
HOUSE BILL 2738

State of Washington 52nd Legislature 1992 Regular Session

By Representatives Wilson, Haugen, Wynne, Spanel and Belcher

Read first time 01/27/92. Referred to Committee on Natural Resources & Parks.

1 AN ACT Relating to resurveys by the department of natural
2 resources; and adding new sections to chapter 58.24 RCW.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

4 NEW SECTION. **Sec. 1.** Unless the context clearly requires
5 otherwise, the definitions in this section apply throughout this
6 chapter.

7 (1) "Bona fide rights" of a landowner are those claims acquired in
8 good faith pursuant to the applicable sections of the current Manual of
9 Instructions for the Survey of Public Lands of the United States.

10 (2) "Good faith" means honesty in fact in complying with a law or
11 administrative rule.

12 (3) "Dependent survey" means a retracement and reestablishment of
13 the lines of the original survey in their true original positions

1 according to the best available evidence of the positions of the
2 original corners.

3 (4) "Independent survey" means an establishment of new section
4 lines, and often new township lines, independent of and without
5 reference to the corners of the original survey.

6 (5) "Original survey" means the first survey of the land in
7 question conducted under the authority of the federal general land
8 office which is now the federal bureau of land management.

9 NEW SECTION. **Sec. 2.** (1) If land is resurveyed by the
10 department under this chapter, the survey may not impair the bona fide
11 rights of a landowner who may be affected by the resurvey. If the
12 department resurveys land, the resurvey must be a dependent survey that
13 determines the location of land made in good faith according to the
14 best available evidence of the original survey. The burden of proof
15 shall be the preponderance of the evidence standard.

16 (2) The department may not substitute the methods of an independent
17 resurvey in place of evidence from the original survey although the
18 original survey may have been poorly or incompletely executed. The
19 original survey controls the boundaries of land patented under that
20 survey.

21 (3) The position of a tract of land, described by legal
22 subdivisions, is absolutely fixed by the original corners and other
23 evidences of the original survey and not by occupation or improvements,
24 or by the lines of a resurvey that does not follow the original survey.
25 Questions of priority of possession or occupation, continuous
26 residence, value of improvements, and cultivation may be used only as
27 factors in determining the issue of the good faith location of the land
28 in the original survey. The resurvey is not determinative of these
29 factors. Nothing in this section abrogates rights of landowners under

1 the doctrine of adverse possession or the practical location of
2 boundaries.

3 NEW SECTION. **Sec. 3.** Sections 1 and 2 of this act are each
4 added to chapter 58.24 RCW.