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§ 5101. Allotment of land on Indian reservations

On and after June 18, 1934, no land of any Indian reservation, created or set apart by treaty or agreement with the Indians, Act of Congress, Executive order, purchase, or otherwise, shall be allotted in severalty to any Indian.

(June 18, 1934, ch. 576, § 1, 48 Stat. 984.)

CODIFICATION

Section was formerly classified to section 461 of this title prior to editorial reclassification and renumbering as this section.

SHORT TITLE OF 2004 AMENDMENT

Pub. L. 108-204, § 1(a), Mar. 2, 2004, 118 Stat. 542, provided that: "This Act [amending section 5123 of this title and former sections 640d-24 and 712e of this title and provisions set out as notes under section 301 of Title 7, Agriculture, section 7420 of Title 10, Armed Forces, and section 431 of Title 16, Conservation] may be cited as the 'Native American Technical Corrections Act of 2004'."

SHORT TITLE OF 1994 AMENDMENT

Pub. L. 103-454, title I, § 101, Nov. 2, 1994, 108 Stat. 4791, provided that: "This title [enacting sections 5130 and 5131 of this title and provisions set out as a note under section 5130 of this title] may be cited as the 'Federally Recognized Indian Tribe List Act of 1994'."

SHORT TITLE

Act June 18, 1934, ch. 576, 48 Stat. 984, which enacted this section and sections 5102, 5103, 5107 to 5113, 5115, 5116, 5118, 5120, 5121, 5123 to 5125, and 5129 of this title, is popularly known as the "Indian Reorganization Act".

§ 5102. Existing periods of trust and restrictions on alienation extended

The existing periods of trust placed upon any Indian lands and any restriction on alienation thereof are extended and continued until otherwise directed by Congress.

(June 18, 1934, ch. 576, § 2, 48 Stat. 984.)

CODIFICATION

Section was formerly classified to section 462 of this title prior to editorial reclassification and renumbering as this section.

§ 5103. Restoration of lands to tribal ownership

(a) Protection of existing rights

The Secretary of the Interior, if he shall find it to be in the public interest, is authorized to

restore to tribal ownership the remaining surplus lands of any Indian reservation heretofore opened, or authorized to be opened, to sale, or any other form of disposal by Presidential proclamation, or by any of the public-land laws of the United States: *Provided, however*, That valid rights or claims of any persons to any lands so withdrawn existing on the date of the withdrawal shall not be affected by this Act: *Provided further*, That this section shall not apply to lands within any reclamation project heretofore authorized in any Indian reservation.

(b) Papago Indians; permits for easements, etc.

(1), (2) Repealed. May 27, 1955, ch. 106, § 1, 69 Stat. 67.

(3) Water reservoirs, charcos, water holes, springs, wells, or any other form of water development by the United States or the Papago Indians shall not be used for mining purposes under the terms of this Act, except under permit from the Secretary of the Interior approved by the Papago Indian Council: *Provided*, That nothing herein shall be construed as interfering with or affecting the validity of the water rights of the Indians of this reservation: *Provided further*, That the appropriation of living water heretofore or hereafter affected, by the Papago Indians is recognized and validated subject to all the laws applicable thereto.

(4) Nothing herein contained shall restrict the granting or use of permits for easements or rights-of-way; or ingress or egress over the lands for all proper and lawful purposes.

(June 18, 1934, ch. 576, § 3, 48 Stat. 984; Aug. 28, 1937, ch. 866, 50 Stat. 862; May 27, 1955, ch. 106, § 1, 69 Stat. 67.)

REFERENCES IN TEXT

"Heretofore", referred to in subsec. (a), means before June 18, 1934.

This Act, referred to in subsecs. (a) and (b)(3), is act June 18, 1934, ch. 576, 48 Stat. 984, popularly known as the Indian Reorganization Act, which is classified generally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 5101 of this title and Tables.

CODIFICATION

Section was formerly classified to section 463 of this title prior to editorial reclassification and renumbering as this section.

AMENDMENTS

1955—Subsec. (b)(1). Act May 27, 1955, repealed par. (1) which restored lands of Papago Indian Reservation to exploration and location.

Subsec. (b)(2). Act May 27, 1955, repealed par. (2) which required person desiring a mineral patent to pay \$1 per acre in lieu of annual rental.

Subsec. (b)(4). Act May 27, 1955, struck out provisions relating to authority to issue or promulgate rules or regulations in conflict with Executive Order of Feb. 1, 1917 or act of Feb. 21, 1931 (46 Stat. 1202).

1937—Subsec. (a). Act Aug. 28, 1937, designated existing provisions of first par. as subsec. (a).

Subsec. (b)(1). Act Aug. 28, 1937, designated existing provisions of first par. as par. (1), substituted "damages shall be paid to the superintendent or other officer in charge of the reservation for the credit of the owner thereof" for "damages shall be paid to the Papago Tribe" and "to be the fair and reasonable value of such improvement" for "but not to exceed the cost of said improvements" and struck out "and payments derived

from damages or rentals shall be deposited in the Treasury of the United States to the credit of the Papago Tribe” after “mining operations.”

