

(2) of any size that have been or are being operated for a profit; or

(3) where solid waste from an industrial process is being or has been routinely disposed of at a privately owned facility in compliance with applicable Federal laws.

(c) Rules of construction

(1) Nothing in this chapter shall be construed to amend or modify the authority or responsibility of the Administrator of the Environmental Protection Agency under the Solid Waste Disposal Act (42 U.S.C. 6901 et seq.).

(2) Nothing in this chapter is intended to amend, repeal, or supersede any provision of the Solid Waste Disposal Act (42 U.S.C. 6901 et seq.). (Pub. L. 103-399, §9, Oct. 22, 1994, 108 Stat. 4168.)

REFERENCES IN TEXT

The Solid Waste Disposal Act, referred to in subsec. (c), is title II of Pub. L. 89-272, Oct. 20, 1965, 79 Stat. 997, as amended generally by Pub. L. 94-580, §2, Oct. 21, 1976, 90 Stat. 2795, which is classified generally to chapter 82 (§6901 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 6901 of Title 42 and Tables.

CHAPTER 42—AMERICAN INDIAN TRUST FUND MANAGEMENT REFORM

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§ 4001. Definitions

For the purposes of this chapter:

(1) The term “Special Trustee” means the Special Trustee for American Indians appointed under section 4042 of this title.

(2) The term “Indian tribe” means any Indian tribe, band, nation, or other organized

group or community, including any Alaska Native village or regional or village corporation as defined in or established pursuant to the Alaska Native Claims Settlement Act (85 Stat. 688) [43 U.S.C. 1601 et seq.], which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

(3) The term “Secretary” means the Secretary of the Interior.

(4) The term “Office” means the Office of Special Trustee for American Indians established by section 4042 of this title.

(5) The term “Bureau” means the Bureau of Indian Affairs within the Department of the Interior.

(6) The term “Department” means the Department of the Interior.

(Pub. L. 103-412, §2, Oct. 25, 1994, 108 Stat. 4239.)

REFERENCES IN TEXT

This chapter, referred to in text, was in the original “this Act”, meaning Pub. L. 103-412, Oct. 25, 1994, 108 Stat. 4239, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note below and Tables.

The Alaska Native Claims Settlement Act, referred to in par. (2), is Pub. L. 92-203, Dec. 18, 1971, 85 Stat. 688, as amended, which is classified generally to chapter 33 (§1601 et seq.) of Title 43, Public Lands. For complete classification of this Act to the Code, see Short Title note set out under section 1601 of Title 43 and Tables.

SHORT TITLE

Pub. L. 103-412, §1(a), Oct. 25, 1994, 108 Stat. 4239, provided that: “This Act [enacting this chapter, amending sections 161a and 162a of this title, and enacting provisions set out as a note under section 161a of this title] may be cited as the ‘American Indian Trust Fund Management Reform Act of 1994.’”

SUBCHAPTER I—RECOGNITION OF TRUST RESPONSIBILITY

§ 4011. Responsibility of Secretary to account for daily and annual balances of Indian trust funds

(a) Requirement to account

The Secretary shall account for the daily and annual balance of all funds held in trust by the United States for the benefit of an Indian tribe or an individual Indian which are deposited or invested pursuant to section 162a of this title.

(b) Periodic statement of performance

Not later than 20 business days after the close of a calendar quarter, the Secretary shall provide a statement of performance to each Indian tribe and individual with respect to whom funds are deposited or invested pursuant to section 162a of this title. The statement, for the period concerned, shall identify—

- (1) the source, type, and status of the funds;
- (2) the beginning balance;
- (3) the gains and losses;
- (4) receipts and disbursements; and
- (5) the ending balance.

(c) Annual audit

The Secretary shall cause to be conducted an annual audit on a fiscal year basis of all funds held in trust by the United States for the benefit of an Indian tribe or an individual Indian which

are deposited or invested pursuant to section 162a of this title, and shall include a letter relating to the audit in the first statement of performance provided under subsection (b) after the completion of the audit.

(Pub. L. 103-412, title I, §102, Oct. 25, 1994, 108 Stat. 4240.)

