

40 USC 3112: Federal jurisdiction

Text contains those laws in effect on December 12, 2019

From Title 40-PUBLIC BUILDINGS, PROPERTY, AND WORKS

SUBTITLE II-PUBLIC BUILDINGS AND WORKS

PART A-GENERAL

CHAPTER 31-GENERAL

SUBCHAPTER II-ACQUIRING LAND

Jump To:**Source Credit****§3112. Federal jurisdiction**

(a) **EXCLUSIVE JURISDICTION NOT REQUIRED.**-It is not required that the Federal Government obtain **exclusive jurisdiction** in the United States over land or an interest in land it acquires.

(b) **ACQUISITION AND ACCEPTANCE OF JURISDICTION.**-When the head of a department, agency, or independent establishment of the Government, or other authorized officer of the department, agency, or independent establishment, considers it desirable, that individual may accept or secure, from the State in which land or an interest in land that is under the immediate **jurisdiction**, custody, or control of the individual is situated, consent to, or cession of, any **jurisdiction** over the land or interest not previously obtained. The individual shall indicate acceptance of **jurisdiction** on behalf of the Government by filing a notice of acceptance with the Governor of the State or in another manner prescribed by the laws of the State where the land is situated.

(c) **PRESUMPTION.**-It is conclusively presumed that **jurisdiction** has not been accepted until the Government accepts **jurisdiction** over land as provided in this section.

(Pub. L. 107-217, Aug. 21, 2002, 116 Stat. 1144 .)

HISTORICAL AND REVISION NOTES

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
3112(a)	40:255 (last par. 1st sentence words before semicolon).	R.S. §355 (last par.); June 28, 1930, ch. 710, 46 Stat. 828 ; Feb. 1, 1940, ch. 18, 54 Stat. 19 ; Oct. 9, 1940, ch. 793, 54 Stat. 1083 .
3112(b)	40:255 (last par. 1st sentence words after semicolon).	
3112(c)	40:255 (last par. last sentence).	

Subsection (a) is substituted for 40:255 (last par. 1st sentence words before semicolon) to eliminate unnecessary words.

In subsection (b), the words "**exclusive or partial**" are omitted as unnecessary.

CODIFICATION

Section is based on act June 23, 1913, popularly known as the "Sundry Civil Appropriation Act June 23, 1913, fiscal year 1914".

Section originally provided that members of the field force of the public buildings service in the Treasury Department could be detailed to the District of Columbia in the discretion of the Secretary of the Treasury, for duty in the Office of the Supervising Architect in the Treasury Department.

TRANSFER OF FUNCTIONS

Functions of office of Commissioner of Public Buildings and Public Buildings Administration transferred to Administrator of General Services by section 103(a) of act June 30, 1949, which is classified to section 753(a) of this title. Office of Commissioner of Public Buildings and Public Buildings Administration abolished by section 103(b) of act June 30, 1949. Public Buildings Service, within General Services Administration, established on December 11, 1949, by Administrator of General Services, to perform those transferred functions.

Public Buildings Branch of Procurement Division of Treasury Department transferred to Public Buildings Administration in Federal Works Agency by Reorg. Plan No. I of 1939.

Office of Supervising Architect in Treasury Department transferred to Public Buildings Branch of Procurement Division of Treasury Department by Ex. Ord. No. 6166.

EFFECTIVE DATE OF TRANSFER OF FUNCTIONS

Transfer of functions by act June 30, 1949, effective July 1, 1949, see section 605 of act June 30, 1949, ch. 288, 63 Stat. 403, set out as an Effective Date note under section 471 of this title.

§ 254. Repealed. Pub. L. 86-249, § 17(6), Sept. 9, 1959, 73 Stat. 484

Section, act June 23, 1874, ch. 476, § 2, 18 Stat. 276, related to selection of sites for public buildings. See section 601 et seq. of this title.

Act June 23, 1874, and section 17(6) of Pub. L. 86-249, Sept. 9, 1959, 73 Stat. 484, which repealed section 2 of the 1874 act, were repealed by Pub. L. 97-258, § 5(b), Sept. 13, 1982, 96 Stat. 1068, 1079.

SAVINGS PROVISION

Section repealed except as to its application to any project referred to in section 613 of this title, see section 17 of Pub. L. 86-249, set out as a note under section 341 of this title.

§ 255. Approval of title prior to Federal land purchases; payment of title expenses; application to Tennessee Valley Authority; Federal jurisdiction over acquisitions

Unless the Attorney General gives prior written approval of the sufficiency of the title to land for the purpose for which the property is being acquired by the United States, public money may not be expended for the purchase of the land or any interest therein.

The Attorney General may delegate his responsibility under this section to other departments and agencies, subject to his general supervision and in accordance with regulations promulgated by him.

