

(3) Should the study recommend establishment of a museum, and should the College of Santa Fe be selected as the best site, any agreement entered into by the Secretary of the Interior for construction of such museum shall contain assurances, satisfactory to the Secretary, that appropriate lands at the College of Santa Fe will be available at no cost to the Federal Government for the establishment of a museum facility.

(Pub. L. 98-306, § 14, May 31, 1984, 98 Stat. 226.)

CHAPTER 9—ALLOTMENT OF INDIAN LANDS

8 331. Allotments on reservations; Irrigable and non-irrigable lands

OSAGE INDIAN TRIBE OF OKLAHOMA

Pub. L. 98-576, Oct. 30, 1984, 98 Stat. 3065, provided: "That (a) any Osage headright or restricted real estate or funds which is part of the estate of a deceased Osage Indian with respect to whom—

"(1) a certificate of competency had never been issued before the time of death, or

"(2) a certificate of competency had been revoked by the Secretary of the Interior before the death of such Osage Indian, shall be exempt from any estate or inheritance tax imposed by the State of Oklahoma.

"(b) Subsection (a) shall apply to the estate of any Osage Indian who dies on or after the date of the enactment of this Act [Oct. 30, 1984].

"Sec. 2. For purposes of this Act—

"(1) the term 'headright' means any right of any person to share in any royalties, rents, sales, or bonuses arising from the Osage mineral estate;

"(2) the term 'Osage mineral estate' means any right, title, or interest in any oil, gas, coal, or other mineral held by the United States in trust for the benefit of the Osage Tribe of Indians under section 3 of the Osage Tribe Allotment Act;

"(3) the term 'restricted real estate or funds' means any real estate or fund held by an Osage Indian or by the Secretary of the Interior in trust for the benefit of such Indian which is subject to any restriction against alienation, or transfer by any other means, under any Act of Congress applicable to the Osage Tribe of Indians or applicable generally to Indians or any bands, tribes, or nations of Indians; and

"(4) the term 'Osage Tribe Allotment Act' means the Act approved June 28, 1906, and entitled 'An Act for the division of the lands and funds of the Osage Indians in Oklahoma Territory, and for other purposes' (34 Stat. 539)."

Pub. L. 95-496, §§ 3-11, Oct. 21, 1978, 92 Stat. 1660-1664, as amended by Pub. L. 98-605, § 2, Oct. 30, 1984, 98 Stat. 3163, provided that:

"Sec. 3. (a) [Repealed act Feb. 5, 1948, ch. 46, 62 Stat. 18, formerly set out below.]

"(b) Any Osage Indian having received a certificate of competency under paragraph 7 of section 2 of the Act of June 28, 1906 (34 Stat. 539, 542); section 3 of the Act of March 2, 1929 (45 Stat. 1478, 1480) [amending act Feb. 27, 1925, ch. 359, 43 Stat. 1008, which is set out below]; or the Act of February 5, 1948 (62 Stat. 18) [act Feb. 5, 1948, ch. 46, 62 Stat. 18], may make application to the Secretary of the Interior to revoke such certificate and the Secretary shall revoke such certificate: *Provided*, That revocation of any certificate shall not affect the legality of any transactions heretofore made by reason of the issuance of any such certificate. Restrictions against alienation of lands heretofore removed are not reimposed.

"(c) [Amended act Feb. 27, 1925, set out below, act Mar. 2, 1929, ch. 493, § 4, 45 Stat. 1480, and June 24, 1938, ch. 645, §§ 1, 3, 52 Stat. 1034, 1035.

"Sec. 4. In order to conserve natural resources and provide for the greatest ultimate recovery of oil and gas underlying the Osage mineral estate, the Secretary of the Interior is authorized to establish rules and regulations under which oil and gas leases producing from a common source of supply may be unitized.

"Sec. 5. (a) [Amended act Apr. 18, 1912, ch. 83, § 8, 37 Stat. 88.]

"(b) [Amended act Apr. 18, 1912, ch. 83, § 3, 37 Stat. 86.]

"(c) [Amended act Feb. 27, 1925, set out below.]

"(d)(1) Notwithstanding any provision of—

"(A) section 3 or 8 of the Osage Indians Act of 1912 (as amended by subsections (b) and (a), respectively) [not classified to the Code], or

"(B) section 7 of the Osage Indians Act of 1925 (as amended by subsection (c)) [act Feb. 27, 1925, set out below],

any sale or transfer or any disposition by any other means of any headright shall be subject to section 7 of this Act [set out below].

"(2) Notwithstanding section 8(a) of this Act [set out below] or section 8 of the Osage Indians Act of 1912, no Osage Indian may—

"(A) provide for the transfer of any interest of such person in any headright—

"(i) by will to any person which is not an individual, or

"(ii) by the establishment of an inter vivos trust for the benefit of any person which is not an individual; or

"(B) provide, whether by the terms of a will, the terms of a testamentary trust established by a will, or by the terms of an instrument establishing an inter vivos trust, that any interest in any headright—

"(i) which such Osage Indian had (at the time of death of such person or at the time any such inter vivos trust was established), and

"(ii) in which any individual was granted a life estate by such Osage Indian,

may be transferred to or held for the benefit of any individual who is not an Osage Indian upon the death of the individual who held such life estate.

