

106TH CONGRESS
2D SESSION

H. R. 5308

AN ACT

To amend laws relating to the lands of the citizens of the Muscogee (Creek), Seminole, Cherokee, Chickasaw and Choctaw Nations, historically referred to as the Five Civilized Tribes, and for other purposes.

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To amend laws relating to the lands of the citizens of the Muscogee (Creek), Seminole, Cherokee, Chickasaw and Choctaw Nations, historically referred to as the Five Civilized Tribes, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

2 (a) SHORT TITLE.—This Act may be cited as the
3 “Five Nations Citizens Land Reform Act of 2000”.

4 (b) TABLE OF CONTENTS.—The table of contents of
5 this Act is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. Findings.
Sec. 3. Purpose.
Sec. 4. Definitions.

TITLE I—RESTRICTIONS; REMOVAL OF RESTRICTIONS

Sec. 101. Restrictions on real property.
Sec. 102. Restricted funds.
Sec. 103. Period of restrictions.
Sec. 104. Removal of restrictions.
Sec. 105. Exemptions from prior claims.
Sec. 106. Fractional interests.

**TITLE II—ADMINISTRATIVE APPROVAL OF CONVEYANCES, PARTI-
TIONS, LEASES, AND MORTGAGES; MANAGEMENT OF MINERAL
INTERESTS**

Sec. 201. Approval authority for conveyances and leases.
Sec. 202. Approval of conveyances.
Sec. 203. Reimposition of restrictions on conveyances of property to Indian
housing authorities.
Sec. 204. Administrative partition.
Sec. 205. Surface leases.
Sec. 206. Mineral leases.
Sec. 207. Management of mineral interests.
Sec. 208. Mortgages.
Sec. 209. Validation of prior conveyances.

**TITLE III—PROBATE, HEIRSHIP DETERMINATION, AND OTHER
JUDICIAL PROCEEDINGS**

Sec. 301. Actions affecting restricted property.
Sec. 302. Heirship determinations and probates.
Sec. 303. Actions to cure title defects.
Sec. 304. Involuntary partitions.
Sec. 305. Requirements for actions to cure title defects and involuntary parti-
tions.
Sec. 306. Pending State proceedings.

TITLE IV—MISCELLANEOUS

Sec. 401. Regulations.
Sec. 402. Repeals.
Sec. 403. Statutory construction.
Sec. 404. Representation by attorneys for the Department of the Interior.

TITLE V—WATER BASIN COMMISSION

Sec. 501. Water basin commission.

1 **SEC. 2. FINDINGS.**

2 Congress makes the following findings:

3 (1) Since 1970, Federal Indian policy has fo-
4 cused on Indian self-determination and economic
5 self-sufficiency. The exercise of Federal instrumen-
6 tality jurisdiction by the Oklahoma State courts over
7 the Indian property that is subject to Federal re-
8 strictions against alienation belonging to members of
9 the Five Nations is inconsistent with that policy.

10 (2) It is a goal of Congress to recognize the In-
11 dian land base as an integral part of the culture and
12 heritage of Indian citizens.

13 (3) The exercise of Federal instrumentality ju-
14 risdiction by the courts of the State of Oklahoma
15 over conveyances and inheritance of restricted prop-
16 erty belonging to Indian citizens of the Five
17 Nations—

18 (A) is costly, confusing, and cumbersome,
19 and effectively prevents any meaningful Indian
20 estate planning, and unduly complicates the
21 probating of Indian estates and other legal pro-
22 ceedings relating to Indian citizens and their
23 lands; and

1 (B) has impeded the self-determination
2 and economic self-sufficiency of Indian citizens
3 within the exterior boundaries of the Five Na-
4 tions.

5 **SEC. 3. PURPOSE.**

6 (a) IN GENERAL.—It is the purpose of this Act to—

7 (1) correct the disparate Federal treatment of
8 individual allotted lands of Indian citizens of the
9 Five Nations that resulted from prior Federal legis-
10 lation by equalizing the Federal legislative treatment
11 of restricted and trust lands;

12 (2) eliminate unnecessary legal and bureau-
13 cratic obstacles that impede the highest and best use
14 of restricted property belonging to Indian citizens of
15 the Five Nations;

16 (3) provide for an efficient process for the ad-
17 ministrative review and approval of conveyances, vol-
18 untary partitions, and leases, and to provide for
19 Federal administrative proceedings in testate and in-
20 testate probate and other cases that involve the re-
21 stricted property of Indian citizens, which concern
22 the rights of Indian citizens to hold and acquire
23 such property in restricted and trust status; and

24 (4) transfer to the Secretary the Federal instru-
25 mentality jurisdiction of the Oklahoma State courts

1 together with other authority currently exercised by
2 such courts over the conveyance, devise, inheritance,
3 lease, encumbrance, and partition under certain cir-
4 cumstances of restricted property belonging to In-
5 dian citizens of the Five Nations.

6 (b) RULE OF CONSTRUCTION.—Nothing in this Act
7 shall be construed to limit or affect the rights of Indian
8 citizens under other Federal laws relating to the acquisi-
9 tion and status of trust property, including without limita-
10 tion, the Act of June 18, 1934 (25 U.S.C. 461 et seq.)
11 (commonly known as the Indian Reorganization Act), the
12 Act of June 26, 1936 (25 U.S.C. 501 et seq.) (commonly
13 known as the Oklahoma Indian Welfare Act), the Indian
14 Land Consolidation Act (25 U.S.C. 2201 et seq.), and reg-
15 ulations relating to the Secretary’s authority to acquire
16 lands in trust for Indians and Indian tribes.

17 **SEC. 4. DEFINITIONS.**

18 In this Act:

19 (1) FIVE NATIONS.—The term “Five Nations”
20 means the Cherokee Nation, the Chickasaw Nation,
21 the Choctaw Nation of Oklahoma, the Seminole Na-
22 tion of Oklahoma, and the Muscogee (Creek) Nation,
23 collectively, which are historically referred to as the
24 “Five Civilized Tribes”.

