

eration of the oil and gas industry and for the use and benefit of such Indians: *Provided*, That said Indians, or their tribal council, shall be consulted in regard to the expenditure of such money, but no per capita payment shall be made except by Act of Congress.

(Mar. 3, 1927, ch. 299, § 2, 44 Stat. 1347.)

§ 398c. Taxes

Taxes may be levied and collected by the State or local authority upon improvements, output of mines or oil and gas wells, or other rights, property, or assets of any lessee upon lands within Executive order Indian reservations in the same manner as such taxes are otherwise levied and collected, and such taxes may be levied against the share obtained for the Indians as bonuses, rentals, and royalties, and the Secretary of the Interior is hereby authorized and directed to cause such taxes to be paid out of the tribal funds in the Treasury: *Provided*, That such taxes shall not become a lien or charge of any kind against the land or other property of such Indians.

(Mar. 3, 1927, ch. 299, § 3, 44 Stat. 1347.)

§ 398d. Changes in boundaries of Executive order reservations

Changes in the boundaries of reservations created by Executive order, proclamation, or otherwise for the use and occupation of Indians shall not be made except by Act of Congress.

(Mar. 3, 1927, ch. 299, § 4, 44 Stat. 1347; Pub. L. 94-579, title VII, § 704(a), Oct. 21, 1976, 90 Stat. 2792.)

AMENDMENTS

1976—Pub. L. 94-579 struck out proviso relating to nonapplicability of provisions to temporary withdrawals by Secretary of the Interior.

EFFECTIVE DATE OF 1976 AMENDMENT

Pub. L. 94-579, title VII, § 704(a), Oct. 21, 1976, 90 Stat. 2792, provided that the amendment made by that section is effective on and after Oct. 21, 1976.

SAVINGS PROVISION

Amendment by Pub. L. 94-579 not to be construed as terminating any valid lease, permit, patent, etc., existing on Oct. 21, 1976, see Savings Provision note set out under section 1701 of Title 43, Public Lands.

§ 398e. Applications for permits to prospect for oil and gas filed under other statutes; disposition

The Secretary of the Interior is hereby authorized, under such rules and regulations as he may prescribe, to allow any person who prior to May 27, 1924, filed an application for a permit in accordance with the provisions of the Act of February 25, 1920, to prospect for oil and gas upon lands within an Indian reservation or withdrawal created by Executive order who shall show to the satisfaction of the Secretary of the Interior that he, or the party with whom he has contracted, has done prior to January 1, 1926, any or all of the following things, to wit, expended money or labor in geologically surveying the lands covered by such application, has built a road for the benefit of such lands, or has

drilled or contributed toward the drilling of the geologic structure upon which such lands are located, or who in good faith has either filed a motion for reinstatement or rehearing; or performed any other act which in the judgment of the Secretary of the Interior entitles him to equitable relief, to prospect for a period of two years from March 3, 1927, or for such further time as the Secretary of the Interior may deem reasonable or necessary for the full exploration of the land described in his application under the terms and conditions therein set out, and a substantial contribution toward the drilling of the geologic structure thereon by such applicant for a permit thereon may be considered as prospecting under the provisions hereof; and upon establishing to the satisfaction of the Secretary of the Interior that valuable deposits of oil and gas have been discovered within the limits of the land embraced in any such application, he shall be entitled to a lease for one-fourth of the land embraced in the application: *Provided*, That the applicant shall be granted a lease for as much as one hundred and sixty acres of said lands if there be that number of acres within the application. The area to be selected by the applicant shall be in compact form and, if surveyed, to be described by the legal subdivisions of the public land surveyed; if unsurveyed, to be surveyed by the Government at the expense of the applicant for lease in accordance with rules and regulations to be prescribed by the Secretary of the Interior, and the lands leased shall be conformed to and taken in accordance with the legal subdivisions of such surveys; deposit made to cover expense of surveys shall be deemed appropriated for that purpose, and any excess deposits may be repaid to the person or persons making such deposit or their legal representatives. Such leases shall be for a term of twenty years upon a royalty of 5 per centum in amount or value of the production and the annual payment in advance of a rental of \$1 per acre, the rental paid for any one year to be credited against the royalties as they may accrue for that year, with the preferential right in the lessee to renew the same for successive periods of ten years upon such reasonable terms and conditions as may be prescribed by the Secretary of the Interior. The applicant shall also be entitled to a preference right to a lease for the remainder of the land in his application at a royalty of not less than 12½ per centum in amount or value of the production, the royalty to be determined by competitive bidding or fixed by such other methods as the Secretary of the Interior may by regulations prescribe: *Provided further*, That the Secretary of the Interior shall have the right to reject any or all bids.

(Mar. 3, 1927, ch. 299, § 5, 44 Stat. 1347.)

REFERENCES IN TEXT

Act of February 25, 1920, referred to in text, probably means act Feb. 25, 1920, ch. 85, 41 Stat. 437, as amended, known as the Mineral Leasing Act, which is classified generally to chapter 3A (§181 et seq.) of Title 30, Mineral Lands and Mining. For complete classification of this Act to the Code, see Short Title note set out under section 181 of Title 30 and Tables.

