

56.245 Caveats, entry of and proceedings.

- (1) If any person obtains a survey of land to which another claims a better right, such other may enter a caveat with the register to prevent the issuing of a grant until the right be determined. The caveat shall state the plaintiff's claim and the reasons why the grant should not issue. It shall be verified by his affidavit, or by that of his agent, and declare that it is entered in good faith, with the intention of procuring the land for the plaintiff, and not for the benefit of the person against whom it is entered.
- (2) A copy of the caveat, certified by the register, shall, within sixty (60) days from the time it is entered, be lodged with the clerk of the Circuit Court of the county where the land or the greater part thereof lies. Failure so to lodge such copy shall be deemed an abandonment of the caveat; and it may be disregarded by the register, upon the clerk's certificate of such failure being filed in his office.
- (3) If such copy be lodged within said period, it shall be treated as a petition, and the proceedings upon it shall be the same, including an appeal to the Court of Appeals, as those in an ordinary action.
- (4) If the summons be not returned in due time, or be returned not executed, the caveat shall be dismissed, if it be shown that the nonexecution or nonreturn was procured by the plaintiff or resulted from his neglect.
- (5) A copy of the judgment, if in favor of the defendant, must be delivered into the land office within three (3) months from the time it is rendered; or a new caveat may, for that cause, be entered against the grant. If the judgment be for the plaintiff, and a copy thereof be not delivered into the land office within six (6) months from the time it was rendered, any other person may, for that cause, enter another caveat against the grant.
- (6) No grant shall issue to the land in contest, to the plaintiff in the caveat, or to another for his use, until the caveat be dismissed or decided; and any such grant, to the extent of such land, shall be void.
- (7) If the plaintiff does not prosecute his caveat as herein required, or if the same be dismissed or decided against him, neither he nor any other for his use shall have another caveat against the same grant.
- (8) The court may, in its discretion, require the plaintiff to give security for costs; and upon his failure to do so may dismiss the proceeding.

Effective: July 1, 1953

History: Transferred 1952 Ky. Acts ch. 84, sec. 1, effective July 1, 1953, from C.C. sec. 473.