

CHAPTER 731**RECOVERY OF LAND GRANTS****§7201. Breach of condition**

Where lands have been granted by the Colony or Province of Massachusetts Bay, the Commonwealth of Massachusetts or by this State, or are hereafter granted, on certain conditions alleged to have been violated, and the State claims to be revested therein, the following proceedings shall be had.

§7202. Filing of information

When the Legislature or Governor and Council direct, the Attorney General shall file an information in the Superior Court in the county where the lands lie stating the grant and conditions, the breaches and the claims of the State.

§7203. State may maintain action; service

The State may maintain an action against the person stated as holding the lands under such grant, returnable to said court, which shall be served 30 days before the return day.

§7204. Judgment on default

If the defendant does not appear and answer to such information, judgment shall be rendered that the State be resealed of its lands.

§7205. Disclaimer by defendant

If the defendant appears and disclaims holding said lands or any part thereof, the Attorney General shall take nothing by his information so far as respects the lands disclaimed. The defendant, and all subsequently claiming under him, shall be estopped from claiming or holding such disclaimed lands.

§7206. Claim of title by defendant

If the defendant claims all or any part of the lands under such grant and traverses the breaches, the cause shall be tried by jury, and if the issue is found in favor of the State, judgment shall be rendered that the State be resealed of said estate and for costs; but if the issue is found for the defendant, he shall have judgment for his costs to be paid from the State Treasury.

§7207. Defendant holding land exceeding grant

If the only alleged breach of condition is that the defendant holds more land than he has a right to hold under the grant, and it is so found by the jury or the defendant's admission, the court shall assign to him by metes and bounds so much of the land held by him as is equal in quantity to what he has a right to hold under the grant, and in such part thereof as is adjudged reasonable by the court.

§7208. Location by direction of court

Such part shall be located by persons appointed by the court at the expense of the defendant and a plan thereof returned to the court. If confirmed by the court, it shall order an attested copy of the location and plan to be filed in the office of the Director of the Bureau of Forestry, and judgment shall be rendered that the State be resealed of the residue and for costs. [PL 1973, c. 460, §18 (AMD); PL 2011, c. 657, Pt. W, §7 (REV); PL 2013, c. 405, Pt. A, §23 (REV).]

SECTION HISTORY

PL 1973, c. 460, §18 (AMD). PL 2011, c. 657, Pt. W, §7 (REV). PL 2013, c. 405, Pt. A, §23 (REV).

§7209. Information; notice

In all other cases where an inquest is necessary, the Attorney General, without order of the Legislature, may file an information in said court describing the estate claimed and stating the title asserted thereto by the State. Notice shall be given as before mentioned if there is any tenant in possession; if not, the notice shall be given as the court orders at least 90 days before the sitting of the court to which it is returnable.

§7210. Proceedings, judgment and costs

If no person appears and answers to the information, or if a verdict is found that the State has good title to such estate, judgment shall be rendered that the State be seized thereof and recover costs, but if the verdict is in favor of the defendant, he shall recover his costs to be paid from the State Treasury.

§7211. Information to recover escheats

The Attorney General may file an information for recovering seizin by the State for any real estate supposed to have escheated to the State for want of legal heirs. The court shall order such notice thereon as it judges proper.

§7212. Tenant not to set up title of alien

In such case, the defendant shall not avail himself of the title of an alien, or of a subject of another nation or sovereign, or of any other person, unless he shows that he is his tenant or agent.

§7213. Prevailing defendant entitled to costs

If on trial the defendant proves that he is such tenant or agent, or the legal owner of such estate, he shall recover his costs to be paid as aforesaid.

§7214. Defendant may prevail by title subsequently acquired

If it is found that the defendant was not the legal owner of such estate nor had any right as tenant or agent when the process was commenced against him, but afterward acquired a good title, or became tenant or agent, the Attorney General shall cease further to prosecute the action; but when the defendant proves no such title to the estate as owner or interest therein as tenant or agent, judgment shall be rendered that the State be seized thereof, and recover rents and profits as in a civil action between private persons.

§7215. Judgment that State resealed

When judgment on information is rendered that the State be resealed or seized of any lands, the State shall be deemed in law to be so seized, and any judgment so rendered shall conclude all privies and parties and those claiming under them, so long as it remains in force, subject to section 7216.

§7216. Tenant under State to have betterments

If a person appears and proves himself to have a legal title to such estate and recovers it against the State or its grantee or tenant, the estate shall be liable for all expenses of improvements thereon over and above the rents and profits thereof, although the tenant and those claiming under the State had not been in possession during 6 years.

§7217. Determination of amount of betterments

For the purpose of ascertaining the amount of such improvements, the Attorney General or the tenant or grantee of the estate may file a complaint in the Superior Court for recovering the same. Proceedings shall be had thereon as in other civil actions to ascertain and adjust the amount.

§7218. Levy of execution

The sheriff, by virtue of such execution, shall sell at public auction so much of said land as is sufficient to satisfy the execution and charges unless otherwise paid.

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