

US Code

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TITLE 43 - PUBLIC LANDS

CHAPTER 25—UNLAWFUL INCLOSURES OR OCCUPANCY; OBSTRUCTING SETTLEMENT OR TRANSIT

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TITLE 43 - PUBLIC LANDS	1
CHAPTER 25 - UNLAWFUL INCLOSURES OR OCCUPANCY; OBSTRUCTING SETTLEMENT OR TRANSIT	2
§ 1061. Inclosure of or assertion of right to public lands without title	2
§ 1062. Suits for violations of law	2
§ 1063. Obstruction of settlement on or transit over public lands	3
§ 1064. Violations of chapter; punishment	3
§ 1065. Summary removal of inclosures	3
§ 1066. Permission of Secretary to sue	4

TITLE 43 PUBLIC LANDS

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TITLE 43—PUBLIC LANDS

Chap. ...Sec.

1. Bureau of Land Management ...1
2. United States Geological Survey ...31
3. Surveys ...51
4. District Land Offices ...70
5. Land Districts ...121
6. Withdrawal From Settlement, Location, Sale, or Entry ...141
7. Homesteads ...161
8. Timber and Stone Lands [Repealed] ...311
- 8A. Grazing Lands ...315
9. Desert-Land Entries ...321
10. Underground-Water Reclamation Grants [Repealed] ...351
11. Discovery, Development, and Marking of Water Holes, etc., by Government ...361
- 11A. Board on Geographic Names ...364
12. Reclamation and Irrigation of Lands by Federal Government ...371
- 12A. Boulder Canyon Project ...617
- 12B. Colorado River Storage Project ...620
13. Federal Lands Included in State Irrigation Districts ...621
14. Grants of Desert Lands to States for Reclamation ...641
15. Appropriation of Waters; Reservoir Sites ...661
16. Sale and Disposal of Public Lands ...671
17. Reservation and Sale of Town Sites on Public Lands ...711
18. Survey of Public Lands ...751
19. Bounty Lands [Repealed] ...781
20. Reservations and Grants to States for Public Purposes ...851
21. Grants in Aid of Railroads and Wagon Roads ...881
- 21A. Forfeiture of Northern Pacific Railroad Indemnity Land Grants [Omitted] ...921
22. Rights-of-way and Other Easements in Public Lands ...931
23. Grants of Swamp and Overflowed Lands ...981
24. Drainage Under State Laws [Repealed] ...1021
25. Unlawful Inclosures or Occupancy; Obstructing Settlement or Transit ...1061
- 25A. Lands Held Under Color of Title ...1068
26. Abandoned Military Reservations [Repealed] ...1071
27. Public Lands in Oklahoma ...1091
28. Miscellaneous Provisions Relating to Public Lands ...1151
29. Submerged Lands ...1301
30. Administration of Public Lands ...1361
31. Department of the Interior ...1451
32. Colorado River Basin Project ...1501
- 32A. Colorado River Basin Salinity Control ...1571
- 32B. Colorado River Floodway ...1600
33. Alaska Native Claims Settlement ...1601
- 33A. Implementation of Alaska Native Claims Settlement and Alaska Statehood ...1631
34. Trans-Alaska Pipeline ...1651
35. Federal Land Policy and Management ...1701
36. Outer Continental Shelf Resource Management ...1801
37. Public Rangelands Improvement ...1901
38. Crude Oil Transportation Systems ...2001
39. Abandoned Shipwrecks ...2101
40. Reclamation States Emergency Drought Relief ...2201
41. Federal Land Transaction Facilitation ...2301
42. Rural Water Supply ...2401

CHAPTER 25—UNLAWFUL INCLOSURES OR OCCUPANCY; OBSTRUCTING SETTLEMENT OR TRANSIT

Sec.

- 1061. Inclosure of or assertion of right to public lands without title.
- 1062. Suits for violations of law.
- 1063. Obstruction of settlement on or transit over public lands.
- 1064. Violations of chapter; punishment.
- 1065. Summary removal of inclosures.
- 1066. Permission of Secretary to sue.

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§ 1061. Inclosure of or assertion of right to public lands without title

All inclosures of any public lands in any State or Territory of the United States, heretofore or to be hereafter made, erected, or constructed by any person, party, association, or corporation, to any of which land included within the inclosure the person, party, association, or corporation making or controlling the inclosure had no claim or color of title made or acquired in good faith, or an asserted right thereto by or under claim, made in good faith with a view to entry thereof at the proper land office under the general laws of the United States at the time any such inclosure was or shall be made, are declared to be unlawful, and the maintenance, erection, construction, or control of any such inclosure is forbidden and prohibited; and the assertion of a right to the exclusive use and occupancy of any part of the public lands of the United States in any State or any of the Territories of the United States, without claim, color of title, or asserted right as above specified as to inclosure, is likewise declared unlawful, and prohibited.

