

the Indian Health Care Improvement Act which comprises this chapter.

SIMILAR PROVISIONS

Similar provisions were contained in the following prior appropriation acts:

- Pub. L. 103-138, title II, Nov. 11, 1993, 107 Stat. 1409.
- Pub. L. 102-381, title II, Oct. 5, 1992, 106 Stat. 1409.
- Pub. L. 102-154, title II, Nov. 13, 1991, 105 Stat. 1027.
- Pub. L. 101-512, title II, Nov. 5, 1990, 104 Stat. 1952.
- Pub. L. 101-121, title II, Oct. 23, 1989, 103 Stat. 734.
- Pub. L. 100-446, title II, Sept. 27, 1988, 102 Stat. 1816.
- Pub. L. 100-202, §101(g) [title II], Dec. 22, 1987, 101 Stat. 1329-213, 1329-245.
- Pub. L. 99-500, §101(h) [title II], Oct. 18, 1986, 100 Stat. 1783-242, 1783-277, and Pub. L. 99-591, §101(h) [title II], Oct. 30, 1986, 100 Stat. 3341-242, 3341-277.
- Pub. L. 99-190, §101(d) [title II], Dec. 19, 1985, 99 Stat. 1224, 1256.
- Pub. L. 98-473, title I, §101(c) [title II], Oct. 12, 1984, 98 Stat. 1837, 1865.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1682 of this title.

§ 1682. Subrogation of claims by Indian Health Service

On and after October 18, 1986, the Indian Health Service may seek subrogation of claims including but not limited to auto accident claims, including no-fault claims, personal injury, disease, or disability claims, and worker's compensation claims, the proceeds of which shall be credited to the funds established by sections 401 and 402¹ of the Indian Health Care Improvement Act.

(Pub. L. 99-500, §101(h) [title II], Oct. 18, 1986, 100 Stat. 1783-242, 1783-277, and Pub. L. 99-591, §101(h) [title II], Oct. 30, 1986, 100 Stat. 3341-242, 3341-277.)

REFERENCES IN TEXT

Sections 401 and 402 of the Indian Health Care Improvement Act, referred to in text, probably means former sections 401 and 402 of Pub. L. 94-437, title IV, Sept. 30, 1976, 90 Stat. 1408, 1409, which enacted sections 1395qq and 1396j of Title 42, The Public Health and Welfare, amended sections 1395f, 1395n, and 1396d of Title 42, and enacted provisions set out as notes under sections 1395qq and 1396j of Title 42. Sections 401 and 402 of the Act were amended generally by section 401(a), (b)(1) of Pub. L. 102-573, title IV, Oct. 29, 1992, 106 Stat. 4565, and are classified to sections 1641 and 1642 of this title, respectively.

CODIFICATION

Pub. L. 99-591 is a corrected version of Pub. L. 99-500. Section was enacted as part of the Department of the Interior and Related Agencies Appropriations Act, 1987, as enacted by Pub. L. 99-500 and Pub. L. 99-591, and not as part of the Indian Health Care Improvement Act which comprises this chapter.

PRIOR PROVISIONS

A prior section 1682, Pub. L. 98-473, title I, §101(c) [title II], Oct. 12, 1984, 98 Stat. 1837, 1865, which related to subrogation of claims by Indian Health Service, was omitted as superseded by section 101(h) [title II] of Pub. L. 99-500 and Pub. L. 99-591.

§ 1683. Indian Catastrophic Health Emergency Fund

\$10,000,000 shall remain available until expended, for the establishment of an Indian Cata-

strophic Health Emergency Fund (hereinafter referred to as the "Fund"). On and after October 18, 1986, the Fund is to cover the Indian Health Service portion of the medical expenses of catastrophic illness falling within the responsibility of the Service and shall be administered by the Secretary of Health and Human Services, acting through the central office of the Indian Health Service. No part of the Fund or its administration shall be subject to contract or grant under the Indian Self-Determination and Education Assistance Act (Public Law 93-638) [25 U.S.C. 450 et seq.]. There shall be deposited into the Fund all amounts recovered under the authority of the Federal Medical Care Recovery Act (42 U.S.C. 2651 et seq.), which shall become available for obligation upon receipt and which shall remain available for obligation until expended. The Fund shall not be used to pay for health services provided to eligible Indians to the extent that alternate Federal, State, local, or private insurance resources for payment: (1) are available and accessible to the beneficiary; or (2) would be available and accessible if the beneficiary were to apply for them; or (3) would be available and accessible to other citizens similarly situated under Federal, State, or local law or regulation or private insurance program notwithstanding Indian Health Service eligibility or residency on or off a Federal Indian reservation.

(Pub. L. 99-500, §101(h) [title II], Oct. 18, 1986, 100 Stat. 1783-242, 1783-276, and Pub. L. 99-591, §101(h) [title II], Oct. 30, 1986, 100 Stat. 3341-242, 3341-276.)

REFERENCES IN TEXT

The Indian Self-Determination and Education Assistance Act (Public Law 93-638), referred to in text, is Pub. L. 93-638, Jan. 4, 1975, 88 Stat. 2203, as amended, which is classified principally to subchapter II (§450 et seq.) of chapter 14 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 450 of this title and Tables.

The Federal Medical Care Recovery Act (42 U.S.C. 2651 et seq.), referred to in text, probably means Pub. L. 87-693, Sept. 25, 1962, 76 Stat. 593, which is classified generally to chapter 32 (§2651 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Tables.

CODIFICATION

Pub. L. 99-591 is a corrected version of Pub. L. 99-500. Section was enacted as part of the Department of the Interior and Related Agencies Appropriations Act, 1987, as enacted by Pub. L. 99-500 and Pub. L. 99-591, and not as part of the Indian Health Care Improvement Act which comprises this chapter.

CHAPTER 19—INDIAN LAND CLAIMS SETTLEMENTS

SUBCHAPTER I—RHODE ISLAND INDIAN CLAIMS SETTLEMENT

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SUBCHAPTER I—RHODE ISLAND INDIAN CLAIMS SETTLEMENT

PART A—GENERAL PROVISIONS

§ 1701. Congressional findings and declaration of policy

Congress finds and declares that—

(a) there are pending before the United States District Court for the District of Rhode Island two consolidated actions that involve Indian claims to certain public and private lands within the town of Charlestown, Rhode Island;

(b) the pendency of these lawsuits has resulted in severe economic hardships for the residents of the town of Charlestown by clouding the titles to much of the land in the town, including lands not involved in the lawsuits;

(c) the Congress shares with the State of Rhode Island and the parties to the lawsuits a desire to remove all clouds on titles resulting from such Indian land claims within the State of Rhode Island; and

(d) the parties to the lawsuits and others interested in the settlement of Indian land claims within the State of Rhode Island have executed a Settlement Agreement which requires implementing legislation by the Congress of the United States and the legislature of the State of Rhode Island.

(Pub. L. 95-395, § 2, Sept. 30, 1978, 92 Stat. 813.)

SHORT TITLE

Section 1 of Pub. L. 95-395 provided: "That this Act [enacting this subchapter] may be cited as the 'Rhode Island Indian Claims Settlement Act'."

For short title of Pub. L. 96-420, which enacted subchapter II of this chapter as the "Maine Indian Claims Settlement Act of 1980", see section 1 of Pub. L. 96-420, set out as a Short Title note under section 1721 of this title.

For short title of Pub. L. 97-399, which enacted subchapter III of this chapter as the "Florida Indian Land Claims Settlement Act of 1982", see section 1 of Pub. L. 97-399, set out as a note under section 1741 of this title.

For short title of Pub. L. 98-134, which enacted subchapter IV of this chapter as the "Mashantucket Pequot Indian Claims Settlement Act", see section 1 of Pub. L. 98-134, set out as a note under section 1751 of this title.

For short title of Pub. L. 100-95, which enacted subchapter V of this chapter as the "Wampanoag Tribal Council of Gay Head, Inc., Indian Claims Settlement Act of 1987", see section 1 of Pub. L. 100-95, set out as a note under section 1771 of this title.

For short title of Pub. L. 100-228, which enacted subchapter VI of this chapter as the "Seminole Indian Land Claims Settlement Act of 1987", see section 1 of Pub. L. 100-228, set out as a note under section 1772 of this title.

§ 1702. Definitions

For the purposes of this subchapter, the term—

(a) "Indian Corporation" means the Rhode Island nonbusiness corporation known as the "Narragansett Tribe of Indians";

(b) "land or natural resources" means any real property or natural resources, or any interest in or right involving any real property or natural resource, including but not limited to, minerals and mineral rights, timber and timber rights, water and water rights, and rights to hunt and fish;

(c) "lawsuits" means the actions entitled "Narragansett Tribe of Indians v. Southern Rhode Island Land Development Co., et al., C.A. No. 75-0006 (D.R.I.)" and "Narragansett Tribe of Indians v. Rhode Island Director of Environmental Management, C.A. No. 75-0005 (D.R.I.)";

(d) "private settlement lands" means approximately nine hundred acres of privately held land outlined in red in the map marked "Exhibit A" attached to the Settlement Agreement that are to be acquired by the Secretary from certain private landowners pursuant to sections 1704 and 1707 of this title;

(e) "public settlement lands" means the lands described in paragraph 2 of the Settlement Agreement that are to be conveyed by the State of Rhode Island to the State Corporation pursuant to legislation as described in section 1706 of this title;

(f) "settlement lands" means those lands defined in subsections (d) and (e) of this section;

(g) "Secretary" means the Secretary of the Interior;

(h) "settlement agreement" means the document entitled "Joint Memorandum of Understanding Concerning Settlement of the Rhode Island Indian Land Claims", executed as of February 28, 1978, by representatives of the State of Rhode Island, of the town of Charlestown, and of the parties to the lawsuits, as filed with the Secretary of the State of Rhode Island;

(i) "State Corporation" means the corporation created or to be created by legislation enacted by the State of Rhode Island as described in section 1706 of this title; and

(j) "transfer" includes but is not limited to any sale, grant, lease, allotment, partition, or conveyance, any transaction the purpose of which was to effect a sale, grant, lease, allotment, partition, or conveyance, or any event or events that resulted in a change of possession or control of land or natural resources.

(Pub. L. 95-395, § 3, Sept. 30, 1978, 92 Stat. 813.)

§ 1703. Rhode Island Indian Claims Settlement Fund; establishment

There is hereby established in the United States Treasury a fund to be known as the Rhode Island Indian Claims Settlement Fund into which \$3,500,000 shall be deposited following the appropriation authorized by section 1710 of this title.

(Pub. L. 95-395, § 4, Sept. 30, 1978, 92 Stat. 814.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1704, 1707 of this title.

§ 1704. Option agreements to purchase private settlement lands

(a) Acceptance of option agreement assignments; reasonableness of terms and conditions

The Secretary shall accept assignment of reasonable two-year option agreements negotiated by the Governor of the State of Rhode Island or his designee for the purchase of the private settlement lands: *Provided*, That the terms and conditions specified in such options are reasonable and that the total price for the acquisition of such lands, including reasonable costs of acquisition, will not exceed the amount specified in section 1703 of this title. If the Secretary does not determine that any such option agreement is unreasonable within sixty days of its submission, the Secretary will be deemed to have accepted the assignment of the option.

(b) Amount of payment

Payment for any option entered into pursuant to subsection (a) of this section shall be in the amount of 5 per centum of the fair market value of the land or natural resources as of the date of the agreement and shall be paid from the fund established by section 1703 of this title.

(c) Limitation on option fees

The total amount of the option fees paid pursuant to subsection (b) of this section shall not exceed \$175,000.

(d) Application of option fee

The option fee for each option agreement shall be applied to the agreed purchase price in the

agreement if the purchase of the defendant's land or natural resources is completed in accordance with the terms of the option agreement.

(e) Retention of option payment

The payment for each option may be retained by the party granting the option if the property transfer contemplated by the option agreement is not completed in accordance with the terms of the option agreement.

(Pub. L. 95-395, § 5, Sept. 30, 1978, 92 Stat. 814.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1702, 1707 of this title.

§ 1705. Publication of findings

(a) Prerequisites; consequences

If the Secretary finds that the State of Rhode Island has satisfied the conditions set forth in section 1706 of this title, he shall publish such findings in the Federal Register and upon such publication—

(1) any transfer of land or natural resources located anywhere within the United States from, by, or on behalf of the Indian Corporation or any other entity presently or at any time in the past known as the Narragansett Tribe of Indians, or any predecessor or successor in interest, member or stockholder thereof, and any transfer of land or natural resources located anywhere within the town of Charlestown, Rhode Island, by, from, or on behalf of any Indian, Indian nation, or tribe of Indians, including but not limited to a transfer pursuant to any statute of any State, shall be deemed to have been made in accordance with the Constitution and all laws of the United States that are specifically applicable to transfers of land or natural resources from, by, or on behalf of any Indian, Indian nation or tribe of Indians (including but not limited to the Trade and Intercourse Act of 1790, Act of July 22, 1790, ch. 33, sec. 4, 1 Stat. 137, and all amendments thereto and all subsequent versions thereof), and Congress does hereby approve any such transfer effective as of the date of said transfer;

(2) to the extent that any transfer of land or natural resources described in subsection (a) of this section may involve land or natural resources to which the Indian Corporation or any other entity presently or at any time in the past known as the Narragansett Tribe of Indians, or any predecessor or successor in interest, member or stockholder thereof, or any other Indian, Indian nation, or tribe of Indians, had aboriginal title, subsection (a) of this section shall be regarded as an extinguishment of such aboriginal title as of the date of said transfer; and

(3) by virtue of the approval of a transfer of land or natural resources effected by this section, or an extinguishment of aboriginal title effected thereby, all claims against the United States, any State or subdivision thereof, or any other person or entity, by the Indian Corporation or any other entity presently or at any time in the past known as the Narragan-

sett Tribe of Indians, or any predecessor or successor in interest, member or stockholder thereof, or any other Indian, Indian nation, or tribe of Indians, arising subsequent to the transfer and based upon any interest in or right involving such land or natural resources (including but not limited to claims for trespass damages or claims for use and occupancy) shall be regarded as extinguished as of the date of the transfer.

(b) Maintenance of action; remedy

Any Indian, Indian nation, or tribe of Indians (other than the Indian Corporation or any other entity presently or at any time in the past known as the Narragansett Tribe of Indians, or any predecessor or successor in interest, member or stockholder thereof) whose transfer of land or natural resources was approved or whose aboriginal title or claims were extinguished by subsection (a) of this section may, within a period of one hundred and eighty days after publication of the Secretary's findings pursuant to this section, bring an action against the State Corporation in lieu of an action against any other person against whom a cause may have existed in the absence of this section. In any such action, the remedy shall be limited to a right of possession of the settlement lands.

(Pub. L. 95-395, § 6, Sept. 30, 1978, 92 Stat. 815.)

REFERENCES IN TEXT

The Trade and Intercourse Act of 1790, Act of July 22, 1790, ch. 33, sec. 4, 1 Stat. 137, referred to in subsec. (a)(1), was not classified to the Code. See sections 177, 179, 180, 193, 194, 201, 229, 230, 251, 263, and 264 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1706, 1707, 1712 of this title.

§ 1706. Findings by Secretary

Section 1705 of this title shall not take effect until the Secretary finds—

(a) that the State of Rhode Island has enacted legislation creating or authorizing the creation of a State chartered corporation satisfying the following criteria:

(1) the corporation shall be authorized to acquire, perpetually manage, and hold the settlement lands;

(2) the corporation shall be controlled by a board of directors, the majority of the members of which shall be selected by the Indian Corporation or its successor, and the remaining members of which shall be selected by the State of Rhode Island; and

(3) the corporation shall be authorized, after consultation with appropriate State officials, to establish its own regulations concerning hunting and fishing on the settlement lands, which need not comply with regulations of the State of Rhode Island but which shall establish minimum standards for the safety of persons and protection of wildlife and fish stock; and

(b) that State of Rhode Island has enacted legislation authorizing the conveyance to the State Corporation of land and natural resources that substantially conform to the pub-

lic settlement lands as described in paragraph 2 of the Settlement Agreement.

(Pub. L. 95-395, § 7, Sept. 30, 1978, 92 Stat. 816.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1702, 1705, 1707, 1709 of this title.

§ 1707. Purchase and transfer of private settlement lands

(a) Determination by Secretary; assignment of settlement lands to State Corporation

When the Secretary determines that the State Corporation described in section 1706(a) of this title has been created and will accept the settlement lands, the Secretary shall exercise within sixty days the options entered into pursuant to section 1704 of this title and assign the private settlement lands thereby purchased to the State Corporation.

(b) Moneys remaining in fund

Any moneys remaining in the fund established by section 1703 of this title after the purchase described in subsection (a) of this section shall be returned to the general Treasury of the United States.

(c) Duties and liabilities of United States upon discharge of Secretary's duties; restriction on conveyance of settlement lands; affect on easements for public or private purposes

Upon the discharge of the Secretary's duties under sections 1704, 1705, 1706, and 1707 of this title, the United States shall have no further duties or liabilities under this subchapter with respect to the Indian Corporation or its successor, the State Corporation, or the settlement lands: *Provided, however,* That if the Secretary subsequently acknowledges the existence of the Narragansett Tribe of Indians, then the settlement lands may not be sold, granted, or otherwise conveyed or leased to anyone other than the Indian Corporation, and no such disposition of the settlement lands shall be of any validity in law or equity, unless the same is approved by the Secretary pursuant to regulations adopted by him for that purpose: *Provided, however,* That nothing in this subchapter shall affect or otherwise impair the ability of the State Corporation to grant or otherwise convey (including any involuntary conveyance by means of eminent domain or condemnation proceedings) any easement for public or private purposes pursuant to the laws of the State of Rhode Island.

(Pub. L. 95-395, § 8, Sept. 30, 1978, 92 Stat. 816.)

§ 1708. Applicability of State law

Except as otherwise provided in this subchapter, the settlement lands shall be subject to the civil and criminal laws and jurisdiction of the State of Rhode Island.

(Pub. L. 95-395, § 9, Sept. 30, 1978, 92 Stat. 817.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1702 of this title.

§ 1709. Preservation of Federal benefits

Nothing contained in this subchapter or in any legislation enacted by the State of Rhode Island

as described in section 1706 of this title shall affect or otherwise impair in any adverse manner any benefits received by the State of Rhode Island under the Federal Aid in Wildlife Restoration Act of September 2, 1937 (16 U.S.C. 669-669(i)), or the Federal Aid in Fish Restoration Act of August 9, 1950 (16 U.S.C. 777-777(k)). (Pub. L. 95-395, §10, Sept. 30, 1978, 92 Stat. 817.)

REFERENCES IN TEXT

The Federal Aid in Wildlife Restoration Act of September 2, 1937, referred to in text, is act Sept. 2, 1937, ch. 899, 50 Stat. 917, as amended, which is classified generally to chapter 5B (§669 et seq.) of Title 16, Conservation. For complete classification of this Act to the Code, see short title note set out under section 669 of Title 16 and Tables.

The Federal Aid in Fish Restoration Act of August 9, 1950, referred to in text, is act Aug. 9, 1950, ch. 658, 64 Stat. 430, as amended, which is classified generally to chapter 10B (§777 et seq.) of Title 16. For complete classification of this Act to the Code, see Short Title note set out under section 777 of Title 16 and Tables.

§ 1710. Authorization of appropriations

There is hereby authorized to be appropriated \$3,500,000 to carry out the purposes of this subchapter.

(Pub. L. 95-395, §11, Sept. 30, 1978, 92 Stat. 817.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1703 of this title.

§ 1711. Limitation of actions; jurisdiction

Notwithstanding any other provision of law, any action to contest the constitutionality of this subchapter shall be barred unless the complaint is filed within one hundred and eighty days of September 30, 1978. Exclusive jurisdiction over any such action is hereby vested in the United States District Court for the District of Rhode Island.

(Pub. L. 95-395, §12, Sept. 30, 1978, 92 Stat. 817.)

§ 1712. Approval of prior transfers and extinguishment of claims and aboriginal title outside town of Charlestown, Rhode Island and involving other Indians in Rhode Island**(a) Scope of applicability**

Except as provided in subsection (b) of this section—

(1) any transfer of land or natural resources located anywhere within the State of Rhode Island outside the town of Charlestown from, by, or on behalf of any Indian, Indian nation, or tribe of Indians (other than transfers included in and approved by section 1705 of this title), including but not limited to a transfer pursuant to any statute of any State, shall be deemed to have been made in accordance with the Constitution and all laws of the United States that are specifically applicable to transfers of land or natural resources from, by, or on behalf of any Indian, Indian nation, or tribe of Indians (including but not limited to the Trade and Intercourse Act of 1790, Act of July 22, 1790 (ch. 33, 1 Stat. 137), and all amendments thereto and all subsequent versions thereof), and Congress does hereby approve any such transfer effective as of the date of said transfer;

(2) to the extent that any transfer of land or natural resources described in paragraph (1) may involve land or natural resources to which such Indian, Indian nation, or tribe of Indians had aboriginal title, paragraph (1) shall be regarded as an extinguishment of such aboriginal title as of the date of said transfer; and

(3) by virtue of the approval of such transfers of land or natural resources effected by this subsection or an extinguishment of aboriginal title effected thereby, all claims against the United States, any State or subdivision thereof, or any other person or entity, by any such Indian, Indian nation, or tribe of Indians, arising subsequent to the transfer and based upon any interest in or rights involving such land or natural resources (including but not limited to claims for trespass damages or claims for use and occupancy), shall be regarded as extinguished as of the date of the transfer.

(b) Exceptions

This section shall not apply to any claim, right, or title of any Indian, Indian nation, or tribe of Indians that is asserted in an action commenced in a court of competent jurisdiction within one hundred and eighty days of September 30, 1978: *Provided*, That the plaintiff in any such action shall cause notice of the action to be served upon the Secretary and the Governor of the State of Rhode Island.

(Pub. L. 95-395, §13, Sept. 30, 1978, 92 Stat. 817.)

REFERENCES IN TEXT

The Trade and Intercourse Act of 1790, Act of July 22, 1790 (ch. 33, 1 Stat. 137), referred to in subsec. (a)(1), was not classified to the Code. See sections 177, 179, 180, 193, 194, 201, 229, 230, 251, 263, and 264 of this title.

PART B—TAX TREATMENT

§ 1715. Exemption from taxation**(a) General exemption**

Except as otherwise provided in subsections (b) and (c) of this section, the settlement lands received by the State Corporation shall not be subject to any form of Federal, State, or local taxation while held by the State Corporation.

(b) Income-producing activities

The exemption provided in subsection (a) of this section shall not apply to any income-producing activities occurring on the settlement lands.

(c) Payments in lieu of taxes

Nothing in this subchapter shall prevent the making of payments in lieu of taxes by the State Corporation for services provided in connection with the settlement lands.

(Pub. L. 95-395, title II, §201, as added Pub. L. 96-601, §5(a), Dec. 24, 1980, 94 Stat. 3498.)

EFFECTIVE DATE

Section 5(b) of Pub. L. 96-601 provided that: "The amendment made by subsection (a) [enacting this part] shall take effect on September 30, 1978."

§ 1716. Deferral of capital gains

For purposes of title 26, any sale or disposition of private settlement lands pursuant to the

terms and conditions of the settlement agreement shall be treated as an involuntary conversion within the meaning of section 1033 of title 26.

(Pub. L. 95-395, title II, §202, as added Pub. L. 96-601, §5(a), Dec. 24, 1980, 94 Stat. 3499; amended Pub. L. 99-514, §2, Oct. 22, 1986, 100 Stat. 2095.)

AMENDMENTS

1986—Pub. L. 99-514 substituted “Internal Revenue Code of 1986” for “Internal Revenue Code of 1954” wherever appearing, which for purposes of codification was translated as “title 26” thus requiring no change in text.

SUBCHAPTER II—MAINE INDIAN CLAIMS SETTLEMENT

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in title 20 section 1087uu-1.

§ 1721. Congressional findings and declaration of policy

(a) Findings and declarations

Congress hereby finds and declares that:

(1) The Passamaquoddy Tribe, the Penobscot Nation, and the Maliseet Tribe are asserting claims for possession of lands within the State of Maine and for damages on the ground that the lands in question were originally transferred in violation of law, including, but without limitation, the Trade and Intercourse Act of 1790 (1 Stat. 137), or subsequent reenactments or versions thereof.

(2) The Indians, Indian nations, and tribes and bands of Indians, other than the Passamaquoddy Tribe, the Penobscot Nation, and the Houlton Band of Maliseet Indians, that once may have held aboriginal title to lands within the State of Maine long ago abandoned their aboriginal holdings.

(3) The Penobscot Nation, as represented as of the time of passage of this subchapter by the Penobscot Nation’s Governor and Council, is the sole successor in interest to the aboriginal entity generally known as the Penobscot Nation which years ago claimed aboriginal title to certain lands in the State of Maine.

(4) The Passamaquoddy Tribe, as represented as of the time of passage of this subchapter by the Joint Tribal Council of the Passamaquoddy Tribe, is the sole successor in interest to the aboriginal entity generally known as the Passamaquoddy Tribe which years ago claimed aboriginal title to certain lands in the State of Maine.

(5) The Houlton Band of Maliseet Indians, as represented as of the time of passage of this subchapter by the Houlton Band Council, is the sole successor in interest, as to lands within the United States, to the aboriginal entity generally known as the Maliseet Tribe which years ago claimed aboriginal title to certain lands in the State of Maine.

(6) Substantial economic and social hardship to a large number of landowners, citizens, and communities in the State of Maine, and therefore to the economy of the State of Maine as a whole, will result if the aforementioned claims are not resolved promptly.

(7) This subchapter represents a good faith effort on the part of Congress to provide the Passamaquoddy Tribe, the Penobscot Nation, and the Houlton Band of Maliseet Indians with a fair and just settlement of their land claims. In the absence of congressional action, these land claims would be pursued through the courts, a process which in all likelihood would consume many years and thereby promote hostility and uncertainty in the State of Maine to the ultimate detriment of the Passamaquoddy Tribe, the Penobscot Nation, the Houlton Band of Maliseet Indians, their members, and all other citizens of the State of Maine.

(8) The State of Maine, with the agreement of the Passamaquoddy Tribe and the Penobscot Nation, has enacted legislation defining the relationship between the Passamaquoddy Tribe, the Penobscot Nation, and their members, and the State of Maine.

(9) Since 1820, the State of Maine has provided special services to the Indians residing within its borders, including the members of the Passamaquoddy Tribe, the Penobscot Nation, and the Houlton Band of Maliseet Indians. During this same period, the United States provided few special services to the respective tribe, nation, or band, and repeatedly denied that it had jurisdiction over or responsibility for the said tribe, nation, and band. In view of this provision of special services by the State of Maine, requiring substantial expenditures by the State of Maine and made by the State of Maine without being required to do so by Federal law, it is the intent of Congress that the State of Maine not be required further to contribute directly to this claims settlement.

(b) Purposes

It is the purpose of this subchapter—

(1) to remove the cloud on the titles to land in the State of Maine resulting from Indian claims;

(2) to clarify the status of other land and natural resources in the State of Maine;

(3) to ratify the Maine Implementing Act, which defines the relationship between the State of Maine and the Passamaquoddy Tribe, and the Penobscot Nation, and

(4) to confirm that all other Indians, Indian nations and tribes and bands of Indians now or hereafter existing or recognized in the State of Maine are and shall be subject to all laws of the State of Maine, as provided herein.

(Pub. L. 96-420, §2, Oct. 10, 1980, 94 Stat. 1785.)

REFERENCES IN TEXT

The Trade and Intercourse Act of 1790 (1 Stat. 137), referred to in subsec. (a)(1), is act July 22, 1790, ch. 33, 1 Stat. 137, which was not classified to the Code. See sections 177, 179, 180, 193, 194, 201, 229, 230, 251, 263, and 264 of this title.

SHORT TITLE

Section 1 of Pub. L. 96-420 provided: “That this Act [enacting this subchapter] may be cited as the ‘Maine Indian Claims Settlement Act of 1980.’”

AROOSTOOK BAND OF MICMACS SETTLEMENT

Pub. L. 102-171, Nov. 26, 1991, 105 Stat. 1143, provided that:

“SECTION 1. SHORT TITLE.

“This Act may be cited as the ‘Aroostook Band of Micmacs Settlement Act’.”

“SEC. 2. CONGRESSIONAL FINDINGS AND DECLARATION OF POLICY.

“(a) FINDINGS AND POLICY.—Congress hereby finds and declares that:

“(1) The Aroostook Band of Micmacs, as represented as of the time of passage of this Act by the Aroostook Micmac Council, is the sole successor in interest, as to lands within the United States, to the aboriginal entity generally known as the Micmac Nation which years ago claimed aboriginal title to certain lands in the State of Maine.

“(2) The Band was not referred to in the Maine Indian Claims Settlement Act of 1980 [25 U.S.C. 1721 et seq.] because historical documentation of the Micmac presence in Maine was not available at that time.

“(3) This documentation does establish the historical presence of Micmacs in Maine and the existence of aboriginal lands in Maine jointly used by the Micmacs and other tribes to which the Micmacs could have asserted aboriginal title but for the extinguishment of all such claims by the Maine Indian Claims Settlement Act of 1980.

