1921, ch. 114, § 1, 42 Stat. 208; Mar. 3, 1925, ch. 462, 43 Stat. 1145; 1946 Reorg. Plan No. 3, § 403, eff. July 16, 1946, 11 F. R. 7876, 60 Stat. 1100.)

#### DERIVATION

Act Feb. 18, 1861, ch. 38, §§ 1, 3, 12 Stat. 131.

#### TRANSFER OF FUNCTIONS

"Secretary of the Interior or such officer as he may designate" was substituted for "register" by 1946 Reorg. Plan No. 3, cited to text. See note under section 1 of this title.

#### CROSS REFERENCES

Fees to be deposited in the Treasury, see section 79c of this title.

#### § 85. Excess of fees covered into Treasury.

#### CODIFICATION

Section, acts Mar. 3, 1887, ch. 362, 24 Stat. 526; Oct. 28, 1921, ch. 114, § 1, 42 Stat. 208; Mar. 3, 1925, ch. 462, 43 Stat. 1145; May 21, 1928, ch. 661, 45 Stat. 684, requiring all fees collected by registers which would increase their salaries beyond a certain amount to be covered into the Treasury, except for certain clerical fees, was superseded by section 79c of this title and section 367a of Title 48, which require all fees to be covered into the Treasury.

#### TRANSFER OF FUNCTIONS

References to "registers of United States land offices" and "such registers" were changed to "Secretary of the Interior or such officers as he may designate" and "the Secretary or such officers" by 1946 Reorg. Plan No. 3, cited to text. See note under section 1 of this title.

#### § 86. Accounting for fees for notices of cancellation of entries.

All money or fees received or collected by the Secretary of the Interior or such officers as he may designate of United States land offices for issuing notices of cancellation of entries shall be reported and accounted for by the Secretary or such officers in the same manner as other fees or moneys received or collected. (Mar. 4, 1911, ch. 261, § 2, 36 Stat. 1352; 1946 Reorg. Plan No. 3, § 403, eff. July 16, 1946, 11 F. R. 7876, 60 Stat. 1100.)

#### § 87. Plats of townships and lists of lands sold; compensation.

The Secretary of the Interior or such officers as he may designate shall, upon application, furnish plats or diagrams of townships in their respective districts showing what lands are vacant and what lands are taken, and shall be allowed to receive compensation therefor from the party obtaining said plat or diagram at such rates as may be prescribed by the Secretary or such officer as he may designate and shall, upon application by the proper State or Territorial authorities, furnish, for the purpose of taxation, a list of all lands sold in their respective districts, together with the names of the purchasers, and shall be allowed to receive compensation for the same not to exceed 10 cents per entry. (Mar. 3, 1883, ch. 101, § 2, 22 Stat. 484; Oct. 28, 1921, ch. 114, § 1, 42 Stat. 208; Mar. 3, 1925, ch. 462, 43 Stat. 1145; 1946 Reorg. Plan No. 3, § 403, eff. July 16, 1946, 11 F. R. 7876, 60 Stat. 1100.)

#### TRANSFER OF FUNCTIONS

"The Secretary of the Interior or such officers as he may designate" was substituted for "Registers", "the Secretary or such officer as he may designate" was substituted for "Commissioner of the General Land Office", and "said officer" was omitted by 1946 Reorg. Plan No. 3, cited to text. See note under section 1 of this title.

#### CROSS REFERENCES

Fees to be deposited in the Treasury, see section 79c of this title.

#### § 88. Illegal fees.

#### CODIFICATION

Section, R. S. § 2242, acts Oct. 28, 1921, ch. 114, § 1, 42 Stat. 208; Mar. 3, 1925, ch. 462, 43 Stat. 1145, providing that registers who had charged or received illegal fees should receive no compensation and should be removed from office, was rendered obsolete by 1946 Reorg. Plan No. 3, § 403, eff. July 16, 1946, 11 F. R. 7876, 60 Stat. 1100. See note under section 1 of this title.

