

105TH CONGRESS
2D SESSION

H. R. 4325

To advance the self-determined management, use, and control of allotted and fractionated trust lands by Indian people; to promote the consolidation of fractionated land interests into viable economic units by the removal of regulatory barriers; and to create and enhance the necessary programs and processes for this purpose.

IN THE HOUSE OF REPRESENTATIVES

JULY 23, 1998

Mr. YOUNG of Alaska introduced the following bill; which was referred to the Committee on Resources, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To advance the self-determined management, use, and control of allotted and fractionated trust lands by Indian people; to promote the consolidation of fractionated land interests into viable economic units by the removal of regulatory barriers; and to create and enhance the necessary programs and processes for this purpose.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Indian Trust Estate
3 Planning and Land Title Management Improvement Act”.

4 **SEC. 2. FINDINGS.**

5 Congress finds that—

6 (1) the United States has a trust relationship
7 with Indian tribes and people that includes a trust
8 responsibility to protect, conserve, and provide for
9 the utilization and management of Indian lands;

10 (2) the Federal Government sought to assimilate
11 Indian people into the mainstream and acquire
12 additional lands by allotting tribal lands to individ-
13 ual tribal members, declaring remaining lands sur-
14 plus, and making tribal land available for home-
15 steading, surplus sale, and other uses in direct viola-
16 tion of treaty agreements;

17 (3) during the period in which the United
18 States carried out the activities referred to in para-
19 graph (2), allotments were removed from trust sta-
20 tus by forced fee patent, sale by both Indian land-
21 owners and the Federal Government, probate pro-
22 ceedings under State inheritance law, foreclosures,
23 and surplus sale of treaty land;

24 (4) the activities referred to in paragraph (3)
25 resulted in more than 90,000,000 acres of Indian
26 homelands passing out of Indian ownership;

1 (5) as of the date of enactment of this Act,
2 some of the activities referred to in paragraph (3)
3 continue to be carried out by the Federal Govern-
4 ment;

5 (6) with the passing of each generation, the
6 number of owners increased with respect to a trust
7 allotment described in paragraph (3);

8 (7) as a result of the increase referred to in
9 paragraph (6), it is not uncommon to find—

10 (A) numerous allotments on many reserva-
11 tions that have multiple owners; and

12 (B) many Indian landowners that hold in-
13 terests in land on multiple reservations;

14 (8) Indian landowners encounter a maze of
15 Federal regulations;

16 (9) the Federal regulations, coupled with the in-
17 creasing growth of trust interests held in common,
18 make it difficult for many Indian heirs to make
19 practical use of the land involved; and

20 (10) archaic Federal Indian land policies and
21 overregulation have helped to perpetuate the pater-
22 nalistic management of Indian land during the 100-
23 year period preceding the date of enactment of this
24 Act.

1 **SEC. 3. PURPOSES.**

2 It is the policy of the United States and the purpose
3 of this Act to—

4 (1) fulfill the Federal trust responsibility to
5 tribes and individual Indians that exists under trea-
6 ties, Executive orders, court decisions, and Acts of
7 Congress related to—

8 (A) maintaining the trust status of the In-
9 dian lands; and

10 (B) managing the land for highest and
11 best use purposes;

12 (2) facilitate estate planning and real estate
13 transactions that provide for the beneficial use of In-
14 dian lands by the Indians who own those lands;

15 (3) support tribal communities, in the develop-
16 ment of—

17 (A) land ownership databases;

18 (B) fractionated land acquisition lending
19 and grant programs; and

20 (C) tribal inheritance laws which enable
21 the Indian landowner to consolidate
22 fractionated title to create viable economic units
23 of land; and

24 (4) preserve the trust status of Indian lands lo-
25 cated both within and outside the boundaries of a
26 reservation.

1 **SEC. 4. DEFINITIONS.**

2 In this Act:

3 (1) ALASKA NATIVE.—

4 (A) IN GENERAL.—The term “Alaska Na-
5 tive” means an individual who is an Alaskan
6 Indian, Eskimo, or Aleut, or any combination
7 thereof, who are indigenous to Alaska.

8 (B) CERTAIN INDIVIDUALS WHO ARE CHIL-
9 DREN OF ALASKA NATIVES.—The term includes
10 an individual who is regarded as an Alaska Na-
11 tive by the Alaska Native village or group with
12 respect to which—

13 (i) that individual claims to be a
14 member; and

15 (ii) a parent of that individual (wheth-
16 er living or deceased) is regarded as being,
17 (or if deceased having been) an Alaska Na-
18 tive by the Alaska Native village or group.