“(4) The Aroostook Band of Micmacs, in both its history and its presence in Maine, is similar to the Houlton Band of Maliseet Indians and would have received similar treatment under the Maine Indian Claims Settlement Act of 1980 if the information available today had been available to Congress and the parties at that time.

“(5) It is now fair and just to afford the Aroostook Band of Micmacs the same settlement provided to the Houlton Band of Maliseet Indians for the settlement of that Band’s claims, to the extent they would have benefited from inclusion in the Maine Indian Claims Settlement Act of 1980.

“(6) Since 1820, the State of Maine has provided special services to the Indians residing within its borders, including the members of the Aroostook Band of Micmacs. During this same period, the United States provided few special services to the Band and repeatedly denied that it had jurisdiction over or responsibility for the Indian groups in Maine. In view of this provision of special services by the State of Maine, requiring substantial expenditures by the State of Maine and made by the State of Maine without being required to do so by Federal law, it is the intent of Congress that the State of Maine not be required further to contribute directly to this settlement.

“(b) PURPOSE.—It is the purpose of this Act to—

“(1) provide Federal recognition of the Band;

“(2) provide to the members of the Band the services which the United States provides to Indians because of their status as Indians; and

“(3) place \$900,000 in a land acquisition fund and property tax fund for the future use of the Aroostook Band of Micmacs; and

“(4) ratify the Micmac Settlement Act, which defines the relationship between the State of Maine and the Aroostook Band of Micmacs.

“SEC. 3. DEFINITIONS.

“For the purposes of this Act:

“(1) The term ‘Band’ means the Aroostook Band of Micmacs, the sole successor to the Micmac Nation as constituted in aboriginal times in what is now the State of Maine, and all its predecessors and successors in interest. The Aroostook Band of Micmacs is represented, as of the date of enactment of this Act [Nov. 26, 1991], as to lands within the United States, by the Aroostook Micmac Council.

“(2) The term ‘Band Tax Fund’ means the fund established under section 4(b) of this Act.

“(3) The term ‘Band Trust Land’ means land or natural resources acquired by the Secretary of the Interior and held in trust by the United States for the benefit of the Band.

“(4) The term ‘land or natural resources’ means any real property or natural resources, or any interest in or right involving any real property or natural resources, including (but not limited to) minerals and mineral rights, timber and timber rights, water and water rights, and hunting and fishing rights.

“(5) The term ‘Land Acquisition Fund’ means the fund established under section 4(a) of this Act.

“(6) The term ‘laws of the State’ means the constitution, and all statutes, regulations, and common laws of the State of Maine and its political subdivisions and all subsequent amendments thereto or judicial interpretations thereof.

“(7) The term ‘Maine Implementing Act’ means the Act entitled ‘Act to Implement the Maine Indian Claims Settlement’ that was enacted by the State of Maine in chapter 732 of the Maine Public Laws of 1979, as amended by chapter 675 of the Maine Public Laws of 1981 and chapter 672 of the Maine Public Laws of 1985, and all subsequent amendments thereto.

“(8) The term ‘Micmac Settlement Act’ means the Act entitled ‘Act to implement the Aroostook Band of Micmacs Settlement Act’ that was enacted by the State of Maine in chapter 148 of the Maine Public Laws of 1989, and all subsequent amendments thereto.

“(9) The term ‘Secretary’ means the Secretary of the Interior.

“SEC. 4. AROOSTOOK BAND OF MICMACS LAND ACQUISITION AND PROPERTY TAX FUNDS.

“(a) LAND ACQUISITION FUND.—There is hereby established in the Treasury of the United States a fund to be known as the Aroostook Band of Micmacs Land Acquisition Fund, into which \$900,000 shall be deposited by the Secretary following the appropriation of sums authorized by section 10.

“(b) BAND TAX FUND.—(1) There is hereby established in the Treasury of the United States a fund to be known as the Aroostook Band of Micmacs Tax Fund, into which shall be deposited \$50,000 in accordance with the provisions of this Act.

“(2) Income accrued on the Land Acquisition Fund shall be transferred to the Band Tax Fund until a total of \$50,000 has been transferred to the Band Tax Fund under this paragraph. No transfer shall be made under this subsection if such transfer would diminish the Land Acquisition Fund to a balance of less than \$900,000.

“(3) Whenever funds are transferred to the Band Tax Fund under paragraph (2), the Secretary shall publish notice of such transfer in the Federal Register. Such notice shall specify when the total amount of \$50,000 has been transferred to the Band Tax Fund.

“(4) The Secretary shall manage the Band Tax Fund in accordance with section 1 of the Act of June 24, 1938 (52 Stat. 1037; 25 U.S.C. 162a), and shall utilize the principal and interest of the Band Tax Fund only as provided in paragraph (5) and section 5(d) and for no other purpose.

“(5) Notwithstanding the provisions of title 31, United States Code, the Secretary shall pay out of the Band Tax Fund, all valid claims for taxes, payments in lieu of property taxes, and fees, together with any interest and penalties thereon—

“(A) for which the Band is determined to be liable;

“(B) which are final and not subject to further administrative or judicial review; and

“(C) which have been certified by the Commissioner of Finance in the State of Maine as valid claims that meet the requirements of this paragraph.

“(c) SOURCE FOR CERTAIN PAYMENTS.—Notwithstanding any other provision of law, if—

“(1) the Band is liable to the State of Maine or any county, district, municipality, city, town, village, plantation, or any other political subdivision thereof for any tax, payment in lieu of property tax, or fees, together with any interest and penalties thereon, and

“(2) there are insufficient funds in the Band Tax Fund to pay such tax, payment, or fee (together with any interest or penalties thereon) in full,

the deficiency shall be paid by the Band only from income-producing property owned by the Band which is not held in trust for the Band by the United States and the Band shall not be required to pay such tax, payment, or fee (or any interest or penalty thereon) from any other source.

“(d) PROCEDURE FOR FILING AND PAYMENT OF CLAIMS.—The Secretary shall, after consultation with the Commissioner of Finance of the State of Maine, and the Band, prescribe written procedures governing the filing and payment of claims under this section.

“SEC. 5. AROOSTOOK BAND TRUST LANDS.

“(a) IN GENERAL.—Subject to the provisions of section 4, the Secretary is authorized and directed to expend, at the request of the Band, the principal of, and income accruing on, the Land Acquisition Fund for the purposes of acquiring land or natural resources for the Band and for no other purposes. Land or natural resources acquired within the State of Maine with funds expended under the authority of this subsection shall be held in trust by the United States for the benefit of the Band.

“(b) ALIENATION.—(1) Land or natural resources acquired with funds expended under the authority of subsection (a) and held in trust for the benefit of the Band may be alienated only by—

“(A) takings for public use pursuant to the laws of the State of Maine as provided in subsection (c);

“(B) takings for public use pursuant to the laws of the United States; or

“(C) transfers made pursuant to an Act or joint resolution of Congress.

All other transfers of land or natural resources acquired with funds expended under the authority of subsection (a) and held in trust for the benefit of such Band shall be void ab initio and without any validity in law or equity.

“(2) The provisions of paragraph (1) shall not prohibit or limit transfers of individual use assignments of land or natural resources from one member of the Band to another member of such Band.

“(3) Land or natural resources held in trust for the benefit of the Band may, at the request of the Band, be—

“(A) leased in accordance with the Act of August 9, 1955 (25 U.S.C. 415 et seq.);

“(B) leased in accordance with the Act of May 11, 1938 (25 U.S.C. 396a et seq.);

“(C) sold in accordance with section 7 of the Act of June 25, 1910 (25 U.S.C. 407);

“(D) subjected to rights-of-way in accordance with the Act of February 5, 1948 (25 U.S.C. 323 et seq.);

“(E) exchanged for other land or natural resources of equal value, or if they are not equal, the values shall be equalized by the payment of money to the grantor or to the Secretary for deposit in the land acquisition fund for the benefit of the Band, as the circumstances require, so long as payment does not exceed 25 percent of the total value of the interests in land to be transferred by the Band; and

“(F) sold, only if at the time of sale the Secretary has entered into an option agreement or contract of sale to purchase other lands of approximate equal value.

“(c) CONDEMNATION BY STATE OF MAINE AND POLITICAL SUBDIVISIONS THEREOF.—(1) Land or natural resources acquired with funds expended under the authority of subsection (a) and held in trust for the benefit of the Band may be condemned for public purposes by the State of Maine, or any political subdivision thereof, only upon such terms and conditions as shall be agreed upon in writing between the State and such Band after the date of enactment of this Act [Nov. 26, 1991].

“(2) The consent of the United States is hereby given to the State of Maine to further amend the Micmac Settlement Act for the purpose of embodying the agreement described in paragraph (1).

“(d) ACQUISITION.—(1) Lands and natural resources may be acquired by the Secretary for the Band only if

the Secretary has, at any time prior to such acquisition—

“(A) transmitted a letter to the Secretary of State of the State of Maine stating that the Band Tax Fund contains \$50,000; and

“(B) provided the Secretary of State of the State of Maine with a copy of the procedures for filing and payment of claims prescribed under section 4(d).

“(2)(A) No land or natural resources may be acquired by the Secretary for the Band until the Secretary files with the Secretary of State of the State of Maine a certified copy of the deed, contract, or other conveyance setting forth the location and boundaries of the land or natural resources to be acquired.

“(B) For purposes of subparagraph (A), a filing with the Secretary of State of the State of Maine may be made by mail and, if such method of filing is used, shall be considered to be completed on the date on which the document is properly mailed to the Secretary of State of the State of Maine.

“(3) Notwithstanding the provisions of the first section of the Act of August 1, 1888 (40 U.S.C. 257) and the first section of the Act of February 26, 1931 (40 U.S.C. 258a), the Secretary may acquire land or natural resources under this section from the ostensible owner of the land or natural resources only if the Secretary and the ostensible owner of the land or natural resources have agreed upon the identity of the land or natural resources to be sold and upon the purchase price and other terms of sale. Subject to the agreement required by the preceding sentence, the Secretary may institute condemnation proceedings in order to perfect title, satisfactory to the Attorney General of the United States, in the United States and condemn interests adverse to the ostensible owner.

“(4)(A) When trust or restricted land or natural resources of the Band are condemned pursuant to any law of the United States other than this Act, the proceeds paid in compensation for such condemnation shall be deposited into the Land Acquisition Fund and shall be reinvested in acreage within unorganized or unincorporated areas of the State of Maine. When the proceeds are reinvested in land whose acreage does not exceed that of the land taken, all the land shall be acquired in trust. When the proceeds are invested in land whose acreage exceeds the acreage of the land taken, the Band shall designate, with the approval of the United States, and within 30 days of such reinvestment, that portion of the land acquired by the reinvestment, not to exceed the area taken, which shall be acquired in trust. The land acquired from the proceeds that is not acquired in trust shall be held in fee by the Band. The Secretary shall certify, in writing, to the Secretary of State of the State of Maine the location, boundaries, and status of the land acquired from the proceeds.

“(B) The State of Maine shall have initial jurisdiction over condemnation proceedings brought under this section. The United States shall be a necessary party to any such condemnation proceedings. After exhaustion of all State administrative remedies, the United States is authorized to seek judicial review of all relevant matters involved in such condemnation proceedings in the courts of the United States and shall have an absolute right of removal, at its discretion, over any action commenced in the courts of the State.

“(5) Land or natural resources acquired by the Secretary in trust for the Band shall be managed and administered in accordance with terms established by the Band and agreed to by the Secretary in accordance with section 102 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450f) or other applicable law.

“SEC. 6. LAWS APPLICABLE.

“(a) FEDERAL RECOGNITION.—Federal recognition is hereby extended to the Aroostook Band of Micmacs. The Band shall be eligible to receive all of the financial benefits which the United States provides to Indians and Indian tribes to the same extent, and subject to the same eligibility criteria, generally applicable to other federally recognized Indians and Indian tribes.

“(b) APPLICATION OF FEDERAL LAW.—For the purposes of application of Federal law, the Band and its lands shall have the same status as other tribes and their lands accorded Federal recognition under the terms of the Maine Indian Claims Settlement Act of 1980 [25 U.S.C. 1721 et seq.].

“(c) ELIGIBILITY FOR SPECIAL SERVICES.—Notwithstanding any other provision of law authorizing the provision of special programs and services by the United States to Indians because of their status as Indians, any member of the Band in Aroostook County, Maine, shall be eligible for such services without regard to the existence of a reservation or the residence of members of the Band on or near a reservation.

“(d) AGREEMENTS WITH STATE REGARDING JURISDICTION.—The State of Maine and the Band are authorized to execute agreements regarding the jurisdiction of the State of Maine over lands owned by, or held in trust for the benefit of, the Band or any member of the Band. The consent of the United States is hereby given to the State of Maine to amend the Micmac Settlement Act for this purpose: *Provided*, That such amendment is made with the agreement of the Aroostook Band of Micmacs.

“SEC. 7. TRIBAL ORGANIZATION.

“(a) IN GENERAL.—The Band may organize for its common welfare and adopt an appropriate instrument in writing to govern the affairs of the Band when acting in its governmental capacity. Such instrument and any amendments thereto must be consistent with the terms of this Act. The Band shall file with the Secretary a copy of its organic governing document and any amendments thereto.

“(b) MEMBERS.—For purposes of benefits provided by reason of this Act, only persons who are citizens of the United States may be considered members of the Band except persons who, as of the date of enactment of this Act [Nov. 26, 1991], are enrolled members on the Band’s existing membership roll, and direct lineal descendants of such members. Membership in the Band shall be subject to such further qualifications as may be provided by the Band in its organic governing document, or amendments thereto, subject to approval by the Secretary.

“SEC. 8. IMPLEMENTATION OF THE INDIAN CHILD WELFARE ACT.

“For the purposes of this section, the Band is an ‘Indian tribe’ within the meaning of section 4(8) of the Indian Child Welfare Act of 1978 (25 U.S.C. 1903(8)), except that nothing in this section shall alter or affect the jurisdiction of the State of Maine over child welfare matters as provided by the Maine Indian Claims Settlement Act of 1980 [25 U.S.C. 1721 et seq.].

“SEC. 9. FEDERAL FINANCIAL AID PROGRAMS UNAFFECTED BY PAYMENTS UNDER THIS ACT.

“(a) STATE OF MAINE.—No payments to be made for the benefit of the Band pursuant to this Act shall be considered by any agency or department of the United States in determining or computing the eligibility of the State of Maine for participation in any financial aid program of the United States.

“(b) BAND AND MEMBERS OF THE BAND.—(1) The eligibility for, or receipt of, payments from the State of Maine by the Band or any of its members shall not be considered by any department or agency of the United States in determining the eligibility of, or computing payments to, the Band or any of the members of the Band under any Federal financial aid program.

“(2) To the extent that eligibility for the benefits of any Federal financial aid program is dependent upon a showing of need by the applicant, the administering agency shall not be barred by this subsection from considering the actual financial situation of the applicant.

“SEC. 10. AUTHORIZATION OF APPROPRIATIONS.

“There are authorized to be appropriated \$900,000 for the fiscal year 1992 for transfer to the Aroostook Band of Micmacs Land Acquisition Fund.

“SEC. 11. INTERPRETATION.

“In the event of a conflict of interpretation between the provisions of the Maine Implementing Act, the Micmac Settlement Act, or the Maine Indian Claims Settlement Act of 1980 [25 U.S.C. 1721 et seq.] and this Act, the provisions of this Act shall govern.

“SEC. 12. LIMITATION OF ACTIONS.

“No provision of this Act may be construed to confer jurisdiction to sue, or to grant implied consent to the Band to sue, the United States or any of its officers with respect to the claims extinguished by the Maine Indian Claims Settlement Act of 1980 [25 U.S.C. 1721 et seq.].”

§ 1722. Definitions

For purposes of this subchapter, the term—

(a) “Houlton Band of Maliseet Indians” means the sole successor to the Maliseet Tribe of Indians as constituted in aboriginal times in what is now the State of Maine, and all its predecessors and successors in interest. The Houlton Band of Maliseet Indians is represented, as of October 10, 1980, as to lands within the United States, by the Houlton Band Council of the Houlton Band of Maliseet Indians;

(b) “land or natural resources” means any real property or natural resources, or any interest in or right involving any real property or natural resources, including but without limitation minerals and mineral rights, timber and timber rights, water and water rights, and hunting and fishing rights;

(c) “Land Acquisition Fund” means the Maine Indian Claims Land Acquisition Fund established under section 1724(c) of this title;

(d) “laws of the State” means the constitution, and all statutes, regulations, and common laws of the State of Maine and its political subdivisions and all subsequent amendments thereto or judicial interpretations thereof;

(e) “Maine Implementing Act” means section 1, section 30, and section 31, of the “Act to Implement the Maine Indian Claims Settlement” enacted by the State of Maine in chapter 732 of the public laws of 1979;

(f) “Passamaquoddy Indian Reservation” means those lands as defined in the Maine Implementing Act;

(g) “Passamaquoddy Indian Territory” means those lands as defined in the Maine Implementing Act;

(h) “Passamaquoddy Tribe” means the Passamaquoddy Indian Tribe, as constituted in aboriginal times and all its predecessors and successors in interest. The Passamaquoddy Tribe is represented, as of October 10, 1980, by the Joint Tribal Council of the Passamaquoddy Tribe, with separate councils at the Indian Township and Pleasant Point Reservations;

(i) “Penobscot Indian Reservation” means those lands as defined in the Maine Implementing Act;

(j) “Penobscot Indian Territory” means those lands as defined in the Maine Implementing Act;

(k) “Penobscot Nation” means the Penobscot Indian Nation as constituted in aboriginal times, and all its predecessors and succes-

sors in interest. The Penobscot Nation is represented, as of October 10, 1980, by the Penobscot Nation Governor and Council;

(l) "Secretary" means the Secretary of the Interior;

(m) "Settlement Fund" means the Maine Indian Claims Settlement Fund established under section 1724(a) of this title; and

(n) "transfer" includes but is not limited to any voluntary or involuntary sale, grant, lease, allotment, partition, or other conveyance; any transaction the purpose of which was to effect a sale, grant, lease, allotment, partition, or conveyance; and any act, event, or circumstance that resulted in a change in title to, possession of, dominion over, or control of land or natural resources.

(Pub. L. 96-420, § 3, Oct. 10, 1980, 94 Stat. 1786.)

§ 1723. Approval of prior transfers and extinguishment of Indian title and claims of Indians within State of Maine

(a) Ratification by Congress; personal claims unaffected; United States barred from asserting claims on ground of noncompliance of transfers with State laws or occurring prior to December 1, 1873

(1) Any transfer of land or natural resources located anywhere within the United States from, by, or on behalf of the Passamaquoddy Tribe, the Penobscot Nation, the Houlton Band of Maliseet Indians, or any of their members, and any transfer of land or natural resources located anywhere within the State of Maine, from, by, or on behalf of any Indian, Indian nation, or tribe or band of Indians, including but without limitation any transfer pursuant to any treaty, compact, or statute of any State, shall be deemed to have been made in accordance with the Constitution and all laws of the United States, including but without limitation the Trade and Intercourse Act of 1790, Act of July 22, 1790 (ch. 33, Sec. 4, 1 Stat. 137, 138), and all amendments thereto and all subsequent reenactments and versions thereof, and Congress hereby does approve and ratify any such transfer effective as of the date of said transfer: *Provided however*, That nothing in this section shall be construed to affect or eliminate the personal claim of any individual Indian (except for any Federal common law fraud claim) which is pursued under any law of general applicability that protects non-Indians as well as Indians.

(2) The United States is barred from asserting on behalf of any Indian, Indian nation, or tribe or band of Indians any claim under the laws of the State of Maine arising before October 10, 1980, and arising from any transfer of land or natural resources by any Indian, Indian nation, or tribe or band of Indians, located anywhere within the State of Maine, including but without limitation any transfer pursuant to any treaty, compact, or statute of any State, on the grounds that such transfer was not made in accordance with the laws of the State of Maine.

(3) The United States is barred from asserting by or on behalf of any individual Indian any claim under the laws of the State of Maine arising from any transfer of land or natural resources located anywhere within the State of

Maine from, by, or on behalf of any individual Indian, which occurred prior to December 1, 1873, including but without limitation any transfer pursuant to any treaty, compact, or statute of any State.

(b) Aboriginal title extinguished as of date of transfer

To the extent that any transfer of land or natural resources described in subsection (a)(1) of this section may involve land or natural resources to which the Passamaquoddy Tribe, the Penobscot Nation, the Houlton Band of Maliseet Indians, or any of their members, or any other Indian, Indian nation, or tribe or band of Indians had aboriginal title, such subsection (a)(1) of this section shall be regarded as an extinguishment of said aboriginal title as of the date of such transfer.

(c) Claims extinguished as of date of transfer

By virtue of the approval and ratification of a transfer of land or natural resources effected by this section, or the extinguishment of aboriginal title effected thereby, all claims against the United States, any State or subdivision thereof, or any other person or entity, by the Passamaquoddy Tribe, the Penobscot Nation, the Houlton Band of Maliseet Indians or any of their members or by any other Indian, Indian nation, tribe or band of Indians, or any predecessors or successors in interest thereof, arising at the time of or subsequent to the transfer and based on any interest in or right involving such land or natural resources, including but without limitation claims for trespass damages or claims for use and occupancy, shall be deemed extinguished as of the date of the transfer.

(d) Effective date; authorization of appropriations; publication in Federal Register

The provisions of this section shall take effect immediately upon appropriation of the funds authorized to be appropriated to implement the provisions of section 1724 of this title. The Secretary shall publish notice of such appropriation in the Federal Register when such funds are appropriated.

(Pub. L. 96-420, § 4, Oct. 10, 1980, 94 Stat. 1787.)

REFERENCES IN TEXT

The Trade and Intercourse Act of 1790, Act of July 22, 1790 (ch. 33, Sec. 4, 1 Stat. 137, 138), referred to in subsection (a)(1), was not classified to the Code. See sections 177, 179, 180, 193, 194, 201, 229, 230, 251, 263, and 264 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1724, 1725, 1734 of this title.

§ 1724. Maine Indian Claims Settlement and Land Acquisition Funds in the United States Treasury

(a) Establishment of Maine Indian Claims Settlement Fund; amount

There is hereby established in the United States Treasury a fund to be known as the Maine Indian Claims Settlement Fund in which \$27,000,000 shall be deposited following the appropriation of sums authorized by section 1733 of this title.

(b) Apportionment of settlement fund; administration; investments; limitation on distributions; quarterly investment income payments; expenditures for aged members; cessation of trust responsibility following Federal payments

(1) One-half of the principal of the settlement fund shall be held in trust by the Secretary for the benefit of the Passamaquoddy Tribe, and the other half of the settlement fund shall be held in trust for the benefit of the Penobscot Nation. Each portion of the settlement fund shall be administered by the Secretary in accordance with reasonable terms established by the Passamaquoddy Tribe or the Penobscot Nation, respectively, and agreed to by the Secretary: *Provided*, That the Secretary may not agree to terms which provide for investment of the settlement fund in a manner not in accordance with section 162a of this title, unless the respective tribe or nation first submits a specific waiver of liability on the part of the United States for any loss which may result from such an investment: *Provided, further*, That until such terms have been agreed upon, the Secretary shall fix the terms for the administration of the portion of the settlement fund as to which there is no agreement.

(2) Under no circumstances shall any part of the principal of the settlement fund be distributed to either the Passamaquoddy Tribe or the Penobscot Nation, or to any member of either tribe or nation: *Provided, however*, That nothing herein shall prevent the Secretary from investing the principal of said fund in accordance with paragraph (1) of this subsection.

(3) The Secretary shall make available to the Passamaquoddy Tribe and the Penobscot Nation in quarterly payments, without any deductions except as expressly provided in section 1725(d)(2) of this title and without liability to or on the part of the United States, any income received from the investment of that portion of the settlement fund allocated to the respective tribe or nation, the use of which shall be free of regulation by the Secretary. The Passamaquoddy Tribe and the Penobscot Nation annually shall each expend the income from \$1,000,000 of their portion of the settlement fund for the benefit of their respective members who are over the age of sixty. Once payments under this paragraph have been made to the tribe or nation, the United States shall have no further trust responsibility to the tribe or nation or their members with respect to the sums paid, any subsequent distribution of these sums, or any property or services purchased therewith.

(c) Establishment of Maine Indian Claims Land Acquisition Fund; amount

There is hereby established in the United States Treasury a fund to be known as the Maine Indian Claims Land Acquisition Fund in which \$54,500,000 shall be deposited following the appropriation of sums authorized by section 1733 of this title.

(d) Apportionment of land acquisition fund; expenditures for acquisition of land or natural resources; trust acreage; fee holdings; interests in corpus of trust for Houlton Band following termination of Band's interest in trust; agreement for acquisitions for benefit of Houlton Band: scope, report to Congress

The principal of the land acquisition fund shall be apportioned as follows:

- (1) \$900,000 to be held in trust for the Houlton Band of Maliseet Indians;
- (2) \$26,800,000 to be held in trust for the Passamaquoddy Tribe; and
- (3) \$26,800,000 to be held in trust for the Penobscot Nation.

The Secretary is authorized and directed to expend, at the request of the affected tribe, nation or band, the principal and any income accruing to the respective portions of the land acquisition fund for the purpose of acquiring land or natural resources for the Passamaquoddy Tribe, the Penobscot Nation, and the Houlton Band of Maliseet Indians and for no other purpose. The first 150,000 acres of land or natural resources acquired for the Passamaquoddy Tribe and the first 150,000 acres acquired for the Penobscot Nation within the area described in the Maine Implementing Act as eligible to be included within the Passamaquoddy Indian Territory and the Penobscot Indian Territory shall be held in trust by the United States for the benefit of the respective tribe or nation. The Secretary is also authorized to take in trust for the Passamaquoddy Tribe or the Penobscot Nation any land or natural resources acquired within the aforesaid area by purchase, gift, or exchange by such tribe or nation. Land or natural resources acquired outside the boundaries of the aforesaid areas shall be held in fee by the respective tribe or nation, and the United States shall have no further trust responsibility with respect thereto. Land or natural resources acquired within the State of Maine for the Houlton Band of Maliseet Indians shall be held in trust by the United States for the benefit of the band: *Provided*, That no land or natural resources shall be so acquired for or on behalf of the Houlton Band of Maliseet Indians without the prior enactment of appropriate legislation by the State of Maine approving such acquisition: *Provided further*, That the Passamaquoddy Tribe and the Penobscot Nation shall each have a one-half undivided interest in the corpus of the trust, which shall consist of any such property or subsequently acquired exchange property, in the event the Houlton Band of Maliseet Indians should terminate its interest in the trust.

(4) The Secretary is authorized to, and at the request of either party shall, participate in negotiations between the State of Maine and the Houlton Band of Maliseet Indians for the purpose of assisting in securing agreement as to the land or natural resources to be acquired by the United States to be held in trust for the benefit of the Houlton Band. Such agreement shall be embodied in the legislation enacted by the State of Maine approving the acquisition of such lands as required by paragraph (3). The agreement and the legislation shall be limited to:

(A) provisions providing restrictions against alienation or taxation of land or natural resources held in trust for the Houlton Band no less restrictive than those provided by this subchapter and the Maine Implementing Act for land or natural resources to be held in trust for the Passamaquoddy Tribe or Penobscot Nation;

(B) provisions limiting the power of the State of Maine to condemn such lands that are no less restrictive than the provisions of this subchapter and the Maine Implementing Act that apply to the Passamaquoddy Indian Territory and the Penobscot Indian Territory but not within either the Passamaquoddy Indian Reservation or the Penobscot Indian Reservation;

(C) consistent with the trust and restricted character of the lands, provisions satisfactory to the State and the Houlton Band concerning:

(i) payments by the Houlton Band in lieu of payment of property taxes on land or natural resources held in trust for the band, except that the band shall not be deemed to own or use any property for governmental purposes under the Maine Implementing Act;

(ii) payments of other fees and taxes to the extent imposed on the Passamaquoddy Tribe and the Penobscot Nation under the Maine Implementing Act, except that the band shall not be deemed to be a governmental entity under the Maine Implementing Act or to have the powers of a municipality under the Maine Implementing Act;

(iii) securing performance of obligations of the Houlton Band arising after the effective date of agreement between the State and the band.

(D) provisions on the location of these lands.

Except as set forth in this subsection, such agreement shall not include any other provisions regarding the enforcement or application of the laws of the State of Maine. Within one year of October 10, 1980, the Secretary is directed to submit to the appropriate committees of the House of Representatives and the Senate having jurisdiction over Indian affairs a report on the status of these negotiations.

