

(Pub. L. 86-339, § 2, Sept. 21, 1959, 73 Stat. 602.)

REFERENCES IN TEXT

The words "prior to this Act", referred to in text, mean prior to enactment of Act Sept. 21, 1959, Pub. L. 86-339.

§ 953. Lands

(a) Determination of value of unallotted and allotted lands; exclusion of deceased allottees' allotments

The Secretary shall determine on the basis of the contract appraisals that were made in 1957 and 1958 (1) the value of all unallotted tribal land, and (2) the value of the allotment of each allottee who is living on September 21, 1959, excluding the value of any improvements thereon. Where lands of a living allottee have been sold under the supervision of the Secretary, their value for the purpose of equalization shall be the amount received from such sale, excluding the value assigned to any improvements thereon. Where lands of a living allottee have been fee patented to and sold by the allottee, their value for the purpose of equalization shall be the appraised value of the lands, excluding improvements, as of the time of the sale, regardless of the amount received from the sale. The allotments of allottees who are not living on September 21, 1959 shall be excluded from the equalization program. All values so determined by the Secretary shall be final and conclusive for the purposes of this subchapter.

(b) Lands not subject to allotment

In no event shall the following tribal lands be subject to allotment, and they shall henceforth be set apart and designated as tribal reserves for the benefit and use of the band:

Cemetery numbered 1, block 235, section 14, township 4 south, range 4 east.

Cemetery numbered 2, as now constituted pursuant to secretarial order, comprising approximately two acres.

Roman Catholic Church, as now constituted pursuant to secretarial order, comprising approximately two acres.

Mineral Springs, lots 3a, 4a, 13, and 14, section 14, township 4 south, range 4 east.

San Andreas Canyon, west half southeast quarter, southeast quarter southeast quarter section 3, township 5 south, range 4 east.

Palm Canyon, south half and south half north half section 14, township 5 south, range 4 east; all section 24, township 5 south, range 4 east.

Tahquitz Canyon, southwest quarter section 22, township 4 south, range 4 east; north half section 28, township 4 south, range 4 east.

Murray Canyon, east half section 10, township 5 south, range 4 east.

(c) Equalization for living members by allotment without regard to acreage limitations; creation of right by selection and approval; allotments made subject to laws and regulations

On the basis of such values, the Secretary shall determine the highest level of equalization that is feasible for the members of the band who are living at the time of this Act by allotting all of the unallotted tribal land, except the reserved

areas listed in subsection (b) of this section, without regard to acreage limitations heretofore imposed by law. Such unallotted tribal land shall then be allotted to those members who have received allotments with a value that is less than the equalization figure deemed feasible in accordance with procedures prescribed by the Secretary. No selection of an allotment pursuant to such procedures shall create a vested right in the land until all selections authorized by this subchapter have been made, included in one schedule, and approved by the Secretary. Allotments thereafter made shall be subject to the same laws and regulations that apply to other trust allotments on the Agua Caliente Reservation.

(d) Portions in airport subject to allotment unless sold; procedure for sale; payment of sale proceeds in lieu of allotment

The unallotted portions of section 18, township 4 south, range 5 east, and section 12, township 4 south, range 4 east, that are in the municipal airport for the city of Palm Springs shall be subject to allotment as a part of the equalization program, subject to the following qualifications: If within thirty days after September 21, 1959, a majority of the adult members of the band who are eligible to vote agree, the Secretary may offer to sell such land to the city for its appraised value on September 21, 1959, and the Secretary shall cause an independent appraisal thereof to be made by an appraiser he shall select who shall be approved jointly by the band and the city before proceeding with such appraisal, the costs for the appraisal to be shared by the band and the city; thereafter the Secretary shall review the completed appraisal and shall, if approved, then submit copies to both the band and the city for their approval which shall be either accepted or rejected in writing within thirty days; and if within three hundred and sixty-five days after joint acceptance of such appraisal by the band and the city, the city accepts the offer and tenders payment in full, the Secretary shall complete the sale, and any allottees who may have made or who may thereafter make an equalization selection from the lands sold to the city shall receive in lieu of the allotment selected his proportionate share of the proceeds of the sale.

(Pub. L. 86-339, § 3, Sept. 21, 1959, 73 Stat. 602; Pub. L. 105-308, § 4(a), Oct. 30, 1998, 112 Stat. 2934.)

REFERENCES IN TEXT

The words "at the time of this Act", referred to in subsec. (c), mean at Sept. 21, 1959, the date of enactment of this subchapter.

