

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.

(B) If there are more than 5 such owners, but fewer than 11 such owners, the applicable percentage shall be 80 percent.

(C) If there are more than 10 such owners, but fewer than 20 such owners, the applicable percentage shall be 60 percent.

(D) If there are 20 or more such owners, the applicable percentage shall be a majority of the interests in the allotted land.

**(2) Determination of owners**

**(A) In general**

For purposes of this subsection, in determining the number of owners of, and their interests in, the undivided interest in the allotted land with respect to a lease or agreement, the Secretary shall make such determination based on the records of the Department of the Interior that identify the owners of such lands and their interests and the number of owners of such land on the date on which the lease or agreement involved is submitted to the Secretary under this section.

**(B) Rule of construction**

Nothing in subparagraph (A) shall be construed to authorize the Secretary to treat an Indian tribe as the owner of an interest in allotted land that did not escheat to the tribe pursuant to section 2206 of this title as a result of the Supreme Court's decision in *Babbitt v. Youpee* (117 S<sup>1</sup> Ct. 727 (1997)).

**(c) Authority of Secretary to sign lease or agreement on behalf of certain owners**

The Secretary may give written consent to a lease or agreement under subsection (a) of this section—

(1) on behalf of the individual Indian owner if the owner is deceased and the heirs to, or devisees of, the interest of the deceased owner have not been determined; or

(2) on behalf of any heir or devisee referred to in paragraph (1) if the heir or devisee has been determined but cannot be located<sup>1</sup>

**(d) Effect of approval**

**(1) Application to all parties**

**(A) In general**

Subject to paragraph (2), a lease or agreement approved by the Secretary under subsection (a) of this section shall be binding on the parties described in subparagraph (B), to the same extent as if all of the owners of the undivided interest in allotted land covered under the lease or agreement consented to the lease or agreement.

**(B) Description of parties**

The parties referred to in subparagraph (A) are—

(i) the owners of the undivided interest in the allotted land covered under the lease or agreement referred to in such subparagraph; and

(ii) all other parties to the lease or agreement.

**(2) Tribe not treated as party to lease; no effect on tribal sovereignty, immunity**

**(A) In general**

Subparagraph (B) shall apply with respect to any undivided interest in allotted land held by the Secretary in trust for a tribe if a lease or agreement under subsection (a) of this section is otherwise applicable to such undivided interest by reason of this section even though the Indian tribe did not consent to the lease or agreement.

**(B) Application of lease**

The lease or agreement described in subparagraph (A) shall apply to the portion of the undivided interest in allotted land described in such paragraph (including entitlement of the Indian tribe to payment under the lease or agreement), and the Indian tribe shall not be treated as being a party to the lease or agreement. Nothing in this section (or in the lease or agreement) shall be construed to affect the sovereignty of the Indian tribe.

**(e) Distribution of proceeds**

**(1) In general**

The proceeds derived from a lease or agreement that is approved by the Secretary under subsection (a) of this section shall be distributed to all owners of undivided interest in the allotted land covered under the lease or agreement.

**(2) Determination of amounts distributed**

The amount of the proceeds under paragraph (1) that are distributed to each owner under that paragraph shall be determined in accordance with the portion of the undivided interest in the allotted land covered under the lease or agreement that is owned by that owner.

**(f) Rule of construction**

Nothing in this section shall be construed to amend or modify the provisions of Public Law 105-188 (25 U.S.C. 396 note), the American Indian Agricultural Resources Management Act (25 U.S.C. 3701 et seq.), title II of the Indian Land Consolidation Act Amendments of 2000, or any other Act that provides specific standards for the percentage of ownership interest that must approve a lease or agreement on a specified reservation.

**(g) Other laws**

Nothing in this chapter shall be construed to supersede, repeal, or modify any general or specific statute authorizing the grant or approval of any type of land use transaction involving fractional interests in trust or restricted land.

(Pub. L. 97-459, title II, §219, as added Pub. L. 106-462, title I, §103(6), Nov. 7, 2000, 114 Stat. 2004; amended Pub. L. 108-374, §6(a)(10), (11), Oct. 27, 2004, 118 Stat. 1804.)

