

§ 352a. Cancellation of patents in fee simple for allotments held in trust

The Secretary of the Interior is authorized, in his discretion, to cancel any patent in fee simple issued to an Indian allottee or to his heirs before the end of the period of trust described in the original or trust patent issued to such allottee, or before the expiration of any extension of such period of trust by the President, where such patent in fee simple was issued without the consent or an application therefor by the allottee or by his heirs: *Provided*, That the patentee has not mortgaged or sold any part of the land described in such patent: *Provided also*, That upon cancellation of such patent in fee simple the land shall have the same status as though such fee patent had never been issued.

(Feb. 26, 1927, ch. 215, § 1, 44 Stat. 1247.)

§ 352b. Partial cancellation; issuance of new trust patents

Where patents in fee have been issued for Indian allotments, during the trust period, without application by or consent of the patentees, and such patentees or Indian heirs have sold a part of the land included in the patents, or have mortgaged the lands or any part thereof and such mortgages have been satisfied, such lands remaining undisposed of and without incumbrance by the patentees, or Indian heirs, may be given a trust patent status and the Secretary of the Interior is, on application of the allottee or his or her Indian heirs, hereby authorized, in his discretion, to cancel patents in fee so far as they cover such unsold lands not encumbered by mortgage, and to cause new trust patents to be issued therefor, to the allottees or their Indian heirs, of the form and legal effect as provided by the Act of February 8, 1887 (24 Stat. 388), such patents to be effective from the date of the original trust patents, and the land shall be subject to any extensions of the trust made by Executive order on other allotments of members of the same tribe, and such lands shall have the same status as though such fee patents had never been issued: *Provided*, That this section and section 352a of this title shall not apply where any such lands have been sold for unpaid taxes assessed after the date of a mortgage or deed executed by the patentee or his heirs, or sold in execution of a judgment for debt incurred after date of such mortgage or deed, and the period of redemption has expired.

(Feb. 26, 1927, ch. 215, § 2, as added Feb. 21, 1931, ch. 271, 46 Stat. 1205.)

Editorial Notes

REFERENCES IN TEXT

Act of February 8, 1887, referred to in text, is popularly known as the Indian General Allotment Act. For classification of this Act to the Code, see Short Title note set out under section 331 of this title and Tables.

§ 352c. Reimbursement of allottees or heirs for taxes paid on lands patented in fee before end of trust

The Secretary of the Interior is hereby authorized, under such rules and regulations as he

may prescribe, to reimburse Indian allottees, or Indian heirs or Indian devisees of allottees, for all taxes paid, including penalties and interest, on so much of their allotted lands as have been patented in fee prior to the expiration of the period of trust without application by or consent of the patentee: *Provided*, That if the Indian allottee, or his or her Indian heirs or Indian devisees, have by their own act accepted such patent, no reimbursement shall be made for taxes paid, including penalties and interest, subsequent to acceptance of the patent: *Provided further*, That the fact of such acceptance shall be determined by the Secretary of the Interior.

In any case in which a claim against a State, county, or political subdivision thereof, for taxes collected upon such lands during the trust period has been reduced to judgment and such judgment remains unsatisfied in whole or in part, the Secretary of the Interior is authorized, upon reimbursement by him to the Indian of the amount of taxes including penalties and interest paid thereon, and upon payment by the judgment debtor of the costs of the suit, to cause such judgment to be released: *Provided further*, That in any case, upon submission of adequate proof, the claims for taxes paid by or on behalf of the patentee or his Indian heirs or Indian devisees have been satisfied, in whole or in part, by the State, county, or political subdivision thereof, the Secretary of the Interior is authorized to reimburse the State, county, or political subdivision for such amounts as may have been paid by them.

(June 11, 1940, ch. 315, § 1, 54 Stat. 298; Feb. 10, 1942, ch. 56, § 1, 56 Stat. 87.)

