

Johann Nikolaus Guido Franciskus Becker  
c/o PO Box 3507,  
Omaha, Nebraska [68103]  
402-341-1143



13 September 2004, Monday

To: Public Servants:

1. JUDY ANN MILLER, POTTAWATTAMIE COUNTY TREASURER (original)  
Certified Mail # 7001 2510 0005 2331 7412
2. Melvyn Houser, Chairman, Board of Supervisors, Pottawattamie County, and all board  
members: Delbert King, Loren Knauss, Lynn Leaders, Betty Moats  
Certified Mail # 7001 2510 0005 2331 7429
3. Marilyn Jo Drake, Pottawattamie County Auditor  
Certified Mail # 7001 2510 0005 2331 7436
4. Steve Palm, Pottawattamie County Assessor (replacing James J. O'Neill)  
Certified Mail # 7001 2510 0005 2331 7443

227 S. 6TH ST, COUNCIL BLUFFS, IA 51501

**Subject:** "Property Tax" and "Property Tax Statement"

**Reference:** (a) This Man's: "Claim by Affidavit," 2 May 2003, w/attachments, to you  
(b) This Man's: "Notice to Desist" 19 May 2003, to you  
(c) This Man's: "Public Notice," 16 June 2003 (See Atch #6)

1. Your undated "POTTAWATTAMIE COUNTY TAX BILL" for the period July 1, 2002 through June 30, 2003 and for the period July 1, 2003 through June 30, 2004 are returned without action (at Atch #1). Your offer to contract is rejected. It is noted that such document(s) contains no cites of contract nor authority as to the liability of this Man to be taxed on his private property/**domain** (see Atch #2, Definitions). It is also noted that the "credit for homestead exemption" reflects \$0.00 when it should reflect the amount of the "GROSS TAX" as a result of the land patented federal homestead tax exemption. Thus the "NET ANNUAL TAXES" amount must be "\$0.00."

2. You are in default for non-response to Re: (a) "Claim by Affidavit, 2 May 2003 which you received on or about 8 May 2003 via certified mail

#7001 2510 0005 2331 7344 to Miller

#7001 2510 0005 2331 7351 to O'Neill (replaced by Palm)

#7001 2510 0005 2331 7368 to Drake

#7001 2510 0005 2331 7375 to Hauser;

and Re: (b) "Notice to Desist" 19 May 2003. If you are unable to locate these documents, this Man will be happy to provide a copy on request.

3. Again, for the record: this Man's

a. **"Notice of Declaration of Assign's Update of Land Patent"** of 31 January 2003 was received by the Secretary of State on 3 Feb 2003 and upon tacit approval by the Secretary of State, filed for record at the County Recorder's office on 11 March 2003, see Inst #19755, Book 103, page 47600; AND

b. **"Certificate of Land Title,"** was filed at the County Recorder's office on 31 Jan 2003, see Inst #16625, Book 103, page 44486, AND

c. **"Public Notice, as a Matter Record, and Claim of Declaration of Status"** was filed on 31 January 2003, at the County Recorder's office, see Inst # 16627, Book 103, page 44488, AND

d. **"Quit Claim Deed,"** was filed 31 Jan 2003, see Inst #16626, Book 103, page 44487, AND

e. **"Absolute Title by Land Patent By Holder in Due Course"** and **"Declaration of Homestead"** - occupancy beginning 16 Dec 1999 - was filed 23 April 2003 at the

Secretary of State's office, via UCC3, #P424640, and on 6 May 2003 at the County Recorder's office; see Inst #24704, Book 103, page 52513 (6 pp).

4. Except for Section 446.27, "Liability of Treasurer," Chapters 446 and 447 of the Iowa Code mentioned on the back of the "tax bill" have no application whatsoever to this private land/domain, as has been shown previously, and as reconfirmed below. You are hereby directed, **again**, and in accordance with your Oath of office to adhere to the Constitution of the United States of America, the Constitution of the State of Iowa, the Presidential directive of federal land patent, the federal laws of the land, and the formal and lawfully filed documents (para 3 above) to which you were referred in May 2003 and which to this day stand unrebutted by you or any other county actor, and therefore stand as truth and judgement in court. Is there something you don't understand about this???

