

AN ACT

relating to sale and lease of public school land.

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

SECTION 1. Section 51.001, Natural Resources Code, is amended by amending Subdivision (7) and adding Subdivisions (10) and (11) to read as follows:

(7) "Appraiser" means a state certified or state licensed real estate appraiser who is employed by or contracts with the land office and who performs professional valuation services competently and in a manner that is independent, impartial, and objective [~~"Asylum land" means all land of the state that is dedicated to the various asylum funds~~].

(10) "Land" or "real property" means any interest in the physical land and appurtenances attached to the land, including improvements.

(11) "Market value" means the value of real property determined by an appraisal performed by an appraiser.

SECTION 2. Section 51.011, Natural Resources Code, is amended to read as follows:

Sec. 51.011. SALE AND LEASE OF PUBLIC SCHOOL [~~AND ASYLUM~~] LAND. Any land that is set apart to the permanent school fund [~~and the various asylum funds~~] under the constitution and laws of this state together with the mineral estate in riverbeds, channels, and the tidelands, including islands, shall be controlled, sold, and

1 leased by the school land board and the commissioner under the
2 provisions of this chapter.

3 SECTION 3. Section 51.012, Natural Resources Code, is
4 amended to read as follows:

5 Sec. 51.012. COMMISSIONER'S AUTHORITY. Subject to the
6 authority of the board and to exceptions and restrictions that may
7 be imposed by the constitution and laws of this state, the
8 commissioner is vested with the authority necessary to carry out
9 the provisions of this chapter relating to the sale and lease of
10 public school [~~and asylum~~] land and to the protection of this land
11 from free use and occupancy and from unlawful enclosure.

12 SECTION 4. Section 51.0125, Natural Resources Code, is
13 amended to read as follows:

14 Sec. 51.0125. LAND USED BY STATE AGENCY. Land that belongs
15 to the permanent school fund as a result of having been deeded or
16 given to the state and that has been used in the past by a state
17 agency shall be first offered for sale or lease to state agencies
18 before it can be sold or leased to any other party. No permanent
19 school fund land may be used by a state agency without [~~fair~~] market
20 value compensation to the permanent school fund.

21 SECTION 5. Section 51.013, Natural Resources Code, is
22 amended to read as follows:

23 Sec. 51.013. CLASSIFICATION AND VALUATION OF LAND. (a) As
24 the public interest may require, the commissioner shall classify or
25 reclassify [~~and value or revalue~~] all public school [~~and asylum~~]
26 land and shall include a designation of [~~designate~~] the land,
27 including a classification as agricultural, grazing, timber, or a

1 combination of these classifications based on the facts in the
2 particular case.

3 (b) After the classification and determination of market
4 value [~~appraisement~~] is entered on the records of the land office,
5 no further action needs to be taken by the commissioner and no
6 notice is required to be given to the county clerk for the
7 classification and determination of market value [~~appraisement~~] to
8 be effective.

9 SECTION 6. Section 51.018, Natural Resources Code, is
10 amended to read as follows:

11 Sec. 51.018. RECORDS AND ACCOUNTS. The commissioner shall
12 keep in his custody as records of his office each application,
13 affidavit, obligation, and paper relating to the sale and lease of
14 public school [~~and asylum~~] land and shall keep accurate accounts
15 with each purchaser or lessee.

16 SECTION 7. Section 51.052, Natural Resources Code, is
17 amended by amending Subsections (d), (e), (f), (g), (h), (i), and
18 (j) and adding Subsection (k) to read as follows:

19 (d) Before the land under this chapter [~~subchapter~~] is sold,
20 the appraiser [~~appraisers for the land office~~] must appraise the
21 land at its market value and file a copy of the appraisal with the
22 commissioner. No land covered by this chapter [~~subchapter~~] may be
23 sold for less than the market value that appears in the appraisal
24 made under this subsection.

25 (e) The owner of land that surrounds land in a tract [~~of 700~~
26 ~~acres or less~~] shall have a preference right to purchase the tract
27 before the land is made available for sale to any other person,

1 provided the person having the preference right pays not less than
2 the market value for the land as determined by the board.

3 (f) If the surrounding land is owned by more than one
4 person, the owners of land with a common boundary with a tract of
5 1,200 [~~700~~] acres or less that is for sale shall have a preference
6 right to purchase the tract before it is made available to any other
7 person, provided the person with the preference right pays not less
8 than the market value of the land as determined by the board and the
9 board finds use of the preference to be in the best interest of the
10 state. The board shall adopt rules to implement this preference
11 right.

