

said minors as shall be certified by the Secretary of the Interior as entitled to draw interest under this section.

(June 21, 1906, ch. 3504, 34 Stat. 327.)

§ 412. Payment of taxes from share of allottee in tribal funds

In any case where the restrictions as to alienation have been removed with respect to any Indian allottee, or as to any portion of the lands of any Indian allottee, and such allottee as an individual, or as a member of any tribe, has an interest in any fund held by the United States beyond the amount by law chargeable to such Indian or tribe on account of advances, the Commissioner of Indian Affairs is authorized, prior to the date at which any penalties for the non-payment of taxes would accrue under the laws of the State or Territory in which such land is situated, to pay such taxes and charge the amount thereof to such allottee, to be deducted from the share of such allottee in the final distribution or payment to him from such fund: *Provided*, That no such payment shall be made by said Commissioner where it is in excess of the amount which will ultimately be due said allottee.

(Mar. 1, 1907, ch. 2285, 34 Stat. 1016.)

Executive Documents

TRANSFER OF FUNCTIONS

For transfer of functions of other officers, employees, and agencies of Department of the Interior, with certain exceptions, to Secretary of the Interior, with power to delegate, see 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.

§ 412a. Exemption from taxation of lands subject to restrictions against alienation; determination of homestead

All homesteads, heretofore purchased out of the trust or restricted funds of individual Indians, are hereby declared to be instrumentalities of the Federal Government and shall be nontaxable until otherwise directed by Congress: *Provided*, That the title to such homesteads shall be held subject to restrictions against alienation or encumbrance except with the approval of the Secretary of the Interior: *And provided further*, That the Indian owner or owners shall select, with the approval of the Secretary of the Interior, either the agricultural and grazing lands, not exceeding a total of one hundred and sixty acres, or the village, town, or city property, not exceeding in cost \$5,000, to be designated as a homestead.

(June 20, 1936, ch. 622, § 2, 49 Stat. 1542; May 19, 1937, ch. 227, 50 Stat. 188.)

Editorial Notes

AMENDMENTS

1937—Act May 19, 1937, substituted "All homesteads" and "individual Indians" for "All lands the title to which is now held by an Indian subject to restrictions against alienation or encumbrance except with the consent or approval of the Secretary of the Interior" and "said Indian", respectively, and inserted two provisos.

§ 413. Fees to cover cost of work performed for Indians

The Secretary of the Interior is hereby authorized, in his discretion, and under such rules and regulations as he may prescribe, to collect reasonable fees to cover the cost of any and all work performed for Indian tribes or for individual Indians, to be paid by vendees, lessees, or assignees, or deducted from the proceeds of sale, leases, or other sources of revenue: *Provided*, That the amounts so collected shall be covered into the Treasury as miscellaneous receipts, except when the expenses of the work are paid from Indian tribal funds, in which event they shall be credited to such funds.

(Feb. 14, 1920, ch. 75, § 1, 41 Stat. 415; Mar. 1, 1933, ch. 158, 47 Stat. 1417.)

Editorial Notes

AMENDMENTS

1933—Act Mar. 1, 1933, substituted "to collect reasonable fees to cover the cost of any and all work performed for Indian tribes or individual Indians" for "to charge a reasonable fee for the work incident to the sale, leasing, or assigning of such lands, or in the sale of the timber, or in the administration of Indian forests" and "deducted from the proceeds of sale, leases, or other sources of revenue" for "from the proceeds of sales", struck out introductory text "In the sale of all Indian allotments, or in leases, or assignment of leases covering, tribal or allotted lands for mineral, farming, grazing, business or other purposes, or in the sale of timber thereon" and provided for the use of discretion and the crediting of Indian tribal funds.

§ 414. Reservation of minerals in sale of Choctaw-Chickasaw lands

On and after August 25, 1937, in all sales of tribal lands of the Choctaw and Chickasaw Indians in Oklahoma provided for by existing law, the Secretary of the Interior is hereby authorized to offer such lands for sale subject to a reservation of the mineral rights therein, including oil and gas, for the benefit of said Indians, whenever in his judgment the interests of the Indians will best be served thereby.

(Aug. 25, 1937, ch. 778, 50 Stat. 810.)

§ 415. Leases of restricted lands

(a) Authorized purposes; term; approval by Secretary

Any restricted Indian lands, whether tribally, or individually owned, may be leased by the Indian owners, with the approval of the Secretary of the Interior, for public, religious, educational, recreational, residential, or business purposes, including the development or utilization of natural resources in connection with operations under such leases, for grazing purposes, and for those farming purposes which require the making of a substantial investment in the improvement of the land for the production of specialized crops as determined by said Secretary. All leases so granted shall be for a term of not to exceed twenty-five years, except leases of land located outside the boundaries of Indian reservations in the State of New Mexico, leases of land on the Agua Caliente (Palm Springs) Reservation, the Dania Reservation, the Pueblo of Santa