19 (C) CERTAIN ADOPTED INDIVIDUALS.—
20 The term includes any individual who meets the
21 definition under subparagraph (A) who is a
22 child of 1 or more adoptive parents who are not
23 Alaska Natives.

24 (2) INDIAN.—

25 (A) IN GENERAL.—The term “Indian”
26 means any individual who is a member, or a de-

1 scendant of a member, of a North American
2 tribe, band, pueblo, or other organized group of
3 native people who are indigenous to the con-
4 tinental United States, or who otherwise has a
5 special relationship with the United States
6 through a treaty, agreement, or other form of
7 recognition.

8 (B) ALASKA NATIVES.—The term includes
9 an Alaska Native.

10 (3) FRACTIONATION.—The term “fraction-
11 ation” means, with respect to interests in land, the
12 dividing or breaking up of those interests into undi-
13 vided interests.

14 (4) FRACTIONATED LAND CONSOLIDATION
15 PLAN.—The term “fractionated land consolidation
16 plan” means a plan developed through a documented
17 community-based planning process and enacted by a
18 tribal government that—

19 (A) defines fractionated land consolidation
20 goals; and

21 (B) provides for a means of reducing frac-
22 tionation through gift deed, sale, purchase, and
23 exchange among owners or other Indians or
24 tribes.

1 (5) GRANTOR.—The term “grantor” means a
2 person who has control or authority over real prop-
3 erty (including the right to give, confer, consent,
4 allow, surrender, or transfer that property with or
5 without compensation).

6 (6) INDIAN LANDOWNER.—The term “Indian
7 landowner” means an individual Indian owner of an
8 interest in trust or restricted land.

9 (7) LANDOWNERS AGREEMENT.—The term
10 “landowners agreement” means a management
11 agreement among landowners.

12 (8) LEASE COUNCIL.—The term “lease council”
13 means the entity authorized to act for the land-
14 owners who are subject to a landowners agreement.

15 (9) LINEAL DESCENDANT.—The term “lineal
16 descendant” means an individual whose descent is
17 by a direct line of succession in ancestry, including
18 an adopted child who is an Indian.

19 (10) SECRETARY.—The term “Secretary”
20 means the Secretary of the Interior.

21 (11) TRIBAL CORPORATE ENTITY.—The term
22 “tribal corporate entity” means an entity that is rec-
23 ognized by a tribe as a tribal corporate entity.

24 (12) TRIBE.—The term “tribe”—

1 (A) means any Indian tribe, band, nation,
2 pueblo, or other organized group or community,
3 including any Alaska Native village or regional
4 corporation as defined in or established pursu-
5 ant to the Alaska Native Claims Settlement Act
6 (43 U.S.C. 1601 et seq.) or as listed in the
7 Federal Register of February 16, 1995, as eligi-
8 ble for special programs and services provided
9 by the United States to Indians because of their
10 unique status as Indians.

11 (13) TRUST OR RESTRICTED LAND.—The term
12 “trust or restricted land” means a tract of land—

13 (A) all or a portion of the title to which,
14 is owned by 1 or more individual Indians or a
15 tribe; and

16 (B) that is—

17 (i) held in trust for the individual In-
18 dians or tribe referred to in subparagraph

19 (A) by the United States; or

20 (ii) subject to Federal restrictions on
21 alienation.

22 (14) UNDIVIDED INTEREST.—The term “undi-
23 vided interest” means the portion or rights in prop-
24 erty owned by tenants in common or joint tenants

1 with respect to which each tenant has an equal right
2 to make use of and enjoy the entire property.

3 **TITLE I—ESTATE PLANNING**

4 **SEC. 101. PURPOSE.**

5 The purpose of this title is to require the establish-
6 ment and maintenance of an estate planning program to—

7 (1) dramatically increase the use of wills and
8 other methods of devise among landowners;

9 (2) substantially reduce the quantity and com-
10 plexity of Indian estates that pass intestate through
11 the probate process, while protecting the rights and
12 interests of Indian landowners; and

13 (3) require the provision of adequate services to
14 achieve the purposes specified in paragraphs (1) and
15 (2).

