

such tribe or individual Indian shall have available advice, assistance, and information during the negotiation of a Minerals Agreement. The Secretary may fulfill this responsibility either directly through the use of Federal officials and resources or indirectly by providing financial assistance to the Indian tribe or individual Indian to secure independent assistance.

(Pub. L. 97-382, §7, Dec. 22, 1982, 96 Stat. 1940.)

§ 2107. Regulations; consultation with Indian organizations; pending agreements

Within one hundred and eighty days of December 22, 1982, the Secretary of the Interior shall promulgate rules and regulations to facilitate implementation of this chapter. The Secretary shall, to the extent practicable, consult with national and regional Indian organizations and tribes with expertise in mineral development both in the initial formulation of rules and regulations and any future revision or amendment of such rules and regulations. Where there is pending before the Secretary for his approval a Minerals Agreement of the type authorized by section 2102 of this title which was submitted prior to December 22, 1982, the Secretary shall evaluate and approve or disapprove such agreement based upon section 2103 of this title, but shall not withhold or delay such approval or disapproval on the grounds that the rules and regulations implementing this chapter have not been promulgated.

(Pub. L. 97-382, § 8, Dec. 22, 1982, 96 Stat. 1940.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2104 of this title.

§ 2108. Tribal right to develop mineral resources

Nothing in this chapter shall impair any right of an Indian tribe organized under section 16 or 17 of the Act of June 18, 1934 (48 Stat. 987), as amended [25 U.S.C. 476, 477], to develop their mineral resources as may be provided in any constitution or charter adopted by such tribe pursuant to that Act [25 U.S.C. 461 et seq.].

(Pub. L. 97-382, § 9, Dec. 22, 1982, 96 Stat. 1940.)

REFERENCES IN TEXT

Act of June 18, 1934, referred to in text, popularly known as the Indian Reorganization Act, is classified generally to subchapter V (§ 461 et seq.) of chapter 14 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 461 of this title and Tables.

CHAPTER 24—INDIAN LAND CONSOLIDATION

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CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in sections 348, 372, 373, 464 of this title.

§ 2201. Definitions

For the purpose of this chapter—

(1) “Indian tribe” or “tribe” means any Indian tribe, band, group, pueblo, or community for which, or for the members of which, the United States holds lands in trust;

(2) “Indian” means any person who is a member of any Indian tribe or is eligible to become a member of any Indian tribe, or any person who has been found to meet the definition of “Indian” under a provision of Federal law if the Secretary determines that using such law’s definition of Indian is consistent with the purposes of this chapter;

(3) “Secretary” means the Secretary of the Interior;

(4) “trust or restricted lands” means lands, title to which is held by the United States in trust for an Indian or an Indian tribe or lands title to which is held by Indians or an Indian tribe subject to a restriction by the United States against alienation; and

(5) “heirs of the first or second degree” means parents, children, grandchildren, grandparents, brothers and sisters of a decedent.

(Pub. L. 97-459, title II, §202, Jan. 12, 1983, 96 Stat. 2517; Pub. L. 106-462, title I, §103(1), Nov. 7, 2000, 114 Stat. 1992.)

REFERENCES IN TEXT

This chapter, referred to in par. (2), was in the original “this Act”, which was translated as reading “this title”, meaning title II of Pub. L. 97-459, to reflect the probable intent of Congress.

AMENDMENTS

2000—Par. (1). Pub. L. 106-462, §103(1)(A), substituted “(1) ‘Indian tribe’ or ‘tribe’” for “(1) ‘tribe’”.

Par. (2). Pub. L. 106-462, §103(1)(B), added par. (2) and struck out former par. (2) which read as follows: “‘Indian’ means any person who is a member of a tribe or any person who is recognized as an Indian by the Secretary of the Interior;”.

Par. (5). Pub. L. 106-462, §103(1)(C)–(E), added par. (5).

SHORT TITLE OF 2000 AMENDMENT

Pub. L. 106-462, §1, Nov. 7, 2000, 114 Stat. 1991, provided that: “This Act [enacting sections 2205, 2206, and 2212 to 2219 of this title, amending this section and sections 348, 372, 373, 464, 2204, and 2207 of this title, repealing sections 331 to 333, 2205, and 2206 of this title, and enacting provisions set out as notes under this section and sections 396 and 2206 of this title] may be cited as the ‘Indian Land Consolidation Act Amendments of 2000’.”

