

105TH CONGRESS
1ST SESSION

H. R. 1805

IN THE SENATE OF THE UNITED STATES

NOVEMBER 10, 1997

Received

NOVEMBER 13, 1997

Read twice and referred to the Committee on Indian Affairs

AN ACT

To amend the Auburn Indian Restoration Act to establish restrictions related to gaming on and use of land held in trust for the United Auburn Indian Community of the Auburn Rancheria of California, and for other purposes.

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

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Auburn Indian Res-
5 toration Amendment Act”.

6 **SEC. 2. RESTRICTIONS ON GAMING.**

7 Section 202 of the Auburn Indian Restoration Act
8 (25 U.S.C. 1300l) is amended by adding at the end the
9 following new subsection:

10 “(g) GAMING.—

11 “(1) Class II and class III gaming activities
12 shall be lawful only on one parcel of land, which
13 shall be taken into in trust for the Tribe pursuant
14 to section 204(a)(1), but only if—

15 “(A) prior to the time such parcel is taken
16 into trust, the Tribe and the local government
17 of the political jurisdiction in which the parcel
18 is located have entered into a compact as re-
19 quired by section 204(e);

20 “(B) the gaming facility and related infra-
21 structure on such parcel of land are located at
22 least 2 miles from any church, school, or resi-
23 dence which was constructed in a residential
24 zone and which existed on the date of the intro-
25 duction to the House of Representatives of the

1 Auburn Indian Restoration Amendment Act
2 (June 5, 1997);

3 “(C) such parcel of land is specifically
4 taken into trust for class II and class III gam-
5 ing activities; and

6 “(D) such parcel of land is not part of the
7 land identified in section 204(b).

8 “(2) If the State of California finds that class
9 III gaming activities have been established in viola-
10 tion of the requirements of the Indian Gaming Reg-
11 ulatory Act (25 U.S.C. 2701 et seq.) on land held
12 in trust for the Tribe, the State may institute an ac-
13 tion in a court of competent jurisdiction for injunc-
14 tive relief to enjoin all class II and class III gaming
15 activities. If a court of competent jurisdiction deter-
16 mines, by a preponderance of the evidence, that
17 Class III gaming activity has been established in vio-
18 lation of the requirements of the Indian Gaming
19 Regulatory Act (25 U.S.C. 2701 et seq.) on land
20 held in trust for the Tribe, all Class II and Class III
21 gaming activities shall be unlawful on land held in
22 trust for the Tribe and any such activities may be
23 enjoined by such court. The Tribe shall not raise
24 sovereign immunity as a defense to any such action

1 or to the enforcement or execution of a judgment re-
 2 sulting from such action.

3 “(3) Except as provided herein, nothing in this
 4 Act shall negate or diminish in any way the Tribe’s
 5 obligation to comply with all provisions of the Indian
 6 Gaming Regulatory Act (25 U.S.C. 2701 et seq.).”.

7 **SEC. 3. RESTRICTIONS ON LAND TO BE HELD IN TRUST.**

8 (a) LANDS TO BE TAKEN INTO TRUST.—Section
 9 204(a) of the Auburn Indian Restoration Act (25 U.S.C.
 10 1300l–2) is amended to read as follows:

11 “(a) LANDS TO BE TAKEN INTO TRUST.—(1) Upon
 12 request of the tribe, the Secretary shall accept forthwith
 13 for the benefit of the Tribe any real property located in
 14 Placer County, California, if—

15 “(A) the property is conveyed or otherwise
 16 transferred to the Secretary;

17 “(B) at the time of the conveyance or transfer
 18 pursuant to subparagraph (A), there are no adverse
 19 legal claims on such property, including outstanding
 20 liens, mortgages, or taxes owed; and

21 “(C) prior to the Secretary accepting the prop-
 22 erty the Tribe was in compliance with section
 23 202(g)(1) and 202(g)(3), and subsections (d) and
 24 (e) of this section.

1 “(2) The Secretary may accept, subject to the provi-
2 sions of this Act, any additional acreage in the Tribe’s
3 service area pursuant to the authority of the Secretary,
4 for nongaming related activities or nonresidential purposes
5 under the Act of June 18, 1934 (25 U.S.C. 461 et seq.),
6 provided that the primary function of such additional acre-
7 age shall not be the furtherance of gaming activities.”.

8 (b) USE OF LAND TAKEN INTO TRUST FOR NON-
9 GAMING PURPOSES.—Section 204 of the Auburn Indian
10 Restoration Act (25 U.S.C. 1300l–2) is amended by add-
11 ing at the end the following new subsections:

12 “(d) USE OF LAND TAKEN INTO TRUST FOR NON-
13 GAMING PURPOSES.—(1) A parcel of real property taken
14 into trust for the Tribe pursuant to the provisions of sec-
15 tion 204(a) (1) or (2), for purposes other than class II
16 or class III gaming activities, may only be used and devel-
17 oped in a manner consistent with and in compliance with
18 all general and community plans and zoning ordinances
19 of the local government of the political jurisdiction in
20 which the land to be taken into trust is located which are
21 in effect at the time that the land is taken into trust, and
22 any other provisions agreed to in the compact required by
23 subsection (e).

24 “(2)(A) In addition to the former trust lands referred
25 to in subsection (b), the Tribe may acquire one parcel of

1 land for residential purposes pursuant to section 204
2 (a)(1) and (d)(1).

