

2004—Subsec. (b)(1)(B). Pub. L. 108-374, §6(a)(9)(A), added subpar. (B) and struck out heading and text of former subpar. (B). Text read as follows: “The requirement for an estimate of value under subparagraph (A) may be waived in writing by an Indian selling, exchanging, or conveying by gift deed for no or nominal consideration an interest in land with an Indian person who is the owner’s spouse, brother, sister, lineal ancestor of Indian blood, lineal descendant, or collateral heir.”

Subsec. (e). Pub. L. 108-374, §6(a)(9)(B), added introductory provisions and struck out former introductory provisions which read as follows: “Notwithstanding any other provision of law, the names and mailing addresses of the Indian owners of trust or restricted lands, and information on the location of the parcel and the percentage of undivided interest owned by each individual, or of any interest in trust or restricted lands, shall, upon written request, be made available to—”.

Subsec. (e)(1). Pub. L. 108-374, §6(a)(9)(C), struck out “Indian” before “owners”.

Subsec. (e)(3). Pub. L. 108-374, §6(a)(9)(D), substituted “any person that is leasing, using, or consolidating, or is applying to lease, use, or consolidate,” for “prospective applicants for the leasing, use, or consolidation of”.

Subsec. (f). Pub. L. 108-374, §6(a)(9)(E), added subsec. (f) and struck out heading and text of former subsec. (f). Text read as follows: “After the expiration of the limitation period provided for in subsection (b)(2) of this section and prior to considering an Indian application to terminate the trust status or to remove the restrictions on alienation from trust or restricted land sold, exchanged or otherwise conveyed under this section, the Indian tribe that exercises jurisdiction over the parcel of such land shall be notified of the application and given the opportunity to match the purchase price that has been offered for the trust or restricted land involved.”

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2005 AMENDMENT

Amendment by Pub. L. 109-157 effective as if included in Pub. L. 108-374, see section 9 of Pub. L. 109-157, set out as a note under section 5107 of this title.

§ 2217. Reports to Congress

(a) In general

Prior to expiration of the authority provided for in section 2212(a)(2)(A) of this title, the Secretary, after consultation with Indian tribes and other interested parties, shall submit to the Committee on Indian Affairs and the Committee on Energy and Natural Resources of the Senate and the Committee on Resources of the House of Representatives a report that indicates, for the period covered by the report—

- (1) the number of fractional interests in trust or restricted lands acquired; and
- (2) the impact of the resulting reduction in the number of such fractional interests on the financial and realty recordkeeping systems of the Bureau of Indian Affairs.

(b) Report

The reports described in subsection (a) and section 2212(a) of this title shall contain findings as to whether the program under this chapter to acquire fractional interests in trust or restricted lands should be extended and whether such program should be altered to make resources available to Indian tribes and individual Indian landowners.

(Pub. L. 97-459, title II, §218, as added Pub. L. 106-462, title I, §103(6), Nov. 7, 2000, 114 Stat. 2004.)

Editorial Notes

REFERENCES IN TEXT

This chapter, referred to in subsec. (b), was in the original “this Act”, which was translated as reading “this title”, meaning title II of Pub. L. 97-459, to reflect the probable intent of Congress.

Statutory Notes and Related Subsidiaries

CHANGE OF NAME

Committee on Resources of House of Representatives changed to Committee on Natural Resources of House of Representatives by House Resolution No. 6, One Hundred Tenth Congress, Jan. 5, 2007.

§ 2218. Approval of leases, rights-of-way, and sales of natural resources

(a) Approval by the Secretary

(1) In general

Notwithstanding any other provision of law, the Secretary may approve any lease or agreement that affects individually owned allotted land or any other land held in trust or restricted status by the Secretary on behalf of an Indian, if—

(A) the owners of not less than the applicable percentage (determined under subsection (b)) of the undivided interest in the allotted land that is covered by the lease or agreement consent in writing to the lease or agreement; and

(B) the Secretary determines that approving the lease or agreement is in the best interest of the owners of the undivided interest in the allotted land.

(2) Rule of construction

Nothing in this section shall be construed to apply to leases involving coal or uranium.

(3) Definition

In this section, the term “allotted land” includes any land held in trust or restricted status by the Secretary on behalf of one or more Indians.

(b) Applicable percentage

(1) Percentage interest

The applicable percentage referred to in subsection (a)(1) shall be determined as follows:

(A) If there are 5 or fewer owners of the undivided interest in the allotted land, the applicable percentage shall be 90 percent.

(B) If there are more than 5 such owners, but fewer than 11 such owners, the applicable percentage shall be 80 percent.

(C) If there are more than 10 such owners, but fewer than 20 such owners, the applicable percentage shall be 60 percent.

(D) If there are 20 or more such owners, the applicable percentage shall be a majority of the interests in the allotted land.