"Sec. 6. (a) With the approval of the Secretary of the Interior, any person of Osage Indian blood, eighteen years of age or older, may establish an inter vivos trust covering his headright or mineral interest except as provided in section 8 hereof; surplus funds; invested surplus funds; segregated trust funds; and allotted or inherited land, naming the Secretary of the Interior as trustee. An Osage Indian having a certificate of competency may designate a banking or trust institution as trustee. Said trust shall be revocable and shall make provision for the payment of funeral expenses, expenses of last illness, debts, and an allowance to members of the family dependent on the settlor.

"(b) Property placed in trust as provided by this section shall be subject to the same restrictions against alienation that presently apply to lands and property of Osage Indians, and the execution of such instrument shall not in any way affect the tax-exempt status of said property.

"RULES GOVERNING DEVOLUTION OF INTERESTS IN OSAGE HEADRIGHTS

"SEC. 7. (a) GENERAL RULE.—No person who is not an Osage Indian may, on or after October 21, 1978, receive any interest in any headright, other than a life estate in accordance with subsection (b), whether such interest would be received by such person (but for this subsection) under a will, a testamentary or inter vivos trust, or the Oklahoma laws of intestate succession.

"(b) EXCEPTION FOR LIFE ESTATES.—Notwithstanding subsection (a) and subject to section 5(d)(2) [set out above], an individual who is not an Osage Indian may receive a life estate in any headright held by a testator, settlor, or decedent who is or was an Osage Indian under a will, or under a testamentary trust established

by a will, of such testator, an inter vivos trust established by such settlor, or the Oklahoma laws of intestate succession relating to the administration of the estate of such decedent.

"(c) SPECIAL RULES GOVERNING INTERESTS IN OSAGE HEADRIGHT UPON DEATH OF INDIVIDUAL WHO HELD LIFE ESTATE IN SUCH HEADRIGHT.—

"(1) DESIGNATED OSAGE REMAINDERMEN.—Upon the death of any individual who is not an Osage Indian and who held a life estate in any headright of a testator or settlor described in subsection (b), all remaining interests in such headright shall vest in any remaindermen who—

"(A) are designated in the will of the testator or the instrument establishing the trust of the settlor to receive such remainder interest, and

"(B) are Osage Indians.

"(2) NO DESIGNATED OSAGE REMAINDERMEN.—Upon the death of any individual who is not an Osage Indian and who held a life estate in any headright of a testator, settlor, or decedent described in subsection (b) who—

"(A) did not designate any remainderman who is an Osage Indian to receive any remaining interest in such headright in the will of such testator or instrument of such settlor, or

"(B) died intestate,

all remaining interests in such headright shall vest in any heirs, as determined under the Oklahoma laws of intestate succession, of such testator, settlor, or decedent who are Osage Indians.

"(3) NO HEIR WHO IS AN OSAGE INDIAN.—Upon the death of any individual who is not an Osage Indian and who held a life estate in any headright of an Osage testator, settlor, or decedent described in subsection (b) who—

"(A) designated no remainderman who is an Osage Indian for any remaining interest in such headright, and

"(B) had no heir under the Oklahoma laws of intestate succession who is an Osage Indian and is living at the time of death of the individual who held such life estate,

all remaining interests in such headright shall vest in the Osage Tribe of Indians.

"(d) LIABILITY OF TRIBE IN CASE OF REMAINDERMAN OR HEIR WHO IS NOT AN OSAGE INDIAN.—In any case in which—

"(1) any remainder interest of a testator, settlor, or decedent described in subsection (b) vests in the Osage Tribe of Indians under subsection (c)(3), and

"(2) an individual who is not an Osage Indian and who, but for this section, would have received any portion of such remaining interest in the headright by virtue of—

"(A) having been designated under the will of such testator, or the instrument of such settlor which established any such trust, to receive such remainder interest, or

"(B) being the heir of such decedent under the Oklahoma laws of intestate succession, the tribe shall pay any such individual the fair market value of the portion of the interest in such headright such individual would have received but for this section.

"Sec. 8. (a)(1) No headright owned by any person who is not of Indian blood may be sold, assigned, or transferred without the approval of the Secretary. Any sale of any interest in such headright (and any other transfer which divests such person of any right, title, or interest in such headright) shall be subject to the following rights of purchase:

"(1) First right of purchase by the heirs in the first degree of the first Osage Indian to have acquired such headright under an allotment who are living and are Osage Indians, or, if they all be deceased, all heirs in the second through the fourth degree of such first Osage Indian who are living and are Osage Indians.

"(2) Second right of purchase by any other Osage Indian for the benefit of any Osage Indian in his or her individual capacity.

"(3) Third right of purchase by the Osage Tribal Council on behalf of the Osage Tribe of Indians.

No owner of any headright shall be required, by reason of this subsection, to sell such headright for less than its fair market value or to delay any such sale more than 90 days from the date by which notice of intention to sell (or otherwise transfer) such headright has been received by each person with respect to whom a right of purchase has been established under this subsection.

"(b) Notwithstanding the paragraph designated 'First' of section 4 of the Osage Tribe Allotment Act or any other provision of law, any income from the Osage mineral estate may be used for the purchase of any headright offered for sale to the Osage Tribal Council pursuant to subsection (a) or vested in the Osage Tribe pursuant to section 7 if, prior to the time that any income from the Osage mineral estate is segregated for distribution to holders of headrights, the Osage Tribal Council requests the Secretary to authorize such use of such funds and the Secretary approves such request.

