

**§ 355. Laws applicable to lands of full-blooded members of Five Civilized Tribes**

The lands of full-blooded members of any of the Five Civilized Tribes are made subject to the laws of the State of Oklahoma, providing for the partition of real estate. Any land allotted in such proceedings to a full-blood Indian, or conveyed to him upon his election to take the same at the appraisal, shall remain subject to all restrictions upon alienation and taxation obtaining prior to such partition. In case of a sale under any decree, or partition, the conveyance thereunder shall operate to relieve the land described of all restrictions of every character.

(June 14, 1918, ch. 101, § 2, 40 Stat. 606.)

**Statutory Notes and Related Subsidiaries**

CHOCTAW TRIBE; SALE OF LANDS AND INTERESTS THEREIN; TRANSFER TO TRIBAL CORPORATION OR FOUNDATION; PER CAPITA DISTRIBUTION

Pub. L. 91-386, § 1, Aug. 24, 1970, 84 Stat. 828, repealed Pub. L. 86-192, §§ 1-12, Aug. 25, 1959, 73 Stat. 420, as amended by Pub. L. 87-609, §§ 1, 2, Aug. 24, 1962, 76 Stat. 405; Pub. L. 89-107, Aug. 4, 1965, 79 Stat. 432; Pub. L. 90-476, Aug. 11, 1968, 82 Stat. 703, which provided for termination of Federal supervision over affairs of the Choctaw Tribe, including termination of eligibility of individual Choctaw members for certain Federal services and benefits provided Indians because of their status as Indians; authority to establish a trustee, corporation, or other legal entity under State law as a successor in interest to the tribal entity; and authority for Secretary of the Interior to sell land and interest in land owned by the Choctaw Tribe for benefit of the tribe, to convey to the successor entity certain lands and mineral interests of the Choctaw Tribe, and to distribute per capita funds held by the United States for benefit of the Choctaw Tribe.

Pub. L. 91-386, § 2, Aug. 20, 1970, 84 Stat. 828, provided that: "Repeal of the Act of August 25, 1959 [see note above] shall not be construed to abrogate, impair, annul, or otherwise affect any right or interest which may have vested under the provisions of said Act nor shall repeal affect any legal action pending on the date of enactment of this Act [Aug. 24, 1970]."

**EXTENSION OF PERIOD OF RESTRICTIONS ON LANDS**

Act Aug. 11, 1955, ch. 786, 69 Stat. 666, as amended by Pub. L. 115-399, § 4(1), Dec. 31, 2018, 132 Stat. 5333, provided for application to Secretary of the Interior for removal of restrictions against alienation, lease, mortgage, or other encumbrance of land; authorized the Secretary, without application, to remove restrictions on lands of Indians who are able to manage their own affairs; permitted proceeding in county court where Secretary disapproved or failed to either approve or disapprove the application for removal; granted right of appeal; required Secretary to turn over full ownership and control of any money and property held in trust when an order removing restrictions becomes effective; and, continued existing exemptions from taxation that constitute a vested property right.

[Pub. L. 115-399, § 4(1), which amended act Aug. 11, 1955, ch. "768", by repealing the first section, was executed to act Aug. 11, 1955, ch. 786, see above, to reflect the probable intent of Congress.]

RESTRICTION ON ALIENATION OF CERTAIN LANDS; APPROVAL OF CONVEYANCE; JURISDICTION OF OKLAHOMA STATE COURTS; TAX EXEMPTION

Pub. L. 115-399, § 5, Dec. 31, 2018, 132 Stat. 5333, provided that: "Nothing in this Act [see Short Title of 2018 Amendment note set out under section 331 of this title], or the amendments made by this Act, shall be construed to revise or extend the restricted status of any

lands under the Act of August 4, 1947 (61 Stat. 731, chapter 458) [see below] that lost restricted status under such Act before the date of enactment of this Act [Dec. 31, 2018]."

Act Aug. 4, 1947, ch. 458, 61 Stat. 731, as amended by act Aug. 12, 1953, ch. 409, § 2, 67 Stat. 558; Pub. L. 115-399, §§ 2, 3, 4(2), Dec. 31, 2018, 132 Stat. 5331-5333, provided that certain restrictions on alienation of land were extended until an Act of Congress determined otherwise, including interests in estates of decedent Indians who died before Dec. 31, 2018; clarified the laws relating to the approval of conveyances of restricted lands; defined the jurisdiction of Oklahoma State courts over certain classes of Indian litigation; set out the procedure governing the removal of cases to the Federal courts and authorized appeals from orders of remand; preserved the right to seek removal of restrictions; preserved land transactions entered into before Dec. 31, 2018; and limited the tax-exempt acreage of restricted Indian lands.

**VALIDATION OF LAND TITLES AND COURT JUDGMENTS**

Act July 2, 1945, ch. 223, 59 Stat. 313, validated titles to certain lands conveyed by the Indians of the Five Civilized Tribes on and after April 26, 1931, and prior to July 2, 1945; amended act Jan. 27, 1933, ch. 23, 47 Stat. 777, by limiting restrictions on the alienation of lands or interests in lands acquired by inheritance, devise, or in any other manner where such lands or interests were not restricted against alienation at the time of acquisition, and all conveyances executed after Jan. 27, 1937, and prior to July 2, 1945; and validated State court judgments in Oklahoma and judgments of the United States District Courts of the State of Oklahoma.