Subsec. (b)(2). Act Aug. 28, 1937, designated existing provisions of first par. as par. (2), inserted “pay to the superintendent or other officer in charge of the reservation, for” before “deposit”, substituted “*Provided*, That an applicant for patent shall also pay to the Secretary or other officer in charge of the said reservation for the credit of the owner” for “*Provided further*, That patentee shall also pay into the Treasury of the United States to the credit of the Papago Tribe” substituted “but the sum thus deposited, except for a deduction of rental at the annual rate hereinbefore provided, shall be refunded to the applicant in the event that patent is not acquired” for “the payment of \$1.00 per acre for surface use to be refunded to patentee in the event that patent is not acquired” after “determination by the Secretary of the Interior, but not to exceed the cost thereof”.

Subsec. (b)(3). Act Aug. 28, 1937, added par. (3).

Subsec. (b)(4). Act Aug. 28, 1937, designated second par. as par. (4).

TRANSFER OF FUNCTIONS

Functions of all other officers of Department of the Interior and functions of all agencies and employees of Department, with two exceptions, transferred to Secretary of the Interior, with power vested in him to authorize their performance or performance of any of his functions by any of those officers, agencies, and employees, by 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.

PAPAGO INDIAN RESERVATION

Act May 27, 1955, ch. 106, §1, 69 Stat. 67, provided: “That the provisions with respect to subjection of mineral lands within the Papago Indian Reservation to exploration, location, and entry under the mining laws of the United States in the Executive order dated February 1, 1917, creating the Papago Indian Reservation, and in the third proviso in section 1 of the Act of February 21, 1931 (46 Stat. 1202), and the provisions of subsection (b)(1) and (2) and of the remainder, following the word ‘purposes,’ of subsection (b)(4) of section 3 of the Act of June 18, 1934 (48 Stat. 984; 25 U.S.C. 461–479 [now 25 U.S.C. 5101–5129]), as amended by the Act of August 26 [28], 1937 (50 Stat. 862, 863; 25 U.S.C. 463 [now 25 U.S.C. 5103]) [this section], are hereby repealed, all tribal lands within the Papago Indian Reservation are hereby withdrawn from all forms of exploration, location, and entry under such laws, the minerals underlying such lands are hereby made a part of the reservation to be held in trust by the United States for the Papago Indian Tribe, and such minerals shall be subject to lease for mining purposes pursuant to the provisions of the Act of May 11, 1938 (52 Stat. 347) [sections 396a to 396g of this title]: *Provided*, That the provisions of this Act shall not be applicable to lands within the Papago Indian Reservation for which a mineral patent has heretofore been issued or to a claim that has been validly initiated before the date of this Act and thereafter maintained under the mining laws of the United States.”

§ 5104. Exchanges of land

For the purpose of effecting land consolidations between Indians and non-Indians within the reservation, the Secretary of the Interior is authorized, under such rules and regulations as he may prescribe, to acquire through purchase, exchange, or relinquishment, any interest in lands, water rights, or surface rights to lands within said reservation. Exchanges of lands hereunder shall be made on the basis of equal value and the value of improvements on lands to

be relinquished to the Indians or by Indians to non-Indians shall be given due consideration and allowance made therefor in the valuation of lieu lands. This section shall apply to tribal, trust, or otherwise restricted Indian allotments whether the allottee be living or deceased.

(Aug. 10, 1939, ch. 662, §2, 53 Stat. 1351.)

CODIFICATION

Section was formerly classified to section 463e of this title prior to editorial reclassification and renumbering as this section.

§ 5105. Title to lands

Title to lands or any interest therein acquired pursuant to this Act for Indian use shall be taken in the name of the United States of America in trust for the tribe or individual Indian for which acquired.

(Aug. 10, 1939, ch. 662, §3, 53 Stat. 1351.)

REFERENCES IN TEXT

This Act, referred to in text, is act Aug. 10, 1939, ch. 662, 53 Stat. 1351, which is classified principally to sections 5104 to 5106 of this title. For complete classification of this Act to the Code, see Tables.

CODIFICATION

Section was formerly classified to section 463f of this title prior to editorial reclassification and renumbering as this section.

§ 5106. Use of funds appropriated under section 5108

For the purpose of carrying into effect the land-purchase provision of this Act, the Secretary of the Interior is authorized to use so much as may be necessary of any funds heretofore or hereafter appropriated pursuant to section 5108 of this title.

(Aug. 10, 1939, ch. 662, §4, 53 Stat. 1351.)

REFERENCES IN TEXT

This Act, referred to in text, is act Aug. 10, 1939, ch. 662, 53 Stat. 1351, which is classified principally to sections 5104 to 5106 of this title. For complete classification of this Act to the Code, see Tables.

CODIFICATION

Section was formerly classified to section 463g of this title prior to editorial reclassification and renumbering as this section.

§ 5107. Transfer and exchange of restricted Indian lands and shares of Indian tribes and corporations

Except as provided in this Act, no sale, devise, gift, exchange, or other transfer of restricted Indian lands or of shares in the assets of any Indian tribe or corporation organized under this Act shall be made or approved: *Provided*, That such lands or interests may, with the approval of the Secretary of the Interior, be sold, devised, or otherwise transferred to the Indian tribe in which the lands or shares are located or from which the shares were derived, or to a successor corporation: *Provided further*, That, subject to section 8(b) of the American Indian Probate Reform Act of 2004 (Public Law 108–374; 25 U.S.C. 2201 note), lands and shares described in the preceding proviso shall descend or be devised to any