SHORT TITLE OF 1991 AMENDMENT

Pub. L. 102-238, §1, Dec. 17, 1991, 105 Stat. 1908, provided that: “This Act [amending sections 2203, 2703, and 2718 of this title, enacting provisions set out as a note under section 1437f of Title 42, The Public Health and Welfare, and repealing provisions set out as a note under section 1437f of Title 42] may be cited as the ‘Technical Amendments to Various Indian Laws Act of 1991’.”

SHORT TITLE

Section 201 of title II of Pub. L. 97-459 provided that: “This title [enacting this chapter] may be cited as the ‘Indian Land Consolidation Act’.”

CONGRESSIONAL FINDINGS

Pub. L. 106-462, title I, §101, Nov. 7, 2000, 114 Stat. 1991, provided that: “Congress finds that—

“(1) in the 1800’s and early 1900’s, the United States sought to assimilate Indian people into the surrounding non-Indian culture by allotting tribal lands to individual members of Indian tribes;

“(2) as a result of the allotment Acts and related Federal policies, over 90,000,000 acres of land have passed from tribal ownership;

“(3) many trust allotments were taken out of trust status, often without their owner’s consent;

“(4) without restrictions on alienation, allotment owners were subject to exploitation and their allotments were often sold or disposed of without any tangible or enduring benefit to their owners;

“(5) the trust periods for trust allotments have been extended indefinitely;

“(6) because of the inheritance provisions in the original treaties or allotment Acts, the ownership of many of the trust allotments that have remained in trust status has become fractionated into hundreds or thousands of undivided interests, many of which represent 2 percent or less of the total interests;

“(7) Congress has authorized the acquisition of lands in trust for individual Indians, and many of those lands have also become fractionated by subsequent inheritance;

“(8) the acquisitions referred to in paragraph (7) continue to be made;

“(9) the fractional interests described in this section often provide little or no return to the beneficial owners of those interests and the administrative costs borne by the United States for those interests are inordinately high;

“(10) in *Babbitt v. Youpee* (117 S.Ct. 727 (1997)), the United States Supreme Court found the application of section 207 of the Indian Land Consolidation Act (25 U.S.C. 2206) to the facts presented in that case to be unconstitutional, forcing the Department of the Interior to address the status of thousands of undivided interests in trust and restricted lands;

“(11)(A) on February 19, 1999, the Secretary of the Interior issued a Secretarial Order which officially reopened the probate of all estates where an interest in land was ordered to escheat to an Indian tribe pursuant to section 207 of the Indian Land Consolidation Act (25 U.S.C. 2206); and

“(B) the Secretarial Order also directed appropriate officials of the Bureau of Indian Affairs to distribute such interests ‘to the rightful heirs and beneficiaries without regard to 25 U.S.C. 2206’;

“(12) in the absence of comprehensive remedial legislation, the number of the fractional interests will continue to grow exponentially;

“(13) the problem of the fractionation of Indian lands described in this section is the result of a policy of the Federal Government, cannot be solved by Indian tribes, and requires a solution under Federal law[.]

“(14) any devise or inheritance of an interest in trust or restricted Indian lands is a matter of Federal law; and

“(15) consistent with the Federal policy of tribal self-determination, the Federal Government should encourage the recognized tribal government that exercises jurisdiction over a reservation to establish a tribal probate code for that reservation.”

DECLARATION OF POLICY

Pub. L. 106-462, title I, §102, Nov. 7, 2000, 114 Stat. 1992, provided that: “It is the policy of the United States—

“(1) to prevent the further fractionation of trust allotments made to Indians;

“(2) to consolidate fractional interests and ownership of those interests into usable parcels;

“(3) to consolidate fractional interests in a manner that enhances tribal sovereignty;

“(4) to promote tribal self-sufficiency and self-determination; and

“(5) to reverse the effects of the allotment policy on Indian tribes.”

AUTHORIZATION OF APPROPRIATIONS

Pub. L. 106-462, title I, §105, Nov. 7, 2000, 114 Stat. 2007, provided that: “There are authorized to be appro-

prorated not to exceed \$8,000,000 for fiscal year 2001 and each subsequent fiscal year to carry out the provisions of this title [enacting sections 2205, 2206, and 2212 to 2219 of this title, amending this section and sections 348, 372, 373, 464, 2204, and 2207 of this title, repealing sections 331 to 333, 2205, and 2206 of this title, and enacting provisions set out as notes under this section and section 2206 of this title] (and the amendments made by this title) that are not otherwise funded under the authority provided for in any other provision of Federal law.”

§ 2202. Other applicable provisions

The provisions of section 465 of this title shall apply to all tribes notwithstanding the provisions of section 478 of this title; *Provided*, That nothing in this section is intended to supersede any other provision of Federal law which authorizes, prohibits, or restricts the acquisition of land for Indians with respect to any specific tribe, reservation, or state(s).