(Feb. 25, 1885, ch. 149, § 1, 23 Stat. 321.)

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§ 1062. Suits for violations of law

It shall be the duty of the United States attorney for the proper district, on affidavit filed with him by any citizen of the United States that section 1061 of this title is being violated showing a description of the land inclosed with reasonable certainty, not necessarily by metes and bounds nor by governmental subdivisions of surveyed lands, but only so that the inclosure may be identified, and the persons guilty of the violation as nearly as may be, and by description, if the name cannot on reasonable inquiry be ascertained, to institute a civil suit in the proper United States district court, or territorial district court, in the name of the United States, and against the parties named or described who shall be in charge of or controlling the inclosure complained of as defendants; and jurisdiction is also conferred on any United States district court or territorial district court having jurisdiction over the locality where the land inclosed, or any part thereof, shall be situated, to hear and determine proceedings in equity, by writ of injunction, to restrain violations of the provisions of this chapter; and it shall be sufficient to give the court jurisdiction if service of original process be had in any civil proceeding on any agent or employee having charge or control of the inclosure. In any case if the inclosure shall be found to be unlawful, the court shall make the proper order, judgment, or decree for the destruction of the inclosure, in a summary way, unless the inclosure shall be removed by the defendant within five days after the order of the court.

(Feb. 25, 1885, ch. 149, § 2, 23 Stat. 321; Mar. 3, 1911, ch. 231, § 291, 36 Stat. 1167; June 25, 1948, ch. 646, § 1, 62 Stat. 909; Pub. L. 98-620, title IV, § 402(43), Nov. 8, 1984, 98 Stat. 3360.)

Amendments

1984—Pub. L. 98–620 struck out provision that any suit brought under this section had precedence for hearing and trial over other cases on the civil docket of the court, and had to be tried and determined at the earliest practicable day.

Effective Date of 1984 Amendment

Amendment by Pub. L. 98–620 not applicable to cases pending on Nov. 8, 1984, see section 403 of Pub. L. 98–620, set out as a note under section 1657 of Title 28, Judiciary and Judicial Procedure.

Change of Name

Act June 25, 1948, eff. Sept. 1, 1948, substituted “United States attorney” for “district attorney of the United States.” See section 541 of Title 28, Judiciary and Judicial Procedure, and Historical and Revision Notes thereunder.

The words “district court” substituted for “district or circuit court” in two places to conform to act Mar. 3, 1911, which abolished the circuit courts and transferred their powers and duties to the district courts.

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§ 1063. Obstruction of settlement on or transit over public lands

No person, by force, threats, intimidation, or by any fencing or inclosing, or any other unlawful means, shall prevent or obstruct, or shall combine and confederate with others to prevent or obstruct, any person from peaceably entering upon or establishing a settlement or residence on any tract of public land subject to settlement or entry under the public land laws of the United States, or shall prevent or obstruct free passage or transit over or through the public lands: Provided, This section shall not be held to affect the right or title of persons, who have gone upon, improved, or occupied said lands under the land laws of the United States, claiming title thereto, in good faith.

(Feb. 25, 1885, ch. 149, § 3, 23 Stat. 322.)

References in Text

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

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§ 1064. Violations of chapter; punishment

Any person violating any of the provisions of this chapter, whether as owner, part owner, or agent, or who shall aid, abet, counsel, advise, or assist in any violation hereof, shall be deemed guilty of a misdemeanor and fined in a sum not exceeding \$1,000, or be imprisoned not exceeding one year, or both, for each offense.

(Feb. 25, 1885, ch. 149, § 4, 23 Stat. 322; Mar. 10, 1908, ch. 75, 35 Stat. 40.)

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§ 1065. Summary removal of inclosures

The President is authorized to take such measures as shall be necessary to remove and destroy any unlawful inclosure of any of the public lands mentioned in this chapter, and to employ civil or military force as may be necessary for that purpose.

(Feb. 25, 1885, ch. 149, § 5, 23 Stat. 322.)

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§ 1066. Permission of Secretary to sue

Where the alleged unlawful inclosure includes less than one hundred and sixty acres of land, no suit shall be brought under the provisions of this chapter without authority from the Secretary of the Interior.

(Feb. 25, 1885, ch. 149, § 6, 23 Stat. 322.)