

terest in land into the Acquisition Fund created under section 2215<sup>1</sup> of this title, except where the tribe with jurisdiction over such interest in land authorizes the Secretary to continue the lien in order to generate additional acquisition funds.

**(5) Other removal of liens**

The Secretary may, in consultation with tribal governments and other entities described in section 2212(b)(3) of this title, periodically remove liens referred to in paragraph (1) from interests in land acquired by the Secretary.

**(c) Tribe not treated as party to lease; no effect on tribal sovereignty, immunity**

**(1) In general**

Paragraph (2) shall apply with respect to any undivided interest in allotted land held by the Secretary in trust for a tribe if a lease or agreement under subsection (a) is otherwise applicable to such undivided interest by reason of this section even though the Indian tribe did not consent to the lease or agreement.

**(2) Application of lease**

The lease or agreement described in paragraph (1) shall apply to the portion of the undivided interest in allotted land described in such paragraph (including entitlement of the Indian tribe to payment under the lease or agreement), and the Indian tribe shall not be treated as being a party to the lease or agreement. Nothing in this section (or in the lease or agreement) shall be construed to affect the sovereignty of the Indian tribe.

(Pub. L. 97-459, title II, §214, as added Pub. L. 106-462, title I, §103(6), Nov. 7, 2000, 114 Stat. 2000; amended Pub. L. 108-374, §6(a)(6), Oct. 27, 2004, 118 Stat. 1801.)

REFERENCES IN TEXT

Section 2215 of this title, referred to in the original in subsec. (b)(4), probably should have been “section 216”, meaning section 216 of Pub. L. 97-459, which is classified to section 2215 of this title and relates to the establishment of an Acquisition Fund. Pub. L. 97-459 does not contain a section 2215.

AMENDMENTS

2004—Subsec. (b). Pub. L. 108-374 added subsec. (b) and struck out heading and text of former subsec. (b) which related to conditions applicable to the administration by Indian tribes of acquired fractional interests in trust or restricted lands.

**§ 2214. Establishing fair market value**

For purposes of this chapter, the Secretary may develop a system for establishing the fair market value of various types of lands and improvements. Such a system may include determinations of fair market value based on appropriate geographic units as determined by the Secretary. Such a system may govern the amounts offered for the purchase of interests in trust or restricted land under this chapter.

(Pub. L. 97-459, title II, §215, as added Pub. L. 106-462, title I, §103(6), Nov. 7, 2000, 114 Stat. 2002;

<sup>1</sup> See References in Text note below.

amended Pub. L. 108-374, §6(a)(7), Oct. 27, 2004, 118 Stat. 1802; Pub. L. 109-157, §6, Dec. 30, 2005, 119 Stat. 2952.)

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.

AMENDMENTS

2005—Pub. L. 109-157 substituted “Such a system may govern the amounts offered for the purchase of interests in trust or restricted land under this chapter.” for “Such system may govern the amounts offered for the purchase of interests in trust or restricted lands under this chapter.”

2004—Pub. L. 108-374, which directed substitution of “this Act” for “section 2212 of this title” in last sentence, was executed by substituting “this chapter” for “section 213”, meaning section 213 of Pub. L. 97-459, which is classified to section 2212 of this title, to reflect the probable intent of Congress.

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.

**§ 2215. Acquisition Fund**

**(a) In general**

The Secretary shall establish an Acquisition Fund to—

(1) disburse appropriations authorized to accomplish the purposes of section 2212 of this title; and

(2) collect all revenues received from the lease, permit, or sale of resources from interests acquired under section 2212 of this title or paid by Indian landowners under section 2212 of this title.

**(b) Deposits; use**

**(1) In general**

All proceeds from leases, permits, or resource sales derived from an interest in trust or restricted lands described in subsection (a)(2) shall—

(A) be deposited in the Acquisition Fund;

(B) as specified in advance in appropriations Acts, be available for the purpose of acquiring additional fractional interests in trust or restricted lands; and

(C) be used to acquire undivided interests on the reservation from which the income was derived.

**(2) Use of funds**

The Secretary may use the revenue deposited in the Acquisition Fund under paragraph (1) to acquire some or all of the undivided interests in any parcels of land in accordance with section 2204 of this title.

(Pub. L. 97-459, title II, §216, as added Pub. L. 106-462, title I, §103(6), Nov. 7, 2000, 114 Stat. 2002; amended Pub. L. 108-374, §6(a)(8), Oct. 27, 2004, 118 Stat. 1802.)

