

EFFECTIVE DATE OF 2001 AMENDMENT

Pub. L. 107-102, §3, Dec. 27, 2001, 115 Stat. 975, provided that: "This Act [amending this section] shall take effect as of April 12, 2000."

EFFECTIVE DATE OF 2000 AMENDMENT

Pub. L. 106-216, §1(b), June 20, 2000, 114 Stat. 343, provided that: "The amendment made by subsection (a) [amending this section] shall apply to any lease entered into or renewed after the date of the enactment of this Act [June 20, 2000]."

EFFECTIVE DATE OF 1986 AMENDMENT

Section 6(a) of Pub. L. 99-575 provided in part that the amendment made by Pub. L. 99-575 is effective Oct. 28, 1986.

SHORT TITLE OF 2000 AMENDMENT

Pub. L. 106-568, title XII, §1201, Dec. 27, 2000, 114 Stat. 2933, provided that: "This title [amending this section and enacting provisions set out as a note under this section] may be cited as the 'Navajo Nation Trust Land Leasing Act of 2000'."

SHORT TITLE OF 1985 AMENDMENT

Section 1 of Pub. L. 99-221 provided that: "This Act [amending this section, section 450i of this title, section 3121 of Title 26, Internal Revenue Code, and section 410 of Title 42, The Public Health and Welfare, and enacting a provision set out as a note under section 410 of Title 42] may be cited as the 'Cherokee Leasing Act'."

CONGRESSIONAL FINDINGS AND DECLARATION OF PURPOSES

Pub. L. 106-568, title XII, §1202, Dec. 27, 2000, 114 Stat. 2933, provided that:

"(a) FINDINGS.—Recognizing the special relationship between the United States and the Navajo Nation and its members, and the Federal responsibility to the Navajo people, Congress finds that—

"(1) the third clause of section 8, Article I of the United States Constitution provides that 'The Congress shall have Power * * * to regulate Commerce * * * with Indian tribes', and, through this and other constitutional authority, Congress has plenary power over Indian affairs;

"(2) Congress, through statutes, treaties, and the general course of dealing with Indian tribes, has assumed the responsibility for the protection and preservation of Indian tribes and their resources;

"(3) the United States has a trust obligation to guard and preserve the sovereignty of Indian tribes in order to foster strong tribal governments, Indian self-determination, and economic self-sufficiency;

"(4) pursuant to the first section of the Act of August 9, 1955 (25 U.S.C. 415), Congress conferred upon the Secretary of the Interior the power to promulgate regulations governing tribal leases and to approve tribal leases for tribes according to regulations promulgated by the Secretary;

"(5) the Secretary of the Interior has promulgated the regulations described in paragraph (4) at part 162 of title 25, Code of Federal Regulations;

"(6) the requirement that the Secretary approve leases for the development of Navajo trust lands has added a level of review and regulation that does not apply to the development of non-Indian land; and

"(7) in the global economy of the 21st Century, it is crucial that individual leases of Navajo trust lands not be subject to Secretarial approval and that the Navajo Nation be able to make immediate decisions over the use of Navajo trust lands.

"(b) PURPOSES.—The purposes of this title [see Short Title of 2000 Amendment note above] are as follows:

"(1) To establish a streamlined process for the Navajo Nation to lease trust lands without having to obtain the approval of the Secretary of the Interior for individual leases, except leases for exploration, development, or extraction of any mineral resources.

"(2) To authorize the Navajo Nation, pursuant to tribal regulations, which must be approved by the Secretary, to lease Navajo trust lands without the approval of the Secretary of the Interior for the individual leases, except leases for exploration, development, or extraction of any mineral resources.

"(3) To revitalize the distressed Navajo Reservation by promoting political self-determination, and encouraging economic self-sufficiency, including economic development that increases productivity and the standard of living for members of the Navajo Nation.

"(4) To maintain, strengthen, and protect the Navajo Nation's leasing power over Navajo trust lands.

"(5) To ensure that the United States is faithfully executing its trust obligation to the Navajo Nation by maintaining Federal supervision through oversight of and record keeping related to leases of Navajo Nation tribal trust lands."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 415a, 415b, 415c, 415d, 416a, 941j, 1724, 1771e of this title.

§ 415a. Lease of lands of deceased Indians for benefit of heirs or devisees

Restricted lands of deceased Indians may be leased under sections 415 to 415d of this title, for the benefit of their heirs or devisees, in the circumstances and by the persons prescribed in section 380 of this title: *Provided*, That if the authority of the Secretary under this section is delegated to any subordinate official, then any heir or devisee shall have the right to appeal the action of any such official to the Secretary under such rules and regulations as he may prescribe.

(Aug. 9, 1955, ch. 615, §2, 69 Stat. 539.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 415, 415b, 415c, 415d of this title.

§ 415b. Advance payment of rent or other consideration

No rent or other consideration for the use of land leased under sections 415 to 415d of this title shall be paid or collected more than one year in advance, unless so provided in the lease.

(Aug. 9, 1955, ch. 615, §4, 69 Stat. 540.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 415, 415a, 415c, 415d of this title.

§ 415c. Approval of leases

The Secretary of the Interior shall approve no lease pursuant to sections 415 to 415d of this title that contains any provision that will prevent or delay a termination of Federal trust responsibilities with respect to the land during the term of the lease.

