Chapter 273

1959 REPLACEMENT PART

State Lands Generally

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GENERAL PROVISIONS

273.005 Title of property acquired by state agencies to be taken in name of state. Notwithstanding any other provisions of law to the contrary, any state agency, board, commission, department, or division thereof, or officer thereof, authorized by law to acquire real or personal property or interest therein shall take title to the same in the name of the State of Oregon. [1959 c.455 §1]

273.010 Classification of state lands. Unless the context or a specially applicable definition requires otherwise, for the purpose of this chapter state lands are classified as follows:

(1) "Agricultural college lands." Lands granted to the state for the support and maintenance of the state agricultural college.

(2) "Farm lands." Lands acquired by deed, gift, operation of law, or by the foreclosure of mortgages taken to secure loans from the school, college, university or other funds.

(3) "Indemnity lands." Lands selected to satisfy losses in sections 16 and 36, as provided by the laws of the United States.

(4) "School lands." Sections 16 and 36 in each township granted to the state by Act of Congress approved February 14, 1859, all lands selected for internal improvements under Act of Congress of September 4, 1841, and all lands selected for capitol building purposes under Act of Congress approved February 14, 1859.

(5) "Swamp lands." Lands claimed by the state under Act of Congress, approved September 28, 1850, and extended to the State of Oregon by Act of Congress, approved March 12, 1860.

(6) "Tide and overflow lands." All lands over which the tide ebbs and flows from the line of ordinary high tide to the line of mean low tide, and all islands, shore lands and other such lands held by the state by virtue of her sovereignty.

(7) "University lands." Lands granted to the state by the United States for the support and maintenance of the state university.

273.020 Governor as land commissioner. The Governor is hereby appointed Land Commissioner for the State of Oregon, and empowered to locate or select the lands to which the state is entitled under the laws of the United States, or otherwise. He shall be allowed all necessary expenses incurred by him in the performance of duties prescribed by this chapter. He may appoint such agents as may be necessary in the performance of his duties.

273.030 Qualifications of purchaser of state lands; application for purchase. (1) Any person over 18 years of age who is a citizen of the United States or has declared his intention to become such, may purchase any state lands.

(2) Any such person desiring to purchase state lands, other than farm lands, shall file with the clerk of the State Land Board an application to purchase, which shall be substantially as follows:

Application to Purchase

To the State Land Board:

I hereby apply to purchase the following described ———lands, situated in ——— County, Oregon, to wit: ———all in township ———, range ———, containing——— acres, and I agree to pay for the same according to law.

Signature of Applicant.

This ———day of ———, A.D. 19—.

State of Oregon, }ss.
County of ———,}

I, ———, being first duly sworn, say that I am over 18 years of age; that I am a citizen of the United States; that I reside at No. —— street, City of ———, County of ———, State of ———, and my postoffice address is ———; that the proposed purchase is for my own benefit; that I have not directly made any previous purchase of land from the State of Oregon of the kind described above, nor has anyone for me, which, together with the land described in the above application, exceeds 320 acres; that I have made no contract or agreement, expressed or implied, for the sale or disposal of the land applied for, in case I am permitted to purchase the same, and that there is no valid adverse claim thereto.

Signature of Applicant.

Signed in the presence of

———

———

Subscribed and sworn to before me this ——— day of ———, 19—, and I hereby certify that I am personally acquainted with the applicant whose signature appears above, and that —he is the identical person described in the foregoing affidavit.

———

———

State of Oregon, }
County of ———, } ss.

I, ———, residing at No. ——— street, City of ———, County of ———, and State of ———, and I, ———, residing at No. ——— street, City of———, County of——— and State of ———, being first duly sworn, depose and say, each for himself, that the address given after my name herein is my true place of residence; that the within applicant is personally known to me; that —he signed and swore to the within application, in my presence; and I signed my name as a witness to h— signature in h— presence; and that I believe —he makes the within application for h— own use and benefit.

———————

———————

Subscribed and sworn to before me this ——— day of ———, 19—, and I hereby certify that I am personally acquainted with the persons whose signatures appear above, and that they are the identical persons described in the foregoing affidavit.

———————

———————

(3) The application shall contain a correct and precise description of the lands applied for, in accordance with the survey thereof, by the United States, and the required affidavits therein shall be made before some notary public or county clerk in this state.

(4) Where application is made for tide or overflow lands, the applicant shall cause the same to be surveyed at his expense by a competent surveyor whose selection shall be approved by the State Land Board prior to the survey. The survey shall connect with and conform to the adjacent surveys of the United States, so far as practicable. The applicant shall submit to the State Land Board, with the application, an accurate map of the lands applied for, showing the courses and distances of the boundary line, and a correct calculation of the area thereof, which map shall be duly verified by the oath of said surveyor. Applicants to purchase tide or overflow lands shall, in addition to the usual declaration contained in applications to purchase, make the following declaration and waiver, to wit: "This application is made with a full knowledge of the character of the land applied for and the title of the state thereto, and I hereby waive and relinquish all right to and claim upon the state for the return of the purchase price of said lands in case said lands, or any part thereof, do not belong to the state."

