

deemed a major Federal action for purposes of the National Environmental Policy Act of 1969, as amended [42 U.S.C. 4321 et seq.].

(b) Transfer of public lands

Any transfer of public lands pursuant to this subchapter shall be made notwithstanding the provisions of sections 1782 and 1752(g) of title 43.

(Pub. L. 93-531, §28, as added Pub. L. 96-305, §11, July 8, 1980, 94 Stat. 933.)

REFERENCES IN TEXT

National Environmental Policy Act of 1969, as amended, referred to in subsec. (a), is Pub. L. 91-190, Jan. 1, 1970, 83 Stat. 852, as amended, which is classified generally to chapter 55 (§4321 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 4321 of Title 42 and Tables.

§ 640d-27. Attorney fees, costs and expenses for litigation or court action

(a) Payment by Secretary; authorization of appropriations

In any litigation or court action between or among the Hopi Tribe, the Navajo Tribe and the United States or any of its officials, departments, agencies, or instrumentalities, arising out of the interpretation or implementation of this subchapter, as amended, the Secretary shall pay, subject to the availability of appropriations, attorney's fees, costs and expenses as determined by the Secretary to be reasonable. For each tribe, there is hereby authorized to be appropriated not to exceed \$120,000 in fiscal year 1981, \$130,000 in fiscal year 1982, \$140,000 in fiscal year 1983, \$150,000 in fiscal year 1984, and \$160,000 in fiscal year 1985, and each succeeding year thereafter until such litigation or court action is finally completed.

(b) Award by court; reimbursement to Secretary

Upon the entry of a final judgment in any such litigation or court action, the court shall award reasonable attorney's fees, costs and expenses to the party, other than the United States or its officials, departments, agencies, or instrumentalities, which prevails or substantially prevails, where it finds that any opposing party has unreasonably initiated or contested such litigation. Any party to whom such an award has been made shall reimburse the United States out of such award to the extent that it has received payments pursuant to subsection (a) of this section.

(c) Excess difference between award of court and award of Secretary treated as final judgment of Court of Claims

To the extent that any award made to a party against the United States pursuant to subsection (b) of this section exceeds the amount paid to such party by the United States pursuant to subsection (a) of this section, such difference shall be treated as if it were a final judgment of the Court of Claims under section 2517 of title 28.

(d) Litigation or court actions applicable

This section shall apply to any litigation or court action pending upon July 8, 1980, in which a final order, decree, judgment has not been en-

tered, but shall not apply to any action authorized by section 640d-7 or 640d-17(a) of this title. (Pub. L. 93-531, §29, as added Pub. L. 96-305, §11, July 8, 1980, 94 Stat. 934.)

REFERENCES IN TEXT

The Court of Claims, referred to in subsec. (c), and the Court of Customs and Patent Appeals were merged effective Oct. 1, 1982, into a new United States Court of Appeals for the Federal Circuit by Pub. L. 97-164, Apr. 2, 1982, 96 Stat. 25, which also created a United States Claims Court [now United States Court of Federal Claims] that inherited the trial jurisdiction of the Court of Claims. See sections 48, 171 et seq., 791 et seq., and 1491 et seq. of Title 28, Judiciary and Judicial Procedure.

§ 640d-28. Life estates

(a) Omitted

(b) Application for lease; contents; filing date; extension

Any Navajo head of household who desires to do so may submit an application for a life estate lease to the Commissioner. Such application shall contain such information as the Commissioner may prescribe by regulation, such regulation to be promulgated by the Commissioner within ninety days of July 8, 1980. To be considered, such application must be filed with the Commissioner on or before April 1, 1981: *Provided*, That the Commissioner may, for good cause, grant an extension of one hundred and eighty days.

(c) Application groupings

Upon receipt of applications filed pursuant to this section, the Commissioner shall group them in the following order:

(A) Applicants who are determined to be at least 50 per centum disabled as certified by a physician approved by the Commissioner. Such applicants shall be ranked in the order of the severity of their disability.

(B) Applicants who are not at least 50 per centum disabled shall be ranked in order of their age with oldest listed first and the youngest listed last: *Provided*, That, if any applicant physically resides in quarter quad Nos. 78 NW, 77 NE, 77 NW, 55 SW, or 54 SE as designated on the Mediator's partition map, such applicant shall be given priority over another applicant of equal age.

(C) Applicants who did not, as of December 22, 1974, and continuously thereafter, maintain a separate place of abode and actually remain domiciled on Hopi partitioned lands, and who, but for this subsection would be required to relocate, shall be rejected by the Commissioner.

(D) Applicants who were not at least forty-nine years of age on December 22, 1974, or are not at least 50 per centum disabled, shall also be rejected by the Commissioner.

(d) Number of leases; priorities

The Commissioner shall have authority to award life estate leases to not more than one hundred and twenty applicants with first priority being given to applicants listed pursuant to subsection (c)(A) of this section and the next priority being given to the applicants listed pursuant to subsection (c)(B) of this section, in order of such listing.