

Public Law 110-453

110th Congress

An Act

To direct the Secretary of the Interior to take into trust 2 parcels of Federal land for the benefit of certain Indian Pueblos in the State of New Mexico, and for other purposes.

Dec. 2, 2008
[S. 1193]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I—ALBUQUERQUE INDIAN SCHOOL ACT

Albuquerque Indian School Act.

SEC. 101. SHORT TITLE.

This title may be cited as the “Albuquerque Indian School Act”.

SEC. 102. DEFINITIONS.

In this title:

(1) 19 PUEBLOS.—The term “19 Pueblos” means the New Mexico Indian Pueblos of—

- (A) Acoma;
- (B) Cochiti;
- (C) Isleta;
- (D) Jemez;
- (E) Laguna;
- (F) Nambe;
- (G) Ohkay Owingeh (San Juan);
- (H) Picuris;
- (I) Pojoaque;
- (J) San Felipe;
- (K) San Ildefonso;
- (L) Sandia;
- (M) Santa Ana;
- (N) Santa Clara;
- (O) Santo Domingo;
- (P) Taos;
- (Q) Tesuque;
- (R) Zia; and
- (S) Zuni.

(2) SECRETARY.—The term “Secretary” means the Secretary of the Interior (or a designee).

(3) SURVEY.—The term “survey” means the survey plat entitled “Department of the Interior, Bureau of Indian Affairs, Southern Pueblos Agency, BIA Property Survey” (prepared by

John Paisano, Jr., Registered Land Surveyor Certificate No. 5708), and dated March 7, 1977.

SEC. 103. LAND TAKEN INTO TRUST FOR BENEFIT OF 19 PUEBLOS.

(a) ACTION BY SECRETARY.—

(1) IN GENERAL.—The Secretary shall take into trust all right, title, and interest of the United States in and to the land described in subsection (b) for the benefit of the 19 Pueblos immediately after the Secretary has confirmed that the National Environmental Policy Act of 1969 has been complied with regarding the trust acquisition of these Federal lands.

(2) ADMINISTRATION.—The Secretary shall—

(A) take such action as the Secretary determines to be necessary to document the transfer under paragraph (1); and

(B) appropriately assign each applicable private and municipal utility and service right or agreement.

(b) DESCRIPTION OF LAND.—The land referred to in subsection (a)(1) is the 2 tracts of Federal land, the combined acreage of which is approximately 8.4759 acres, that were historically part of the Albuquerque Indian School, more particularly described as follows:

(1) EASTERN PART TRACT B.—The approximately 2.2699 acres located in sec. 7 and sec. 8 of T. 10 N., R. 3 E., of the New Mexico Principal Meridian in the city of Albuquerque, New Mexico, as identified on the survey and does not include the Western Part of Tract B containing 3.6512 acres.

(2) NORTHERN PART TRACT D.—The approximately 6.2060 acres located in sec. 7 and sec. 8 of T. 10 N., R. 3 E., of the New Mexico Principal Meridian in the city of Albuquerque, New Mexico, as identified on the survey and does not include the Southern Part of Tract D containing 6.1775 acres.

(c) SURVEY.—The Secretary shall perform a survey of the land to be transferred consistent with subsection (b), and may make minor corrections to the survey and legal description of the Federal land described in subsection (b) as the Secretary determines to be necessary to correct clerical, typographical, and surveying errors.

(d) USE OF LAND.—The land taken into trust under subsection (a) shall be used for the educational, health, cultural, business, and economic development of the 19 Pueblos.

(e) LIMITATIONS AND CONDITIONS.—The land taken into trust under subsection (a) shall remain subject to any private or municipal encumbrance, right-of-way, restriction, easement of record, or utility service agreement in effect on the date of enactment of this Act.

SEC. 104. EFFECT OF OTHER LAWS.

(a) IN GENERAL.—Except as otherwise provided in this section, land taken into trust under section 103(a) shall be subject to Federal laws relating to Indian land.

(b) GAMING.—No gaming activity (within the meaning of the Indian Gaming Regulatory Act (25 U.S.C. 2701 et seq.)) shall be carried out on land taken into trust under section 103(a).

TITLE II—NATIVE AMERICAN TECHNICAL CORRECTIONS

SEC. 201. COLORADO RIVER INDIAN TRIBES.

The Secretary of the Interior may make, subject to amounts provided in subsequent appropriations Acts, an annual disbursement to the Colorado River Indian Tribes. Funds disbursed under this section shall be used to fund the Office of the Colorado River Indian Tribes Reservation Energy Development and shall not be less than \$200,000 and not to exceed \$350,000 annually.

