

§ 18.111

§ 18.111 What will happen if a tribe repeals its probate code?

If a tribe repeals its tribal probate code:

- (a) The repeal will not become effective sooner than 180 days from the date we receive notification from the tribe of its decision to repeal the code; and
- (b) We will forward a copy of the repeal to OHA.

§ 18.112 May a tribe appeal the approval or disapproval of a probate code?

No. There is no right of appeal within the Department from a decision to approve or disapprove a tribal probate code.

Subpart C—Approval of Tribal Probate Code Amendments

§ 18.201 May a tribe amend a tribal probate code?

Yes. A tribe may amend a tribal probate code.

§ 18.202 How does a tribe request approval for a tribal probate code amendment?

To amend a tribal probate code, the tribe must follow the same procedures as for submitting a tribal probate code to the Department for approval.

§ 18.203 Which probate code amendments require approval?

Only those tribal probate code amendments regarding the descent and distribution of trust and restricted lands require the Department's approval.

§ 18.204 When will the Department approve an amendment?

(a) We have 60 days from receipt by the Assistant Secretary of a submitted amendment to approve or disapprove the amendment.

(b) If we do not meet the deadline in paragraphs (a) of this section, the amendment will be deemed approved, but only to the extent that it:

- (1) Is consistent with Federal law; and
- (2) Promotes the policies of the ILCA Amendments of 2000 as listed in § 18.106(b).

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§ 18.205 What happens if the Department approves the amendment?

Our approval applies only to those sections of the amendment that contain provisions regarding the descent and distribution of trust or restricted land. We will notify the tribe of the approval and forward a copy of the amendment to OHA.

§ 18.206 How will a tribe be notified of the disapproval of an amendment?

If we disapprove an amendment, we must provide the tribe with a written notification of the disapproval that includes an explanation of the reasons for the disapproval.

§ 18.207 When do amendments to a tribal probate code become effective?

(a) An amendment may not become effective sooner than 180 days after the date of approval by the Department.

(b) If an amendment is deemed approved through inaction by the Department, then the amendment will become effective 180 days after it is deemed approved.

(c) The amendment will apply only to the estate of a decedent who dies on or after the effective date of the amendment.

§ 18.208 May a tribe appeal an approval or disapproval of a probate code amendment?

No. There is no right of appeal within the Department from a decision to approve or disapprove a tribal probate code amendment.

Subpart D—Approval of Single Heir Rule

§ 18.301 May a tribe create and adopt a single heir rule without adopting a tribal probate code?

Yes. A tribe may create and adopt a single heir rule for intestate succession. The single heir rule may specify a single recipient other than the one specified in 25 U.S.C. 2206(a)(2)(D).