Any Federal department or agency which has been delegated the responsibility to approve land titles under this section may request the Attorney General to render his opinion as to the validity of the title to any real property or interest therein, or may request the advice or assistance of the Attorney General in connection

with determinations as to the sufficiency of titles.

Except where otherwise authorized by law or provided by contract, the expenses of procuring certificates of titles or other evidences of title as the Attorney General may require may be paid out of the appropriations for the acquisition of land or out of the appropriations made for the contingencies of the acquiring department or agency.

The foregoing provisions of this section shall not be construed to affect in any manner any existing provisions of law which are applicable to the acquisition of lands or interests in land by the Tennessee Valley Authority.

Notwithstanding any other provision of law, the obtaining of exclusive jurisdiction in the United States over lands or interests therein which have been or shall hereafter be acquired by it shall not be required; but the head or other authorized officer of any department or independent establishment or agency of the Government may, in such cases and at such times as he may deem desirable, accept or secure from the State in which any lands or interests therein under his immediate jurisdiction, custody, or control are situated, consent to or cession of such jurisdiction, exclusive or partial, not theretofore obtained, over any such lands or interests as he may deem desirable and indicate acceptance of such jurisdiction on behalf of the United States by filing a notice of such acceptance with the Governor of such State or in such other manner as may be prescribed by the laws of the State where such lands are situated. **Unless and until the United States has accepted jurisdiction over lands hereafter to be acquired as aforesaid, it shall be conclusively presumed that no such jurisdiction has been accepted.**

(R.S. § 355; June 28, 1930, ch. 710, 46 Stat. 828; Feb. 1, 1940, ch. 18, 54 Stat. 19; Oct. 9, 1940, ch. 793, 54 Stat. 1083; Pub. L. 91-393, § 1, Sept. 1, 1970, 84 Stat. 835.)

CODIFICATION

R.S. § 355 derived from Res. Sept. 11, 1841, No. 6, 5 Stat. 468.

The first four and sixth paragraphs of this section are based on R.S. § 355, as amended. The fifth paragraph of this section is based on the last paragraph of section 1 of Pub. L. 91-393. For amendment of this section by the remainder of section 1 of Pub. L. 91-393, see 1970 Amendment note below.

AMENDMENTS

1970—Pub. L. 91-393 substituted first four paragraphs of this section, requiring the Attorney General to give written approval of the sufficiency of title prior to the purchase of lands or interests therein, empowering the Attorney General to delegate his responsibilities, authorizing Federal departments and agencies which have been delegated the responsibility to approve land titles to request opinions, advice or assistance of the Attorney General, and permitting the payment from appropriations of the expenses of procuring certificates or other evidences of title, for the former first seven paragraphs of this section which prohibited expenditures of public money upon any site or land purchased by the United States until the Attorney General gave his written opinion in favor of the validity of title, permitted acceptance of title subject to infirmities if the Attorney General approved, authorized the Attorney General to approve title to easements or rights-of-way, and

which made certain exceptions from the provisions of this section.

1940—Act Oct. 9, 1940, among other changes, divided section into paragraphs, struck out provision requiring United States attorneys, upon application of Attorney General, to furnish assistance in relation to titles, and inserted provisions contained in second, third, fourth and seventh paragraphs.

Act Feb. 1, 1940, struck out provision requiring consent of State legislature to the purchase, and inserted provisions now set out as eighth paragraph.

1930—Act June 28, 1930, inserted reference to armories, arsenals, forts, fortifications, navy yards and lighthouses, and provision that the Attorney General may base his opinion as to title upon certificate of title of a title company.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 356 of this title; title 7 section 2250a; title 10 sections 2852, 18239; title 16 sections 343b, 430a, 441i, 571c; title 22 section 1471; title 36 section 2103; title 38 section 115; title 42 sections 1502, 1594a, 2224, 5196; title 50 App. section 460.

§ 256. Repealed. Pub. L. 91-393, § 2, Sept. 1, 1970, 84 Stat. 835

Section, acts Mar. 2, 1889, ch. 411, 25 Stat. 941; Sept. 22, 1961, Pub. L. 87-277, 75 Stat. 577, directed that all legal services connected with procurement of titles to site for public buildings shall be rendered by United States attorneys.

§ 257. Condemnation of realty for sites and other uses

In every case in which the Secretary of the Treasury or any other officer of the Government has been, or hereafter shall be, authorized to procure real estate for the erection of a public building or for other public uses, he may acquire the same for the United States by condemnation, under judicial process, whenever in his opinion it is necessary or advantageous to the Government to do so, and the Attorney General of the United States, upon every application of the Secretary of the Treasury, under this section and section 258¹ of this title, or such other officer, shall cause proceedings to be commenced for condemnation within thirty days from receipt of the application at the Department of Justice.

