



Indian Land Tenure
FOUNDATION.

***AIPRA Basics:
The Law***



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The American Indian Probate Reform Act (AIPRA)

- ❑ Applies to trust property owners who die on or after June 20, 2006
- ❑ Encourages you to make a will
- ❑ If you do not make a will, AIPRA will choose who takes your trust property



What happens when you pass on?

- If the tribe where your lands are located does not have an approved AIPRA probate code (and very few tribes have one as of January 2021), then AIPRA will apply to your trust lands when you pass on. Contact the tribe where the land is located to see if they have an AIPRA approved code. 25 U.S.C. § 2205

- If you pass without a Will, AIPRA determines who receives your trust property and trust money. 25 U.S.C. § 2206(a)

- A valid Will allows you to choose who receives trust property and trust money, but AIPRA has limitations as to who can receive your property.
25 U.S.C. § 2206(b)

Under AIPRA, without a will...

Your Trust land interests are put into two baskets and different rules will apply at probate of your estate



1. Trust land interests **5% or greater**



2. Trust land interests **less than 5%**

Trust Assets

- Trust or restricted fee land
- Individual Indian Money Account funds
- NOT TRUST
 - Permanent structures on trust lands
 - Any other personal property

Tribal Probate Acts/Codes

(Indian land exempt from AIPRA)

- Probate Acts
 - Klamath Reservation (1938)
 - Five Tribes (1947)
 - Cherokee, Chickasaw, Choctaw, Creek, Seminole
 - Alabama-Quassarte Tribal Town, Kialegee Tribal Town, Thlopthlocco Tribal Town, United Keetowah Band of Cherokee
 - Yakama Reservation (1970)
 - Warm Springs Reservation (1972)
 - Nez Perce Indian Reservation (1972)
 - Umatilla Indian Reservation (1978)

Tribal Probate Acts/Codes

(Indian land exempt from AIPRA)

- Probate Acts (cont.)
 - Osage Nation (1978)
 - Standing Rock Sioux Tribe (1980)
 - Spirit Lake Sioux Tribe [formerly Devils Lake] (1983)
 - Lake Traverse Reservation [Sisseton-Wahpeton Oyate] (1984)

- AIPRA-Compliant Codes
 - Confederated Tribes of Umatilla Reservation (2008)
 - Northern Cheyenne (2014)
 - Fond du Lac Band of Chippewa (2015)



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