

Shasta Costa, Siletz, Siuslaw, Skiloot, Southern Molalla, Takelma, Tillamook, Tolowa, Tualatin, Tututui, Upper Coquille, Upper Umpqua, Willamette Tumwater, Yamhill, Yaquina, and Yoncalla;

(b) "Secretary" means the Secretary of the Interior.

(c) "Lands" means real property, interest therein, or improvements thereon, and includes water rights.

(d) "Tribal property" means any real or personal property, including water rights, or any interest in real or personal property, that belongs to the tribe and either is held by the United States in trust for the tribe or is subject to a restriction against alienation imposed by the United States.

(Aug. 13, 1954, ch. 733, § 2, 68 Stat. 724.)

§ 693. Membership roll; preparation and initial publication; eligibility for enrollment; appeal from inclusion or omission from roll; finality of determination; final publication

Within ninety days after August 13, 1954, the Secretary shall publish in the Federal Register (1) a list of those tribes for which membership rolls will be required for the purposes of this subchapter, and (2) a list of those tribes for which no membership rolls will be required for the purposes of this subchapter. Each tribe on each list shall have a period of six months from the date of publication of the notice in which to prepare and submit to the Secretary a proposed roll of the members of the tribe living on August 13, 1954, which shall be published in the Federal Register. In the absence of applicable law, or eligibility requirements in an approved constitution, bylaws, or membership ordinance, eligibility for enrollment shall be determined under such rules and regulations as the Secretary may prescribe. No person shall be enrolled on more than one tribal roll prepared pursuant to this subchapter. If a tribe on list one fails to submit such roll within the time specified in this section, the Secretary shall prepare a proposed roll for the tribe, which shall be published in the Federal Register. Any person claiming membership rights in the tribe or an interest in its assets, or a representative of the Secretary on behalf of any such person, may, within ninety days from the date of publication of the proposed roll, file an appeal with the Secretary contesting the inclusion or omission of the name of any person on or from such roll. The Secretary shall review such appeals and his decisions thereon shall be final and conclusive. After disposition of all such appeals the roll of the tribe shall be published in the Federal Register and such roll shall be final for the purposes of this subchapter.

(Aug. 13, 1954, ch. 733, § 3, 68 Stat. 724.)

§ 694. Personal property rights; restrictions

Upon publication in the Federal Register of the final roll as provided in section 693 of this title, the rights or beneficial interests in tribal property of each person whose name appears on the roll shall constitute personal property which may be inherited or bequeathed, but shall not otherwise be subject to alienation or encum-

brance before the transfer of title to such tribal property as provided in section 695 of this title without the approval of the Secretary. Any contract made in violation of this section shall be null and void.

(Aug. 13, 1954, ch. 733, § 4, 68 Stat. 725.)

§ 695. Tribal property

(a) Procedure for transfer

Upon request of a tribe, the Secretary is authorized within two years from August 13, 1954, to transfer to a corporation or other legal entity organized by the tribe in a form satisfactory to the Secretary title to all or any part of the tribal property, real and personal, or to transfer to one or more trustees designated by the tribe and approved by the Secretary, title to all or any part of such property to be held in trust for management or liquidation purposes under such terms and conditions as may be specified by the tribe and approved by the Secretary, or to sell all or any part of such property and make a pro rata distribution of the proceeds of sale among the members of the tribe after deducting, in his discretion, reasonable costs of sale and distribution.

(b) Property not transferred in accordance with recognized procedure; election to retain property

Title to any tribal property that is not transferred in accordance with the provisions of subsection (a) of this section shall be transferred by the Secretary to one or more trustees designated by him for the liquidation and distribution of assets among the members of the tribe under such terms and conditions as the Secretary may prescribe: *Provided*, That the trust agreement shall provide for the termination of the trust not more than three years from the date of such transfer unless the term of the trust is extended by order of a judge of a court of record designated in the trust agreement: *Provided further*, That the trust agreement shall provide that at any time before the sale of tribal property by the trustees the tribe may notify the trustees that it elects to retain such property and to transfer title thereto to a corporation, other legal entity, or trustee in accordance with the provisions of subsection (a) of this section, and that the trustees shall transfer title to such property in accordance with the notice from the tribe if it is approved by the Secretary.

(c) Compensation of agents or attorneys

The Secretary shall not approve any form of organization pursuant to subsection (a) of this section that provides for the transfer of stock or an undivided share in corporate assets as compensation for the services of agents or attorneys unless such transfer is based upon an appraisal of tribal assets that is satisfactory to the Secretary.

(d) Selection of trustees; approval by Secretary

When approving or disapproving the selection of trustees in accordance with the provisions of subsection (a) of this section, and when designating trustees pursuant to subsection (b) of this section, the Secretary shall give due regard to the laws of the State of Oregon that relate to the selection of trustees.

(Aug. 13, 1954, ch. 733, § 5, 68 Stat. 725.)

§ 696. Individual property

(a) Transfer of unrestricted control

The Secretary is authorized and directed to transfer within two years after August 13, 1954 to each member of each tribe unrestricted control of funds or other personal property held in trust for such member by the United States.

