

State of New Jersey

N J L R C

New Jersey Law Revision Commission

FINAL REPORT

relating to

FAIR RESOLUTION OF PROPRIETARY TITLE CLAIMS ACT

June 1999

NEW JERSEY LAW REVISION COMMISSION
153 Halsey Street, 7th Fl., Box 47016
Newark, New Jersey 07101
973-648-4575
(Fax)973-648-3123
email: reviser@superlink.net
web site: <http://www.lawrev.state.nj.us>

INTRODUCTION

In July 1998, the Department of Environmental Protection acquired the remaining property interests of the Eastern Board of Proprietors, a corporate entity which first acquired these property interests in the seventeenth century from the grantees of the English King Charles II. In addition to two identified parcels of land adjacent to State parks, the State also acquired the residual land ownership rights to a large part of the State's geographical area. As a result, land owners in the State who formerly had recourse to a private land company to resolve certain issues of property ownership now face the prospect of dealing with the State bureaucracy. Title questions which formerly could be resolved expeditiously and at low cost may now become time-consuming and expensive to resolve because the current governmental mechanisms are designed to regulate conveyances of the State's land interests, rather than to facilitate the resolution of questions about the land title of private parties. The purpose of this project is to provide a relatively simple and expeditious mechanism for resolving certain ownership issues which implicate the State's newly-acquired residual rights in the property of the former Eastern Board of Proprietors.

The Historical Basis for Land Ownership in New Jersey

Following the accession of King Charles II to the British throne in the 1660's, the land in America designated as "New Jersey" was given to Lords Berkeley and Carteret in a proprietary grant by James, Duke of York, the brother of King Charles. The interests of Berkeley and Carteret were ultimately conveyed to two groups of individuals who organized themselves as the West Jersey Council of Proprietors and the Eastern Board of Proprietors. The area acquired by the Eastern Board consisted generally of the northeastern part of the land and was designated "East Jersey," while the area acquired by the Western Board consisted of the southwestern portion and accordingly was called "West Jersey." In addition to exercising governmental powers, the proprietary boards also functioned like land development companies, encouraging the immigration of new settlers by parcelling out land for farms, homes and towns.

Any governmental powers that the proprietary boards had (their possession of governmental authority was disputed) were ceded back to the British Crown in the early eighteenth century, when New Jersey became a royal colony. But the boards retained their private land ownership rights and they continued to transact in land as they had previously. Significantly, from the time of their establishment in the seventeenth century, both proprietary boards made and kept the records of their transactions in property, and individuals wishing to establish ownership relied on the proprietors for access to these records. These records included records of the meetings of the proprietors at which they allocated land ownership amongst themselves and supervised subsequent conveyances to settlers and others, as well as the surveys of the parcelled land and the deeds and other documents respecting the transactions.

Questions concerning the extent of proprietary land rights generated important social, political and legal issues throughout both the proprietary and colonial periods, and continuing into the late eighteenth and even the nineteenth centuries. For example, during the proprietary and colonial periods, the successful assertion of proprietary property rights against small land owners could simultaneously oust them from their land and from the franchise, as there were property

qualifications for voting. This could, and did, have an effect on the outcome of elections. In the immediate pre-Revolutionary war period, the assertion of long-dormant proprietary rights to "quit rents" on land occupied by farmers and small holders sparked riots and wholesale acts of civil disobedience. Thus, the legal ability of the proprietary boards to assert dormant claims to land was an issue of great public interest and concern.

Following the Revolutionary War, the equivalent property interests of proprietors in other colonies were expropriated by the newly-formed governments, leaving those states the residual land owners. In New Jersey, however, the proprietary land interests were left intact. Among the earliest enactments of the New Jersey Legislature, however, were provisions which expressly limited the assertion of proprietary rights to occupied land. For example, the Act of June 5, 1787 provided in section 2 that 30 years' actual possession of land under a "proprietary right duly laid thereon, and recorded in the surveyor general's office" was a bar to contrary claims. Sections 3 of the same act provided that the proprietary boards were bound by the surveys filed in their offices and were precluded from later claiming the surveys were incorrect. The Act of November 28, 1789 added additional provisions limiting the assertion of proprietary land claims.

As the process of conveying property continued throughout the nineteenth century and fewer and fewer unappropriated parcels remained to be conveyed, the emphasis in the transactions turned from outright sales of property to the resolution of title questions by the granting of access to the proprietary land records or the granting of a quitclaim deed or other document to quiet title to disputed property. By the middle of the twentieth century, the role of the proprietary boards had largely devolved to this latter function.

