§ 4355. Effect

Nothing in this chapter alters, or demonstrates congressional support for the alteration of, the legal relationship between the United States and any American Indian, Alaska Native, or Native Hawaiian individual, group, organization, or entity.

(Pub. L. 114–221, § 6, Sept. 23, 2016, 130 Stat. 851.)

CHAPTER 45—PROTECTION OF INDIANS AND CONSERVATION OF RESOURCES

Sec. 5101. Allotment of land on Indian reservations.
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§ 5101. Allotment of land on Indian reservations

On and after June 18, 1934, no land of any Indian reservation, created or set apart by treaty or agreement with the Indians, Act of Congress, Executive order, purchase, or otherwise, shall be allotted in severality to any Indian.

(June 18, 1934, ch. 576, § 1, 48 Stat. 984.)

Codification

Section was formerly classified to section 461 of this title prior to editorial reclassification and renumbering as this section.

Short Title of 2004 Amendment

Pub. L. 108–204, § 1(a), Mar. 2, 2004, 118 Stat. 542, provided that: “This Act (amending section 5123 of this title and former sections 640d–24 and 712e of this title and provisions set out as notes under section 301 of Title 7, Agriculture, section 7420 of Title 10, Armed Forces, and section 451 of Title 16, Conservation) may be cited as the ‘Native American Technical Corrections Act of 2004.’”

Short Title of 1994 Amendment


Short Title

Act June 18, 1934, ch. 576, 48 Stat. 984, which enacted this section and sections 5102, 5103, 5107 to 5113, 5115, 5116, 5118, 5120, 5121, 5123 to 5125, and 5129 of this title, is popularly known as the “Indian Reorganization Act”.

§ 5102. Existing periods of trust and restrictions on alienation extended

The existing periods of trust placed upon any Indian lands and any restriction on alienation thereof are extended and continued until otherwise directed by Congress.

(June 18, 1934, ch. 576, § 2, 48 Stat. 984.)

Codification

Section was formerly classified to section 462 of this title prior to editorial reclassification and renumbering as this section.

§ 5103. Restoration of lands to tribal ownership

(a) Protection of existing rights

The Secretary of the Interior, if he shall find it to be in the public interest, is authorized to
restore to tribal ownership the remaining surplus lands of any Indian reservation heretofore opened, or authorized to be opened, to sale, or any other form of disposal by Presidential proclamation, or by any of the public-land laws of the United States: Provided, however, That valid rights or claims of any persons to any lands so withdrawn existing on the date of the withdrawal shall not be affected by this Act: Provided further, That this section shall not apply to lands within any reclamation project heretofore authorized in any Indian reservation.

(b) Papago Indians; permits for easements, etc.


(3) Water reservoirs, charcos, water holes, springs, wells, or any other form of water development by the United States or the Papago Indians shall not be used for mining purposes under the terms of this Act, except under permit from the Secretary of the Interior approved by the Papago Indian Council: Provided, That nothing herein shall be construed as interfering with or affecting the validity of the water rights of the Indians of this reservation: Provided further, That the appropriation of living water heretofore or hereafter affected, by the Papago Indians is recognized and validated subject to all the laws applicable thereto.

(4) Nothing herein contained shall restrict the granting or use of permits for easements or rights-of-way; or ingress or egress over the lands for all proper and lawful purposes.


REFERENCES IN TEXT

“Heretofore”, referred to in subsec. (a), means before June 18, 1934.

This Act, referred to in subs. (a) and (b)(3), is act June 18, 1934, ch. 576, 48 Stat. 984, popularly known as the Indian Reorganization Act, which is classified generally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under Title 25—Indians.

CODIFICATION

Section was formerly classified to section 463 of this title prior to editorial reclassification and renumbering as this section.

AMENDMENTS

1935—Subsec. (b)(1). Act May 27, 1935, repealed par. (1) which restored lands of Papago Indian Reservation to exploration and location.

Subsec. (b)(2). Act May 27, 1935, repealed par. (2) which required person desiring a mineral patent to pay $1 per acre in lieu of annual rental.


Subsec. (b)(1). Act Aug. 28, 1937, designated existing provisions of first par. as par. (1), substituted “damages shall be paid to the superintendent or other officer in charge of the reservation for the credit of the owner thereof” for “damages shall be paid to the Papago Tribe” and “to be the fair and reasonable value of such improvement” for “but not to exceed the cost of said improvements” and struck out “and payments derived from damages or rentals shall be deposited in the Treasury of the United States to the credit of the Papago Tribe” after “mining operations.”

Subsec. (b)(2). Act Aug. 28, 1937, designated existing provisions of first par. as par. (2), inserted “pay to the superintendent or other officer in charge of the reservation, for” before “deposit”, substituted “Provided, That an applicant for patent shall also pay to the Secretary or other officer in charge of the said reservation for the credit of the owner” for “Provided further, That patentee shall also pay into the Treasury of the United States to the credit of the Papago Tribe” substituted “but the sum thus deposited, except for a deduction of rental at the annual rate hereinbefore provided, shall be refunded to the applicant in the event that patent is not acquired” after “determination by the Secretary of the Interior, but not to exceed the cost thereof”.


TRANSFER OF FUNCTIONS

Functions of all other officers of Department of the Interior and functions of all agencies and employees of Department, with two exceptions, transferred to Secretary of the Interior, with power vested in him to authorize their performance or performance of any of his functions by any of those officers, agencies, and employees, by Reorg. Plan No. 3 of 1950, §§1, 2, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1282, set out in the Appendix to Title 5, Government Organization and Employees.

PAPAGO INDIAN RESERVATION

Act May 27, 1935, ch. 106, §1, 69 Stat. 67, provided: “That the provisions with respect to subsection of mineral lands within the Papago Indian Reservation to exploration, location, and entry under the mining laws of the United States in the Executive order dated February 1, 1917, creating the Papago Indian Reservation, and in the third proviso in section 1 of the Act of February 21, 1931 (46 Stat. 1202), and the provisions of subsection (b)(1) and (2) and of the remainder, following the word ‘purposes’, of subsection (b)(4) of section 3 of the Act of June 18, 1934 (48 Stat. 984; 25 U.S.C. 461–479 (now 25 U.S.C. 5101–5129)), as amended by the Act of August 28, 1937 (50 Stat. 862, 863; 25 U.S.C. 463 (now 25 U.S.C. 5101)) (this section), are hereby repealed, all tribal lands within the Papago Indian Reservation are hereby withdrawn from all forms of exploration, location, and entry under such laws, the minerals under such lands, and, without regard to the status of the lessee therein, whether or not such lands are hereby made a part of the reservation to be held in trust by the United States for the Papago Indian Tribe, and such minerals shall be subject to lease for mining purposes pursuant to the provisions of the Act of May 11, 1938 (52 Stat. 347) [sections 396a to 396g of this title]: Provided, That the provisions of this Act shall not be applicable to lands within the Papago Indian Reservation for which a mineral patent has heretofore been issued or to a claim that has been validly initiated before the date of this Act and thereafter maintained under the mining laws of the United States.