1 (2) INDIAN CITIZEN.—The term “Indian cit-
2 izen” means a member or citizen of one of the indi-
3 vidual Five Nations referred to in paragraph (1), or
4 an individual who is determined by the Secretary to
5 be a lineal descendent by blood of an Indian ances-
6 tor enrolled on the final Indian rolls of the Five Civ-
7 ilized Tribes closed in 1906.

8 (3) INDIAN COUNTRY.—The term “Indian coun-
9 try” has the meaning given that term in section
10 1151 of title 18, United States Code, which includes
11 restricted property and trust property (as such
12 terms are defined in this Act).

13 (4) INDIAN NATION.—The term “Indian Na-
14 tion” means one of the individual Five Nations re-
15 ferred to in paragraph (1).

16 (5) REGIONAL OFFICE.—The term “Regional
17 Office” means the Eastern Oklahoma Regional Of-
18 fice of the Bureau of Indian Affairs, or any suc-
19 cessor office within the Department of Interior.

20 (6) RESTRICTED PROPERTY.—The term “re-
21 stricted property” means any right, title or interest
22 in real property owned by an Indian citizen that is
23 subject to a restriction against alienation, lease,
24 mortgage, and other encumbrances imposed by this
25 Act and other laws of the United States expressly

1 applicable to the property of enrollees and lineal de-
2 scendants of enrollees on the final Indian rolls of the
3 Five Civilized Tribes in 1906, and includes those in-
4 terests in property that were subject to a restriction
5 against alienation imposed by the United States on
6 the ownership of an Indian citizen who died prior to
7 the effective date of this Act (subject to valid exist-
8 ing rights) but whose interest had not, as of the ef-
9 fective date of this Act, been the subject of a final
10 order determining heirs by a State district court or
11 a United States District Court, or been conveyed by
12 putative heirs by deed approved in State district
13 court, except that such term shall not include Indian
14 trust allotments made pursuant to the General Allot-
15 ment Act (25 U.S.C. 331 et seq.) or any other trust
16 property.

17 (7) SECRETARY.—The term “Secretary” means
18 the Secretary of the Interior.

19 (8) TRUST PROPERTY.—The term “trust prop-
20 erty” means Indian property, title to which is held
21 in trust by the United States for the benefit of an
22 Indian citizen or an Indian Nation.

1 **TITLE I—RESTRICTIONS;**
2 **REMOVAL OF RESTRICTIONS**

3 **SEC. 101. RESTRICTIONS ON REAL PROPERTY.**

4 (a) APPLICATION.—Beginning on the effective date
5 of this Act, all restricted property shall be subject to re-
6 strictions against alienation, lease, mortgage, and other
7 encumbrances, regardless of the degree of Indian blood of
8 the Indian citizen who owns such property.

9 (b) CONTINUATION.—The restrictions made applica-
10 ble under subsection (a) shall continue with respect to re-
11 stricted property upon the acquisition of such property by
12 an Indian citizen by inheritance, devise, gift, exchange,
13 election to take at partition, or by purchase.

14 **SEC. 102. RESTRICTED FUNDS.**

15 (a) IN GENERAL.—All funds and securities held or
16 supervised by the Secretary derived from restricted prop-
17 erty or individual Indian trust property on or after the
18 effective date of this Act are declared to be restricted and
19 shall remain subject to the jurisdiction of the Secretary
20 until or unless otherwise provided for by Federal law.

21 (b) USE OF FUNDS.—Funds, securities, and proceeds
22 described in subsection (a) may be released or expended
23 by the Secretary for the use and benefit of the Indian citi-
24 zens to whom such funds, securities, and proceeds belong,
25 as provided for by Federal law.

1 **SEC. 103. PERIOD OF RESTRICTIONS.**

2 Subject to the provisions of this Act that permit re-
3 strictions to be removed, the period of restriction against
4 alienation, lease, mortgage, or other encumbrance of re-
5 stricted property and funds belonging to Indian citizens,
6 is hereby extended until an Act of Congress determines
7 otherwise.

8 **SEC. 104. REMOVAL OF RESTRICTIONS.**

9 (a) PROCEDURE.—

10 (1) APPLICATION.—An Indian citizen who owns
11 restricted property, or the legal guardian of a minor
12 Indian citizen or an Indian citizen who has been de-
13 termined to be legally incompetent by a court of
14 competent jurisdiction (including a tribal court),
15 may apply to the Secretary for an order removing
16 restrictions on any interest in restricted property
17 held by such Indian citizen.

18 (2) CONSIDERATION OF APPLICATION.—An ap-
19 plication under paragraph (1) shall be considered by
20 the Secretary only as to the tract, tracts, or severed
21 mineral or surface interest described in the applica-
22 tion. Not later than 90 days after the date on which
23 an application is submitted, the Secretary shall ei-
24 ther issue the removal order or disapprove of the ap-
25 plication.

1 (3) DISAPPROVAL.—The Secretary shall dis-
2 approve an application under paragraph (1) if—

3 (A) in the Secretary’s judgment, the appli-
4 cant has been subjected to fraud, undue influ-
5 ence or duress by a third party; or

6 (B) the Secretary determines it is other-
7 wise not in the Indian citizen owner’s best in-
8 terest.

9 (b) REMOVAL OF RESTRICTIONS.—When an order to
10 remove restrictions becomes effective under subsection (a),
11 the Secretary shall issue a certificate describing the prop-
12 erty and stating that the Federal restrictions have been
13 removed.

14 (c) SUBMISSION OF LIST.—Prior to or on April 1 of
15 each year, the Secretary shall cause to be filed with the
16 county treasurer of each county in the State of Oklahoma
17 where restricted property is situated, a list of restricted
18 property that has lost its restricted status during the pre-
19 ceding calendar year through acquisition of ownership by
20 an individual or entity who is not an Indian citizen or by
21 removal of restrictions pursuant to this section.

