

## **CHAPTER 15-08**

### **PROVISIONS RELATING TO ORIGINAL GRANT AND TO NONGRANT LANDS**

**15-08-01. Permanent and interest and income funds.** Repealed by S.L. 2009, ch. 153, § 8.

**15-08-01.1. Oil and gas bonus payments - Apportionment and distribution.** Repealed by S.L. 1985, ch. 82, § 162.

**15-08-02. Township and district assessors to examine state lands - Compensation.** All township and district assessors shall examine any lands designated by the commissioner of university and school lands and report thereon in the manner and form prescribed by the commissioner. Such assessors must be paid at the rate of three dollars per day for time actually devoted to making such examinations, upon vouchers approved by the commissioner.

**15-08-03. Compensation of board of appraisers.** For performing any duties as members of the county board of appraisers, the county auditor and county superintendent of schools shall receive only their necessary traveling expenses, and the chairman of the board of county commissioners shall receive the same mileage and per diem as when serving on the board of county commissioners.

**15-08-04. Surveys to be made when necessary - Continuing appropriation for expenses.** If it appears necessary in order to ascertain the true boundaries of any tract of land or to enable the commissioner of university and school lands to describe or dispose of the same in suitable and convenient lots, the board of university and school lands may order all necessary surveys to be made. There is appropriated annually the amounts necessary to pay all expenses under this section. Each payment must be made from the trust fund for which the land is held.

**15-08-05. Sale of public lands subject to confirmation.** Each sale of lands under the supervision of the board of university and school lands is subject to approval and confirmation by the board. No sale may be approved or confirmed by the board unless, from an examination of the certified lists and other information received and investigation made, it appears to the board that the sale was made in accordance with the provisions of this title and without fraud or collusion.

**15-08-06. Void sales - Surrender of contract - Refunding of money.** Any sale made by mistake, or not in accordance with law, or obtained by fraud is void, and the purchase agreement or contract of purchase issued thereon is of no effect. In such case, the holder of the purchase agreement or contract shall be required to surrender it to the board of university and school lands, and the board, except in case of fraud on the part of the purchaser, shall cause the money to be refunded to the holder of the void purchase agreement or contract.

**15-08-07. Contracts of purchase - Rights of holder - Recording.** A contract of purchase of lands, made pursuant to the provisions of this title, entitles the purchaser, or the purchaser's heirs or assigns, to the possession of the lands therein described and to maintain actions for injuries done to the lands or to recover possession thereof, unless the contract has been canceled and not redeemed. A contract of purchase in force may be recorded in the manner provided by law for recording of deeds of conveyance.

**15-08-08. Assignee or successor in interest of purchaser - Rights and liabilities - Judicial sale - Subrogation.** An assignee of a bona fide purchaser of any of the lands mentioned in this title is subject to and governed by the provisions of this chapter applicable to the purchaser of whom the person is an assignee, and has the same rights in all respects as an original purchaser of the same class of lands. When the interest of a purchaser of any such lands is levied upon or attached in an action brought to recover a debt due from the purchaser, and when such interest is sold under execution and a certificate of sale is issued by the sheriff, the holder of the sheriff's certificate, after the expiration of one year from the date of sale, may

obtain and present to the commissioner of university and school lands a certificate of the sheriff of the county in which the land is situated, setting forth:

1. That the sale has been made;
2. The name and address of the purchaser at the sale;
3. That one year has elapsed since the sale;
4. That no redemption has been made by or on behalf of the original purchaser of the land, or the purchaser's assignees or successors in interest; and
5. That no claim of homestead exemption has been made as to the land by any person.

After the filing of such certificate in the office of the commissioner of university and school lands, the person who bought the interest of the purchaser of the land at such judicial sale is subrogated to the contract of the original purchaser and to all rights of the purchaser in and to the land. The person so subrogated may carry out and perform the contract of purchase with the state in all particulars and on full performance thereof the person shall receive a conveyance of the land from the state.

**15-08-09. Contracts may be surrendered and two or more contracts issued in lieu thereof.** When the holder of a contract of purchase surrenders the same to the commissioner of university and school lands with a written request to have it divided into two or more contracts, the commissioner, when the application has been approved by the board of university and school lands, may issue new contracts accordingly, but no new contracts may be issued:

1. When any interest, principal, or taxes on the contract or the land described therein are due and unpaid; or
2. When the commissioner is of the opinion, after an examination of the land, if such examination is necessary, that the security would be impaired or endangered by the proposed division.