§ 399. Leases of unallotted mineral lands withdrawn from entry under mining laws

Authority of Secretary of the Interior to lease—The Secretary of the Interior is authorized and empowered, under general regulations to be fixed by him and under such terms and conditions as he may prescribe, not inconsistent with the terms of this section, to lease to citizens of the United States, or to any association of such persons, or to any corporation organized under the laws of the United States or of any State or Territory thereof, any part of the unallotted lands within any Indian reservation within the States of Arizona, California, Idaho, Montana, Nevada, New Mexico, Oregon, Washington, or Wyoming withdrawn prior to June 30, 1919, from entry under the mining laws for the purpose of mining for deposits of gold, silver, copper, and other valuable metalliferous minerals, and non-metalliferous minerals, not including oil and gas, which leases shall be irrevocable, except as herein provided, but which may be declared null and void upon breach of any of their terms.

Location of mining claims—Unallotted lands, or such portion thereof as the Secretary of the Interior shall determine, within Indian reservations withheld prior to June 30, 1919, from disposition under the mining laws may be declared by the Secretary of the Interior to be subject to exploration for the discovery of deposits of gold, silver, copper, and other valuable metalliferous minerals and nonmetalliferous minerals, not including oil and gas, by citizens of the United States, and after such declaration mining claims may be located by such citizens in the same manner as mining claims are located under the mining laws of the United States.

Preference right of locators of claims to lease of lands—The locators of all such mining claims, or their heirs, successors, or assigns, shall have a preference right to apply to the Secretary of the Interior for a lease, under the terms and conditions of this section, within one year after the date of the location of any mining claim, and any such locator who shall fail to apply for a lease within one year from the date of location shall forfeit all rights to such mining claim.

Filing copies of location notices—Duplicate copies of the location notice shall be filed within sixty days with the superintendent in charge of the reservation on which the mining claim is located, and application for a lease under this section may be filed with such superintendent for transmission, through official channels, to the Secretary of the Interior.

Lands excepted from entry as mining claims—Lands containing springs, water holes, or other bodies of water needed or used by the Indians for watering livestock, irrigation, or water-power purposes shall not be designated by the Secretary of the Interior as subject to entry under this section.

Term of lease; renewal—Leases under this section shall be for a period of twenty years, with the preferential right in the lessee to renew the same for successive periods of ten years, upon such reasonable terms and conditions as may be prescribed by the Secretary of the Interior, unless otherwise provided by law at the time of the expiration of such periods.

Relinquishment of rights by lessee—The lessee may, in the discretion of the Secretary of the Interior, be permitted at any time to make written relinquishment of all rights under such a lease and upon acceptance thereof be thereby relieved of all future obligations under said lease.

Lease of additional land for camp sites and other purposes—In addition to areas of mineral land to be included in leases under this section the Secretary of the Interior, in his discretion, may grant to the lessee the right to use, during the life of the lease, subject to the payment of an annual rental of not less than \$1 per acre, a tract of unoccupied land, not exceeding forty acres in area, for camp sites, milling, smelting, and refining works, and for other purposes connected with and necessary to the proper development and use of the deposits covered by the lease.

Reservation of surface of leased land to United States; easements—The Secretary of the Interior, in his discretion, in making any lease under this section, may reserve to the United States the right to lease for a term not exceeding that of the mineral lease, the surface of the lands embraced within such lease under existing law or laws hereafter enacted, insofar as said surface is not necessary for use of the lessee in extracting and removing the deposits therein: *Provided*, That the said Secretary, during the life of the lease, is hereby authorized to issue such permits for easements herein provided to be reserved.

Rights and duties of successors to lessees—Any successor in interest or assignee of any lease granted under this section, whether by voluntary transfer, judicial sale, foreclosure sale, or otherwise, shall be subject to all the conditions of the lease under which such rights are held and also subject to all the provisions and conditions of this section to the same extent as though such successor or assign were the original lessee hereunder.

Forfeiture of leases; notice—Any lease granted under this section may be forfeited and canceled by appropriate proceedings in the United States district court for the district in which said property or some part thereof is situated whenever the lessee, after reasonable notice in writing, as prescribed in the lease, shall fail to comply with the terms of this section or with such conditions not inconsistent herewith as may be specifically recited in the lease.

Royalties payable by lessees—For the privilege of mining or extracting the mineral deposits in the ground covered by the lease the lessee shall pay to the United States, for the benefit of the Indians, a royalty which shall not be less than 5 per centum of the net value of the output of the minerals at the mine, due and payable at the end of each month succeeding that of the extraction of the minerals from the mine, and an annual rental, payable at the date of such lease and annually thereafter on the area covered by such lease, at the rate of not less than 25 cents per acre for the first calendar year thereafter; not less than 50 cents per acre for the second, third, fourth, and fifth years, respectively; and not less than \$1 per acre for each and every year thereafter during the continuance of the lease, except that such rental for any year shall be credited against the royalties as they accrue for that year.