5. As public servants -- and this Man's employees -- you are required by law to respond to His previous claim which you failed to do and are in default. You are to respond to this directive within 10 work days of receipt or within that time frame to request an extension. Failure to respond/rebut/deny with proof of claim to the contrary -- i.e., providing pertinent contract documents or other authority proving this Man's liability for your "tax" claim -- will be admission to and proof of your acceptance and validation of all material facts in this document and all of the proffered documents referenced above. *This Man offers to discharge the "property tax" upon your producing proof of **claim** as requested in this document.*

6. As a public servant and an employee of this Man, **you are directed to:**

(a) **immediately forward to this Man a certified copy of your individual oath of office and bond,** and

(b) provide documented authority which supersedes the Constitution of the United States of America, the Constitution of Iowa, and the Presidential land patent, and upon which you base your demand for ad valorem taxes on the private property/domain of a private Man on the land, or **to provide the original contract** with blue ink autograph in which this Man gave consent to be so taxed (See Chap 561.21, Iowa Code, Atch #4), and

(c) produce and forward any and all documents used for "pledging," "registering," and/or "rendering" this Man's private property/domain.

Your failure to substantively respond and to accomplish the above stands as proof of non-contract and non-authority to "tax," thus committing upon this Man a **fraud** through the U.S. mails for which you **will** be held accountable.

7. This Man's Land Patents and Claim of Homestead for the private land/appurtenances, i.e. domain, referenced in your "tax statement" -- lawfully updated as assignee and filed with the Secretary of State and at the county recorder's office -- come under and are effective under **"An Act Authorizing The Patent of Land . . . ." of 23 April 1812, et seq.** (the federal Homestead Acts), and this Man's contract is with the government of the United States of America, which granted the Patent. With this Patent came absolute title which can not be alienated without the consent of the lawful, sole, and unconditional owner. The below autographed Man is the lawful, sole, and unconditional owner who has not consented to alienate His private land/domain with its appurtenances.

8. This Man does not now or has He ever claimed the State's "homestead exemption." Homestead Right\* is claimed (Atch #8), however, by contract with the government of the United States of America by the above **Act of April 23, 1812, et seq.**, as acknowledgment in domain exclusively of all others to this Man's private land and appurtenances thereon. This Man **HAS NO** contract(s), adhesion or otherwise, with the COUNTY OF POTTAWATTAMIE (a legal fiction), nor with the STATE OF IOWA (legal fiction) which give these fictions consent to alienate His private land/domain to establish a higher title of interest for the benefit of the COUNTY OF POTTAWATTAMIE, or STATE OF IOWA that redistributes His resources to other entities.

9. By filing for an Iowa state "homestead exemption" this Man would be volunteering into a Feudal Tenure\*, a servitude into which this Man will not move. Furthermore, this Man has no



request for "services" from the COUNTY OF POTTAWATTAMIE or the STATE OF IOWA (both legal fictions), which took it upon themselves to "REGISTER" this Man's private land/domain against His will and written instructions in an attempt thereby to place a higher title of interest on His domain and appurtenances which were acquired by His labor; whereas, title can only be determined by that which is left when all rights are removed and reclassified as privileges.

10. If title is determined by "privilege" and not by Right, then there is no substance to the ownership, as the county could remove this Man from His land, as it pleases, or for the failure to pay "property tax" as rent -- thus usurping ownership through the COUNTY'S and STATE'S falsely assigning a higher title of interest to this Man's domain. This usurpation attempts to **unlawfully** remove One's Right declared and guaranteed by the Constitutions of the State of Iowa and the United States of America, a right which, in its primary and strictest sense, belongs to each **Man and Woman** as a being in a "state of nature." This Constitutionally guaranteed right of protection exists in addition to the rights protected under the specific guaranty safeguarding a **Man** in his life, liberty, and pursuit of happiness-- for example, the right to be "king of his castle," where "castle" is equivalent to a domain of land and home. This is a Maxim of law. ***These rights guaranteed by the Constitutions along with the United States of America Land Patent supersede ALL State "laws, statutes, codes" which you are fraudulently applying concerning taxation of this Man's domain.***

11. Any and all taxes so declared are instituted solely by the county actors, i.e. assessor, treasurer, auditor, supervisors, and billed to a fictional entity (person, *ens legis*) ***without a lawful contract.*** Be it known, by this Man commanding His lawful right of subrogation, this Man is not an accommodation, nor agent or surety for any fiction of law, nor a corporation, nor corporate entity, nor a 14th Amendment citizen, as the 14th Amendment was never ratified. This Man, ***in esse***, is a living soul, not an individual, not a "person" or "person required," as a "person" is a fiction of law. See "**Public Notice, as a Matter of Record, and Claim of Declaration of Status**" (item 3c above).