22 (d) RULE OF CONSTRUCTION.—Nothing in this sec-
23 tion shall be construed to—

1 (1) abrogate valid existing rights to property
2 that is subject to an order to remove restrictions
3 under this section; and

4 (2) remove restrictions on any other restricted
5 property owned by the applicant.

6 **SEC. 105. EXEMPTIONS FROM PRIOR CLAIMS.**

7 Sections 4 and 5 of the Act of May 27, 1908 (35
8 Stat. 312, chapter 199) shall apply to all restricted prop-
9 erty.

10 **SEC. 106. FRACTIONAL INTERESTS.**

11 Upon application by an Indian citizen owner of an
12 undivided unrestricted interest in property of which a por-
13 tion of the interests in such property are restricted as of
14 the effective date of this Act, the Secretary is authorized
15 to convert that unrestricted interest into restricted status
16 if all of the interests in the property are owned by Indian
17 citizens as tenants in common as of the date of the appli-
18 cation under this section.

1 **TITLE II—ADMINISTRATIVE AP-**
2 **PROVAL OF CONVEYANCES,**
3 **PARTITIONS, LEASES, AND**
4 **MORTGAGES; MANAGEMENT**
5 **OF MINERAL INTERESTS**

6 **SEC. 201. APPROVAL AUTHORITY FOR CONVEYANCES AND**
7 **LEASES.**

8 The Secretary shall have exclusive jurisdiction to ap-
9 prove conveyances and leases of restricted property by an
10 Indian citizen or by any guardian or conservator of any
11 Indian citizen who is a ward in any guardianship or con-
12 servatorship proceeding pending in any court of competent
13 jurisdiction, except that petitions for such approvals that
14 are filed in Oklahoma district courts prior to the effective
15 date of this Act may be heard and approved by such courts
16 pursuant to the procedures described in section 1 of the
17 Act of August 4, 1947 (61 Stat. 731, chapter 458), as
18 in effect on the day before the effective date of this Act,
19 if the Indian citizen does not revoke in writing his or her
20 consent to the conveyance or lease prior to final court ap-
21 proval.

22 **SEC. 202. APPROVAL OF CONVEYANCES.**

23 (a) PROCEDURE.—

24 (1) IN GENERAL.—Except as provided in sub-
25 section (b), restricted property may be conveyed by

1 an Indian citizen pursuant to the procedures de-
2 scribed in this subsection.

3 (2) REQUIREMENTS.—An Indian citizen may
4 only convey restricted property—

5 (A) after the property is appraised;

6 (B) for an amount that is not less than 90
7 percent of the appraised value of the property;

8 (C) to the highest bidder through the sub-
9 mission to the Secretary of closed, silent bids or
10 negotiated bids; and

11 (D) upon the approval of the Secretary.

12 (b) EXCEPTION.—

13 (1) IN GENERAL.—Notwithstanding subsection
14 (a)(2), an Indian citizen may convey his or her re-
15 stricted property, or any portion thereof, to any of
16 the individuals or entities described in paragraph (2)
17 without soliciting bids, providing notice, or for con-
18 sideration which is less than the appraised value of
19 the property, if the Secretary determines that the
20 conveyance is not contrary to the best interests of
21 the Indian citizen and that the Indian citizen has
22 been duly informed of and understands the fair mar-
23 ket appraisal, and is not being coerced into the con-
24 veyance.

1 (2) INDIVIDUALS AND ENTITIES.—An indi-
2 vidual or entity described in this paragraph is—

3 (A) the Indian citizen's spouse (if he or
4 she is and Indian citizen), father, mother, son,
5 daughter, brother or sister, or other lineal de-
6 scendent, aunt or uncle, cousin, niece or neph-
7 ew, or Indian co-owner; or

8 (B) the Indian Nation whose last treaty
9 boundaries encompassed the restricted property
10 involved so long as the appraisal of the property
11 was conducted by an independent appraiser not
12 subject to the Indian Nation's control.

13 (c) STATUS.—Restricted property that is acquired by
14 an Indian Nation whose last treaty boundaries encom-
15 passed the restricted property shall continue to be Indian
16 country. Upon application by the Indian Nation, the Sec-
17 retary shall accept title to such property in trust by the
18 United States for the benefit of the Indian Nation, except
19 that the Secretary may first require elimination of any ex-
20 isting liens or other encumbrances in order to comply with
21 applicable Federal title standards. The Secretary shall ac-
22 cept title to the property in trust for the Indian Nation
23 only if, after conducting a survey for hazardous sub-
24 stances, he determines that there is no evidence of such
25 substances on the property.

1 **SEC. 203. REIMPOSITION OF RESTRICTIONS ON CONVEY-**
2 **ANCES OF PROPERTY TO INDIAN HOUSING**
3 **AUTHORITIES.**

4 (a) IN GENERAL.—In any case where the restrictions
5 have been removed from restricted property for the pur-
6 pose of allowing conveyances of the property to Indian
7 housing authorities to enable such authorities to build
8 homes for individual owners or relatives of owners of re-
9 stricted property, the Secretary shall issue a Certificate
10 of Restricted Status describing the property and imposing
11 restrictions thereon upon written request by the Indian
12 citizen homebuyer or a successor Indian citizen home-
13 buyer. Such request shall include evidence satisfactory to
14 the Secretary that the homebuyer's contract has been paid
15 in full and be delivered to the Regional Office not later
16 than 3 years after the housing authority conveys such
17 property back to the original Indian citizen homebuyer or
18 a successor Indian citizen homebuyer who is a citizen of
19 the Nation whose last treaty boundaries encompass the
20 property where the home is located.