(Pub. L. 97-459, title II, § 203, Jan. 12, 1983, 96 Stat. 2517.)

§ 2203. Adoption of land consolidation plan with approval of Secretary

(a) Statement of purpose; sales or exchanges: terms and conditions

Notwithstanding any other provision of law, any tribe, acting through its governing body, is authorized, with the approval of the Secretary to adopt a land consolidation plan providing for the sale or exchange of any tribal lands or interest in lands for the purpose of eliminating undivided fractional interests in Indian trust or restricted lands or consolidating its tribal landholdings: *Provided*, That—

(1) except as provided by subsection (c) of this section, the sale price or exchange value received by the tribe for land or interests in land covered by this section shall be no less than within 10 per centum of the fair market value as determined by the Secretary;

(2) if the tribal land involved in an exchange is of greater or lesser value than the land for which it is being exchanged, the tribe may accept or give cash in such exchange in order to equalize the values of the property exchanged;

(3) any proceeds from the sale of land or interests in land or proceeds received by the tribe to equalize an exchange made pursuant to this section shall be used exclusively for the purchase of other land or interests in land;

(4) the Secretary shall maintain a separate trust account for each tribe selling or exchanging land pursuant to this section consisting of the proceeds of the land sales and exchanges and shall release such funds only for the purpose of buying lands under this section; and

(5) any tribe may retain the mineral rights to such sold or exchanged lands and the Secretary shall assist such tribe in determining the value of such mineral rights and shall take such value into consideration in determining the fair market value of such lands.

(b) Conveyancing requirement; specific findings for nonexecution

The Secretary must execute such instrument of conveyance needed to effectuate a sale or ex-

change of tribal lands made pursuant to an approved tribal land consolidation plan unless he makes a specific finding that such sale or exchange is not in the best interest of the tribe or is not in compliance with the tribal land consolidation plan.

(c) Below market value conveyance of Cherokee Nation of Oklahoma homesites

The Secretary may execute instruments of conveyance for less than fair market value to effectuate the transfer of lands used as homesites held, on December 17, 1991, by the United States in trust for the Cherokee Nation of Oklahoma. Only the lands used as homesites, and described in the land consolidation plan of the Cherokee Nation of Oklahoma approved by the Secretary on February 6, 1987, shall be subject to this subsection.

(Pub. L. 97-459, title II, § 204, Jan. 12, 1983, 96 Stat. 2517; Pub. L. 98-608, § 1(1), Oct. 30, 1984, 98 Stat. 3171; Pub. L. 102-238, § 3, Dec. 17, 1991, 105 Stat. 1908.)

AMENDMENTS

1991—Subsec. (a)(1). Pub. L. 102-238, § 3(1), substituted “(1) except as provided by subsection (c) of this section, the sale price” for “(1) the sale price”.

Subsec. (c). Pub. L. 102-238, § 3(2), added subsec. (c).

1984—Subsec. (a). Pub. L. 98-608 amended subsec. (a) generally, substituting “: *Provided*, That—” for period at end and inserting five numbered pars., thereby correcting errors originally contained in this section as enacted by Pub. L. 97-459, the text of which had a portion of section 204 appearing in section 206 (classified to section 2205 of this title) as the result of inadvertent error in the execution of committee amendments (see House Report No. 97-908, Sept. 30, 1982) to the bill. Pub. L. 97-459 enacted subsec. (a) as ending with “tribal landholdings.”, and included portion of section 204 containing proviso and five numbered pars. within text of section 206.

Subsec. (b). Pub. L. 98-608 included subsec. (b) within this section and substituted a period for the dash after “tribal land consolidation plan”, thereby correcting errors originally contained in this section as enacted by Pub. L. 97-459, which, as the result of inadvertent error in the execution of committee amendments (see House Report No. 97-908, Sept. 30, 1982) to the bill, enacted subsec. (b) as part of section 206(b) of Pub. L. 97-459 and ended it with “tribal land consolidation plan—”.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2204, 2212 of this title.

§ 2204. Purchase of trust or restricted or controlled lands at no less than fair market value; requisite conditions

(a) In general

Subject to subsection (b) of this section, any Indian tribe may purchase at no less than the fair market value part or all of the interests in any tract of trust or restricted land within that tribe’s reservation or otherwise subject to that tribe’s jurisdiction with the consent of the owners of such interests. The tribe may purchase all of the interests in such tract with the consent of the owners of over 50 per centum of the undivided interests in such tract. Interests owned by an Indian tribe in a tract may be included in the computation of the percentage of ownership of the undivided interests in that tract for pur-