16 **SEC. 102. ESTATE PLANNING.**

17 (a) **IN GENERAL.**—The Secretary shall establish and
18 carry out an estate planning program to inform, advise,
19 and assist Indian landowners, to facilitate the transfer of
20 lands to specific heirs.

21 (b) **CONDUCT OF ACTIVITIES.**—The activities con-
22 ducted under this title shall be conducted in accordance
23 with the guidelines of any applicable—

24 (1) tribal probate law; or

25 (2) fractionated land consolidation plan.

1 (c) REGIONAL ESTATE PLANNING WORKSHOPS.—As
2 part of the program under this section, the Secretary shall
3 conduct or provide for regional estate planning workshops
4 for tribes and landowners not later than 180 days after
5 the date of enactment of this Act, and every 180 days
6 thereafter.

7 **SEC. 103. NOTIFICATION TO LANDOWNERS.**

8 (a) IN GENERAL.—

9 (1) NOTIFICATION.—Not later than 2 years
10 after the date of enactment of this Act, the Sec-
11 retary shall provide to each Indian landowner, a re-
12 port that lists, with respect to each tract of trust or
13 restricted land in which the Indian landowner has an
14 interest—

15 (A) the tract of land involved;

16 (B) each other co-owner; and

17 (C) the percentage of ownership of each
18 owner of an interest in the tract.

19 (2) STATUTORY CONSTRUCTION.—Nothing in
20 this subsection shall preclude any individual Indian
21 from obtaining from the Secretary, upon the request
22 of that individual, any information specified in sub-
23 paragraph (A), (B), or (C) before the expiration of
24 the 2-year period specified in paragraph (1).

1 (b) REQUIREMENTS FOR NOTIFICATION.—Each noti-
2 fication made under subsection (a) shall include informa-
3 tion concerning estate planning options under Federal and
4 tribal law that are available for consolidation or disposal
5 of the interests, including information concerning—

- 6 (1) the preparation and execution of a will;
- 7 (2) joint tenancy with right of survivorship;
- 8 (3) negotiated sales;
- 9 (4) gift deeds;
- 10 (5) exchanges;
- 11 (6) living trusts; and
- 12 (7) life estates.

13 (c) PROHIBITION.—No individual Indian may be de-
14 nied access to information relating to land in which that
15 individual has an interest described in this section on the
16 basis of section 552a of title 5, United States Code (com-
17 monly referred to as the “Privacy Act”).

18 **SEC. 104. PROVISION OF ADEQUATE SERVICES.**

19 (a) IN GENERAL.—To carry out this Act, including
20 this title, the Secretary shall provide for estate planners,
21 outreach workers, appraisers, realty staff, credit staff, and
22 certified surveyors.

23 (b) ARRANGEMENTS.—To carry out subsection (a),
24 the Secretary may enter into 1 or more contracts, grants,

1 or compacts with tribes or lease councils to provide for
2 all or a portion of the services involved.

3 **SEC. 105. REPORT TO CONGRESS.**

4 The Secretary shall transmit to Congress a report on
5 the implementation of this title, immediately before the
6 President submits to Congress an annual budget request
7 under section 1105(a) of title 31, United States Code.

8 **TITLE II—TRUST LAND RECORDS**
9 **MANAGEMENT**

10 **SEC. 201. PURPOSE.**

11 The purpose of this title is to improve land records
12 administration in order to facilitate the consolidation of
13 fractionated land title with respect to probate and real es-
14 tate transactions.

15 **SEC. 202. LAND RECORDS SYSTEM REQUIREMENTS.**

16 The Secretary shall promote the formation and main-
17 tenance of a computerized land ownership records and
18 payment dispersal system at the local level to enable tribes
19 and individual Indians, through the governing body of the
20 Indian tribe involved, to—

21 (1) evaluate and implement plans to consolidate
22 fractionated titles;

23 (2) certify title status reports for mortgages,
24 probates, appraisals, and other land transactions;

1 (3) provide an accounting of the land held by
2 Indian landowners (including the income derived
3 from that land and the allotment from which the
4 land is derived) to assist in land consolidation and
5 estate planning initiatives; and

6 (4) reduce the number of ownership records.

7 **SEC. 203. STAFFING AND RESOURCES.**

8 (a) **IN GENERAL.**—The Secretary shall provide for
9 the necessary staff and resources for the design and ad-
10 ministration of local land records systems by making
11 funds available to an appropriate, tribally approved agency
12 or organization.