§ 5104. Exchanges of land

For the purpose of effecting land consolidations between Indians and non-Indians within the reservation, the Secretary of the Interior is authorized, under such rules and regulations as he may prescribe, to acquire through purchase, exchange, or relinquishment, any interest in lands, water rights, or surface rights to lands within said reservation. Exchanges of lands hereunder shall be made on the basis of equal value and the value of improvements on lands to
be relinquished to the Indians or by Indians to non-Indians shall be given due consideration and allowance made therefor in the valuation of lieu lands. This section shall apply to tribal, trust, or otherwise restricted Indian allotments whether the allottee be living or deceased.


**Codification**

Section was formerly classified to section 468e of this title prior to editorial reclassification and renumbering as this section.

### § 5105. Title to lands

Title to lands or any interest therein acquired pursuant to this Act for Indian use shall be taken in the name of the United States of America in trust for the tribe or individual Indian for which acquired.

(Aug. 10, 1939, ch. 662, § 3, 53 Stat. 1351.)

**References in Text**

This Act, referred to in text, is act Aug. 10, 1939, ch. 662, 53 Stat. 1351, which is classified principally to sections 5104 to 5106 of this title. For complete classification of this Act to the Code, see Tables.

**Codification**

Section was formerly classified to section 463 of this title prior to editorial reclassification and renumbering as this section.

### § 5106. Use of funds appropriated under section 5108

For the purpose of carrying into effect the land-purchase provision of this Act, the Secretary of the Interior is authorized to use so much as may be necessary of any funds hereafter appropriated pursuant to section 5108 of this title.

(Aug. 10, 1939, ch. 662, § 4, 53 Stat. 1351.)

**References in Text**

This Act, referred to in text, is act Aug. 10, 1939, ch. 662, 53 Stat. 1351, which is classified principally to sections 5104 to 5106 of this title. For complete classification of this Act to the Code, see Tables.

**Codification**

Section was formerly classified to section 463 of this title prior to editorial reclassification and renumbering as this section.

### § 5107. Transfer and exchange of restricted Indian lands and shares of Indian tribes and corporations

Except as provided in this Act, no sale, devise, gift, exchange, or other transfer of restricted Indian lands or of shares in the assets of any Indian tribe or corporation organized under this Act shall be made or approved: Provided, That such lands or interests may, with the approval of the Secretary of the Interior, be sold, devised, or otherwise transferred to the Indian tribe in which the lands or shares are located or from which the shares were derived, or to a successor corporation: Provided further, That, subject to section 8(b) of the American Indian Probate Reform Act of 2004 (Public Law 108-374; 25 U.S.C. 2201 note), lands and shares described in the preceding proviso shall descend or be devised to any member of an Indian tribe or corporation described in that proviso or to an heir or lineal descendant of such a member in accordance with the Indian Land Consolidation Act (25 U.S.C. 2201 et seq.), including a tribal probate code approved, or regulations promulgated under, that Act: Provided further, That the Secretary of the Interior may authorize any voluntary exchanges of lands of equal value and the voluntary exchange of shares of equal value whenever such exchange, in the judgment of the Secretary, is expedient and beneficial for or compatible with the proper consolidation of Indian lands and for the benefit of cooperative organizations.


**References in Text**

This Act, referred to in text, is act June 18, 1934, ch. 576, 48 Stat. 884, popularly known as the Indian Reorganization Act, which is classified generally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 5101 of this title and Tables.

The Indian Land Consolidation Act, referred to in text, is title II of Pub. L. 97-459, Jan. 12, 1983, 96 Stat. 2517, which is classified generally to chapter 24 (§ 2201 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 2201 of this title and Tables.

**Codification**

Section was formerly classified to section 464 of this title prior to editorial reclassification and renumbering as this section.

**Amendments**


2004—Pub. L. 109-157 amended section catchline and text generally. Prior to amendment, text related to transfer of restricted Indian lands or shares in assets of Indian tribes or corporation and exchange of lands.

2004—Pub. L. 108-374, § 6(d)(1), (2), in first proviso, struck out “‘, in accordance with the then existing laws of the State, or Federal laws where applicable, in which said lands are located or in which the subject matter of the corporation is located,’” after “descend or be devised” and “‘, except as provided by the Indian Land Consolidation Act,” for “member or:,” was executed by making the insertion at end of first proviso, to reflect the probable intent of Congress.

2000—Pub. L. 106-462, which directed the amendment of this section by substituting “member or, except as provided by the Indian Land Consolidation Act,” for “member or:,” was executed by making the substitution for “member or:” before “any other Indian person” to reflect the probable intent of Congress because the phrase “member or:” did not appear in text.

1980—Pub. L. 96-363, which directed the amendment of the first proviso of this section by substituting “or any
heirs or lineal descendants of such member or any other Indian person for whom the Secretary of the Interior determines that the United States may hold land in trust; “or any heirs of such members”, was executed by making the substitution for “or any heirs of such member” to reflect the probable intent of Congress.

Effective Date of 2006 Amendment
Amendment by Pub. L. 109–221 effective as if included in the enactment of Pub. L. 108–374, set out as a note under section 348 of this title.

Effective Date of 2005 Amendment

Effective Date of 2004 Amendment
Amendment by Pub. L. 108–374 applicable on and after the date that is 1 year after June 20, 2003, see section 8(b) of Pub. L. 108–374, set out as a Notice; Effective Date of 2004 Amendment note under section 2201 of this title.

§ 5108. Acquisition of lands, water rights or surface rights; appropriation; title to lands; tax exemption

The Secretary of the Interior is authorized, in his discretion, to acquire, through purchase, relinquishment, gift, exchange, or assignment, any interest in lands, water rights, or surface rights to lands, within or without existing reservations, including trust or otherwise restricted allotments, whether the allottee be living or deceased, for the purpose of providing land for Indians.

For the acquisition of such lands, interests in lands, water rights, and surface rights, and for expenses incident to such acquisition, there is authorized to be appropriated, out of any funds in the Treasury not otherwise appropriated, a sum not to exceed $2,000,000 in any one fiscal year: Provided, That no part of such funds shall be used to acquire additional land outside of the exterior boundaries of Navajo Indian Reservation for the Navajo Indians in Arizona, nor in New Mexico, in the event that legislation to define the exterior boundaries of the Navajo Indian Reservation in New Mexico, and for other purposes, or similar legislation, becomes law.

The unexpended balances of any appropriations made pursuant to this section shall remain available until expended.

Title to any lands or rights acquired pursuant to this Act or the Act of July 28, 1955 (69 Stat. 392), as amended (25 U.S.C. 608 et seq.) shall be taken in the name of the United States in trust for the Indian tribe or individual Indian for which the land is acquired, and such lands or rights shall be exempt from State and local taxation.


References in Text
This Act, referred to in text, is act June 18, 1934, ch. 576, 48 Stat. 984, popularly known as the Indian Reorganization Act, which is classified generally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 5101 of this title and Tables.

Amendments

§ 5109. Indian forestry units; rules and regulations

The Secretary of the Interior is directed to make rules and regulations for the operation and management of Indian forestry units on the principle of sustained-yield management, to restrict the number of livestock grazed on Indian range units to the estimated carrying capacity of such ranges, and to promulgate such other rules and regulations as may be necessary to protect the range from deterioration, to prevent soil erosion, to assure full utilization of the range, and like purposes.