AMENDMENTS

1998—Subsec. (b). Pub. L. 105-308, in undesignated par. relating to Mineral Springs, substituted "east." for "east: *Provided*, That no distribution to member of the band of the net rents, profits, and other revenues derived from that portion of these lands which is designated as 'parcel B' in the supplement dated September 8, 1958, to the lease by and between the Agua Caliente Band of Mission Indians and Palm Springs Spa dated January 21, 1958, or of the net income derived from the investment of such net rents, profits, and other revenues or from the sale of said lands or of as-

sets purchased with the net rents, profits, and other revenues aforesaid or with the net income from the investment thereof shall be made except to those enrolled members who are entitled to an equalization allotment or to a cash payment in satisfaction thereof under this subchapter or, in the case of such a member who died after September 21, 1959, to those entitled to participate in his estate, and any such distribution shall be per capita to living enrolled members and per stirpes to participants in the estate of a deceased member."

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105-308 applicable as if it had been enacted on Mar. 31, 1983, see section 4(b) of Pub. L. 105-308, set out as an Expiration of Restriction on Distribution of Revenues From Mineral Springs Parcel note under section 951 of this title.

§ 954. Powers and duties of guardians

(a) Appointment and continuance in office; notice to Secretary of State court proceedings; appearance

No guardian or other fiduciary shall be appointed under State law for the estate of any member of the band, or continued in office, except with approval of the Secretary: *Provided*, That no conservator for any member of the band shall be appointed under State law or continued in office after the effective date of this Act, unless the individual Indian concerned, with the approval of the Secretary, personally petitions for the appointment or continuation of such appointment. The Secretary shall be given notice of all proceedings in the State court with respect to the estate of any member of the band which is being administered, and he may at any time appear as a party in such proceedings, and may exercise all rights accorded to a party under State law.

(b) Management and disposition of trust property and property subject to restrictions against alienation by guardians, conservators, or fiduciaries; approved activities; approval of activities

No guardian, conservator or other fiduciary appointed under State law shall, in his official capacity, participate in the management or disposition of any property or interest therein which is held in trust by the United States for a member of the band or is subject to restrictions against alienation imposed by the laws of the United States, execute or approve any use, expenditure, investment, deposit, or disposition of such property or interest therein, or proceeds therefrom, or receive any fee or other compensation for services hereafter performed with respect to such property or interest therein. The provisions of this subsection shall not preclude any such person, in his private capacity, from participating in the management or disposition of such property or interest therein with the specific approval of the Secretary of the Interior. Actions with respect to the use, expenditure, investment, deposit, or disposition of such property or interests therein, or proceeds therefrom, shall be valid and efficacious in all respects without participation of affirmation by any guardian, conservator, or other fiduciary appointed under State law.

(c) Reports by guardians; failure or refusal to report; fraudulent, capricious, arbitrary or grossly erroneous reports; prosecution; appropriate relief

The Secretary, at any time, may require any guardian, conservator, or other fiduciary appointed under State law for a member of the band to submit a full and complete report concerning his handling of the estate during the preceding six years. If any person or entity refused to do so by the Secretary fails or refuses to so report, or, if having reported, the Secretary concludes that any action connected therewith is fraudulent, or capricious or arbitrary or so grossly erroneous as necessarily to imply bad faith, he may request the Attorney General to cause an action to be brought in the name of the United States in the United States District Court for the Central District of California or in any such district court having jurisdiction over the person, or persons, and subject matter, for such relief as may be appropriate, and said courts are hereby granted jurisdiction to hear and determine such action.

(d) Delivery to Secretary of money or property at termination of fiduciary relationship

The Secretary may require any money or property in the possession of a fiduciary at the time the fiduciary relationship is terminated, or which is recovered pursuant to this subchapter, to be delivered to him to be held in trust for the individual Indian concerned.

(e) Use and disposition of money or property held in trust by the United States by the Secretary; consent by competent Indian; determination of competency; applicability of administrative procedure under title 5; time and place of hearing; judicial review

Under such regulations as he shall provide, and with the consent of the individual Indian concerned, unless the Secretary determines such Indian to be incompetent by reason of minority or otherwise, in which case such consent shall not be required, the Secretary may use, advance, expend, exchange, deposit, dispose of, invest and reinvest, in any manner and for any purpose, any money or other property held by the United States in trust for such Indian. The Secretary shall make no determination that an adult Indian is incompetent except after according him an opportunity to be heard upon reasonable notice, in accordance with the provisions of subchapter II of chapter 5 of title 5. Unless the Indian otherwise agrees, the hearing shall be held in the State of California within sixty days of the date of notice. A person aggrieved by a determination of incompetency made by the Secretary shall be entitled to judicial review of such determination in accordance with sections 701 to 706 of title 5.

(f) Authority of the Secretary under other provisions unaffected

Nothing herein shall be deemed to limit any authority possessed by the Secretary under any other provisions of law.

(Pub. L. 86-339, § 4, Sept. 21, 1959, 73 Stat. 604; Pub. L. 90-597, Oct. 17, 1968, 82 Stat. 1164.)