13 (b) **LAND RECORDS SYSTEM.**—Under a local land
14 records system described in subsection (a)—

15 (1) an appropriate, tribally approved agency or
16 organization shall serve as the archives for land
17 records of a tribe; and

18 (2) the daily use, maintenance, and control of
19 those land records shall be carried out at the local
20 level.

21 (c) **LAND RECORDS SYSTEM STANDARDS.**—Under
22 the land records system described in subsection (a), stand-
23 ards that are consistent with applicable law relating to fi-
24 duciary duties shall apply. Those standards shall provide
25 that land records for lands of individual Indians and tribal

1 lands of tribes are accurate and subject to audits con-
2 ducted in a manner consistent with the American Indian
3 Trust Fund Management Reform Act of 1994 (25 u.s.c.
4 4001 et seq).

5 **SEC. 204. AID TO TRIBES AND LEASE COUNCIL.**

6 (a) IN GENERAL.—The Secretary shall make grants
7 to tribes, landowner associations, and lease councils to aid
8 in the development and implementation of programs for
9 the creation and maintenance of accurate and accessible
10 land ownership databases.

11 (b) DATABASES.—A database referred to in sub-
12 section (a) shall include, information concerning, with re-
13 spect to the lands involved—

- 14 (1) land ownership;
- 15 (2) mapping and the location of tracts of land;
- 16 (3) yields and income;
- 17 (4) zoning;
- 18 (5) lease contracts and permits;
- 19 (6) current and potential uses; and
- 20 (7) rights-of-way, and legal descriptions.

1 **TITLE III—REAL ESTATE**
2 **TRANSACTIONS**

3 **SEC. 301. PURPOSE.**

4 The purpose of this title is to remove the regulatory
5 and administrative barriers which obstruct consolidation
6 of fractionated land title.

7 **SEC. 302. FRACTIONATED LAND CONSOLIDATION PLAN.**

8 (a) **IN GENERAL.**—Any tribe may adopt a
9 fractionated land consolidation plan that addresses frac-
10 tionation by providing for the sale and exchange of inter-
11 ests in trust or restricted lands for the purpose of consoli-
12 dating fractionated title.

13 (b) **CONSULTATION WITH OWNERS.**—If a tribe elects
14 to develop a fractionated land consolidation plan under
15 this section, the tribe shall develop the plan in consultation
16 with the owners of the interests in trust or restricted land
17 who will be affected by the plan. Subsection (a) shall not
18 apply to a parcel of trust or restricted land if the owners
19 of at least 50 percent of the legal or beneficial interest
20 in that land file with the Secretary a written objection to
21 the application of all or any part of the fractionated con-
22 solidation plan applicable to the land.

23 (c) **APPLICABILITY OF PLAN.**—Requirements under
24 a fractionated land consolidation plan may be more re-
25 strictive than the otherwise applicable requirements of this

1 title with respect to the requirements that apply to real
2 estate transactions concerning trust or restricted land.

3 (d) **APPLICABILITY OF TITLE.**—The requirements of
4 this title relating to real estate transactions shall apply
5 to trust and restricted lands.

6 **SEC. 303. APPRAISALS.**

7 (a) **IN GENERAL.**—

8 (1) **APPRAISAL DEFINED.**—For purposes of this
9 title, the term “appraisal” means an opinion or esti-
10 mate of value of trust or restricted land supported
11 by facts.

12 (2) **REQUIREMENTS.**—An appraisal shall in-
13 clude land use designations, as determined by—

14 (A) tribal ordinance; or

15 (B) Indian landowner use, in any case in
16 which a tribal ordinance is not in effect.

17 (b) **REQUIREMENT.**—For purposes of any land trans-
18 action covered under this title, an appraisal shall be re-
19 quired, unless the person or entity who transfers an inter-
20 est in trust of restricted land waives that requirement in
21 writing.

22 (c) **STANDARDS.**—

23 (1) **IN GENERAL.**—An appraisal prepared for
24 the Bureau of Indian Affairs, tribe, or Indian land-
25 owner, shall comply with the Uniform Standards of

1 Professional Appraisal Practice issued by the Ap-
2 praisal Foundation (which is located in Washington,
3 D.C.).

4 (2) LICENSING REQUIREMENT.—Each ap-
5 praiser commissioned by the Bureau of Indian Af-
6 fairs, tribe, or Indian landowner to prepare an ap-
7 praisal shall be licensed or certified within the State
8 in which the Indian land is located.