Editorial Notes

AMENDMENTS

1942—Act Feb. 10, 1942, inserted two provisos to first par., substituted in first par. "Indian allottees, or Indian heirs or Indian devisees of allottees" and "have been patented" for "Indian allottees and Indian heirs of allottees" and "having been patented", struck out from first par. ", has been or may be restored to trust status through cancellation of the fee patent by the Secretary of the Interior" after "consent of the patentee", designated as second par, the two provisos of original par., inserted in second par. "in whole or in part" after "remains unsatisfied" and substituted in second par. "during the trust period" and "by the judgment debtor" for "while the patent in fee was outstanding" and "by the State, county, or political subdivision thereof" and in proviso ", upon submission of adequate proof, the claims for taxes paid by or on behalf of the patentee or his Indian heirs or Indian devisees have been satisfied, in whole or in part, by the State, county, or political subdivision thereof, the Secretary of the Interior is authorized to reimburse the State, county, or political subdivision for such amounts as may have been paid by them" for "in which a claim has been reduced to judgment and such judgment has been satisfied, the Secretary of the Interior is authorized, upon proof of satisfaction thereof, to reimburse the State, county, or political subdivision thereof, for the actual amount of the judgment, exclusive of the costs of litigation".

Statutory Notes and Related Subsidiaries

APPROPRIATIONS

Act Feb. 10, 1942, ch. 56, § 2, 56 Stat. 88, authorized appropriations to remain available until expended.

§ 353. Sections inapplicable to certain tribes

The provisions of this Act shall not apply to the Osage Indians, nor to the Five Civilized Tribes, in Oklahoma. Where deeds to tribal lands in the Five Civilized Tribes have been or may be issued, in pursuance of any tribal agreement or Act of Congress, to a person who had died, or who dies before the approval of such deed, the title to the land designated therein shall inure to and become vested in the heirs, devisees, or assigns of such deceased grantee as if the deed had issued to the deceased grantee during life.

(June 25, 1910, ch. 431, §§ 32, 33, 36 Stat. 863.)

Editorial Notes

REFERENCES IN TEXT

This Act, referred to in text, is act June 25, 1910, ch. 431, 36 Stat. 855, which enacted sections 47, 93, 151, 202, 337, 344a, 351, 352, 353, 372, 403, 406, 407, and 408 of this title, section 6a-1 of former Title 41, Public Contracts, and section 148 of Title 43, Public Lands, and amended sections 191, 312, 331, 333, and 336 of this title and sections 104 and 107 of former Title 18, Criminal Code and Criminal Procedure. Sections 104 and 107 of former Title 18 were repealed and restated as sections 1853 and 1856 of Title 18, Crimes and Criminal Procedure, by act June 25, 1948, ch. 645, 62 Stat. 683. Section 6a-1 of former Title 41 was repealed and restated as section 6102(e) of Title 41, Public Contracts, by Pub. L. 111-350, §§ 3, 7(b), Jan. 4, 2011, 124 Stat. 3677, 3855. For complete classification of this Act to the Code, see Tables.

CODIFICATION

The first and second sentences are from sections 33 and 32, respectively of act June 25, 1910.

§ 354. Lands not liable for debts prior to final patent

No lands acquired under the provisions of this Act shall, in any event, become liable to the satisfaction of any debt contracted prior to the issuing of the final patent in fee therefor.

(Feb. 8, 1887, ch. 119, as added June 21, 1906, ch. 3504, 34 Stat. 327.)

Editorial Notes

REFERENCES IN TEXT

This Act, referred to in text, is act Feb. 8, 1887, ch. 119, 24 Stat. 388, as amended, and is popularly known as the Indian General Allotment Act. For classification of this Act to the Code, see Short Title note set out under section 331 of this title and Tables.

§ 355. Laws applicable to lands of full-blooded members of Five Civilized Tribes

The lands of full-blooded members of any of the Five Civilized Tribes are made subject to the laws of the State of Oklahoma, providing for the partition of real estate. Any land allotted in such proceedings to a full-blood Indian, or conveyed to him upon his election to take the same at the appraisal, shall remain subject to all restrictions upon alienation and taxation obtaining prior to such partition. In case of a sale under any decree, or partition, the conveyance thereunder shall operate to relieve the land described of all restrictions of every character.

(June 14, 1918, ch. 101, § 2, 40 Stat. 606.)

