''(4) the contract referred to in section 3707(a)(2) [106 Stat. 4747] has been amended;

''(5) the State of Arizona has appropriated and deposited into the Fund $3,000,000 as required by the Agreement;

''(6) the stipulations attached to the Agreement as Exhibits 'D' and 'E' have been approved; and

''(7) the Agreement has been modified, to the extent it is in conflict with this title [amending this section and section 1524 of Title 43, Public Lands, and enacting provisions set out as a note under section 1524 of Title 43], and has been executed by the Secretary.

''(b) CONDITIONS.—(1) If the actions described in paragraphs (1), (2), (3), (4), (5), (6), and (7) of subsection (a) of this section have not occurred by March 31, 1999, subsections (c) and (d) of section 3704 [106 Stat. 4743], subsections (a) and (b) of section 3705 [106 Stat. 4744], section 3706 [106 Stat. 4745], subsections (a)(2), (c), (d), and (f) of section 3707 [106 Stat. 4747], subsections (b) and (c) of section 3708 [106 Stat. 4748], and subsections (a), (b), (c), (d), (e), (g), (h), (j), and (*l*) of section 3710 of this title [106 Stat. 4750, subsec. (e) amends this section], together with any contracts entered into pursuant to any such section or subsection, shall not be effective on and after the date of enactment of this title [Oct. 30, 1992], and any funds appropriated pursuant to section 3707(c) [106 Stat. 4748], and remaining unobligated and unexpended on the date of the enactment of this title, shall immediately revert to the Treasury, as general revenues, and any funds appropriated by the State of Arizona pursuant to the Agreement, and remaining unobligated and unexpended on the date of the enactment of this title, shall immediately revert to the State of Arizona.

''(2) Notwithstanding the provisions of paragraph (1) of this subsection, if the provisions of subsections (a) and (b) of section 3705 of this title have been otherwise accomplished pursuant to provisions of the Act of October 20, 1988 [Pub. L. 100–512, 102 Stat. 2549], the provisions of paragraph (1) of this subsection shall not be construed as affecting such subsections.

''(c) EXTENSION FOR RIVER SYSTEM GENERAL ADJUDICATION.—If, at any time prior to March 31, 1999, the Secretary notifies the Committee on Indian Affairs of the United States Senate or the Committee on Resources in the United States House of Representatives that the Settlement Agreement, as executed by the Secretary, has been submitted to the Superior Court of the State of Arizona in and for Maricopa County for consideration and approval as part of the General Adjudication of the Gila River System and Source, the [sic] March 31, 1999, referred to in subsection (b)(1) shall be deemed to be changed to December 31, 1999.''

[For definitions of terms used in section 3711(a)–(c) of Pub. L. 102–575, set out above, see section 3703 of Pub. L. 102–575, title XXXVII, Oct. 30, 1992, 106 Stat. 4741, as amended.]

[Pub. L. 104–91, title II, §202(b), Jan. 6, 1996, 110 Stat. 14, provided that:

[''(1) IN GENERAL.—The amendment made by subsection (a) [amending section 3711 of Pub. L. 102–575, set out above] shall take effect as of December 31, 1995.

[''(2) LAPSED PROVISIONS OF LAW AND CONTRACTS.—The provisions of subsections (c) and (d) of section 3704 [106 Stat. 4743], subsections (a) and (b) of section 3705 [106 Stat. 4744], section 3706 [106 Stat. 4745], subsections (a)(2), (c), (d), and (f) of section 3707 [106 Stat. 4747], subsections (b) and (c) of section 3708 [106 Stat. 4748], and subsections (a), (b), (c), (d), (e), (g), (h), (j), and (*l*) of section 3710 of such Act [106 Stat. 4750, subsec. (e) amends this section], together with each contract entered into pursuant to any such section or subsection (with the consent of the non-Federal parties thereto), shall be effective on and after the date of enactment of this Act [Jan. 6, 1996], subject to the December 31, 1996, deadline specified in such section 3711(b)(1), as amended by subsection (a) of this section [section 3711(b)(1) of Pub. L. 102–575, set out above].'']

CHAPTER 12—LEASE, SALE, OR SURRENDER OF ALLOTTED OR UNALLOTTED LANDS

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§ 391. Continuance of restrictions on alienation in patent

Prior to the expiration of the trust period of any Indian allottee to whom a trust or other patent containing restrictions upon alienation has been or shall be issued under any law or treaty the President may, in his discretion, continue such restrictions on alienation for such period as he may deem best: *Provided*, *however*, That this shall not apply to lands in the former Indian Territory.

(June 21, 1906, ch. 3504, 34 Stat. 326.)

CROSS REFERENCES

Certain lands not to be allotted in severalty to any Indian, see section 461 of this title.

Extension of trust periods expiring in 1943, and extension of trust periods of certain lands, see notes under section 348 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 348a of this title.

§ 391a. Sale for town site; removal of restriction

For the purpose of allowing any Indian allottee to sell for townsite purposes any portion of the lands allotted to him, the Secretary of the Interior may, by order, remove restrictions upon the alienation of such lands and issue fee-simple patents therefor under such rules and regulations as he may prescribe.

(June 21, 1906, ch. 3504, 34 Stat. 373.)

CROSS REFERENCES

Certain lands not to be allotted in severalty to any Indian, see section 461 of this title.

§ 392. Consent to or approval of alienation of allotments by Secretary of the Interior

Whenever, in any law or treaty or in any patent issued to Indian allottees for lands in severalty pursuant to such law or treaty, there appears a provision to the effect that the lands so allotted cannot be alienated without the consent of the President of the United States, the Secretary of the Interior shall have full power and authority to consent to or approve of the alienation of such allotments, in whole or in part, in his discretion, by deed, will, lease, or any other form of conveyance, and such consent or approval by the Secretary of the Interior on and after September 21, 1922, had in all such cases shall have the same force and legal effect as though the consent or approval of the President had previously been obtained: *Provided*, *however*, That the approval by the Secretary of the Interior of wills by Indian allottees or their heirs involving lands held under such patents shall not operate to remove the restrictions against alienation unless such order of approval by said Secretary shall specifically so direct.

(Sept. 21, 1922, ch. 367, § 6, 42 Stat. 995.)

CROSS REFERENCES

Certain lands not to be allotted in severalty to any Indian, see section 461 of this title.

§ 393. Leases of restricted allotments

The restricted allotment of any Indian may be leased for farming and grazing purposes by the allottee or his heirs, subject only to the approval of the superintendent or other officer in charge of the reservation where the land is located, under such rules and regulations as the Secretary of the Interior may prescribe: *Provided*, That this provision shall not apply to the Five Civilized Tribes.

(Mar. 3, 1921, ch. 119, 41 Stat. 1232.)

TRANSFER OF FUNCTIONS

For transfer of functions of other officers, employees, and agencies of Department of the Interior, with certain exceptions, to Secretary of the Interior, with power to delegate, see Reorg. Plan No. 3 of 1950, §§ 1, 2, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1262, set out in the Appendix to Title 5, Government Organization and Employees.

CROSS REFERENCES

Lease of inherited allotments by superintendent in certain cases, see section 380 of this title.

§ 393a. Lands of Five Civilized Tribes

From and after thirty days from February 11, 1936 the restricted lands belonging to Indians of the Five Civilized Tribes in Oklahoma of one-half or more Indian blood, enrolled or unenrolled, may be leased for periods of not to exceed five years for farming and grazing purposes, under such rules and regulations as the Secretary of the Interior may prescribe and not otherwise. Such leases shall be made by the owner or owners of such lands, if adults, subject to approval by the superintendent or other official in charge of the Five Civilized Tribes Agency, and by such superintendent or other official in charge of said agency in cases of minors and of Indians who are non compos mentis.

(Feb. 11, 1936, ch. 50, 49 Stat. 1135.)

TRANSFER OF FUNCTIONS

For transfer of functions of other officers, employees, and agencies of Department of the Interior, with certain exceptions, to Secretary of the Interior, with power to delegate, see Reorg. Plan No. 3 of 1950, §§1, 2, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1262, set out in the Appendix to Title 5, Government Organization and Employees.

§ 394. Leases of arid allotted lands

Whenever it shall appear to the satisfaction of the Secretary of the Interior that the allotted lands of any Indian are arid but susceptible of irrigation and that the allottee, by reason of old age or other disability, cannot personally occupy or improve his allotment or any portion thereof, such lands, or such portion thereof, may be leased for a period not exceeding ten years, under such terms, rules, and regulations as may be prescribed by the Secretary of the Interior.

(May 18, 1916, ch. 125, §1, 39 Stat. 128.)

CROSS REFERENCES

Restricted allotments authorized to be leased for farming and grazing purposes, see section 393 of this title.

§ 395. Leases of allotted lands where allottee is incapacitated

Whenever it shall be made to appear to the Secretary of the Interior that, by reason of age, disability, or inability, any allottee of Indian lands cannot personally, and with benefit to himself, occupy or improve his allotment or any part thereof, the same may be leased upon such terms, regulations, and conditions as shall be prescribed by the Secretary for a term not exceeding five years, for farming purposes only.

(May 31, 1900, ch. 598, 31 Stat. 229.)

CODIFICATION

Act May 31, 1900, is applicable to "any allottee of Indian lands" and authorizes leases "for a term not exceeding five years, for farming purposes only" and supersedes the following prior provisions:

Act June 7, 1897, ch. 3, 30 Stat. 85.

Act June 10, 1896, ch. 398, 29 Stat. 340.

Act Mar. 2, 1895, ch. 188, 28 Stat. 900.

Act Aug. 15, 1894, ch. 290, 28 Stat. 305.

OTHER LEASING PROVISIONS

Special provisions for leasing allotted lands on certain reservations named in Utah and in Wyoming, for cultivation under irrigation, were made by act Apr. 30, 1908, ch. 153, 35 Stat. 95, 97.

Special provisions permitting Indians to whom lands have been allotted on the Yakima Indian reservation in the State of Washington, to lease such lands for agricultural purposes for a term not exceeding 5 years, or unimproved lands for a term not exceeding 10 years were made by acts May 31, 1900, ch. 598, 31 Stat. 246; Mar. 1, 1899, ch. 324, 30 Stat. 941.

CROSS REFERENCES

Lands held in trust may be leased by allottee for period not to exceed five years under rules and regulations of the Secretary of the Interior, see section 403 of this title.

Leases of arid allotted lands susceptible of irrigation where Indian is unable personally to occupy and improve his allotment, see section 394 of this title.

§ 396. Leases of allotted lands for mining purposes

All lands allotted to Indians in severalty, except allotments made to members of the Five Civilized Tribes and Osage Indians in Oklahoma, may by said allottee be leased for mining purposes for any term of years as may be deemed advisable by the Secretary of the Interior; and the Secretary of the Interior is authorized to perform any and all acts and make such rules and regulations as may be necessary for the purpose of carrying the provisions of this section into full force and effect: *Provided*, That if the said allottee is deceased and the heirs to or devisees of any interest in the allotment have not been determined, or, if determined, some or all of them cannot be located, the Secretary of the Interior may offer for sale leases for mining purposes to the highest responsible qualified bidder, at public auction, or on sealed bids, after notice and advertisement, upon such terms and conditions as the Secretary of the Interior may prescribe. The Secretary of the Interior shall have the right to reject all bids whenever in his judgment the interests of the Indians will be served by so doing, and to readvertise such lease for sale.

