

## CHAPTER 7—HOMESTEADS

## SUBCHAPTER I—GENERAL PROVISIONS

- Sec.  
161. Entry of unappropriated public lands.  
162. Application for entry; affidavit.  
163. Record of applications; returns to Bureau of Land Management.  
164. Certificate or patent; issuance.  
165. Transferred.  
166. Time for settlers to file application and to perfect entry; marriage of entrywoman; preferential right of entry.  
167. Marriage of entryman to entrywoman.  
168. Marriage of entrywoman to alien.  
169. Failure to establish residence; reversion to Government.  
170. Rights of wife abandoned by husband.  
171. Rights inuring to infant children.  
172. Insanity of settlers.  
173. Commutation after 14 months.  
174. Right to transfer claim.  
175. Exemption from execution of homestead land.  
176. Repealed.  
177. Patents for lands in New Mexico held under color of title.  
178. Patents for lands in New Mexico; lands contiguous to Spanish or Mexican land grants.  
179. Free homesteads to settlers; commutation rights; payments to Indians.  
180. Extension of right of settlers to commute entry.

## SUBCHAPTER II—RIGHT OF PARTICULAR PERSONS TO MAKE ENTRY

181. Repealed.  
182. Entry after forfeiture of prior entry without fault.  
183. Minor veterans; serving in military establishment; relinquishment of entries.  
184. No distinction on account of race or color.  
185. Preference right of entry of successful contestants.  
186. Preference right of entry of veterans; rules and regulations.  
187. Entrants on ceded Indian reservations.  
187a. New homestead entry on ceded Indian reservations.  
187b. Second homestead entry by certain settlers.  
188. Purchaser of Flathead Indian land, Montana.  
189. Indians abandoning tribal relations.  
190. Indians located on public lands; patents.  
190a. Repealed.  
191. Stockbridge Munsee Indians.

## SUBCHAPTER III—LANDS SUBJECT TO ENTRY

201. Mineral lands.  
202. Relinquished entries.  
203. Repealed.  
204. Entries on even sections within railroad and other grants.  
205. Repealed.  
206. Patents for additional entries within railway limits.  
207, 208. Repealed.  
209. Extension of public-land laws to certain lands in Oklahoma.  
210. Recognition of equitable claims on certain lands in Oklahoma; validation of homestead entries.

## SUBCHAPTER IV—LIMITATION AS TO AMOUNT AND ADDITIONAL AND ENLARGED ENTRIES

211. Limitation of amount of homestead entry.  
212. Limitation of aggregate amount of entries.  
213. Additional entry on land contiguous to former entry of less than quarter section.

- Sec.  
214. Additional entry; after final proof on entry of less than quarter section.  
215. Additional entry after patent on entry for less than quarter section.  
216. Validation of additional entry after patent.  
217. Additional entry after commutation of former entry.  
218 to 224. Repealed or Transferred.

## SUBCHAPTER V—LEAVES OF ABSENCE AND EXCUSES FOR NONRESIDENCE OR NONCULTIVATION

231. Optional leaves of absence; proof of commutation.  
232. Settlers on unsurveyed land.  
233. Persons receiving treatment for wounds.  
234. Destruction or failure of crops, sickness, or unavoidable casualty.  
235. Destruction or injury to crops by grasshoppers.  
236 to 237c. Repealed.  
237d. Cultivation requirement restricted.  
237e. Repealed.  
237f. Absence during 1956 to 1959 due to economic conditions; protection of entryman's rights; filing of notice of intention and grant to United States.  
237g. Homestead or desert land applications on file as of March 1, 1956; filing of notice of intention; date of entry; rights of United States.  
237h. Lands to which protection of entryman's rights applicable.  
238. Residence and cultivation, etc., by disabled veterans excused.  
239. Service in Army or Navy, etc., as equivalent to residence.  
240. Service in time of war as equivalent to residence and cultivation.  
241, 242. Repealed.  
243. Military service in certain Indian wars as equivalent to residence and cultivation.  
243a. Extension of credits for military service in certain Indian wars to widows; patents to minor children on death of mother.

## SUBCHAPTER VI—FINAL PROOF GENERALLY

251. Notice of intention to make final proof.  
252. Time of taking testimony for final proof in case of unavoidable delay.  
253. Notice of contest; publication.  
254. Officers before whom affidavits or proofs may be made; perjury; fees.  
255. Persons in military or naval service; affidavits taken by commanding officer.  
256. Election as to law under which to make final proof.  
256a. Extension of time for offering final proof; rules and regulations.  
256b. Final proof by disabled World War I veterans.

## SUBCHAPTER VII—PAYMENTS AND REFUNDS

261. Time for payments; extension of time for payment.  
262. Repealed.  
263. Cancellation of entries; repayment.

## SUBCHAPTER VIII—ALASKA HOMESTEADS

- 270 to 270-3. Repealed.  
270-4. Affidavits; filing, publishing, and posting proofs of claims.  
270-5 to 270-10. Repealed.  
270-11. Entry on land containing coal, oil, or gas.  
270-12. Patent for land entered under section 270-11; reservations.  
270-13, 270-14. Repealed.

- Sec.  
 270-15. Claims; rectangular system of surveys; departure on account of local or topographic conditions.  
 270-16. Soldier's additional entry; trade or manufacturing site; application for official survey; deposit.  
 270-17. Disposition of deposit of estimated cost of work incident to survey; rules.

**SUBCHAPTER IX—SOLDIERS' AND SAILORS' HOMESTEAD**

271. Soldiers and sailors entitled to make entry generally.  
 272. Deduction of military and naval service from time required to perfect title; rights of widows and children of veterans.  
 272a. Application of sections 271 and 272 to military and naval service in Mexican border operations or in World War I.  
 273. Veterans receiving compensation for wounds or disability.  
 274. Additional entry by veteran.  
 275. Additional entries invalid; commutation.  
 276. Additional homestead certificates; sale.  
 277. Entry by agent.  
 278. Right of widow of veteran to make entry; rights of children on her death.  
 279. Preference right of entry of World War II or Korean conflict veterans.  
 280. Dependents' rights of World War II or Korean conflict veteran.  
 281. Death of World War II or Korean conflict veteran as affecting minor children's patent rights.  
 282. Rights of World War II or Korean veteran on revocation of withdrawal order.  
 283. Rules and regulations; preference right of entry of World War II and Korean conflict veteran.  
 284. Definitions; preference right of entry of World War II or Korean conflict veteran.

**SUBCHAPTER X—STOCK-RAISING HOMESTEAD**

291. Entry on unappropriated, unreserved lands; authorization; area; naval petroleum reserves and naval oil State reserves excepted.  
 292. Designation of lands subject to entry; applications.  
 293. Persons entitled to make entry; effect of entries.  
 294. Additional entries; amount.  
 295. Persons entitled to additional entries generally.  
 296. Heads of families, etc.; relinquishment or reconveyance of land.  
 297. Commutation.  
 298. Additional entries; preferential rights.  
 299. Reservation of coal and mineral rights.  
 300. Repealed.  
 301. Rules and regulations.  
 302. Additional entries; lands in national forests.

**CHAPTER REFERRED TO IN OTHER SECTIONS**

This chapter is referred to in sections 237h, 336d of this title.

**SUBCHAPTER I—GENERAL PROVISIONS**

**§ 161. Entry of unappropriated public lands**

Every person who is the head of a family, or who has arrived at the age of twenty-one years, and is a citizen of the United States, or who has filed his declaration of intention to become such, as required by the naturalization laws, shall be entitled to enter one-quarter section, or a less quantity, of unappropriated public lands,

to be located in a body in conformity to the legal subdivisions of the public lands; but no person who is the proprietor of more than one hundred and sixty acres of land in any State or Territory, shall acquire any right under the homestead law. And every person owning and residing on land may, under the provisions of this section, enter other land lying contiguous to his land, which shall not, with the land so already owned and occupied, exceed in the aggregate one hundred and sixty acres.

(R.S. § 2289; Mar. 3, 1891, ch. 561, § 5, 26 Stat. 1097.)

**REPEAL OF SECTION**

*Section repealed by Pub. L. 94-579, title VII, § 702, Oct. 21, 1976, 90 Stat. 2787, effective on and after Oct. 21, 1976, except such effective date to be on and after the tenth anniversary of the date of approval of this Act, Oct. 21, 1976, insofar as the homestead laws apply to public lands in Alaska.*

**CODIFICATION**

R.S. § 2289 derived from acts May 20, 1862, ch. 75, § 1, 12 Stat. 392; Feb. 11, 1874, ch. 25, 18 Stat. 15; Mar. 13, 1874, ch. 55, 18 Stat. 22; June 22, 1874, ch. 400, 18 Stat. 194; Feb. 23, 1875, ch. 99, 18 Stat. 334; Mar. 3, 1875, ch. 131, §§ 15, 16, 18 Stat. 420; Apr. 21, 1875, ch. 72, 19 Stat. 35; Mar. 3, 1877, ch. 127, 19 Stat. 405.

Said preemption laws, were repealed by section 4 of act Mar. 3, 1891.

**SAVINGS PROVISIONS**

Repeal by Pub. L. 94-579 not to be construed as terminating any valid lease, permit, patent, etc., existing on Oct. 21, 1976, see section 701 of Pub. L. 94-579, set out as a note under section 1701 of this title.

**SECTION REFERRED TO IN OTHER SECTIONS**

This section is referred to in sections 162, 173, 237h, 255, 336d, 451a, 641, 1165, 1197 of this title.

**§ 162. Application for entry; affidavit**

Any person applying to enter land under section 161 of this title shall first make and subscribe before the proper officer and file in the proper land office an affidavit that he or she is the head of a family, or is over twenty-one years of age, and that such application is honestly and in good faith made for the purpose of actual settlement and cultivation, and not for the benefit of any other person, persons, or corporation, and that he or she will faithfully and honestly endeavor to comply with all the requirements of law as to settlement, residence, and cultivation necessary to acquire title to the land applied for; that he or she is not acting as agent of any person, corporation, or syndicate in making such entry, nor in collusion with any person, corporation, or syndicate to give them the benefit of the land entered, or any part thereof, or the timber thereon; that he or she does not apply to enter the same for the purpose of speculation, but in good faith to obtain a home for himself, or herself, and that he or she has not directly or indirectly made, and will not make, any agreement or contract in any way or manner, with any person or persons, corporation, or syndicate whatsoever, by which the title which he or she might acquire from

the Government of the United States should inure, in whole or in part, to the benefit of any person, except himself, or herself, and upon filing such affidavit with the officer designated by the Secretary of the Interior on payment of \$5 when the entry is of not more than eighty acres, and on payment of \$10 when the entry is for more than eighty acres, he or she shall thereupon be permitted to enter the amount of land specified.

(R.S. § 2290; Mar. 3, 1891, ch. 561, § 5, 26 Stat. 1097; 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.)

#### REPEAL OF SECTION

*Section repealed by Pub. L. 94-579, title VII, § 702, Oct. 21, 1976, 90 Stat. 2787, effective on and after Oct. 21, 1976, except such effective date to be on and after the tenth anniversary of the date of approval of this Act, Oct. 21, 1976, insofar as the homestead laws apply to public lands in Alaska.*

#### CODIFICATION

R.S. § 2290 derived from acts May 20, 1862, ch. 75, § 2, 12 Stat. 392; Mar. 21, 1864, ch. 38, § 2, 13 Stat. 35; June 21, 1866, ch. 127, § 2, 14 Stat. 67; June 22, 1874, ch. 394, 18 Stat. 192; Mar. 3, 1875, ch. 131, §§ 15, 16, 18 Stat. 420.

#### SAVINGS PROVISIONS

Repeal by Pub. L. 94-579 not to be construed as terminating any valid lease, permit, patent, etc., existing on Oct. 21, 1976, see section 701 of Pub. L. 94-579, set out as a note under section 1701 of this title.

#### TRANSFER OF FUNCTIONS

For transfer of functions of the other officers, employees, and agencies of the Department of the Interior, with certain exceptions, to the Secretary of the Interior, with power to delegate, see Reorg. Plan No. 3 of 1950, §§ 1, 2, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1262, set out under section 1451 of this title.

Words "officer designated by the Secretary of the Interior" were substituted for "register" on authority of section 403 of Reorg. Plan No. 3 of 1946. See note set out under section 1 of this title.

#### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 169, 237h, 255, 336d, 1197 of this title.

#### § 163. Record of applications; returns to Bureau of Land Management

The officer of the land office designated by the Secretary of the Interior shall note all applications under the provisions of this chapter, on the tract books and plats of his office, and keep a register of all such entries, and make return thereof to the Bureau of Land Management, together with the proof upon which they have been founded.

(R.S. § 2295; 1946 Reorg. Plan No. 3, § 403, eff. July 16, 1946, 11 F.R. 7876, 60 Stat. 1100.)

#### REPEAL OF SECTION

*Section repealed by Pub. L. 94-579, title VII, § 702, Oct. 21, 1976, 90 Stat. 2787, effective on and after Oct. 21, 1976, except such effective date to be on and after the tenth*

*anniversary of the date of approval of this Act, Oct. 21, 1976, insofar as the homestead laws apply to public lands in Alaska.*

#### REFERENCES IN TEXT

This chapter, referred to in text, means Chapter 5 of Title XXXII of the Revised Statutes, consisting of R.S. §§ 2289 to 2317, which are classified to sections 161 to 164, 169, 171, 173, 175, 183, 184, 191, 201, 211, 239, 254, 255, 271, 272, 274, 277, and 278 of this title. R.S. §§ 2299 and 2312 to 2317 were not classified to the Code and were repealed by act Mar. 3, 1933, ch. 202, § 1, 47 Stat. 1429. R.S. § 2303 was not classified to the Code and was repealed by act July 4, 1876, ch. 165, 19 Stat. 73.

#### CODIFICATION

R.S. § 2295 derived from act May 20, 1862, ch. 75, § 3, 12 Stat. 393.

#### SAVINGS PROVISIONS

Repeal by Pub. L. 94-579 not to be construed as terminating any valid lease, permit, patent, etc., existing on Oct. 21, 1976, see section 701 of Pub. L. 94-579, set out as a note under section 1701 of this title.

#### TRANSFER OF FUNCTIONS

For transfer of functions of the other officers, employees, and agencies of the Department of the Interior, with certain exceptions, to the Secretary of the Interior, with power to delegate, see Reorg. Plan No. 3 of 1950, §§ 1, 2, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1262, set out under section 1451 of this title.

Words "officer of the land office designated by the Secretary of the Interior" were substituted for "register of the land office" and "Bureau of Land Management" for "General Land Office" on authority of section 403 of Reorg. Plan No. 3 of 1946. See note set out under section 1 of this title.

#### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 237h, 336d of this title.

#### § 164. Certificate or patent; issuance

No certificate shall be given or patent issued therefor until the expiration of three years from the date of such entry; and if at the expiration of such time, or at any time within two years thereafter, the person making such entry, or if he be dead his widow, or in case of her death his heirs or devisee, or in case of a widow making such entry her heirs or devisee, in case of her death, proves by himself and by two credible witnesses that he, she, or they have a habitable house upon the land and have actually resided upon and cultivated the same for the term of three years succeeding the time of filing the affidavit and makes affidavit that no part of such land has been alienated, except as provided in section 174 of this title, and that he, she, or they will bear true allegiance to the Government of the United States, then in such case he, she, or they, if at that time citizens of the United States, shall be entitled to a patent, as in other cases provided by law: *Provided*, That upon filing in the local land office notice of the beginning of such absence the entryman shall be entitled to a continuous leave of absence from the land for a period not exceeding five months in each year after establishing residence, and upon the termination of such absence the entryman shall file a notice of such

termination in the local land office, but in case of commutation the fourteen months' actual residence required by law must be shown, and the person commuting must be at the time a citizen of the United States: *Provided further*, That when the person making entry dies before the offer of final proof those succeeding to the entry must show that the entryman had complied with the law in all respects to the date of his death, and that they have since complied with the law in all respects, as would have been required of the entryman had he lived, excepting that they are relieved from any requirement of residence upon the land: *Provided further*, That the entryman shall, in order to comply with the requirements of cultivation herein provided for, cultivate not less than one-sixteenth of the area of his entry, beginning with the second year of the entry, and not less than one-eighth, beginning with the third year of the entry and until final proof, except that in the case of entries under section 218(f) of this title, double the area of cultivation herein provided shall be required, but the Secretary of the Interior may, upon a satisfactory showing, under rules and regulations prescribed by him, reduce the required area of cultivation: *And provided further*, That the above provision as to cultivation shall not apply to entries under the Act of April 28, 1904, commonly known as the Kinkaid Act [43 U.S.C. 224], or entries under the Act of June 17, 1902, commonly known as the reclamation Act, and that the provisions of this section relative to the homestead period shall apply to all unperfected entries as well as entries hereafter made upon which residence is required.

(R.S. § 2291; June 6, 1912, ch. 153, 37 Stat. 123.)

#### REPEAL OF SECTION

*Section repealed by Pub. L. 94-579, title VII, § 702, Oct. 21, 1976, 90 Stat. 2787, effective on and after Oct. 21, 1976, except such effective date to be on and after the tenth anniversary of the date of approval of this Act, Oct. 21, 1976, insofar as the homestead laws apply to public lands in Alaska.*

#### REFERENCES IN TEXT

Section 218(f) of this title, referred to in text, was repealed by Pub. L. 94-579, title VII, § 702, Oct. 21, 1976, 90 Stat. 2787.

Act of April 28, 1904, commonly known as the Kinkaid Act, referred to in text, is act Apr. 28, 1904, ch. 1801, 33 Stat. 547, as amended, which was classified to section 224(a) to (c) of this title, and which was repealed by Pub. L. 94-579, title VII, § 702, Oct. 21, 1976, 90 Stat. 2787.

The Act of June 17, 1902, commonly known as the reclamation Act, referred to in text, is act June 17, 1902, ch. 1093, 32 Stat. 388, as amended, which is classified generally to chapter 12 (§ 371 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 371 of this title and Tables.

#### CODIFICATION

R.S. § 2291 derived from acts June 21, 1866, ch. 127, § 2, 14 Stat. 67; June 18, 1874, ch. 308, 18 Stat. 81.

#### SAVINGS PROVISIONS

Repeal by Pub. L. 94-579 not to be construed as terminating any valid lease, permit, patent, etc., existing

on Oct. 21, 1976, see section 701 of Pub. L. 94-579, set out as a note under section 1701 of this title.

#### CROSS REFERENCES

Commuter required to prove 14 months' actual residence and that he is a United States citizen, see section 231 of this title.

Leave of absence of five months in each year to be allowed entryman in one or two continuous periods, see section 231 of this title.

#### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 169, 170, 231, 255, 256, of this title.

#### § 165. Transferred

##### CODIFICATION

Section, act Mar. 3, 1891, ch. 561, § 7, 26 Stat. 1098, which related to suspension of entries for correction of clerical errors, was transferred to section 1165 of this title.

#### § 166. Time for settlers to file application and to perfect entry; marriage of entrywoman; preferential right of entry

Any settler who has settled, or who shall hereafter settle, on any of the public lands of the United States, whether surveyed or unsurveyed, with the intention of claiming the same under the homestead laws, shall be allowed the same time to file his homestead application and perfect his original entry in the United States Land Office as allowed on May 14, 1880, to settlers under the then existing preemption laws to put their claims on record, and his right shall relate back to the date of settlement, the same as if he settled under such preemption laws.

Where an unmarried woman who has heretofore settled, or may hereafter settle, upon a tract of public land, improved, established, and maintained a bona fide residence thereon, with the intention of appropriating the same for a home, subject to the homestead law, and has married, or shall thereafter marry, before making entry of said land, or before making application to enter said land, she shall not on account of her marriage forfeit her right to make entry and receive patent for the land: *Provided*, That she does not abandon her residence on said land, and is otherwise qualified to make homestead entry: *Provided further*, That the man whom she marries is not, at the time of their marriage, claiming a separate tract of land under the homestead law: *Provided further*, That any settler upon lands designated by the Secretary of the Interior as subject to the provisions of subsections (a) to (e) of section 218 of this title and subsections (a) to (e) of section 219 of this title, shall be entitled to the preference right of entry accorded by this section, provided he shall have plainly marked the exterior boundaries of the lands claimed as his homestead: *And provided further*, That after the designation by the Secretary of the Interior of public lands for entry under the nonresidence provisions of the enlarged homestead acts, sections 218 and 219 of this title, any person who shall have plainly marked the exterior boundaries of the lands claimed under said provisions of law and made valuable improve-

ments thereon shall have a preference right to enter the lands so claimed and improved at any time within three months after the date on which such lands become subject to entry; but such right shall forfeit unless the settler or claimant under the provisions of the enlarged homestead acts shall annually cultivate and improve the lands in the form and manner and to the extent therein required following date of initiation of his claim hereunder.

(May 14, 1880, ch. 89, § 3, 21 Stat. 141; June 6, 1900, ch. 821, 31 Stat. 683; Aug. 9, 1912, ch. 280, 37 Stat. 267.)

#### REPEAL OF SECTION

*Section repealed by Pub. L. 94-579, title VII, § 702, Oct. 21, 1976, 90 Stat. 2887, effective on and after Oct. 21, 1976, except such effective date to be on and after the tenth anniversary of the date of approval of this Act, Oct. 21, 1976, insofar as the homestead laws apply to public lands in Alaska.*

#### REFERENCES IN TEXT

Sections 218 and 219 of this title, referred to in text, were repealed by Pub. L. 94-579, title VII, § 702, Oct. 21, 1976, 90 Stat. 2787.

#### SAVINGS PROVISIONS

Repeal by Pub. L. 94-579 not to be construed as terminating any valid lease, permit, patent, etc., existing on Oct. 21, 1976, see section 701 of Pub. L. 94-579, set out as a note under section 1701 of this title.

#### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 223 of this title.

#### § 167. Marriage of entryman to entrywoman

The marriage of a homestead entryman to a homestead entrywoman after each shall have fulfilled the requirements of the homestead law for one year next preceding such marriage shall not impair the right of either to a patent, but the husband shall elect, under rules and regulations prescribed by the Secretary of the Interior, on which of the two entries the home shall thereafter be made, and residence thereon by the husband and wife shall constitute a compliance with the residence requirements upon each entry: *Provided*, That the provisions of this section shall apply to entries existing on April 6, 1914: *Provided further*, That in the administration of this section the terms "entryman" and "entrywoman" shall be construed to include bona fide settlers who have complied with the homestead law for at least one year next preceding such marriage.

(Apr. 6, 1914, ch. 51, 38 Stat. 312; Mar. 1, 1921, ch. 90, 41 Stat. 1193.)

#### REPEAL OF SECTION

*Section repealed by Pub. L. 94-579, title VII, § 702, Oct. 21, 1976, 90 Stat. 2787, effective on and after Oct. 21, 1976, except such effective date to be on and after the tenth anniversary of the date of approval of this Act, Oct. 21, 1976, insofar as the homestead laws apply to public lands in Alaska.*

#### SAVINGS PROVISIONS

Repeal by Pub. L. 94-579 not to be construed as terminating any valid lease, permit, patent, etc., existing

on Oct. 21, 1976, see section 701 of Pub. L. 94-579, set out as a note under section 1701 of this title.

#### § 168. Marriage of entrywoman to alien

Any female citizen of the United States who has initiated a claim to a tract of public land under any of the laws applicable thereto, and who thereafter has complied with all the conditions as to the acquisition of title to such land prescribed by the public land laws of the United States, shall, notwithstanding her intermarriage with an alien, who is entitled to become a citizen of the United States, be entitled to a certificate or patent to such entry equally as though she had remained unmarried or had married an American citizen.

(Oct. 17, 1914, ch. 325, 38 Stat. 740.)

#### REPEAL OF SECTION

*Section repealed by Pub. L. 94-579, title VII, § 702, Oct. 21, 1976, 90 Stat. 2787, effective on and after Oct. 21, 1976, except such effective date to be on and after the tenth anniversary of the date of approval of this Act, Oct. 21, 1976, insofar as the homestead laws apply to public lands in Alaska.*

#### SAVINGS PROVISIONS

Repeal by Pub. L. 94-579 not to be construed as terminating any valid lease, permit, patent, etc., existing on Oct. 21, 1976, see section 701 of Pub. L. 94-579, set out as a note under section 1701 of this title.

#### § 169. Failure to establish residence; reversion to Government

If, at any time after the filing of the affidavit as required in section 162 of this title and before the expiration of the three years mentioned in section 164 of this title, it is proved, after due notice to the settler, to the satisfaction of the Secretary of the Interior or such officer as he may designate that the person having filed such affidavit has failed to establish residence within six months after the date of entry, or abandoned the land for more than six months at any time, then, and in that event, the land so entered shall revert to the Government: *Provided*, That the three years' period of residence herein fixed shall date from the time of establishing actual permanent residence upon the land: *And provided further*, That where there may be climatic reasons, sickness, or other unavoidable cause, the Secretary of the Interior or such officer as he may designate may, in his discretion, allow the settler twelve months from the date of filing in which to commence his residence on said land under such rules and regulations as he may prescribe.

(R.S. § 2297; Mar. 3, 1881, ch. 153, 21 Stat. 511; June 6, 1912, ch. 153, 37 Stat. 124; 1946 Reorg. Plan No. 3, § 403, eff. July 16, 1946, 11 F.R. 7876, 60 Stat. 1100.)

#### REPEAL OF SECTION

*Section repealed by Pub. L. 94-579, title VII, § 702, Oct. 21, 1976, 90 Stat. 2787, effective on and after Oct. 21, 1976, except such effective date to be on and after the tenth anniversary of the date of approval of this*

*Act, Oct. 21, 1976, insofar as the homestead laws apply to public lands in Alaska.*

#### CODIFICATION

R.S. § 2297 derived from acts May 20, 1862, ch. 75, § 5, 12 Stat. 393; Dec. 28, 1874, ch. 10, 18 Stat. 294; Apr. 21, 1876, ch. 72, 19 Stat. 36.

#### SAVINGS PROVISIONS

Repeal by Pub. L. 94-579 not to be construed as terminating any valid lease, permit, patent, etc., existing on Oct. 21, 1976, see section 701 of Pub. L. 94-579, set out as a note under section 1701 of this title.

#### TRANSFER OF FUNCTIONS

For transfer of functions of the other officers, employees, and agencies of the Department of the Interior, with certain exceptions, to the Secretary of the Interior, with power to delegate, see Reorg. Plan No. 3 of 1950, §§ 1, 2, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1262, set out under section 1451 of this title.

"Secretary of the Interior or such officer as he may designate" was substituted for "register of the land office" and for "Commissioner of the General Land Office" on authority of section 403 of Reorg. Plan No. 3 of 1946. See note set out under section 1 of this title.

#### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 237h, 256, 336d of this title.

#### § 170. Rights of wife abandoned by husband

In any case in which persons have regularly initiated claims to public lands as settlers thereon under the provisions of the homestead laws and the wife of such homestead settler or entryman, while residing upon the homestead claim and prior to submission of final proof of residence, cultivation, and improvement as prescribed by law, has been abandoned and deserted by her husband for a period of more than one year, the deserted wife shall, upon establishing the fact of such abandonment or desertion to the satisfaction of the Secretary of the Interior, be entitled to submit proof upon such claim and obtain patent therefor in her name in the form, manner, and subject to the conditions prescribed in section 164 of this title: *Provided*, That in such cases the wife shall be required to show residence upon, cultivation, and improvement of the homestead by herself for such time as when, added to the time during which her husband prior to desertion had complied with the law, would aggregate the full amount of residence, improvement, and cultivation required by law: *And provided further*, That the published and posted notices of intention to submit final proof in such cases shall recite the fact that the proof is to be offered and patent sought by applicant as a deserted wife, and, prior to its submission, notice thereof shall be served upon the husband of the applicant in such a manner and under such rules and regulations as the Secretary of the Interior shall prescribe.

(Oct. 22, 1914, ch. 335, 38 Stat. 766.)

#### REPEAL OF SECTION

*Section repealed by Pub. L. 94-579, title VII, § 702, Oct. 21, 1976, 90 Stat. 2787, effective on and after Oct. 21, 1976, except such effective date to be on and after the tenth anniversary of the date of approval of this*

*Act, Oct. 21, 1976, insofar as the homestead laws apply to public lands in Alaska.*

#### SAVINGS PROVISIONS

Repeal by Pub. L. 94-579 not to be construed as terminating any valid lease, permit, patent, etc., existing on Oct. 21, 1976, see section 701 of Pub. L. 94-579, set out as a note under section 1701 of this title.

