

Public Law 95-395
95th Congress

An Act

To settle Indian land claims within the State of Rhode Island and Providence Plantations, and for other purposes.

Sept. 30, 1978
[H.R. 12860]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Rhode Island Indian Claims Settlement Act".

Rhode Island
Indian Claims
Settlement Act.
25 USC 1701
note.
25 USC 1701.

CONGRESSIONAL FINDINGS AND DECLARATION OF POLICY

SEC. 2. Congress finds and declares that—

(a) there are pending before the United States District Court for the District of Rhode Island two consolidated actions that involve Indian claims to certain public and private lands within the town of Charlestown, Rhode Island;

(b) the pendency of these lawsuits has resulted in severe economic hardships for the residents of the town of Charlestown by clouding the titles to much of the land in the town, including lands not involved in the lawsuits;

(c) the Congress shares with the State of Rhode Island and the parties to the lawsuits a desire to remove all clouds on titles resulting from such Indian land claims within the State of Rhode Island; and

(d) the parties to the lawsuits and others interested in the settlement of Indian land claims within the State of Rhode Island have executed a Settlement Agreement which requires implementing legislation by the Congress of the United States and the legislature of the State of Rhode Island.

DEFINITIONS

SEC. 3. For the purposes of this Act, the term—

(a) "Indian Corporation" means the Rhode Island nonbusiness corporation known as the "Narragansett Tribe of Indians";

(b) "land or natural resources" means any real property or natural resources, or any interest in or right involving any real property or natural resource, including but not limited to, minerals and mineral rights, timber and timber rights, water and water rights, and rights to hunt and fish;

(c) "lawsuits" means the actions entitled "Narragansett Tribe of Indians v. Southern Rhode Island Land Development Co., et al., C.A. No. 75-0006 (D.R.I.)" and "Narragansett Tribe of Indians v. Rhode Island Director of Environmental Management, C.A. No. 75-0005 (D.R.I.)";

(d) "private settlement lands" means approximately nine hundred acres of privately held land outlined in red in the map marked "Exhibit A" attached to the Settlement Agreement that are to be acquired by the Secretary from certain private landowners pursuant to sections 5 and 8 of this Act;

25 USC 1702.

(e) "public settlement lands" means the lands described in paragraph 2 of the Settlement Agreement that are to be conveyed by the State of Rhode Island to the State Corporation pursuant to legislation as described in section 7 of this Act;

(f) "settlement lands" means those lands defined in subsections (d) and (e) of this section;

(g) "Secretary" means the Secretary of the Interior;

(h) "settlement agreement" means the document entitled "Joint Memorandum of Understanding Concerning Settlement of the Rhode Island Indian Land Claims", executed as of February 28, 1978, by representatives of the State of Rhode Island, of the town of Charlestown, and of the parties to the lawsuits, as filed with the Secretary of the State of Rhode Island;

(i) "State Corporation" means the corporation created or to be created by legislation enacted by the State of Rhode Island as described in section 7 of this Act; and

(j) "transfer" includes but is not limited to any sale, grant, lease, allotment, partition, or conveyance, any transaction the purpose of which was to effect a sale, grant, lease, allotment, partition, or conveyance, or any event or events that resulted in a change of possession or control of land or natural resources.

RHODE ISLAND INDIAN CLAIMS SETTLEMENT FUND

25 USC 1703.

SEC. 4. There is hereby established in the United States Treasury a fund to be known as the Rhode Island Indian Claims Settlement Fund into which \$3,500,000 shall be deposited following the appropriation authorized by section 11 of this Act.

OPTION AGREEMENTS TO PURCHASE PRIVATE SETTLEMENT LANDS

25 USC 1704.

SEC. 5. (a) The Secretary shall accept assignment of reasonable two-year option agreements negotiated by the Governor of the State of Rhode Island or his designee for the purchase of the private settlement lands: *Provided*, That the terms and conditions specified in such options are reasonable and that the total price for the acquisition of such lands, including reasonable costs of acquisition, will not exceed the amount specified in section 4. If the Secretary does not determine that any such option agreement is unreasonable within sixty days of its submission, the Secretary will be deemed to have accepted the assignment of the option.

(b) Payment for any option entered into pursuant to subsection (a) shall be in the amount of 5 per centum of the fair market value of the land or natural resources as of the date of the agreement and shall be paid from the fund established by section 4 of this Act.

(c) The total amount of the option fees paid pursuant to subsection (b) shall not exceed \$175,000.

(d) The option fee for each option agreement shall be applied to the agreed purchase price in the agreement if the purchase of the defendant's land or natural resources is completed in accordance with the terms of the option agreement.