(June 18, 1934, ch. 576, §6, 48 Stat. 986.)

Codification
Section was formerly classified to section 468 of this title prior to editorial reclassification and renumbering as this section.

References in Text
This Act, referred to in text, is act June 18, 1934, ch. 576, 48 Stat. 984, popularly known as the Indian Reorganization Act, which is classified generally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 5101 of this title and Tables.

§ 5110. New Indian reservations

The Secretary of the Interior is hereby authorized to proclaim new Indian reservations on lands acquired pursuant to any authority conferred by this Act, or to add such lands to existing reservations: Provided, That lands added to existing reservations shall be designated for the exclusive use of Indians entitled by enrollment or by tribal membership to residence at such reservations.

(June 18, 1934, ch. 576, §7, 48 Stat. 986.)

References in Text
This Act, referred to in text, is act June 18, 1934, ch. 576, 48 Stat. 984, popularly known as the Indian Reorganization Act, which is classified generally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 5101 of this title and Tables.

Codification
Section was formerly classified to section 467 of this title prior to editorial reclassification and renumbering as this section.

§ 5111. Allotments or holdings outside of reservations

Nothing contained in this Act shall be construed to relate to Indian holdings of allotments or homesteads upon the public domain outside of the geographic boundaries of any Indian reservation now existing or established hereafter.

(June 18, 1934, ch. 576, §§, 48 Stat. 986.)
§ 5112. Indian corporations; appropriation for organizing

There is authorized to be appropriated, out of any funds in the Treasury not otherwise appropriated, such sums as may be necessary, but not to exceed $250,000 in any fiscal year, to be expended at the order of the Secretary of the Interior, in defraying the expenses of organizing Indian chartered corporations or other organizations created under this Act.

(June 18, 1934, ch. 576, § 9, 48 Stat. 986.)

REFERENCES IN TEXT
This Act, referred to in text, is act June 18, 1934, ch. 576, 48 Stat. 984, popularly known as the Indian Reorganization Act, which is classified generally to this chapter.

For complete classification of this Act to the Code, see Short Title note set out under section 5101 of this title and Tables.

CODIFICATION
Section was formerly classified to section 469 of this title prior to editorial reclassification and renumbering as this section.

§ 5113. Revolving fund; appropriation for loans

There is authorized to be appropriated, out of any funds in the Treasury not otherwise appropriated, the sum of $20,000,000 to be established as a revolving fund from which the Secretary of the Interior, under such rules and regulations as he may prescribe, may make loans to Indian chartered corporations for the purpose of promoting the economic development of such tribes and of their members, and may defray the expenses of administering such loans. Repayment of amounts loaned under this authorization shall be credited to the revolving fund and shall be available for the purposes for which the fund is established.


REFERENCES IN TEXT
This Act, referred to in text, is act June 18, 1934, ch. 576, 48 Stat. 984, popularly known as the Indian Reorganization Act, which is classified generally to this chapter.

For complete classification of this Act to the Code, see Short Title note set out under section 5101 of this title and Tables.

CODIFICATION
Section was formerly classified to section 469 of this title prior to editorial reclassification and renumbering as this section.

§ 5114. Interest charges covered into revolving fund

Interest or other charges heretofore or hereafter collected on loans shall be credited to the revolving fund created by section 5113 of this title and shall be available for the establishment of a revolving fund for the purpose of making and administering loans to Indian-chartered corporations in accordance with the Act of June 18, 1934 (48 Stat. 986) [25 U.S.C. 5101 et seq.], and of making and administering loans to individual Indians and to associations or corporate groups of Indians of Oklahoma in accordance with the Act of June 20, 1936 (49 Stat. 1967).

(June 28, 1941, ch. 259, § 1, 55 Stat. 316.)

REFERENCES IN TEXT
Act of June 18, 1934, referred to in text, is act June 18, 1934, ch. 576, 48 Stat. 984, popularly known as the Indian Reorganization Act, which is classified generally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 5101 of this title and Tables.

Act of June 26, 1936, referred to in text, is act June 26, 1936, ch. 831, 49 Stat. 1967, popularly known as the Oklahoma Welfare Act, which was classified generally to subchapter VIII (§ 501 et seq.) of chapter 14 of this title prior to editorial reclassification as chapter 45A (§ 5201 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 5201 of this title and Tables. Provisions of the Act relating to the revolving fund appear in section 5206 of this title.

CODIFICATION
Section was formerly classified to section 470a of this title prior to editorial reclassification and renumbering as this section.

§ 5115. Vocational and trade schools; appropriation for tuition

There is authorized to be appropriated, out of any funds in the United States Treasury not otherwise appropriated, a sum not to exceed $250,000 annually, together with any unexpended balances of previous appropriations made pursuant to this section, for loans to Indians for the payment of tuition and other expenses in recognized vocational and trade schools: Provided, That not more than $50,000 of such sum shall be available for loans to Indian students in high schools and colleges. Such loans shall be reimbursable under rules established by the Commissioner of Indian Affairs.

(June 18, 1934, ch. 576, § 11, 48 Stat. 986.)

CODIFICATION
Section was formerly classified to section 471 of this title prior to editorial reclassification and renumbering as this section.

TRANSFER OF FUNCTIONS
For transfer of functions of other officers, employees, and agencies of Department of the Interior, with certain exceptions, to Secretary of the Interior, with power to delegate, see Reorg. Plan No. 3 of 1950, §§1, 2, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1262, set out in the Appendix to Title 5, Government Organization and Employees.

§ 5116. Standards for Indians appointed to Indian Office

The Secretary of the Interior is directed to establish standards of health, age, character, expe-
rience, knowledge, and ability for Indians who may be appointed, without regard to civil-service laws, to the various positions maintained, now or hereafter, by the Indian Office, in the administration of functions or services affecting any Indian tribe. Such qualified Indians shall hereafter have the preference to appointment to vacancies in any such positions.  

(June 18, 1934, ch. 576, § 12, 48 Stat. 986.)

CONCORDATION

Section was formerly classified to section 472 of this title prior to editorial reclassification and renumbering as this section.

TRANSFER OF FUNCTIONS

For transfer of functions of other officers, employees, and agencies of Department of the Interior, with certain exceptions, to Secretary of the Interior, with power to delegate, see Reorg. Plan No. 3 of 1950, §§ 1, 2, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1262, set out in the Appendix to Title 5, Government Organization and Employees.

CONVERSION TO CAREER APPOINTMENT

Status of Indian appointed to Federal service under excepted appointment to be converted to career appointment in competitive service after three years of continuous service and satisfactory performance, see section 5333(m) of this title.

§ 5117. Indian preference laws applicable to Bureau of Indian Affairs and Indian Health Service positions

(a) Establishment of retention categories for purposes of reduction-in-force procedures

For purposes of applying reduction-in-force procedures under subsection (a) of section 3502 of title 5 with respect to positions within the Bureau of Indian Affairs and the Indian Health Service, the competitive and excepted service retention registers shall be combined, and any employee entitled to Indian preference who is within a retention category established under regulations prescribed under such subsection to provide due effect to military preference shall be entitled to be retained in preference to other employees not entitled to Indian preference who are within such retention category.