### § 89. Monthly returns of district land offices.

The Secretary of the Interior or such officer as he may designate shall make to the Secretary of the Treasury monthly returns of the moneys received in district land offices, and pay over such money pursuant to his instructions. (R. S. § 2245; Oct. 28, 1921, ch. 114, § 1, 42 Stat. 208; Mar. 3, 1925, ch. 462, 43 Stat. 1145; 1946 Reorg. Plan No. 3, § 403, eff. July 16, 1946, 11 F. R. 7876, 60 Stat. 1100.)

#### DERIVATION

Act July 4, 1836, ch. 352, § 9, 5 Stat. 111.

#### TRANSFER OF FUNCTIONS

"Secretary of the Interior or such officer as he may designate" was substituted for "registers", "district land offices" was substituted for "their several offices" and former last sentence relating to returns to Commissioner of the General Land Office was omitted by 1946 Reorg. Plan No. 3, cited to text. See note under section 1 of this title.

### § 90. Incurring expenses.

Section, requiring authorization of Commissioner of the General Land Office for expenses chargeable to the Government incurred by registers, was rendered obsolete by 1946 Reorg. Plan No. 3, § 403, eff. July 16, 1946, 11 F. R. 7876, 60 Stat. 1100, set out in note under section 1 of this title, which abolished the offices of registers and Commissioner of the General Land Office. Section was from the following Interior Department Appropriation Acts:

1946—July 1, 1946, ch. 529, § 1, 60 Stat. 352.  
 1945—July 3, 1945, ch. 262, § 1, 59 Stat. 323.  
 1944—June 28, 1944, ch. 298, § 1, 58 Stat. 468.  
 1943—July 12, 1943, ch. 219, § 1, 57 Stat. 455.  
 1942—July 2, 1942, ch. 473, § 1, 56 Stat. 511.  
 1941—June 28, 1941, ch. 259, § 1, 55 Stat. 310.  
 1940—June 18, 1940, ch. 395, § 1, 54 Stat. 412.  
 1939—May 10, 1939, ch. 119, § 1, 53 Stat. 692.  
 1938—May 9, 1938, ch. 187, § 1, 52 Stat. 297.  
 1937—Aug. 9, 1937, ch. 570, § 1, 50 Stat. 569.  
 1936—June 22, 1936, ch. 691, § 1, 49 Stat. 1762.  
 1935—May 9, 1935, ch. 101, § 1, 49 Stat. 180.  
 1934—Mar. 2, 1934, ch. 38, 48 Stat. 366.  
 1933—Feb. 17, 1933, ch. 98, 47 Stat. 823.  
 1932—Apr. 22, 1932, ch. 125, 47 Stat. 93.  
 1931—Feb. 14, 1931, ch. 187, 46 Stat. 1117.  
 1930—May 14, 1930, ch. 273, 46 Stat. 283.  
 1929—Mar. 4, 1929, ch. 705, § 1, 45 Stat. 1565.  
 1928—Mar. 7, 1928, ch. 137, § 1, 45 Stat. 203.  
 1927—Jan. 12, 1927, ch. 27, § 1, 44 Stat. 938.  
 1926—May 10, 1926, ch. 277, § 1, 44 Stat. 457.  
 1924—June 5, 1924, ch. 264, 43 Stat. 395.  
 1923—Jan. 24, 1923, ch. 42, 42 Stat. 1179.  
 1922—May 24, 1922, ch. 199, 42 Stat. 557.  
 1917—June 12, 1917, ch. 27, § 1, 40 Stat. 142.  
 1915—Mar. 3, 1915, ch. 75, 38 Stat. 855.

### § 91. Deposit in Treasury of unearned fees and unofficial moneys.

Officers of district land offices, as designated by the Secretary of the Interior are authorized, under the direction of the Secretary of the Interior or such officer as he may designate, to deposit to the credit of the Treasurer of the United States all unearned fees and unofficial moneys that have been carried upon the books of their respective offices for a period of five years or more, which sums shall be covered into the Treasury by warrant and carried to the credit of the parties from whom such fees or moneys were received, and into an appropriation account to be denominated "Outstanding liabilities." (Mar. 2, 1907, ch. 2562, § 1, 34 Stat. 1245; Oct. 28, 1921, ch. 114, § 1, 42 Stat. 208; Mar. 3, 1925, ch. 462, 43 Stat. 1145; 1946 Reorg. Plan No. 3, § 403, eff. July 16, 1946, 11 F. R. 7876, 60 Stat. 1100.)