When any application proposes the division of the land into irregular tracts or tracts other than the regular government subdivisions, the applicant shall file with the commissioner a plat of the land showing the boundaries and area in acres [hectares] of each subdivision. The commissioner shall collect a fee of five dollars for each new contract issued under the provisions of this section.

**15-08-10. Surrender of contract and issuance of new contract and deed for railroad right of way.** The board of university and school lands may cause a new contract to be issued to the holder of any contract for the purchase of land subject to its control and a conveyance to be made to a railroad company for railroad right of way when the holder of the contract shall:

1. Surrender the original contract to the board;
2. Present satisfactory evidence that a railroad has been located and established across the land included in the contract after the issuance thereof;
3. File a plat of the land showing the exact location, width, and area in acres [hectares] of the land required for the right of way;
4. Pay to the commissioner the balance of the purchase price under the contract and all interest and taxes thereon to date for the acreage [hectarage] required for the right of way; and

5. Make application in writing for the cancellation of the contract and the issuance to the applicant of a new contract for the land, less the acreage [hectarage] required for the right of way.

The commissioner of university and school lands shall collect a fee of five dollars for each new contract and for each conveyance made under the provisions of this section.

**15-08-11. Contract payments made to commissioner - Report to state treasurer.**

The purchaser of any land sold by the board of university and school lands, or the purchaser's heirs, executors, administrators, or assigns, shall pay to the commissioner of university and school lands any amounts that may become due from time to time upon the contract for principal, interest, and penalties. The commissioner shall report and pay to the state treasurer daily all collections of principal, interest, and penalty payments. At the time of such payment to the state treasurer, the commissioner shall apportion the amounts paid to the funds to which the same are applicable and shall certify such apportionment.

**15-08-12. Cancellation of contracts of sale for default - Notice - Recording cancellation.** If the annual interest or any installment of the purchase price is not paid within thirty days after the same becomes due under the provisions of any contract for sale, or if the taxes are not paid upon the lands described in said contract in accordance with the provisions of the contract, the contract is voidable from the time of any such default. The board of university and school lands, in the case of any voidable contract, may declare the contract canceled by a resolution adopted for that purpose. Upon such declaration of cancellation, the board shall notify the holder of the contract by a written notice mailed to the holder's post-office address as shown by its records and shall cause a certified copy of such resolution to be forwarded to the county auditor. A certified copy of the resolution may be recorded in the office of the recorder. The resolution operates as a complete and final cancellation of the contract without any order or decree of a court except that the purchaser's rights and liabilities continue until the expiration of the period of redemption. Upon the expiration of the period of redemption after cancellation of any such contract, the board shall order the commissioner to take possession of the land described in the contract and serve notice of the expiration of the period of redemption upon the purchaser and the county auditor. When a contract has been canceled and not redeemed, the land described therein may not be listed thereafter for taxation until it has been resold.

**15-08-13. Redemption from cancellation of contracts.** When a contract has been canceled under the provisions of this chapter, the purchaser or the purchaser's heirs or assigns, during a period of one year from the date of such cancellation, may pay to the commissioner of university and school lands all past-due payments on principal and the amount of interest due and payable on the contract, together with all costs which have been incurred in addition thereto, and interest at the rate of four percent per annum on the interest and costs so due from the date of delinquency to the date of payment, and such payment operates as a redemption of the rights of such purchaser or the purchaser's heirs or assigns, and such contract, from the time of such payment, is reinstated. As a part of such redemption, the purchaser shall pay taxes due or delinquent at the time of the redemption. When a redemption has been made from the cancellation of any contract, a certified copy of the resolution of the board of university and school lands rescinding the resolution of cancellation must be forwarded to the county auditor. A certified copy of such resolution may be recorded in the office of the recorder in the county in which such land is situated.

**15-08-14. Redemption of lands not listed for taxation.** Repealed by S.L. 1987, ch. 195, § 7.

**15-08-15. Fee title in state until contract is fulfilled - Unlawful detainer.** The fee of each parcel of land sold on contract must remain in the state until a patent or deed is issued therefor as provided in this title. After a failure on the part of the purchaser, or the purchaser's heirs or assigns, to comply with the terms of the contract or with the provisions of law applicable thereto, any person being or continuing in possession of any such lands without the written permission of the commissioner must be deemed to detain the land forcibly and without right and to be a trespasser thereon.

