

**EASY READ FORMAT OF
TITLE 25—INDIANS
CHAPTER 24--INDIAN LAND CONSOLIDATION
With Technical Amendments Incorporated**

Sec. 2201. Definitions

For the purpose of this chapter--

- (1) “Indian tribe” or “tribe” means any Indian tribe, band, group, pueblo, or community for which, or for the members of which, the United States holds lands in trust;
- (2) “Indian” means--
 - (A) any person who is a member of any Indian tribe, is eligible to become a member of any Indian tribe, or is an owner (as of the date of enactment of the American Indian Probate Reform Act of 2004) of a trust or restricted interest in land;
 - (B) any person meeting the definition of Indian under the Indian Reorganization Act (25 U.S.C. 479) and the regulations promulgated thereunder; and
 - (C) with respect to the inheritance and ownership of trust or restricted land in the State of California pursuant to section 2206, any person described in subparagraph (A) or (B) or any person who owns a trust or restricted interest in a parcel of such land in that State.
- (3) “Secretary” means the Secretary of the Interior;
- (4) “trust or restricted lands” means lands, title to which is held by the United States in trust for an Indian tribe or individual, or which is held by an Indian tribe or individual subject to a restriction by the United States against alienation; and “trust or restricted interest in land” or “trust or restricted interest in a parcel of land” means an interest in land, title to which is held in trust by the United States for an Indian tribe or individual, or which is held by an Indian tribe or individual subject to a restriction by the United States against alienation.
- (5) “heirs of the first or second degree” means parents, children, grandchildren, grandparents, brothers and sisters of a decedent.
- (6) “parcel of highly fractionated Indian land” means a parcel of land that the Secretary, pursuant to authority under a provision of this Act, determines to have, as evidenced by the Secretary’s records at the time of the determination--
 - (A) 50 or more but less than 100 co-owners of undivided trust or restricted interests, and no 1 of such co-owners holds a total undivided trust or restricted interest in the parcel that is greater than 10 percent of the entire undivided ownership of the parcel; or
 - (B) 100 or more co-owners of undivided trust or restricted interests;
- (7) “land” means any real property, and includes within its meaning for purposes of this Act improvements permanently affixed to real property;
- (8) “person” or “individual” means a natural person;
- (9) “eligible heirs” means, for purposes of section 2206, any of a decedent’s children, grandchildren, great grandchildren, full siblings, half siblings by blood, and parents who are--
 - (A) Indian; or (B) lineal descendents within 2 degrees of consanguinity of an Indian; or
 - (C) owners of a trust or restricted interest in a parcel of land for purposes of inheriting by descent, renunciation, or consolidation agreement under section 2206, another trust or restricted interest in such parcel from the decedent; and
- (10) “without regard to waste” means, with respect to a life estate interest in land, that the holder of such estate is entitled to the receipt of all income, including bonuses and royalties, from such land to the exclusion of the remaindermen.

Sec. 2202. Other applicable provisions

The provisions of section 465 of this title shall apply to all tribes notwithstanding the provisions of section 478 of this title: *Provided*, That nothing in this section is intended to supersede any other provision of Federal law which authorizes, prohibits, or restricts the acquisition of land for Indians with respect to any specific tribe, reservation, or state(s).

Sec. 2203. Adoption of land consolidation plan with approval of Secretary

(a) Statement of purpose; sales or exchanges: terms and conditions

Notwithstanding any other provision of law, any tribe, acting through its governing body, is authorized, with the approval of the Secretary to adopt a land consolidation plan providing for the sale or exchange of any tribal lands or interest in lands for the purpose of eliminating undivided fractional interests in Indian trust or restricted lands or consolidating its tribal landholdings: *Provided*, That--

- (1) except as provided by subsection (c) of this section, the sale price or exchange value received by the tribe for land or interests in land covered by this section shall be no less than within 10 per centum of the fair market value as determined by the Secretary;
- (2) if the tribal land involved in an exchange is of greater or lesser value than the land for which it is being exchanged, the tribe may accept or give cash in such exchange in order to equalize the values of the property exchanged;
- (3) any proceeds from the sale of land or interests in land or proceeds received by the tribe to equalize an exchange made pursuant to this section shall be used exclusively for the purchase of other land or interests in land;
- (4) the Secretary shall maintain a separate trust account for each tribe selling or exchanging land pursuant to this section consisting of the proceeds of the land sales and exchanges and shall release such funds only for the purpose of buying lands under this section; and
- (5) any tribe may retain the mineral rights to such sold or exchanged lands and the Secretary shall assist such tribe in determining the value of such mineral rights and shall take such value into consideration in determining the fair market value of such lands.

