

Article 12.

Correction of Grants.

§ 146-46. When grants may issue.

In any case where, under the provisions of this Subchapter, the Secretary of State is authorized to issue a grant or a duplicate grant to correct an error in a prior grant, the grant of correction shall be authenticated by the Governor, countersigned by the Secretary of State, and recorded in the office of the Secretary of State. The date of the entry and the number of the survey from the certificate of survey upon which the grant is founded shall be inserted in every such grant, and a copy of the plot shall be attached to the grant. (1777, c. 114, s. 10, P.R.; 1783, c. 185, s. 14, P.R.; 1796, c. 455, P.R.; 1799, c. 525, s. 2, P.R.; R.C., c. 42, ss. 12, 22; Code, ss. 2769, 2779; 1889, c. 522; Rev., ss. 1729, 1734, 1735; C.S., s. 7578; G.S., s. 146-47; 1959, c. 683, s. 1.)

§ 146-47. Change of county line before grant issued or registered.

All grants issued on entries for lands which were entered in one county, and before the issuing of the grants therefor or the registration of the grants, by the change of former county lines or the establishment of new lines, the lands so entered were placed in a county or in counties different from that in which they were situated, and the grants were registered in the county where the entries were made, shall be good and valid, and the registration of the grant shall have the same force and effect as if they had been registered in the county where the lands were situated. All persons claiming under and by such grants may have them, or a certified copy of the same, from the office of the Secretary of State, or from the office of the register of deeds when they had been erroneously registered, recorded in the office of the register of deeds of the county or counties where the lands lie, and such registration shall have the same force and effect as if the grants had been duly registered in such county or counties. (1897, c. 37; Rev., s. 1736; C.S., s. 7585; G.S., s. 146-55; 1959, c. 683, s. 1.)

§ 146-48. Entries in wrong county.

Whereas many citizens of the State, on making entries of lands near the lines of the county wherein they reside, either for want of proper knowledge of the land laws of the State or not knowing the county lines, have frequently made entries and extended their surveys on such entries into other counties than those wherein they were made, and obtained grants on the same; and whereas doubts have existed with respect to the validity of the titles to lands situated as aforesaid, so far as they extend into other counties than those where the entries were made; for remedy whereof it is hereby declared that all grants issued on entries made for lands situated as aforesaid shall be good and valid against any entries thereafter made or grants issued thereon. (1805, c. 675, P.R.; 1834, c. 17; R.C., c. 42, s. 27; Code, s. 2784; Rev., s. 1737; C.S., s. 7586; G.S., s. 146-56; 1959, c. 683, s. 1.)

§ 146-49. Errors in surveys of plots corrected.

Whenever there may be an error by the surveyor in plotting or making out the certificate for the Secretary's office, or whenever the Secretary shall make a mistake in making out the courses agreeable to such returns, or misname the claimant, or make other mistake, so that such claimant shall be injured thereby, the claimant may prefer a petition to the superior court of the county in which the land lies, setting forth the injury which he might sustain in consequence of such error or mistake, with all the matters and things relative thereto. The court may hear testimony respecting the truth of the allegations set forth in the petition; and if it shall appear by the testimony, from the

return of the surveyor or the error of the Secretary, that the patentee is liable to be injured thereby, the court shall direct the clerk to certify the facts to the Secretary of State, who shall file the same in his office, and correct the error in the patent, and likewise in the records of his office. The costs of such suit shall be paid by the petitioner, except when any person may have made himself a party to prevent the prayer of the petitioner being granted, in which case the costs shall be paid as the court may decree. The benefits granted by this section to the patentees of land shall be extended in all cases to persons claiming by, from, or under their grants, by descent, devise, or purchase. When any error is ordered to be rectified, and the same has been carried through from the grant into mesne conveyances, the court shall direct a copy of the order to be recorded in the register's book of the county: Provided no such petition shall be brought but within three years after the date of the patent; and if brought after that time, the court shall dismiss the same, and all proceedings had thereon shall be null and of no effect: Provided further, nothing herein shall affect the rights or interest of any person claiming under a patent issued between the period of the date of the grant alleged to be erroneous and the time of filing the petition, unless such person shall have had due notice of the filing of the petition, by service of a copy thereof, and an opportunity of defending his rights before the court according to the course of the common law. (1790, c. 326, P.R.; 1798, c. 504, P.R.; 1804, c. 655, P.R.; 1814, c. 876, P.R.; R.C., c. 42, s. 28; Code, s. 2785; Rev., s. 1738; C.S., s. 7587; G.S., s. 146-57; 1959, c. 683, s. 1.)