#### § 171. Rights inuring to infant children

In case of the death of both father and mother, leaving an infant child or children under twenty-one years of age, the right and fee shall inure to the benefit of such infant child or children; and the executor, administrator, or guardian may, at any time within two years after the death of the surviving parent, and in accordance with the laws of the State in which such children, for the time being, have their domicile, sell the land for the benefit of such infants, but for no other purpose, and the purchaser shall acquire the absolute title by the purchase, and be entitled to a patent from the United States on the payment of the office fees and the sum of money above specified.

(R.S. §§ 2289, 2292.)

#### REPEAL OF SECTION

*Section repealed by Pub. L. 94-579, title VII, § 702, Oct. 21, 1976, 90 Stat. 2787, effective on and after Oct. 21, 1976, except such effective date to be on and after the tenth anniversary of the date of approval of this Act, Oct. 21, 1976, insofar as the homestead laws apply to public lands in Alaska.*

#### CODIFICATION

R.S. § 2289 derived from acts May 20, 1862, ch. 75, § 1, 12 Stat. 392; Feb. 11, 1874, ch. 25, 18 Stat. 15; Mar. 13, 1874, ch. 55, 18 Stat. 22; June 22, 1874, ch. 460, 18 Stat. 194; Feb. 23, 1875, ch. 99, 18 Stat. 334; Mar. 3, 1875, ch. 131, §§ 15, 16, 18 Stat. 420; Apr. 21, 1875, ch. 72, 19 Stat. 35; Mar. 3, 1877, ch. 127, 19 Stat. 405.

R.S. § 2292 derived from act June 21, 1866, ch. 127, § 2, 14 Stat. 67.

#### SAVINGS PROVISIONS

Repeal by Pub. L. 94-579 not to be construed as terminating any valid lease, permit, patent, etc., existing on Oct. 21, 1976, see section 701 of Pub. L. 94-579, set out as a note under section 1701 of this title.

#### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 255, 1131 of this title.

#### § 172. Insanity of settlers

In all cases in which parties who regularly initiated claims to public lands as settlers thereon according to the provisions of the preemption or homestead laws, became insane, prior to June 8, 1880, or shall have thereafter become insane before the expiration of the time during which their residence, cultivation, or improvement of the land claimed by them is required by law to be continued in order to entitle them to make the proper proof and perfect their claims, it shall be lawful for the required proof and payment to be made for their benefit by any person who may be legally authorized to act for them during their disability, and there-

upon their claims shall be confirmed and patented, provided it shall be shown by proof satisfactory to the Secretary of the Interior, or such officer as he may designate, that the parties complied in good faith with the legal requirements up to the time of their becoming insane, and the requirement in homestead entries of an affidavit of allegiance by the applicant in certain cases as a prerequisite to the issuing of the patents shall be dispensed with so far as regards such insane parties.

(June 8, 1880, ch. 136, 21 Stat. 166; 1946 Reorg. Plan No. 3, § 403, eff. July 16, 1946, 11 F.R. 7876, 60 Stat. 1100.)

#### REPEAL OF SECTION

*Section repealed by Pub. L. 94-579, title VII, § 702, Oct. 21, 1976, 90 Stat. 2787, effective on and after Oct. 21, 1976, except such effective date to be on and after the tenth anniversary of the date of approval of this Act, Oct. 21, 1976, insofar as the homestead laws apply to public lands in Alaska.*

#### SAVINGS PROVISIONS

Repeal by Pub. L. 94-579 not to be construed as terminating any valid lease, permit, patent, etc., existing on Oct. 21, 1976, see section 701 of Pub. L. 94-579, set out as a note under section 1701 of this title.

#### TRANSFER OF FUNCTIONS

For transfer of functions of the other officers, employees, and agencies of the Department of the Interior, with certain exceptions, to the Secretary of the Interior, with power to delegate, see Reorg. Plan No. 3 of 1950, §§ 1, 2, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1262, set out under section 1451 of this title.

"Secretary of the Interior or such officer as he may designate" was substituted for "Commissioner of the General Land Office" on authority of section 403 of Reorg. Plan No. 3 of 1946. See note set out under section 1 of this title.

#### § 173. Commutation after 14 months

All commutations of homestead entries shall be allowed after the expiration of fourteen months from date of settlement. Nothing in this chapter shall be so construed as to prevent any person who shall avail himself of the benefits of section 161 of this title from paying the minimum price for the quantity of land so entered at any time after the expiration of fourteen calendar months from the date of such entry, and obtaining a patent therefor, upon making proof of settlement and of residence and cultivation for such period of fourteen months.

(R.S. § 2301; Mar. 3, 1891, ch. 561, § 6, 26 Stat. 1098; June 3, 1896, ch. 312, § 2, 29 Stat. 197.)

#### REPEAL OF SECTION

*Section repealed by Pub. L. 94-579, title VII, § 702, Oct. 21, 1976, 90 Stat. 2787, effective on and after Oct. 21, 1976, except such effective date to be on and after the tenth anniversary of the date of approval of this Act, Oct. 21, 1976, insofar as the homestead laws apply to public lands in Alaska.*

#### REFERENCES IN TEXT

This chapter, referred to in text, means Chapter 5 of Title XXXII of the Revised Statutes, consisting of

R.S. §§ 2289 to 2317, which are classified to sections 161 to 164, 169, 171, 173, 175, 183, 184, 191, 201, 211, 239, 254, 255, 271, 272, 274, 277, and 278 of this title. R.S. §§ 2299 and 2312 to 2317 were not classified to the Code and were repealed by act Mar. 3, 1933, ch. 202, § 1, 47 Stat. 1429. R.S. § 2303 was not classified to the Code and was repealed by act July 4, 1876, ch. 165, 19 Stat. 73.

#### CODIFICATION

R.S. § 2301 derived from act May 20, 1862, ch. 75, § 8, 12 Stat. 393.

#### SAVINGS PROVISIONS

Repeal by Pub. L. 94-579 not to be construed as terminating any valid lease, permit, patent, etc., existing on Oct. 21, 1976, see section 701 of Pub. L. 94-579, set out as a note under section 1701 of this title.

#### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 180, 187b, 189, 217, 237h, 336d, 641, 1165 of this title.

#### § 174. Right to transfer claim

Any bona fide settler under the preemption, the homestead, or other settlement law shall have the right to transfer, by warranty against his own acts, any portion of his claim for church, cemetery, or school purposes, or for the right-of-way of railroads, telegraph, telephones, canals, reservoirs, or ditches, for irrigation or drainage across it; and the transfer for such public purposes shall in no way vitiate the right to complete and perfect the title to his claim.

(R.S. § 2288; Mar. 3, 1891, ch. 561, §§ 3, 4, 26 Stat. 1097; Mar. 3, 1905, ch. 1424, 33 Stat. 991.)

#### REPEAL OF SECTION

*Section repealed by Pub. L. 94-579, title VII, § 702, Oct. 21, 1976, 90 Stat. 2787, effective on and after Oct. 21, 1976, except such effective date to be on and after the tenth anniversary of the date of approval of this Act, Oct. 21, 1976, insofar as the homestead laws apply to public lands in Alaska.*

#### CODIFICATION

R.S. § 2288 derived from act Mar. 3, 1873, ch. 266, 17 Stat. 602.

#### SAVINGS PROVISIONS

Repeal by Pub. L. 94-579 not to be construed as terminating any valid lease, permit, patent, etc., existing on Oct. 21, 1976, see section 701 of Pub. L. 94-579, set out as a note under section 1701 of this title.

#### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 164, 641 of this title.

#### § 175. Exemption from execution of homestead land

No lands acquired under the provisions of the homestead laws and laws supplemental and amendatory thereof shall in any event become liable to the satisfaction of any debt contracted prior to the issuing of the patent therefor.

(R.S. § 2296; Apr. 28, 1922, ch. 155, 42 Stat. 502.)

#### REPEAL OF SECTION

*Section repealed by Pub. L. 94-579, title VII, § 702, Oct. 21, 1976, 90 Stat. 2787, effective*

*tive on and after Oct. 21, 1976, except such effective date to be on and after the tenth anniversary of the date of approval of this Act, Oct. 21, 1976, insofar as the homestead laws apply to public lands in Alaska.*

#### CODIFICATION

R.S. § 2296 derived from act May 20, 1862, ch. 75, § 4, 12 Stat. 393.

#### SAVINGS PROVISIONS

Repeal by Pub. L. 94-579 not to be construed as terminating any valid lease, permit, patent, etc., existing on Oct. 21, 1976, see section 701 of Pub. L. 94-579, set out as a note under section 1701 of this title.

#### FEDERAL RULES OF CIVIL PROCEDURE

Execution, see Rule 69, Title 28, Appendix, Judiciary and Judicial Procedure.

Continuation of section under Rule 69, see note by Advisory Committee set out under that rule.

#### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 237h, 336d of this title.

§ 176. Repealed. Pub. L. 94-579, title VII, § 705(a), Oct. 21, 1976, 90 Stat. 2792

Section, act Mar. 2, 1895, ch. 174, §§ 1 to 3, 28 Stat. 744, provided for appointment of court commissioners for certain Territories.

#### EFFECTIVE DATE OF REPEAL

Section 705(a) of Pub. L. 94-579 provided in part that this section is repealed effective on and after Oct. 21, 1976.

#### SAVINGS PROVISIONS

Repeal by Pub. L. 94-579 not to be construed as terminating any valid lease, permit, patent, etc., existing on Oct. 21, 1976, see section 701 of Pub. L. 94-579, set out as a note under section 1701 of this title.

§ 177. Patents for lands in New Mexico held under color of title

Whenever it shall be shown to the satisfaction of the Secretary of the Interior that a tract or tracts of public land, not known to be mineral, in the State of New Mexico, not exceeding in the aggregate one hundred and sixty acres, has or have been held in good faith and in peaceful, adverse possession by a citizen of the United States, his ancestors or grantors, for more than twenty years under claim or color of title, and that valuable improvements have been placed on such land, or some part thereof has been reduced to cultivation, the Secretary may, in his discretion, upon the payment of \$1.25 per acre, cause a patent or patents to issue for such land to any such citizen: *Provided*, That where the area or areas so held by any such citizen is in excess of one hundred and sixty acres the Secretary may determine what particular subdivisions, not exceeding one hundred and sixty acres in the aggregate, to any such citizen may be patented under this section: *Provided further*, That the term "citizen" as used in this section shall be held to include a corporation organized under the laws of the United States or any State or Territory thereof. (June 8, 1926, ch. 501, 44 Stat. 709.)

§ 178. Patents for lands in New Mexico; lands contiguous to Spanish or Mexican land grants

Whenever it shall be shown to the satisfaction of the Secretary of the Interior that a tract or tracts of public land, contiguous to a Spanish or Mexican land grant, in the State of New Mexico, not exceeding in the aggregate one hundred and sixty acres, has or have been held in good faith and in peaceful, adverse possession by a citizen of the United States, his ancestors or grantors, for more than twenty years under claim or color of title, and that valuable improvements have been placed on such land, or some part thereof has been reduced to cultivation, the Secretary may, in his discretion, upon the payment of \$1.25 per acre, cause a patent or patents to issue for such land to any such citizens: *Provided*, That where the area or areas so held by any such citizen is in excess of one hundred and sixty acres the Secretary may determine what particular subdivisions, not exceeding one hundred and sixty acres in the aggregate, to any such citizen may be patented hereunder: *Provided further*, That coal and all other minerals contained therein are reserved to the United States; that said coal and other minerals shall be subject to sale or disposal by the United States under applicable leasing and mineral land laws, and permittees, lessees, or grantees of the United States shall have the right to enter upon said lands for the purpose of prospecting for and mining such deposits: *Provided further*, That the term "citizen", as used in this section, shall be held to include a corporation organized under the laws of the United States or any State or Territory thereof. (Feb. 23, 1932, ch. 52, 47 Stat. 53.)

#### REFERENCES IN TEXT

The leasing and mineral land laws, referred to in text, probably mean the mineral leasing laws, which have been defined in sections 351, 505, 530, and 541e of Title 30, Mineral Lands and Mining, to mean acts Oct. 20, 1914, ch. 330, 38 Stat. 741; Feb. 25, 1920, ch. 85, 41 Stat. 437; Apr. 17, 1926, ch. 158, 44 Stat. 301; and Feb. 7, 1927, ch. 66, 44 Stat. 1057. The act of Oct. 20, 1914, was repealed by Pub. L. 86-252, § 1, Sept. 9, 1959, 73 Stat. 490. The act of Feb. 25, 1920, is popularly known as the Mineral Lands Leasing Act and is classified principally to chapter 3A (§ 181 et seq.) of Title 30. The act of Apr. 17, 1926, is classified generally to subchapter VIII (§ 271 et seq.) of chapter 3A of Title 30. The act of Feb. 7, 1927, is classified principally to subchapter IX (§ 281 et seq.) of chapter 3A of Title 30. For complete classification of these Acts to the Code, see Tables.

§ 179. Free homesteads to settlers; commutation rights; payments to Indians

All settlers under the homestead laws of the United States upon the agricultural public lands, which were prior to May 17, 1900, opened to settlement, acquired prior to May 17, 1900, by treaty or agreement from the various Indian tribes, who have resided or shall reside upon the tract entered in good faith for the period required by existing law, shall be entitled to a patent for the land so entered upon the payment to the local land officers of the usual and customary fees, and no other or further charge of any kind whatsoever shall be required from

such settler to entitle him to a patent for the land covered by his entry: *Provided*, That the right to commute any such entry and pay for said lands in the option of any such settler and in the time and at the prices fixed by existing laws on May 17, 1900, shall remain in full force and effect: *Provided, however*, That all sums of money so released which if not released would belong to any Indian tribe shall be paid to such Indian tribe, by the United States, and that in the event that the proceeds of the annual sales of the public lands shall not be sufficient to meet the payments provided for agricultural colleges and experimental stations by an Act of Congress, approved August 30, 1890 [7 U.S.C. 321 et seq.], for the more complete endowment and support of the colleges for the benefit of agricultural and mechanic arts, established under the provisions of an Act of Congress, approved July 2, 1862 [7 U.S.C. 301 et seq.], such deficiency shall be paid by the United States: *And provided further*, That no lands shall be herein included on which the United States Government had made valuable improvements, or lands that have been sold at public auction by said Government.

(May 17, 1900, ch. 479, § 1, 31 Stat. 179.)

#### REPEAL OF SECTION

*Section repealed by Pub. L. 94-579, title VII, § 702, Oct. 21, 1976, 90 Stat. 2787, effective on and after Oct. 21, 1976, except such effective date to be on and after the tenth anniversary of the date of approval of this Act, Oct. 21, 1976, insofar as the homestead laws apply to public lands in Alaska.*

#### REFERENCES IN TEXT

The Act of Congress, approved August 30, 1890, referred to in text, is act Aug. 30, 1890, ch. 841, 26 Stat. 417, as amended, popularly known as the "Agricultural College Act of 1890" and also as the "Second Morrill Act", which is classified generally to subchapter II (§ 321 et seq.) of chapter 13 of Title 7, Agriculture. For complete classification of this Act to the Code, see Short Title note set out under section 321 of Title 7 and Tables.

The Act of Congress, approved July 2, 1862, referred to in text, is act July 2, 1862, ch. 130, 12 Stat. 503, as amended, popularly known as the "Morrill Act" and also as the "First Morrill Act", which is classified generally to subchapter I (§ 301 et seq.) of chapter 13 of Title 7. For complete classification of this Act to the Code, see Short Title note set out under section 301 of Title 7 and Tables.

#### SAVINGS PROVISIONS

Repeal by Pub. L. 94-579 not to be construed as terminating any valid lease, permit, patent, etc., existing on Oct. 21, 1976, see section 701 of Pub. L. 94-579, set out as a note under section 1701 of this title.

#### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 180, 187b of this title.

#### § 180. Extension of right of settlers to commute entry

The provisions of section 173 of this title, allowing homestead settlers to commute their homestead entries are extended to all homestead settlers affected by or entitled to the benefits of the provisions of section 179 of this title: *Provided, however*, That in commuting

such entries the entryman shall pay the price provided in the law under which original entry was made.

(Jan. 26, 1901, ch. 180, 31 Stat. 740.)

#### REPEAL OF SECTION

*Section repealed by Pub. L. 94-579, title VII, § 702, Oct. 21, 1976, 90 Stat. 2787, effective on and after Oct. 21, 1976, except such effective date to be on and after the tenth anniversary of the date of approval of this Act, Oct. 21, 1976, insofar as the homestead laws apply to public lands in Alaska.*

#### SAVINGS PROVISIONS

Repeal by Pub. L. 94-579 not to be construed as terminating any valid lease, permit, patent, etc., existing on Oct. 21, 1976, see section 701 of Pub. L. 94-579, set out as a note under section 1701 of this title.

#### SUBCHAPTER II—RIGHT OF PARTICULAR PERSONS TO MAKE ENTRY

#### § 181. Repealed. Dec. 16, 1930, ch. 14, § 1, 46 Stat. 1029

Section, act June 5, 1900, ch. 716, § 3, 31 Stat. 270, provided that a person making an entry which was lost or forfeited should be entitled to the benefits of the homestead laws as though the former entry had not been made. See section 182 of this title.

#### § 182. Entry after forfeiture of prior entry without fault

Any person otherwise duly qualified to make entry or entries of public lands under the homestead or desert-land laws, who has prior to September 5, 1914, made or may thereafter make entry under said laws, and who, through no fault of his own, may have lost, forfeited, or abandoned the same, or who may lose, forfeit, or abandon same, shall be entitled to the benefits of the homestead or desert-land laws as though such former entry or entries had never been made: *Provided*, That such applicant shall show to the satisfaction of the Secretary of the Interior that the prior entry or entries were made in good faith, were lost, forfeited, or abandoned because of matters beyond his control, and that he has not speculated in his right nor committed a fraud or attempted fraud in connection with such prior entry or entries.

(Sept. 5, 1914, ch. 294, 38 Stat. 712.)

#### REPEAL OF SECTION

*Section repealed by Pub. L. 94-579, title VII, § 702, Oct. 21, 1976, 90 Stat. 2787, effective on and after Oct. 21, 1976, except such effective date to be on and after the tenth anniversary of the date of approval of this Act, Oct. 21, 1976, insofar as the homestead laws apply to public lands in Alaska.*

#### SAVINGS PROVISIONS

Repeal by Pub. L. 94-579 not to be construed as terminating any valid lease, permit, patent, etc., existing on Oct. 21, 1976, see section 701 of Pub. L. 94-579, set out as a note under section 1701 of this title.

**§ 183. Minor veterans; serving in military establishment; relinquishment of entries**

No person who has served, or may hereafter serve, for a period not less than fourteen days in the Army or Navy of the United States, either Regular or Volunteer, under the laws thereof, during the existence of an actual war, domestic or foreign, shall be deprived of the benefits of this chapter on account of not having attained the age of twenty-one years.

Any person, under the age of twenty-one, who has served or shall hereafter serve in the Army of the United States during the emergency contemplated by the act of August 31, 1918, shall be entitled to the same rights under the homestead and other land and mineral entry laws, general or special, as those over twenty-one years of age now possess under said laws: *Provided*, That any requirements as to establishment of residence within a limited time shall be suspended as to entry by such person until six months after his discharge from military service: *And provided further*, That applications for entry may be verified before any officer in the United States, or any foreign country, authorized to administer oaths by the laws of the State or Territory in which the land may be situated.

No relinquishment of any public-land entry made under and by authority of the preceding paragraph shall be valid or effective for any purpose unless executed after the entryman shall have actually resided upon and cultivated the land, in the case of a homestead entry, for at least six months, and in the case of an entry made under other than the homestead laws, after the entryman shall have complied with the provisions of the applicable law for at least one year.

Any person, firm, or corporation soliciting or dealing with the relinquishment of such claim or entry prior to the completion of compliance with the applicable law and with this section, and who or which solicits, demands, or receives, or accepts any fee or compensation for locating, filing, or securing the claims or entries for persons entitled to the benefits of said paragraph shall, upon conviction, be fined not to exceed \$1,000 or imprisoned for not exceeding two years, or both.

(R.S. § 2300; Aug. 31, 1918, ch. 166, § 8, 40 Stat. 957; Sept. 13, 1918, ch. 173, 40 Stat. 960.)

**REPEAL OF SECTION**

*Section repealed by Pub. L. 94-579, title VII, § 702, Oct. 21, 1976, 90 Stat. 2787, effective on and after Oct. 21, 1976, except such effective date to be on and after the tenth anniversary of the date of approval of this Act, Oct. 21, 1976, insofar as the homestead laws apply to public lands in Alaska.*

**CODIFICATION**

R.S. § 2300 derived from act May 20, 1862, ch. 75, § 6, 12 Stat. 393.

**SAVINGS PROVISIONS**

Repeal by Pub. L. 94-579 not to be construed as terminating any valid lease, permit, patent, etc., existing on Oct. 21, 1976, see section 701 of Pub. L. 94-579, set out as a note under section 1701 of this title.

**SECTION REFERRED TO IN OTHER SECTIONS**

This section is referred to in sections 237h, 336d of this title.

**§ 184. No distinction on account of race or color**

No distinction shall be made in the construction or execution of this chapter, on account of race or color.

(R.S. § 2302.)

**REPEAL OF SECTION**

*Section repealed by Pub. L. 94-579, title VII, § 702, Oct. 21, 1976, 90 Stat. 2787, effective on and after Oct. 21, 1976, except such effective date to be on and after the tenth anniversary of the date of approval of this Act, Oct. 21, 1976, insofar as the homestead laws apply to public lands in Alaska.*

**REFERENCES IN TEXT**

This chapter, referred to in text, means Chapter 5 of Title XXXII of the Revised Statutes, consisting of R.S. §§ 2289 to 2317, which are classified to sections 161 to 164, 169, 171, 173, 175, 183, 184, 191, 201, 211, 239, 254, 255, 271, 272, 274, 277, and 278 of this title. R.S. §§ 2299 and 2312 to 2317 were not classified to the Code and were repealed by act Mar. 3, 1933, ch. 202, § 1, 47 Stat. 1429. R.S. § 2303 was not classified to the Code and was repealed by act July 4, 1876, ch. 165, 19 Stat. 73.

**CODIFICATION**

R.S. § 2302 derived from act June 21, 1866, ch. 127, § 1, 14 Stat. 67.

**SAVINGS PROVISIONS**

Repeal by Pub. L. 94-579 not to be construed as terminating any valid lease, permit, patent, etc., existing on Oct. 21, 1976, see section 701 of Pub. L. 94-579, set out as a note under section 1701 of this title.

**§ 185. Preference right of entry of successful contestants**

In all cases where any person has contested, paid the land-office fees, and procured the cancellation of any preemption, homestead or timber culture entry, he shall be notified by the officer designated by the Secretary of the Interior of the land office of the district in which such land is situated of such cancellation, and shall be allowed thirty days from date of such notice to enter said lands: *Provided*, That should any such person who has initiated a contest die before the final termination of the same, said contest shall not abate by reason thereof, but his heirs who are citizens of the United States, may continue the prosecution under such rules and regulations as the Secretary of the Interior may prescribe, and said heirs shall be entitled to the same rights under this section that contestant would have been if his death had not occurred.

(May 14, 1880, ch. 89, § 2, 21 Stat. 141; Mar. 3, 1891, ch. 561, § 4, 26 Stat. 1097; July 26, 1892, ch. 251, 27 Stat. 270; 1946 Reorg. Plan No. 3, § 403, eff. July 16, 1946, 11 F.R. 7876, 60 Stat. 1100.)

## REPEAL OF SECTION

*Section repealed by Pub. L. 94-579, title VII, § 702, Oct. 21, 1976, 90 Stat. 2787, effective on and after Oct. 21, 1976, except such effective date to be on and after the tenth anniversary of the date of approval of this Act, Oct. 21, 1976, insofar as the homestead laws apply to public lands in Alaska.*

## SAVINGS PROVISIONS

Repeal by Pub. L. 94-579 not to be construed as terminating any valid lease, permit, patent, etc., existing on Oct. 21, 1976, see section 701 of Pub. L. 94-579, set out as a note under section 1701 of this title.

## TRANSFER OF FUNCTIONS

For transfer of functions of the other officers, employees, and agencies of the Department of the Interior, with certain exceptions, to the Secretary of the Interior, with power to delegate, see Reorg. Plan No. 3 of 1950, §§ 1, 2, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1262, set out under section 1451 of this title.

Words "officer designated by the Secretary of the Interior" were substituted for "register" on authority of section 403 of Reorg. Plan No. 3 of 1946. See note set out under section 1 of this title.

## § 186. Preference right of entry of veterans; rules and regulations

For the period of ten years following February 14, 1930, on the opening of public or Indian lands to entry, or the restoration to entry of public lands theretofore withdrawn from entry, such opening or restoration shall, in the order therefor, provide for a period of not less than ninety days before the general opening of such lands to disposal in which officers, soldiers, sailors, or marines who have served in the Army or Navy of the United States in any war, military occupation, or military expedition and been honorably separated or discharged therefrom or placed in the Regular Army or Naval Reserve shall have a preferred right of entry under the homestead or desert-land laws, if qualified thereunder, except as against prior existing valid settlement rights and as against preference rights conferred by existing laws or equitable claims subject to allowance and confirmation: *Provided*, That for the purposes of this resolution the war with Spain shall be considered to include the period from April 21, 1898, to July 4, 1902: *Provided further*, That the same preference rights are extended to apply to those citizens of the United States who served with the allied armies during the World War and who were honorably discharged, upon their resumption of citizenship in the United States, provided the service with the allied armies shall be similar to the service with the Army of the United States for which recognition is granted in this joint resolution: *Provided further*, That the rights and benefits conferred by this joint resolution shall not extend to any person who, having been drafted for service under the provisions of the Selective Service Act [50 App. U.S.C. 201 et seq.], shall have refused to render such service or to wear the uniform of such service of the United States.

The Secretary of the Interior is authorized to make any and all regulations necessary to carry into full force and effect the provisions of this section.

(Feb. 14, 1920, ch. 76, §§ 1, 2, 41 Stat. 434, 435; Jan. 21, 1922, ch. 32, §§ 1, 2, 42 Stat. 358; Dec. 28, 1922, ch. 19, 42 Stat. 1067; June 12, 1930, ch. 471, 46 Stat. 580.)

## REPEAL OF SECTION

*Section repealed by Pub. L. 94-579, title VII, § 702, Oct. 21, 1976, 90 Stat. 2787, effective on and after Oct. 21, 1976, except such effective date to be on and after the tenth anniversary of the date of approval of this Act, Oct. 21, 1976, insofar as the homestead laws apply to public lands in Alaska.*

## REFERENCES IN TEXT

The Selective Service Act, referred to in text, probably means the Selective Draft Act of 1917, act May 18, 1917, ch. 15, 40 Stat. 76, as amended, which enacted sections 201 to 214 of Title 50, App., War and National Defense. Sections 201 to 211, 213 and 214 of Title 50, App., were omitted from the Code in view of act June 15, 1917, ch. 29, § 4, 40 Stat. 217, which provided in part that compulsory military service under section 201 to 214 cease 4 months after the Presidential proclamation ending World War I. Section 212 of Title 50, App., relating to regulation and prohibition of alcoholic liquors by the President, was repealed by act Aug. 27, 1935, ch. 740, title II, § 203, 49 Stat. 878. For complete classification of this Act to the Code, see Tables.

## SAVINGS PROVISIONS

Repeal by Pub. L. 94-579 not to be construed as terminating any valid lease, permit, patent, etc., existing on Oct. 21, 1976, see section 701 of Pub. L. 94-579, set out as a note under section 1701 of this title.

## CROSS REFERENCES

Preference right of World War II and Korean conflict veterans, see sections 279 to 283 of this title.

## § 187. Entrants on ceded Indian reservations

Any person who prior to February 25, 1925, entered, under the homestead laws, and paid a price equivalent to or greater than \$2.50 per acre, lands embraced in a ceded Indian reservation, shall, upon proof of such fact, if otherwise qualified, be entitled to the benefits of the homestead law as though such former entry had not been made: *Provided*, That the provisions of this section shall not apply to any person who has failed to pay the full price for his former entry, or whose former entry was canceled for fraud.