(b) Conveyancing requirement; specific findings for nonexecution

The Secretary must execute such instrument of conveyance needed to effectuate a sale or exchange of tribal lands made pursuant to an approved tribal land consolidation plan unless he makes a specific finding that such sale or exchange is not in the best interest of the tribe or is not in compliance with the tribal land consolidation plan.

(c) Below market value conveyance of Cherokee Nation of Oklahoma homesites

The Secretary may execute instruments of conveyance for less than fair market value to effectuate the transfer of lands used as homesites held, on December 17, 1991, by the United States in trust for the Cherokee Nation of Oklahoma. Only the lands used as homesites, and described in the land consolidation plan of the Cherokee Nation of Oklahoma approved by the Secretary on February 6, 1987, shall be subject to this subsection.

Sec. 2204. Purchase of trust or restricted or controlled lands at no less than fair market value; requisite conditions

(a) PURCHASE OF LAND.--

(1) IN GENERAL.--Subject to subsection (b), any Indian tribe may purchase, at not less than fair market value and with the consent of the owners of the interests, part or all of the interests in-

(A) any tract of trust or restricted land within the boundaries of the reservation of the tribe; or

(B) land that is otherwise subject to the jurisdiction of the tribe.

(2) REQUIRED CONSENT.—

(A) IN GENERAL.--The Indian tribe may purchase all interests in a tract described in paragraph (1) with the consent of the owners of undivided interests equal to at least 50 percent of the undivided interest in the tract.

(B) INTEREST OWNED BY TRIBE.--Interests owned by an Indian tribe in a tract may be included in the computation of the percentage of ownership of the undivided interests in that tract for purposes of determining whether the consent requirement under subparagraph (A) has been met.

(b) Conditions applicable to purchase

Subsection (a) of this section applies on the condition that--

(1) any Indian owning any undivided interest, and in actual use and possession of such tract for at least three years preceding the tribal initiative, may purchase such tract by matching the tribal offer;

(2) if at any time within five years following the date of acquisition of such land by an individual pursuant to this section, such property is offered for sale or a petition is filed with the Secretary for removal of the property from trust or restricted status, the tribe shall have 180 days from the date it is notified of such offer or petition to acquire such property by paying to the owner the fair market value as determined by the Secretary; and

(3) the approval of the Secretary shall be required for a land sale initiated under this section, except that such approval shall not be required with respect to a land sale transaction initiated by an Indian tribe that has in effect a land consolidation plan that has been approved by the Secretary under section 2203 of this title.

(c) Partition of highly fractionated Indian lands

(1) Applicability.

This subsection shall be applicable only to parcels of land (including surface and subsurface interests, except with respect to a subsurface interest that has been severed from the surface interest, in which case this subsection shall apply only to the surface interest) which the Secretary has determined, pursuant to paragraph (2)(B), to be parcels of highly fractionated Indian land.

(2) Requirements.

Each partition action under this subsection shall be conducted by the Secretary in accordance with the following requirements:

(A) Application.

Upon receipt of any payment or bond required under subparagraph (B), the Secretary shall commence a process for partitioning a parcel of land by sale in accordance with the provisions of this subsection upon receipt of an application by--

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- (i) the Indian tribe with jurisdiction over the subject land that owns an undivided interest in the parcel of land; or
- (ii) any person owning an undivided interest in the parcel of land who is eligible to bid at the sale of the parcel pursuant to subclause (II), (III), or (IV) of subparagraph (I)(i);

provided that no such application shall be valid or considered if it is received by the Secretary prior to the date that is 1 year after the date on which notice is published pursuant to section 8(a)(4) of the American Indian Probate Reform Act of 2004.

(B) Costs of serving notice and publication.