It continues to be the case in this State that virtually all ownership of land other than tidelands ultimately derives from the boards of proprietors, and, with few exceptions, a complete record title is one that can be traced back to a transaction out of either the Eastern Board or the Western Board.¹ As a result, the records of these boards continue to be an important source in resolving questions concerning the nature and extent of real property ownership throughout the State. In the case of the remaining Western Jersey Council of Proprietors, the Council itself continues the function of resolving title questions in a non-adjudicatory fashion through the examination of its records and willingness to provide title documents. In addition, for the last 30 years the West Jersey Council of Proprietors has made microfilm copies available at cost to libraries, title companies and other interested parties.

In considering the historical and current role of both proprietary boards in the resolution of title questions, several points must be kept in mind. First, the proprietors' methods of conveying and marking land (e.g., by reference to trees or to meandering streams), along with the relatively inaccurate methods of surveying land that obtained in proprietary and colonial times, have led to uncertainty over the boundaries to property. These uncertainties may arise for many reasons, such

¹ Two significant exceptions to this principle concern the towns of Newark and Elizabeth. These towns were settled in the 1660's by immigrants who claimed to have taken title directly from James, Duke of York, prior to his conveyance of New Jersey to Berkeley and Carteret, the proprietors' predecessors in title. The resulting title dispute with the Eastern Board of Proprietors continued into the eighteenth century with the Board ultimately dropping its claims only at the time of the Revolutionary War.

as the disappearance or movement of ancient boundary markers referred to in old deeds, errors in the preparation of surveys and deed descriptions, or loss or destruction of documents.²

Second, as the proprietary transactions continued from the seventeenth century forward, most of the land owned by the boards was transferred, but not all of it. These "unappropriated lands" are still in theory owned by the boards (or in the case of the Eastern Board, by the State as its successor in interest). Because no comprehensive survey has ever been done to show exactly what has been conveyed by the proprietors (a difficult if not impossible task), the current extent of the proprietors' remaining land interests is simply unknown. Stated simply, the proprietors presumptively have an interest in any land that no one else can prove they own. In the area formerly known as East Jersey (north and east of a line extending from the East side of Little Egg Harbor Inlet in Ocean County to a point on the Delaware River in Sussex County) the State now presumptively owns any land that no one else can prove they own.

Third, questions concerning the residual rights of the proprietary boards in occupied lands are complicated by legal doctrines such as estoppel and statutes allowing adverse possession, while the effect of these doctrines is less certain in the case of undeveloped land. If unappropriated lands of the proprietors have been occupied for the requisite statutory period, title now rests in the occupier by virtue of adverse possession. A claim of ownership by virtue of adverse possession is not synonymous with clear title, however. Thus, a person claiming ownership of proprietary lands by adverse possession may have good title, but not a marketable record title.

The convergence of these circumstances leads to situations in which the proprietary boards have performed a quasi-public function of resolving questions concerning title to land while at the same time generating income. The boards resolve title questions by considering applications from property owners and, for a fee, examining their records and granting a quitclaim deed or other appropriate document to clear the applicant's title. Although the boards have no adjudicatory power, the granting of a quitclaim deed from them can have the same practical effect as a quiet title action in situations which implicate their prior ownership or interest. In practice, the fee charged for a quitclaim deed or other instrument of title has been determined in the absolute discretion of the boards as they are private landowners, and the fee necessarily has reflected the proprietors' evaluation of the legal strength of their claim, if any, to the property in dispute.

Approximately 300 sales or claim resolutions were handled by the Eastern Board in this century, approximately 75 of those in the last 25 years. A number of examples will illustrate the types of situations which might cause a property owner to seek a quitclaim deed or other resolution of a claim from one of the proprietary boards.

Example 1: A residential property is surveyed in preparation for a conveyance. The survey reveals a strip of property running between the residential property and an adjacent property.

² The importance of proprietary title documents and surveys is reflected in enactments which are still part of the codified law. For example, N.J.S. 46:3A-1 et seq. contains the modern version of statutes first enacted in 1787 which estop the proprietors from ignoring their own recorded surveys in making claims to property ownership. The preamble to N.J.S. 46:3A-2 refers to difficulties in ascertaining property lines "because of the natural decay of marked lines and corners." The preamble also recites the problem created when the proprietary boards liberally measured-out lands to encourage settlement, then later re-surveyed using more conservative measures that reduced the area of property included in a deed; the boards would then claim back the "overplus" land.

