

## EFFECTIVE DATE

Pub. L. 100-95, §11, Aug. 18, 1987, 101 Stat. 710, provided that:

“(a) IN GENERAL.—Except as provided in subsection (b), this Act [enacting this subchapter] shall take effect upon the date of enactment [Aug. 18, 1987].

“(b) EXCEPTION.—Section 4 [25 U.S.C. 1771b] shall take effect upon the date on which the title of all of the private settlement lands provided for in this Act to the Wampanoag Tribal Council of Gay Head, Inc. is transferred. The fact of such transfer, and the date thereof, shall be certified and recorded by the Secretary of the Commonwealth of Massachusetts.”

## SHORT TITLE

Pub. L. 100-95, §1, Aug. 18, 1987, 101 Stat. 704, provided that: “This Act [enacting this subchapter] may be cited as the ‘Wampanoag Tribal Council of Gay Head, Inc., Indian Claims Settlement Act of 1987.’”

**§ 1771a. Gay Head Indian claims settlement fund****(a) Fund established**

There is hereby established within the Treasury of the United States a fund to be known as the “Wampanoag Tribal Council of Gay Head, Inc. Claims Settlement Fund”. Amounts in the fund shall be available to the Secretary to carry out the purposes of this subchapter.

**(b) Authorization for appropriation**

There is hereby authorized to be appropriated \$2,250,000 for such fund to remain available until expended.

**(c) State contribution required**

Amounts may be expended from the fund only upon deposit by the State of Massachusetts into the fund of an amount equal to that amount to be expended by the United States so that both the United States and the State of Massachusetts bear one-half of the cost of the acquisition of lands under section 1771d of this title.

(Pub. L. 100-95, §3, Aug. 18, 1987, 101 Stat. 704.)

**§ 1771b. Approval of prior transfers and extinguishment of aboriginal title and claims of Gay Head Indians****(a) Approval of prior transfers**

(1) Any transfer before August 18, 1987, of land or natural resources now located anywhere within the United States from, by, or on behalf of the Wampanoag Tribal Council of Gay Head, Inc., or (2) any transfer before August 18, 1987, by, from, or on behalf of any Indian, Indian nation, or tribe or band of Indians, of any land or natural resources located anywhere within the town of Gay Head, Massachusetts, including any transfer pursuant to any statute of the State, and the incorporation of the town of Gay Head, shall be deemed to have been made in accordance with the Constitution and all laws of the United States that are specifically applicable to transfers of land or natural resources from, by, or on behalf of any Indian, Indian nation, or tribe or band of Indians (including the Trade and Intercourse Act of 1790, Act of July 22, 1790 (ch. 33, sec. 4, 1 Stat. 137), and all amendments thereto and all subsequent versions thereof). Any such transfer and any transfer in implementation of this subchapter, shall be deemed to have been made with the consent and approval of Congress as of the date of such transfer.

**(b) Extinguishment of aboriginal title**

Any aboriginal title held by the Wampanoag Tribal Council of Gay Head, Inc. or any other entity presently or at any time in the past known as the Gay Head Indians, to any land or natural resources the transfer of which is consented to and approved in subsection (a) is considered extinguished as of the date of such transfer.

**(c) Extinguishment of claims arising from prior transfers or extinguishment of aboriginal title**

Any claim (including any claim for damages for use and occupancy) by the Wampanoag Tribal Council of Gay Head, Inc., the Gay Head Indians, or any other Indian, Indian nation, or tribe or band of Indians against the United States, any State or political subdivision of a State, or any other person which is based on—

(1) any transfer of land or natural resources which is consented to and approved in subsection (a), or

(2) any aboriginal title to land or natural resources the transfer of which is consented to and approved in subsection (b),

is extinguished as of the date of any such transfer.

**(d) Personal claims not affected**

No provision of this section shall be construed to offset or eliminate the personal claim of any individual Indian which is pursued under any law of general applicability that protects non-Indians as well as Indians.

(Pub. L. 100-95, §4, Aug. 18, 1987, 101 Stat. 705.)

## REFERENCES IN TEXT

The Trade and Intercourse Act of 1790, Act of July 22, 1790 (ch. 33, sec. 4, 1 Stat. 137), referred to in subsec. (a), is not classified to the Code. See sections 177, 179, 180, 193, 194, 201, 229, 230, 251, 263, and 264 of this title.

## EFFECTIVE DATE

Section effective upon the date on which title of all of private settlement lands provided for in this subchapter to the Wampanoag Tribal Council of Gay Head, Inc. is transferred, with fact of such transfer, and date thereof, to be certified and recorded by Secretary of the Commonwealth of Massachusetts, see section 11(b) of Pub. L. 100-95, set out as a note under section 1771 of this title.

