

A.D., as determined by a qualified professional archaeologist, they shall be dealt with in accordance with provisions established by the state archaeologist. If such burials date after 1700 A.D., as determined by a qualified professional archaeologist, efforts shall be made by the state archaeologist and the Indian affairs intertribal board to ascertain their tribal identity. If their probable tribal identity can be determined, such remains shall at the discretion of the state archaeologist and Indian affairs intertribal board, be turned over to contemporary tribal leaders for disposition. If it is deemed desirable by the state archaeologist or the Indian affairs intertribal board, such remains shall be studied by a qualified professional archaeologist before being delivered to the tribal leaders.

Subd. 6 § . The Indian affairs intertribal board must approve any request to relocate an authenticated and identified Indian burial ground. If large Indian burial grounds are involved, efforts shall be made by the state to purchase and protect them instead of removing them to another location.

Subd. 9. The department of natural resources, the department of transportation, and all other state agencies and local governmental units whose activities may be affected, shall cooperate with the state archaeologist and the Indian affairs intertribal board to carry out the provisions of this section.

Subd. 10. When Indian burials are known or suspected to exist, on public lands or waters, the agency or department controlling said lands or waters shall submit construction and development plans to the state archaeologist and the Indian affairs intertribal board for review prior to the time bids are advertised. The state archaeologist and the Indian affairs intertribal board shall promptly review such plans and make recommendations for the preservation or removal of the human burials or remains, which may be endangered by construction or development activities.

Sec. 2. **APPROPRIATION.** The sums set forth in this section are appropriated from the general fund to the Indian affairs intertribal board for carrying out its duties relating to Indian burial grounds, to be available for the fiscal year ending June 30 in the years indicated.

1981
\$15,000.

Sec. 3. **REPEALER.** Minnesota Statutes 1978, Section 149.07, is repealed.

Approved April 3, 1980

CHAPTER 458—S.F.No. 1240

An act relating to natural resources; setting forth the rights of property owners whose property is purchased for conservation purposes; revising responsibilities of the commissioner of natural resources and the commissioner of administration in property acquisition; authorizing the commissioner of natural resources, with the approval of the

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state executive council to convey the interests of the state in lands for the purpose of correcting boundary description errors; amending Minnesota Statutes 1978, Sections 84.0272; 85.012, Subdivision 1; 85.015, Subdivision 1; 85.021, Subdivisions 1 and 2; and 104.37, Subdivision 1.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

Section 1. **[84.0274] LANDOWNERS' BILL OF RIGHTS.** [Subdivision 1.] **TITLE.** Sections 1 to 7 may be cited as "The Landowners' Bill of Rights".

Sec. 2. **[84.0274] [Subd. 2.] POLICY.** It is the intent of sections 1 to 7 to clarify the responsibilities of the state in the natural resources land acquisition process and to provide additional protections to landowners in their dealings with the state.

Sec. 3. **[84.0274] [Subd. 3.] CONDEMNATION LIMITS.** No lands shall be acquired by the commissioner of natural resources by means of condemnation unless the owner requests that his lands be condemned or the condemnation is specifically authorized by law.

Sec. 4. **[84.0274] [Subd. 4.] RIGHTS CUMULATIVE.** The protections for landowners and responsibilities of the state set forth in sections 1 to 7 shall not limit, but shall be in addition to all rights and responsibilities contained in state or federal law.

Sec. 5. **[84.0274] [Subd. 5.] OWNER'S RIGHTS.** When the state proposes to purchase in fee or any lesser interest in land which will be administered by the commissioner of natural resources, the landowner shall have the following rights:

(a) The right to be informed of the specific intended use of the property and of any change in the intended use of the property which occurs during the acquisition process. The owner shall also be informed that the documents regarding the purchase will be public records if the land is purchased by the state;

(b) The right to be paid a fair price for the property. The price shall include the fair market value of the land plus:

(1) All necessary incidental costs such as abstracting and recording fees related to the sale. The costs of clearing title defects, paying taxes, and attorney's fees are not reimbursable; and

(2) Any penalties incurred by the owner where the property is security for a loan or advance of credit that contains a provision requiring or permitting the imposition of a penalty if the loan or advance of credit is prepaid;

(c) The right to payment, at the owner's election, in a lump sum or in up to four annual installments;

(d) The right to have the property fairly appraised by the state. The state's appraiser shall physically inspect the property and shall allow the owner to accompany him when the appraisal is made. The state's appraiser shall certify in the appraisal report that he has physically inspected the property and given the land-

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owner an opportunity to accompany him on inspections. The landowner shall be given a resume of the state's certified appraisal. The resume shall include the appraiser's conclusions as to value, acreage and type of land, value of buildings and other improvements, value of timber, special damages and any special elements of value;

