

divided 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.

(Pub. L. 97-459, title II, §213, as added Pub. L. 106-462, title I, §103(6), Nov. 7, 2000, 114 Stat. 1999; amended Pub. L. 108-374, §6(a)(5), Oct. 27, 2004, 118 Stat. 1800; Pub. L. 109-157, §5, Dec. 30, 2005, 119 Stat. 2952; Pub. L. 110-453, title II, §207(d), Dec. 2, 2008, 122 Stat. 5033.)

Editorial Notes

REFERENCES IN TEXT

This chapter, referred to in subsec. (a)(3), 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.

Section 102 of the Indian Land Consolidation Act Amendments of 2000, referred to in subsec. (b)(1), is section 102 of Pub. L. 106-462, which is set out as a note under section 2201 of this title.

The Indian Self-Determination and Education Assistance Act of 1974, referred to in subsec. (b)(3)(C), probably means the Indian Self-Determination and Education Assistance Act, Pub. L. 93-638, Jan. 4, 1975, 88 Stat. 2203, which is classified principally to chapter 46 (§5301 et seq.) 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.

AMENDMENTS

2008—Subsec. (a)(1). Pub. L. 110-453 substituted “section 2206(o)” for “section 2206(p)”.

2005—Pub. L. 109-157, §5(1), amended section catchline generally making technical correction to section designation.

Subsec. (a)(1). Pub. L. 109-157, §5(2), made technical amendment to reference in original act which appears in text as reference to section 2206(p) of this title.

2004—Pub. L. 108-374, §6(a)(5)(A), substituted “Fractional interest acquisition program” for “Pilot program for the acquisition of fractional interests” in section catchline.

Subsec. (a)(1). Pub. L. 108-374, §6(a)(5)(B)(i), inserted “or from an heir during probate in accordance with section 2206(p) of this title” after “owner.”.

Subsec. (a)(2). Pub. L. 108-374, §6(a)(5)(B)(ii), (iii), re-enacted heading without change, substituted “The Secretary shall submit” for “(B) REQUIRED REPORT.—Prior to expiration of the authority provided for in subparagraph (A), the Secretary shall submit” and “how the fractional interest acquisition program should be enhanced to increase the resources made” for “whether the program to acquire fractional interests should be extended or altered to make resources”, and struck out heading and text of subpar. (A). Text of subpar. (A) read as follows: “The Secretary shall have the authority to acquire interests in trust or restricted lands under this section during the 3-year period beginning on the date of certification that is referred to in section 2206(g)(5) of this title.”

Subsec. (b)(4). Pub. L. 108-374, §6(a)(5)(C), added par. (4) and struck out former par. (4) which read as follows: “shall minimize the administrative costs associated with the land acquisition program.”

Subsec. (c)(1)(A). Pub. L. 108-374, §6(a)(5)(D)(i)(I)–(III), substituted “an undivided interest” for “at least 5 percent of the undivided interest”, inserted “in such parcel” after “the Secretary shall convey an interest”, and substituted “landowner—” and cls. (i) and (ii) for

“landowner upon payment by the Indian landowner of the amount paid for the interest by the Secretary.”

Subsec. (c)(1)(B). Pub. L. 108-374, §6(a)(5)(D)(i)(IV), inserted “unless the interest is subject to a foreclosure of a mortgage in accordance with section 5135 of this title” before period at end.

Subsec. (c)(3). Pub. L. 108-374, §6(a)(5)(D)(ii), substituted “an undivided interest” for “10 percent or more of the undivided interests”.

Subsec. (d). Pub. L. 108-374, §6(a)(5)(E), added subsec. (d).

Statutory Notes and Related Subsidiaries

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.

§ 2213. Administration of acquired fractional interests; disposition of proceeds

(a) In general

Subject to the conditions described in subsection (b)(1), an Indian tribe receiving a fractional interest under section 2212 of this title may, as a tenant in common with the other owners of the trust or restricted lands, lease the interest, sell the resources, consent to the granting of rights-of-way, or engage in any other transaction affecting the trust or restricted land authorized by law.

(b) Application of revenue from acquired interests to land consolidation program

(1) In general

The Secretary shall have a lien on any revenue accruing to an interest described in subsection (a) until the Secretary provides for the removal of the lien under paragraph (3), (4), or (5).

(2) Requirements

(A) In general

Until the Secretary removes a lien from an interest in land under paragraph (1)—

(i) any lease, resource sale contract, right-of-way, or other document evidencing a transaction affecting the interest shall contain a clause providing that all revenue derived from the interest shall be paid to the Secretary; and

(ii) any revenue derived from any interest acquired by the Secretary in accordance with section 2212 of this title shall be deposited in the fund created under section 2215 of this title.

(B) Approval of transactions

Notwithstanding section 5123 of this title, or any other provision of law, until the Secretary removes a lien from an interest in land under paragraph (1), the Secretary may approve a transaction covered under this section on behalf of an Indian tribe.

(3) Removal of liens after findings

The Secretary may remove a lien referred to in paragraph (1) if the Secretary makes a finding that—

(A) the costs of administering the interest from which revenue accrues under the lien will equal or exceed the projected revenues for the parcel of land involved;

(B) in the discretion of the Secretary, it will take an unreasonable period of time for the parcel of land to generate revenue that equals the purchase price paid for the interest; or

(C) a subsequent decrease in the value of land or commodities associated with the parcel of land make it likely that the interest will be unable to generate revenue that equals the purchase price paid for the interest in a reasonable time.

(4) Removal of liens upon payment into the acquisition fund

The Secretary shall remove a lien referred to in paragraph (1) upon payment of an amount equal to the purchase price of that interest in land into the Acquisition Fund created under section 2215¹ 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.)

Editorial Notes

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; 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.)

Editorial Notes

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.

Statutory Notes and Related Subsidiaries

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

¹ See References in Text note below.