Ana (with the exception of the lands known as the "Santa Ana Pueblo Spanish Grant"), the reservation of the Confederated Tribes of the Warm Springs Reservation of Oregon, the Moapa Indian Reservation, the Swinomish Indian Reservation, the Southern Ute Reservation, the Fort Mojave Reservation, the Confederated Tribes of the Umatilla Indian Reservation, the Burns Paiute Reservation, the Coeur d'Alene Indian Reservation, the Kalispel Indian Reservation and land held in trust for the Kalispel Tribe of Indians, the Puyallup Tribe of Indians, the pueblo of Cochiti, Ohkay Owingeh pueblo, the pueblo of Pojoaque, the pueblo of Santa Clara, the pueblo of Tesuque, the pueblo of Zuni, the Hualapai Reservation, the Spokane Reservation, the San Carlos Apache Reservation, the Yavapai-Prescott Community Reservation, the Pyramid Lake Reservation, the Gila River Reservation, the Soboba Indian Reservation, the Viejas Indian Reservation, the Tulalip Indian Reservation, the Navajo Reservation, the Cabazon Indian Reservation, the Muckleshoot Indian Reservation and land held in trust for the Muckleshoot Indian Tribe, the Mille Lacs Indian Reservation with respect to a lease between an entity established by the Mille Lacs Band of Chippewa Indians and the Minnesota Historical Society, leases of the land comprising the Moses Allotment Numbered 8 and the Moses Allotment Numbered 10, Chelan County, Washington, and lands held in trust for the Las Vegas Paiute Tribe of Indians, and lands held in trust for the Twenty-nine Palms Band of Luiseno Mission Indians, and lands held in trust for the Reno Sparks Indian Colony, lands held in trust for the Torres Martinez Desert Cahuilla Indians, lands held in trust for the Guidiville Band of Pomo Indians of the Guidiville Indian Rancheria, lands held in trust for the Confederated Tribes of the Umatilla Indian Reservation, lands held in trust for the Confederated Tribes of the Warm Springs Reservation of Oregon, land held in trust for the Coquille Indian Tribe, land held in trust for the Confederated Tribes of Siletz Indians, land held in trust for the Confederated Tribes of the Coos, Lower Umpqua, and Siuslaw Indians, land held in trust for the Klamath Tribes, and land held in trust for the Burns Paiute Tribe, and lands held in trust for the Cow Creek Band of Umpqua Tribe of Indians, land held in trust for the Prairie Band Potawatomi Nation, lands held in trust for the Cherokee Nation of Oklahoma, land held in trust for the Fallon Paiute Shoshone Tribes, land held in trust for the Yurok Tribe, land held in trust for the Hopland Band of Pomo Indians of the Hopland Rancheria, lands held in trust for the Yurok Tribe, lands held in trust for the Hopland Band of Pomo Indians of the Hopland Rancheria, lands held in trust for the Confederated Tribes of the Colville Reservation, lands held in trust for the Cahuilla Band of Indians of California, lands held in trust for the Confederated Tribes of the Grand Ronde Community of Oregon, and the lands held in trust for the Confederated Salish and Kootenai Tribes of the Flathead Reservation, Montana, and leases to the Devils Lake Sioux Tribe, or any organization of such tribe, of land on the Devils Lake Sioux Reservation, land held in trust for the Crow Tribe of Montana, and which may be for a

term of not to exceed ninety-nine years, and except leases of land held in trust for the Morongo Band of Mission Indians which may be for a term of not to exceed 50 years, and except leases of land for grazing purposes which may be for a term of not to exceed ten years. Leases for public, religious, educational, recreational, residential, or business purposes (except leases the initial term of which extends for more than seventy-four years) with the consent of both parties may include provisions authorizing their renewal for one additional term of not to exceed twenty-five years, and all leases and renewals shall be made under such terms and regulations as may be prescribed by the Secretary of the Interior. Prior to approval of any lease or extension of an existing lease pursuant to this section, the Secretary of the Interior shall first satisfy himself that adequate consideration has been given to the relationship between the use of the leased lands and the use of neighboring lands; the height, quality, and safety of any structures or other facilities to be constructed on such lands; the availability of police and fire protection and other services; the availability of judicial forums for all criminal and civil causes arising on the leased lands; and the effect on the environment of the uses to which the leased lands will be subject.

(b) Leases involving Tulalip Tribes

Any lease by the Tulalip Tribes, the Puyallup Tribe of Indians, the Swinomish Indian Tribal Community, or the Kalispel Tribe of Indians under subsection (a) of this section, except a lease for the exploitation of any natural resource, shall not require the approval of the Secretary of the Interior (1) if the term of the lease does not exceed fifteen years, with no option to renew, (2) if the term of the lease does not exceed thirty years, with no option to renew, and the lease is executed pursuant to tribal regulations previously approved by the Secretary of the Interior, or (3) if the term does not exceed seventy-five years (including options to renew), and the lease is executed under tribal regulations approved by the Secretary under this clause (3).

(c) Leases involving Hopi Tribe and Hopi Partitioned Lands Accommodation Agreement

Notwithstanding subsection (a), a lease of land by the Hopi Tribe to Navajo Indians on the Hopi Partitioned Lands may be for a term of 75 years, and may be extended at the conclusion of the term of the lease.

(d) Definitions

For purposes of this section—

(1) the term "Hopi Partitioned Lands" means lands located in the Hopi Partitioned Area, as defined in section 168.1(g) of title 25, Code of Federal Regulations (as in effect on October 11, 1996);

(2) the term "Navajo Indians" means members of the Navajo Tribe;

(3) the term "individually owned Navajo Indian allotted land" means a single parcel of land that—

(A) is located within the jurisdiction of the Navajo Nation;

(B) is held in trust or restricted status by the United States for the benefit of Navajo

Indians or members of another Indian tribe; and

(C) was—

- (i) allotted to a Navajo Indian; or
- (ii) taken into trust or restricted status by the United States for an individual Indian;

(4) the term “interested party” means an Indian or non-Indian individual or corporation, or tribal or non-tribal government whose interests could be adversely affected by a tribal trust land leasing decision made by an applicable Indian tribe;

(5) the term “Navajo Nation” means the Navajo Nation government that is in existence on August 9, 1955, or its successor;

(6) the term “petition” means a written request submitted to the Secretary for the review of an action (or inaction) of an Indian tribe that is claimed to be in violation of the approved tribal leasing regulations;

(7) the term “Secretary” means the Secretary of the Interior;

(8) the term “tribal regulations” means regulations enacted in accordance with applicable tribal law and approved by the Secretary;

(9) the term “Indian tribe” has the meaning given such term in section 5130 of this title; and

(10) the term “individually owned allotted land” means a parcel of land that—

(A)(i) is located within the jurisdiction of an Indian tribe; or

(ii) is held in trust or restricted status by the United States for the benefit of an Indian tribe or a member of an Indian tribe; and

(B) is allotted to a member of an Indian tribe.