(e) The payment for each option may be retained by the party granting the option if the property transfer contemplated by the option agreement is not completed in accordance with the terms of the option agreement.

APPROVAL OF PRIOR TRANSFERS AND EXTINGUISHMENT OF CLAIMS AND
ABORIGINAL TITLE INVOLVING THE NARRAGANSETT TRIBE AND THE TOWN
OF CHARLESTOWN, RHODE ISLAND

SEC. 6. (a) If the Secretary finds that the State of Rhode Island has satisfied the conditions set forth in section 7 of this Act, he shall publish such findings in the Federal Register and upon such publication—

Publication in
Federal Register.
25 USC 1705.

(1) any transfer of land or natural resources located anywhere within the United States from, by, or on behalf of the Indian Corporation or any other entity presently or at any time in the past known as the Narragansett Tribe of Indians, or any predecessor or successor in interest, member or stockholder thereof, and any transfer of land or natural resources located anywhere within the town of Charlestown, Rhode Island, by, from, or on behalf of any Indian, Indian nation, or tribe of Indians, including but not limited to a transfer pursuant to any statute of any State, shall be deemed to have been made in accordance with the Constitution and all laws of the United States that are specifically applicable to transfers of land or natural resources from, by, or on behalf of any Indian, Indian nation or tribe of Indians (including but not limited to the Trade and Intercourse Act of 1790, Act of July 22, 1790, ch. 33, sec. 4, 1 Stat. 137, and all amendments thereto and all subsequent versions thereof), and Congress does hereby approve any such transfer effective as of the date of said transfer;

(2) to the extent that any transfer of land or natural resources described in subsection (a) may involve land or natural resources to which the Indian Corporation or any other entity presently or at any time in the past known as the Narragansett Tribe of Indians, or any predecessor or successor in interest, member or stockholder thereof, or any other Indian, Indian nation, or tribe of Indians, had aboriginal title, subsection (a) shall be regarded as an extinguishment of such aboriginal title as of the date of said transfer; and

(3) by virtue of the approval of a transfer of land or natural resources effected by this section, or an extinguishment of aboriginal title effected thereby, all claims against the United States, any State or subdivision thereof, or any other person or entity, by the Indian Corporation or any other entity presently or at any time in the past known as the Narragansett Tribe of Indians, or any predecessor or successor in interest, member or stockholder thereof, or any other Indian, Indian nation, or tribe of Indians, arising subsequent to the transfer and based upon any interest in or right involving such land or natural resources (including but not limited to claims for trespass damages or claims for use and occupancy) shall be regarded as extinguished as of the date of the transfer.

(b) Any Indian, Indian nation, or tribe of Indians (other than the Indian Corporation or any other entity presently or at any time in the past known as the Narragansett Tribe of Indians, or any predecessor or successor in interest, member or stockholder thereof) whose transfer of land or natural resources was approved or whose aboriginal title or claims were extinguished by subsection (a) of this section may, within a period of one hundred and eighty days after publication of the Secretary's findings pursuant to section 6, bring an action against the State Corporation in lieu of an action against any other person against whom a cause may have existed in the absence of this section. In any such

action, the remedy shall be limited to a right of possession of the settlement lands.

FINDINGS BY THE SECRETARY

25 USC 1706.

SEC. 7. Section 6 of this Act shall not take effect until the Secretary finds—

(a) that the State of Rhode Island has enacted legislation creating or authorizing the creation of a State chartered corporation satisfying the following criteria:

(1) the corporation shall be authorized to acquire, perpetually manage, and hold the settlement lands;

(2) the corporation shall be controlled by a board of directors, the majority of the members of which shall be selected by the Indian Corporation or its successor, and the remaining members of which shall be selected by the State of Rhode Island; and

Regulations.

(3) the corporation shall be authorized, after consultation with appropriate State officials, to establish its own regulations concerning hunting and fishing on the settlement lands, which need not comply with regulations of the State of Rhode Island but which shall establish minimum standards for the safety of persons and protection of wildlife and fish stock; and

(b) that State of Rhode Island has enacted legislation authorizing the conveyance to the State Corporation of land and natural resources that substantially conform to the public settlement lands as described in paragraph 2 of the Settlement Agreement.

PURCHASE AND TRANSFER OF PRIVATE SETTLEMENT LANDS

25 USC 1707.

SEC. 8. (a) When the Secretary determines that the State Corporation described in section 7(a) has been created and will accept the settlement lands, the Secretary shall exercise within sixty days the options entered into pursuant to section 5 of this Act and assign the private settlement lands thereby purchased to the State Corporation.

(b) Any moneys remaining in the fund established by section 4 of this Act after the purchase described in subsection (a) shall be returned to the general Treasury of the United States.

