

Public Law 97-459
97th Congress

An Act

To authorize the purchase, sale, and exchange of lands by Indian tribes and by the Devils Lake Sioux Tribe of the Devils Lake Sioux Reservation of North Dakota specifically, and for other purposes.

Jan. 12, 1983
[S. 503]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Devils Lake
Sioux Tribe, N.
Dak.
Authorization to
procure land.

TITLE I

SEC. 101. The Congress finds that—

(1) the Devils Lake Sioux Tribe, of the Devils Lake Sioux Reservation, North Dakota, is vigorously pursuing its goal of self-determination through development of manufacturing and farming enterprises; and

(2) the continued existence of the Devils Lake Sioux Reservation, North Dakota, as a permanent homeland of the Devils Lake Sioux Tribe and as a necessary foundation for continued self-determination requires that the Secretary of the Interior have authority to—

(A) consolidate and increase the trust land base in the reservation for the tribe and individual tribal members; and

(B) prevent further loss of trust land.

SEC. 102. (a) The Secretary of the Interior (hereinafter in this Act referred to as the "Secretary") is authorized to—

(1) purchase with any funds held by the Secretary in trust for the benefit of the Devils Lake Sioux Tribe or appropriated for the purpose, or acquire by gift, exchange, or relinquishment, any interest in land (or any improvements thereon) located within the boundaries of the Devils Lake Sioux Reservation for the benefit of the Devils Lake Sioux Tribe or individual members of such tribe;

(2) sell or approve sales of any interest in tribal trust or tribal restricted land (or any improvements thereon) located within the boundaries of the Devils Lake Sioux Reservation but only if additional tribal trust or tribal restricted land which is approximately equal in acreage or value to the interest sold is acquired by the Secretary at the time of such sale; and

(3) exchange any interest in tribal or individual trust land or tribal or individual restricted land (or any improvements thereon) for any land located within the Devils Lake Sioux Reservation but only if the values of the interests in land involved in such an exchange are equal or are equalized by the payment of money.

(b) Any purchase of Federal lands under subsection (a)(1) shall be made in accordance with the provisions of the Federal Land Policy and Management Act of 1976 (90 Stat. 2744).

SEC. 103. The Secretary shall accept any transfer of title from the Devils Lake Sioux Tribe, or from any individual member of such

43 USC 1701
note.

tribe, for any interest in land (or any improvements thereon) located within the boundaries of the Devils Lake Sioux Reservation, and shall take title to such property in the name of the United States in trust for the benefit of the Devils Lake Sioux Tribe, or for such individual member.

SEC. 104. Any acquisition, sale, or exchange of lands for the Devils Lake Sioux Tribe which is made under this title shall be made only upon the request of the authorized governing body of the Devils Lake Sioux Tribe, subject to the limitations and procedures of the tribal constitution.

Trust.

SEC. 105. Notwithstanding any other provision of applicable law, the title to any interest in land, or any improvements thereon, acquired by the Secretary under this title shall be acquired in the name of the United States in trust for the benefit of the Devils Lake Sioux Tribe or an individual member of such tribe, as the case may be, and such property shall be held and treated in the same manner as other trust or restricted Indian lands are held and treated under Federal law.

SEC. 106. Money or amounts credited to the Devils Lake Sioux Tribe from the sale or exchange under this title of any interest in trust or restricted land (or any improvements thereon) may be used only for the purpose of purchasing or acquiring property under this title and shall be deposited in a special account under the control of the Secretary or his duly authorized representative.

SEC. 107. Subsection (a) of the first section of the Act of August 9, 1955 (69 Stat. 539; 25 U.S.C. 415), as amended, is further amended—

(1) by striking out "and leases of land on the Agua Caliente" in the second sentence and inserting in lieu thereof "leases of land on the Agua Caliente", and

(2) by striking out "and the lands comprising the Moses Allotment Numbered 10, Chelan County, Washington," in the second sentence and inserting in lieu thereof the following: "leases of the lands comprising the Moses Allotment Numbered 10, Chelan County, Washington, and leases to the Devils Lake Sioux Tribe, or any organization of such tribe, of land on the Devils Lake Sioux Reservation,".

Death of
decedent,
purchase of land
interest.

SEC. 108. (a)(1) The devise or descent of any interest in trust or restricted land located within the Devils Lake Sioux Reservation to any person who is not a member of the Devils Lake Sioux Tribe shall be subject to the right of such tribe to purchase such interest within two years of the date of death of the decedent by paying to the Secretary for the benefit of such person an amount equal to the fair market value of such interest on the date of such purchase (as determined by the Secretary after appraisal).

(2) Within ninety days after the date on which the Secretary receives payment of an amount for the benefit of a person under paragraph (1), the Secretary shall pay such amount to such person.

(3) The Devils Lake Sioux Tribe may exercise its right under paragraph (1) to purchase the interest of a person only if the governing body of such tribe notifies such person and the Secretary of the intent of such tribe to purchase such interest at least ninety days prior to the date of such purchase.

(b)(1) Subsection (a) shall not apply to any interest in land acquired by the spouse of a decedent if—

(A) the spouse elects the application of this subsection prior to the date which is ninety days after the date on which the

governing body of the Devils Lake Sioux Tribe notifies the spouse of its intent to acquire such interest, and

(B) prior to such date, the spouse retains a life estate in such interest and conveys the remainder of such interest to any heir of the decedent who is a member of such tribe.

(2) If the spouse of a decedent elects the application of this subsection with respect to any interest in land which was trust or restricted land immediately prior to the death of the decedent, the life estate and the remainder of such interest created by the conveyance described in paragraph (1)(B) shall acquire such trust or restricted status.