(e) Leases of restricted lands for the Navajo Nation

(1) Any leases by the Navajo Nation for purposes authorized under subsection (a), and any amendments thereto, including a lease for the exploration, development, or extraction of any mineral resources, shall not require the approval of the Secretary if the lease is executed under the tribal regulations approved by the Secretary under this subsection and the term of the lease does not exceed—

(A) in the case of a business or agricultural lease, 99 years;

(B) in the case of a lease for public, religious, educational, recreational, or residential purposes, 75 years if such a term is provided for by the Navajo Nation through the promulgation of regulations; and

(C) in the case of a lease for the exploration, development, or extraction of any mineral resource (including geothermal resources), 25 years, except that—

(i) any such lease may include an option to renew for 1 additional term of not to exceed 25 years; and

(ii) any such lease for the exploration, development, or extraction of an oil or gas resource shall be for a term of not to exceed 10 years, plus such additional period as the Navajo Nation determines to be appropriate in any case in which an oil or gas resource is produced in a paying quantity.

(2) Paragraph (1) shall not apply to individually owned Navajo Indian allotted land.

(3) The Secretary shall have the authority to approve or disapprove tribal regulations referred to under paragraph (1). The Secretary shall approve such tribal regulations if such regulations are consistent with the regulations of the Secretary under subsection (a), and any amendments thereto, and provide for an environmental review process. The Secretary shall review and approve or disapprove the regulations of the Navajo Nation within 120 days of the submission of such regulations to the Secretary. Any disapproval of such regulations by the Secretary shall be accompanied by written documentation that sets forth the basis for the disapproval. Such 120-day period may be extended by the Secretary after consultation with the Navajo Nation.

(4) If the Navajo Nation has executed a lease pursuant to tribal regulations under paragraph (1), the Navajo Nation shall provide the Secretary with—

(A) a copy of the lease and all amendments and renewals thereto; and

(B) in the case of regulations or a lease that permits payment to be made directly to the Navajo Nation, documentation of the lease payments sufficient to enable the Secretary to discharge the trust responsibility of the United States under paragraph (5).

(5) The United States shall not be liable for losses sustained by any party to a lease executed pursuant to tribal regulations under paragraph (1), including the Navajo Nation. Nothing in this paragraph shall be construed to diminish the authority of the Secretary to take appropriate actions, including the cancellation of a lease, in furtherance of the trust obligation of the United States to the Navajo Nation.

(6)(A) An interested party may, after exhaustion of tribal remedies, submit, in a timely manner, a petition to the Secretary to review the compliance of the Navajo Nation with any regulations approved under this subsection. If upon such review the Secretary determines that the regulations were violated, the Secretary may take such action as may be necessary to remedy the violation, including rescinding the approval of the tribal regulations and reassuming responsibility for the approval of leases for Navajo Nation tribal trust lands.

(B) If the Secretary seeks to remedy a violation described in subparagraph (A), the Secretary shall—

(i) make a written determination with respect to the regulations that have been violated;

(ii) provide the Navajo Nation with a written notice of the alleged violation together with such written determination; and

(iii) prior to the exercise of any remedy or the rescission of the approval of the regulation involved and the reassumption of the lease approval responsibility, provide the Navajo Nation with a hearing on the record and a reasonable opportunity to cure the alleged violation.

(f) Leases involving Gila River Indian Community Reservation; arbitration of disputes

Any contract, including a lease or construction contract, affecting land within the Gila River Indian Community Reservation may contain a provision for the binding arbitration of disputes arising out of such contract. Such contracts shall be considered within the meaning of “commerce” as defined and subject to the provisions of section 1 of title 9. Any refusal to submit to arbitration pursuant to a binding agreement for arbitration or the exercise of any right conferred by title 9 to abide by the outcome of arbitration pursuant to the provisions of chapter 1 of title 9, sections 1 through 14, shall be deemed to be a civil action arising under the Constitution, laws or treaties of the United States within the meaning of section 1331 of title 28.

(g) Lease of tribally-owned land by Assiniboine and Sioux Tribes of the Fort Peck Reservation**(1) In general**

Notwithstanding subsection (a) and any regulations under part 162 of title 25, Code of Federal Regulations (or any successor regulation), subject to paragraph (2), the Assiniboine and Sioux Tribes of the Fort Peck Reservation may lease to the Northern Border Pipeline Company tribally-owned land on the Fort Peck Indian Reservation for 1 or more interstate gas pipelines.

(2) Conditions

A lease entered into under paragraph (1)—

(A) shall commence during fiscal year 2011 for an initial term of 25 years;

(B) may be renewed for an additional term of 25 years; and

(C) shall specify in the terms of the lease an annual rental rate—

(i) which rate shall be increased by 3 percent per year on a cumulative basis for each 5-year period; and

(ii) the adjustment of which in accordance with clause (i) shall be considered to satisfy any review requirement under part 162 of title 25, Code of Federal Regulations (or any successor regulation).

(h) Tribal approval of leases**(1) In general**

At the discretion of any Indian tribe, any lease by the Indian tribe for the purposes authorized under subsection (a) (including any amendments to subsection (a)), except a lease for the exploration, development, or extraction of any mineral resources, shall not require the approval of the Secretary, if the lease is executed under the tribal regulations approved by the Secretary under this subsection and the term of the lease does not exceed—

(A) in the case of a business or agricultural lease, 25 years, except that any such lease may include an option to renew for up to 2 additional terms, each of which may not exceed 25 years; and

(B) in the case of a lease for public, religious, educational, recreational, or residen-

tial purposes, 75 years, if such a term is provided for by the regulations issued by the Indian tribe.

(2) Allotted land

Paragraph (1) shall not apply to any lease of individually owned Indian allotted land.

(3) Authority of Secretary over tribal regulations**(A) In general**

The Secretary shall have the authority to approve or disapprove any tribal regulations issued in accordance with paragraph (1).