"Sec. 9. Under such regulations as the Secretary of the Interior may prescribe, the heirs and legatees of any deceased owner of an Osage headright or mineral interest, real estate on which restrictions against alienation have not been removed, and funds on deposit at the Osage Agency may be determined by the Secretary if such aggregate interests do not exceed \$10,000: *Provided*, That no court of competent jurisdiction has undertaken the probate of the deceased's estate and a request for such administrative determination has been made to the Secretary by one or more of the heirs or legatees."

"Sec. 10. Except where any provision of this Act explicitly provides otherwise, wherever the term 'Osage Indian' is used in this Act, such term shall be construed so as to include any child who has been adopted by an Osage Indian (pursuant to the decision of any court of competent jurisdiction) and any lineal descendant of such child.

"Sec. 11. For purposes of this Act—

"(1) the term 'Osage mineral estate' means any right, title, or interest in any oil, gas, coal, or other mineral held by the United States in trust for the benefit of the Osage Indian Tribe under section 3 of the Osage Tribe Allotment Act;

"(2) the term 'headright' means any right of any person to share in any royalties, rents, sales, or bonuses arising from the Osage mineral estate;

"(3) the term 'Secretary' means the Secretary of the Interior;

"(4) the term 'person' has the meaning given to such term in section 1 of title 1, United States Code;

"(5) the term 'Osage Tribe Allotment Act' means the Act approved June 28, 1906, and entitled 'An Act For the division of the lands and funds of the Osage Indians in Oklahoma Territory, and for other purposes.' (34 Stat. 539);

"(6) the term 'Osage Indians Act of 1912' means the Act approved April 18, 1912, and entitled 'An Act Supplementary to and amendatory of the Act entitled "An Act for the division of the lands and funds of the Osage Nation of Indians in Oklahoma," approved June twenty-eighth, nineteen hundred and six, and for other purposes.' (37 Stat. 86); and

"(7) the term 'Osage Indians Act of 1925' means the Act approved February 27, 1925, and entitled 'An Act To amend the Act of Congress of March 3, 1921, entitled "An Act to amend section 3 of the Act of Congress of June 28, 1906, entitled 'An Act of Congress for the division of the lands and funds of the Osage Indians in Oklahoma, and for other purposes.' "' (43 Stat. 1008) [set out below]."

Act Feb. 27, 1925, ch. 359, 43 Stat. 1008, as amended by acts Mar. 2, 1929, ch. 493, §§ 3, 4, 45 Stat. 1480; Sept. 1, 1950, ch. 832, 64 Stat. 572; Oct. 21, 1978, Pub. L. 95-496, §§ 3(c), 5(c), formerly 5(7), 92 Stat. 1661, 1662; Oct. 30, 1984, Pub. L. 98-605, §§ 2(b), 4, 98 Stat. 3163, 3167, provided that:

[See main edition for text of Secs. 1 to 6]

"SEC. 7. Except as provided in sections 5(d) and 7 of the Act approved October 21, 1978, and entitled 'An Act to amend certain laws relating to the Osage Tribe of Oklahoma, and for other purposes.', on or after October 21, 1978 [Pub. L. 95-496, set out above], none but heirs of Indian blood and children legally adopted by a court of competent jurisdiction and parents, Indian or non-Indian, shall inherit, in accordance with the laws of the State of Oklahoma relating to intestate succession from Osage Indians any right, title, or interest to any restricted land, moneys, or Osage headright or mineral interest. No adopted child of any Osage Indian who is not an Osage Indian shall be eligible to inherit, as the collateral heir (within the meaning of the laws of the State of Oklahoma relating to intestate succession) of any Osage Indian decedent, any property or interest in property held in trust by the Secretary of the Interior for the benefit of such decedent."

WHITE EARTH RESERVATION LAND SETTLEMENT

Pub. L. 99-264, Mar. 24, 1986, 100 Stat. 61, provided: "That this Act may be cited as the 'White Earth Reservation Land Settlement Act of 1985'.

"Sec. 2. The Congress finds that—

"(1) claims on behalf of Indian allottees or heirs and the White Earth Band involving substantial amounts of land within the White Earth Indian Reservation in Minnesota are the subject of existing and potential lawsuits involving many and diverse interests in Minnesota, and are creating great hardship and uncertainty for government, Indian communities, and non-Indian communities;

"(2) the lawsuits and uncertainty will result in great expense and expenditure of time, and could have a profound negative impact on the social and well-being of everyone on the reservation;

"(3) the White Earth Band of Chippewa Indians, State of Minnesota, along with its political subdivisions, and other interested parties have made diligent efforts to fashion a settlement to these claims, and the Federal Government, by providing the assistance specified in this Act, will make possible the implementation of a permanent settlement with regard to these claims;

"(4) past United States laws and policies have contributed to the uncertainty surrounding the claims;

"(5) it is in the long-term interest of the United States, State of Minnesota, White Earth Band, Indians, and non-Indians for the United States to assist in the implementation of a fair and equitable settlement of these claims; and

"(6) this Act will settle unresolved legal uncertainties relating to these claims.

"Sec. 3. For purposes of this Act:

"(a) 'Allotment' shall mean an allocation of land on the White Earth Reservation, Minnesota, granted, pursuant to the Act of January 14, 1889 (25 Stat. 642), and the Act of February 8, 1887 (24 Stat. 388) [see Short Title note above], to a Chippewa Indian.

"(b) 'Allottee' shall mean the recipient of an allotment.

