

therefrom shall be deposited in the Treasury of the United States to the credit of the Indians for whose benefit the lands are reserved subject to appropriation by Congress for educational work among the Indians or in paying expenses of administration of agencies: *Provided*, That a royalty of at least one-eighth shall be reserved in all leases.

(Apr. 17, 1926, ch. 156, 44 Stat. 300.)

#### TRANSFER OF FUNCTIONS

For transfer of functions of other officers, employees, and agencies of Department of the Interior, with certain exceptions, to Secretary of the Interior, with power to delegate, see Reorg. Plan No. 3 of 1950, §§1,2, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1262, set out in the Appendix to Title 5, Government Organization and Employees.

#### § 401. Leases for mining purposes of unallotted lands in Kaw Reservation

The Secretary of the Interior is authorized to lease for mining purposes lands reserved from allotment to be used as a cemetery and not needed for that purpose, and lands reserved for school and agency purposes in the Kaw Reservation in the State of Oklahoma, and for the use and benefit of the members of the Kansas or Kaw Tribe of Indians, at public auction, upon such terms and conditions and under such rules and regulations as he may prescribe: *Provided*, That the production of oil and gas and other minerals on such lands may be taxed by the State in which said lands are located in all respects the same as production on unrestricted lands, and the Secretary of the Interior is hereby authorized and directed to cause to be paid the tax so assessed against the royalty interests on said lands: *Provided, however*, That such tax shall not become a lien or charge of any kind or character against the land or the property of the Indian owner.

(Apr. 28, 1924, ch. 135, 43 Stat. 111.)

#### § 402. Leases of surplus lands

The surplus lands of any tribe may be leased for farming purposes by the council of such tribe under the same rules and regulations and for the same term of years as was on August 15, 1894, allowed in the case of leases for grazing purposes.

(Aug. 15, 1894, ch. 290, § 1, 28 Stat. 305.)

#### § 402a. Lease of unallotted irrigable lands for farming purposes

The unallotted irrigable lands on any Indian reservation may be leased for farming purposes for not to exceed ten years with the consent of the tribal council, business committee, or other authorized body representative of the Indians, under such rules and regulations as the Secretary of the Interior may prescribe.

(July 3, 1926, ch. 787, 44 Stat. 894.)

#### § 403. Leases of lands held in trust

Any Indian allotment held under a trust patent may be leased by the allottee for a period not to exceed five years, subject to and in conformity with such rules and regulations as the Secretary of the Interior may prescribe, and the

proceeds of any such lease shall be paid to the allottee or his heirs, or expended for his or their benefit, in the discretion of the Secretary of the Interior.

(June 25, 1910, ch. 431, § 4, 36 Stat. 856.)

#### § 403a. Lease of lands on Port Madison and Snohomish or Tulalip Indian Reservations in Washington

Notwithstanding any other provision of law, any Indian lands on the Port Madison and Snohomish or Tulalip Indian Reservations in the State of Washington, may be leased by the Indians with the approval of the Secretary of the Interior, and upon such terms and conditions as he may prescribe, for a term not exceeding twenty-five years: *Provided, however*, That such leases may provide for renewal for an additional term not exceeding twenty-five years, and the Secretary of the Interior is hereby authorized to prescribe such rules and regulations as may be necessary to carry out the provisions of this section.

(Oct. 9, 1940, ch. 781, 54 Stat. 1057.)

#### § 403a-1. Sale or partition by owners of interests in allotted lands in the Tulalip Reservation; termination of Federal title, trust, and restrictions

Any owner of an interest in any tract of land in the Tulalip Reservation, Washington, in which any undivided interest is now or hereafter held in trust by the United States for an Indian, or is now or hereafter owned by an Indian subject to restrictions against alienation or taxation imposed by the United States, may commence in a State court of competent jurisdiction an action for the partition in kind or for the sale of such land in accordance with the laws of the State. For the purpose of any such action the Indian owners shall be regarded as vested with an unrestricted fee simple title to the land, the United States shall not be a necessary party to the proceeding, and any partition or conveyance of the land pursuant to the proceedings shall divest the United States of title to the land, terminate the Federal trust, and terminate all restrictions against alienation or taxation of the land imposed by the United States.

(June 18, 1956, ch. 400, § 1, 70 Stat. 290.)

#### § 403a-2. Acquisition, management, and disposal of lands by Tulalip Tribe

##### (a) Termination of Federal trust and restrictions on alienation

Notwithstanding the provisions of the constitution and charter of the Tulalip Tribes of the Tulalip Reservation, any lands that are held by the United States in trust for the Tulalip Tribes, or that are subject to a restriction against alienation or taxation imposed by the United States, or that are on and after June 18, 1956, acquired by the Tulalip Tribes, may be sold by the Tulalip Tribes, with the consent of the Secretary of the Interior, on such terms and conditions as the Tulalip board of directors may prescribe, and such sale shall terminate the Fed-

eral trust or restrictions against alienation or taxation of the land; except that the trust or restricted status of said lands may be retained, upon approval of the Secretary of the Interior, in any sale thereof to any member of the Tulalip Tribes.

