

section (a) of this section shall be transferred by the Secretary either to all members of the tribe as tenants in common or 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.

(c) Selection of trustees; approval by Secretary; election to retain property

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 Utah that relate to the selection of trustees: *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 paragraphs (1) and (2) 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.

(d) Reservation of subsurface rights

Notwithstanding any other provision of this section, the Secretary is directed to reserve subsurface rights in tribal property from any sale or division of such property, and to require any trustee or trustees to whom title to tribal property is transferred to retain title to the subsurface rights in such property for not less than 10 years.

(Sept. 1, 1954, ch. 1207, § 5, 68 Stat. 1100.)

DISCONTINUANCE OF IRRIGATION WORKS; TRANSFER OF TITLE

Act Sept. 1, 1954, ch. 1207, § 22, 68 Stat. 1104, provided that not later than two years after Sept. 1, 1954, the management and operation of irrigation works for Indian lands of the tribe by the Bureau of Indian Affairs was to be discontinued, and that, upon such discontinuance, the Secretary was to cancel the unpaid irrigation operation and maintenance assessments and reimbursable irrigation construction charges against such lands and transfer the title to such irrigation works to water users, water user's associations organized for such purpose, or to corporations organized, or trustees designated, as provided in this section.

§ 746. Individual property

(a) Transfer of unrestricted control

The Secretary is authorized and directed to transfer within two years after September 1, 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 tribe (including allottees, heirs, and devisees, either adult or minor) are removed two years after September 1, 1954, and the patents or deeds under which titles are then held shall pass the titles in fee simple, subject to any valid encumbrance: *Provided*, That the provisions of this subsection shall not apply to subsurface rights in such lands, and the Secretary is directed to transfer such subsurface rights to one or more trustees designated by him for management for a period not less than 10 years. The title to all interests in trust or restricted land acquired by members of the tribe by devise or inheritance two years or more after September 1, 1954 shall vest in such members in fee simple, subject to any valid encumbrance.

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

Prior to the time provided in subsection (b) 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 September 1, 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.

(Sept. 1, 1954, ch. 1207, § 6, 68 Stat. 1101.)

§ 747. Property of deceased members

(a) Federal laws inapplicable 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 a tribe who die six months or more after September 1, 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 determination of heirs, and the administration of decedents' estates shall apply to the individual property of members of the tribe who die six months after September 1, 1954.

(Sept. 1, 1954, ch. 1207, § 7, 68 Stat. 1102.)

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.

§ 748. Transfer of federally owned property

The Secretary is authorized, in his discretion, to transfer to a 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 tribe which he deems necessary for Indian use, or to transfer to a public or nonprofit body any such property which he deems necessary to public use and from which members of the tribes will derive benefit.

(Sept. 1, 1954, ch. 1207, §8, 68 Stat. 1102.)

KANOSH INDIANS, UTAH

Act July 11, 1956, ch. 569, 70 Stat. 528, provided: "That the following-described public domain is hereby declared to be held by the United States in trust for the Kanosh Bank of the Paiute Indian Tribe in Utah, subject to the provisions of the Act of September 1, 1954 (68 Stat. 1099) [this subchapter], with respect to the termination of Federal supervision over all property of such Indians: The southeast quarter, east half northeast quarter, and the northwest quarter northeast quarter, section 35, township 22 south, range 5 west; the west half west half, section 14, and the east half east half, section 15, township 23 south, range 5 west, Salt Lake meridian, Utah, containing 600 acres."

§ 749. Taxes; initial exemption; taxes following distribution; valuation for capital gains and 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.

(Sept. 1, 1954, ch. 1207, §9, 68 Stat. 1102.)

§ 750. Indian claims unaffected

Nothing contained in this subchapter shall deprive any Indian tribe, band, or other identifiable group of American Indians of any right, privilege, or benefit granted by the Indian Claims Commission Act of August 13, 1946 (ch. 959, 60 Stat. 1049) [25 U.S.C. 70 et seq.], including the right to pursue claims against the United States as authorized by said Act.

(Sept. 1, 1954, ch. 1207, §10, 68 Stat. 1103.)

REFERENCES IN TEXT

The Indian Claims Commission Act of August 13, 1946, referred to in text, is act Aug. 13, 1946, ch. 959, 60 Stat. 1049, as amended, which was classified to section 2A (§70 et seq.) of this title and was omitted because of the termination of the Indian Claims Commission on Sept. 30, 1978. See Codification note set out under former section 70 et seq. of this title.

§ 751. Valid leases, permits, liens, etc., unaffected

Nothing in this subchapter shall abrogate any valid lease, permit, license, right-of-way, lien, or other contract heretofore approved. Whenever any such instrument places in or reserves to the Secretary any powers, duties, or other functions with respect to the property subject thereto, the Secretary may transfer such functions, in whole or in part, to any Federal agency with the consent of such agency and may transfer such function, in whole or in part, to a State agency with the consent of such agency and the other party or parties to such instrument.

(Sept. 1, 1954, ch. 1207, §11, 68 Stat. 1103.)

§ 752. Water rights

Nothing in this subchapter shall abrogate any water rights of a tribe or its members.

(Sept. 1, 1954, ch. 1207, §12, 68 Stat. 1103.)

§ 753. 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 a tribe 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 in courts of competent jurisdiction, or by such other means as he may deem adequate.

(Sept. 1, 1954, ch. 1207, §13, 68 Stat. 1103.)

§ 754. Advances or expenditures from tribal funds

Pending the completion of the property dispositions provided for in this subchapter, the funds now on deposit, or hereafter deposited, in the United States Treasury to the credit of the tribe shall be available for advance to the tribe, or for expenditure, for such purposes as may be designated by the governing body of the tribe and approved by the Secretary.

(Sept. 1, 1954, ch. 1207, §14, 68 Stat. 1103.)

§ 755. Execution by Secretary of patents, deeds, etc.

The Secretary shall have the authority to execute such patents, deeds, assignments, releases, certificates, contracts, and other instruments as may be necessary or appropriate to carry out the provisions of this subchapter, or to establish a marketable and recordable title to any property disposed of pursuant to this subchapter.

(Sept. 1, 1954, ch. 1207, §15, 68 Stat. 1103.)