

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 2215¹ 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

¹ See References in Text note below.