12 (g) If land is located within the boundaries of or adjacent
13 to any state park, refuge, natural area, or historical site subject
14 to the management and control of the Parks and Wildlife Department,
15 the department has a preference right to purchase the land before it
16 is made available for sale to any other person. A sale to the
17 department under this section may not be for less than the [~~fair~~]
18 market value of the land, as determined by the board.

19 (h) The board may sell or exchange any interest in the
20 surface estate of public school land directly to any state agency,
21 board, commission, or political subdivision or other governmental
22 entity of this state without the necessity of a sealed bid sale.
23 All sales or exchanges made pursuant to this subsection shall be for
24 not less than [~~fair~~] market value as determined by the board and
25 under such other terms and conditions the board determines to be in
26 the best interest of the state.

27 (i) If no bid meeting minimum requirements is received for a

1 tract of land offered at a sealed bid sale under Subchapter D of
2 Chapter 32 of this code, the asset management division of the land
3 office may solicit proposals or negotiate a sale, exchange, or
4 lease of the land [~~property~~] to any person. The asset management
5 division may also contract for the services of a real estate broker
6 or of a private brokerage or real estate firm to assist in the real
7 estate transaction. The sale price may not be less than the market
8 [~~appraised~~] value [~~of the land as determined by the asset~~
9 ~~management division~~]. The board must approve any negotiated sale,
10 exchange, or lease of any land under this section.

11 (j) The board, in its sole discretion and in the best
12 interests of the permanent school fund as determined by the board
13 and without regard to requirements of local governments as to the
14 necessity of any such dedication, may dedicate permanent school
15 fund land to any governmental unit for the benefit and use of the
16 public in exchange for nonmonetary consideration with a value
17 reasonably equivalent to or greater than the market value of the
18 dedicated land, if the board determines that such an exchange would
19 benefit the permanent school fund. The asset management division
20 of the land office shall determine the value of the nonmonetary
21 consideration and shall file a copy of its determination with the
22 commissioner. Examples of public purposes for which permanent
23 school fund land may be dedicated under this subsection include but
24 are not limited to: (1) rights-of-way for public roads, utilities,
25 or other infrastructure; (2) public schools; (3) public parks; (4)
26 government offices or facilities; (5) public recreation
27 facilities; and (6) residential neighborhood public amenities.

1 (k) If an award of a bid under this section does not result
2 in a final transaction, the asset management division of the land
3 office may contract for the services of a real estate broker or of a
4 private brokerage or real estate firm to assist in the real estate
5 transaction.

6 SECTION 8. Section 51.054(c), Natural Resources Code, is
7 amended to read as follows:

8 (c) The provisions of this section do not apply to oil and
9 gas sold from public school [~~and asylum~~] land covered by Subchapter
10 F, Chapter 52, of this code.

11 SECTION 9. Section 51.056(a), Natural Resources Code, is
12 amended to read as follows:

13 (a) A person who wants to purchase public school [~~or asylum~~]
14 land shall submit to the commissioner a separate written
15 application for each tract.

16 SECTION 10. Section 51.057(a), Natural Resources Code, is
17 amended to read as follows:

18 (a) An application for the purchase of public school [~~or~~
19 ~~asylum~~] land shall be delivered to the land office in a sealed
20 envelope addressed to the commissioner with the words "application
21 to buy land" and the date the land is to be sold endorsed on the
22 envelope. Applications that do not have the required endorsements
23 are nevertheless valid.

24 SECTION 11. Section 51.064(a), Natural Resources Code, is
25 amended to read as follows:

26 (a) Any public school [~~or asylum~~] land offered for sale for
27 which no application is made under Section 51.056 of this code may

1 be sold to any person who files a proper application in the land
2 office in the manner provided by law.

3 SECTION 12. Section 51.065(b), Natural Resources Code, is
4 amended to read as follows:

5 (b) After being informed of any sale of public school [~~ex~~
6 ~~asylum~~] land, the county clerk shall enter in his books opposite the
7 description of the land sold, the name of the purchaser and the date
8 of the sale.

9 SECTION 13. Section 51.070, Natural Resources Code, is
10 amended to read as follows:

11 Sec. 51.070. UNPAID PRINCIPAL AND INTEREST ON PUBLIC SCHOOL
12 LAND SALES. (a) Unpaid and delinquent principal and interest on
13 sales of public school land shall bear interest at a rate set by the
14 board, which principal and interest shall be payable at the times
15 and on such terms as are established by the board by rule or by
16 contract.

17 (b) No patent may be issued for any public school land until
18 all unpaid principal and compounded interest is paid to the time of
19 issuing the patent.