(Feb. 25, 1925, ch. 326, 43 Stat. 981.)

## REPEAL OF SECTION

*Section repealed by Pub. L. 94-579, title VII, § 702, Oct. 21, 1976, 90 Stat. 2787, effective on and after Oct. 21, 1976, except such effective date to be on and after the tenth anniversary of the date of approval of this Act, Oct. 21, 1976, insofar as the homestead laws apply to public lands in Alaska.*

## SAVINGS PROVISIONS

Repeal by Pub. L. 94-579 not to be construed as terminating any valid lease, permit, patent, etc., existing on Oct. 21, 1976, see section 701 of Pub. L. 94-579, set out as a note under section 1701 of this title.

## SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 187a of this title.

## § 187a. New homestead entry on ceded Indian reservations

Any person who prior to June 21, 1934, made entry under the homestead laws on any lands embraced within any reservation ceded to the United States by the Indian tribes, and has paid for his land the sum of at least \$1.25 per acre, shall, upon proof of such facts, if otherwise qualified, be entitled to the benefit of the homestead law as though such former entry had not been made; but the provisions of this section shall not apply to any person who has failed to pay the full price for his former entry or whose former entry was canceled for fraud: *Provided*, That, in making any new homestead entry as authorized by this section or the prior similar Acts of February 20, 1917 (39 Stat. 926), and February 25, 1925 (43 Stat. 981) [43 U.S.C. 187] such entry shall not include any land to which the Indian title shall not have been fully extinguished.

(June 21, 1934, ch. 690, 48 Stat. 1185.)

## REPEAL OF SECTION

*Section repealed by Pub. L. 94-579, title VII, § 702, Oct. 21, 1976, 90 Stat. 2787, effective on and after Oct. 21, 1976, except such effective date to be on and after the tenth anniversary of the date of approval of this Act, Oct. 21, 1976, insofar as the homestead laws apply to public lands in Alaska.*

## REFERENCES IN TEXT

Act of February 20, 1917, referred to in text, is act Feb. 20, 1917, ch. 101, 39 Stat. 926, which is not classified to the Code.

Act of February 25, 1925, referred to in text, is act Feb. 25, 1925, ch. 326, 43 Stat. 981, which enacted section 187 of this title.

## SAVINGS PROVISIONS

Repeal by Pub. L. 94-579 not to be construed as terminating any valid lease, permit, patent, etc., existing on Oct. 21, 1976, see section 701 of Pub. L. 94-579, set out as a note under section 1701 of this title.

## § 187b. Second homestead entry by certain settlers

Any person who, prior to May 17, 1900, having made a homestead entry and perfected the same and acquired title to the land by final entry by having paid the price provided in the law opening the land to settlement, and who would have been entitled to the provisions of section 179 of this title had final entry not been made prior to May 17, 1900, may make another homestead entry of not exceeding one hundred and sixty acres of any of the public lands in any State or Territory subject to homestead entry: *Provided*, That any person desiring to make another entry under this section will be required to make affidavit, to be transmitted with the other filing papers required by law, giving the description of the tract formerly entered, date and number of entry, and name of the land office where made, or other sufficient data to admit of readily identifying it on the official records: *And provided further*, That said person

has all the other proper qualifications of a homestead entryman: *And provided also*, That commutation under section 173 of this title, or any similar statute, shall not be permitted of an entry made under this section, excepting where the final proof, submitted on the former entry hereinbefore described, shows a residence upon the land covered thereby for the full period of five years, or such term of residence thereon as added to any properly credited military or naval service shall equal such period of five years.

(May 22, 1902, ch. 821, § 2, 32 Stat. 203.)

## REPEAL OF SECTION

*Section repealed by Pub. L. 94-579, title VII, § 702, Oct. 21, 1976, 90 Stat. 2787, effective on and after Oct. 21, 1976, except such effective date to be on and after the tenth anniversary of the date of approval of this Act, Oct. 21, 1976, insofar as the homestead laws apply to public lands in Alaska.*

## SAVINGS PROVISIONS

Repeal by Pub. L. 94-579 not to be construed as terminating any valid lease, permit, patent, etc., existing on Oct. 21, 1976, see section 701 of Pub. L. 94-579, set out as a note under section 1701 of this title.

## § 188. Purchaser of Flathead Indian land, Montana

Persons who purchased land under and in accordance with the terms of an Act entitled "An Act to provide for the sale of lands patented to certain members of the Flathead band of Indians in the Territory of Montana, and for other purposes", approved March 2, 1889, shall not be held to have impaired or exhausted their homestead rights by or on account of any such purchase.

(June 5, 1900, ch. 716, § 3, 31 Stat. 270.)

## REPEAL OF SECTION

*Section repealed by Pub. L. 94-579, title VII, § 702, Oct. 21, 1976, 90 Stat. 2787, effective on and after Oct. 21, 1976, except such effective date to be on and after the tenth anniversary of the date of approval of this Act, Oct. 21, 1976, insofar as the homestead laws apply to public lands in Alaska.*

## REFERENCES IN TEXT

The Act approved Mar. 2, 1889, referred to in text, is act Mar. 2, 1889, ch. 391, 25 Stat. 871, which is not classified to the Code.

## SAVINGS PROVISIONS

Repeal by Pub. L. 94-579 not to be construed as terminating any valid lease, permit, patent, etc., existing on Oct. 21, 1976, see section 701 of Pub. L. 94-579, set out as a note under section 1701 of this title.

## § 189. Indians abandoning tribal relations

Any Indian born in the United States, who is the head of a family, or who has arrived at the age of twenty-one years, and who has abandoned, or may hereafter abandon, his tribal relations, shall on making satisfactory proof of such abandonment, under rules to be prescribed by the Secretary of the Interior, be entitled to the benefits of this chapter, except

that the provisions of section 173 of this title shall not be held to apply to entries made under this section: *Provided, however*, That the title to lands acquired by any Indian by virtue hereof shall not be subject to alienation or incumbrance, either by voluntary conveyance or the judgment, decree, or order of any court, and shall be and remain inalienable for a period of five years from the date of the patent issued therefor: *Provided*, That any such Indian shall be entitled to his distributive share of all annuities, tribal funds, lands, and other property, the same as though he had maintained his tribal relations; and any transfer, alienation, or incumbrance of any interest he may hold or claim by reason of his former tribal relations shall be void.

(Mar. 3, 1875, ch. 131, § 15, 18 Stat. 420.)

#### REPEAL OF SECTION

*Section repealed by Pub. L. 94-579, title VII, § 702, Oct. 21, 1976, 90 Stat. 2787, effective on and after Oct. 21, 1976, except such effective date to be on and after the tenth anniversary of the date of approval of this Act, Oct. 21, 1976, insofar as the homestead laws apply to public lands in Alaska.*

#### SAVINGS PROVISIONS

Repeal by Pub. L. 94-579 not to be construed as terminating any valid lease, permit, patent, etc., existing on Oct. 21, 1976, see section 701 of Pub. L. 94-579, set out as a note under section 1701 of this title.

#### CROSS REFERENCES

Indians located on public lands to have full rights under homestead laws, see section 190 of this title.

#### § 190. Indians located on public lands; patents

Such Indians as may have been located on public lands prior to July 4, 1884, or as may, under the direction of the Secretary of the Interior, or otherwise, thereafter, so locate may avail themselves of the provisions of the homestead laws as fully and to the same extent as may now be done by citizens of the United States. No fees or commissions shall be charged on account of said entries or proofs. All patents therefor shall be of the legal effect, and declare that the United States does and will hold the land thus entered for the period of twenty-five years, in trust for the sole use and benefit of the Indian by whom such entry shall have been made, or, in case of his decease, of his widow and heirs according to the laws of the State where such land is located, and that at the expiration of said period the United States will convey the same by patent to said Indian, or his widow and heirs as aforesaid, in fee, discharged of said trust and free of all charge or incumbrance whatsoever.

(July 4, 1884, ch. 180, § 1, 23 Stat. 96.)

#### REPEAL OF SECTION

*Section repealed by Pub. L. 94-579, title VII, § 702, Oct. 21, 1976, 90 Stat. 2787, effective on and after Oct. 21, 1976, except such effective date to be on and after the tenth anniversary of the date of approval of this Act, Oct. 21, 1976, insofar as the homestead laws apply to public lands in Alaska.*

#### SAVINGS PROVISIONS

Repeal by Pub. L. 94-579 not to be construed as terminating any valid lease, permit, patent, etc., existing on Oct. 21, 1976, see section 701 of Pub. L. 94-579, set out as a note under section 1701 of this title.

§ 190a. Repealed. Pub. L. 94-579, title VII, § 702, Oct. 21, 1976, 90 Stat. 2787

Section, act Mar. 1, 1933, ch. 160, § 1, 47 Stat. 1418, related to Indian allotments or homesteads in San Juan County, Utah.

#### EFFECTIVE DATE OF REPEAL

Section 702 of Pub. L. 94-579 provided in part that this section is repealed effective on and after Oct. 21, 1976, except such effective date to be on and after the tenth anniversary of the date of approval of this Act, Oct. 21, 1976, insofar as the homestead laws apply to public lands in Alaska.

#### SAVINGS PROVISIONS

Repeal by Pub. L. 94-579 not to be construed as terminating any valid lease, permit, patent, etc., existing on Oct. 21, 1976, see section 701 of Pub. L. 94-579, set out as a note under section 1701 of this title.

#### § 191. Stockbridge Munsee Indians

Each of the chiefs, warriors, and heads of families of the Stockbridge Munsee Tribes of Indians, residing in the county of Shawana, State of Wisconsin, may, under the direction of the Secretary of the Interior, enter a homestead and become entitled to all the benefits of this chapter, free from any fee or charge; and any part of their present reservation, which is abandoned for that purpose, may be sold, under the direction of the Secretary of the Interior, and the proceeds applied for the benefit of such Indians as may settle on homesteads, to aid them in improving the same.

The homestead secured by virtue of this section shall not be subject to any tax, levy, or sale; nor shall it be sold, conveyed, mortgaged, or in any manner incumbered, except upon the decree of the district court of the United States.

(R.S. §§ 2310, 2311.)

#### REPEAL OF SECTION

*Section repealed by Pub. L. 94-579, title VII, § 702, Oct. 21, 1976, 90 Stat. 2787, effective on and after Oct. 21, 1976, except such effective date to be on and after the tenth anniversary of the date of approval of this Act, Oct. 21, 1976, insofar as the homestead laws apply to public lands in Alaska.*

#### REFERENCES IN TEXT

This chapter, referred to in text, means Chapter 5 of Title XXXII of the Revised Statutes, consisting of R.S. §§ 2289 to 2317, which are classified to sections 161 to 164, 169, 171, 173, 175, 183, 184, 191, 201, 211, 239, 254, 255, 271, 272, 274, 277, and 278 of this title. R.S. §§ 2299 and 2312 to 2317 were not classified to the Code and were repealed by act Mar. 3, 1933, ch. 202, § 1, 47 Stat. 1429. R.S. § 2303 was not classified to the Code and was repealed by act July 4, 1876, ch. 165, 19 Stat. 73.

#### CODIFICATION

R.S. §§ 2310, 2311 derived from act Mar. 3, 1865, ch. 127, § 4, 13 Stat. 562.

## SAVINGS PROVISIONS

Repeal by Pub. L. 94-579 not to be construed as terminating any valid lease, permit, patent, etc., existing on Oct. 21, 1976, see section 701 of Pub. L. 94-579, set out as a note under section 1701 of this title.

## SUBCHAPTER III—LANDS SUBJECT TO ENTRY

## § 201. Mineral lands

Mineral lands shall not be liable to entry and settlement under the provisions of this chapter. (R.S. § 2302.)

## REPEAL OF SECTION

*Section repealed by Pub. L. 94-579, title VII, § 702, Oct. 21, 1976, 90 Stat. 2787, effective on and after Oct. 21, 1976, except such effective date to be on and after the tenth anniversary of the date of approval of this Act, Oct. 21, 1976, insofar as the homestead laws apply to public lands in Alaska.*

## REFERENCES IN TEXT

This chapter, referred to in text, means Chapter 5 of Title XXXII of the Revised Statutes, consisting of R.S. §§ 2289 to 2317, which are classified to sections 161 to 164, 169, 171, 173, 175, 183, 184, 191, 201, 211, 239, 254, 255, 271, 272, 274, 277, and 278 of this title. R.S. §§ 2299 and 2312 to 2317 were not classified to the Code and were repealed by act Mar. 3, 1933, ch. 202, § 1, 47 Stat. 1429. R.S. § 2303 was not classified to the Code and was repealed by act July 4, 1876, ch. 165, 19 Stat. 73.

## CODIFICATION

R.S. § 2302 derived from act June 21, 1866, ch. 127, § 1, 14 Stat. 67.

## SAVINGS PROVISIONS

Repeal by Pub. L. 94-579 not to be construed as terminating any valid lease, permit, patent, etc., existing on Oct. 21, 1976, see section 701 of Pub. L. 94-579, set out as a note under section 1701 of this title.

## CROSS REFERENCES

Coal lands opened to homestead entry, see sections 77 and 83 to 85 of Title 30, Mineral Lands and Mining.

## § 202. Relinquished entries

When a homestead claimant shall file a written relinquishment of his claim in the local land office, the land covered by such claim shall be held as open to settlement and entry without further action on the part of the Secretary of the Interior or such officer as he may designate.

(May 14, 1880, ch. 89, § 1, 21 Stat. 140; Mar. 3, 1891, ch. 561, § 4, 26 Stat. 1097; Mar. 3, 1893, ch. 208, 27 Stat. 593; 1946 Reorg. Plan No. 3, § 403, eff. July 16, 1946, 11 F.R. 7876, 60 Stat. 1100.)

## REPEAL OF SECTION

*Section repealed by Pub. L. 94-579, title VII, § 702, Oct. 21, 1976, 90 Stat. 2787, effective on and after Oct. 21, 1976, except such effective date to be on and after the tenth anniversary of the date of approval of this Act, Oct. 21, 1976, insofar as the homestead laws apply to public lands in Alaska.*

## SAVINGS PROVISIONS

Repeal by Pub. L. 94-579 not to be construed as terminating any valid lease, permit, patent, etc., existing

on Oct. 21, 1976, see section 701 of Pub. L. 94-579, set out as a note under section 1701 of this title.

## TRANSFER OF FUNCTIONS

For transfer of functions of the other officers, employees, and agencies of the Department of the Interior, with certain exceptions, to the Secretary of the Interior, with power to delegate, see Reorg. Plan No. 3 of 1950, §§ 1, 2, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1262, set out under section 1451 of this title.

"Secretary of the Interior or such officer as he may designate" was substituted for "Commissioner of the General Land Office" on authority of section 403 of Reorg. Plan No. 3 of 1946. See note set out under section 1 of this title.

## § 203. Repealed. Pub. L. 94-579, title VII, § 702, Oct. 21, 1976, 90 Stat. 2787

Section, acts June 13, 1902, ch. 1080, §§ 1 to 3, 32 Stat. 384; Mar. 4, 1907, ch. 2907, 34 Stat. 1269, related to applicability of homestead laws to the former Ute Indian Reservation in Colorado.

## EFFECTIVE DATE OF REPEAL

Section 702 of Pub. L. 94-579 provided in part that this section is repealed effective on and after Oct. 21, 1976, except such effective date to be on and after the tenth anniversary of the date of approval of this Act, Oct. 21, 1976, insofar as the homestead laws apply to public lands in Alaska.

## SAVINGS PROVISIONS

Repeal by Pub. L. 94-579 not to be construed as terminating any valid lease, permit, patent, etc., existing on Oct. 21, 1976, see section 701 of Pub. L. 94-579, set out as a note under section 1701 of this title.

## § 204. Entries on even sections within railroad and other grants

The even sections within the limits of any grant of public lands to any railroad company, or to any military road company, or to any State in aid of any railroad or military road, shall be open to settlers under the homestead laws to the extent of one hundred and sixty acres to each settler, and any person who has, under laws in force March 3, 1879, taken a homestead on any even section within the limits of any railroad or military road land grant, and who, by such laws shall have been restricted to eighty acres, may enter under the homestead laws an additional eighty acres adjoining the land embraced in his original entry, if such additional land be subject to entry; or if such person so elect, he may surrender his entry to the United States for cancellation, and thereupon be entitled to enter lands under the homestead laws the same as if the surrendered entry had not been made. And any person so making additional entry of eighty acres, or new entry after the surrender and cancellation of his original entry, shall be permitted so to do without payment of fees and commissions; and the residence and cultivation of such person upon and of the land embraced in his original entry shall be considered residence and cultivation for the same length of time upon and of the land embraced in his additional or new entry, and shall be deducted from the three years' residence and cultivation required by law: *Provided*, That in no case shall patent issue upon an additional or new homestead

entry under this section until the person has actually, and in conformity with the homestead laws, occupied, resided upon, and cultivated the land embraced therein at least one year.

(Mar. 3, 1879, ch. 191, 20 Stat. 472.)

#### REPEAL OF SECTION

*Section repealed by Pub. L. 94-579, title VII, § 702, Oct. 21, 1976, 90 Stat. 2787, effective on and after Oct. 21, 1976, except such effective date to be on and after the tenth anniversary of the date of approval of this Act, Oct. 21, 1976, insofar as the homestead laws apply to public lands in Alaska.*

#### SAVINGS PROVISIONS

Repeal by Pub. L. 94-579 not to be construed as terminating any valid lease, permit, patent, etc., existing on Oct. 21, 1976, see section 701 of Pub. L. 94-579, set out as a note under section 1701 of this title.

#### CROSS REFERENCES

General requisites to issuance of patent or certificate for public lands, see section 164 of this title.

Patents for additional entries within railway limits to be granted without further cost or proof of settlement or cultivation, see section 206 of this title.

#### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 206 of this title.

§ 205. Repealed. Pub. L. 94-579, title VII, § 702, Oct. 21, 1976, 90 Stat. 2787

Section, act July 1, 1879, ch. 60, 21 Stat. 46, related to entries on odd sections within railroad and other grants in the States of Missouri and Arkansas.

#### EFFECTIVE DATE OF REPEAL

Section 702 of Pub. L. 94-579 provided in part that this section is repealed effective on and after Oct. 21, 1976, except such effective date to be on and after the tenth anniversary of the date of approval of this Act, Oct. 21, 1976, insofar as the homestead laws apply to public lands in Alaska.

#### SAVINGS PROVISIONS

Repeal by Pub. L. 94-579 not to be construed as terminating any valid lease, permit, patent, etc., existing on Oct. 21, 1976, see section 701 of Pub. L. 94-579, set out as a note under section 1701 of this title.

§ 206. Patents for additional entries within railway limits

All homestead settlers on public lands within the railway limits restricted to less than one hundred and sixty acres of land, who have prior to May 6, 1886, made or may thereafter make the additional entry allowed by either section 204 or 205 of this title, after having made final proof of settlement and cultivation under the original entry, shall be entitled to have the lands covered by the additional entry patented without any further cost or proof of settlement and cultivation.

(May 6, 1886, ch. 88, 24 Stat. 22.)

#### REPEAL OF SECTION

*Section repealed by Pub. L. 94-579, title VII, § 702, Oct. 21, 1976, 90 Stat. 2787, effective on and after Oct. 21, 1976, except such effective date to be on and after the tenth anniversary of the date of approval of this*

*Act, Oct. 21, 1976, insofar as the homestead laws apply to public lands in Alaska.*

#### REFERENCES IN TEXT

Section 205 of this title, referred to in text, was repealed by Pub. L. 94-579, title VII, § 702, Oct. 21, 1976, 90 Stat. 2787.

#### SAVINGS PROVISIONS

Repeal by Pub. L. 94-579 not to be construed as terminating any valid lease, permit, patent, etc., existing on Oct. 21, 1976, see section 701 of Pub. L. 94-579, set out as a note under section 1701 of this title.

§§ 207, 208. Repealed. Pub. L. 94-579, title VII, § 702, Oct. 21, 1976, 90 Stat. 2787

Section 207, act Aug. 21, 1916, ch. 381, 39 Stat. 518, authorized the disposition of all agricultural lands within military reservations in the State of Nevada under the homestead and desert-land laws.

Section 208, act June 3, 1924, ch. 240, 43 Stat. 357, authorized the acquisition of all unreserved public lands within the former Columbia or Moses Reserve in the State of Washington to be acquired under the laws applicable to the public domain.

#### EFFECTIVE DATE OF REPEAL

Section 702 of Pub. L. 94-579 provided in part that sections 207 and 208 are repealed effective on and after Oct. 21, 1976, except such effective date to be on and after the tenth anniversary of the date of approval of this Act, Oct. 21, 1976, insofar as the homestead laws apply to public lands in Alaska.

#### SAVINGS PROVISIONS

Repeal by Pub. L. 94-579 not to be construed as terminating any valid lease, permit, patent, etc., existing on Oct. 21, 1976, see section 701 of Pub. L. 94-579, set out as a note under section 1701 of this title.

§ 209. Extension of public-land laws to certain lands in Oklahoma

The public-land laws of the United States be, and the same are, extended to the public lands in that part of the Red River between the medial line and the south bank of the river, in Oklahoma, between the ninety-eighth meridian and the east boundary of the territory established as Greer County by the Act of May 4, 1896 (29 Stat. 113): *Provided*, That such lands shall not be subject to disposition, settlement, or occupation until after the same have been classified and opened to entry, and other disposal by the Secretary of the Interior according to law.

(June 22, 1948, ch. 605, § 1, 62 Stat. 576.)

#### REFERENCES IN TEXT

The public-land laws of the United States, referred to in text, are classified generally to this title.

The Act of May 4, 1896 (29 Stat. 113), referred to in the text, is act May 4, 1896, ch. 155, 29 Stat. 113, which is not classified to the Code.

§ 210. Recognition of equitable claims on certain lands in Oklahoma; validation of homestead entries

The Secretary of the Interior is authorized and directed to recognize equitable claims to such lands based on settlement made prior to January 1, 1934, and all homestead entries of such lands, the allowance of which was errone-

ous because the lands were not subject to entry, and all suspended entries and applications to make final proof, are validated if otherwise regular, as of the date of the regular application.

(June 22, 1948, ch. 605, § 2, 62 Stat. 576.)

#### SUBCHAPTER IV—LIMITATION AS TO AMOUNT AND ADDITIONAL AND ENLARGED ENTRIES

##### § 211. Limitation of amount of homestead entry

Except as otherwise provided, no person shall be permitted to acquire title to more than one-quarter section under the provisions of this chapter.

(R.S. § 2298.)

##### REPEAL OF SECTION

*Section repealed by Pub. L. 94-579, title VII, § 702, Oct. 21, 1976, 90 Stat. 2787, effective on and after Oct. 21, 1976, except such effective date to be on and after the tenth anniversary of the date of approval of this Act, Oct. 21, 1976, insofar as the homestead laws apply to public lands in Alaska.*

##### REFERENCES IN TEXT

This chapter, referred to in text, means Chapter 5 of Title XXXII of the Revised Statutes, consisting of R.S. §§ 2289 to 2317, which are classified to sections 161 to 164, 169, 171, 173, 175, 183, 184, 191, 201, 211, 239, 254, 255, 271, 272, 274, 277, and 278 of this title. R.S. §§ 2299 and 2312 to 2317 were not classified to the Code and were repealed by act Mar. 3, 1933, ch. 202, § 1, 47 Stat. 1429. R.S. § 2303 was not classified to the Code and was repealed by act July 4, 1876, ch. 165, 19 Stat. 73.

##### CODIFICATION

R.S. § 2298 derived from act May 20, 1862, ch. 75, § 6, 12 Stat. 393.

##### SAVINGS PROVISIONS

Repeal by Pub. L. 94-579 not to be construed as terminating any valid lease, permit, patent, etc., existing on Oct. 21, 1976, see section 701 of Pub. L. 94-579, set out as a note under section 1701 of this title.

##### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 237h, 336d of this title.

##### § 212. Limitation of aggregate amount of entries

No person who shall after August 30, 1890, enter upon any of the public lands with a view to occupation, entry, or settlement under any of the land laws shall be permitted to acquire title to more than three hundred and twenty acres in the aggregate, except as otherwise provided, under all of said laws, but this limitation shall not operate to curtail the right of any person who has before August 30, 1890, made entry or settlement on the public lands, or whose occupation, entry, or settlement is validated by Act of August 30, 1890 (chapter 837, 26 Statutes 391).

The above provisions of this section shall be construed to include in the maximum amount of lands the title to which is permitted to be acquired by one person only agricultural lands and not to include lands entered or sought to be entered under mineral land laws.

(Aug. 30, 1890, ch. 837, § 1, 26 Stat. 391; Mar. 3, 1891, ch. 561, § 17, 26 Stat. 1101.)

##### REPEAL OF SECTION

*Section repealed by Pub. L. 94-579, title VII, § 702, Oct. 21, 1976, 90 Stat. 2787, effective on and after Oct. 21, 1976, except such effective date to be on and after the tenth anniversary of the date of approval of this Act, Oct. 21, 1976, insofar as the homestead laws apply to public lands in Alaska.*

##### REFERENCES IN TEXT

Act of August 30, 1890, referred to in text, is act Aug. 30, 1890, ch. 837, 26 Stat. 382, as amended, which enacted sections 212, 321, 662, and 945 of this title, section 861a of former Title 10, Armed Forces, section 446 of Title 16, Conservation, sections 497, 601, and 651 of former Title 31, Money and Finance, section 887 of Title 33, Navigation and Navigable Waters, and section 120 of Title 40, Public Buildings, Property, and Works. For complete classification of this Act to the Code, see Tables.

##### SAVINGS PROVISIONS

Repeal by Pub. L. 94-579 not to be construed as terminating any valid lease, permit, patent, etc., existing on Oct. 21, 1976, see section 701 of Pub. L. 94-579, set out as a note under section 1701 of this title.

##### § 213. Additional entry on land contiguous to former entry of less than quarter section

Any homestead settler who has prior to April 28, 1904 entered, or may thereafter enter, less than one-quarter section of land, may enter other and additional land lying contiguous to the original entry which shall not, with the land first entered and occupied, exceed in the aggregate one hundred and sixty acres.

Before a patent may issue on the additional entry, the entryman must show that he has cultivated an amount equal to one-eighth of the area of the additional entry for at least one year after the additional entry and until the submission of final proof thereon. The cultivation required with respect to the additional entry may be performed on the original entry, the additional entry or on both, but where it is performed on the original entry, it must be in addition to that required and relied upon in making final proof on the original entry. No proof of residence shall be required with respect to the additional entry.

The additional entry may be made before or after final proof has been made on the original entry. Final proof for the additional entry may be submitted only at the time of final proof for the original entry, or subsequent thereto, but must be submitted within five years after the additional entry is made.

This section shall not apply to or for the benefit of any person who does not own and occupy the lands covered by the original entry. If the original entry should fail for any reason prior to patent, or should appear to be illegal or fraudulent, the additional entry shall not be permitted, or, if having been initiated, shall be canceled.

(Apr. 28, 1904, ch. 1776, §§ 2, 3, 33 Stat. 527; Aug. 3, 1950, ch. 521, 64 Stat. 398.)

## REPEAL OF SECTION

*Section repealed by Pub. L. 94-579, title VII, § 702, Oct. 21, 1976, 90 Stat. 2787, effective on and after Oct. 21, 1976, except such effective date to be on and after the tenth anniversary of the date of approval of this Act, Oct. 21, 1976, insofar as the homestead laws apply to public lands in Alaska.*

## AMENDMENTS

1950—Act Aug. 3, 1950 required cultivation for at least 1 year of an area equal to  $\frac{1}{4}$  of the additional entry.

## SAVINGS PROVISIONS

Repeal by Pub. L. 94-579 not to be construed as terminating any valid lease, permit, patent, etc., existing on Oct. 21, 1976, see section 701 of Pub. L. 94-579, set out as a note under section 1701 of this title.

## § 214. Additional entry: after final proof on entry of less than quarter section

Every person entitled, under the provisions of the homestead laws, to enter a homestead, who has prior to March 2, 1889, complied with or who shall thereafter comply with the conditions of said laws, and who shall have made his final proof thereunder for a quantity of land less than one hundred and sixty acres and received the final receipt therefor, shall be entitled under said laws to enter as a personal right, and not assignable, by legal subdivisions of the public lands of the United States subject to homestead entry, so much additional land as added to the quantity previously so entered by him shall not exceed one hundred and sixty acres: *Provided*, That in no case shall patent issue for the land covered by such additional entry until the person making such additional entry shall have actually and in conformity with the homestead laws resided upon and cultivated the lands so additionally entered and otherwise fully complied with such laws: *Provided also*, That this section shall not be construed as affecting any rights as to location of soldiers' certificates issued, prior to March 2, 1889, under section 274 of this title.

