

111TH CONGRESS
2^D SESSION

S. 3235

To amend the Act titled “An Act to authorize the leasing of restricted Indian lands for public, religious, educational, recreational, residential, business, and other purposes requiring the grant of long-term leases”, approved August 9, 1955, to provide for Indian tribes to enter into certain leases without prior express approval from the Secretary of the Interior.

IN THE SENATE OF THE UNITED STATES

APRIL 20, 2010

Mr. DORGAN (for himself, Mr. JOHNSON, Mr. TESTER, and Mr. UDALL of New Mexico) introduced the following bill; which was read twice and referred to the Committee on Indian Affairs

A BILL

To amend the Act titled “An Act to authorize the leasing of restricted Indian lands for public, religious, educational, recreational, residential, business, and other purposes requiring the grant of long-term leases”, approved August 9, 1955, to provide for Indian tribes to enter into certain leases without prior express approval from the Secretary of the Interior.

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.**

2 This Act may be cited as the “Helping Expedite and
3 Advance Responsible Tribal Homeownership Act of 2010”
4 or the “HEARTH Act of 2010”.

5 **SEC. 2. APPROVAL OF, AND REGULATIONS RELATED TO,**
6 **TRIBAL LEASES.**

7 The first section of the Act titled “An Act to author-
8 ize the leasing of restricted Indian lands for public, reli-
9 gious, educational, recreational, residential, business, and
10 other purposes requiring the grant of long-term leases”,
11 approved August 9, 1955 (25 U.S.C. 415) is amended as
12 follows:

13 (1) In subsection (d)—

14 (A) by striking paragraph (2) and insert-
15 ing the following:

16 “(2) the term ‘Indian tribe’ has the meaning
17 given such term in section 102 of the Federally Rec-
18 ognized Indian Tribe List Act of 1994 (25 U.S.C.
19 479a);”;

20 (B) in paragraph (3)—

21 (i) in the matter preceding subpara-
22 graph (A), by striking “Navajo Indian”;

23 (ii) in subparagraph (A), by striking
24 “the Navajo Nation” and inserting “an In-
25 dian tribe”;

1 (iii) in subparagraph (B), by striking
2 “Navajo Indians or members of another
3 Indian tribe” and inserting “an Indian
4 tribe or a member of an Indian tribe”; and

5 (iv) in subparagraph (C)(i), by strik-
6 ing “Navajo Indian” and inserting “mem-
7 ber of an Indian tribe”;

8 (C) in paragraph (4), by striking “the
9 Navajo Nation” and inserting “an applicable
10 Indian tribe”;

11 (D) by striking paragraph (5) and redesign-
12 ating paragraphs (6), (7), and (8) as para-
13 graphs (5), (6), and (7), respectively;

14 (E) in paragraph (5) (as redesignated), by
15 striking “the Navajo Nation” and inserting “an
16 Indian tribe”; and

17 (F) in paragraph (7) (as redesignated)—

18 (i) by striking “the Navajo Nation”;

19 and

20 (ii) by striking “with Navajo Nation
21 law” and inserting “with applicable tribal
22 law”.

23 (2) In subsection (e)—

1 (A) by amending the subsection heading to
2 read as follows: “APPROVAL OF LEASES—TRIB-
3 AL DISCRETION.—”;

4 (B) in paragraph (1)—

5 (i) in the matter preceding subpara-
6 graph (A), by striking “Any leases by the
7 Navajo Nation” and inserting “At the dis-
8 cretion of any Indian tribe, any leases by
9 the applicable Indian tribe”;

10 (ii) by striking “except a lease for the
11 exploration, development, or extraction of
12 any mineral resources,”; and

13 (iii) in subparagraph (B), by striking
14 “Navajo Nation” and inserting “applicable
15 Indian tribe”;

16 (C) in paragraph (2), by striking “Nav-
17 ajo”;

18 (D) in paragraph (3)—

19 (i) in the second sentence, by insert-
20 ing “, similar to the process established by
21 the Department of the Interior under the
22 National Environmental Policy Act of
23 1969 (42 U.S.C. 4321 et seq.)” after
24 “process”;

1 (ii) in the third sentence, by striking
2 “the regulations of the Navajo Nation”
3 and inserting “such regulations”; and

4 (iii) in the fifth sentence, by striking
5 “with the Navajo Nation” and inserting
6 “with the applicable Indian tribe”;

7 (E) in paragraph (4), by striking “Navajo
8 Nation” each place it appears and inserting
9 “applicable Indian tribe”;

10 (F) in paragraph (5)—

11 (i) by striking “paragraph (1), includ-
12 ing the Navajo Nation.” and inserting
13 “paragraph (1).”; and

14 (ii) by striking the second sentence
15 and inserting “Pursuant to the Secretary’s
16 authority to fulfill the trust obligation of
17 the United States to the applicable Indian
18 tribe as defined in other statutory or regu-
19 latory authorizations, the Secretary may,
20 upon reasonable notice from the applicable
21 Indian tribe and in the discretion of the
22 Secretary, enforce the provisions of a lease
23 or cancel a lease.”;

24 (G) in paragraph (6)(A)—

1 (i) by striking “of the Navajo Nation”
2 and inserting “of the applicable Indian
3 tribe”; and

4 (ii) by striking “Navajo Nation tribal”
5 and inserting “tribal”; and

6 (H) in paragraph (6)(B), by striking
7 “Navajo Nation” each place it appears and in-
8 serting “applicable Indian tribe”.

9 **SEC. 3. LAND TITLE REPORTS—REVIEW AND REPORT TO**
10 **CONGRESS.**

11 Not later than 180 days after funds are made avail-
12 able for this section, the Bureau of Indian Affairs shall
13 prepare and submit to the Committees on Financial Serv-
14 ices and Natural Resources in the House of Representa-
15 tives and the Committees on Banking, Housing, and
16 Urban Affairs and Indian Affairs in the Senate a report
17 regarding the history and experience of Indian tribes that
18 have chosen to assume responsibility for operating the In-
19 dian Land Title and Records Office (hereafter referred to
20 as the “LTRO”) functions from the Bureau of Indian Af-
21 fairs. In conducting the review, the Bureau of Indian Af-
22 fairs shall consult with the Department of Housing and
23 Urban Development Office of Native American Programs
24 and those Indian tribes that are managing LTRO func-
25 tions (hereafter referred to as the “managing Indian

1 tribes”). The review shall include an analysis of the fol-
2 lowing factors:

3 (1) Whether and how tribal management of the
4 LTRO functions has expedited the processing and
5 issuance of Indian land title certifications as com-
6 pared to when the Bureau of Indian Affairs man-
7 aged these programs.

8 (2) Whether and how tribal management of the
9 LTRO functions has increased home ownership
10 among the managing Indian tribe’s population.

11 (3) What internal preparations and processes
12 were required of the managing Indian tribes prior to
13 assuming management of the LTRO functions.

14 (4) Whether tribal management of the LTRO
15 functions resulting in a transfer of financial re-
16 sources and manpower from the Bureau of Indian
17 Affairs to the managing Indian tribes and, if so,
18 what transfers were undertaken.

19 (5) Whether, in appropriate circumstances and
20 with the approval of geographically proximate Indian
21 tribes, the LTRO functions may be performed by a
22 single Indian tribe or a tribal consortium in a cost
23 effective manner.

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