(c) Upon the discharge of the Secretary's duties under sections 5, 6, 7, and 8 of this Act, the United States shall have no further duties or liabilities under the Act with respect to the Indian Corporation or its successor, the State Corporation, or the settlement lands: *Provided, however,* That if the Secretary subsequently acknowledges the existence of the Narragansett Tribe of Indians, then the settlement lands may not be sold, granted, or otherwise conveyed or leased to anyone other than the Indian Corporation, and no such disposition of the settlement lands shall be of any validity in law or equity, unless the same is approved by the Secretary pursuant to regulations adopted by him for that purpose: *Provided, however,* That nothing in this Act shall affect or otherwise impair the ability of the State Corporation to grant or otherwise convey (including any involuntary conveyance by means of eminent domain or condemnation proceedings) any easement for public or private purposes pursuant to the laws of the State of Rhode Island.

APPLICABILITY OF STATE LAW

SEC. 9. Except as otherwise provided in this Act, the settlement lands shall be subject to the civil and criminal laws and jurisdiction of the State of Rhode Island. 25 USC 1708.

FEDERAL BENEFITS PRESERVED

SEC. 10. Nothing contained in this Act or in any legislation enacted by the State of Rhode Island as described in section 7 of this Act shall affect or otherwise impair in any adverse manner any benefits received by the State of Rhode Island under the Federal Aid in Wildlife Restoration Act of September 2, 1937 (16 U.S.C. 669-669(i)), or the Federal Aid in Fish Restoration Act of August 9, 1950 (16 U.S.C. 777-777(k)). 25 USC 1709.

AUTHORIZATION OF FUNDS

SEC. 11. There is hereby authorized to be appropriated \$3,500,000 to carry out the purposes of this Act. 25 USC 1710.

LIMITATION OF ACTIONS

SEC. 12. Notwithstanding any other provision of law, any action to contest the constitutionality of this Act shall be barred unless the complaint is filed within one hundred and eighty days of the date of enactment of this Act. Exclusive jurisdiction over any such action is hereby vested in the United States District Court for the District of Rhode Island. 25 USC 1711.

APPROVAL OF PRIOR TRANSFERS AND EXTINGUISHMENT OF CLAIMS AND ABORIGINAL TITLE OUTSIDE THE TOWN OF CHARLESTOWN, RHODE ISLAND AND INVOLVING OTHER INDIANS IN RHODE ISLAND

SEC. 13. (a) Except as provided in subsection (b)— 25 USC 1712.

(1) any transfer of land or natural resources located anywhere within the State of Rhode Island outside the town of Charlestown from, by, or on behalf of any Indian, Indian nation, or tribe of Indians (other than transfers included in and approved by section 6 of this Act), including but not limited to a transfer pursuant to any statute of any State, shall be deemed to have been made in accordance with the Constitution and all laws of the United States that are specifically applicable to transfers of land or natural resources from, by, or on behalf of any Indian, Indian nation, or tribe of Indians (including but not limited to the Trade and Intercourse Act of 1790, Act of July 22, 1790 (ch. 33, 1 Stat. 137), and all amendments thereto and all subsequent versions thereof), and Congress does hereby approve any such transfer effective as of the date of said transfer;

(2) to the extent that any transfer of land or natural resources described in paragraph (1) may involve land or natural resources to which such Indian, Indian nation, or tribe of Indians had aboriginal title, paragraph (1) shall be regarded as an extinguishment of such aboriginal title as of the date of said transfer; and

(3) by virtue of the approval of such transfers of land or natural resources effected by this subsection or an extinguishment of aboriginal title effected thereby, all claims against the United

States, any State or subdivision thereof, or any other person or entity, by any such Indian, Indian nation, or tribe of Indians, arising subsequent to the transfer and based upon any interest in or rights involving such land or natural resources (including but not limited to claims for trespass damages or claims for use and occupancy), shall be regarded as extinguished as of the date of the transfer.

Notice.

(b) This section shall not apply to any claim, right, or title of any Indian, Indian nation, or tribe of Indians that is asserted in an action commenced in a court of competent jurisdiction within one hundred and eighty days of the date of enactment of this Act: *Provided*, That the plaintiff in any such action shall cause notice of the action to be served upon the Secretary and the Governor of the State of Rhode Island.

Approved September 30, 1978.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 95-1453 (Comm. on Interior and Insular Affairs).
 SENATE REPORT No. 95-972 accompanying S. 3153 (Comm. on Indian Affairs).
 CONGRESSIONAL RECORD, Vol. 124 (1978):
 July 21, S. 3153 considered and passed Senate.
 Sept. 12, considered and passed House.
 Sept. 15, considered and passed Senate.
 WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 14, No. 40:
 Oct. 2, Presidential statement.