

Gaming on Tribal Lands

The Indian Gaming Regulatory Act's "Restored Lands" Exception

In 1988, Congress enacted the **Indian Gaming Regulatory Act** (IGRA), which generally prohibits gaming activities on lands taken into trust for a federally recognized Tribe after October 17, 1988 (*newly acquired lands*).¹ One exception to this prohibition is the *restored lands* exception, described below.²

Gaming may be permitted on newly acquired lands under the **IGRA restored lands exception** if two conditions are met: the Tribe must be a (1) *restored Tribe*, and the newly acquired lands must be (2) *restored lands*.



Restored Tribe



Restored Lands



What Is a Restored Tribe?

Federally recognized Tribes have a special government-to-government relationship with the United States. In the mid-1900s, Congress terminated some of these relationships. Some terminated Tribes later had federal recognition restored. A Tribe qualifies as a "restored Tribe" for IGRA purposes if it meets these three criteria:

01

Previously federally recognized

02

Recognition terminated by United States

03

Recognition restored by United States through legislation, the Part 83 process,¹ or judicial determination or settlement

What Are Restored Lands?

A restored Tribe must also acquire new trust lands that satisfy one or more criteria before gaming may be permitted thereon. These criteria vary depending on how the Tribe's recognition was restored.



LEGISLATION

OR



PART 83 PROCESS

OR



JUDICIAL DETERMINATION
OR SETTLEMENT

Tribe shows connections to the newly acquired land

OR

Trust land is within specific geographic area where legislation directed land be taken into trust for the Tribe

Tribe shows connections to the newly acquired land

AND

No initial reservation proclaimed after IGRA (October 17, 1988)

Tribe shows connections to the newly acquired land

Tribal Connections to the Newly Acquired Land

When a Tribe satisfies the restored lands criteria by showing connections to the newly acquired lands, the newly acquired lands must be located within the state or states where the Tribe is located and the Tribe must fulfill one criterion from each of the following three categories:



GEOGRAPHIC CONNECTION

- The land is within reasonable commuting distance of the Tribe's existing reservation
- If the Tribe has no reservation, the land is near where a significant number of tribal citizens reside
- The land is within a 25-mile radius of the Tribe's headquarters or other tribal governmental facilities that have existed at that location for at least two years at the time of the land-into-trust application
- The Tribe has a current connection to the land



HISTORICAL CONNECTION

- The Tribe has a significant historical connection to the land (for example, the land is within the boundaries of the Tribe's last reservation)



TEMPORAL CONNECTION

- The land is included in the Tribe's first request for newly acquired lands since the Tribe was restored to federal recognition
- The Tribe submitted an application to take the land into trust within 25 years after the Tribe was restored to federal recognition, and the Tribe is not gaming on other lands

¹ P.L. 100-497.

² 25 U.S.C. § 2719, 25 C.F.R. Part 292.

³ 25 C.F.R. § 83.2. See also CRS Infographic IG10038, *Federal Recognition of Indian Tribes: The Administrative Process*, by Mainon A. Schwartz.

Sources: Congressional Research Service based on 25 U.S.C. § 2719 and 25 C.F.R. Part 292.

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