#### TRANSFER OF FUNCTIONS

"Officers of district land offices, as designated by the Secretary of the Interior," was substituted for "registers" and "Secretary of the Interior or such officer as he may designate" for "Commissioner of the General Land Office" by 1946 Reorg. Plan No. 3, cited to text. See note under section 1 of this title.

#### APPROPRIATIONS

Effective July 1, 1935, the appropriation provided for in this section was repealed and provision was made for annual appropriations of sums necessary to meet expenditures by act June 26, 1934, ch. 756, § 17, 48 Stat. 1230. See section 725p (b) of Title 31, Money and Finance.

### § 92. Lists furnished with deposits.

At the time of making such deposit the officer designated by the Secretary of the Interior shall furnish a list showing the date when the money was paid to him or to his predecessor; the names and residences of the parties; the purposes of the payments and the amounts thereof, which list shall bear the certificate of the officer that the same is correct; that the amounts are due and payable; that diligence has been exercised to return the same, and that the sums specified have remained unclaimed for a period of five years or more. (Mar. 2, 1907, ch. 2562, § 2, 34 Stat. 1245; Oct. 28, 1921, ch. 114, § 1, 42 Stat. 208; Mar. 3, 1925, ch. 462, 43 Stat. 1145; 1946 Reorg. Plan No. 3, § 403, eff. July 16, 1946, 11 F. R. 7876, 60 Stat. 1100.)

#### TRANSFER OF FUNCTIONS

Words "officer designated by the Secretary of the Interior" and "officer" were substituted for "register" by 1946 Reorg. Plan No. 3, cited to text. See note under section 1 of this title.

### § 93. Deposit of moneys deposited by unknown parties.

Amounts that appear in the accounts of a district land office as "Moneys deposited by unknown parties" shall also be deposited to the credit of the Treasurer of the United States, accompanied by a list showing the amount and, if possible, the date of the receipt of each item; which list shall bear the certificate of the officer designated by the Secretary of the Interior that, after careful investigation, the ownership of said moneys could not be determined, and that they have been reported in the unearned fees and unofficial moneys accounts for five years or more. (Mar. 2, 1907, ch. 2562, § 3, 34 Stat. 1245; Oct. 28, 1921, ch. 114, § 1, 42 Stat. 208; Mar. 3, 1925, ch. 462, 43 Stat. 1145; 1946 Reorg. Plan No. 3, § 403, eff. July 16, 1946, 11 F. R. 7876, 60 Stat. 1100.)

#### TRANSFER OF FUNCTIONS

Words "the accounts of a district land office" were substituted for "a register's accounts" and "officer designated by the Secretary of the Interior" for "register" by 1946 Reorg. Plan No. 3, cited to text. See note under section 1 of this title.

### § 94. Reimbursement of sums disbursed as special disbursing agents.

The Secretary of the Treasury is authorized and directed to pay, out of any unexpended balances of appropriations for contingent expenses of land offices, for the expenses of hearings in land entries and the expenses of depositing public moneys, such sums as have been or may be disbursed by receivers of public moneys acting as special disbursing agents at United States land offices, before the receipt of Government

funds: *Provided*, That no payment shall be made under this section in excess of the amount appropriated by the Congress for the particular purpose in each instance and for the fiscal year in which such disbursements were made: *Provided*, That all such disbursements shall have been or shall be made in pursuance of law in carrying out departmental regulations or to meet authorizations by the Secretary of the Interior or such officer as he may designate: *Provided further*, That the accounts containing such items shall have been duly approved by the Secretary of the Interior or such officer as he may designate. (Mar. 2, 1907, ch. 2563, 34 Stat. 1245; 1946 Reorg. Plan No. 3, § 403, eff. July 16, 1946, 11 F. R. 7876, 60 Stat. 1100.)

