

Calendar No. 38

117TH CONGRESS }
1st Session }

SENATE

{ REPORT
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TO AUTHORIZE THE SEMINOLE TRIBE OF FLORIDA TO LEASE OR TRANSFER CERTAIN LAND, AND FOR OTHER PURPOSES

APRIL 14, 2021.—Ordered to be printed

Mr. SCHATZ, from the Committee on Indian Affairs,
submitted the following

R E P O R T

[To accompany S. 108]

[Including cost estimate of the Congressional Budget Office]

The Committee on Indian Affairs, to which was referred the bill (S. 108) to authorize the Seminole Tribe of Florida to lease or transfer certain land, and for other purposes, having considered the same, reports favorably thereon without amendment and recommends that the bill do pass.

PURPOSE

The purpose of the bill is to authorize the Seminole Tribe of Florida (Tribe) to convey or otherwise transfer land and interests in land owned in fee by the Tribe without regard to language of the *Indian Non-Intercourse Act*, codified at 25 U.S.C. 177.

BACKGROUND AND NEED FOR LEGISLATION

Seeking to diversify and strengthen its economic development enterprises that support essential services for Tribal members, the Seminole Tribe of Florida established a real estate investment fund to invest in commercial properties. However, due to restrictions set out in the *Indian Non-Intercourse Act*, the Tribe is unable to secure a mortgage through its investment fund for fee property without Congressional approval while hindering the Tribe's ability to manage its asset in a timely manner.

Originally enacted in 1790, the *Indian Non-Intercourse Act* reserved the exclusive right to acquire Indian lands to the federal

government. The Act prevents the transfer, sale, lease, or other land conveyances owned by an Indian Tribe without Congressional approval. This prohibition applies to both trust and fee lands, regardless of how the land was obtained, and was originally intended to protect Indian Tribes by preventing the loss of their lands.

LEGISLATIVE HISTORY

On January 28, 2021, Senators Rubio and Rick Scott introduced S. 108, *a bill to authorize the Seminole Tribe of Florida to lease or transfer certain land, and for other purposes*. The Senate referred the bill to the Committee on the same day. The Committee held a duly called business meeting to consider nine bills, including S. 108, on March 10, 2021. No amendments were filed to S. 108. The Committee passed the bill with eight other bills by voice vote and ordered it to be favorably reported.

On January 4, 2021, Representatives Soto, Deutch, Hastings, Crist, Wasserman Schultz, and Mast introduced a house companion bill, H.R. 164, *a bill to authorize the Seminole Tribe of Florida to lease or transfer certain land, and for other purposes*, in the House of Representatives. The House of Representatives referred the bill to the Committee on Natural Resources on the same day. On February 18, 2021, the bill was referred to the House Natural Resources Subcommittee for Indigenous Peoples of the United States. No further action has been taken on H.R. 164.

On June 25, 2020, Senators Rubio and Rick Scott introduced S. 4079, *a bill to authorize the Seminole Tribe of Florida to lease or transfer certain land, and for other purposes*, which was referred to the Committee. On September 23, 2020, the Committee held a legislative hearing on S. 4079. At the hearing, Seminole Tribe of Florida Chairman, Marcellus Osceola Jr., testified and the Bureau of Indian Affairs, U.S. Department of the Interior, provided written testimony. On November 18, 2020, the Committee held a duly called business meeting at which S. 4079 was considered with ten other bills. The Committee ordered the bill, without amendment, to be reported favorably to the Senate by voice vote. S. 4079 without amendment passed the Senate by unanimous consent on December 18, 2020. The bill was received in the House of Representatives on December 21, 2020 and held at the desk. No further action was taken on S. 4079.

A House companion bill, H.R. 7565, *a bill to authorize the Seminole Tribe of Florida to lease or transfer certain land, and for other purposes*, was introduced by Representatives Soto, Crist, Mast, Wasserman Schultz, Deutch, Hastings, and Diaz-Balart, on July 9, 2020, and referred to the House Committee on Natural Resources. On August 5, 2020, the bill was referred to the House Natural Resources Subcommittee for Indigenous Peoples of the United States. Representative Frankel was added as a cosponsor on September 16, 2020. On September 24, 2020, the House Natural Resources Subcommittee for Indigenous Peoples of the United States held a legislative hearing on H.R. 7565. No further action was taken on H.R. 7565.

SECTION-BY-SECTION ANALYSIS

Section 1—Approval not required to validate certain land transactions of the Seminole Tribe of Florida

Section 1(a) would allow for the Seminole Tribe of Florida to transfer all or any part of its interest in real property that is not held in trust by the United States but land the Tribe owns in fee without further Congressional approval.

Section 1(b) makes clear that nothing in this section authorizes the Seminole Tribe of Florida to transfer all or any part of an interest in real property that is held in trust by the United States for the benefit of the Seminole Tribe of Florida; or affects the operation of any law governing leasing, selling, conveying, warranting, or otherwise transferring any interest in any real property that is held in trust by the United States for the benefit of the Seminole Tribe of Florida.

COST AND BUDGETARY CONSIDERATIONS

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, April 6, 2021.

Hon. BRIAN SCHATZ,
*Chairman, Committee on Indian Affairs,
U.S. Senate, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for S. 108, a bill to authorize the Seminole Tribe of Florida to lease or transfer certain land, and for other purposes.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Jon Speri.

Sincerely,

PHILLIP L. SWAGEL,
Director.

Enclosure.

S.108, A bill to authorize the Seminole Tribe of Florida to lease or transfer certain land, and for other purposes			
As Reported by the Senate Committee on Indian Affairs on March 10, 2021			
By Fiscal Year, Millions of Dollars	2021	2021-2026	2021-2031
Direct Spending (Outlays)	0	0	0
Revenues	0	0	0
Increase or Decrease (-) in the Deficit	0	0	0
Spending Subject to Appropriation (Outlays)	0	0	0
Statutory pay-as-you-go procedures apply?	No	Mandate Effects	
Increases on-budget deficits in any of the four consecutive 10-year periods beginning in 2032?	No	Contains intergovernmental mandate?	No
		Contains private-sector mandate?	No

S. 108 would allow the Seminole Tribe of Florida to sell, lease, or otherwise transfer any property owned by the tribe that is not held in trust by the United States. Under current law, the tribe must receive Congressional approval before such a transfer. Compensation for transfers would be paid directly to the Seminole Tribe and such transactions would not affect the federal budget.

The CBO staff contact for this estimate is Jon Sperl. The estimate was reviewed by H. Samuel Papenfuss, Deputy Director of Budget Analysis.

REGULATORY AND PAPERWORK IMPACT STATEMENT

Paragraph 11(b) of rule XXVI of the Standing Rules of the Senate requires each report accompanying a bill to evaluate the regulatory and paperwork impact that would be incurred in carrying out the bill. The Committee believes that S. 108 will have a minimal impact on regulatory or paperwork requirements.

EXECUTIVE COMMUNICATIONS

The Committee has received no communication from the Executive Branch regarding S. 108.

CHANGES IN EXISTING LAW

On February 11, 2021, the Committee unanimously approved a motion to waive subsection 12 of rule XXVI of the Standing Rules of the Senate. In the opinion of the Committee, it is necessary to dispense with subsection 12 of rule XXVI of the Standing Rules of the Senate to expedite the business of the Senate.