(e) The right to retain a qualified independent appraiser to conduct an appraisal at any time prior to certification of the state's appraisal of the property and to be reimbursed for appraisal fees as provided in section 117.232, subdivision 1, if the land is sold to the state and to have that appraisal considered along with the state's in certifying the selling price;

(f) The right to have the state acquire the property by means of condemnation upon the owner's request with the agreement of the commissioner;

(g) The right to receive or waive relocation assistance, services, payments and benefits as provided in sections 117.52 and 117.521;

(h) The right to accept the state's offer for the property and contest the state's offer for relocation and moving expenses;

(i) The right to continue occupancy of the property until full payment is received, provided that when the owner elects to receive payment in annual installments pursuant to clause (c), the owner may retain occupancy until the first payment is made; and

(j) The right to seek the advice of counsel regarding any aspect of the land transaction.

Sec. 6. [84.0274] [Subd. 6.] STATE'S RESPONSIBILITIES. When the state proposes to purchase land for natural resources purposes, the commissioner of natural resources and, where applicable, the commissioner of administration shall have the following responsibilities:

(a) The responsibility to deal fairly and openly with the landowner in the purchase of property;

(b) The responsibility to refrain from discussing price with the landowner before an appraisal has been made. In addition, the same person shall not both appraise and negotiate for purchase of a tract of land;

(c) The responsibility to use private fee appraisers to lower the state's acquisition costs to the greatest extent practicable; and

(d) The responsibility to acquire land in as expeditious a manner as possible. No option shall be made for a period of greater than two months if no survey is required or for nine months if a survey is required, unless the landowner, in writing, expressly requests a longer period of time. Provided that, if county board approval of the transaction is required pursuant to section 97.481, no time limits shall apply. If the state elects not to purchase property upon which it has an option, it shall pay the landowner \$500 after the expiration of the option period. If the state elects to purchase the property, unless the landowner elects

otherwise, payment to the landowner shall be made no later than 90 days following the state's election to purchase the property provided that the title is marketable and the owner acts expeditiously to complete the transaction.

Sec. 7. [84.0274] [Subd. 7.] DISCLOSURE. When the state proposes to purchase lands for natural resources purposes, the landowner shall be given a written statement in layman's terms of the rights and responsibilities provided for in sections 5 and 6. Before a purchase can be made, the landowner must sign a statement acknowledging in writing that the statement has been provided and explained to him. Within 60 days following the date of final approval of this act, the commissioner of natural resources shall submit a proposed form for the statement to the legislative commission on Minnesota resources. The commission shall review the proposed form for compliance with the intent of sections 1 to 7 and shall make any changes which it deems proper.

Sec. 8. [84.0275] VIOLATIONS. If the state acquires any land for natural resources purposes in violation of any of the provisions of sections 5 to 7, the landowner may maintain an action against the commissioner of natural resources for any damages suffered. However, no title to land purchased for natural resources purposes will be invalid as a result of such violations.

Sec. 9. [84.0273] CORRECTION OF BOUNDARY LINES RELATING TO CERTAIN STATE LANDHOLDINGS. In order to correct errors in legal descriptions affecting the ownership interests of the state and adjacent landowners, the commissioner of natural resources may, in the name of the state, with the approval of the state executive council, convey, without monetary consideration, by quitclaim deed in such form as the attorney general approves, such rights, titles, and interests of the state in state lands for such rights, titles and interests in adjacent lands as are necessary for the purpose of correcting legal descriptions of boundaries. The commissioner's recommendations to the executive council shall include his determination of the value, if any, of the rights, titles, and interests involved. The provisions of this section are not intended to replace or supersede laws relating to land exchange or disposal of surplus state property.

Sec. 10. Minnesota Statutes 1978, Section 84.0272, is amended to read:

84.0272 PROCEDURE IN ACQUIRING LANDS. When the commissioner of administration natural resources is authorized to acquire lands or interests in lands for the commissioner of natural resources, the procedure set forth in this section shall apply. The commissioner of natural resources shall first submit a written request to the commissioner of administration prepare a fact sheet showing the lands to be acquired, the legal authority for their acquisition, and the qualities of the land that make it a desirable acquisition and a maximum purchase price. The commissioner of administration shall not purchase land for greater than the maximum purchase price without further consultation and written authorization and justification from the commissioner of natural resources. The commissioner of administration natural resources shall cause the lands to be appraised. An appraiser shall before entering upon the duties of his office take and subscribe an oath that he will faithfully and impartially discharge his duties as appraiser according to the best of his ability and that he is not interested directly or

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indirectly in any of the lands to be appraised or the timber or improvements thereon or in the sale thereof and has entered into no agreement or combination to purchase the same or any part thereof, which oath shall be attached to the report of the appraisal. The commissioner of ~~administration~~ natural resources shall not agree to pay more than ten percent above the appraised value. The commissioner of natural resources shall submit the appraisal to the commissioner of administration as required by section 84.0271 along with a copy of the fact sheet and any other information which the commissioner of natural resources deems proper. New appraisals may be made ~~but not until at least six months after completion of an earlier series of appraisals at the discretion of the commissioner of natural resources or the commissioner of administration.~~

Sec. 11. Minnesota Statutes 1978, Section 85.012, Subdivision 1, is amended to read:

85.012 **STATE PARKS.** Subdivision 1. State parks established and confirmed as state parks together with the counties in which they are situated are listed in this section and shall be named as indicated in this section.