273.040 Acreage purchasable. (1) Any legal applicant is entitled to purchase 320 acres of each of the following classes of land, to wit: School, indemnity, university, college, swamp, or tide and overflow lands; provided, that where a section contains legal subdivisions of odd acreage, the State Land Board may accept an application for an amount not to exceed 330 acres.

(2) This section shall not interfere with the issuance of deeds to the holders of assignments of certificates of sale as provided in ORS 273.140, nor shall the limitations of this section apply to municipal corporations purchasing such lands for any public use.

273.050 Price of state lands; sale to highest bidder. Except as limited by ORS 273.060 and 274.040, the State Land Board shall fix and may change from time to time, if the best interests of the state seem to demand it, the price at which all classes of lands of the state may be sold and may provide for the advertisement and sale of such lands to the highest bidder. The board may at any time, if in its judgment the best interests of the state demand it, withdraw any or all of such lands from sale.

273.060 Bids required for sale of certain real property of state. Before offering for sale any real property or equitable interest therein owned by the State of Oregon, the state agency acting for and on behalf of the state in such transaction shall cause it to be appraised by one or more competent and experienced appraisers. Notwithstanding any other provision of law, if such property has an appraised value exceeding $1,000, it shall not be sold to any private person, firm or corporation except after competitive bids and after notice calling for such bids as specified by ORS 273.070.

273.070 Publication of notice of sale. The state agency acting for the state in the transaction shall give the notice referred to in ORS 273.060 for not less than once a week for four successive weeks by publication in one or more newspapers of general circulation published in the county in which such real property is situated, and in such other newspaper or newspapers as the agency deems advisable. The notice shall describe generally and by legal subdivision such

property, the minimum price for which it will be sold, and a brief statement of the terms of the sale. The state agency shall reserve the right to accept or reject any bid.

273.080 Decision of state agency as to which is most advantageous bid is final; security for bid. (1) Where more than one bid has been received, or in case of doubt as to which of a number of bids is the highest and most advantageous for the state, the decision of the state agency on such question shall be final and conclusive, and shall not be subject to review by any court.

(2) Each bid shall be accompanied by a certified check on some bank, or by a good and sufficient bond furnished by a surety company authorized to do business in the state, in favor of the state, in a sum not less than 10 percent of the total amount of such bid.

273.090 Action taken if no satisfactory bid is received. If the provisions of ORS 273.060 and 273.070 have been complied with and no satisfactory bid has been received, the state agency may, at any time during a period of six months after the advertised date of sale, sell property administered by it in such manner as it deems appropriate. The sale price shall not be less than the minimum terms offered in the notice of sale or the highest bid received, whichever is the larger amount.

273.100 Payment for state lands. The State Land Board shall require applicants who purchase tide and overflow lands to pay in full for such lands at the time of purchase. Applicants to purchase school, college, university, swamp or indemnity lands may, if they so desire, make payments as follows: One-fifth of the purchase price in cash, at the time of purchase; one-fifth in one year, with interest at eight percent per annum; one-fifth in two years, with interest at seven percent per annum; and the remaining two-fifths of the purchase on demand with interest at six percent per annum, interest on all deferred payments payable annually. The demand payment shall not be allowed to stand for a longer period than five years from the date of issuance of the certificate.

273.110 Certificate of sale to instalment purchaser. When an applicant to purchase desires to make payments in instalments as provided in ORS 273.100, the State Land Board shall, upon receipt of one-fifth of the purchase price of the land applied for, deliver to the purchaser a certificate that he has contracted to purchase the lands therein described, has paid a certain sum thereon, and has undertaken to make certain other payments, specifying the amounts, times of payment, and rates of interest and that, upon making full payment of principal and interest as specified, and upon the surrender of the certificate of sale, the purchaser, his heirs or assigns, shall be entitled to a deed for the lands therein described.

273.120 Duplicate certificates of sale. The State Land Board shall preserve, in a bound volume, duplicates of all certificates of sale issued, with an alphabetical index to the same, and shall note on each duplicate all the payments of principal or interest made on the purchase price of the lands described in such certificate.

273.130 Cancelation and forfeiture on default in payments. If any instalment of the purchase price of land, principal or interest remains unpaid for one year after the same becomes due, the certificate issued under ORS 273.110 shall, without further notice, be canceled by order of the State Land Board, and all payments thereon forfeited and the land shall be deemed vacant and subject to sale as if it had not been before sold.

273.140 Assignment of certificates of sale; deed to assignee. All assignments of certificates of sale shall be executed and acknowledged in the same manner as a deed to real estate. The assignee, upon full payment of the amount due on the purchase price, and delivery to the board of such certificate and assignment, shall receive a deed for the lands described in such certificate, in his own name, as if he were the original purchaser.