12. If, by any chance, this Man is forced to use the services of corporations, e.g., "state," "county," "city," etc, it is a compelled benefit as it provides Him with no other source for those products or beneficial services -- this all being done within adhesion contracts, or a contract with verbiage in legalese, or by unlawful presumption, thereby ***fraud***, as it was done without full disclosure and thereby denial of due process.

13. It is also relevant to this Man's domain that (a) the Constitutional Congressional Homestead Acts (domain that is tax exempt) can apply only to a live Man or Woman, ***in esse*** -- not a legal fiction, and (b) all of the STATE OF IOWA'S Equity Courts can entertain an action only to a legally built fiction, i.e. a juristic person (*ens legis*), which generally in legal and fiduciary documents is displayed by the use of all-capital letters (UCC 3-419) or a fictional derivative of the true Christian/given names plus family name. This legal fiction has no right to the soil. See Monroe Cattle Co v. Becker 147 US 47. Therefore the only court of proper jurisdiction which may entertain an action to seize any of this Man's Patented Land is the United States Court of Federal Claims.

14. In August 2003 and in August 2004, a "POTTAWATTAMIE COUNTY TAX BILL" was sent (attached) in an envelope addressed to "BECKER, JOHANN NIKOLAUS GUIDO," a legally built fiction, making it clear that the County Treasurer mailed a tax notice that was not applicable to any one but a fiction. The above capitalized "name" on the "tax bill" is not the same entity that holds both the "land patent" and absolute title to the land/appurtenances as a "homestead." It appears you have, without authority, converted the true Christian given names plus family name to a legally built fiction shown on the "tax statement," i.e., a fictional entity. It is clear that Judy Ann Miller dba JUDY ANN MILLER, POTTAWATTAMIE COUNTY TREASURER mailed the 2002-2003 tax notice and the 2003-2004 tax notice as ***unauthorized, undated, unsigned under penalties of perjury, unvalidated\*, and unverified\* alleged claims to an unknown entity, and which is not accepted as an adhesion contract or by any other form of acceptance.***

(\* See definitions, Atch 2.)

15. If you wish to verify any of the above statements, please contact --

a. Mr. Michael Lee Stone, this Man's "Next Friend", who is qualified to give expert testimony, as an expert witness on land law as a civilian in the Colorado Court System. Michael Lee Stone's phone number is 307-234-7608; OR,

b. (without permission) Mr. Michael J. Van Zandt of McQuaid, Bedford & Van Zandt, 221 Main Street, 16 Flr, San Francisco, California 94105-1936. Mr Van Zandt is an expert (Attorney) on land law.

16. Attached is a copy of: (a) the pertinent land patents (Homestead Law), Atch #7; (b) Art. 4, Sec. 3, Clause 2 from the U.S. Constitution, Atch #3; (c) excerpt from the Iowa Constitution, Atch #3, and (d) excerpt from the Iowa Code, Chapter 561, Atch #4, all of which show that the domain in question **IS NOT TAXABLE**. Since the U.S. Constitution at Art 4, Sec 3, Clause 2, and the excerpted portions of the Iowa Constitution/Code have NEVER BEEN AMENDED, it is still the "law of the land" and it is a **"Conspiracy to interfere with homestead rights as one to interfere with rights and privileges under federal constitutional law, 107 ALR 1376."** In addition:

a. "The patent alone passes land from the United States to the grantee and nothing passes a perfect title to public lands but a land patent.....**with no fee or duty....**" Wilcox v. Jackson, 43 Peters (U.S.) 408, 10 L.Ed. 264. [Emphasis added.]

b. "A patent for land is the highest evidence of title and is conclusive as against the government and all claiming under junior patents or titles." U.S. v Stone, 2 U.S. 525, 17 L.Ed. 768.

c. "When Congress has prescribed the conditions upon which portions of the public domain may be alienated (to convey, to transfer) and has provided that upon the fulfillment of the conditions the United States shall issue a patent to the purchaser, **then such land is not taxable by a state.**" Sargeant v Herrick & Stevens, 221 U.S. 404, 55 L.Ed. 787; Northern P.R. Co v Truitt County, 115 U.S. 600, 29 L.Ed. 477. [Emphasis added.]

d. These above three examples are re-enforced by dozens of more cases, whose cites are available should you ask, many of which appear in the supporting documents identified in par 3 above.