(e) Acquisitions contingent upon agreement as to identity of land or natural resources to be sold, purchase price and other terms of sale; condemnation proceedings by Secretary; other acquisition authority barred for benefit of Indians in State of Maine

Notwithstanding the provisions of sections 257 and 258a of title 40, the Secretary may acquire land or natural resources under this section from the ostensible owner of the land or natural resources only if the Secretary and the ostensible owner of the land or natural resources have agreed upon the identity of the land or natural resources to be sold and upon the purchase price and other terms of sale. Subject to the agreement required by the preceding sentence, the Secretary may institute condemnation proceedings in order to perfect title, satisfactory to the

Attorney General, in the United States and condemn interests adverse to the ostensible owner. Except for the provisions of this subchapter, the United States shall have no other authority to acquire lands or natural resources in trust for the benefit of Indians or Indian nations, or tribes, or bands of Indians in the State of Maine.

(f) Expenditures for Tribe, Nation, or Band contingent upon documentary relinquishment of claims

The Secretary may not expend on behalf of the Passamaquoddy Tribe, the Penobscot Nation, or the Houlton Band of Maliseet Indians any sums deposited in the funds established pursuant to the subsections (a) and (c) of this section unless and until he finds that authorized officials of the respective tribe, nation, or band have executed appropriate documents relinquishing all claims to the extent provided by sections 1723, 1730, and 1731 of this title and by section 6213 of the Maine Implementing Act, including stipulations to the final judicial dismissal with prejudice of their claims.

(g) Transfer limitations of section 177 of this title inapplicable to Indians in State of Maine; restraints on alienation as provided in section; transfers invalid ab initio except for: State and Federal condemnations, assignments, leases, sales, rights-of-way, and exchanges

(1) The provisions of section 177 of this title shall not be applicable to (A) the Passamaquoddy Tribe, the Penobscot Nation, or the Houlton Band of Maliseet Indians or any other Indian, Indian nation, or tribe or band of Indians in the State of Maine, or (B) any land or natural resources owned by or held in trust for the Passamaquoddy Tribe, the Penobscot Nation, or the Houlton Band of Maliseet Indians or any other Indian, Indian nation or tribe or band of Indians in the State of Maine. Except as provided in subsections (d)(4) and (g)(2) of this section, such land or natural resources shall not otherwise be subject to any restraint on alienation by virtue of being held in trust by the United States or the Secretary.

(2) Except as provided in paragraph (3) of this subsection, any transfer of land or natural resources within Passamaquoddy Indian Territory or Penobscot Indian Territory, except (A) takings for public uses consistent with the Maine Implementing Act, (B) takings for public uses pursuant to the laws of the United States, or (C) transfers of individual Indian use assignments from one member of the Passamaquoddy Tribe or Penobscot Nation to another member of the same tribe or nation, shall be void ab initio and without any validity in law or equity.

(3) Land or natural resources within the Passamaquoddy Indian Territory or the Penobscot Indian Territory or held in trust for the benefit of the Houlton Band of Maliseet Indians may, at the request of the respective tribe, nation, or band, be—

(A) leased in accordance with sections 415 to 415d of this title;

(B) leased in accordance with sections 396a to 396g of this title;

(C) sold in accordance with section 407 of this title;

(D) subjected to rights-of-way in accordance with sections 323 to 328 of this title;

(E) exchanged for other land or natural resources of equal value, or if they are not equal, the values shall be equalized by the payment of money to the grantor or to the Secretary for deposit in the land acquisition fund for the benefit of the affected tribe, nation, or band, as the circumstances require, so long as payment does not exceed 25 per centum of the total value of the interests in land to be transferred by the tribe, nation, or band, and

(F) sold, only if at the time of sale the Secretary has entered into an option agreement or contract of sale to purchase other lands of approximate equal value.

(h) Agreement on terms for management and administration of land or natural resources

Land or natural resources acquired by the Secretary in trust for the Passamaquoddy Tribe and the Penobscot Nation shall be managed and administered in accordance with terms established by the respective tribe or nation and agreed to by the Secretary in accordance with section 450f of this title, or other existing law.

(i) Condemnation of trust or restricted land or natural resources within Reservations: substitute land or monetary proceeds as medium of compensation; condemnation of trust land without Reservations: use of compensation for reinvestment in trust or fee held acreage, certification of acquisitions; State condemnation proceedings: United States as necessary party, exhaustion of State administrative remedies, judicial review in Federal courts, removal of action

(1) Trust or restricted land or natural resources within the Passamaquoddy Indian Reservation or the Penobscot Indian Reservation may be condemned for public purposes pursuant to the Maine Implementing Act. In the event that the compensation for the taking is in the form of substitute land to be added to the reservation, such land shall become a part of the reservation in accordance with the Maine Implementing Act and upon notification to the Secretary of the location and boundaries of the substitute land. Such substitute land shall have the same trust or restricted status as the land taken. To the extent that the compensation is in the form of monetary proceeds, it shall be deposited and reinvested as provided in paragraph (2) of this subsection.

(2) Trust land of the Passamaquoddy Tribe or the Penobscot Nation not within the Passamaquoddy Reservation or Penobscot Reservation may be condemned for public purposes pursuant to the Maine Implementing Act. The proceeds from any such condemnation shall be deposited in the land acquisition fund established by subsection (c) of this section and shall be reinvested in acreage within unorganized or unincorporated areas of the State of Maine. When the proceeds are reinvested in land whose acreage does not exceed that of the land taken, all the land shall be acquired in trust. When the proceeds are invested in land whose acreage exceeds the acreage of the land taken, the respective tribe or nation shall designate, with the approval of the United States, and within thirty days of such reinvestment, that portion of the land acquired by the reinvestment, not to exceed the area taken,

which shall be acquired in trust. The land not acquired in trust shall be held in fee by the respective tribe or nation. The Secretary shall certify, in writing, to the Secretary of State of the State of Maine the location, boundaries, and status of the land acquired.

(3) The State of Maine shall have initial jurisdiction over condemnation proceedings brought under this section. The United States shall be a necessary party to any such condemnation proceedings. After exhaustion of all State administrative remedies, the United States is authorized to seek judicial review of all relevant matters in the courts of the United States and shall have an absolute right of removal, at its discretion, over any action commenced in the courts of the State.

(j) Federal condemnation under other laws; deposit and reinvestment of compensatory proceeds

When trust or restricted land or natural resources of the Passamaquoddy Tribe, the Penobscot Nation, or the Houlton Band of Maliseet Indians are condemned pursuant to any law of the United States other than this subchapter, the proceeds paid in compensation for such condemnation shall be deposited and reinvested in accordance with subsection (i)(2) of this section.

(Pub. L. 96-420, § 5, Oct. 10, 1980, 94 Stat. 1788.)

HOULTON BAND OF MALISEET INDIANS SUPPLEMENTARY CLAIMS SETTLEMENT

Pub. L. 99-566, Oct. 27, 1986, 100 Stat. 3184, provided: "That this Act may be cited as the 'Houlton Band of Maliseet Indians Supplementary Claims Settlement Act of 1986'.

“DEFINITIONS

“SEC. 2. For purposes of this Act—

“(1) The term ‘Houlton Band Tax Fund’ means the fund established under section 3.

“(2) The term ‘Houlton Band trust land’ means land or natural resources acquired by the Secretary of the Interior and held in trust by the United States for the benefit of the Houlton Band of Maliseet Indians in accordance with section 5(d) of the Maine Indian Claims Settlement Act of 1980 (25 U.S.C. 1724(d); 94 Stat. 1789).

“(3) The term ‘amended Maine Implementing Act’ means the Maine Implementing Act (defined in section 3(e) of the Maine Indian Claims Settlement Act of 1980 (25 U.S.C. 1722(e); 94 Stat. 1787)) as amended by—

“(A) the ‘Act to amend the Maine Implementing Act with respect to the Houlton Band of Maliseet Indians’, enacted by the State of Maine in chapter 675 of the Public Laws of 1981, and

“(B) the State of Maine in chapter 672 of the Public Laws of 1985.

“(4) The term ‘Secretary’ means the Secretary of the Interior.

“(5) The term ‘Houlton Band of Maliseet Indians’ has the meaning given to such term by section 3(a) of the Maine Indian Claims Settlement Act of 1980 (25 U.S.C. 1722(a)).

“HOULTON BAND TAX FUND

“SEC. 3. (a) There is hereby established in the United States Treasury a fund to be known as the Houlton Band Tax Fund in which shall be deposited \$200,000 in accordance with the provisions of this Act.

“(b)(1) Income accrued on the land acquisition fund established for the Houlton Band of Maliseet Indians pursuant to subsections (c) and (d)(1) of section 5 of the

Maine Indian Claims Settlement Act of 1980 (25 U.S.C. 1724; 94 Stat. 1789) shall be transferred to the Houlton Band Tax Fund. No transfer shall be made under this subsection if such transfer would diminish such land acquisition fund to a balance of less than \$900,000.

“(2) Whenever funds are transferred to the Houlton Band Tax Fund pursuant to paragraph (1), the Secretary shall publish notice of such transfer in the Federal Register. Such notice shall specify when the full amount of \$200,000 has been transferred to the Houlton Band Tax Fund.

“(c) The Secretary shall manage the Houlton Band Tax Fund in accordance with the first section of the Act of June 24, 1938 (25 U.S.C. 162a), and shall utilize the principal and interest of such Fund only as provided in subsection (d) and for no other purpose.

“(d) Notwithstanding the provisions of section 3727 of title 31, United States Code, the Secretary shall pay out of the Houlton Band Tax Fund all valid claims for taxes, payments in lieu of property taxes, and fees, together with any interest and penalties thereon—

“(1) for which the Houlton Band of Maliseet Indians are determined to be liable under the terms of section 6208-A(2) of the amended Maine Implementing Act,

“(2) which are final and not subject to further administrative or judicial review, and

“(3) which have been certified by the Commissioner of Finance and Administration of the State of Maine as valid claims (within the meaning of section 6208-A(2) of the amended Maine Implementing Act) that meet the requirements of this subsection.

“(e) Notwithstanding any other provision of law, if—

“(1) the Houlton Band of Maliseet Indians is liable to the State of Maine or any county, district, municipality, city, town, village, plantation, or any other political subdivision thereof for any tax, payment in lieu of property tax, or fees, together with any interest or penalties thereon, and

“(2) there are insufficient funds in the Houlton Band Tax Fund to pay such tax, payment, or fee (together with any interest or penalties thereon) in full, the deficiency shall be paid by the Houlton Band of Maliseet Indians only from income-producing property owned by such Band which is not held in trust for such Band by the United States, and such Band shall not be required to pay such tax, payment, or fee (or any interest or penalty thereon) from any other source.

“(f) The Secretary shall, after consultation with the Commissioner of Finance and Administration of the State of Maine and the Houlton Band of Maliseet Indians, prescribe written procedures governing the filing and payment of claims under this section and section 6208-A of the amended Maine Implementing Act.

“HOULTON BAND TRUST LAND

“SEC. 4. (a) Subject to the provisions of section 3 of this Act, the Secretary is authorized and directed to expend, at the request of the Houlton Band of Maliseet Indians, the principal of, and income accruing on, the land acquisition fund established for such Band under subsections (c) and (d)(1) of section 5 of the Maine Indian Claims Settlement Act of 1980 (25 U.S.C. 1724; 94 Stat. 1789) for the purposes of acquiring land or natural resources for such Band and for no other purpose. Land or natural resources so acquired within the State of Maine for such Band shall be held in trust by the United States for the benefit of such Band.

“(b)(1) Land or natural resources acquired with funds expended under the authority of subsection (a) and held in trust for the benefit of the Houlton Band of Maliseet Indians may be alienated only by—

“(A) takings for public use pursuant to the laws of the State of Maine as provided in subsection (c),

“(B) takings for public use pursuant to the laws of the United States,

“(C) transfers authorized by section 5(g)(3) of the Maine Indian Claims Settlement Act of 1980 (25 U.S.C. 1724(g)(3); 94 Stat. 1791), or

“(D) transfers made pursuant to an Act or joint resolution of Congress.

All other transfers of land or natural resources acquired with funds expended under the authority of subsection (a) and held in trust for the benefit of such Band shall be void ab initio and without any validity in law or equity.

“(2) The provisions of paragraph (1) shall not prohibit or limit transfers of individual use assignments of land or natural resources from one member of the Houlton Band of Maliseet Indians to another member of such Band.

“(c)(1) Land or natural resources acquired with funds expended under the authority of subsection (a) and held in trust for the benefit of the Houlton Band of Maliseet Indians may be condemned for public purposes by the State of Maine, or any political subdivision thereof, only upon such terms and conditions as shall be agreed upon in writing between the State and such Band after the date of enactment of this Act [Oct. 27, 1986].

“(2) The consent of the United States is hereby given to the State of Maine to further amend the amended Maine Implementing Act for the purpose of embodying the agreement described in paragraph (1).

“(d)(1) Lands and natural resources may be acquired by the Secretary for the Houlton Band of Maliseet Indians only if the Secretary has, at any time prior to such acquisition—

“(A) transmitted a letter to the Secretary of State of the State of Maine stating that the Houlton Band Tax Fund contains \$200,000, and

“(B) provided the Secretary of State of the State of Maine with a copy of the procedures for filing and payment of claims prescribed under section 3(f).

“(2)(A) No land or natural resources may be acquired by the Secretary for the Houlton Band of Maliseet Indians until the Secretary—

“(i) files with the Secretary of State of the State of Maine a certified copy of the deed, contract, or other conveyance setting forth the location and boundaries of the land or natural resources to be acquired by the Secretary, or

“(ii) files with the Secretary of State of the State of Maine a certified copy of any instrument setting forth the location and boundaries of the land or natural resources to be acquired.

“(B) For purposes of subparagraph (A), filing with the Secretary of State of the State of Maine may be made by mail and, if such method of filing is used, shall be considered to be completed on the date on which the document is properly mailed to the Secretary of State of the State of Maine.”

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1722, 1723, 1725, 1728, 1733 of this title.

§ 1725. State laws applicable

(a) Civil and criminal jurisdiction of the State and the courts of the State; laws of the State

Except as provided in section 1727(e) and section 1724(d)(4) of this title, all Indians, Indian nations, or tribes or bands of Indians in the State of Maine, other than the Passamaquoddy Tribe, the Penobscot Nation, and their members, and any lands or natural resources owned by any such Indian, Indian nation, tribe or band of Indians and any lands or natural resources held in trust by the United States, or by any other person or entity, for any such Indian, Indian nation, tribe, or band of Indians shall be subject to the civil and criminal jurisdiction of the State, the laws of the State, and the civil and criminal jurisdiction of the courts of the State, to the same extent as any other person or land therein.

(b) Jurisdiction of State of Maine and utilization of local share of funds pursuant to the Maine Implementing Act; Federal laws or regulations governing services or benefits unaffected unless expressly so provided; report to Congress of comparative Federal and State funding for Maine and other States

(1) The Passamaquoddy Tribe, the Penobscot Nation, and their members, and the land and natural resources owned by, or held in trust for the benefit of the tribe, nation, or their members, shall be subject to the jurisdiction of the State of Maine to the extent and in the manner provided in the Maine Implementing Act and that Act is hereby approved, ratified, and confirmed.

(2) Funds appropriated for the benefit of Indian people or for the administration of Indian affairs may be utilized, consistent with the purposes for which they are appropriated, by the Passamaquoddy Tribe and the Penobscot Nation to provide part or all of the local share as provided by the Maine Implementing Act.

(3) Nothing in this section shall be construed to supersede any Federal laws or regulations governing the provision or funding of services or benefits to any person or entity in the State of Maine unless expressly provided by this subchapter.

(4) Not later than October 30, 1982, the Secretary is directed to submit to the appropriate committees of the House of Representatives and the Senate having jurisdiction over Indian affairs a report on the Federal and State funding provided the Passamaquoddy Tribe and Penobscot Nation compared with the respective Federal and State funding in other States.

(c) Federal criminal jurisdiction inapplicable in State of Maine under certain sections of title 18; effective date: publication in Federal Register

The United States shall not have any criminal jurisdiction in the State of Maine under the provisions of sections 1152, 1153, 1154, 1155, 1156, 1160, 1161, and 1165 of title 18. This provision shall not be effective until sixty days after the publication of notice in the Federal Register as required by section 1723(d) of this title.

(d) Capacity to sue and be sued in State of Maine and Federal courts; section 1362 of title 28 applicable to civil actions; immunity from suits provided in Maine Implementing Act; assignment of quarterly income payments from settlement fund to judgment creditors for satisfaction of judgments

(1) The Passamaquoddy Tribe, the Penobscot Nation, and the Houlton Band of Maliseet Indians, and all members thereof, and all other Indians, Indian nations, or tribes or bands of Indians in the State of Maine may sue and be sued in the courts of the State of Maine and the United States to the same extent as any other entity or person residing in the State of Maine may sue and be sued in those courts; and section 1362 of title 28 shall be applicable to civil actions brought by the Passamaquoddy Tribe, the Penobscot Nation, and the Houlton Band of Maliseet Indians: *Provided, however,* That the Passamaquoddy Tribe, the Penobscot Nation,

and their officers and employees shall be immune from suit to the extent provided in the Maine Implementing Act.

(2) Notwithstanding the provisions of section 3727 of title 31, the Secretary shall honor valid final orders of a Federal, State, or territorial court which enters money judgments for causes of action which arise after October 10, 1980, against either the Passamaquoddy Tribe or the Penobscot Nation by making an assignment to the judgment creditor of the right to receive income out of the next quarterly payment from the settlement fund established pursuant to section 1724(a) of this title and out of such future quarterly payments as may be necessary until the judgment is satisfied.

(e) Federal consent for amendment of Maine Implementing Act; nature and scope of amendments; agreement respecting State jurisdiction over Houlton Band lands

(1) The consent of the United States is hereby given to the State of Maine to amend the Maine Implementing Act with respect to either the Passamaquoddy Tribe or the Penobscot Nation: *Provided,* That such amendment is made with the agreement of the affected tribe or nation, and that such amendment relates to (A) the enforcement or application of civil, criminal, or regulatory laws of the Passamaquoddy Tribe, the Penobscot Nation, and the State within their respective jurisdictions; (B) the allocation or determination of governmental responsibility of the State and the tribe or nation over specified subject matters or specified geographical areas, or both, including provision for concurrent jurisdiction between the State and the tribe or nation; or (C) the allocation of jurisdiction between tribal courts and State courts.

(2) Notwithstanding the provisions of subsection (a) of this section, the State of Maine and the Houlton Band of Maliseet Indians are authorized to execute agreements regarding the jurisdiction of the State of Maine over lands owned by or held in trust for the benefit of the band or its members.

(f) Indian jurisdiction separate and distinct from State civil and criminal jurisdiction

The Passamaquoddy Tribe and the Penobscot Nation are hereby authorized to exercise jurisdiction, separate and distinct from the civil and criminal jurisdiction of the State of Maine, to the extent authorized by the Maine Implementing Act, and any subsequent amendments thereto.

(g) Full faith and credit

The Passamaquoddy Tribe, the Penobscot Nation, and the State of Maine shall give full faith and credit to the judicial proceedings of each other.

(h) General laws and regulations affecting Indians applicable, but special laws and regulations inapplicable, in State of Maine

Except as otherwise¹ provided in this subchapter, the laws and regulations of the United States which are generally applicable to Indians, Indian nations, or tribes or bands of Indians

¹ So in original. Probably should be "otherwise".

or to lands owned by or held in trust for Indians, Indian nations, or tribes or bands of Indians shall be applicable in the State of Maine, except that no law or regulation of the United States (1) which accords or relates to a special status or right of or to any Indian, Indian nation, tribe or band of Indians, Indian lands, Indian reservations, Indian country, Indian territory or land held in trust for Indians, and also (2) which affects or preempts the civil, criminal, or regulatory jurisdiction of the State of Maine, including, without limitation, laws of the State relating to land use or environmental matters, shall apply within the State.

(i) Eligibility for Federal special programs and services regardless of reservation status

As federally recognized Indian tribes, the Passamaquoddy Tribe, the Penobscot Nation, and the Houlton Band of Maliseet Indians shall be eligible to receive all of the financial benefits which the United States provides to Indians, Indian nations, or tribes or bands of Indians to the same extent and subject to the same eligibility criteria generally applicable to other Indians, Indian nations or tribes or bands of Indians. The Passamaquoddy Tribe, the Penobscot Nation, and the Houlton Band of Maliseet Indians shall be treated in the same manner as other federally recognized tribes for the purposes of Federal taxation and any lands which are held by the respective tribe, nation, or band subject to a restriction against alienation or which are held in trust for the benefit of the respective tribe, nation, or band shall be considered Federal Indian reservations for purposes of Federal taxation. Notwithstanding any other provision of law authorizing the provision of special programs and services by the United States to Indians because of their status as Indians, any member of the Houlton Band of Maliseet Indians in or near the town of Houlton, Maine, shall be eligible for such programs and services without regard to the existence of a reservation or of the residence of such member on or near a reservation.

(Pub. L. 96-420, §6, Oct. 10, 1980, 94 Stat. 1793; Pub. L. 97-428, §3, Jan. 8, 1983, 96 Stat. 2268.)

CODIFICATION

In subsec. (d)(2), "section 3727 of title 31" substituted for "section 3477 of the Revised Statutes, as amended" on authority of Pub. L. 97-258, §4(b), Sept. 13, 1982, 96 Stat. 1067, the first section of which enacted Title 31, Money and Finance.

AMENDMENTS

1983—Subsec. (i). Pub. L. 97-428 inserted provision that notwithstanding any other provision of law authorizing provision of special programs and services by United States to Indians because of their status as Indians, any member of Houlton Band of Maliseet Indians in or near town of Houlton, Maine, be eligible for such programs and services without regard to existence of a reservation or of residence of such member on or near a reservation.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 13d, 1724, 1727 of this title.

§ 1726. Tribal organization

(a) Appropriate instrument in writing; filing of organic governing document

The Passamaquoddy Tribe, the Penobscot Nation, and the Houlton Band of Maliseet Indians may each organize for its common welfare and adopt an appropriate instrument in writing to govern the affairs of the tribe, nation, or band when each is acting in its governmental capacity. Such instrument and any amendments thereto must be consistent with the terms of this subchapter and the Maine Implementing Act. The Passamaquoddy Tribe, the Penobscot Nation, and the Houlton Band of Maliseet Indians shall each file with the Secretary a copy of its organic governing document and any amendments thereto.

(b) Membership

For purposes of benefits under this subchapter and the recognition extended the Houlton Band of Maliseet Indians, no person who is not a citizen of the United States may be considered a member of the Houlton Band of Maliseets, except persons who, as of October 10, 1980, are enrolled members on the band's existing membership roll, and direct lineal descendants of such members. Membership in the band shall be subject to such further qualifications as may be provided by the band in its organic governing document or amendments thereto subject to the approval of the Secretary.

(Pub. L. 96-420, §7, Oct. 10, 1980, 94 Stat. 1795.)

§ 1727. Implementation of Indian Child Welfare Act

(a) Petition for assumption of exclusive jurisdiction; approval by Secretary

The Passamaquoddy Tribe or the Penobscot Nation may assume exclusive jurisdiction over Indian child custody proceedings pursuant to the Indian Child Welfare Act of 1978 (92 Stat. 3069) [25 U.S.C. 1901 et seq.]. Before the respective tribe or nation may assume such jurisdiction over Indian child custody proceedings, the respective tribe or nation shall present to the Secretary for approval a petition to assume such jurisdiction and the Secretary shall approve that petition in the manner prescribed by sections 108(a)-(c) of said Act [25 U.S.C. 1918(a)-(c)].

(b) Consideration and determination of petition by Secretary

Any petition to assume jurisdiction over Indian child custody proceedings by the Passamaquoddy Tribe or the Penobscot Nation shall be considered and determined by the Secretary in accordance with sections 108(b) and (c) of the Act [25 U.S.C. 1918(b) and (c)].

(c) Actions or proceedings within existing jurisdiction unaffected

Assumption or jurisdiction under this section shall not affect any action or proceeding over which a court has already assumed jurisdiction.

(d) Reservations within section 1903(10) of this title

For the purposes of this section, the Passamaquoddy Indian Reservation and the Penobscot

Indian Reservation are “reservations” within section 4(10) of the Act [25 U.S.C. 1903(10)].

(e) Indian tribe within section 1903(8) of this title; State jurisdiction over child welfare unaffected

For the purposes of this section, the Houlton Band of Maliseet Indians is an “Indian tribe” within section 4(8) of the Act [25 U.S.C. 1903(8)], provided, that nothing in this subsection shall alter or effect the jurisdiction of the State of Maine over child welfare matters as provided in section 1725(e)(2) of this title.

(f) Assumption determinative of exclusive jurisdiction

Until the Passamaquoddy Tribe or the Penobscot Nation has assumed exclusive jurisdiction over the Indian child custody proceedings pursuant to this section, the State of Maine shall have exclusive jurisdiction over Indian child custody proceedings of that tribe or nation.

(Pub. L. 96-420, § 8, Oct. 10, 1980, 94 Stat. 1795.)

REFERENCES IN TEXT

The Indian Child Welfare Act of 1978 (92 Stat. 3069), referred to in subsec. (a), is Pub. L. 95-608, Nov. 8, 1978, 92 Stat. 3069, as amended, which is classified principally to chapter 21 (§1901 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1901 of this title and Tables.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1725 of this title.

§ 1728. Federal financial aid programs unaffected by payments under subchapter

(a) Eligibility of State of Maine for participation without regard to payments to designated Tribe, Nation, or Band under subchapter

No payments to be made for the benefit of the Passamaquoddy Tribe, the Penobscot Nation, or the Houlton Band of Maliseet Indians pursuant to the terms of this subchapter shall be considered by any agency or department of the United States in determining or computing the eligibility of the State of Maine for participation in any financial aid program of the United States.

(b) Eligibility of designated Tribe, Nation, or Band for benefits without regard to payments from State of Maine except in considering actual financial situation in determining need of applicant

The eligibility for or receipt of payments from the State of Maine by the Passamaquoddy Tribe and the Penobscot Nation or any of their members pursuant to the Maine Implementing Act shall not be considered by any department or agency of the United States in determining the eligibility of or computing payments to the Passamaquoddy Tribe or the Penobscot Nation or any of their members under any financial aid program of the United States: *Provided*, That to the extent that eligibility for the benefits of such a financial aid program is dependent upon a showing of need by the applicant, the administering agency shall not be barred by this subsection from considering the actual financial situation of the applicant.

(c) Availability of settlement or land acquisition funds not income or resources or otherwise used to affect federally assisted housing programs or Federal financial assistance or other Federal benefits

The availability of funds or distribution of funds pursuant to section 1724 of this title may not be considered as income or resources or otherwise utilized as the basis (1) for denying any Indian household or member thereof participation in any federally assisted housing program, (2) for denying or reducing the Federal financial assistance or other Federal benefits to which such household or member would otherwise be entitled, or (3) for denying or reducing the Federal financial assistance or other Federal benefits to which the Passamaquoddy Tribe or Penobscot Nation would otherwise be eligible or entitled.

(Pub. L. 96-420, § 9, Oct. 10, 1980, 94 Stat. 1795.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 13d of this title.

§ 1729. Deferral of capital gains

For the purpose of subtitle A of title 26, any transfer by private owners of land purchased or otherwise acquired by the Secretary with moneys from the land acquisition fund whether in the name of the United States or of the respective tribe, nation or band shall be deemed to be an involuntary conversion within the meaning of section 1033 of title 26.

(Pub. L. 96-420, § 10, Oct. 10, 1980, 94 Stat. 1796; Pub. L. 99-514, § 2, Oct. 22, 1986, 100 Stat. 2095.)

AMENDMENTS

1986—Pub. L. 99-514 substituted “Internal Revenue Code of 1986” for “Internal Revenue Code of 1954” wherever appearing, which for purposes of codification was translated as “title 26” thus requiring no change in text.

§ 1730. Transfer of tribal trust funds held by the State of Maine

All funds of either the Passamaquoddy Tribe or the Penobscot Nation held in trust by the State of Maine as of October 10, 1980, shall be transferred to the Secretary to be held in trust for the respective tribe or nation and shall be added to the principal of the settlement fund allocated to that tribe or nation. The receipt of said State funds by the Secretary shall constitute a full discharge of any claim of the respective tribe or nation, its predecessors and successors in interest, and its members, may have against the State of Maine, its officers, employees, agents, and representatives, arising from the administration or management of said State funds. Upon receipt of said State funds, the Secretary, on behalf of the respective tribe and nation, shall execute general releases of all claims against the State of Maine, its officers, employees, agents, and representatives, arising from the administration or management of said State funds.

(Pub. L. 96-420, § 11, Oct. 10, 1980, 94 Stat. 1796.)

CODIFICATION

“October 10, 1980,” substituted in text for “the effective date of this Act”.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1724 of this title.

§ 1731. Other claims discharged by this subchapter

Except as expressly provided herein, this subchapter shall constitute a general discharge and release of all obligations of the State of Maine and all of its political subdivisions, agencies, departments, and all of the officers or employees thereof arising from any treaty or agreement with, or on behalf of any Indian nation, or tribe or band of Indians or the United States as trustee therefor, including those actions now pending in the United States District Court for the District of Maine captioned United States of America against State of Maine (Civil Action Nos. 1966-ND and 1969-ND).

(Pub. L. 96-420, §12, Oct. 10, 1980, 94 Stat. 1796.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1724 of this title.