The costs of serving and publishing notice under subparagraph (F) shall be borne by the applicant. Upon receiving written notice from the Secretary, the applicant must pay to the Secretary an amount determined by the Secretary to be the estimated costs of such service of notice and publication, or furnish a sufficient bond for such estimated costs within the time stated in the notice, failing which, unless an extension is granted by the Secretary, the Secretary shall not be required to commence the partition process under subparagraph (A) and may deny the application. The Secretary shall have the discretion and authority in any case to waive either the payment or the bond (or any portion of such payment or bond) otherwise required by this subparagraph, upon making a determination that such waiver will further the policies of this Act.

(C) Determination.

Upon receipt of an application pursuant to subparagraph (A), the Secretary shall determine whether the subject parcel meets the requirements set forth in section 2201(6) to be classified as a parcel of highly fractionated Indian land.

(D) Consent requirements.

(i) In general.

A parcel of land may be partitioned under this subsection only if the applicant obtains the written consent of--

- (I) the Indian tribe with jurisdiction over the subject land if such Indian tribe owns an undivided interest in the parcel;
- (II) any owner who, for the 3-year period immediately preceding the date on which the Secretary receives the application, has
 - (aa) continuously maintained a bona fide residence on the parcel;
 - or
 - (bb) operated a bona fide farm, ranch, or other business on the parcel; and
- (III) the owners (including parents of minor owners and legal guardians of incompetent owners) of at least 50 percent of the undivided interests in the parcel, but only in cases where the Secretary determines that, based on the final appraisal prepared pursuant to subparagraph (F), any 1 owner's total undivided interest in the parcel (not including the interest of an Indian tribe or that of the owner requesting the partition) has a value in excess of \$1,500.

Any consent required by this clause must be in writing and acknowledged before a notary public (or other official authorized to make acknowledgments), and shall be approved by Secretary [*sic – presumably should be “the Secretary”*] unless the Secretary has reason to believe that the consent was obtained as a result of fraud or undue influence.

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(ii) Consent by the secretary on behalf of certain individuals.

For the purposes of clause (i)(III), the Secretary may consent on behalf of--

- (I) undetermined heirs of trust or restricted interests and owners of such interests who are minors and legal incompetents having no parents or legal guardian; and
- (II) missing owners or owners of trust or restricted interests whose whereabouts are unknown, but only after a search for such owners has been completed in accordance with the provisions of this subsection.

(E) Appraisal.

After the Secretary has determined that the subject parcel is a parcel of highly fractionated Indian land pursuant to subparagraph (C), the Secretary shall cause to be made, in accordance with the provisions of this Act for establishing fair market value, an appraisal of the fair market value of the subject parcel.

(F) Notice to owners on completion of appraisal.

Upon completion of the appraisal, the Secretary shall give notice of the requested partition and appraisal to all owners of undivided interests in the parcel, in accordance with principles of due process. Such notice shall include the following requirements:

(i) Written notice.

The Secretary shall attempt to give each owner written notice of the partition action stating the following:

- (I) That a proceeding to partition the parcel of land by sale has been commenced.
- (II) The legal description of the subject parcel.
- (III) The owner's ownership interest in the subject parcel as evidenced by the Secretary's records as of the date that owners are determined in accordance with clause (ii).
- (IV) The results of the appraisal.
- (V) The owner's right to receive a copy of the appraisal upon written request.
- (VI) The owner's right to comment on or object to the proposed partition and the appraisal.
- (VII) That the owner must timely comment on or object in writing to the proposed partition or the appraisal, in order to receive notice of approval of the appraisal and right to appeal.
- (VIII) The date by which the owner's written comments or objections must be received, which shall not be less than 90 days after the date that the notice is mailed under this clause or last published under clause (ii)(II).
- (IX) The address for requesting copies of the appraisal and for submitting written comments or objections.
- (X) The name and telephone number of the official to be contacted for purposes of obtaining information regarding the proceeding, including the time and date of the auction of the land or the date for submitting sealed bids.
- (XI) Any other information the Secretary deems to be appropriate.

(ii) Manner of service.

(I) Service by certified mail.