17. This Man also informs the public servants of the COUNTY OF POTTAWATTAMIE and the STATE OF IOWA, and any other actors as well as "tax sale purchasers" performing in an individual or other capacity under color of law and/or color of office who attempt to steal His domain that they operate against the **"Declaration of Taking Act --** A federal statute in respect of the taking of private property for public use upon a formal declaration of taking, the same to be followed by proceedings for the determination of the compensation to be paid for property. US v Miller, 317 US 369; 87 L Ed 336; 63 S.Ct. 276; 147 ALR 55; reh den 318 US 798, 87 L Ed 1162, 63 S.Ct. 557." Ballentine's law Dictionary 1969, pp: 314, 315. This is pursuant to the 5th Amendment to the United States of America Constitution: ..... "nor shall any person ..... be deprived of life, liberty or property, without due process of law; nor shall private property be taken for public use without just compensation," and this Man hereby makes this His **formal declaration as well.**

18. Unless and until you produce proof of claim otherwise, i.e., the documents listed in para. 6 above, **YOU ARE DIRECTED, AGAIN, TO IMMEDIATELY REMOVE MY LAND/DOMAIN WITH APPURTENANCES FROM THE TAX ROLLS IN ACCORDANCE WITH THE LAW or show full tax exemption and return all monies claimed in reference (b) above.**

**THIS IS A BILL**

19. Constitution of Iowa, Article XI, Section 5: "Every person elected or appointed to any office, shall, before entering upon the duties thereof, take an oath or affirmation to support the Constitution of the United States, and of this State, and also an oath of office," **which oath or affirmation this Man publicly accepts as a contract to Him.** If you or any agent, principal, or actor whose oaths of office this Man accepts as a contract to Him, wish to dishonor and breach that contract and continue to move forward with seizure and sale of this Man's domain, then these same public servants and County and State actors of Iowa **MUST COMPENSATE** this Man at time of the sale with funds in the amount of a conservative estimate of \$100,000,000 for the highest and best use of said domain of which He is lawful, sole, and unconditional owner, from the center of the earth to the sky -- and not less than twenty-five million dollars\*, the current existing lien amount filed for record at the offices of county recorder and Secretary of State (Atch #8). (\* See Definitions, Atch #1).

20. **NOTE:** All attachments listed below and all documents listed in para 3 and in **Reference** above are to be considered as if written and made part of this document. **Forward** all responses in writing to the **mailing location** shown on page 1. The use of a notary is by Form, is for certification purposes only, is not to be construed as submission to any foreign or local jurisdiction, and does not constitute adhesion nor does it alter this Man's standing in any manner.

NOTICE TO THE AGENT IS NOTICE TO THE PRINCIPAL  
NOTICE TO THE PRINCIPAL IS NOTICE TO THE AGENT

Not an accommodation  
All rights reserved and retained without prejudice, UCC 1-207, 1-308

by Johann Nikolaus Guido Franciskus Becker, in esse

Copy to:

Iowa Attorney General,  
County Sheriff Jeff Danker  
County Attorney Matt Wilbur

Autograph

*Johann Nikolaus Guido Franciskus Becker*

Holder in Due Course; and  
One for we the people in whom all political power resides  
-- Constitution of Iowa, Article I, sec 2

Attachments:

1. "Tax Bills" Returned, 2 sheets
2. Definitions, 1 pg
3. Extracts of U.S. and Iowa Constitutions, 1 pg
4. Iowa Code extract, 1 pg
5. Cites from CJS, Am Jur 2d, 2 pg
6. Public Notice, 16 June 2003, 1 pg
7. Copy of Land Patents for the domain, 2 sheets
8. UCC3 w/Absolute Title  
& Declaration of Homestead, 3 sheets

Nebraska state  
county of Douglas

The above Man personally appeared before me on this 14 day of September, 2004 and identified to me by proper identification did autograph and verify the preceding five pagedocument with eight attachments entitled: "Property Tax and Property Tax Statement.