§ 1732. Limitation of actions

Except as provided in this subchapter, no provision of this subchapter shall be construed to constitute a jurisdictional act, to confer jurisdiction to sue, or to grant implied consent to any Indian, Indian nation, or tribe or band of Indians to sue the United States or any of its officers with respect to the claims extinguished by the operation of this subchapter.

(Pub. L. 96-420, §13, Oct. 10, 1980, 94 Stat. 1797.)

§ 1733. Authorization of appropriations

There is hereby authorized to be appropriated \$81,500,000 for the fiscal year beginning October 1, 1980, for transfer to the funds established by section 1724 of this title.

(Pub. L. 96-420, §14, Oct. 10, 1980, 94 Stat. 1797.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1724 of this title.

§ 1734. Inseparability of provisions

In the event that any provision of section 1723 of this title is held invalid, it is the intent of Congress that the entire subchapter be invalidated. In the event that any other section or provision of this subchapter is held invalid, it is the intent of Congress that the remaining sections of this subchapter shall continue in full force and effect.

(Pub. L. 96-420, §15, Oct. 10, 1980, 94 Stat. 1797.)

§ 1735. Construction

(a) Law governing; special legislation

In the event a conflict of interpretation between the provisions of the Maine Implementing Act and this subchapter should emerge, the provisions of this subchapter shall govern.

(b) General legislation

The provisions of any Federal law enacted after October 10, 1980, for the benefit of Indians, Indian nations, or tribes or bands of Indians, which would affect or preempt the application of the laws of the State of Maine, including appli-

cation of the laws of the State to lands owned by or held in trust for Indians, or Indian nations, tribes, or bands of Indians, as provided in this subchapter and the Maine Implementing Act, shall not apply within the State of Maine, unless such provision of such subsequently enacted Federal law is specifically made applicable within the State of Maine.

(Pub. L. 96-420, §16, Oct. 10, 1980, 94 Stat. 1797.)

SUBCHAPTER III—FLORIDA INDIAN LAND CLAIMS SETTLEMENT

§ 1741. Congressional findings and declaration of policy

Congress finds and declares that—

(1) there is pending before the United States District Court for the Southern District of Florida a lawsuit by the Miccosukee Indian Tribe which involves certain lands within the State of Florida;

(2) the pendency of such lawsuit may result in economic hardships for residents of the State of Florida by clouding the titles to lands in the State, including lands not now involved in the lawsuits;

(3) the pendency of such lawsuit also has clouded the easement rights of the South Florida Water Management District in lands necessary for use as a water flowage and storage area, which is part of a federally authorized project for flood control and water management in central and southern Florida, and which is being used to provide and regulate a water supply for the residents of South Florida;

(4) the State of Florida and the Miccosukee Indian Tribe have executed agreements for the purposes of resolving tribal land claims and settling such lawsuit, which agreements require implementing legislation by the Congress of the United States and the Legislature of the State of Florida; and

(5) Congress shares with the parties to such agreements a desire to settle such Indian claims in the State of Florida without additional cost to the United States.

(Pub. L. 97-399, §2, Dec. 31, 1982, 96 Stat. 2012.)

SHORT TITLE

Section 1 of Pub. L. 97-399 provided: "That this Act [enacting this subchapter] may be cited as the 'Florida Indian Land Claims Settlement Act of 1982'."

§ 1742. Definitions

For purposes of this subchapter—

(1) The term "Miccosukee Tribe" means the Miccosukee Tribe of Indians of Florida, a tribe of American Indians recognized by the United States and organized under section 476 of this title and recognized by the State of Florida pursuant to chapter 285, Florida Statutes.

(2) The term "State of Florida" means the State of Florida, its agencies, political subdivisions, constitutional officers, officials of its agencies and subdivisions, and the South Florida Water Management District.

(3) The term "Secretary" means the Secretary of the Interior.

(4) The term "lands or natural resources" means any real property or natural resources,

or any interest in or right involving any real property or natural resources including but not limited to minerals and mineral rights, timber and timber rights, water and water rights, and rights to hunt and fish.

(5) The term “lawsuit” means the action in the United States District Court for the Southern District of Florida, entitled *Miccosukee Tribe of Indians of Florida against State of Florida, et al.*, Case No. 79-253-CIV-JWK.

(6) The term “Lease Agreement” means that perpetual lease granted by the State of Florida to the Miccosukee Tribe, involving a specifically described area in South Florida, title to which is held by the State of Florida and in which the Miccosukee Tribe is granted certain express rights and interests.

(7) The term “settlement funds” means those amounts of money which the State of Florida has agreed to pay to the Miccosukee Tribe under the Settlement Agreement in partial consideration for the settlement of the lawsuit and the extinguishment of rights to all potential or unsettled claims which the Miccosukee Tribe may have to lands or natural resources in the State of Florida.

(8) The term “Settlement Agreement” means those documents entitled “Settlement Agreement between the Miccosukee Tribe and the State of Florida” executed on April 16, 1982, by representatives of the State of Florida and representatives of the Miccosukee Tribe and filed with the secretary of state of the State of Florida which incorporate the Lease Agreement described in paragraph (6) of this section.

(9) The term “transfer” includes but is not limited to any sale, grant, lease, allotment, partition, or conveyance, any transaction the purpose of which was to effect a sale, grant, lease, allotment, partition, or conveyance, or any event or events that resulted in a change of possession or control of lands or natural resources.

(Pub. L. 97-399, § 3, Dec. 31, 1982, 96 Stat. 2012.)

§ 1743. Findings by the Secretary

Section 1744 of this title shall not take effect until the Secretary finds that the following events have occurred:

(1) the State of Florida has enacted legislation appropriating sufficient money to pay, and in fact has paid, the settlement funds to the Miccosukee Tribe;

(2) the State of Florida and the Miccosukee Tribe have executed the Lease Agreement; and

(3) the State of Florida has enacted appropriate legislation to carry out its commitments under paragraph 1b of the Settlement Agreement between the State of Florida and the Miccosukee Tribe and has given the waiver specified in paragraph 4d of such Agreement.

(Pub. L. 97-399, § 4, Dec. 31, 1982, 96 Stat. 2013.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1744 of this title.

§ 1744. Approval of prior transfers and extinguishment of claims and aboriginal title involving Florida Indians

(a) Publication of findings; consequences

If the Secretary finds that the State of Florida has satisfied the conditions set forth in section 1743 of this title, he shall publish such findings and the Settlement Agreement in the Federal Register, and upon such publication—

(1) the transfers, waivers, releases, relinquishments, and other commitments made by the Miccosukee Tribe in paragraph 3 of the Settlement Agreement between the State of Florida and the Miccosukee Tribe shall be of full force and effect on the terms and conditions therein stated; and

(2) the transfers, waivers, releases, relinquishments, and other commitments validated by paragraph (1) of this subsection and the transfers and extinguishments approved and validated by paragraphs (1) and (2) of subsection (b) of this section shall be deemed to have been made in accordance with the Constitution and all laws of the United States that are specifically applicable to transfers of lands or natural resources from, by, or on behalf of any Indian, Indian nation, or tribe of Indians (including but not limited to the Act of July 22, 1790 (1 Stat. 137) and any amendments thereto and all subsequent versions thereof), and Congress does hereby approve any such transfers effective as of the date of such transfers.

(b) Scope of applicability to claims, transfers, etc.

(1) All claims to lands within the State of Florida based upon aboriginal title by the Miccosukee Tribe, or any predecessor or successor in interest, are hereby extinguished, and any transfer of lands or natural resources located anywhere within the State of Florida, including but not limited to transfers pursuant to the statute or treaty of or with any State or the United States, by, from, or on behalf of the Miccosukee Tribe, or any predecessor or successor in interest, shall be deemed to be in full force and effect: *Provided, however,* That nothing herein shall be construed as extinguishing any aboriginal right, title, interest, or claim to lands or natural resources solely to the extent of the rights or interests defined as “excepted interests” in paragraph 3c of the Settlement Agreement between the State of Florida and the Miccosukee Tribe.

(2) By virtue of the approval of a transfer of lands or natural resources effected by this section, or an extinguishment of aboriginal title effected thereby, all claims against the United States, any State or subdivision thereof, or any other person or entity, by the Miccosukee Tribe, arising subsequent to the transfer and based upon any interest in or right involving such lands or natural resources, including but not limited to claims for trespass damages or claims for use and occupancy, shall be regarded as extinguished as of the date of the transfer.

(3) Notwithstanding any other provision of this subsection, nothing in this subchapter shall be construed as extinguishing any right, title,

interest, or claim to lands or natural resources in the State of Florida by any individual Indian—

- (A) which is based on use and occupancy, or
- (B) which was acquired under Federal or State law,

and which is not derived from or through the Miccosukee Tribe, or its predecessor or predecessors in interest.

(Pub. L. 97-399, § 5, Dec. 31, 1982, 96 Stat. 2013.)

REFERENCES IN TEXT

Act of July 22, 1790, referred to in subsec. (a)(2), is act July 22, 1790, ch. 33, 1 Stat. 137, which was not classified to the Code.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1743, 1749 of this title.

§ 1745. Special provisions for Miccosukee Tribe

(a) Exemption of leasehold from State and local taxes

The leasehold interest granted the Miccosukee Tribe under the Lease Agreement shall be exempt from all State and local taxes.

(b) Treatment of leasehold as Indian reservation

The lands leased to the Miccosukee Tribe pursuant to the Lease Agreement shall be treated as if such lands constituted a federally recognized Indian reservation solely for purposes of determining the eligibility of the Miccosukee Tribe and its members for any Federal health, education, employment, economic assistance, revenue sharing, law enforcement over Indians, or social welfare programs, or any other similar Federal program for which Indians are eligible because of their status as Indians and of their residence on an Indian reservation.

(c) Power of State of Florida to diminish leasehold interests for public purposes

The State of Florida, through exercise of the power of eminent domain, may take or diminish any interest granted to the Miccosukee Tribe under the Lease Agreement only for a public purpose and upon payment of just compensation, but such taking or diminution shall not require the approval of Congress or any executive officer of the United States.

(d) Impairment of benefits received by State of Florida under other provisions

Nothing in this subchapter or in any grant of leasehold rights by the State of Florida under the Lease Agreement shall affect or otherwise impair in any adverse manner any benefits received by the State of Florida under the Act of September 2, 1937 (16 U.S.C. 669 et seq.), or the Act of August 9, 1950 (16 U.S.C. 777 et seq.).

(Pub. L. 97-399, § 6, Dec. 31, 1982, 96 Stat. 2014.)

REFERENCES IN TEXT

Act of September 2, 1937, referred to in subsec. (d), is act Sept. 2, 1937, ch. 899, 50 Stat. 917, as amended, popularly known as the Federal Aid in Wildlife Restoration Act, which is classified generally to chapter 5B (§ 669 et seq.) of Title 16, Conservation. For complete classification of this Act to the Code, see Short Title note set out under section 669 of Title 16 and Tables.

Act of August 9, 1950, referred to in subsec. (d), is act Aug. 9, 1950, ch. 658, 64 Stat. 430, as amended, popularly known as the Federal Aid in Fish Restoration Act and also as the Fish Restoration and Management Projects Act, which is classified generally to chapter 10B (§ 777 et seq.) of Title 16. For complete classification of this Act to the Code, see Short Title note set out under section 777 of Title 16 and Tables.

§ 1746. Scope of rights or interests granted to Miccosukee Tribe; scope of civil and criminal jurisdiction of State of Florida

Nothing in this subchapter shall grant to the Miccosukee Tribe any greater rights or interests in the leased area other than those expressly set forth in the Lease Agreement, and, notwithstanding any other provision of this subchapter, nothing in this subchapter shall diminish, modify, or otherwise affect the extent of the civil and criminal jurisdiction of the State of Florida in the leased area.

(Pub. L. 97-399, § 7, Dec. 31, 1982, 96 Stat. 2015.)

§ 1747. Transfer of lands to United States

(a) Acceptance by Secretary

The Secretary is authorized and directed to accept the transfer to the United States, to be held in trust for the use and benefit of the Miccosukee Tribe of Indians of Florida, of the lands authorized to be conveyed to the Miccosukee Tribe by section 285.061, Florida Statutes, and the lands described in Dedication Deed No. 23228 from the Trustees of the Internal Improvement Trust Fund subject to the provisions of section 285.061, Florida Statutes, and of this section.

(b) Jurisdiction of State of Florida

(1) Notwithstanding the conveyance of any lands by the State of Florida to the United States in trust for the Miccosukee Tribe of Indians of Florida, the assumption of jurisdiction in favor of the State of Florida contained in section 285.16, Florida Statutes, pursuant to section 7 of the Act of August 15, 1953 (67 Stat. 588), as in effect prior to its repeal, shall continue in full force and effect on such lands unless the State shall retrocede such civil or criminal jurisdiction in whole or in part.

(2)(A) The laws of Florida relating to alcoholic beverages (chapters 561, 562, 563, 564, and 565, Florida Statutes), gambling (chapter 849, Florida Statutes), sale of cigarettes (chapter 210, Florida Statutes), and their successor laws, shall have the same force and effect within said transferred lands as they have elsewhere within the State and the State shall have jurisdiction over offenses committed by or against Indians under said laws to the same extent the State has jurisdiction over said offenses committed elsewhere within the State.

(B) Nothing in subparagraph (A) shall permit the exercise of jurisdiction by the State of Florida as to any matter to which section 1162(b) of title 18 or section 1360(b) of title 28 applies.

(c) Transfer of lands as subject to existing leases, etc.; additional water rights

(1) Any transfer of lands under this section shall be subject to all existing leases, easements, and rights-of-way, and all the rights,

easements, and reservations in favor of the Central and Southern Florida Flood Control District (now the South Florida Water Management District) and shall not increase, diminish, modify, or otherwise affect the extent to which chapter 373, Florida Statutes, and its successor laws, have force and effect within such lands.

(2) Any transfer of lands under this section shall not confer upon the Miccosukee Tribe, or upon the lands within the reservation, any additional water rights.

(Pub. L. 97-399, § 8, Dec. 31, 1982, 96 Stat. 2015.)

REFERENCES IN TEXT

Section 7 of Act August 15, 1953 (67 Stat. 588), as in effect prior to its repeal, referred to in subsec. (b)(1), is section 7 of act Aug. 15, 1953, ch. 505, 67 Stat. 590, which was set out as a note under section 1360 of Title 28, Judiciary and Judicial Procedure, and was repealed by Pub. L. 90-284, title IV, § 403(b), Apr. 11, 1968, 82 Stat. 79.

§ 1748. Limitations of actions

Notwithstanding any other provision of law, any action to contest the constitutionality of this subchapter shall be barred unless the complaint is filed within one hundred and eighty days after December 31, 1982. An action to contest the constitutionality of this subchapter may only be brought in the United States District Court for the Southern District of Florida.

(Pub. L. 97-399, § 9, Dec. 31, 1982, 96 Stat. 2016.)

§ 1749. Revocation of settlement

In the event the Settlement Agreement between the Miccosukee Tribe and the State of Florida is ever invalidated—

(1) the transfers, waivers, releases, relinquishments, and other commitments made by the Miccosukee Tribe in paragraph 3 of the Settlement Agreement shall no longer be of any force or effect,

(2) section 1744 of this title shall be inapplicable to the lands, interests in lands, or natural resources of the Miccosukee Tribe and its members as if never enacted, and

(3) the approvals of prior transfers and the extinguishment of claims and aboriginal title of the Miccosukee Tribe otherwise effected by section 1744 of this title shall be void ab initio.

(Pub. L. 97-399, § 10, Dec. 31, 1982, 96 Stat. 2016.)

SUBCHAPTER IV—CONNECTICUT INDIAN LAND CLAIMS SETTLEMENT

§ 1751. Congressional findings

The Congress finds that—

(a) there is pending before the United States District Court for the District of Connecticut a civil action entitled “Western Pequot Tribe of Indians against Holdridge Enterprises Incorporated, et al., Civil Action Numbered H76-193 (D. Conn.),” which involves Indian claims to certain public and private lands within the town of Ledyard, Connecticut;

(b) the pendency of this lawsuit has placed a cloud on the titles to much of the land in the town of Ledyard, including lands not involved in the lawsuit, which has resulted in severe economic hardships for the residents of the town;

(c) the Congress shares with the State of Connecticut and the parties to the lawsuit a desire to remove all clouds on titles resulting from such Indian land claims;

(d) the parties to the lawsuit and others interested in the settlement of Indian land claims within the State of Connecticut have reached an agreement which requires implementing legislation by the Congress of the United States and the Legislature of the State of Connecticut;

(e) the Western Pequot Tribe, as represented as of October 18, 1983, by the Mashantucket Pequot Tribal Council, is the sole successor in interest to the aboriginal entity generally known as the Western Pequot Tribe which years ago claimed aboriginal title to certain lands in the State of Connecticut; and

(f) the State of Connecticut is contributing twenty acres of land owned by the State of Connecticut to fulfill this subchapter. The State of Connecticut will construct and repair three sections of paved or gravel roadways within the reservation of the Tribe. The State of Connecticut has provided special services to the members of the Western Pequot Tribe residing within its borders. The United States has provided few, if any, special services to the Western Pequot Tribe and has denied that it had jurisdiction over or responsibility for said Tribe. In view of the provision of land by the State of Connecticut, the provision of paved roadways by the State of Connecticut, and the provision of special services by the State of Connecticut without being required to do so by Federal law, it is the intent of Congress that the State of Connecticut not be required to otherwise contribute directly to this claims settlement.

(Pub. L. 98-134, § 2, Oct. 18, 1983, 97 Stat. 851.)

CODIFICATION

In subsec. (e), “October 18, 1983” substituted for “the time of the passage of this Act”, meaning the date of approval of Pub. L. 98-134.

SHORT TITLE

Section 1 of Pub. L. 98-134 provided: “That this Act [enacting this subchapter] may be cited as the ‘Mashantucket Pequot Indian Claims Settlement Act’.”

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1752 of this title.

§ 1752. Definitions

For the purposes of this subchapter—

(1) The term “Tribe” means the Mashantucket Pequot Tribe (also known as the Western Pequot Tribe) as identified by chapter 832 of the Connecticut General Statutes and all its predecessors and successors in interest. The Mashantucket Pequot Tribe is represented, as of October 18, 1983, by the Mashantucket Pequot Tribal Council.

(2) The term “land or natural resources” means any real property or natural resources, or any interest in or right involving any real property or natural resources, including without limitation minerals and mineral rights, timber and timber rights, water and water rights, and hunting and fishing rights.

(3) The term “private settlement lands” means—

(A) the eight hundred acres, more or less, of privately held land which are identified by a red outline on a map filed with the secretary of the State of Connecticut in accordance with the agreement referred to in section 1751(d) of this title, and

(B) the lands known as the Cedar Swamp which are adjacent to the Mashantucket Pequot Reservation as it exists on October 18, 1983. Within thirty days of October 18, 1983, the secretary of the State of Connecticut shall transmit to the Secretary a certified copy of said map.

(4) The term “settlement lands” means—

(A) the lands described in sections 2(a) and 3 of the Act To Implement the Settlement of the Mashantucket Pequot Indian Land Claims as enacted by the State of Connecticut and approved on June 9, 1982, and

(B) the private settlement lands.

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

(6) The term “transfer” means any transaction involving, or any transaction the purpose of which was to effect, a change in title to or control of any land or natural resources, and any act, event, or circumstance that resulted in a change in title to, possession of, dominion over, or control of land or natural resources, including any sale, grant, lease, allotment, partition, or conveyance, whether pursuant to a treaty, compact, or statute of a State or otherwise.

(7) The term “reservation” means the existing reservation of the Tribe as defined by chapter 824 of the Connecticut General Statutes and any settlement lands taken in trust by the United States for the Tribe.

(Pub. L. 98-134, §3, Oct. 18, 1983, 97 Stat. 852.)

CODIFICATION

In pars. (1) and (3)(B), “October 18, 1983” substituted for “the date of the enactment of this Act” and “the enactment of this Act”, meaning the date of approval of Pub. L. 98-134.

§ 1753. Extinguishment of aboriginal titles and Indian claims

(a) Approval and ratification of prior transfers

Any transfer before October 18, 1983, from, by, or on behalf of the Tribe or any of its members of land or natural resources located anywhere within the United States, and any transfer before October 18, 1983, from, by, or on behalf of any Indian, Indian nation, or tribe or band of Indians of land or natural resources located anywhere within the town of Ledyard, Connecticut, shall be deemed to have been made in accordance with the Constitution and all laws of the United States, including without limitation the Trade and Intercourse Act of 1790, Act of July 22, 1790 (ch. 33, sec. 4, 1 Stat. 137, 138), and all amendments thereto and all subsequent reenactments and versions thereof, and Congress hereby does approve and ratify any such transfer effective as of the date of said transfer.

(b) Extinguishment of title

By virtue of the approval and ratification of a transfer of land or natural resources effected by

subsection (a) of this section, any aboriginal title held by the Tribe or any member of the Tribe, or any other Indian, Indian nation, or tribe or band of Indians, to any land or natural resources the transfer of which was approved and ratified by subsection (a) of this section shall be regarded as extinguished as of the date of such transfer.

(c) Extinguishment of claims

By virtue of the approval and ratification of a transfer of land or natural resources effected by this section, or the extinguishment of aboriginal title effected thereby, any claim (including any claim for damages for trespass or for use and occupancy) by, or on behalf of, the Tribe or any member of the Tribe or by any other Indian, Indian nation, or tribe or band of Indians, against the United States, any State or subdivision thereof or any other person which is based on—

(1) any interest in or right involving any land or natural resources the transfer of which was approved and ratified by subsection (a) of this section, or

(2) any aboriginal title to land or natural resources the extinguishment of which was effected by subsection (b) of this section,

shall be regarded as extinguished as of the date of any such transfer.

(d) Savings provision

Nothing in this section shall be construed to affect or eliminate the personal claim of any individual Indian (except for Federal common law fraud claim) which is pursued under any law of general applicability that protects non-Indians as well as Indians.

(e) Effective date; notice

(1) This section shall take effect upon the appropriation of \$900,000 as authorized under section 1754(e) of this title.

(2) The Secretary shall publish notice of such appropriation in the Federal Register when the funds are deposited in the fund established under section 1754(a) of this title.

(Pub. L. 98-134, §4, Oct. 18, 1983, 97 Stat. 852.)

REFERENCES IN TEXT

The Trade and Intercourse Act of 1790, Act of July 22, 1790 (ch. 33, sec. 4, 1 Stat. 137, 138), referred to in subsec. (a), is not classified to the Code. See sections 177, 179, 180, 193, 194, 201, 229, 230, 251, 263, and 264 of this title.

CODIFICATION

In subsec. (a), “October 18, 1983” substituted for “the date of enactment of this Act”, meaning the date of approval of Pub. L. 98-134.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1754, 1760 of this title.

§ 1754. Mashantucket Pequot Settlement Fund

(a) Establishment and administration

There is hereby established in the United States Treasury an account to be known as the Mashantucket Pequot Settlement Fund (hereinafter referred to in this section as the “Fund”). The Fund shall be held in trust by the Secretary for the benefit of the Tribe and administered in accordance with this subchapter.

(b) Expenditure of Fund; private settlement lands; economic development plan; acquisition of land and natural resources

(1) The Secretary is authorized and directed to expend, at the request of the Tribe, the Fund together with any and all income accruing to such Fund in accordance with this subsection.

(2) Not less than \$600,000 of the Fund shall be available until January 1, 1985, for the acquisition by the Secretary of private settlement lands. Subsequent to January 1, 1985, the Secretary shall determine whether and to what extent an amount less than \$600,000 has been expended to acquire private settlement lands and shall make that amount available to the Tribe to be used in accordance with the economic development plan approved pursuant to paragraph (3).

(3)(A) The Secretary shall disburse all or part of the Fund together with any and all income accruing to such Fund (excepting the amount reserved in paragraph (2)) according to a plan to promote the economic development of the Tribe.

(B) The Tribe shall submit an economic development plan to the Secretary and the Secretary shall approve such plan within sixty days of its submission if he finds that it is reasonably related to the economic development of the Tribe. If the Secretary does not approve such plan, he shall, at the time of his decision, set forth in writing and with particularity, the reasons for his disapproval.

(C) The Secretary may not agree to terms which provide for the investment of the Fund in a manner inconsistent with section 162a of this title, unless the Tribe first submits a specific waiver of liability on the part of the United States for any loss which may result from such an investment.

(D) The Tribe may, with the approval of the Secretary, alter the economic development plan subject to the conditions set forth in subparagraph (B).

(4) Under no circumstances shall any part of the Fund be distributed to any member of the Tribe unless pursuant to the economic development plan approved by the Secretary under paragraph (3).

(5) As the Fund or any portion thereof is disbursed by the Secretary in accordance with this section, the United States shall have no further trust responsibility to the Tribe or its members with respect to the sums paid, any subsequent expenditures of these sums, or any property other than private settlement lands or services purchased with these sums.

(6) Until the Tribe has submitted and the Secretary has approved the terms of the use of the Fund, the Secretary shall fix the terms for the administration of the portion of the Fund as to which there is no agreement.

(7) Lands or natural resources acquired under this subsection which are located within the settlement lands shall be held in trust by the United States for the benefit of the Tribe.

(8) Land or natural resources acquired under this subsection which are located outside of the settlement lands shall be held in fee by the Mashantucket Pequot Tribe, and the United States shall have no further trust responsibility with respect to such land and natural resources.

Such land and natural resources shall not be subject to any restriction against alienation under the laws of the United States.

(9) Notwithstanding the provisions of section 257 of title 40 and section 258a of title 40, the Secretary may acquire land or natural resources under this section from the ostensible owner of the land or natural resources only if the Secretary and the ostensible owner of the land or natural resources have agreed upon the identity of the land or natural resources to be sold and upon the purchase price and other terms of sale. Subject to the agreement required by the preceding sentence, the Secretary may institute condemnation proceedings in order to perfect title, satisfactory to the Attorney General, in the United States and condemn interests adverse to the ostensible owner.

(c) Transfer of private settlement land as involuntary conversion

For the purpose of subtitle A of title 26, any transfer of private settlement lands to which subsection (b) of this section applies shall be deemed to be an involuntary conversion within the meaning of section 1033 of title 26.

(d) Documentation of relinquishment of tribal claims

The Secretary may not expend on behalf of the Tribe any sums deposited in the Fund established pursuant to subsection (a) of this section unless and until he finds that authorized officials of the Tribe have executed appropriate documents relinquishing all claims to the extent provided by sections 1753 and 1759 of this title, including stipulations to the final judicial dismissal with prejudice of its claims.

(e) Authorization of appropriation

There is authorized to be appropriated \$900,000 to be deposited in the Fund.

(Pub. L. 98-134, § 5, Oct. 18, 1983, 97 Stat. 853; Pub. L. 99-514, § 2, Oct. 22, 1986, 100 Stat. 2095.)

AMENDMENTS

1986—Subsec. (c). Pub. L. 99-514 substituted “Internal Revenue Code of 1986” for “Internal Revenue Code of 1954” wherever appearing, which for purposes of codification was translated as “title 26” thus requiring no change in text.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1753 of this title.

§ 1755. State jurisdiction over reservation

Notwithstanding the provision relating to a special election in section 406 of the Act of April 11, 1968 (82 Stat. 80; 25 U.S.C. 1326), the reservation of the Tribe is declared to be Indian country subject to State jurisdiction to the maximum extent provided in title IV of such Act [25 U.S.C. 1321 et seq.].

(Pub. L. 98-134, § 6, Oct. 18, 1983, 97 Stat. 855.)

REFERENCES IN TEXT

Act of April 11, 1968, referred to in text, is Pub. L. 90-284, Apr. 11, 1968, 82 Stat. 73, as amended, known as the Civil Rights Act of 1968. Title IV of Pub. L. 90-284 is classified generally to subchapter III (§ 1321 et seq.) of chapter 15 of this title. For complete classification of this Act to the Code, see Short Title note set out under

section 3601 of Title 42, The Public Health and Welfare, and Tables.

§ 1756. Practice and procedure

(a) Constitutionality

Notwithstanding any other provision of law, the constitutionality of this subchapter may not be drawn into question in any action unless such question has been raised in—

(1) a pleading contained in a complaint filed before the end of the one-hundred-and-eighty-day period beginning on October 18, 1983, or

(2) an answer contained in a reply to a complaint before the end of such period.

(b) Jurisdiction

Notwithstanding any other provision of law, exclusive jurisdiction of any action in which the constitutionality of this subchapter is drawn into question is vested in the United States District Court for the District of Connecticut.

(c) Removal of actions

Any action to which subsection (a) of this section applies and which is brought in the court of any State may be removed by the defendant to the United States District Court for the District of Connecticut.

(d) Jurisdictional acts; implied consent to sue the United States

Except as provided in this subchapter, no provision of this subchapter shall be construed to constitute a jurisdictional act, to confer jurisdiction to sue, or to grant implied consent to any Indian, Indian nation, or tribe or band of Indians to sue the United States or any of its officers with respect to the claims extinguished by the operation of this subchapter.

(Pub. L. 98-134, § 7, Oct. 18, 1983, 97 Stat. 855.)