The Secretary shall use due diligence to provide all owners of interests in the subject parcel, as evidenced by the Secretary's records at the time of

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the determination under subparagraph (C), with actual notice of the partition proceedings by mailing a copy of the written notice described in clause (i) by certified mail, restricted delivery, to each such owner at the owner's last known address. For purposes of this subsection, owners shall be determined from the Secretary's land title records as of the date of the determination under subparagraph (C) or a date that is not more than 90 days prior to the date of mailing under this clause, whichever is later. In the event the written notice to an owner is returned undelivered, the Secretary shall attempt to obtain a current address for such owner by conducting a reasonable search (including a reasonable search of records maintained by local, State, Federal and tribal governments and agencies) and by inquiring with the Indian tribe with jurisdiction over the subject parcel, and, if different from that tribe, the Indian tribe of which the owner is a member, and, if successful in locating any such owner, send written notice by certified mail in accordance with this subclause.

(II) Notice by publication.

The Secretary shall give notice by publication of the partition proceedings to all owners that the Secretary was unable to serve pursuant to subclause (I), and to unknown heirs and assigns by--

- (aa) publishing the notice described in clause (i) at least 2 times in a newspaper of general circulation in the county or counties where the subject parcel of land is located or, if there is an Indian tribe with jurisdiction over the parcel of land and that tribe publishes a tribal newspaper or newsletter at least once every month, 1 time in such newspaper of general circulation and 1 time in such tribal newspaper or newsletter;
- (bb) posting such notice in a conspicuous place in the tribal headquarters or administration building (or such other tribal building determined by the Secretary to be most appropriate for giving public notice) of the Indian tribe with jurisdiction over the parcel of land, if any; and
- (cc) in addition to the foregoing, in the Secretary's discretion, publishing notice in any other place or means that the Secretary determines to be appropriate.

(G) Review of comments on appraisal.

(i) In general.

After reviewing and considering comments or information timely submitted by any owner of an interest in the parcel in response to the notice required under subparagraph (F), the Secretary may, consistent with the provisions of this Act for establishing fair market value--

- (I) order a new appraisal; or
- (II) approve the appraisal;

provided that if the Secretary orders a new appraisal under subclause (I), notice of the new appraisal shall be given as specified in clause (ii).

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(ii) Notice.

Notice shall be given--

- (I) in accordance with subparagraph (H), where the new appraisal results a value of the land that is equal to or greater than that of the earlier appraisal; or
- (II) in accordance with subparagraph (F)(ii), where the new appraisal results in a lower valuation of the land.

(H) Notice to owners of approval of appraisal and right to appeal.

Upon making the determination under subparagraph (G), the Secretary shall provide to the Indian tribe with jurisdiction over the subject land and to all persons who submitted written comments on or objections to the proposed partition or appraisal, a written notice to be served on such tribe and persons by certified mail. Such notice shall state--

- (i) the results of the appraisal;
- (ii) that the owner has the right to review a copy of the appraisal upon request;
- (iii) that the land will be sold for not less than the appraised value, subject to the consent requirements under paragraph (2)(D);
- (iv) the time of the sale or for submitting bids under subparagraph (I);
- (v) that the owner has the right, under the Secretary's regulations governing administrative appeals, to pursue an administrative appeal from--
 - (I) the determination that the land may be partitioned by sale under the provisions of this section; and
 - (II) the Secretary's order approving the appraisal;
- (vi) the date by which an administrative appeal must be taken, a citation to the provisions of the Secretary's regulations that will govern the owner's appeal, and any other information required by such regulations to be given to parties affected by adverse decisions of the Secretary;
- (vii) in cases where the Secretary determines that any person's undivided trust or restricted interest in the parcel exceeds \$1,500 pursuant to paragraph (2)(D)(iii), that the Secretary has authority to consent to the partition on behalf of undetermined heirs of trust or restricted interests in the parcel and owners of such interests whose whereabouts are unknown; and
- (viii) any other information the Secretary deems to be appropriate.

(I) Sale to eligible purchaser.

(i) In general.