My Commission expires: 9/28/07

*Ph*  
Notary Public

Seal:





## **Constitution for the United States of America**

### **Article I, Section 10, Clause 1:**

"No State shall . . . make any Thing but gold and silver Coin a Tender in Payment of Debts; pass any Bill of Attainder, ex post facto Law, or Law impairing the Obligation of Contracts, or grant any Title of Nobility."

### **Article IV, Section 3, Clause 2:**

"The Congress shall have power to dispose of and make all needful Rules and Regulations respecting the Territory or other Property belonging to the United States; and nothing in this Constitution shall be so construed as to Prejudice any Claims of the United States, or of any particular State."

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## **Constitution of the State of Iowa**

### **Article I - Bill of Rights**

**Section 1.** All men and women are, by nature, free and equal, and have certain inalienable rights - among which are those of enjoying and defending life and liberty, acquiring, possessing and protecting property, and pursuing and obtaining safety and happiness.

**Section 2.** All political power is inherent in the people. Government is instituted for the protection, security, and benefit of the people, and they have the right, at all times, to alter or reform the same, whenever the public good may require it.

**Section 9.** The right of trial by jury shall remain inviolate; but the General Assembly may authorize trial by jury of a less number than twelve men in inferior courts; but no person [man or woman] shall be deprived of life, liberty, or property, without due process of law. ( [ ] added)

**Section 18.** Private property shall not be taken for public use without just compensation first being made, or secured to be made to the owner thereof, as soon as the damages shall be assessed by a jury, who shall not take into consideration any advantages that may result to said owner on account of the improvement for which it is taken.

**Section 21:** No bill of attainder, ex post facto law, or law impairing the obligation of contracts, shall ever be passed.

**Section 23.** There shall be no slavery in this State; nor shall there be involuntary servitude, unless for the punishment of crime.

**Section 25.** This enumeration of rights shall not be construed to impair or deny others, retained by the people.

### **Article XI - Miscellaneous.**

**Section 7.** The General Assembly shall not locate any of the public lands, which have been, or may be granted by Congress to this State, and the location of which may be given to the General Assembly, upon lands actually settled, without the consent of the occupant. The extent of the claim of such occupant, so exempted, shall not exceed three hundred and twenty acres.

### **Article XII -- Schedule**

**Section 1.** This Constitution shall be the supreme law of the State, and any law inconsistent therewith, shall be void. The General assembly shall pass all laws necessary to carry this Constitution into effect.

**DEFINITIONS**

The definitions of the terms below are applicable to the basic document.

**dollar**, money. Bouvier's Law Dictionary, 1856: "A silver coin of the United States of the value of one hundred cents, or tenth part of an eagle. 2. It weighs four hundred and twelve and a half grains. Of one thousand parts, nine hundred are of pure silver and one hundred of alloy. Act of January 18, 1837, ss. 8 & 9, 4 Sharsw. Cont. of Story's L. U. S. 2523, 4; Wright, R. 162.",

**domain**. Ballentine Law Dictionary, 3rd Ed, 1969, p 368: "The land of one who has paramount title and absolute ownership. *People v Shearer*, 30 Cal 645, 658." Black's Law Dictionary, rev 4th Ed, 1968, p. 571: "The complete and absolute ownership of land; a paramount and individual right of property in land. *People v Shearer*, 30 Cal 658. Also the real estate so owned. The inherent sovereign power claimed by the legislature of a state, of controlling private property for public uses is termed the 'right of eminent domain.' 2 Kent, Comm.339. See Eminent domain.

A distinction has been made between "property" and "domain." The former is said to be that quality which is conceived to be in the thing itself, considered as belonging to such or such person, exclusively of all others. By the latter is understood that right which the owner has of disposing of the thing. Hence "domain" and "property" are said to be correlative terms. The one is the active right to dispose of; the other a passive quality which follows the thing and places it at the disposition of the owner. 3 Toullier, no. 83.

National domain is sometimes applied to the aggregate of the property owned directly by a nation. Civ. Cod La.art. 486. Public domain embraces all lands, the title to which is in the United States, including as well land occupied for the purposes of federal buildings, arsenals, dock-yards, etc., as land of an agricultural or mineral character not yet granted to private owners. *Day Land & Cattle Co, v State*, 68 Tex. 526, 4 S.W. 865.