CODIFICATION

In subsec. (a)(1), “October 18, 1983” substituted for “the date of the enactment of this Act”, meaning the date of approval of Pub. L. 98-134.

§ 1757. Restriction against alienation

(a) Subject to subsection (b) of this section, lands within the reservation which are held in trust by the Secretary for the benefit of the Tribe or which are subject to a Federal restraint against alienation at any time after October 18, 1983, shall be subject to the laws of the United States relating to Indian lands, including section 177 of this title.

(b) Notwithstanding subsection (a) of this section, the Tribe may lease lands for any term of years to the Mashantucket Pequot Housing Authority, or any successor in interest to such Authority.

(Pub. L. 98-134, § 8, Oct. 18, 1983, 97 Stat. 855.)

CODIFICATION

In subsec. (a), “October 18, 1983” substituted for “the date of the enactment of this Act”, meaning the date of approval of Pub. L. 98-134.

§ 1758. Extension of Federal recognition and privileges

(a) Applicability of United States laws and regulations

Notwithstanding any other provision of law, Federal recognition is extended to the Tribe. Ex-

cept as otherwise provided in this subchapter, all laws and regulations of the United States of general application to Indians or Indian nations, tribes or bands of Indians which are not inconsistent with any specific provision of this subchapter shall be applicable to the Tribe.

(b) Filing of organic governing document and amendments

The Tribe shall file with the Secretary a copy of its organic governing document and any amendments thereto. Such instrument must be consistent with the terms of this subchapter and the Act to Implement the Settlement of the Mashantucket Pequot Indian Land Claim as enacted by the State of Connecticut and approved June 9, 1982.

(c) Eligibility for services and benefits

Notwithstanding any other provision of law, the Tribe and members of the Tribe shall be eligible for all Federal services and benefits furnished to federally recognized Indian tribes as of October 18, 1983.

(Pub. L. 98-134, § 9, Oct. 18, 1983, 97 Stat. 855.)

CODIFICATION

In subsec. (c), “October 18, 1983” substituted for “the date of enactment of this Act”, meaning the date of approval of Pub. L. 98-134.

§ 1759. General discharge and release of State of Connecticut

Except as expressly provided herein, this subchapter shall constitute a general discharge and release of all obligations of the State of Connecticut and all of its political subdivisions, agencies, departments, and all of the officers or employees thereof arising from any treaty or agreement with, or on behalf of the Tribe or the United States as trustee therefor.

(Pub. L. 98-134, § 10, Oct. 18, 1983, 97 Stat. 856.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1754 of this title.

§ 1760. Separability

In the event that any provision of section 1753 of this title is held invalid, it is the intent of Congress that the entire subchapter be invalidated. In the event that any other section or provision of this subchapter is held invalid, it is the intent of Congress that the remaining sections of this subchapter shall continue in full force and effect.

(Pub. L. 98-134, § 11, Oct. 18, 1983, 97 Stat. 856.)

SUBCHAPTER V—MASSACHUSETTS INDIAN LAND CLAIMS SETTLEMENT

§ 1771. Congressional findings and declaration of policy

The Congress hereby finds and declares that—

(1) there is pending before the United States District Court for the District of Massachusetts a lawsuit that involves Indian claims to certain public lands within the town of Gay Head, Massachusetts;

(2) the pendency of this lawsuit has resulted in severe economic hardships for the residents

of the town of Gay Head by clouding the titles to much of the land in the town, including land not involved in the lawsuit;

(3) the Congress shares with the Commonwealth of Massachusetts and the parties to the lawsuit a desire to remove all clouds on titles resulting from such Indian land claim;¹

(4) the parties to the lawsuit and others interested in settlement of Indian land claims within the Commonwealth of Massachusetts executed a Settlement Agreement which, to become effective, requires implementing legislation by the Congress of the United States and the General Court of the Commonwealth of Massachusetts;

(5) the town of Gay Head has agreed to contribute approximately 50 percent of the land involved in this settlement;

(6) the State of Massachusetts has agreed to provide up to \$2,250,000 to be used for the purchase of land to be held in trust by the Secretary for the use and benefit of the Wampanoag Tribal Council of Gay Head, Inc.; and

(7) the Secretary has acknowledged the existence of the Wampanoag Tribal Council of Gay Head, Inc. as an Indian tribe and Congress hereby ratifies and confirms that existence as an Indian tribe with a government to government relationship with the United States.

(Pub. L. 100-95, § 2, Aug. 18, 1987, 101 Stat. 704.)

EFFECTIVE DATE

Section 11 of Pub. L. 100-95 provided that:

“(a) IN GENERAL.—Except as provided in subsection (b), this Act [enacting this subchapter] shall take effect upon the date of enactment [Aug. 18, 1987].

“(b) EXCEPTION.—Section 4 [25 U.S.C. 1771b] shall take effect upon the date on which the title of all of the private settlement lands provided for in this Act to the Wampanoag Tribal Council of Gay Head, Inc. is transferred. The fact of such transfer, and the date thereof, shall be certified and recorded by the Secretary of the Commonwealth of Massachusetts.”

SHORT TITLE

Section 1 of Pub. L. 100-95 provided that: “This Act [enacting this subchapter] may be cited as the ‘Wampanoag Tribal Council of Gay Head, Inc., Indian Claims Settlement Act of 1987’.”

§ 1771a. Gay Head Indian claims settlement fund

(a) Fund established

There is hereby established within the Treasury of the United States a fund to be known as the “Wampanoag Tribal Council of Gay Head, Inc. Claims Settlement Fund”. Amounts in the fund shall be available to the Secretary to carry out the purposes of this subchapter.

(b) Authorization for appropriation

There is hereby authorized to be appropriated \$2,250,000 for such fund to remain available until expended.

(c) State contribution required

Amounts may be expended from the fund only upon deposit by the State of Massachusetts into the fund of an amount equal to that amount to be expended by the United States so that both

the United States and the State of Massachusetts bear one-half of the cost of the acquisition of lands under section 1771d of this title.

(Pub. L. 100-95, § 3, Aug. 18, 1987, 101 Stat. 704.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1771d, 1771f of this title.

§ 1771b. Approval of prior transfers and extinguishment of aboriginal title and claims of Gay Head Indians

(a) Approval of prior transfers

(1) Any transfer before August 18, 1987, of land or natural resources now located anywhere within the United States from, by, or on behalf of the Wampanoag Tribal Council of Gay Head, Inc., or (2) any transfer before August 18, 1987, by, from, or on behalf of any Indian, Indian nation, or tribe or band of Indians, of any land or natural resources located anywhere within the town of Gay Head, Massachusetts, including any transfer pursuant to any statute of the State, and the incorporation of the town of Gay Head, shall be deemed to have been made in accordance with the Constitution and all laws of the United States that are specifically applicable to transfers of land or natural resources from, by, or on behalf of any Indian, Indian nation, or tribe or band of Indians (including the Trade and Intercourse Act of 1790, Act of July 22, 1790 (ch. 33, sec. 4, 1 Stat. 137), and all amendments thereto and all subsequent versions thereof). Any such transfer and any transfer in implementation of this subchapter, shall be deemed to have been made with the consent and approval of Congress as of the date of such transfer.

(b) Extinguishment of aboriginal title

Any aboriginal title held by the Wampanoag Tribal Council of Gay Head, Inc. or any other entity presently or at any time in the past known as the Gay Head Indians, to any land or natural resources the transfer of which is consented to and approved in subsection (a) of this section is considered extinguished as of the date of such transfer.

(c) Extinguishment of claims arising from prior transfers or extinguishment of aboriginal title

Any claim (including any claim for damages for use and occupancy) by the Wampanoag Tribal Council of Gay Head, Inc., the Gay Head Indians, or any other Indian, Indian nation, or tribe or band of Indians against the United States, any State or political subdivision of a State, or any other person which is based on—

(1) any transfer of land or natural resources which is consented to and approved in subsection (a) of this section, or

(2) any aboriginal title to land or natural resources the transfer of which is consented to and approved in subsection (b) of this section,

is extinguished as of the date of any such transfer.

(d) Personal claims not affected

No provision of this section shall be construed to offset or eliminate the personal claim of any individual Indian which is pursued under any

¹ So in original. Probably should be “claims;”.

law of general applicability that protects non-Indians as well as Indians.

(Pub. L. 100-95, §4, Aug. 18, 1987, 101 Stat. 705.)

REFERENCES IN TEXT

The Trade and Intercourse Act of 1790, Act of July 22, 1790 (ch. 33, sec. 4, 1 Stat. 137), referred to in subsec. (a), is not classified to the Code. See sections 177, 179, 180, 193, 194, 201, 229, 230, 251, 263, and 264 of this title.

EFFECTIVE DATE

Section effective upon the date on which title of all of private settlement lands provided for in this subchapter to the Wampanoag Tribal Council of Gay Head, Inc. is transferred, with fact of such transfer, and date thereof, to be certified and recorded by Secretary of the Commonwealth of Massachusetts, see section 11(b) of Pub. L. 100-95, set out as a note under section 1771 of this title.

§ 1771c. Conditions precedent to Federal purchase of settlement lands

(a) Initial determination of State and local action

No action shall be taken by the Secretary under section 1771d of this title before the Secretary publishes notice in the Federal Register of the determination by the Secretary that—

(1) the Commonwealth of Massachusetts has enacted legislation which provides that—

(A) the town of Gay Head, Massachusetts, is authorized to convey to the Secretary to be held in trust for the Wampanoag Tribal Council of Gay Head, Inc. the public settlement lands and the Cook lands subject to the conditions and limitations set forth in the Settlement Agreement; and

(B) the Wampanoag Tribal Council of Gay Head, Inc. shall have the authority, after consultation with appropriate State and local officials, to regulate any hunting by Indians on the settlement lands that is conducted by means other than firearms or crossbow to the extent provided in, and subject to the conditions and limitations set forth in, the Settlement Agreement;

(2) the Wampanoag Tribal Council of Gay Head, Inc., has submitted to the Secretary an executed waiver or waivers of the claims covered by the Settlement Agreement all claims extinguished by this subchapter, and all claims arising because of the approval of transfers and extinguishment of titles and claims under this subchapter; and

(3) the town of Gay Head, Massachusetts, has authorized the conveyance of the public settlement lands and the Cook Lands¹ to the Secretary in trust for the Wampanoag Tribal Council of Gay Head, Inc.

(b) Reliance upon Attorney General of Massachusetts

In making the findings required in subsection (a) of this section, the Secretary may rely upon the opinion of the Attorney General of the Commonwealth of Massachusetts.

(Pub. L. 100-95, §5, Aug. 18, 1987, 101 Stat. 705.)

¹ So in original. Probably should not be capitalized.

§ 1771d. Purchase and transfer of settlement lands

(a) Purchase of private settlement lands

The Secretary is authorized and directed to expend, at the request of the Wampanoag Tribal Council of Gay Head, Inc., \$2,125,000 to acquire the private settlement lands. At the request of the Wampanoag Tribal Council of Gay Head, Inc., the Secretary shall not purchase lots 705, 222, and 528 of the private settlement lands, but, at the request of the Wampanoag Tribal Council of Gay Head, Inc., the Secretary shall acquire in lieu thereof such other lands that are contiguous to the remaining private settlement lands. Upon the purchase of such contiguous lands, those lands shall be subject to the same restrictions and benefits as the private settlement lands.

(b) Payment for survey and appraisal

The Secretary is authorized and directed to cause a survey of the public settlement lands to be made within 60 days of acquiring title to the public settlement lands. The Secretary shall reimburse the Native American Rights Fund and the Gay Head Taxpayers Association for an appraisal of the private settlement lands done by Paul O'Leary dated May 1, 1987. Such funds as may be necessary may be withdrawn from the Fund¹ established in section 1771a(a) of this title and may be used for the purpose of conducting the survey and providing reimbursement for the appraisal.

(c) Acquisition of additional lands

The Secretary shall expend, at the request of the Wampanoag Tribal Council of Gay Head, Inc., any remaining funds not required by subsection (a) or (b) of this section to acquire any additional lands that are contiguous to the private settlement lands. Any lands acquired pursuant to this section, and any other lands which are on and after August 12, 1987, held in trust for the Wampanoag Tribal Council of Gay Head, Inc., any successor, or individual member, shall be subject to this subchapter, the Settlement Agreement and other applicable laws. Any after acquired land held in trust for the Wampanoag Tribal Council of Gay Head, Inc., any successor, or individual member, shall be subject to the same benefits and restrictions as apply to the most analogous land use described in the Settlement Agreement.

(d) Transfer and survey of land to Wampanoag Tribal Council

Any right, title, or interest to lands acquired by the Secretary under this section, and the title to public settlement lands conveyed by the town of Gay Head, shall be held in trust for the Wampanoag Tribal Council of Gay Head, Inc. and shall be subject to this subchapter, the Settlement Agreement, and other applicable laws.

(e) Proceedings authorized to acquire or to perfect title

The Secretary is authorized to commence such condemnation proceedings as the Secretary may determine to be necessary—

¹ So in original. Probably should not be capitalized.

- (1) to acquire or perfect any right, title, or interest in any private settlement land, and
 (2) to condemn any interest adverse to any ostensible owner of such land.

(f) Public settlement lands held in trust

The Secretary is authorized to accept and hold in trust for the benefit of the Wampanoag Tribal Council of Gay Head, Inc. the public settlement lands as described in section 1771f(7) of this title immediately upon the effective date of this Act.

(g) Application

The terms of this section shall apply to land in the town of Gay Head. Any land acquired by the Wampanoag Tribal Council of Gay Head, Inc., that is located outside the town of Gay Head shall be subject to all the civil and criminal laws, ordinances, and jurisdiction of the Commonwealth of Massachusetts.

(h) Spending authority

Any spending authority (as defined in section 651(c)(2) of title 2) provided in this section shall be effective for any fiscal year only to such extent or in such amounts as are provided in appropriation Acts.

(Pub. L. 100-95, § 6, Aug. 18, 1987, 101 Stat. 706.)

REFERENCES IN TEXT

For the effective date of this Act, referred to in subsec. (f), see section 11 of Pub. L. 100-95, set out as a note under section 1771 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1771a, 1771c, 1771h of this title.

§ 1771e. Jurisdiction over settlement lands; restraint on alienation

(a) Limitation on Indian jurisdiction over settlement lands

The Wampanoag Tribal Council of Gay Head, Inc., shall not have any jurisdiction over non-tribal members and shall not exercise any jurisdiction over any part of the settlement lands in contravention of this subchapter, the civil regulatory and criminal laws of the Commonwealth of Massachusetts, the town of Gay Head, Massachusetts, and applicable Federal laws.

(b) Subsequent holder bound to same terms and conditions

Any tribe or tribal organization which acquires any settlement land or any other land that may now or in the future be owned by or held in trust for any Indian entity in the town of Gay Head, Massachusetts, from the Wampanoag Tribal Council of Gay Head, Inc. shall hold such beneficial interest to such land subject to the same terms and conditions as are applicable to such lands when held by such council.

(c) Reservations of right and authority relating to settlement lands

No provision of this subchapter shall affect or otherwise impair—

- (1) any authority to impose a lien or temporary seizure on the settlement lands as provided in the State Implementing Act;
 (2) the authority of the Secretary to approve leases in accordance with sections 415 to 415d of this title; or

(3) the legal capacity of the Wampanoag Tribal Council of Gay Head, Inc. to transfer the settlement lands to any tribal entity which may be organized as a successor in interest to Wampanoag Tribal Council of Gay Head, Inc. or to transfer—

(A) the right to use the settlement lands to its members,

(B) any easement for public or private purposes in accordance with the laws of the Commonwealth of Massachusetts or the ordinances of the town of Gay Head, Massachusetts, or

(C) title to the West Basin Strip to the town of Gay Head, Massachusetts, pursuant to the terms of the Settlement Agreement.

(d) Exemption from State assessment

Any land held in trust by the Secretary for the benefit of the Wampanoag Tribal Council of Gay Head, Inc. shall be exempt from taxation or lien or “in lieu of payment” or other assessment by the State or any political subdivision of the State to the extent provided by the Settlement Agreement: *Provided, however*, That such taxation or lien or “in lieu of payment” or other assessment will only apply to lands which are zoned and utilized as commercial: *Provided further*, That this section shall not be interpreted as restricting the Tribe from entering into an agreement with the town of Gay Head to reimburse such town for the delivery of specific public services on the tribal lands.

(Pub. L. 100-95, § 7, Aug. 18, 1987, 101 Stat. 707.)

REFERENCES IN TEXT

Sections 415 to 415d of this title, referred to in subsec. (c)(2), was in the original “the Act entitled ‘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 (25 U.S.C. 415 et seq.)”, which enacted sections 415 to 415d of this title and amended section 396 of this title.

§ 1771f. Definitions

For the purposes of this subchapter:

(1) Cook lands

The term “Cook lands” means the lands described in paragraph (5) of the Settlement Agreement.

(2) Wampanoag Tribal Council of Gay Head, Inc.

The term “Wampanoag Tribal Council of Gay Head, Inc.” means the tribal entity recognized by the Secretary of the Interior as having a government to government relationship with the United States. The Wampanoag Tribal Council of Gay Head, Inc. is the sole and legitimate tribal entity which has a claim under the Trade and Intercourse Act of 1790, Act of July 22, 1790 (ch. 33, sec. 4, 1 Stat. 137), to land within the town of Gay Head. The membership of the Wampanoag Tribal Council of Gay Head, Inc., includes those 521 individuals who have been recognized by the Secretary of the Interior as being members of the Wampanoag Tribal Council of Gay Head, Inc., and such Indians of Gay Head ancestry as may be added from time to time by the governing body of the

Wampanoag Tribal Council of Gay Head, Inc.: *Provided*, That nothing in this section shall prevent the voluntary withdrawal from membership in the Wampanoag Tribal Council of Gay Head, Inc., pursuant to procedures established by the Tribe. The governing body of the Wampanoag Tribal Council of Gay Head, Inc. is hereby authorized to act on behalf of and bind the Wampanoag Tribal Council of Gay Head, Inc., in all matters related to carrying out this subchapter.

(3) Fund

The term “fund” means the Wampanoag Tribal Council of Gay Head, Inc. Claims Settlement Fund established under section 1771a of this title.

(4) Land or natural resources

The term “land or natural resources” means any real property or natural resources or any interest in or right involving any real property or natural resource, including but not limited to, minerals and mineral rights, timber and timber rights, water and water rights, and rights to hunt and fish.

(5) Lawsuit

The term “lawsuit” means the action entitled Wampanoag Tribal Council of Gay Head, and others versus Town of Gay Head, and others (C.A. No. 74-5826-McN (D. Mass.)).

(6) Private settlement lands

The term “private settlement lands” means approximately 177 acres of privately held land described in paragraph 6 of the Settlement Agreement.

(7) Public settlement lands

The term “public settlement lands” means the lands described in paragraph (4) of the Settlement Agreement.

(8) Settlement lands

The term “settlement lands” means the private settlement lands and the public settlement lands.

(9) Secretary

The term “Secretary” means the Secretary of the Interior.

(10) Settlement Agreement

The term “Settlement Agreement” means the document entitled “Joint Memorandum of Understanding Concerning Settlement of the Gay Head, Massachusetts, Indian Land Claims,” executed as of November 22, 1983, and renewed thereafter by representatives of the parties to the lawsuit, and as filed with the Secretary of the Commonwealth of Massachusetts.

(11) State implementing act

The term “State implementing act” means legislation enacted by the Commonwealth of Massachusetts conforming to the requirements of this subchapter and the requirements of the Massachusetts Constitution.

(12) Transfer

The term “transfer” includes—

(A) any sale, grant, lease, allotment, partition, or conveyance,

(B) any transaction the purpose of which is to effect a sale, grant, lease, allotment, partition, or conveyance, or

(C) any event or events that resulted in a change of possession or control of land or natural resources.

(13) West Basin Strip

The term “West Basin Strip” means a strip of land along the West Basin which the Wampanoag Tribal Council is authorized to convey, under paragraph (11) of the Settlement Agreement, to the town of Gay Head.

(Pub. L. 100-95, § 8, Aug. 18, 1987, 101 Stat. 708.)

REFERENCES IN TEXT

The Trade and Intercourse Act of 1790, Act of July 22, 1790 (ch. 33, sec. 4, 1 Stat. 137), referred to in par. (2), is not classified to the Code. See sections 177, 179, 180, 193, 194, 201, 229, 230, 251, 263, and 264 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1771d of this title.

§ 1771g. Applicability of State law

Except as otherwise expressly provided in this subchapter or in the State Implementing Act, the settlement lands and any other land that may now or hereafter be owned by or held in trust for any Indian tribe or entity in the town of Gay Head, Massachusetts, shall be subject to the civil and criminal laws, ordinances, and jurisdiction of the Commonwealth of Massachusetts and the town of Gay Head, Massachusetts (including those laws and regulations which prohibit or regulate the conduct of bingo or any other game of chance).

(Pub. L. 100-95, § 9, Aug. 18, 1987, 101 Stat. 709.)

§ 1771h. Limitations of action; jurisdiction

Notwithstanding any other provision of law, any action to contest the constitutionality or validity under law of this subchapter shall be barred unless the complaint is filed within thirty days after August 18, 1987. Exclusive original jurisdiction over any such action and any proceedings under section 1771d(e) of this title is hereby vested in the United States District Court of¹ the District of Massachusetts.

(Pub. L. 100-95, § 10, Aug. 18, 1987, 101 Stat. 710.)

§ 1771i. Eligibility

For the purpose of eligibility for Federal services made available to members of federally recognized Indian tribes, because of their status as Indians, members of this tribe residing on Martha’s Vineyard, Massachusetts, shall be deemed to be living on or near an Indian reservation.

(Pub. L. 100-95, § 12, Aug. 18, 1987, 101 Stat. 710.)

SUBCHAPTER VI—FLORIDA INDIAN
(SEMINOLE) LAND CLAIMS SETTLEMENT

§ 1772. Findings and policy

Congress finds and declares that—

(1) there is pending before the United States District Court for the southern district of

¹ So in original. Probably should be “for”.

Florida a lawsuit by the Seminole Tribe which involves certain lands within the State and there are also claims by the tribe to other areas of Florida by virtue of an 1839 Executive order of the President and by right of non-extinguishment of aboriginal possession which has been asserted but not filed in court;

(2) the pendency of this lawsuit and these claims may result in economic hardships for residents of the State by clouding the titles to lands in the State, including lands not now involved in the lawsuit;

(3) the pendency of this lawsuit and these claims also have clouded the easement rights of the South Florida Water Management District in lands necessary for use as a water flowage and storage area, which is part of a federally authorized project for flood control and water management in central and southern Florida, and which is being used to provide and regulate a water supply for the residents of south Florida;

(4) the State, the district, and the tribe have executed agreements for the purposes of resolving tribal land claims and settling the lawsuit—

(A) which include conveyance of land and payment of consideration to the tribe; and

(B) which require implementing legislation by the Congress of the United States and the Legislature of the State of Florida;

(5) Congress shares with the parties to such agreements a desire to settle these Indian claims in the State of Florida without additional cost to the United States;

(6) there is considerable uncertainty as to the nature and extent of the water rights of the tribe, and that continued controversy over this should be settled by agreement; and

(7) the State, the district, and the tribe have entered into a compact which, if approved by Congress and the Florida Legislature, creates specifically defined water rights in lieu of the undefined water rights claimed by the tribe.

(Pub. L. 100-228, § 2, Dec. 31, 1987, 101 Stat. 1556.)

EFFECTIVE DATE

Section 10 of Pub. L. 100-228 provided that: "This Act [enacting this subchapter] shall take effect upon the date of its enactment [Dec. 31, 1987]."

SHORT TITLE

Section 1 of Pub. L. 100-228 provided that: "This Act [enacting this subchapter] may be cited as the 'Seminole Indian Land Claims Settlement Act of 1987'."

§ 1772a. Definitions

For purposes of this subchapter—

(1) The term "tribe" means the Seminole Tribe of Indians of Florida or Seminole Tribe of Florida, a tribe of American Indians recognized by the United States and organized under section 476 of this title and recognized by the State of Florida pursuant to chapter 285, Florida Statutes, and its successors.

(2) The term "State" means the State of Florida and its agencies, political subdivisions, constitutional officers, officials of its agencies and subdivisions and their successors.

(3) The term "district" means the South Florida Water Management District, the agen-

cy of the State of Florida created by chapter 25270, laws of Florida (1949) to operate pursuant to chapter 373 Florida Statutes, and its successors.

(4) The term "Secretary" means the Secretary of the Interior.

(5) The term "lands or natural resources" means any real property or natural resources, or any interest in or right involving any real property or natural resources, including minerals and mineral rights, timber and timber rights, water and water rights, and rights to hunt and fish.

(6) The term "Settlement Agreement" means the instrument—

(A) executed by the Seminole Tribe, the State of Florida, and the South Florida Water Management District; and

(B) which will be presented for approval by all three parties to the United States District Court for the southern district of Florida for the purpose of terminating the lawsuit entitled *Seminole Tribe of Indians of Florida*,¹ v. State of Florida, et al., (Docket No. 78-6116-CIV), and for the extinguishment of rights to all potential or unsettled claims which the tribe may have to lands or natural resources in the State and the purchase of certain tribal interests in real property.

(7) The term "settlement funds" means those funds which the State of Florida and the South Florida Water Management District have agreed to pay to the tribe under the Settlement Agreement.

(8) The term "compact" means the Compact incorporated in the Settlement Agreement between the tribe, the State, and the district, which specifically defines the nature and extent of Seminole water rights and the manner of their use within the confines of the area of the district.

(Pub. L. 100-228, § 3, Dec. 31, 1987, 101 Stat. 1557.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1772c of this title.

§ 1772b. Findings by Secretary

(a) Section 1772c of this title shall not take effect until 180 days after December 31, 1987, or the date the last of the events described in subsection (b) of this section have occurred and the Secretary so finds, whichever date occurs later.

(b) The events referred to in subsection (a) of this section are—

(1) the State and district pay settlement funds pursuant to the terms of the Settlement Agreement for the case captioned *Seminole Tribe of Indians of Florida v. State of Florida et al.*, or equivalent consideration by land exchange to the tribe; and

(2) the State enacts appropriate legislation to carry out the commitments under the Settlement Agreement including the compact between the State, the district and the tribe, and the State and the district have given the waiver specified in paragraph 5c of such agreement.

(Pub. L. 100-228, § 4, Dec. 31, 1987, 101 Stat. 1557.)

¹ So in original. The comma probably should not appear.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1772c of this title.

§ 1772c. Approval of prior transfers and extinguishment of claims and aboriginal title involving Florida Indians

(a) Approval of Settlement Agreement; effect of approval

(1) Effective on December 31, 1987, the Congress does hereby approve the Settlement Agreement, including the compact, and any exhibits attached thereto.

(2) Subject to the provisions of section 1772b of this title, the Secretary shall publish findings required by section 1772b of this title and the Settlement Agreement in the Federal Register, and upon such publication—

(A) the transfers, waivers, releases, relinquishments and other commitments made by the tribe in the Settlement Agreement with the State and the district, including the compact provided for in the Settlement Agreement, shall be in full force and effect on the terms and conditions stated in such settlement, and

(B) the transfers, waivers, releases, relinquishments and other commitments validated by subparagraph (A) and the transfers and extinguishments approved and validated by paragraphs (1) and (2) of subsection (b) of this section shall be deemed to have been made in accordance with the Constitution and all laws of the United States that are specifically applicable to transfers of lands or natural resources from, by, or on behalf of any Indian, Indian nation, or tribe of Indians including but not limited to the Trade and Intercourse Act of 1790, Act of July 22, 1790 (25 U.S.C. 177, ch. 33, sec. 4, 1 Stat. 137).

(b) Extinguishment of claims based on aboriginal title

(1)(A) Subject to subparagraph (B), all claims to lands within the State based upon aboriginal title by the tribe or any predecessor or successor in interest, are hereby extinguished. Any transfer of lands or natural resources located anywhere within the State, including transfers pursuant to a statute or treaty with any State or the United States, by, from, or on behalf of the tribe or any predecessor or successor in interest, shall be deemed to be in full force and effect, as provided in subsection (a)(2) of this section.

(B) Nothing in this paragraph shall be construed as extinguishing any aboriginal right, title, interest, or claim to lands or natural resources solely to the extent of the rights or interests defined as “excepted interests” in paragraph 4a of the Settlement Agreement between the tribe, State and the district.

(2)(A) By virtue of the approval of a transfer of lands or natural resources effected by this section, or an extinguishment of aboriginal title effected thereby, all claims against the United States, the State or subdivision thereof, or any other person or entity, by the tribe or any predecessor or successor in interest, arising subsequent to the transfer and based upon any interest in or right involving such lands or natural resources, including claims for trespass damages

or claims for use and occupancy, shall be extinguished as of the date of the transfer.

(B) The United States shall not be liable directly or indirectly for any claim or cause of action arising from the approval of the Settlement Agreement and compact or exhibits attached thereto.

