

Indian Land Consolidation Acts and Amendments as codified in USC Title 25

Sections as Coded in Title 25	Indian Land Consolidation Act of 1983 Public Law 97-459	1984 Technical Amendments Public Law 98-608	2000 Amendments Public Law 102-238
Sec. 2201 Definitions	<p>Defines “Indian tribe” or “tribe” as any Indian tribe, band, group, pueblo, or community for which, or for the members of which, the United States holds lands in trust.</p> <p>Defines “trust or restricted lands” as lands, title to which is held by the United States in trust for an Indian or an Indian tribe or lands title to which is held by Indians or an Indian tribe subject to a restriction by the United States against alienation.</p>		Adds to the definition of "Indian" as any person who has been found to meet such definition under a provision of federal law if consistent with the purposes of the act.
Declaration of policy			Provides that: “It is the policy of the United States - (1) to prevent the further fractionation of trust allotments made to Indians; (2) to consolidate fractional interests and ownership of those interests into usable parcels; (3) to consolidate fractional interests in a manner that enhances tribal sovereignty; (4) to promote tribal self-sufficiency and self-determination; and (5) to reverse the effects of the allotment policy on Indian tribes.”
Sec. 2202	The provisions of this act shall apply to all tribes provided that nothing is to supercede any other provision of federal law that authorizes, prohibits, or restricts the acquisition of land for Indians with respect to any specific tribe.		
Sec. 2203 Adoption of land consolidation plan with approval of Secretary	Authorizes any tribe, with the approval of the Secretary, to exchange or sell any tribal lands or interest in lands to eliminate undivided fractional interests in Indian trust or restricted lands or to consolidate its tribal landholdings. Sets forth conditions for such sales.	Amends the Indian Land Consolidation Act of 1983 to remove the guidelines for land transfers under a land consolidation plan from provisions dealing only with the devise or descent of land interests to non-Indians or non-members of a tribe. Places such guidelines with the general provision authorizing land consolidation plans.	
Sec. 2204 Purchase of trust	Authorizes any tribe to purchase, at not less than the fair market value, all of the interest in any	Terminates the requirement that tribal purchases of certain land tract interests need the consent of	Sets forth a provision requiring the approval of the Secretary of the Interior for trust or restricted



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or restricted or controlled lands at no less than fair market value; requisite conditions	tract or trust or restricted land within its jurisdiction, with the consent of: (1) the owners of over 50 percent of the undivided interests in such tract; or (2) over 50 percent of the owners of such tract. Sets forth conditions for such purchases. Requires the Secretary's approval for such sales and purchases.	over 50 percent of the owners of such tract. (Retains the requirement of consent of the owners of over 50 percent of the undivided interests in such tract.) Grants the tribe a certain time in which to purchase property for which a petition has been filed to remove it from trust or restricted status.	land sales, except with respect to an Indian tribe that has a Secretary-approved land consolidation plan.
Sec. 2205 Tribal probate codes; acquisitions of fractional interests by tribes	Authorizes any tribe, subject to the Secretary's approval, to provide that only its tribal members or Indians shall be entitled to receive by devise or descent any interest of a member of such tribe in trust or restricted land within that tribe's jurisdiction. Sets forth conditions on such inheritance laws.	States that, where the non-Indian or nonmember survivors of an intestate deceased Indian receive a life estate in certain trust or restricted lands, the remainder shall vest in the Indians or tribal members who would have been heirs in the absence of a qualified person taking a life estate. Limits the right to receive a life estate to spouses and children who, if eligible, would have inherited an ownership interest of 10 percent or more in the tract of land.	Requires approval by the Secretary within 180 days of any adopted Indian tribal probate code governing descent and distribution of trust or restricted lands (outlines approval procedures, reserves life-estates for non-Indian devisees who would otherwise be precluded from inheriting by reason of the adopted code, and authorizes payments by tribes to such devisees to acquire interests).
Sec. 2206 Descent and distribution	Provides that no undivided interest in any tract of trust or restricted land shall be inheritable if such interest represents 2 percent or less of the total acreage of such tract and has earned less than \$100 in the preceding year. Requires such undivided fractional interest to escheat to the tribe. (This provision ("original 207") was deemed unconstitutional by the Supreme Court in <i>Hodel vs. Irving</i> . The provision was amended in 1984 ("amended 207" by Public Law 98-608).)	States that certain undivided interests in trust or restricted lands shall escheat to the tribe if such interest cannot earn at least \$100 to the respective heirs in any one of the five years following the decedent's death. (This provision amended the earlier "forced escheat" provision of the original Indian Land Consolidation Act of 1893. The amendment was made before <i>Hodel vs. Irving</i> . However, in 1997, the Supreme Court decided in <i>Babbitt vs. Youpee</i> that the amendment did not cure the deficiencies of the act and the forced escheat of seemingly negligible pieces of property from allotments effected a taking of private property without just compensation in violation of the Federal Constitution's Fifth	In the absence of tribal codes, this "new 207" provides uniform rules for descent and distribution of interests in Indian lands. To prevent Indian lands from passing out of trust, non-Indian heirs will only receive a life estate in Indian lands. Because a non-Indian heir owns less than the full interest, a "remainder interest" is created, and this remainder interest must go to an Indian. If there are no such heirs, the remainder may be purchased by any Indian co-owner of the parcel. If no offer is made to purchase the parcel, the remainder interest passes to the tribe. The rules are applicable to both testate (with a will) and intestate (no will) Indian estates.



