

AMENDMENTS

2004—Subsec. (a)(2). Pub. L. 108-374, §6(a)(8)(A), added par. (2) and struck out former par. (2) which read as follows: “collect all revenues received from the lease, permit, or sale of resources from interests in trust or restricted lands transferred to Indian tribes by the Secretary under section 2212 of this title or paid by Indian landowners under section 2212(c) of this title.”

Subsec. (b)(1). Pub. L. 108-374, §6(a)(8)(B)(i), substituted “All” for “Subject to paragraph (2), all” in introductory provisions and added subpar. (C).

Subsec. (b)(2). Pub. L. 108-374, §6(a)(8)(B)(ii), added par. (2) and struck out heading and text of former par. (2). Text read as follows: “With respect to the deposit of proceeds derived from an interest under paragraph (1), the aggregate amount deposited under that paragraph shall not exceed the purchase price of that interest under section 2212 of this title.”

§ 2216. Trust and restricted land transactions

(a) Policy

It is the policy of the United States to encourage and assist the consolidation of land ownership through transactions—

- (1) involving individual Indians;
- (2) between Indians and the tribal government that exercises jurisdiction over the land; or
- (3) between individuals who own an interest in trust and restricted land who wish to convey that interest to an Indian or the tribal government that exercises jurisdiction over the parcel of land involved;

in a manner consistent with the policy of maintaining the trust status of allotted lands. Nothing in this section shall be construed to apply to or to authorize the sale of trust or restricted lands to a person who is not an Indian.

(b) Sales, exchanges and gift deeds between Indians and between Indians and Indian tribes

(1) In general

(A) Estimate of value

Notwithstanding any other provision of law and only after the Indian selling, exchanging, or conveying by gift deed for no or nominal consideration an interest in land, has been provided with an estimate of the value of the interest of the Indian pursuant to this section—

- (i) the sale or exchange or conveyance of an interest in trust or restricted land may be made for an amount that is less than the fair market value of that interest; and
- (ii) the approval of a transaction that is in compliance with this section shall not constitute a breach of trust by the Secretary.

(B) Waiver of requirement

The requirement for an estimate of value under subparagraph (A) may be waived in writing by an owner of a trust or restricted interest in land either selling, exchanging, or conveying by gift deed for no or nominal consideration such interest—

- (i) to an Indian person who is the owner's spouse, brother, sister, lineal ancestor, lineal descendant, or collateral heir; or
- (ii) to an Indian co-owner or to the tribe with jurisdiction over the subject parcel of

land, where the grantor owns a fractional interest that represents 5 percent or less of the parcel.

(2) Limitation

For a period of 5 years after the Secretary approves a conveyance pursuant to this subsection, the Secretary shall not approve an application to terminate the trust status or remove the restrictions of such an interest.

(c) Acquisition of interest by Secretary

An Indian, or the recognized tribal government of a reservation, in possession of an interest in trust or restricted lands, at least a portion of which is in trust or restricted status on November 7, 2000, and located within a reservation, may request that the interest be taken into trust by the Secretary. Upon such a request, the Secretary shall forthwith take such interest into trust.

(d) Status of lands

The sale, exchange, or conveyance by gift deed for no or nominal consideration of an interest in trust or restricted land under this section shall not affect the status of that land as trust or restricted land.

(e) Land ownership information

Notwithstanding any other provision of law, the names and mailing addresses of the owners of any interest in trust or restricted lands, and information on the location of the parcel and the percentage of undivided interest owned by each individual shall, upon written request, be made available to—

- (1) other owners of interests in trust or restricted lands within the same reservation;
- (2) the tribe that exercises jurisdiction over the land where the parcel is located or any person who is eligible for membership in that tribe; and
- (3) any person that is leasing, using, or consolidating, or is applying to lease, use, or consolidate, such trust or restricted land or the interest in trust or restricted lands.

(f) Purchase of land by Indian tribe

(1) In general

Except as provided in paragraph (2), before the Secretary approves an application to terminate the trust status or remove the restrictions on alienation from a parcel of, or interest in, trust or restricted land, the Indian tribe with jurisdiction over the parcel shall have the opportunity—

- (A) to match any offer contained in the application; or
- (B) in a case in which there is no purchase price offered, to acquire the interest in the parcel by paying the fair market value of the interest.

(2) Exception for family farms

(A) In general

Paragraph (1) shall not apply to a parcel of, or interest in, trust or restricted land that is part of a family farm that is conveyed to a member of the family of a landowner (as defined in section 2205(c)(2)(A)(iv) of this title) if the conveyance requires that

in the event that the parcel or interest is offered for sale to an entity or person that is not a member of the family of the landowner, the Indian tribe with jurisdiction over the land shall be afforded the opportunity to purchase the interest pursuant to paragraph (1).