(B) Considerations for approval

The Secretary shall approve any tribal regulation issued in accordance with paragraph (1), if the tribal regulations—

(i) are consistent with any regulations issued by the Secretary under subsection (a) (including any amendments to the subsection or regulations); and

(ii) provide for an environmental review process that includes—

(I) the identification and evaluation of any significant effects of the proposed action on the environment; and

(II) a process for ensuring that—

(aa) the public is informed of, and has a reasonable opportunity to comment on, any significant environmental impacts of the proposed action identified by the Indian tribe; and

(bb) the Indian tribe provides responses to relevant and substantive public comments on any such impacts before the Indian tribe approves the lease.

(C) Technical assistance

The Secretary may provide technical assistance, upon request of the Indian tribe, for development of a regulatory environmental review process under subparagraph (B)(ii).

(D) Indian Self-Determination Act

The technical assistance to be provided by the Secretary pursuant to subparagraph (C) may be made available through contracts, grants, or agreements entered into in accordance with, and made available to entities eligible for, such contracts, grants, or agreements under the Indian Self-Determination Act (25 U.S.C. 450 et seq.).³

(4) Review process**(A) In general**

Not later than 120 days after the date on which the tribal regulations described in paragraph (1) are submitted to the Secretary, the Secretary shall review and approve or disapprove the regulations.

(B) Written documentation

If the Secretary disapproves the tribal regulations described in paragraph (1), the Secretary shall include written documentation with the disapproval notification that describes the basis for the disapproval.

³ See References in Text note below.

(C) Extension

The deadline described in subparagraph (A) may be extended by the Secretary, after consultation with the Indian tribe.

(5) Federal environmental review

Notwithstanding paragraphs (3) and (4), if an Indian tribe carries out a project or activity funded by a Federal agency, the Indian tribe shall have the authority to rely on the environmental review process of the applicable Federal agency rather than any tribal environmental review process under this subsection.

(6) Documentation

If an Indian tribe executes a lease pursuant to tribal regulations under paragraph (1), the Indian tribe shall provide the Secretary with—

(A) a copy of the lease, including any amendments or renewals to the lease; and

(B) in the case of tribal regulations or a lease that allows for lease payments to be made directly to the Indian tribe, documentation of the lease payments that are sufficient to enable the Secretary to discharge the trust responsibility of the United States under paragraph (7).

(7) Trust responsibility**(A) In general**

The United States shall not be liable for losses sustained by any party to a lease executed pursuant to tribal regulations under paragraph (1).

(B) Authority of Secretary

Pursuant to the authority of the Secretary to fulfill the trust obligation of the United States to the applicable Indian tribe under Federal law (including regulations), the Secretary may, upon reasonable notice from the applicable Indian tribe and at the discretion of the Secretary, enforce the provisions of, or cancel, any lease executed by the Indian tribe under paragraph (1).

(8) Compliance**(A) In general**

An interested party, after exhausting of any applicable tribal remedies, may submit a petition to the Secretary, at such time and in such form as the Secretary determines to be appropriate, to review the compliance of the applicable Indian tribe with any tribal regulations approved by the Secretary under this subsection.

(B) Violations

If, after carrying out a review under subparagraph (A), the Secretary determines that the tribal regulations were violated, the Secretary may take any action the Secretary determines to be necessary to remedy the violation, including rescinding the approval of the tribal regulations and re-assuming responsibility for the approval of leases of tribal trust lands.

(C) Documentation

If the Secretary determines that a violation of the tribal regulations has occurred

and a remedy is necessary, the Secretary shall—

(i) make a written determination with respect to the regulations that have been violated;

(ii) provide the applicable Indian tribe with a written notice of the alleged violation together with such written determination; and

(iii) prior to the exercise of any remedy, the rescission of the approval of the regulation involved, or the re-assumption of lease approval responsibilities, provide the applicable Indian tribe with—

(I) a hearing that is on the record; and

(II) a reasonable opportunity to cure the alleged violation.

(9) Savings clause

Nothing in this subsection shall affect subsection (e) or any tribal regulations issued under that subsection.

