

(Pub. L. 97-459, title II, §211, Jan. 12, 1983, 96 Stat. 2519.)

**§ 2211. Governing body of tribe; construction of chapter as not vesting with authority not authorized by tribal constitution or by-laws**

Nothing in this chapter shall be construed as vesting the governing body of an Indian tribe with any authority which is not authorized by the constitution and by-laws or other organizational document of such tribe.

(Pub. L. 97-459, title II, §212, as added Pub. L. 98-608, §1(5), Oct. 30, 1984, 98 Stat. 3173.)

REFERENCES IN TEXT

This chapter, referred to in text, was in the original “this Act”, which was translated as reading “this title”, meaning title II of Pub. L. 97-459, to reflect the probable intent of Congress.

**§ 2212. Fractional interest acquisition program**

**(a) Acquisition by Secretary**

**(1) In general**

The Secretary may acquire, at the discretion of the Secretary and with the consent of the owner, or from an heir during probate in accordance with section 2206(o) of this title and at fair market value, any fractional interest in trust or restricted lands.

**(2) Authority of Secretary**

The Secretary shall submit the report required under section 2217 of this title concerning how the fractional interest acquisition program should be enhanced to increase the resources made available to Indian tribes and individual Indian landowners.

**(3) Interests held in trust**

Subject to section 2213 of this title, the Secretary shall immediately hold interests acquired under this chapter in trust for the recognized tribal government that exercises jurisdiction over the land involved.

**(b) Requirements**

In implementing subsection (a) of this section, the Secretary—

(1) shall promote the policies provided for in section 102 of the Indian Land Consolidation Act Amendments of 2000;

(2) may give priority to the acquisition of fractional interests representing 2 percent or less of a parcel of trust or restricted land, especially those interests that would have escheated to a tribe but for the Supreme Court’s decision in *Babbitt v. Youpee* (117 S<sup>1</sup> Ct. 727 (1997));

(3) to the extent practicable—

(A) shall consult with the tribal government that exercises jurisdiction over the land involved in determining which tracts to acquire on a reservation;

(B) shall coordinate the acquisition activities with the acquisition program of the tribal government that exercises jurisdiction over the land involved, including a tribal land consolidation plan approved pursuant to section 2203 of this title; and

(C) may enter into agreements (such agreements will not be subject to the provisions of the Indian Self-Determination and Education Assistance Act of 1974 [25 U.S.C. 450 et seq.]) with the tribal government that exercises jurisdiction over the land involved or a subordinate entity of the tribal government to carry out some or all of the Secretary’s land acquisition program; and

(4) shall minimize the administrative costs associated with the land acquisition program through the use of policies and procedures designed to accommodate the voluntary sale of interests under this section, notwithstanding the existence of any otherwise applicable policy, procedure, or regulation, through the elimination of duplicate—

(A) conveyance documents;

(B) administrative proceedings; and

(C) transactions.

**(c) Sale of interest to Indian landowners**

**(1) Conveyance at request**

**(A) In general**

At the request of any Indian who owns an undivided interest in a parcel of trust or restricted land, the Secretary shall convey an interest in such parcel acquired under this section to the Indian landowner—

(i) on payment by the Indian landowner of the amount paid for the interest by the Secretary; or

(ii) if—

(I) the Indian referred to in this subparagraph provides assurances that the purchase price will be paid by pledging revenue from any source, including trust resources; and

(II) the Secretary determines that the purchase price will be paid in a timely and efficient manner.

**(B) Limitation**

With respect to a conveyance under this subsection, the Secretary shall not approve an application to terminate the trust status or remove the restrictions of such an interest unless the interest is subject to a foreclosure of a mortgage in accordance with section 483a of this title.

**(2) Multiple owners**

If more than one Indian owner requests an interest under paragraph (1), the Secretary shall convey the interest to the Indian owner who owns the largest percentage of the undivided interest in the parcel of trust or restricted land involved.

**(3) Limitation**

If an Indian tribe that has jurisdiction over a parcel of trust or restricted land owns an undivided interest in a parcel of such land, such interest may only be acquired under paragraph (1) with the consent of such Indian tribe.

**(d) Authorization of appropriations**

There is authorized to be appropriated to carry out this section \$75,000,000 for fiscal year 2005, \$95,000,000 for fiscal year 2006, and \$145,000,000 for each of fiscal years 2007 through 2010.

<sup>1</sup> So in original. Probably should be followed by a period.

(Pub. L. 97-459, title II, §213, as added Pub. L. 106-462, title I, §103(6), Nov. 7, 2000, 114 Stat. 1999; amended Pub. L. 108-374, §6(a)(5), Oct. 27, 2004, 118 Stat. 1800; Pub. L. 109-157, §5, Dec. 30, 2005, 119 Stat. 2952; Pub. L. 110-453, title II, §207(d), Dec. 2, 2008, 122 Stat. 5033.)

#### REFERENCES IN TEXT

This chapter, referred to in subsec. (a)(3), was in the original “this Act”, which was translated as reading “this title”, meaning title II of Pub. L. 97-459, to reflect the probable intent of Congress.