(Aug. 1, 1888, ch. 728, § 1, 25 Stat. 357; June 25, 1948, ch. 646, § 6, 62 Stat. 986.)

REFERENCES IN TEXT

Section 258 of this title, referred to in text, has been omitted from the Code.

AMENDMENTS

1948—Act June 25, 1948, struck out jurisdictional and venue provisions. See sections 1358 and 1403 of Title 28, Judiciary and Judicial Procedure.

EFFECTIVE DATE OF 1948 AMENDMENT

Section 38 of act June 25, 1948, provided that the amendment made by that act is effective Sept. 1, 1948.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 8 section 1103; title 16 sections 81e, 159a, 231b, 242, 263, 403i, 423n, 425a, 430a, 430k, 430u, 430mn, 433c, 433h, 447b, 449, 450m, 450p, 459a; title 25 sections 500a, 941j, 1724, 1754; title 42 sections 1532, 2222; title 43 section 1522.

¹ See References in Text note below.

§ 258. Omitted

CODIFICATION

Section, acts Aug. 1, 1888, ch. 728, § 2, 25 Stat. 357; Mar. 3, 1911, ch. 231, § 291, 36 Stat. 1167, which in connection with condemnation proceedings, required conformity, as near as might be, to state practice and pleading, has been superseded by Rule 71A of the Federal Rules of Civil Procedure, Title 28, Appendix, Judiciary and Judicial Procedure.

§ 258a. Lands, easements, or rights of way for public use; taking of possession and title in advance of final judgment; authority; procedure

In any proceeding in any court of the United States outside of the District of Columbia which has been or may be instituted by and in the name of and under the authority of the United States for the acquisition of any land or easement or right of way in land for the public use, the petitioner may file in the cause, with the petition or at any time before judgment, a declaration of taking signed by the authority empowered by law to acquire the lands described in the petition, declaring that said lands are thereby taken for the use of the United States. Said declaration of taking shall contain or have annexed thereto—

- (1) A statement of the authority under which and the public use for which said lands are taken.
- (2) A description of the lands taken sufficient for the identification thereof.
- (3) A statement of the estate or interest in said lands taken for said public use.
- (4) A plan showing the lands taken.
- (5) A statement of the sum of money estimated by said acquiring authority to be just compensation for the land taken.

Upon the filing said declaration of taking and of the deposit in the court, to the use of the persons entitled thereto, of the amount of the estimated compensation stated in said declaration, title to the said lands in fee simple absolute, or such less estate or interest therein as is specified in said declaration, shall vest in the United States of America, and said lands shall be deemed to be condemned and taken for the use of the United States, and the right to just compensation for the same shall vest in the persons entitled thereto; and said compensation shall be ascertained and awarded in said proceeding and established by judgment therein, and the said judgment shall include, as part of the just compensation awarded, interest in accordance with section 258e-1 of this title on the amount finally awarded as the value of the property as of the date of taking, from said date to the date of payment; but interest shall not be allowed on so much thereof as shall have been paid into the court. No sum so paid into the court shall be charged with commissions or poundage.

Upon the application of the parties in interest, the court may order that the money deposited in the court, or any part thereof, be paid forthwith for or on account of the just compensation to be awarded in said proceeding. If the compensation finally awarded in respect of said lands, or any parcel thereof, shall exceed the amount of the money so received by any person entitled, the

54 STAT.] 76TH CONG., 3d SESS.—CHS. 18, 19—FEB. 1, 1940

19

[CHAPTER 18]

AN ACT

To amend section 355 of the Revised Statutes, as amended, to make permissive the acquisition of legislative jurisdiction over land or interests in land acquired by the United States.

February 1, 1940
[H. R. 7293]

[Public, No. 409]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 355 of the Revised Statutes of the United States (U. S. C., title 33, sec. 733; title 34, sec. 520; title 40, sec. 255; and title 50, sec. 175) be, and the same is hereby, amended to read as follows:

“SEC. 355. No public money shall be expended upon any site or land purchased by the United States for the purposes of erecting thereon any armory, arsenal, fort, fortification, navy yard, custom-house, lighthouse, or other public building of any kind whatever, until the written opinion of the Attorney General shall be had in favor of the validity of the title. The district attorneys of the United States, upon the application of the Attorney General, shall furnish any assistance or information in their power in relation to the titles of the public property lying within their respective districts. And the secretaries of the departments, upon the application of the Attorney General, shall procure any additional evidence of title which he may deem necessary, and which may not be in the possession of the officers of the Government, and the expense of procuring it shall be paid out of the appropriations made for the contingencies of the departments, respectively: *Provided, however,* That in all cases of the acquisition of land or any interest therein by the United States for the purposes herein specified or for other purposes, wherein the written opinion of the Attorney General in favor of the validity of the title of such land is or may be required or authorized by law, the Attorney General may, in his discretion, base such opinion upon a certificate of title of a title company. **Notwithstanding any other provision of law, the obtaining of exclusive jurisdiction in the United States over lands or interests therein which have been or shall hereafter be acquired by it shall not be required; but the head or other authorized officer of any department or independent establishment or agency of the Government may, in such cases and at such times as he may deem desirable, accept or secure from the State in which any lands or interests therein under his immediate jurisdiction, custody, or control are situated, consent to or cession of such jurisdiction, exclusive or partial, not theretofore obtained, over any such lands or interests as he may deem desirable and indicate acceptance of such jurisdiction on behalf of the United States by filing a notice of such acceptance with the Governor of such State or in such other manner as may be prescribed by the laws of the State where such lands are situated. Unless and until the United States has accepted jurisdiction over lands hereafter to be acquired as aforesaid, it shall be conclusively presumed that no such jurisdiction has been accepted.**

Lands, etc., purchased by United States for public buildings.
Validity of title to; requirements.
Post, p. 1083.

Proviso.
Certificate of title company.

Exclusive jurisdiction not required.

Acceptance of jurisdiction from State.

Approved, February 1, 1940.

[CHAPTER 19]

AN ACT

To amend the Emergency Farm Mortgage Act of 1933, as amended.

February 1, 1940
[H. R. 7342]

[Public, No. 410]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the tenth sentence of section 32 of the Emergency Farm Mortgage Act of 1933,

Emergency Farm Mortgage Act, amendment.
49 Stat. 314.

so far as such uses may be consistent with the purposes for which such game sanctuaries or refuges are established.

Hunting, etc., there-
in, unlawful.

Penalties.

SEC. 2. That when such game sanctuaries or refuges have been established as provided in section 1 hereof, the hunting, pursuing, poisoning, killing, or capturing by trapping, netting, or any other means, or attempting to hunt, pursue, kill, or capture any game animals or birds upon the lands of the United States within the limits of such game sanctuaries or refuges, except as herein provided, shall be unlawful, and any person violating any of the provisions of this Act, or any of the rules and regulations made thereunder, shall be deemed guilty of a misdemeanor and shall, upon conviction in any United States court, be fined in a sum not exceeding \$500 or imprisonment not more than six months, or both.

Approved, June 28, 1930.

June 28, 1930.
[S. 3068.]

[Public, No. 467.]

CHAP. 710.—An Act To amend section 355 of the Revised Statutes to permit the Attorney General to accept certificates of title in the purchase of land by the United States in certain cases.

Department of Jus-
tice.

R. S., sec. 355, p. 60,
amended.
U. S. C., pp. 1092,
1122, 1302, 1706.

Land purchases by
United States.

Attorney General to
pass on validity of title
of, etc.

Cooperation of dis-
trict attorneys.

Of secretaries of de-
partments.

Payment of expense.

Proviso.
Certificate of title
company.
Post, p. 1422.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 355 of the Revised Statutes of the United States (United States Code, title 33, section 733; title 34, section 520; title 40, section 255; and title 50, section 175) be, and the same is hereby, amended to read as follows:

“SEC. 355. No public money shall be expended upon any site or land purchased by the United States for the purposes of erecting thereon any armory, arsenal, fort, fortification, navy yard, custom-house, lighthouse, or other public building of any kind whatever, until the written opinion of the Attorney General shall be had in favor of the validity of the title, nor until the consent of the legislature of the State in which the land or site may be, to such purchase, has been given. The district attorneys of the United States, upon the application of the Attorney General, shall furnish any assistance or information in their power in relation to the titles of the public property lying within their respective districts. And the secretaries of the departments, upon the application of the Attorney General, shall procure any additional evidence of title which he may deem necessary, and which may not be in the possession of the officers of the Government, and the expense of procuring it shall be paid out of the appropriations made for the contingencies of the departments, respectively: *Provided, however,* That in all cases of the acquisition of land or any interest therein by the United States for the purposes herein specified or for other purposes, wherein the written opinion of the Attorney General in favor of the validity of the title of such land is or may be required or authorized by law, the Attorney General may, in his discretion, base such opinion upon a certificate of title of a title company.”

Approved, June 28, 1930.

June 28, 1930.

[H. R. 704.]

[Public, No. 468.]

CHAP. 711.—An Act To grant relief to those States which brought State-owned property into the Federal service in 1917.

National Defense
Act.

Vol. 39, p. 204, amend-
ed.

U. S. C., p. 1037.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of War is hereby authorized to give any State credit for the money value of property listed on approved surveys of military property