§ 146-50. Resurvey of lands to correct grants.

Persons who have entered vacant lands shall not be defeated in their just claims by mistakes or errors in the surveys and plots furnished by surveyors. In every case where the purchase money has been paid into the State treasury within the time prescribed by law after entry, and the survey or plot furnished shall be found to be defective or erroneous, the party having thus made entry and paid the purchase price may obtain another warrant of survey from the register of deeds of the county where the land lies, and have his entry surveyed as is directed by existing laws. On presenting a certificate of survey and two fair plots thereof to the Secretary of State within six months after the payment of the purchase money, the party making such entry and paying such purchase price shall be entitled to receive, and it shall be the duty of the Secretary of State to issue to him, the proper grant for the lands so entered. (1901, c. 734; Rev., s. 1739; C.S., s. 7588; G.S., s. 146-58; 1959, c. 683, s. 1.)

§ 146-51. Lost seal replaced.

In all cases where the seal annexed to a grant is lost or destroyed, the Governor may, on the certificate of the Secretary of State that the grant was fairly obtained, cause the seal of the State to be affixed thereto. (1807, c. 727, P.R.; R.C., c. 42, s. 24; Code, s. 2781; Rev., s. 1740; C.S., s. 7589; G.S., s. 146-59; 1959, c. 683, s. 1.)

§ 146-52. Errors in grants corrected.

If in issuing any grant the number of the grant or the name of the grantee or any material words or figures suggested by the context have been omitted or not correctly written or given, or the description in the body of the grant does not correspond with the plot and description in the surveyor's certificate attached to the grant, or if in recording the grant in his office the Secretary of State has heretofore made or may hereafter make any mistake or omission by which any part of any grant has not been correctly recorded, the Secretary of State shall, upon the application of any party interested and the payment to him of his lawful fees, correct the original grant by inserting in the proper place the words, figures, or names omitted or not correctly given or suggested by the

context; or if the description in the grant does not correspond with the surveyor's plot or certificate, the Secretary of State shall make the former correspond with the latter as the true facts may require. In case the party interested shall prefer it, the Secretary of State shall issue a duplicate of the original grant, including therein the corrections made; and in those cases in which grants have not been correctly recorded, he shall make the proper corrections upon his records, or by rerecording, as he may prefer; and any grant corrected as aforesaid may be recorded in any county of the State as other grants are recorded, and have relation to the time of the entry and date of the grant as in other cases. (1889, c. 460; Rev., s. 1741; C.S., s. 7590; G.S., s. 146-60; 1959, c. 683, s. 1.)

§ 146-53. Irregular entries validated.

Wherever persons have, prior to January 1, 1883, irregularly entered lands and have paid the fees required by law to the Secretary of State, and have obtained grants for such lands duly executed, the title to the lands shall not be affected by reason of such irregular entries; and the grants are hereby declared to be as valid as if such entries had been properly made. (1868-9, c. 100, s. 4; c. 173, s. 6; 1874-5, c. 48; Code, s. 2761; Rev., s. 1743; C.S., s. 7591; G.S., s. 146-61; 1959, c. 683, s. 1.)

§ 146-54. Grant signed by deputy Secretary of State validated.

Where State grants have heretofore been issued and the name of the Secretary of State has been affixed thereto by his deputy or chief clerk, or by anyone purporting to act in such capacity, such grants are hereby declared valid; but nothing herein contained shall interfere with vested rights. (1905, c. 512; Rev., s. 1744; C.S., s. 7592; G.S., s. 146-62; 1959, c. 683, s. 1.)

§ 146-55. Registration of grants.

Every person obtaining a grant shall, within two years after such grant is perfected, cause the same to be registered in the county where the land lies; and any person may cause to be there registered any certified copy of a grant from the office of the Secretary of State, which shall have the same effect as if the original had been registered. (1783, c. 185, s. 14, P.R.; 1796, c. 455, P.R.; 1799, c. 525, s. 2, P.R.; R.S., c. 42, s. 24; R.C., c. 42, s. 22; Code, s. 2779; Rev., s. 1729; C.S., s. 7579; G.S., s. 146-48; 1959, c. 683, s. 1.)

§ 146-56. Time for registering grants extended.