Subject to clauses (ii) and (iii) and the consent requirements of paragraph (2)(D), the Secretary shall, after providing notice to owners under subparagraph (H), including the time and place of sale or for receiving sealed bids, at public auction or by sealed bid (whichever of such methods of sale the Secretary determines to be more appropriate under the circumstances) sell the parcel of land by competitive bid for not less than the final appraised fair market value to the highest bidder from among the following eligible bidders:

- (I) The Indian tribe, if any, with jurisdiction over the trust or restricted interests in the parcel being sold.
- (II) Any person who is a member, or is eligible to be a member, of the Indian tribe described in subclause (I).
- (III) Any person who is a member, or is eligible to be a member, of an Indian tribe but not of the tribe described in subclause (I), but only if such person already owns an undivided interest in the parcel at the time of sale.

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(IV) Any lineal descendent of the original allottee of the parcel who is a member or is eligible to be a member of an Indian tribe or, with respect to a parcel located in the State of California that is not within an Indian tribe's reservation or not otherwise subject to the jurisdiction of an Indian tribe, who is a member, or eligible to be a member, of an Indian tribe or owns a trust or restricted interest in the parcel.

(ii) Right to match highest bid.

If the highest bidder is a person who is only eligible to bid under clause (i)(III), the Indian tribe that has jurisdiction over the parcel, if any, shall have the right to match the highest bid and acquire the parcel, but only if--

- (I) prior to the date of the sale, the governing body of such tribe has adopted a tribal law or resolution reserving its right to match the bids of such nonmember bidders in partition sales under this subsection if any and delivered a copy of such law or resolution to the Secretary; and
- (II) the parcel is not acquired under clause (iii).

(iii) Right to purchase.

Any person who is a member, or eligible to be a member, of the Indian tribe with jurisdiction over the trust or restricted interests in the parcel being sold and is, as of the time of sale under this subparagraph, the owner of the largest undivided interest in the parcel shall have a right to purchase the parcel by tendering to the Secretary an amount equal to the highest sufficient bid submitted at the sale, less that amount of the bid attributable to such owner's share, but only if--

- (I) the owner submitted a sufficient bid at the sale;
- (II) the owner's total undivided interest in the parcel immediately prior to the sale was--
 - (aa) greater than the undivided interest held by any other co-owners, except where there are 2 or more co-owners whose interests are of equal size but larger than the interests of all other co-owners and such owners of the largest interests have agreed in writing that 1 of them may exercise the right of purchase under this clause; and
 - (bb) equal to or greater than 20 percent of the entire undivided ownership of the parcel;
- (III) within 3 days following the date of the auction or for receiving sealed bids, and in accordance with the regulations adopted to implement this section, the owner delivers to the Secretary a written notice of intent to exercise the owner's rights under this clause; and
- (IV) such owner tenders the amount of the purchase price required under this clause--
 - (aa) not more than 30 days after the date of the auction or time for receiving sealed bids; and
 - (bb) in accordance with any requirements of the regulations promulgated under paragraph (5).

(iv) Interest acquired.

A purchaser of a parcel of land under this subparagraph may acquire title to the parcel in trust or restricted status, free and clear of any and all claims of title or ownership of all persons or entities (not including the United States) owning or claiming to own an interest in such parcel prior to the time of sale.

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(J) Proceeds of sale.

(i) Subject to clauses (ii) and (iii), the Secretary shall distribute the proceeds of sale of a parcel of land under the provisions of this section to the owners of interests in such parcel in proportion to their respective ownership interests.

(ii) Proceeds attributable to the sale of trust or restricted interests shall be maintained in accounts as trust personalty.

(iii) Proceeds attributable to the sale of interests of owners whose whereabouts are unknown, of undetermined heirs, and of other persons whose ownership interests have not been recorded shall be held by the Secretary until such owners, heirs, or other persons have been determined, at which time such proceeds shall be distributed in accordance with clauses (i) and (ii).

(K) Lack of bids or consent.

(i) Lack of bids.

If no bidder described in subparagraph (I) presents a bid that equals or exceeds the final appraised value, the Secretary may either--

(I) purchase the parcel of land for its appraised fair market value on behalf of the Indian tribe with jurisdiction over the land, subject to the lien and procedures provided under section 2213(b); or

(II) terminate the partition process.

(ii) Lack of consent.

If an applicant fails to obtain any applicable consent required under the provisions of subparagraph (D) by the date established by the Secretary prior to the proposed sale, the Secretary may either extend the time for obtaining any such consent or deny the request for partition.

(3) Enforcement.