Statutory Notes and Related Subsidiaries

CHOCTAW TRIBE; SALE OF LANDS AND INTERESTS THEREIN; TRANSFER TO TRIBAL CORPORATION OR FOUNDATION; PER CAPITA DISTRIBUTION

Pub. L. 91-386, § 1, Aug. 24, 1970, 84 Stat. 828, repealed Pub. L. 86-192, §§ 1-12, Aug. 25, 1959, 73 Stat. 420, as amended by Pub. L. 87-609, §§ 1, 2, Aug. 24, 1962, 76 Stat. 405; Pub. L. 89-107, Aug. 4, 1965, 79 Stat. 432; Pub. L. 90-476, Aug. 11, 1968, 82 Stat. 703, which provided for termination of Federal supervision over affairs of the Choctaw Tribe, including termination of eligibility of individual Choctaw members for certain Federal services and benefits provided Indians because of their status as Indians; authority to establish a trustee, corporation, or other legal entity under State law as a successor in interest to the tribal entity; and authority for Secretary of the Interior to sell land and interest in land owned by the Choctaw Tribe for benefit of the tribe, to convey to the successor entity certain lands and mineral interests of the Choctaw Tribe, and to distribute per capita funds held by the United States for benefit of the Choctaw Tribe.

Pub. L. 91-386, § 2, Aug. 20, 1970, 84 Stat. 828, provided that: "Repeal of the Act of August 25, 1959 [see note above] shall not be construed to abrogate, impair, annul, or otherwise affect any right or interest which may have vested under the provisions of said Act nor shall repeal affect any legal action pending on the date of enactment of this Act [Aug. 24, 1970]."

EXTENSION OF PERIOD OF RESTRICTIONS ON LANDS

Act Aug. 11, 1955, ch. 786, 69 Stat. 666, as amended by Pub. L. 115-399, § 4(1), Dec. 31, 2018, 132 Stat. 5333, provided for application to Secretary of the Interior for removal of restrictions against alienation, lease, mortgage, or other encumbrance of land; authorized the Secretary, without application, to remove restrictions on lands of Indians who are able to manage their own affairs; permitted proceeding in county court where Secretary disapproved or failed to either approve or disapprove the application for removal; granted right of appeal; required Secretary to turn over full ownership and control of any money and property held in trust when an order removing restrictions becomes effective; and, continued existing exemptions from taxation that constitute a vested property right.

[Pub. L. 115-399, § 4(1), which amended act Aug. 11, 1955, ch. "768", by repealing the first section, was executed to act Aug. 11, 1955, ch. 786, see above, to reflect the probable intent of Congress.]

RESTRICTION ON ALIENATION OF CERTAIN LANDS; APPROVAL OF CONVEYANCE; JURISDICTION OF OKLAHOMA STATE COURTS; TAX EXEMPTION

Pub. L. 115-399, § 5, Dec. 31, 2018, 132 Stat. 5333, provided that: "Nothing in this Act [see Short Title of 2018 Amendment note set out under section 331 of this title], or the amendments made by this Act, shall be construed to revise or extend the restricted status of any lands under the Act of August 4, 1947 (61 Stat. 731, chapter 458) [see below] that lost restricted status under such Act before the date of enactment of this Act [Dec. 31, 2018]."

Act Aug. 4, 1947, ch. 458, 61 Stat. 731, as amended by act Aug. 12, 1953, ch. 409, § 2, 67 Stat. 558; Pub. L. 115-399, §§ 2, 3, 4(2), Dec. 31, 2018, 132 Stat. 5331-5333, provided that certain restrictions on alienation of land were extended until an Act of Congress determined otherwise, including interests in estates of decedent Indians who died before Dec. 31, 2018; clarified the laws relating to the approval of conveyances of restricted lands; defined the jurisdiction of Oklahoma State courts over certain classes of Indian litigation; set out the procedure governing the removal of cases to the Federal courts and authorized appeals from orders of remand; preserved the right to seek removal of restrictions; preserved land transactions entered into before Dec. 31, 2018; and limited the tax-exempt acreage of restricted Indian lands.