Although the strip is on the inside of the property owner's fence and a garage has been partially built on the strip, it does not appear to have been included in the deed descriptions of either of the adjacent parcels at any time, although the property has been continuously occupied for over 100 years.

Example 2: A title examination is done for a residential property in preparation for a conveyance. The property has been continuously occupied for more than 100 years, and the chain of title show a series of conveyances extending back two hundred years, but fails to show any conveyance of the property from the proprietors to the first owner in the chain of title.

Example 3: A survey is done of three parcels of adjacent unoccupied woodland to prepare a subdivision application for a residential development. The survey reveals that the deed descriptions of the three adjacent parcels do not coincide, leaving a strip or gore of property in the center of the planned development.

In the first two examples involving residential property, the affected owners might well be able to quiet title in a legal proceeding on the grounds of continuous adverse possession for the requisite period of years. However, such proceedings are costly and time-consuming. In the past, obtaining a quitclaim deed from the Eastern Board might well be the most expeditious and least costly way of resolving the title question.³ The fee charged by the Eastern Board would be a function of the size of the property, or the disputed portion of the property, the legal strength of the proprietors' claim, and the likely cost to the property owner of a quiet title action. In the third example involving a commercial development of previously unoccupied property, the factors might differ somewhat, as the developer might have difficulty establishing adverse possession of non-residential property.

The Demise of the Eastern Board

In the twentieth century it has been extremely rare for either proprietary board to affirmatively assert its interest in a property. Rather, both boards have performed a passive function, responding to inquiries and requests for the resolution of claims such as those outlined above. However, several years ago the Eastern Board affirmatively asserted its interest in a property in a situation which ultimately led the board to enter into the transaction which is the subject of this Report. The County of Monmouth sought to purchase an island in the Manasquan River with Green Acres funds, and prepared to enter into a purchase transaction with a land company which had exercised ownership over the island property and paid taxes on it since the turn

³ The West Jersey Council of Proprietors operates differently from the Eastern Board in transactions involving a conveyance of property. Their procedures is as follows: "...Unlike the East Jersey Board of Proprietors, the West Jersey Proprietors and their Council, do not as an organization own any land. They don't even own the land their office sits on. That is leased from the Society of Friends. When a potential parcel is brought to their attention, they set about to research the parcel and decide if it meets requirements for a Proprietary Survey. If it qualifies, the Council will approve it and it is immediately conveyed to the applicant, who in turn will file the documentation and survey map with the County, and will usually obtain title insurance. The Municipality will promptly place the parcel on the tax roles. Neither the Proprietors at large nor the Council ever owned the parcel, since it was undiscovered before being approved as a Proprietary Survey." Letter dated May 22, 1999 from William H. Taylor, Surveyor General, Western Division of New Jersey, to John M. Cannel, Executive Director, NJLRC (containing comments on the NJLRC Tentative Report dated March 1999).

of the century. The Eastern Board intervened in the transaction, claiming that it was the rightful owner of the property. After several years of discovery and motions, Judge McGann granted summary judgment to the land company on the ownership issue. This loss on the merits of the Eastern Board's claim, as well as a subsequent attempt by the land company to obtain an award of attorney fees, resulted in the decision of the Eastern Board to convey its remaining land interests to the State. The State received the Eastern Board's historical records as a gift as part of the deal. See Henry Gottlieb, "The State Buys a Piece of History," 152 N.J.L.J. 823 (Aug. 31, 1998)(see Appendix).

In July 1998, the State of New Jersey acquired the interest of the Eastern Board of Proprietors. The acquisition expressly included two vacant parcels of property totaling approximately 60 acres which the State wishes to use as additional State park land. As part of the transaction, the Eastern Board donated its documents and records to the State. Exactly what additional potential claims to property the State may have as a result of this transaction is uncertain, however, because the extent of the Eastern Board's residual interest is no more clear than it was prior to the transaction.

The State as a Successor to the Eastern Board – Problems with Existing Statutes

The State's transaction with the Eastern Board, and the uncertainty of the extent of the property acquired by the State, give rise to some concerns over the impact that State ownership will have on existing private property ownership in the State. Those concerns arise in part from the nature of current statutes governing disposition of State property, in particular, those governing disposition of property acquired with Green Acres funds. See N.J.S. 13:1D-51 et seq., enacted as L. 1993, c.38. Presumably, if the resolution of a title dispute required a conveyance of the State's interest in a property as successor in interest to the Eastern Board of Proprietors, any conveyance involved would be governed by these provisions.