SEC. 202. GILA RIVER INDIAN COMMUNITY CONTRACTS.

Subsection (f) of the first section of the Act of August 9, 1955 (25 U.S.C. 415(f)), is amended by striking “lease, affecting” and inserting “lease or construction contract, affecting”.

SEC. 203. LAND AND INTERESTS OF THE SAULT STE. MARIE TRIBE OF CHIPPEWA INDIANS OF MICHIGAN.

(a) IN GENERAL.—Subject to subsections (b) and (c), notwithstanding any other provision of law (including regulations), the Sault Ste. Marie Tribe of Chippewa Indians of Michigan (including any agent or instrumentality of the Tribe) (referred to in this section as the “Tribe”), may transfer, lease, encumber, or otherwise convey, without further authorization or approval, all or any part of the Tribe’s interest in any real property that is not held in trust by the United States for the benefit of the Tribe.

(b) EFFECT OF SECTION.—Nothing in this section is intended to authorize the Tribe to transfer, lease, encumber, or otherwise convey, any lands, or any interest in any lands, that are held in trust by the United States for the benefit of the Tribe.

(c) LIABILITY.—The United States shall not be held liable to any party (including the Tribe or any agent or instrumentality of the Tribe) for any term of, or any loss resulting from the term of any transfer, lease, encumbrance, or conveyance of land made pursuant to this Act unless the United States or an agent or instrumentality of the United States is a party to the transaction or the United States would be liable pursuant to any other provision of law. This subsection shall not apply to land transferred or conveyed by the Tribe to the United States to be held in trust for the benefit of the Tribe.

(d) EFFECTIVE DATE.—This section shall be deemed to have taken effect on January 1, 2005.

SEC. 204. MORONGO BAND OF MISSION INDIANS LEASE EXTENSION.

Subsection (a) of the first section of the Act of August 9, 1955 (25 U.S.C. 415(a)) is amended in the second sentence by inserting “and except leases of land held in trust for the Morongo Band of Mission Indians which may be for a term of not to exceed 50 years,” before “and except leases of land for grazing purposes which may be for a term of not to exceed ten years”.

SEC. 205. COW CREEK BAND OF UMPQUA TRIBE OF INDIANS LEASING AUTHORITY.

(a) AUTHORIZATION FOR 99-YEAR LEASES.—Subsection (a) of the first section of the Act of August 9, 1955 (25 U.S.C. 415(a)), is amended in the second sentence by inserting “and lands held in trust for the Cow Creek Band of Umpqua Tribe of Indians,”

25 USC 415 note.

after “lands held in trust for the Confederated Tribes of the Warm Springs Reservation of Oregon.”.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to any lease entered into or renewed after the date of the enactment of this Act.

SEC. 206. NEW SETTLEMENT COMMON STOCK ISSUED TO DESCENDANTS, LEFT-OUTS, AND ELDERS.

Section 7(g)(1)(B) of the Alaska Native Claims Settlement Act (43 U.S.C. 1606(g)(1)(B)) is amended by striking clause (iii) and inserting the following:

“(iii) CONDITIONS ON CERTAIN STOCK.—

“(I) IN GENERAL.—An amendment under clause (i) may provide that Settlement Common Stock issued to a Native pursuant to the amendment (or stock issued in exchange for that Settlement Common Stock pursuant to subsection (h)(3) or section 29(c)(3)(D)) shall be subject to 1 or more of the conditions described in subclause (II).

“(II) CONDITIONS.—A condition referred to in subclause (I) is a condition that—

“(aa) the stock described in that subclause shall be deemed to be canceled on the death of the Native to whom the stock is issued, and no compensation for the cancellation shall be paid to the estate of the deceased Native or any person holding the stock;

“(bb) the stock shall carry limited or no voting rights; and

“(cc) the stock shall not be transferred by gift under subsection (h)(1)(C)(iii).”.

SEC. 207. INDIAN LAND CONSOLIDATION ACT.

(a) DEFINITIONS.—Section 202 of the Indian Land Consolidation Act (25 U.S.C. 2201) is amended—

(1) in paragraph (4)—

(A) by inserting “(i)” after “(4)”—

(B) by striking “‘trust or restricted interest in land’ or” and inserting the following: “(ii) ‘trust or restricted interest in land’ or”; and

(C) in clause (ii) (as designated by sub paragraph (B)), by striking “an interest in land, title to which” and inserting “an interest in land, the title to which interest”; and

(2) by striking paragraph (7) and inserting the following: “(7) the term ‘land’ means any real property.”.