9 (3) DATABASE.—

10 (A) IN GENERAL.—The Bureau of Indian
11 Affairs or tribe, as the case may be, shall—

12 (i) maintain a database on real estate
13 transactions involving trust tribes; and

14 (ii) make the database referred to in
15 clause (i) available to appraisers, tribes,
16 and landowners to assist them in determin-
17 ing the fair market value of interests in
18 trust or restricted land and other land
19 valuations.

20 (B) HISTORY OF INCOME.—A database
21 under this paragraph shall include a history of
22 income derived from the subject lands for the
23 previous 5 years.

24 **SEC. 304. TRUST AND RESTRICTED LAND TRANSACTIONS.**

25 (a) IN GENERAL.—

1 (1) AMOUNTS FOR SALES OR EXCHANGES.—

2 Notwithstanding any other provision of law, the sale
3 or exchange for an interest in trust or restricted
4 land may be for an amount or exchange value less
5 than fair market value of that interest.

6 (2) STATUS OF LANDS.—Any trust or restricted
7 land sold or exchanged under this section shall, upon
8 completion of the sale or exchange, remain trust or
9 restricted land.

10 (b) SALE OF INTEREST.—An individual may sell or
11 exchange an interest referred to in subsection (a) to a lin-
12 eal descendant of the original allottee of the tract of land
13 involved, a co-owner of the tract of land, a tribal member
14 of the tribe of that individual, or the tribe, as follows:

15 (1) The first right of purchase and exchange
16 with respect to the interest shall be given to lineal
17 descendants of the original allottee of the tract of
18 land involved.

19 (2) A co-owner of the tract referred to in para-
20 graph (1) who is not a lineal descendant described
21 in that paragraph shall have a right of purchase or
22 exchange with respect to the interest that is subordi-
23 nate to the right of the lineal descendants.

24 (3) A tribal member shall have a right of pur-
25 chase or exchange with respect to the interest that

1 is subordinate to the right of persons or entities de-
2 scribed in paragraphs (1) and (2).

3 (4) The tribe shall have a right of purchase or
4 exchange with respect to the interest that is subordi-
5 nate to the right of purchase or exchange of persons
6 or entities described in paragraphs (1) through (3).

7 (c) NOTICE.—

8 (1) IN GENERAL.—An individual who intends to
9 sell or exchange an interest referred to in subsection
10 (a) shall provide notice to each person or entity de-
11 scribed in paragraphs (1), (2), and (4) of subsection
12 (b).

13 (2) REQUIREMENTS.—The notice required
14 under paragraph (1) shall—

15 (A) be published—

16 (i) in a tribal newspaper; and

17 (ii) if there is no local tribal news-
18 paper, in a local nontribal newspaper that
19 is accessible to the members of the tribe on
20 whose reservation the land is located; and

21 (B) include the allotment number and a
22 list of all interest holders, that the Secretary
23 shall provide.

24 (d) TIME PERIOD FOR EXERCISING FIRST RIGHT OF
25 PURCHASE OR EXCHANGE.—A lineal descendant referred

1 to in subsection (b)(1) may exercise a first right of pur-
2 chase described in that subsection during the 30-day pe-
3 riod beginning on the date on which the individual receives
4 notice under subsection (c).

5 (e) GIFT DEEDS; RESERVATION OF RIGHTS.—

6 (1) IN GENERAL.—An Indian landowner may
7 gift deed an interest in trust or restricted land to
8 the tribe of that Indian landowner or another In-
9 dian.

10 (2) SPECIAL RULE.—With respect to a gift
11 deed, the Secretary shall not require an appraisal, or
12 that the grantee be a lineal ancestor or descendant
13 of the grantor as a prerequisite to that transfer.

14 **SEC. 305. PRESERVATION OF TRUST OR RESTRICTED STA-**
15 **TUS.**

16 (a) NOTIFICATION.—

17 (1) LOCAL MEDIUM.—The term “local medium”
18 includes a newspaper of general circulation in the
19 area in which a tract of land that is the subject of
20 a notification under this subsection is located.

21 (2) NOTIFICATION.—Not later than 30 days be-
22 fore filing a petition to obtain a patent in fee under
23 subsection (b), a person who intends to file such a
24 petition shall provide notice in a local medium of the
25 intent of that person to file that petition.

