Chapter 15. Ungranted Shores of the Sea, Marshes and Meadowlands.


§ 28.2-1500. Definitions.
As used in this chapter, unless the context requires a different meaning:

"Beach" shall have the same meaning ascribed thereto in subsection A of § 28.2-1400.

"Initial inventory" means a set of maps prepared by, at the direction of, or with the approval of the Commission which have been filed prior to January 1, 1995, with the clerk of the circuit court and the commissioner of revenue in any county in that portion of the Commonwealth separated from the larger portion of the Commonwealth by the Chesapeake Bay and in which the ungranted shores of the sea, marsh and meadowlands mapped therein are located.

"Inventory" means a set of maps prepared by, at the direction of, or with the approval of the Commission, mapping certain ungranted shores of the sea, marsh and meadowlands in any county in that portion of the Commonwealth separated from the larger portion of the Commonwealth by the Chesapeake Bay.

"Marsh" or "meadowland" shall have the same meaning ascribed to vegetated wetlands in § 28.2-1300.

"Shores of the sea" means a beach or any unvegetated lands lying contiguous to mean low water and between mean low water and mean high water.

"Ungranted shores of the sea, marsh or meadowlands" means (i) shores of the sea which were not conveyed by special grant or compact according to law prior to April 1, 1873, and which have not been conveyed by special grant of the General Assembly on or after that date and (ii) marsh or meadowlands which were not appropriated and remained ungranted prior to February 24, 1888, and which have not been conveyed by special grant of the General Assembly on or after that date.

"Virginia Coastal Land Management Advisory Council" or "Council" means the Virginia Coastal Land Management Advisory Council created pursuant to § 28.2-1505.

1995, c. 850.

A. The Commission may receive gifts, grants, bequests, and devises of shores of the sea, marsh, meadowlands, and money which shall be held for the uses prescribed by the donor, grantor, or testator in accordance with the provisions of this chapter. The Commission shall manage any shores of the sea, marsh or meadowlands it receives as prescribed in Article 2 (§ 28.2-1503 et seq.) of this chapter.

B. The Commission may promulgate regulations and guidelines necessary to carry out the provisions of this chapter.

1995, c. 850.
§ 28.2-1502. Ownership of ungranted shores of the sea, marsh and meadowlands.
All ungranted shores of the sea, marsh and meadowlands shall remain the property of the Commonwealth. Such ungranted marsh and meadowlands which have been used as a commons by the people of the Commonwealth shall continue as a commons for the purpose of fishing, fowling, hunting, and the taking and catching of oysters and other shellfish. All ungranted shores of the sea may be used as a commons for the purpose of fishing, fowling, hunting, and the taking and catching of oysters and other shellfish. The Commission shall manage all ungranted shores of the sea, marsh and meadowlands as provided in Article 2 (§ 28.2-1503 et seq.) of this chapter. 
1995, c. 850.

The Commission shall manage all ungranted shores of the sea, marsh and meadowlands, and all other lands of the Commonwealth for which management duties have been given to the Commission, as steward for the property interests of the Commonwealth. All agencies of the Commonwealth shall cooperate with the Commission and, upon request, shall assist the Commission in the performance of its duties and responsibilities under this chapter. 
1995, c. 850.

§ 28.2-1504. Preparation of management plan.
A. The Commission shall prepare and implement a plan for the management of the Commonwealth's ungranted shores of the sea, marsh and meadowlands. The management plan, and any regulations and guidelines promulgated to implement the management plan, shall conserve and protect the shores of the sea, marsh and meadowlands, and the natural values and natural processes associated therewith. To the extent not inconsistent with that goal, the management plan shall also consider the traditional uses of such properties and the promotion of tourism and commerce. Through methods consistent with that goal, the management plan, and any regulations and guidelines promulgated to implement the management plan, shall recognize the use of such properties, where they have been so used in the past, as a commons by the people of the Commonwealth for the purpose of fishing, fowling, hunting, and the taking and catching of oysters and other shellfish. The Commission shall review the management plan every five years.
B. In developing regulations, guidelines, or management plans under this chapter, the Commission shall consult with the Virginia Coastal Land Management Advisory Council. 
1995, c. 850.

§ 28.2-1505. Virginia Coastal Land Management Advisory Council established.
A. There is hereby created the Virginia Coastal Land Management Advisory Council. The Council shall advise the Commission on issues relating to the management of ungranted shores of the sea, marsh and meadowlands, and shall advise the Commission on the development of the management plan prepared pursuant to § 28.2-1504.
B. The Council shall consist of six members appointed by the Governor, who shall be residents of a county in which there are ungranted shores of the sea, marsh or meadowlands, and who shall represent tourism and commerce, traditional uses of shores of the sea, marsh and meadowlands, and conservation interests; however, if any private person or entity owns more than fifty percent
of the land area of the barrier islands of the Eastern Shore that are privately owned, such person or entity shall be one of such members. In appointing these members, the Governor shall consider recommendations submitted by the boards of supervisors of counties in which the Commission is managing the largest portions of the ungranted shores of the sea, marsh or meadowlands. The Council shall also include (i) the Director of the Department of Conservation and Recreation or his designee, (ii) the Director of the Department of Game and Inland Fisheries or his designee, and (iii) the Commissioner or his designee.