(A) In general.

If a partition is approved under this subsection and an owner of an interest in the parcel of land refuses to surrender possession in accordance with the partition decision, or refuses to execute any conveyance necessary to implement the partition, then any affected owner or the United States may--

(i) commence a civil action in the United States district court for the district in which the parcel of land is located; and

(ii) request that the court issue an order for ejectment or any other appropriate remedy necessary for the partition of the land by sale.

(B) Federal role.

With respect to any civil action brought under subparagraph (A)--

(i) the United States--

(I) shall receive notice of the civil action; and

(II) may be a party to the civil action; and

(ii) the civil action shall not be dismissed, and no relief requested shall be denied, on the ground that the civil action is against the United States or that the United States is a necessary and indispensable party.

(4) Grants and loans.

The Secretary may provide grants and low interest loans to successful bidders at sales authorized by this subsection, provided that--

(A) the total amount of such assistance in any such sale shall not exceed 20 percent of the appraised value of the parcel of land sold; and

(B) the grant or loan funds provided shall only be applied toward the purchase price of the parcel of land sold.

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(5) Regulations.

The Secretary is authorized to adopt such regulations as may be necessary to implement the provisions of this subsection. Such regulations shall include provisions for giving notice of sales to prospective purchasers eligible to submit bids at sales conducted under paragraph (2)(I).

Sec. 2205. Tribal probate codes; acquisitions of fractional interests by tribes

(a) Tribal probate codes

(1) In general

Notwithstanding any other provision of law, any Indian tribe may adopt a tribal probate code to govern descent and distribution of trust or restricted lands that are--

- (A) located within that Indian tribe's reservation; or
- (B) otherwise subject to the jurisdiction of that Indian tribe.

(2) Possible inclusions

A tribal probate code referred to in paragraph (1) may include--

- (A) rules of intestate succession; and
- (B) other tribal probate code provisions that are consistent with Federal law and that promote the policies set forth in section 102 of the Indian Land Consolidation Act Amendments of 2000.

(3) Tribal probate codes.

Except as provided in any applicable Federal law, the Secretary shall not approve a tribal probate code, or an amendment to such a code, that prohibits the devise of an interest in trust or restricted land to--

- (A) an Indian lineal descendant of the original allottee; or
- (B) an Indian who is not a member of the Indian tribe with jurisdiction over such an interest; unless the code provides for--
 - (i) the renouncing of interests to eligible devisees in accordance with the code;
 - (ii) the opportunity for a devisee who is the spouse or lineal descendant of a testator to reserve a life estate without regard to waste; and
 - (iii) payment of fair market value in the manner prescribed under subsection (c)(2).

(b) Secretarial approval

(1) In general

Any tribal probate code enacted under subsection (a) of this section, and any amendment to such a tribal probate code, shall be subject to the approval of the Secretary.

(2) Review and approval

(A) In general

Each Indian tribe that adopts a tribal probate code under subsection (a) of this section shall submit that code to the Secretary for review. Not later than 180 days after a tribal probate code is submitted to the Secretary under this paragraph, the Secretary shall review and approve or disapprove that tribal probate code.

(B) Consequence of failures to approve or disapprove a tribal probate code

If the Secretary fails to approve or disapprove a tribal probate code submitted for review under subparagraph (A) by the date specified in that subparagraph, the tribal probate code shall be deemed to have been approved by the Secretary, but only to the extent that the tribal probate code is consistent with Federal law and promotes the policies set forth in section 102 of the Indian Land Consolidation Act Amendments of 2000.

Sec. 2205(b)(2)

(C) Consistency of tribal probate code with chapter

The Secretary may not approve a tribal probate code, or any amendment to such a code, under this paragraph unless the Secretary determines that the tribal probate code promotes the policies set forth in section 102 of the Indian Land Consolidation Act Amendments of 2000.

(D) Explanation

If the Secretary disapproves a tribal probate code, or an amendment to such a code, under this paragraph, the Secretary shall include in the notice of disapproval to the Indian tribe a written explanation of the reasons for the disapproval.

(E) Amendments

(i) In general

Each Indian tribe that amends a tribal probate code under this paragraph shall submit the amendment to the Secretary for review and approval. Not later than 60 days after receiving an amendment under this subparagraph, the Secretary shall review and approve or disapprove the amendment.