**feud**. Black's Law, 4th Ed, p748: "Feudal law. An estate in land held of a superior on condition of rendering him services."

**feudal**. Ibid, p749: "Pertaining to feuds or fees."

**tenure**. Ibid., p 1639: "The mode or system of holding lands or tenements in subordination to some superior, which, in the feudal ages, was the leading characteristic of real property."

**feudal tenure**. Ibid., p 749: "The tenures of real estate under the feudal system, such as knight-service, socage, villenage, etc."

**homestead**. Black's Law Dictionary, rev4th Ed, 1968, p 866: "The home, the house and the adjoining land where the head of the family dwells; the home farm. The fixed residence [home] of the head of a family, with the land and buildings surrounding the main house. *Oliver v Snowden*, 18 Fla. 825, 43 Am.Rep. 338. Technically, and under the modern homestead laws, an artificial estate in land, devised to protect the possession and enjoyment of the owner against the claims of his creditors, by withdrawing the property from execution and forced sale, so long as the land is occupied as a home. *Buckingham v Buckingham*, 81 Mich. 89, 45 N.W. 504." [ ] added, and see 26 AmJur 1st Home §1

**homestead, declaration of**. Ballentine's Law Dictionary, 3rd Ed, 1969, p 314: "A statement of the fact of claiming a homestead exemption describing the property selected and filed with the county recorder for the purpose of showing the world that the occupants claim their homestead exemption rights in the property. 26 AmJur 1st Home § 90."

**homestead exemption laws**. Ibid, p. 867: "Laws passed in most of the states allowing a householder or head of a family to designate a house and land as his homestead, and exempting the same homestead from execution by creditors for his general debts." (in, for example, bankruptcy proceedings).

**homestead right**. Ibid, p. 867: The personal right to the beneficial, peaceful and uninterrupted use of the home property free from claims of creditors. (cites omitted). Ballentines Law Dictionary, 3rd Ed, p 565: "A quality annexed to land whereby an estate is exempted from sale under execution for debt."

**validation**. Black's Law Dictionary, 5th Ed, p 1390: Having legal strength or force, executed with proper formalities, incapable of being rightfully overthrown or set aside.

**verification**. Black's Law Dictionary, 5th Ed, p. 1400: "Confirmation of correctness, truth, or authenticity, by affidavit, oath, or deposition."

**verify**. Ballentine's Law Dictionary, 1st Ed, 1930, p 1334: "To confirm or substantiate by oath or proof; to confirm or substantiate by oath; to show to be true."



IOWA CODE --CHAPTER 561: HOMESTEAD

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**561.21 Debts for which homestead liable.**

The homestead may be sold to satisfy debts of each of the following classes:

1. Those contracted prior to its acquisition, but then only to satisfy a deficiency remaining after exhausting the other property of the debtor, liable to execution.
2. Those created by written contract by persons having the power to convey, expressly stipulating that it shall be liable, but then only for a deficiency remaining after exhausting all other property pledged by the same contract for the payment of the debt.
3. Those incurred for work done or material furnished exclusively for the improvement of the homestead.
4. If there is no survivor or issue, for the payment of any debts to which it might at that time be subjected if it had never been held as a homestead.

Section History: Early form

[C51, § 1248, 1249, 1265; R60, § 2280, 2281, 2297; C73, § 1991--1993, 2009; C97, § 2975, 2976, 2986; C24, 27, 31, 35, 39, § 10155; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, § 561.21]

Footnotes

Homestead acquired with pension funds, § 627.9

Liability for assistance furnished poor person, § 252.14

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**561.22 Waiver.**

If a homestead exemption waiver is contained in a written contract affecting agricultural land as defined in section 9H.1, or dwellings, buildings, or other appurtenances located on the land, the contract must contain a statement in substantially the following form, in boldface type of a minimum size of ten points, and be signed and dated by the person waiving the exemption at the time of the execution of the contract: **"I understand that homestead property is in many cases protected from the claims of creditors and exempt from judicial sale; and that by signing this contract, I voluntarily give up my right to this protection for this property with respect to claims based upon this contract."** A principal or deputy state, county, or city officer shall not be required to waive the officer's homestead exemption in order to be bonded as required pursuant to chapter 64.