(3) Nothing in this subchapter shall be construed as extinguishing any right, title, interest, or claim to lands or natural resources in the State based on use and occupancy or acquired under Federal or State law by any individual Indian which is not derived from or through the tribe, its predecessor or predecessors in interest, or some other American Indian tribe.

(4) Any Indian, Indian nation, or tribe of Indians, other than the Seminole Tribe as defined in section 1772a(1) of this title, or any predecessor or successor in interest, or any member thereof, whose transfer of lands or natural resources is approved or whose aboriginal title or claims is extinguished by paragraph (1) or (2) of this subsection may, within a period of one year after publication of the Secretary’s finding pursuant to subsection (a) of this section, bring an action against the State and the United States in the United States District Court for the southern district of Florida. Such action shall be in lieu of a suit against any other person, agency, or political subdivision on a cause of action which may have existed in the absence of this subsection.

(c) Construction of subsection (a) and section 1772e

Neither subsection (a) of this section nor section 1772e of this title—

(1) enacts present or future laws of the State as Federal law,

(2) grants consent to any future changes in the Settlement Agreement or compact that could impose any obligation or liability on the United States, or

(3) commits the United States to finance any project or activity not otherwise authorized by Federal law.

(Pub. L. 100–228, § 5, Dec. 31, 1987, 101 Stat. 1558.)

REFERENCES IN TEXT

The Trade and Intercourse Act of 1790, Act of July 22, 1790 (25 U.S.C. 177, ch. 33, sec. 4, 1 Stat. 137), referred to in subsec. (a)(2)(B), is not classified to the Code. See sections 177, 179, 180, 193, 194, 201, 229, 230, 251, 263, and 264 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1772b, 1772g of this title.

§ 1772d. Special provisions for Seminole Tribe

(a) Acceptance of land by Secretary in trust for Seminole Tribe

Notwithstanding any clouds on title, the Secretary is authorized and directed, as soon as practicable after December 31, 1987, to accept the transfer to the United States, to be held in trust and as a reservation for the use and benefit of the Seminole Tribe of Florida, the approximate 15 sections of land being described as follows:

Beginning at the southwest corner of section 31, township 48 south, Range 35 east; thence

easterly along the south border of sections 31, 32 and 33, township 48 south, Range 35 east, to the westernmost boundary of the levee 28 works in section 33, township 48 south, Range 35 east; thence continuing north along the westernmost boundary of the levee 28 works to the point at which the westernmost boundary of the levee 28 works intersects the southernmost boundary of the levee 4 works in section 9, township 48 south, Range 35 east; thence continuing westerly along the southernmost boundary of the levee 4 works to the point at which the southernmost boundary of the levee 4 works intersects the dividing line between township 48 south, Range 35 east and township 48 south, Range 34 east at the Broward County and Hendry County line; and thence continuing south along said line to the point of beginning; said lands situate, lying and being in Broward County, Florida.

(b) Survey of Seminole Federal Reservations in Florida

Before the expiration of the 3-year period beginning on December 31, 1987, the Secretary shall—

(1) conduct a cadastral survey of those portions of the Seminole Federal Reservations in Florida not previously surveyed by the Department of the Interior, including all lands taken into trust as reservations under the authority of this subchapter;

(2) publish the correct legal descriptions of the Seminole Reservations in the Federal Register within 180 days after the survey is completed.

(c) Acceptance of land in future by Secretary in trust for Seminole Tribe

If, pursuant to paragraph 6 of the Settlement Agreement, there is a subsequent agreement between the tribe, the State, and the district providing that lands exchanged with the tribe or acquired by the tribe may be taken into Federal trust as a reservation for the tribe, the Secretary shall accept the transfer of such lands to the United States, to be held in trust for the use and benefit of the tribe pursuant to the terms and conditions of the subsequent agreement unless—

(1) the total amount of land previously taken in trust under this subsection exceeds the amount of land transferred to the State and Water District by the tribe under the Settlement Agreement;

(2) the Secretary determines in writing that either the size, location, or condition of the land, or the terms and conditions under which it is transferred would place an unreasonable burden on the United States as trustee;

(3) the land is not in Florida; or

(4) the land is not agricultural in nature.

(d) Civil and criminal jurisdiction over lands acquired by United States in trust for Seminole Tribe

(1) Notwithstanding the acquisition of any land under subsection (a) or (c) of this section by the United States in trust for the tribe, the assumption of jurisdiction in favor of the State contained in section 285.16, Florida Statutes, pursuant to section 7 of the Act of August 15,

1953,¹ (67 Stat. 588; Public Law 280), shall continue in full force and effect on such lands unless the United States accepts a retrocession by the State of such civil or criminal jurisdiction in whole or in part under section 1323 of this title. The laws of Florida relating to alcoholic beverages, gambling, sale of cigarettes, and their successor laws, shall have the same force and effect within said transferred lands as they have elsewhere within the State. The State, with respect to the transferred lands, shall also have jurisdiction over offenses committed by or against Indians under said laws to the same extent the State has jurisdiction over said offenses committed elsewhere within the State.

(2) Nothing in this subsection shall be construed as permitting the exercise of the above jurisdiction by the State regarding matters to which section 1162(b) of title 18 and section 1360(b) of title 28 apply.

(3) The scope of tribal sovereignty over transferred lands, with the specific exceptions of law relating to cigarettes, gambling and alcohol described in this subsection, shall be as required by applicable law with regard to existing tribal lands held in reservation or Federal trust status. Such transfer shall not confer upon the tribe, or upon the lands within the reservation, any additional water rights. Tribal water rights shall be deemed to be defined in the compact.

(Pub. L. 100-228, § 6, Dec. 31, 1987, 101 Stat. 1559.)

REFERENCES IN TEXT

Section 7 of the Act of August 15, 1953, referred to in subsec. (d)(1), is section 7 of act Aug. 15, 1953, ch. 505, 67 Stat. 590, which was set out as a note under section 1360 of Title 28, Judiciary and Judicial Procedure, and was repealed by Pub. L. 90-284, title IV, § 403(b), Apr. 11, 1968, 82 Stat. 79.

§ 1772e. Water rights compact

The compact defining the scope of Seminole water rights and their utilization by the tribe shall have the force and effect of Federal law for the purposes of enforcement of the rights and obligations of the tribe.

(Pub. L. 100-228, § 7, Dec. 31, 1987, 101 Stat. 1560.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1772c of this title.

§ 1772f. Judicial review

(a) Notwithstanding any other provision of law, any action to contest the constitutionality of this subchapter shall be barred unless the complaint is filed within 180 days after December 31, 1987. Exclusive jurisdiction over any such action is hereby vested in the United States District Court for the southern district of Florida.

(b) Notwithstanding any present immunity from suit enjoyed by any of the parties, jurisdiction regarding any controversy arising under the Settlement Agreement or compact or private agreement between the tribe and any third party entered into under authority of the compact is hereby vested in the United States District Court for the southern district of Florida.

¹ So in original. The comma probably should not appear.

Such jurisdiction shall be exclusive except that the court shall not have jurisdiction to award money damages against the State, the district or the tribe. Proceedings in the district court under this section shall be expedited consistent with sound judicial discretion.

(Pub. L. 100-228, § 8, Dec. 31, 1987, 101 Stat. 1561.)

§ 1772g. Revocation of settlement

In the event the Settlement Agreement or any part thereof is ever invalidated—

(1) the transfers, waivers, releases, relinquishments and any other commitments made by the State, the tribe, or the district in the Settlement Agreement shall no longer be of any force or effect;

(2) section 1772c of this title shall be inapplicable as if such section was never enacted with respect to the lands, interests in lands, or natural resources of the tribe and its members; and

(3) the approvals of prior transfers and the extinguishment of claims and aboriginal title of the tribe otherwise effected by section 1772c of this title shall be void ab initio.

(Pub. L. 100-228, § 9, Dec. 31, 1987, 101 Stat. 1561.)

SUBCHAPTER VII—WASHINGTON INDIAN (PUYALLUP) LAND CLAIMS SETTLEMENT

§ 1773. Congressional findings and purpose

(a) Findings

The Congress finds and declares that:

(1) It is the policy of the United States to promote tribal self-determination and economic self-sufficiency and to support the resolution of disputes over historical claims through settlements mutually agreed to by Indian and non-Indian parties.

(2) Disputes over certain land claims of the Puyallup Tribe and other matters, including—

(A) ownership of the Commencement Bay tidelands and areas of former Puyallup Riverbed, lands within the Puyallup Tribe's Treaty Reservation, or intended reservation boundaries,

(B) railroad and other rights-of-way,

(C) control of fisheries resource and habitat,

(D) jurisdiction over law enforcement, environment, navigation, and authority and control in the areas of land use,

(E) business regulation and zoning,

have resulted in difficult community relations and negative economic impacts affecting both the Tribe and non-Indian parties.

(3) Some of the significant historical events that led to the present circumstances include—

(A) the negotiation of the Treaty of Medicine Creek in December 1854, by the Puyallup Indians and others, by which the tribes ceded most of their territories but reserved certain lands and rights, including fishing rights;

(B) the Executive Order of 1857 creating the Puyallup Indian Reservation;

(C) the Executive Order of 1873, clarifying and extending the Puyallup Reservation in the Washington Territory;

(D) the March 11, 1891, Report of the Puyallup Indian Commission on allotments and the 1896 report by a second Puyallup Indian Commission describing the problems with sales of allotted lands; and

(E) the 1909 District Court for Tacoma decision of the United States of America against J.M. Ashton and the 1910 Supreme Court decision of United States of America against J.M. Ashton.

(4) It is recognized that both Indian and non-Indian parties enter into this settlement to resolve certain problems and claims and to derive certain benefits.

(5) There is a recognition that any final resolution of pending disputes through a process of litigation would take many years and entail great expense to all parties; continue economically and socially damaging controversies; prolong uncertainty as to the access, ownership, and jurisdictional status of issues in question; and seriously impair long-term economic planning and development for all parties.

(6) To advance the goals of Federal policy of Indian self-determination and to carry out the trust responsibility of the United States, and to advance the Federal policy of international trade and economic development, and in recognition of the Federal policy of settling these conflicts through comprehensive settlement agreements, it is appropriate that the United States participate in the funding and implementation of the Settlement Agreement.

(b) Purpose

Therefore, it is the purpose of this subchapter—

(1) to approve, ratify, and confirm the agreement entered into by the non-Indian settlement parties and the Puyallup Tribe of Indians,

(2) to authorize and direct the Secretary to implement the terms of such agreement, and

(3) to authorize the actions and appropriations necessary to implement the provisions of the Settlement Agreement and this subchapter.

(Pub. L. 101-41, § 2, June 21, 1989, 103 Stat. 83.)

SHORT TITLE

Section 1 of Pub. L. 101-41 provided that: "This Act [enacting this subchapter] may be cited as the 'Puyallup Tribe of Indians Settlement Act of 1989'."

§ 1773a. Resolution of Puyallup tribal land claims

(a) Relinquishment

In accordance with the Settlement Agreement and in return for the land and other benefits derived from the Settlement Agreement and this subchapter, the Tribe, and the United States as trustee for the Tribe and its members, relinquish all claims to tidelands, submerged lands, and any other lands, and including any mineral claims and nonfisheries water rights connected with such relinquished land, known or unknown, within the State of Washington, subject to the exceptions referred to in subsection (b) of this section.

(b) Exception for certain lands

Subsection (a) of this section shall not apply to the following:

(1) 12.5 acres of former riverbed land confirmed to the Tribe in Puyallup Tribe of Indians against Port of Tacoma (717 F. 2d 1251 (1983)), which land shall be subject to the terms and conditions described in the Settlement Agreement and document 6 of the Technical Documents.

(2) All land to which record title in the Tribe or the United States in trust for the Tribe or its members derives from a patent issued by the United States or from a conveyance of tideland by the State of Washington. For the purposes of this paragraph, the term "record title" means title documented by identifiable conveyances reflected in those records imparting constructive notice of conveyances according to the laws of the State (RCW chapters 65.04 and 65.08) and the final judgments of State or Federal courts.

(3) Certain land recognized to be owned on August 27, 1988, by the Tribe or the United States in trust for the Tribe within the Indian Addition to the city of Tacoma, Washington, as recorded in book 7 of plats at pages 30 and 31, records of Pierce County, Washington, as follows:

(A) Land owned on August 27, 1988:

- (i) Portions of tracts 2, 5, 6, 10, and 11.
- (ii) Tract 7 (school site).
- (iii) Tract 8 (church site).
- (iv) Tract 9 (cemetery site).
- (v) Approximately 38 lots in blocks 8150, 8249, 8350, and 8442, inclusive.

(B) Land, wherever located, added to the above list of parcels on or before December 1, 1988, in accordance with paragraph A.3. of section IX of the Settlement Agreement.

(4) The lands transferred to the Tribe pursuant to the Settlement Agreement.

(5) The rights to underlying lands or the reversionary interest of the Tribe, if any, in the Union Pacific or Burlington Northern rights-of-way across the 1873 Survey Area, where the property over which they were granted belonged, at the time of the grant, to the United States in trust for the Tribe or to the Tribe.

(6) The submerged lands as of August 27, 1988, in the Puyallup River within the 1873 Survey Area below the mean high water line.

(c) Personal claims

Nothing in this section or in the Settlement Agreement shall be construed to impair, eliminate, or in any way affect the title of any individual Indian to land held by such individual in fee or in trust, nor shall it affect the personal claim of any individual Indian as to claims regarding past sales of allotted lands or any claim which is pursued under any law of general applicability that protects non-Indians as well as Indians.

(Pub. L. 101-41, §3, June 21, 1989, 103 Stat. 84.)

EFFECTIVE DATE

Section 13 of Pub. L. 101-41 provided that: "Sections 3 and 9 [this section and section 1773g of this title] shall take effect on the effective date of the Settlement Agreement and when all terms are met as stated under section X of the Settlement Agreement."

§ 1773b. Settlement lands

(a) Acceptance by Secretary

The Secretary shall accept the conveyance of the lands described in subsection (c) of this section, and the Outer Hylebos tidelands property referred to in section VIII, A,1,c of the Settlement Agreement, subject to the terms and conditions of the Settlement Agreement and shall hold such lands in trust for the benefit of the Tribe.

(b) Contamination

(1) Contamination audits and cleanup of settlement lands shall be carried out in accordance with the Settlement Agreement and document 1 of the Technical Documents.

(2) The Tribe shall not be liable for the cleanup costs or in any other manner for contamination on properties described in subsection (c) of this section except any contamination caused by the Tribe's activities after conveyance of these properties to the Tribe under the terms of the Settlement Agreement and document 1 of the Technical Documents.

(c) Lands described

The lands referred to in subsection (a) of this section, and more particularly described in the Settlement Agreement, are as follows:

(1) The Blair Waterway property, comprised of approximately 43.4 acres.

(2) The Blair Backup property, comprised of approximately 85.2 acres.

(3) The Inner Hylebos property, comprised of approximately 72.9 acres.

(4) The Upper Hylebos property, comprised of approximately 5.9 acres.

(5) The Union Pacific property (Fife), comprised of a parcel of approximately 57 acres, and an adjoining 22-acre parcel if the option relating to the Union Pacific property (Fife) (as described in document 1 of the Technical Documents) is exercised.

(6) The Torre property (Fife), comprised of approximately 27.4 acres, unless the Port elects to provide the cash value of such property.

(7) The Taylor Way and East-West Road properties, two properties totaling approximately 7.4 acres.

(8) The submerged lands in the Puyallup River within the 1873 Survey Area below the mean high water line, as provided in section I. B. of the Settlement Agreement. To the extent that the United States has title to any of the lands described in this subpart,¹ then such lands shall be held by the United States in trust for the use and benefit of the Puyallup Tribe.

(9) The approximately 600 acres of open space, forest, and cultural lands to be acquired by the Tribe with cash received pursuant to section I of the Settlement Agreement or other tribal funds.

(d) Reservation status

Nothing in this subchapter is intended to affect the boundaries of the Puyallup Reservation, except that the lands described in subsection (c)

¹ So in original. Probably should be "subsection."

of this section above in paragraphs (1) through (8), and the Outer Hylebos tidelands property referred to in section VIII of the Settlement Agreement, shall have on-reservation status.

(e) Authorization of appropriations

There is authorized to be appropriated \$500,000 for the Federal share for the purchase of the lands referred to in subsection (c)(9) of this section.

(Pub. L. 101-41, § 4, June 21, 1989, 103 Stat. 85.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1773c of this title.

§ 1773c. Future trust lands

In accepting lands in trust (other than those described in section 1773b of this title) for the Puyallup Tribe or its members, the Secretary shall exercise the authority provided him in section 465 of this title, and shall apply the standards set forth in part 151 of title 25, Code of Federal Regulations, as those standards now exist or as they may be amended in the future.

(Pub. L. 101-41, § 5, June 21, 1989, 103 Stat. 86.)

§ 1773d. Funds to members of Puyallup Tribe

(a) Payment to individual members

(1) To the extent provided in advance in appropriation Acts or to the extent funds are provided by other parties to the Settlement Agreement, the Secretary shall place with a financial institution the amount of \$24,000,000 in an annuity fund or other investment program (hereafter in this subsection referred to as the "fund"). The selection of the institution or institutions where the funds will be held and the administration of the funds shall be in accordance with section II of the Settlement Agreement and documents 2 and 3 of the Technical Documents. Amounts earned pursuant to any investment of the fund shall be added to, and become part of, the fund.

(2) Upon attaining the age of 21 years, each enrolled member of the Tribe (determined by the Tribe pursuant to its constitution to have been a member as of the date of ratification of the Settlement Agreement by the Tribe) shall receive a one-time payment from the fund. The amount of such payment shall be determined in accordance with section II of the Settlement Agreement and document 2 of the Technical Documents.

(3) A reasonable and customary fee for the administration of the fund may be paid out of the income earned by the fund to the financial institution with which the fund is established.

(4) Upon payment to all eligible members of the Tribe pursuant to paragraph (2), any amount remaining in the fund shall be utilized in the manner determined by a vote of the members of the Tribe.

(5) There is authorized to be appropriated \$22,350,000 for the Federal share of the fund.

(b) Permanent trust fund for tribal members

(1) In order to provide a permanent resource to enhance the ability of the Tribe to provide services to its members, there is established the Puyallup Tribe of Indians Settlement Trust

Fund (hereafter in this subsection referred to as the "trust fund").

(2) Upon appropriation by Congress or to the extent funds are provided by other parties to the Settlement Agreement, the Secretary shall deposit \$22,000,000 into the trust fund. The trust fund shall be invested in accordance with section 162a of this title, so as to earn the maximum interest on principal and interest available under that section. No part of the \$22,000,000 principal may be expended for any purpose. Income earned on the principal or interest of the trust fund shall be available for expenditure as provided in paragraph (3).

(3)(A) The trust fund shall be administered and the funds shall be expended in accordance with section III of the Settlement Agreement and document 3 of the Technical Documents. Income from the trust fund may be used only for the following purposes unless modified in accordance with subparagraph (B):

- (i) Housing.
- (ii) Elderly needs.
- (iii) Burial and cemetery maintenance.
- (iv) Education and cultural preservation.
- (v) Supplemental health care.
- (vi) Day care.
- (vii) Other social services.

(B) The purposes of the trust fund may be modified only as provided in document 3 of the Technical Documents.

(4) The fund established under this subsection shall be in perpetuity and inviolate.

(5) There is authorized to be appropriated \$18,800,000 for the Federal share of the trust fund.

(Pub. L. 101-41, § 6, June 21, 1989, 103 Stat. 86.)

USE OF FUNDS TO FULFILL BOARD OF TRUSTEES' FIDUCIARY AND ADMINISTRATIVE RESPONSIBILITIES

Pub. L. 102-154, title I, Nov. 13, 1991, 105 Stat. 1005, provided: "That income earned on funds appropriated by Public Law 101-121, October 23, 1989, 103 Stat. 701, 715[,] for the purposes of section 6(b) of the Puyallup Tribe of Indians Settlement Act of 1989, Public Law 101-41, June 21, 1989, 103 Stat. 83 [25 U.S.C. 1773d(b)], may be utilized by the Permanent Trust Fund Board of Trustees to secure necessary and appropriate financial, auditing, accounting, insurance and other administrative services to fulfill the Board of Trustees' fiduciary and administrative responsibilities: *Provided further*, That no more than 5 per centum of the income in any year may be utilized for such purposes".

Similar provisions were contained in the following prior appropriation act:

Pub. L. 101-512, title I, Nov. 5, 1990, 104 Stat. 1931.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1773h of this title.

§ 1773e. Fisheries

In order to carry out the Federal part of the fisheries aspect of the Settlement Agreement, there is authorized to be appropriated \$100,000 for navigation equipment at Commencement Bay to be used in accordance with section A of document 4 of the Technical Documents.

(Pub. L. 101-41, § 7, June 21, 1989, 103 Stat. 87.)

§ 1773f. Economic development and land acquisition

(a) Economic development and land acquisition fund

To the extent provided in advance in appropriation Acts, the Secretary shall disburse \$10,000,000 to the Tribe of which—

(1) \$9,500,000 shall be available for the Tribe to carry out economic development consistent with section VI of the Settlement Agreement or to acquire lands; and

(2) \$500,000 shall be available only to support and assist the development of business enterprises by members of the Tribe in a manner consistent with the Settlement Agreement.

There is authorized to be appropriated \$10,000,000 to carry out this subsection.

(b) Foreign trade

The Congress recognizes the right of the Tribe to engage in foreign trade consistent with Federal law and notwithstanding article XII of the treaty with the Nisqually and other bands of Indians entered into on December 26, 1854, and accepted, ratified, and confirmed on March 3, 1855 (11 Stat. 1132).

(c) Blair project

There is authorized to be appropriated to the Secretary the amount of \$25,500,000 for the Federal share of the costs associated with the Blair project, which shall be carried out in accordance with document 6 of the Technical Documents. For the purpose of this subsection, the Secretary shall transfer such amount to the Department of Transportation of the State of Washington. Such amount may only be used by the Department of Transportation of the State of Washington to carry out the Blair project in accordance with document 6 of the Technical Documents. Operation and maintenance of the Blair Waterway channel shall remain the responsibility of the Secretary of the Army, acting through the Chief of Engineers.

(Pub. L. 101-41, § 8, June 21, 1989, 103 Stat. 87.)

§ 1773g. Jurisdiction

The Tribe shall retain and exercise jurisdiction, and the United States and the State and political subdivisions thereof shall retain and exercise jurisdiction, as provided in the Settlement Agreement and Technical Documents and, where not provided therein, as otherwise provided by Federal law.

(Pub. L. 101-41, § 9, June 21, 1989, 103 Stat. 88.)

EFFECTIVE DATE

Section effective on the effective date of the Settlement Agreement and when all terms are met as stated under section X of the Settlement Agreement, see section 13 of Pub. L. 101-41, set out as a note under section 1773a of this title.

§ 1773h. Miscellaneous provisions

(a) Liens and forfeitures, etc.

(1) None of the funds, assets, or income from the trust fund established in section 1773d(b) of this title which are received by the Tribe under the Settlement Agreement shall be subject to

levy, execution, forfeiture, garnishment, lien, encumbrance, or seizure.

(2) The annuity fund, or other investment program, established in section 1773d(a) of this title shall not be subject to levy, execution, forfeiture, garnishment, lien, encumbrance, or seizure. Payments from the fund shall be in accordance with the Act of August 2, 1983 (25 U.S.C. 117a et seq.; commonly referred to as the "Per Capita Act").

(b) Eligibility for Federal programs; trust responsibility

Nothing in this subchapter or the Settlement Agreement shall affect the eligibility of the Tribe or any of its members for any Federal program or the trust responsibility of the United States and its agencies to the Tribe and members of the Tribe.

(c) Permanent trust fund not counted for certain purposes

None of the funds, assets, or income from the trust fund established in section 1773d(b) of this title shall at any time be used as a basis for denying or reducing funds to the Tribe or its members under any Federal, State, or local program.

(d) Tax treatment of funds and assets

None of the funds or assets transferred to the Tribe or its members by the Settlement Agreement of¹ this subchapter, and none of the interest earned or income received on amounts in the funds established under section 1773d(a) and (b) of this title, shall be deemed to be taxable, nor shall such transfers be taxable events.

(Pub. L. 101-41, § 10, June 21, 1989, 103 Stat. 88.)

REFERENCES IN TEXT

Act of August 2, 1983, referred to in subsec. (a)(2), is Pub. L. 98-64, Aug. 2, 1983, 97 Stat. 365, popularly known as the Per Capita Act, which enacted sections 117a to 117c of this title and repealed section 117 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 117a of this title and Tables.

§ 1773i. Actions by Secretary

The Secretary in administering this subchapter shall be aware of the trust responsibility of the United States to the Tribe and shall take such actions as may be necessary or appropriate to carry out this subchapter and the Settlement Agreement.

(Pub. L. 101-41, § 11, June 21, 1989, 103 Stat. 89.)

§ 1773j. Definitions

For the purposes of this subchapter—

(1) the term "1873 Survey Area" means the area which is within the area demarked by the high water line as meandered and the upland boundaries, as shown on the plat map of the 1873 Survey of the Puyallup Indian Reservation, conducted by the United States General Land Office, and filed in 1874;

(2) the term "Secretary" means the Secretary of the Interior;

(3) the term "Settlement Agreement" means the document entitled "Agreement between

¹ So in original. Probably should be "or".

the Puyallup Tribe of Indians, Local Governments in Pierce County, the State of Washington, the United States of America, and certain private property owners", dated August 27, 1988;

(4) the term "State" means the State of Washington;

(5) the term "Technical Documents" means the 7 documents which comprise the technical appendix to the Settlement Agreement and are dated August 27, 1988;

(6) the term "Tribe" means the Puyallup Tribe of Indians, a tribe of Indians recognized by the United States;

(7) the term "below the mean high water line" in reference to the submerged lands of the Puyallup Riverbed means "below the ordinary high water mark" in that portion of the river not subject to tidal influence and "below the mean high water line" in that portion of the river which is subject to tidal influence; and

(8) the term "on-reservation status" means a status under which Federal laws and regulations, treaty rights, and rights of sovereignty, which define the rights and responsibilities on trust or restricted lands (including rights-of-way and easements running through such lands within a Federal Indian reservation) apply: *Provided*, That such application is not inconsistent with any provision of the Settlement Agreement.

(Pub. L. 101-41, § 12, June 21, 1989, 103 Stat. 89.)

SUBCHAPTER VIII—SENECA NATION (NEW YORK) LAND CLAIMS SETTLEMENT

§ 1774. Findings and purposes

(a) City of Salamanca and congressional villages

The Congress finds and declares that:

(1) Disputes concerning leases of tribal lands within the city of Salamanca and the congressional villages, New York, have strained relations between the Indian and non-Indian communities and have resulted in adverse economic impacts affecting both communities.

(2) Some of the significant historical events which have led to the present situation include—

(A) beginning in the mid-nineteenth century, several railroads obtained grants or leases of rights of way through the Allegany Reservation without Federal authorization or approval and on terms which did not adequately protect the interests of the Seneca Nation;

(B) after construction of these railroads, Allegany Reservation lands were leased to railroad employees, persons associated with the railroads, residents of the city and farmers without Federal authorization or approval and on terms which did not adequately protect the interests of the Seneca Nation;

(C) none of these leases had Federal authorization or approval and, after the courts ruled these leases invalid, Congress enacted the Act of February 19, 1875 (18 Stat. 330), confirming existing leases of Allegany Reservation lands, authorizing further leasing

by the Seneca Nation, and making the confirmed leases renewable for a twelve year period;

(D) the Act of September 30, 1890 (26 Stat. 558), amended the 1875 Act by substituting a renewal term of "not exceeding ninety-nine years" for the original renewal term of twelve years; and

(E) in 1952 the Seneca Nation filed a claim with the Indian Claims Commission against the United States for use of improper lease fees, and in 1977 a settlement was reached regarding such claim, providing for the payment of \$600,000 to the Seneca Nation covering the period beginning in 1870 to the end of 1946.

(3) An analysis of historic land values indicates that the payments made under the original lease agreement and under the settlement described in paragraph (2)(E) were well below the actual lease value of the property.

(4) The approaching expiration of the Salamanca and congressional village leases on February 19, 1991, has created significant uncertainty and concern on the part of the city of Salamanca and Salamanca residents, and among the residents of the congressional villages, many of whose families have resided on leased lands for generations.

(5) The future economic success of the Seneca Nation, city, and congressional villages is tied to the securing of a future lease agreement.

(6) The Federal and State governments have agreed that there is a moral responsibility on the part of both governments to help secure a fair and equitable settlement for past inequities.

(b) Purpose

It is the purpose of this subchapter—

(1) to effectuate and support the Agreement between the city and the Seneca Nation, and facilitate the negotiation of new leases with lessees in the congressional villages;

(2) to assist in resolving the past inequities involving the 1890 leases and to secure fair and equitable compensation for the Seneca Nation based on the impact of these leases on the economy and culture of the Seneca Nation;

(3) to provide a productive environment between the Seneca Nation and lessees for negotiating the leases provided for under the Agreement;

(4) to provide stability and security to the city and the congressional villages, their residents, and businesses;

(5) to promote the economic growth of the city and the congressional villages;

(6) to promote economic self-sufficiency for the Seneca Nation and its members;

(7) to promote cooperative economic and community development efforts on the part of the Seneca Nation and the city; and

(8) to avoid the potential legal liability on the part of the United States that could be a direct consequence of not reaching a settlement.