**§ 1771c. Conditions precedent to Federal purchase of settlement lands****(a) Initial determination of State and local action**

No action shall be taken by the Secretary under section 1771d of this title before the Secretary publishes notice in the Federal Register of the determination by the Secretary that—

(1) the Commonwealth of Massachusetts has enacted legislation which provides that—

(A) the town of Gay Head, Massachusetts, is authorized to convey to the Secretary to be held in trust for the Wampanoag Tribal Council of Gay Head, Inc. the public settlement lands and the Cook lands subject to the conditions and limitations set forth in the Settlement Agreement; and

(B) the Wampanoag Tribal Council of Gay Head, Inc. shall have the authority, after

consultation with appropriate State and local officials, to regulate any hunting by Indians on the settlement lands that is conducted by means other than firearms or crossbow to the extent provided in, and subject to the conditions and limitations set forth in, the Settlement Agreement;

(2) the Wampanoag Tribal Council of Gay Head, Inc., has submitted to the Secretary an executed waiver or waivers of the claims covered by the Settlement Agreement all claims extinguished by this subchapter, and all claims arising because of the approval of transfers and extinguishment of titles and claims under this subchapter; and

(3) the town of Gay Head, Massachusetts, has authorized the conveyance of the public settlement lands and the Cook Lands<sup>1</sup> to the Secretary in trust for the Wampanoag Tribal Council of Gay Head, Inc.

**(b) Reliance upon Attorney General of Massachusetts**

In making the findings required in subsection (a) of this section, the Secretary may rely upon the opinion of the Attorney General of the Commonwealth of Massachusetts.

(Pub. L. 100-95, § 5, Aug. 18, 1987, 101 Stat. 705.)

**§ 1771d. Purchase and transfer of settlement lands**

**(a) Purchase of private settlement lands**

The Secretary is authorized and directed to expend, at the request of the Wampanoag Tribal Council of Gay Head, Inc., \$2,125,000 to acquire the private settlement lands. At the request of the Wampanoag Tribal Council of Gay Head, Inc., the Secretary shall not purchase lots 705, 222, and 528 of the private settlement lands, but, at the request of the Wampanoag Tribal Council of Gay Head, Inc., the Secretary shall acquire in lieu thereof such other lands that are contiguous to the remaining private settlement lands. Upon the purchase of such contiguous lands, those lands shall be subject to the same restrictions and benefits as the private settlement lands.

**(b) Payment for survey and appraisal**

The Secretary is authorized and directed to cause a survey of the public settlement lands to be made within 60 days of acquiring title to the public settlement lands. The Secretary shall reimburse the Native American Rights Fund and the Gay Head Taxpayers Association for an appraisal of the private settlement lands done by Paul O'Leary dated May 1, 1987. Such funds as may be necessary may be withdrawn from the Fund<sup>1</sup> established in section 1771a(a) of this title and may be used for the purpose of conducting the survey and providing reimbursement for the appraisal.

**(c) Acquisition of additional lands**

The Secretary shall expend, at the request of the Wampanoag Tribal Council of Gay Head, Inc., any remaining funds not required by sub-

section (a) or (b) to acquire any additional lands that are contiguous to the private settlement lands. Any lands acquired pursuant to this section, and any other lands which are on and after August 12, 1987, held in trust for the Wampanoag Tribal Council of Gay Head, Inc., any successor, or individual member, shall be subject to this subchapter, the Settlement Agreement and other applicable laws. Any after acquired land held in trust for the Wampanoag Tribal Council of Gay Head, Inc., any successor, or individual member, shall be subject to the same benefits and restrictions as apply to the most analogous land use described in the Settlement Agreement.

**(d) Transfer and survey of land to Wampanoag Tribal Council**

Any right, title, or interest to lands acquired by the Secretary under this section, and the title to public settlement lands conveyed by the town of Gay Head, shall be held in trust for the Wampanoag Tribal Council of Gay Head, Inc. and shall be subject to this subchapter, the Settlement Agreement, and other applicable laws.

**(e) Proceedings authorized to acquire or to perfect title**

The Secretary is authorized to commence such condemnation proceedings as the Secretary may determine to be necessary—

- (1) to acquire or perfect any right, title, or interest in any private settlement land, and
- (2) to condemn any interest adverse to any ostensible owner of such land.

**(f) Public settlement lands held in trust**

The Secretary is authorized to accept and hold in trust for the benefit of the Wampanoag Tribal Council of Gay Head, Inc. the public settlement lands as described in section 1771f(7) of this title immediately upon the effective date of this Act.

**(g) Application**

The terms of this section shall apply to land in the town of Gay Head. Any land acquired by the Wampanoag Tribal Council of Gay Head, Inc., that is located outside the town of Gay Head shall be subject to all the civil and criminal laws, ordinances, and jurisdiction of the Commonwealth of Massachusetts.

**(h) Spending authority**

Any spending authority (as defined in section 651(c)(2)<sup>2</sup> of title 2) provided in this section shall be effective for any fiscal year only to such extent or in such amounts as are provided in appropriation Acts.

(Pub. L. 100-95, § 6, Aug. 18, 1987, 101 Stat. 706.)

REFERENCES IN TEXT

For the effective date of this Act, referred to in subsec. (f), see section 11 of Pub. L. 100-95, set out as a note under section 1771 of this title.

Section 651 of title 2, referred to in subsec. (h), was amended by Pub. L. 105-33, title X, § 10116(a)(3), (5), Aug. 5, 1997, 111 Stat. 691, by striking out subsec. (c) and redesignating former subsec. (d) as (c).

<sup>1</sup> So in original. Probably should not be capitalized.

<sup>1</sup> So in original. Probably should not be capitalized.

<sup>2</sup> See References in Text note below.