(b) Reassignment of employees other than to positions in higher grades; authority to make determinations respecting

(1) The Indian preference laws shall not apply in the case of any reassignment within the Bureau of Indian Affairs or within the Indian Health Service (other than to a position in a higher grade) of an employee not entitled to Indian preference if it is determined that under the circumstances such reassignment is necessary—

(A) to assure the health or safety of the employee or of any member of the employee’s household;

(B) in the course of a reduction in force; or

(C) because the employee’s working relationship with a tribe has so deteriorated that the employee cannot provide effective service for such tribe or the Federal Government.

(2) The authority to make any determination under subparagraph (A), (B), or (C) of paragraph (1) is vested in the Secretary of the Interior with respect to the Bureau of Indian Affairs and the Secretary of Health and Human Services with respect to the Indian Health Service, and, notwithstanding any other provision of law, the Secretary involved may not delegate such authority to any individual other than a Deputy Secretary or Assistant Secretary of the respective department.

(c) Waiver of applicability in personnel actions; scope, procedures, etc.

(1) Notwithstanding any provision of the Indian preference laws, such laws shall not apply in the case of any personnel action respecting an applicant or employee not entitled to Indian preference if each tribal organization concerned grants, in writing, a waiver of the application of such laws with respect to such personnel action.

(2) The provisions of section 8336(j) of title 5 shall not apply to any individual who has accepted a waiver with respect to a personnel action pursuant to paragraph (1) of this subsection or to section 2011(f) 1 of this title.

(d) Placement of non-Indian employees in other Federal positions; assistance of Office of Personnel Management; cooperation of other Federal agencies

The Office of Personnel Management shall provide all appropriate assistance to the Bureau of Indian Affairs and the Indian Health Service in placing non-Indian employees of such agencies in other Federal positions. All other Federal agencies shall cooperate to the fullest extent possible in such placement efforts.

(e) Definitions

For purposes of this section—

(1) The term “tribal organization” means—

(A) the recognized governing body of any Indian tribe, band, nation, pueblo, or other organized community, including a Native village (as defined in section 1602(c) of title 43); or

(B) in connection with any personnel action referred to in subsection (c)(1) of this section, any legally established organization of Indians which is controlled, sanctioned, or chartered by a governing body referred to in subparagraph (A) of this paragraph and which has been delegated by such governing body the authority to grant a waiver under such subsection with respect to such personnel action.

(2) The term “Indian preference laws” means section 5116 of this title or any other provision of law granting a preference to Indians in promotions and other personnel actions.

(3) The term “Bureau of Indian Affairs” means (A) the Bureau of Indian Affairs and (B) all other organizational units in the Department of the Interior directly and primarily related to providing services to Indians and in which positions are filled in accordance with the Indian preference laws.


1 See References in Text note below.

**CODIFICATION**

Section was formerly classified to section 472a of this title prior to editorial reclassification and renumbering as this section.

**AMENDMENTS**

1998—Subsec. (d). Pub. L. 105–362, §801(e)(3), struck out par. (1) designation and struck out par. (2) which read as follows: “The Secretaries of the Interior and Health and Human Services, and the Director of the Office of Personnel Management shall each submit a report to Congress following the close of each fiscal year with respect to the actions which they took in such fiscal year to place non-Indian employees of the Bureau of Indian Affairs and the Indian Health Service in other Federal positions.”

Pub. L. 105–362, §801(e)(1), (2), redesignated subsec. (e) as (d) and struck out former subsec. (d) which read as follows: “The Secretaries of the Interior and Health and Human Services shall each submit to the Congress a report following the close of each fiscal year with respect to the actions which they took in such fiscal year to recruit and train Indians to qualify such Indians for positions which are subject to preference under the Indian preference laws. Such report shall also include information as to the grade levels and occupational classifications of Indian and non-Indian employees in the Bureau of Indian Affairs and the Indian Health Service.”

Subsec. (e). Pub. L. 105–362, §1302(d), which directed the amendment of subsec. (e) by striking out par. (1) designation after “(e)” and striking out par. (2), could not be executed because par. (1) designation did not immediately follow “(e)” subsequent to amendment by Pub. L. 105–362, §801(e)(2). See above.


1990—Subsec. (b)(2). Pub. L. 101–301 substituted “a report” for “report” which preceded “to Congress following the close of each fiscal year.”

1988—Subsec. (c)(1). Pub. L. 100–581 substituted “an applicant or employee” for “an employee”.

**CHANGE OF NAME**

“Secretary of Health and Human Services” substituted for “Secretary of Health, Education, and Welfare” in subsec. (b)(2) pursuant to section 509(b) of Pub. L. 96–88 which is classified to section 3508(b) of Title 20, Education.

**EFFECTIVE DATE OF 1990 AMENDMENT**

Amendment by Pub. L. 101–509 effective on first day of first pay period beginning on or after Nov. 5, 1990, with continued service by incumbent Under Secretary of the Interior, see section 529(ttitle i, §1152(e)(1), (2);(3)) of Pub. L. 101–509, set out as a note under section 3404 of Title 20, Education.

**$5118. Application generally**

The provisions of this Act [25 U.S.C. 5107, 5110, 5123] shall not apply to the Territory of Alaska: Provided, That sections 4, 7, 16, 17, and 18 of this Act [25 U.S.C. 5107, 5110, 5123, 5124, 5125] shall not apply to the following-named Indian tribes, the members of such Indian tribes, together with members of other tribes affiliated with such named tribes located in the State of Oklahoma, as follows: Cheyenne, Arapaho, Apache, Comanche, Kiowa, Caddo, Delaware, Wichita, Osage, Kaw, Otoe, Tonkawa, Pawnee, Ponca, Shawnee, Ottawa, Quapaw, Seneca, Wyandotte, Iowa, Sac and Fox, Kickapoo, Pottawatomie, Cherokee, Chickasaw, Choctaw, Creek, and Seminole. Section 4 of this Act [25 U.S.C. 5107] shall not apply to the Indians of the Klamath Reservation in Oregon.

(June 18, 1934, ch. 670, §13, 48 Stat. 986; Pub. L. 101–301, §3(b), May 24, 1990, 104 Stat. 207.)

**REFERENCES IN TEXT**

This Act, referred to in text, is act June 18, 1934, ch. 576, 48 Stat. 984, popularly known as the Indian Reorganization Act, which is classified to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 5101 of this title and Tables.

**CODIFICATION**

Section was formerly classified to section 473 of this title prior to editorial reclassification and renumbering as this section.

**AMENDMENTS**


**ADMISSION OF ALASKA AS STATE**

Admission of Alaska into the Union was accomplished Jan. 3, 1959, on issuance of Proc. No. 3269, Jan. 3, 1959, 24 F.R. 81, 73 Stat. c16, as required by sections 1 and 8(d) of Pub. L. 85–508, July 7, 1958, 72 Stat. 333, set out as notes preceding section 21 of Title 48, Territories and Insular Possessions.

**$5119. Application to Alaska**

Sections 5101, 5108, 5110, 5111, 5121, 5124, and 5129 of this title shall after May 1, 1936, apply to the Territory of Alaska: Provided, That groups of Indians in Alaska not recognized prior to May 1, 1936, as bands or tribes, but having a common bond of occupation, or association, or residence within a well-defined neighborhood, community, or rural district, may organize to adopt constitutions and bylaws and to receive charters of incorporation and Federal loans under sections 5113, 5123, and 5124 of this title.