The statute governing disposition of Green Acres-acquired property differentiates in the treatment of conveyances based on the size of the property involved. A property of less than one acre is excluded from the statute by definition, leaving such transactions to the pre-existing general statute governing conveyance of State property. The general statute governing conveyances of State property requires the transaction to be approved by the principal executive of the relevant State department and the Governor after a finding that the department does not need the property for any public purpose and that the sale is in the best interest of the State. The terms and conditions of the transaction are set by the State House Commission, and the sale is a public auction unless the State House Commission directs otherwise. N.J.S. 52:31-1.1. These provisions apply to property with a value of up to \$500,000. N.J.S. 52:31-1.3.

The statute governing conveyances of Green Acres property further differentiates between properties of more than one to less than five acres, termed a "minor conveyance," and transactions of five acres or more, termed a conveyance. In both cases, a report must be prepared detailing, among other things, the impact of the proposed conveyance on endangered plant and animal species and the environmental and economic value of the land proposed to be conveyed. N.J.S. 13:1D-51, -52. Two public hearings must be held prior to consideration of the transaction by the State House Commission, one in the municipality where the property is located, another in

Trenton, although only one hearing must be held for a minor conveyance. Public notice of the hearings must be given by mail and by publication. Transcripts of the hearings must be made available to the State House Commission. In addition, the department is empowered to collect a "reasonable fee" to cover its administrative and other costs, with the fee being payable whether or not a conveyance actually takes place. N.J.S. 13:1D-52, -53, -55. There are also complex valuation procedures which provide for recapture of appreciation of the property in the event that zoning changes make it possible to profitably develop the land. N.J.S. 13:1D-56.

The above-cited statutes were not enacted with proprietary land interests in mind. In fact, it is clear that they are intended to make it extremely difficult to convey State property acquired with Green Acres funds, for policy reasons that do not apply to the residual land interests acquired by the State from the Eastern Board. As a result, these procedures present property owners with a time-consuming, cumbersome and likely expensive method of attempting to resolve questions over the title to their property, even if the State is ready, willing and able to cooperate in effectuating a transaction. Moreover, State ownership of proprietary land interests presents the potential for state agencies to withhold approval of applications that the proprietors would have granted out of hand, either due to bureaucratic inertia, or for reasons having to do with agency regulatory concerns that would not otherwise apply to this type of transaction. In addition, these provisions do not contain any time limits for agency action.

The Proposed Act

It is in the interest of the State and private property owners that questions concerning title to property be resolved quickly and efficiently. Private property owners should not be precluded from the quick and simple resolution of title questions merely because potential title claims are now State-owned.

The proposed "Fair Resolution of Proprietary Title Claims Act" deals only with property as to which the State's claim derives from the acquisition of the Eastern Board's property rights. These claims are defined in the Act as "derivative claims." The Act recognizes that the State's derivative claim may be legally strong or weak depending upon many circumstances. Some derivative claims may be merely colorable. In those cases, the Act permits the State to provide an applying property owner with a document denominated a "Statement of No Claim" in cases where the State believes it has no viable claim to the property based upon the transaction with the Eastern Board.

Alternatively, the State's derivative claim may have some real value, either because of the nature of the property itself, or because of the strength of the State's claim, or some combination of these factors. In cases where the State believes it has a viable claim, the proposed Act provides that the Department of Environmental Protection and the State House Commission have the power to approve a conveyance of the State's derivative claim in return for the "fair market value" of the claim. "Fair market value" is determined by taking into account the relative legal validity of the State's derivative claim and the cost to the State of asserting that claim in litigation. If the Department or the State House Commission choose not to convey the State's derivative claim, however, they must be prepared to establish the State's title in court. Alternatively, if the Department or Commission refuse to convey the State's claim and also fail to take action to

establish the State's title, an affected property owner may take action to extinguish the State's claim judicially.

This Act provides no standard for the determination by the Department of Environmental Protection or the State House Commission whether to convey the State's derivative claim. This means that these bodies are in a position similar to the Tidelands Resource Council in deciding whether to grant or lease State-owned tidelands. See *LeCompte v. State*, 65 N.J. 447 (1974). The only constraint on the decision of the Department and Commission is the practical one mentioned above, that is, the requirement that the State affirmatively establish its title if a negative decision is made on an application.