(Mar. 2, 1889, ch. 381, § 6, 25 Stat. 854; 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.)

## REPEAL OF SECTION

*Section repealed by Pub. L. 94-579, title VII, § 702, Oct. 21, 1976, 90 Stat. 2787, effective on and after Oct. 21, 1976, except such effective date to be on and after the tenth anniversary of the date of approval of this Act, Oct. 21, 1976, insofar as the homestead laws apply to public lands in Alaska.*

## SAVINGS PROVISIONS

Repeal by Pub. L. 94-579 not to be construed as terminating any valid lease, permit, patent, etc., existing on Oct. 21, 1976, see section 701 of Pub. L. 94-579, set out as a note under section 1701 of this title.

## TRANSFER OF FUNCTIONS

Word "register's" preceding "final receipt" was omitted under authority of section 403 of Reorg. Plan No. 3 of 1946. See note set out under section 1 of this title.

## § 215. Additional entry after patent on entry for less than quarter section

Any person otherwise qualified who has obtained title under the homestead laws to less than one quarter section of land may make entry and obtain title under the provisions for enlarged homesteads, for such an area of public land as will, when one-half of such area is added to the area of the lands to which he has already obtained title, not exceed one quarter section: *Provided*, That this section shall not be construed to apply to soldiers' additional homestead entries made under section 274 of this title, or Acts amendatory thereof or supplemental thereto.

(Feb. 20, 1917, ch. 98, 39 Stat. 925.)

## REPEAL OF SECTION

*Section repealed by Pub. L. 94-579, title VII, § 702, Oct. 21, 1976, 90 Stat. 2787, effective on and after Oct. 21, 1976, except such effective date to be on and after the tenth anniversary of the date of approval of this Act, Oct. 21, 1976, insofar as the homestead laws apply to public lands in Alaska.*

## SAVINGS PROVISIONS

Repeal by Pub. L. 94-579 not to be construed as terminating any valid lease, permit, patent, etc., existing on Oct. 21, 1976, see section 701 of Pub. L. 94-579, set out as a note under section 1701 of this title.

## § 216. Validation of additional entry after patent

All homestead entries pending on March 4, 1921, made in good faith prior to January 1, 1916, under the provisions of the enlarged homestead laws, and all rights to enter land under said laws, based on settlement made thereon in good faith before said date, and while the land was unsurveyed, by persons who, before making such enlarged homestead entry, had acquired title to land under the homestead laws, and therefore were not qualified to make an enlarged homestead entry, or such settlement, are validated, if in all other respects regular, in all cases where the original homestead entry was for less than one hundred and sixty acres of land: *Provided*, That no settlement claim shall be validated where adverse claim for the land has been initiated before March 4, 1921.

(Mar. 4, 1921, ch. 162, § 1, 41 Stat. 1433.)

## REPEAL OF SECTION

*Section repealed by Pub. L. 94-579, title VII, § 702, Oct. 21, 1976, 90 Stat. 2787, effective on and after Oct. 21, 1976, except such effective date to be on and after the tenth anniversary of the date of approval of this Act, Oct. 21, 1976, insofar as the homestead laws apply to public lands in Alaska.*

## SAVINGS PROVISIONS

Repeal by Pub. L. 94-579 not to be construed as terminating any valid lease, permit, patent, etc., existing on Oct. 21, 1976, see section 701 of Pub. L. 94-579, set out as a note under section 1701 of this title.

### § 217. Additional entry after commutation of former entry

Any person who has, prior to June 5, 1900, made entry under the homestead laws and commuted same under provisions of section 173 of this title, shall be entitled to the benefits of the homestead laws, as though such former entry had not been made, except that commutation under the provisions of said section, shall not be allowed of an entry made under this section. (June 5, 1900, ch. 716, § 2, 31 Stat. 269.)

#### REPEAL OF SECTION

*Section repealed by Pub. L. 94-579, title VII, § 702, Oct. 21, 1976, 90 Stat. 2787, effective on and after Oct. 21, 1976, except such effective date to be on and after the tenth anniversary of the date of approval of this Act, Oct. 21, 1976, insofar as the homestead laws apply to public lands in Alaska.*

#### SAVINGS PROVISIONS

Repeal by Pub. L. 94-579 not to be construed as terminating any valid lease, permit, patent, etc., existing on Oct. 21, 1976, see section 701 of Pub. L. 94-579, set out as a note under section 1701 of this title.

§§ 218 to 220. Repealed. Pub. L. 94-579, title VII, § 702, Oct. 21, 1976, 90 Stat. 2787

Section 218, acts Feb. 19, 1909, ch. 160, §§ 1 to 6, 35 Stat. 639; June 6, 1912, ch. 153, 37 Stat. 123; June 13, 1912, ch. 166, 37 Stat. 132; Feb. 11, 1913, ch. 39, 37 Stat. 666; Mar. 3, 1915, ch. 84, 38 Stat. 953; Mar. 3, 1915, ch. 91, 38 Stat. 957; Mar. 4, 1915, ch. 150, § 2, 38 Stat. 1163; July 3, 1916, ch. 220, 39 Stat. 344, set forth provisions relating to enlarged entries on specified nonmineral, nonirrigable lands in certain States.

Section 219, acts June 17, 1910, ch. 298, §§ 1 to 6, 36 Stat. 531, 532; Feb. 11, 1913, ch. 39, 37 Stat. 666; Mar. 3, 1915, ch. 91, 38 Stat. 957; Sept. 5, 1916, ch. 440, 39 Stat. 724; Aug. 10, 1917, ch. 52, § 10, 40 Stat. 275, set forth provisions relating to enlarged entries on specified nonmineral, nonirrigable lands in Idaho.

Section 220, act Mar. 4, 1915, ch. 150, § 1, 38 Stat. 1162, 1163; 1946 Reorg. Plan No. 3, § 403, eff. July 16, 1946, 11 F.R. 7876, 60 Stat. 1100, set forth procedures for applications for entries under sections 218 and 219 of this title.

#### EFFECTIVE DATE OF REPEAL

Section 702 of Pub. L. 94-579 provided in part that sections 218 to 220 are repealed effective on and after Oct. 21, 1976, except such effective date to be on and after the tenth anniversary of the date of approval of this Act, Oct. 21, 1976, insofar as the homestead laws apply to public lands in Alaska.

#### SAVINGS PROVISIONS

Repeal by Pub. L. 94-579 not to be construed as terminating any valid lease, permit, patent, etc., existing on Oct. 21, 1976, see section 701 of Pub. L. 94-579, set out as a note under section 1701 of this title.

### § 221. Transferred

#### CODIFICATION

Section, act Mar. 4, 1915, ch. 150, § 2, 38 Stat. 1163, was transferred to part of section 218 of this title, and subsequently repealed.

§§ 222 to 224. Repealed. Pub. L. 94-579, title VII, § 702, Oct. 21, 1976, 90 Stat. 2787

Section 222, act Mar. 4, 1923, ch. 245, § 1, 42 Stat. 1445, authorized additional entries by homestead en-

trymen on lands in national forests in the States covered by former sections 218 and 219 of this title.

Section 223, acts May 14, 1880, ch. 89, § 3, 21 Stat. 141; June 6, 1900, ch. 821, 31 Stat. 683; Aug. 9, 1912, ch. 280, 37 Stat. 267, authorized preference of settlers to entries under the Enlarged Homestead Act for lands covered by former sections 218 and 219 of this title.

Section 224, acts Apr. 28, 1904, ch. 1801, §§ 1-3, 33 Stat. 547, 548; Mar. 2, 1907, ch. 2527, §§ 1-3, 34 Stat. 1224; May 29, 1908, ch. 220, § 7, 35 Stat. 466; Aug. 24, 1912, ch. 371, 37 Stat. 499, extended the limitation on entries within certain boundaries in Nebraska.

#### EFFECTIVE DATE OF REPEAL

Section 702 of Pub. L. 94-579 provided in part that sections 222 to 224 are repealed effective on and after Oct. 21, 1976, except such effective date to be on and after the tenth anniversary of the date of approval of this Act, Oct. 21, 1976, insofar as the homestead laws apply to public lands in Alaska.

#### SAVINGS PROVISIONS

Repeal by Pub. L. 94-579 not to be construed as terminating any valid lease, permit, patent, etc., existing on Oct. 21, 1976, see section 701 of Pub. L. 94-579, set out as a note under section 1701 of this title.

### SUBCHAPTER V—LEAVES OF ABSENCE AND EXCUSES FOR NONRESIDENCE OR NONCULTIVATION

#### § 231. Optional leaves of absence; proof of commutation

The entryman mentioned in section 164 of this title upon filing in the local land office notice of the beginning of such absence at his option shall be entitled to a leave of absence in one or two continuous periods, not exceeding in the aggregate five months in each year after establishing residence: *Provided*, That the officer designated by the Secretary of the Interior of the local land office under rules and regulations made by the Secretary of the Interior or such officer as he may designate may, upon proper showing, upon application of the homesteader, and only for climatic conditions, which makes residence on the homestead for seven months in each year a hardship, reduce the term of residence to not more than six months in each year, over a period of four years, or to not more than five months each year over a period of five years, but the total residence required shall in no event exceed twenty-five months, not less than five of which shall be in each year; proof to be made within five years after entry; and upon the termination of such absence, in each period, the entryman shall file a notice of such termination in the local land office; but in case of commutation the fourteen months' actual residence, as now required by law, must be shown, and the person commuting be at the time a citizen of the United States.

(Aug. 22, 1914, ch. 270, 38 Stat. 704; Feb. 25, 1919, ch. 21, 40 Stat. 1153; 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.)

#### REPEAL OF SECTION

*Section repealed by Pub. L. 94-579, title VII, § 702, Oct. 21, 1976, 90 Stat. 2787, effective on and after Oct. 21, 1976, except such*

*effective date to be on and after the tenth anniversary of the date of approval of this Act, Oct. 21, 1976, insofar as the homestead laws apply to public lands in Alaska.*

#### SAVINGS PROVISIONS

Repeal by Pub. L. 94-579 not to be construed as terminating any valid lease, permit, patent, etc., existing on Oct. 21, 1976, see section 701 of Pub. L. 94-579, set out as a note under section 1701 of this title.

#### TRANSFER OF FUNCTIONS

For transfer of functions of the other officers, employees, and agencies of the Department of the Interior, with certain exceptions, to the Secretary of the Interior, with power to delegate, see Reorg. Plan No. 3 of 1950, §§ 1, 2, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1262, set out under section 1451 of this title.

Words "officer designated by the Secretary of the Interior" were substituted for "register" and "Secretary of the Interior or such officer as he may designate" for "Commissioner of the General Land Office" on authority of section 403 of Reorg. Plan No. 3 of 1946. See note set out under section 1 of this title.

#### § 232. Settlers on unsurveyed land

Any qualified person who has prior to July 3, 1916, or shall thereafter in good faith make settlement upon and improve unsurveyed unreserved unappropriated public lands of the United States with intention, upon survey, of entering same under the homestead laws shall be entitled to a leave of absence in one or two periods not exceeding in the aggregate five months in each year after establishment of residence: *Provided*, That he shall have plainly marked on the ground the exterior boundaries of the lands claimed and have filed in the local land office notice of the approximate location of the lands settled upon and claimed, of the period of intended absence, and that he shall upon the termination of the absence and his return to the land file notice thereof in the local land office.

(July 3, 1916, ch. 214, 39 Stat. 341.)

#### REPEAL OF SECTION

*Section repealed by Pub. L. 94-579, title VII, § 702, Oct. 21, 1976, 90 Stat. 2787, effective on and after Oct. 21, 1976, except such effective date to be on and after the tenth anniversary of the date of approval of this Act, Oct. 21, 1976, insofar as the homestead laws apply to public lands in Alaska.*

#### SAVINGS PROVISIONS

Repeal by Pub. L. 94-579 not to be construed as terminating any valid lease, permit, patent, etc., existing on Oct. 21, 1976, see section 701 of Pub. L. 94-579, set out as a note under section 1701 of this title.

#### § 233. Persons receiving treatment for wounds

Every person who, after discharge from the military or naval service of the United States during the war against Germany and its allies, is furnished any treatment by the Government for wounds received or disability incurred in line of duty, and who before entering upon such treatment, shall have made entry upon or application for public lands of the United States under the homestead laws, or who has settled or shall hereafter settle upon public

lands, shall be entitled to a leave of absence from his land for the purpose of undergoing such treatment, and such absence, while actually engaged in such training shall be counted as constructive residence: *Provided*, That no patent shall issue to any homestead settler who has not resided upon, improved, and cultivated his homestead for a period of at least one year.

(Sept. 29, 1919, ch. 64, 41 Stat. 288; Apr. 6, 1922, ch. 122, § 2, 42 Stat. 491.)

#### REPEAL OF SECTION

*Section repealed by Pub. L. 94-579, title VII, § 702, Oct. 21, 1976, 90 Stat. 2787, effective on and after Oct. 21, 1976, except such effective date to be on and after the tenth anniversary of the date of approval of this Act, Oct. 21, 1976, insofar as the homestead laws apply to public lands in Alaska.*

#### CODIFICATION

As originally enacted, this section also provided for leave of absence for purpose of undergoing vocational training by the Department of the Interior. Vocational training for veterans of World War I was discontinued after two years from June 30, 1926.

#### SAVINGS PROVISIONS

Repeal by Pub. L. 94-579 not to be construed as terminating any valid lease, permit, patent, etc., existing on Oct. 21, 1976, see section 701 of Pub. L. 94-579, set out as a note under section 1701 of this title.

#### § 234. Destruction or failure of crops, sickness, or unavoidable casualty

Whenever it shall be made to appear to the officer designated by the Secretary of the Interior of any public land office, under such regulations as the Secretary of the Interior may prescribe, that any settler upon the public domain under existing law is unable by reason of a total or partial destruction or failure of crops, sickness, or other unavoidable casualty, to secure a support for himself, herself, or those dependent upon him or her upon the lands settled upon, then such officer may grant to such settler a leave of absence from the claim upon which he or she has filed for a period not exceeding one year at any one time, and such settler so granted leave of absence shall forfeit no rights by reason of such absence: *Provided*, That the time of such actual absence shall not be deducted from the actual residence required by law: *Provided further*, That if any such settler has, prior to December 29, 1894, forfeited his or her entry for any of said reasons, such person shall be permitted to make entry of not to exceed a quarter section on any public land subject to entry under the homestead law, and to perfect title to the same under the same conditions in every respect as if he had not made the former entry.

(Mar. 2, 1889, ch. 381, § 3, 25 Stat. 854; Dec. 29, 1894, ch. 14, 28 Stat. 599; 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.)

**REPEAL OF SECTION**

*Section repealed by Pub. L. 94-579, title VII, § 702, Oct. 21, 1976, 90 Stat. 2787, effective on and after Oct. 21, 1976, except such effective date to be on and after the tenth anniversary of the date of approval of this Act, Oct. 21, 1976, insofar as the homestead laws apply to public lands in Alaska.*

**SAVINGS PROVISIONS**

Repeal by Pub. L. 94-579 not to be construed as terminating any valid lease, permit, patent, etc., existing on Oct. 21, 1976, see section 701 of Pub. L. 94-579, set out as a note under section 1701 of this title.

**TRANSFER OF FUNCTIONS**

For transfer of functions of the other officers, employees, and agencies of the Department of the Interior, with certain exceptions, to the Secretary of the Interior, with power to delegate, see Reorg. Plan No. 3 of 1950, §§ 1, 2, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1262, set out under section 1451 of this title.

References to "register" were changed to "officer designated by the Secretary of the Interior" and "officer" on authority of section 403 of Reorg. Plan No. 3 of 1946. See note set out under section 1 of this title.

**CROSS REFERENCES**

Entry after forfeiture of prior entry without fault, see section 182 of this title.

**§ 235. Destruction or injury to crops by grasshoppers**

It shall be lawful for homestead and preemption settlers on the public lands, and in all cases where preemptions are authorized by law, where crops have been or may be destroyed or seriously injured by grasshoppers, to leave and be absent from said lands, under such rules and regulations, as to proof of the same, as the Secretary of the Interior or such officer as he may designate shall prescribe; but in no case shall such absence extend beyond one year continuously; and during such absence no adverse rights shall attach to said lands, such settlers being allowed to resume and perfect their settlement as though no such absence had occurred.

(July 1, 1879, ch. 63, § 1, 21 Stat. 48; 1946 Reorg. Plan No. 3, § 403, eff. July 16, 1946, 11 F.R. 7876, 60 Stat. 1100.)

**REPEAL OF SECTION**

*Section repealed by Pub. L. 94-579, title VII, § 702, Oct. 21, 1976, 90 Stat. 2787, effective on and after Oct. 21, 1976, except such effective date to be on and after the tenth anniversary of the date of approval of this Act, Oct. 21, 1976, insofar as the homestead laws apply to public lands in Alaska.*

**SAVINGS PROVISIONS**

Repeal by Pub. L. 94-579 not to be construed as terminating any valid lease, permit, patent, etc., existing on Oct. 21, 1976, see section 701 of Pub. L. 94-579, set out as a note under section 1701 of this title.

**TRANSFER OF FUNCTIONS**

For transfer of functions of the other officers, employees, and agencies of the Department of the Interior, with certain exceptions, to the Secretary of the Interior, with power to delegate, see Reorg. Plan No. 3 of 1950, §§ 1, 2, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1262, set out under section 1451 of this title.

"Secretary of the Interior or such officer as he may designate" was substituted for "Commissioner of the General Land Office" on authority of section 403 of Reorg. Plan No. 3 of 1946. See note set out under section 1 of this title.

**§§ 236 to 237c. Repealed. Pub. L. 94-579, title VII, § 702, Oct. 21, 1976, 90 Stat. 2787**

Section 236, act Dec. 20, 1917, ch. 6, 40 Stat. 430, allowed persons who filed applications for homestead entry prior to Dec. 20, 1917, a leave of absence from their land during pendency of war with Germany for purpose of performing farm labor.

Section 237, act July 24, 1919, ch. 26, 41 Stat. 271, excused entrymen from residence during drought in 1919.

Section 237a, act Mar. 2, 1932, ch. 69, 47 Stat. 59, excused entrymen from residence during drought period of 1929 to 1932.

Section 237b, act May 21, 1934, ch. 320, 48 Stat. 787, excused entrymen from compliance with requirements of homestead laws as to residence, cultivation, improvements, expenditures or purchase money where the absence was due to economic conditions in 1932, 1933 or 1934.

Section 237c, act May 22, 1935, ch. 135, 49 Stat. 286, excused entrymen from compliance with requirements of homestead laws as to residence, cultivation, improvements, expenditures or purchase money where the absence was due to economic conditions in 1935.

**EFFECTIVE DATE OF REPEAL**

Section 702 of Pub. L. 94-579 provided in part that sections 236 to 237c are repealed effective on and after Oct. 21, 1976, except such effective date to be on and after the tenth anniversary of the date of approval of this Act, Oct. 21, 1976, insofar as the homestead laws apply to public lands in Alaska.

**SAVINGS PROVISIONS**

Repeal by Pub. L. 94-579 not to be construed as terminating any valid lease, permit, patent, etc., existing on Oct. 21, 1976, see section 701 of Pub. L. 94-579, set out as a note under section 1701 of this title.

**§ 237d. Cultivation requirement restricted**

Exclusive of Alaska, the provisions of the homestead laws requiring cultivation of the land entered shall not be applicable to homestead entries existing August 19, 1935, and made prior to February 5, 1935, or thereafter if based upon valid settlement or application made prior to said date, and no patent shall be withheld for failure to cultivate such lands: *Provided*, That this section shall not be construed to affect any provision of law requiring the cultivation of lands subject to the reclamation laws, nor to apply to entries made under the Forest Homestead Act of June 11, 1906 (34 Stat. 233).

(Aug. 19, 1935, ch. 560, 49 Stat. 659; Mar. 31, 1938, ch. 57, 52 Stat. 149.)

**REPEAL OF SECTION**

*Section repealed by Pub. L. 94-579, title VII, § 702, Oct. 21, 1976, 90 Stat. 2787, effective on and after Oct. 21, 1976, except such effective date to be on and after the tenth anniversary of the date of approval of this Act, Oct. 21, 1976, insofar as the homestead laws apply to public lands in Alaska.*

## REFERENCES IN TEXT

The reclamation laws, referred to in text, are classified generally to chapter 12 (§ 371 et seq.) of this title.

The Forest Homestead Act of June 11, 1906, referred to in text, is act June 11, 1906, ch. 3074, 34 Stat. 233, as amended, which was classified to sections 506 to 508 and 509 of Title 16, Conservation, and was repealed by Pub. L. 87-869, § 4, Oct. 23, 1962, 76 Stat. 1157.

## SAVINGS PROVISIONS

Repeal by Pub. L. 94-579 not to be construed as terminating any valid lease, permit, patent, etc., existing on Oct. 21, 1976, see section 701 of Pub. L. 94-579, set out as a note under section 1701 of this title.

§ 237e. Repealed. Pub. L. 94-579, title VII, § 702, Oct. 21, 1976, 90 Stat. 2787

Section, act Apr. 20, 1936, ch. 239, § 1, 49 Stat. 1235, excused entrymen from compliance with requirements of homestead laws as to residence, cultivation, improvements, expenditures or purchase money where the absence was due to economic conditions in 1936.

## EFFECTIVE DATE OF REPEAL

Section 702 of Pub. L. 94-579 provided in part that this section is repealed effective on and after Oct. 21, 1976, except such effective date to be on and after the tenth anniversary of the date of approval of this Act, Oct. 21, 1976, insofar as the homestead laws apply to public lands in Alaska.

## SAVINGS PROVISIONS

Repeal by Pub. L. 94-579 not to be construed as terminating any valid lease, permit, patent, etc., existing on Oct. 21, 1976, see section 701 of Pub. L. 94-579, set out as a note under section 1701 of this title.

§ 237f. Absence during 1956 to 1959 due to economic conditions; protection of entryman's rights; filing of notice of intention and grant to United States

Any person who holds a homestead entry on public lands which was allowed and subsisting on March 1, 1956, or which, based on an application on file on March 1, 1956, was allowed and subsisting on July 30, 1956, is granted leave of absence from the lands until March 1, 1959, and any person who holds a homestead or desert land entry which was allowed and subsisting on March 1, 1956, or which, based on an application on file on March 1, 1956, was allowed and subsisting on July 30, 1956, is granted permission to suspend until March 1, 1959, further operations looking to the cultivation and improvement of the lands: *Provided*, That such entryman shall forfeit no rights and shall not otherwise be excused from full compliance with the applicable public land laws by reason of such absence or of such suspension of cultivation and improvement operations: *And provided further*, That the rights of such entrymen shall not be protected by this section and sections 237g and 237h of this title unless they file with the land office having jurisdiction over the area in which the land is located, (a) a notice of their intention to absent themselves from the land or to suspend cultivation and improvement operations and accompanying such notice information as to location and extent of present cultivation or improvement placed on the entry, and (b) a grant to the United States, for itself and for its lessees, licensees, and permittees, of a right to enter upon and occupy the lands which have not been prepared for cul-

tivation or which have not had improvements placed on them, without recourse, for any purpose authorized by the public land laws, except that such grant need not include a right to construct permanent improvements on the land or to permit a substantial change in its character. (July 30, 1956, ch. 778, § 1, 70 Stat. 715.)

## REPEAL OF SECTION

*Section repealed by Pub. L. 94-579, title VII, § 702, Oct. 21, 1976, 90 Stat. 2787, effective on and after Oct. 21, 1976, except such effective date to be on and after the tenth anniversary of the date of approval of this Act, Oct. 21, 1976, insofar as the homestead laws apply to public lands in Alaska.*

## REFERENCES IN TEXT

The public land laws, referred to in text, are classified generally to this title.

## CODIFICATION

Section is also classified to section 336a of this title.

## SAVINGS PROVISIONS

Repeal by Pub. L. 94-579 not to be construed as terminating any valid lease, permit, patent, etc., existing on Oct. 21, 1976, see section 701 of Pub. L. 94-579, set out as a note under section 1701 of this title.

## SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 237h of this title.

§ 237g. Homestead or desert land applications on file as of March 1, 1956; filing of notice of intention; date of entry; rights of United States

Any person who on March 1, 1956, had on file a homestead or desert land application which application shall be allowed on its merits subsequent to July 30, 1956, and prior to March 1, 1959, shall not be required to enter upon the lands and commence residence thereon, or cultivate and improve the lands prior to March 1, 1959: *Provided*, That said person files with the land offices having jurisdiction over the area in which the land is located, (a) within sixty days after the date of allowance of his entry, a notice of his intention to delay initiation of his residence, cultivation, or improvements, and (b) at least ninety days prior to initiation of his residence, cultivation, or improvements, a notice of his intention to initiate said activity. For the purposes of the homestead and desert land laws, March 1, 1959, may be treated as the date of the entry, if an actual entry has not been made prior to that date. If an actual entry is made prior to March 1, 1959, the date of such actual entry shall be the date of entry for the purposes of the homestead and desert land laws. Until an actual entry by a person subject to the provisions of this section has been made, or until March 1, 1959, whichever first occurs, the United States, for itself and for its lessees, permittees, and licensees, shall retain the right to enter upon and occupy the lands in each such entry, without recourse, for any purpose authorized by the public land laws: *Provided*, That the United States, its lessees, permittees, and licensees, shall not construct permanent

improvements on the lands or otherwise substantially change such lands in their character. (July 30, 1956, ch. 778, § 2, 70 Stat. 716.)

#### REPEAL OF SECTION

*Section repealed by Pub. L. 94-579, title VII, § 702, Oct. 21, 1976, 90 Stat. 2787, effective on and after Oct. 21, 1976, except such effective date to be on and after the tenth anniversary of the date of approval of this Act, Oct. 21, 1976, insofar as the homestead laws apply to public lands in Alaska.*

#### REFERENCES IN TEXT

The public land laws, referred to in text, are classified generally to this title.

#### CODIFICATION

Section is also classified to section 336b of this title.

#### SAVINGS PROVISIONS

Repeal by Pub. L. 94-579 not to be construed as terminating any valid lease, permit, patent, etc., existing on Oct. 21, 1976, see section 701 of Pub. L. 94-579, set out as a note under section 1701 of this title.

#### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 237f, 237h of this title.

§ 237h. Lands to which protection of entryman's rights applicable

Sections 237f to 237h of this title shall apply only to applications filed for, or entries made on, public lands in the continental United States, exclusive of Alaska, pursuant to the Act of May 20, 1862 (12 Stat. 392; 43 U.S.C. ch. 7), as amended and supplemented, and pursuant to Act of March 3, 1877 (19 Stat. 377; 43 U.S.C., ch. 9), as amended and supplemented. Nothing in sections 237f to 237h shall apply to applications filed for, or entries made on, public lands pursuant to the Act of June 17, 1902 (32 Stat. 388; 43 U.S.C., ch. 12), as amended and supplemented.

(July 30, 1956, ch. 778, § 4, 70 Stat. 716.)

#### REPEAL OF SECTION

*Section repealed by Pub. L. 94-579, title VII, § 702, Oct. 21, 1976, 90 Stat. 2787, effective on and after Oct. 21, 1976, except such effective date to be on and after the tenth anniversary of the date of approval of this Act, Oct. 21, 1976, insofar as the homestead laws apply to public lands in Alaska.*

#### REFERENCES IN TEXT

Act of May 20, 1862, referred to in text, is act May 20, 1862, ch. 75, 12 Stat. 392, which was incorporated into the Revised Statutes of 1878 as R.S. §§ 2289, 2290, 2295 to 2301, which are classified to sections 161, 162, 163, 169, 173, 175, 183, and 211 of this title.

Act of March 3, 1877, referred to in text, is act Mar. 3, 1877, ch. 107, 19 Stat. 377, as amended, which enacted sections 321 to 323, 325, and 327 to 329 of this title. For complete classification of this Act to the Code, see Tables.

Act of June 17, 1902, referred to in text, is popularly known as the Reclamation Act, which is classified generally to chapter 12 (§ 371 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 371 of this title and Tables.