All grants from the State of North Carolina of lands and interests in land heretofore made, which were required or allowed to be registered within a time specified by law, or in the grants themselves, may be registered in the counties in which the lands lie respectively at any time within six years from January 1, 1918, notwithstanding the fact that such specified time has already expired, and all such grants heretofore registered after the expiration of such specified time shall be taken and treated as if they had been registered within such specified time: Provided that nothing herein contained shall be held or have the effect to divest any rights, titles, or equities in or to the land covered by such grants, or any of them, acquired by any person from the State of North Carolina by or through any entry or grant made or issued since such grants were respectively issued, or those claiming through or under such subsequent entry or grant. (1893, c. 40; 1901, c. 175; 1905, c. 6; Rev., s. 1747; 1907, c. 805; 1909, c. 167; 1911, c. 182; Ex. Sess. 1913, cc. 27, 45; 1915, c. 170; 1917, c. 84; C.S., s. 7593; Ex. Sess. 1920, c. 78; 1921, c. 153; G.S., s. 146-63; 1959, c. 683, s. 1.)

§ 146-57. Time for registering grants and other instruments extended.

The time is hereby extended until September 1, 1926, for the proving and registering of all deeds of gift, grants from the State, or other instruments of writing heretofore executed and which are permitted or required by law to be registered, and which were or are required to be proved and registered within a limited time from the date of their execution; and all such instruments which have heretofore been or may be probated and registered before the expiration of the period herein limited shall be held and deemed, from and after the date of such registration, to have been probated and registered in due time, if proved in due form, and registration thereof be in other respects valid: Provided that nothing in this section shall be held or deemed to validate or attempt to validate or give effect to any informal instrument; and provided further that this section shall not affect pending litigation: Provided further that nothing herein contained shall be held deemed to place any limitation upon the time allowed for the registration of any instrument where no such limit is now fixed by law. (Ex. Sess. 1924, c. 20; G.S., s. 146-64; 1959, c. 683, s. 1.)

§ 146-58. Time for registering grants further extended.

The time for the registration of grants issued by the State of North Carolina is hereby extended for a period of two years from January 1, 1925: Provided that nothing herein contained shall be held or have the effect to divest any rights, titles, or equities in or to the land covered by such grants, or any of them, acquired by any person from the State of North Carolina by or through any entry or grant made or issued since such grants were respectively issued, or those claiming through or under such subsequent entry or grant. (1925, c. 97; G.S., s. 146-65; 1959, c. 683, s. 1.)

§ 146-59. Time for registering grants or copies extended.

The time for the registration of grants issued by the State of North Carolina, or copies of such grants duly certified by the Secretary of State under his official seal, be and the same hereby is extended for a period of two years from January 1, 1927, and such grants or copies thereof duly certified as above set forth may be registered within such time as fully as the original might have been registered at any time heretofore: Provided that nothing herein contained shall be held or have the effect to divest any rights, titles, or equities in or to the land covered by such grants or any of them, acquired by any person from the State of North Carolina by or through any entry or grant made or issued since such grants were respectively issued, or those claiming through or under such subsequent entry or grant. (1927, c. 140; G.S., s. 146-66; 1959, c. 683, s. 1.)

§ 146-60. Further extension of time for registering grants or copies for two years from January 1, 1947.

The time for the registration of grants issued by the State of North Carolina, or copies of such grants duly certified by the Secretary of State under his official seal, be and the same hereby is extended for a period of two years from January 1, 1947, next ensuing, and such grants or copies thereof duly certified as above set forth may be registered within such time as fully as the original might have been registered at any time heretofore: Provided that nothing herein contained shall be held or have the effect to divest any rights, titles, or equities in or to the land covered by such grants or any of them acquired by any person from the State of North Carolina by or through any entry or grant made or issued since such grants were respectively issued, or those claiming through or under such subsequent entry or grant. (1947, c. 99; G.S., s. 146-66.1; 1959, c. 683, s. 1.)

§ 146-60.1. Further extension of time for registering grants or copies for four years from January 1, 1977.

The time for the registration of grants issued by the State of North Carolina, or copies of such grants duly certified by the Secretary of State under his official seal, be and the same hereby is extended for a period of four years from January 1, 1977, and such grants or copies thereof duly certified as above set forth may be registered within such time as fully as the original might have been registered at any time heretofore: Provided that nothing herein contained shall be held or have the effect to divest any rights, titles, or equities in or to the land covered by such grants or any of them acquired by any person from the State of North Carolina by or through any entry or grant made or issued since such grants were respectively issued, or those claiming through or under such subsequent entry or grant. (1977, c. 701.)