**15-08-16. Patents for public lands - Execution.** Patents for original grant lands sold under the provisions of this title must be issued to the purchaser or the purchaser's heirs or assigns, when payment is made in full for the lands and all the terms of the contract of purchase are performed. All such patents must be signed by the governor and attested by the secretary of state with the seal of the state and must be countersigned by the commissioner of university and school lands with the commissioner's seal affixed.

**15-08-16.1. Patents to public lands issued to a person who died before date of patent - Effect.** When patents for public lands have been or may be issued, in pursuance of any law of this state, to a person who has died before the date of such patent, the title of the land designated therein inures to and vests in the heirs, devisees, or assignees of such deceased patentees as if the patent had been issued to the deceased person during life.

**15-08-17. Patents - Recording - Effect.** The recorders of the several counties are authorized to record all patents issued by the governor pursuant to the provisions of this title, and the record thereof has the same effect as the record of other conveyances executed according to the laws of this state.

**15-08-18. Notice of sale to county auditors for taxation purposes.** As soon as possible after a sale of lands, the commissioner of university and school lands shall transmit to the auditor of the county in which the land is located a detailed description of the land and the name of the purchaser, and the county auditor shall enter the land upon the tax records for the purpose of taxation, and such land must be assessed in the name of the contract purchaser on the first day of April next succeeding the date of the contract.

**15-08-18.1. Taxation of public lands sold on contract - Cancellation.** When real property owned by the state of North Dakota as trustee of permanent school funds for the use and benefit thereof is sold upon contract providing for a future conveyance, the department or office making such contract on the part of the vendor shall immediately notify the county auditor of the county wherein the real property is situated, of the making of the contract, the description of the real property therein described, and the name of the vendee. The real property must be put upon the tax rolls of the county and assessed and the taxes must be levied thereon, based upon its taxable value on the first day of February next succeeding the date of the contract. In the event that the contract is canceled by the vendor and not redeemed, the taxes must be immediately canceled and stricken from the tax rolls by the county auditor upon notice of such expiration of the period of redemption being reported to the county auditor by the vendor.

**15-08-18.2. Cancellation of taxes upon cancellation of contract.** Repealed by omission from this code.

**15-08-18.3. Taxation upon sale to vendee under preference right.** In the event that a vendee governed by the provisions of section 15-08-18.1, or the vendee's heirs, purchases real property under the terms and conditions of any law granting a preference right of purchase, the taxes levied upon the real property under the provisions of section 15-08-18.1 are a lien upon the interest of the vendee and the vendee's heirs, but not as against the vendor, and become delinquent and must be collected as other real property taxes become delinquent and are collected. Immediately upon real property being repurchased as herein provided, the vendor shall notify the county auditor in the same manner as is provided for by section 15-08-18.1 and the real property must be assessed and taxes levied thereon, subject to further subsequent cancellation of the reinstated or new contract, and the resulting cancellation of the taxes on the property concerned. If real property is repurchased for cash by a vendee or the vendee's heirs under a preference right to do so, the taxes levied against the interest of the vendee must be paid in addition to any sum required to be paid by the law under which the purchaser is granted a preference right of purchase.

**15-08-18.4. Taxation after reinstatement.** Repealed by omission from this code.

**15-08-18.5. Payment of tax before conveyance.** Repealed by omission from this code.

**15-08-18.6. Exception.** The provisions of sections 15-08-18.1 and 15-08-18.3 shall not apply if the real property involved is purchased at a public sale.

**15-08-19. Taxation of and foreclosure of tax lien on property sold by state on deferred payment contract.** Property contracted to be sold by the state is subject to taxation from the date of the contract, and the taxes assessed thereon must be collected and enforced in the same manner as taxes against other property. If the contract is not canceled or if the contract has been canceled and the period of redemption has not yet run, the property upon which taxes are delinquent is subject to foreclosure of tax lien. After two years from the date the tax became due, and after notice of foreclosure has been given as required in title 57, on the date of foreclosure, the county shall acquire such rights and interests as belonged to the holder and owner of the contract issued under the provisions of this chapter and only such rights. The county may assign its rights and interest at any time, and the assignee shall have the rights given by this section to the county. No tax deed may be issued upon any tax sale certificate while the legal title to the lands remains in the state of North Dakota.