(2) Determination of owners

(A) In general

For purposes of this subsection, in determining the number of owners of, and their interests in, the undivided interest in the allotted land with respect to a lease or agreement, the Secretary shall make such determination based on the records of the Depart-

ment of the Interior that identify the owners of such lands and their interests and the number of owners of such land on the date on which the lease or agreement involved is submitted to the Secretary under this section.

(B) Rule of construction

Nothing in subparagraph (A) shall be construed to authorize the Secretary to treat an Indian tribe as the owner of an interest in allotted land that did not escheat to the tribe pursuant to section 2206 of this title as a result of the Supreme Court's decision in *Babbitt v. Youpee* (117 S¹ Ct. 727 (1997)).

(c) Authority of Secretary to sign lease or agreement on behalf of certain owners

The Secretary may give written consent to a lease or agreement under subsection (a)—

(1) on behalf of the individual Indian owner if the owner is deceased and the heirs to, or devisees of, the interest of the deceased owner have not been determined; or

(2) on behalf of any heir or devisee referred to in paragraph (1) if the heir or devisee has been determined but cannot be located¹

(d) Effect of approval

(1) Application to all parties

(A) In general

Subject to paragraph (2), a lease or agreement approved by the Secretary under subsection (a) shall be binding on the parties described in subparagraph (B), to the same extent as if all of the owners of the undivided interest in allotted land covered under the lease or agreement consented to the lease or agreement.

(B) Description of parties

The parties referred to in subparagraph (A) are—

(i) the owners of the undivided interest in the allotted land covered under the lease or agreement referred to in such subparagraph; and

(ii) all other parties to the lease or agreement.

(2) Tribe not treated as party to lease; no effect on tribal sovereignty, immunity

(A) In general

Subparagraph (B) shall apply with respect to any undivided interest in allotted land held by the Secretary in trust for a tribe if a lease or agreement under subsection (a) is otherwise applicable to such undivided interest by reason of this section even though the Indian tribe did not consent to the lease or agreement.

(B) Application of lease

The lease or agreement described in subparagraph (A) shall apply to the portion of the undivided interest in allotted land described in such paragraph (including entitlement of the Indian tribe to payment under the lease or agreement), and the Indian tribe shall not be treated as being a party to the

lease or agreement. Nothing in this section (or in the lease or agreement) shall be construed to affect the sovereignty of the Indian tribe.

(e) Distribution of proceeds

(1) In general

The proceeds derived from a lease or agreement that is approved by the Secretary under subsection (a) shall be distributed to all owners of undivided interest in the allotted land covered under the lease or agreement.

(2) Determination of amounts distributed

The amount of the proceeds under paragraph (1) that are distributed to each owner under that paragraph shall be determined in accordance with the portion of the undivided interest in the allotted land covered under the lease or agreement that is owned by that owner.

(f) Rule of construction

Nothing in this section shall be construed to amend or modify the provisions of Public Law 105-188 (25 U.S.C. 396 note), the American Indian Agricultural Resources Management Act (25 U.S.C. 3701 et seq.), title II of the Indian Land Consolidation Act Amendments of 2000, or any other Act that provides specific standards for the percentage of ownership interest that must approve a lease or agreement on a specified reservation.

(g) Other laws

Nothing in this chapter shall be construed to supersede, repeal, or modify any general or specific statute authorizing the grant or approval of any type of land use transaction involving fractional interests in trust or restricted land.

(Pub. L. 97-459, title II, §219, as added Pub. L. 106-462, title I, §103(6), Nov. 7, 2000, 114 Stat. 2004; amended Pub. L. 108-374, §6(a)(10), (11), Oct. 27, 2004, 118 Stat. 1804.)

Editorial Notes

REFERENCES IN TEXT

The American Indian Agricultural Resources Management Act, referred to in subsec. (f), probably means the American Indian Agricultural Resource Management Act, Pub. L. 103-177, Dec. 3, 1993, 107 Stat. 2011, as amended, which is classified generally to chapter 39 (§3701 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 3701 of this title and Tables.

The Indian Land Consolidation Act Amendments of 2000, referred to in subsec. (f), is Pub. L. 106-462, Nov. 7, 2000, 114 Stat. 1991. Title II of the Act enacted provisions classified as a note under section 396 of this title. For complete classification of this Act to the Code, see Short Title of 2000 Amendment note set out under section 2201 of this title and Tables.

This chapter, referred to in subsec. (g), was in the original "this Act", which was translated as reading "this title", meaning title II of Pub. L. 97-459, to reflect the probable intent of Congress.

AMENDMENTS

2004—Subsec. (b)(1)(A). Pub. L. 108-374, §6(a)(10), substituted "90" for "100".

Subsec. (g). Pub. L. 108-374, §6(a)(11), added subsec. (g).

§ 2219. Application to Alaska

(a) Findings

Congress finds that—

¹ So in original. Probably should be followed by a period.