C. The term of office of each appointed member shall be for three years. Appointments to fill vacancies shall be made to fill the unexpired term.

D. Members shall receive no compensation for their services but shall receive reimbursement for actual expenses.

E. The Council shall meet at the call of the Commissioner or at least once per year.

1995, c. 850.

§ 28.2-1506. Filing of initial inventories; amended or supplemental inventories.
Whenever any privately owned land in any of such counties is to be transferred, and the transferor or the transferee requests clarification as to whether any portion of such land is claimed by the Commonwealth as ungranted shores of the sea, marsh or meadowlands, the Commission shall review the matter, and, if it determines that all or any portion of such land constitutes ungranted shores of the sea, marsh or meadowlands, the Commission shall file an amended or supplemental inventory as it may deem appropriate. Any such amended or supplemental inventory shall be filed in the same offices as the initial inventory for such area. The Commission shall not prepare or file any such amended or supplemental inventory unless (1) such classification is requested by a transferor or transferee as provided herein, or (2) (a) the federal government has asserted title to any ungranted shores of the sea, marsh or meadowlands excluding the Wallops Island Naval/Aegis facility and all land adjacent thereto lying to the south that is used for a federal National Wildlife Refuge, (b) both the Governor and Attorney General concur in writing that all or any of the property to which the federal government has asserted title constitutes ungranted shores of the sea, marsh or meadowlands, and (c) such amended or supplemental inventory only asserts the Commonwealth’s title to the portion of such property that constitutes ungranted shores of the sea, marsh or meadowlands as concurred in by the Governor and the Attorney General.

1995, c. 850.

Article 3. Inventories of Certain Ungranted Shores of the Sea, Marsh and Meadowlands.

A. The Commission shall cause to be published, within ninety days following the effective date of this section, in a newspaper of general circulation published at the state capital, in a newspaper having general circulation in the counties where the initial inventories have been filed, and in such other newspapers in the Commonwealth as the Commission generally publishes notices pursuant to § 2.2-4007.03, a notice of the filing of the initial inventories. The notice shall state that any person claiming ownership of an interest in lands designated in an initial inventory as ungranted shores of the sea, marsh or meadowlands is required to assert the claim as provided in
§ 28.2-1509 within two years following the effective date of this section, or any action to assert such claim shall be barred.

B. The Commission shall cause to be published a notice of the filing of any amended or supplemental inventory in a newspaper having general circulation in the county for which such amended or supplemental inventory applies. The notice shall refer to the initial inventory and any previous amended or supplemental inventory with respect thereto, and shall state that any person claiming ownership of an interest in lands designated therein as ungranted shores of the sea, marsh or meadowlands is required to assert the claim as provided in § 28.2-1509 within two years following the filing of the amended or supplemental inventory, or any action to assert such claim shall be barred.

C. The failure of the Commission to comply with the requirements of this section shall not impair the Commonwealth's rights of ownership in any ungranted shores of the sea, marsh, or meadowlands.


§ 28.2-1508. Effect of inventories.
The failure to include any ungranted shores of the sea, marsh or meadowlands in an initial inventory shall not affect the Commonwealth's rights of ownership in such property.

1995, c. 850.

Article 4. Resolution of Conflicting Claims to Inventoried Property.

§ 28.2-1509. Claims to lands designated in an inventory.

A. Any person claiming ownership of an interest in lands designated as ungranted shores of the sea, marsh or meadowland in an initial inventory, or in any amended or supplemental inventory, may bring an action for declaratory judgment to determine title to the land pursuant to § 8.01-184, an action to establish the boundaries to land pursuant to § 8.01-179, or an action of ejectment pursuant to § 8.01-131.

B. Any action pursuant to subsection A with respect to lands designated as ungranted shores of the sea, marsh or meadowland in an initial inventory shall be brought within two years following the effective date of this section. Any action to assert a claim in such land shall be barred unless brought within such two-year period.

C. Any action pursuant to subsection A with respect to lands designated as ungranted shores of the sea, marsh or meadowland in an amended or supplemental inventory shall be brought within two years following the filing of such amended or supplemental inventory. Any action to assert a claim in such lands shall be barred unless brought within such two-year period.

D. Upon entry of a final judgment ruling that any lands designated in an initial inventory, or in an amended or supplemental inventory, as ungranted shores of the sea, marsh or meadowlands are not property of the Commonwealth, the Commission shall file an amended inventory correcting its designation of such property.