273.150 Issuance of deed. Whenever any purchaser of lands from the state holding a certificate of sale therefor, has paid three-fifths or more of the purchase price thereof, the State Land Board may, in its discretion, issue a deed conveying the lands to such purchaser, upon his executing a note for the remainder of the purchase price, and a mortgage on the premises in the same form and manner as other mortgages are executed for loans from the school fund.

273.160 Form of deed; execution; copies as evidence. (1) Upon full payment of the

purchase price and any accrued interest thereon the State Land Board shall execute a deed to the purchaser substantially in the following form:

STATE OF OREGON

In consideration of ——— dollars, paid to the State Land Board, the STATE OF OREGON hereby does grant, bargain, sell and convey unto ———, the following-described lands situate in ——— County, Oregon, to wit: ———; subject, however, to such rights of way for ditches, canals and reservoir sites for irrigation purposes as may have been reserved by the United States or otherwise.

TO HAVE AND TO HOLD said real property, unto said ———, his heirs and assigns, forever.

WITNESS the seal of the State Land Board, affixed this ——— day of ———, 19—.

STATE LAND BOARD
By ———
Governor

(SEAL)
ATTEST: ———
Clerk of the State Land Board

(2) The deed shall be executed in behalf of the State Land Board by the Governor and attested under seal by the clerk of the land board, and, without acknowledgment, shall be admitted to record, and shall convey to the grantee all the estate which the state has in the lands at the date thereof.

(3) The State Land Board shall preserve in a bound volume true copies of all such deeds, with an alphabetical index of the names of grantees, and such copies shall be primary evidence of all such conveyances.

273.170 Release of claims under pre-1947 deeds reserving right of way. The State of Oregon hereby remises, releases and forever quitclaims unto the grantees therein, their heirs and assigns, all rights, titles and interest that may have remained or vested in the State of Oregon under deeds executed prior to July 5, 1947, by the State Land Board wherein there was attempted to be reserved a "right of way for ditches, canals and reservoir sites for irrigation purposes, constructed, or which may be constructed, by authority of the United States."

273.180 State land grants to railroads. There hereby is granted to any and all railways to be built after Feburary 21, 1891, within the boundaries of the state, to the companies or corporations constructing the same, to their successors and assigns:

(1) A right of way through any and all unimproved lands belonging to the State of Oregon, of the width of 100 feet, being 50 feet in width on each side of the center line of the road or roads when located and staked out, through or over any lands of the state.

(2) All necessary grounds for stations, depots, shops, side tracks, turntables and water stations, not exceeding 10 acres in any one place, upon payment to the state of the sum therefor as fixed by the State Land Board in the sale of similarly situated lands.

(3) The right to take from the lands of this state adjacent to the route lines of the road, timber, earth, stone, water and other material necessary for the construction of the roads.

(4) The right to construct and maintain railroad bridges over any and all streams, rivers, bays, inlets or other navigable waters in this state. All such bridges crossing navigable waters shall be subject to such regulations, restrictions and compensation as may be fixed by the State Land Board, and shall be so constructed as not to unnecessarily interfere with the navigation of such waters.

273.190 Filing maps of railroad location and depot sites; land board duties. (1) Whenever a railway company mentioned in ORS 273.180, or its successors or assigns, files with the State Land Board a map of the definite location of its road lines through any lands of this state, the board shall cause the lines to be traced upon the maps of the state in use by the board, and thereafter in all conveyances of lands, shall except from sale such right of way and lands for purposes named in ORS 273.180.

(2) Whenever a railway company has selected a tract of land belonging to this state for any purpose mentioned in ORS 273.180 and files with the board a map of the same, with a description of the same connected with the public surveys of the United States, the tract shall also be designated upon such maps. After such map has been filed and after completion of construction of a railroad through such lands and upon payment for the lands at the rate of $1 per acre, the board shall execute and deliver to the company, its successors or assigns, deeds for the tracts of lands so selected.

273.200 Right of way for water ditches and pipes. (1) A right of way for construction of a water ditch to be used for irrigation, manufacturing or mining purposes, ditches or water pipes for conveying water to cities and towns for domestic purposes, or for the extinguishment of fires, hereby is granted for a distance of 25 feet on each side of such ditches or water pipes to any individuals or corporations who may construct such water ditches or water pipes over any tide, swamp, overflowed or school lands belonging to the State of Oregon.

(2) All patents granted by the State of Oregon for any of the class of lands mentioned in this section shall be made subject to any vested rights of the owners of such water ditches or water pipes as may have been acquired under this section.

(3) The corporation, company or individuals constructing such water ditches or water pipes shall file a copy of the field notes of the survey of such ditches or water pipes with the Secretary of State showing their location.

