

“(3) ‘Secretary’ means the Secretary of the Interior.”

AMENDMENT OF TRIBAL CONSTITUTION AND BYLAWS

Pub. L. 100-581, title I, §103, Nov. 1, 1988, 102 Stat. 2939, provided that: “Nothing in this Act [probably means title I of Pub. L. 100-581 which amended this section and enacted provisions set out above] is intended to amend, revoke, or affect any tribal constitution, bylaw, or amendment ratified and approved prior to this Act.”

§ 5124. Incorporation of Indian tribes; charter; ratification by election

The Secretary of the Interior may, upon petition by any tribe, issue a charter of incorporation to such tribe: *Provided*, That such charter shall not become operative until ratified by the governing body of such tribe. Such charter may convey to the incorporated tribe the power to purchase, take by gift, or bequest, or otherwise, own, hold, manage, operate, and dispose of property of every description, real and personal, including the power to purchase restricted Indian lands and to issue in exchange therefor interests in corporate property, and such further powers as may be incidental to the conduct of corporate business, not inconsistent with law; but no authority shall be granted to sell, mortgage, or lease for a period exceeding twenty-five years any trust or restricted lands included in the limits of the reservation. Any charter so issued shall not be revoked or surrendered except by Act of Congress.

(June 18, 1934, ch. 576, §17, 48 Stat. 988; Pub. L. 101-301, §3(c), May 24, 1990, 104 Stat. 207.)

CODIFICATION

Section was formerly classified to section 477 of this title prior to editorial reclassification and renumbering as this section.

AMENDMENTS

1990—Pub. L. 101-301 substituted “by any tribe” for “by at least one-third of the adult Indians”, “by the governing body of such tribe” for “at a special election by a majority vote of the adult Indians living on the reservation”, and “twenty-five years any trust or restricted lands” for “ten years any of the land”.

§ 5125. Acceptance optional

This Act shall not apply to any reservation wherein a majority of the adult Indians, voting at a special election duly called by the Secretary of the Interior, shall vote against its application. It shall be the duty of the Secretary of the Interior, within one year after June 18, 1934, to call such an election, which election shall be held by secret ballot upon thirty days’ notice.

(June 18, 1934, ch. 576, §18, 48 Stat. 988.)

REFERENCES IN TEXT

This Act, referred to in text, 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 478 of this title prior to editorial reclassification and renumbering as this section.

EXTENSIONS OF TIME

The time for holding an election under this section was extended to June 18, 1936, by act June 15, 1935, ch. 260, §2, 49 Stat. 378.

Act June 15, 1935, ch. 260, §3, 49 Stat. 378, provided that the periods of trust or the restrictions on alienation of Indian lands should be extended to Dec. 31, 1936, in case of a vote against the application of sections 5101 to 5103, 5107 to 5113, 5115, 5116, 5118, 5120, 5121, 5123 to 5125, and 5129 of this title.

§ 5126. Mandatory application of sections 5102 and 5124

Notwithstanding section 5125 of this title, sections 5102 and 5124 of this title shall apply to—

- (1) all Indian tribes,
- (2) all lands held in trust by the United States for Indians, and
- (3) all lands owned by Indians that are subject to a restriction imposed by the United States on alienation of the rights of the Indians in the lands.

(Pub. L. 101-301, §3(a), May 24, 1990, 104 Stat. 207.)

CODIFICATION

Section was formerly classified to section 478-1 of this title prior to editorial reclassification and renumbering as this section.

§ 5127. Procedure

In any election heretofore or hereafter held under the Act of June 18, 1934 (48 Stat. 984) [25 U.S.C. 5101 et seq.], on the question of excluding a reservation from the application of the said Act or on the question of adopting a constitution and bylaws or amendments thereto or on the question of ratifying a charter, the vote of a majority of those actually voting shall be necessary and sufficient to effectuate such exclusion, adoption, or ratification, as the case may be: *Provided, however*, That in each instance the total vote cast shall not be less than 30 per centum of those entitled to vote.

(June 15, 1935, ch. 260, §1, 49 Stat. 378.)

REFERENCES IN TEXT

Act of June 18, 1934, referred to in text, 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 478a of this title prior to editorial reclassification and renumbering as this section.

§ 5128. Application of laws and treaties

All laws, general and special, and all treaty provisions affecting any Indian reservation which has voted or may vote to exclude itself from the application of the Act of June 18, 1934 (48 Stat. 984) [25 U.S.C. 5101 et seq.], shall be deemed to have been continuously effective as to such reservation, notwithstanding the passage of said Act of June 18, 1934. Nothing in the Act of June 18, 1934, shall be construed to abrogate or impair any rights guaranteed under any existing treaty with any Indian tribe, where