1995, c. 850.

§ 28.2-1510. Approval of amended or supplemental inventory.
The Commission shall not approve an amended or supplemental inventory, if such amended or
supplemental inventory initially designates a parcel of land as ungranted shores of the sea, marsh or meadowlands, until notice of the Commission’s intention so to do has been published once a week for two successive weeks in a newspaper having general circulation in the county where such land is located. Such notice shall specify the time and place of a public hearing at which persons affected may appear and present their views. In addition, the Commission shall give written notice of the amended or supplemental inventory, and of the public hearing, to the owner or owners of each parcel so designated, if known, by postpaid mail to the address of the owner as shown in the land records of the circuit court for the county. Nothing in this section shall be construed to invalidate any subsequently filed amended or supplemental inventory because of the inadvertent failure of the Commission to give written notice to any person listed as having an ownership interest in such land in the land records of the circuit court for the county. After the public hearing, the Commission may approve, amend, or disapprove such amended or supplemental inventory.

1995, c. 850.

§ 28.2-1511. Claims to ungranted shores of the sea, marsh and meadowlands proposed for designation in amended or supplemental inventory.

A. The Commission shall not file any amended or supplemental inventory, if such amended or supplemental inventory initially designates a parcel of land as ungranted shores of the sea, marsh or meadowland, unless the Commission has approved such amended or supplemental inventory as provided in § 28.2-1510. The Commission shall give notice of its intention to file such amended or supplemental inventory to any person listed as having an ownership interest in such land in the land records of the circuit court for the county. The notice shall be sent by postpaid mail to the address of the person as shown on the land book. The Commission shall also cause notice of its intent to file an amended or supplemental inventory to be published in a newspaper of general circulation in the county where such land is located.

B. Any person claiming ownership of an interest in lands described in a notice given pursuant to subsection A may bring an action for declaratory judgment to determine title to the land pursuant to § 8.01-184, to establish the boundaries to land pursuant to § 8.01-179, or an action of ejectment pursuant to § 8.01-131. Any such action shall be brought within two years following publication of the notice pursuant to subsection A; however, the failure of a person claiming ownership of such lands to commence an action within the two-year period as provided in this subsection shall not bar such person from asserting a claim of ownership as provided in § 28.2-1509.

C. If an action is not commenced within the two-year period as provided in subsection B, the Commission may file an amended or supplemental inventory designating as ungranted shores of the sea, marsh or meadowlands the parcels as to which no action has been commenced. Upon filing the amended or supplemental inventory, the Commission shall cause to be published a notice as provided in subsection B of § 28.2-1507.

D. If an action is commenced within the two-year period as provided in subsection B, the Commission shall not, during the pendency of the action, file an amended or supplemental inventory designating the land which is the subject of the action as ungranted shores of the sea, marsh or meadowlands. Upon the entry of a final judgment ruling that any of such land is not the property of the Commonwealth, the Commission shall correct the amended or supplemental inventory to remove any designation of such land as ungranted shores of the sea, marsh or
meadowland. The Commission may then file the corrected amended or supplemental inventory. Upon the entry of a final judgment ruling that such land is the property of the Commonwealth, the Commission may file an amended or supplemental inventory designating such land as ungranted shores of the sea, marsh or meadowlands, and further such final judgment shall bar the assertion of a like claim in any action brought to assert ownership of such land pursuant to § 28.2-1509. Upon filing an amended or supplemental inventory, the Commission shall cause to be published the notice as provided in subsection B of § 28.2-1507.

1995, c. 850.

§ 28.2-1512. Effect of disability.
The provisions of § 8.01-237 shall apply with respect to the effect of disabilities on the preservation of a right to bring an action to establish ownership of land pursuant to §§ 28.2-1509 and 28.2-1511.

1995, c. 850.

§ 28.2-1513. Filing of notice of lis pendens.
The Commissioner is authorized to record a notice of lis pendens in order to provide notice of the Commonwealth’s claim of ownership of any property designated in an initial inventory, or in an amended or supplemental inventory filed as provided in § 28.2-1506, as ungranted shores of the sea, marsh or meadowland. The notice shall set forth the name of any person who has, or has asserted, an interest in the property, a description of the property, and a statement that the Commission has determined that the property is ungranted shores of the sea, marsh, or meadowland and is designated as such on a filed inventory. The notice shall be admitted to record in the clerk’s office of the county wherein the property is located.

1995, c. 850.

§ 28.2-1514. Historical evidence.
In any administrative proceeding before the Commission under this chapter, or in any proceeding for the resolution of conflicting claims to inventoried property under Article 4 (§ 28.2-1509 et seq.) of this chapter, the Commission or court may consider any relevant and credible evidence including, but not limited to, deeds, grants, maps, plats or other historical documents.

1995, c. 850.