273.210 Recording of copies of State Land Board documents. Copies, duly certified to by the clerk of the State Land Board, under the seal of the board, of any instrument or document of any kind or nature executed or issued by the board, shall be entitled to record in the office of any county recording officer. Instruments affecting the title to real property shall be recorded and indexed in the proper books provided and kept for that purpose in the county where such real property is situated; copies of all other instruments so executed by the board may be recorded in the miscellaneous records of any county designated by the board.

273.220 Recording fees; return of instrument. The person offering such certified copy mentioned in ORS 273.210 for record shall pay the recording fee. The State Land Board shall be exempt from the payment of such fees where any such instrument is recorded at its instance and request. When such instrument has been properly recorded by the recording officer it shall be returned by him to the clerk of the board or other party at whose request it was recorded.

273.230 Copies or transcripts as evidence. The record of any certified copy of any instrument which has been duly recorded under ORS 273.210, or a transcript thereof duly certified to by the county officer in whose office the same has been recorded, shall be received in evidence in all courts in this state with like force and effect as the original instrument.

273.240 Public grazing lands; sale, lease or exchange. The State Land Board and the several counties of the state hereby are authorized to sell, convey, lease or exchange any or all state-owned or county-owned lands chiefly suitable for grazing, to or with each other and with the United States of America for other lands either of equal acreage or of equal value. All powers herein granted to the State Land Board and to the several counties are in addition to and not in derogation of powers heretofore conferred by law.

273.250 Permits and conditions for removal of archaeological or historical material from state lands. (1) No person shall excavate and remove from land owned or leased by the State of Oregon or any of its boards, bureaus or commissions or public institutions of the state, any material of archaeological, historical, prehistorical or anthropological nature without first obtaining a permit from the State Land Board and the president of the University of Oregon.

(2) If examination, excavation or gathering of such material is undertaken for the benefit of reputable museums, universities, colleges or other recognized scientific or educational institutions with a view to promoting the knowledge of archaeology or anthropology, permits shall be regularly granted by the aforementioned officers on condition that not less than one-half in number and value of all specimens obtained shall be and remain the property of the State of Oregon unless the aforementioned officers expressly agree to accept a smaller proportion. Recognized institutions of higher learning in the State of Oregon, not controlled by the State Board of Higher Education, may examine, excavate or gather archaeological material and retain the same if they furnish the Oregon State Museum of Anthropology a complete catalog of such materials within six months of the time of such collection and make such materials available for research by reputable scholars on the recommendation of the director of the Oregon State Museum of Anthropology and the approval of the president of the institution concerned. Anthropological material recovered in the

course of other research by institutions under the Oregon State Board of Higher Education may, with the approval of such board, be retained by the institution upon presentation of a complete catalog of this material to the Oregon State Museum of Anthropology within six months from the date of recovery, and provided that this material is available for study by competent scholars upon the recommendation of the director of the Oregon State Museum of Anthropology with the approval of the president of the institution concerned.

(3) This section shall not interfere with the making of natural history collections by individuals for scientific purposes only, provided permits are obtained from the State Land Board and the president of the University of Oregon, as indicated above.

273.260 Removal without permit. If any individual or institution excavates or removes from the land designated in ORS 273.250 any materials of archaeological, historical, prehistorical or anthropological nature without obtaining the permit mentioned in ORS 273.250 all materials and collections removed from such lands shall become the property of the State of Oregon and shall be assigned by the proper authorities to the Oregon State Museum of Anthropology for custody and safekeeping.

273.270 Confirmation of title to state lands purchased before 1918. In all cases prior to May 21, 1917, where state deeds were issued to lands claimed by this state under the laws of the United States, the legal title to which had not yet vested in the state at the date of such deeds, the after-acquired title of this state in or to such lands shall be deemed vested in such purchasers who purchased such lands in good faith, and their heirs and assigns, from the time such legal title passed or may pass out of the United States. Nothing in this section shall prevent the State of Oregon from proceeding at any time to set aside on the ground of fraud any deed made by the state, nor shall anything contained in this section be deemed to prejudice the rights of any person claiming title to any public land adversely to the State of Oregon or to the United States.

273.280 Confirmation of state land deeds prior to 1891. All deeds prior to February 20, 1891, to state, school, and university lands, the purchase price of which was paid to the board of commissioners for the sale of school and university lands and for the investment of the fund arising therefrom, hereby are confirmed to the grantees of the state, or to their lawful heirs or assigns, together with all rights, title or interest which the state might or could have in any of the said lands. This section shall not apply to or confirm the title to any lands which were procured by false swearing or by fraudulent representations.

273.290 to 273.400 [Reserved for expansion]

STATE LAND BOARD

273.410 State Land Board; personnel; purpose; seal. The Governor, Secretary of State and State Treasurer hereby are made a board of commissioners for the sale of state lands and for the investment of the funds arising therefrom, and shall be styled the State Land Board. The board may use a common seal.

