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SALES, EXCHANGES AND CONVEYANCES OF TRUST OR RESTRICTED LANDS

§ 152.17 Sales, exchanges, and conveyances by, or with the consent of the individual Indian owner.

Pursuant to the Acts of May 27, 1902 (32 Stat. 275; 25 U.S.C. 379); May 17, 1906 (34 Stat. 197), as amended August 2, 1956 (70 Stat. 954; 48 U.S.C. 357); March 1, 1907 (34 Stat. 1018; 25 U.S.C. 405); May 29, 1908 (35 Stat. 444; 25 U.S.C. 404); June 25, 1910 (36 Stat. 855; 25 U.S.C. 372), as amended May 25, 1926 (44 Stat. 629; 48 U.S.C. 355a-355d); June 18, 1934 (48 Stat. 984; 25 U.S.C. 464); and May 14, 1948 (62 Stat. 236; 25 U.S.C. 483); and pursuant to other authorizing acts, trust or restricted lands acquired by allotment, devise, inheritance, purchase, exchange, or gift may be sold, exchanged, and conveyed by the Indian owner with the approval of the Secretary or by the Secretary with the consent of the Indian owner.

§ 152.18 Sale with the consent of natural guardian or person designated by the Secretary.

Pursuant to the Act of May 29, 1908 (35 Stat. 444; 25 U.S.C. 404), the Secretary may, with the consent of the natural guardian of a minor, sell trust or restricted land belonging to such minor; and the Secretary may, with the consent of a person designated by him, sell trust or restricted land belonging to Indians who are minor orphans without a natural guardian, and Indians who are non compos mentis or otherwise under legal disability. The authority contained in this act is not applicable to lands in Oklahoma, Minnesota, and South Dakota, nor to lands authorized to be sold by the Act of May 14, 1948 (62 Stat. 236; 25 U.S.C. 483).

§ 152.19 Sale by fiduciaries.

Guardians, conservators, or other fiduciaries appointed by State courts, or by tribal courts operating under approved constitutions or law and order codes, may, upon order of the court, convey with the approval of the Secretary or consent to the conveyance by the Secretary of trust or restricted land belonging to their Indian wards who are minors, non compos mentis or otherwise under legal disability. This section is subject to the exceptions contained in 25 U.S.C. 954(b).

§ 152.20 Sale by Secretary of certain land in multiple ownership.

Pursuant to the Act of June 25, 1910 (36 Stat. 855), as amended (25 U.S.C. 372), if the Secretary decides that one or more of the heirs who have inherited trust land are incapable of managing their own affairs, he may sell any or all interests in that land. This authority is not applicable to lands authorized to be sold by the Act of May 14, 1948 (62 Stat. 236; 25 U.S.C. 483).

§ 152.21 Sale or exchange of tribal land.

Certain tribal land may be sold or exchanged pursuant to the Acts of February 14, 1920 (41 Stat. 415; 25 U.S.C. 294); June 18, 1934 (48 Stat. 984; 25 U.S.C. 464); August 10, 1939 (53 Stat. 1351; 25 U.S.C. 463(e)); July 1, 1948 (62 Stat. 1214); June 4, 1953 (67 Stat. 41; 25 U.S.C. 293(a)); July 28, 1955 (69 Stat. 392), as amended August 31, 1964 (78 Stat. 747; 25 U.S.C. 608-608c); June 18, 1956 (70 Stat. 290; 25 U.S.C. 403a-2); July 24, 1956 (70 Stat. 626); May 19, 1958 (72 Stat. 121; 25 U.S.C. 463, Note); September 2, 1958 (72 Stat. 1762); April 4, 1960 (74 Stat. 13); April 29, 1960 (74 Stat. 85); December 11, 1963 (77 Stat. 349); August 11, 1964 (78 Stat. 389), and pursuant to other authorizing acts. Except as otherwise provided by law, and as far as practicable, the regulations in this part 152 shall be applicable to sale or exchanges of such tribal land.