1 (b) PETITION.—

2 (1) IN GENERAL.—If a petition is filed with the
3 Secretary for a patent in fee for trust or restricted
4 land or an interest in that land, and that land or in-
5 terest is subsequently offered for sale, each of the
6 co-owners (if applicable), other members of the In-
7 dian tribe involved, and the tribe may acquire the in-
8 terest in the land during the 180-day period begin-
9 ning on the date on which that petition is filed.

10 (2) FUNDING.—Funds made available by ap-
11 propriations pursuant to title IV may be used for
12 purchases made under this subsection.

13 (c) DEFAULT.—

14 (1) IN GENERAL.—

15 (A) LEASEBACK AND BUYBACK RIGHTS.—

16 In any case in which a default under a lending
17 program that has been approved by an appro-
18 priate official of the Federal Government on a
19 loan secured by trust or restricted land or an
20 interest in trust or restricted land occurs, as
21 part of the foreclosure procedure, leaseback and
22 buyback rights shall be offered to persons or
23 entities described in paragraph (2) in the order
24 described in subparagraph (B).

1 (B) ORDER OF OFFERS.—The persons de-
2 scribed in subparagraph (A) of paragraph (2)
3 shall be offered the leaseback and buyback
4 rights first and the persons and entities de-
5 scribed in subparagraph (C) of that paragraph
6 shall be offered those rights after the persons
7 and entities described in subparagraphs (A) and
8 (B) of that paragraph have been offered those
9 rights.

10 (2) PERSONS AND ENTITIES.—The persons and
11 entities described in this paragraph are as follows:

12 (A) Each Indian landowner of the land or
13 interest in land involved.

14 (B) The spouse and children of any owner
15 who is a former member of the Indian tribe in-
16 volved.

17 (C)(i) Any member of the Indian tribe that
18 has jurisdiction in the area in which the prop-
19 erty is located.

20 (ii) A tribally chartered corporate entity.

21 (iii) The tribe that has jurisdiction in the
22 area in which the property is located.

23 (3) TRANSFERS TO SECRETARY.—If the land or
24 interest described in paragraph (1) is not leased or
25 purchased by any of the persons or entities specified

1 in subparagraphs (A) through (C) of paragraph (2),
2 and all related appeals have concluded, the land or
3 interest shall be transferred to the Secretary and
4 held until such time as one of the eligible persons or
5 entities is able to purchase or lease the land or inter-
6 est.

7 **SEC. 306. INDIAN LANDOWNER AGREEMENTS.**

8 An Indian landowner may enter into an agreement
9 for the purpose of managing and administering a lease in
10 multiple ownership. A lease council elected by the land-
11 owners may act in their behalf in all matters related to
12 the lease (as determined under applicable tribal ordinances
13 and Federal law).

14 **SEC. 307. REPEAL AND AMENDMENT OF PROVISIONS.**

15 (a) IN GENERAL.—The Indian Land Consolidation
16 Act (25 U.S.C. 2201 et seq.) is amended—

17 (1) by striking sections 201 and 202;

18 (2) in section 204, by striking subsections (a)
19 and (b);

20 (3) by striking section 205;

21 (4) by striking sections 207 through 212;

22 (5) by redesignating section 202 as section 201;

23 (6) by redesignating sections 203 and 204 as
24 sections 202 and 203, respectively;

1 (7) in section 203(c), as redesignated by para-
2 graph (6) of this subsection, by striking “(c)”; and

3 (8) by redesignating section 206 as section 204.

4 (b) REFERENCES.—Section 3(a) of the Act entitled
5 “An Act to make miscellaneous amendments to Indian
6 law, and for other purposes”, approved May 24, 1990
7 (Public Law 101–301) is amended—

8 (1) in the matter preceding paragraph (1), by
9 striking “section 2 and 17” and inserting “sections
10 2, 5, and 17”; and

11 (2) by adding at the end the following flush ma-
12 terial:

13 “Nothing in this subsection is intended to supersede any
14 other provision of Federal law that authorizes, prohibits,
15 or restricts the acquisition of land or the creation of res-
16 ervations for Indians with respect to any specific tribe,
17 reservation, or State.”.

18 **TITLE IV—FINANCIAL**
19 **ASSISTANCE**

20 **SEC. 401. PURPOSE; APPLICABILITY.**

21 (a) PURPOSE.—The purpose of this title is to provide
22 financing to tribes and individual Indian landowners for
23 consolidation of fractionated interests.