The lands described in the session laws establishing or changing the boundaries of each state park are included in the state parks so established or changed. The commissioner of ~~administration for the commissioner~~ of natural resources is authorized to acquire by gift or purchase the lands as described. Any land which now is or hereafter becomes tax-forfeited land and is located within the described park boundaries is hereby withdrawn from sale and is transferred from the custody, control, and supervision of the county board of the county to the commissioner of natural resources, free from any trust in favor of the interested taxing districts. The commissioner shall execute a certificate of acceptance of the lands on behalf of the state for such purposes and transmit the same to the county auditor of the county for record as provided by law in the case of tax-forfeited land transferred to the commissioner by resolution of the county board for conservation purposes. Any lands within the described boundaries which may be owned by the United States and managed by any of its agents may be acquired by land exchange, direct transfer, or purchase as federal laws may prescribe. The lands acquired pursuant to any session laws establishing or changing the boundaries of a state park shall be administered in the manner provided for state parks and shall be perpetually dedicated for such use.

Sec. 12. Minnesota Statutes 1978, Section 85.015, Subdivision 1, is amended to read:

85.015 **STATE TRAILS.** Subdivision 1. The commissioner of natural resources shall establish, develop, maintain, and operate the trails designated in this section. Each trail shall have the purposes assigned to it in this section. The commissioner of ~~administration; for the commissioner~~ of natural resources, may acquire lands by gift or purchase, in fee or easement, for the trail and facilities related to the trail.

Sec. 13. Minnesota Statutes 1978, Section 85.021, Subdivision 1, is amended to read:

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85.021 ACQUISITION OF LAND, MINNESOTA VALLEY TRAIL.

Subdivision 1. **ACQUISITION OF ENTIRE TRACT.** Whenever the commissioner of ~~administration~~ natural resources determines that it is necessary to acquire any interest in a part of a tract or parcel of real estate for purposes of the Minnesota valley trail, he may acquire in fee the whole or any additional parts of the tract or parcel that he deems to be in the best interests of the state.

Sec. 14. Minnesota Statutes 1978, Section 85.021, Subdivision 2, is amended to read:

Subd. 2. **CONVEYANCE OF EXCESS.** Within one year after acquiring excess real estate pursuant to subdivision 1, the commissioner of ~~administration~~ natural resources shall notify the governor that the excess real estate is available for sale. The commissioner shall then publish notice of sale for three successive weeks in a newspaper of general circulation in the territory from which bids are likely to be received. After receipt of sealed bids, and upon recommendation of the commissioner of ~~administration~~ natural resources, the governor shall convey the excess real estate by quitclaim deed in a form approved by the attorney general in the name of the state to the highest responsible bidder. The deed may contain restrictive clauses limiting the use of the real estate in the interest of preserving the integrity of the trail when the commissioner finds that the restrictions are reasonably necessary.

Sec. 15. Minnesota Statutes 1978, Section 104.37, Subdivision 1, is amended to read:

104.37 ACQUISITION OF INTERESTS IN LAND; DEVELOPMENT.

Subdivision 1. To further the purposes of sections 104.31 to 104.40, the commissioner of ~~administration, for the commissioner~~ of natural resources may acquire the title, scenic easements or other interests in land, by purchase, grant, gift, devise, exchange, lease, or other lawful means. "Scenic easement" means an interest in land, less than the fee title, which limits the use of such land for the purpose of protecting the scenic, recreational, or natural characteristics of a wild, scenic or recreational river area. Unless otherwise expressly and specifically provided by the parties, such easement shall be (a) perpetually held for the benefit of the people of Minnesota; (b) specifically enforceable by its holder or any beneficiary; and (c) binding upon the holder of the servient estate, his heirs, successors and assigns. Unless specifically provided by the parties, no such easement shall give the holder or any beneficiary the right to enter on the land except for enforcement of the easement.

Sec. 16. **EFFECTIVE DATE.** Sections 1 to 8 are effective July 1, 1980. Sections 9 to 15 are effective the day following final enactment.

Approved April 3, 1980

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