

## EFFECTIVE DATE OF 2005 AMENDMENT

Amendment by Pub. L. 109-157 effective as if included in Pub. L. 108-374, see section 9 of Pub. L. 109-157, set out as a note under section 464 of this title.

**§ 2213. Administration of acquired fractional interests; disposition of proceeds**

**(a) In general**

Subject to the conditions described in subsection (b)(1) of this section, an Indian tribe receiving a fractional interest under section 2212 of this title may, as a tenant in common with the other owners of the trust or restricted lands, lease the interest, sell the resources, consent to the granting of rights-of-way, or engage in any other transaction affecting the trust or restricted land authorized by law.

**(b) Application of revenue from acquired interests to land consolidation program**

**(1) In general**

The Secretary shall have a lien on any revenue accruing to an interest described in subsection (a) of this section until the Secretary provides for the removal of the lien under paragraph (3), (4), or (5).

**(2) Requirements**

**(A) In general**

Until the Secretary removes a lien from an interest in land under paragraph (1)—

(i) any lease, resource sale contract, right-of-way, or other document evidencing a transaction affecting the interest shall contain a clause providing that all revenue derived from the interest shall be paid to the Secretary; and

(ii) any revenue derived from any interest acquired by the Secretary in accordance with section 2212 of this title shall be deposited in the fund created under section 2215 of this title.

**(B) Approval of transactions**

Notwithstanding section 476 of this title, or any other provision of law, until the Secretary removes a lien from an interest in land under paragraph (1), the Secretary may approve a transaction covered under this section on behalf of an Indian tribe.

**(3) Removal of liens after findings**

The Secretary may remove a lien referred to in paragraph (1) if the Secretary makes a finding that—

(A) the costs of administering the interest from which revenue accrues under the lien will equal or exceed the projected revenues for the parcel of land involved;

(B) in the discretion of the Secretary, it will take an unreasonable period of time for the parcel of land to generate revenue that equals the purchase price paid for the interest; or

(C) a subsequent decrease in the value of land or commodities associated with the parcel of land make it likely that the interest will be unable to generate revenue that equals the purchase price paid for the interest in a reasonable time.

**(4) Removal of liens upon payment into the acquisition fund**

The Secretary shall remove a lien referred to in paragraph (1) upon payment of an amount equal to the purchase price of that interest in land into the Acquisition Fund created under section 2215<sup>1</sup> of this title, except where the tribe with jurisdiction over such interest in land authorizes the Secretary to continue the lien in order to generate additional acquisition funds.

**(5) Other removal of liens**

The Secretary may, in consultation with tribal governments and other entities described in section 2212(b)(3) of this title, periodically remove liens referred to in paragraph (1) from interests in land acquired by the Secretary.

**(c) Tribe not treated as party to lease; no effect on tribal sovereignty, immunity**

**(1) In general**

Paragraph (2) shall apply with respect to any undivided interest in allotted land held by the Secretary in trust for a tribe if a lease or agreement under subsection (a) of this section is otherwise applicable to such undivided interest by reason of this section even though the Indian tribe did not consent to the lease or agreement.

**(2) Application of lease**

The lease or agreement described in paragraph (1) shall apply to the portion of the undivided interest in allotted land described in such paragraph (including entitlement of the Indian tribe to payment under the lease or agreement), and the Indian tribe shall not be treated as being a party to the lease or agreement. Nothing in this section (or in the lease or agreement) shall be construed to affect the sovereignty of the Indian tribe.

(Pub. L. 97-459, title II, §214, as added Pub. L. 106-462, title I, §103(6), Nov. 7, 2000, 114 Stat. 2000; amended Pub. L. 108-374, §6(a)(6), Oct. 27, 2004, 118 Stat. 1801.)

## REFERENCES IN TEXT

Section 2215 of this title, referred to in the original in subsec. (b)(4), probably should have been "section 216", meaning section 216 of Pub. L. 97-459, which is classified to section 2215 of this title and relates to the establishment of an Acquisition Fund. Pub. L. 97-459 does not contain a section 2215.

## AMENDMENTS

2004—Subsec. (b). Pub. L. 108-374 added subsec. (b) and struck out heading and text of former subsec. (b) which related to conditions applicable to the administration by Indian tribes of acquired fractional interests in trust or restricted lands.

**§ 2214. Establishing fair market value**

For purposes of this chapter, the Secretary may develop a system for establishing the fair market value of various types of lands and improvements. Such a system may include determinations of fair market value based on appropriate geographic units as determined by the

<sup>1</sup> See References in Text note below.

Secretary. Such a system may govern the amounts offered for the purchase of interests in trust or restricted land under this chapter.