1 (b) APPLICABILITY.—This title applies to Indian in-
2 dividuals and to those tribes that have in effect a
3 fractionated land consolidation plan.

4 **SEC. 402. LOANS FOR ACQUISITION.**

5 (a) IN GENERAL.—Funds shall be made available
6 from a Land Acquisition Fund (referred to in this section
7 as the “Fund”) that shall consist of funds appropriated
8 under the Bureau of Indian Affairs economic development
9 line item, named and placed in a separate account, specifi-
10 cally targeted for acquisition of fractionated interests by
11 Indian individuals and tribes. Such funds shall be avail-
12 able to individuals directly or through a tribal lending pro-
13 gram for acquisition purposes as described in this title.

14 (b) LOANS.—

15 (1) IN GENERAL.—The Secretary may make
16 loans to tribes for use in making loans to individual
17 Indians for the acquisition and consolidation of in-
18 terests in fractionated trust or restricted lands.

19 (2) REQUIREMENTS FOR LOANS.—As a condi-
20 tion to receiving a loan under this section, a tribe
21 shall deposit the loan funds in a federally insured fi-
22 nancial institution that the tribe may choose.

23 (3) USE OF AMOUNTS COLLECTED.—Amounts
24 collected by a tribe as a repayment of loans and as

1 interest or other charges, may be used by that
2 tribe—

3 (A) to pay interest and principal to the
4 Secretary on loans made to the tribe under this
5 subsection; and

6 (B) to make additional loans.

7 (c) AUTHORIZATION OF APPROPRIATIONS.—There is
8 authorized to be appropriated the sum of \$20,000,000 for
9 the land acquisition and consolidation purposes as de-
10 scribed in this title.

11 **SEC. 403. GRANTS FOR ACQUISITION.**

12 Funds appropriated from within the Economic Devel-
13 opment line item for the Bureau of Indian Affairs will be
14 used by the Secretary of the Interior to make grants to
15 tribes and individual Indians for the acquisition and con-
16 solidation of interests in fractionated trust or restricted
17 lands.

18 **TITLE V—PROBATE**

19 **SEC. 501. APPLICABILITY.**

20 (a) IN GENERAL.—

21 (1) APPLICABILITY TO TRUST OR RESTRICTED
22 LANDS.—Except as provided in paragraph (2), this
23 title shall apply to all trust or restricted lands ad-
24 ministered by the United States.

1 (2) ELECTION.—A tribe may elect to be exempt
2 from the requirements of this title by issuing a final
3 resolution and filing that resolution with the Sec-
4 retary.

5 (b) NOTIFICATION.—Upon receipt of a formal resolu-
6 tion under subsection (a), the Secretary shall immediately
7 notify agencies of the Department of the Interior and
8 tribes of that resolution.

9 (c) LIST.—The Secretary shall publish a list of tribes,
10 with date of action, that have filed with the Secretary a
11 formal resolution under subsection (b).

12 (d) RULE OF CONSTRUCTION.—Nothing in section
13 504 is intended to supersede any tribal interstate succes-
14 sion law that became effective before the date of enact-
15 ment of this Act.

16 (e) OTHER LAW.—Except as provided in subsection
17 (c), the trust preservation limitations set forth in section
18 502 shall not preclude the application of any other Federal
19 law relating to Indian inheritance. Nothing in this section
20 shall be construed to preclude the application of a more
21 restrictive requirement under the laws of the tribe.

22 (f) SPECIAL LAWS.—A tribe may enact tribal laws
23 relating to inheritance to apply to that tribe in lieu of the
24 requirements of this title. If the Secretary approves those

1 laws, the laws shall supersede this title with respect to
2 that tribe.

3 (g) COMPILATION.—The Secretary shall maintain a
4 compilation of the tribal laws that the Secretary approves
5 under subsection (f). The compilation shall indicate the
6 date of approval of each such law. Upon the approval of
7 each such law, the Secretary shall notify each agency of
8 the Department of the Interior and each tribe that per-
9 forms probate functions.

10 **SEC. 502. PRESERVATION OF TRUST STATUS.**

11 With respect to the inheritance of trust or restricted
12 lands—

13 (1) inheritance by non-Indians shall be limited
14 to receipt of a life estate, with remainder over to the
15 next Indian heirs in line of inheritance;

16 (2) non-Indian heirs-at-law shall receive a life
17 estate to the extent of the intestate share deter-
18 mined in accordance with applicable law; and

19 (3) eligible non-Indian devisees (as determined
20 in accordance with applicable law) shall receive a life
21 estate in the full share devised to those devisees by
22 will.