(Aug. 9, 1955, ch. 615, §1, 69 Stat. 539; Pub. L. 86-326, Sept. 21, 1959, 73 Stat. 597; Pub. L. 86-505, §2, June 11, 1960, 74 Stat. 199; Pub. L. 87-375, Oct. 4, 1961, 75 Stat. 804; Pub. L. 87-785, Oct. 10, 1962, 76 Stat. 805; Pub. L. 88-167, Nov. 4, 1963, 77 Stat. 301; Pub. L. 89-408, Apr. 27, 1966, 80 Stat. 132; Pub. L. 90-182, Dec. 8, 1967, 81 Stat. 559; Pub. L. 90-184, Dec. 10, 1967, 81 Stat. 560; Pub. L. 90-335, §1(f), June 10, 1968, 82 Stat. 175; Pub. L. 90-355, June 20, 1968, 82 Stat. 242; Pub. L. 90-534, §6, Sept. 28, 1968, 82 Stat. 884; Pub. L. 90-570, Oct. 12, 1968, 82 Stat. 1003; Pub. L. 91-274, §§2, 3, June 2, 1970, 84 Stat. 302; Pub. L. 91-275, §§1, 2, June 2, 1970, 84 Stat. 303; Pub. L. 91-557, §8, Dec. 17, 1970, 84 Stat. 1468; Pub. L. 92-182, §6, Dec. 15, 1971, 85 Stat. 626; Pub. L. 92-431, Sept. 26, 1972, 86 Stat. 723; Pub. L. 92-472, §7, Oct. 9, 1972, 86 Stat. 788; Pub. L. 92-488, §4, Oct. 13, 1972, 86 Stat. 806; Pub. L. 96-216, Mar. 27, 1980, 94 Stat. 125; Pub. L. 96-491, §3, Dec. 2, 1980, 94 Stat. 2564; Pub. L. 97-459, title I, §107, Jan. 12, 1983, 96 Stat. 2516; Pub. L. 98-70, Aug. 8, 1983, 97 Stat. 401; Pub. L. 98-203, §1(c), Dec. 2, 1983, 97 Stat. 1384; Pub. L. 99-221, §2, Dec. 26, 1985, 99 Stat. 1735; Pub. L. 99-389, §3(a), Aug. 23, 1986, 100 Stat. 829; Pub. L. 99-500, §101(h) [title I, §122], Oct. 18, 1986, 100 Stat. 1783-242, 1783-267, and Pub. L. 99-591, §101(h) [title I, §122], Oct. 30, 1986, 100 Stat. 3341-242, 3341-267; Pub. L. 99-575, §5, Oct. 28, 1986, 100 Stat. 3246; Pub. L. 101-630, title II, §201, Nov. 28, 1990, 104 Stat. 4532; Pub. L. 102-497, §5, Oct. 24, 1992, 106 Stat. 3255; Pub. L. 103-435, §5, Nov. 2, 1994, 108 Stat. 4569; Pub. L. 104-301, §9, Oct. 11, 1996, 110 Stat. 3652; Pub. L. 105-256, §1, Oct. 14, 1998, 112 Stat. 1896; Pub. L. 106-216, §1(a), June 20, 2000, 114 Stat. 343; Pub. L. 106-568, title XII, §1203, Dec. 27, 2000, 114 Stat. 2934; Pub. L. 107-102, §1, Dec. 27, 2001, 115 Stat. 974; Pub. L. 107-159, Apr. 4, 2002, 116 Stat. 122; Pub. L. 107-331, title X, §1002(a), Dec. 13, 2002, 116 Stat. 2869; Pub. L. 108-199, div. H, §149, Jan. 23, 2004, 118 Stat. 446; Pub. L. 109-147, §1(a), Dec. 22, 2005, 119 Stat. 2679; Pub. L. 109-221, title II, §202(a), May 12, 2006, 120 Stat. 340; Pub. L. 110-453, title II, §§202, 204, 205(a), Dec. 2, 2008, 122 Stat. 5029; Pub. L. 111-334, §1, Dec. 22, 2010, 124 Stat. 3582; Pub. L. 111-336, §1, Dec. 22, 2010, 124 Stat. 3587; Pub. L. 111-381, §1, Jan. 4, 2011, 124 Stat. 4133; Pub. L. 112-151, §2, July 30, 2012, 126 Stat. 1150; Pub. L. 115-227, §2, Aug. 1, 2018, 132

Stat. 1626; Pub. L. 115-325, title II, §§205(a), 206, Dec. 18, 2018, 132 Stat. 4464.)

Editorial Notes

REFERENCES IN TEXT

The Indian Self-Determination Act (25 U.S.C. 450 et seq.), referred to in subsec. (h)(3)(D), probably means title I of Pub. L. 93-638, Jan. 4, 1975, 88 Stat. 2206, which was classified principally to part A (§450f et seq.) of subchapter II of chapter 14 of this title prior to editorial reclassification as subchapter I (§5321 et seq.) of chapter 46 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 5301 of this title and Tables.

CODIFICATION

Pub. L. 99-591 is a corrected version of Pub. L. 99-500.

AMENDMENTS

2018—Subsec. (a). Pub. L. 115-325, §206, inserted “land held in trust for the Crow Tribe of Montana” after “Devils Lake Sioux Reservation”.

Pub. L. 115-227 substituted “Puyallup Tribe of Indians,” for “Puyallup Tribe of Indians,” and “the land comprising the Moses Allotment Numbered 8” for “the the lands comprising the Moses Allotment Numbered 8”, inserted “Ohkay Owingeh pueblo,” after “Cochiti,” and “the pueblo of Santa Clara,” after “Pojoaque,” and struck out “lands held in trust for the Pueblo of Santa Clara,” after “Fallon Paiute Shoshone Tribes,” and “lands held in trust for Ohkay Owingeh Pueblo” after “Devils Lake Sioux Reservation, and”.

Subsec. (e)(1). Pub. L. 115-325, §205(a)(1), substituted “including a lease for” for “except a lease for” in introductory provisions.

Subsec. (e)(1)(A). Pub. L. 115-325, §205(a)(2), added subpar. (A) and struck out former subpar. (A) which read as follows: “in the case of a business or agricultural lease, 25 years, except that any such lease may include an option to renew for up to two additional terms, each of which may not exceed 25 years; and”.

Subsec. (e)(1)(C). Pub. L. 115-325, §205(a)(3), (4), added subpar. (C).

2012—Subsec. (d)(4). Pub. L. 112-151, §2(1)(A), substituted “an applicable Indian tribe” for “the Navajo Nation”.

Subsec. (d)(6). Pub. L. 112-151, §2(1)(B), substituted “an Indian tribe” for “the Navajo Nation”.

Subsec. (d)(8). Pub. L. 112-151, §2(1)(D)(i), (ii), struck out “the Navajo Nation” before “regulations” and substituted “with applicable tribal law” for “with Navajo Nation law”.

Subsec. (d)(9), (10). Pub. L. 112-151, §2(1)(C), (D)(iii), (E), added pars. (9) and (10).

Subsec. (h). Pub. L. 112-151, §2(2), added subsec. (h).

2011—Subsec. (a). Pub. L. 111-381 inserted “and lands held in trust for Ohkay Owingeh Pueblo” after “of land on the Devils Lake Sioux Reservation,”.

2010—Subsec. (a). Pub. L. 111-336, §1(1), inserted “and land held in trust for the Kalispel Tribe of Indians, the Puyallup Tribe of Indians,” after “the Kalispel Indian Reservation”.

Pub. L. 111-334 inserted “land held in trust for the Coquille Indian Tribe, land held in trust for the Confederated Tribes of Siletz Indians, land held in trust for the Confederated Tribes of the Coos, Lower Umpqua, and Siuslaw Indians, land held in trust for the Klamath Tribes, and land held in trust for the Burns Paiute Tribe,” after “lands held in trust for the Confederated Tribes of the Warm Springs Reservation of Oregon,”.