(Pub. L. 101-503, § 2, Nov. 3, 1990, 104 Stat. 1292.)

REFERENCES IN TEXT

Act of February 19, 1875 (18 Stat. 330), referred to in subsec. (a)(2)(C), is act Feb. 19, 1875, ch. 90, 18 Stat. 330, as amended, which is not classified to the Code.

Act of September 30, 1890 (26 Stat. 558), referred to in subsec. (a)(2)(D), is act Sept. 30, 1890, ch. 1132, 26 Stat. 558, which is not classified to the Code.

SHORT TITLE

Section 1 of Pub. L. 101-503 provided that: "This Act [enacting this subchapter] may be cited as the 'Seneca Nation Settlement Act of 1990'."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1774d of this title.

§ 1774a. Definitions

For the purposes of this subchapter—

(1) the term "1890 lease" means a lease made by the Seneca Nation which is subject to—

(A) the Act entitled "An Act to authorize the Seneca Nation of New York Indians to lease lands within the Cattaraugus and Allegany Reservations, and to confirm existing leases" approved February 19, 1875 (chap. 90, 18 Stat. 330); and

(B) the Act entitled "An Act to authorize the Seneca Nation of New York Indians to lease lands within the Cattaraugus and Allegany Reservations, and to confirm existing leases" approved September 30, 1890 (chap. 1132, 26 Stat. 558);

(2) the term "Agreement" means the document executed by the Seneca Nation and the city entitled "Agreement between the Seneca Nation of Indians and the City of Salamanca", including the appendix to the Agreement;

(3) the term "city" means the city of Salamanca, New York;

(4) the term "lessee" means the holder of an 1890 lease which either expires in 1991 or is one of the leases listed in document 1 of the Technical Documents, including any lessee who holds an 1890 lease by reason of assignment, inheritance, or other manner as provided by the Act referred to in paragraph (1)(A);

(5) the term "memorandum of understanding" means an agreement between the State and the Seneca Nation pertaining to the payment of the funds to be provided pursuant to this subchapter, which memorandum of understanding reflects an agreement between the Seneca Nation and the State concerning a mechanism and schedule of payments for the funds described in section 1774d(c) of this title;

(6) the term "Secretary" means the Secretary of the Interior;

(7) the term "Seneca Nation" means the Seneca Nation of Indians of the Allegany, Cattaraugus, and Oil Spring Reservations;

(8) the term "State" means the State of New York;

(9) the term "Technical Documents" means the documents which comprise the appendix to the Agreement; and

(10) the term "congressional villages" means the villages of Carrollton, Great Valley, and Vandalia in the State of New York.

(Pub. L. 101-503, § 3, Nov. 3, 1990, 104 Stat. 1293.)

REFERENCES IN TEXT

Act entitled "An Act to authorize the Seneca Nation of New York Indians to lease lands within the Cattaraugus and Allegany Reservations, and to confirm existing leases" approved February 19, 1875 (chap. 90, 18 Stat. 330), referred to in pars. (1)(A) and (4), is not classified to the Code.

Act entitled "An Act to authorize the Seneca Nation of New York Indians to lease lands within the Cattaraugus and Allegany Reservations, and to confirm existing leases" approved September 30, 1890 (chap. 1132, 26 Stat. 558), referred to in par. (1)(B), is not classified to the Code.

§ 1774b. New leases and extinguishment of claims**(a) New leases**

If the Seneca Nation offers new leases in accordance with the Agreement, this subchapter shall apply with respect to the Seneca Nation. The Seneca Nation shall supply copies of such leases to the Secretary and shall certify in writing that it has supplied the Secretary with copies of written offers to all lessees entitled to an offer.

(b) Extinguishment of claims

The Seneca Nation shall execute appropriate documents relinquishing all claims against the United States, the State, the city, the congressional villages, and all prior lessees for payment of annual rents prior to February 20, 1991, with respect to all prior and existing leases.

(c) Effective date of leases and relinquishments

(1) The relinquishment of claims against the United States shall be effective upon payment by the United States to the Seneca Nation of the funds provided in section 1774d of this title.

(2) The offers, and any acceptances thereof, referred to in subsection (a) of this section, and the relinquishment of claims against the State, the city, the congressional villages, and all prior lessees for payment of annual rents referred to in subsection (b) of this section shall not be binding on the Seneca Nation until after the later of the dates on which (1) Congress, or (2) the legislature of the State appropriates the amount of funds set forth in section 1774d of this title or the Seneca Nation and the State agree upon a schedule and mechanism for payments for funds pursuant to section 1774d(c) of this title. Such agreement shall render the offers, acceptances and the relinquishment effective so long as the payments are made as agreed upon by the Seneca Nation and the State.

(Pub. L. 101-503, § 4, Nov. 3, 1990, 104 Stat. 1294.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1774d, 1774e of this title.

§ 1774c. Responsibilities and restrictions**(a) Seneca Nation**

The Congress finds that the Seneca Nation is solely responsible for negotiation of the leases under the Agreement in its own interest and approval of any such lease by the United States is not required.

(b) Lessees

The Congress finds that—

(1) the lessees of leases with the Seneca Nation are responsible for representing their own interest in lease negotiations with the Seneca Nation; and

(2) nothing in this subchapter shall be construed to prevent the lessees from collectively negotiating with the Seneca Nation regarding such leases, whether through informal groups or as delegations formally sanctioned by either the State or local governments.

(c) United States

(1) The United States shall not serve in a capacity to approve leases of the Seneca Nation.

(2) Federal funds may not be obligated or expended, directly or indirectly, for annual payments under any such lease, except for funds that may be available under a conventional, nationwide program.

(d) State

(1) The State shall not serve in a capacity to approve leases of the Seneca Nation.

(2) State funds may not be obligated or expended, directly or indirectly, for annual payments under any such lease.

(Pub. L. 101-503, § 5, Nov. 3, 1990, 104 Stat. 1295.)

§ 1774d. Settlement funds

(a) In general

In recognition of the findings and purposes specified in section 1774 of this title, the settlement funds provided pursuant to this subchapter shall be provided by the United States and the State. The Secretary may not obligate or expend funds provided under subsection (b) of this section until the Secretary determines that there is an agreed upon and signed memorandum of understanding.

(b) Funds provided by United States

(1) Cash payment

The Secretary shall pay to the Seneca Nation the amount of \$30,000,000, which is the Federal share of the cash payment to be managed, invested, and used by the Nation to further specific objectives of the Nation and its members, all as determined by the Nation in accordance with the Constitution and laws of the Nation.

(2) Economic development

(A) In addition to the amount provided under paragraph (1), the Secretary shall pay to the Seneca Nation the amount of \$5,000,000 to be used for the economic and community development of the Seneca Nation, including the city of Salamanca, which is an integral part of the Seneca Nation's Allegany Reservation. Such amount shall be deposited by the Secretary, administered, and disbursed in accordance with subparagraph (B).

(B)(i) The sum of \$2,000,000 shall be deposited in a separate interest bearing account of the Seneca Nation. The account shall be administered, and the principal and interest thereon disbursed, by the Seneca Nation in accordance with a plan approved by the Council of the Seneca Nation to promote the economic and community development of the Seneca Nation. Until the principal is expended pursuant to

such plan, the income accruing from such sum shall be disbursed to the treasurer of the Seneca Nation on a quarterly basis to fund tribal government operations and to provide for the general welfare of the Seneca Nation and its members. The Seneca Nation may in its discretion add the accrued income to the principal.

(ii) The sum of \$3,000,000 shall be deposited in an escrow account which shall be owned by the Seneca Nation. The escrow agent shall be selected by agreement of the Seneca Nation and the city. The escrow account shall remain in existence for a period of ten years from the date on which the principal is deposited or until all payments provided for under section V.D. of the Agreement have been made. The escrow account shall be held and disbursed for economic and community development as set forth in section V.D. of the Agreement. Upon the expiration of the ten-year period, the \$3,000,000 principal shall be disbursed in accordance with a plan approved by the Council of the Seneca Nation to promote the economic and community development of the Seneca Nation.

(c) Funds to be provided by State

The State, in accordance with its laws and regulations, shall provide the sum of \$16,000,000 in cash payments and \$9,000,000 for economic or community development subject to the provisions of the memorandum of understanding.

(d) Time of payments

The payments required by this section on the part of the United States shall be made within 30 days of the Secretary's determination that the Seneca Nation has complied with section 1774b of this title, or upon the availability of the amounts necessary to carry out this subchapter, if such determination has previously been made. If the Secretary determines that the Seneca Nation has not complied with section 1774b of this title, he shall advise the Seneca Nation in writing of all steps it must take to comply.

(e) Limitation

The only amounts available to carry out this subchapter shall be those amounts specifically appropriated by the Congress or the legislature of the State to carry out this subchapter.

(Pub. L. 101-503, § 6, Nov. 3, 1990, 104 Stat. 1295.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1774a, 1774b, 1774e of this title.

§ 1774e. Conditions precedent to payment of United States and State funds

Amounts may not be expended from—

(1) the \$30,000,000 and the \$5,000,000 provided by the United States under section 1774d(b) of this title, and

(2) the \$16,000,000 and \$9,000,000 provided by the State under section 1774d(c) of this title,

until after the authorized officials of the Seneca Nation execute new leases with all lessees who accept the Seneca Nation's offer of a new lease, as filed with the Secretary under section 1774b(a) of this title, and execute appropriate

documents relinquishing all claims for payment of annual rents prior to February 20, 1991, with respect to such leases.

(Pub. L. 101-503, §7, Nov. 3, 1990, 104 Stat. 1296.)

§ 1774f. Miscellaneous provisions

(a) Liens and forfeitures, etc.

Subject to subsection (b) of this section, the provisions of section 1407 of this title shall apply to any payment of funds authorized to be appropriated under this subchapter and made to individual members of the Seneca Nation. None of the payments, funds, or distributions authorized, established, or directed by this subchapter, and none of the income derived therefrom, which may be received under this subchapter by the Seneca Nation or individual members of the Seneca Nation, shall be subject to levy, execution, forfeiture, garnishment, lien, encumbrance, seizure, or State or local taxation.

(b) Eligibility for Government programs

None of the payments, funds or distributions authorized, established, or directed by this subchapter, and none of the income derived therefrom, shall affect the eligibility of the Seneca Nation or its members for, or be used as a basis for denying or reducing funds under, any Federal program.

(c) Land acquisition

Land within its aboriginal area in the State or situated within or near proximity to former reservation land may be acquired by the Seneca Nation with funds appropriated pursuant to this subchapter. State and local governments shall have a period of 30 days after notification by the Secretary or the Seneca Nation of acquisition of, or intent to acquire such lands to comment on the impact of the removal of such lands from real property tax rolls of State political subdivisions. Unless the Secretary determines within 30 days after the comment period that such lands should not be subject to the provisions of section 2116 of the Revised Statutes (25 U.S.C. 177), such lands shall be subject to the provisions of that Act¹ and shall be held in restricted fee status by the Seneca Nation. Based on the proximity of the land acquired to the Seneca Nation's reservations, land acquired may become a part of and expand the boundaries of the Alleghany Reservation, the Cattaraugus Reservation, or the Oil Spring Reservation in accordance with the procedures established by the Secretary for this purpose.

(Pub. L. 101-503, §8, Nov. 3, 1990, 104 Stat. 1296.)

§ 1774g. Limitation of action

Notwithstanding any other provision of law, any action to contest the constitutionality or validity under law of this subchapter shall be barred unless the action is filed on or before the date which is 180 days after November 3, 1990. Exclusive jurisdiction over any such action is hereby vested in the United States District Court for the Western District of New York.

(Pub. L. 101-503, §9, Nov. 3, 1990, 104 Stat. 1297.)

¹ So in original. Probably should be "section".

§ 1774h. Authorization of appropriations

There is authorized to be appropriated such sums as may be necessary to carry out this subchapter.

(Pub. L. 101-503, §10, Nov. 3, 1990, 104 Stat. 1297.)

SUBCHAPTER IX—MOHEGAN NATION (CONNECTICUT) LAND CLAIMS SETTLEMENT

§ 1775. Findings and purposes

(a) Findings

Congress finds the following:

(1) The Mohegan Tribe of Indians of Connecticut received recognition by the United States pursuant to the administrative process under part 83 of title 25 of the Code of Federal Regulations.

(2) The Mohegan Tribe of Indians of Connecticut is the successor in interest to the aboriginal entity known as the Mohegan Indian Tribe.

(3) The Mohegan Tribe has existed in the geographic area that is currently the State of Connecticut for a long period preceding the colonial period of the history of the United States.

(4) Certain lands were sequestered as tribal lands by the Colony of Connecticut and subsequently by the State of Connecticut.

(5) The Mohegan Tribe of Indians of Connecticut v. State of Connecticut, et al. (Civil Action No. H-77-434, pending before the United States District Court for the Southern District of Connecticut) relates to the ownership of certain lands within the State of Connecticut.

(6) Such action will likely result in economic hardships for residents of the State of Connecticut, including residents of the town of Montville, Connecticut, by encumbering the title to lands in the State, including lands that are not currently the subject of the action.

(7) The State of Connecticut and the Mohegan Tribe have executed agreements for the purposes of resolving all disputes between the State of Connecticut and the Mohegan Tribe and providing a settlement for the action referred to in paragraph (5).

(8) In order to implement the agreements referred to in paragraphs (5) and (6) of section 1775a of this title that address matters of jurisdiction with respect to certain offenses committed by and against members of the Mohegan Tribe and other Indians in Indian country and matters of gaming-related development, it is necessary for the Congress to enact legislation.

(9) The town of Montville, Connecticut, will—

(A) be affected by the loss of a tax base from, and jurisdiction over, lands that will be held in trust by the United States on behalf of the Mohegan Tribe; and

(B) serve as the host community for the gaming operations of the Mohegan Tribe.

(10) The town of Montville and the Mohegan Tribe have entered into an agreement to resolve issues extant between them and to estab-

lish the basis for a cooperative government-to-government relationship.

(b) Purposes

The purposes of this subchapter are as follows:

(1) To facilitate the settlement of claims against the State of Connecticut by the Mohegan Tribe.

(2) To facilitate the removal of any encumbrance to any title to land in the State of Connecticut that would have resulted from the action referred to in subsection (a) of this section.

(Pub. L. 103-377, §2, Oct. 19, 1994, 108 Stat. 3501.)

SHORT TITLE

Section 1 of Pub. L. 103-377 provided that: "This Act [enacting this subchapter] may be cited as the 'Mohegan Nation of Connecticut Land Claims Settlement Act of 1994'."

§ 1775a. Definitions

As used in this subchapter:

(1) Lands or natural resources

The term "lands or natural resources" means any real property or natural resources, or any interest in or right involving any real property or natural resources, including any right or interest in minerals, timber, or water, and any hunting or fishing rights.

(2) Mohegan Tribe

The term "Mohegan Tribe" means the Mohegan Tribe of Indians of Connecticut, a tribe of American Indians recognized by the United States pursuant to part 83 of title 25, Code of Federal Regulations, and the State of Connecticut pursuant to section 47-59a(b) of the Connecticut General Statutes.

(3) Secretary

The term "Secretary" means the Secretary of the Interior.

(4) State

The term "State" means the State of Connecticut.

(5) State Agreement

The term "State Agreement" means the Agreement between the Mohegan Tribe and the State of Connecticut, executed on May 17, 1994, by the Governor of the State of Connecticut and the Chief of the Mohegan Tribe, that was filed with the Secretary of State of the State of Connecticut.

(6) Town Agreement

The term "Town Agreement" means the agreement executed on June 16, 1994, by the Mayor of the town of Montville and the Chief of the Mohegan Tribe.

(7) Transfer

The term "transfer" includes any sale, grant, lease, allotment, partition, or conveyance, any transaction the purpose of which is to effect a sale, grant, lease, allotment, partition, or conveyance, or any event that results in a change of possession or control of land or natural resources.

(Pub. L. 103-377, §3, Oct. 19, 1994, 108 Stat. 3502.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1775 of this title.

§ 1775b. Action by Secretary

(a) In general

The Secretary is authorized to carry out the duties specified in subsection (b) of this section at such time as the Secretary makes a determination that—

(1) in accordance with the Indian Gaming Regulatory Act (25 U.S.C. 2701 et seq.), the State of Connecticut has entered into a binding compact with the Mohegan Tribe providing for class III tribal gaming operations (as defined in section 4(8) of such Act (25 U.S.C. 2703(8)));

(2) the compact has been approved by the Secretary pursuant to section 11(d)(8) of such Act (25 U.S.C. 2710(d)(8)); and

(3) pursuant to transfers carried out pursuant to the State Agreement, the United States holds title to lands described in exhibit B of the State Agreement in trust for the Mohegan Tribe to be used as the initial Indian reservation of the Mohegan Tribe.

(b) Publication by Secretary

If the Secretary makes a determination under subsection (a) of this section that the conditions specified in paragraphs (1) through (3) of that subsection have been met, the Secretary shall publish the determination, together with the State Agreement, in the Federal Register.

(c) Effect of publication

(1) In general

Upon the publication of the determination and the State Agreement in the Federal Register pursuant to subsection (b) of this section, a transfer, waiver, release, relinquishment, or other commitment made by the Mohegan Tribe in accordance with the terms and conditions of the State Agreement shall be in full force and effect.

(2) Approval by the United States

(A) The United States hereby approves any transfer, waiver, release, relinquishment, or other commitment carried out pursuant to paragraph (1).

(B) A transfer made pursuant to paragraph (1) shall be deemed to have been made in accordance with all provisions of Federal law that specifically apply to transfers of lands or natural resources from, by, or on behalf of an Indian, Indian nation, or tribe of Indians (including the Act popularly known as the "Trade and Intercourse Act of 1790"; section 4 of the Act of July 22, 1790 (1 Stat. 137, chapter 33)). The approval of the United States made pursuant to subparagraph (A) shall apply to the transfer beginning on the date of the transfer.

(d) Extinguishment of claims

(1) In general

Subject to subsections (f)(2) and (g) of this section, the following claims are hereby extinguished:

(A) Any claim to land within the State of Connecticut based upon aboriginal title by the Mohegan Tribe.

(B) Any other claim that the Mohegan Tribe may have with respect to any public or private lands or natural resources in Connecticut, including any claim or right based on recognized title, including—

(i) any claim that the Mohegan Tribe may have to the tribal sequestered lands bounded out to the Tribe in 1684, consisting of some 20,480 acres lying between the Thames River, New London bounds, Norwich bounds, and Colchester bounds;

(ii) any claim that the Mohegan Tribe may have based on a survey conducted under the authority of the Connecticut General Assembly in 1736 of lands reserved and sequestered by the General Assembly for the sole use and improvement of the Mohegan Indian Tribe; and

(iii) any claim that the Mohegan Tribe may have based on any action by the State carried out in 1860 or 1861 or otherwise made by the State to allot, reallot, or confirm any lands of the Mohegan Tribe to individual Indians or other persons.

(2) Approval by the United States

An extinguishment made pursuant to this subsection shall be deemed to have been made in accordance with all provisions of Federal law that specifically apply to transfers of lands or natural resources from, by, or on behalf of an Indian, Indian nation, or tribe of Indians (including the Act popularly known as the “Trade and Intercourse Act of 1790”; section 4 of the Act of July 22, 1790 (1 Stat. 137, chapter 33)).

(e) Transfers

Subject to subsection (g) of this section, any transfer of lands or natural resources located within the State of Connecticut, including any such transfer made pursuant to any applicable Federal or State law (including any applicable treaty), made by, from, or on behalf of the Mohegan Tribe or any predecessor or successor in interest of the Mohegan Tribe shall be deemed to be in full force and effect, as provided in subsection (c)(1) of this section.

(f) Limitation

(1) In general

Except as provided in paragraph (2) and subject to subsection (g) of this section, by virtue of the approval by the United States under this section of a transfer of land or the extinguishment of aboriginal title, any claim by the Mohegan Tribe against the United States, any State or political subdivision of a State, or any other person or entity, by the Mohegan Tribe, that—

(A) arises after the transfer or extinguishment is carried out; and

(B) is based on any interest in or right involving any claim to lands or natural resources described in this section, including claims for trespass damages or claims for use and occupancy,

shall, beginning on the date of the transfer of land or the extinguishment of aboriginal title, be considered an extinguished claim.

(2) Exception

The limitation under paragraph (1) shall not apply to any interest in lands or natural re-

sources that is lawfully acquired by the Mohegan Tribe or a member of the Mohegan Tribe after the applicable date specified in paragraph (1).

(g) Statutory construction

(1) Aboriginal interests

Nothing in this section may be construed to extinguish any aboriginal right, title, interest, or claim to lands or natural resources, to the extent that such right, title, interest, or claim is an excepted interest, as defined under section 1(a) of the State Agreement.

(2) Personal claims

Nothing in this section may be construed to offset or eliminate the personal claim of any individual Indian if the individual Indian pursues such claim under any law of general applicability.

(Pub. L. 103-377, § 4, Oct. 19, 1994, 108 Stat. 3502.)

REFERENCES IN TEXT

The Indian Gaming Regulatory Act, referred to in subsec. (a)(1), is Pub. L. 100-497, Oct. 17, 1988, 102 Stat. 2467, as amended, which is classified principally to chapter 29 (§2701 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 2701 of this title and Tables.

The Trade and Intercourse Act of 1790, referred to in subsecs. (c)(2)(B) and (d)(2), is act July 22, 1790, ch. 33, 1 Stat. 137, which is not classified to the Code.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1775g of this title.

§ 1775c. Conveyance of lands to United States to be held in trust for Mohegan Tribe

(a) In general

Subject to the environmental requirements that apply to land acquisitions covered under part 151 of title 25, Code of Federal Regulations (or any subsequent similar regulation), the Secretary shall take such action as may be necessary to facilitate the conveyance to the United States of title to lands described in exhibits A and B of the State Agreement. Such lands shall be held by the United States in trust for the use and benefit of the Mohegan Tribe as the initial Indian reservation of the Mohegan Tribe.

(b) Consultation

(1) In general

The Secretary shall consult with the appropriate official of the town of Montville concerning any tract of land subject to exhibit B of the State Agreement but not specifically identified in such exhibit with respect to the impact on the town resulting from—

(A) the removal of the land from taxation by the town;

(B) problems concerning the determination of jurisdiction; and

(C) potential land use conflicts.

(2) Statutory construction

Nothing in this subchapter may affect the right of the town of Montville to participate, under any applicable law, in decisionmaking processes concerning the acquisition of any

lands by the Federal Government to be held in trust for the Mohegan Tribe.

(Pub. L. 103-377, § 5, Oct. 19, 1994, 108 Stat. 3504.)

§ 1775d. Consent of United States to State assumption of criminal jurisdiction

(a) In general

Subject to subsection (b) of this section, the consent of the United States is hereby given to the assumption of jurisdiction by the State of Connecticut over criminal offenses committed by or against Indians on the reservation of the Mohegan Tribe. The State shall have such jurisdiction to the same extent as the State has jurisdiction over such offenses committed elsewhere within the State. The criminal laws of the State shall have the same force within such reservation and Indian country as such laws have elsewhere within the State.

(b) Statutory construction

(1) Effect on concurrent jurisdiction of the Mohegan Tribe

The assumption of criminal jurisdiction by the State pursuant to subsection (a) of this section shall not affect the concurrent jurisdiction of the Mohegan Tribe over matters concerning such criminal offenses.

(2) Statutory construction

The assumption of criminal jurisdiction by the State pursuant to subsection (a) of this section shall not be construed as a waiver of the jurisdiction of the United States under section 1153 of title 18.

(Pub. L. 103-377, § 6, Oct. 19, 1994, 108 Stat. 3505.)

§ 1775e. Ratification of Town Agreement

(a) In general

Notwithstanding any other provision of law, the consent of the United States is hereby given to the Town Agreement and the Town Agreement shall be in full force and effect.

(b) Approval of Town Agreement

The Secretary shall approve any subsequent amendments made to the Town Agreement after October 19, 1994, that are—

- (1) mutually agreed on by the parties to the Town Agreement; and
- (2) consistent with applicable law.

(Pub. L. 103-377, § 7, Oct. 19, 1994, 108 Stat. 3505.)

§ 1775f. General discharge and release of obligations of State of Connecticut

Except as expressly provided in this subchapter, the State Agreement, or the Town Agreement, this subchapter shall constitute a general discharge and release of all obligations of the State of Connecticut and the political subdivisions, agencies, departments, officers, or employees of the State of Connecticut arising from any treaty or agreement with, or on behalf of, the Mohegan Tribe or the United States as trustee for the Mohegan Tribe.

(Pub. L. 103-377, § 8, Oct. 19, 1994, 108 Stat. 3505.)

§ 1775g. Effect of revocation of State Agreement

(a) In general

If, during the 15-year period beginning on the date on which the Secretary publishes a deter-

mination pursuant to section 1775b(b) of this title, the State Agreement is invalidated by a court of competent jurisdiction, or if the gaming compact described in section 1775b(a)(1) of this title or any agreement between the State of Connecticut and the Mohegan Tribe to implement the compact is invalidated by a court of competent jurisdiction—

(1) the transfers, waivers, releases, relinquishments, and other commitments made by the Mohegan Tribe under section 1(a) of the State Agreement shall cease to be of any force or effect;

(2) section 1775b of this title shall not apply to the lands or interests in lands or natural resources of the Mohegan Tribe or any of its members, and the title to the lands or interests in lands or natural resources shall be determined as if such section were never enacted; and

(3) the approval by the United States of prior transfers and the extinguishment of claims and aboriginal title of the Mohegan Tribe otherwise made under section 1775b of this title shall be void.

(b) Right of Mohegan Tribe to reinstate claim

(1) In general

If a State Agreement or compact or agreement described in subsection (a) of this section is invalidated by a court of competent jurisdiction, the Mohegan Tribe or its members shall have the right to reinstate a claim to lands or interests in lands or natural resources to which the Tribe or members are entitled as a result of the invalidation, within a reasonable time, but not later than the later of—

(A) 180 days after the Mohegan Tribe receives written notice of such determination of an invalidation described in subsection (a) of this section; or

(B) if the determination of the invalidation is subject to an appeal, 180 days after the court of last resort enters a judgment.

(2) Defenses

Notwithstanding any other provision of law, if a party to an action described in paragraph (1) reinstates the action during the period described in paragraph (1)(B)—

(A) no defense, such as laches, statute of limitations, law of the case, res judicata, or prior disposition may be asserted based on the withdrawal of the action and reinstatement of the action; and

(B) the substance of any discussions leading to the State Agreement may not be admissible in any subsequent litigation, except that, if any such action is reinstated, any defense that would have been available to the State of Connecticut at the time the action was withdrawn—

(i) may be asserted; and

(ii) is not waived by anything in the State Agreement or by subsequent events occurring between the withdrawal action and commencement of the reinstated action.

(Pub. L. 103-377, § 9, Oct. 19, 1994, 108 Stat. 3506.)

§ 1775h. Judicial review**(a) Jurisdiction**

Notwithstanding any other provision of law, during the period beginning on October 19, 1994, and ending on the date that is 180 days after October 19, 1994, the United States District Court for the Southern District of Connecticut shall have exclusive jurisdiction over any action to contest the constitutionality of this subchapter or the validity of any agreement entered into under the authority of this subchapter or approved by this subchapter.

(b) Deadline for filing

Effective with the termination of the period specified in subsection (a) of this section, no court shall have jurisdiction over any action to contest the constitutionality of this subchapter or the validity of any agreement entered into under the authority of this subchapter or approved by this subchapter, unless such action was filed prior to the date of termination of the period specified in subsection (a) of this section. (Pub. L. 103-377, §10, Oct. 19, 1994, 108 Stat. 3507.)

SUBCHAPTER X—CROW LAND CLAIMS
SETTLEMENT

§ 1776. Findings and purpose**(a) Findings**

Congress finds the following:

(1) Under the treaty between the United States of America and the Crow Tribe of Indians concluded May 7, 1868 (commonly known as the "Fort Laramie Treaty of 1868"; 15 Stat. 649), the eastern boundary of the Crow Indian Reservation was established as the 107th meridian for approximately 90 miles from the Yellowstone River to the boundary between Montana and Wyoming.

(2) Under Executive orders issued in 1884 and 1900, the western boundary of the Northern Cheyenne Reservation was established as the 107th meridian. The 107th meridian was intended to be the common boundary between the Crow Reservation and Northern Cheyenne Reservation for approximately 25 miles.

(3) From 1889 through 1891, a survey was conducted of the eastern boundary of the Crow Reservation. The 1891 survey line strayed to the west, and resulted in the exclusion from the Crow Indian Reservation of a strip of land of approximately 36,164 acres. Approximately 12,964 acres of such strip of land were included in the Northern Cheyenne Reservation. Deposits of low sulphur coal underlie the land excluded from the Crow Indian Reservation, including the land included in the Northern Cheyenne Indian Reservation.