(Aug. 9, 1955, ch. 615, §5, 69 Stat. 540.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 415, 415a, 415b, 415d of this title.

§ 415d. Lease of restricted lands under other laws unaffected

Nothing contained in sections 415 to 415d of this title shall be construed to repeal any au-

thority to lease restricted Indian lands conferred by or pursuant to any other provision of law.

(Aug. 9, 1955, ch. 615, § 6, 69 Stat. 540.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 415, 415a, 415b, 415c, 416a, 1724, 1771e of this title.

§ 416. Leases of trust or restricted lands on San Xavier and Salt River Pima-Maricopa Indian Reservations for public, religious, educational, recreational, residential, business, farming or grazing purposes

Any trust or restricted Indian lands, whether tribally or individually owned, located on the San Xavier Indian Reservation and the Salt River Pima-Maricopa Indian Reservation, in the State of Arizona, may be leased by the Indian owners, with the approval of the Secretary of the Interior, for public, religious, educational, recreational, residential, business, farming or grazing purposes, including the development or utilization of natural resources in connection with operations under such leases, but no lease shall be executed under sections 416 to 416j of this title for purposes that are subject to the laws governing mining leases on Indian lands. The term of a grazing lease shall not exceed ten years, the term of a farming lease that does not require the making of a substantial investment in the improvement of the land shall not exceed ten years, and the term of a farming lease that requires the making of a substantial investment in the improvement of the land shall not exceed forty years. The term of any other lease shall not exceed ninety-nine years. No lease shall contain an option to renew which, if exercised, will extend the total term beyond the maximum term permitted by sections 416 to 416j of this title. The Secretary of the Interior shall not approve any lease with a term that is longer than is necessary in his judgment to obtain maximum economic benefits for the Indian owners.

(Pub. L. 89-715, § 1, Nov. 2, 1966, 80 Stat. 1112.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 416a, 416b, 416c, 416d, 416e, 416h, 416i, 416j of this title.

§ 416a. Lease provisions

(a) Covenant not to cause waste, etc.

Every lease entered into under section 416 of this title shall contain a covenant on the part of the lessee that he will not commit or permit on the leased land any act which causes waste or a nuisance or which creates a hazard to health of persons or to property, wherever such persons or property may be.

(b) Judicial enforcement

The State of Arizona, or any political subdivision thereof contiguous with the San Xavier or Salt River Pima-Maricopa Indian Reservation, may bring suit, without regard to the amount in controversy, in the United States District Court for the District of Arizona to abate or enjoin any violation of the covenant required under subsection (a) of this section: *Provided*, That if, by reason of the citizenship of the parties and

the law applicable to the cause of action, the District Court finds it lacks jurisdiction to hear and determine such suit, it may be brought in any court of competent jurisdiction of the State of Arizona.

(c) Binding arbitration of disputes

Any lease entered into under sections 416 to 416j or 415 to 415d of this title or any contract entered into under section 81 of this title, affecting land within the Salt River Pima-Maricopa Indian Reservation may contain a provision for the binding arbitration of disputes arising out of such lease or contract. Such leases or contracts entered into pursuant to such sections shall be considered within the meaning of "commerce" as defined and subject to the provisions of section 1 of title 9. Any refusal to submit to arbitration pursuant to a binding agreement for arbitration or the exercise of any right conferred by title 9 to abide by the outcome of arbitration pursuant to the provisions of chapter 1 of title 9, sections 1 through 14, shall be deemed to be a civil action arising under the Constitution, laws or treaties of the United States within the meaning of section 1331 of title 28.

(Pub. L. 89-715, § 2, Nov. 2, 1966, 80 Stat. 1112; Pub. L. 98-163, Nov. 22, 1983, 97 Stat. 1016.)

AMENDMENTS

1983—Subsec. (c). Pub. L. 98-163 added subsec. (c).

§ 416b. Development pursuant to lease

(a) Notice requirements prior to approval of lease

The Secretary of the Interior shall, before he approves any lease under sections 416 to 416j of this title for public, religious, educational, recreational, business, or residential purposes and if he determines that such lease will substantially affect the governmental interests of a municipality described hereunder, notify the appropriate authorities of any municipality contiguous to the San Xavier or Salt River Pima-Maricopa Reservation, as the case may be, of the pendency of the proposed lease and, in his discretion, furnish them with an outline of the major provisions of the lease which affect such governmental interests and shall consider any comments on the terms of the lease affecting the municipality, or on the absence of such terms from the lease, that such authorities may offer within such reasonable period, but not more than thirty days, as the Secretary may prescribe in his notice to them.

(b) Development by non-Indian lessees

It is the intent of the Congress that the terms under which lands located on the San Xavier and Salt River Pima-Maricopa Reservations are developed by non-Indian lessees shall, to the extent reasonably possible, be similar to those applicable under State or local law to the development of non-Indian lands in the municipalities contiguous thereto.

(Pub. L. 89-715, § 3, Nov. 2, 1966, 80 Stat. 1112.)

§ 416c. Lease of lands of deceased Indians for benefit of heirs or devisees

Trust or restricted lands of deceased Indians located on the San Xavier and Salt River Pima-