

for the best interest of the Indians, to cause a final roll to be made of the membership of any Indian tribe; such rolls shall contain the ages and quantum of Indian blood, and when approved by the said Secretary are declared to constitute the legal membership of the respective tribes for the purpose of segregating the tribal funds as provided in section 162¹ of this title, and shall be conclusive both as to ages and quantum of Indian blood: *Provided*, That the foregoing shall not apply to the Five Civilized Tribes or to the Osage Tribe of Indians, or to the Chippewa Indians of Minnesota, or the Menominee Indians of Wisconsin.

(June 30, 1919, ch. 4, §1, 41 Stat. 9.)

Editorial Notes

REFERENCES IN TEXT

Section 162 of this title, referred to in text, was repealed by act June 24, 1938, ch. 648, §2, 52 Stat. 1037. See section 162a of this title.

Executive Documents

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.

§ 164. Restoration to tribal ownership of unclaimed per capita and other individual payments of tribal trust funds; deposit in general fund of the Treasury

Unless otherwise specifically provided by law, the share of an individual member of an Indian tribe or group in a per capita or other distribution, individualization, segregation, or proration of Indian tribal or group funds held in trust by the United States, or in an annuity payment under a treaty, heretofore or hereafter authorized by law, and any interest earned on such share that is properly creditable to the individual shall be restored to tribal ownership if for any reason such share cannot be paid to the individual entitled thereto and remains unclaimed for a period of six years from the date of the administrative directive to make the payment, or one year from September 22, 1961, whichever occurs later: *Provided*, That if such individual is a member of an Indian tribe or group that has no governing body recognized by the Secretary of the Interior as authorized to act on behalf of the tribe or group, such unpaid share and interest shall be regarded as not capable of restoration to a tribal or group entity and shall be deposited in the general fund of the Treasury of the United States.

(Pub. L. 87-283, §1, Sept. 22, 1961, 75 Stat. 584.)

§ 165. Notice to Congressional committees

The Secretary shall not restore to tribal ownership or deposit in the general fund of the Treasury any funds pursuant to section 164 of

¹ See References in Text note below.

this title and this section until sixty calendar days (exclusive of days on which either the Senate or the House of Representatives is not in session because of an adjournment of more than three days to a day certain) after he has submitted notice of his proposed action to the Committee on Energy and Natural Resources of the Senate and the Committee on Natural Resources of the House of Representatives unless each of said committees has theretofore notified him that it has no objection to the proposed action.

(Pub. L. 87-283, §2, Sept. 22, 1961, 75 Stat. 584; Pub. L. 103-437, §10(b), Nov. 2, 1994, 108 Stat. 4589.)

Editorial Notes

AMENDMENTS

1994—Pub. L. 103-437 substituted “Committee on Energy and Natural Resources of the Senate and the Committee on Natural Resources of the House of Representatives” for “Committees on Interior and Insular Affairs of the Senate and the House of Representatives”.

§ 166. Applicability of chapter 10 of title 5

The activities of the Department of the Interior associated with the Department’s consultation with Indian tribes and organizations related to the management of funds held in trust by the United States for Indian tribes shall be exempt from chapter 10 of title 5.

(Pub. L. 103-435, §19, Nov. 2, 1994, 108 Stat. 4574; Pub. L. 117-286, §4(a)(180), Dec. 27, 2022, 136 Stat. 4325.)

Editorial Notes

AMENDMENTS

2022—Pub. L. 117-286 substituted “chapter 10 of title 5” for “Federal Advisory Committee Act” in section catchline and “chapter 10 of title 5.” for “the Federal Advisory Committee Act (5 U.S.C. App.)” in text.

§ 167. Trust status of lease payments

(a) Definition of Secretary

In this section, the term “Secretary” means the Secretary of the Interior.

(b) Treatment of lease payments

(1) In general

Except as provided in paragraph (2) and at the request of the Indian tribe or individual Indian, any advance payments, bid deposits, or other earnest money received by the Secretary in connection with the review and Secretarial approval under any other Federal law (including regulations) of a sale, lease, permit, or any other conveyance of any interest in any trust or restricted land of any Indian tribe or individual Indian shall, upon receipt and prior to Secretarial approval of the contract or conveyance instrument, be held in the trust fund system for the benefit of the Indian tribe and individual Indian from whose land the funds were generated.

(2) Restriction

If the advance payment, bid deposit, or other earnest money received by the Secretary results from competitive bidding, upon selection

of the successful bidder, only the funds paid by the successful bidder shall be held in the trust fund system.