#### CODIFICATION

Section is also classified to section 336d of this title.

#### SAVINGS PROVISIONS

Repeal by Pub. L. 94-579 not to be construed as terminating any valid lease, permit, patent, etc., existing on Oct. 21, 1976, see section 701 of Pub. L. 94-579, set out as a note under section 1701 of this title.

#### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 237f of this title.

§ 238. Residence and cultivation, etc., by disabled veterans excused

Any bona fide settler, applicant, or entryman under the homestead laws of the United States, or any desert-land entryman whose entry is subject to the provisions of the Act of June 17, 1902 (32 Stat. 388), who, after settlement, application, or entry, and prior to November 11, 1918, enlisted or was actually engaged in the United States Army, Navy, or Marine Corps during the war with Germany, who has been honorably discharged and because of physical incapacities due to the service is unable to return to the land, may make final proof, without further residence, improvement, cultivation, or reclamation, at such time and place as may be authorized by the Secretary of the Interior, and receive patent to the land by him so entered or settled upon, subject to the provisions of the Act or Acts under which such settlement or entry was made: *Provided*, That no such patent shall issue prior to the conformation of the entry to a single farm unit, as required by sections 435 and 443 of this title: *And provided further*, That this section shall not be construed to exempt or relieve such applicant or entryman from payment of any lawful fees, commissions, purchase moneys, water charges, or other sums due to the United States, or its successors in control of the reclamation project, in connection with such lands.

(Mar. 1, 1921, ch. 102, § 1, 41 Stat. 1202; Apr. 7, 1922, ch. 125, 42 Stat. 492.)

#### REPEAL OF SECTION

*Section repealed by Pub. L. 94-579, title VII, § 702, Oct. 21, 1976, 90 Stat. 2787, effective on and after Oct. 21, 1976, except such effective date to be on and after the tenth anniversary of the date of approval of this Act, Oct. 21, 1976, insofar as the homestead laws apply to public lands in Alaska.*

#### REFERENCES IN TEXT

Act of June 17, 1902, referred to in text, is popularly known as the Reclamation Act, which is classified generally to chapter 12 (§ 371 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 371 of this title and Tables.

#### SAVINGS PROVISIONS

Repeal by Pub. L. 94-579 not to be construed as terminating any valid lease, permit, patent, etc., existing on Oct. 21, 1976, see section 701 of Pub. L. 94-579, set out as a note under section 1701 of this title.

## CROSS REFERENCES

Conforming entries under reclamation projects to single farm unit, see section 435 of this title.

**§ 239. Service in Army or Navy, etc., as equivalent to residence**

Where a party at the date of his entry of a tract of land under the homestead laws, or subsequently thereto, was actually enlisted and employed in the Army or Navy of the United States, his services therein shall, in the administration of such homestead laws, be construed to be equivalent, to all intents and purposes, to a residence for the same length of time upon the tract so entered. And if his entry has been canceled by reason of his absence from such tract while in the military or naval service of the United States, and such tract has not been disposed of, his entry shall be restored; but if such tract has been disposed of, the party may enter another tract subject to entry under the homestead laws, and his right to a patent therefor may be determined by the proofs touching his residence and cultivation of the first tract and his absence therefrom in such service.

(R.S. § 2308.)

## REPEAL OF SECTION

*Section repealed by Pub. L. 94-579, title VII, § 702, Oct. 21, 1976, 90 Stat. 2787, effective on and after Oct. 21, 1976, except such effective date to be on and after the tenth anniversary of the date of approval of this Act, Oct. 21, 1976, insofar as the homestead laws apply to public lands in Alaska.*

## CODIFICATION

R.S. § 2308 derived from act June 8, 1872, ch. 338, § 4, 17 Stat. 333.

## SAVINGS PROVISIONS

Repeal by Pub. L. 94-579 not to be construed as terminating any valid lease, permit, patent, etc., existing on Oct. 21, 1976, see section 701 of Pub. L. 94-579, set out as a note under section 1701 of this title.

**§ 240. Service in time of war as equivalent to residence and cultivation**

In every case in which a settler on the public land of the United States under the homestead laws enlists or is actually engaged in the Army, Navy, or Marine Corps of the United States as private soldier, officer, seaman, or marine, during the war with Spain or during any other war in which the United States may be engaged, his services therein shall, in the administration of the homestead laws, be construed to be equivalent to all intents and purposes to residence and cultivation for the same length of time upon the tract entered or settled upon; and on and after June 16, 1898, no contest shall be initiated on the ground of abandonment, nor allegation of abandonment sustained against any such settler, unless it shall be alleged in the preliminary affidavit or affidavits of contest, and proved at the hearing in cases thereafter initiated, that the settler's alleged absence from the land was not due to his employment in such service: *Provided*, That if such settler shall be discharged on account of wounds re-

ceived or disability incurred in the line of duty, then the term of his enlistment shall be deducted from the required length of residence without reference to the time of actual service: *Provided further*, That no patent shall issue to any homestead settler who has not resided upon, improved, and cultivated his homestead for a period of at least one year after he shall have commenced his improvements.

The above provisions of this section shall be applicable in all cases of military service rendered in connection with operations in Mexico, or along the borders thereof, or in mobilization camps elsewhere, whether such service be in the military or naval organization of the United States or the National Guard of the several States on August 29, 1916 or thereafter in the service of the United States.

(June 16, 1898, ch. 458, 30 Stat. 473; Aug. 29, 1916, ch. 420, 39 Stat. 671.)

## REPEAL OF SECTION

*Section repealed by Pub. L. 94-579, title VII, § 702, Oct. 21, 1976, 90 Stat. 2787, effective on and after Oct. 21, 1976, except such effective date to be on and after the tenth anniversary of the date of approval of this Act, Oct. 21, 1976, insofar as the homestead laws apply to public lands in Alaska.*

## SAVINGS PROVISIONS

Repeal by Pub. L. 94-579 not to be construed as terminating any valid lease, permit, patent, etc., existing on Oct. 21, 1976, see section 701 of Pub. L. 94-579, set out as a note under section 1701 of this title.

## SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 272a of this title.

**§§ 241, 242. Repealed. Oct. 17, 1940, ch. 888, article V, § 503(3), 54 Stat. 1187**

Section 241, act July 28, 1917, ch. 44, § 1, 40 Stat. 248, related to residence requirements of entrymen in military service during war.

Section 242, act July 28, 1917, ch. 44, § 2, 40 Stat. 248, related to the widows and children of entrymen who died in military service during war.

**§ 243. Military service in certain Indian wars as equivalent to residence and cultivation**

In every case in which an entryman or settler upon the public lands of the United States under the homestead laws has established, or may hereafter establish, military service in accordance with the provisions of the Act entitled "An Act granting pensions to certain soldiers who served in the Indian wars from 1817 to 1898, and for other purposes," approved March 3, 1927, the military service of such entryman or settler so established shall, in the administration of the homestead laws, be construed to be equivalent to all intents and purposes to residence and cultivation for the same length of time upon the tract entered or settled upon; except that (1) if any such entryman or settler was discharged on account of wounds received or disability incurred in line of duty, then the term of his enlistment shall be deducted from the required length of residence without refer-

ence to the time of actual service; and (2) no patent shall issue to any such entryman or settler who has not resided upon, improved, and cultivated his homestead for a period of at least one year.

(Apr. 7, 1930, ch. 108, 46 Stat. 144.)

#### REPEAL OF SECTION

*Section repealed by Pub. L. 94-579, title VII, § 702, Oct. 21, 1976, 90 Stat. 2787, effective on and after Oct. 21, 1976, except such effective date to be on and after the tenth anniversary of the date of approval of this Act, Oct. 21, 1976, insofar as the homestead laws apply to public lands in Alaska.*

#### REFERENCES IN TEXT

The Act entitled "An Act granting pensions to certain soldiers who served in the Indian wars from 1817 to 1898, and for other purposes," approved March 3, 1927, referred to in text, is act Mar. 3, 1927, ch. 320, 44 Stat. 1361, as amended, which was classified to sections 381 and 381a to 381f of former Title 38, Pensions, Bonuses, and Veterans' Relief, and was repealed by Pub. L. 85-56, title XXII, § 2202(14), June 17, 1957, 71 Stat. 167. For complete classification of this Act to the Code, see Tables. See, also, section 511 of Title 38, Veterans' Benefits.

#### SAVINGS PROVISIONS

Repeal by Pub. L. 94-579 not to be construed as terminating any valid lease, permit, patent, etc., existing on Oct. 21, 1976, see section 701 of Pub. L. 94-579, set out as a note under section 1701 of this title.

#### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 243a of this title.

§ 243a. Extension of credits for military service in certain Indian wars to widows; patents to minor children on death of mother

The provisions and limitations of section 243 of this title are extended to the widow of any person who would be entitled to make homestead entry or settlement and receive credit in connection therewith for military service under the provisions of said section, if such widow is unmarried and otherwise qualified to make entry of public lands under the provisions of the homestead laws of the United States and has heretofore made or shall hereafter make such entry: *Provided*, That in the event of the death of any such widow prior to perfection of title, leaving only a minor child or children, patent shall issue to the said minor child or children upon proof of death, and of the minority of the child or children, without further showing or compliance with law.

(Mar. 3, 1933, ch. 198, 47 Stat. 1424.)

#### REPEAL OF SECTION

*Section repealed by Pub. L. 94-579, title VII, § 702, Oct. 21, 1976, 90 Stat. 2787, effective on and after Oct. 21, 1976, except such effective date to be on and after the tenth anniversary of the date of approval of this Act, Oct. 21, 1976, insofar as the homestead laws apply to public lands in Alaska.*

#### SAVINGS PROVISIONS

Repeal by Pub. L. 94-579 not to be construed as terminating any valid lease, permit, patent, etc., existing

on Oct. 21, 1976, see section 701 of Pub. L. 94-579, set out as a note under section 1701 of this title.

### SUBCHAPTER VI—FINAL PROOF GENERALLY

#### § 251. Notice of intention to make final proof

Before final proof shall be submitted by any person claiming to enter agricultural lands under the laws providing for preemption or homestead entries, such person shall file with the officer designated by the Secretary of the Interior of the proper land office a notice of his or her intention to make such proof, stating therein the description of lands to be entered, and the names of the witnesses by whom the necessary facts will be established. Upon the filing of such notice, the officer shall publish a notice, that such application has been made once a week for the period of thirty days, in a newspaper to be by him designated as published nearest to such land, and he shall also post such notice in some conspicuous place in his office for the same period. Such notice shall contain the names of the witnesses as stated in the application. At the expiration of said period of thirty days, the claimant shall be entitled to make proof in the manner provided by law. The Secretary of the Interior shall make all necessary rules for giving effect to the foregoing provisions.

(Mar. 3, 1879, ch. 192, 20 Stat. 472; 1946 Reorg. Plan No. 3, § 403, eff. July 16, 1946, 11 F.R. 7876, 60 Stat. 1100.)

#### REPEAL OF SECTION

*Section repealed by Pub. L. 94-579, title VII, § 702, Oct. 21, 1976, 90 Stat. 2787, effective on and after Oct. 21, 1976, except such effective date to be on and after the tenth anniversary of the date of approval of this Act, Oct. 21, 1976, insofar as the homestead laws apply to public lands in Alaska.*

#### SAVINGS PROVISIONS

Repeal by Pub. L. 94-579 not to be construed as terminating any valid lease, permit, patent, etc., existing on Oct. 21, 1976, see section 701 of Pub. L. 94-579, set out as a note under section 1701 of this title.

#### TRANSFER OF FUNCTIONS

For transfer of functions of the other officers, employees, and agencies of the Department of the Interior, with certain exceptions, to the Secretary of the Interior, with power to delegate, see Reorg. Plan No. 3 of 1950, §§ 1, 2, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1262, set out under section 1451 of this title.

References to "register" were changed to "officer designated by the Secretary of the Interior" and "officer" on authority of section 403 of Reorg. Plan No. 3 of 1943. See note set out under section 1 of this title.

#### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 252 of this title.

§ 252. Time of taking testimony for final proof in case of unavoidable delay

Section 251 of this title shall not be construed to forbid the taking of testimony for final proof within ten days following the day advertised as upon which such final proof shall be made, in

cases where accident or unavoidable delays have prevented the applicant or witnesses from making such proof on the date specified.

(Mar. 2, 1889, ch. 381, § 7, 25 Stat. 855.)

#### REPEAL OF SECTION

*Section repealed by Pub. L. 94-579, title VII, § 702, Oct. 21, 1976, 90 Stat. 2787, effective on and after Oct. 21, 1976, except such effective date to be on and after the tenth anniversary of the date of approval of this Act, Oct. 21, 1976, insofar as the homestead laws apply to public lands in Alaska.*

#### SAVINGS PROVISIONS

Repeal by Pub. L. 94-579 not to be construed as terminating any valid lease, permit, patent, etc., existing on Oct. 21, 1976, see section 701 of Pub. L. 94-579, set out as a note under section 1701 of this title.

#### § 253. Notice of contest; publication

The notices of contest now provided by law under the homestead, preemption and tree-culture laws of the United States shall be printed in some newspaper printed in the county where the land in contest lies; and if no newspaper be printed in such county, then in the newspaper printed in the county nearest to such land.

(June 3, 1878, ch. 152, 20 Stat. 91.)

#### REPEAL OF SECTION

*Section repealed by Pub. L. 94-579, title VII, § 702, Oct. 21, 1976, 90 Stat. 2787, effective on and after Oct. 21, 1976, except such effective date to be on and after the tenth anniversary of the date of approval of this Act, Oct. 21, 1976, insofar as the homestead laws apply to public lands in Alaska.*

#### REPEALS

Repeal of "act to encourage the growth of timber on the western prairies" not to affect valid rights accrued or accruing under that law and claims to be perfected in same manner as if act had not been repealed, see section 1181 of this title.

#### SAVINGS PROVISIONS

Repeal by Pub. L. 94-579 not to be construed as terminating any valid lease, permit, patent, etc., existing on Oct. 21, 1976, see section 701 of Pub. L. 94-579, set out as a note under section 1701 of this title.

#### § 254. Officers before whom affidavits or proofs may be made; perjury; fees

On and after February 23, 1923, all proofs, affidavits, and oaths of any kind whatsoever required to be made by applicants and entrymen under the homestead, preemption, timber culture, desert land, and timber and stone Acts, may in addition to those now authorized to take such affidavits, proofs, and oaths be made before any United States magistrates or magistrate of the court exercising Federal jurisdiction in the Territory or before the judge or clerk of any court of record in the county, parish, or land district in which the lands are situated: *Provided*, That in cases where because of geographic or topographic conditions there is a qualified officer nearer or more accessible to the land involved, but outside the county and land district, affidavits, proofs, and oaths

may be taken before such officer: *Provided further*, That in case the affidavits, proofs, and oaths hereinbefore mentioned be taken outside of the county or land district in which the land is located, the applicant must show by affidavit, satisfactory to the Secretary of the Interior, or such officer as he may designate, that it was taken before the nearest or most accessible officer qualified to take such affidavits, proofs, and oaths; but such showing by affidavits need not be made in making final proof if the proof be taken in the town or city where the newspaper is published in which the final proof notice is printed. The proof, affidavit, and oath, when so made and duly subscribed, shall have the same force and effect as if made before the officer designated by the Secretary of the Interior when transmitted to him with the fees and commissions allowed and required by law. If any witness making such proof, or any applicant making such affidavit or oath, shall knowingly, willfully, or corruptly swear falsely to any material matter contained in said proofs, affidavits, or oaths, he shall be deemed guilty of perjury and shall be liable to the same pains and penalties as if he had sworn falsely before the officer designated by the Secretary of the Interior. The fees for entries and for final proofs when made before any other officer than the Secretary of the Interior shall be as follows:

For each affidavit, 25 cents.

For each deposition of claimant or witness, when not prepared by the officer, 25 cents.

For each deposition of claimant or witness prepared by the officer, \$1.

Any officer demanding or receiving a greater sum for such service shall be guilty of misdemeanor and upon conviction shall be punished for each offense by a fine not exceeding \$100.

(R.S. § 2294; May 26, 1890, ch. 355, 26 Stat. 121; Mar. 3, 1893, ch. 208, 27 Stat. 593; Mar. 11, 1902, ch. 182, 32 Stat. 63; Mar. 4, 1904, ch. 394, 33 Stat. 59; Oct. 28, 1921, ch. 114, § 1, 42 Stat. 208; Feb. 23, 1923, ch. 105, 42 Stat. 1281; 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; Pub. L. 90-578, title IV, § 402(b)(2), Oct. 17, 1968, 82 Stat. 1118.)

#### REPEAL OF SECTION

*Section repealed by Pub. L. 94-579, title VII, § 702, Oct. 21, 1976, 90 Stat. 2787, effective on and after Oct. 21, 1976, except such effective date to be on and after the tenth anniversary of the date of approval of this Act, Oct. 21, 1976, insofar as the homestead laws apply to public lands in Alaska.*

#### CODIFICATION

R.S. § 2294 derived from acts Mar. 21, 1864, ch. 38, § 3, 13 Stat. 35; June 22, 1874, ch. 394, 18 Stat. 192.

#### CHANGE OF NAME

"United States magistrates or magistrate" was substituted for "United States commissioners or commissioner" pursuant to Pub. L. 90-578, § 402(b)(2), Oct. 17, 1968, 82 Stat. 1118. See chapter 43 (§ 831 et seq.) of Title 28, Judiciary and Judicial Procedure.

#### REPEALS

Repeal of "act to encourage the growth of timber on the western prairies" not to affect valid rights accrued or accruing under that law and claims to be perfected in same manner as if act had not been repealed, see section 1181 of this title.

#### SAVINGS PROVISIONS

Repeal by Pub. L. 94-579 not to be construed as terminating any valid lease, permit, patent, etc., existing on Oct. 21, 1976, see section 701 of Pub. L. 94-579, set out as a note under section 1701 of this title.

#### TRANSFER OF FUNCTIONS

For transfer of functions of the other officers, employees, and agencies of the Department of the Interior, with certain exceptions, to the Secretary of the Interior, with power to delegate, see Reorg. Plan No. 3 of 1950, §§ 1, 2, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1262, set out under section 1451 of this title.

Words "officer designated by the Secretary of the Interior" were substituted for "register" and "Secretary of the Interior or such officer as he may designate" for "Commissioner of the General Land Office" on authority of section 403 of 1946 Reorg. Plan No. 3 of 1946. See note set out under section 1 of this title.

#### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1167 of this title.

§ 255. Persons in military or naval service; affidavits taken by commanding officer

In case of any person desirous of availing himself of the benefits of this chapter but who, by reason of actual service in the military or naval service of the United States, is unable to do the personal preliminary acts at the district land office which sections 161, 162, 164, and 171 of this title require, and whose family, or some member thereof, is residing on the land which he desires to enter, and upon which a bona-fide improvement and settlement have been made, such person may make the affidavit required by law before the officer commanding in the branch of the service in which the party is engaged, which affidavit shall be as binding in law, and with like penalties, as if taken before the officer designated by the Secretary of the Interior; and upon such affidavit being filed with the officer designated by the Secretary of the Interior by the wife or other representative of the party, the same shall become effective from the date of such filing, provided the application and affidavit are accompanied by the fee and commissions as required by law.

(R.S. § 2293; Oct. 6, 1917, ch. 86, 40 Stat. 391; 1946 Reorg. Plan No. 3, § 403, eff. July 16, 1946, 11 F.R. 7876, 60 Stat. 1100.)

#### REPEAL OF SECTION

*Section repealed by Pub. L. 94-579, title VII, § 702, Oct. 21, 1976, 90 Stat. 2787, effective on and after Oct. 21, 1976, except such effective date to be on and after the tenth anniversary of the date of approval of this Act, Oct. 21, 1976, insofar as the homestead laws apply to public lands in Alaska.*

#### REFERENCES IN TEXT

This chapter, referred to in text, means Chapter 5 of Title XXXII of the Revised Statutes, consisting of R.S. §§ 2289 to 2317, which are classified to sections

161 to 164, 169, 171, 173, 175, 183, 184, 191, 201, 211, 239, 254, 255, 271, 272, 274, 277, and 278 of this title. R.S. §§ 2299 and 2312 to 2317 were not classified to the Code and were repealed by act Mar. 3, 1933, ch. 202, § 1, 47 Stat. 1429. R.S. § 2303 was not classified to the Code and was repealed by act July 4, 1876, ch. 165, 19 Stat. 73.

#### CODIFICATION

Provision of this section, added by act October 6, 1917, that during the continuance of the World War soldiers might make affidavits relating to land claims before their commanding officers, was omitted.

R.S. § 2293 derived from act Mar. 21, 1864, ch. 38, § 4, 13 Stat. 35.

#### SAVINGS PROVISIONS

Repeal by Pub. L. 94-579 not to be construed as terminating any valid lease, permit, patent, etc., existing on Oct. 21, 1976, see section 701 of Pub. L. 94-579, set out as a note under section 1701 of this title.

#### TRANSFER OF FUNCTIONS

For transfer of functions of the other officers, employees, and agencies of the Department of the Interior, with certain exceptions, to the Secretary of the Interior, with power to delegate, see Reorg. Plan No. 3 of 1950, §§ 1, 2, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1262, set out under section 1451 of this title.

Words "officer designated by the Secretary of the Interior" were substituted for "register" on authority of section 403 of Reorg. Plan No. 3 of 1946. See note set out under section 1 of this title.

§ 256. Election as to law under which to make final proof

Any person entitled to enter lands under the homestead laws, who may have established residence upon unsurveyed lands (which were subject to homestead entry) prior to June 6, 1912, may perfect his proof for such lands under the provisions of sections 164 and 169 of this title, or under the law existing at the time of the establishment of such residence, as he may elect, such election to be signified to the Department of the Interior in accordance with rules and regulations to be prescribed by the Secretary.

(Mar. 4, 1913, ch. 149, § 1, 37 Stat. 925.)

#### REPEAL OF SECTION

*Section repealed by Pub. L. 94-579, title VII, § 702, Oct. 21, 1976, 90 Stat. 2787, effective on and after Oct. 21, 1976, except such effective date to be on and after the tenth anniversary of the date of approval of this Act, Oct. 21, 1976, insofar as the homestead laws apply to public lands in Alaska.*

#### SAVINGS PROVISIONS

Repeal by Pub. L. 94-579 not to be construed as terminating any valid lease, permit, patent, etc., existing on Oct. 21, 1976, see section 701 of Pub. L. 94-579, set out as a note under section 1701 of this title.

§ 256a. Extension of time for offering final proof; rules and regulations

The Secretary of the Interior is authorized to extend for not exceeding two years the period during which annual or final proof may be offered by any person who has a pending homestead or desert-land entry upon public lands of the United States on which on May 13, 1932, or on any date on or prior to December 31, 1936,

under existing law, annual or final proof is required, showing residence, cultivation, improvements, expenditures, or payment of purchase money as the case may be: *Provided*, That any such entryman shall be required to show that it is a hardship upon himself to meet the requirements incidental to annual or final proof upon the date required by existing law due to adverse weather or economic conditions: *And provided further*, That this section shall apply only to cases where adequate relief is not available under existing law.

The Secretary of the Interior is authorized to make such rules and regulations as are necessary to carry out the purposes of this section.

(May 13, 1932, ch. 178, §§ 1, 2, 47 Stat. 153; June 16, 1933, ch. 99, 48 Stat. 274; July 26, 1935, ch. 419, 49 Stat. 504; June 16, 1937, ch. 361, 50 Stat. 303.)

#### REPEAL OF SECTION

*Section repealed by Pub. L. 94-579, title VII, § 702, Oct. 21, 1976, 90 Stat. 2787, effective on and after Oct. 21, 1976, except such effective date to be on and after the tenth anniversary of the date of approval of this Act, Oct. 21, 1976, insofar as the homestead laws apply to public lands in Alaska.*

#### AMENDMENTS

1937—Act June 16, 1937, substituted "December 31, 1938" for "December 31, 1935".

1935—Act July 26, 1935, substituted "December 31, 1935" for "December 31, 1934".

1933—Act June 16, 1933, amended section generally.

#### SAVINGS PROVISIONS

Repeal by Pub. L. 94-579 not to be construed as terminating any valid lease, permit, patent, etc., existing on Oct. 21, 1976, see section 701 of Pub. L. 94-579, set out as a note under section 1701 of this title.

#### § 256b. Final proof by disabled World War I veterans

Any entryman under the homestead laws of the United States who on or after April 6, 1917, and prior to November 12, 1918, enlisted or was a member of the United States Army, Navy, or Marine Corps during the war with Germany, who was honorably discharged from such service, whose entry was made prior to January 1, 1935, and who because of physical or mental disabilities has been or may hereafter become unable to perform the prescribed residential and improvement and other requirements may make proof without further residence, improvement, or cultivation, at such time and place as may be authorized and under such regulations to be issued by the Secretary of the Interior, and receive patent to the land by him so entered upon.

(Aug. 27, 1935, ch. 770, 49 Stat. 909.)

#### REPEAL OF SECTION

*Section repealed by Pub. L. 94-579, title VII, § 702, Oct. 21, 1976, 90 Stat. 2787, effective on and after Oct. 21, 1976, except such effective date to be on and after the tenth anniversary of the date of approval of this Act, Oct. 21, 1976, insofar as the homestead laws apply to public lands in Alaska.*

#### SAVINGS PROVISIONS

Repeal by Pub. L. 94-579 not to be construed as terminating any valid lease, permit, patent, etc., existing on Oct. 21, 1976, see section 701 of Pub. L. 94-579, set out as a note under section 1701 of this title.

#### SUBCHAPTER VII—PAYMENTS AND REFUNDS

#### § 261. Time for payments; extension of time for payment

Whenever it shall appear by the filing of such evidence in the office of any officer designated by the Secretary of the Interior as shall be prescribed by the Secretary of the Interior that any settler on the public lands, by reason of a failure of crops for which he is in nowise responsible, is unable to make the payment on his homestead or preemption claim required by law, the Secretary of the Interior or such officer as he may designate, is authorized to extend the time for such payment for not exceeding one year from the date when the same becomes due.

(Sept. 30, 1890, No. 59, 26 Stat. 684; 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.)

#### REPEAL OF SECTION

*Section repealed by Pub. L. 94-579, title VII, § 702, Oct. 21, 1976, 90 Stat. 2787, effective on and after Oct. 21, 1976, except such effective date to be on and after the tenth anniversary of the date of approval of this Act, Oct. 21, 1976, insofar as the homestead laws apply to public lands in Alaska.*

#### SAVINGS PROVISIONS

Repeal by Pub. L. 94-579 not to be construed as terminating any valid lease, permit, patent, etc., existing on Oct. 21, 1976, see section 701 of Pub. L. 94-579, set out as a note under section 1701 of this title.

#### TRANSFER OF FUNCTIONS

For transfer of functions of the other officers, employees, and agencies of the Department of the Interior, with certain exceptions, to the Secretary of the Interior, with power to delegate, see Reorg. Plan No. 3 of 1950, §§ 1, 2, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1262, set out under section 1451 of this title.

Words "officer designated by the Secretary of the Interior" were substituted for "register" and "Secretary of the Interior or such officer as he may designate" for "Commissioner of the General Land Office" on authority of section 403 of Reorg. Plan No. 3 of 1946. See note set out under section 1 of this title.

#### § 262. Repealed. Dec. 16, 1930, ch. 14, § 1, 46 Stat. 1029

Section, act Mar. 2, 1907, ch. 2568, 34 Stat. 1248, provided for refund of excess payments. See section 1374 of this title.

#### § 263. Cancellation of entries; repayment

In all cases where it shall, upon due proof being made, appear to the satisfaction of the Secretary of the Interior that innocent parties have paid the fees and commissions and excess payments required upon the location of claims under section 274 of this title, which said claims were, after such location, found to be fraudulent,

lent and void, and the entries or locations made thereon canceled, the Secretary of the Interior is authorized to repay to such innocent parties the fees and commissions, and excess payments paid by them, upon the surrender of the receipts issued therefor by the receivers of public moneys, out of any money in the Treasury not otherwise appropriated, and shall be payable out of the appropriation to refund purchase money on lands erroneously sold by the United States.