21 (b) EXISTING LIENS.—Prior to issuing a certificate
22 under subsection (a) with respect to property, the Sec-
23 retary may require the elimination of any existing liens
24 or other encumbrances which would substantially interfere
25 with the use of the property.

1 (c) APPLICATION TO CERTAIN HOMEBUYERS.—In-
2 dian citizen homebuyers described in subsection (a) who
3 acquired ownership of property prior to the effective date
4 of this Act shall have 3 years from such effective date to
5 request that the Secretary issue a certificate under such
6 subsection.

7 (d) RULE OF CONSTRUCTION.—Nothing in this Act
8 shall be construed to limit or affect the rights of Indian
9 citizens described in this section under other Federal laws
10 and regulations relating to the acquisition and status of
11 trust property.

12 **SEC. 204. ADMINISTRATIVE PARTITION.**

13 (a) JURISDICTION.—Except as provided in section
14 304, the Secretary shall have exclusive jurisdiction to ap-
15 prove the partition of property located within the last trea-
16 ty boundaries of 1 or more of the Five Nations, all of
17 which is held in common, in trust or in restricted status,
18 by more than 1 Indian citizen owner, if the requirements
19 of this section are complied with. The Secretary may ap-
20 prove the voluntary partition of property consisting of
21 both restricted and unrestricted undivided interests if all
22 owners of the unrestricted interests consent to such ap-
23 proval in writing.

24 (b) PARTITION WITHOUT APPLICATION.—If the Sec-
25 retary determines that any property described in sub-

1 section (a) is capable of partition in kind to the advantage
2 of the owners, the Secretary may initiate partition of the
3 property by—

4 (1) notifying the owners of such determination;

5 (2) providing the owners with a partition plan
6 for such property; and

7 (3) affording the owners a reasonable time to
8 respond, object, or consent to the proposal, in ac-
9 cordance with subsection (d).

10 (c) APPLICATION FOR PARTITION.—

11 (1) IN GENERAL.—An owner or owners of an
12 undivided interest in any property described in sub-
13 section (a) may make written application, on a form
14 approved by the Secretary, for the partition of their
15 trust or restricted property.

16 (2) DETERMINATION.—If, based on an applica-
17 tion submitted under paragraph (1), the Secretary
18 determines that the property involved is susceptible
19 to partition in kind, the Secretary shall initiate par-
20 tition of the property by—

21 (A) notifying the owners of such deter-
22 mination;

23 (B) providing the owners with a partition
24 plan; and

1 (C) affording the owners a reasonable time
2 to respond, object or consent in accordance with
3 subsection (d).

4 (d) PARTITION PROCEDURES.—

5 (1) PROPOSED LAND DIVISION PLAN.—The Sec-
6 retary shall give applicants under subsection (c) and
7 nonpetitioning owners of property subject to parti-
8 tion under this section with a reasonable opportunity
9 to negotiate a proposed land division plan for the
10 purpose of securing ownership of a tract on the
11 property equivalent to their respective interests in
12 the undivided estate, prior to taking any action re-
13 lated to partition of the property under this section.

14 (2) APPROVAL.—If a plan under paragraph (1)
15 is approved by—

16 (A) Indian citizen owners of more than 50
17 percent of the property which is entirely in
18 trust status (as distinguished from restricted
19 status) and if the Secretary finds the plan to be
20 reasonable, fair and equitable, the Secretary
21 shall issue an order partitioning the trust prop-
22 erty in kind; or

23 (B) the Indian citizens who own more than
24 50 percent of the undivided interests which are
25 held in restricted status (as distinguished from

1 trust status) and if the Secretary finds the plan
2 to be reasonable, fair and equitable, the Sec-
3 retary may attempt to negotiate for partition in
4 kind or for sale of all or a portion of the prop-
5 erty, and secure deeds from all interest owners,
6 subject to the Secretary's approval.

7 (3) LIMITATION.—No partition under para-
8 graph (2)(B) shall be effected unless all of the own-
9 ers have consented to the plan in writing.

10 **SEC. 205. SURFACE LEASES.**

11 The surface of restricted property may be leased by
12 an Indian citizen pursuant to the Act of August 9, 1955
13 (25 U.S.C. 415 et seq.), except that the Secretary may
14 approve any agricultural lease or permit with respect to
15 restricted property in accordance with the provisions of
16 section 105 of the American Indian Agricultural Resource
17 Management Act (25 U.S.C. 3715).

18 **SEC. 206. MINERAL LEASES.**

19 (a) APPROVAL.—

20 (1) GENERAL RULE.—No mineral lease or
21 agreement purporting to convey or create any inter-
22 est in restricted or trust property that is entered
23 into or reentered into after the effective date of this
24 Act shall be valid unless approved by the Secretary.

1 (2) REQUIREMENTS.—The Secretary may ap-
2 prove a mineral lease or agreement described in
3 paragraph (1) only if—

4 (A) the owners of a majority of the undi-
5 vided interest in the restricted or trust mineral
6 estate that is the subject of the mineral lease
7 or agreement (including any interest covered by
8 a lease or agreement executed by the Secretary
9 under subsection (c)) consent to the lease or
10 agreement;

11 (B) the Secretary determines that approv-
12 ing the lease or agreement is in the best inter-
13 est of the Indian citizen owners of the restricted
14 or trust mineral interests; and

15 (C) the Secretary has accepted the highest
16 bid for such lease or agreement after a competi-
17 tive bidding process has been conducted by the
18 Secretary, unless the Secretary has determined
19 that it is in the best interest of the Indian citi-
20 zen to award a lease made by negotiation, and
21 the Indian citizen so consents.

22 (b) EFFECT OF APPROVAL.—Upon the approval of
23 a mineral lease or agreement by the Secretary under sub-
24 section (a), the lease or agreement shall be binding upon
25 all owners of the restricted or trust undivided interests

1 subject to the lease or agreement (including any interest
2 owned by an Indian tribe) and all other parties to the lease
3 or agreement, to the same extent as if all of the Indian
4 citizen owners of the restricted or trust mineral interests
5 involved had consented to the lease or agreement.