(c) Use of funds

(1) In general

On the approval of the Secretary of a contract or other instrument for a sale, lease, permit, or any other conveyance described in subsection (b)(1), the funds held in the trust fund system and described in subsection (b), along with all income generated from the investment of those funds, shall be disbursed to the Indian tribe or individual Indian landowners.

(2) Administration

If a contract or other instrument for a sale, lease, permit, or any other conveyance described in subsection (b)(1) is not approved by the Secretary, the funds held in the trust fund system and described in subsection (b), along with all income generated from the investment of those funds, shall be paid to the party identified in, and in such amount and on such terms as set out in, the applicable regulations, advertisement, or other notice governing the proposed conveyance of the interest in the land at issue.

(d) Applicability

This section shall apply to any advance payment, bid deposit, or other earnest money received by the Secretary in connection with the review and Secretarial approval under any other Federal law (including regulations) of a sale, lease, permit, or any other conveyance of any interest in any trust or restricted land of any Indian tribe or individual Indian on or after December 18, 2018.

(Pub. L. 115-325, title II, §207, Dec. 18, 2018, 132 Stat. 4464.)

CHAPTER 5—PROTECTION OF INDIANS

- Sec.
- 171 to 173. Repealed.
- 174. Superintendence by President over tribes west of Mississippi.
- 175. United States attorneys to represent Indians.
- 176. Survey of reservations.
- 177. Purchases or grants of lands from Indians.
- 178. Fees on behalf of Indian parties in contests under public land laws.
- 179. Driving stock to feed on lands.
- 180. Settling on or surveying lands belonging to Indians by treaty.
- 181. Rights of white men marrying Indian women; tribal property.
- 182. Rights of Indian women marrying white men; tribal property.
- 183. Marriage of white men to Indian women; evidence.
- 184. Rights of children born of marriages between white men and Indian women.
- 185. Protection of Indians desiring civilized life.
- 186 to 189. Repealed or Omitted.
- 190. Sale of plants or tracts not needed for administrative or allotment purposes.
- 191. Repealed.
- 192. Sale by agents of cattle or horses not required.
- 193. Proceedings against goods seized for certain violations.
- 194. Trial of right of property; burden of proof.
- 195. Repealed.

- Sec.
- 196. Sale or other disposition of dead timber.
- 197. Disposition of dead timber on reservations in Minnesota.
- 198. Contagious and infectious diseases; quarantine.
- 199. Access to records of Five Civilized Tribes.
- 199a. Custody of records; Oklahoma Historical Society.
- 200. Report of offense or case of Indian incarcerated in agency jail.
- 201. Penalties; how recovered.
- 202. Inducing conveyances by Indians of trust interests in lands.

§§ 171 to 173. Repealed. May 21, 1934, ch. 321, 48 Stat. 787

Section 171, R.S. §2111, related to imposition of a penalty for sending seditious messages intending to contravene a United States treaty or law.

Section 172, R.S. §2112, related to imposition of a penalty for carrying seditious messages intending to contravene a United States treaty or law.

Section 173, R.S. §2113, related to imposition of a penalty for corresponding with foreign nations intending to incite Indians to war.

§ 174. Superintendence by President over tribes west of Mississippi

The President is authorized to exercise general superintendence and care over any tribe or nation which was removed upon an exchange of territory under authority of the act of May 28, 1830, “to provide for an exchange of lands with the Indians residing in any of the States or Territories, and for their removal west of the Mississippi;” and to cause such tribe or nation to be protected, at their new residence, against all interruption or disturbance from any other tribe or nation of Indians, or from any other person or persons whatever.

(R.S. §2114.)

Editorial Notes

CODIFICATION

R.S. §2114 derived from act May 28, 1830, ch. 148, §§7, 8, 4 Stat. 412.

Statutory Notes and Related Subsidiaries

AMERICAN INDIAN POLICY REVIEW COMMISSION

Pub. L. 93-580, Jan. 2, 1975, 88 Stat. 1910, as amended by Pub. L. 94-80, §§1-4, Aug. 9, 1975, 89 Stat. 415, 416; Pub. L. 95-5, Feb. 17, 1977, 91 Stat. 13, provided for the establishment, membership, etc., of the American Indian Policy Review Commission, and for investigations, studies, and a final report respecting Indian tribal government affairs, with the Commission to cease to exist three months after submission of the final report but not later than June 30, 1977, and Congressional committee reports to Congress within two years after referral to committee of the final report by the President of the Senate and Speaker of the House.

§ 175. United States attorneys to represent Indians

In all States and Territories where there are reservations or allotted Indians the United States attorney shall represent them in all suits at law and in equity.

(Mar. 3, 1893, ch. 209, §1, 27 Stat. 631; June 25, 1948, ch. 646, §1, 62 Stat. 909.)