20 (c) Any unpaid principal and interest is considered
21 delinquent on the 30th day after the date payment of the principal
22 and interest is due for the obligation.

23 (d) After the payment of principal and interest becomes
24 delinquent under the obligation, notice of delinquency and
25 subsequent potential forfeiture must be provided by certified mail,
26 return receipt requested, to the last known address of the obligee
27 and must be documented in the records of the land office.

1 SECTION 14. Section 51.071(a), Natural Resources Code, is
2 amended to read as follows:

3 (a) If principal and [~~or~~] interest on a sale of land is not
4 paid when due, the land is subject to forfeiture by the commissioner
5 by entry on the wrapper containing the papers "Land Forfeited" or
6 similar words, the date of the forfeiture, and the official
7 signature of the commissioner.

8 SECTION 15. Section 51.072, Natural Resources Code, is
9 amended to read as follows:

10 Sec. 51.072. EFFECT OF FORFEITURE. In cases of forfeiture,
11 the original obligations and reinstatement fees [~~penalties~~] are as
12 binding as if no forfeiture occurred.

13 SECTION 16. Section 51.073(a), Natural Resources Code, is
14 amended to read as follows:

15 (a) Before it is sold, the commissioner shall classify and
16 determine the market value of land on which leases have been
17 cancelled or have expired and land forfeited to the state.

18 SECTION 17. Section 51.074, Natural Resources Code, is
19 amended to read as follows:

20 Sec. 51.074. REINSTATEMENT OF LAND PURCHASES. (a) If no
21 rights of third persons have intervened, the purchasers or their
22 vendees, heirs, or legal representatives, who claim land that has
23 been forfeited for nonpayment of principal and interest, may have
24 the claim reinstated on written request by paying into the State
25 Treasury the amount of all principal and interest due on the claim
26 up to the date of reinstatement.

27 (b) The right to reinstate a claim under this section is

1 limited to the last purchaser from the state, or his vendees, heirs,
 2 or legal representatives, and must be exercised within six months
 3 [~~five years~~] from the date of the forfeiture.

4 [~~(c) If there is a valid outstanding grazing lease that~~
 5 ~~prevents reinstatement within the time provided in Subsection (b)~~
 6 ~~of this section, the claim may be reinstated within 60 days after~~
 7 ~~the grazing lease expires if the application for reinstatement~~
 8 ~~together with the payment for all past due interest has been filed~~
 9 ~~in the land office within five years from the date of forfeiture.]~~

10 SECTION 18. Section 51.076, Natural Resources Code, is
 11 amended to read as follows:

12 Sec. 51.076. LEGAL PROCEEDINGS. None of the provisions of
 13 Sections 51.071 through 51.072 and 51.074 through 51.075 of this
 14 code shall prevent the state from instituting legal proceedings
 15 necessary:

- 16 (1) to enforce a forfeiture;
- 17 (2) to recover the full amount of principal and
 18 interest [~~and penalties~~] that may be owed to the state at the time
 19 the forfeiture occurred; or
- 20 (3) to protect another right to the land.

21 SECTION 19. Section 51.077, Natural Resources Code, is
 22 amended to read as follows:

23 Sec. 51.077. LIEN. To secure the payment of principal and
 24 interest due on a sale of public school land and[~~and~~] university
 25 land[~~and asylum land~~] the state has an express lien for the use
 26 and benefit of the fund to which the land belongs. The lien is in
 27 addition to any right and remedy that the state has for enforcement

1 of the payment of principal and [~~or~~] interest due and unpaid, up to
2 and including the period required to reinstate the land award and
3 obligation.

4 SECTION 20. Subchapter C, Chapter 51, Natural Resources
5 Code, is amended by adding Section 51.0771 to read as follows:

6 Sec. 51.0771. REINSTATEMENT FEE. (a) A reinstatement fee
7 is due when a forfeited award is reinstated. The reinstatement fee
8 is calculated at one and one-half percent of all amounts delinquent
9 at the time of the reinstatement..

10 (b) The comptroller must receive the reinstatement fee
11 before the forfeited award is reinstated.

12 (c) Amounts received in the form of a reinstatement fee are
13 considered proceeds from the sale of permanent school fund land and
14 shall be deposited in the permanent school fund.

15 SECTION 21. Section 51.079(a), Natural Resources Code, is
16 amended to read as follows:

17 (a) An owner of public school land [~~or asylum land~~]
18 purchased from the state may sell the land or a definite portion of
19 the land in any size tract.