(B) Applicability of other provision

Section 2205(c)(2)(A) of this title shall apply with respect to the recording and mortgaging of any trust or restricted land referred to in subparagraph (A).

(Pub. L. 97-459, title II, §217, as added Pub. L. 106-462, title I, §103(6), Nov. 7, 2000, 114 Stat. 2002; amended Pub. L. 108-374, §6(a)(9), Oct. 27, 2004, 118 Stat. 1803; Pub. L. 109-157, §7, Dec. 30, 2005, 119 Stat. 2952.)

AMENDMENTS

2005—Subsec. (e). Pub. L. 109-157 substituted “be made available to—” for “be made available to”.

2004—Subsec. (b)(1)(B). Pub. L. 108-374, §6(a)(9)(A), added subpar. (B) and struck out heading and text of former subpar. (B). Text read as follows: “The requirement for an estimate of value under subparagraph (A) may be waived in writing by an Indian selling, exchanging, or conveying by gift deed for no or nominal consideration an interest in land with an Indian person who is the owner’s spouse, brother, sister, lineal ancestor of Indian blood, lineal descendant, or collateral heir.”

Subsec. (e). Pub. L. 108-374, §6(a)(9)(B), added introductory provisions and struck out former introductory provisions which read as follows: “Notwithstanding any other provision of law, the names and mailing addresses of the Indian owners of trust or restricted lands, and information on the location of the parcel and the percentage of undivided interest owned by each individual, or of any interest in trust or restricted lands, shall, upon written request, be made available to—”.

Subsec. (e)(1). Pub. L. 108-374, §6(a)(9)(C), struck out “Indian” before “owners”.

Subsec. (e)(3). Pub. L. 108-374, §6(a)(9)(D), substituted “any person that is leasing, using, or consolidating, or is applying to lease, use, or consolidate,” for “prospective applicants for the leasing, use, or consolidation of”.

Subsec. (f). Pub. L. 108-374, §6(a)(9)(E), added subsec. (f) and struck out heading and text of former subsec. (f). Text read as follows: “After the expiration of the limitation period provided for in subsection (b)(2) of this section and prior to considering an Indian application to terminate the trust status or to remove the restrictions on alienation from trust or restricted land sold, exchanged or otherwise conveyed under this section, the Indian tribe that exercises jurisdiction over the parcel of such land shall be notified of the application and given the opportunity to match the purchase price that has been offered for the trust or restricted land involved.”

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.

§ 2217. Reports to Congress

(a) In general

Prior to expiration of the authority provided for in section 2212(a)(2)(A) of this title, the Secretary, after consultation with Indian tribes and other interested parties, shall submit to the Committee on Indian Affairs and the Committee on Energy and Natural Resources of the Senate and the Committee on Resources of the House of

Representatives a report that indicates, for the period covered by the report—

(1) the number of fractional interests in trust or restricted lands acquired; and

(2) the impact of the resulting reduction in the number of such fractional interests on the financial and realty recordkeeping systems of the Bureau of Indian Affairs.

(b) Report

The reports described in subsection (a) of this section and section 2212(a) of this title shall contain findings as to whether the program under this chapter to acquire fractional interests in trust or restricted lands should be extended and whether such program should be altered to make resources available to Indian tribes and individual Indian landowners.

(Pub. L. 97-459, title II, §218, as added Pub. L. 106-462, title I, §103(6), Nov. 7, 2000, 114 Stat. 2004.)

REFERENCES IN TEXT

This chapter, referred to in subsec. (b), 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.

CHANGE OF NAME

Committee on Resources of House of Representatives changed to Committee on Natural Resources of House of Representatives by House Resolution No. 6, One Hundred Tenth Congress, Jan. 5, 2007.

§ 2218. Approval of leases, rights-of-way, and sales of natural resources

(a) Approval by the Secretary

(1) In general

Notwithstanding any other provision of law, the Secretary may approve any lease or agreement that affects individually owned allotted land or any other land held in trust or restricted status by the Secretary on behalf of an Indian, if—

(A) the owners of not less than the applicable percentage (determined under subsection (b) of this section) of the undivided interest in the allotted land that is covered by the lease or agreement consent in writing to the lease or agreement; and

(B) the Secretary determines that approving the lease or agreement is in the best interest of the owners of the undivided interest in the allotted land.

(2) Rule of construction

Nothing in this section shall be construed to apply to leases involving coal or uranium.

(3) Definition

In this section, the term “allotted land” includes any land held in trust or restricted status by the Secretary on behalf of one or more Indians.

(b) Applicable percentage

(1) Percentage interest

The applicable percentage referred to in subsection (a)(1) of this section shall be determined as follows:

(A) If there are 5 or fewer owners of the undivided interest in the allotted land, the applicable percentage shall be 90 percent.