TRANSFER OF FUNCTIONS

"Secretary of the Interior of such officer as he may designate" was substituted for "Commissioner of the General Land Office" by 1946 Reorg. Plan No. 3, cited to text. See note under section 1 of this title.

§ 95. Repayment of purchase moneys paid under applications rejected.

Where purchase moneys and commissions paid under any public land law have been or shall be covered into the Treasury of the United States under any application to make any filing, location, selection, entry, or proof, such purchase moneys and commissions shall be repaid to the person who made such application, entry, or proof, or to his legal representatives, in all cases where such application, entry, or proof has been or shall be rejected, and neither such applicant nor his legal representatives shall have been guilty of any fraud or attempted fraud in connection with such application: *Provided*, That such person or his legal representatives shall file a request for the repayment of such purchase moneys and commissions within two years from the rejection of such application, entry, or proof. (Mar. 26, 1908, ch. 102, § 1, 35 Stat. 48; Dec. 11, 1919, ch. 5, 41 Stat. 366.)

CROSS REFERENCES

Repayment on cancellation of entries, see section 263 of this title.

Repeal of appropriations for refunding moneys erroneously received and covered, and authorization of appropriation of necessary sums, see section 725q (b) of Title 31, Money and Finance.

§ 96. Repayment of excess payments.

In all cases where it shall appear to the satisfaction of the Secretary of the Interior that any person has made any payments to the United States under the public land laws in excess of the amount he was lawfully required to pay under such laws, such excess shall be repaid to such person or to his legal representatives: *Provided*, That such person or his legal representatives shall file a request for the repayment of such excess within two years after the patent has issued for the land embraced in such payment. (Mar. 26, 1908, ch. 102, § 2, 35 Stat. 48; Dec. 11, 1919, ch. 5, 41 Stat. 366.)

CROSS REFERENCES

Repayment of money paid on rejection of application, see section 95 of this title.

Repeal of appropriation for refunding moneys erroneously received, and authorization of appropriation of necessary sums, see section 725q (b) of Title 31, Money and Finance.

§ 97. Certification of amount of excess moneys and repayment.

When the Secretary of the Interior or such officer as he may designate shall ascertain the amount of any excess moneys, purchase moneys, or commissions in any case where repayment is authorized by sections 95 and 96 of this title, the Secretary of the Interior shall at once certify such amounts to the Secretary of the Treasury, who is authorized and directed to make repayment of all amounts so certified out of any moneys not otherwise appropriated and issue his warrant in settlement thereof. (Mar. 26, 1908, ch. 102, § 3, 35 Stat. 48; Dec. 11, 1919, ch. 5, 41 Stat. 366; 1946 Reorg. Plan No. 3, § 403, eff. July 16, 1946, 11 F. R. 7876, 60 Stat. 1100.)

TRANSFER OF FUNCTIONS

"Secretary of the Interior, or such officer as he may designate", was substituted for "Commissioner of the General Land Office" by 1946 Reorg. Plan No. 3, cited to text. See note under section 1 of this title.

CROSS REFERENCES

Repayment of money paid on rejection of application, see section 95 of this title.

Repeal of appropriation for refunding moneys erroneously received, and authorization of appropriation of necessary sums, see section 725q (b) of Title 31, Money and Finance.

§ 98. Rules and regulations.

The Secretary of the Interior is authorized to make such rules and regulations as may be necessary and proper for the purpose of carrying the provisions of sections 95-97 of this title into full force and effect. (Mar. 26, 1908, ch. 102, § 4; Dec. 11, 1919, ch. 5, 41 Stat. 367.)

§ 98a. Application of sections 95-98 to statutes relating to disposition of public lands.

The provisions of sections 95-98 of this title are made applicable to all payments in excess of lawful requirements made under sections 181-184, 185-188, 189-194, 201, 202-209, 211-214, 223, 224-226, 226d, 226e, 227-229, 241, 251, and 261-263 of Title 30, and under any statute relating to the sale, entry, lease, or other disposition of the public lands. (June 27, 1930, ch. 642, 46 Stat. 822.)