**(b) Lands in trust**

The Secretary of the Interior may accept any transfer of title from the Tulalip Tribes for any land or fractional interest in land within the boundaries of the Tulalip Reservation, and take title to such land in the name of the United States in trust for the Tulalip Tribes, and such lands shall not be subject to taxation.

**(c) Mortgages**

The Tulalip Tribes may, with the approval of the Secretary of the Interior, execute mortgages or deeds of trust to land, the title to which is held by the Tulalip Tribes or by the United States in trust for the Tulalip Tribes. Such land shall be subject to foreclosure and sale pursuant to the terms of such mortgage or deed of trust in accordance with the laws of the State of Washington. For the purpose of any foreclosure or sale proceeding, the Tulalip Tribes shall be regarded as vested with an unrestricted fee simple title to the land, the United States shall not be a necessary party to the foreclosure or sale proceeding, and any conveyance of the land pursuant to the foreclosure or sale proceeding shall divest the United States of title to the land. Title to any land redeemed or acquired by the Tulalip Tribes at such foreclosure or sale proceeding shall be taken in the name of the United States in trust for the tribes. Title to any land purchased by an individual Indian member of the Tulalip Tribes at such foreclosure sale or proceeding may, with the consent of the Secretary of the Interior, be taken in the name of the United States in trust for the individual Indian purchaser.

**(d) Moneys or credits**

Any moneys or credits received or credited to the Tulalip Tribes from the sale, exchange, mortgage, or granting of any security interest in any tribal land may be used for any tribal purpose.

(June 18, 1956, ch. 400, §2, 70 Stat. 290; Pub. L. 91-274, §1, June 2, 1970, 84 Stat. 301.)

AMENDMENTS

1970—Pub. L. 91-274 designated existing provisions as subsec. (a), substituted the Tulalip Tribes for the Tulalip Board of Directors as the agency authorized to sell tribal lands, provided for the continuance of the trust or restricted status of such lands where the purchaser thereof is any member of the Tulalip Tribes, and struck out proviso that the proceeds from the sale of tribal lands acquired otherwise than by purchase be deposited in the U.S. Treasury to the credit of the Tulalip Tribes, and added subsecs. (b) to (d).

**§ 403b. Lease of restricted lands in State of Washington**

Notwithstanding any other provisions of law, with the consent in writing of the individual Indian, association of Indians, or Indian tribe concerned, any restricted Indian lands situated within the State of Washington may be leased

for religious, educational, recreational, business, or public purposes, including, but not limited to, airports, experimental station, stockyards, warehouses, and grain elevators, for periods not to exceed twenty-five years under such rules and regulations as the Secretary of the Interior may prescribe: *Provided*, That nothing in this section or section 403c of this title shall be deemed to authorize such leases for the exploitation of any natural resources.

(Aug. 9, 1946, ch. 929, §1, 60 Stat. 962.)

**§ 403c. Identity of lessor; period of lease**

Such leases may be made only by the individual Indian owner of the land or by the authorized representatives of the tribe or group of Indians to whom the land belongs, subject to the approval of the Secretary of the Interior or his authorized representative. Restricted allotments of deceased Indians, when the heirs or devisees cannot agree on a lease, may be leased for them in the manner prescribed by section 380 of this title. No lease shall be made by or on behalf of any tribe for a longer period than is or may be authorized by the tribal constitution, charter, or ordinances. Nothing contained in this section or section 403b of this title shall be construed to repeal any authority to lease restricted lands which any Indian, Indian tribe, or official of the Department of the Interior would have in the absence of such sections.

(Aug. 9, 1946, ch. 929, §2, 60 Stat. 962.)

**§ 404. Sale on petition of allottee or heirs**

The lands, or any part thereof, allotted to any Indian, or any inherited interest therein, which can be sold under existing law by authority of the Secretary of the Interior, except the lands in Oklahoma and the States of Minnesota and South Dakota, may be sold on the petition of the allottee, or his heirs, on such terms and conditions and under such regulations as the Secretary of the Interior may prescribe; and the lands of a minor, or of a person deemed incompetent by the Secretary of the Interior to petition for himself, may be sold in the same manner, on the petition of the natural guardian in the case of infants, and in the case of Indians deemed incompetent as aforesaid, and of orphans without a natural guardian, on petition of a person designated for the purpose by the Secretary of the Interior. When any Indian who has received an allotment of land dies before the expiration of the trust period, the Secretary of the Interior shall ascertain the legal heirs of such Indian, and if satisfied of their ability to manage their own affairs shall cause to be issued in their names a patent in fee simple for said lands; but if he finds them incapable of managing their own affairs, the land may be sold as hereinbefore provided: *Provided*, That the proceeds derived from all sales hereunder shall be used, during the trust period, for the benefit of the allottee, or heir, so disposing of his interest, under the supervision of the Commissioner of Indian Affairs: *And provided further*, That upon the approval of any sale hereunder by the Secretary of the Interior, he shall cause a patent in fee to issue in the name of the purchaser for the lands