20 SECTION 22. Sections 51.121(a), (d), and (e), Natural
21 Resources Code, are amended to read as follows:

22 (a) Unsold public school [~~and asylum~~] land may be leased for
23 any purpose the commissioner determines is in the best interest of
24 the state [~~agricultural, grazing, or commercial purposes~~] under
25 terms and conditions set by the commissioner. Commercial
26 improvements on land under this subsection shall not become the
27 property of the state and shall be taxed in the same manner as other

1 private property.

2 (d) In leases granted under this subchapter that are for
3 terms of 20 years or more, the commissioner may grant the lessee a
4 preference right to purchase the leased premises. In order to grant
5 this preference right, the commissioner must include such a
6 provision in the lease. The provision may provide that the
7 preference right to purchase may be exercised at any time during the
8 term of the lease. If the commissioner does include the preference
9 right to purchase in the lease, the lessee shall have a preference
10 right to purchase the leased premises before the leased premises
11 are made available for sale to any other person. All sales under
12 this subsection must be for not less than [~~fair~~] market value as
13 determined by an appraiser [~~General Land Office appraisers~~] and
14 under any other terms and conditions that the commissioner deems to
15 be in the best interest of the state. The preference right to
16 purchase granted under this subsection is superior to any other
17 preference right to purchase granted under any other section of
18 this code or under any other law. Nothing in this subsection shall
19 be construed to allow the commissioner to grant a preference right
20 to purchase submerged land.

21 (e) Subject to the provisions of Title 2, Utilities Code,
22 any district created by Section 59, Article XVI, Texas
23 Constitution, that leases unsold public school [~~or asylum~~] land for
24 power generation through the use of renewable energy sources, such
25 as wind, solar, or geothermal energy and other sustainable sources,
26 or a district participating in a power generation project using
27 renewable energy sources which is located on unsold public school

1 ~~[or asylum]~~ lands may distribute and sell electric energy generated
2 on public school ~~[or asylum]~~ lands within or without the boundaries
3 of the district and may issue bonds to accomplish such purposes
4 pursuant to Chapter 1371, Government Code, or other applicable law.
5 For any such power generation project which is located on both
6 public lands and private lands, the district may sell outside its
7 boundaries only the pro rata portion of the total amount as is
8 generated on the public lands. All electric energy generated
9 pursuant to this section shall be sold for resale only to utilities
10 authorized to make retail sales under Title 2, Utilities Code, and
11 shall be subject to the solicitation process and integrated
12 resource planning process authorized by that title.

13 SECTION 23. Section 51.131(a), Natural Resources Code, is
14 amended to read as follows:

15 (a) For each lease issued under this subchapter for
16 agricultural or grazing purposes, the commissioner may ~~[shall]~~
17 require the lessee to implement a soil and water conservation plan
18 approved by the commissioner. The commissioner, in reviewing a
19 plan, and the lessee, in implementing a plan, may be assisted by the
20 United States Department of Natural Resources ~~[Agriculture Soil]~~
21 Conservation Service.

22 SECTION 24. Section 51.174(c), Natural Resources Code, is
23 amended to read as follows:

24 (c) The commissioner shall advise the board relating to the
25 ~~[fair]~~ market value of the surface and mineral estates of vacant
26 land.

27 SECTION 25. Section 51.175(b), Natural Resources Code, is

1 amended to read as follows:

2 (b) The board shall adopt rules governing the terms and
3 conditions for the sale and lease of a vacancy. The rules shall be
4 adopted and amended as necessary to be consistent with real
5 property law of this state and other applicable law.

6 SECTION 26. Section 51.246(b), Natural Resources Code, is
7 amended to read as follows:

8 (b) Any person who owns an interest in a titled or patented
9 survey or any portion of a titled or patented survey in which excess
10 acreage is located and who desires to pay for the excess acreage
11 shall file with the commissioner a request for a determination of
12 market value by an appraiser [~~an appraisement of the land~~] with
13 corrected field notes in the form provided by law, together with a
14 sworn statement of facts relating to his right to purchase and other
15 evidence of his right to purchase which may be required by the
16 commissioner. The corrected field notes shall describe the
17 patented tract, and if purchasing excess in a portion of a tract,
18 shall include a description of the portion in which the applicant is
19 making application to purchase excess.

20 SECTION 27. Subchapter G, Chapter 51, Natural Resources
21 Code, is amended by adding Section 51.2995 to read as follows:

22 Sec. 51.2995. WAIVER OR REDUCTION OF EASEMENT FEES IN
23 CERTAIN CIRCUMSTANCES. The commissioner may waive or reduce an
24 easement fee if the easement granted is to improve the
25 infrastructure of the land, including production and
26 transportation of alternative or renewable energy resources.

