

Union Calendar No. 172

105<sup>TH</sup> CONGRESS  
1<sup>ST</sup> Session

**H. R. 1805**

[Report No. 105-301]

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## **A BILL**

To amend the Auburn Indian Restoration Act to establish restrictions related to gaming on and use of land held in trust for the United Auburn Indian Community of the Auburn Rancheria of California, and for other purposes.

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OCTOBER 6, 1997

Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

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## IN THE HOUSE OF REPRESENTATIVES

JUNE 5, 1997

Mr. DOOLITTLE introduced the following bill; which was referred to the Committee on Resources

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## A BILL

To amend the Auburn Indian Restoration Act to establish restrictions related to gaming on and use of land held in trust for the United Auburn Indian Community of the Auburn Rancheria of California, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Auburn Indian Res-  
3 toration Amendment Act”.

4 **SEC. 2. RESTRICTIONS ON GAMING.**

5 Section 202 of the Auburn Indian Restoration Act  
6 (25 U.S.C. 13001) is amended by adding at the end the  
7 following new subsection:

8 “(g) GAMING.—

9 “(1) Class II and class III gaming activities  
10 shall be lawful only on one parcel of land, which  
11 shall be taken into in trust for the Tribe pursuant  
12 to section 204(a)(1), but only if—

13 “(A) prior to the time such parcel is taken  
14 into trust, the Tribe and the local government  
15 of the political jurisdiction in which the parcel  
16 is located have entered into a compact as re-  
17 quired by section 204(e);

18 “(B) the gaming facility and related infra-  
19 structure on such parcel of land are located at  
20 least 2 miles from any church, school, or resi-  
21 dence which was constructed in a residential  
22 zone and which existed on the date of the intro-  
23 duction to the House of Representatives of the  
24 Auburn Indian Restoration Amendment Act  
25 (June 5, 1997);

1           “(C) such parcel of land is specifically  
2           taken into trust for class II and class III gam-  
3           ing activities; and

4           “(D) such parcel of land is not part of the  
5           land identified in section 204(b).

6           “(2) If the State of California finds that class  
7           III gaming activities have been established in viola-  
8           tion of the requirements of the Indian Gaming Reg-  
9           ulatory Act (25 U.S.C. 2701 et seq.) on land held  
10          in trust for the Tribe, the State may institute an ac-  
11          tion in a court of competent jurisdiction for injunc-  
12          tive relief to enjoin all class II and class III gaming  
13          activities. If a court of competent jurisdiction deter-  
14          mines, by a preponderance of the evidence, that  
15          Class III gaming activity has been established in vio-  
16          lation of the requirements of the Indian Gaming  
17          Regulatory Act (25 U.S.C. 2701 et seq.) on land  
18          held in trust for the Tribe, all Class II and Class III  
19          gaming activities shall be unlawful on land held in  
20          trust for the Tribe and any such activities may be  
21          enjoined by such court. The Tribe shall not raise  
22          sovereign immunity as a defense to any such action  
23          or to the enforcement or execution of a judgment re-  
24          sulting from such action.

1           “(3) Except as provided herein, nothing in this  
2           Act shall negate or diminish in any way the Tribe’s  
3           obligation to comply with all provisions of the Indian  
4           Gaming Regulatory Act (25 U.S.C. 2701 et seq.).”.

5 **SEC. 3. RESTRICTIONS ON LAND TO BE HELD IN TRUST.**

6           (a) LANDS TO BE TAKEN INTO TRUST.—Section  
7           204(a) of the Auburn Indian Restoration Act (25 U.S.C.  
8           1300l–2) is amended to read as follows:

9           “(a) LANDS TO BE TAKEN INTO TRUST.—(1) Upon  
10           request of the tribe, the Secretary shall accept forthwith  
11           for the benefit of the Tribe any real property located in  
12           Placer County, California, if—

13                   “(A) the property is conveyed or otherwise  
14                   transferred to the Secretary;

15                   “(B) at the time of the conveyance or transfer  
16                   pursuant to subparagraph (A), there are no adverse  
17                   legal claims on such property, including outstanding  
18                   liens, mortgages, or taxes owed; and

19                   “(C) prior to the Secretary accepting the prop-  
20                   erty the Tribe was in compliance with section  
21                   202(g)(1) and 202(g)(3), and subsections (d) and  
22                   (e) of this section.

23           “(2) The Secretary may accept, subject to the provi-  
24           sions of this Act, any additional acreage in the Tribe’s  
25           service area pursuant to the authority of the Secretary,

1 for nongaming related activities or nonresidential purposes  
2 under the Act of June 18, 1934 (25 U.S.C. 461 et seq.),  
3 provided that the primary function of such additional acre-  
4 age shall not be the furtherance of gaming activities.”.

5 (b) USE OF LAND TAKEN INTO TRUST FOR NON-  
6 GAMING PURPOSES.—Section 204 of the Auburn Indian  
7 Restoration Act (25 U.S.C. 1300l–2) is amended by add-  
8 ing at the end the following new subsections:

9 “(d) USE OF LAND TAKEN INTO TRUST FOR NON-  
10 GAMING PURPOSES.—(1) A parcel of real property taken  
11 into trust for the Tribe pursuant to the provisions of sec-  
12 tion 204(a) (1) or (2), for purposes other than class II  
13 or class III gaming activities, may only be used and devel-  
14 oped in a manner consistent with and in compliance with  
15 all general and community plans and zoning ordinances  
16 of the local government of the political jurisdiction in  
17 which the land to be taken into trust is located which are  
18 in effect at the time that the land is taken into trust, and  
19 any other provisions agreed to in the compact required by  
20 subsection (e).