273.420 General powers and duties of board. The State Land Board may sell or lease all lands owned by the state, and shall make such rules and regulations as are necessary for the transaction of business and carrying out the provisions of law applicable to such board. It shall meet on the second and fourth Tuesdays of each month. It may pass upon all matters properly coming before it for consideration, and in any way affecting the lands of the state, hear and decide all disputes between applicants and cancel and annul certificates of sale obtained through fraud, or in any illegal manner. All its acts and decisions as to the legal title, and the right to a certificate of sale or deed from the state, shall be final.

273.430 State Land Board subpenas. (1) At all hearings pertaining to the lands of the State of Oregon or any part thereof, the State Land Board may issue subpenas to compel the attendance of witnesses at such time and place as may be fixed by the board and stated in the subpena, and may conduct the examination of such witnesses. The subpenas may be served by any county sheriff or by any other officer authorized by law to serve process, or by the clerk of the State Land Board, or any person over the age of 21 years, competent to be a witness but not a party to the matter in which the subpena is issued. Each person subpenaed by the

board on behalf of the state shall be allowed the same fees and mileage as provided by law to be paid witnesses in criminal cases in this state. The fees and mileage shall be paid by warrant on the earnings of the Common School Fund.

(2) Any person duly served with a subpena as provided in this section who fails to obey the same without legal excuse, shall be considered in contempt. The board shall certify the facts thereof to the circuit court of the district in which such witness resides, and upon legal proof thereof such witness shall suffer the same penalties as are now provided in like cases in the courts of this state. The certificate of the State Land Board shall be considered by the court as prima facie evidence of the guilt of the party charged with contempt.

273.440 [Reserved for expansion]

273.450 Execution of documents; recordation. The State Land Board may execute all instruments or documents of every kind, name or nature, in the same manner and form that the board is authorized or required to execute deeds to real estate, and without acknowledging the same. All instruments and documents so executed shall be admitted to record and have all the force and effect as though duly acknowledged.

273.460 Compromise or release of claims. The State Land Board may, whenever in its judgment such course is proper and to the best interest of the state, compromise, settle, release and discharge any mortgage, judgment or other claim in favor of the State of Oregon, and arising out of the sale or lease of property within the jurisdiction of the board, upon such terms as it may direct.

273.470 Refund of moneys. Whenever it appears to the State Land Board that any claims representing overcharges, or other moneys, have been irregularly or erroneously paid to it, the board may refund the same, or such part thereof as it may determine.

273.480 Correction of deeds; refund of purchase price; refund to assignee of certificate of sale issued on forged or fraudulent application. (1) In all cases where clerical errors have been made in deeds for any state lands sold, upon the production of satisfactory proof of such errors and if the rights of innocent parties have not intervened, the State Land Board may execute corrected deeds to the holders thereof, keeping a record of the same.

(2) Where lands, other than tide or overflowed and unsurveyed or unpatented swamp lands have been sold and the state cannot convey title to the purchaser, the State Land Board shall repay the purchaser, his heirs or assigns, all sums which may have been paid to the board on account of the purchase price of said lands, including the interest paid upon deferred payments, upon the presentation of a proper application for repayment, the production of satisfactory proof of the facts and the surrender of the certificate, and the assignment if so held; or if deed has been issued, upon reconveyance by duly executed and recorded quitclaim deed of whatever title or color of title was received from the state.

(3) Where a certificate of sale has been issued by the State Land Board upon a false, forged or fraudulent application and the certificate is held by assignment by a third party who had no knowledge of the fraud at the time of such assignment, the State Land Board may refund to the holder of such assigned certificate such sums as were paid the State Land Board on account of the purchase price of the lands covered by the certificate, including the interest paid upon deferred payments, upon his making proper application to the board for repayment and surrendering for cancelation the certificate and assignment.

273.490 Clerk of State Land Board; appointment; general powers and duties. The State Land Board may appoint a clerk, who shall be known as the "clerk of the State Land Board," who shall serve for four years or during good behavior. He shall keep his office in the State Capitol and shall have power to take and certify the proof and acknowledgment of a conveyance of real property, or any other written instrument authorized or required to be proven or acknowledged. He shall keep the seal of the board and affix it in all cases where he is required by law; keep the records, files, and other papers pertaining to his office; attend all meetings of the board; keep a faithful record of all transactions; record all deeds, mortgages, satisfactions of mortgages, partial or otherwise, and like instruments executed by the State Land Board, in a record provided for that purpose, which shall be a

public record. He shall administer oaths; receive and place on file all applications for the purchase of lands or loans of money; receive and file all communications addressed to the board; conduct all correspondence required by the board; receive, receipt for, and make immediate payment to the State Treasurer of all moneys received for the sale of lands, taking his receipts therefor, specifying the particular fund to which such moneys belong, and whether received as principal or interest; and perform such other duties and acts as the board may direct.