6 (c) EXECUTION OF LEASE OR AGREEMENT BY SEC-
7 RETARY.—The Secretary may execute a mineral lease or
8 agreement that affects restricted or trust property inter-
9 ests on behalf of an Indian citizen owner if that owner
10 is deceased and the heirs to, or devisees of, the interest
11 of the deceased owner have not been determined, or if the
12 heirs or devisees have been determined but one or more
13 of the heirs or devisees cannot be located.

14 (d) DISTRIBUTION OF PROCEEDS.—The proceeds de-
15 rived from a mineral lease or agreement approved by the
16 Secretary under subsection (a) shall be distributed in ac-
17 cordance with the interest held by each owner pursuant
18 to such rules and regulations as may be promulgated by
19 the Secretary.

20 (e) COMMUNITIZATION AGREEMENTS.—No unleased
21 restricted or trust property located within a spacing and
22 drilling unit approved by the Oklahoma Corporation Com-
23 mission may be drained of any oil or gas by a well within
24 such unit without a communitization agreement prepared
25 and approved by the Secretary, except that in the event

1 of any such drainage without a communitization agree-
2 ment approved by the Secretary, 100 percent of all reve-
3 nues derived from the production from any such restricted
4 or trust property shall be paid to the Indian citizen owner
5 free of all lifting and other production costs.

6 **SEC. 207. MANAGEMENT OF MINERAL INTERESTS.**

7 (a) OIL AND GAS CONSERVATION LAWS.—

8 (1) IN GENERAL.—The oil and gas conservation
9 laws of the State of Oklahoma shall apply to re-
10 stricted property.

11 (2) ENFORCEMENT.—The Oklahoma Corpora-
12 tion Commission shall have the authority to perform
13 ministerial functions related to the enforcement of
14 the laws referred to in paragraph (1), including en-
15 forcement actions against well operators, except that
16 no order of the Corporation Commission affecting
17 restricted Indian property shall be valid as to such
18 property until such order is submitted to and ap-
19 proved by the Secretary.

20 (3) RULE OF CONSTRUCTION.—Nothing in this
21 subsection shall be construed to limit the authority
22 of the Indian Nations to protect the environment
23 and natural resources of restricted property.

24 (b) IMPLEMENTATION OF FEDERAL OIL AND GAS
25 ROYALTY MANAGEMENT ACT.—Beginning on the effective

1 date of this Act, the Regional Office shall assume all the
2 duties and responsibilities of the Secretary under the Fed-
3 eral Oil and Gas Royalty Management Act of 1982 (30
4 U.S.C. 1702 et seq.) with respect to an oil and gas lease
5 where—

6 (1) the Secretary has approved the oil and gas
7 lease pursuant to section 206(a);

8 (2) the Secretary has, prior to the effective date
9 of this Act, approved the oil and gas lease pursuant
10 to the Act of May 27, 1908 (35 Stat. 312, chapter
11 199); or

12 (3) the Secretary has, before the effective date
13 of this Act, approved an oil and gas lease of lands
14 of any of the Five Nations pursuant to the Act of
15 May 11, 1938 (25 U.S.C. 396a et seq.).

16 **SEC. 208. MORTGAGES.**

17 An Indian citizen may mortgage restricted property
18 only in accordance with and under the authority of the
19 Act of March 29, 1956 (25 U.S.C. 483a), or other Federal
20 laws applicable to the mortgaging of individual Indian
21 trust property or restricted property.

22 **SEC. 209. VALIDATION OF PRIOR CONVEYANCES.**

23 All conveyances, including oil and gas or mineral
24 leases, of restricted property and trust property made
25 after the effective date of the Act of June 26, 1936 (25

1 U.S.C. 501 et seq.) (commonly known as the Oklahoma
2 Indian Welfare Act) and prior to the effective date of this
3 Act, that were approved by a county or district court in
4 Oklahoma are hereby validated and confirmed, unless such
5 conveyance is determined by a court of competent jurisdic-
6 tion to be invalid upon grounds other than authority to
7 approve, sufficiency of approval, or lack of approval there-
8 of.

9 **TITLE III—PROBATE, HEIRSHIP**
10 **DETERMINATION, AND OTHER**
11 **JUDICIAL PROCEEDINGS**

12 **SEC. 301. ACTIONS AFFECTING RESTRICTED PROPERTY.**

13 The courts of the State of Oklahoma shall not have
14 jurisdiction over actions affecting title to, or use or dis-
15 position of, trust property or restricted property except as
16 authorized by this Act or by other Federal laws applicable
17 to trust property or restricted property.

18 **SEC. 302. HEIRSHIP DETERMINATIONS AND PROBATES.**

19 (a) JURISDICTION.—Except as provided in section
20 306, the Secretary shall have exclusive jurisdiction, acting
21 through an Administrative Law Judge or other official
22 designated by the Secretary, to probate wills or otherwise
23 determine heirs of deceased Indian citizens and to adju-
24 dicate all such estate actions to the extent that they in-
25 volve individual trust property, restricted property, or re-

1 stricted or trust funds or securities held or supervised by
2 the Secretary derived from such property.

3 (b) GOVERNING LAWS.—Notwithstanding any other
4 provision of law, the Administrative Law Judge or other
5 official designated by the Secretary shall exercise the Sec-
6 retary’s jurisdiction and authority under this section in
7 accordance with the Indian Land Consolidation Act (25
8 U.S.C. 2201 et seq.) and such rules and regulations which
9 heretofore have been, or will be, prescribed by the Sec-
10 retary for the probate of wills, determination of heirs, and
11 distribution of property in estates of Indian decedents,
12 subject to the following requirements:

13 (1) LAW APPLICABLE TO ESTATES OF INDIAN
14 CITIZEN DECEDENTS WHO DIED PRIOR TO EFFEC-
15 TIVE DATE.—The Administrative Law Judge or
16 other official designated by the Secretary shall apply
17 the laws of descent and distribution of the State of
18 Oklahoma contained in title 84 of the Oklahoma
19 Statutes, chapter 4, to all restricted property, trust
20 property, and all restricted or trust funds or securi-
21 ties derived from such property in the estates of de-
22 ceased Indian citizens who died intestate prior to the
23 effective date of this Act.