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		<p>Amendment.)</p> <p>Authorizes any Indian tribe to adopt its own laws governing the disposition of escheatable interests.</p>	<p>In some instances where the Indian owners of a trust land may not have an Indian heir and the general rule would deprive them of the ability to devise more than a life estate to any of their heirs, the 2000 amendments provide an exception. They may devise an interest to either their heirs of the first or second degree or collateral heirs of the first or second degree. Because these people are non-Indian, the interest would pass in fee, not in trust. These interests may also be purchased by the tribe.</p> <p>Limits the way that Indian land passes as a “joint tenancy in common.” If a person devises interests in the same parcel to more than one person, unless there is language in the will to the contrary, it is presumed to be a “joint tenancy with the right of survivorship,” meaning that each of a decedent’s heirs share a common title, so the last surviving member of the group obtains full interest as it was owned by the decedent. Any interest of less than 5% percent passing by intestate succession will also be held by the heirs with the “right of survivorship.” The Secretary of the Interior must certify that it has the capacity to track and manage interests that are held with the right of survivorship before this provision takes place.</p> <p>Addresses descent of off-reservation lands by providing the descent and distribution of trust or restricted lands located outside of a reservation and authority of the official authorized to</p>



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			<p>adjudicate probate to approve agreements between a decedent’s heirs and devisees to consolidate interests in such lands.</p> <p>Requires the Secretary to notify Indian tribes and owners of trust or restricted lands of the amendments made in this act with respect to testate disposition, intestate descent, and estate planning options, including opportunities for receiving assistance or advice.</p> <p>Authorizes owners of interests in trust or restricted lands to bring administrative actions to challenge the application of provisions regarding descent and distribution after the Secretary has certified that notice on the amendments of this act has been made to tribes and land owners. Permits judicial review of the Secretary’s final decision.</p>
Sec. 2207 Full faith and credit to tribal actions	Directs the Secretary to give full faith and credit to any tribal actions taken pursuant to provisions of this title relating to inheritance laws. Applies such provisions only to estates of decedents whose deaths occur on or after the effective date of tribal ordinances adopted pursuant to this title.		
Sec. 2208 Conveying authority upon sales or exchange of tribal lands; removal of trust status of individually	The Secretary in carrying out his responsibility to regulate the descent and distribution of trust lands under section 372 of this title, and other laws, shall give full faith and credit to any tribal actions taken pursuant to subsections (a) and (b) of section 2205 of this title, which provision shall apply only to estates of decedent’s whose deaths occur on or after the effective date of tribal ordinances adopted pursuant to this chapter.		



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owned lands			
Sec. 2209 Trusteeship title of United States for any Indian or Indian tribe	Title to any land acquired under this chapter by any Indian or Indian tribe shall be taken in trust by the United States for that Indian or Indian tribe.		
Sec. 2210 Tax exemption	Provides that any land title acquired under this title by an Indian or Indian tribe shall be taken in trust by the United States and that all such lands or interests in lands shall be exempt from federal, state, and local taxation.		
		Provides that trust or restricted lands will retain such status if they are acquired by an Indian or Indian tribe in mortgage foreclosure circumstances unless an application is made to the Secretary to change such status.	
Sec. 2211 Governing body of tribe		States that this act does not vest a tribal governing body with authority which is not authorized by its constitution or by-laws.	
Sec. 2212 Pilot Program for the acquisition of fractional interests in trust or restricted lands			<p>Gives authority to the Secretary to acquire fractional interests in trust or restricted lands, with owner consent and at fair market price. The Secretary may give priority to the acquisition of fractional interests representing 2 percent or less of a parcel of trust or restricted land, especially those interests that would have escheated to a tribe if not for <i>Babbitt vs. Youpee</i>.</p> <p>At the request of any Indian who owns at least 5 percent of the undivided interest in a parcel of trust or restricted land, the Secretary shall convey an interest acquired under this section to the Indian landowner upon payment by the Indian landowner of the amount paid for the interest by</p>



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Sec. 2213 Administration of acquired fractional interests; disposition of proceeds			the Secretary. Provides for tribal administration of acquired fractional interest and the disposition of proceeds from leases, resource sales, rights-of-way, or other transactions affecting interests in trust or restricted lands. Sets out conditions for such administration.
Sec. 2214 Establishing fair market value			Grants authority to the Secretary to develop a system for establishing the fair market value of various types of lands and improvements of interests in trust or restricted lands.
Sec. 2215 Acquisition fund			Establishes an acquisition fund.
Sec. 2216 Trust and restricted land transactions			Allows the sale or other exchange of interests in trust or restricted lands, including a prohibition on termination trust or restriction status on land conveyed for less than fair market value until five years after approval of conveyance.
Sec. 2217 Reports to Congress			Requires reports from the Secretary to specified congressional committees on fractional interests in trust or restricted lands acquired and the impact on Bureau of Indian Affairs financial realty recordkeeping systems.
Sec. 2218 Approval of leases, rights-of-way, and sales of natural resources			Authorizes the Secretary to approve leases, rights-of-way, and sales of natural resources affecting individually owned trust or restricted lands based upon the consent of specified percentages of the owners concerned (with decreasing percentages required the greater the number of owners).
Sec. 2219			Makes this act inapplicable to land located in Alaska.

