

**REVISED STATUTES 2477 RIGHTS-OF-WAY SETTLEMENT ACT  
(AS REPORTED TO THE SENATE)**

Note: The original language of the bill was struck by the committee and the bill reported to the Senate contained only the last sentence, printed in italic.)

S 1425 RS

104th CONGRESS

2d Session

[Report No. 104-261]

To recognize the validity of rights-of-way granted under section  
2477 of the Revised Statutes, and for other purposes.

IN THE SENATE OF THE UNITED STATES

November 27, 1995

Mr. MURKOWSKI (for himself, Mr. HATCH, Mr. STEVENS, and Mr.

BENNETT) introduced the following bill; which was read twice

and referred to the Committee on Energy and Natural Resources

May 9, 1996

Reported by Mr. MURKOWSKI, with an amendment

**[STRIKE OUT ALL AFTER THE ENACTING CLAUSE AND INSERT THE PART  
PRINTED IN ITALIC]**

**A BILL**

To recognize the validity of rights-of-way granted under section

2477 of the Revised Statutes, and for other purposes.

Be it enacted by the Senate and House of

Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE. **(STRIKE OUT)**

This Act may be cited as the `Revised Statutes 2477 Rights-of-Way Settlement Act'.

SEC. 2. NOTICE OF RIGHTS-OF-WAY ACROSS PUBLIC LANDS GRANTED UNDER REVISED STATUTES SECTION 2477. **(STRIKE OUT)**

(a) NOTICE OF R.S. 2477 Right-of-Way-

(1) IN GENERAL- Any State, political subdivision of a State, or other holder of a right-of-way across public lands that was granted under section 2477 of the Revised Statutes before October 21, 1976, or any person who uses or could use such a right-of-way for passage across public lands, shall file with the head of the agency or department managing such public lands (referred to in this Act as the `Secretary') a notice of the right-of-way.

(2) FILING OF NOTICE- The notice shall--

(A) be filed not later than 5 years after the date of enactment of this Act;

(B) identify the State and political subdivision of a State through which the right-of-way passes; and

(C) contain a map and a general description of the route, termini, and width of the right-of-way.

(b) Recognition of or Objection to Right-of-Way by the Secretary-

(1) IN GENERAL- Not later than 2 years after the date on

which notice is filed with the Secretary under subsection (a), the Secretary shall inform the person who filed the notice, and the State, and political subdivision through which the right-of-way passes, in writing of any objection to, the right-of-way or any portion of the right-of-way. The Secretary shall recognize any right-of-way that was accepted or established--

(A) in accordance with the law of the State where the right-of-way is located; or

(B) by an affirmative act of a State or political subdivision of a State indicating acceptance of the grant of the right-of-way.

(2) OBJECTIONS- If the Secretary objects to the right-of-way as filed under subsection (a), the Secretary shall--

(A) specifically state any objections that the right-of-way was not legally accepted or established or is otherwise invalid and any objections to the route or width of the right-of-way, or portion of the right-of-way; and

(B) provide the factual and legal basis for each objection.

(3) EFFECT OF FAILURE TO OBJECT- If the Secretary does not object within the 2-year period from the date on which notice is filed, the right-of-way shall be deemed to be valid as it was presented to the Secretary.

SEC. 3. JUDICIAL REVIEW. **(STRIKE OUT)**

(a) QUIET TITLE ACTION RELATING TO OBJECTION- Not later than 2 years after the first date on which the Secretary notifies a holder, or person who filed a notice, under section 2(b) of objection to a right-of-way, or portion of a right-of-way, the Secretary may bring an action based on the objection in the United States district court for the district in which the right-of-way or portion of the right-of-way is located to challenge the validity of the right-of-way or portion of the right-of-way.

(b) BURDEN OF PROOF- In any action brought under subsection (a), the United States shall bear the burden of proof on all issues, including, but not limited to, the burden of proving that--

- (1) the right-of-way was not a public right-of-way;
- (2) the right-of-way was not accepted or established in accordance with the law of the State where the right-of-way is located or by an affirmative act of a State or political subdivision of a State indicating acceptance of the grant of the right-of-way;
- (3) the land on which the right-of-way is located was reserved for public use at the time of acceptance of the right-of-way; and
- (4) the width of the right-of-way identified in the notice of the right-of-way exceeds the width permitted under State law.

(c) FAILRUE TO BRING ACTION- If the Secretary does not bring an action under subsection (a) within the 2-year period described in subsection (a), the right-of-way shall be deemed to be valid in the

form in which it was filed with the Secretary.

**SEC. 4. MANAGEMENT OF LANDS. (STRIKE OUT)**

(a) The Secretary shall record any valid right-of-way in the appropriate land records and on maps of the Secretary and shall manage the land subject of the right-of-way in a manner that does not interfere with the use of the right-of-way.

(b) The Secretary, or any public land management official, is hereby prohibited from promulgating any regulations relating to R.S. 2477 rights-of-way that are not essential to carry out the express purposes of this Act.

**SEC. 5. MISCELLANEOUS PROVISIONS. (STRIKE ALL EXCEPT PORTION IN ITALIC)**

(a) QUIET TITLE ACTION- Nothing in this Act shall prevent the holder of a right-of-way described in section 2 from bringing an action to quiet title with respect to the right-of-way under section 2409a of title 28, United States Code, nor shall any proceedings taken under this Act be deemed to be a prerequisite to filing any such action. Such an action may be brought within the period ending on the later of--

(1) 12 years after the date of a notice of objection from the Secretary under section 2(b)(1); or

(2) the termination of the limitation period under section 2409a of title 28, United States Code.

(b) APPLICATION OF STATE LAW-

(1) IN GENERAL- Nothing in this Act limits the application of

State law in determining the validity of any right-of-way granted under section 2477 of the Revised Statutes.

(2) PROCEEDINGS- In a proceeding to determine the validity of such a right-of-way, the law of the State where the right-of-way is located shall determine the attributes of the right-of-way. The published regulations of the Department of the Interior pertaining to section 2477 of the Revised Statutes that were in effect on October 20, 1976, shall be binding on the Secretary in all such proceedings.

(c) NEPA- The National Environmental Policy Act of 1969 (83 Stat. 852) shall not be construed, in whole or in part, as requiring the preparation or submission of any environmental document for any action taken by the Secretary pursuant to this Act.

*No final rule or regulation of any agency of the Federal Government pertaining to the recognition, management, or validity of a right-of-way pursuant to Revised Statute 2477 (43 U.S.C. 932) shall take effect unless expressly authorized by an Act of Congress subsequent to the date of enactment of this Act.*

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