23 **SEC. 503. ELIGIBLE WILL DEVISEES.**

24 (a) IN GENERAL.—No person shall be entitled to re-
25 ceive trust or restricted lands by devise other than—

1 (1) the decedent's heirs-at-law relatives within
2 the first and second degree;

3 (2) members of the tribe with jurisdiction over
4 the lands devised; or

5 (3) the tribe with jurisdiction over the devised
6 lands.

7 (b) SPECIAL RULE.—A decedent that does not have
8 a family member who meets the description under para-
9 graph (1), (2), or (3) of subsection (a) may devise that
10 decedent's estate or particular assets thereof to any devi-
11 see related to the decedent by blood.

12 (c) JOINT TENANCIES.—Devises to multiple bene-
13 ficiaries shall be construed as joint tenancies subject to
14 right of survivorship.

15 **SEC. 504. INTESTATE SUCCESSION.**

16 (a) IN GENERAL.—Subject to the limitations under
17 section 502, in any case in which an Indian dies in posses-
18 sion of any interest in trust or restricted land and did
19 not execute a will disposing of that interest, the surviving
20 spouse of that decedent shall have a life estate in $\frac{1}{3}$ of
21 that interest.

22 (b) SUCCESSION UPON DEATH OF SURVIVING
23 SPOUSE.—Upon the death of a surviving spouse described
24 in subsection (a), the interest the trust or restricted land
25 referred to in that subsection shall be passed—

1 (1) to the decedent's children in equal shares by
2 right of representation;

3 (2) if the decedent is not survived by children
4 or the issue of children, to the parents of the dece-
5 dent in equal shares or to the surviving parent if one
6 parent is deceased;

7 (3) if the decedent is not survived by children,
8 or issue of the children, or parents, to the brothers
9 and sisters of the decedent without right of rep-
10 resentation; or

11 (4) if the decedent has no heirs under para-
12 graphs (1) through (3)—

13 (A) to the tribe with jurisdiction over the
14 interest in the trust or restricted land; or

15 (B) with respect to any interest in trust or
16 restricted land that is not located on a reserva-
17 tion, to the Secretary to be maintained and ad-
18 ministered in trust, in a land pool designated to
19 hold allotted land interests that are not eligible
20 for inheritance under this subsection.

21 **SEC. 505. PRETERMISSION.**

22 With respect to an Indian testator who dies without
23 having made a will to include afterborn children, and the
24 omission is the product of inadvertence rather than an in-
25 tentional omission, afterborn children shall be given a life

1 estate in all trust or restricted assets of the estate in the
2 amount of the child's intestate share.

3 **SEC. 506. RULE OF CONSTRUCTION.**

4 Nothing in this Act is intended to invalidate any law
5 enacted by a tribe under section 207 of the Indian Land
6 Consolidation Act (as in effect before the date of enact-
7 ment of this Act).

8 **SEC. 507. RECOGNIZING CUSTOMARY ADOPTIONS FOR**
9 **ALASKA NATIVES.**

10 Any Alaska Native individual who considers himself
11 to be customarily adopted to a decedent and who has not
12 previously had a reason for legal recognition of the adop-
13 tive relationship may present an affidavit claiming his
14 adoptive relationship to the decedent. If any affected
15 heirs-at-law do not dispute the relationship, or if the
16 weight of the evidence supports the individual's affidavit,
17 the individual may inherit the same share as he would in-
18 herit if he were legally adopted in court proceedings.

19 **TITLE VI—GENERAL**
20 **PROVISIONS**

21 **SEC. 601. TAX EXEMPTION.**

22 All lands or interests in land acquired for an Indian
23 or Indian tribe under authority of this Act shall be exempt
24 from Federal, State, and county taxation.

1 **SEC. 602. AUTHORITY OF TRIBAL GOVERNMENT.**

2 Nothing in this Act shall be construed as vesting the
3 governing body of an Indian tribe with any authority that
4 is not authorized by the constitution and bylaws or other
5 organizational document of that tribe.

6 **SEC. 603. WAIVERS.**

7 The Secretary shall waive any regulation under title
8 25, Code of Federal Regulations, or any subsequent simi-
9 lar regulation, that restricts the implementation of a tribal
10 fractionated land consolidation plan.

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