(Mar. 3, 1909, ch. 263, 35 Stat. 783; Aug. 9, 1955, ch. 615, §3, 69 Stat. 540.)

AMENDMENTS

1955—Act Aug. 9, 1955, authorized Secretary of the Interior to lease allotted lands for mining purposes where the allottee is deceased and the heirs to or devisees of any interest in the allotment either have not been determined or cannot be located.

CROSS REFERENCES

Lands held in trust may be leased by allottee for period not to exceed five years under rules and regulations of the Secretary of the Interior, see section 403 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 396g of this title.

§ 396a. Leases of unallotted lands for mining purposes; duration of leases

On and after May 11, 1938, unallotted lands within any Indian reservation or lands owned by

any tribe, group, or band of Indians under Federal jurisdiction, except those specifically excepted from the provisions of sections 396a to 396g of this title, may, with the approval of the Secretary of the Interior, be leased for mining purposes, by authority of the tribal council or other authorized spokesmen for such Indians, for terms not to exceed ten years and as long thereafter as minerals are produced in paying quantities.

(May 11, 1938, ch. 198, § 1, 52 Stat. 347.)

REPEAL OF INCONSISTENT ACTS

Section 7 of act May 11, 1938, provided that: ''All Act [Acts] or parts of Acts inconsistent herewith are hereby repealed.''

CROSS REFERENCES

Wind River Indian Reservation, administration and leasing of minerals, see note set out under section 611 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 396d, 396f, 396g, 459c, 1724, 2105 of this title.

§ 396b. Public auction of oil and gas leases; requirements

Leases for oil- and/or gas-mining purposes covering such unallotted lands shall be offered for sale to the highest responsible qualified bidder, at public auction or on sealed bids, after notice and advertisement, upon such terms and subject to such conditions as the Secretary of the Interior may prescribe. Such advertisement shall reserve to the Secretary of the Interior the right to reject all bids whenever in his judgment the interest of the Indians will be served by so doing, and if no satisfactory bid is received, or the accepted bidder fails to complete the lease, or the Secretary of the Interior shall determine that it is unwise in the interest of the Indians to accept the highest bid, said Secretary may readvertise such lease for sale, or with the consent of the tribal council or other governing tribal authorities, a lease may be made by private negotiations: *Provided*, That the foregoing provisions shall in no manner restrict the right of tribes organized and incorporated under sections 16 and 17 of the Act of June 18, 1934 (48 Stat. 984) [25 U.S.C. 476, 477], to lease lands for mining purposes as therein provided and in accordance with the provisions of any constitution and charter adopted by any Indian tribe pursuant to the Act of June 18, 1934 [25 U.S.C. 461 et seq.].

(May 11, 1938, ch. 198, § 2, 52 Stat. 347.)

REFERENCES IN TEXT

Act of June 18, 1934, referred to in text, popularly known as the Indian Reorganization Act, is classified generally to subchapter V (§ 461 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 461 of this title and Tables.

REPEAL OF INCONSISTENT ACTS

For repeal of inconsistent acts, see section 7 of act May 11, 1938, set out as a note under section 396a of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 396a, 396d, 396f, 459c, 1724, 2105 of this title.

§ 396c. Lessees of restricted lands to furnish bonds for performance

On and after May 11, 1938, lessees of restricted Indian lands, tribal or allotted, for mining purposes, including oil and gas, shall furnish corporate surety bonds, in amounts satisfactory to the Secretary of the Interior, guaranteeing compliance with the terms of their leases: *Provided*, That personal surety bonds may be accepted where the sureties deposit as collateral with the said Secretary of the Interior any public-debt obligations of the United States guaranteed as to principal and interest by the United States equal to the full amount of such bonds, or other collateral satisfactory to the Secretary of the Interior, or show ownership to unencumbered real estate of a value equal to twice the amount of the bonds.

(May 11, 1938, ch. 198, § 3, 52 Stat. 348.)

REPEAL OF INCONSISTENT ACTS

For repeal of inconsistent acts, see section 7 of act May 11, 1938, set out as a note under section 396a of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 396a, 396d, 396f, 459c, 1724, 2105 of this title.

§ 396d. Rules and regulations governing operations; limitations on oil or gas leases

All operations under any oil, gas, or other mineral lease issued pursuant to the terms of sections 396a to 396g of this title or any other Act affecting restricted Indian lands shall be subject to the rules and regulations promulgated by the Secretary of the Interior. In the discretion of the said Secretary, any lease for oil or gas issued under the provisions of sections 396a to 396g of this title shall be made subject to the terms of any reasonable cooperative unit or other plan approved or prescribed by said Secretary prior or subsequent to the issuance of any such lease which involves the development or production of oil or gas from land covered by such lease.

(May 11, 1938, ch. 198, § 4, 52 Stat. 348.)

REPEAL OF INCONSISTENT ACTS

For repeal of inconsistent acts, see section 7 of act May 11, 1938, set out as a note under section 396a of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 396a, 396f, 459c, 1724, 2105 of this title.

§ 396e. Officials authorized to approve leases

The Secretary of the Interior may, in his discretion, authorize superintendents or other officials in the Indian Service to approve leases for oil, gas, or other mining purposes covering any restricted Indian lands, tribal or allotted.

(May 11, 1938, ch. 198, § 5, 52 Stat. 348.)

REPEAL OF INCONSISTENT ACTS

For repeal of inconsistent acts, see section 7 of act May 11, 1938, set out as a note under section 396a of this title.

TRANSFER OF FUNCTIONS

For transfer of functions of other officers, employees, and agencies of Department of the Interior, with cer-

tain exceptions, to Secretary of the Interior, with power to delegate, see Reorg. Plan No. 3 of 1950, §§1, 2, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1262, set out in the Appendix to Title 5, Government Organization and Employees.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 396a, 396d, 459c, 1724, 2105 of this title.

§ 396f. Lands excepted from leasing provisions

Sections 396a, 396b, 396c, and 396d of this title shall not apply to the Crow Reservation in Montana, the ceded lands of the Shoshone Reservation in Wyoming, the Osage Reservation in Oklahoma, nor to the coal and asphalt lands of the Choctaw and Chickasaw Tribes in Oklahoma.

(May 11, 1938, ch. 198, §6, 52 Stat. 348; May 27, 1955, ch. 106, §2, 69 Stat. 68.)

AMENDMENTS

1955—Act May 27, 1955, struck out ''the Papago Indian Reservation in Arizona,'' after ''shall not apply to''.

REPEAL OF INCONSISTENT ACTS

For repeal of inconsistent acts, see section 7 of act May 11, 1938, set out as a note under section 396a of this title.

PAPAGO INDIAN RESERVATION

Section 1 of act May 27, 1955, authorized the leasing of minerals for mining purposes. See note under section 463 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 396a, 396d, 459c, 1724, 2105 of this title.

§ 396g. Subsurface storage of oil or gas

The Secretary of the Interior, to avoid waste or to promote the conservation of natural resources or the welfare of the Indians, is authorized in his discretion to approve leases of lands that are subject to lease under section 396 or 396a of this title, for the subsurface storage of oil and gas, irrespective of the lands from which initially produced, and the Secretary is authorized, in order to provide for the subsurface storage of oil or gas, to approve modifications, amendments, or extensions of the oil and gas or other mining lease(s), if any, in effect as to restricted Indian lands, tribal or allotted, and may promulgate rules and regulations consistent with such leases, modifications, amendments, and extensions, relating to the storage of oil or gas thereunder. Any such leases may provide for the payment of a storage fee or rental on such stored oil or gas or, in lieu of such fee or rental, for a royalty other than that prescribed in the lease when such stored oil or gas is produced in conjunction with oil or gas not previously produced. It may be provided that any oil and gas lease under which storage of oil or gas is so authorized shall be continued in effect at least for the period of such storage use and so long thereafter as oil or gas not previously produced is produced in paying quantities.

(May 11, 1938, ch. 198, §8, as added Aug. 1, 1956, ch. 808, 70 Stat. 774.)

REPEAL OF INCONSISTENT ACTS

For repeal of inconsistent acts, see section 7 of act May 11, 1938, set out as a note under section 396a of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 396a, 396d, 459c, 1724, 2105 of this title.

§ 397. Leases of lands for grazing or mining

Where lands are occupied by Indians who have bought and paid for the same, and which lands are not needed for farming or agricultural purposes, and are not desired for individual allotments, the same may be leased by authority of the council speaking for such Indians, for a period not to exceed five years for grazing, or ten years for mining purposes in such quantities and upon such terms and conditions as the agent in charge of such reservation may recommend, subject to the approval of the Secretary of the Interior.

(Feb. 28, 1891, ch. 383, §3, 26 Stat. 795.)

TRANSFER OF FUNCTIONS

For transfer of functions of other officers, employees, and agencies of Department of the Interior, with certain exceptions, to Secretary of the Interior, with power to delegate, see Reorg. Plan No. 3 of 1950, §§1, 2, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1262, set out in the Appendix to Title 5, Government Organization and Employees.

CROSS REFERENCES

Cherokee Outlet, provisions inapplicable to, see section 371 of this title.

Lands held in trust may be leased by allottee for period not to exceed five years under rules and regulations of Secretary of the Interior, see section 403 of this title.

Unallotted lands authorized to be leased for oil and gas mining purposes, see section 398 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 371, 398 of this title.

§ 398. Leases of unallotted lands for oil and gas mining purposes

Unallotted land on Indian reservations other than lands of the Five Civilized Tribes and the Osage Reservation subject to lease for mining purposes for a period of ten years under section 397 of this title may be leased at public auction by the Secretary of the Interior, with the consent of the council speaking for such Indians, for oil and gas mining purposes for a period of not to exceed ten years, and as much longer as oil or gas shall be found in paying quantities, and the terms of any existing oil and gas mining lease may in like manner be amended by extending the term thereof for as long as oil or gas shall be found in paying quantities: *Provided*, That the production of oil and gas and other minerals on such lands may be taxed by the State in which said lands are located in all respects the same as production on unrestricted lands, and the Secretary of the Interior is authorized and directed to cause to be paid the tax so assessed against the royalty interests on said lands: *Provided, however*, That such tax shall not become a lien or charge of any kind or character against the land or the property of the Indian owner.

(May 29, 1924, ch. 210, 43 Stat. 244.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 398a of this title.

§ 398a. Leases of unallotted lands for oil and gas mining purposes within Executive order Indian reservations

Unallotted lands within the limits of any reservation or withdrawal created by Executive order for Indian purposes or for the use or occupancy of any Indians or tribe may be leased for oil and gas mining purposes in accordance with the provisions contained in section 398 of this title.

(Mar. 3, 1927, ch. 299, § 1, 44 Stat. 1347.)