(b) PARTITION OF HIGHLY FRACTIONATED INDIAN LANDS.—Section 205(c)(2)(D)(i) of the Indian Land Consolidation Act (25 U.S.C. 2204(c)(2)(D)(i)) is amended in the matter following subclause (III) by striking “by Secretary” and inserting “by the Secretary”.

(c) DESCENT AND DISTRIBUTION.—Section 207 of the Indian Land Consolidation Act (25 U.S.C. 2206) is amended—

(1) in subsection (a)—

(A) in paragraph (2)(D)—

(i) in clause (i), by striking “clauses (ii) through (iv)” and inserting “clauses (ii) through (v)”; and

(ii) in clause (iv)(II), by striking “decedent” and inserting “descent”; and

(iii) by striking clause (v) and inserting the following:

“(v) EFFECT OF SUBPARAGRAPH.—Nothing in this subparagraph limits the right of any person to devise any trust or restricted interest pursuant to a valid will in accordance with subsection (b).”; and

(B) by adding at the end the following:

“(2) INTESTATE DESCENT OF PERMANENT IMPROVEMENTS.—

“(A) DEFINITION OF COVERED PERMANENT IMPROVEMENT.—In this paragraph, the term ‘covered permanent improvement’ means a permanent improvement (including an interest in such an improvement) that is—

“(i) included in the estate of a decedent; and

“(ii) attached to a parcel of trust or restricted land that is also, in whole or in part, included in the estate of that decedent.

“(B) RULE OF DESCENT.—Except as otherwise provided in a tribal probate code approved under section 206 or a consolidation agreement approved under subsection (j)(9), a covered permanent improvement in the estate of a decedent shall—

“(i) descend to each eligible heir to whom the trust or restricted interest in land in the estate descends pursuant to this subsection; or

“(ii) pass to the recipient of the trust or restricted interest in land in the estate pursuant to a renunciation under subsection (j)(8).

“(C) APPLICATION AND EFFECT.—The provisions of this paragraph apply to a covered permanent improvement—

“(i) even though that covered permanent improvement is not held in trust; and

“(ii) without altering or otherwise affecting the non-trust status of such a covered permanent improvement.”;

(2) in subsection (b)(2)(B)—

(A) by redesignating clauses (i) through (iii) as subclauses (I) through (III), respectively, and indenting the subclauses appropriately;

(B) by striking “Any interest” and inserting the following:

“(i) IN GENERAL.—Subject to clauses (ii) and (iii), any interest”;

(C) in subclause (III) of clause (i) (as designated by subparagraphs (A) and (B)), by striking the semicolon and inserting a period;

(D) by striking “provided that nothing” and inserting the following:

“(iii) EFFECT.—Except as provided in clause (ii), nothing; and”.

(E) by inserting after clause (i) (as designated by subparagraph (B)) the following:

“(ii) EXCEPTION.—

“(I) IN GENERAL.—Notwithstanding clause (i), in any case in which a resolution, law, or other duly adopted enactment of the Indian tribe with jurisdiction over the land of which an interest

described in clause (i) is a part requests the Secretary to apply subparagraph (A)(ii) to devises of trust or restricted land under the jurisdiction of the Indian tribe, the interest may be devised in fee in accordance with subparagraph (A)(ii).

“(II) EFFECT.—Subclause (I) shall apply with respect to a devise of a trust or restricted interest in land by any decedent who dies on or after the date on which the applicable Indian tribe adopts the resolution, law, or other enactment described in subclause (I), regardless of the date on which the devise is made.

“(III) NOTICE OF REQUEST.—An Indian tribe shall provide to the Secretary a copy of any resolution, law, or other enactment of the Indian tribe that requests the Secretary to apply subparagraph (A)(ii) to devises of trust or restricted land under the jurisdiction of the Indian tribe.”;

(3) in subsection (h)(1)—

(A) by striking “A will” and inserting the following:
“(A) IN GENERAL.—A will”; and
(B) by adding at the end the following:

“(B) PERMANENT IMPROVEMENTS.—Except as otherwise expressly provided in the will, a devise of a trust or restricted interest in a parcel of land shall be presumed to include the interest of the testator in any permanent improvements attached to the parcel of land.