The Act provides that notice of an application must be given to owners who share a common boundary with the disputed property, so that parties who may have a competing claim to a disputed property may make themselves known. However, the Act contains no express provision for the resolution of competing claims to property. In such situations the State is in the same position as a private property owner who may decide to choose between the competing claims to convey, to convey to neither applicant, or to effectuate a settlement of the claims amongst the parties, within the parameters of the Act. However, the State's evaluation of its own claim or the relative claims of other parties to property does not amount to an adjudication of the rights of property owners, any more than would the decision of a private property owner to retain ownership or to convey a property interest to one party or another.

This proposed legislation strikes a balance between the public interest in retaining the property acquired from the Eastern Board for which the State has a practical use and as to which it has a viable claim, while providing property owners who wish to resolve dormant proprietary claims with a simple and expeditious process for doing so.

Fair Resolution of Proprietary Title Claims Act

Section 1. Legislative findings

The Legislature finds that the Department of Environmental Protection has acquired on behalf of the State of New Jersey the remaining land ownership interests of the Eastern Board of Proprietors, along with the records of the Eastern Board that document its property transactions from the time of its inception in the seventeenth century to the present. The Legislature further finds that commencing in the seventeenth century and continuing thereafter the Eastern Board transacted in land which it surveyed and described by ancient methods, and that as a result from time to time questions have arisen regarding the placement and extent of boundary lines and the nature of the property interests conveyed or retained by the Eastern Board relative to other property owners. The Legislature further finds that it was the practice of the Eastern Board in recent times to entertain applications from property owners affected by an uncertainty in the nature or extent of their property ownership, to research the applications of these owners in its own records, and to grant affected property owners a quitclaim deed or other appropriate conveyance for a fee which reflected the legal quality of the Eastern Board's remaining interest, any litigation costs which might be involved in asserting the Eastern Board's interest, and other relevant factors. The

Legislature further finds that this practice of the Eastern Board was a swift, efficient and inexpensive method of resolving various kinds of disputes over property interests of the Eastern Board, and that this practice should be continued by the State in its capacity as successor to the property interests of the Eastern Board.

COMMENT

The purpose of this provision is to set forth the factual circumstances surrounding the transaction with the Eastern Board of Proprietors, and the purpose of this proposed legislation.

Section 2. “Derivative claim”

For purposes of this Act:

"Derivative claim" means a claim to or interest in property of the State of New Jersey which derives from the 1998 purchase of the property of the Eastern Board of Proprietors.

COMMENT

The term "derivative claim" is defined to make it clear that this Act applies only to State claims arising from the transaction with the Eastern Board.

Section 3. Application

In addition to any other remedies which may be available, any person seeking to resolve a question regarding the title to property in which that person has an interest and as to which the State of New Jersey may have a derivative claim may apply to the Department of Environmental Protection for resolution of the title question pursuant to this Act. The applicant shall give notice of the application to the owners, as shown on current tax records, of any property sharing a common boundary with the disputed property, within 10 days of the filing of the application. Notice shall be given by personal service or certified mail, return receipt requested, and an affidavit of service shall be filed with the Department.

Within 90 days of the filing of the complete application, the Department shall examine the application and make a report to the State House Commission with recommendations according to this Act.

The State House Commission shall make a final determination on the application within six months of the filing of the complete application with the Department.

COMMENT

This provision permits a person with an interest in property to make application for the resolution of any question of title that implicates the State's interest acquired from the Eastern Board. The introductory phrase is intended to make it clear that such an application is in addition to any other remedies a person may have, such as an action to quiet title. Notice of the application must be given to adjoining property owners. The Department must rule on the application within 90 days of the filing of a complete application, and the State House Commission must make a final determination within six months of the filing. Note that the proposed section on regulations directs the Department to adopt regulations specifying the requirements for a complete application. These regulations will permit the Department to set forth documentary and technical requirements that must be met before an application is regarded as complete and ready for its review, thus beginning the running of the 90 day and six month periods for action on the application.

Section 4. Statement of no claim

If it appears upon reviewing an application that the State has no derivative claim to the property, the Department of Environmental Protection shall recommend and the State House Commission shall approve the issuance of a Statement of No Claim to the applicant. The Statement of No Claim shall be in recordable form, signed by the Commissioner of the Department of Environmental Protection and shall describe the property that is the subject of the application by a description legally sufficient to convey title and declare that the State believes that it has no derivative claim to the property.