(May 1, 1936, ch. 254, §1, 49 Stat. 1250.)

**CODIFICATION**

Section was formerly classified to section 362 of Title 48, Territories and Insular Possessions, prior to transfer to section 473a of this title and editorial reclassification and renumbering as this section.

**ADMISSION OF ALASKA AS State**

Admission of Alaska into the Union was accomplished Jan. 3, 1959, on issuance of Proc. No. 3269, Jan. 3, 1959, 24 F.R. 81, 73 Stat. c16, as required by sections 1 and 8(d) of Pub. L. 85–508, July 7, 1958, 72 Stat. 333, set out as notes preceding section 21 of Title 48, Territories and Insular Possessions.
§ 5120. Continuation of allowances

The Secretary of the Interior is directed to continue the allowance of the articles enumerated in section 17 of the Act of March 2, 1889 (23 Stat. L. 884), or their commuted cash value under the Act of June 10, 1896 (29 Stat. L. 334), to all Sioux Indians who would be eligible, but for the provisions of this Act, to receive allotments of lands in severalty under section 19 of the Act of May 29, 1908 (25 Stat. L. 451), or under any prior Act, and who have the prescribed status of the head of a family or single person over the age of eighteen years, and his approval shall be final and conclusive, claims therefor to be paid as formerly from the permanent appropriation made by said section 17 and carried on the books of the Treasury for this purpose. No person shall receive in his own right more than one allowance of the benefits, and application must be made and approved during the lifetime of the allottee or the right shall lapse. Such benefits shall continue to be paid upon such reservation until such time as the lands available therein for allotment on June 18, 1934, would have been exhausted by the award to each person receiving such benefits of an allotment of eighty acres of such land.

(June 18, 1934, ch. 576, § 14, 48 Stat. 987.)

REFERENCES IN TEXT

Section 17 of the Act of March 2, 1889, referred to in text, probably means section 17 of act Mar. 2, 1889, ch. 465, 25 Stat. 894, which is not classified to the Code.

Act of June 10, 1896, referred to in text, is act June 10, 1896, ch. 398, 29 Stat. 334, which is not classified to the Code.

This Act, referred to in text, is act June 18, 1934, ch. 576, 48 Stat. 984, popularly known as the Indian Reorganization Act, which is classified generally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 5101 of this title and Tables.

 Codification

Section was formerly classified to section 475 of this title prior to editorial reclassification and renumbering as this section.

§ 5122. Offsets of gratuities

In all suits now pending in the United States Court of Federal Claims by an Indian tribe or band which have not been tried or submitted, and in any suit hereafter filed in the United States Court of Federal Claims by any such tribe or band, the United States Court of Federal Claims is directed to consider and to offset against any amount found due the said tribe or band all sums expended gratuitously by the United States for the benefit of the said tribe or band; and in all cases now pending or hereafter filed in the United States Court of Federal Claims in which an Indian tribe or band is party plaintiff, wherein the duty of the court is merely to report its findings of fact and conclusions to Congress, the said United States Court of Federal Claims is directed to include in its report a statement of the amount of money which has been expended by the United States gratuitously for the benefit of the said tribe or band: Provided, That expenditures made prior to the date of the law, treaty, agreement, or Executive order under which the claims arise shall not be offset against the claims or claim asserted; and expenditures under the Act of June 18, 1934 (48 Stat. L. 984) [25 U.S.C. 5101 et seq.], except expenditures under appropriations made pursuant to section 5 of such Act [25 U.S.C. 5108], shall not be charged as offsets against any claim on behalf of an Indian tribe or tribes now pending in the United States Court of Federal Claims or hereafter filed: Provided further, That funds appropriated and expended from tribal funds shall not be construed as gratuities; and this section shall not be deemed to amend or affect the various Acts granting jurisdiction to the United States Court of Federal Claims to hear and determine the claims listed on page 678 of the hearings before the subcommittee of the House Committee on Appropriations on the second deficiency appropriation bill for the fiscal year 1933: And provided further, That no expenditure under any emergency appropriation or allotment made subsequently to March 4, 1933, and generally applicable throughout the United States for relief in stricken agricultural areas, relief from distress caused by unemployment and conditions resulting therefrom, the prosecution of public works and public projects for the relief of unemployment or to increase employment, and for work relief (including the civil works program) shall be considered in connection with the operation of this section.


REFERENCES IN TEXT

Act of June 18, 1934, referred to in text, is act June 18, 1934, ch. 576, 48 Stat. 984, popularly known as the In-
§ 5123. Organization of Indian tribes; constitution and bylaws and amendment thereof; special election

(a) Adoption; effective date

Any Indian tribe shall have the right to organize for its common welfare, and may adopt an appropriate constitution and bylaws, and any amendments thereto, which shall become effective when—

(1) ratified by a majority vote of the adult members of the tribe or tribes at a special election authorized and called by the Secretary under such rules and regulations as the Secretary may prescribe; and

(2) approved by the Secretary pursuant to subsection (d) of this section.

(b) Revocation

Any constitution or bylaws ratified and approved by the Secretary shall be revocable by an election open to the same voters and conducted in the same manner as provided in subsection (a) of this section for the adoption of a constitution or bylaws.

(c) Election procedure; technical assistance; review of proposals; notification of contrary-to-applicable law findings

(1) The Secretary shall call and hold an election as required by subsection (a) of this section—

(A) within one hundred and eighty days after the receipt of a tribal request for an election to ratify a proposed constitution and bylaws, or to revoke such constitution and bylaws; or

(B) within ninety days after receipt of a tribal request for election to ratify an amendment to the constitution and bylaws.

(2) During the time periods established by paragraph (1), the Secretary shall—

(A) provide such technical advice and assistance as may be requested by the tribe or as the Secretary determines may be needed; and

(B) review the final draft of the constitution and bylaws, or amendments thereto to determine if any provision therein is contrary to applicable laws.

(3) After the review provided in paragraph (2) and at least thirty days prior to the calling of the election, the Secretary shall notify the tribe, in writing, whether and in what manner the Secretary has found the proposed constitution and bylaws or amendments thereto to be contrary to applicable laws.

(d) Approval or disapproval by Secretary; enforcement

(1) If an election called under subsection (a) of this section results in the adoption by the tribe of the proposed constitution and bylaws or amendments thereto, the Secretary shall approve the constitution and bylaws or amendments thereto within forty-five days after the election unless the Secretary finds that the proposed constitution and bylaws or any amendments are contrary to applicable laws.

(2) If the Secretary does not approve or disapprove the constitution and bylaws or amendments within the forty-five days, the Secretary’s approval shall be considered as given. Actions to enforce the provisions of this section may be brought in the appropriate Federal district court.

(e) Vested rights and powers; advisement of presubmitted budget estimates

In addition to all powers vested in any Indian tribe or tribal council by existing law, the constitution adopted by said tribe shall also vest in such tribe or its tribal council the following rights and powers: To employ legal counsel; to prevent the sale, disposition, lease, or encumbrance of tribal lands, interests in lands, or other tribal assets without the consent of the tribe; and to negotiate with the Federal, State, and local governments. The Secretary shall advise such tribe or its tribal council of all appropriation estimates or Federal projects for the benefit of the tribe prior to the submission of such estimates to the Office of Management and Budget and the Congress.