(b) Removal of restrictions on sales or encumbrances; fee simple title

All restrictions on the sale or encumbrance of trust or restricted land owned by members of the tribes (including allottees, purchasers, heirs, and devisees, either adult or minor) are removed two years after August 13, 1954 and the patents or deeds under which titles are then held shall pass the titles in fee simple, subject to any valid encumbrance. The titles to all interests in trust or restricted land acquired by members of the tribes by devise or inheritance two years or more after August 13, 1954 shall vest in such members in fee simple, subject to any valid encumbrance.

(c) Multiple land ownership; partition; sale; election to purchase; unlocated owners

Prior to the time provided in subsection (d)¹ of this section for the removal of restrictions on land owned by more than one member of a tribe, the Secretary may—

(1) upon request of any of the owners, partition the land and issue to each owner a patent or deed for his individual share that shall become unrestricted two years from August 13, 1954;

(2) upon request of any of the owners and a finding by the Secretary that partition of all or any part of the land is not practicable, cause all or any part of the land to be sold at not less than the appraised value thereof and distribute the proceeds of sale to the owners: *Provided*, That any one or more of the owners may elect before a sale to purchase the other interests in the land at not less than the appraised value thereof, and the purchaser shall receive an unrestricted patent or deed to the land; and

(3) if the whereabouts of none of the owners can be ascertained, cause such lands to be sold and deposit the proceeds of sale in the Treasury of the United States for safekeeping.

(Aug. 13, 1954, ch. 733, § 6, 68 Stat. 725.)

§ 697. Property of deceased members

(a) Federal laws not applicable to probate

The Act of June 25, 1910 (36 Stat. 855), the Act of February 14, 1913 (37 Stat. 678), and other Acts amendatory thereto shall not apply to the probate of the trust and restricted property of the members of the tribes who die six months or more after August 13, 1954.

(b) State, etc., laws applicable to probate

The laws of the several States, Territories, possessions, and the District of Columbia with respect to the probate of wills, the determina-

tion of heirs, and the administration of decedents' estates shall apply to the individual property of members of the tribes who die six months or more after August 13, 1954.

(Aug. 13, 1954, ch. 733, § 7, 68 Stat. 726.)

REFERENCES IN TEXT

Act of June 25, 1910, referred to in subsec. (a), is act June 25, 1910, ch. 431, 36 Stat. 855, which enacted sections 47, 93, 151, 202, 337, 344a, 351, 352, 353, 372, 403, 406, 407, and 408 of this title, section 6a-1 of former Title 41, Public Contracts, and section 148 of Title 43, Public Lands, and amended sections 191, 312, 331, 333, and 336 of this title and sections 104 and 107 of former Title 18, Criminal Code and Criminal Procedure. Sections 104 and 107 of former Title 18 were repealed and restated as sections 1853 and 1856 of Title 18, Crimes and Criminal Procedure, by act June 25, 1948, ch. 645, 62 Stat. 683. Section 6a-1 of former Title 41 was repealed and restated as section 6102(e) of Title 41, Public Contracts, by Pub. L. 111-350, §§ 3, 7(b), Jan. 4, 2011, 124 Stat. 3677, 3855. For complete classification of this Act to the Code, see Tables.

Act of February 14, 1913, referred to in subsec. (a), is act Feb. 14, 1913, ch. 55, 37 Stat. 678, which amended section 373 of this title. For complete classification of this Act to the Code, see Tables.

§ 698. Transfer of federally owned property

The Secretary is authorized, in his discretion, to transfer to any tribe or any member or group of members thereof any federally owned property acquired, withdrawn, or used for the administration of the affairs of the tribes subject to this subchapter which he deems necessary for Indian use, or to transfer to a public or non-profit body any such property which he deems necessary for public use and from which members of the tribes will derive benefits.

(Aug. 13, 1954, ch. 733, § 8, 68 Stat. 726.)

§ 699. Taxes; initial exemption; taxes following distribution; valuation for capital gains or losses

No property distributed under the provisions of this subchapter shall at the time of distribution be subject to Federal or State income tax. Following any distribution of property made under the provisions of this subchapter, such property and any income derived therefrom by the individual, corporation, or other legal entity shall be subject to the same taxes, State and Federal, as in the case of non-Indians: *Provided*, That for the purpose of capital gains or losses the base value of the property shall be the value of the property when distributed to the individual, corporation, or other legal entity.

(Aug. 13, 1954, ch. 733, § 9, 68 Stat. 726.)

§ 700. Protection of minors, persons non compos mentis and other members needing assistance; guardians; other adequate means

Prior to the transfer of title to, or the removal of restrictions from, property in accordance with the provisions of this subchapter, the Secretary shall protect the rights of members of the tribes who are minors, non compos mentis, or in the opinion of the Secretary in need of assistance in conducting their affairs by causing the appointment of guardians for such members in courts of competent jurisdiction, or by such other means as he may deem adequate.

¹ So in original. Probably should be subsection "(b)".