(b) Transfer of public lands

Any transfer of public lands pursuant to this subchapter shall be made notwithstanding the provisions of sections 1782 and 1752(g) of title 43.

(Pub. L. 93–531, § 28, as added Pub. L. 96–305, § 11, July 8, 1980, 94 Stat. 933.)

REFERENCES IN TEXT

National Environmental Policy Act of 1969, as amended, referred to in subsec. (a), is Pub. L. 91–190, Jan. 1, 1970, 83 Stat. 852, as amended, which is classified generally to chapter 55 (§ 4321 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 4321 of Title 42 and Tables.

§ 640d–27. Attorney fees, costs and expenses for litigation or court action

(a) Payment by Secretary; authorization of appropriations

In any litigation or court action between or among the Hopi Tribe, the Navajo Tribe and the United States or any of its officials, departments, agencies, or instrumentalities, arising out of the interpretation or implementation of this subchapter, as amended, the Secretary shall pay, subject to the availability of appropriations, attorney's fees, costs and expenses as determined by the Secretary to be reasonable. For each tribe, there is hereby authorized to be appropriated not to exceed $120,000 in fiscal year 1981, $130,000 in fiscal year 1982, $140,000 in fiscal year 1983, $150,000 in fiscal year 1984, and $160,000 in fiscal year 1985, and each succeeding year thereafter until such litigation or court action is finally completed.

(b) Award by court; reimbursement to Secretary

Upon the entry of a final judgment in any such litigation or court action, the court shall award reasonable attorney's fees, costs and expenses to the party, other than the United States or its officials, departments, agencies, or instrumentalities, which prevails or substantially prevails, where it finds that any opposing party has unreasonably initiated or contested such litigation. Any party to whom such an award has been made shall reimburse the United States out of such award to the extent that it has received payments pursuant to subsection (a) of this section.

(c) Excess difference between award of court and award of Secretary treated as final judgment of Court of Claims

To the extent that any award made to a party against the United States pursuant to subsection (b) of this section exceeds the amount paid to such party by the United States pursuant to subsection (a) of this section, such difference shall be treated as if it were a final judgment of the Court of Claims under section 2517 of title 28.

(d) Litigation or court actions applicable

This section shall apply to any litigation or court action pending upon July 8, 1980, in which a final order, decree, judgment has not been entered, but shall not apply to any action authorized by section 640d–7 or 640d–17(a) of this title.

(Pub. L. 93–531, § 29, as added Pub. L. 96–305, § 11, July 8, 1980, 94 Stat. 934.)

REFERENCES IN TEXT

The Court of Claims, referred to in subsec. (c), and the Court of Customs and Patent Appeals were merged effective Oct. 1, 1982, into a new United States Court of Appeals for the Federal Circuit by Pub. L. 97–164, Apr. 2, 1982, 96 Stat. 25, which also created a United States Claims Court [now United States Court of Federal Claims] that inherited the trial jurisdiction of the Court of Claims. See sections 48, 171 et seq., 791 et seq., and 1491 et seq. of Title 28, Judiciary and Judicial Procedure.

§ 640d–28. Life estates

(a) Omitted

(b) Application for lease; contents; filing date; extension

Any Navajo head of household who desires to do so may submit an application for a life estate lease to the Commissioner. Such application shall contain such information as the Commissioner may prescribe by regulation, such regulation to be promulgated by the Commissioner within ninety days of July 8, 1980. To be considered, such application must be filed with the Commissioner on or before April 1, 1981: *Provided*, That the Commissioner may, for good cause, grant an extension of one hundred and eighty days.

(c) Application groupings

Upon receipt of applications filed pursuant to this section, the Commissioner shall group them in the following order:

(A) Applicants who are determined to be at least 50 per centum disabled as certified by a physician approved by the Commissioner. Such applicants shall be ranked in the order of the severity of their disability.

(B) Applicants who are not at least 50 per centum disabled shall be ranked in order of their age with oldest listed first and the youngest listed last: *Provided*, That, if any applicant physically resides in quarter quad Nos. 78 NW, 77 NE, 77 NW, 55 SW, or 54 SE as designated on the Mediator's partition map, such applicant shall be given priority over another applicant of equal age.

(C) Applicants who did not, as of December 22, 1974, and continuously thereafter, maintain a separate place of abode and actually remain domiciled on Hopi partitioned lands, and who, but for this subsection would be required to relocate, shall be rejected by the Commissioner.

(D) Applicants who were not at least forty-nine years of age on December 22, 1974, or are not at least 50 per centum disabled, shall also be rejected by the Commissioner.

(d) Number of leases; priorities

The Commissioner shall have authority to award life estate leases to not more than one hundred and twenty applicants with first priority being given to applicants listed pursuant to subsection (c)(A) of this section and the next priority being given to the applicants listed pursuant to subsection (c)(B) of this section, in order of such listing.