AMENDMENTS

2004—Subsec. (a)(2). Pub. L. 108-374, §6(a)(8)(A), added par. (2) and struck out former par. (2) which read as follows: “collect all revenues received from the lease, permit, or sale of resources from interests in trust or re-

stricted lands transferred to Indian tribes by the Secretary under section 2212 of this title or paid by Indian landowners under section 2212(c) of this title.”

Subsec. (b)(1). Pub. L. 108-374, §6(a)(8)(B)(i), substituted “All” for “Subject to paragraph (2), all” in introductory provisions and added subpar. (C).

Subsec. (b)(2). Pub. L. 108-374, §6(a)(8)(B)(ii), added par. (2) and struck out heading and text of former par. (2). Text read as follows: “With respect to the deposit of proceeds derived from an interest under paragraph (1), the aggregate amount deposited under that paragraph shall not exceed the purchase price of that interest under section 2212 of this title.”

## § 2216. Trust and restricted land transactions

### (a) Policy

It is the policy of the United States to encourage and assist the consolidation of land ownership through transactions—

- (1) involving individual Indians;
- (2) between Indians and the tribal government that exercises jurisdiction over the land;

or

- (3) between individuals who own an interest in trust and restricted land who wish to convey that interest to an Indian or the tribal government that exercises jurisdiction over the parcel of land involved;

in a manner consistent with the policy of maintaining the trust status of allotted lands. Nothing in this section shall be construed to apply to or to authorize the sale of trust or restricted lands to a person who is not an Indian.

### (b) Sales, exchanges and gift deeds between Indians and between Indians and Indian tribes

#### (1) In general

##### (A) Estimate of value

Notwithstanding any other provision of law and only after the Indian selling, exchanging, or conveying by gift deed for no or nominal consideration an interest in land, has been provided with an estimate of the value of the interest of the Indian pursuant to this section—

- (i) the sale or exchange or conveyance of an interest in trust or restricted land may be made for an amount that is less than the fair market value of that interest; and
- (ii) the approval of a transaction that is in compliance with this section shall not constitute a breach of trust by the Secretary.

##### (B) Waiver of requirement

The requirement for an estimate of value under subparagraph (A) may be waived in writing by an owner of a trust or restricted interest in land either selling, exchanging, or conveying by gift deed for no or nominal consideration such interest—

- (i) to an Indian person who is the owner’s spouse, brother, sister, lineal ancestor, lineal descendant, or collateral heir; or
- (ii) to an Indian co-owner or to the tribe with jurisdiction over the subject parcel of land, where the grantor owns a fractional interest that represents 5 percent or less of the parcel.

#### (2) Limitation

For a period of 5 years after the Secretary approves a conveyance pursuant to this sub-

section, the Secretary shall not approve an application to terminate the trust status or remove the restrictions of such an interest.

### (c) Acquisition of interest by Secretary

An Indian, or the recognized tribal government of a reservation, in possession of an interest in trust or restricted lands, at least a portion of which is in trust or restricted status on November 7, 2000, and located within a reservation, may request that the interest be taken into trust by the Secretary. Upon such a request, the Secretary shall forthwith take such interest into trust.

### (d) Status of lands

The sale, exchange, or conveyance by gift deed for no or nominal consideration of an interest in trust or restricted land under this section shall not affect the status of that land as trust or restricted land.

### (e) Land ownership information

Notwithstanding any other provision of law, the names and mailing addresses of the owners of any interest in trust or restricted lands, and information on the location of the parcel and the percentage of undivided interest owned by each individual shall, upon written request, be made available to—

- (1) other owners of interests in trust or restricted lands within the same reservation;
- (2) the tribe that exercises jurisdiction over the land where the parcel is located or any person who is eligible for membership in that tribe; and
- (3) any person that is leasing, using, or consolidating, or is applying to lease, use, or consolidate, such trust or restricted land or the interest in trust or restricted lands.

### (f) Purchase of land by Indian tribe

#### (1) In general

Except as provided in paragraph (2), before the Secretary approves an application to terminate the trust status or remove the restrictions on alienation from a parcel of, or interest in, trust or restricted land, the Indian tribe with jurisdiction over the parcel shall have the opportunity—

- (A) to match any offer contained in the application; or
- (B) in a case in which there is no purchase price offered, to acquire the interest in the parcel by paying the fair market value of the interest.

#### (2) Exception for family farms

##### (A) In general

Paragraph (1) shall not apply to a parcel of, or interest in, trust or restricted land that is part of a family farm that is conveyed to a member of the family of a landowner (as defined in section 2205(c)(2)(A)(iv) of this title) if the conveyance requires that in the event that the parcel or interest is offered for sale to an entity or person that is not a member of the family of the landowner, the Indian tribe with jurisdiction over the land shall be afforded the opportunity to purchase the interest pursuant to paragraph (1).