(4)(A) The erroneous nature of the survey was not discovered for several decades. Meanwhile, the areas along the 107th meridian to the north and south of the Northern Cheyenne Indian Reservation were opened to settlement in the late nineteenth century and early part of the twentieth century. Patents were issued to non-Indian persons and to the State of Montana for most of the surface land and a significant portion of the minerals in these areas between the 107th meridian and the 1891 survey line.

(B) The 12,964 acres included in the Northern Cheyenne Reservation have been treated as part of the Northern Cheyenne Reservation and occupied by the Northern Cheyenne Tribe and the Northern Cheyenne allottees, and their successors in interest.

(5) Legislation to resolve the 107th meridian boundary dispute was introduced in Congress in the 1960's and 1970's, and again in 1992, but no such legislation was enacted into law.

(b) Purpose

The purpose of this subchapter is to settle the 107th meridian boundary dispute created by the erroneous survey of the eastern boundary of the Crow Indian Reservation made by the Federal Government described in subsection (a)(3) of this section.

(Pub. L. 103-444, §2, Nov. 2, 1994, 108 Stat. 4632.)

SHORT TITLE

Section 1 of Pub. L. 103-444 provided that: "This Act [enacting this subchapter] may be cited as the 'Crow Boundary Settlement Act of 1994'."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1776j of this title.

§ 1776a. Definitions

As used in this subchapter:

(1) Crow Tribe

The term "Crow Tribe" means the Crow Tribe of Indians, the duly recognized governing body of the Crow Indian Reservation.

(2) Disputed area

The term "disputed area" means the approximately 36,164 acres of land, including the minerals, located between the 107th meridian on the east and the 1891 survey line on the west from the Yellowstone River on the north to the boundary between the State of Wyoming and the State of Montana on the south.

(3) 1891 survey

The term "1891 survey" means the survey of the eastern boundary of the Crow Reservation conducted by the United States Government from 1889 through 1891.

(4) 1891 survey line

The term "1891 survey line" means the erroneous boundary line resulting from the survey of the 107th meridian which was completed in 1891.

(5) Northern Cheyenne Tribe

The term "Northern Cheyenne Tribe" means the Northern Cheyenne Tribe of Indians, with the Northern Cheyenne Tribal Council as the duly recognized governing body of the Northern Cheyenne Indian Reservation.

(6) 107th meridian boundary dispute

The term "107th meridian boundary dispute" means the dispute resulting from the disparity between the location of the 107th meridian and the location of the 1891 survey line.

(7) 107th meridian escrow fund

The term "107th meridian escrow fund" means the revenues that arise from, or are de-

rived from, parcel number 2, including all accrued interest on such revenues, which are held by the Bureau of Indian Affairs in an escrow account as of November 2, 1994.

(8) Parcel number 1

The term “parcel number 1” means the area, encompassing approximately 11,317 acres, bounded on the south by the Montana-Wyoming border, on the east by the 107th meridian, on the north by the extension to the west of the southern boundary of the Northern Cheyenne Indian Reservation, and on the west by the 1891 survey line.

(9) Parcel number 2

The term “parcel number 2” means the area, encompassing approximately 12,964 acres, bounded on the south by the extension to the west of the southern boundary of the Northern Cheyenne Indian Reservation, on the east by the 107th meridian, on the north by the extension to the west of the northern boundary of the Northern Cheyenne Indian Reservation, and on the west by the 1891 survey line.

(10) Parcel number 3

The term “parcel number 3” means the area, encompassing approximately 2,469 acres, bounded on the south by the extension to the west of the northern boundary of the Northern Cheyenne Indian Reservation, on the east by the 107th meridian, on the north by the northern boundary of the Crow Indian Reservation, and on the west by the 1891 survey line.

(11) Parcel number 4

The term “parcel number 4” means the area, encompassing approximately 9,415 acres, bounded on the south by the northern boundary of the Crow Indian Reservation, on the east by the 107th meridian, on the north by the midpoint of the Yellowstone River, and on the west by the 1891 survey line.

(12) Public lands

The term “public lands” means any land or interest in land owned by the United States (without regard to the means by which the United States acquired ownership of the land or interest in land) and administered by the Secretary through the Bureau of Land Management.

(13) Royalties received and retained by the United States

The term “royalties received and retained by the United States” means the royalties derived from minerals owned by the United States that the United States retains after all payments from the royalties have been made to the State of Montana or any unit of local government of the State of Montana.

(14) Secretary

The term “Secretary” means the Secretary of the Interior.

(15) Settlement Agreement

The term “Settlement Agreement” means the agreement between the Secretary, on behalf of the United States and the Crow Tribe, that provides for the resolution of all claims held by the Crow Tribe arising from the 107th meridian boundary dispute.

(16) Undisposed of coal

The term “undisposed of coal” means coal that has not been conveyed to private parties or to the State of Montana by the United States.

(17) Undisposed of surface lands

The term “undisposed of surface lands” means surface land that has not been conveyed to private parties or to the State of Montana by the United States.

(18) Undisposed of oil, gas, coal methane, or other minerals

The term “undisposed of oil, gas, coal methane, or other minerals” means oil, gas, coal methane, or other minerals (excluding coal) that have not been conveyed to private parties or to the State of Montana by the United States.

(Pub. L. 103-444, §3, Nov. 2, 1994, 108 Stat. 4633.)

§ 1776b. Settlement Agreement

(a) Execution

Subject to the terms and conditions of this subchapter, the Secretary shall enter into the Settlement Agreement with the Crow Tribe.

(b) Ratification

Subject to the conditions set forth in section 1776g(a) of this title, the United States hereby approves, ratifies, and confirms the Settlement Agreement, to the extent that such Settlement Agreement does not conflict with this subchapter.

(c) Modification

The terms and conditions of the Settlement Agreement may be modified by mutual agreement of the Crow Tribe and the Secretary if such modification—

(1) is not inconsistent with this subchapter; and

(2) does not diminish or impair any right or benefit secured to the Northern Cheyenne Tribe, the Northern Cheyenne allottees, or their successors in interest by or pursuant to any provision of this subchapter.

(d) Enforcement

(1) In general

Except as provided in paragraph (2), the Settlement Agreement shall be subject to the enforcement provisions under chapter 7 of title 5.

(2) Additional enforcement

If, with respect to the enforcement of the Settlement Agreement, the remedies available under the provisions referred to in paragraph (1) do not provide adequate or complete relief, the Settlement Agreement shall be subject to the enforcement provisions under section 1505 of title 28.

(Pub. L. 103-444, §4, Nov. 2, 1994, 108 Stat. 4634.)

§ 1776c. Settlement terms and conditions and extinguishment of claims

(a) Property within parcel number 1

(1) In general

With respect to the property within parcel number 1, the following provisions shall apply:

(A) The boundary of the Crow Indian Reservation shall be the 107th meridian.

(B) Title to the undisposed of coal of such parcel shall be vested in the United States in trust for the sole use and benefit of the Crow Tribe and shall be recognized as part of the Crow Indian Reservation.

(C) Title to the undisposed of surface lands of such parcel shall be vested in the United States in trust for the sole use and benefit of the Crow Tribe and shall be recognized as part of the Crow Indian Reservation.

(D) Title to the undisposed of oil, gas, coal methane, or other minerals of such parcel shall be vested in the United States in trust for the sole use and benefit of the Crow Tribe and shall be recognized as part of the Crow Indian Reservation.

(2) Prohibition

Nothing in this subchapter or the Settlement Agreement may alter, diminish, disturb, or cause to be divested any right, title, or interest of any person or entity in any land, coal, oil, gas, coal methane, or mineral within parcel number 1 that is based on the 1891 survey line, except for the specific rights that are vested in the United States for the sole use and benefit of the Crow Tribe pursuant to subparagraphs (B) through (D) of paragraph (1).

(3) Waivers and releases

The following waivers and releases shall be included in the Settlement Agreement:

(A) A disclaimer and relinquishment by the Crow Tribe of all right, title, claim, or interest in all the land and minerals within parcel number 1, except for the rights, titles, and interests recognized as beneficially owned by the Crow Tribe and as part of the Crow Indian Reservation in subparagraphs (B) through (D) of paragraph (1).

(B) A release by the Crow Tribe of all persons and entities, including the United States, from any liability arising from, or related to, the 1891 survey and the subsequent occupancy and use of parcel number 1.

(b) Property within parcel number 2

(1) In general

With respect to the property within parcel number 2, the following provisions shall apply:

(A) The boundary between the Crow and Northern Cheyenne Indian Reservations shall be the 1891 survey line.

(B) All surface lands and minerals of such parcel shall constitute part of the Northern Cheyenne Reservation.

(C) All surface lands, including all rights appurtenant to the surface lands, of such parcel shall be vested in the United States in trust for the sole use and benefit of the Northern Cheyenne Tribe, except that surface lands that have been allotted shall be recognized as held in trust for, or owned in fee by (as the case may be), the Northern Cheyenne allottees or their successors in interest.

(D) The oil, gas, coal, coal methane, and other minerals, including all rights appurtenant to such minerals, of such parcel shall be vested in the United States in trust for

the sole use and benefit of the Northern Cheyenne Tribe.

(2) Waivers and releases

The following waivers and releases shall be included in the Settlement Agreement:

(A) A disclaimer and relinquishment by the Crow Tribe of all right, jurisdiction, title, claim, or interest in the lands and minerals within parcel number 2, including all rights appurtenant to such land and minerals.

(B) A release by the Crow Tribe of all persons and entities, including the United States, the Northern Cheyenne Tribe, the Northern Cheyenne allottees and their successors in interest, from any liability arising from, or related to, the 1891 survey and the subsequent occupancy and use of parcel number 2.

(3) Enforcement

The provisions of this subsection may be enforced, in law or in equity, by the Northern Cheyenne Tribe, Northern Cheyenne allottees, and their successors in interest, in accordance with their respective interests.

(c) Property within parcel number 3 and parcel number 4

(1) In general

With respect to the property within parcel number 3 and parcel number 4, the boundary of the Crow Indian Reservation shall be the 1891 survey line.

(2) Prohibition

Nothing in this subchapter or the Settlement Agreement may alter, diminish, disturb, or cause to be divested any right, title, or interest of any person or entity in any land, coal, or mineral within parcel number 3 or parcel number 4 that is based on the 1891 survey line.

(3) Waivers and releases

The following waivers and releases shall be included in the Settlement Agreement:

(A) A disclaimer and relinquishment by the Crow Tribe of all right, jurisdiction, title, claim, or interest in the lands and minerals situated within parcel number 3 and parcel number 4.

(B) A release by the Crow Tribe of all persons and entities, including the United States, from any liability arising from, or related to, the 1891 survey and the subsequent occupancy and use of parcel number 3 and parcel number 4.

(d) Exchange of public lands

With respect to the land exchanges with the State of Montana and private landowners made under this subchapter the following provisions shall apply:

(1) In general

(A) The Secretary shall negotiate with the State of Montana for the purpose of exchanging public lands within the State of Montana for State trust lands within the Crow Reservation having a total value substantially equal to the value of the surface estate of the ap-

proximately 46,625 acres of State trust lands obtained by the State of Montana pursuant to the Act of February 22, 1889 (commonly known as the "Montana Enabling Act"; 25 Stat. 676, chapter 180), and the Act entitled "An Act to provide for the allotment of lands of the Crow Tribe for the distribution of tribal funds and for other purposes" approved June 4, 1920 (commonly known as the "Crow Allotment Act"; 41 Stat. 751, chapter 224) within the Crow Indian Reservation and the disputed area.

(B) The exchange described in subparagraph (A) shall be in accordance with the exchange procedures set forth in section 1716 of title 43.

(C) In determining the fair market value of the lands described in subparagraph (A), the parties to the exchange shall give due consideration to the value of improvements on the lands.

(D) The Secretary shall ensure that lands exchanged pursuant to this paragraph as part of the settlement of the 107th Meridian boundary dispute made pursuant to this subchapter shall be selected in such manner that the financial impact on local governments, if any, will be minimized.

(E) The Secretary shall provide such financial or other assistance to the State of Montana and to the Crow Tribe as may be necessary to obtain the appraisals, and to satisfy administrative requirements, necessary to accomplish the exchanges made pursuant to subparagraph (A).

(F) Upon approving an exchange made pursuant to this paragraph, the Secretary shall—

(i) receive title to the State trust lands involved in the exchange on behalf of the United States; and

(ii) transfer title to the public lands disposed of pursuant to the exchanges with the State of Montana by such means of conveyance as the Secretary considers appropriate.

(G) Title to the State trust lands acquired pursuant to the exchanges made with the State of Montana pursuant to this paragraph shall be vested in the United States in trust for the sole use and benefit of the Crow Tribe and shall be recognized as part of the Crow Indian Reservation.

(2) Requirement for exchanges

(A) In carrying out the exchanges with the State of Montana pursuant to paragraph (1), the Secretary shall, during a period of at least 5 years beginning on the date on which the Settlement Agreement becomes effective, give first priority to the exchange of public lands within the State of Montana for State trust lands owned by the State of Montana as of November 2, 1994.

(B) Subject to subparagraph (C), if, for any reason, after the expiration of the period specified in subparagraph (A), the exchanges of the State trust lands identified in paragraph (1) have not provided the Crow Tribe with a total of 46,625 acres of surface lands within the boundaries of the existing Crow Indian Reservation (including parcel number 1), the Secretary shall, at the request of, and in cooperation with, the Crow Tribe, develop and implement a program to provide the Crow Tribe

with additional land within the Crow Indian Reservation (including parcel number 1) through land exchanges with private landowners.

(C) The total value of—

(i) the value of the lands exchanged and acquired for the Crow Tribe pursuant to paragraph (1), and

(ii) the value of the lands exchanged and acquired for the Crow Tribe pursuant to this paragraph,

shall not exceed the value of the surface estate of the 46,625 acres of land identified in paragraph (1)(A).

(D) In carrying out a program developed pursuant to this paragraph, the Secretary may exchange public lands within the State of Montana for private lands of substantially equal value within the boundaries of the existing Crow Indian Reservation in accordance with section 1716 of title 43.

(E) In determining the fair market value of the lands described in subparagraph (D), the parties to an exchange made pursuant to subparagraph (D) shall give due consideration to the value of improvements on the lands.

(F) If the Secretary obtains private lands pursuant to subparagraph (D), the Secretary shall transfer title to such lands to the Crow Tribe.

(G) Title to any private or public lands transferred to the Crow Tribe pursuant to this paragraph shall—

(i) be vested in the United States in trust for the sole use and benefit of the Crow Tribe; and

(ii) be recognized as part of the Crow Indian Reservation, if such lands are located within the boundaries of the Crow Indian Reservation.

(H) The Crow Tribe shall assist in obtaining prospective willing parties to exchange private lands within the Crow Indian Reservation for public lands within the State of Montana pursuant to this paragraph.

(e) Crow Tribal Trust Fund

The Settlement Agreement shall include provisions governing the distribution of interest income to the Crow Tribe from the Crow Tribal Trust Fund pursuant to the terms and conditions described in section 1776d of this title.

(Pub. L. 103-444, §5, Nov. 2, 1994, 108 Stat. 4635.)

REFERENCES IN TEXT

Act of February 22, 1889, referred to in subsec. (d)(1)(A), is act Feb. 22, 1889, ch. 180, 25 Stat. 676, popularly known as the Montana Enabling Act. For complete classification of this Act to the Code, see Tables.

Act June 4, 1920, referred to in subsec. (d)(1)(A), is act June 4, 1920, ch. 224, 41 Stat. 751, as amended, popularly known as the Crow Allotment Act. For further details, see Crow Indian Reservation note set out under section 331 of this title. For complete classification of this Act to the Code, see Tables.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1776g of this title.

§ 1776d. Establishment and administration of Crow Tribal Trust Fund

(a) Establishment

(1) In general

There is established in the Treasury of the United States a trust fund to be known as the "Crow Tribal Trust Fund".

(2) Availability of amounts in the Crow Tribal Trust Fund

Amounts in the Crow Tribal Trust Fund shall be available, without fiscal year limitation, to the Secretary for distribution to the Crow Tribe in accordance with subsection (d) of this section.

(b) Contributions

(1) In general

Subject to paragraph (2) and the requirements of section 1776h of this title—

(A) on or before November 30, 1994, the Secretary of the Treasury shall deposit into the Crow Tribal Trust Fund an amount equal to the amounts of royalties received and retained by the United States during fiscal year 1994 from the East Decker, West Decker, and Spring Creek coal mines; and

(B) commencing with fiscal year 1995 and for such period thereafter as may be necessary, the Secretary and the Secretary of the Treasury shall make necessary and proper arrangements for the monthly payment, transfer, or deposit (or any combination thereof) into the Crow Tribal Trust Fund of the royalties received and retained by the United States for the immediately preceding month from the East Decker, West Decker, and Spring Creek coal mines in the State of Montana for the life of such mines, including any extensions of the existing leases for such mines and any expansions of such mines to nearby and adjacent federally owned coal deposits, as specified in the Settlement Agreement.

(2) Amount of royalties

The total amount of royalties described in paragraph (1) that are paid, transferred, or deposited into the Crow Tribal Trust Fund shall not exceed, in the aggregate, \$85,000,000, excluding—

(A) any interest earned on moneys in the Crow Tribal Trust Fund; and

(B) the funds transferred to the Suspension Accounts pursuant to section 1776h of this title.

(3) Payments of royalties received and retained by the United States

Subject to paragraph (2) and the requirements of section 1776h of this title, the royalties received and retained by the United States from the East Decker, West Decker, and Spring Creek coal mines shall be paid, transferred or deposited into the Crow Tribal Trust Fund not later than 30 days after the date on which the royalties are due and paid.

(4) Additional payments

The Federal Government shall make payments, in addition to the payments referred to

in paragraph (3), from the royalties received and retained by the United States from other coal mines within the State of Montana into the Crow Tribal Trust Fund in an amount equal to any lost interest income (as determined by the Secretary), if any portion of the sums described in paragraph (3) are not paid, transferred or deposited into the Crow Tribal Trust Fund within the 30-day period prescribed in paragraph (3).

(c) Investment

At the request of the Secretary, the Secretary of the Treasury shall invest all sums deposited into, accruing to, and remaining in, the Crow Tribal Trust Fund in accordance with section 161a of this title.

(d) Distribution of interest

(1) In general

Only the interest received on funds in the Crow Tribal Trust Fund shall be available for distribution by the Secretary to the Crow Tribe for use for education, land acquisition, economic development, youth and elderly programs or other tribal purposes in accordance with plans and budgets developed and approved by the Crow Tribe and approved by the Secretary.

(2) Requirements for distribution of interest

Commencing with fiscal year 1996 and for each fiscal year thereafter, without fiscal year limitation, the interest received on monies in the Crow Tribal Trust Fund shall be available for distribution under this subsection only if—

(A) the United States and the Crow Tribe enter into the Settlement Agreement; and

(B) the requirements of section 1776g of this title relating to the approval and execution of the Settlement Agreement are satisfied.

(3) Prohibition

No portion of the Crow Tribal Trust Fund or the interest earned on the Crow Tribal Trust Fund may be distributed to members of the Crow Tribe on a per capita basis.

(e) Use of interest for economic development

Notwithstanding any other provision of law, the Crow Tribe may, subject to approval by the Secretary, assign the right of the Crow Tribe to the interest earned on monies in the Crow Tribal Trust Fund to a third party in connection with loans made for economic development projects on or near the Crow Indian Reservation.

(f) Limitation

Notwithstanding any other provision of law, no portion of the principal of the Crow Tribal Trust Fund shall be available for withdrawal or disbursement or used for any purpose other than the purposes specified in this section and section 1776h of this title.

(Pub. L. 103-444, §6, Nov. 2, 1994, 108 Stat. 4638; amended Pub. L. 103-435, §23, Nov. 2, 1994, 108 Stat. 4575.)

AMENDMENTS

1994—Subsec. (c). Pub. L. 103-435 amended subsec. (c) generally. Prior to amendment, subsec. (c) read as fol-

lows: "At the request of the Secretary, the Secretary of the Treasury shall invest all sums deposited into, accruing to, and remaining in, the Crow Tribal Trust Fund in accordance with sections 161a to 161d of this title."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1776c, 1776h of this title.

§ 1776e. Eligibility for other Federal services

No payments made or benefits conferred pursuant to this subchapter shall result in the reduction or denial of any Federal services or programs to any tribe or to any member of a tribe to which the tribe or member of the tribe is entitled or eligible because of the status of the tribe as a federally recognized Indian tribe or the status of a member of such tribe as a member.

(Pub. L. 103-444, § 7, Nov. 2, 1994, 108 Stat. 4640.)

§ 1776f. Exchanges of land or minerals

(a) In general

(1) Subject to approval by the Secretary, the Crow Tribe may exchange any land or minerals to which its title is recognized in or obtained pursuant to this subchapter for other land or minerals of substantially equivalent value within the Crow Indian Reservation (including parcel number 1).

(2) Lands or minerals received by the Crow Tribe in any exchange made pursuant to paragraph (1) shall be—

(A) vested in the United States in trust for the sole use and benefit of the Crow Tribe; and

(B) recognized as part of the Crow Indian Reservation.

(b) Ownership by non-Indians

Any land or minerals received by a person who is not an Indian in an exchange referred to in subsection (a) of this section shall be owned in fee.

(Pub. L. 103-444, § 8, Nov. 2, 1994, 108 Stat. 4640.)

§ 1776g. Applicability

(a) In general

The¹ subchapter shall take effect upon the occurrence of the following conditions:

(1) The Settlement Agreement is approved and executed by the Secretary.

(2) The Settlement Agreement is approved and executed by the Crow Tribe.

(3) The Settlement Agreement and the releases and waivers required by section 1776c of this title are approved and duly executed by the Crow Tribe in accordance with the requirements and procedures set forth in the constitution of the Crow Tribe.

(4) The Settlement Agreement becomes effective in accordance with the terms and conditions specified in the Settlement Agreement.

(b) Approval of releases and waivers

The United States hereby approves and confirms the releases and waivers required by section 1776c of this title.

¹ So in original. Probably should be "This".

(Pub. L. 103-444, § 9, Nov. 2, 1994, 108 Stat. 4640.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1776b, 1776d of this title.

§ 1776h. Escrow funds

(a) In general

As soon as practicable after November 2, 1994, the Secretary shall make distributions from the 107th meridian escrow fund as follows:

(1) One-half of the fund shall be distributed to the Crow Tribe.

(2) One-half of the fund shall be distributed to the Northern Cheyenne Tribe.

(3) The receipt and acceptance by a tribe of funds distributed under this section shall be deemed to be—

(A) a disclaimer, relinquishment and waiver by such tribe of all right, claim or interest in the 107th meridian escrow fund; and

(B) a release by such tribe of all persons and entities, including the United States, from any liability arising from, or related to, the establishment and administration of the 107th meridian escrow fund.

(b) Establishment of Suspension Accounts

As soon as practicable after the Settlement Agreement is executed and approved pursuant to this subchapter, the Secretary of the Treasury shall establish in the Treasury of the United States two interest bearing accounts to be known respectively as the "Crow Tribal Suspension Account" and the "Northern Cheyenne Tribal Suspension Account" (collectively referred to in this subsection¹ as the "Suspension Accounts"), consisting of—

(1) such amounts as are transferred to the Suspension Accounts under subsection (c) of this section; and

(2) any interest earned on investments of amounts in the Suspension Accounts under subsection (e) of this section.

(c) Contributions to Suspension Accounts

(1) In general

Beginning with fiscal year 1995, and ending on the date on which the total amount deposited pursuant to this subsection into the Suspension Accounts is equal to \$200,000 for each such account (as specified in subsection (d) of this section), the Secretary and the Secretary of the Treasury shall make necessary and proper arrangements for the monthly payment, transfer, or deposit (or any combination thereof) into each of the Suspension Accounts of an amount equal to one-half of the royalties received and retained by the United States for the immediately preceding month, as determined in accordance with section 1776d(b)(1) of this title, by the date specified under section 1776d(b)(3) of this title.

(2) Subsequent deposits

At such time as the amount deposited pursuant to this subsection into the Suspension Accounts is equal to \$200,000 for each such account (as specified in subsection (d) of this

¹ So in original. Probably should be "section".

section), in accordance with section 1776d(b)(1) of this title, the Secretary and the Secretary of the Treasury shall thereafter deposit any remaining amounts determined under section 1776d(b)(1) of this title in the Crow Tribal Trust Fund established under section 1776d(a) of this title.

(d) Limitation

The Secretary and the Secretary of the Treasury shall not transfer more than a total amount equal to \$200,000 to each of the Suspension Accounts from the amounts determined under section 1776d(b)(1) of this title.

(e) Investment

All sums deposited in, accruing to and remaining in the Suspension Accounts shall be invested by the Secretary and the Secretary of the Treasury in interest bearing deposits and securities in accordance with the Act of June 24, 1938 (52 Stat. 1037, chapter 648; 25 U.S.C. 162a).

(f) Withdrawals and termination

(1) In general

(A) Beginning on the date that is 5 years after November 2, 1994, the Crow Tribe and the Northern Cheyenne Tribe may each submit a duly authorized request to the Secretary for the withdrawal of all of the funds from the Suspension Account of the tribe established under subsection (b) of this section.

(B) Not later than 60 days after receiving a request for the distribution of funds from a Suspension Account made by a tribe under subparagraph (A)—

(i) the Secretary shall, in cooperation with the Secretary of the Treasury, withdraw and distribute such funds in accordance with such request; and

(ii) the Secretary of the Treasury shall terminate the Suspension Account.

(2) Other means of termination

With respect to a Suspension Account established under subsection (b) of this section that is not terminated pursuant to paragraph (1), at such time as the corpus and the accrued interest of the Suspension Account of the Crow Tribe or the Northern Cheyenne Tribe is approximately equal to the amount specified in paragraph (1) or (2) of subsection (a) of this section, the Secretary of the Treasury shall terminate the Suspension Account and the Secretary of the Interior shall distribute the funds from the Suspension Account to the tribe.

(Pub. L. 103-444, §10, Nov. 2, 1994, 108 Stat. 4641.)

REFERENCES IN TEXT

Act of June 24, 1938, referred to in subsec. (e), is act June 24, 1938, ch. 648, 52 Stat. 1037, which enacted section 162a of this title, repealed section 162 of this title, and enacted provisions set out as a note under section 162a of this title. For complete classification of this Act to the Code, see Tables.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1776d of this title.

§ 1776i. Fort Laramie Treaty of 1868

Except for the adjustment to the eastern boundary of the Crow Indian Reservation, noth-

ing in this subchapter or in the Settlement Agreement shall affect or modify the terms and conditions of the treaty between the United States of America and the Crow Tribe of Indians concluded May 7, 1868 (commonly known as the "Fort Laramie Treaty of 1868"; 15 Stat. 649).

(Pub. L. 103-444, §11, Nov. 2, 1994, 108 Stat. 4642.)

§ 1776j. Satisfaction of claims

The benefits available to the Crow Tribe under the terms and conditions of this subchapter and the Settlement Agreement shall constitute full and complete satisfaction of all claims by the Crow Tribe and the members of the Crow Tribe arising from or related to the erroneous survey of the 107th meridian described in section 1776(a)(3) of this title.

(Pub. L. 103-444, §12, Nov. 2, 1994, 108 Stat. 4642.)

§ 1776k. Authorization of appropriations

There are authorized to be appropriated to the Department of the Interior such sums as are necessary to carry out this subchapter.

(Pub. L. 103-444, §13, Nov. 2, 1994, 108 Stat. 4643.)

CHAPTER 20—TRIBALLY CONTROLLED COMMUNITY COLLEGE ASSISTANCE

Sec.	Definitions.
1801.	SUBCHAPTER I—TRIBALLY CONTROLLED COMMUNITY COLLEGES GRANT PROGRAM
1802.	Purpose.
1803.	Grants authorized. <ul style="list-style-type: none"> (a) Purposes. (b) Deposit of funds; limitations on uses.
1804.	Eligible grant recipients.
1804a.	Planning grants. <ul style="list-style-type: none"> (a) Establishment of program. (b) Procedures for submission and review of applications. (c) Reservation of funds; number of grants.
1805.	Technical assistance contracts.
1806.	Eligibility studies. <ul style="list-style-type: none"> (a) Development of plans, procedures, and criteria. (b) Initiation by Secretary; grant applications and budgets. (c) Source of appropriations.
1807.	Grants to tribally controlled community colleges. <ul style="list-style-type: none"> (a) Submission of applications; necessity of eligibility study. (b) Determination of support; factors considered. (c) Priority and number of grants. (d) Consultation with national Indian organizations and tribal governments.
1808.	Amount of grants. <ul style="list-style-type: none"> (a) Formula. (b) Advance installment payments; adjustments; methods of payment; interest or investment income; types of investments. (c) Accounting by recipient institutions; data collection system. (d) Construction of section.
1809.	Effect on other programs. <ul style="list-style-type: none"> (a) Eligibility for assistance. (b) Allocations from Bureau of Indian Affairs. (c) Assistance deemed to be basic educational opportunity grant.