§ 398b. Proceeds from rentals, royalties, and bonuses; disposition

The proceeds from rentals, royalties, or bonuses of oil and gas leases upon lands within Executive order Indian reservations or withdrawals shall be deposited in the Treasury of the United States to the credit of the tribe of Indians for whose benefit the reservation or withdrawal was created or who are using and occupying the land, and shall draw interest at the rate of 4 per centum per annum and be available for appropriation by Congress for expenses in connection with the supervision of the development and operation of the oil and gas industry and for the use and benefit of such Indians: *Provided*, That said Indians, or their tribal council, shall be consulted in regard to the expenditure of such money, but no per capita payment shall be made except by Act of Congress.

(Mar. 3, 1927, ch. 299, § 2, 44 Stat. 1347.)

§ 398c. Taxes

Taxes may be levied and collected by the State or local authority upon improvements, output of mines or oil and gas wells, or other rights, property, or assets of any lessee upon lands within Executive order Indian reservations in the same manner as such taxes are otherwise levied and collected, and such taxes may be levied against the share obtained for the Indians as bonuses, rentals, and royalties, and the Secretary of the Interior is hereby authorized and directed to cause such taxes to be paid out of the tribal funds in the Treasury: *Provided*, That such taxes shall not become a lien or charge of any kind against the land or other property of such Indians.

(Mar. 3, 1927, ch. 299, § 3, 44 Stat. 1347.)

§ 398d. Changes in boundaries of Executive order reservations

Changes in the boundaries of reservations created by Executive order, proclamation, or otherwise for the use and occupation of Indians shall not be made except by Act of Congress.

(Mar. 3, 1927, ch. 299, § 4, 44 Stat. 1347; Pub. L. 94–579, title VII, § 704(a), Oct. 21, 1976, 90 Stat. 2792.)

AMENDMENTS

1976—Pub. L. 94–579 struck out proviso relating to nonapplicability of provisions to temporary withdrawals by Secretary of the Interior.

EFFECTIVE DATE OF 1976 AMENDMENT

Section 704(a) of Pub. L. 94–579 provided that the amendment made by that section is effective on and after Oct. 21, 1976.

SAVINGS PROVISION

Amendment by Pub. L. 94–579 not to be construed as terminating any valid lease, permit, patent, etc., existing on Oct. 21, 1976, see Savings Provision note set out under section 1701 of Title 43, Public Lands.

§ 398e. Applications for permits to prospect for oil and gas filed under other statutes; disposition

The Secretary of the Interior is hereby authorized, under such rules and regulations as he may prescribe, to allow any person who prior to May 27, 1924, filed an application for a permit in accordance with the provisions of the Act of February 25, 1920, to prospect for oil and gas upon lands within an Indian reservation or withdrawal created by Executive order who shall show to the satisfaction of the Secretary of the Interior that he, or the party with whom he has contracted, has done prior to January 1, 1926, any or all of the following things, to wit, expended money or labor in geologically surveying the lands covered by such application, has built a road for the benefit of such lands, or has drilled or contributed toward the drilling of the geologic structure upon which such lands are located, or who in good faith has either filed a motion for reinstatement or rehearing; or performed any other act which in the judgment of the Secretary of the Interior entitles him to equitable relief, to prospect for a period of two years from March 3, 1927, or for such further time as the Secretary of the Interior may deem reasonable or necessary for the full exploration of the land described in his application under the terms and conditions therein set out, and a substantial contribution toward the drilling of the geologic structure thereon by such applicant for a permit thereon may be considered as prospecting under the provisions hereof; and upon establishing to the satisfaction of the Secretary of the Interior that valuable deposits of oil and gas have been discovered within the limits of the land embraced in any such application, he shall be entitled to a lease for one-fourth of the land embraced in the application: *Provided*, That the applicant shall be granted a lease for as much as one hundred and sixty acres of said lands if there be that number of acres within the application. The area to be selected by the applicant shall be in compact form and, if surveyed, to be described by the legal subdivisions of the public land surveyed; if unsurveyed, to be surveyed by the Government at the expense of the applicant for lease in accordance with rules and regulations to be prescribed by the Secretary of the Interior, and the lands leased shall be conformed to and taken in accordance with the legal subdivisions of such surveys; deposit made to cover expense of surveys shall be deemed appropriated for that purpose, and any excess deposits may be repaid to the person or persons making such deposit or their legal representatives. Such leases shall be for a term of twenty years upon a royalty of 5 per centum in amount or value of the production and the annual pay-

ment in advance of a rental of $1 per acre, the rental paid for any one year to be credited against the royalties as they may accrue for that year, with the preferential right in the lessee to renew the same for successive periods of ten years upon such reasonable terms and conditions as may be prescribed by the Secretary of the Interior. The applicant shall also be entitled to a preference right to a lease for the remainder of the land in his application at a royalty of not less than 12½ per centum in amount or value of the production, the royalty to be determined by competitive bidding or fixed by such other methods as the Secretary of the Interior may by regulations prescribe: *Provided further*, That the Secretary of the Interior shall have the right to reject any or all bids.

(Mar. 3, 1927, ch. 299, § 5, 44 Stat. 1347.)

REFERENCES IN TEXT

Act of February 25, 1920, referred to in text, probably means act Feb. 25, 1920, ch. 85, 41 Stat. 437, as amended, known as the Mineral Leasing Act, which is classified generally to chapter 3A (§ 181 et seq.) of Title 30, Mineral Lands and Mining. For complete classification of this Act to the Code, see Short Title note set out under section 181 of Title 30 and Tables.

§ 399. Leases of unallotted mineral lands withdrawn from entry under mining laws

Authority of Secretary of the Interior to lease—The Secretary of the Interior is authorized and empowered, under general regulations to be fixed by him and under such terms and conditions as he may prescribe, not inconsistent with the terms of this section, to lease to citizens of the United States, or to any association of such persons, or to any corporation organized under the laws of the United States or of any State or Territory thereof, any part of the unallotted lands within any Indian reservation within the States of Arizona, California, Idaho, Montana, Nevada, New Mexico, Oregon, Washington, or Wyoming withdrawn prior to June 30, 1919, from entry under the mining laws for the purpose of mining for deposits of gold, silver, copper, and other valuable metalliferous minerals, and nonmetalliferous minerals, not including oil and gas, which leases shall be irrevocable, except as herein provided, but which may be declared null and void upon breach of any of their terms.

Location of mining claims—Unallotted lands, or such portion thereof as the Secretary of the Interior shall determine, within Indian reservations withheld prior to June 30, 1919, from disposition under the mining laws may be declared by the Secretary of the Interior to be subject to exploration for the discovery of deposits of gold, silver, copper, and other valuable metalliferous minerals and nonmetalliferous minerals, not including oil and gas, by citizens of the United States, and after such declaration mining claims may be located by such citizens in the same manner as mining claims are located under the mining laws of the United States.

Preference right of locators of claims to lease of lands—The locators of all such mining claims, or their heirs, successors, or assigns, shall have a preference right to apply to the Secretary of the Interior for a lease, under the terms and conditions of this section, within one year after the date of the location of any mining claim, and any such locator who shall fail to apply for a lease within one year from the date of location shall forfeit all rights to such mining claim.

Filing copies of location notices—Duplicate copies of the location notice shall be filed within sixty days with the superintendent in charge of the reservation on which the mining claim is located, and application for a lease under this section may be filed with such superintendent for transmission, through official channels, to the Secretary of the Interior.

Lands excepted from entry as mining claims—Lands containing springs, water holes, or other bodies of water needed or used by the Indians for watering livestock, irrigation, or water-power purposes shall not be designated by the Secretary of the Interior as subject to entry under this section.

Term of lease; renewal—Leases under this section shall be for a period of twenty years, with the preferential right in the lessee to renew the same for successive periods of ten years, upon such reasonable terms and conditions as may be prescribed by the Secretary of the Interior, unless otherwise provided by law at the time of the expiration of such periods.

Relinquishment of rights by lessee—The lessee may, in the discretion of the Secretary of the Interior, be permitted at any time to make written relinquishment of all rights under such a lease and upon acceptance thereof be thereby relieved of all future obligations under said lease.

Lease of additional land for camp sites and other purposes—In addition to areas of mineral land to be included in leases under this section the Secretary of the Interior, in his discretion, may grant to the lessee the right to use, during the life of the lease, subject to the payment of an annual rental of not less than $1 per acre, a tract of unoccupied land, not exceeding forty acres in area, for camp sites, milling, smelting, and refining works, and for other purposes connected with and necessary to the proper development and use of the deposits covered by the lease.

Reservation of surface of leased land to United States; easements—The Secretary of the Interior, in his discretion, in making any lease under this section, may reserve to the United States the right to lease for a term not exceeding that of the mineral lease, the surface of the lands embraced within such lease under existing law or laws hereafter enacted, insofar as said surface is not necessary for use of the lessee in extracting and removing the deposits therein: *Provided*, That the said Secretary, during the life of the lease, is hereby authorized to issue such permits for easements herein provided to be reserved.

Rights and duties of successors to lessees—Any successor in interest or assignee of any lease granted under this section, whether by voluntary transfer, judicial sale, foreclosure sale, or otherwise, shall be subject to all the conditions of the lease under which such rights are held and also subject to all the provisions and conditions of this section to the same extent as though such successor or assign were the original lessee hereunder.

Forfeiture of leases; notice—Any lease granted under this section may be forfeited and canceled

by appropriate proceedings in the United States district court for the district in which said property or some part thereof is situated whenever the lessee, after reasonable notice in writing, as prescribed in the lease, shall fail to comply with the terms of this section or with such conditions not inconsistent herewith as may be specifically recited in the lease.

Royalties payable by lessees—For the privilege of mining or extracting the mineral deposits in the ground covered by the lease the lessee shall pay to the United States, for the benefit of the Indians, a royalty which shall not be less than 5 per centum of the net value of the output of the minerals at the mine, due and payable at the end of each month succeeding that of the extraction of the minerals from the mine, and an annual rental, payable at the date of such lease and annually thereafter on the area covered by such lease, at the rate of not less than 25 cents per acre for the first calendar year thereafter; not less than 50 cents per acre for the second, third, fourth, and fifth years, respectively; and not less than $1 per acre for each and every year thereafter during the continuance of the lease, except that such rental for any year shall be credited against the royalties as they accrue for that year.

Development work by locators or lessees; damage to land—In addition to the payment of the royalties and rentals as herein provided the lessee shall expend annually not less than $100 in development work for each mining claim located or leased in the same manner as an annual expenditure for labor or improvements is required to be made under the mining laws of the United States: *Provided*, That the lessee shall also agree to pay all damages occasioned by reason of his mining operations to the land or allotment of any Indian or to the crops or improvements thereon.

Cutting timber by lessees—No timber shall be cut upon the reservation by the lessee except for mining purposes and then only after first obtaining a permit from the superintendent of the reservation and upon payment of the fair value thereof.

Examination of books and accounts of lessees—The Secretary of the Interior is authorized to examine the books and accounts of lessees, and to require them to submit statements, representations, or reports, including information as to cost of mining, all of which statements, representations, or reports so required shall be upon oath, unless otherwise specified, and in such form and upon such blanks as the Secretary of the Interior may require; and any person making any false statement, representation, or report under oath or in any declaration, certificate, verification, or statement under penalty of perjury as permitted under section 1746 of title 28 shall be subject to punishment as for perjury.

