

damages for the amount authorized to be paid to the Tribe by the State in §27-16-50(A) of the State Act in settlement of the Tribe's claim. Pursuant to §27-16-50(E) of the State Act, the State of South Carolina waives any Eleventh Amendment immunity to such action.

(Pub. L. 103-116, §6, Oct. 27, 1993, 107 Stat. 1122.)

REFERENCES IN TEXT

For the effective date of this subchapter, referred to in subsec. (e), see Effective Date note set out under section 941 of this title.

§ 941e. Base membership roll

(a) Base membership roll criteria

Within one year after October 27, 1993, the Tribe shall submit to the Secretary, for approval, its base membership roll. An individual is eligible for inclusion on the base membership roll if that individual is living on October 27, 1993, and—

(1) is listed on the membership roll published by the Secretary in the Federal Register on February 25, 1961 (26 FR 1680-1688, "Notice of Final Membership Roll"), and is not excluded under the provisions of subsection (c) of this section;

(2) the Executive Committee determines, based on the criteria used to compile the roll referred to in paragraph (1), that the individual should have been included on the membership roll at that time, but was not; or

(3) is a lineal descendant of a Member whose name appeared or should have appeared on the membership roll referred to in paragraph (1).

(b) Base membership roll notice

Within 90 days after October 27, 1993, the Secretary shall publish in the Federal Register, and in three newspapers of general circulation in the Tribe's service area, a notice stating—

(1) that a base membership roll is being prepared by the Tribe and that the current membership roll is open and will remain open for a period of 90 days;

(2) the requirements for inclusion on the base membership roll;

(3) the final membership roll published by the Secretary in the Federal Register on February 25, 1961;

(4) the current membership roll as prepared by the Executive Committee and approved by the General Council; and

(5) the name and address of the tribal or Federal official to whom inquiries should be made.

(c) Completion of base membership roll

Within 120 days after publication of notice under subsection (b) of this section, the Secretary, after consultation with the Tribe, shall prepare and publish in the Federal Register, and in three newspapers of general circulation in the Tribe's service area, a proposed final base membership roll of the Tribe. Within 60 days from the date of publication of the proposed final base membership roll, an appeal may be filed with the Executive Committee under rules made by the Executive Committee in consultation with the Secretary. Such an appeal may be filed by a Member with respect to the inclusion of any

name on the proposed final base membership roll and by any person with respect to the exclusion of his or her name from the final base membership roll. The Executive Committee shall review such appeals and render a decision, subject to the Secretary's approval. If the Executive Committee and the Secretary disagree, the Secretary's decision will be final. All such appeals shall be resolved within 90 days following publication of the proposed roll. The final base membership roll of the Tribe shall then be published in the Federal Register, and in three newspapers of general circulation in the Tribe's service area, and shall be final for purposes of the distribution of funds from the Per Capita Trust Fund established under section 941i(h) of this title.

(d) Future membership in Tribe

The Tribe shall have the right to determine future membership in the Tribe; however, in no event may an individual be enrolled as a tribal member unless the individual is a lineal descendant of a person on the final base membership roll and has continued to maintain political relations with the Tribe.

(Pub. L. 103-116, §7, Oct. 27, 1993, 107 Stat. 1124.)

§ 941f. Transitional and provisional government

(a) Future tribal government

The Tribe shall adopt a new constitution within 24 months after the effective date of this subchapter.

(b) Executive Committee as transitional body

(1) Until the Tribe has adopted a constitution, the existing tribal constitution shall remain in effect and the Executive Committee is recognized as the provisional and transitional governing body of the Tribe. Until an election of tribal officers under the new constitution, the Executive Committee shall—

(A) represent the Tribe and its Members in the implementation of this subchapter; and

(B) during such period—

(i) have full authority to enter into contracts, grant agreements and other arrangements with any Federal department or agency; and

(ii) have full authority to administer or operate any program under such contracts or agreements.

(2) Until the initial election of tribal officers under a new constitution and bylaws, the Executive Committee shall—

(A) determine tribal membership in accordance with the provisions of section 941e of this title; and

(B) oversee and implement the revision and proposal to the Tribe of a new constitution and conduct such tribal meetings and elections as are required by this subchapter.

(Pub. L. 103-116, §8, Oct. 27, 1993, 107 Stat. 1125.)

§ 941g. Tribal constitution and governance

(a) Indian Reorganization Act

If the Tribe so elects, it may organize under the Act of June 18, 1934 (25 U.S.C. 461 et seq.; commonly referred to as the "Indian Reorga-

nization Act"). The Tribe shall be subject to such Act except to the extent such sections are inconsistent with this subchapter.