§ 99. Repayment of moneys deposited and covered into Treasury.

Any person or persons who shall have made payment to an officer designated by the Secretary of the Interior or to his predecessor, and the money shall have been covered into the Treasury pursuant to section 91 or 93 of this title, shall, on presenting satisfactory evidence of such payment to the General Accounting Office, be entitled to have the same returned by the settlement of an account and the issuing of a warrant in his favor according to the practice in other cases of authorized and liquidated claims against the United States: *Provided*, That when such moneys shall remain unclaimed in the Treasury for more than five years the right to recover the same shall be barred: *Provided*, That no homestead entryman shall be required to make payment of the purchase money same shall have been approved by the officer

designated by the Secretary of the Interior, but such payment shall be made within ten days after notice of such approval. (R. S. § 236; Mar. 2, 1907, ch. 2562, § 4, 34 Stat. 1245; June 10, 1921, ch. 18, § 305, 42 Stat. 24; Oct. 28, 1921, ch. 114, § 1, 42 Stat. 208; Mar. 3, 1925, ch. 462, 43 Stat. 1145; 1946 Reorg. Plan No. 3, § 403, eff. July 16, 1946, 11 F. R. 7876, 60 Stat. 1100.)

#### TRANSFER OF FUNCTIONS

Words "officer designated by the Secretary of the Interior" were substituted for "register" by 1946 Reorg. Plan No. 3, cited to text. See note under section 1 of this title.

#### CROSS REFERENCES

Moneys received as "unearned moneys, lands," to be deposited into Treasury and be available for refunds, see section 725r of Title 31, Money and Finance.

Unobligated balances under account for "outstanding liabilities," to be covered into trust fund receipt account in Treasury designated as "Unclaimed Moneys of Individuals Whose Whereabouts Are Unknown," see section 725p (b) (15) of Title 31, Money and Finance.

#### § 100. Disqualification.

No officer shall receive evidence in, hear, or determine any cause pending in any district land office in which cause he is interested directly or indirectly, or has been of counsel, or where he is related to any of the parties in interest by consanguinity or affinity within the fourth degree, computing by the rules adopted by the common law. (Jan. 11, 1894, ch. 10, § 1, 28 Stat. 26; Oct. 28, 1921, ch. 114, § 1, 42 Stat. 208; Mar. 3, 1925, ch. 462, 43 Stat. 1145; 1946 Reorg. Plan No. 3, § 403, eff. July 16, 1946, 11 F. R. 7876, 60 Stat. 1100.)

#### TRANSFER OF FUNCTIONS

Word "officer" was substituted for "register" by 1946 Reorg. Plan No. 3, cited to text. See note under section 1 of this title.

#### § 101. Report of disqualification; designation of officer to act.

It shall be the duty of every officer so disqualified to report the fact of his disqualification to the Secretary of the Interior or such officer as he may designate as soon as he shall ascertain it, and before the hearing of such cause, who thereupon, with the approval of the Secretary of the Interior, shall designate some other officer or special agent of the Land Department to act in the place of the disqualified officer, and the same authority is conferred on the officer so designated which such officer would otherwise have possessed to act in such case. (Jan. 11, 1894, ch. 10, § 2, 28 Stat. 26; Oct. 28, 1921, ch. 114, § 1, 42 Stat. 208; Mar. 3, 1925, ch. 462, 43 Stat. 1145; 1946 Reorg. Plan No. 3, § 403, eff. July 16, 1946, 11 F. R. 7876, 60 Stat. 1100.)

#### TRANSFER OF FUNCTIONS

Word "officer" was substituted for "register" and "Secretary of the Interior or such officer as he may designate" for "Commissioner of the General Land Office" by 1946 Reorg. Plan No. 3, cited to text. See note under section 1 of this title.