PERFORMANCE AND ACCOUNT STATEMENTS FOR INACTIVE ACCOUNTS

Provisions stating that the Secretary was not required to provide a quarterly statement of performance for any Indian trust account that had not had activity for at least 18 months and had a balance of \$1.00 or less but was required to issue an annual account statement and maintain a record of any such accounts and to permit the balance in each such account to be withdrawn upon the express written request of the account holder, were contained in Department of the Interior, Environment, and Related Agencies Appropriations Act, 2006, Pub. L. 109-54, title I, Aug. 2, 2005, 119 Stat. 519, and were repeated in provisions of subsequent appropriations acts which are not set out in the Code. Similar provisions were also contained in the following prior appropriations acts:

Pub. L. 108-447, div. E, title I, Dec. 8, 2004, 118 Stat. 3061.

Pub. L. 108-108, title I, Nov. 10, 2003, 117 Stat. 1263.

Pub. L. 108-7, div. F, title I, Feb. 20, 2003, 117 Stat. 236.

Pub. L. 107-63, title I, Nov. 5, 2001, 115 Stat. 435.

Pub. L. 106-291, title I, Oct. 11, 2000, 114 Stat. 939.

Pub. L. 106-113, div. B, §1000(a)(3) [title I], Nov. 29, 1999, 113 Stat. 1535, 1501A-153.

Pub. L. 105-277, div. A, §101(e) [title I], Oct. 21, 1998, 112 Stat. 2681-231, 2681-251.

§ 4012. Authority for payment of claims for interest owed

The Secretary shall make payments to an individual Indian in full satisfaction of any claim of such individual for interest on amounts deposited or invested on behalf of such individual before October 25, 1994, retroactive to the date that the Secretary began investing individual Indian monies on a regular basis, to the extent that the claim is identified—

(1) by a reconciliation process of individual Indian money accounts, or

(2) by the individual and presented to the Secretary with supporting documentation, and is verified by the Secretary pursuant to the Department's policy for addressing account-holder losses.

(Pub. L. 103-412, title I, §104, Oct. 25, 1994, 108 Stat. 4241.)

SUBCHAPTER II—INDIAN TRUST FUND MANAGEMENT PROGRAM

§ 4021. Purpose

The purpose of this subchapter is to allow tribes an opportunity to manage tribal funds currently held in trust by the United States and managed by the Secretary through the Bureau, that, consistent with the trust responsibility of the United States and the principles of self-determination, will—

(1) give Indian tribal governments greater control over the management of such trust funds; or

(2) otherwise demonstrate how the principles of self-determination can work with respect to the management of such trust funds, in a man-

ner consistent with the trust responsibility of the United States.

(Pub. L. 103-412, title II, §201, Oct. 25, 1994, 108 Stat. 4242.)

§ 4022. Voluntary withdrawal from trust funds program

(a) In general

An Indian tribe may, in accordance with this section, submit a plan to withdraw some or all funds held in trust for such tribe by the United States and managed by the Secretary through the Bureau.

(b) Approval of plan

The Secretary shall approve such plan within 90 days of receipt and when approving the plan, the Secretary shall obtain the advice of the Special Trustee or prior to the appointment of such Special Trustee, the Director of the Office of Trust Fund Management within the Bureau. Such plan shall meet the following conditions:

(1) Such plan has been approved by the appropriate Indian tribe and is accompanied by a resolution from the tribal governing body approving the plan.

(2) The Secretary determines such plan to be reasonable after considering all appropriate factors, including (but not limited to) the following:

(A) The capability and experience of the individuals or institutions that will be managing the trust funds.

(B) The protection against substantial loss of principal.

(c) Dissolution of trust responsibility

Beginning on the date funds are withdrawn pursuant to this section, any trust responsibility or liability of the United States with respect to such funds shall cease except as provided for in section 4027 of this title.

(Pub. L. 103-412, title II, §202, Oct. 25, 1994, 108 Stat. 4242.)

§ 4023. Judgment funds

(a) In general

The Secretary is authorized to approve plans under section 4022 of this title for the withdrawal of judgment funds held by the Secretary.

(b) Limitation

Only such funds held by the Secretary under the terms of the Indian Judgment Funds Use or Distribution Act [25 U.S.C. 1401 et seq.] or an Act of Congress which provides for the secretarial management of such judgment funds shall be included in such plans.

(c) Secretarial duties

In approving such plans, the Secretary shall ensure—

(1) that the purpose and use of the judgment funds identified in the previously approved judgment fund plan will continue to be followed by the Indian tribe in the management of the judgment funds; and

(2) that only funds held for Indian tribes may be withdrawn and that any funds held for individual tribal members are not to be included in the plan.