"(c) 'Full blood' shall mean a Chippewa Indian of the White Earth Reservation, Minnesota, who was designated as a full blood Indian on the roll approved by the United States District Court for the District of Minnesota on October 1, 1920, or who was so designated by a decree of a Federal court of competent jurisdiction; it shall also refer to an individual who is not designated on said roll but who is the biological child of two full blood parents so designated on the roll or

of one full blood parent so designated on the roll and one parent who was an Indian enrolled in any other federally recognized Indian tribe, band, or community.

"(d) 'Inherited' shall mean received as a result of testate or intestate succession or any combination of testate or intestate succession, which succession shall be determined by the Secretary of the Interior or his authorized representative.

"(e) 'Mixed blood' shall mean a Chippewa Indian of the White Earth Reservation, Minnesota, who was designated as a mixed blood Indian on the roll approved by the United States District Court of Minnesota on October 1, 1920, unless designated a full blood by decree of a Federal court of competent jurisdiction; it shall also refer to any descendants of an individual who was listed on said roll providing the descendant was not a full blood under the definition in subsection (c) of this section. The term 'mixed blood' shall not include an Indian enrolled in any federally recognized Indian tribe, band, or community other than the White Earth Band.

"(f) 'Tax forfeited' shall mean an allotment which, pursuant to State law, was declared forfeited for non-payment of real property taxes and purportedly transferred directly to the State of Minnesota or to private parties or governmental entities.

"(g) 'Majority' shall mean the age of twenty-one years or older.

"(h) 'Secretary' shall mean the Secretary of the Interior or his/or her authorized representative.

"(i) 'Trust period' shall mean the period during which the United States held an allotment in trust for the allottee or the allottee's heirs. For the purpose of this Act, the Executive Order Numbered 4642 of May 5, 1927, Executive Order Numbered 5768 of December 10, 1931, and Executive Order Numbered 5953 of November 23, 1932, shall be deemed to have extended trust periods on all allotments or interests therein the trust periods for which would otherwise have expired in 1927, 1932, or 1933, notwithstanding the issuance of any fee patents for which there were no applications, and if such allotments were not specifically exempted from the Executive orders; and the Indian Reorganization Act of June 18, 1934 [see Short Title note set out under section 461 of this title], shall be deemed to have extended indefinitely trust periods on all allotments or interests therein the trust periods for which would otherwise have expired on June 18, 1934, or at any time thereafter. Said Executive orders and Act shall be deemed not to have extended the trust period for allotments or interests which were sold or mortgaged by adult mixed bloods, by non-Indians, or with the approval of the Secretary, or for allotments or interests which were sold or mortgaged by anyone where such sale or mortgage was the subject of litigation in Federal court which proceeded to a judgment on the merits and where the outcome of such litigation did not vacate or void said sale or mortgage.

"(j) 'Interest', except where such item is used in conjunction with 'compound', shall mean a fractional holding, less than the whole, held in an allotment.

"(k) 'Adult' shall mean having attained the age of majority.

"(l) 'Heir' shall mean one who received or was entitled to receive an allotment or interest as a result of testate or intestate succession under applicable Federal or Minnesota law.

"(m) 'Transfer' includes but is not limited to any voluntary or involuntary sale, mortgage, tax forfeiture or conveyance pursuant to State law; any transaction the purpose of which was to effect a sale, mortgage, tax forfeiture or conveyance pursuant to State law; any Act, event, or circumstance that resulted in a change of title to, possession of, dominion over, or control of an allotment or interest therein.

"Sec. 4. (a) The provisions of this Act shall apply to the following allotments:

"(1) allotments which were never sold or mortgaged by the allottees or by their heirs and which were tax forfeited during the trust period;

"(2) allotments which were sold or mortgaged during the trust period, without the approval of the Secretary, by the allottees prior to having attained majority, and were never again sold or mortgaged either by the allottees upon their having attained majority or by heirs of the allottees;

"(3) allotments which were sold or mortgaged during the trust period by full blood allottees without the approval of the Secretary, and were never again the subject of a sale or mortgage by heirs of the allottees; and

"(4) allotments which were never sold or mortgaged by the allottees, but which subsequent to the deaths of the allottees, purportedly were sold or mortgaged, during the trust period, by administrators, executors, or representatives, operating under authority from State courts, and were never again the subject of a sale or mortgage by heirs of the allottees.

"(b) The provisions of this Act shall also apply to the following allotments or interests in allotments:

"(1) allotments or interests which were inherited by full or mixed bloods who never sold or mortgaged their allotments or interests or by Indians enrolled in other federally recognized Indian tribes, bands, or communities who never sold or mortgaged their allotments or interests, where the allotments or interests were tax forfeited during the trust period;

"(2) allotments or interests which were inherited by mixed bloods under the age of majority and which were sold or mortgaged during the trust period without the approval of the Secretary prior to such mixed bloods having attained majority, but which were never again sold or mortgaged by them upon having attained majority or by their heirs;

"(3) allotments or interests which were inherited by full bloods or by Indians enrolled in other federally recognized Indian tribes, bands, or communities, who sold or mortgaged such allotments or interests during the trust period without the approval of the Secretary;

"(4) allotments or interests which were inherited by full or mixed bloods who never sold or mortgaged their allotments or interests, but which, subsequent to the deaths of such heirs, were sold or mortgaged during the trust period by administrators, operating under authority from State courts;

"(5) allotments or interests which were owned by allottees or which were inherited by full or mixed bloods for whom guardians were appointed by State courts, which guardians sold or mortgaged the allotments or interests during the trust period without the approval of the Secretary;

"(6) interests which were inherited by full or mixed bloods who never sold or mortgaged their interests during the trust period, even though other interests in the same allotment were sold by other heirs where the land comprising the allotment has been claimed in full by other parties adversely to the full or mixed bloods who never sold or mortgaged their interests; and

"(7) allotments or interests which were inherited by full or mixed bloods or by Indians enrolled in other federally recognized Indian tribes, bands, or communities which were never sold or mortgaged during the trust period but which were purportedly distributed by State court probate proceedings to other individuals.