#### § 102. Attendance of witnesses.

Officers of district land offices designated by the Secretary of the Interior in all matters requiring a hearing before them are authorized and empowered to issue subpoenas directing the

attendance of witnesses, which subpoenas may be served by any person by delivering a true copy thereof to such witness, and when served, witnesses shall be required to attend in obedience thereto: *Provided*, That if any subpoena be served under the provisions of this section by any person other than an officer authorized by the laws of the United States, or of the State or Territory in which the depositions are taken, the service thereof shall be proved by the affidavit of the person serving the same: *Provided further*, That said subpoenas shall be served within the county in which attendance is required, and at least five days before attendance is required. (Jan. 31, 1903, ch. 344, § 1, 32 Stat. 790; Oct. 28, 1921, ch. 114, § 1, 42 Stat. 208; Mar. 3, 1925, ch. 462, 43 Stat. 1145; 1946 Reorg. Plan No. 3, § 403, eff. July 16, 1946, 11 F. R. 7876, 60 Stat. 1100.)

#### TRANSFER OF FUNCTIONS

"Officers of district land offices designated by the Secretary of the Interior" was substituted for "Registers of the land office, or either of them," by 1946 Reorg. Plan No. 3, cited to text. See note under section 1 of this title.

#### § 103. Witnesses' fees.

Witnesses shall have the right to receive their fee for one day's attendance and mileage in advance. The fees and mileage of witnesses shall be the same as that provided by law in the district courts of the United States in the district in which such land offices are situated; and the witness shall be entitled to receive his fee for attendance in advance from day to day during the hearing. (Jan. 31, 1903, ch. 344, § 2, 32 Stat. 790.)

#### § 104. Disobedience to subpoena.

Any person willfully neglecting or refusing obedience to such subpoena, or neglecting or refusing to appear and testify when subpoenaed, his fees having been paid if demanded, shall be deemed guilty of a misdemeanor, for which he shall be punished by indictment in the district court of the United States or in the district courts of the Territories exercising the jurisdiction of district courts of the United States. The punishment for such offense, upon conviction, shall be a fine of not more than \$200, or imprisonment not to exceed ninety days, or both, at the discretion of the court: *Provided*, That if such witness has been prevented from obeying such subpoena without fault upon his part he shall not be punished under the provisions of this section. (Jan. 31, 1903, ch. 344, § 3, 32 Stat. 790; Mar. 3, 1911, ch. 231, § 291, 36 Stat. 1167.)

#### § 105. Depositions of witnesses residing outside county.

Whenever the witness resides outside the county in which the hearing occurs any party to the proceeding may take the testimony of such witness in the county of such witness's residence in the form of depositions by giving ten days' written notice of the time and place of taking such depositions to the opposite party or parties. The depositions may be taken before any United States commissioner, notary public, judge, or clerk of a court of record. Subpoenas for witnesses before the officer taking

depositions may issue from the office of the officer designated by the Secretary of the Interior or may be issued by the officer taking the depositions, and disobedience thereof, as defined in section 104 of this title, shall also be punished; and the witness shall receive the same fees and mileage and be subject to the same penalties in all respects as in case of violation of a subpoena to appear before the officer designated by the Secretary of the Interior and subject to the same limitations. The fees of the officer taking the depositions shall be the same as those allowed in the State or Territorial courts, and shall be paid by the party taking the deposition, and an itemized account of the fees shall be made by the officer taking the depositions and attached to the depositions. (Jan. 31, 1903, ch. 344, § 4, 32 Stat. 790; Oct. 28, 1921, ch. 114, § 1, 42 Stat. 208; Mar. 3, 1925, ch. 462, 43 Stat. 1145; 1946 Reorg. Plan No. 3, § 403, eff. July 16, 1946, 11 F. R. 7876, 60 Stat. 1100.)

#### TRANSFER OF FUNCTIONS

Words "officer designated by the Secretary of the Interior" were substituted for "register" by 1946 Reorg. Plan No. 3, cited to text. See note under section 1 of this title.

