

§§ 2502, 2503. Repealed. Pub. L. 103-349, § 8(a), Oct. 6, 1994, 108 Stat. 3140

Section 2502, Pub. L. 91-577, title II, §92, Dec. 24, 1970, 84 Stat. 1553, related to priority contest.

Section 2503, Pub. L. 91-577, title II, §93, Dec. 24, 1970, 84 Stat. 1553; Pub. L. 96-574, §18, Dec. 22, 1980, 94 Stat. 3351, related to effect of adverse final judgment or of nonaction.

EFFECTIVE DATE OF REPEAL

Repeal effective 180 days after Oct. 6, 1994, see section 15 of Pub. L. 103-349, set out as an Effective Date of 1994 Amendment note under section 2401 of this title.

§ 2504. Interfering plant variety protection

(a) The owner of a certificate of plant variety protection may have relief against another owner of a certificate of the same variety by civil action, and the court may adjudge the question of validity of the respective certificates, or the ownership of the certificate.

(b) Such suit may be instituted against the party in interest as shown by the record of the Plant Variety Protection Office at the time of the decision complained of, but any party in interest may become a party to the action. If there be adverse parties residing in a plurality of districts not embraced within the same State, or an adverse party residing in a foreign country, the United States District Court for the District of Columbia, or any United States district court to which it may transfer the case, shall have jurisdiction and may issue summons against the adverse parties directed to the marshal of any district in which any adverse party resides. Summons against adverse parties residing in foreign countries may be served by publication or otherwise as the court directs. The Secretary shall not be made a party but the Secretary shall have the right to intervene. Judgment of the court in favor of the right of an applicant to plant variety protection shall authorize the Secretary to issue a certificate of plant variety protection on the filing in the Plant Variety Protection Office of a certified copy of the judgment and on compliance with the requirements of this chapter.

(Pub. L. 91-577, title II, §92, formerly §94, Dec. 24, 1970, 84 Stat. 1553; renumbered §92 and amended Pub. L. 103-349, §§8(b), (c)(1), 13(p), Oct. 6, 1994, 108 Stat. 3140, 3144.)

CODIFICATION

The text of subsec. (b) of section 2463 of this title, which was transferred to subsec. (b) of this section by Pub. L. 103-349, §8(c)(1), was based on section 73(b) of Pub. L. 91-577, title II, Dec. 24, 1970, 84 Stat. 1550.

PRIOR PROVISIONS

A prior section 92 of Pub. L. 91-577 was classified to section 2502 of this title prior to repeal by Pub. L. 103-349.

AMENDMENTS

1994—Subsec. (a). Pub. L. 103-349, §8(b)(2), designated existing provisions as subsec. (a) and struck out at end “The provisions of section 2463(b) of this title shall apply to actions brought under this section.”

Subsec. (b). Pub. L. 103-349, §§8(c)(1), 13(p), transferred subsec. (b) of section 2463 of this title to subsec. (b) of this section, and substituted “the Secretary” for “he” before “shall have” in fourth sentence. See Codification note above.

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103-349 effective 180 days after Oct. 6, 1994, see section 15 of Pub. L. 103-349, set out as a note under section 2401 of this title.

SUBCHAPTER III—PLANT VARIETY PROTECTION AND RIGHTS

PART J—OWNERSHIP AND ASSIGNMENT

§ 2531. Ownership and assignment

(a) Subject to the provisions of this subchapter, plant variety protection shall have the attributes of personal property.

(b) Applications for certificates of plant variety protection, or any interest in a variety, shall be assignable by an instrument in writing. The owner may in like manner license or grant and convey an exclusive right to use of the variety in the whole or any specified part of the United States.

(c) A certificate of acknowledgment under the hand and official seal of a person authorized to administer oaths within the United States, or in a foreign country, of a diplomatic or consular officer of the United States or an officer authorized to administer oaths whose authority is proved by a certificate of a diplomatic or consular officer of the United States, shall be prima facie evidence of the execution of an assignment, grant, license, or conveyance of plant variety protection or application for plant variety protection.

(d) An assignment, grant, conveyance or license shall be void as against any subsequent purchaser or mortgagee for a valuable consideration, without notice, unless it, or an acknowledgment thereof by the person giving such encumbrance that there is such encumbrance, is filed for recording in the Plant Variety Protection Office within one month from its date or at least one month prior to the date of such subsequent purchase or mortgage.

(Pub. L. 91-577, title III, §101, Dec. 24, 1970, 84 Stat. 1554.)

§ 2532. Ownership during testing

An owner who, with notice that release is for testing only, releases possession of seed or other sexually reproducible or tuber propagable plant material for testing retains ownership with respect thereto; and any diversion from authorized testing, or any unauthorized retention, of such material by anyone who has knowledge that it is under such notice, or who is chargeable with notice, is prohibited, and violates the property rights of the owner. Anyone receiving the material tagged or labeled with the notice is chargeable with the notice. The owner is entitled to remedy and redress in a civil action hereunder. No remedy available by State or local law is hereby excluded. No such notice shall be used, or if used be effective, when the owner has made identical sexually reproducible or tuber propagable plant material available to the public, as by sale thereof.

(Pub. L. 91-577, title III, §102, Dec. 24, 1970, 84 Stat. 1554; Pub. L. 103-349, §8(d)(2), Oct. 6, 1994, 108 Stat. 3141.)