(f) Privileges and immunities of Indian tribes; prohibition on new regulations

Departments or agencies of the United States shall not promulgate any regulation or make any decision or determination pursuant to the Act of June 18, 1934 (25 U.S.C. 461 et seq., 48 Stat. 984) as amended, or any other Act of Congress, with respect to a federally recognized Indian tribe that classifies, enhances, or diminishes the privileges and immunities available to the Indian tribe relative to other federally recognized tribes by virtue of their status as Indian tribes.

(g) Privileges and immunities of Indian tribes; existing regulations

Any regulation or administrative decision or determination of a department or agency of the United States that is in existence or effect on May 31, 1994, and that classifies, enhances, or diminishes the privileges and immunities available to a federally recognized Indian tribe re-
ative to the privileges and immunities available to other federally recognized tribes by virtue of their status as Indian tribes shall have no force or effect.

(h) Tribal sovereignty

Notwithstanding any other provision of this Act—

(1) each Indian tribe shall retain inherent sovereign power to adopt and enforce governing documents under procedures other than those specified in this section; and

(2) nothing in this Act invalidates any constitution or other governing document adopted by an Indian tribe after June 18, 1934, in accordance with the authority described in paragraph (1).


REFERENCES IN TEXT

Act of June 18, 1934 (25 U.S.C. 461 et seq., 48 Stat. 984) and this Act, referred to in subsecs. (f) and (h), is act June 18, 1934, ch. 576, 48 Stat. 984, popularly known as the Indian Reorganization Act, which was classified generally to subchapter V (§461 et seq.) of chapter 14 of the Indian Reorganization Act, which was classified June 18, 1934, ch. 576, 48 Stat. 984, popularly known as the Indian Reorganization Act, which was classified June 18, 1934, ch. 576, 48 Stat. 984, popularly known as the Indian Reorganization Act, which was classified June 18, 1934, ch. 576, 48 Stat. 984, popularly known as the Indian Reorganization Act, which was classified June 18, 1934, ch. 576, 48 Stat. 984, popularly known as the Indian Reorganization Act, which was classified June 18, 1934, ch. 576, 48 Stat. 984, popularly known as the Indian Reorganization Act, which was classified June 18, 1934, ch. 576, 48 Stat. 984, popularly known as the Indian Reorganization Act, which was classified June 18, 1934, ch. 576, 48 Stat. 984, popularly known as the Indian Reorganization Act, which was classified June 18, 1934, ch. 576, 48 Stat. 984, popularly known as the Indian Reorganization Act, which was classified June 18, 1934, ch. 576, 48 Stat. 984, popularly known as the Indian Reorganization Act, which was classified June 18, 1934, ch. 576, 48 Stat. 984, popularly known as the Indian Reorganization Act, which was classified June 18, 1934, ch. 576, 48 Stat. 984, popularly known as the Indian Reorganization Act, which was classified June 18, 1934, ch. 576, 48 Stat. 984, popularly known as the Indian Reorganization Act, which was classified June 18, 1934, ch. 576, 48 Stat. 984, popularly known as the Indian Reorganization Act, which was classified June 18, 1934, ch. 576, 48 Stat. 984, popularly known as the Indian Reorganization Act, which was classified June 18, 1934, ch. 576, 48 Stat. 984, popularly known as the Indian Reorganization Act, which was classified June 18, 1934, ch. 576, 48 Stat. 984, popularly known as the Indian Reorganization Act, which was classified June 18, 1934, ch. 576, 48 Stat. 984, popularly known as the Indian Reorganization Act, which was classified June 18, 1934, ch. 576, 48 Stat. 984, popularly known as the Indian Reorganization Act, which was classified June 18, 1934, ch. 576, 48 Stat. 984, popularly known as the Indian Reorganization Act, which was classified June 18, 1934, ch. 576, 48 Stat. 984, popularly known as the Indian Reorganization Act, which was classified June 18, 1934, ch. 576, 48 Stat. 984, popularly known as the Indian Reorganization Act, which was classified June 18, 1934, ch. 576, 48 Stat. 984, popularly known as the Indian Reorganization Act, which was classified June 18, 1934, ch. 576, 48 Stat. 984, popularly known as the Indian Reorganization Act, which was classified June 18, 1934, ch. 576, 48 Stat. 984, popularly known as the Indian Reorganization Act, which was classified June 18, 1934, ch. 576, 48 Stat. 984, popularly known as the Indian Reorganization Act, which was classified June 18, 1934, ch. 576, 48 Stat. 984, popularly known as the Indian Reorganization Act, which was classified June 18, 1934, ch. 576, 48 Stat. 984, popularly known as the Indian Reorganization Act, which was classified June 18, 1934, ch. 576, 48 Stat. 984, popularly known as the Indian Reorganization Act, which was classified June 18, 1934, ch. 576, 48 Stat. 984, popularly known as the Indian Reorganization Act, which was classified June 18, 1934, ch. 576, 48 Stat. 984, popularly known as the Indian Reorganization Act, which was classified June 18, 1934, ch. 576, 48 Stat. 984, popularly known as the Indian Reorganization Act, which was classified June 18, 1934, ch. 576, 48 Stat. 984, popularly known as the Indian Reorganization Act, which was classified June 18, 1934, ch. 576, 48 Stat. 984, popularly known as the Indian Reorganization Act, which was classified June 18, 1934, ch. 576, 48 Stat. 984, popularly known as the Indian Reorganization Act, which was classified June 18, 1934, ch. 576, 48 Stat. 984, popularly known as the Indian Reorganization Act, which was classified June 18, 1934, ch. 576, 48 Stat. 984, popularly known as the Indian Reorganization Act, which was classified June 18, 1934, ch. 576, 48 Stat. 984, popularly known as the Indian Reorganization Act, which was classified June 18, 1934, ch. 576, 48 Stat. 984, popularly known as the Indian Reorganization Act, which was classified June 18, 1934, ch. 576, 48 Stat. 984, popularly known as the Indian Reorganization Act, which was classified June 18, 1934, ch. 576, 48 Stat. 984, popularly known as the Indian Reorganization Act, which was classified June 1990—Pub. L. 101–301 substituted “by any tribe” for “by at least one-third of the adult Indians”; “by the governing body of such tribe” for “at a special election by a majority vote of the adult Indians living on the reservation”; and “twenty-five years any trust or restricted lands” for “ten years any of the land”.

§ 5125. Acceptance optional

This Act shall not apply to any reservation wherein a majority of the adult Indians, voting at a special election duly called by the Secretary of the Interior, within one year after June 18, 1934, to call such an election, which election shall be held by secret ballot upon thirty days’ notice.

(June 18, 1934, ch. 576, §18, 48 Stat. 988.)

REFERENCES IN TEXT

This Act, referred to in text, is act June 18, 1934, ch. 576, 48 Stat. 984, popularly known as the Indian Reorganization Act, which is classified generally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 5101 of this title and Tables.

CODIFICATION

Section was formerly classified to section 477 of this title prior to editorial reclassification and remumbering as this section.