Section 102 of the Indian Land Consolidation Act Amendments of 2000, referred to in subsec. (b)(1), is section 102 of Pub. L. 106-462, which is set out as a note under section 2201 of this title.

The Indian Self-Determination and Education Assistance Act of 1974, referred to in subsec. (b)(3)(C), probably means the Indian Self-Determination and Education Assistance Act, Pub. L. 93-638, Jan. 4, 1975, 88 Stat. 2203, as amended, which is classified principally to subchapter II (§450 et seq.) of chapter 14 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 450 of this title and Tables.

#### AMENDMENTS

2008—Subsec. (a)(1). Pub. L. 110-453 substituted “section 2206(o)” for “section 2206(p)”.

2005—Pub. L. 109-157, §5(1), amended section catchline generally making technical correction to section designation.

Subsec. (a)(1). Pub. L. 109-157, §5(2), made technical amendment to reference in original act which appears in text as reference to section 2206(p) of this title.

2004—Pub. L. 108-374, §6(a)(5)(A), substituted “Fractional interest acquisition program” for “Pilot program for the acquisition of fractional interests” in section catchline.

Subsec. (a)(1). Pub. L. 108-374, §6(a)(5)(B)(i), inserted “or from an heir during probate in accordance with section 2206(p) of this title” after “owner”.

Subsec. (a)(2). Pub. L. 108-374, §6(a)(5)(B)(ii), (iii), reenacted heading without change, substituted “The Secretary shall submit” for “(B) REQUIRED REPORT.—Prior to expiration of the authority provided for in subparagraph (A), the Secretary shall submit” and “how the fractional interest acquisition program should be enhanced to increase the resources made” for “whether the program to acquire fractional interests should be extended or altered to make resources”, and struck out heading and text of subpar. (A). Text of subpar. (A) read as follows: “The Secretary shall have the authority to acquire interests in trust or restricted lands under this section during the 3-year period beginning on the date of certification that is referred to in section 2206(g)(5) of this title.”

Subsec. (b)(4). Pub. L. 108-374, §6(a)(5)(C), added par. (4) and struck out former par. (4) which read as follows: “shall minimize the administrative costs associated with the land acquisition program.”

Subsec. (c)(1)(A). Pub. L. 108-374, §6(a)(5)(D)(i)(I)–(III), substituted “an undivided interest” for “at least 5 percent of the undivided interest”, inserted “in such parcel” after “the Secretary shall convey an interest”, and substituted “landowner—” and cls. (i) and (ii) for “landowner upon payment by the Indian landowner of the amount paid for the interest by the Secretary.”

Subsec. (c)(1)(B). Pub. L. 108-374, §6(a)(5)(D)(i)(IV), inserted “unless the interest is subject to a foreclosure of a mortgage in accordance with section 483a of this title” before period at end.

Subsec. (c)(3). Pub. L. 108-374, §6(a)(5)(D)(ii), substituted “an undivided interest” for “10 percent or more of the undivided interests”.

Subsec. (d). Pub. L. 108-374, §6(a)(5)(E), added subsec. (d).

#### EFFECTIVE DATE OF 2005 AMENDMENT

Amendment by Pub. L. 109-157 effective as if included in Pub. L. 108-374, see section 9 of Pub. L. 109-157, set out as a note under section 464 of this title.

### § 2213. Administration of acquired fractional interests; disposition of proceeds

#### (a) In general

Subject to the conditions described in subsection (b)(1) of this section, an Indian tribe receiving a fractional interest under section 2212 of this title may, as a tenant in common with the other owners of the trust or restricted lands, lease the interest, sell the resources, consent to the granting of rights-of-way, or engage in any other transaction affecting the trust or restricted land authorized by law.

#### (b) Application of revenue from acquired interests to land consolidation program

##### (1) In general

The Secretary shall have a lien on any revenue accruing to an interest described in subsection (a) of this section until the Secretary provides for the removal of the lien under paragraph (3), (4), or (5).

##### (2) Requirements

###### (A) In general

Until the Secretary removes a lien from an interest in land under paragraph (1)—

(i) any lease, resource sale contract, right-of-way, or other document evidencing a transaction affecting the interest shall contain a clause providing that all revenue derived from the interest shall be paid to the Secretary; and

(ii) any revenue derived from any interest acquired by the Secretary in accordance with section 2212 of this title shall be deposited in the fund created under section 2215 of this title.

###### (B) Approval of transactions

Notwithstanding section 476 of this title, or any other provision of law, until the Secretary removes a lien from an interest in land under paragraph (1), the Secretary may approve a transaction covered under this section on behalf of an Indian tribe.

##### (3) Removal of liens after findings

The Secretary may remove a lien referred to in paragraph (1) if the Secretary makes a finding that—

(A) the costs of administering the interest from which revenue accrues under the lien will equal or exceed the projected revenues for the parcel of land involved;

(B) in the discretion of the Secretary, it will take an unreasonable period of time for the parcel of land to generate revenue that equals the purchase price paid for the interest; or

(C) a subsequent decrease in the value of land or commodities associated with the parcel of land make it likely that the interest will be unable to generate revenue that equals the purchase price paid for the interest in a reasonable time.