**CREATION OF TRUSTS**

Act Jan. 27, 1933, ch. 23, 47 Stat. 777, as amended by act Aug. 4, 1947, ch. 458, § 12, 61 Stat. 734, provided for the creation of trusts by Indians; authorized transfers to trustees; denied release of trust agreement restrictions and alienation of corpus and income; made approved contracts irrevocable; provided remedy for illegally procured trusts by cancellation proceedings; and delegated administration of act to Secretary of the Interior.

REMOVAL OF RESTRICTIONS FROM PART OF ALLOTTED LANDS; LEASES; TAXATION; APPOINTMENT OF LOCAL AGENTS

Act May 27, 1908, ch. 199, 35 Stat. 312, as amended by act Apr. 12, 1926, ch. 115, § 1, 44 Stat. 239, provided in part for the removal of restrictions from part of the lands of allottees; authorized leases of allotted lands; made unrestricted lands subject to taxation; voided alienation or incumbrance of restricted lands; and authorized appointment of local agents to investigate estates of minors and to advise and represent allottees.

**FINAL DISPOSITION OF AFFAIRS OF THE FIVE CIVILIZED TRIBES**

Act Apr. 26, 1906, ch. 1876, 34 Stat. 137, provided in part for membership and enrollment rules; required patents to issue in name of allottee and to be recorded; transferred records of land offices to the clerk of the United States district court; transferred control of tribal schools to Secretary of the Interior; abolished tribal taxes; extended restrictions on alienation of allotted lands; authorized conveyances of inherited lands; authorized disposal of property by will; provided that lands upon dissolution of the tribes be held in trust by the United States; and continued tribal governments.

**§ 356. Allowance of undisputed claims of restricted allottees of Five Civilized Tribes**

No undisputed claims to be paid from individual moneys of restricted allottees, or their heirs, or uncontested agricultural and mineral leases (excluding oil and gas leases) made by in-

dividual restricted Indian allottees, or their heirs, shall be forwarded to the Secretary of the Interior for approval, but all such undisputed claims or uncontested leases (except oil and gas leases) shall be paid, approved, rejected, or disapproved by the Superintendent for the Five Civilized Tribes of Oklahoma: *Provided, however*, That any party aggrieved by any decision or order of the Superintendent for the Five Civilized Tribes of Oklahoma may appeal from the same to the Secretary of the Interior within thirty days from the date of said decision or order.

(Feb. 14, 1920, ch. 75, § 18, 41 Stat. 426.)

#### Editorial Notes

##### CODIFICATION

The clause "heretofore required to be approved under existing law by the Secretary of the Interior" after the words "but all such undisputed claims or uncontested leases (except oil and gas leases)" omitted from text as superfluous.

#### 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.

### § 357. Condemnation of lands under laws of States

Lands allotted in severalty to Indians may be condemned for any public purpose under the laws of the State or Territory where located in the same manner as land owned in fee may be condemned, and the money awarded as damages shall be paid to the allottee.

(Mar. 3, 1901, ch. 832, § 3, 31 Stat. 1084.)

#### Editorial Notes

##### CODIFICATION

Section is comprised of the second paragraph of section 3 of act Mar. 3, 1901. The first paragraph of such section 3 is classified to section 319 of this title.

### § 358. Repeal of statutory provisions relating to survey, classification, and allotments which provide for repayment out of Indian moneys

Any and all provisions contained in any Act passed prior to March 7, 1928, for the survey, re-survey, classification, and allotment of lands in severalty under the provisions of the Act of February 8, 1887 (24 Stat. 388), which provide for the repayment of funds appropriated proportionately out of any Indian moneys held in trust or otherwise by the United States and available by law for such reimbursable purposes, are repealed: *Provided further*, That the repeal shall not affect any funds authorized to be reimbursed by any special Act of Congress wherein a particular or special fund is mentioned from which reimbursement shall be made.

(Mar. 7, 1928, ch. 137, § 1, 45 Stat. 206.)

#### Editorial Notes

##### REFERENCES IN TEXT

Act of February 7, 1887, referred to in text, is popularly known as the Indian General Allotment Act. For classification of this Act to the Code, see Short Title note set out under section 331 of this title and Tables.

### CHAPTER 10—DESCENT AND DISTRIBUTION; HEIRS OF ALLOTTEE

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371.	Descent of land.
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376.	Oaths in investigations.
377.	Repealed.
378.	Partition of allotment among heirs; patents.
379.	Sale of allotted lands by heirs.
380.	Lease of inherited allotments by superintendent.

### § 371. Descent of land

For the purpose of determining the descent of land to the heirs of any deceased Indian under the provisions of section 348 of this title, whenever any male and female Indian shall have cohabited together as husband and wife according to the custom and manner of Indian life the issue of such cohabitation shall be, for the purpose aforesaid, taken and deemed to be the legitimate issue of the Indians so living together, and every Indian child, otherwise illegitimate, shall for such purpose be taken and deemed to be the legitimate issue of the father of such child: *Provided*, That the provisions of this Act shall not be held or construed as to apply to the lands commonly called and known as the "Cherokee Outlet."

(Feb. 28, 1891, ch. 383, § 5, 26 Stat. 795.)

#### Editorial Notes

##### REFERENCES IN TEXT

This Act, referred to in text, is act Feb. 28, 1891, ch. 383, 26 Stat. 794, which enacted sections 336, 371, and 397 of this title and amended section 331 of this title. For complete classification of this Act to the Code, see Tables.

##### CODIFICATION

A further provision of section 5 of act Feb. 28, 1891, "that no allotment of lands shall be made or annuities