Disposition of rentals and royalties—All moneys received from royalties and rentals under the provisions of this section shall be deposited in the Treasury of the United States to the credit of the Indians belonging and having tribal rights on the reservation where the leased land is located, which moneys shall be at all times subject to appropriation by Congress for their benefit, unless otherwise provided by treaty or agreement ratified by Congress: *Provided*, That such moneys shall be subject to the laws authorizing the pro rata distribution of Indian tribal funds.

Protection of interests of Indians—The Secretary of the Interior is authorized to perform any and all acts and to make such rules and regulations not inconsistent with this section as may be necessary and proper for the protection of the interests of the Indians and for the purpose of carrying the provisions of this section into full force and effect: *Provided*, That nothing in this section shall be construed or held to affect the right of the States or other local authority to exercise any rights which they may have to levy and collect taxes upon improvements, output of mines, or other rights, property, or assets of any lessee.

Mining locations by and leases to Indians declared competent—Mining locations, under the terms of this section, may be made on unallotted lands within Indian reservations by Indians who have heretofore or may hereafter be declared by the Secretary of the Interior to be competent to manage their own affairs; and the said Secretary is authorized and empowered to lease such lands to such Indians in accordance with the provisions of this section.

Mining locations by and leases to other Indians—The Secretary of the Interior is authorized to permit other Indians to make locations and obtain leases under the provisions of this section, under such rules and regulations as he may prescribe in regard to the working, developing, disposition, and selling of the products, and the disposition of the proceeds thereof of any such mine by such Indians.

''Metalliferous'' defined—Wherever the term ''metalliferous'' is used in this section it shall be defined and construed by the Secretary of the Interior to include magnesite, gypsum, limestone, and asbestos.

(June 30, 1919, ch. 4, § 26, 41 Stat. 31; Mar. 3, 1921, ch. 119, 41 Stat. 1231; Dec. 16, 1926, ch. 12, 44 Stat. 922; Pub. L. 94–550, § 10, Oct. 18, 1976, 90 Stat. 2536.)

REFERENCES IN TEXT

The mining laws of the United States, referred to in text, are classified generally to Title 30, Mineral Lands and Mining.

CODIFICATION

Act Mar. 3, 1921, defined the term ''metalliferous''.

AMENDMENTS

1976—Pub. L. 94–550 inserted ''or in any declaration, certificate, verification, or statement under penalty of perjury as permitted under section 1746 of title 28'' after ''under oath'' in paragraph authorizing Secretary of the Interior to examine books and accounts of lessees.

1926—Act Dec. 16, 1926, inserted ''and nonmetalliferous minerals, not including oil and gas'' after ''metalliferous minerals'' in first and second paragraphs and reenacted third, fourth, and fifth paragraphs without change.

TRANSFER OF FUNCTIONS

For transfer of functions of other officers, employees, and agencies of Department of the Interior, with cer-

tain exceptions, to Secretary of the Interior, with power to delegate, see Reorg. Plan No. 3 of 1950, §§1,2, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1262, set out in the Appendix to Title 5, Government Organization and Employees.

CROSS REFERENCES

Ute Indians, division of trust funds deposited in Treasury pursuant to this section, see section 672 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 672 of this title.

§ 400. Leases for mining purposes of reserved and unallotted lands in Fort Peck and Blackfeet Indian Reservations

Lands reserved for school and agency purposes and all other unallotted lands on the Fort Peck and Blackfeet Indian Reservations, in the State of Montana, reserved from allotment or other disposition, may be leased for mining purposes under regulations prescribed by the Secretary of the Interior.

(Sept. 20, 1922, ch. 347, 42 Stat. 857.)

§ 400a. Lease for mining purposes of land reserved for agency or school; disposition of proceeds; royalty

The Secretary of the Interior is authorized under such rules and regulations as he may prescribe, to lease at public auction upon not less than thirty days' public notice for mining purposes land on any Indian reservation reserved for Indian agency or school purposes, in accordance with existing law applicable to other lands in such reservation, and the proceeds arising therefrom shall be deposited in the Treasury of the United States to the credit of the Indians for whose benefit the lands are reserved subject to appropriation by Congress for educational work among the Indians or in paying expenses of administration of agencies: *Provided*, That a royalty of at least one-eighth shall be reserved in all leases.

(Apr. 17, 1926, ch. 156, 44 Stat. 300.)

TRANSFER OF FUNCTIONS

For transfer of functions of other officers, employees, and agencies of Department of the Interior, with certain exceptions, to Secretary of the Interior, with power to delegate, see Reorg. Plan No. 3 of 1950, §§1,2, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1262, set out in the Appendix to Title 5, Government Organization and Employees.

§ 401. Leases for mining purposes of unallotted lands in Kaw Reservation

The Secretary of the Interior is authorized to lease for mining purposes lands reserved from allotment to be used as a cemetery and not needed for that purpose, and lands reserved for school and agency purposes in the Kaw Reservation in the State of Oklahoma, and for the use and benefit of the members of the Kansas or Kaw Tribe of Indians, at public auction, upon such terms and conditions and under such rules and regulations as he may prescribe: *Provided*, That the production of oil and gas and other minerals on such lands may be taxed by the State in which said lands are located in all respects the same as production on unrestricted lands, and the Secretary of the Interior is hereby authorized and directed to cause to be paid the tax so assessed against the royalty interests on said lands: *Provided*, *however*, That such tax shall not become a lien or charge of any kind or character against the land or the property of the Indian owner.

(Apr. 28, 1924, ch. 135, 43 Stat. 111.)

§ 402. Leases of surplus lands

The surplus lands of any tribe may be leased for farming purposes by the council of such tribe under the same rules and regulations and for the same term of years as was on August 15, 1894, allowed in the case of leases for grazing purposes.

(Aug. 15, 1894, ch. 290, §1, 28 Stat. 305.)

CROSS REFERENCES

Lease on unallotted irrigable lands for farming purposes, see section 402a of this title.

§ 402a. Lease of unallotted irrigable lands for farming purposes

The unallotted irrigable lands on any Indian reservation may be leased for farming purposes for not to exceed ten years with the consent of the tribal council, business committee, or other authorized body representative of the Indians, under such rules and regulations as the Secretary of the Interior may prescribe.

(July 3, 1926, ch. 787, 44 Stat. 894.)

§ 403. Leases of lands held in trust

Any Indian allotment held under a trust patent may be leased by the allottee for a period not to exceed five years, subject to and in conformity with such rules and regulations as the Secretary of the Interior may prescribe, and the proceeds of any such lease shall be paid to the allottee or his heirs, or expended for his or their benefit, in the discretion of the Secretary of the Interior.

(June 25, 1910, ch. 431, §4, 36 Stat. 856.)

CROSS REFERENCES

Leases of restricted allotments and arid allotted lands, see sections 393, 394 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 353, 406, 564h, 697, 747 of this title; title 43 section 1617.

§ 403a. Lease of lands on Port Madison and Snohomish or Tulalip Indian Reservations in Washington

Notwithstanding any other provision of law, any Indian lands on the Port Madison and Snohomish or Tulalip Indian Reservations in the State of Washington, may be leased by the Indians with the approval of the Secretary of the Interior, and upon such terms and conditions as he may prescribe, for a term not exceeding twenty-five years: *Provided*, *however*, That such leases may provide for renewal for an additional term not exceeding twenty-five years, and the Secretary of the Interior is hereby authorized to prescribe such rules and regulations as may be necessary to carry out the provisions of this section.

(Oct. 9, 1940, ch. 781, 54 Stat. 1057.)

§ 403a–1. Sale or partition by owners of interests in allotted lands in the Tulalip Reservation; termination of Federal title, trust, and restrictions

Any owner of an interest in any tract of land in the Tulalip Reservation, Washington, in which any undivided interest is now or hereafter held in trust by the United States for an Indian, or is now or hereafter owned by an Indian subject to restrictions against alienation or taxation imposed by the United States, may commence in a State court of competent jurisdiction an action for the partition in kind or for the sale of such land in accordance with the laws of the State. For the purpose of any such action the Indian owners shall be regarded as vested with an unrestricted fee simple title to the land, the United States shall not be a necessary party to the proceeding, and any partition or conveyance of the land pursuant to the proceedings shall divest the United States of title to the land, terminate the Federal trust, and terminate all restrictions against alienation or taxation of the land imposed by the United States.

(June 18, 1956, ch. 400, § 1, 70 Stat. 290.)

§ 403a–2. Acquisition, management, and disposal of lands by Tulalip Tribe

(a) Termination of Federal trust and restrictions on alienation

Notwithstanding the provisions of the constitution and charter of the Tulalip Tribes of the Tulalip Reservation, any lands that are held by the United States in trust for the Tulalip Tribes, or that are subject to a restriction against alienation or taxation imposed by the United States, or that are on and after June 18, 1956, acquired by the Tulalip Tribes, may be sold by the Tulalip Tribes, with the consent of the Secretary of the Interior, on such terms and conditions as the Tulalip board of directors may prescribe, and such sale shall terminate the Federal trust or restrictions against alienation or taxation of the land; except that the trust or restricted status of said lands may be retained, upon approval of the Secretary of the Interior, in any sale thereof to any member of the Tulalip Tribes.

(b) Lands in trust

The Secretary of the Interior may accept any transfer of title from the Tulalip Tribes for any land or fractional interest in land within the boundaries of the Tulalip Reservation, and take title to such land in the name of the United States in trust for the Tulalip Tribes, and such lands shall not be subject to taxation.

(c) Mortgages

The Tulalip Tribes may, with the approval of the Secretary of the Interior, execute mortgages or deeds of trust to land, the title to which is held by the Tulalip Tribes or by the United States in trust for the Tulalip Tribes. Such land shall be subject to foreclosure and sale pursuant to the terms of such mortgage or deed of trust in accordance with the laws of the State of Washington. For the purpose of any foreclosure or sale proceeding, the Tulalip Tribes shall be regarded as vested with an unrestricted fee simple title to the land, the United States shall not be a necessary party to the foreclosure or sale proceeding, and any conveyance of the land pursuant to the foreclosure or sale proceeding shall divest the United States of title to the land. Title to any land redeemed or acquired by the Tulalip Tribes at such foreclosure or sale proceeding shall be taken in the name of the United States in trust for the tribes. Title to any land purchased by an individual Indian member of the Tulalip Tribes at such foreclosure sale or proceeding may, with the consent of the Secretary of the Interior, be taken in the name of the United States in trust for the individual Indian purchaser.

(d) Moneys or credits

Any moneys or credits received or credited to the Tulalip Tribes from the sale, exchange, mortgage, or granting of any security interest in any tribal land may be used for any tribal purpose.

(June 18, 1956, ch. 400, § 2, 70 Stat. 290; Pub. L. 91–274, § 1, June 2, 1970, 84 Stat. 301.)

AMENDMENTS

1970—Pub. L. 91–274 designated existing provisions as subsec. (a), substituted the Tulalip Tribes for the Tulalip Board of Directors as the agency authorized to sell tribal lands, provided for the continuance of the trust or restricted status of such lands where the purchaser thereof is any member of the Tulalip Tribes, and struck out proviso that the proceeds from the sale of tribal lands acquired otherwise than by purchase be deposited in the U.S. Treasury to the credit of the Tulalip Tribes, and added subsecs. (b) to (d).

