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## CHAPTER 1040

An act to amend Section 23 of the Humboldt Bay Harbor, Recreation, and Conservation District Act (Chapter 1283 of the Statutes of 1970), relating to the settlement of titles to tide and submerged lands in the Humboldt Bay area.

[Approved by Governor September 19, 1976. Filed with Secretary of State September 20, 1976.]

*The people of the State of California do enact as follows:*

SECTION 1. As used in this act:

- (a) "Arcata" means the City of Arcata.
- (b) "Arcata tidelands" means those certain tide and submerged lands, or interests therein, owned or held by Arcata, including those conveyed to Arcata by Chapter 344 of the Statutes of 1913 and Chapter 542 of the Statutes of 1917.
- (c) "Commission" means the State Lands Commission.
- (d) "District" means the Humboldt Bay Harbor, Recreation, and Conservation District.
- (e) "District tidelands" means those certain tide and submerged lands, or interests therein, owned or held by the district, including those conveyed to the district by, or pursuant to, the Humboldt Bay Harbor, Recreation, and Conservation District Act.
- (f) "Humboldt Bay Harbor, Recreation, and Conservation District Act" means Chapter 1283 of the Statutes of 1970, as amended.

SEC. 2. The commission shall, from time to time, upon the application of, and with the approval of, Arcata as to Arcata tidelands, or the district as to district tidelands, determine which of such lands have been filled, improved, and reclaimed, in connection with the development of such areas, and are no longer in fact tidelands or submerged lands, and are no longer available, useful, or necessary for public commerce, navigation, and fishing, and shall execute and record in the official records of the County of Humboldt certificates describing such lands and the findings and determinations of the commission. Upon the recordation of such certificates, the lands

described therein shall thereupon be free of the public trust for commerce, navigation, and fishery.

SEC. 3. (a) With the approval of the commission and upon the receipt of such consideration as is authorized in this act, Arcata as to Arcata tidelands, or the district as to district tidelands, may from time to time convey any portions of, or convey or relinquish any interests in, such lands described in any certificate recorded pursuant to Section 2.

(b) With the approval of the commission, Arcata as to the Arcata tidelands, or the district as to district tidelands, may establish the boundary or compromise boundary lines of such lands or otherwise settle any dispute concerning the nature and extent of its right, title, and interest in or to any portion of such lands.

SEC. 4. Any consideration to be paid to Arcata or the district for any conveyance or settlement under this act shall be determined by Arcata as to Arcata tidelands, or the district as to district tidelands, with the approval of the commission. In determining the adequacy of any such consideration, effect shall be given to all factors bearing upon the value, if any, of the public's interest being conveyed or settled, and the rights, claims, and equities of the person in whose favor the conveyance or settlement is being made and that of his predecessors in interest. Where lands have been filled, reclaimed, or improved without the expenditure of either state funds or any public moneys held subject to conditions imposed by, or related to, the public trust for commerce, navigation, and fishery, or any statute implementing such public trust, the value of fill, improvements, or both, may be taken into consideration in determining the value of such consideration. Consideration under this act may consist of anything of value, including, but not limited to, interests in lands and moneys.

SEC. 5. Any lands, or interests therein, conveyed by Arcata or the district in accordance with subdivision (a) of Section 3 of this act, shall be freed of the trusts and conditions imposed by the statutes granting such lands to such conveying entity.

Notwithstanding anything in this act to the contrary, no lands subject to tidal action or permanently covered by water shall be conveyed under the provisions of this act or be freed of the trusts and conditions imposed by the public trust for commerce, navigation, and fishery and the statutes granting such lands to Arcata or the district.

Any certificate of the commission recorded under the provisions of Section 2 shall be conclusive as to the facts declared therein.

Any conveyance of fee lands by Arcata or the district executed pursuant to the provisions of subdivision (a) of Section 3 of this act shall reserve to the State of California all oil, gas, and other minerals, as provided in Section 6401 of the Public Resources Code; provided, however, that no such reservation shall be required if such conveying entity receives in consideration for such conveyance other lands and the mineral rights in such other lands and conveys to the state such

mineral rights as are of at least equal value to the mineral rights to which the reservation does not apply, and if the commission approves such exchange of mineral rights. The reservation of such mineral rights shall not preclude the conveyance, quitclaim, or release of the right of entry upon the surface of the conveyed lands for the purposes of drilling, mining, or extraction of the reserved interests.

SEC. 6. All lands and other consideration received by Arcata or the district pursuant to this act shall, for all purposes of administration, control, and disposition, be subject to the public trust for commerce, navigation, and fishery.

SEC. 7. Any grants, conveyances, franchises, leases, permits, rights, or privileges made in accordance with this act shall be exempt from the restrictions, prohibitions, and conditions of Section 23 of the Humboldt Bay Harbor, Recreation, and Conservation District Act and Section 6008 of the Public Resources Code. Notwithstanding the provisions of Section 6008 of the Public Resources Code, the district may:

(a) Grant leases, rights, and permits to the State of California or the United States government with respect to any of the district tidelands for any purpose set forth in paragraph (2) of subdivision (c) of Section 7 of the Humboldt Bay Harbor, Recreation, and Conservation District Act.

(b) Grant leases, rights, and permits for any lawful purpose in the following described area of district tidelands: Sections 7, 8, 17, 18, 19, and 20, Range 1, West, Township 4 North, Humboldt Meridian, Humboldt County, California.

SEC. 8. The provisions of Section 6359 of the Public Resources Code shall not apply to this act and no survey of lands shall be required by virtue of this act that was not required before its enactment.

SEC. 9. Prior to the taking of formal action by Arcata or the district, preliminary to conveying or relinquishing interests or establishing boundary lines in accordance with Section 2 or 3 of this act, Arcata as to Arcata tidelands, or the district as to district tidelands, shall consult with and solicit comments from the commission on such proposed actions.

SEC. 10. Section 23 of the Humboldt Bay Harbor, Recreation, and Conservation District Act (Chapter 1283 of the Statutes of 1970) is amended to read:

Sec. 23. All grants, franchises, leases, permits, rights or privileges shall be made in accordance with such rules and regulations as the board shall prescribe by resolution. Irrevocable grants of fee title shall not be granted or issued.

SEC. 11. If any provision of this act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are severable.