3 “(B) Any additional real property taken into trust for
4 the Tribe for residential purposes pursuant to section 204
5 (a)(2) and (d)(1) shall be contiguous to the initial parcel.

6 “(C) Except as provided in subsection (b), the Sec-
7 retary shall not take any real property into trust for resi-
8 dential purposes for individual members of the Tribe.

9 “(e) COMPACT REQUIRED.—(1) After the date of the
10 enactment of the Auburn Indian Restoration Amendment
11 Act, the Secretary shall not take any land into trust for
12 the Tribe until the Tribe and the local government of the
13 political jurisdiction in which the land to be taken into
14 trust is located have entered into a written compact, which
15 the parties shall negotiate in good faith and in a timely
16 manner, and which shall include provisions relating to—

17 “(A) location and permissible use of the land to
18 be taken into trust;

19 “(B) an agreed upon environmental study
20 which provides for the mitigation of any environ-
21 mental impacts of the proposed development and
22 uses of the land to be taken into trust, and that any
23 mitigation required shall be similar in scope and
24 content to that which would be required of other

1 non-tribal applicants in the local government of the
2 political jurisdiction;

3 “(C) law enforcement jurisdictional responsibil-
4 ities and other public services to be provided on the
5 land, consistent with other Federal laws, including
6 any reasonable compensation to the local govern-
7 ment of the political jurisdiction for the services and
8 impacts;

9 “(D) the impact of the removal of the land
10 from the tax rolls;

11 “(E) building and design standards for any
12 structures proposed to be built on the land, includ-
13 ing provisions that such structures shall be built in
14 accordance with standards similar in scope and con-
15 tent to those required of non-tribal applicants in the
16 local jurisdiction; and

17 “(F) such additional matters as the parties may
18 agree.

19 “(2) The local government of the political jurisdiction
20 in which the land to be taken into trust is located shall—

21 “(A) provide notice of the Tribe’s proposal and
22 the terms of the local compact to the public, the
23 State, and the governing bodies of any other local
24 governments in Placer County, California;

1 “(B) provide the recipients of the notice given
2 under subparagraph (A) with a period of 45 days in
3 which to provide comments; and

4 “(C) take comments provided under subpara-
5 graph (B) into consideration and address them be-
6 fore entering into a local compact.

7 “(3) The Tribe and the local jurisdiction shall nego-
8 tiate the compact required by this subsection in good faith.

9 “(f) BINDING ARBITRATION.—(1) If a dispute arises
10 regarding—

11 “(A) the non-compliance of the Tribe or the
12 local jurisdiction with subsection (e)(3);

13 “(B) the terms of a compact negotiated pursu-
14 ant to subsection (e); or

15 “(C) the alleged violation of a compact nego-
16 tiated pursuant to subsection (e),

17 the Tribe or the local government of the political jurisdic-
18 tion in which the real property relevant to the dispute is
19 located may submit the dispute to binding arbitration
20 under the United States Arbitration Act (9 U.S.C. 1 et
21 seq.). The Tribe shall not raise sovereign immunity as a
22 defense to arbitration or the enforcement of any arbitra-
23 tion award or any judgment based thereon, and all parties
24 expressly agree to comply with such awards and judg-
25 ments.

1 “(2) If the Tribe or the local government of the politi-
2 cal jurisdiction in which the real property relevant to the
3 dispute is located elects to submit a dispute to arbitration
4 pursuant to paragraph (1), an arbitration board shall be
5 established to conduct the arbitration and shall consist
6 of—

7 “(A) one independent member selected by the
8 Tribe;

9 “(B) one independent member selected by the
10 local government of the political jurisdiction in which
11 the land relevant to the dispute is located; and

12 “(C) one member selected by the members se-
13 lected pursuant to subparagraphs (A) and (B). If
14 the members selected pursuant to subparagraphs
15 (A) and (B) are unable to agree upon a third mem-
16 ber within 20 days after selection of the other mem-
17 bers, the presiding judge of the Placer County Supe-
18 rior Court shall select the third member.

19 “(3) The costs of an arbitration proceeding under
20 this subsection, not including attorneys’ fees, shall be
21 awarded to the prevailing party in the arbitration as deter-
22 mined by the arbitration board.

23 “(4) The decision of the arbitration board shall be
24 final and implemented subject only to judicial review as

1 provided for in the United States Arbitration Act (9
2 U.S.C. 1 et seq.).

3 “(g) TERMS ENFORCEABLE.—The terms of sub-
4 sections (d) and (e) are specifically enforceable in a court
5 of competent jurisdiction by the Tribe and the local gov-
6 ernment of the political jurisdiction in which the land rel-
7 evant to a dispute is located against the other. The Tribe
8 shall not raise its sovereign immunity as a defense to such
9 an action or the enforcement or execution of any judgment
10 resulting from such action.”.

11 **SEC. 4. DEFINITIONS.**

12 Section 208 of the Auburn Indian Restoration Act
13 (25 U.S.C. 1300l–6) is amended by adding at the end the
14 following new paragraphs:

15 “(8) The term ‘class II gaming’ has the mean-
16 ing given that term in the Indian Gaming Regu-
17 latory Act (25 U.S.C. 2701 et seq.).

18 “(9) The term ‘class III gaming’ has the mean-
19 ing given that term in the Indian Gaming Regu-
20 latory Act (25 U.S.C. 2701 et seq.).”.

Passed the House of Representatives November 9,
1997.

Attest:

ROBIN H. CARLE,

Clerk.