(Pub. L. 97-459, title II, §215, as added Pub. L. 106-462, title I, §103(6), Nov. 7, 2000, 114 Stat. 2002; amended Pub. L. 108-374, §6(a)(7), Oct. 27, 2004, 118 Stat. 1802; Pub. L. 109-157, §6, Dec. 30, 2005, 119 Stat. 2952.)

#### REFERENCES IN TEXT

This chapter, referred to in text, 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

2005—Pub. L. 109-157 substituted “Such a system may govern the amounts offered for the purchase of interests in trust or restricted land under this chapter.” for “Such system may govern the amounts offered for the purchase of interests in trust or restricted lands under this chapter.”

2004—Pub. L. 108-374, which directed substitution of “this Act” for “section 2212 of this title” in last sentence, was executed by substituting “this chapter” for “section 213”, meaning section 213 of Pub. L. 97-459, which is classified to section 2212 of this title, to reflect the probable intent of Congress.

#### EFFECTIVE DATE OF 2005 AMENDMENT

Amendment by Pub. L. 109-157 effective as if included in Pub. L. 108-374, see section 9 of Pub. L. 109-157, set out as a note under section 464 of this title.

### § 2215. Acquisition Fund

#### (a) In general

The Secretary shall establish an Acquisition Fund to—

- (1) disburse appropriations authorized to accomplish the purposes of section 2212 of this title; and
- (2) collect all revenues received from the lease, permit, or sale of resources from interests acquired under section 2212 of this title or paid by Indian landowners under section 2212 of this title.

#### (b) Deposits; use

##### (1) In general

All proceeds from leases, permits, or resource sales derived from an interest in trust or restricted lands described in subsection (a)(2) of this section shall—

- (A) be deposited in the Acquisition Fund;
- (B) as specified in advance in appropriations Acts, be available for the purpose of acquiring additional fractional interests in trust or restricted lands; and
- (C) be used to acquire undivided interests on the reservation from which the income was derived.

##### (2) Use of funds

The Secretary may use the revenue deposited in the Acquisition Fund under paragraph (1) to acquire some or all of the undivided interests in any parcels of land in accordance with section 2204 of this title.

(Pub. L. 97-459, title II, §216, as added Pub. L. 106-462, title I, §103(6), Nov. 7, 2000, 114 Stat. 2002; amended Pub. L. 108-374, §6(a)(8), Oct. 27, 2004, 118 Stat. 1802.)

#### AMENDMENTS

2004—Subsec. (a)(2). Pub. L. 108-374, §6(a)(8)(A), added par. (2) and struck out former par. (2) which read as follows: “collect all revenues received from the lease, permit, or sale of resources from interests in trust or restricted lands transferred to Indian tribes by the Secretary under section 2212 of this title or paid by Indian landowners under section 2212(c) of this title.”

Subsec. (b)(1). Pub. L. 108-374, §6(a)(8)(B)(i), substituted “All” for “Subject to paragraph (2), all” in introductory provisions and added subpar. (C).

Subsec. (b)(2). Pub. L. 108-374, §6(a)(8)(B)(ii), added par. (2) and struck out heading and text of former par. (2). Text read as follows: “With respect to the deposit of proceeds derived from an interest under paragraph (1), the aggregate amount deposited under that paragraph shall not exceed the purchase price of that interest under section 2212 of this title.”

### § 2216. Trust and restricted land transactions

#### (a) Policy

It is the policy of the United States to encourage and assist the consolidation of land ownership through transactions—

- (1) involving individual Indians;
- (2) between Indians and the tribal government that exercises jurisdiction over the land;

or

- (3) between individuals who own an interest in trust and restricted land who wish to convey that interest to an Indian or the tribal government that exercises jurisdiction over the parcel of land involved;

in a manner consistent with the policy of maintaining the trust status of allotted lands. Nothing in this section shall be construed to apply to or to authorize the sale of trust or restricted lands to a person who is not an Indian.

#### (b) Sales, exchanges and gift deeds between Indians and between Indians and Indian tribes

##### (1) In general

##### (A) Estimate of value

Notwithstanding any other provision of law and only after the Indian selling, exchanging, or conveying by gift deed for no or nominal consideration an interest in land, has been provided with an estimate of the value of the interest of the Indian pursuant to this section—

- (i) the sale or exchange or conveyance of an interest in trust or restricted land may be made for an amount that is less than the fair market value of that interest; and
- (ii) the approval of a transaction that is in compliance with this section shall not constitute a breach of trust by the Secretary.

##### (B) Waiver of requirement

The requirement for an estimate of value under subparagraph (A) may be waived in writing by an owner of a trust or restricted interest in land either selling, exchanging, or conveying by gift deed for no or nominal consideration such interest—

- (i) to an Indian person who is the owner’s spouse, brother, sister, lineal ancestor, lineal descendant, or collateral heir; or
- (ii) to an Indian co-owner or to the tribe with jurisdiction over the subject parcel of