

(2) If the Secretary does not approve or disapprove the constitution and bylaws or amendments within the forty-five days, the Secretary's approval shall be considered as given. Actions to enforce the provisions of this section may be brought in the appropriate Federal district court.

(e) Vested rights and powers; advisement of pre-submitted budget estimates

In addition to all powers vested in any Indian tribe or tribal council by existing law, the constitution adopted by said tribe shall also vest in such tribe or its tribal council the following rights and powers: To employ legal counsel; to prevent the sale, disposition, lease, or encumbrance of tribal lands, interests in lands, or other tribal assets without the consent of the tribe; and to negotiate with the Federal, State, and local governments. The Secretary shall advise such tribe or its tribal council of all appropriation estimates or Federal projects for the benefit of the tribe prior to the submission of such estimates to the Office of Management and Budget and the Congress.

(f) Privileges and immunities of Indian tribes; prohibition on new regulations

Departments or agencies of the United States shall not promulgate any regulation or make any decision or determination pursuant to the Act of June 18, 1934 (25 U.S.C. 461 et seq., 48 Stat. 984) as amended, or any other Act of Congress, with respect to a federally recognized Indian tribe that classifies, enhances, or diminishes the privileges and immunities available to the Indian tribe relative to other federally recognized tribes by virtue of their status as Indian tribes.

(g) Privileges and immunities of Indian tribes; existing regulations

Any regulation or administrative decision or determination of a department or agency of the United States that is in existence or effect on May 31, 1994, and that classifies, enhances, or diminishes the privileges and immunities available to a federally recognized Indian tribe relative to the privileges and immunities available to other federally recognized tribes by virtue of their status as Indian tribes shall have no force or effect.

(h) Tribal sovereignty

Notwithstanding any other provision of this Act—

(1) each Indian tribe shall retain inherent sovereign power to adopt governing documents under procedures other than those specified in this section; and

(2) nothing in this Act invalidates any constitution or other governing document adopted by an Indian tribe after June 18, 1934, in accordance with the authority described in paragraph (1).

(June 18, 1934, ch. 576, §16, 48 Stat. 987; Pub. L. 100-581, title I, §101, Nov. 1, 1988, 102 Stat. 2938; Pub. L. 103-263, §5(b), May 31, 1994, 108 Stat. 709; Pub. L. 106-179, §3, Mar. 14, 2000, 114 Stat. 47; Pub. L. 108-204, title I, §103, Mar. 2, 2004, 118 Stat. 543.)

REFERENCES IN TEXT

Act of June 18, 1934, and this Act, referred to in secs. (f) and (h), is act of June 18, 1934, ch. 576, 48 Stat.

984, popularly known as the Indian Reorganization Act, which is classified generally to this subchapter. For complete classification of this Act to the Code, see Short Title note set out under section 461 of this title and Tables.

CODIFICATION

May 31, 1994, referred to in subsec. (g), was in the original "the date of enactment of this Act", which was translated as meaning the date of enactment of Pub. L. 103-263, which enacted subsec. (g) of this section, to reflect the probable intent of Congress.

AMENDMENTS

2004—Subsec. (h). Pub. L. 108-204 added subsec. (h).

2000—Subsec. (e). Pub. L. 106-179 struck out "the choice of counsel and fixing of fees to be subject to the approval of the Secretary" after "To employ legal counsel".

1994—Subsecs. (f), (g). Pub. L. 103-263 added subsecs. (f) and (g).

1988—Pub. L. 100-581 amended section generally, substituting subsecs. (a) to (e) for two former undesignated pars.

DEFINITIONS APPLICABLE

Section 102 of title I of Pub. L. 100-581 provided that: "For the purpose of this Act [probably means title I of Pub. L. 100-581 which amended this section and enacted provisions set out below], the term—

"(1) 'applicable laws' means any treaty, Executive order or Act of Congress or any final decision of the Federal courts which are applicable to the tribe, and any other laws which are applicable to the tribe pursuant to an Act of Congress or by any final decision of the Federal courts;

"(2) 'appropriate tribal request' means receipt in the Area Office of the Bureau of Indian Affairs having administrative jurisdiction over the requesting tribe, of a duly enacted tribal resolution requesting a Secretarial election as well as a copy of the proposed tribal constitution and bylaws, amendment, or revocation action;

"(3) 'Secretary' means the Secretary of the Interior."

AMENDMENT OF TRIBAL CONSTITUTION AND BYLAWS

Section 103 of title I of Pub. L. 100-581 provided that: "Nothing in this Act [probably means title I of Pub. L. 100-581 which amended this section and enacted provisions set out above] is intended to amend, revoke, or affect any tribal constitution, bylaw, or amendment ratified and approved prior to this Act."

§ 477. Incorporation of Indian tribes; charter; ratification by election

The Secretary of the Interior may, upon petition by any tribe, issue a charter of incorporation to such tribe: *Provided*, That such charter shall not become operative until ratified by the governing body of such tribe. Such charter may convey to the incorporated tribe the power to purchase, take by gift, or bequest, or otherwise, own, hold, manage, operate, and dispose of property of every description, real and personal, including the power to purchase restricted Indian lands and to issue in exchange therefor interests in corporate property, and such further powers as may be incidental to the conduct of corporate business, not inconsistent with law; but no authority shall be granted to sell, mortgage, or lease for a period exceeding twenty-five years any trust or restricted lands included in the limits of the reservation. Any charter so issued shall not be revoked or surrendered except by Act of Congress.