**15-08-20. Willful and casual trespass - Civil action for damages.** Any person who commits any trespass upon any of the surface or subsurface lands and resources controlled by the board of university and school lands is liable in treble damages in an action to be brought in the name of the state, if the trespass is adjudged to have been willful, but single damages only may be recovered in the action if the trespass is adjudged to have been casual and involuntary.

**15-08-21. Willful trespass - Penalty.** Repealed by S.L. 1975, ch. 106, § 673.

**15-08-21.1. Willful trespass - Penalty.** Any person who willfully trespasses upon any of the lands subject to control of the board of university and school lands, either by cutting down or destroying any timber or wood standing or growing thereon, or by carrying away any timber or wood therefrom, or by mowing or cutting or removing any hay or grass standing or growing or being thereon, or who injures or removes any buildings, fences, improvements, or other property belonging or appertaining to the land, or who unlawfully breaks or cultivates any of the lands, or who unlawfully tampers with any portion of the subsurface estate, or aids, directs, or countenances a trespass or other injury, is guilty of a class A misdemeanor.

**15-08-22. Seizure and sale of articles severed from land after trespass.** In addition to the penalties provided in this chapter for trespass upon lands, the commissioner of university and school lands may seize and take, or cause to be seized and taken, without legal process, any timber, grass, wood, or other property unlawfully severed from the lands, whether the same has been removed from the lands or not. The commissioner may dispose of the property seized either at public or private sale, in the manner most conducive to the interests of the state. After deducting the reasonable and necessary expenses of the seizure and sale, all moneys remaining must be made a part of the interest and income fund of the institution for the support of which the land was granted.

**15-08-23. State's attorneys to report and prosecute trespasses.** The state's attorneys of the several counties shall report promptly to the commissioner all cases of trespass committed upon lands controlled by the board of university and school lands which may come to their knowledge. When directed by the attorney general, the state's attorney shall prosecute all actions for any trespass or injury or for recovery of possession of such lands.

**15-08-24. Damages recovered paid into school fund.** All damages recovered for trespass or other injury upon or to any of the lands mentioned in this chapter must be paid to the state treasurer for the benefit of the fund to which the same properly belongs.

**15-08-25. Lease or sale of public lands traversed or bisected by a highway, road, railroad, canal, river, or lake.** All boards, departments, and officials of government are authorized and permitted to lease or sell school and public lands traversed or bisected by a highway, road, or railroad, canal, river, or lake as two or more separate parcels, each of which may be leased or sold separately or together with an adjoining tract. Lands consisting of less

than one hundred usable acres [40.47 hectares] may either be leased or sold separately or with tracts in the same section or adjacent section.

**15-08-26. Removal of or payment for improvements upon termination of lease.**

The lessee of any lands under the control of the board of university and school lands, within one hundred twenty days after the expiration date or cancellation date of a lease may remove any nonpermanent improvements placed upon the lands by the lessee if the removal can be accomplished without material damage to the land. Permanent improvements may not be placed on the land without written consent of the commissioner of university and school lands. A lessee requesting a permit to place permanent improvements on the land shall complete an application form prepared by the commissioner. The cost of completing the permanent improvement is the lessee's expense. The commissioner may approve depreciation of all or a portion of the cost of the permanent improvement over a period not to exceed ten years. The commissioner may also require the lessee to submit all documentation deemed necessary by the commissioner to determine the cost. The cost may not include any reimbursements to the lessee. The next lessee or purchaser, in addition to paying the purchase price or rental of the land, shall pay to the preceding lessee the undepreciated cost, if any. The commissioner may cancel any undepreciated cost of constructing a permanent improvement if the lessee fails to offer the minimum bid for the land and the land is not leased at the next auction at which the land is offered or if the lessee fails to comply with the conditions of the lease agreement.

Permanent improvements placed on the property must be deemed the property of the state. For purposes of this section, permanent improvements include buildings, wells, dams, waterholes, waterlines, and trees and nonpermanent improvements include fences, corrals, water tanks, and feed bunks.

**15-08-27. Reservations and exceptions on the sale of land.** In all sales of nongrant land under control of the board of university and school lands, the same reservations and exceptions to the state of North Dakota must be made as in the sales of grant land. Any such sale which does not contain such reservations and exceptions must be construed as if such reservations and exceptions were contained therein.