21 “(2)(A) In addition to the former trust lands referred  
22 to in subsection (b), the Tribe may acquire one parcel of  
23 land for residential purposes pursuant to section 204  
24 (a)(1) and (d)(1).

1       “(B) Any additional real property taken into trust for  
2 the Tribe for residential purposes pursuant to section 204  
3 (a)(2) and (d)(1) shall be contiguous to the initial parcel.

4       “(C) Except as provided in subsection (b), the Sec-  
5 retary shall not take any real property into trust for resi-  
6 dential purposes for individual members of the Tribe.

7       “(e) COMPACT REQUIRED.—(1) After the date of the  
8 enactment of the Auburn Indian Restoration Amendment  
9 Act, the Secretary shall not take any land into trust for  
10 the Tribe until the Tribe and the local government of the  
11 political jurisdiction in which the land to be taken into  
12 trust is located have entered into a written compact, which  
13 the parties shall negotiate in good faith and in a timely  
14 manner, and which shall include provisions relating to—

15               “(A) location and permissible use of the land to  
16 be taken into trust;

17               “(B) an agreed upon environmental study  
18 which provides for the mitigation of any environ-  
19 mental impacts of the proposed development and  
20 uses of the land to be taken into trust, and that any  
21 mitigation required shall be similar in scope and  
22 content to that which would be required of other  
23 non-tribal applicants in the local government of the  
24 political jurisdiction;

1           “(C) law enforcement jurisdictional responsibil-  
2           ities and other public services to be provided on the  
3           land, consistent with other Federal laws, including  
4           any reasonable compensation to the local govern-  
5           ment of the political jurisdiction for the services and  
6           impacts;

7           “(D) the impact of the removal of the land  
8           from the tax rolls;

9           “(E) building and design standards for any  
10          structures proposed to be built on the land, includ-  
11          ing provisions that such structures shall be built in  
12          accordance with standards similar in scope and con-  
13          tent to those required of non-tribal applicants in the  
14          local jurisdiction; and

15          “(F) such additional matters as the parties may  
16          agree.

17          “(2) The local government of the political jurisdiction  
18          in which the land to be taken into trust is located shall—

19               “(A) provide notice of the Tribe’s proposal and  
20               the terms of the local compact to the public, the  
21               State, and the governing bodies of any other local  
22               governments in Placer County, California;

23               “(B) provide the recipients of the notice given  
24               under subparagraph (A) with a period of 45 days in  
25               which to provide comments; and

1           “(C) take comments provided under subpara-  
2           graph (B) into consideration and address them be-  
3           fore entering into a local compact.

4           “(3) The Tribe and the local jurisdiction shall nego-  
5           tiate the compact required by this subsection in good faith.

6           “(f) BINDING ARBITRATION.—(1) If a dispute arises  
7           regarding—

8           “(A) the non-compliance of the Tribe or the  
9           local jurisdiction with subsection (e)(3);

10           “(B) the terms of a compact negotiated pursu-  
11           ant to subsection (e); or

12           “(C) the alleged violation of a compact nego-  
13           tiated pursuant to subsection (e),

14           the Tribe or the local government of the political jurisdic-  
15           tion in which the real property relevant to the dispute is  
16           located may submit the dispute to binding arbitration  
17           under the United States Arbitration Act (9 U.S.C. 1 et  
18           seq.). The Tribe shall not raise sovereign immunity as a  
19           defense to arbitration or the enforcement of any arbitra-  
20           tion award or any judgment based thereon, and all parties  
21           expressly agree to comply with such awards and judg-  
22           ments.

23           “(2) If the Tribe or the local government of the politi-  
24           cal jurisdiction in which the real property relevant to the  
25           dispute is located elects to submit a dispute to arbitration

1 pursuant to paragraph (1), an arbitration board shall be  
2 established to conduct the arbitration and shall consist  
3 of—

4           “(A) one independent member selected by the  
5       Tribe;

6           “(B) one independent member selected by the  
7       local government of the political jurisdiction in which  
8       the land relevant to the dispute is located; and

9           “(C) one member selected by the members se-  
10       lected pursuant to subparagraphs (A) and (B). If  
11       the members selected pursuant to subparagraphs  
12       (A) and (B) are unable to agree upon a third mem-  
13       ber within 20 days after selection of the other mem-  
14       bers, the presiding judge of the Placer County Supe-  
15       rior Court shall select the third member.

16       “(3) The costs of an arbitration proceeding under  
17       this subsection, not including attorneys’ fees, shall be  
18       awarded to the prevailing party in the arbitration as deter-  
19       mined by the arbitration board.

20       “(4) The decision of the arbitration board shall be  
21       final and implemented subject only to judicial review as  
22       provided for in the United States Arbitration Act (9  
23       U.S.C. 1 et seq.).

24       “(g) TERMS ENFORCEABLE.—The terms of sub-  
25       sections (d) and (e) are specifically enforceable in a court

1 of competent jurisdiction by the Tribe and the local gov-  
2 ernment of the political jurisdiction in which the land rel-  
3 evant to a dispute is located against the other. The Tribe  
4 shall not raise its sovereign immunity as a defense to such  
5 an action or the enforcement or execution of any judgment  
6 resulting from such action.”.

7 **SEC. 4. DEFINITIONS.**

8 Section 208 of the Auburn Indian Restoration Act  
9 (25 U.S.C. 1300l-6) is amended by adding at the end the  
10 following new paragraphs:

11 “(8) The term ‘class II gaming’ has the mean-  
12 ing given that term in the Indian Gaming Regu-  
13 latory Act (25 U.S.C. 2701 et seq.).

14 “(9) The term ‘class III gaming’ has the mean-  
15 ing given that term in the Indian Gaming Regu-  
16 latory Act (25 U.S.C. 2701 et seq.).”.