Upon the issuance of a Statement of No Claim, any derivative claim to the property that the State may have shall be extinguished, and the State shall be barred from asserting any derivative claim to the subject property.

COMMENT

This section applies in situations in which it is clear that the State has no viable claim to the property in question. Because it is not a conveyance of property but is in the nature of a waiver, a formal document such as a deed is unnecessary. Note that it is the practice of the Tidelands Resource Council to provide a similar kind of document in situations in which the Council has examined relevant documents and records and concluded that the State has no claim to specified tidelands. This section is drafted in mandatory terms, to make it clear that if the State has no claim to the property, the applicant is entitled to a Statement of No Claim. Upon the issuance of such a Statement, the State is barred from later asserting any derivative claim to the property.

Section 5. Conveyance of derivative claim

If it appears upon reviewing an application pursuant to this Act that the State has a derivative claim to the property, the Department of Environmental Protection may recommend and the State House Commission may approve the issuance of a deed or other appropriate document of title in recordable form containing a description legally sufficient to convey title to realty to the applicant conveying or extinguishing the derivative claim. The applicant shall pay a fee representing the fair market value of the State's derivative claim, taking into account the likelihood of the State prevailing on its derivative claim and the cost to the State of asserting its derivative claim in litigation.

Any deed or other document of title approved pursuant to this section shall be signed by the Commissioner of the Department of Environmental Protection in the name of the State of New Jersey. The Secretary of the State House Commission shall certify that the transaction has been approved by the State House Commission. The signatures of the Commissioner and the Secretary shall be attested to by the Secretary of State.

COMMENT

This section governs those situations in which the State may have a claim of some merit, but the State does not wish to assert its claim, either because of the nature of the property or the insufficiency of its claim. In these cases, the applicant pays the fair market value of the claim, taking into account the relative strength of the State's claim to the property and the cost to the State to litigate its derivative claim. This provision is intended to place the State in a position similar to a private party in determining whether or not to waive any claims it may have to a property, and what that waiver is worth from the starting point of fair market value of the property.

Section 6. Assertion of State claims

If the Department of Environmental Protection recommends against the granting of an application submitted under this Act, or if the State House Commission fails to approve such an application, the Department shall, within three months of the denial of the application, institute appropriate proceedings in the Superior Court to settle the title to the property in the State. If the Department fails to establish the State's derivative claim in the proceedings, the State shall pay the reasonable attorney fees of any property owner or other affected individual who prevails against the State's derivative claim.

If the Department fails to institute proceedings within three months of the denial of the application, the State's derivative claim to the property shall be extinguished, and the State shall be barred from asserting any derivative claim to the property. The applicant may then apply to the Superior Court for a declaratory judgment that the State's derivative claim to the property has been extinguished pursuant to this Act. The State shall pay the reasonable attorney fees expended by the applicant in obtaining a declaratory judgment pursuant to this section.

COMMENT

This is a "put up or shut up" provision that is intended to discourage the State from denying an application based on a weak derivative claim to a property in which there is no genuine public interest. If the Department refuses to recommend the granting of an application by a property owner or other affected individual, the Department must move affirmatively to establish ownership of the property by filing an appropriate legal action. If the State's claim fails, the State is liable for the attorney fees of the applicant. In addition, if the Department fails to bring an action after refusing to approve an application, the affected property owner may apply to the Superior Court for a declaration that the State's interest is extinguished, and the State shall be liable for the applicant's attorney fees. This provision protects the public interest in retaining ownership of valuable or desirable property which the State rightly owns, but forces the State to evaluate the validity of any claims it may have before asserting ownership against another claimant at the peril of liability for the other claimant's costs in defending its title.

Section 7. Regulations

The Department of Environmental Protection shall adopt regulations pursuant to this Act, including regulations specifying any appropriate forms for an application submitted under this Act, and regulations specifying the requirements for a complete application.

The Department shall adopt regulations requiring a filing fee for applications submitted under this Act in an amount not to exceed \$500.

COMMENT

This provision requires the Department to adopt regulations, including regulations specifying the forms used for an application, and specifying the requirements for a complete application. The filing of a complete application starts the running of the periods in which the Department and the State House Commission must act with respect to an application. The Department may also provide for a filing fee up to \$500. The filing fee is apart from any amount that an applicant might pay for a quitclaim deed or other conveyance.