Subsec. (b). Pub. L. 111-336, §1(2), inserted “, the Puyallup Tribe of Indians, the Swinomish Indian Tribal Community, or the Kalispel Tribe of Indians” after “Tulalip Tribes”.

2008—Subsec. (a). Pub. L. 110-453, §205(a), inserted “and lands held in trust for the Cow Creek Band of Umpqua Tribe of Indians,” after “lands held in trust for the Confederated Tribes of the Warm Springs Reservation of Oregon,”.

Pub. L. 110-453, §204, inserted “and except leases of land held in trust for the Morongo Band of Mission Indians which may be for a term of not to exceed 50 years,” after “which may be for a term of not to exceed ninety-nine years,”.

Subsec. (f). Pub. L. 110-453, §202, substituted “lease or construction contract, affecting” for “lease, affecting”.

2006—Subsec. (a). Pub. L. 109-221, in second sentence, substituted “Moapa Indian Reservation” for “Moapa Indian reservation” and “the lands comprising the Moses Allotment Numbered 8 and the Moses Allotment Numbered 10, Chelan County, Washington,” for “lands comprising the Moses Allotment Numbered 10, Chelan County, Washington,” and inserted “the Confederated Tribes of the Umatilla Indian Reservation,” before “the Burns Paiute Reservation”, “the” before “Yavapai-Prescott”, “the Muckleshoot Indian Reservation and land held in trust for the Muckleshoot Indian Tribe,” after “the Cabazon Indian Reservation,”, “land held in trust for the Prairie Band Potawatomi Nation,” before “lands held in trust for the Cherokee Nation of Oklahoma”, “land held in trust for the Fallon Paiute Shoshone Tribes,” before “lands held in trust for the Pueblo of Santa Clara”, and “land held in trust for the Yurok Tribe, land held in trust for the Hopland Band of Pomo Indians of the Hopland Rancheria,” after “Pueblo of Santa Clara,”.

2005—Subsec. (f). Pub. L. 109-147 substituted “Any contract, including a lease, affecting land” for “Any lease entered into under sections 415 to 415d of this title, or any contract entered into under section 81 of this title, affecting land”, “such contract” for “such lease or contract”, and “Such contracts” for “Such leases or contracts entered into pursuant to such Acts”.

2004—Subsec. (g). Pub. L. 108-199 added subsec. (g).

2002—Subsec. (a). Pub. L. 107-331 inserted “lands held in trust for the Yurok Tribe, lands held in trust for the Hopland Band of Pomo Indians of the Hopland Rancheria,” after “Pueblo of Santa Clara,”.

Subsec. (f). Pub. L. 107-159 added subsec. (f).

2001—Subsec. (a). Pub. L. 107-102 inserted “, the reservation of the Confederated Tribes of the Warm Springs Reservation of Oregon,” after “Spanish Grant”) and “lands held in trust for the Confederated Tribes of the Warm Springs Reservation of Oregon” before “, lands held in trust for the Cherokee Nation of Oklahoma”.

2000—Subsec. (a). Pub. L. 106-216 inserted “lands held in trust for the Torres Martinez Desert Cahuilla Indians, lands held in trust for the Guidiville Band of Pomo Indians of the Guidiville Indian Rancheria, lands held in trust for the Confederated Tribes of the Umatilla Indian Reservation” after “Sparks Indian Colony,”.

Subsec. (d)(3) to (8). Pub. L. 106-568, §1203(1), added pars. (3) to (8).

Subsec. (e). Pub. L. 106-568, §1203(2), added subsec. (e).

1998—Subsec. (a). Pub. L. 105-256, in second sentence, inserted “the Cabazon Indian Reservation,” after “the Navajo Reservation,” and “lands held in trust for the Confederated Tribes of the Grand Ronde Community of Oregon,” after “lands held in trust for the Cahuilla Band of Indians of California,”.

1996—Subsecs. (c), (d). Pub. L. 104-301 added subsecs. (c) and (d).

1994—Subsec. (a). Pub. L. 103-435 inserted “the Viejas Indian Reservation,” after “Soboba Indian Reservation,” in second sentence.

1992—Subsec. (a). Pub. L. 102-497, in second sentence, inserted “lands held in trust for the Pueblo of Santa Clara, lands held in trust for the Confederated Tribes of the Colville Reservation, lands held in trust for the Cahuilla Band of Indians of California,” after “Oklahoma,”.

1990—Subsec. (a). Pub. L. 101-630 inserted “the Mille Lacs Indian Reservation with respect to a lease between an entity established by the Mille Lacs Band of Chippewa Indians and the Minnesota Historical Society,” after “the Navajo Reservation,”.

1986—Subsec. (a). Pub. L. 99-575 inserted “the Pueblo of Santa Ana (with the exception of the lands known as

the ‘Santa Ana Pueblo Spanish Grant’)” after “the Dania Reservation.”

Pub. L. 99-389 inserted “, and lands held in trust for the Reno Sparks Indian Colony.”

Subsec. (b). Pub. L. 99-500 and Pub. L. 99-591 added cl. (3).

1985—Pub. L. 99-221 inserted “, lands held in trust for the Cherokee Nation of Oklahoma.”

1983—Subsec. (a). Pub. L. 98-203 inserted “, and lands held in trust for the Las Vegas Paiute Tribe of Indians.”

Pub. L. 98-70 inserted “, and lands held in trust for the Twenty-nine Palms Band of Luiseno Mission Indians, and the lands held in trust for the Confederated Salish and Kootenai Tribes of the Flathead Reservation, Montana”.

Pub. L. 97-459 struck out “and” before “leases of land on the Agua Caliente” and authorized ninety-nine year leases of land on the Devils Lake Sioux Reservation to the Devils Lake Sioux Tribe or any organization of such tribe.