"(c) This Act shall not apply to—

"(1) any allotment or interest the sale or mortgage of which was the subject of litigation which proceeded to a judgment on the merits in Federal courts and where the outcome of such litigation was other than vacating and voiding such sale or mortgage;

"(2) any allotment or interest which was tax forfeited subsequent to the date on which the tax exemption was declared by a Federal court to have expired;

"(3) any allotment or interest which was sold, mortgaged, or tax forfeited after the expiration of the trust period; or

"(4) any allotment or interest which was sold or mortgaged at any time by an adult mixed blood Indian.

Nothing in this Act is intended to question the validity of the transactions relating to allotments or interests as described in section 4(c), and such allotments and interests are declared to be outside the scope of this Act.

"Sec. 5. (a) Any determination of the heirs of any person holding an allotment or interest, made by the courts of the State of Minnesota, which is filed with the proper county recording officer prior to May 9, 1979, shall be deemed to have effectively transferred the title of the decedent in the allotment or interest to the heirs so determined unless a separate determination of heirs has been made by the Secretary before the effective date of this Act [Mar. 24, 1986] and such determination has been filed with the proper county recording officer within six months after the effective date of this Act. Nothing in this subsection shall be construed to remove any allotment described in section 4 from the compensation provided for in the Act.

"(b) The proper county recording officer is the county recorder of the county in which the allotment or interest is located if the title has not been registered pursuant to Minnesota law. If the title has been so registered, the proper county recording officer shall be the registrar of titles in the county in which the allotment or interest is located.

"(c) As to any allotment which was granted to an allottee who had died prior to the selection date of the allotment, the granting of such allotment is hereby ratified and confirmed, and shall be of the same effect as if the allotment had been selected by the allottee before the allottee's death: *Provided*, That the White Earth Band of Chippewa Indians shall be compensated for such allotments in the manner provided in sections 6, 7, and 8.

"(d) As to any allotment that was made under the provisions of the Treaty of March 19, 1867 (16 Stat. 719), and which was reallocated under the provisions of the Act of January 14, 1889 (25 Stat. 642), such reallocation is hereby ratified and confirmed.

"Sec. 6. (a) As soon as the conditions set forth in section 10 of this Act have been met, the Secretary shall publish a certification in the Federal Register that such conditions have been met. After such publication, any allotment or interest which the Secretary, in accordance with this Act, determines falls within the provisions of section 4(a), 4(b), or 5(c), the tax forfeiture, sale, mortgage, or other transfer, as described therein, shall be deemed to have been made in accordance with the Constitution and all laws of the United States specifically applicable to transfers of allotments or interests held by the United States in trust for Indians, and Congress hereby does approve and ratify any such transfer effective as of the date of said transfer, subject to the provisions of section 6(c). Compensation for loss of allotments or interests resulting from this approval and ratification shall be determined and processed according to the provisions of section 8.

"(b) By virtue of the approval and ratification of transfers of allotments or interests therein effected by this section, all claims against the United States, the State of Minnesota or any subdivisions thereof, or any other person or entity, by the White Earth Band, its members, or by any other Indian tribe or Indian, or any successors in interest thereof, arising out of, and at the time of or subsequent to, the transfers described in section 4(a), 4(b), or 5(c) and based on any interest in or nontreaty rights involving such allotments or interests therein, shall be deemed never to have existed as of the date of the transfer, subject to the provisions of this Act.

"(c) Notwithstanding any provision of law other than the provisions of this section, any action in any court to recover title or damages relating to transactions described in section 4(a), 4(b), 5(a) or 5(c), shall be forever barred unless the complaint is filed not later than one hundred and eighty days following enactment of this Act [Mar. 24, 1986], or prior to the publication required by section 8(a) whichever occurs later in time: *Provided*, That immediately upon the date of enactment of this Act any such action on behalf of the White Earth Band of Chippewa Indians shall be forever barred, unless the publication required by section 8(a) does not take place within two years of the date of enactment of this Act in which case the bar of any such action on behalf of the White Earth Band of Chippewa Indians shall be deemed lifted and nullified: *Provided further*, That the Secretary shall not issue to the White Earth Band any report rejecting litigation nor submit to Congress any legislation report pursuant to section 2415 of title 28, United States Code, relating to transactions described in section 4(a), 4(b), 5(a) or 5(c) of this Act, until and unless the bar against actions on behalf of the White Earth Band is lifted and nullified. Any such action filed within the time period allowed by this subsection shall not be barred; however, the filing of any such action by an allottee, heir, or others entitled to compensation under this Act shall bar such allottee, heir, or others from receiving compensation pursuant to the provisions of section 8. The United States District Court for the District of Minnesota shall have exclusive jurisdiction over any such action otherwise properly filed within the time allowed by this subsection.