In all cases where homestead or timber-culture or desert-land entries or other entries of public lands have heretofore or shall hereafter be canceled for conflict, or where, from any cause, the entry has been erroneously allowed and cannot be confirmed, the Secretary of the Interior shall cause to be repaid to the person who made such entry, or to his heirs or assigns, the fees and commissions, amount of purchase money, and excesses paid upon the same upon the surrender of the duplicate receipt and the execution of a proper relinquishment of all claims to said land, whenever such entry shall have been duly canceled by the Secretary of the Interior, or such officer as he may designate, and in all cases where parties have paid double-minimum price for land which has afterwards been found not to be within the limits of a railroad land grant, the excess of \$1.25 per acre shall in like manner be repaid to the purchaser thereof, or to his heirs or assigns.

The Secretary of the Interior is authorized to make the payments herein provided for, out of any money in the Treasury not otherwise appropriated.

The Secretary of the Interior or such officer as he may designate shall make all necessary rules, and issue all necessary instructions, to carry the provisions of this section into effect; and for the repayment of the purchase money and fees herein provided for the Secretary of the Interior shall draw his warrant on the Treasury and the same shall be paid without regard to the date of the cancellation of the entries.

No proof of loyalty shall be required in the cases mentioned in this section.

(June 16, 1880, ch. 244, §§ 1-4, 21 Stat. 287; Apr. 18, 1904, No. 25, 33 Stat. 589; 1946 Reorg. Plan No. 3, § 403, eff. July 16, 1946, 11 F.R. 7876, 60 Stat. 1100.)

#### REPEAL OF SECTION

*Section repealed by Pub. L. 94-579, title VII, § 702, Oct. 21, 1976, 90 Stat. 2787, effective on and after Oct. 21, 1976, except such effective date to be on and after the tenth anniversary of the date of approval of this Act, Oct. 21, 1976, insofar as the homestead laws apply to public lands in Alaska.*

#### SAVINGS PROVISIONS

Repeal by Pub. L. 94-579 not to be construed as terminating any valid lease, permit, patent, etc., existing on Oct. 21, 1976, see section 701 of Pub. L. 94-579, set out as a note under section 1701 of this title.

#### REPEALS

Repeal of "act to encourage the growth of timber on the western prairies" not to affect valid rights accrued

or accruing under that law and claims to be perfected in same manner as if act had not been repealed, see section 1181 of this title.

#### TRANSFER OF FUNCTIONS

For transfer of functions of the other officers, employees, and agencies of the Department of the Interior, with certain exceptions, to the Secretary of the Interior, with power to delegate, see Reorg. Plan No. 3 of 1950, §§ 1, 2, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1262, set out under section 1451 of this title.

"Secretary of the Interior or such officer as he may designate" was substituted for "Commissioner of the General Land Office" on authority of section 403 of Reorg. Plan No. 3 of 1946. See note set out under section 1 of this title.

#### SUBCHAPTER VIII—ALASKA HOMESTEADS

§ 270. Repealed. Pub. L. 94-579, title VII, § 703(a), Oct. 21, 1976, 90 Stat. 2789

Section, acts May 14, 1898, ch. 299, § 1, 30 Stat. 409; Mar. 3, 1903, ch. 1002, 32 Stat. 1028; Aug. 24, 1912, ch. 387, § 1, 37 Stat. 512; Oct. 28, 1921, ch. 114, § 1, 42 Stat. 208; Mar. 3, 1925, ch. 482, 43 Stat. 1144; 1946 Reorg. Plan No. 3, § 403, eff. July 16, 1948, 11 F.R. 7878, 60 Stat. 1100; Apr. 29, 1950, ch. 137, § 1, 64 Stat. 94; Aug. 3, 1955, ch. 496, § 1, 69 Stat. 444, set forth provisions relating to the applicability of the homestead laws to Alaska. Section was formerly classified to section 371 of Title 48, Territories and Insular Possessions.

#### EFFECTIVE DATE OF REPEAL

Section 703(a) of Pub. L. 94-579 provided in part that this section is repealed effective on and after Oct. 21, 1976.

#### SAVINGS PROVISIONS

Repeal by Pub. L. 94-579 not to be construed as terminating any valid lease, permit, patent, etc., existing on Oct. 21, 1976, see section 701 of Pub. L. 94-579, set out as a note under section 1701 of this title.

§§ 270-1 to 270-3. Repealed. Pub. L. 92-203, § 18(a), Dec. 18, 1971, 85 Stat. 710

Section 270-1, acts May 17, 1906, ch. 2469, § 1, 34 Stat. 197; Aug. 2, 1956, ch. 891, § 1(a)-(d), 70 Stat. 954, authorized the making of homestead allotments to native Indians, Aleuts, or Eskimos and provided for conveyance of allotted lands. Section was formerly classified to section 357 of Title 48, Territories and Insular Possessions.

Section 270-2, act May 17, 1906, ch. 2469, § 2, as added Aug. 2, 1956, ch. 891, § 1(e), 70 Stat. 954, permitted allotments of land in national forests if the land was certified as chiefly valuable for agricultural or grazing uses. Section was formerly classified to section 357a of Title 48.

Section 270-3, act May 27, 1906, ch. 2469, § 3, as added Aug. 2, 1956, ch. 891, § 1(e), 70 Stat. 954, prohibited the making of an allotment unless the person made satisfactory proof of substantially continuous use and occupancy of the land for five years. Section was formerly classified to section 357b of Title 48.

§ 270-4. Affidavits; filing, publishing, and posting proofs of claims

All affidavits, testimony, proofs, and other papers provided for by the provisions of this Act and the Act of March 3, 1891, concerning public lands, or by any departmental or Executive regulation thereunder, by depositions or otherwise, under commission from such officer as the Secretary of the Interior may designate,

which may have been or may hereafter be taken and sworn to anywhere in the United States, before any court, judge, or other officer authorized by law to administer an oath, shall be admitted in evidence as if taken before such officer as the Secretary of the Interior may designate. And thereafter such proof, together with a certified copy of the field notes and plat of the survey of the claim, shall be filed in the public survey office at Juneau, and if such survey and plat shall be approved by the Secretary of the Interior or such officer as he may designate, certified copies thereof, together with the claimant's application to purchase, shall be filed in the United States land office in the land district in which the claim is situated, whereupon, at the expense of the claimant, such officer as the Secretary of the Interior may designate of such land office shall cause notice of such application to be published for at least sixty days in a newspaper of general circulation published nearest the claim within Alaska, and the applicant shall at the time of filing such field notes, plat, and application to purchase in the land office, as aforesaid, cause a copy of such plat, together with the application to purchase, to be posted upon the claim, and such plat and application shall be kept posted in a conspicuous place on such claim continuously for at least sixty days, and during such period of posting and publication or within thirty days thereafter any person, corporation, or association, having or asserting any adverse interest in, or claim to the tract of land or any part thereof sought to be purchased, may file in the land office where such application is pending, under oath, an adverse claim setting forth the nature and extent thereof, and such adverse claimant shall, within sixty days after the filing of such adverse claim, begin action to quiet title in a court of competent jurisdiction within Alaska, and thereafter no patent shall issue for such claim until the final adjudication of the rights of the parties, and such patent shall then be issued in conformity with the final decree of the court.

(May 14, 1898, ch. 299, § 10, 30 Stat. 413; Oct. 28, 1921, ch. 114 § 1, 42 Stat. 208; 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.)

#### REPEAL OF SECTION

*Section repealed by Pub. L. 94-579, title VII, § 702, Oct. 21, 1976, 90 Stat. 2787, effective on and after Oct. 21, 1976, except such effective date to be on and after the tenth anniversary of the date of approval of this Act, Oct. 21, 1976, insofar as the homestead laws apply to public lands in Alaska.*

#### REFERENCES IN TEXT

This Act, referred to in text, means act May 14, 1898, ch. 299, 30 Stat. 409, as amended, which enacted sections 270, 270-4, 687a, 687a-2 to 687a-5, and 942-1 to 942-9 of this title, sections 607a and 615a of Title 16, Conservation, and section 392 of Title 48, Territories and Insular Possessions. For complete classification of this Act to the Code, see Tables.

Act of March 3, 1891, referred to in text, probably means act Mar. 3, 1891, ch. 561, 26 Stat. 1095, as amended, which enacted sections 161, 162, 173, 174,

185, 202, 212, 321, 323, 325, 327 to 329, 663, 671, 687a-6, 718, 728, 732, 893, 946 to 949, 989, 1165, 1166, 1181, and 1197 of this title, sections 471, 607, 611, 611a, and 613 of Title 16, Conservation, section 495 of Title 25, Indians, and sections 30, 36, 44, 45, 48, and 52 of Title 30, Mineral Lands and Mining. For complete classification of this Act to the Code, see Tables.

#### CODIFICATION

Section is comprised of the last paragraph of section 10 of act May 14, 1898. The remainder of section 10 of act May 14, 1898, is classified to sections 687a to 687a-5 of this title.

Section was formerly classified to section 359 of Title 48, Territories and Insular Possessions.

#### SAVINGS PROVISIONS

Repeal by Pub. L. 94-579 not to be construed as terminating any valid lease, permit, patent, etc., existing on Oct. 21, 1976, see section 701 of Pub. L. 94-579, set out as a note under section 1701 of this title.

#### TRANSFER OF FUNCTIONS

For transfer of functions of the other officers, employees, and agencies of the Department of the Interior, with certain exceptions, to the Secretary of the Interior, with power to delegate, see Reorg. Plan No. 3 of 1950, §§ 1, 2, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1262, set out under section 1451 of this title.

Functions of Supervisor of Surveys and Registers were transferred to the Secretary of the Interior on authority of section 403 of Reorg. Plan No. 3 of 1946. See note set out under section 1 of this title.

Act Mar. 3, 1925, abolished the office of surveyor general and transferred the administration of all activities of surveyors general to the Field Surveying Service under the jurisdiction of the United States Supervisor of Surveys subject to regulations of the Secretary of the Interior.

Act Oct. 28, 1921, authorized the President to consolidate the offices of register and receiver in any district land office and to abolish the office of receiver.

#### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 16 section 3215.

§§ 270-5 to 270-10. Repealed. Pub. L. 94-579, title VII, § 703(a), Oct. 21, 1976, 90 Stat. 2789

Section 270-5, act Apr. 29, 1950, ch. 137, § 2, 64 Stat. 95, required filing of notice of location of settlement claims for public lands in Alaska. Section was formerly classified to section 371a of Title 48, Territories and Insular Possessions

Section 270-6, act Apr. 29, 1950, ch. 137, § 3, 64 Stat. 95, set forth effects of failure to file notice of settlement claim. Section was formerly classified to section 371b of Title 48.

Section 270-7, acts Apr. 29, 1950, ch. 137, § 4, 64 Stat. 95; July 11, 1956, ch. 571, § 2, 70 Stat. 529, required final or commutation proof on unsurveyed land as the basis for free survey. Section was formerly classified to section 371c of Title 48.

Section 270-8, acts July 8, 1916, ch. 228, § 1, 39 Stat. 352; June 28, 1918, ch. 110, 40 Stat. 632, set forth the amount of homestead entries for every qualified person. Section was formerly classified to section 373 of Title 48.

Section 270-9, acts July 8, 1916, ch. 228, § 1, 39 Stat. 352; June 28, 1918, ch. 110, 40 Stat. 632, removed bar of former entry in any other State or Territory as bar to homestead entry in Alaska. Section was formerly classified to section 374 of Title 48.

Section 270-10, act July 8, 1916, ch. 228, § 2, as added June 28, 1918, ch. 110, 40 Stat. 633, and amended Oct. 28, 1921, ch. 114, § 1, 42 Stat. 208; 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; July 11, 1956, ch.

571, § 1, 70 Stat. 528, set forth requirements for entry on unsurveyed lands. Section was formerly classified to section 375 of Title 48.

**EFFECTIVE DATE OF REPEAL**

Section 703(a) of Pub. L. 94-579 provided in part that sections 270-5 to 270-10 are repealed effective on and after Oct. 21, 1976.

**SAVINGS PROVISIONS**

Repeal by Pub. L. 94-579 not to be construed as terminating any valid lease, permit, patent, etc., existing on Oct. 21, 1976, see section 701 of Pub. L. 94-579, set out as a note under section 1701 of this title.

**§ 270-11. Entry on land containing coal, oil, or gas**

Claims under section 687a of this title, and homestead claims may be initiated by actual settlers on public lands of the United States in Alaska known to contain workable coal, oil, or gas deposits, or that may be valuable for the coal, oil, or gas contained therein, and which are not otherwise reserved or withdrawn, whenever such claim shall be initiated with a view of obtaining or passing title with a reservation to the United States of the coal, oil, or gas in such lands, and of the right to prospect for, mine, and remove the same; and any claimant who has initiated such a claim in good faith on lands containing workable deposits of coal, oil or gas, or that may be valuable for the coal, oil, or gas contained therein, may perfect the same under the provisions of the laws under which the claim was initiated, but shall receive the limited patent provided for in section 270-12 of this title: *Provided, however,* That should it be discovered at any time prior to the issuance of a final certificate on any claim initiated for unreserved lands in Alaska that the lands are coal, oil, or gas in character, the patent issued on such entry shall contain the reservation required by said section.

(Mar. 8, 1922, ch. 96, § 1, 42 Stat. 415; Aug. 23, 1958, Pub. L. 85-725, § 1, 72 Stat. 730.)

**REPEAL OF SECTION**

*Section repealed by Pub. L. 94-579, title VII, § 703(a), Oct. 21, 1976, 90 Stat. 2789, effective on and after the tenth anniversary of the date of approval of this Act, Oct. 21, 1976.*

**CODIFICATION**

Section was formerly classified to section 376 of Title 48, Territories and Insular Possessions.

**AMENDMENTS**

1958—Pub. L. 85-725 provided for settlement and entry of public lands in Alaska containing coal, oil, or gas under section 687a of this title and substituted "claimant who has initiated such a claim" for "settler who has initiated a homestead claim".

**SAVINGS PROVISIONS**

Repeal by Pub. L. 94-579 not to be construed as terminating any valid lease, permit, patent, etc., existing on Oct. 21, 1976, see section 701 of Pub. L. 94-579, set out as a note under section 1701 of this title.

**CREDITS; DIVESTMENT OF VESTED RIGHTS**

Section 4 of Pub. L. 85-725 provided that: "Any person who heretofore settled or entered on lands made subject to the provision of the Act of March 8,

1922 [sections 270-11 to 270-13 of this title], under the terms of this Act [amending sections 270-11, 270-12, and 687a of this title] shall be entitled to credit toward the requirements of the Act under which settlement or entry was made to the full extent that he complied with such requirements prior to the enactment of this Act [Aug. 23, 1958]: *Provided, however,* That this section shall not be construed to divest or impair any right which has heretofore vested in any person, firm, or corporation pursuant to lease, contract or any other provision of law."

**SECTION REFERRED TO IN OTHER SECTIONS**

This section is referred to in sections 270-12, 687a, 1613, 1634 of this title.

**§ 270-12. Patent for land entered under section 270-11; reservations**

Upon satisfactory proof of full compliance with the provisions of the laws under which the entry is made and of section 270-11 of this title the entryman shall be entitled to a patent to the lands entered by him, which patent shall contain a reservation to the United States of all the coal, oil, or gas in the land so patented, together with the right to prospect for, mine, and remove the same. The coal, oil, or gas deposits so reserved shall be subject to disposal by the United States in accordance with the provisions of the laws applicable to coal, oil, or gas deposits or coal, oil, or gas lands in Alaska in force at the time of such disposal. Any person qualified to acquire coal, oil, or gas deposits, or the right to mine and remove the coal or to drill for and remove the oil or gas under the laws of the United States shall have the right at all times to enter upon the lands entered or patented, as provided by the provisions hereof, for the purpose of prospecting for coal, oil, or gas therein, upon the approval by the Secretary of the Interior of a bond or undertaking to be filed with him as security for the payment of all damages to the crops and improvements on such lands by reason of such prospecting. Any person who has acquired from the United States the coal, oil, or gas deposits in any such land, or the right to mine, drill for, or remove the same, may reenter and occupy so much of the surface thereof as may be required for all purposes reasonably incident to the mining and removal of the coal, oil, or gas therefrom, and mine and remove the coal or drill for and remove the oil or gas upon payment of the damages caused thereby to the owner thereof, or upon giving a good and sufficient bond or undertaking in an action instituted in any competent court to ascertain and fix said damages: *Provided,* That the owner under such limited patent shall have the right to mine the coal for use on the land for domestic purposes at any time prior to the disposal by the United States of the coal deposits: *Provided further,* That nothing in this section or section 270-11 of this title shall be construed as authorizing the exploration upon or entry of any coal deposits withdrawn from such exploration and purchase.

(Mar. 8, 1922, ch. 96, § 2, 42 Stat. 416; Aug. 23, 1958, Pub. L. 85-725, § 2, 72 Stat. 730.)

## AMENDMENT OF SECTION

Pub. L. 94-579, title VII, § 703(c), Oct. 21, 1976, 90 Stat. 2791, provided that effective on and after the tenth anniversary of the date of approval of this Act [Oct. 21, 1976], section 2 of the act of March 8, 1922 (42 Stat. 415, 416), as amended by section 2 of the act of August 23, 1958 (72 Stat. 730), is further amended to read:

*"The coal, oil, or gas deposits reserved to the United States in accordance with the act of March 8, 1922 (42 Stat. 415; 43 U.S.C. 270-11 et seq.), as added to by the Act of August 17, 1961 (75 Stat. 384; 43 U.S.C. 270-13), and amended by the Act of October 3, 1962 (76 Stat. 740; 43 U.S.C. 270-13), shall be subject to disposal by the United States in accordance with the provisions of the laws applicable to coal, oil, or gas deposits or coal, oil, or gas lands in Alaska in force at the time of such disposal. Any person qualified to acquire coal, oil, or gas deposits, or the right to mine or remove the coal or to drill for and remove the oil or gas under the laws of the United States shall have the right at all times to enter upon the lands patented under the Act of March 8, 1922, as amended, and in accordance with the provisions hereof, for the purpose of prospecting for coal, oil, or gas therein, upon the approval by the Secretary of the Interior of a bond or undertaking to be filed with him as security for the payment of all damages to the crops and improvements on such lands by reason of such prospecting. Any person who has acquired from the United States the coal, oil, or gas deposits in any such land, or the right to mine, drill for, or remove the same, may reenter and occupy so much of the surface thereof incident to the mining and removal of the coal, oil, or gas therefrom, and mine and remove the coal or drill for and remove oil and gas upon payment of the damages caused thereby to the owner thereof, or upon giving a good and sufficient bond or undertaking in an action instituted in any competent court to ascertain and fix said damages: Provided, That the owner under such limited patent shall have the right to mine the coal for use on the land for domestic purposes at any time prior to the disposal by the United States of the coal deposits: Provided further, That nothing in this Act shall be construed as authorizing the exploration upon or entry of any coal deposits withdrawn from such exploration and purchase."*

## CODIFICATION

Section was formerly classified to section 377 of Title 48, Territories and Insular Possessions.

## AMENDMENTS

1958—Pub. L. 85-725 deleted last proviso *"And provided further, That nothing herein contained shall be held or construed to authorize the entry or disposition, under section 274 of this title, or under Acts amendatory thereof or supplemental thereto, of withdrawn or classified coal, oil, or gas lands or of lands valuable for coal, oil, or gas."*

## SAVINGS PROVISIONS

Amendment by Pub. L. 94-579 not to be construed as terminating any valid lease, permit, patent, etc., existing on Oct. 21, 1976, see section 701 of Pub. L. 94-579, set out as a note under section 1701 of this title.

## SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 270-11, 1613, 1634 of this title.

§§ 270-13, 270-14. Repealed. Pub. L. 94-579, title VII, § 703(a), Oct. 21, 1976, 90 Stat. 2789

Section 270-13, act Mar. 8, 1922, ch. 96, § 3, as added Aug. 17, 1961, Pub. L. 87-147, 75 Stat. 384, and amended Oct. 3, 1962, Pub. L. 87-742, 76 Stat. 740, authorized sale or other disposition of Alaskan lands containing coal, oil, or gas deposits. Section was formerly classified to section 377a of Title 48, Territories and Insular Possessions.

Section 270-14, act July 8, 1916, ch. 228, § 3, formerly § 2, 39 Stat. 352, renumbered June 28, 1918, ch. 110, 40 Stat. 633, excepted certain lands in Alaska from homestead entry and settlement. Section was formerly classified to section 378 of Title 48.

## EFFECTIVE DATE OF REPEAL

Section 703(a) of Pub. L. 94-579 provided in part that sections 270-13 and 270-14 are repealed effective on and after Oct. 21, 1976.

## SAVINGS PROVISIONS

Repeal by Pub. L. 94-579 not to be construed as terminating any valid lease, permit, patent, etc., existing on Oct. 21, 1976, see section 701 of Pub. L. 94-579, set out as a note under section 1701 of this title.

§ 270-15. Claims; rectangular system of surveys; departure on account of local or topographic conditions

The provisions of section 270 of this title, in so far as they require that the lands so settled upon, or to be settled upon, if unsurveyed, must be located in rectangular form by north and south lines running according to the true meridian, and marked upon the ground by permanent monuments at each of the four corners shall not apply where, by reason of the local or topographic conditions, it is not feasible or economical to include in a rectangular form with cardinal boundaries the lands desired; but all such claims must be compact and approximately rectangular in form, and marked upon the ground by permanent monuments at each corner, and the entryman or claimant shall conform his boundaries thereto. In all other respects the claims will be in conformity with the provisions of section 270 of this title.

(Apr. 13, 1926, ch. 121, § 1, 44 Stat. 243; Apr. 29, 1950, ch. 134, § 3, 64 Stat. 93.)

## REPEAL OF SECTION

*Section repealed by Pub. L. 94-579, title VII, § 703(a), Oct. 21, 1976, 90 Stat. 2790, effective on and after the tenth anniversary of the date of approval of this Act, Oct. 21, 1976.*

## REFERENCES IN TEXT

Section 270 of this title, referred to in text, was repealed by Pub. L. 94-579, title VII, § 703(a), Oct. 21, 1976, 90 Stat. 2789.

## CODIFICATION

Section was formerly classified to section 379 of Title 48, Territories and Insular Possessions.

## AMENDMENTS

1950—Act Apr. 29, 1950, deleted, after "each of the four corners", and preceding "; shall not apply", the words "; and the provisions of section 270-10 of this title, in so far as they require that surveys executed thereunder without expense to the claimant, must follow the general system of the public land surveys".

## SAVINGS PROVISIONS

Repeal by Pub. L. 94-579 not to be construed as terminating any valid lease, permit, patent, etc., existing on Oct. 21, 1976, see section 701 of Pub. L. 94-579, set out as a note under section 1701 of this title.

## SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 270-17, 687a of this title.

§ 270-16. Soldier's additional entry; trade or manufacturing site; application for official survey; deposit

If the rectangular system of the public lands surveys has not been extended over the lands included in a soldier's additional homestead entry, authorized by section 270 of this title, or a trade and manufacturing site authorized by section 687a of this title, the entryman or claimant may, upon the approval of such officer as the Secretary of the Interior may designate make application to the public survey office for an official survey of his claim, accompanied by a deposit of the estimated cost of the field and office work incident to the execution of such survey. Upon receipt of the application and its accompanying deposit the public survey office will immediately issue appropriate instructions for the survey of the lands involved, to be executed by the surveying service of the Bureau of Land Management not later than the next surveying season under the direction of the Secretary of the Interior or such officer as he may designate, unless by reason of the inaccessibility of the locality or other conditions the Secretary of the Interior or such officer as he may designate decides that it will result to the advantage of the Government or claimants to have the survey executed by a United States deputy surveyor, in which event the laws and regulations on April 13, 1926, governing the execution of the surveys by United States deputy surveyors will be observed.

(Oct. 28, 1921, ch. 114, § 1, 42 Stat. 208; Mar. 3, 1925, ch. 462, 43 Stat. 1144; Apr. 13, 1926, ch. 121, § 2, 44 Stat. 244; 1946 Reorg. Plan No. 3, § 403, eff. July 16, 1946, 11 F.R. 7876, 60 Stat. 1100.)

## REPEAL OF SECTION

*Section repealed by Pub. L. 94-579, title VII, § 703(a), Oct. 21, 1976, 90 Stat. 2790, effective on and after the tenth anniversary of the date of approval of this Act, Oct. 21, 1976.*

## REFERENCES IN TEXT

Section 270 of this title, referred to in text, was repealed by Pub. L. 94-579, title VII, § 703(a), Oct. 21, 1976, 90 Stat. 2789.

## CODIFICATION

Section was formerly classified to section 380 of Title 48, Territories and Insular Possessions.

## SAVINGS PROVISIONS

Repeal by Pub. L. 94-579 not to be construed as terminating any valid lease, permit, patent, etc., existing on Oct. 21, 1976, see section 701 of Pub. L. 94-579, set out as a note under section 1701 of this title.

## TRANSFER OF FUNCTIONS

For transfer of functions of the other officers, employees, and agencies of the Department of the Interior, with certain exceptions, to the Secretary of the Interior, with power to delegate, see Reorg. Plan No. 3 of 1950, §§ 1, 2, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1262, set out under section 1451 of this title.

"Bureau of Land Management" was substituted for "General Land Office," "such officer as the Secretary of the Interior may designate" for "register" and "Secretary of the Interior or such officer as he may designate" for "supervisor of surveys" on authority of section 403 of Reorg. Plan No. 3 of 1946. See note set out under section 1 of this title.

Acts Oct. 28, 1921, and Mar. 3, 1925, consolidated the offices of register and receiver and provided for a single officer to be known as register.

## SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 270-17 of this title.

§ 270-17. Disposition of deposit of estimated cost of work incident to survey; rules

The sum so deposited shall be held by the public survey office, and may be expended by it in payment of the cost of such survey, including field and office work; and any excess over the cost of the survey shall be repaid to the depositor or his legal representative. The Secretary of the Interior is authorized to make all necessary rules and regulations to carry sections 270-15 to 270-17 of this title into full force and effect.

(Apr. 13, 1926, ch. 121, § 3, 44 Stat. 244.)

## REPEAL OF SECTION

*Section repealed by Pub. L. 94-579, title VII, § 703(a), Oct. 21, 1976, 90 Stat. 2790, effective on and after the tenth anniversary of the date of approval of this Act, Oct. 21, 1976.*

## CODIFICATION

Section was formerly classified to section 380a of Title 48, Territories and Insular Possessions.

## SAVINGS PROVISIONS

Repeal by Pub. L. 94-579 not to be construed as terminating any valid lease, permit, patent, etc., existing on Oct. 21, 1976, see section 701 of Pub. L. 94-579, set out as a note under section 1701 of this title.

## SUBCHAPTER IX—SOLDIERS' AND SAILORS' HOMESTEAD

§ 271. Soldiers and sailors entitled to make entry generally

Every private soldier and officer who served in the Army of the United States during the recent rebellion for ninety days, and who was honorably discharged and has remained loyal

to the Government, including the troops mustered into the service of the United States by virtue of the third section of an Act approved February 13, 1862, and every seaman, marine, and officer who served in the Navy of the United States or in the Marine Corps during the rebellion for ninety days, and who was honorably discharged and has remained loyal to the Government, and every private soldier and officer who served in the Army of the United States during the Spanish war, or during the suppression of the insurrection in the Philippines for ninety days, and who was or shall be honorably discharged; and every seaman, marine, and officer who served in the Navy of the United States or in the Marine Corps during the Spanish war, or during the suppression of the insurrection in the Philippines for ninety days, and who was or shall be honorably discharged, shall, on compliance with the provisions of this chapter, as hereinafter modified, be entitled to enter upon and receive patents for a quantity of public lands not exceeding one hundred and sixty acres, or one quarter section, to be taken in compact form, according to legal subdivisions, including the alternate reserved sections of public lands along the line of any railroad or other public work not otherwise reserved or appropriated, and other lands subject to entry under the homestead laws of the United States; but such homestead settler shall be allowed six months after locating his homestead and filing his declaratory statement within which to make his entry and commence his settlement and improvement.

(R.S. § 2304; Mar. 1, 1901, ch. 674, 31 Stat. 847.)

#### REPEAL OF SECTION

*Section repealed by Pub. L. 94-579, title VII, § 702, Oct. 21, 1976, 90 Stat. 2787, effective on and after Oct. 21, 1976, except such effective date to be on and after the tenth anniversary of the date of approval of this Act, Oct. 21, 1976, insofar as the homestead laws apply to public lands in Alaska.*

#### REFERENCES IN TEXT

The third section of an Act approved February 13, 1862, referred to in text, is act Feb. 13, 1862, ch. 25, § 3, 12 Stat. 339, which is not classified to the Code.

