

Subsec. (o)(2). Pub. L. 109-157, §4(a)(5)(A)(i), substituted “subparagraph (A) or (D) of subsection (a)(2)” for “subsection (a)(2)(A) or (D)” in introductory provisions.

Subsec. (o)(2)(A). Pub. L. 109-157, §4(a)(5)(A)(ii), made technical amendment to reference in original act which appears in text as reference to subsection (b)(1)(A).

Subsec. (o)(3)(B). Pub. L. 109-157, §4(a)(5)(B), substituted “subparagraph (A) or (D) of subsection (a)(2)” for “subsection (a)(2)(A) or (D)”.

Subsec. (o)(6). Pub. L. 109-157, §4(a)(5)(C), designated first sentence as subpar. (A), inserted subpar. heading, added subpar. (B), and struck out former second sentence which read as follows: “The proceeds attributable to an heir or devisee shall be held in an account as trust personalty if the interest sold would have otherwise passed to the heir or devisee in trust or restricted status.”

2004—Subsec. (a). Pub. L. 108-374, §3(a), added subsec. (a) and struck out heading and text of former subsec. (a) which related to testamentary disposition.

Subsec. (b). Pub. L. 108-374, §3(b), added subsec. (b) and struck out heading and text of former subsec. (b) which related to intestate succession.

Subsec. (c). Pub. L. 108-374, §3(c), added text of subsec. (c) and struck out text of former subsec. (c) which related to ownership interests in the same parcel of trust or restricted lands devised or passed to more than one person.

Subsec. (f)(1). Pub. L. 108-374, §6(e)(1), added par. (1) and struck out heading and text of former par. (1). Text read as follows: “The Secretary shall provide estate planning assistance in accordance with this subsection, to the extent amounts are appropriated for such purpose.”

Subsec. (f)(2)(B) to (D). Pub. L. 108-374, §6(e)(2), added subpars. (B) and (C) and redesignated former subpar. (B) as (D).

Subsec. (f)(3), (4). Pub. L. 108-374, §6(e)(3), added pars. (3) and (4) and struck out heading and text of former par. (3). Text read as follows: “In carrying out this section, the Secretary may enter into contracts with entities that have expertise in Indian estate planning and tribal probate codes.”

Subsec. (g). Pub. L. 108-374, §6(a)(4), struck out heading and text of subsec. (g) which related to notification to Indian tribes and owners of trust or restricted lands of amendments made by the Indian Land Consolidation Act Amendments of 2000.

Subsecs. (h) to (k). Pub. L. 108-374, §3(d), added subsecs. (h) to (k).

Subsecs. (l) to (o). Pub. L. 108-374, §6(e)(4), which directed amendment of section by adding subsecs. (l) to (o) at end, was executed by adding those subsecs. after subsec. (k), to reflect the probable intent of Congress.

Subsec. (p). Pub. L. 108-374, §6(a)(2), added subsec. (p).

#### EFFECTIVE DATE OF 2008 AMENDMENT

Pub. L. 110-453, title II, §207(f), Dec. 2, 2008, 122 Stat. 5033, provided that:

“(1) TESTAMENTARY DISPOSITION.—The amendments made by subsection (c)(2) of this section to section 207(b) of the Indian Land Consolidation Act (25 U.S.C. 2206(b)) shall not apply to any will executed before the date that is 1 year after the date of enactment of this Act [Dec. 2, 2008].

“(2) SMALL UNDIVIDED INTERESTS IN INDIAN LANDS.—The amendments made by subsection (c)(7)(C) of this section to subsection (o)(5) of section 207 of the Indian Land Consolidation Act (25 U.S.C. 2206) shall not apply to or affect any sale of an interest under subsection (o)(5) of that section that was completed before the date of enactment of this Act.”

#### 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 5107 of this title.

#### EFFECTIVE DATE OF 2004 AMENDMENT

Amendment by Pub. L. 108-374 applicable on and after the date that is 1 year after June 20, 2005, except that

subsecs. (e) and (f) of this section (as amended by Pub. L. 108-374), subsec. (g) of this section (as in effect on Mar. 1, 2006), and amendment by section 6(a)(4) of Pub. L. 108-374 are applicable as of Oct. 27, 2004, see section 8(b) of Pub. L. 108-374, set out as a Notice; Effective Date of 2004 Amendment note under section 2201 of this title.

#### JUDICIAL REVIEW

Pub. L. 106-462, title I, §104, Nov. 7, 2000, 114 Stat. 2006, provided that after the Secretary of the Interior provided the certification required under former subsec. (g)(4) of this section, the owner of an interest in trust or restricted land could bring an administrative action to challenge the application of this section to the devise or descent of his or her interest or interests in trust or restricted lands, and could seek judicial review of the final decision of the Secretary with respect to such challenge.

### § 2207. Full faith and credit to tribal actions under tribal ordinances limiting descent and distribution of trust or restricted or controlled lands

The Secretary in carrying out his responsibility to regulate the descent and distribution of trust lands under section 372 of this title, and other laws, shall give full faith and credit to any tribal actions taken pursuant to subsections (a) and (b) of section 2205 of this title, which provision shall apply only to estates of decedent's whose deaths occur on or after the effective date of tribal ordinances adopted pursuant to this chapter.

(Pub. L. 97-459, title II, §208, Jan. 12, 1983, 96 Stat. 2519; Pub. L. 106-462, title I, §103(5), Nov. 7, 2000, 114 Stat. 1999.)

