

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 Act May 27, 1955, repealed par.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 Act May 27, 1955, repealed par.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 subsection of min-

eral 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 Sec-

retary 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 member of an Indian tribe or corporation described in that proviso or to an heir or lineal descendant of such a member in accordance with the Indian Land Consolidation Act (25 U.S.C. 2201 et seq.), including a tribal probate code approved, or regulations promulgated under, that Act: *Provided further*, That the Secretary of the Interior may authorize any voluntary exchanges of lands of equal value and the voluntary exchange of shares of equal value whenever such exchange, in the judgment of the Secretary, is expedient and beneficial for or compatible with the proper consolidation of Indian lands and for the benefit of cooperative organizations.

(June 18, 1934, ch. 576, §4, 48 Stat. 985; Pub. L. 96-363, §1, Sept. 26, 1980, 94 Stat. 1207; Pub. L. 106-462, title I, §106(c), Nov. 7, 2000, 114 Stat. 2007; Pub. L. 108-374, §6(d), Oct. 27, 2004, 118 Stat. 1805; Pub. L. 109-157, §8(b), Dec. 30, 2005, 119 Stat. 2952; Pub. L. 109-221, title V, §501(b)(1), May 12, 2006, 120 Stat. 343.)

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.

The Indian Land Consolidation Act, referred to in text, is title II of Pub. L. 97-459, Jan. 12, 1983, 96 Stat. 2517, which is classified generally to chapter 24 (§2201 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 2201 of this title and Tables.

CODIFICATION

Section was formerly classified to section 464 of this title prior to editorial reclassification and renumbering as this section.

AMENDMENTS

2006—Pub. L. 109-221 amended section catchline and text generally. Prior to amendment, text related to transfer and exchange of restricted Indian land and shares of Indian tribes and corporations.

2005—Pub. L. 109-157 amended section catchline and text generally. Prior to amendment, text related to transfer of restricted Indian lands or shares in assets of Indian tribes or corporation and exchange of lands.

2004—Pub. L. 108-374, §6(d)(1), (2), in first proviso, struck out “, in accordance with the then existing laws of the State, or Federal laws where applicable, in which said lands are located or in which the subject matter of the corporation is located,” after “descend or be devised” and “, except as provided by the Indian Land Consolidation Act, any other Indian person for whom the Secretary of the Interior determines that the United States may hold land in trust:” after “lineal descendants of such member or”.

Pub. L. 108-374, §6(d)(3), which directed insertion of “in accordance with the Indian Land Consolidation Act (25 U.S.C. 2201 et seq.) (including a tribal probate code approved under that Act or regulations promulgated under that Act):” in first proviso without specifying where the insertion was to be made, was executed by making the insertion at end of first proviso, to reflect the probable intent of Congress.

2000—Pub. L. 106-462, which directed the amendment of this section by substituting “member or, except as provided by the Indian Land Consolidation Act,” for “member or:”, was executed by making the substitution for “member or” before “any other Indian person” to reflect the probable intent of Congress because the phrase “member or:” did not appear in text.

1980—Pub. L. 96-363, which directed the amendment of the first proviso of this section by substituting “or any heirs or lineal descendants of such member or any other Indian person for whom the Secretary of the Interior determines that the United States may hold land in trust” for “or any heirs of such members”, was executed by making the substitution for “or any heirs of such member” to reflect the probable intent of Congress.

EFFECTIVE DATE OF 2006 AMENDMENT

Amendment by Pub. L. 109-221 effective as if included in the enactment of Pub. L. 108-374, see section 501(c) of Pub. L. 109-221, set out as a note under section 348 of this title.

EFFECTIVE DATE OF 2005 AMENDMENT

Pub. L. 109-157, §9, Dec. 30, 2005, 119 Stat. 2953, provided that: “The amendments made by this Act [amending this section, sections 2204 to 2206, 2212, 2214, and 2216 of this title and provisions set out as a note under section 2201 of this title] shall be effective as if included in the American Indian Probate Reform Act of 2004 (25 U.S.C. 2201 note; Public Law 108-374).”

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, 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.

§ 5108. Acquisition of lands, water rights or surface rights; appropriation; title to lands; tax exemption

The Secretary of the Interior is authorized, in his discretion, to acquire, through purchase, relinquishment, gift, exchange, or assignment,