(e) Area; allowable livestock; assistance by Secretary in feeding livestock

Each life estate lease shall consist of a fenced area not exceeding ninety acres of land which

shall include the life tenant's present residence and may be used by the life tenant to feed not to exceed twenty-five sheep units per year or equivalent livestock. The Secretary, under existing authority, shall make available to life estate tenants such assistance during that tenure, as may be necessary to enable such tenant to feed such livestock at an adequate nutritional level.

(f) Individuals permitted to reside; regulations

No person may reside on a life estate other than the life tenant, his or her spouse, and minor dependents, and/or such persons who are necessarily present to provide for the care of the life tenant. The Commissioner shall promulgate regulations to carry out the intent of this subsection.

(g) Termination

The life estate tenure shall end by voluntary relinquishment, or at the death of the life tenant or the death of his or her spouse, whichever occurs last: *Provided*, That each survivorship right shall apply only to those persons who were lawfully married to each other on or before July 8, 1980.

(h) Relocation benefits upon voluntary relinquishment; compensation upon death of life tenant or surviving spouse; relocation of dependents

Nothing in this section shall be construed as prohibiting any such applicant who receives a life estate lease under this section from relinquishing, prior to its termination, such estate at any time and voluntarily relocating. Upon voluntary relinquishment of such estate, by such means or instrument as the Secretary shall prescribe, such applicant shall be entitled to relocation benefits from the Secretary comparable to those provided by section 640d–14 of this title. For life estates terminated by the death of the life tenant or his or her surviving spouse, compensation shall be paid to the estate of the deceased life tenant or surviving spouse based on the fair market value of the habitation and improvements at the time of the expiration of such tenure and not before. Such payment shall be in lieu of any other payment pursuant to subsection (a) of section 640d–14 of this title. Assistance provided pursuant to section 640d–14(b) of this title, shall be paid to any head of household lawfully residing on such life estate pursuant to subsection (f) of this section who is required to move by the termination of such life estate by the death of the life tenant and his or her surviving spouse and who does not maintain a residence elsewhere. Compensation under section 640d–14(a) of this title shall be paid and distributed in accordance with the last will and testament of the life tenant or surviving spouse or, in the event no valid last will and testament is left, compensation shall be paid and distributed to his or her heirs in accordance with existing Federal law. Upon termination of a life estate by whatever means, the dependents residing with the individuals having such life estate so terminated shall have ninety days following such termination within which to relocate.

(i) Payment of fair market rental value

The Secretary shall pay, on an annual basis, the fair market rental value of such life estate leases to the tribe to whom the lands leased were partitioned.

(j) Improvements

Nothing in this subchapter or any other law shall be construed to prevent a life tenant from making reasonable improvements on the life estate which are related to the residence and agricultural purposes of the life tenancy.

(k) Additional leases for Hopi heads of household

The Commissioner is authorized to grant not to exceed ten additional life estate leases to Hopi heads of household residing on Navajo-partitioned lands under such terms of this section as may be appropriate.

(Pub. L. 93–531, § 30, as added Pub. L. 96–305, § 11, July 8, 1980, 94 Stat. 934; amended Pub. L. 100–666, § 4(b), Nov. 16, 1988, 102 Stat. 3930.)

CODIFICATION

Subsec. (a) provided for the repeal of section 640d–4(a)(4) of this title.

AMENDMENTS

1988—Subsecs. (b) to (d), (f), (k). Pub. L. 100–666 substituted ''Commissioner'' for ''Commission'' wherever appearing.

§ 640d–29. Restrictions on lobbying; exception

(a) Except as provided in subsection (b) of this section, no person or entity who has entered into a contract with the Commissioner to provide services under this subchapter may engage in activities designed to influence Federal legislation on any issue relating to the relocation required under this subchapter.

(b) Subsection (a) of this section shall not apply to the Navajo Tribe or the Hopi Tribe, except that such tribes shall not spend any funds received from the Office in any activities designed to influence Federal legislation.

(Pub. L. 93–531, § 31, as added Pub. L. 100–666, § 5, Nov. 16, 1988, 102 Stat. 3931.)

§ 640d–30. Navajo Rehabilitation Trust Fund

(a) Establishment

There is hereby established in the Treasury of the United States a trust fund to be known as the ''Navajo Rehabilitation Trust Fund'', which shall consist of the funds transferred under subsection (b) of this section and of the funds appropriated pursuant to subsection (f) of this section and any interest or investment income accrued on such funds.

(b) Deposit of income into Fund

All of the net income derived by the Navajo Tribe from the surface and mineral estates of lands located in New Mexico that are acquired for the benefit of the Navajo Tribe under section 640d–10 of this title shall be deposited into the Navajo Rehabilitation Trust Fund.

(c) Secretary as trustee; investment of funds

The Secretary shall be the trustee of the Navajo Rehabilitation Trust Fund and shall be responsible for investment of the funds in such Trust Fund.

(d) Availability of funds; purposes

Funds in the Navajo Rehabilitation Trust Fund, including any interest or investment ac-