"(d) This section shall not bar an heir, allottee, or any other person entitled to compensation under this Act from maintaining an action, based on the transactions described in section 4(a), 4(b), 5(a), or 5(c), against the United States in the Claims Court pursuant to the Tucker Act, section 1491 of title 28, United States Code, challenging the constitutional adequacy of the compensation provisions of section 8(a) as they apply to a particular allotment or interest: *Provided*, That such action shall be filed with the Claims Court not later than one hundred and eighty days after the issuance of the notice of the Secretary's compensation determination as provided in section 8(c). If such an action is not filed within the one-hundred-and-eighty-day period, it shall be forever barred. The United States hereby waives any sovereign immunity defense it may have to such an action but does not waive any other defenses it may have to such action. The filing of an action by any heir, allottee, or any other person under the provisions of this section shall bar such person forever from receiving compensation pursuant to the provisions of section 8.

"Sec. 7. (a) The Secretary is hereby authorized to and shall diligently investigate to the maximum extent practicable all White Earth allotments and shall determine which allotments or interest fall within any of the provisions of section 4(a), 4(b), or 5(c). As to all such allotments or interests determined to be within the provisions of section 4(a), 4(b), or 5(c), the Secretary shall prepare lists of such allotments or interests, which shall include allotment number, land description, and allottee's name, in English and Ojibway where available. A first list shall be published within one hundred and eighty days after the date of enactment of this Act [Mar. 24, 1986] in the Federal Register; in a newspaper of general circulation in Mahnomen County, Minnesota; in a newspaper of general circulation in Becker County, Minnesota; in a newspaper of general circulation in Clearwater County, Minnesota; in one newspaper of general circulation in metropolitan Minneapolis-Saint Paul; and, in the Secretary's discretion, in any appropriate band or tribal newspaper. Publication in the required newspapers shall take place no later than thirty days after publication in the Federal Register.

"(b) Any tribe, band, or group of Indians, or any individual shall have one year after the date of publica-

tion in the Federal Register to submit to the Secretary any additional allotments or interests which the tribe, band, group, or individual believes should fall within any of the provisions of section 4(a), 4(b), or 5(c). The Secretary, without such submissions, may also independently determine that additional allotments or interests fall within such provisions. Any additional allotments or interests submitted to the Secretary shall be accompanied by a statement identifying the allotment or interest and its land description and summarizing the reasons why it should be added to the list required by this section.

"(c) The Secretary shall determine which additional allotments or interests fall within the provisions of section 4(a), 4(b), or 5(c), and not later than five hundred and forty days of the date of publication of the Secretary's first list in the Federal Register, the Secretary shall publish a second list in the Federal Register and previously required newspapers of the allotments or interests the Secretary has determined should be added to the first published list.

"(d) Any determination made by the Secretary under this section to include an allotment or interest on the first list required by the section to be published in the Federal Register may be judicially reviewed pursuant to the Administrative Procedure Act [5 U.S.C. 701 et seq.] not later than ninety days of the publication date of the first list of the Federal Register. Any such action not filed within such ninety-day period shall be forever barred. Any determination made by the Secretary to include an allotment or interest on the second list required by this section to be published in the Federal Register, or any determination made by the Secretary not to include an allotment or interest on such list, may be judicially reviewed pursuant to the Administrative Procedure Act within ninety days of the publication date of the second list in the Federal Register. Any such action not filed within such ninety-day period shall be forever barred. Exclusive jurisdiction over actions under this subdivision is hereby vested in the United States District Court for the District of Minnesota.

"Sec. 8. (a) Compensation for a loss of an allotment or interest shall be the fair market value of the land interest therein as of the date of tax forfeiture, sale, allotment, mortgage, or other transfer described in section 4(a), 4(b), or 5(c), less any compensation actually received, plus interest compounded annually at 5 per centum from the date of said loss of an allotment or interest until the date of enactment of this Act [Mar. 24, 1986], and at the general rate of interest earned by United States Department of the Interior funds thereafter. A determination of compensation actually received shall be supported by Federal, State, or local public documents filed contemporaneously with the transaction or by clear and convincing evidence. Compensation actually received shall not be subtracted from the fair market value in any instance where an allotment or interest was sold or mortgaged by a full or mixed blood, under the age of eighteen years, or in any instance where there is prima facie evidence that fraud occurred in a sale or mortgage. No compensation for loss of an allotment or interest relating to transfers described in section 4(b) shall be granted to any person or the heirs of such person where such allotment or interest was received pursuant to State court probate proceedings and where also it has been or is determined by the Secretary that such person or heirs were not entitled to inherit the allotment or interest.

"(b) For the purpose of this section, the date of transfer applicable to interests described in section 4(b)(6) shall be the last date on which any interest in the subject allotment was transferred by document of record by any other heir of the allottee; and the date of transfer applicable to allotments described in section 5(c) shall be the selection date. For purposes of this section, the Secretary shall establish the fair market value of various types of land for various

years, which shall govern the compensation payable under this section unless a claimant demonstrates that a particular allotment or interest had a value materially different from the value established by the Secretary.

"(c) The Secretary shall provide written notice of the Secretary's compensation determination to the allottees or heirs entitled thereto. Such notice shall describe the basis for the Secretary's determination, the applicable time limits for judicial review of the determination, and the process whereby such compensation will be distributed. The Secretary shall proceed to make such heirship determinations as may be necessary to provide the notice required by this section: *Provided*, That the Secretary shall accept as conclusive evidence of heirship any determination of the courts of the State of Minnesota as provided in section 5(a) of this Act: *Provided further*, That the Secretary shall give written notice only to those allottees or heirs whose addresses can be ascertained by reasonable and diligent efforts; otherwise such notice shall be given by publication in the Federal Register.