“(C) APPLICATION AND EFFECT.—The provisions of this paragraph apply to a covered permanent improvement—

“(i) even though that covered permanent improvement is not held in trust; and

“(ii) without altering or otherwise affecting the non-trust status of such a covered permanent improvement.”;

(4) in subsection (i)(4)(C), by striking “interest land” and inserting “interest in land”;

(5) in subsection (j)(2)(A)(ii), by striking “interest land” and inserting “interest in land”;

(6) in subsection (k), in the matter preceding paragraph (1), by inserting “a” after “receiving”; and

(7) in subsection (o)—

(A) in paragraph (3)—

(i) by redesignating subparagraphs (A) and (B) as clauses (i) and (ii) and indenting the clauses appropriately;

(ii) by striking “(3)” and all that follows through “No sale” and inserting the following:

“(3) REQUEST TO PURCHASE; CONSENT REQUIREMENTS; MULTIPLE REQUESTS TO PURCHASE.—

“(A) IN GENERAL.—No sale”;

(iii) by striking the last sentence and inserting the following:

“(B) MULTIPLE REQUESTS TO PURCHASE.—Except for interests purchased pursuant to paragraph (5), if the Secretary receives a request with respect to an interest from more than 1 eligible purchaser under paragraph (2), the Secretary shall sell the interest to the eligible purchaser

that is selected by the applicable heir, devisee, or surviving spouse.”;

(B) in paragraph (4)—

(i) in subparagraph (A), by adding “and” at the end;

(ii) in subparagraph (B), by striking “; and” and inserting a period; and

(iii) by striking subparagraph (C); and

(C) in paragraph (5)—

(i) in subparagraph (A)—

(I) in the matter preceding clause (i)—

(aa) by inserting “or surviving spouse” after “heir”;

(bb) by striking “paragraph (3)(B)” and inserting “paragraph (3)(A)(ii)”; and

(cc) by striking “auction and”;

(II) in clause (i), by striking “and” at the end;

(III) in clause (ii)—

(aa) by striking “auction” and inserting “sale”;

(bb) by striking “the interest passing to such heir represents” and inserting “, at the time of death of the applicable decedent, the interest of the decedent in the land represented”; and

(cc) by striking the period at the end and inserting “; and”;

(IV) by adding at the end the following:

“(iii)(I) the Secretary is purchasing the interest under the program authorized under section 213(a)(1); or

“(II) after receiving a notice under paragraph (4)(B), the Indian tribe with jurisdiction over the interest is proposing to purchase the interest from an heir or surviving spouse who is not residing on the property in accordance with clause (i), and who is not a member, and is not eligible to become a member, of that Indian tribe.”; and

(ii) in subparagraph (B)—

(I) by inserting “or surviving spouse” after “heir” each place it appears; and

(II) by striking “heir’s interest” and inserting “interest of the heir or surviving spouse”.

(d) CONFORMING AMENDMENT.—Section 213(a)(1) of the Indian Land Consolidation Act (25 U.S.C. 2212(a)(1)) is amended by striking “section 207(p)” and inserting “section 207(o)”.

(e) OWNER-MANAGED INTERESTS.—Section 221(a) of the Indian Land Consolidation Act (25 U.S.C. 2220(a)) is amended by inserting “owner or” before “co-owners”.

(f) EFFECTIVE DATES.—

(1) TESTAMENTARY DISPOSITION.—The amendments made by subsection (c)(2) of this section to section 207(b) of the Indian Land Consolidation Act (25 U.S.C. 2206(b)) shall not apply to any will executed before the date that is 1 year after the date of enactment of this Act.

(2) SMALL UNDIVIDED INTERESTS IN INDIAN LANDS.—The amendments made by subsection (c)(7)(C) of this section to

25 USC 2206
note.

subsection (o)(5) of section 207 of the Indian Land Consolidation Act (25 U.S.C. 2206) shall not apply to or affect any sale of an interest under subsection (o)(5) of that section that was completed before the date of enactment of this Act.

TITLE III—REAUTHORIZATION OF MEMORIAL TO MARTIN LUTHER KING, JR.

SEC. 301. REAUTHORIZATION.

Section 508(b)(2) of the Omnibus Parks and Public Lands Management Act of 1996 (40 U.S.C. 8903 note; 110 Stat. 4157, 114 Stat. 26, 117 Stat. 1347, 119 Stat. 527) is amended by striking “November 12, 2008” and inserting “November 12, 2009”.

Approved December 2, 2008.

LEGISLATIVE HISTORY—S. 1193:

SENATE REPORTS: No. 110-434 (Comm. on Indian Affairs).

CONGRESSIONAL RECORD, Vol. 154 (2008):

Sept. 22, considered and passed Senate.

Sept. 29, considered and passed House, amended.

Nov. 19, Senate concurred in House amendment.