273.500 [Reserved for expansion]

273.510 Clerk's oath and bond. The clerk of the State Land Board shall take an oath of office to faithfully perform the duties of his office, and shall execute an undertaking for $5,000 or such greater sum as the board may prescribe, conditional that he will make immediate payment to the State Treasurer of all moneys coming into his hands as clerk of such board, and otherwise perform the duties of his office.

273.520 Salaries of clerk and employes of State Land Board and payment of incidental expenses. Except as otherwise provided in ORS 292.690 for the clerk of the land board, the salaries of the clerk of the State Land Board and of the necessary clerical assistants and employes of the board shall be fixed by the board, and, together with the necessary incidental expenses of the board shall be paid upon order of the board from the School Fund Interest Account.

273.530 Duty concerning trespasses on state lands; appearance before United States Land Office; payment of expenses. The clerk of the State Land Board shall investigate all trespasses on and damage to state land and prosecute the same under the law, subject always to the prior consent of the State Land Board. He shall appear before the United States Land Office in all cases involving the title or claim of the state to its granted land or lands selected in lieu thereof and may, with the consent of the board, summon witnesses. The expenses of such investigations and contest shall be paid by order of the State Land Board out of the earnings of the Common School Fund.

273.540 Selection and sale of indemnity lands. The clerk of the State Land Board shall, if the state has available base or scrip, select as indemnity lands such vacant government lands as may be applied for by legal applicants, upon receipt of their applications to purchase, together with the nonmineral affidavit and filing fees, as required by the rules and regulations of the Bureau of Land Management and a payment of at least one-fifth of the price of indemnity lands as fixed by the State Land Board; and he shall, upon return of a copy of the selection list approved by the registrar and receiver of the local United States Land Office, pay over to the State Treasurer such moneys as were received on account of the purchase price of such lands. When such lands have been clear listed or patented to the state by the United States, the board shall issue deeds or certificates, as the case may be, to the applicants; provided, that no certificate or deed shall be issued for indemnity lands until the same have been patented to the state by the United States. If the state fails to secure patent, the money so received shall be repaid to the applicant upon proper application to the board and surrender of the clerk's receipt.

273.550 Local agent to file bond. Each local agent for the State Land Board shall, within 60 days after May 22, 1915, file with such board, a surety bond in the sum of $1,000, conditioned upon the faithful discharge of his duties and the proper care and custody of all papers in his possession as agent for the board.

273.560 Sale of timber on state lands. The State Land Board may sell and dispose of the timber on lands of the State of Oregon, regardless of acreage and in such quantities to each purchaser as the board shall prescribe. All sales of timber shall be made to the highest and best bidder at public auction, or through sealed bids, as the board may determine prior to offering the same for sale.

273.570 Appraisal of timber; notice; sale conditions. (1) Before offering any timber for sale under ORS 273.560, the State Land Board shall cause the same to be appraised by one or more competent and experienced timber cruisers, whose appraisal may be accepted and approved or rejected by the board, in its discretion, and if rejected, a new appraisal of such timber shall be made.

(2) Prior to sale, notice thereof shall be given by the board for not less than four

weeks, by publication in one or more newspapers of general circulation, published in the county in which such timber is situated, and in such other media of communication as the board may deem advisable. The notice shall designate by legal subdivision the land having such timber thereon, shall state the appraised value of such timber and the minimum price at which the same may be sold and shall contain a brief statement of the terms of sale. No sale of timber shall be made at less than the appraised value.

(3) The timber on one or any number of legal subdivisions may be offered and sold separately, or in one body, as the board may deem most advantageous to the state. In cases in which notice has been given by publication and no satisfactory bid has been received, or in cases in which the bidder fails to complete the purchase, the board may, at any time during a period of six months after the advertised date of sale, sell the timber in such manner as it deems appropriate, but the sale price shall not be less than the minimum terms offered in the notice of sale or the highest bid received, whichever is the larger amount. [Amended by 1953 c.122 §2]

273.580 Decision on bids by board. Where more than one bid has been received, or in case of doubt as to which of a number of bids is the highest and most advantageous for the state, the decision of the State Land Board on such question shall be final and conclusive and shall not be subject to review by the courts.

273.590 Payment and bond by purchaser. A certified check for not less than 20 percent of the amount of the bid shall accompany each bid, which, in case of the successful bidder, shall be retained by the State Land Board as a first payment. Subsequent payments shall be at stated intervals, and in advance of cutting. The successful bidder, upon approval of the sale, shall execute to the board a good and sufficient surety bond, to be approved by the proper authority, in an amount equal to not less than the sale value of the timber involved, which bond shall contain clauses stipulating that such cutting regulations, including method of slash disposal and observance of the state forest fire laws, shall be an obligation of the bond.

273.600 Execution of instruments; employment of assistance. (1) All deeds, conveyances, contracts and other instruments required in carrying out ORS 273.560 to 273.610 shall be executed by the State Land Board, and all bonds, contracts and other instruments required by ORS 273.560 to 273.610 for the protection of the interests of the state shall be executed and delivered to the land board.