"(d) The Secretary's administrative determination of the appropriate amount of compensation computed pursuant to the provisions of this Act may be judicially reviewed pursuant to the Administrative Procedure Act [5 U.S.C. 701 et seq.] not later than one hundred and eighty days after the issuance of notice as aforesaid; after such time the Secretary's determination shall be conclusive and all judicial review shall be barred. Exclusive jurisdiction over any such action is hereby vested in the United States District Court for the District of Minnesota.

"(e) Once a compensation determination has become conclusive according to the provisions of subsection (d), the Secretary shall certify such determination to the Secretary of the Treasury and such conclusive determination shall be treated as a final judgment, award or, compromise settlement under the provisions of title 31, United States Code, section 1304. The Secretary of the Treasury is authorized and directed to pay out of the funds in the Treasury into a separate interest bearing White Earth Settlement Fund account the amount certified by the Secretary of the Interior in each case. The Secretary of the Interior shall then make a diligent effort to locate each allottee or heir; however, if, after two years from the date on which a determination becomes conclusive an allottee or heir cannot be located, the Secretary of the Interior shall declare the amount owing to such allottee or heir forfeited.

"(f) Any and all amounts forfeited pursuant to subsection (e) together with the interest accumulated thereon, pursuant to section 8 shall be transferred annually to the fund established under section 12 for the White Earth Band.

"Sec. 9. The Secretary shall determine the heirs, if heretofore undetermined, or modify the inventory of an existing heirship determination of any full or mixed blood or Indian enrolled in any other federally recognized Indian tribe, band, or community, where appropriate for the purposes of this Act: *Provided*, That the Secretary shall accept any determination of heirship by the courts of the State of Minnesota as provided in section 5(a) of this Act.

"Sec. 10. (a) The provisions of section 6 of this Act shall take effect upon the publication in the Federal Register by the Secretary of certification that the following conditions have been satisfied:

"(1) The State of Minnesota, in accordance with Laws of Minnesota 1984, chapter 539, has entered into an agreement with the Secretary providing for the transfer of ten thousand acres of land within the exterior boundaries of the White Earth Reservation to the United States to hold in trust for the White Earth Band of Chippewa Indians as the State's contribution to the settlement provided for by this Act. The Secretary shall not enter into such an agreement until the Secretary determines, or the authorized governing body of the band certifies to the Sec-

retary in writing, that the agreement will result in the transfer of ten thousand acres which possess reasonable value for the White Earth Band, including but not limited to value for agricultural, recreational, forestry, commercial, residential, industrial, or general land consolidation purposes. The land transferred pursuant to this subsection shall be accepted by the United States subject to all existing accesses, roads, easements, rights of way, or similar uses unless the Governor and Attorney General of the State of Minnesota certify in writing to the Secretary the State's intent to abandon such uses on a particular parcel.

"(2) The State, in accordance with the Laws of Minnesota 1984, chapter 539, has appropriated \$500,000 for the purpose of providing the United States with technical and computer assistance for implementing the settlement provided for in this Act.

"(3) The United States has appropriated \$6,600,000 for economic development for the benefit of the White Earth Band of Chippewa Indians.

"(b) Upon final acceptance by the Secretary, the land referred to in subsection (a)(1) shall be deemed to have been reserved as of the date of the establishment of the White Earth Reservation and to be part of the trust land of the White Earth Reservation for all purposes.

"Sec. 11. Nothing in this Act is intended to alter the jurisdiction currently possessed by the White Earth Band of Chippewa Indians, the State of Minnesota, or the United States over Indians or non-Indians within the exterior boundaries of the White Earth Reservation.

"Sec. 12. (a) There is established in the Treasury of the United States a fund to be known as the White Earth Economic Development and Tribal Government Fund. Money in this Fund shall be held in trust by the United States for the White Earth Band of Chippewa Indians, and shall be invested and managed by the Secretary in the same manner as tribal trust funds pursuant to the Act of June 24, 1938 (25 U.S.C. 162a).

"(b) The White Earth Economic Development and Tribal Government Fund shall consist of—

"(1) money received by the White Earth Band as compensation pursuant to section 8; and

"(2) money received by the White Earth Band as a result of amounts forfeited pursuant to section 8(f); and

"(3) money received as an appropriation pursuant to section 15; and

"(4) income accruing on such sums.

Income accruing to the White Earth Economic Development and Tribal Government Fund shall, without further appropriation, be available for expenditure as provided in subsection (c).

"(c) Income from the fund may be used by the authorized governing body of the band for band administration. Principal and income may be used by the authorized governing body of the band for economic development, land acquisition, and investments: *Provided, however*, That under no circumstances shall any portion of the moneys described in subsection (b) be used for per capita payments to any members of the band: *Provided further*, That none of the funds described in subsection (b) shall be expended by the governing body of the band until—

"(1) such body has adopted a band financial ordinance and investment plan for the use of such funds; and

"(2) such body has submitted to the Secretary a waiver of liability on the part of the United States for any loss resulting from the use of such funds; and

"(3) the Secretary has approved the band financial ordinance and investment plan. The Secretary shall approve or reject in writing such ordinance and plan within sixty days of the date it is mailed or otherwise submitted to him: *Provided*, That such ordi-

nance and plan shall be deemed approved if, sixty days after submission, the Secretary has not so approved or rejected it. The Secretary shall approve the ordinance and plan if it adequately contains the element specified in this subsection.