AMENDMENTS

1990—Pub. L. 101–301 substituted “by any tribe” for “by at least one-third of the adult Indians”; “by the governing body of such tribe” for “at a special election by a majority vote of the adult Indians living on the reservation”; and “twenty-five years any trust or restricted lands” for “ten years any of the land”.

§ 5125. Acceptance optional

This Act shall not apply to any reservation wherein a majority of the adult Indians, voting at a special election duly called by the Secretary of the Interior, shall vote against its application. It shall be the duty of the Secretary of the Interior, within one year after June 18, 1934, to call such an election, which election shall be held by secret ballot upon thirty days’ notice.

(June 18, 1934, ch. 576, §18, 48 Stat. 988.)

REFERENCES IN TEXT

This Act, referred to in text, is act June 18, 1934, ch. 576, 48 Stat. 984, popularly known as the Indian Reorganization Act, which is classified generally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 5101 of this title and Tables.
§ 5126. Mandatory application of sections 5102 and 5124

Notwithstanding section 5125 of this title, sections 5102 and 5124 of this title shall apply to—
(1) all Indian tribes,
(2) all lands held in trust by the United States for Indians, and
(3) all lands owned by Indians that are subject to a restriction imposed by the United States on alienation of the rights of the Indians in the lands.

( Pub. L. 101–301, § 3(a), May 24, 1990, 104 Stat. 207.)

CODIFICATION

Section was formerly classified to section 478–1 of this title prior to editorial reclassification and renumbering as this section.

§ 5127. Procedure

In any election heretofore or hereafter held under the Act of June 18, 1934 (48 Stat. 984) [25 U.S.C. 5101 et seq.], on the question of excluding a reservation from the application of the said Act or on the question of adopting a constitution and bylaws or amendments thereto or on the question of ratifying a charter, the vote of a majority of those actually voting shall be necessary and sufficient to effectuate such exclusion, adoption, or ratification, as the case may be: Provided, however, That in each instance the total vote cast shall not be less than 30 per centum of those entitled to vote.

( June 15, 1935, ch. 260, § 1, 49 Stat. 378.)

REFERENCES IN TEXT

Act of June 18, 1934, referred to in text, is act June 18, 1934, ch. 576, 48 Stat. 984, popularly known as the Indian Reorganization Act, which is classified generally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 5101 of this title and Tables.

CODIFICATION

Section was formerly classified to section 478a of this title prior to editorial reclassification and renumbering as this section.

§ 5128. Application of laws and treaties

All laws, general and special, and all treaty provisions affecting any Indian reservation which has voted or may vote to exclude itself from the application of the Act of June 18, 1934 (48 Stat. 984) [25 U.S.C. 5101 et seq.], shall be deemed to have been continuously effective as to such reservation, notwithstanding the passage of said Act of June 18, 1934. Nothing in the Act of June 18, 1934, shall be construed to abrogate or impair any rights guaranteed under any existing treaty with any Indian tribe, where such tribe voted not to exclude itself from the application of said Act.

( June 15, 1935, ch. 260, § 4, 49 Stat. 378.)

REFERENCES IN TEXT

Act of June 18, 1934, referred to in text, is act June 18, 1934, ch. 576, 48 Stat. 984, popularly known as the Indian Reorganization Act, which is classified generally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 5101 of this title and Tables.

CODIFICATION

Section was formerly classified to section 478b of this title prior to editorial reclassification and renumbering as this section.

§ 5129. Definitions

The term “Indian” as used in this Act shall include all persons of Indian descent who are members of any recognized Indian tribe now under Federal jurisdiction, and all persons who are descendants of such members who were, on June 1, 1934, residing within the present boundaries of any Indian reservation, and shall further include all other persons of one-half or more Indian blood. For the purposes of this Act, Eskimos and other aboriginal peoples of Alaska shall be considered Indians. The term “tribe” wherever used in this Act shall be construed to refer to any Indian tribe, organized band, pueblo, or the Indians residing on one reservation. The words “adult Indians” wherever used in this Act shall be construed to refer to Indians who have attained the age of twenty-one years.

( June 18, 1934, ch. 576, § 19, 48 Stat. 988.)

REFERENCES IN TEXT

This Act, referred to in text, is act June 18, 1934, ch. 576, 48 Stat. 984, popularly known as the Indian Reorganization Act, which is classified generally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 5101 of this title and Tables.

CODIFICATION

Section was formerly classified to section 479 of this title prior to editorial reclassification and renumbering as this section.

§ 5130. Definitions

For the purposes of this title: ¹
(1) The term “Secretary” means the Secretary of the Interior.
(2) The term “Indian tribe” means any Indian or Alaska Native tribe, band, nation, pueblo, village or community that the Secretary of the Interior acknowledges to exist as an Indian tribe.
(3) The term “list” means the list of recognized tribes published by the Secretary pursuant to section 5131 of this title.

¹ See References in Text note below.
§ 5133. Indians eligible for loans


(May 10, 1939, ch. 119, § 1, 53 Stat. 698.)

REFERENCES IN TEXT

Section was formerly classified to section 479a–1 of this title prior to editorial reclassification and renumbering as this section.

§ 5132. Indians eligible for loans

The Secretary of the Interior, or his designated representative, is authorized, under such regulations as the Secretary may prescribe, to make loans from the revolving fund established pursuant to the Acts of June 18, 1934 (48 Stat. 984) [25 U.S.C. 5101 et seq.], and June 26, 1936 (49 Stat. 1967), to tribes, bands, groups, and individual Indians, not otherwise eligible for loans under said Acts: Provided, That no portion of these funds shall be loaned to Indians of less than one-quarter Indian blood.

(May 7, 1948, ch. 266, 62 Stat. 211.)

REFERENCES IN TEXT

Act of June 18, 1934, referred to in text, is act June 18, 1934, ch. 576, 48 Stat. 984, popularly known as the Indian Reorganization Act, which is classified generally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 5101 of this title and Tables.

Act of June 26, 1936, referred to in text, is act June 26, 1936, ch. 831, 49 Stat. 1967, popularly known as the Oklahoma Welfare Act, which was classified generally to subchapter VIII (§ 501 et seq.) of chapter 14 of this title prior to editorial reclassification as chapter 45A (§ 5201 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 5201 of this title and Tables. Provisions of the Act relating to the revolving fund appear in section 5206 of this title.

CODIFICATION

Section was formerly classified to section 479a–1 of this title prior to editorial reclassification and renumbering as this section.

§ 5131. Publication of list of recognized tribes

(a) Publication of list

The Secretary shall publish in the Federal Register a list of all Indian tribes which the Secretary recognizes to be eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

(b) Frequency of publication

The list shall be published within 60 days of November 2, 1994, and annually on or before every January 30 thereafter.
§ 5134. Sale of land by individual Indian owners

The Secretary of the Interior, or his duly authorized representative, is authorized in his discretion, and upon application of the Indian owners, to issue patents in fee, to remove restrictions against alienation, and to approve conveyances, with respect to lands or interests in lands held by individual Indians under the provisions of the Act of June 18, 1934 (48 Stat. 984) [25 U.S.C. 5101 et seq.], or the Act of June 26, 1936 (49 Stat. 1967).