#### § 106. Continuing taking of depositions in behalf of opposite party.

Whenever the taking of any depositions taken in pursuance of section 105 of this title is concluded the opposite party may proceed at once at his own expense to take depositions in his own behalf, at the same time and place and before the same officer: *Provided*, That he shall, before taking of the depositions in the first instance is entered upon, give notice to the opposing party, or any agent or attorney representing him in the taking of said depositions of his intention to do so. (Jan. 31, 1903, ch. 344, § 5, 32 Stat. 791.)

#### § 107. Penalty for false information.

If any person applies to any officer designated by the Secretary of the Interior to enter any land whatever, and the officer knowingly and falsely informs the person so applying that the same has already been entered, and refuses to permit the person so applying to enter the same, such officer shall be liable therefor, to the person so applying, for \$5 for each acre of land which the person so applying offered to enter, to be recovered by action of debt in any court of record having jurisdiction of the amount. (R. S. § 2247; 1946 Reorg. Plan No. 3, § 403, eff. July 16, 1946, 11 F. R. 7876, 60 Stat. 1100.)

#### DERIVATION

Act July 4, 1836, ch. 352, § 13, 5 Stat. 112.

#### TRANSFER OF FUNCTIONS

References to "register" were changed to "officer designated by the Secretary of the Interior" and "officer" by 1946 Reorg. Plan No. 3, cited to text. See note under section 1 of this title.

### Chapter 5.—LAND DISTRICTS

#### Sec.

121. Discontinuance of land offices by President.
122. Discontinuance of land offices by the Secretary of the Interior.
123. Continuance of land offices when required by public convenience.
124. Consolidation of land offices.
125. Annexation of discontinued district to adjacent district.

#### Sec.

126. Change of location of land offices.
127. Change of boundaries of land districts.
128. Division or change of boundaries; continuance of business of original district.
129. Office rent and clerk hire for consolidated land offices.
130. Entry of public lands in States where no land offices exist.

#### § 121. Discontinuance of land offices by President.

Upon the recommendation of the Secretary of the Interior, the President may order the discontinuance of any land office and the transfer of any of its business and archives to any other land office within the same State or Territory. (R. S. § 2252; 1946 Reorg. Plan No. 3, § 403, eff. July 16, 1946, 11 F. R. 7876, 60 Stat. 1100.)

#### DERIVATION

Act May 30, 1862, c. 86, § 5, 12 Stat. 409.

#### TRANSFER OF FUNCTIONS

Words "the Commissioner of the General Land Office, approved by" were omitted by 1946 Reorg. Plan No. 3, cited to text. See note under section 1 of this title.

#### CROSS REFERENCES

Consolidation of land offices by Secretary of Interior where practicable and consistent with public interest, see section 124 of this title.

#### § 122. Discontinuance of land offices by the Secretary of the Interior.

Whenever the quantity of public land remaining unsold in any land district is reduced to a number of acres less than one hundred thousand, it shall be the duty of the Secretary of the Interior to discontinue the land office of such district; and if any land in any such district remains unsold at the time of the discontinuance of a land office, the same shall be subject to sale at some one of the existing land offices most convenient to the district in which the land office has been discontinued, of which the Secretary of the Interior shall give notice. (R. S. § 2248.)

#### DERIVATION

Act June 12, 1840, ch. 36, § 2, 5 Stat. 385.

#### CROSS REFERENCES

Annexation of district in which land office discontinued because of excessive costs to some other adjoining district, see section 125 of this title.

Consolidation of land offices by Secretary of Interior where practicable and consistent with public interest, see section 124 of this title.

#### § 123. Continuance of land offices when required by public convenience.

The Secretary of the Interior may continue any land district in which is situated the seat of government of any one of the States, and may continue the land office in such district, notwithstanding the quantity of land unsold in such district may not amount to one hundred thousand acres, when, in his opinion, such continuance is required by public convenience, or in order to close the land system in such State. (R. S. § 2249.)

#### DERIVATION

Act Sept. 4, 1841, ch. 16, § 7, 5 Stat. 455.

#### § 124. Consolidation of land offices.

It shall be the duty of the Secretary of the Interior to consolidate the district land offices where