27 SECTION 28. Section 51.302(g), Natural Resources Code, is

1 amended to read as follows:

2 (g) In lieu of seeking administrative penalties or removal
3 of the facility or structure under Section 51.3021 of this code, the
4 commissioner may elect to accept ownership of the facility or
5 structure as a fixture and may exercise the state's rights as owner
6 of the facility or structure by filing notice of such ownership in
7 the real property records of the county in which the facility or
8 structure is located. For facilities or structures located on
9 coastal public land and connected with the ownership of adjacent
10 littoral property, notice of ownership shall be filed in the county
11 in which the adjacent littoral [~~to the~~] property [~~on which the~~
12 ~~facility or structure~~] is located. [~~A notice under this subsection~~
13 ~~shall contain a legal description of the adjacent property, the~~
14 ~~owner of property if known, and a description of the facility or~~
15 ~~structure. A state agency fund or trust fund is not liable for the~~
16 ~~condition of any facility or structure as a result of acquiring an~~
17 ~~interest in the facility or structure under this section.~~]

18 SECTION 29. Section 51.342, Natural Resources Code, is
19 amended to read as follows:

20 Sec. 51.342. SALE OR LEASE OF TIMBER. Timber located on
21 public land shall be sold or leased in full tracts for cash at its
22 [~~fair~~] market value.

23 SECTION 30. Section 51.402, Natural Resources Code, is
24 amended to read as follows:

25 Sec. 51.402. ACQUISITION OF INTEREST IN REAL PROPERTY. (a)
26 The board may use the money designated under Section 51.401 of this
27 subchapter to acquire real property and to pay the expenses of

1 acquisitions and sales for any of the following purposes:

2 (1) to add to a tract of public school land to form a
3 tract of sufficient size to be manageable;

4 (2) to add contiguous land to public school land;

5 (3) to acquire, as public school land, real property
6 of unique biological, commercial, geological, cultural, or
7 recreational value; or

8 (4) to acquire mineral and royalty interests for the
9 use and benefit of the permanent school fund.

10 (b) Before acquiring real property under Subsection (a) of
11 this section, the board must determine that the acquisition is in
12 the best interest of the permanent school fund.

13 SECTION 31. Section 51.403, Natural Resources Code, is
14 amended to read as follows:

15 Sec. 51.403. MARKET VALUE. (a) The board may not pay more
16 than market value, as determined by an appraiser, for any real
17 property acquired under this chapter [~~subchapter~~].

18 (b) A sale under this chapter must be for not less than
19 market value and under any other terms and conditions that the
20 commissioner determines are in the best interest of the state.

21 (c) Market value shall be determined by an appraisal of the
22 real property performed by an appraiser [~~appraisers employed by the~~
23 ~~land office~~].

24 SECTION 32. Section 51.404, Natural Resources Code, is
25 amended to read as follows:

26 Sec. 51.404. TITLE SECURITY. (a) Real property [~~Property~~]
27 acquired under this chapter [~~subchapter~~] shall be conveyed to the

1 state by warranty deed.

2 (b) The board may purchase or acquire title insurance for
3 any real property purchased under this chapter [~~subchapter~~].

4 SECTION 33. The changes in law made by this Act to Sections
5 51.070, 51.071, 51.074, and 51.076, Natural Resources Code,
6 relating to unpaid principal on public school land sales, apply
7 only to unpaid principal that accrues on or after the effective date
8 of this Act. Unpaid principal that accrues before the effective
9 date of this Act is governed by the law in effect immediately before
10 the effective date of this Act, and the former law is continued in
11 effect for that purpose.

12 SECTION 34. This Act takes effect immediately if it
13 receives a vote of two-thirds of all the members elected to each
14 house, as provided by Section 39, Article III, Texas Constitution.
15 If this Act does not receive the vote necessary for immediate
16 effect, this Act takes effect September 1, 2003.

David Swank

President of the Senate

Jim Cusick

Speaker of the House

I certify that H.B. No. 2249 was passed by the House on May 5, 2003, by the following vote: Yeas 140, Nays 0, 1 present, not voting; and that the House concurred in Senate amendments to H.B. No. 2249 on May 30, 2003, by the following vote: Yeas 145, Nays 0, 2 present, not voting.

Robert Haney

Chief Clerk of the House

I certify that H.B. No. 2249 was passed by the Senate, with amendments, on May 28, 2003, by the following vote: Yeas 31, Nays 0.

Lacey Shaw

Secretary of the Senate

APPROVED: 18 June '03

Date

Rick Perry

Governor

FILED IN THE OFFICE OF THE
SECRETARY OF STATE
8:30 pm O'CLOCK

June Shea
Secretary of State