Section History: Recent form

86 Acts, ch 1214, § 8; 87 Acts, ch 67, §1; 89 Acts, ch 153, §3

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[Italics and underlining added]

Comment: Even this statute goes against the federal homestead laws.



**CITES/EXTRACTS**

**Corpus Juris Secundum:**

16 CJS Constitutional Law §3, Note 29, p.25: "The Constitution of the United States is a law for rulers and people, equally in war and in peace, and covers with the shield of its protection *all classes of men*, at all times, and under all circumstances." U.S.-- ex parte Milligan, Ind., 4 Wall. 2, 120, 18 L.Ed. 281.

73 CJS Public Lands Sec 3, p.649: "Under the federal Constitution [Art IV, Sec 3, Cl 2] congress is vested with the power to control and to make all needful rules and regulations with respect to the public domain and the exercise of such power may not be curtailed by state legislation."

"Congress has both legislative and proprietary powers with respect to the public domain. It may prescribe rules with respect to the use of the public domain and it may regulate the use and occupancy of the public domain precisely as an individual may deal with and control his land. The power over the public domain intrusted to congress by the Constitution is exclusive, plenary, and without limitations. It is for congress to determine how the trust shall be administered and not for the courts. The courts or executive agencies may not proceed contrary to an act of congress in this congressional area of national power." [cites omitted]

Ibid., Sec 188, p 850: "A state has no power to declare any title less than one derived from a patent valid against the claim of the United States, or against a title held under a patent granted by the United States. U.S. -- Wilcox v Jackson, Illinois, 13 Pet. 498, 10 L.Ed. 264

Ibid, Sec 195, p 852: "A state may not validly deprive the patentee of his land without payment of compensation. " ND -- Ozark-Mahoning Co v. State, 37 N.W. 2d 488.

Ibid, Sec 199, p 855: ". . . a patent therefor is both the judgment of the department as a quasi-judicial tribunal, and a conveyance of the legal title to the land, and, unless void on its face, is conclusive in a court of law as against the government and as against all persons whose rights did not commence previous to its emanation, or who are not in privity with the paramount source of title, as to the land thereby conveyed, . . . ."

Ibid, Sec 202, p. 857: "A patent regular on its face and issued by the land department for land which is within its jurisdiction and power of disposition is not open to collateral attack for either mistake of fact or error of law on the part of the land department, and the patentee can be deprived of his rights only by direct proceedings, instituted by the government or by parties acting in its name, or by persons having superior title to that acquired through the government. Iowa -- State v Nichols, 44 N.W. 2d 49; Meeker v Kautz, 239 N.W. 27, 213 Iowa 370; U.S. v Price, CCANM, 111 F.2d 206." [Other Cites omitted.]

Ibid, Sec 205 b., p 859: "A patent conveying land which was a part of the public domain cannot be attacked or impeached by a person having no interest in the land, . . . .;U.S. -- Roberts v Southern Pacific Co., 185 F. 934, affirmed 219 F 1022, 134 C.C.A. 665."

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**American Jurisprudence 2nd**

63A Am Jur 2d, Public Lands, Sec 47, p.543: "A patent to public land which is not void on its face cannot be questioned, either directly or collaterally, by persons who do not show themselves to be in privity with a common or paramount source of title."

Ibid, Sec 74, p 572: **"Effect of patent.** A patent is the highest evidence of title, and with it passes all control of the executive department of the government over the title, its subsequent destruction or the mutilation of its record, by such department, does not impair its validity. The patent, rather than the previously issued certificate, vests the legal title in the patentee, and gives him legal seisin. Although it is not a judgment in the sense of the rules respecting estoppel by judgment, on collateral attack a patent is conclusive, even though the issuance was through mistake of the land officers. It is variously characterized as 'unassailable,' as 'conclusive evidence of legal title,' and as at least 'prima facie valid in actions at law.' It is prima facie valid, and the burden of proving its invalidity is on the one attacking it. The sole remedy for or against a patent is in the courts, by a direct proceeding, and as a general rule, it is impeachable only for fraud or mistake." [Cites omitted.]

Ibid, Sec 93, p 589: "A homestead entry may be subjected to a lien voluntarily created, such as a mortgage, and an owner of an equitable interest in land acquired from the government may create a lien which is enforceable by foreclosure, by assigning part of such interest as security for an obligation. The lien of a default judgment is not such a 'voluntary' lien."

Many more.