#### AMENDMENTS

2000—Pub. L. 106-462 substituted “subsections (a) and (b) of section 2205” for “section 2205”.

### § 2208. Conveyancing authority upon sale or exchange of tribal lands; removal of trust status of individually owned lands

The Secretary shall have the authority to issue deeds, patents, or such other instruments of conveyance needed to effectuate a sale or exchange of tribal lands made pursuant to the terms of this chapter and to remove, at the request of an Indian owner, the trust status of individually held lands or interests therein, where authorized by law.

(Pub. L. 97-459, title II, §209, Jan. 12, 1983, 96 Stat. 2519.)

### § 2209. Trusteeship title of United States for any Indian or Indian tribe

Title to any land acquired under this chapter by any Indian or Indian tribe shall be taken in trust by the United States for that Indian or Indian tribe.

(Pub. L. 97-459, title II, §210, Jan. 12, 1983, 96 Stat. 2519.)

### § 2210. Tax exemption

All lands or interests in land acquired by the United States for an Indian or Indian tribe under authority of this chapter shall be exempt from Federal, State and local taxation.

(Pub. L. 97-459, title II, §211, Jan. 12, 1983, 96 Stat. 2519.)

**§ 2211. Governing body of tribe; construction of chapter as not vesting with authority not authorized by tribal constitution or by-laws**

Nothing in this chapter shall be construed as vesting the governing body of an Indian tribe with any authority which is not authorized by the constitution and by-laws or other organizational document of such tribe.

(Pub. L. 97-459, title II, §212, as added Pub. L. 98-608, §1(5), Oct. 30, 1984, 98 Stat. 3173.)

REFERENCES IN TEXT

This chapter, referred to in text, 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.

**§ 2212. Fractional interest acquisition program**

**(a) Acquisition by Secretary**

**(1) In general**

The Secretary may acquire, at the discretion of the Secretary and with the consent of the owner, or from an heir during probate in accordance with section 2206(o) of this title and at fair market value, any fractional interest in trust or restricted lands.

**(2) Authority of Secretary**

The Secretary shall submit the report required under section 2217 of this title concerning how the fractional interest acquisition program should be enhanced to increase the resources made available to Indian tribes and individual Indian landowners.

**(3) Interests held in trust**

Subject to section 2213 of this title, the Secretary shall immediately hold interests acquired under this chapter in trust for the recognized tribal government that exercises jurisdiction over the land involved.

**(b) Requirements**

In implementing subsection (a), the Secretary—

(1) shall promote the policies provided for in section 102 of the Indian Land Consolidation Act Amendments of 2000;

(2) may give priority to the acquisition of fractional interests representing 2 percent or less of a parcel of trust or restricted land, especially those interests that would have escheated to a tribe but for the Supreme Court’s decision in *Babbitt v. Youpee* (117 S<sup>1</sup> Ct. 727 (1997));

(3) to the extent practicable—

(A) shall consult with the tribal government that exercises jurisdiction over the land involved in determining which tracts to acquire on a reservation;

(B) shall coordinate the acquisition activities with the acquisition program of the tribal government that exercises jurisdiction over the land involved, including a tribal land consolidation plan approved pursuant to section 2203 of this title; and

(C) may enter into agreements (such agreements will not be subject to the provisions of the Indian Self-Determination and Education Assistance Act of 1974 [25 U.S.C. 5301 et seq.]) with the tribal government that exercises jurisdiction over the land involved or a subordinate entity of the tribal government to carry out some or all of the Secretary’s land acquisition program; and

(4) shall minimize the administrative costs associated with the land acquisition program through the use of policies and procedures designed to accommodate the voluntary sale of interests under this section, notwithstanding the existence of any otherwise applicable policy, procedure, or regulation, through the elimination of duplicate—

(A) conveyance documents;

(B) administrative proceedings; and

(C) transactions.

**(c) Sale of interest to Indian landowners**

**(1) Conveyance at request**

**(A) In general**

At the request of any Indian who owns an undivided interest in a parcel of trust or restricted land, the Secretary shall convey an interest in such parcel acquired under this section to the Indian landowner—

(i) on payment by the Indian landowner of the amount paid for the interest by the Secretary; or

(ii) if—

(I) the Indian referred to in this subparagraph provides assurances that the purchase price will be paid by pledging revenue from any source, including trust resources; and

(II) the Secretary determines that the purchase price will be paid in a timely and efficient manner.

**(B) Limitation**

With respect to a conveyance under this subsection, the Secretary shall not approve an application to terminate the trust status or remove the restrictions of such an interest unless the interest is subject to a foreclosure of a mortgage in accordance with section 5135 of this title.

**(2) Multiple owners**

If more than one Indian owner requests an interest under paragraph (1), the Secretary shall convey the interest to the Indian owner who owns the largest percentage of the undivided interest in the parcel of trust or restricted land involved.

**(3) Limitation**

If an Indian tribe that has jurisdiction over a parcel of trust or restricted land owns an undivided interest in a parcel of such land, such interest may only be acquired under paragraph (1) with the consent of such Indian tribe.

**(d) Authorization of appropriations**

There is authorized to be appropriated to carry out this section \$75,000,000 for fiscal year 2005, \$95,000,000 for fiscal year 2006, and \$145,000,000 for each of fiscal years 2007 through 2010.

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