(June 18, 1934, ch. 576, §17, 48 Stat. 988; Pub. L. 101-301, §3(c), May 24, 1990, 104 Stat. 207.)

AMENDMENTS

1990—Pub. L. 101-301 substituted “by any tribe” for “by at least one-third of the adult Indians”, “by the governing body of such tribe” for “at a special election by a majority vote of the adult Indians living on the reservation”, and “twenty-five years any trust or restricted lands” for “ten years any of the land”.

§ 478. Acceptance optional

This Act shall not apply to any reservation wherein a majority of the adult Indians, voting at a special election duly called by the Secretary of the Interior, shall vote against its application. It shall be the duty of the Secretary of the Interior, within one year after June 18, 1934, to call such an election, which election shall be held by secret ballot upon thirty days' notice.

(June 18, 1934, ch. 576, §18, 48 Stat. 988.)

REFERENCES IN TEXT

This Act, referred to in text, is act June 18, 1934, which is classified generally to this subchapter. For complete classification of this Act to the Code, see Short Title note set out under section 461 of this title and Tables.

EXTENSIONS OF TIME

The time for holding an election under this section was extended to June 18, 1936, by act June 15, 1935, ch. 260, §2, 49 Stat. 378.

Act June 15, 1935, ch. 260, §3, 49 Stat. 378, provided that the periods of trust or the restrictions on alienation of Indian lands should be extended to Dec. 31, 1936, in case of a vote against the application of sections 461, 462, 463, 464, 465, 466 to 470, 471, 472, 473, 474, 475, 476 to 478, and 479 of this title.

§ 478-1. Mandatory application of sections 462 and 477

Notwithstanding section 478 of this title, sections 462 and 477 of this title shall apply to—

- (1) all Indian tribes,
- (2) all lands held in trust by the United States for Indians, and
- (3) all lands owned by Indians that are subject to a restriction imposed by the United States on alienation of the rights of the Indians in the lands.

(Pub. L. 101-301, §3(a), May 24, 1990, 104 Stat. 207.)

§ 478a. Procedure

In any election heretofore or hereafter held under the Act of June 18, 1934 (48 Stat. 984) [25 U.S.C. 461 et seq.], on the question of excluding a reservation from the application of the said Act or on the question of adopting a constitution and bylaws or amendments thereto or on the question of ratifying a charter, the vote of a majority of those actually voting shall be necessary and sufficient to effectuate such exclusion, adoption, or ratification, as the case may be: *Provided, however*, That in each instance the total vote cast shall not be less than 30 per centum of those entitled to vote.

(June 15, 1935, ch. 260, §1, 49 Stat. 378.)

REFERENCES IN TEXT

Act of June 18, 1934, referred to in text, popularly known as the Indian Reorganization Act, is classified

generally to this subchapter. For complete classification of this Act to the Code, see Short Title note set out under section 461 of this title and Tables.

§ 478b. Application of laws and treaties

All laws, general and special, and all treaty provisions affecting any Indian reservation which has voted or may vote to exclude itself from the application of the Act of June 18, 1934 (48 Stat. 984) [25 U.S.C. 461 et seq.], shall be deemed to have been continuously effective as to such reservation, notwithstanding the passage of said Act of June 18, 1934. Nothing in the Act of June 18, 1934, shall be construed to abrogate or impair any rights guaranteed under any existing treaty with any Indian tribe, where such tribe voted not to exclude itself from the application of said Act.

(June 15, 1935, ch. 260, §4, 49 Stat. 378.)

REFERENCES IN TEXT

Act of June 18, 1934, referred to in text, popularly known as the Indian Reorganization Act, is classified generally to this subchapter. For complete classification of this Act to the Code, see Short Title note set out under section 461 of this title and Tables.

§ 479. Definitions

The term “Indian” as used in this Act shall include all persons of Indian descent who are members of any recognized Indian tribe now under Federal jurisdiction, and all persons who are descendants of such members who were, on June 1, 1934, residing within the present boundaries of any Indian reservation, and shall further include all other persons of one-half or more Indian blood. For the purposes of this Act, Eskimos and other aboriginal peoples of Alaska shall be considered Indians. The term “tribe” wherever used in this Act shall be construed to refer to any Indian tribe, organized band, pueblo, or the Indians residing on one reservation. The words “adult Indians” wherever used in this Act shall be construed to refer to Indians who have attained the age of twenty-one years.

(June 18, 1934, ch. 576, §19, 48 Stat. 988.)

REFERENCES IN TEXT

This Act, referred to in text, is act June 18, 1934, which is classified generally to this subchapter. For complete classification of this Act to the Code, see Short Title note set out under section 461 of this title and Tables.

ADMISSION OF ALASKA AS STATE

Admission of Alaska into the Union was accomplished Jan. 3, 1959, on issuance of Proc. No. 3269, Jan. 3, 1959, 24 F.R. 81, 73 Stat. c16, as required by sections 1 and 8(c) of Pub. L. 85-508, July 7, 1958, 72 Stat. 339, set out as notes preceding section 21 of Title 48, Territories and Insular Possessions.

§ 479a. Definitions

For the purposes of this title:¹

(1) The term “Secretary” means the Secretary of the Interior.

(2) The term “Indian tribe” means any Indian or Alaska Native tribe, band, nation, pueblo, village or community that the Sec-

¹ See References in Text note below.