§ 403b. Lease of restricted lands in State of Washington

Notwithstanding any other provisions of law, with the consent in writing of the individual Indian, association of Indians, or Indian tribe concerned, any restricted Indian lands situated within the State of Washington may be leased for religious, educational, recreational, business, or public purposes, including, but not limited to, airports, experimental station, stockyards, warehouses, and grain elevators, for periods not to exceed twenty-five years under such rules and regulations as the Secretary of the Interior may prescribe: *Provided*, That nothing in this section or section 403c of this title shall be deemed to authorize such leases for the exploitation of any natural resources.

(Aug. 9, 1946, ch. 929, § 1, 60 Stat. 962.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 403c of this title.

§ 403c. Identity of lessor; period of lease

Such leases may be made only by the individual Indian owner of the land or by the authorized representatives of the tribe or group of Indians to whom the land belongs, subject to the approval of the Secretary of the Interior or his authorized representative. Restricted allotments of deceased Indians, when the heirs or devisees cannot agree on a lease, may be leased for them

in the manner prescribed by section 380 of this title. No lease shall be made by or on behalf of any tribe for a longer period than is or may be authorized by the tribal constitution, charter, or ordinances. Nothing contained in this section or section 403b of this title shall be construed to repeal any authority to lease restricted lands which any Indian, Indian tribe, or official of the Department of the Interior would have in the absence of such sections.

(Aug. 9, 1946, ch. 929, § 2, 60 Stat. 962.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 403b of this title.

§ 404. Sale on petition of allottee or heirs

The lands, or any part thereof, allotted to any Indian, or any inherited interest therein, which can be sold under existing law by authority of the Secretary of the Interior, except the lands in Oklahoma and the States of Minnesota and South Dakota, may be sold on the petition of the allottee, or his heirs, on such terms and conditions and under such regulations as the Secretary of the Interior may prescribe; and the lands of a minor, or of a person deemed incompetent by the Secretary of the Interior to petition for himself, may be sold in the same manner, on the petition of the natural guardian in the case of infants, and in the case of Indians deemed incompetent as aforesaid, and of orphans without a natural guardian, on petition of a person designated for the purpose by the Secretary of the Interior. When any Indian who has received an allotment of land dies before the expiration of the trust period, the Secretary of the Interior shall ascertain the legal heirs of such Indian, and if satisfied of their ability to manage their own affairs shall cause to be issued in their names a patent in fee simple for said lands; but if he finds them incapable of managing their own affairs, the land may be sold as hereinbefore provided: *Provided*, That the proceeds derived from all sales hereunder shall be used, during the trust period, for the benefit of the allottee, or heir, so disposing of his interest, under the supervision of the Commissioner of Indian Affairs: *And provided further*, That upon the approval of any sale hereunder by the Secretary of the Interior, he shall cause a patent in fee to issue in the name of the purchaser for the lands so sold: *And provided further*, That nothing in this section shall apply to the States of Minnesota and South Dakota.

(May 29, 1908, ch. 216, § 1, 35 Stat. 444.)

TRANSFER OF FUNCTIONS

For transfer of functions of other officers, employees, and agencies of Department of the Interior, with certain exceptions, to Secretary of the Interior, with power to delegate, see Reorg. Plan No. 3 of 1950, §§ 1, 2, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1262, set out in the Appendix to Title 5, Government Organization and Employees.

YAKIMA INDIAN RESERVATION, WASHINGTON

Special provisions for sale of interests of Indian minors in lands of the Yakima Indian reservation, in the State of Washington, whether by direct allotment or by inheritance, were made by act Mar. 27, 1908, ch. 107, 35 Stat. 49.

CROSS REFERENCES

Sale of land of deceased allottee, see section 372 of this title.

§ 405. Sale of allotment of noncompetent Indian

Any noncompetent Indian to whom a patent containing restrictions against alienation has been issued for an allotment of land in severalty, under any law or treaty, or who may have an interest in any allotment by inheritance, may sell or convey all or any part of such allotment or such inherited interest on such terms and conditions and under such rules and regulations as the Secretary of the Interior may prescribe, and the proceeds derived therefrom shall be used for the benefit of the allottee or heir so disposing of his land or interest, under the supervision of the Commissioner of Indian Affairs; and any conveyance made hereunder and approved by the Secretary of the Interior shall convey full title to the land or interest so sold, the same as if fee-simple patent had been issued to the allottee.

(Mar. 1, 1907, ch. 2285, 34 Stat. 1018.)

TRANSFER OF FUNCTIONS

For transfer of functions of other officers, employees, and agencies of Department of the Interior, with certain exceptions, to Secretary of the Interior, with power to delegate, see Reorg. Plan No. 3 of 1950, §§ 1, 2, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1262, set out in the Appendix to Title 5, Government Organization and Employees.

§ 406. Sale of timber on lands held under trust

(a) Deductions for administrative expenses; standards guiding sales

The timber on any Indian land held under a trust or other patent containing restrictions on alienations may be sold by the owner or owners with the consent of the Secretary of the Interior, and the proceeds from such sales, after deductions for administrative expenses to the extent permissible under section 413 of this title, shall be paid to the owner or owners or disposed of for their benefit under regulations to be prescribed by the Secretary of the Interior. It is the intention of Congress that a deduction for administrative expenses may be made in any case unless the deduction would violate a treaty obligation or amount to a taking of private property for public use without just compensation in violation of the fifth amendment to the Constitution. Sales of timber under this subsection shall be based upon a consideration of the needs and best interests of the Indian owner and his heirs. The Secretary shall take into consideration, among other things, (1) the state of growth of the timber and the need for maintaining the productive capacity of the land for the benefit of the owner and his heirs, (2) the highest and best use of the land, including the advisability and practicality of devoting it to other uses for the benefit of the owner and his heirs, and (3) the present and future financial needs of the owner and his heirs.

(b) Undivided interests

Upon the request of the owners of a majority Indian interest in land in which any undivided interest is held under a trust or other patent

containing restrictions on alienations, the Secretary of the Interior is authorized to sell all undivided Indian trust or restricted interests in any part of the timber on such land.

(c) Unrestricted interests

Upon the request of the owner of an undivided but unrestricted interest in land in which there are trust or restricted Indian interests, the Secretary of the Interior is authorized to include such unrestricted interest in a sale of the trust or restricted Indian interests in timber sold pursuant to this section, and to perform any functions required of him by the contract of sale for both the restricted and the unrestricted interests, including the collection and disbursement of payments for timber and the deduction from such payments of sums in lieu of administrative expenses.

(d) Representation of minors and others

For the purposes of this Act, the Secretary of the Interior is authorized to represent any Indian owner (1) who is a minor, (2) who has been adjudicated non compos mentis, (3) whose ownership interest in a decedent's estate has not been determined, or (4) who cannot be located by the Secretary after a reasonable and diligent search and the giving of notice by publication.

(e) Emergency sales

The timber on any Indian land held under a trust or other patent containing restrictions on alienations may be sold by the Secretary of the Interior without the consent of the owners when in his judgment such action is necessary to prevent loss of values resulting from fire, insects, disease, windthrow, or other natural catastrophes.

(f) Change in status without affecting contractual obligations

A change from a trust or restricted status to an unrestricted status of any interest in timber that has been sold pursuant to this section shall not affect the obligations of the Secretary of the Interior under any contract of sale that is in effect at the time such change in status occurs.

(June 25, 1910, ch. 431, § 8, 36 Stat. 857; Pub. L. 88–301, Apr. 30, 1964, 78 Stat. 187.)

REFERENCES IN TEXT

This Act, referred to in subsec. (d), is act June 25, 1910, ch. 431, 36 Stat. 855, as amended, which enacted sections 47, 93, 151, 202, 337, 344a, 351, 352, 353, 372, 403, 406, 407, and 408 of this title, sections 6a–1 and 16a of Title 41, Public Contracts, and section 148 of Title 43, Public Lands, and amended sections 191, 312, 331, 333, and 336 of this title and sections 104 and 107 of former Title 18, Criminal Code and Criminal Procedure. Sections 104 and 107 of former Title 18 were repealed and reenacted as sections 1853 and 1856 of Title 18, Crimes and Criminal Procedure, by act June 25, 1948, ch. 645, 62 Stat. 683. For complete classification of this Act to the Code, see Tables.

AMENDMENTS

1964—Pub. L. 88–301 designated existing provisions as subsec. (a), substituted ''land'' for ''allotment'', ''owner or owners'' for ''allottee'' in two places, and ''their benefit'' for ''his benefit'', and provided for deductions for administrative expenses from proceeds of sales without violation of treaty obligations or Constitutional compensation provision, for consideration of needs and best interests of owners and heirs, and for standards guiding sales, and added subsecs. (b) to (f).

CROSS REFERENCES

Klamath Tribe timber sales, see section 564x of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 353, 564h, 697, 747 of this title; title 43 section 1617.

§ 407. Sale of timber on unallotted lands

Under regulations prescribed by the Secretary of the Interior, the timber on unallotted trust land in Indian reservations or on other land held in trust for tribes may be sold in accordance with the principles of sustained-yield management or to convert the land to a more desirable use. After deduction, if any, for administrative expenses under section 413 of this title, the proceeds of the sale shall be used—

(1) as determined by the governing bodies of the tribes concerned and approved by the Secretary, or

(2) in the absence of such a governing body, as determined by the Secretary for the tribe concerned.

(June 25, 1910, ch. 431, § 7, 36 Stat. 857; Pub. L. 88–301, Apr. 30, 1964, 78 Stat. 186; Pub. L. 100–580, § 13, Oct. 31, 1988, 102 Stat. 2936.)

AMENDMENTS

1988—Pub. L. 100–580 amended section generally. Prior to amendment, section read as follows: ''The timber on unallotted lands of any Indian reservation may be sold in accordance with the principles of sustained yield, or in order to convert the land to a more desirable use, under regulations to be prescribed by the Secretary of the Interior, and the proceeds from such sales, after deductions for administrative expenses pursuant to section 413 of this title, shall be used for the benefit of the Indians who are members of the tribe or tribes concerned in such manner as he may direct.''

1964—Pub. L. 88–301 substituted ''timber'' for ''mature living and dead and down timber'', provided for sale of timber in accordance with principles of sustained yield or in order to convert the land to a more desirable use, provided for deductions for administrative expenses from proceeds of sales, made the Indians who were tribal members the beneficiaries instead of the Indians of the reservation, and struck out proviso which made section inapplicable to Minnesota and Wisconsin.

CROSS REFERENCES

Klamath Tribe timber sales, see section 564x of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 353, 564h, 697, 747, 1724 of this title; title 43 section 1617.

§§ 407a to 407c. Omitted

CODIFICATION

Section 407a, acts Mar. 4, 1933, ch. 275, § 1, 47 Stat. 1568; June 16, 1933, ch. 104, 48 Stat. 311; Mar. 5, 1934, ch. 46, 48 Stat. 397; May 6, 1936, ch. 340, 49 Stat. 1266, which related to modification of existing contracts for sale of tribal timber, was omitted on authority of act May 6, 1936, which provided that authority to modify existing contracts for sale of tribal timber expire on Sept. 4, 1936.