(b) Adoption of new tribal constitution

Within 180 days after the effective date of this subchapter, the Executive Committee shall draft and distribute to each Member eligible to vote under the tribal constitution in effect on the effective date of this subchapter, a proposed constitution and bylaws for the Tribe together with a brief, impartial description of the proposed constitution and bylaws and a notice of the date, time and location of the election under this subsection. Not sooner than 30 days or later than 90 days after the distribution of the proposed constitution, the Executive Committee shall conduct a secret-ballot election to adopt a new constitution and bylaws.

(c) Majority vote for adoption; procedure in event of failure to adopt proposed constitution

(1) The tribal constitution and bylaws shall be ratified and adopted if—

(A) not less than 30 percent of those entitled to vote do vote; and

(B) approved by a majority of those actually voting.

(2) If in any such election such majority does not approve the adoption of the proposed constitution and bylaws, the Executive Committee shall prepare another proposed constitution and bylaws and present it to the Tribe in the same manner provided in this section for the first constitution and bylaws. Such new proposed constitution and bylaws shall be distributed to the eligible voters of the Tribe no later than 180 days after the date of the election in which the first proposed constitution and bylaws failed of adoption. An election on the question of the adoption of the new proposal of the Executive Committee shall be conducted in the same manner provided in subsection (b) of this section for the election on the first proposed constitution and bylaws.

(d) Election of tribal officers

Within 120 days after the Tribe ratifies and adopts a constitution and bylaws, the Executive Committee shall conduct an election by secret ballot for the purpose of electing tribal officials as provided in the constitution and bylaws. Subsequent elections shall be held in accordance with the Tribe's constitution and bylaws.

(e) Extension of time

Any time periods prescribed in subsections (b) and (c) of this section may be altered by written agreement between the Executive Committee and the Secretary.

(Pub. L. 103-116, § 9, Oct. 27, 1993, 107 Stat. 1125.)

REFERENCES IN TEXT

The Indian Reorganization Act, referred to in subsec. (a), is act June 18, 1934, ch. 576, 48 Stat. 984, as amended, which is classified generally to subchapter V (§ 461 et seq.) of this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 461 of this title and Tables.

For the effective date of this subchapter, referred to in subsec. (b), see Effective Date note set out under section 941 of this title.

§ 941h. Administrative provisions relating to jurisdiction, taxation, and other matters

In the administration of this subchapter:

(1) All matters involving tribal powers, immunities, and jurisdiction, whether criminal, civil, or regulatory, shall be governed by the terms and provisions of the Settlement Agreement and the State Act, unless otherwise provided in this subchapter.

(2) All matters pertaining to governance and regulation of the reservation (including environmental regulation and riparian rights) shall be governed by the terms and provisions of the Settlement Agreement and the State Act, including, but not limited to, section 17 of the Settlement Agreement and section 27-16-120 of the State Act, unless otherwise provided in this subchapter.

(3) The Indian Child Welfare Act of 1978 (25 U.S.C. 1901 et seq.) shall apply to Catawba Indian children except as provided in the Settlement Agreement.

(4) Whether or not the Tribe, under section 941g(a) of this title, elects to organize under the Act of June 18, 1934 [25 U.S.C. 461 et seq.], the Tribe, in any constitution adopted by the Tribe, may be authorized to exercise such authority as is consistent with the Settlement Agreement and the State Act.

(5) In no event may the Tribe pledge or hypothecate the income or principal of the Catawba Education or Social Services and Elderly Trust Funds or otherwise use them as security or a source of payment for bonds the Tribe may issue.

(6) The Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.) shall apply to the Tribe except to the extent that such application may be inconsistent with this subchapter or the Settlement Agreement.

(Pub. L. 103-116, § 10, Oct. 27, 1993, 107 Stat. 1126.)

REFERENCES IN TEXT

The Indian Child Welfare Act of 1978, referred to in par. (3), is Pub. L. 95-608, Nov. 8, 1978, 92 Stat. 3069, as amended, which is classified principally to chapter 21 (§ 1901 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1901 of this title and Tables.

Act of June 18, 1934, referred to in par. (4), is act June 18, 1934, ch. 576, 48 Stat. 984, as amended, popularly known as the Indian Reorganization Act, which is classified generally to subchapter V (§ 461 et seq.) of this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 461 of this title and Tables.

The Indian Self-Determination and Education Assistance Act, referred to in par. (6), is Pub. L. 93-638, Jan. 4, 1975, 88 Stat. 2203, as amended, which is classified principally to subchapter II (§ 450 et seq.) of this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 450 of this title and Tables.

§ 941i. Tribal trust funds

(a) Purposes of trust funds

All funds paid pursuant to section 941c of this title, except for payments made pursuant to section 941d(g) of this title, shall be deposited with the Secretary in trust for the benefit of the Tribe. Separate trust funds shall be established