§ 152.22 Secretarial approval necessary to convey individual-owned trust or restricted lands or land owned by a tribe.

(a) *Individual lands.* Trust or restricted lands, except inherited lands of the Five Civilized Tribes, or any interest therein, may not be conveyed without the approval of the Secretary. Moreover, inducing an Indian to execute an instrument purporting to convey any trust land or interest therein, or the offering of any such instrument for record, is prohibited and criminal penalties may be incurred. (See 25 U.S.C. 202 and 348.)

(b) *Tribal lands.* Lands held in trust by the United States for an Indian

tribe, lands owned by a tribe with Federal restrictions against alienation and any other land owned by an Indian tribe may only be conveyed where specific statutory authority exists and then only with the approval of the Secretary unless the Act of Congress authorizing sale provides that approval is unnecessary. (See 25 U.S.C. 177.)

§ 152.23 Applications for sale, exchange or gift.

Applications for the sale, exchange or gift of trust or restricted land shall be filed in the form approved by the Secretary with the agency having immediate jurisdiction over the land. Applications may be approved if, after careful examination of the circumstances in each case, the transaction appears to be clearly justified in the light of the long-range best interest of the owner or owners or as under conditions set out in § 152.25(d).

§ 152.24 Appraisal.

Except as otherwise provided by the Secretary, an appraisal shall be made indicating the fair market value prior to making or approving a sale, exchange, or other transfer of title of trust or restricted land.

§ 152.25 Negotiated sales, gifts and exchanges of trust or restricted lands.

Those sales, exchanges, and gifts of trust or restricted lands specifically described in the following paragraphs (a), (b), (c), and (d) of this section may be negotiated; all other sales shall be by advertised sale, except as may be otherwise provided by the Secretary.

(a) *Consideration not less than the appraised fair market value.* Indian owners may, with the approval of the Secretary, negotiate a sale of and sell trust or restricted land for not less than the appraised fair market value:

(1) When the sale is to the United States, States, or political subdivisions thereof, or such other sale as may be for a public purpose;

(2) When the sale is to the tribe or another Indian; or

(3) When the Secretary determines it is impractical to advertise.

(b) *Exchange at appraised fair market value.* With the approval of the Secretary, Indian owners may exchange trust or restricted land, or a combination of such land and other things of value, for other lands or combinations of land and other things of value. The value of the consideration received by the Indian in the exchange must be at least substantially equal to the appraised fair market value of the consideration given by him.

(c) *Sale to coowners.* With the approval of the Secretary, Indian owners may negotiate a sale of and sell trust or restricted land to a coowner of that land. The consideration may be less than the appraised fair market value, if in the opinion of the Secretary there is a special relationship between the coowners or special circumstances exist.

(d) *Gifts and conveyances for less than the appraised fair market value.* With the approval of the Secretary, Indian owners may convey trust or restricted land, for less than the appraised fair market value or for no consideration when the prospective grantee is the owner's spouse, brother, sister, lineal ancestor of Indian blood or lineal descendant, or when some other special relationship exists between the grantor and grantee or special circumstances exist that in the opinion of the Secretary warrant the approval of the conveyance.

§ 152.26 Advertisement.

(a) Upon approval of an application for an advertised sale, notice of the sale will be published not less than 30 days prior to the date fixed for the sale unless for good cause a shorter period is authorized by the Secretary.

(b) The notice of sale will include:

(1) Terms, conditions, place, date, hour, and methods of sale, including explanation of auction procedure as set out in § 152.27(b)(2) if applicable;

(2) Where and how bids shall be submitted;

(3) A statement warning all bidders against violation of 18 U.S.C. 1860 prohibiting unlawful combination or intimidation of bidders or potential bidders; and

(4) Description of tracts, all reservations to which title will be subject and any restrictions and encumbrances of record with the Bureau of Indian Affairs and any other information that may improve sale prospects.