REFERENCES IN TEXT

The American Indian Agricultural Resources Management Act, referred to in subsec. (f), probably means the American Indian Agricultural Resource Management Act, Pub. L. 103-177, Dec. 3, 1993, 107 Stat. 2011, as amended, which is classified generally to chapter 39 (§3701 et seq.) of this title. For complete classification

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

of this Act to the Code, see Short Title note set out under section 3701 of this title and Tables.

The Indian Land Consolidation Act Amendments of 2000, referred to in subsec. (f), is Pub. L. 106-462, Nov. 7, 2000, 114 Stat. 1991. Title II of the Act enacted provisions classified as a note under section 396 of this title. For complete classification of this Act to the Code, see Short Title of 2000 Amendment note set out under section 2201 of this title and Tables.

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

#### AMENDMENTS

2004—Subsec. (b)(1)(A). Pub. L. 108-374, §6(a)(10), substituted “90” for “100”.

Subsec. (g). Pub. L. 108-374, §6(a)(11), added subsec. (g).

### § 2219. Application to Alaska

#### (a) Findings

Congress finds that—

(1) numerous academic and governmental organizations have studied the nature and extent of fractionated ownership of Indian land outside of Alaska and have proposed solutions to this problem; and

(2) despite these studies, there has not been a comparable effort to analyze the problem, if any, of fractionated ownership in Alaska.

#### (b) Application of chapter to Alaska

Except as provided in this section, this chapter shall not apply to land located within Alaska.

#### (c) Rule of construction

Nothing in this section shall be construed to constitute a ratification of any determination by any agency, instrumentality, or court of the United States that may support the assertion of tribal jurisdiction over allotment lands or interests in such land in Alaska.

(Pub. L. 97-459, title II, §220, as added Pub. L. 106-462, title I, §103(6), Nov. 7, 2000, 114 Stat. 2006.)

#### 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.

### § 2220. Owner-managed interests

#### (a) Purpose

The purpose of this section is to provide a means for the owner or co-owners of trust or restricted interests in a parcel of land to enter into surface leases of such parcel for certain purposes without approval of the Secretary.

#### (b) Mineral interests

Nothing in this section shall be construed to limit or otherwise affect the application of any Federal law requiring the Secretary to approve mineral leases or other agreements for the development of the mineral interest in trust or restricted land.

#### (c) Owner management

##### (1) In general

Notwithstanding any provision of Federal law requiring the Secretary to approve indi-

vidual Indian leases of individual Indian trust or restricted land, where the owners of all of the undivided trust or restricted interests in a parcel of land have submitted applications to the Secretary pursuant to subsection (a) of this section, and the Secretary has approved such applications under subsection (d) of this section, such owners may, without further approval by the Secretary, enter into a lease of the parcel for agricultural purposes for a term not to exceed 10 years.

#### (2) Rule of construction

No such lease shall be effective until it has been executed by the owners of all undivided trust or restricted interests in the parcel.

### (d) Approval of applications for owner management

#### (1) In general

Subject to the provisions of paragraph (2), the Secretary shall approve an application for owner management submitted by a qualified applicant pursuant to this section unless the Secretary has reason to believe that the applicant is submitting the application as the result of fraud or undue influence. No such application shall be valid or considered if it is received by the Secretary prior to the date that is 1 year after the date on which notice is published pursuant to section 8(a)(4) of the American Indian Probate Reform Act of 2004.

#### (2) Commencement of owner-managed status

Notwithstanding the approval of 1 or more applications pursuant to paragraph (1), no trust or restricted interest in a parcel of land shall acquire owner-managed status until applications for all of the trust or restricted interests in such parcel of land have been submitted to and approved by the Secretary pursuant to this section.

### (e) Validity of leases

No lease of trust or restricted interests in a parcel of land that is owner-managed under this section shall be valid or enforceable against the owners of such interests, or against the land, the interest or the United States, unless such lease—

(1) is consistent with, and entered into in accordance with, the requirements of this section; or

(2) has been approved by the Secretary in accordance with other Federal laws applicable to the leasing of trust or restricted land.

### (f) Lease revenues

The Secretary shall not be responsible for the collection of, or accounting for, any lease revenues accruing to any interests under a lease authorized by subsection (e) of this section, so long as such interest is in owner-managed status under the provisions of this section.

### (g) Jurisdiction

#### (1) Jurisdiction unaffected by status

The Indian tribe with jurisdiction over an interest in trust or restricted land that becomes owner-managed pursuant to this section shall continue to have jurisdiction over the interest to the same extent and in all re-