(2) The board may employ such assistance as it deems necessary to carry out the provisions of ORS 273.560 to 273.610.

273.610 Disposition of proceeds of timber sales. The proceeds from all sales of timber under ORS 273.560, after payment of all necessary expenses incurred by the board in carrying out the provisions of ORS 273.560 to 273.610, shall be turned over to and become a part of the Common School Fund.

273.620 Adjustment of erroneous pre-1916 sales of school lands. (1) Upon the execution and delivery to the State Land Board by any grantee to whom repayment has not heretofore been made, and to whom the State Land Board prior to February 21, 1916, erroneously conveyed various parcels of land in sections 16 and 36 to which the title of the state was found by the State Land Board to be defective, or the record successor in interest of such grantee, of an instrument in writing sufficient to annul the conveyance of the state to such grantee or to reinvest the state with its original claim, right, title or interest in the land described in such conveyance, and upon payment to the State Treasurer of $2.50 per acre for each acre of land so conveyed and the title to which was so found to be defective, and upon a good and sufficient release by such grantee or his record successor in interest of all claims for any refund of the purchase price paid to the state for such land, the State Land Board shall cause to be selected under the provisions of sections 851 and 852, Title 43 of the United States Code, as amended by the Act of Congress approved February 28, 1891, for the benefit of such grantee or his record successor, such lands subject to such right of selection as designated by such grantee or his record successor, not exceeding the quantity so erroneously conveyed by the state to such grantee.

(2) Upon the approval of such selection and upon receipt by the state of evidence that the title to such selected lands has passed to the state, such grantee or

his successor in interest shall be entitled to a conveyance thereof from the state.

(3) Any applicant who has complied with subsection (1) of this section and has thereby become entitled to have such right of selection exercised on his behalf is entitled to a certificate to that effect from the State Land Board.

(4) All moneys received under this section shall become a part of the Common School Fund.

273.630 Definition of "land" as used in ORS 273.630 to 273.770. As used in ORS 273.630 to 273.770, "land" includes all water, water rights, easements of every nature and all appurtenances to such land.

273.640 Land board powers. (1) The State Land Board hereby is granted full and complete authority to make such rules and regulations and do all things necessary for the carrying out of the objects and intent of ORS 273.630 to 273.770.

(2) The State Land Board may enter into contracts with any person, firm or corporation owning lands adapted to the purposes of ORS 273.630 to 273.770, for the subdivision, settlement and sale of all or any portion thereof, under the direction and supervision of the State Land Board under such terms and conditions as may be agreed to.

(3) The power of eminent domain may be exercised by the State of Oregon at the request of the State Land Board for the condemnation of property of any kind and any and all water rights, easements and appurtenances thereto which may be necessary for carrying out the purposes of ORS 273.630 to 273.770.

273.650 Objects of ORS 273.630 to 273.770. The objects of ORS 273.630 to 273.770 are:

(1) To vindicate the honor of the State of Oregon and to recover for the benefit of the Common School Fund what has been lost through the fraudulent acquisition of state lands.

(2) To make available for settlement and development the lands to which the state is entitled as indemnity and the remaining unsold state lands, and to make available for the Common School Fund the proceeds from the sale of such lands.

(3) To provide for cooperation with the United States in the settlement of returned soldiers, sailors and marines and the widows of deceased soldiers, sailors and marines on state and other lands suitable for agricultural purposes, and to provide employment and homes for citizens of the State of Oregon.

(4) To authorize the State Land Board to exchange isolated tracts of state lands in forest or other reserves or elsewhere, for larger and contiguous tracts of lands suitable for development and settlement or lands valuable for their timber.

(5) To authorize the State Land Board to enter into contracts with owners of large tracts of land for subdividing and disposing of the same in farm units under the direction and supervision of the State Land Board.

(6) To ascertain and determine the title of the State of Oregon to the beds of shallow and dry lakes and the lands around lakes exposed to reliction or otherwise.

(7) To provide by cooperation with the Federal Government or owners of land or persons claiming title thereto, or otherwise, for the subdivision, settlement, lease, sale or other use of lands suitable for agricultural purposes.

273.660 Compromise with owners of state lands wrongfully procured; disposal of lands received through compromise. (1) In all cases where the State Land Board believes or has good reason to suspect that any lands belonging to the State of Oregon were procured from the State of Oregon by fraud or in violation of the laws relating to the disposal thereof, it may, when it believes the best interest of the state will be served thereby, enter into contracts with the persons, firms or corporations asserting ownership thereto for the subdivision and sale thereof on such terms and conditions as may be agreed upon by the contracting parties, or it may exchange or accept in lieu thereof other lands suitable for settlement and development or valuable for timber.

(2) The State Land Board shall have the same authority to enter into contracts for disposal and settlement of such exchange lands as it has regarding the lands first mentioned in this section.