This chapter, referred to in text, means Chapter 5 of Title XXXII of the Revised Statutes, consisting of R.S. §§ 2289 to 2317, which are classified to sections 161 to 164, 169, 171, 173, 175, 183, 184, 191, 201, 211, 239, 254, 255, 271, 272, 274, 277, and 278 of this title. R.S. §§ 2299 and 2312 to 2317 were not classified to the Code and were repealed by act Mar. 3, 1933, ch. 202, § 1, 47 Stat. 1429. R.S. § 2303 was not classified to the Code and was repealed by act July 4, 1876, ch. 165, 19 Stat. 73.

#### CODIFICATION

R.S. § 2304 derived from act June 8, 1872, ch. 338, § 1, 17 Stat. 333.

#### SAVINGS PROVISIONS

Repeal by Pub. L. 94-579 not to be construed as terminating any valid lease, permit, patent, etc., existing on Oct. 21, 1976, see section 701 of Pub. L. 94-579, set out as a note under section 1701 of this title.

#### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 272a, 274, 277, 278 of this title.

§ 272. Deduction of military and naval service from time required to perfect title; rights of widows and children of veterans

The time which the homestead settler has served in the Army, Navy, or Marine Corps of the United States shall be deducted from the time otherwise required to perfect title, or if discharged on account of wounds received or disability incurred in the line of duty, or if regularly discharged from service and subsequently awarded compensation by the Government for wounds received or disability incurred in the line of duty, then the term of enlistment shall be deducted from the time so required to perfect title without reference to the length of time he may have served; but no patent shall issue to any homestead settler who has not resided upon, improved, and cultivated his homestead for a period of at least one year after he shall have commenced his improvements: *Provided*, That in every case in which a settler on the public land of the United States under the homestead laws died while actually engaged in the Army, Navy, or Marine Corps of the United States as private soldier, officer, seaman, or marine, during the war with Spain or the Philippine insurrection, his widow, if unmarried, or in case of her death or marriage, then his minor orphan children or his or their legal representatives, may proceed forthwith to make final proof upon the land so held by the deceased soldier and settler, and that the death of such soldier while so engaged in the service of the United States shall, in the administration of the homestead laws, be construed to be equivalent to a performance of all requirements as to residence and cultivation for the full period of five years, and shall entitle his widow, if unmarried, or in case of her death or marriage, then his minor orphan children or his or their legal representatives, to make final proof upon and receive Government patent for said land; and that upon proof produced to the officers of the proper local land office by the widow, if unmarried, or in case of her death or marriage, then his minor orphan children or his or their legal representatives, that the applicant for patent is the widow, if unmarried, or in case of her death or marriage, his orphan children or his or their legal representatives, and that such soldier, sailor, or marine died while in the service of the United States as hereinbefore described, the patent for such land shall issue.

(R.S. § 2305; Mar. 1, 1901, ch. 674, 31 Stat. 847; Apr. 6, 1922, ch. 122, § 1, 42 Stat. 491.)

#### REPEAL OF SECTION

*Section repealed by Pub. L. 94-579, title VII, § 702, Oct. 21, 1976, 90 Stat. 2787, effective on and after Oct. 21, 1976, except such effective date to be on and after the tenth anniversary of the date of approval of this Act, Oct. 21, 1976, insofar as the homestead laws apply to public lands in Alaska.*

#### CODIFICATION

R.S. § 2305 derived from act June 8, 1872, ch. 338, § 1, 17 Stat. 333.

## SAVINGS PROVISIONS

Repeal by Pub. L. 94-579 not to be construed as terminating any valid lease, permit, patent, etc., existing on Oct. 21, 1976, see section 701 of Pub. L. 94-579, set out as a note under section 1701 of this title.

## SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 272a, 273, 278 of this title.

§ 272a. Application of sections 271 and 272 to military and naval service in Mexican border operations or in World War I

Subject to the conditions therein expressed, as to length of service and honorable discharge, the provisions of sections 271 and 272 of this title shall be applicable in all cases of military and naval service rendered in connection with the Mexican border operations as defined by the second paragraph of section 240 of this title, or during the war with Germany and its allies as defined by sections 241 and 242 of this title. The provisions of the first sentence of this section shall be extended to apply to those citizens of the United States who served with the allied armies during the World War, and who were honorably discharged, upon their resumption of citizenship in the United States, provided the service with the allied armies was similar to the service with the Army of the United States for which recognition is granted in said sentence.

(Feb. 25, 1919, ch. 37, 40 Stat. 1161; Dec. 28, 1922, ch. 19, 42 Stat. 1067.)

## REPEAL OF SECTION

*Section repealed by Pub. L. 94-579, title VII, § 702, Oct. 21, 1976, 90 Stat. 2787, effective on and after Oct. 21, 1976, except such effective date to be on and after the tenth anniversary of the date of approval of this Act, Oct. 21, 1976, insofar as the homestead laws apply to public lands in Alaska.*

## REFERENCES IN TEXT

Sections 241 and 242 of this title, referred to in text, were repealed by act Oct. 17, 1940, ch. 888, art. V, § 503(3), 54 Stat. 1187.

## SAVINGS PROVISIONS

Repeal by Pub. L. 94-579 not to be construed as terminating any valid lease, permit, patent, etc., existing on Oct. 21, 1976, see section 701 of Pub. L. 94-579, set out as a note under section 1701 of this title.

## CROSS REFERENCES

Preferred right of entry granted to citizens of United States who rendered similar service with allied armies during World War I and were honorably discharged, see section 186 of this title.

## SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 273 of this title.

§ 273. Veterans receiving compensation for wounds or disability

The provisions of sections 272 and 272a of this title, so far as applicable to those discharged from the military or naval service because of wounds received or disability incurred therein, are extended to those regularly discharged from such service and subsequently

awarded compensation by the Government for wounds received or disability incurred in the line of duty.

(Apr. 6, 1922, ch. 122, § 1, 42 Stat. 491.)

## REPEAL OF SECTION

*Section repealed by Pub. L. 94-579, title VII, § 702, Oct. 21, 1976, 90 Stat. 2787, effective on and after Oct. 21, 1976, except such effective date to be on and after the tenth anniversary of the date of approval of this Act, Oct. 21, 1976, insofar as the homestead laws apply to public lands in Alaska.*

## SAVINGS PROVISIONS

Repeal by Pub. L. 94-579 not to be construed as terminating any valid lease, permit, patent, etc., existing on Oct. 21, 1976, see section 701 of Pub. L. 94-579, set out as a note under section 1701 of this title.

§ 274. Additional entry by veteran

Every person entitled, under the provisions of section 271 of this title to enter a homestead who may have, prior to June 22, 1874, entered, under the homestead laws, a quantity of land less than one hundred and sixty acres, shall be permitted to enter so much land as, when added to the quantity previously entered, shall not exceed one hundred and sixty acres.

(R.S. § 2306.)

## REPEAL OF SECTION

*Section repealed by Pub. L. 94-579, title VII, § 702, Oct. 21, 1976, 90 Stat. 2787, effective on and after Oct. 21, 1976, except such effective date to be on and after the tenth anniversary of the date of approval of this Act, Oct. 21, 1976, insofar as the homestead laws apply to public lands in Alaska.*

## CODIFICATION

R.S. § 2306 derived from act June 8, 1872, ch. 338, § 2, 17 Stat. 333.

## SAVINGS PROVISIONS

Repeal by Pub. L. 94-579 not to be construed as terminating any valid lease, permit, patent, etc., existing on Oct. 21, 1976, see section 701 of Pub. L. 94-579, set out as a note under section 1701 of this title.

## SATISFACTION OF CLAIMS ARISING OUT OF SCRIP, LIEU SELECTION, AND SIMILAR RIGHTS

Pub. L. 88-545, Aug. 31, 1964, 78 Stat. 751, provided: "That, except for military bounty land warrants, all claims and holdings recorded under the Act of August 5, 1955 (69 Stat. 534, 535) [set out as a note below], which are not satisfied in one of the ways hereafter set forth, shall become null and void on the later of the two following dates: (a) January 1, 1970, or, in the case of soldiers' additional homestead claims, January 1, 1975; (b) at the termination of any transaction initiated pursuant to this Act.

"SEC. 2. Prior to July 1, 1966, holders of claims recorded under the Act of August 5, 1955, may apply to the Secretary of the Interior to have conveyed to them, in satisfaction of their claims, such lands as they may, in their applications, designate. The Secretary shall thereafter convey the selected lands if he finds them to be proper, under existing law, for such disposition, and if the claim upon which an application is based is determined to be valid. As used in this Act, the terms 'lands' and 'land' include any rights or interests therein.

"Sec. 3. (a) Prior to January 1, 1967, the Secretary shall classify, for conveyance and exchange for each type of claim recorded under the Act of August 5, 1955, public lands in sufficient quantity so as to provide each holder of such a claim with a reasonable choice of public lands against which to satisfy his claim. The public lands so classified shall be of a value of not less than the average fair market value, determined by the Secretary as of the date patent issued, of those public lands actually conveyed in exchange for each type of claim since August 5, 1955.

"(b) Holders of recorded claims may apply for reasonably compact areas of land so classified, and, upon his determination that the claim upon which an application is based is valid, the Secretary shall convey such lands to the applicant.

"Sec. 4. Prior to January 1, 1968, the Secretary shall, by registered mail or certified mail sent to the address of record of each person having an unsatisfied claim, offer in satisfaction of such claim lands of a value of not less than the average fair market value of those public lands actually conveyed in exchange for each type of claim since August 5, 1955. Fair market value shall be determined in the manner prescribed in section 3 of this Act. Upon acceptance of the offer, the Secretary shall convey the lands to the claimant, if he determines that the claim is valid.

"Sec. 5. In respect of any type of claim recorded under the Act of August 5, 1955, not more than three conveyances of public lands in exchange for which have taken place since that date, the Secretary shall determine the type of claim which it most nearly resembles, and at least four conveyances in exchange for which has taken place since August 5, 1955, and shall, for the purposes of this Act, treat it in all respects as if it were such type of claim.

"Sec. 6. Prior to January 1, 1970, or, in the case of soldiers' additional homestead claims, January 1, 1975, any person who has a claim recorded pursuant to the Act of August 5, 1955, by written notice to the Secretary of the Interior, or any officer of the Department of the Interior to whom authority to receive such notice may be delegated, may elect to receive cash instead of public land in satisfaction of his claim, at a rate per acre equal to the average value of the lands offered by the Secretary under section 4 of this Act. Upon a determination that the claim is valid, the Secretary or his delegate shall certify the claim to the Secretary of the Treasury who is authorized and directed to pay the claim out of any money in the Treasury not otherwise appropriated. Acceptance of the money shall constitute a full and complete satisfaction of the claim or holding for which the money is paid: *Provided*, That no agent or attorney acting on behalf of another to procure a payment under this Act shall demand, accept, or receive more than 10 per centum of the payment made, and any agreement to the contrary shall be null and void."

#### RECORDATION OF SCRIP, LIEU SELECTION, AND SIMILAR RIGHTS

Act Aug. 5, 1955, ch. 573, 69 Stat. 534, provided that: "Sec. 1. [Rights to be recorded; time] Any owner of, and any person claiming rights to, Valentine scrip, issued under the Act of April 5, 1872 (17 Stat. 649); Sioux Half-Breed scrip, issued under the Act of July 17, 1854 (10 Stat. 304); Supreme Court scrip, issued under the Acts of June 22, 1860 (12 Stat. 85), March 2, 1867 (14 Stat. 544), and June 10, 1872 (17 Stat. 378); Surveyor-General scrip, issued under the Act of June 2, 1858 (11 Stat. 294); a soldier's additional homestead right, granted by sections 2306 and 2307 of the Revised Statutes [sections 274 and 278 of this title]; a forest lieu selection right, assertable under the Act of March 3, 1905 (33 Stat. 1264); a lieu selection right conferred by the Act of July 1, 1898 (30 Stat. 597); a bounty land warrant issued under the Act of March 3, 1855 (10 Stat. 701); or any lieu selection or scrip right or bounty land warrant, or right in the nature of scrip issued under any Act of Congress not enumerated

herein (except the indemnity selection rights of any State, or the Territory of Alaska), shall, within two years from the effective date of this Act [Aug. 5, 1955], present his holdings or claim for recordation by the Department of the Interior.

"Sec. 2. [Transferred rights, time to record] In the case of a transfer after the effective date of this Act [Aug. 5, 1955], by assignment, inheritance, operation of law, or otherwise of a holding or claim of any right recorded under this Act, the holding or claim of right so transferred shall be presented to the Department of the Interior within six months after such transfer, for recordation by it; except that where such transfer occurs within the period of two years from the effective date of this Act [Aug. 5, 1955], and the prior owner has not complied with provisions of this Act, the owner or claimant by transfer shall have the remainder of such period or a period of six months, whichever is the longer, within which to present his claims or holdings for recordation.

"Sec. 3. [Endorsement of recordation] There shall be endorsed on the evidence of the right or warrant each recordation thereof.

"Sec. 4. [Failure to present for recordation] Claims or holdings not presented for recordation, as prescribed herein, shall not thereafter be accepted by the Secretary of the Interior for recordation or as a basis for the acquisition of lands.

"Sec. 5. [Publication of recordation requirements] Within thirty days after the effective date of this Act [Aug. 5, 1955], the Secretary of the Interior shall cause to be published in the Federal Register a notice setting forth the recordation requirements of this Act. Within one year after the effective date of this Act [Aug. 5, 1955] the Secretary shall also cause notices of the recordation requirements of this Act to be published in such newspapers, posted in such public offices, and given publicity by such other means as he deems feasible and appropriate for the dissemination of information concerning the recordation requirements of this Act to persons who may have holdings or claims that are subject to such requirements.

"Sec. 6. [Rules and regulations] The Secretary of the Interior is authorized to make rules and regulations to carry out the provisions of this Act."

#### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 214, 215, 263, 276 of this title.

#### § 275. Additional entries invalid; commutation

Where soldier's additional homestead entries have been made or initiated upon certificate of the Secretary of the Interior or such officer as he may designate of the right to make such entry, and there is no adverse claimant, and such certificate is found erroneous or invalid for any cause, the purchaser thereunder, on making proof of such purchase, may perfect his title by payment of the Government price for the land; but no person shall be permitted to acquire more than one hundred and sixty acres of public land through the location of any such certificate.

(Mar. 3, 1893, ch. 208, 27 Stat. 593; 1946 Reorg. Plan No. 3, § 403, eff. July 16, 1946, 11 F.R. 7876, 60 Stat. 1100.)

#### REPEAL OF SECTION

*Section repealed by Pub. L. 94-579, title VII, § 702, Oct. 21, 1976, 90 Stat. 2787, effective on and after Oct. 21, 1976, except such effective date to be on and after the tenth anniversary of the date of approval of this*

*Act, Oct. 21, 1976, insofar as the homestead laws apply to public lands in Alaska.*

#### SAVINGS PROVISIONS

Repeal by Pub. L. 94-579 not to be construed as terminating any valid lease, permit, patent, etc., existing on Oct. 21, 1976, see section 701 of Pub. L. 94-579, set out as a note under section 1701 of this title.

#### TRANSFER OF FUNCTIONS

For transfer of functions of the other officers, employees, and agencies of the Department of the Interior, with certain exceptions, to the Secretary of the Interior, with power to delegate, see Reorg. Plan No. 3 of 1950, §§ 1, 2, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1262, set out under section 1451 of this title.

"Secretary of the Interior or such officer as he may designate" was substituted for "Commissioner of the General Land Office" on authority of section 403 of Reorg. Plan No. 3 of 1946. See note set out under section 1 of this title.

#### § 276. Additional homestead certificates; sale

All soldiers' additional homestead certificates issued prior to August 18, 1894, under the rules and regulations of the General Land Office under section 274 of this title, or in pursuance of the decisions or instructions of the Secretary of the Interior, of date March 10, 1877, or any subsequent decisions or instructions of the Secretary of the Interior or the Commissioner of the General Land Office, shall be, and are declared to be valid, notwithstanding any attempted sale or transfer thereof; and where such certificates have been, prior to August 18, 1894, or may thereafter be sold or transferred, such sale or transfer shall not be regarded as invalidating the right, but the same shall be good and valid in the hands of bona fide purchasers for value; and all entries prior to August 18, 1894, or thereafter made with such certificates by such purchasers shall be approved, and patent shall issue in the name of the assignees.

(Aug. 18, 1894, ch. 301, § 1, 28 Stat. 397.)

#### REPEAL OF SECTION

*Section repealed by Pub. L. 94-579, title VII, § 702, Oct. 21, 1976, 90 Stat. 2787, effective on and after Oct. 21, 1976, except such effective date to be on and after the tenth anniversary of the date of approval of this Act, Oct. 21, 1976, insofar as the homestead laws apply to public lands in Alaska.*

#### SAVINGS PROVISIONS

Repeal by Pub. L. 94-579 not to be construed as terminating any valid lease, permit, patent, etc., existing on Oct. 21, 1976, see section 701 of Pub. L. 94-579, set out as a note under section 1701 of this title.

#### TRANSFER OF FUNCTIONS

For transfer of functions of the other officers, employees, and agencies of the Department of the Interior, with certain exceptions; to the Secretary of the Interior, with power to delegate, see Reorg. Plan No. 3 of 1950, §§ 1, 2, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1262, set out under section 1451 of this title.

Office of Commissioner of the General Land Office abolished and functions transferred to Secretary of the Interior by section 403 of Reorg. Plan No. 3 of 1946. See note set out under section I of this title.

#### § 277. Entry by agent

Every soldier, sailor, marine, officer, or other person coming within the provisions of section 271 of this title, may, as well by an agent as in person, enter upon such homestead by filing a declaratory statement, as in preemption cases; but such claimant in person shall within the time prescribed make his actual entry, commence settlements and improvements on the same, and thereafter fulfill all the requirements of law.

(R.S. § 2309.)

#### REPEAL OF SECTION

*Section repealed by Pub. L. 94-579, title VII, § 702, Oct. 21, 1976, 90 Stat. 2787, effective on and after Oct. 21, 1976, except such effective date to be on and after the tenth anniversary of the date of approval of this Act, Oct. 21, 1976, insofar as the homestead laws apply to public lands in Alaska.*

#### CODIFICATION

R.S. § 2309 derived from act June 8, 1872, ch. 338, § 5, 17 Stat. 334.

#### REFERENCES IN TEXT

The reference in the text to section 271 was originally to R.S. § 2304 which, as amended, is classified to section 271 of this title. As originally enacted, however, it related only to persons in the Civil War.

#### SAVINGS PROVISIONS

Repeal by Pub. L. 94-579 not to be construed as terminating any valid lease, permit, patent, etc., existing on Oct. 21, 1976, see section 701 of Pub. L. 94-579, set out as a note under section 1701 of this title.

#### § 278. Right of widow of veteran to make entry; rights of children on her death

In the case of the death of any person who would be entitled to a homestead under the provisions of sections 271 and 272 of this title, his widow, if unmarried and otherwise qualified, may make entry of public lands under the provisions of the homestead laws of the United States and shall be entitled to all the benefits enumerated in said sections subject to the provisions and requirements as to settlement, residence, and improvement therein contained: *Provided*, That in the event of the death of such homestead entrywoman prior to perfection of title, leaving only a minor child or children, patent shall issue to the said minor child or children upon proof of death, and of the minority of the child or children, without further showing or compliance with law.

(R.S. § 2307; Feb. 25, 1919, ch. 37, 40 Stat. 1161; Sept. 21, 1922, ch. 357, 42 Stat. 990.)

#### REPEAL OF SECTION

*Section repealed by Pub. L. 94-579, title VII, § 702, Oct. 21, 1976, 90 Stat. 2787, effective on and after Oct. 21, 1976, except such effective date to be on and after the tenth anniversary of the date of approval of this Act, Oct. 21, 1976, insofar as the homestead laws apply to public lands in Alaska.*

## CODIFICATION

R.S. § 2307 derived from act June 8, 1872, ch. 338, § 3, 17 Stat. 333.

## SAVINGS PROVISIONS

Repeal by Pub. L. 94-579 not to be construed as terminating any valid lease, permit, patent, etc., existing on Oct. 21, 1976, see section 701 of Pub. L. 94-579, set out as a note under section 1701 of this title.

## § 279. Preference right of entry of World War II or Korean conflict veterans

Any person who has served in the military or naval forces of the United States for a period of at least ninety days at any time on or after September 16, 1940, and prior to the termination of the Korean conflict as determined by Presidential proclamation or concurrent resolution of the Congress, and is honorably discharged from the military or naval forces and who makes homestead entry subsequent to such discharge shall have the period of such service, not exceeding two years, construed to be equivalent to residence and cultivation upon the land for the same length of time. Credit shall be allowed for two years' service to any person who has served in the military or naval forces of the United States during the above period (1) if such person is discharged on account of wounds received or disability incurred during the above period in the line of duty, or (2) if such person is regularly discharged and subsequently is furnished hospitalization or is awarded compensation by the Government on account of such wounds or disability. When the homestead entry is made by a husband or wife whose spouse is entitled to any service credit under this section, such credit shall, with the consent of the spouse entitled thereto, be available to the husband or wife making the entry, in addition to any service credit to which he or she individually may be entitled under this section. No patent shall issue to any such person who has not resided upon his homestead and otherwise complied with the provisions of the homestead laws for a period of at least one year: *Provided*, That such compliance shall include bona fide cultivation of at least one-eighth of the area entered under the homestead laws: *Provided further*, That no person who has served in the military or naval forces of the United States for a period of at least ninety days at any time on or after September 16, 1940, and prior to the termination of the Korean conflict as determined by Presidential proclamation or concurrent resolution of the Congress, and is honorably discharged shall be disqualified from making homestead entry or from any other benefits of sections 278 to 284 of this title merely by reason of not having reached the age of twenty-one years.

(Sept. 27, 1944, ch. 421, § 1, 58 Stat. 747; June 25, 1946, ch. 474, 60 Stat. 308; May 31, 1947, ch. 88, § 1, 61 Stat. 123; June 18, 1954, ch. 306, § 1(a), (b), 68 Stat. 253.)

## REPEAL OF SECTION

*Section repealed by Pub. L. 94-579, title VII, § 702, Oct. 21, 1976, 90 Stat. 2787, effective on and after Oct. 21, 1976, except such effective date to be on and after the tenth*

*anniversary of the date of approval of this Act, Oct. 21, 1976, insofar as the homestead laws apply to public lands in Alaska.*

## AMENDMENTS

1954—Act June 18, 1954, extended application to veterans of the Korean conflict and provided that compliance with the homestead laws for one year shall include bona fide cultivation of at least one-eighth of the area entered into under such laws.

1947—Act May 31, 1947, made preference right run for 90 days following termination of the present war, and provided that where either a husband or wife is entitled to these benefits the period of service of either or both may be considered as the period of service of the spouse making the homestead entry.

1946—Act June 25, 1946, added a proviso which did away with any age qualifications.

## SAVINGS PROVISIONS

Repeal by Pub. L. 94-579 not to be construed as terminating any valid lease, permit, patent, etc., existing on Oct. 21, 1976, see section 701 of Pub. L. 94-579, set out as a note under section 1701 of this title.

## REPEAL OF PRIOR ACTS CONTINUING SECTION

Section 6 of Joint Res. July 3, 1952, repealed Joint Res. Apr. 14, 1952, ch. 204, 66 Stat. 54 as amended by Joint Res. May 28, 1952, ch. 339, 66 Stat. 96; Joint Res. June 14, 1952, ch. 437, 66 Stat. 137; Joint Res. June 30, 1952, ch. 526, 66 Stat. 296, which continued provisions until July 3, 1952. This repeal took effect as of June 16, 1952, by section 7 of Joint Res. July 3, 1952.

## CROSS REFERENCES

Preference right of World War I veterans, see section 186 of this title.

## SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 280, 281, 282, 283, 284 of this title.

## § 280. Dependents' rights of World War II or Korean conflict veteran

The surviving spouse or the minor children, as hereinafter provided, shall be entitled (1) in case of the death of any person as the result of wounds received or disability incurred in line of duty while serving in the military or naval forces of the United States during the period specified in section 279 of this title, to credit for two years' residence and cultivation on a homestead entry, or (2) in the case of the death of any person after performing service that would be a basis for credit under section 279 of this title, to the amount of credit which would have been allowable to such person. The credit provided by this section shall be available to the surviving spouse, or, in the case of the death or marriage of the surviving spouse, to the minor children by a guardian duly appointed and officially accredited at the Department of the Interior. An entry made by such surviving spouse or guardian shall be subject to the provisions contained in section 279 of this title respecting compliance with the provisions of the homestead laws for a period of at least one year.

(Sept. 27, 1944, ch. 421, § 2, 58 Stat. 748; May 31, 1947, ch. 88, § 2, 61 Stat. 123.)

## REPEAL OF SECTION

*Section repealed by Pub. L. 94-579, title VII, § 702, Oct. 21, 1976, 90 Stat. 2787, effec-*

*live on and after Oct. 21, 1976, except such effective date to be on and after the tenth anniversary of the date of approval of this Act, Oct. 21, 1976, insofar as the homestead laws apply to public lands in Alaska.*

#### AMENDMENTS

1947—Act May 31, 1947, extended its application to cases where the service credit is derived from that of a married woman.

#### SAVINGS PROVISIONS

Repeal by Pub. L. 94-579 not to be construed as terminating any valid lease, permit, patent, etc., existing on Oct. 21, 1976, see section 701 of Pub. L. 94-579, set out as a note under section 1701 of this title.

#### REPEAL OF PRIOR ACTS CONTINUING SECTION

Section 6 of Joint Res. July 3, 1952, repealed Joint Res. Apr. 14, 1952, ch. 204, 66 Stat. 54 as amended by Joint Res. May 28, 1952, ch. 339, 66 Stat. 96; Joint Res. June 14, 1952, ch. 437, 66 Stat. 137; Joint Res. June 30, 1952, ch. 526, 66 Stat. 296, which continued provisions until July 3, 1952. This repeal took effect as of June 16, 1952, by section 7 of Joint Res. July 3, 1952.

#### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 279, 281, 282, 283, 284 of this title.

§ 281. Death of World War II or Korean conflict veteran as affecting minor children's patent rights

Where a person entitled to the benefits of section 279 or 280 of this title makes homestead entry and dies before completing title, leaving a minor orphan child, or minor orphan children, patent shall issue to such minor or minors upon proof showing such facts, without any proof as to compliance with the law in the matter of residence, cultivation, or improvements.

(Sept. 27, 1944, ch. 421, § 3, 58 Stat. 748.)

#### REPEAL OF SECTION

*Section repealed by Pub. L. 94-579, title VII, § 702, Oct. 21, 1976, 90 Stat. 2787, effective on and after Oct. 21, 1976, except such effective date to be on and after the tenth anniversary of the date of approval of this Act, Oct. 21, 1976, insofar as the homestead laws apply to public lands in Alaska.*

#### SAVINGS PROVISIONS

Repeal by Pub. L. 94-579 not to be construed as terminating any valid lease, permit, patent, etc., existing on Oct. 21, 1976, see section 701 of Pub. L. 94-579, set out as a note under section 1701 of this title.

#### REPEAL OF PRIOR ACTS CONTINUING SECTION

Section 6 of Joint Res. July 3, 1952, repealed Joint Res. Apr. 14, 1952, ch. 204, 66 Stat. 54 as amended by Joint Res. May 28, 1952, ch. 339, 66 Stat. 96; Joint Res. June 14, 1952, ch. 437, 66 Stat. 137; Joint Res. June 30, 1952, ch. 526, 66 Stat. 296, which continued provisions until July 3, 1952. This repeal took effect as of June 16, 1952, by section 7 of Joint Res. July 3, 1952.

#### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 279, 282, 283, 284 of this title.

