

ence of a mortgage or deed of trust or of easements, rights-of-way or similar interests for public utility purposes shall not be deemed to qualify the estate of an applicant; but no patent issued hereunder shall in any manner affect or impair such mortgage, deed of trust, easement, right-of-way, or other interest.

(d) *Death and substitution of applicant.*—Upon the death of an applicant during any proceeding or upon assignment of his rights in the application, warrant, or certificate of survey or in the land embraced within the description contained in the application, the assignee, heir or devisee of such applicant may be substituted for the applicant at any stage in the proceeding. Request for substitution shall be made in writing, shall state the manner in which the person desiring substitution succeeded to the rights of the original applicant, shall contain the original or certified copies of all documents by which such succession of interest was effected, and shall contain an affidavit of the person desiring substitution of the truth and completeness of the request and of the original application. Upon the filing of such request, the person named therein shall be substituted as the applicant for all purposes in the proceeding.

(e) *Attorney.*—Except as provided in subsections (c) and (d), any papers filed in any proceeding by an applicant may be filed by his attorney; and notice to an applicant may at all times be given to an attorney who has filed written appearance in the proceeding on behalf of the applicant.

13-106. *Filing and priority of application; contents of warrant; notice of issuance of warrant.*

(a) *Filing and priority.*—After receipt of an application in proper form and payment of any fees and deposit required by law, it shall be filed by the Commissioner. All applications shall be considered for filing in the order received by the Commissioner; and after the filing of any application, no warrant for the survey or resurvey of any land described therein shall be issued upon any subsequent application, unless the first application is withdrawn or is not perfected within the time prescribed by this title.

(b) *Contents of warrant.*—When an application has been filed, the Commissioner shall issue his warrant to the surveyor named in the application. The warrant shall recite the name and address of the applicant, the date on which the application was filed, the nature of the request made in the application, and a description of the alleged vacant land and/or the land to be resurveyed as described in the application. The warrant shall authorize and direct the surveyor to lay out and carefully survey the vacant land and/or to resurvey the land described therein. It shall enjoin the surveyor to prepare an accurate plat and description by metes and bounds of the alleged vacant land and/or land to be resurveyed; to run no lines within the lines of any former patent; to correct any errors in the original survey of any land to be resurveyed; to compute the area of any vacant land comprehended within the description and plat so prepared; and to return his certificate thereon to the Commissioner within six months from the date of the warrant. The warrant shall be signed by the Commissioner and his seal affixed thereto.

(c) *Notice.*—At the time that the warrant is issued, the Commissioner shall give notice thereof by registered or certified mail,