Section 407b, act Mar. 4, 1933, ch. 275, § 2, 47 Stat. 1569, which related to modification of contracts for sale of timber to individual allottee, was omitted in view of the expiration of section 407a of this title.

Section 407c, act Mar. 4, 1933, ch. 275, § 3, 47 Stat. 1569, which related to preference to indian labor in modified contracts, was omitted in view of the expiration of section 407a of this title.

§ 407d. Charges for special services to purchasers of timber

The Secretary of the Interior is authorized to charge purchasers of timber on Indian lands that are held by the United States in trust, or that are subject to restrictions against alienation or encumbrance imposed by the United States, for special services requested by the purchasers in connection with scaling, timber marking, or other activities under the contract of purchase that are in addition to the services otherwise provided by the Secretary, and the proceeds derived therefrom shall be deposited to the credit of the appropriation from which the special services were or will be provided.

(July 30, 1956, ch. 781, 70 Stat. 721.)

§ 408. Surrender of allotments by relinquishment for benefit of children

In any case where an Indian has an allotment of land, or any right, title, or interest in such an allotment, the Secretary of the Interior, in his discretion, may permit such Indian to surrender such allotment, or any right, title, or interest therein, by such formal relinquishment as may be prescribed by the Secretary of the Interior, for the benefit of any of his or her children to whom no allotment of land shall have been made; and thereupon the Secretary of the Interior shall cause the estate so relinquished to be allotted to such child or children subject to all conditions which attached to it before such relinquishment.

(June 25, 1910, ch. 431, § 3, 36 Stat. 856.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 353, 406, 564h, 697, 747 of this title; title 43 section 1617.

§ 409. Sale of lands within reclamation projects

Any Indian allotted lands under any law or treaty without the power of alienation, and within a reclamation project approved by the Secretary of the Interior, may sell and convey any part thereof, under rules and regulations prescribed by the Secretary of the Interior, but such conveyance shall be subject to his approval, and when so approved shall convey full title to the purchaser the same as if final patent without restrictions had been issued to the allottee: *Provided*, That the consideration shall be placed in the Treasury of the United States, and used by the Commissioner of Indian Affairs to pay the construction charges that may be assessed against the unsold part of the allotment, and to pay the maintenance charges thereon during the trust period, and any surplus shall be a benefit running with the water right to be paid to the holder thereof.

(June 21, 1906, ch. 3504, 34 Stat. 327.)

TRANSFER OF FUNCTIONS

For transfer of functions of other officers, employees, and agencies of Department of the Interior, with certain exceptions, to Secretary of the Interior, with power to delegate, see Reorg. Plan No. 3 of 1950, §§ 1, 2, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1262, set out in the Appendix to Title 5, Government Organization and Employees.

CROSS REFERENCES

Fort Peck Project, acquisition of lands for, see sections 833*l* to 833p of Title 16, Conservation.

§ 409a. Sale of restricted lands; reinvestment in other restricted lands

Whenever any nontaxable land of a restricted Indian of the Five Civilized Tribes or of any other Indian tribe is sold to any State, county, or municipality for public-improvement purposes, or is acquired, under existing law, by any State, county, or municipality by condemnation or other proceedings for such public purposes, or is sold under existing law to any other person or corporation for other purposes, the money received for said land may, in the discretion and with the approval of the Secretary of the Interior, be reinvested in other lands selected by said Indian, and such land so selected and purchased shall be restricted as to alienation, lease, or incumbrance, and nontaxable in the same quantity and upon the same terms and conditions as the nontaxable lands from which the reinvested funds were derived, and such restrictions shall appear in the conveyance.

(Mar. 2, 1931, ch. 374, 46 Stat. 1471; June 30, 1932, ch. 333, 47 Stat. 474.)

AMENDMENTS

1932—Act June 30, 1932, made section applicable to lands of any restricted Indian of any other Indian tribe, and provided for sale of lands to any State and acquisition by any State instead of only to and by the State of Oklahoma.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 955 of this title.

§ 410. Moneys from lease or sale of trust lands not liable for certain debts

No money accruing from any lease or sale of lands held in trust by the United States for any Indian shall become liable for the payment of any debt of, or claim against, such Indian contracted or arising during such trust period, or, in case of a minor, during his minority, except with the approval and consent of the Secretary of the Interior.

(June 21, 1906, ch. 3504, 34 Stat. 327.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 955 of this title.

§ 411. Interest on moneys from proceeds of sale

The shares of money due minor Indians as their proportion of the proceeds from the sale of ceded or tribal Indian lands, whenever such shares have been withheld from their parents, legal guardians, or others, and retained in the United States Treasury by direction of the Secretary of the Interior, shall draw interest at the rate of 3 per centum per annum, unless otherwise provided for, from the period when such proceeds have been or shall be distributed per capita among the members of the tribe of which such minor is a member; and the Secretary of

the Treasury is authorized and directed to allow interest on such unpaid amounts belonging to said minors as shall be certified by the Secretary of the Interior as entitled to draw interest under this section.

(June 21, 1906, ch. 3504, 34 Stat. 327.)

§ 412. Payment of taxes from share of allottee in tribal funds

In any case where the restrictions as to alienation have been removed with respect to any Indian allottee, or as to any portion of the lands of any Indian allottee, and such allottee as an individual, or as a member of any tribe, has an interest in any fund held by the United States beyond the amount by law chargeable to such Indian or tribe on account of advances, the Commissioner of Indian Affairs is authorized, prior to the date at which any penalties for the nonpayment of taxes would accrue under the laws of the State or Territory in which such land is situated, to pay such taxes and charge the amount thereof to such allottee, to be deducted from the share of such allottee in the final distribution or payment to him from such fund: *Provided*, That no such payment shall be made by said Commissioner where it is in excess of the amount which will ultimately be due said allottee.

(Mar. 1, 1907, ch. 2285, 34 Stat. 1016.)

TRANSFER OF FUNCTIONS

For transfer of functions of other officers, employees, and agencies of Department of the Interior, with certain exceptions, to Secretary of the Interior, with power to delegate, see Reorg. Plan No. 3 of 1950, §§ 1, 2, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1262, set out in the Appendix to Title 5, Government Organization and Employees.

§ 412a. Exemption from taxation of lands subject to restrictions against alienation; determination of homestead

All homesteads, heretofore purchased out of the trust or restricted funds of individual Indians, are hereby declared to be instrumentalities of the Federal Government and shall be nontaxable until otherwise directed by Congress: *Provided*, That the title to such homesteads shall be held subject to restrictions against alienation or encumbrance except with the approval of the Secretary of the Interior: *And provided further*, That the Indian owner or owners shall select, with the approval of the Secretary of the Interior, either the agricultural and grazing lands, not exceeding a total of one hundred and sixty acres, or the village, town, or city property, not exceeding in cost $5,000, to be designated as a homestead.

(June 20, 1936, ch. 622, § 2, 49 Stat. 1542; May 19, 1937, ch. 227, 50 Stat. 188.)

AMENDMENTS

1937—Act May 19, 1937, substituted "All homesteads" and "individual Indians" for "All lands the title to which is now held by an Indian subject to restrictions against alienation or encumbrance except with the consent or approval of the Secretary of the Interior" and "said Indian", respectively, and inserted two provisos.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 465a of this title.

§ 413. Fees to cover cost of work performed for Indians

The Secretary of the Interior is hereby authorized, in his discretion, and under such rules and regulations as he may prescribe, to collect reasonable fees to cover the cost of any and all work performed for Indian tribes or for individual Indians, to be paid by vendees, lessees, or assignees, or deducted from the proceeds of sale, leases, or other sources of revenue: *Provided*, That the amounts so collected shall be covered into the Treasury as miscellaneous receipts, except when the expenses of the work are paid from Indian tribal funds, in which event they shall be credited to such funds.

(Feb. 14, 1920, ch. 75, § 1, 41 Stat. 415; Mar. 1, 1933, ch. 158, 47 Stat. 1417.)

AMENDMENTS

1933—Act Mar. 1, 1933, substituted "to collect reasonable fees to cover the cost of any and all work performed for Indian tribes or individual Indians" for "to charge a reasonable fee for the work incident to the sale, leasing, or assigning of such lands, or in the sale of the timber, or in the administration of Indian forests" and "deducted from the proceeds of sale, leases, or other sources of revenue" for "from the proceeds of sales", struck out introductory text "In the sale of all Indian allotments, or in leases, or assignment of leases covering, tribal or allotted lands for mineral, farming, grazing, business or other purposes, or in the sale of timber thereon" and provided for the use of discretion and the crediting of Indian tribal funds.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 406, 407, 3105 of this title.

§ 414. Reservation of minerals in sale of Choctaw-Chickasaw lands

On and after August 25, 1937, in all sales of tribal lands of the Choctaw and Chickasaw Indians in Oklahoma provided for by existing law, the Secretary of the Interior is hereby authorized to offer such lands for sale subject to a reservation of the mineral rights therein, including oil and gas, for the benefit of said Indians, whenever in his judgment the interests of the Indians will best be served thereby.

(Aug. 25, 1937, ch. 778, 50 Stat. 810.)

§ 415. Leases of restricted lands

(a) Authorized purposes; term; approval by Secretary

Any restricted Indian lands, whether tribally, or individually owned, may be leased by the Indian owners, with the approval of the Secretary of the Interior, for public, religious, educational, recreational, residential, or business purposes, including the development or utilization of natural resources in connection with operations under such leases, for grazing purposes, and for those farming purposes which require the making of a substantial investment in the improvement of the land for the production of specialized crops as determined by said Secretary. All leases so granted shall be for a term of not to exceed twenty-five years, except leases of land located outside the boundaries of Indian reservations in the State of New Mexico, leases of land

on the Agua Caliente (Palm Springs) Reservation, the Dania Reservation, the Pueblo of Santa Ana (with the exception of the lands known as the ''Santa Ana Pueblo Spanish Grant'')[1] the Moapa Indian reservation, the Swinomish Indian Reservation, the Southern Ute Reservation, the Fort Mojave Reservation, the Burns Paiute Reservation, the Coeur d'Alene Indian Reservation, the Kalispel Indian Reservation, the pueblo of Cochiti, the pueblo of Pojoaque, the pueblo of Tesuque, the pueblo of Zuni, the Hualapai Reservation, the Spokane Reservation, the San Carlos Apache Reservation, Yavapai-Prescott[2] Community Reservation, the Pyramid Lake Reservation, the Gila River Reservation, the Soboba Indian Reservation, the Viejas Indian Reservation, the Tulalip Indian Reservation, the Navajo Reservation, the Mille Lacs Indian Reservation with respect to a lease between an entity established by the Mille Lacs Band of Chippewa Indians and the Minnesota Historical Society, leases of the lands comprising the Moses Allotment Numbered 10, Chelan County, Washington,,[3] and lands held in trust for the Las Vegas Paiute Tribe of Indians, and lands held in trust for the Twenty-nine Palms Band of Luiseno Mission Indians, and lands held in trust for the Reno Sparks Indian Colony,,,[3] lands held in trust for the Cherokee Nation of Oklahoma, lands held in trust for the Pueblo of Santa Clara, lands held in trust for the Confederated Tribes of the Colville Reservation, lands held in trust for the Cahuilla Band of Indians of California, and the lands held in trust for the Confederated Salish and Kootenai Tribes of the Flathead Reservation, Montana, and leases to the Devils Lake Sioux Tribe, or any organization of such tribe, of land on the Devils Lake Sioux Reservation, which may be for a term of not to exceed ninety-nine years, and except leases of land for grazing purposes which may be for a term of not to exceed ten years. Leases for public, religious, educational, recreational, residential, or business purposes (except leases the initial term of which extends for more than seventy-four years) with the consent of both parties may include provisions authorizing their renewal for one additional term of not to exceed twenty-five years, and all leases and renewals shall be made under such terms and regulations as may be prescribed by the Secretary of the Interior. Prior to approval of any lease or extension of an existing lease pursuant to this section, the Secretary of the Interior shall first satisfy himself that adequate consideration has been given to the relationship between the use of the leased lands and the use of neighboring lands; the height, quality, and safety of any structures or other facilities to be constructed on such lands; the availability of police and fire protection and other services; the availability of judicial forums for all criminal and civil causes arising on the leased lands; and the effect on the environment of the uses to which the leased lands will be subject.