1980—Subsec. (a). Pub. L. 96-491 inserted “the Moapa Indian reservation”.

Pub. L. 96-216 inserted provisions relating to lands comprising the Moses Allotment Numbered 10, Chelan County, Washington.

1972—Subsec. (a). Pub. L. 92-488 inserted “the Burns Paiute Reservation,” after “the Fort Mojave Reservation.”

Pub. L. 92-472 inserted “the Coeur d’Alene Indian Reservation,” after “the Fort Mojave Reservation.”

Pub. L. 92-431 inserted provision excepting leases of land located outside the boundaries of Indian reservations in State of New Mexico from the twenty-five year time limit.

1971—Subsec. (a). Pub. L. 92-182 inserted “the Kalispel Indian Reservation” after “the Fort Mojave Reservation”.

1970—Subsec. (a). Pub. L. 91-557 inserted “the Soboba Indian Reservation,” after “Gila River Reservation.”

Pub. L. 91-275 inserted “Yavapai-Prescott Community Reservation,” after “San Carlos Apache Reservation,” and inserted list of factors that the Secretary must consider before approving a lease or an extension of an existing lease.

Pub. L. 91-274, §§ 2, 3, designated existing provisions as subsec. (a) and inserted “the Tulalip Indian Reservation,” after “the Gila River Reservation.”

Subsec. (b). Pub. L. 91-274, § 3, added subsec. (b).

1968—Pub. L. 90-570 inserted “the pueblo of Cochiti, the pueblo of Pojoaque, the pueblo of Tesuque, the pueblo of Zuni,” after “Fort Mojave Reservation.”

Pub. L. 90-534 inserted “the Swinomish Indian Reservation,” after “Dania Reservation.”

Pub. L. 90-355 inserted “the Hualapai Reservation,” after “Fort Mojave Reservation.”

Pub. L. 90-335 inserted “the Spokane Reservation,” after “the Fort Mojave Reservation”.

1967—Pub. L. 90-184 inserted “the San Carlos Apache Reservation” after “Fort Mojave Reservation”.

Pub. L. 90-182 inserted “the Gila Reservation,” after “Pyramid Lake Reservation”.

1966—Pub. L. 89-408 inserted “the Pyramid Lake Reservation” after “Fort Mojave Reservation.”

1963—Pub. L. 88-167 inserted “the Fort Mojave Reservation,” after “Southern Ute Reservation”.

1962—Pub. L. 87-785 authorized leases for not more than 99 years of lands on Southern Ute Reservation.

1961—Pub. L. 87-375 authorized longer term leases of Indian lands on Dania Reservation and excepted from renewal leases the initial term of which extends for more than 74 years.

1960—Pub. L. 86-505 authorized leases for not more than 99 years of lands on Navajo Reservation.

1959—Pub. L. 86-326 substituted “except leases of land on the Agua Caliente (Palm Springs) Reservation which may be for a term of not to exceed ninety-nine years, and except leases of land for grazing purposes which may” for “excepting leases for grazing purposes, which shall”, in second sentence.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2008 AMENDMENT

Pub. L. 110-453, title II, § 205(b), Dec. 2, 2008, 122 Stat. 5030, provided that: “The amendment made by subsection (a) [amending this section] shall apply to any lease entered into or renewed after the date of the enactment of this Act [Dec. 2, 2008].”

EFFECTIVE DATE OF 2006 AMENDMENT

Pub. L. 109-221, title II, § 202(b), May 12, 2006, 120 Stat. 341, provided that: “The amendments made by subsection (a) [amending this section] shall apply to any lease entered into or renewed after the date of enactment of this Act [May 12, 2006].”

EFFECTIVE DATE OF 2005 AMENDMENT

Pub. L. 109-147, § 1(b), Dec. 22, 2005, 119 Stat. 2679, provided that: “The amendments made by subsection (a) [amending this section] shall take effect as if included in Public Law 107-159 (116 Stat. 122).”

EFFECTIVE DATE OF 2002 AMENDMENT

Pub. L. 107-331, title X, § 1002(b), Dec. 13, 2002, 116 Stat. 2870, provided that: “The amendment made by subsection (a) [amending this section] shall apply to any lease entered into or renewed after the date of the enactment of this title [Dec. 13, 2002].”

EFFECTIVE DATE OF 2001 AMENDMENT

Pub. L. 107-102, § 3, Dec. 27, 2001, 115 Stat. 975, provided that: “This Act [amending this section] shall take effect as of April 12, 2000.”

EFFECTIVE DATE OF 2000 AMENDMENT

Pub. L. 106-216, § 1(b), June 20, 2000, 114 Stat. 343, provided that: “The amendment made by subsection (a) [amending this section] shall apply to any lease entered into or renewed after the date of the enactment of this Act [June 20, 2000].”

EFFECTIVE DATE OF 1986 AMENDMENT

Pub. L. 99-575, § 6(a), Oct. 28, 1986, 100 Stat. 3246, provided in part that the amendment made by Pub. L. 99-575 is effective Oct. 28, 1986.

SHORT TITLE OF 2012 AMENDMENT

Pub. L. 112-151, § 1, July 30, 2012, 126 Stat. 1150, provided that: “This Act [amending this section] may be cited as the ‘Helping Expedite and Advance Responsible Tribal Home Ownership Act of 2012’ or the ‘HEARTH Act of 2012.’”

SHORT TITLE OF 2000 AMENDMENT

Pub. L. 106-568, title XII, § 1201, Dec. 27, 2000, 114 Stat. 2933, provided that: “This title [amending this section and enacting provisions set out as a note under this section] may be cited as the ‘Navajo Nation Trust Land Leasing Act of 2000.’”

SHORT TITLE OF 1985 AMENDMENT

Pub. L. 99-221, § 1, Dec. 26, 1985, 99 Stat. 1735, provided that: “This Act [amending this section, section 450i of this title, section 3121 of Title 26, Internal Revenue Code, and section 410 of Title 42, The Public Health and Welfare, and enacting a provision set out as a note under section 410 of Title 42] may be cited as the ‘Cherokee Leasing Act.’”