(ii) Consequence of failure to approve or disapprove an amendment

If the Secretary fails to approve or disapprove an amendment submitted under clause (i), the amendment shall be deemed to have been approved by the Secretary, but only to the extent that the amendment is consistent with Federal law and promotes the policies set forth in section 102 of the Indian Land Consolidation Act [Amendments] of 2000.

(3) Effective dates

A tribal probate code approved under paragraph (2) shall become effective on the later of--

- (A) the date that is 1 year after the date on which the Secretary makes the certification required under section 8(a)(4) of the American Indian Probate Reform Act of 2004 (25 U.S.C. 2001 note; Public Law 108-374); or
- (B) 180 days after the date of approval.

(4) Limitations

(A) Tribal probate codes

Each tribal probate code enacted under subsection (a) of this section shall apply only to the estate of a decedent who dies on or after the effective date of the tribal probate code.

(B) Amendments to tribal probate codes

With respect to an amendment to a tribal probate code referred to in subparagraph (A), that amendment shall apply only to the estate of a decedent who dies on or after the effective date of the amendment.

(5) Repeals

The repeal of a tribal probate code shall--

- (A) not become effective earlier than the date that is 180 days after the Secretary receives notice of the repeal; and
- (B) apply only to the estate of a decedent who dies on or after the effective date of the repeal.

(c) Authority available to Indian tribes

(1) Authority.

(A) In general .

If the owner of an interest in trust or restricted land devises an interest in such land to a non-Indian under section 207(b)(2)(A)(ii), the Indian tribe that exercises jurisdiction over the parcel of land involved may acquire such interest by paying to the Secretary the fair market value of such interest, as determined by the Secretary on the date of the decedent's death.

Sec. 2205(c)(1)

(B) Transfer.

The Secretary shall transfer payments received under subparagraph (A) to any person or persons who would have received an interest in land if the interest had not been acquired by the Indian tribe in accordance with this paragraph.

(2) Limitation

(A) Inapplicability to certain interests.

(i) In general.

Paragraph (1) shall not apply to an interest in trust or restricted land if--

- (I) while the decedent's estate is pending before the Secretary, the non-Indian devisee renounces the interest in favor of an Indian person; or
- (II) (aa) the interest is part of a family farm that is devised to a member of the family of the decedent; and
(bb) the devisee agrees in writing that the Indian tribe with jurisdiction over the land will have the opportunity to acquire the interest for fair market value if the interest is offered for sale to a person or entity that is not a member of the family of the owner of the land.

(ii) Recording of interest.

On request by the Indian tribe described in clause (i)(II)(bb), a restriction relating to the acquisition by the Indian tribe of an interest in a family farm involved shall be recorded as part of the deed relating to the interest involved.

(iii) Mortgage and foreclosure.

Nothing in clause (i)(II) limits--

- (I) the ability of an owner of land to which that clause applies to mortgage the land; or
- (II) the right of the entity holding such a mortgage to foreclose or otherwise enforce such a mortgage agreement in accordance with applicable law.

(iv) Definition of "member of the family".

In this paragraph, the term "member of the family", with respect to a decedent or landowner, means--

- (I) a lineal descendant of a decedent or landowner;
- (II) a lineal descendant of the grandparent of a decedent or landowner;
- (III) the spouse of a descendant or landowner described in subclause (I) or (II); and
- (IV) the spouse of a decedent or landowner.

(B) Reservation of life estate

A non-Indian devisee described in paragraph (1), may retain a life estate in the interest involved, including a life estate to the revenue produced from the interest. The amount of any payment required under paragraph (1) shall be reduced to reflect the value of any life estate reserved by a non-Indian devisee under this subparagraph.

(3) Payments

With respect to payments by an Indian tribe under paragraph (1), the Secretary shall--

- (A) upon the request of the tribe, allow a reasonable period of time, not to exceed 2 years, for the tribe to make payments of amounts due pursuant to paragraph (1); or
- (B) recognize alternative agreed upon exchanges of consideration or extended payment terms between the non-Indian devisee described in paragraph (1) and the tribe in satisfaction of the payment under paragraph (1).

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