24 (2) LAW APPLICABLE TO WILLS EXECUTED
25 PRIOR TO EFFECTIVE DATE.—The Administrative

1 Law Judge or other official designated by the Sec-
2 retary shall determine the validity and effect of wills
3 as to estates containing trust property or restricted
4 property when such wills were executed by Indian
5 citizens prior to the effective date of this Act, in ac-
6 cordance with the laws of the State of Oklahoma
7 governing the validity and effect of wills, provided
8 that the will of a full-blood Indian citizen which dis-
9 inherits the parent, wife, spouse, or children of such
10 citizen shall not be valid with respect to the disposi-
11 tion of restricted property unless the requirements of
12 section 23 of the Act of April 26, 1906 (34 Stat.
13 137, chapter 1876), as in effect on the day before
14 the effective date of this Act, are met.

15 (3) LAW APPLICABLE TO WILLS EXECUTED
16 AFTER EFFECTIVE DATE.—

17 (A) IN GENERAL.—Any Indian citizen who
18 has attained age 18 and owns restricted prop-
19 erty or trust property shall have the right to
20 dispose of such property by will, executed on or
21 after the effective date of this Act in accordance
22 with regulations which heretofore have been, or
23 will be, prescribed by the Secretary for the pro-
24 bate of wills, provided—

1 (i) no will so executed shall be valid or
2 have any force or effect unless and until
3 such will has been approved by the Sec-
4 retary; and

5 (ii) that the Secretary may approve or
6 disapprove such will either before or after
7 the death of the Indian citizen testator.

8 (B) FRAUD.—In any case where a will has
9 been approved by the Secretary under subpara-
10 graph (A) and it is subsequently discovered that
11 there was fraud in connection with the execu-
12 tion or procurement of the will, the Secretary is
13 authorized, within 1 year after the death of the
14 testator, to cancel approval of the will. If an ap-
15 proval is canceled in accordance with the pre-
16 ceding sentence, the property purported to be
17 disposed of in the will shall descend or be dis-
18 tributed in accordance with the Secretary's
19 rules and regulations applicable to estates of
20 Indian decedents who die intestate.

21 (4) FEDERAL LAW CONTROLS.—Notwith-
22 standing any other provision of this section, Federal
23 law governing personal claims against a deceased In-
24 dian citizen or against trust property or restricted
25 property, including the restrictions imposed by this

1 Act or other applicable Federal law against the
2 alienation, lease, mortgage, or other encumbrance of
3 trust property or restricted property shall apply to
4 all such property contained in the estate of the de-
5 ceased Indian citizen.

6 **SEC. 303. ACTIONS TO CURE TITLE DEFECTS.**

7 (a) JURISDICTION.—Except as provided in sub-
8 sections (b) and (c), the United States district courts in
9 the State of Oklahoma and the State courts of Oklahoma
10 shall retain jurisdiction over actions seeking to cure de-
11 fects affecting the marketability of title to restricted prop-
12 erty, except that all such actions shall be subject to the
13 requirements of section 305.

14 (b) ADVERSE POSSESSION.—No cause of action may
15 be brought to claim title to or an interest in restricted
16 property by adverse possession or the doctrine of laches
17 on or after the effective date of this Act, except that—

18 (1) all such causes that are pending on the ef-
19 fective date of this Act in accordance with the provi-
20 sions of section 3 of the Act of April 12, 1926 (44
21 Stat. 239, chapter 115) shall be subject to section
22 306; and

23 (2) an action to quiet title to an interest in re-
24 stricted property on the basis of adverse possession
25 may be filed in the courts of the State of Oklahoma

1 not later than 2 years after the effective date of this
2 Act if the 15-year period for acquiring title by ad-
3 verse possession has run in full prior to the effective
4 date of this Act and the procedures set forth in sec-
5 tion 305 shall be followed.

6 (c) HEIRSHIP DETERMINATIONS AND DISPOS-
7 TIONS.—Nothing in this section shall be construed to au-
8 thorize a determination of heirs in a quiet title action in
9 Federal or State court in derogation of the Secretary’s ex-
10 clusive jurisdiction to probate wills or otherwise determine
11 heirs of the deceased Indian citizens owning restricted
12 property and to adjudicate all such estate actions involving
13 restricted property pursuant to section 302, or in deroga-
14 tion of the Secretary’s exclusive jurisdiction over the dis-
15 position of restricted property under this Act.

16 **SEC. 304. INVOLUNTARY PARTITIONS.**

17 (a) JURISDICTION.—The United States district
18 courts in the State of Oklahoma and the State courts of
19 Oklahoma shall retain jurisdiction over actions for the in-
20 voluntary partition of property consisting entirely or par-
21 tially of undivided restricted interests, subject to the provi-
22 sions of subsections (b) through (e) and the requirements
23 in section 306.

24 (b) APPLICABLE LAW.—The laws of the State of
25 Oklahoma governing the partition of property shall be ap-

1 plicable to all actions for involuntary partition under this
2 section, except to the extent that any such laws are in
3 conflict with any provisions of this Act.

4 (c) PETITION: CONSENT OF OWNERS OF MAJORITY
5 OF UNDIVIDED INTERESTS.—Any person who owns an
6 undivided interest in a tract of property described in sub-
7 section (a) may file an action in the district court of the
8 State of Oklahoma for the county wherein the tract is lo-
9 cated for the involuntary partition of such tract. The court
10 shall not grant the petition unless the owner or owners
11 of more than 50 percent of the tract consent to the parti-
12 tion in the verified petition or verified answer filed in the
13 action.