(May 14, 1948, ch. 293, 62 Stat. 236.)

REFERENCES IN TEXT

Act of June 18, 1934, referred to in text, is act June 18, 1934, ch. 576, 48 Stat. 984, popularly known as the Indian Reorganization Act, which is classified generally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 5101 of this title and Tables.

Act of June 26, 1936, referred to in text, is act June 26, 1936, ch. 831, 49 Stat. 1967, popularly known as the Oklahoma Welfare Act, which was classified generally to subchapter VIII (§501 et seq.) of chapter 14 of this title prior to editorial reclassification as chapter 45A (§5201 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 5201 of this title and Tables.

CODIFICATION

Section was formerly classified to section 482 of this title prior to editorial reclassification and renumbering as this section.

§ 5135. Mortgages and deeds of trust by individual Indian owners; removal from trust or restricted status; application to Secretary

(a) The individual Indian owners of any land which either is held by the United States in trust for them or is subject to a restriction against alienation imposed by the United States are authorized, subject to approval by the Secretary of the Interior, to execute a mortgage or deed of trust to such land. Such land shall be subject to foreclosure or sale pursuant to the terms of such mortgage or deed of trust in accordance with the laws of the tribe which has jurisdiction over such land or, in the case where no tribal foreclosure law exists, in accordance with the laws of the State or Territory in which the land is located. For the purpose of any foreclosure or sale proceeding the Indian owners shall be regarded as vested with an unrestricted fee simple title to the land, the United States shall not be a necessary party to the proceeding, and any conveyance of the land pursuant to the proceeding shall divest the United States of title to the land. All mortgages and deeds of trust to such land heretofore approved by the Secretary of the Interior are ratified and confirmed.

(b) In the event such land is acquired by an Indian or an Indian tribe, such land shall not be removed from trust or restricted status except upon application to the Secretary under existing law.

§ 5136. Loans to purchasers of highly fractionated land

(a) In general

The Secretary of Agriculture is authorized to make direct loans in a manner consistent with direct loans pursuant to subtitle D of the Consolidated Farm and Rural Development Act (7 U.S.C. 1981 et seq.), to any Indian tribe recognized by the Secretary of the Interior or tribal corporation established pursuant to the Indian Reorganization Act (25 U.S.C. 477),1 which does not have adequate uncommitted funds, to acquire lands or interests therein within the tribe’s reservation as determined by the Secretary of the Interior, or within a community in Alaska incorporated by the Secretary pursuant to the Indian Reorganization Act (25 U.S.C. 5101 et seq.), for use of the tribe or the corporation or the members of either. Such loans shall be limited to such Indian tribes or tribal corporations as have reasonable prospects of success in their proposed operations and as are unable to obtain sufficient credit elsewhere at reasonable rates and terms to finance the purposes authorized in sections 5136 to 5143 of this title.

(b) Highly fractionated land

(1) In general

Subject to paragraph (2), the Secretary of Agriculture may make and insure loans in accordance with section 1929 of title 7 to eligible purchasers of highly fractionated land or to intermediaries in order to establish revolving loan funds for the purchase of highly fractionated land under that section.

(2) Exclusion

Section 5140 of this title shall not apply to trust land, restricted tribal land, or tribal corporation land that is mortgaged in accordance with paragraph (1).

REFERENCES IN TEXT

The Consolidated Farm and Rural Development Act, referred to in subsec. (a), is title III of Pub. L. 87–126, Aug. 8, 1961, 75 Stat. 307. Subtitle D of the Act is classified principally to subchapter IV (§1981 et seq.) of chap-

1 See References in Text note below.
Title in trust to United States

Title to land acquired by a tribe or tribal corporation with a loan made or insured pursuant to sections 5136 to 5143 of this title may, with the approval of the Secretary of the Interior, be taken by the United States in trust for the tribe or tribal corporation.

(Pub. L. 91–229, § 2, Apr. 11, 1970, 84 Stat. 120.)

Codification

Section was formerly classified to section 489 of this title prior to editorial reclassification and renumbering as this section.

§ 5139. Tribal rights and privileges in connection with loans

A tribe or tribal corporation to which a loan is made or insured pursuant to sections 5136 to 5143 of this title (1) may waive in writing any immunity from suit or liability which it may possess, (2) may mortgage or otherwise hypothecate trust or restricted property if (a) authorized by its constitution or charter or by a tribal referendum, and (b) approved by the Secretary of the Interior, and (3) shall comply with rules and regulations prescribed by the Secretary of Agriculture in connection with such loans.

(Pub. L. 91–229, § 3, Apr. 11, 1970, 84 Stat. 120.)

Codification

Section was formerly classified to section 490 of this title prior to editorial reclassification and renumbering as this section.

§ 5140. Mortgaged property governed by State law

Trust or restricted tribal or tribal corporation property mortgaged pursuant to sections 5136 to 5143 of this title shall be subject to foreclosure and sale or conveyance in lieu of foreclosure, free of such trust or restrictions, in accordance with the laws of the State in which the property is located.


Codification

Section was formerly classified to section 491 of this title prior to editorial reclassification and renumbering as this section.

§ 5141. Interest rates and taxes


References in Text

dated Farm and Rural Development Act is classified principally to subchapter IV (§1981 et seq.) of chapter 50 of Title 7, Agriculture. For complete classification of this Act to the Code, see Short Title note set out under section 1921 of Title 7 and Tables.

Section 341 of that Act is set out as a note under section 1921 of Title 7.

§ 5142. Reduction of unpaid principal

(a) In general

The Secretary of Agriculture may, on the application of the borrower of a loan or loans made under sections 5136 to 5143 of this title, reduce the unpaid principal balance of such loan or loans to the current fair market value of the land purchased with the proceeds of the loan or loans if—

(1) the fair market value of the land has declined by at least 25 percent since such land was purchased by the borrower;

(2) the land has been held by the borrower for a period of at least 5 years; and

(3) the Secretary of the Interior finds that the borrower has insufficient income to both repay the loan or loans and provide normal tribal governmental services.

(b) Fair market value

(1) Appraisal

Current fair market value under subsection (a) of this section shall be determined through an appraisal by an independent qualified fee appraiser, selected by mutual agreement between the borrower and the Secretary of Agriculture.

(2) Costs

The cost of appraisals undertaken under paragraph (1) shall be paid by the borrower.

(c) Appeals

Decisions of the Secretary of Agriculture under this section shall be appealable in accordance with the provisions of section 333B 1 of the Consolidated Farm and Rural Development Act (7 U.S.C. 1983b).

(d) Future applications

A borrower that had a loan or loans reduced under this section shall not submit an application for another reduction on such loan or loans for a period of 5 years after the initial reduction.

§ 5143. Authorization of appropriations

There are authorized to be appropriated to carry out sections 5136 to 5143 of this title $8,000,000 for each of the fiscal years 1991 through 1995.

§ 5144. Certification of rental proceeds

Notwithstanding any other provision of law, any actual rental proceeds from the lease of land acquired under section 5136 of this title certified by the Secretary of the Interior shall be deemed—

(1) to constitute the rental value of that land; and

(2) to satisfy the requirement for appraisal of that land.

References in Text


AMENDMENTS