[1] So in original. Probably should be followed by a comma.

[2] So in original. Probably should be preceded by ''the''.

[3] So in original.

(b) Leases involving Tulalip Tribes

Any lease by the Tulalip Tribes under subsection (a) of this section, except a lease for the exploitation of any natural resource, shall not require the approval of the Secretary of the Interior (1) if the term of the lease does not exceed fifteen years, with no option to renew, (2) if the term of the lease does not exceed thirty years, with no option to renew, and the lease is executed pursuant to tribal regulations previously approved by the Secretary of the Interior, or (3) if the term does not exceed seventy-five years (including options to renew), and the lease is executed under tribal regulations approved by the Secretary under this clause (3).

(c) Leases involving Hopi Tribe and Hopi Partitioned Lands Accommodation Agreement

Notwithstanding subsection (a) of this section, a lease of land by the Hopi Tribe to Navajo Indians on the Hopi Partitioned Lands may be for a term of 75 years, and may be extended at the conclusion of the term of the lease.

(d) Definitions

For purposes of this section—

(1) the term ''Hopi Partitioned Lands'' means lands located in the Hopi Partitioned Area, as defined in section 168.1(g) of title 25, Code of Federal Regulations (as in effect on October 11, 1996); and

(2) the term ''Navajo Indians'' means members of the Navajo Tribe.

(Aug. 9, 1955, ch. 615, §1, 69 Stat. 539; Pub. L. 86–326, Sept. 21, 1959, 73 Stat. 597; Pub. L. 86–505, §2, June 11, 1960, 74 Stat. 199; Pub. L. 87–375, Oct. 4, 1961, 75 Stat. 804; Pub. L. 87–785, Oct. 10, 1962, 76 Stat. 805; Pub. L. 88–167, Nov. 4, 1963, 77 Stat. 301; Pub. L. 89–408, Apr. 27, 1966, 80 Stat. 132; Pub. L. 90–182, Dec. 8, 1967, 81 Stat. 559; Pub. L. 90–184, Dec. 10, 1967, 81 Stat. 560; Pub. L. 90–335, §1(f), June 10, 1968, 82 Stat. 175; Pub. L. 90–355, June 20, 1968, 82 Stat. 242; Pub. L. 90–534, §6, Sept. 28, 1968, 82 Stat. 884; Pub. L. 90–570, Oct. 12, 1968, 82 Stat. 1003; Pub. L. 91–274, §§2, 3, June 2, 1970, 84 Stat. 302; Pub. L. 91–275, §§1, 2, June 2, 1970, 84 Stat. 303; Pub. L. 91–557, §8, Dec. 17, 1970, 84 Stat. 1468; Pub. L. 92–182, §6, Dec. 15, 1971, 85 Stat. 626; Pub. L. 92–431, Sept. 26, 1972, 86 Stat. 723; Pub. L. 92–472, §7, Oct. 9, 1972, 86 Stat. 788; Pub. L. 92–488, §4, Oct. 13, 1972, 86 Stat. 806; Pub. L. 96–216, Mar. 27, 1980, 94 Stat. 125; Pub. L. 96–491, §3, Dec. 2, 1980, 94 Stat. 2564; Pub. L. 97–459, title I, §107, Jan. 12, 1983, 96 Stat. 2516; Pub. L. 98–70, Aug. 8, 1983, 97 Stat. 401; Pub. L. 98–203, §1(c), Dec. 2, 1983, 97 Stat. 1384; Pub. L. 99–221, §2, Dec. 26, 1985, 99 Stat. 1735; Pub. L. 99–389, §3(a), Aug. 23, 1986, 100 Stat. 829; Pub. L. 99–500, §101(h) [title I, §122], Oct. 18, 1986, 100 Stat. 1783–242, 1783–267, and Pub. L. 99–591, §101(h) [title I, §122], Oct. 30, 1986, 100 Stat. 3341–242, 3341–267; Pub. L. 99–575, §5, Oct. 28, 1986, 100 Stat. 3246; Pub. L. 101–630, title II, §201, Nov. 28, 1990, 104 Stat. 4532; Pub. L. 102–497, §5, Oct. 24, 1992, 106 Stat. 3255; Pub. L. 103–435, §5, Nov. 2, 1994, 108 Stat. 4569; Pub. L. 104–301, §9, Oct. 11, 1996, 110 Stat. 3652.)

CODIFICATION

Pub. L. 99–591 is a corrected version of Pub. L. 99–500.

AMENDMENTS

1996—Subsecs. (c), (d). Pub. L. 104–301 added subsecs. (c) and (d).

1994—Subsec. (a). Pub. L. 103–435 inserted ''the Viejas Indian Reservation,'' after ''Soboba Indian Reservation,'' in second sentence.

1992—Subsec. (a). Pub. L. 102–497, in second sentence, inserted ''lands held in trust for the Pueblo of Santa Clara, lands held in trust for the Confederated Tribes of the Colville Reservation, lands held in trust for the Cahuilla Band of Indians of California,'' after ''Oklahoma,''.

1990—Subsec. (a). Pub. L. 101–630 inserted ''the Mille Lacs Indian Reservation with respect to a lease between an entity established by the Mille Lacs Band of Chippewa Indians and the Minnesota Historical Society,'' after ''the Navajo Reservation,''.

1986—Subsec. (a). Pub. L. 99–575 inserted ''the Pueblo of Santa Ana (with the exception of the lands known as the 'Santa Ana Pueblo Spanish Grant')'' after ''the Dania Reservation,''.

Pub. L. 99–389 inserted '', and lands held in trust for the Reno Sparks Indian Colony,''.

Subsec. (b). Pub. L. 99–500 and Pub. L. 99–591 added cl. (3).

1985—Pub. L. 99–221 inserted '', lands held in trust for the Cherokee Nation of Oklahoma,''.

1983—Subsec. (a). Pub. L. 98–203 inserted '', and lands held in trust for the Las Vegas Paiute Tribe of Indians,''.

Pub. L. 98–70 inserted '', and lands held in trust for the Twenty-nine Palms Band of Luiseno Mission Indians, and the lands held in trust for the Confederated Salish and Kootenai Tribes of the Flathead Reservation, Montana''.

Pub. L. 97–459 struck out ''and'' before ''leases of land on the Agua Caliente'' and authorized ninety-nine year leases of land on the Devils Lake Sioux Reservation to the Devils Lake Sioux Tribe or any organization of such tribe.

1980—Subsec. (a). Pub. L. 96–491 inserted ''the Moapa Indian reservation''.

Pub. L. 96–216 inserted provisions relating to lands comprising the Moses Allotment Numbered 10, Chelan County, Washington.

1972—Subsec. (a). Pub. L. 92–488 inserted ''the Burns Paiute Reservation,'' after ''the Fort Mojave Reservation,''.

Pub. L. 92–472 inserted ''the Coeur d'Alene Indian Reservation,'' after ''the Fort Mojave Reservation,''.

Pub. L. 92–431 inserted provision excepting leases of land located outside the boundaries of Indian reservations in State of New Mexico from the twenty-five year time limit.

1971—Subsec. (a). Pub. L. 92–182 inserted ''the Kalispel Indian Reservation'' after ''the Fort Mojave Reservation''.

1970—Subsec. (a). Pub. L. 91–557 inserted ''the Soboba Indian Reservation,'' after ''Gila River Reservation,''.

Pub. L. 91–275 inserted ''Yavapai-Prescott Community Reservation,'' after ''San Carlos Apache Reservation,'' and inserted list of factors that the Secretary must consider before approving a lease or an extension of an existing lease.

Pub. L. 91–274, §§2, 3, designated existing provisions as subsec. (a) and inserted ''the Tulalip Indian Reservation,'' after ''the Gila River Reservation,''.

Subsec. (b). Pub. L. 91–274, §3, added subsec. (b).

1968—Pub. L. 90–570 inserted ''the pueblo of Cochiti, the pueblo of Pojoaque, the pueblo of Tesuque, the pueblo of Zuni,'' after ''Fort Mojava Reservation,''.

Pub. L. 90–534 inserted ''the Swinomish Indian Reservation,'' after ''Dania Reservation,''.

Pub. L. 90–355 inserted ''the Hualapai Reservation,'' after ''Fort Mojave Reservation,''.

Pub. L. 90–335 inserted ''the Spokane Reservation,'' after ''the Fort Mojave Reservation''.

1967—Pub. L. 90–184 inserted ''the San Carlos Apache Reservation'' after ''Fort Mojave Reservation''.

Pub. L. 90–182 inserted ''the Gila Reservation,'' after ''Pyramid Lake Reservation''.

1966—Pub. L. 89–408 inserted ''the Pyramid Lake Reservation'' after ''Fort Mojave Reservation,''.

1963—Pub. L. 88–167 inserted ''the Fort Mojave Reservation,'' after ''Southern Ute Reservation''.

1962—Pub. L. 87–785 authorized leases for not more than 99 years of lands on Southern Ute Reservation.

1961—Pub. L. 87–375 authorized longer term leases of Indian lands on Dania Reservation and excepted from renewal leases the initial term of which extends for more than 74 years.

1960—Pub. L. 86–505 authorized leases for not more than 99 years of lands on Navajo Reservation.

1959—Pub. L. 86–326 substituted ''except leases of land on the Agua Caliente (Palm Springs) Reservation which may be for a term of not to exceed ninety-nine years, and except leases of land for grazing purposes which may'' for ''excepting leases for grazing purposes, which shall'', in second sentence.

EFFECTIVE DATE OF 1986 AMENDMENT

Section 6(a) of Pub. L. 99–575 provided in part that the amendment made by Pub. L. 99–575 is effective Oct. 28, 1986.

SHORT TITLE OF 1985 AMENDMENT

Section 1 of Pub. L. 99–221 provided that: ''This Act [amending this section, section 450i of this title, section 3121 of Title 26, Internal Revenue Code, and section 410 of Title 42, The Public Health and Welfare, and enacting a provision set out as a note under section 410 of Title 42] may be cited as the 'Cherokee Leasing Act'.''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 415a, 415b, 415c, 415d, 416a, 941j, 1724, 1771e of this title.