(c) This section shall only apply to interests included in the estates of decedents dying on or after the date of enactment of this title.

SEC. 109. The Devils Lake Sioux Reservation, North Dakota, is hereby declared the permanent homeland of the Devils Lake Sioux Tribe.

SEC. 110. The Secretary is authorized to take such action as may be necessary to carry out the purposes of this title.

TITLE II

SEC. 201. This title may be cited as the "Indian Land Consolidation Act".

SEC. 202. For the purpose of this title—

(1) "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 any person who is a member of a tribe or any person who is recognized as an Indian by the Secretary of the Interior;

(3) "Secretary" means the Secretary of the Interior; and

(4) "trust or restricted lands" means lands, title to which is held by the United States in trust for an Indian or an Indian tribe or lands title to which is held by Indians or an Indian tribe subject to a restriction by the United States against alienation.

SEC. 203. The provisions of section 5 of the Act of June 18, 1934 (48 Stat. 985), shall apply to all tribes notwithstanding the provisions of section 18 of such Act: *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. 204. (a) 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.

SEC. 205. Any Indian tribe may purchase at no less than the fair market value all of the interests in any tract of trust or restricted land within that tribe's reservation or otherwise subjected to that tribe's jurisdiction with the consent of over 50 per centum of the owners or with the consent of the owners of over 50 per centum of the undivided interests in such tract: *Provided*, That—

(1) no such tract shall be acquired by any Indian or Indian tribe over the objection of three or less owners owning 50 per centum or more of the total interests in such tract;

Permanent
homeland.

Indian Land
Consolidation
Act.
25 USC 2201
note.
Definitions.
25 USC 2201.

25 USC 2202.
25 USC 465.
25 USC 478.

Land
consolidation
plan.
25 USC 2203.

Interests in tract
or restricted
land, guidelines
for purchase.
25 USC 2204.

(2) any Indian owning any undivided interest in, and in actual use and possession of such tract, may purchase such tract by matching the tribal offer;

(3) this section shall not apply to any tract of land owned by less than fifteen persons; and

(4) all purchases and sales initiated under this section shall be approved by the Secretary.

Nontribal
members or non-
Indians, land
entitlement.
25 USC 2205.

SEC. 206. Notwithstanding any other provisions of law, any Indian tribe may provide by appropriate action of its governing body, subject to approval by the Secretary, that nonmembers of the tribe or non-Indians shall not be entitled to receive by devise or descent any interest of a member of such tribe in trust or restricted lands within that tribe's reservation or otherwise subjected to that tribe's jurisdiction: *Provided*, That in the event a tribe takes such action—

(1) 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;

Trust account.

(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

Mineral rights.

(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) 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—

(1) if an Indian dies intestate, the surviving non-Indian or nonmember spouse and/or children shall be entitled to a life estate in as much of the trust or restricted lands as he, she or they would have been entitled to take under existing law;

(2) if an intestate Indian decedent has no heir to whom interests in trust or restricted lands may pass, such interests shall escheat to the tribe, subject to any non-Indian or nonmember spouse and/or children's rights as described in paragraph (1) of this section;

(3) if an Indian decedent has devised interests in trust or restricted lands to persons who are ineligible for such an inheritance by reason of a tribal ordinance enacted pursuant to this section, the devise shall be voided only if, while the estate is pending before the Secretary for probate, the tribe acquires such interests by paying to the Secretary, on behalf of the

devises, the fair market value of such interests as determined by the Secretary as of the date of the decedent's death: *Provided*, That any non-Indian or nonmember spouse and/or children of such decedent who have been devised such interests may retain, at their option, a life estate in such interests, or be compensated by the tribe for the value of such interests.

SEC. 207. No undivided fractional interest in any tract of trust or restricted land within a tribe's reservation or otherwise subjected to a tribe's jurisdiction shall descend by intestacy or devise but shall escheat to that tribe if such interest represents 2 per centum or less of the total acreage in such tract and has earned to its owner less than \$100 in the preceding year before it is due to escheat.

SEC. 208. The Secretary in carrying out his responsibility to regulate the descent and distribution of trust lands under section 1 of the Act of June 25, 1910 (36 Stat. 855; 25 U.S.C. 372) as amended, and other laws, shall give full faith and credit to any tribal actions taken pursuant to section 206 of this title, which provision shall apply only to estates of decedent's whose deaths occur on or after the effective date of tribal ordinances adopted pursuant to this title.

SEC. 209. The Secretary shall have the authority to issue deeds, patents, or such other instruments of conveyance needed to effectuate a sale or exchange of tribal lands made pursuant to the terms of this title and to remove, at the request of an Indian owner, the trust status of individually held lands or interests therein, where authorized by law.

SEC. 210. Title to any land acquired under this title by any Indian or Indian tribe shall be taken in trust by the United States for that Indian or Indian tribe.

SEC. 211. All lands or interests in land acquired by the United States for an Indian or Indian tribe under authority of this title shall be exempt from Federal, State and local taxation.

Approved January 12, 1983.

25 USC 2206.

25 USC 2207.

Deeds or patents,
issuance.
25 USC 2208.

Land title.
25 USC 2209.

Tax exemption.
25 USC 2210.

LEGISLATIVE HISTORY—S. 508:

HOUSE REPORT No. 97-908 (Comm. on Interior and Insular Affairs).

SENATE REPORT No. 97-507 (Comm. on Indian Affairs).

CONGRESSIONAL RECORD, Vol. 128 (1982):

Aug. 20, considered and passed Senate.

Dec. 6, considered and passed House, amended.

Dec. 19, Senate agreed to House amendments with amendments.

Dec. 20, House concurred in Senate amendments.