14 (d) PAYMENT TO NONCONSENTING OWNERS OF RE-
15 STRICTED INTERESTS.—Nonconsenting owners of undi-
16 vided restricted interests shall receive for the sale of such
17 interests their proportionate share of the greater of—

18 (1) the proceeds paid at the partition sale; or
19 (2) an amount equal to 100 percent of the ap-
20 praised value of the tract.

21 (e) COSTS.—The petitioning party in an action under
22 this section shall pay the filing fees and all other costs
23 of the action, including the cost of an appraisal, advertise-
24 ment, and sale.

1 **SEC. 305. REQUIREMENTS FOR ACTIONS TO CURE TITLE**
2 **DEFECTS AND INVOLUNTARY PARTITIONS.**

3 (a) IN GENERAL.—All actions authorized by sections
4 303 and 304 shall be conducted in accordance with the
5 requirements and procedures described in this section.

6 (b) PARTIES.—

7 (1) UNITED STATES.—The United States shall
8 not be a necessary and indispensable party to an ac-
9 tion authorized under section 303 or 304. The Sec-
10 retary may participate as a party in any such action.

11 (2) PARTICIPATION OF SECRETARY.—If the
12 Secretary elects to participate in an action as pro-
13 vided for under paragraph (1), the responsive plead-
14 ing of the Secretary shall be made not later than 20
15 days after the Secretary receives the notice required
16 under subsection (c), or within such extended time
17 as the trial court in its discretion may permit.

18 (3) JUDGMENT BINDING.—After the appear-
19 ance of the Secretary in any action described in
20 paragraph (1), or after the expiration of the time in
21 which the Secretary is authorized to respond under
22 paragraph (2), the proceedings and judgment in
23 such action shall be binding on the United States
24 and the parties upon whom service has been made
25 and shall affect the title to the restricted property
26 which is the subject of the action, in the same man-

1 ner and extent as though nonrestricted property
2 were involved.

3 (4) RULE OF CONSTRUCTION.—Nothing in this
4 section shall be construed to waive the requirement
5 of service of summons in accordance with applicable
6 Federal or State law upon the individual Indian cit-
7 izen landowners, who shall be necessary and indis-
8 pensable parties to all actions authorized by sections
9 303 and 304.

10 (c) NOTICE.—

11 (1) IN GENERAL.—The plaintiff in any action
12 authorized by sections 303 and 304 shall serve writ-
13 ten notice of the filing of such action and of a peti-
14 tion or complaint, or any amended petition or com-
15 plaint which substantially changes the nature of the
16 action or includes a new cause of action, upon the
17 Director of the Regional Office not later than 10
18 days after the filing of any such petition or com-
19 plaint or any such amended petition or complaint.

20 (2) FILING WITH CLERK.—A duplicate original
21 of any notice served under paragraph (1) shall be
22 filed with the clerk of the court in which the action
23 is pending.

24 (3) REQUIREMENTS.—The notice required
25 under paragraph (1) shall—

1 (A) be accompanied by a certified copy of
2 all pleadings on file in the action at the time of
3 the filing of the duplicate original notice with
4 the clerk under paragraph (2);

5 (B) be signed by the plaintiff to the action
6 or his or her counsel of record; and

7 (C) be served by certified mail, return re-
8 ceipt requested, and due return of service made
9 thereon, showing date of receipt and service of
10 notice.

11 (4) FAILURE TO SERVE.—If the notice required
12 under paragraph (1) is not served within the time
13 required under such paragraph, or if return of serv-
14 ice thereof is not made within the time permitted by
15 law for the return of service of summons, alias no-
16 tices may be provided until service and return of no-
17 tice is made, except that in the event that service of
18 the notice required under such paragraph is not
19 made within 60 days following the filing of the peti-
20 tion or complaint or amendments thereof, the action
21 shall be dismissed without prejudice.

22 (5) LIMITATION.—In no event shall the United
23 States or the parties named in a notice filed under
24 paragraph (1) be bound, or title to the restricted

1 property be affected, unless written notice is served
2 upon the Director as required under this subsection.

3 (d) REMOVAL.—

4 (1) IN GENERAL.—The United States shall
5 have the right to remove any action to which this
6 section applies that is pending in a State court to
7 the United States district court by filing with the
8 State court, not later than 20 days after the service
9 of any notice with respect to such action under sub-
10 section (c), or within such extended period of time
11 as the trial court in its discretion may permit, a no-
12 tice of the removal of such action to such United
13 States district court, together with the certified copy
14 of the pleadings in such action as served on the Di-
15 rector of the Regional Office under subsection (c).

16 (2) DUTY OF STATE COURT.—It shall be the
17 duty of a State court to accept a notice filed under
18 paragraph (1) and cease all proceedings with respect
19 to such action.

20 (3) PLEADINGS.—Not later than 20 days after
21 the filing of a notice under paragraph (1), the copy
22 of the pleading involved (as provided under such
23 paragraph) shall be entered in the district court of
24 the United States and the defendants and
25 interveners in such action shall, not later than 20

1 days after the pleadings are so entered, file a re-
2 sponsive pleading to the complaint in such action.

3 (4) PROCEEDINGS.—Upon the submission of
4 the filings required under paragraph (3), the action
5 shall proceed in the same manner as if it had been
6 originally commenced in the district court, and its
7 judgment may be reviewed by certiorari, appeal, or
8 writ of error in like manner as if the action had
9 been originally brought in such district court.

10 **SEC. 306. PENDING STATE PROCEEDINGS.**

11 The courts of the State of Oklahoma shall continue
12 to exercise authority as a Federal instrumentality over all
13 heirship, probate, partition, and other actions involving re-
14 stricted property that are pending on the effective date
15 of this Act until the issuance of a final judgment and ex-
16 haustion of all appeal rights in any such action, or until
17 the petitioner, personal representative, or the State court
18 dismisses the action in accordance with State law.