"Sec. 13. Notwithstanding any other law to the contrary, the United States grants its permission to the State of Minnesota to transfer land to the White Earth Band as described in section 10(a)(1) which prior to the date of enactment of this Act (Mar. 24, 1986) may have been obtained by the State pursuant to other Federal law or with Federal assistance. Any restrictions or conditions imposed by any other Federal law or regulation on the transfer of such land are hereby waived and removed.

"Sec. 14. Not later than five years, or as soon as possible, after the date of enactment of this Act (Mar. 24, 1986), the Secretary shall make all determinations, provide all notices, and complete the administrative work necessary to accomplish the objectives of this Act. The Secretary shall give priority in making compensation determinations and payments under this Act to original allottees and elderly heirs. The Secretary shall submit a report by January 1 of each year to the chairman of the House of Representatives Committee on Interior and Insular Affairs and the chairman of the Senate Committee on Indian Affairs, which report shall summarize the administrative progress to date and shall estimate the amount and nature of work left to be done.

"Sec. 15. There are hereby authorized to be appropriated to the White Earth Band \$6,600,000 as a grant to be expended as provided in section 12.

"Sec. 16. None of the moneys which are distributed under this Act shall be subject to Federal or State income taxes or be considered as income or resources in determining eligibility for or the amount of assistance under the Social Security Act (42 U.S.C. 301 et seq.) or any other federally assisted program.

"Sec. 17. The Secretary is authorized, if so requested by the authorized governing body of the White Earth Band, to exchange any of the land which is transferred to the United States as described in section 10(a)(1) for any other land within the exterior boundaries of the White Earth Reservation which is owned by the United States, the State of Minnesota, or any of the State's political subdivisions. Nothing in this section shall be deemed to require an exchange not agreed to by all parties to the exchange.

"Sec. 18. Any lands acquired by the White Earth Band within the exterior boundaries of the White Earth Reservation with funds referred to in section 12, or by the Secretary pursuant to section 17, shall be held in trust by the United States. Such lands shall be deemed to have been reserved from the date of the establishment of said reservation and to be part of the trust land of the White Earth Band for all purposes."

§ 332. Selection of allotments

All allotments set apart under the provisions of this act shall be selected by the Indians, heads of families selecting for their minor children, and the agents shall select for each orphan child, and in such manner as to embrace the improvements of the Indians making the selection. Where the improvements of two or more Indians have been made on the same legal subdivision of land, unless they shall otherwise agree, a provisional line may be run dividing said lands between them, and the amount to which each is entitled shall be equalized in the assignment of the remainder of the land to which they are entitled under this act: *Provided*, That if any one entitled to an allotment shall fail to make a selection within four years after the President shall direct that allotments may be made on a particular reservation,

the Secretary of the Interior may direct the agent of such tribe or band, if such there be, and if there be no agent, then a special agent appointed for that purpose, to make a selection for such Indian, which selection shall be allotted as in cases where selections are made by the Indians, and patents shall issue in like manner.

(Feb. 8, 1887, ch. 119, § 2, 24 Stat. 388.)

REFERENCES IN TEXT

This act, referred to in text, is act Feb. 8, 1887, ch. 119, 24 Stat. 388, as amended, and is popularly known as the Indian General Allotment Act. For classification of this act to the Code, see Short Title note set out under section 331 of this title and Tables.

CODIFICATION

Section is set out in this supplement to correct typographical error appearing in the main edition.

CHAPTER 10—DESCENT AND DISTRIBUTION; HEIRS OF ALLOTTEE

§ 373. Disposal by will of allotments held under trust

Any persons of the age of twenty-one years having any right, title, or interest in any allotment held under trust or other patent containing restrictions on alienation or individual Indian moneys or other property held in trust by the United States shall have the right prior to the expiration of the trust or restrictive period, and before the issuance of a fee simple patent or the removal of restrictions, to dispose of such property by will, in accordance with regulations to be prescribed by the Secretary of the Interior: *Provided, however*, That no will so executed shall be valid or have any force or effect unless and until it shall have been approved by the Secretary of the Interior: *Provided further*, That the Secretary of the Interior may approve or disapprove the will either before or after the death of the testator, and in case where a will has been approved and it is subsequently discovered that there has been fraud in connection with the execution or procurement of the will the Secretary of the Interior is authorized within one year after the death of the testator to cancel the approval of the will, and the property of the testator shall thereupon descend or be distributed in accordance with the laws of the State wherein the property is located: *Provided further*, That the approval of the will and the death of the testator shall not operate to terminate the trust or restrictive period, but the Secretary of the Interior may, in his discretion, cause the lands to be sold and the money derived therefrom, or so much thereof as may be necessary, used for the benefit of the heir or heirs entitled thereto, remove the restrictions, or cause patent in fee to be issued to the devisee or devisees, and pay the moneys to the legatee or legatees either in whole or in part from time to time as he may deem advisable, or use it for their benefit: *Provided also*, That this section and section 372 of this title shall not apply to the Five Civilized Tribes or the Osage Indians.

(June 25 1910, ch. 431, § 2, 36 Stat. 856; Feb. 14, 1913, ch. 55, 37 Stat. 678.)