CONGRESSIONAL FINDINGS AND DECLARATION OF PURPOSES

Pub. L. 106-568, title XII, § 1202, Dec. 27, 2000, 114 Stat. 2933, provided that:

“(a) FINDINGS.—Recognizing the special relationship between the United States and the Navajo Nation and its members, and the Federal responsibility to the Navajo people, Congress finds that—

“(1) the third clause of section 8, Article I of the United States Constitution provides that ‘The Congress shall have Power * * * to regulate Commerce * * * with Indian tribes’, and, through this and other constitutional authority, Congress has plenary power over Indian affairs;

“(2) Congress, through statutes, treaties, and the general course of dealing with Indian tribes, has assumed the responsibility for the protection and preservation of Indian tribes and their resources;

“(3) the United States has a trust obligation to guard and preserve the sovereignty of Indian tribes in order to foster strong tribal governments, Indian self-determination, and economic self-sufficiency;

“(4) pursuant to the first section of the Act of August 9, 1955 (25 U.S.C. 415), Congress conferred upon the Secretary of the Interior the power to promulgate regulations governing tribal leases and to approve tribal leases for tribes according to regulations promulgated by the Secretary;

“(5) the Secretary of the Interior has promulgated the regulations described in paragraph (4) at part 162 of title 25, Code of Federal Regulations;

“(6) the requirement that the Secretary approve leases for the development of Navajo trust lands has added a level of review and regulation that does not apply to the development of non-Indian land; and

“(7) in the global economy of the 21st Century, it is crucial that individual leases of Navajo trust lands not be subject to Secretarial approval and that the Navajo Nation be able to make immediate decisions over the use of Navajo trust lands.

“(b) PURPOSES.—The purposes of this title [see Short Title of 2000 Amendment note above] are as follows:

“(1) To establish a streamlined process for the Navajo Nation to lease trust lands without having to obtain the approval of the Secretary of the Interior for individual leases, except leases for exploration, development, or extraction of any mineral resources.

“(2) To authorize the Navajo Nation, pursuant to tribal regulations, which must be approved by the Secretary, to lease Navajo trust lands without the approval of the Secretary of the Interior for the individual leases, except leases for exploration, development, or extraction of any mineral resources.

“(3) To revitalize the distressed Navajo Reservation by promoting political self-determination, and encouraging economic self-sufficiency, including economic development that increases productivity and the standard of living for members of the Navajo Nation.

“(4) To maintain, strengthen, and protect the Navajo Nation’s leasing power over Navajo trust lands.

“(5) To ensure that the United States is faithfully executing its trust obligation to the Navajo Nation by maintaining Federal supervision through oversight of and record keeping related to leases of Navajo Nation tribal trust lands.”

§ 415a. Lease of lands of deceased Indians for benefit of heirs or devisees

Restricted lands of deceased Indians may be leased under sections 415 to 415d of this title, for the benefit of their heirs or devisees, in the circumstances and by the persons prescribed in section 380 of this title: *Provided*, That if the authority of the Secretary under this section is delegated to any subordinate official, then any heir or devisee shall have the right to appeal the action of any such official to the Secretary under such rules and regulations as he may prescribe.

(Aug. 9, 1955, ch. 615, §2, 69 Stat. 539.)

§ 415b. Advance payment of rent or other consideration

No rent or other consideration for the use of land leased under sections 415 to 415d of this

title shall be paid or collected more than one year in advance, unless so provided in the lease. (Aug. 9, 1955, ch. 615, §4, 69 Stat. 540.)

§ 415c. Approval of leases

The Secretary of the Interior shall approve no lease pursuant to sections 415 to 415d of this title that contains any provision that will prevent or delay a termination of Federal trust responsibilities with respect to the land during the term of the lease.

(Aug. 9, 1955, ch. 615, §5, 69 Stat. 540.)

§ 415d. Lease of restricted lands under other laws unaffected

Nothing contained in sections 415 to 415d of this title shall be construed to repeal any authority to lease restricted Indian lands conferred by or pursuant to any other provision of law.

(Aug. 9, 1955, ch. 615, §6, 69 Stat. 540.)

§ 416. Leases of trust or restricted lands on San Xavier and Salt River Pima-Maricopa Indian Reservations for public, religious, educational, recreational, residential, business, farming or grazing purposes

Any trust or restricted Indian lands, whether tribally or individually owned, located on the San Xavier Indian Reservation and the Salt River Pima-Maricopa Indian Reservation, in the State of Arizona, may be leased by the Indian owners, with the approval of the Secretary of the Interior, for public, religious, educational, recreational, residential, business, farming or grazing purposes, including the development or utilization of natural resources in connection with operations under such leases, but no lease shall be executed under sections 416 to 416j of this title for purposes that are subject to the laws governing mining leases on Indian lands. The term of a grazing lease shall not exceed ten years, the term of a farming lease that does not require the making of a substantial investment in the improvement of the land shall not exceed ten years, and the term of a farming lease that requires the making of a substantial investment in the improvement of the land shall not exceed forty years. The term of any other lease shall not exceed ninety-nine years. No lease shall contain an option to renew which, if exercised, will extend the total term beyond the maximum term permitted by sections 416 to 416j of this title. The Secretary of the Interior shall not approve any lease with a term that is longer than is necessary in his judgment to obtain maximum economic benefits for the Indian owners.

(Pub. L. 89-715, §1, Nov. 2, 1966, 80 Stat. 1112.)

§ 416a. Lease provisions

(a) Covenant not to cause waste, etc.

Every lease entered into under section 416 of this title shall contain a covenant on the part of the lessee that he will not commit or permit on the leased land any act which causes waste or a nuisance or which creates a hazard to health of persons or to property, wherever such persons or property may be.