§ 415a. Lease of lands of deceased Indians for benefit of heirs or devisees

Restricted lands of deceased Indians may be leased under sections 415 to 415d of this title, for the benefit of their heirs or devisees, in the circumstances and by the persons prescribed in section 380 of this title: *Provided*, That if the authority of the Secretary under this section is delegated to any subordinate official, then any heir or devisee shall have the right to appeal the action of any such official to the Secretary under such rules and regulations as he may prescribe.

(Aug. 9, 1955, ch. 615, §2, 69 Stat. 539.)

§ 415b. Advance payment of rent or other consideration

No rent or other consideration for the use of land leased under sections 415 to 415d of this title shall be paid or collected more than one year in advance, unless so provided in the lease.

(Aug. 9, 1955, ch. 615, §4, 69 Stat. 540.)

§ 415c. Approval of leases

The Secretary of the Interior shall approve no lease pursuant to sections 415 to 415d of this title that contains any provision that will prevent or delay a termination of Federal trust responsibilities with respect to the land during the term of the lease.

(Aug. 9, 1955, ch. 615, §5, 69 Stat. 540.)

§ 415d. Lease of restricted lands under other laws unaffected

Nothing contained in sections 415 to 415d of this title shall be construed to repeal any authority to lease restricted Indian lands con-

ferred by or pursuant to any other provision of law.

(Aug. 9, 1955, ch. 615, § 6, 69 Stat. 540.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 415a, 415b, 415c, 416a, 1724, 1771e of this title.

§ 416. Leases of trust or restricted lands on San Xavier and Salt River Pima-Maricopa Indian Reservations for public, religious, educational, recreational, residential, business, farming or grazing purposes

Any trust or restricted Indian lands, whether tribally or individually owned, located on the San Xavier Indian Reservation and the Salt River Pima-Maricopa Indian Reservation, in the State of Arizona, may be leased by the Indian owners, with the approval of the Secretary of the Interior, for public, religious, educational, recreational, residential, business, farming or grazing purposes, including the development or utilization of natural resources in connection with operations under such leases, but no lease shall be executed under sections 416 to 416j of this title for purposes that are subject to the laws governing mining leases on Indian lands. The term of a grazing lease shall not exceed ten years, the term of a farming lease that does not require the making of a substantial investment in the improvement of the land shall not exceed ten years, and the term of a farming lease that requires the making of a substantial investment in the improvement of the land shall not exceed forty years. The term of any other lease shall not exceed ninety-nine years. No lease shall contain an option to renew which, if exercised, will extend the total term beyond the maximum term permitted by sections 416 to 416j of this title. The Secretary of the Interior shall not approve any lease with a term that is longer than is necessary in his judgment to obtain maximum economic benefits for the Indian owners.

(Pub. L. 89–715, § 1, Nov. 2, 1966, 80 Stat. 1112.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 416a, 416b, 416c, 416d, 416e, 416h, 416i, 416j of this title.

§ 416a. Lease provisions

(a) Covenant not to cause waste, etc.

Every lease entered into under section 416 of this title shall contain a covenant on the part of the lessee that he will not commit or permit on the leased land any act which causes waste or a nuisance or which creates a hazard to health of persons or to property, wherever such persons or property may be.

(b) Judicial enforcement

The State of Arizona, or any political subdivision thereof contiguous with the San Xavier or Salt River Pima-Maricopa Indian Reservation, may bring suit, without regard to the amount in controversy, in the United States District Court for the District of Arizona to abate or enjoin any violation of the covenant required under subsection (a) of this section: *Provided*, That if, by reason of the citizenship of the parties and the law applicable to the cause of action, the District Court finds it lacks jurisdiction to hear and determine such suit, it may be brought in any court of competent jurisdiction of the State of Arizona.

(c) Binding arbitration of disputes

Any lease entered into under sections 416 to 416j or 415 to 415d of this title or any contract entered into under section 81 of this title, affecting land within the Salt River Pima-Maricopa Indian Reservation may contain a provision for the binding arbitration of disputes arising out of such lease or contract. Such leases or contracts entered into pursuant to such sections shall be considered within the meaning of ''commerce'' as defined and subject to the provisions of section 1 of title 9. Any refusal to submit to arbitration pursuant to a binding agreement for arbitration or the exercise of any right conferred by title 9 to abide by the outcome of arbitration pursuant to the provisions of chapter 1 of title 9, sections 1 through 14, shall be deemed to be a civil action arising under the Constitution, laws or treaties of the United States within the meaning of section 1331 of title 28.

(Pub. L. 89–715, § 2, Nov. 2, 1966, 80 Stat. 1112; Pub. L. 98–163, Nov. 22, 1983, 97 Stat. 1016.)

AMENDMENTS

1983—Subsec. (c). Pub. L. 98–163 added subsec. (c).

§ 416b. Development pursuant to lease

(a) Notice requirements prior to approval of lease

The Secretary of the Interior shall, before he approves any lease under sections 416 to 416j of this title for public, religious, educational, recreational, business, or residential purposes and if he determines that such lease will substantially affect the governmental interests of a municipality described hereunder, notify the appropriate authorities of any municipality contiguous to the San Xavier or Salt River Pima-Maricopa Reservation, as the case may be, of the pendency of the proposed lease and, in his discretion, furnish them with an outline of the major provisions of the lease which affect such governmental interests and shall consider any comments on the terms of the lease affecting the municipality, or on the absence of such terms from the lease, that such authorities may offer within such reasonable period, but not more than thirty days, as the Secretary may prescribe in his notice to them.

(b) Development by non-Indian lessees

It is the intent of the Congress that the terms under which lands located on the San Xavier and Salt River Pima-Maricopa Reservations are developed by non-Indian lessees shall, to the extent reasonably possible, be similar to those applicable under State or local law to the development of non-Indian lands in the municipalities contiguous thereto.

(Pub. L. 89–715, § 3, Nov. 2, 1966, 80 Stat. 1112.)

§ 416c. Lease of lands of deceased Indians for benefit of heirs or devisees

Trust or restricted lands of deceased Indians located on the San Xavier and Salt River Pima-

Maricopa Reservations may be leased under sections 416 to 416j of this title, for the benefit of their heirs or devisees, in the circumstances and by the persons prescribed in section 380 of this title: *Provided*, That if the authority of the Secretary under this section is delegated to a subordinate official, then any heir or devisee shall have the right to appeal the action of any such official to the Secretary under such rules and regulations as he may prescribe.

(Pub. L. 89–715, § 4, Nov. 2, 1966, 80 Stat. 1113.)

§ 416d. Advance payment of rent or other consideration

No rent or other consideration for the use of land leased under sections 416 to 416j of this title shall be paid or collected more than one year in advance, unless so provided in the lease.

(Pub. L. 89–715, § 5, Nov. 2, 1966, 80 Stat. 1113.)

§ 416e. Approval of leases

The Secretary of the Interior shall approve no lease pursuant to sections 416 to 416j of this title that contains any provision that will prevent or delay a termination of Federal trust responsibilities with respect to the land during the term of the lease.

(Pub. L. 89–715, § 6, Nov. 2, 1966, 80 Stat. 1113.)

§ 416f. Dedication of land for public purposes

Individual or tribal owners of trust or restricted Indian land on the San Xavier and Salt River Pima-Maricopa Reservations may, with the approval of the Secretary, dedicate land to the public for streets, alleys, or other public purposes under those laws of the State of Arizona that are applicable to the dedication of land for public purposes.

(Pub. L. 89–715, § 7, Nov. 2, 1966, 80 Stat. 1113.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 416i of this title.

§ 416g. Contract for water, sewerage, law enforcement, or other public services

The Papago Council and the Salt River Pima-Maricopa Community Council, with the approval of the Secretary of the Interior, may contract with the State of Arizona or its political subdivisions for the furnishing of water, sewerage, law enforcement, or other public services on terms and conditions deemed advantageous to the tribe and individual Indian landowners.

(Pub. L. 89–715, § 8, Nov. 2, 1966, 80 Stat. 1113.)

§ 416h. Zoning, building, and sanitary regulations

The Papago Council and the Salt River Pima-Maricopa Community Council, with the consent of the Secretary of the Interior, are hereby authorized, for their respective reservations, to enact zoning, building, and sanitary regulations covering the lands on their reservations for which leasing authority is granted by sections 416 to 416j of this title in the absence of State civil and criminal jurisdiction over such particular lands, and said councils may contract with local municipalities for assistance in preparing such regulations.

(Pub. L. 89–715, § 9, Nov. 2, 1966, 80 Stat. 1113.)

§ 416i. Restrictions

Nothing contained in sections 416 to 416j of this title shall—

(a) authorize the alienation, encumbrance, or taxation of any interest in real or personal property, including water rights, held in trust by the United States or held by an individual Indian, the Papago Tribe or the Salt River Pima-Maricopa Community subject to a restriction against alienation imposed by the United States, or any income therefrom: *Provided*, That the foregoing shall not affect the power to lease as provided in section 416 of this title or the power to dedicate as provided in section 416f of this title and shall not affect or abridge any right of the State of Arizona or its political subdivisions to tax non-Indian leasehold and possessory interests, buildings, improvements and personal property located on the San Xavier and Salt River Pima-Maricopa Reservations and not owned by Papago or Pima-Maricopa Indians residing thereon;

(b) confer jurisdiction on the State of Arizona to adjudicate in probate proceedings or otherwise the ownership or right to possession of trust or restricted property or any interests therein;

(c) alter or abridge in any way the authority of public school districts to include areas within the San Xavier and Salt River Pima-Maricopa Reservation;

(d) be construed to repeal any authority to lease or mortgage trust or restricted Indian lands conferred by or pursuant to any other provision of law.

(Pub. L. 89–715, § 10, Nov. 2, 1966, 80 Stat. 1113.)

§ 416j. Mission San Xavier del Bac

Nothing in sections 416 to 416j of this title shall authorize the Secretary to approve any development which would detract from the scenic, historic, and religious values of the Mission San Xavier del Bac owned by the Franciscan Order of Friars Minor and located on the San Xavier Reservation.

(Pub. L. 89–715, § 11, Nov. 2, 1966, 80 Stat. 1114.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 416, 416a, 416b, 416c, 416d, 416e, 416h, 416i of this title.

CHAPTER 13—CEDED INDIAN LANDS

§§ 421 to 427. Transferred

CODIFICATION

Section 421, act May 17, 1900, ch. 479, § 1, 31 Stat. 179, which provided for free homesteads to settlers, commutation rights, and payments to Indians, was transferred to section 179 of Title 43, Public Lands.

Section 422, act Jan. 26, 1901, ch. 180, 31 Stat. 740, which related to right of settlers to commute entry, was transferred to section 180 of Title 43.

Section 423, act May 22, 1902, ch. 821, § 2, 32 Stat. 203, which related to second homestead entry by certain settlers, was transferred to section 187b of Title 43.

Section 424, act Mar. 3, 1901, ch. 832, § 1, 31 Stat. 1077, which related to negotiations for cession of lands, was transferred to section 1195 of Title 43.

Section 425, act June 6, 1912, ch. 155, 37 Stat. 125, which related to classification and appraisement of un-