273.670 Subdivision and disposal of other lands as condition of compromise. Where the lands which the State Land Board believes or has reason to suspect were acquired from the State of Oregon by fraud or in violation of the laws of the State of

Oregon, are held by any person, firm or corporation owning other lands, the title to which is not involved, the State Land Board may provide in and as a condition to the contract of settlement described in ORS 273.660 that such other lands or such portion thereof as the State Land Board may deem advisable, may also be subdivided and disposed of under the direction and supervision of the State Land Board according to the terms and conditions agreed to by the contracting parties.

273.680 Ascertainment and procurement of indemnity lands. The State Land Board shall ascertain the amount of indemnity lands to which the State of Oregon is entitled from the Federal Government and procure such lands in as large and contiguous tracts as practicable, having in view its adaptability for agriculture or its value for forestry purposes.

273.690 Investigation of advisability of selection of indemnity lands within national forest reserves. Before making selections under ORS 273.680, the State Land Board shall investigate and determine the advisability of making such selections in large and contiguous tracts within the national forest reserves. If, upon such investigation, it is found that it will be advantageous to the State of Oregon to make some or all of such selections within the national forest reserves, the State Land Board shall negotiate and cooperate with the Secretary of the Interior to procure such lands and effect their withdrawal from the reserve; and, if necessary, the board shall use its influence to procure the necessary legislation to accomplish such object. The board may enter into all necessary contracts with the Secretary of the Interior relating to such lands.

273.700 Ascertainment and exchange of unsold state lands for federal lands. The State Land Board shall ascertain the amount and description of the lands in place belonging to the State of Oregon and remaining unsold, and the advisability of exchanging such lands or a portion thereof with the Federal Government for other lands in larger and contiguous tracts either within or without the limits of the national forest reserves. If such exchange is found advisable the board may enter into the necessary contracts to accomplish such purposes. The exchange may be made on the basis of value or acreage, in the discretion of the board.

273.710 Power to acquire and dispose of limited title. If it finds it necessary or advisable in carrying out the provisions of ORS 273.630 to 273.770, the State Land Board may take title in the name of the State of Oregon in fee simple, in trust or under such other conditions as may be deemed advisable and may convey title thereto or execute such agreements as may be necessary to carry out the intent of ORS 273.630 to 273.770.

273.720 Deed to purchaser. Where lands formerly belonging to the State of Oregon are disposed of under the provisions of ORS 273.630 to 273.770, and where final payment thereof has been made, the State Land Board shall execute and deliver to the purchaser of such land a deed from the State of Oregon conveying to such purchaser all the right, title and interest which the state may have in and to said lands.

273.730 Acquisition of overflow and swamp lands; reclamation. The State Land Board shall investigate and ascertain the amount of land to which it is entitled under the Acts of Congress relative to overflow and swamp lands, acquire title thereto and provide or enter into contracts for the drainage and reclamation thereof in order that the same may be available for development and settlement under Oregon laws.

273.740 Cooperation with Federal Government. The State Land Board may cooperate with the Federal Government for the development, settlement, subdivision and disposition of lands belonging to the State of Oregon, or which may be made available under ORS 273.630 to 273.770 for such purposes. In such cooperation, the State Land Board may provide the lands but the Federal Government shall provide the money necessary to meet the expenses of reclamation, subdivision, necessary improvement and equipment.

273.750 Cooperation of state and county agencies. The State Land Board, in carrying out ORS 273.630 to 273.770 shall use and call upon all related state and county agencies, including the departments of forestry, mining, engineering and the legal department of the State of Oregon, the state agricultural college, county officers and agents and any and all state or county officers and officials through which necessary information and aid may be received, all of

which shall cooperate with the State Land Board without additional compensation.

273.760 Disposition of proceeds of state lands. All moneys received from the rental, sale, disposition or use of lands belonging to the State of Oregon and all moneys receivable by the State of Oregon under the various contracts and agreements made under ORS 273.630 to 273.770 shall be paid into the State Treasury and become a part of the Common School Fund.

273.770 Incurring of indebtedness forbidden; expenses from appropriations. Nothing in ORS 273.630 to 273.770 shall be construed as permitting the State Land Board to incur any indebtedness on behalf of the State of Oregon or the State Land Board. However, the provisions of ORS 273.630 to 273.770 shall not prevent the State Land Board and the related state and county agencies from receiving out of moneys appropriated for them the expenses which they have incurred in carrying out the provisions of ORS 273.630 to 273.770.

CERTIFICATE OF LEGISLATIVE COUNSEL

Pursuant to ORS 173.170, I, Sam R. Haley, Legislative Counsel, do hereby certify that I have compared each section printed in this chapter with the original section in the enrolled bill, and that the sections in this chapter are correct copies of the enrolled sections, with the exception of the changes in form permitted by ORS 173.160 and other changes specifically authorized by law.

Done at Salem, Oregon,
on November 1, 1959.

Sam R. Haley
Legislative Counsel