§ 282. Rights of World War II or Korean veteran on revocation of withdrawal order

For the period of fifteen years following September 27, 1944, on the revocation of any order

of withdrawal or the filing of a plat of survey or resurvey opening lands to entry, the order or notice taking such action shall provide for a period of not less than ninety days before the date on which it otherwise becomes effective, in which persons of the classes entitled to credit for service, under the provisions of sections 279 to 282 of this title, shall have a preferred right of application under the homestead or desert land laws, or section 682a of this title, subject to the requirements of applicable law, except as against the prior existing valid settlement rights and preference rights conferred by existing laws or as against equitable claims subject to allowance and confirmation, and except where a revocation of an order of withdrawal is made in order to assist in a Federal land program other than one authorized by the homestead or desert land laws or by section 682a of this title. During the same period if the Secretary of the Interior shall, without a prior petition therefor, classify any land as being suitable for disposition under section 682a of this title, the order of classification shall provide a similar preference right of application under section 682a of this title, subject to the exceptions contained in this section.

(Sept. 27, 1944, ch. 421, § 4, 58 Stat. 748; May 31, 1947, ch. 88, § 3, 61 Stat. 124; June 18, 1954, ch. 306, § 1(c), 68 Stat. 254.)

#### REPEAL OF SECTION

*Section repealed by Pub. L. 94-579, title VII, § 702, Oct. 21, 1976, 90 Stat. 2787, effective on and after Oct. 21, 1976, except such effective date to be on and after the tenth anniversary of the date of approval of this Act, Oct. 21, 1976, insofar as the homestead laws apply to public lands in Alaska.*

#### AMENDMENTS

1954—Act June 18, 1954, extended the veterans' preference right to apply for public lands for five years.

1947—Act May 31, 1947, extended operation of section to where land is opened by the filing of a plat of survey or resurvey or by the classification of the lands by the Secretary of the Interior.

#### SAVINGS PROVISIONS

Repeal by Pub. L. 94-579 not to be construed as terminating any valid lease, permit, patent, etc., existing on Oct. 21, 1976, see section 701 of Pub. L. 94-579, set out as a note under section 1701 of this title.

#### REPEAL OF PRIOR ACTS CONTINUING SECTION

Section 6 of Joint Res. July 3, 1952, repealed Joint Res. Apr. 14, 1952, ch. 204, 66 Stat. 54 as amended by Joint Res. May 28, 1952, ch. 339, 66 Stat. 96; Joint Res. June 14, 1952, ch. 437, 66 Stat. 137; Joint Res. June 30, 1952, ch. 526, 66 Stat. 296, which continued provisions until July 3, 1952. This repeal took effect as of June 16, 1952, by section 7 of Joint Res. July 3, 1952.

#### ADMISSION OF ALASKA AS STATE

Admission of Alaska into the Union was accomplished Jan. 3, 1959, upon issuance of Proc. No. 3269, Jan. 3, 1959, 24 F.R. 81, 73 Stat. c16, as required by sections 1 and 8(c) of Pub. L. 85-508, July 7, 1958, 72 Stat. 339, set out as notes preceding section 21 of Title 48, Territories and Insular Possessions.

Preferred right of selection by Alaska over preferred right of application by World War II and Korean con-

flict veterans but not over other preference rights conferred by law, see section 6(g) of Pub. L. 85-508.

#### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 279, 283, 284, 852 of this title.

§ 283. Rules and regulations; preference right of entry of World War II and Korean conflict veteran

The Secretary of the Interior is hereby authorized to make such rules and regulations as may be necessary to carry the provisions of sections 279 to 283 of this title into full force and effect.

(Sept. 27, 1944, ch. 421, § 6, formerly § 5, 58 Stat. 748, renumbered June 3, 1948, ch. 399, 62 Stat. 305.)

#### REPEAL OF SECTION

*Section repealed by Pub. L. 94-579, title VII, § 702, Oct. 21, 1976, 90 Stat. 2787, effective on and after Oct. 21, 1976, except such effective date to be on and after the tenth anniversary of the date of approval of this Act, Oct. 21, 1976, insofar as the homestead laws apply to public lands in Alaska.*

#### SAVINGS PROVISIONS

Repeal by Pub. L. 94-579 not to be construed as terminating any valid lease, permit, patent, etc., existing on Oct. 21, 1976, see section 701 of Pub. L. 94-579, set out as a note under section 1701 of this title.

#### REPEAL OF PRIOR ACTS CONTINUING SECTION

Section 6 of Joint Res. July 3, 1952, repealed Joint Res. Apr. 14, 1952, ch. 204, 66 Stat. 54 as amended by Joint Res. May 28, 1952, ch. 339, 66 Stat. 96; Joint Res. June 14, 1952, ch. 437, 66 Stat. 137; Joint Res. June 30, 1952, ch. 526, 66 Stat. 296, which continued provisions until July 3, 1952. This repeal took effect as of June 16, 1952, by section 7 of Joint Res. July 3, 1952.

#### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to on sections 279, 284 of this title.

§ 284. Definitions; preference right of entry of World War II or Korean conflict veteran

As used in sections 279 to 283 of this title, the term "homestead" includes land hereafter disposed of under section 687a of this title: *Provided*, That nothing in this section shall be construed to extend any cultivation requirements to lands disposed of under section 687a of this title. As used in sections 279 to 283 of this title, the words "equitable claims subject to allowance and confirmation" include claims of holders of permits issued by the Department of Agriculture on lands eliminated from national forests, whose permits have been terminated only because of such elimination and who own valuable improvements on such lands.

(Sept. 27, 1944, ch. 421, § 5, as added June 3, 1948, ch. 399, 62 Stat. 305.)

#### REPEAL OF SECTION

*Section repealed by Pub. L. 94-579, title VII, § 702, Oct. 21, 1976, 90 Stat. 2787, effective on and after Oct. 21, 1976, except such effective date to be on and after the tenth anniversary of the date of approval of this Act, Oct. 21, 1976, insofar as the homestead laws apply to public lands in Alaska.*

#### CODIFICATION

Section 687a of this title, referred to in text, was in the original "The Act of May 26, 1934 (48 Stat. 809; 48 U.S.C. 461)" which amended the first paragraph of section 10 of the act of May 14, 1898, which was classified to section 461 of Title 48, Territories and Insular Possessions, and was transferred to section 687a of this title.

#### SAVINGS PROVISIONS

Repeal by Pub. L. 94-579 not to be construed as terminating any valid lease, permit, patent, etc., existing on Oct. 21, 1976, see section 701 of Pub. L. 94-579, set out as a note under section 1701 of this title.

#### REPEAL OF PRIOR ACTS CONTINUING SECTION

Section 6 of Joint Res. July 3, 1952, repealed Joint Res. Apr. 14, 1952, ch. 204, 66 Stat. 54 as amended by Joint Res. May 28, 1952, ch. 339, 66 Stat. 96; Joint Res. June 14, 1952, ch. 437, 66 Stat. 137; Joint Res. June 30, 1952, ch. 526, 66 Stat. 296, which continued provisions until July 3, 1952. This repeal took effect as of June 16, 1952, by section 7 of Joint Res. July 3, 1952.

#### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 270 of this title.

#### SUBCHAPTER X—STOCK-RAISING HOMESTEAD

##### SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 144, 302, 315 of this title.

§ 291. Entry on unappropriated, unreserved lands; authorization; area; naval petroleum reserves and naval oil State reserves excepted

From and after December 29, 1916, it shall be lawful for any person qualified to make entry under the homestead laws of the United States to make a stock-raising homestead entry for not exceeding six hundred and forty acres of unappropriated, unreserved public lands in reasonably compact form: *Provided, however*, That the land so entered shall theretofore have been designated by the Secretary of the Interior as "stock-raising lands": *Provided further*, That for the purposes of this section lands withdrawn or reserved solely as valuable for oil or gas shall not be deemed to be appropriated or reserved: *Provided further*, That the provisions of this section shall not apply to naval petroleum reserves and naval oil-shale reserves: *And provided further*, That should said lands be within the limits of the geological structure of a producing oil or gas field entry can only be allowed, in the discretion of the Secretary of the Interior, in the absence of objection after due notice by the lessee or permittee, and any patent therefor shall contain a reservation to the United States of all minerals in said lands and the right to prospect for, mine, and remove the same.

(Dec. 29, 1916, ch. 9, § 1, 39 Stat. 862; Feb. 28, 1931, ch. 328, 46 Stat. 1454; June 9, 1933, ch. 53, 48 Stat. 119.)

#### REPEAL OF SECTION

*Section repealed by Pub. L. 94-579, title VII, § 702, Oct. 21, 1976, 90 Stat. 2787, effective on and after Oct. 21, 1976, except such effective date to be on and after the tenth*

*anniversary of the date of approval of this Act, Oct. 21, 1976, insofar as the homestead laws apply to public lands in Alaska.*

#### AMENDMENTS

1933—Act June 9, 1933, added the last proviso.

#### SHORT TITLE

Act Dec. 29, 1916, which enacted this subchapter, is popularly known as the Stock Raising Homestead Act.

#### SAVINGS PROVISIONS

Repeal by Pub. L. 94-579 not to be construed as terminating any valid lease, permit, patent, etc., existing on Oct. 21, 1976, see section 701 of Pub. L. 94-579, set out as a note under section 1701 of this title.

#### § 292. Designation of lands subject to entry; applications

The Secretary of the Interior is authorized, on application or otherwise, to designate as stock-raising lands subject to entry under this subchapter lands the surface of which is, in his opinion, chiefly valuable for grazing and raising forage crops, do not contain merchantable timber, are not susceptible of irrigation from any known source of water supply, and are of such character that six hundred and forty acres are reasonably required for the support of a family: *Provided*, That where any person qualified to make original or additional entry under the provisions of this subchapter shall make application to enter any unappropriated public land which has not been designated as subject to entry (provided said application is accompanied and supported by properly corroborated affidavit of the applicant, in duplicate, showing prima facie that land applied for is of the character contemplated by this subchapter), such application, together with the regular fees and commissions, shall be received by the officer designated by the Secretary of the Interior of the land district in which said land is located and suspended until it shall have been determined by the Secretary of the Interior whether said land is actually of that character. During such suspension the land described in the application shall not be disposed of; and if the said land shall be designated under this subchapter, then such application shall be allowed, otherwise it shall be rejected, subject to appeal; but no right to occupy such lands shall be acquired by reason of said application until said lands have been designated as stock-raising lands, unless the applicant actually establishes his residence and resides on the land; and until final action on such application, the settler may, if the land be not designated under this subchapter, change his application to one under the enlarged homestead law if such lands be designated thereunder, or to one under the ordinary provisions of the homestead law: *Provided*, That if the settler shall change his application he shall embrace therein the lands upon which his residence and principal improvements are located, and conform to the provisions, limitations, and conditions of the applicable law.

(Dec. 29, 1916, ch. 9, § 2, 39 Stat. 862; Oct. 28, 1921, ch. 114, § 1, 42 Stat. 208; June 6, 1924, ch. 274, 43 Stat. 469; 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.)

#### REPEAL OF SECTION

*Section repealed by Pub. L. 94-579, title VII, § 702, Oct. 21, 1976, 90 Stat. 2787, effective on and after Oct. 21, 1976, except such effective date to be on and after the tenth anniversary of the date of approval of this Act, Oct. 21, 1976, insofar as the homestead laws apply to public lands in Alaska.*

#### SAVINGS PROVISIONS

Repeal by Pub. L. 94-579 not to be construed as terminating any valid lease, permit, patent, etc., existing on Oct. 21, 1976, see section 701 of Pub. L. 94-579, set out as a note under section 1701 of this title.

#### TRANSFER OF FUNCTIONS

For transfer of functions of the other officers, employees, and agencies of the Department of the Interior, with certain exceptions, to the Secretary of the Interior, with power to delegate, see Reorg. Plan No. 3 of 1950, §§ 1, 2, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1262, set out under section 1451 of this title.

Words "officer designated by the Secretary of the Interior" were substituted for "register" on authority of section 403 of Reorg. Plan No. 3 of 1946. See note set out under section 1 of this title.

#### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 293 of this title.

#### § 293. Persons entitled to make entry; effect of entries

Any qualified homestead entryman may make entry under the homestead laws of lands so designated by the Secretary of the Interior, according to legal subdivisions, in areas not exceeding six hundred and forty acres, and in compact form so far as may be subject to the provisions of this subchapter, and secure title thereto by compliance with the terms of the homestead laws: *Provided*, That a former homestead entry of land of the character described in section 292 of this title shall not be a bar to the entry of a tract within a radius of twenty miles from such former entry under the provisions of this subchapter, which, together with the former entry, shall not exceed six hundred and forty acres, subject to the requirements of law as to residence and improvements, except that no residence shall be required on such additional entry if the entryman owns and is residing on his former entry: *Provided further*, That the entryman shall be required to enter all contiguous areas of the character described in this subchapter open to entry prior to the entry of any noncontiguous land: *And provided further*, That instead of cultivation as required by the homestead laws the entryman shall be required to make permanent improvements upon the land entered before final proof is submitted tending to increase the value of the same for stock-raising purposes of the value of not less than \$1.25 per acre, and at least one-half of such improvements shall be placed upon the land within three years after the date of entry thereof.

(Dec. 29, 1916, ch. 9, § 3, 39 Stat. 863; Oct. 25, 1918, ch. 195, 40 Stat. 1016.)

## REPEAL OF SECTION

*Section repealed by Pub. L. 94-579, title VII, § 702, Oct. 21, 1976, 90 Stat. 2787, effective on and after Oct. 21, 1976, except such effective date to be on and after the tenth anniversary of the date of approval of this Act, Oct. 21, 1976, insofar as the homestead laws apply to public lands in Alaska.*

## SAVINGS PROVISIONS

Repeal by Pub. L. 94-579 not to be construed as terminating any valid lease, permit, patent, etc., existing on Oct. 21, 1976, see section 701 of Pub. L. 94-579, set out as a note under section 1701 of this title.

## § 294. Additional entries; amount

Any homestead entryman of lands of the character described in this subchapter, who has not submitted final proof upon his existing entry shall have the right to enter, subject to the provisions of this subchapter such amount of lands designated for entry under the provisions of this subchapter within a radius of twenty miles from said existing entry, as shall not, together with the amount embraced in his original entry, exceed six hundred and forty acres, and residence upon the original entry shall be credited on both entries, but improvements must be made on the additional entry equal to \$1.25 for each acre thereof: *Provided*, That the entryman shall be required to enter all contiguous areas of the character described in this subchapter open to entry prior to the entry of any noncontiguous land.

(Dec. 29, 1916, ch. 9, § 4, 39 Stat. 863; Sept. 29, 1919, ch. 63, 41 Stat. 287.)

## REPEAL OF SECTION

*Section repealed by Pub. L. 94-579, title VII, § 702, Oct. 21, 1976, 90 Stat. 2787, effective on and after Oct. 21, 1976, except such effective date to be on and after the tenth anniversary of the date of approval of this Act, Oct. 21, 1976, insofar as the homestead laws apply to public lands in Alaska.*

## SAVINGS PROVISIONS

Repeal by Pub. L. 94-579 not to be construed as terminating any valid lease, permit, patent, etc., existing on Oct. 21, 1976, see section 701 of Pub. L. 94-579, set out as a note under section 1701 of this title.

## § 295. Persons entitled to additional entries generally

Persons who have submitted final proof upon, or received patent for, lands of the character described in this subchapter under the homestead laws, and who own and reside upon the land so acquired, may, subject to the provisions of this subchapter, make additional entry for and obtain patent to lands designated for entry under the provisions of this subchapter, within a radius of twenty miles from the lands theretofore acquired under the homestead laws, which, together with the area theretofore acquired under the homestead laws, shall not exceed six hundred and forty acres, on proof of the expenditure required by this subchapter, on account of permanent improvements upon the additional entry: *Provided*, That the entryman shall be required to enter all contiguous areas of the character described in this subchapter,

open to entry prior to the entry of any noncontiguous land.

(Dec. 29, 1916, ch. 9, § 5, 39 Stat. 863; Sept. 29, 1919, ch. 63, 41 Stat. 287.)

## REPEAL OF SECTION

*Section repealed by Pub. L. 94-579, title VII, § 702, Oct. 21, 1976, 90 Stat. 2787, effective on and after Oct. 21, 1976, except such effective date to be on and after the tenth anniversary of the date of approval of this Act, Oct. 21, 1976, insofar as the homestead laws apply to public lands in Alaska.*

## SAVINGS PROVISIONS

Repeal by Pub. L. 94-579 not to be construed as terminating any valid lease, permit, patent, etc., existing on Oct. 21, 1976, see section 701 of Pub. L. 94-579, set out as a note under section 1701 of this title.

## § 296. Heads of families, etc.; relinquishment or reconveyance of land

Any person who is the head of a family, or who has arrived at the age of twenty-one years and is a citizen of the United States, who has entered or acquired under the homestead laws, prior to December 29, 1916, lands of the character described in this subchapter, the area of which is less than six hundred and forty acres, and who is unable to exercise the right of additional entry conferred by this subchapter because no lands subject to entry under this subchapter adjoin the tract so entered or acquired or lie within the twenty-mile limit provided for in this subchapter, may, upon submitting proof that he resides upon and has not sold the land so entered or acquired and against which land there are no encumbrances, relinquish or reconvey to the United States the land so occupied, entered, or acquired, and in lieu thereof, within the same land-office district, may enter and acquire title to six hundred and forty acres of the land subject to entry under this subchapter, but must show compliance with all the provisions of this subchapter respecting the new entry and with all the provisions of existing homestead laws except as modified in this subchapter.

(Dec. 29, 1916, ch. 9, § 6, 39 Stat. 863.)

## REPEAL OF SECTION

*Section repealed by Pub. L. 94-579, title VII, § 702, Oct. 21, 1976, 90 Stat. 2787, effective on and after Oct. 21, 1976, except such effective date to be on and after the tenth anniversary of the date of approval of this Act, Oct. 21, 1976, insofar as the homestead laws apply to public lands in Alaska.*

## SAVINGS PROVISIONS

Repeal by Pub. L. 94-579 not to be construed as terminating any valid lease, permit, patent, etc., existing on Oct. 21, 1976, see section 701 of Pub. L. 94-579, set out as a note under section 1701 of this title.

## § 297. Commutation

The commutation provisions of the homestead laws shall not apply to any entries made under this subchapter.

(Dec. 29, 1916, ch. 9, § 7, 39 Stat. 864.)

**REPEAL OF SECTION**

*Section repealed by Pub. L. 94-579, title VII, § 702, Oct. 21, 1976, 90 Stat. 2787, effective on and after Oct. 21, 1976, except such effective date to be on and after the tenth anniversary of the date of approval of this Act, Oct. 21, 1976, insofar as the homestead laws apply to public lands in Alaska.*

**SAVINGS PROVISIONS**

Repeal by Pub. L. 94-579 not to be construed as terminating any valid lease, permit, patent, etc., existing on Oct. 21, 1976, see section 701 of Pub. L. 94-579, set out as a note under section 1701 of this title.

**§ 298. Additional entries; preferential rights**

Any homestead entrymen or patentees who shall be entitled to additional entry under this subchapter shall have, for ninety days after the designation of lands subject to entry under the provisions of this subchapter and contiguous to these entered or owned and occupied by him, the preferential right to make additional entry as provided in this subchapter: *Provided*, That where such lands contiguous to the lands of two or more entrymen or patentees entitled to additional entries under this section are not sufficient in area to enable such entrymen to secure by additional entry the maximum amounts to which they are entitled, the Secretary of the Interior is authorized to make an equitable division of the lands among the several entrymen or patentees, applying to exercise preferential rights, such sections to be in tracts of not less than forty acres, or other legal subdivision, and so made as to equalize as nearly as possible the area which such entrymen and patentees will acquire by adding the tracts embraced in additional entries to the lands originally held or owned by them: *Provided further*, That where but one such tract of vacant land may adjoin the lands of two or more entrymen or patentees entitled to exercise preferential right hereunder, the tract in question may be entered by the person who first submits to the local land office his application to exercise said preferential right.

(Dec. 29, 1916, ch. 9, § 8, 39 Stat. 864.)

**REPEAL OF SECTION**

*Section repealed by Pub. L. 94-579, title VII, § 702, Oct. 21, 1976, 90 Stat. 2787, effective on and after Oct. 21, 1976, except such effective date to be on and after the tenth anniversary of the date of approval of this Act, Oct. 21, 1976, insofar as the homestead laws apply to public lands in Alaska.*

**SAVINGS PROVISIONS**

Repeal by Pub. L. 94-579 not to be construed as terminating any valid lease, permit, patent, etc., existing on Oct. 21, 1976, see section 701 of Pub. L. 94-579, set out as a note under section 1701 of this title.

**§ 299. Reservation of coal and mineral rights**

All entries made and patents issued under the provisions of this subchapter shall be subject to and contain a reservation to the United States of all the coal and other minerals in the lands

so entered and patented, together with the right to prospect for, mine, and remove the same. The coal and other mineral deposits in such lands shall be subject to disposal by the United States in accordance with the provisions of the coal and mineral land laws in force at the time of such disposal. Any person qualified to locate and enter the coal or other mineral deposits, or having the right to mine and remove the same under the laws of the United States, shall have the right at all times to enter upon the lands entered or patented, as provided by this subchapter, for the purpose of prospecting for coal or other mineral therein, provided he shall not injure, damage, or destroy the permanent improvements of the entryman or patentee, and shall be liable to and shall compensate the entryman or patentee for all damages to the crops on such lands by reason of such prospecting. Any person who has acquired from the United States the coal or other mineral deposits in any such land, or the right to mine and remove the same, may reenter and occupy so much of the surface thereof as may be required for all purposes reasonably incident to the mining or removal of the coal or other minerals, first, upon securing the written consent or waiver of the homestead entryman or patentee; second, upon payment of the damages to crops or other tangible improvements to the owner thereof, where agreement may be had as to the amount thereof; or, third, in lieu of either of the foregoing provisions, upon the execution of a good and sufficient bond or undertaking to the United States for the use and benefit of the entryman or owner of the land, to secure the payment of such damages to the crops or tangible improvements of the entryman or owner, as may be determined and fixed in an action brought upon the bond or undertaking in a court of competent jurisdiction against the principal and sureties thereon, such bond or undertaking to be in form and in accordance with rules and regulations prescribed by the Secretary of the Interior and to be filed with and approved by the officer designated by the Secretary of the Interior of the local land office of the district wherein the land is situated, subject to appeal to the Secretary of the Interior or such officer as he may designate: *Provided*, That all patents issued for the coal or other mineral deposits herein reserved shall contain appropriate notations declaring them to be subject to the provisions of this subchapter with reference to the disposition, occupancy, and use of the land as permitted to an entryman under this subchapter.

(Dec. 29, 1916, ch. 9, § 9, 39 Stat. 864; 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**

For transfer of functions of the other officers, employees, and agencies of the Department of the Interior, with certain exceptions, to the Secretary of the Interior, with power to delegate, see Reorg. Plan No. 3 of 1950, §§ 1, 2, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1262, set out under section 1451 of this title.

Words "officer designated by the Secretary of the Interior" were substituted for "register" and "Secre-

tary of the Interior or such officer as he may designate" for "Commissioner of the General Land Office" on authority of section 403 of Reorg. Plan No. 3 of 1946. See note set out under section 1 of this title.

§ 300. Repealed. Pub. L. 94-579, title VII, § 701(a), Oct. 21, 1976, 90 Stat. 2792

Section, acts Dec. 29, 1916, ch. 9, § 10, 39 Stat. 865; Jan. 29, 1929, ch. 114, 45 Stat. 1144, set forth provisions authorizing the reservation of land containing water holes.

#### EFFECTIVE DATE OF REPEAL

Section 704(a) of Pub. L. 94-579 provided in part that this section is repealed effective on and after Oct. 21, 1976.

#### SAVINGS PROVISIONS

Repeal by Pub. L. 94-579 not to be construed as terminating any valid lease, permit, patent, etc., existing on Oct. 21, 1976, see section 701 of Pub. L. 94-579, set out as a note under section 1701 of this title.

§ 301. Rules and regulations

The Secretary of the Interior is authorized to make all necessary rules and regulations in harmony with the provisions and purposes of this subchapter for the purpose of carrying the same into effect.

(Dec. 29, 1916, ch. 9, § 11, 39 Stat. 865.)

§ 302. Additional entries; lands in national forests

Any homestead entryman of one hundred and sixty acres or less of lands which have been, prior to March 4, 1923, or may thereafter be designated or classified by the Secretary of the Interior as subject to entry under the provisions of the Stock Raising Homestead Act of December 29, 1916 [43 U.S.C. 291 et seq.], who has not submitted final proof upon his existing entry, and also any homestead entryman who has submitted final proof or received patent, for such an amount of lands that are of the character described as subject to entry under the provisions of the said Stock Raising Homestead Act, and who owns and resides upon the said homestead entry, where said lands are within a national forest, may make an additional entry for and obtain patent to such an amount of land of that same character, not in a national forest and within a radius of twenty miles from said homestead entry, as, when the area thereof is added to the area of the original entry, will not exceed six hundred and forty acres, and residence upon the original entry shall be credited on both entries; but improvements must be made on the additional entry equal to \$1.25 for each acre thereof. For the purposes of this section the Secretary of the Interior is authorized to designate under the Stock Raising Homestead Act lands embraced, at the time of such designation, within valid subsisting entries within national forests.

(Mar. 4, 1923, ch. 245, § 2, 42 Stat. 1445.)

#### REPEAL OF SECTION

*Section repealed by Pub. L. 94-579, title VII, § 702, Oct. 21, 1976, 90 Stat. 2787, effective on and after Oct. 21, 1976, except such effective date to be on and after the tenth anniversary of the date of approval of this*

*Act, Oct. 21, 1976, insofar as the homestead laws apply to public lands in Alaska.*

#### REFERENCES IN TEXT

The Stock Raising Homestead Act of December 29, 1916, referred to in text, is act Dec. 29, 1916, ch. 9, 39 Stat. 862, as amended, which is classified generally to this subchapter (§ 291 et seq.). For complete classification of this Act to the Code, see Short Title note set out under section 291 of this title and Tables.

#### CODIFICATION

Section was not enacted as part of act Dec. 29, 1916, known as the Stock Raising Homestead Act, which comprises this subchapter.

#### SAVINGS PROVISIONS

Repeal by Pub. L. 94-579 not to be construed as terminating any valid lease, permit, patent, etc., existing on Oct. 21, 1976, see section 701 of Pub. L. 94-579, set out as a note under section 1701 of this title.

### CHAPTER 8—TIMBER AND STONE LANDS

§§ 311 to 313. Repealed, Aug. 1, 1955, ch. 448, 69 Stat. 434

Section 311, acts June 3, 1878, ch. 151, § 1, 20 Stat. 89; Aug. 4, 1892, ch. 375, § 2, 27 Stat. 348; May 18, 1898, ch. 344, § 1, 30 Stat. 418, authorized the sale of public lands valuable chiefly for timber or stone.

Section 312, acts June 3, 1878, ch. 151, § 2, 20 Stat. 89; Oct. 28, 1921, ch. 114, § 1, 42 Stat. 208; Mar. 3, 1925, ch. 462, 43 Stat. 1145, provided for applications for purchase of timber and stone lands.

Section 313, act June 3, 1878, ch. 151, § 3, 20 Stat. 90, provided for publication of applications to purchase timber and stone lands, patent and entry.

#### EXISTING RIGHTS AND CLAIMS

Act Aug. 1, 1955, which repealed sections 311 to 313 of this title provided in part that the repeal of those sections was subject to valid existing rights and claims.

### CHAPTER 8A—GRAZING LANDS

#### SUBCHAPTER I—GENERALLY

- |               |   |
|---------------|---|
| Sec.          |   |
| 315.          | Grazing districts; establishment; restrictions; prior rights; rights-of-way; hearing and notice; hunting or fishing rights.   |
| 315a.         | Protection, administration, regulation, and improvement of districts; rules and regulations; study of erosion and flood control; offenses.                                      |
| 315b.         | Grazing permits; fees; vested water rights; permits not to create right in land.  |
| 315c.         | Fences, wells, reservoirs, and other improvements; construction; permits; partition fences.   |
| 315d.         | Grazing stock for domestic purposes; use of natural resources.  |
| 315e.         | Rights of way; development of mineral resources.  |
| 315f.         | Homestead entry within district or withdrawn lands; classification; preferences.  |
| 315g, 315g-1. | Repealed.   |
| 315h.         | Cooperation with associations, land officials, and agencies engaged in conservation or propagation of wildlife; local hearings on appeals; acceptance and use of contributions. |
| 315i.         | Disposition of moneys received; availability for improvements.  |
| 315j.         | Appropriation of moneys received; application of public-land laws to Indian ceded lands; application for mineral title to lands.  |