19 **TITLE IV—MISCELLANEOUS**

20 **SEC. 401. REGULATIONS.**

21 The Secretary may promulgate such regulations as
22 may be necessary to carry out this Act, except that failure
23 to promulgate such regulations shall not limit or delay the
24 effect of this Act.

1 **SEC. 402. REPEALS.**

2 (a) IN GENERAL.—The following provisions are re-
3 pealed:

4 (1) The Act of August 11, 1955 (69 Stat. 666,
5 chapter 786).

6 (2) Section 2 of the Act of August 12, 1953
7 (67 Stat. 558, chapter 409).

8 (3) Sections 1 through 5 and 7 through 13 of
9 the Act of August 4, 1947 (61 Stat. 731, chapter
10 458).

11 (4) The Act of February 11, 1936 (25 U.S.C.
12 393a).

13 (5) The Act of January 27, 1933 (47 Stat. 777,
14 chapter 23).

15 (6) Sections 1, 2, 4, and 5 of the Act of May
16 10, 1928 (45 Stat. 495, chapter 517).

17 (7) The Act of April 12, 1926 (44 Stat. 239,
18 chapter 115).

19 (8) Sections 1 and 2 of the Act of June 14,
20 1918 (25 U.S.C. 375 and 355).

21 (9) Sections 1 through 3 and 6 through 12 of
22 the Act of May 27, 1908 (35 Stat. 312, chapter
23 199).

24 (10) Section 23 of the Act of April 26, 1906
25 (34 Stat. 137, chapter 1876).

26 (b) OTHER ACTS.—

1 (1) IN GENERAL.—Not later than 6 months
2 after the effective date of this Act, the Secretary
3 shall prepare and submit to Congress a list of other
4 provisions of law that—

5 (A) expressly reference property of the
6 Five Nations or of Five Nations’ citizens and
7 that are in conflict with the provisions of this
8 Act; or

9 (B) are of general applicability with re-
10 spect to the property of Indian tribes and of in-
11 dividual Indians and that are in conflict with
12 this Act.

13 (2) TECHNICAL AMENDMENTS.—

14 (A) Section 28 of the Act of April 26,
15 1906 (34 Stat. 137, chapter 1876) is
16 amended—

17 (i) by striking the first proviso; and

18 (ii) by striking “*Provided further*” and
19 inserting “*Provided*”.

20 (B) Section 6(c) of the Act of August 4,
21 1947 (61 Stat. 733, chapter 458) is amended
22 in the first sentence by striking “of one-half or
23 more Indian blood”.

1 **SEC. 403. STATUTORY CONSTRUCTION.**

2 (a) SECRETARIAL TRUST RESPONSIBILITY.—Noth-
3 ing in this Act shall be construed to waive, modify, or di-
4 minish in any way the trust responsibility of the United
5 States over restricted property.

6 (b) NO EFFECT ON TRIBAL RELATIONSHIPS.—

7 (1) IN GENERAL.—Nothing in titles I through
8 IV of this Act is intended to or shall be construed
9 to in any way affect the authority that any federally
10 recognized Indian tribe may or may not have over—

11 (A) any other federally recognized Indian
12 tribe;

13 (B) the members of any other federally
14 recognized Indian tribe; or

15 (C) any land in which any other federally
16 recognized Indian tribe or any member of any
17 other federally recognized Indian tribe has or is
18 determined by the Secretary or a court of com-
19 petent jurisdiction to have any interest.

20 **SEC. 404. REPRESENTATION BY ATTORNEYS FOR THE DE-**
21 **PARTMENT OF THE INTERIOR.**

22 Attorneys of the Department of the Interior may—

23 (1) represent the Secretary in any actions filed
24 in the State courts of Oklahoma involving restricted
25 property;

1 (2) when acting as counsel for the Secretary,
2 provide information to all Indian citizens owning re-
3 stricted property (and to private counsel for such
4 citizens, if any) regarding their legal rights with re-
5 spect to the restricted property owned by such citi-
6 zens;

7 (3) at the request of any Indian citizen owning
8 restricted property, take such action as may be nec-
9 essary to cancel or annul any deed, conveyance,
10 mortgage, lease, contract to sell, power of attorney,
11 or any other encumbrance of any kind or character,
12 made or attempted to be made or executed in viola-
13 tion of this Act or any other Federal law, and take
14 such action as may be necessary to assist such In-
15 dian citizen in obtaining clear title, acquiring posses-
16 sion, and retaining possession of restricted property;
17 and

18 (4) in carrying out paragraph (3), refer pro-
19 posed actions to be filed in the name of the United
20 States in a district court of the United States to the
21 United States Attorney for that district, and provide
22 assistance in an of-counsel capacity in those actions
23 that the United States Attorney elects to prosecute.

1 **TITLE V—WATER BASIN**
2 **COMMISSION**

3 **SEC. 501. WATER BASIN COMMISSION.**

4 A compact among the State of Oklahoma, the Choctaw Nation of Oklahoma, and the Chickasaw Nation, shall
5 establish a State-tribal commission composed of an equal
6 number of representatives from the tribes and nontribal
7 residents of the respective water basin, for the purpose
8 of administering and distributing any benefits and net revenues from the sale of water within the respective basin
9 to the Choctaw Nation of Oklahoma, the Chickasaw Nation, and local public entities. Any sale of water to entities
10 outside the water basin must be consistent with the compact and by the State-tribal commission for the respective
11 water basin within the boundaries of the Choctaw Nation of Oklahoma and the Chickasaw Nation. One of the tribal
12 representatives of the State-tribal commission shall be appointed by the Bureau of Indian Affairs regional office
13 in Muskogee, Oklahoma.

 Passed the House of Representatives October 17,
2000.

Attest:

Clerk.