

Union Calendar No. 299

107TH CONGRESS
2^D SESSION

H. R. 2880

[Report No. 107-499]

To amend laws relating to the lands of the citizens of the Muscogee (Creek), Seminole, Cherokee, Chickasaw, and Choctaw Nations, historically referred to as the Five Civilized Tribes, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 12 (legislative day, SEPTEMBER 11), 2001

Mr. WATKINS of Oklahoma (for himself, Mr. CARSON of Oklahoma, Mr. KILDEE, and Mr. CONDIT) introduced the following bill; which was referred to the Committee on Resources

JUNE 11, 2002

Reported with amendments, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

[Strike out all after the enacting clause and insert the part printed in italics]

[For text of introduced bill, see copy of bill as introduced on September 12, 2001]

A BILL

To amend laws relating to the lands of the citizens of the Muscogee (Creek), Seminole, Cherokee, Chickasaw, and Choctaw Nations, historically referred to as the Five Civilized Tribes, 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; TABLE OF CONTENTS.**

2 (a) *SHORT TITLE.*—*This Act may be cited as the “Five*
 3 *Nations Indian Land Reform Act”.*

4 (b) *TABLE OF CONTENTS.*—*The table of contents of this*
 5 *Act is as follows:*

Sec. 1. Short title; table of contents.

Sec. 2. Findings.

Sec. 3. Purposes.

Sec. 4. Definitions.

TITLE I—RESTRICTIONS; REMOVAL OF RESTRICTIONS

Sec. 101. Restrictions on real property.

Sec. 102. Reinvestment of proceeds from condemnation or conveyance of restricted property.

Sec. 103. Restricted funds.

Sec. 104. Period of restrictions.

Sec. 105. Removal of restrictions.

Sec. 106. Exemptions from prior claims.

Sec. 107. Fractional interests.

TITLE II—ADMINISTRATIVE APPROVAL OF CONVEYANCES, PARTITIONS, LEASES, AND MORTGAGES; MANAGEMENT OF MINERAL INTERESTS

Sec. 201. Approval authority for conveyances and leases.

Sec. 202. Approval of conveyances.

Sec. 203. Reimposition of restrictions on conveyances of property to Indian housing authorities.

Sec. 204. Administrative approval of partition in kind.

Sec. 205. Surface leases.

Sec. 206. Secretarial approval of mineral leases or agreements.

Sec. 207. Management of mineral interests.

Sec. 208. Mortgages.

TITLE III—PROBATE, HEIRSHIP DETERMINATION, AND OTHER PROCEEDINGS AFFECTING TITLE TO RESTRICTED PROPERTY

Sec. 301. Actions affecting restricted property.

Sec. 302. Heirship determinations and probates.

Sec. 303. Actions to cure title defects.

Sec. 304. Involuntary partitions.

Sec. 305. Requirements for actions to cure title defects and involuntary partitions.

Sec. 306. Pending State proceedings.

TITLE IV—MISCELLANEOUS

Sec. 401. Regulations.

Sec. 402. Validation of certain transactions; savings clause.

Sec. 403. Repeals.

Sec. 404. Secretarial trust responsibility.

Sec. 405. Representation by attorneys for the Department of the Interior.

Sec. 406. Filing requirements; constructive notice.

Sec. 407. Publication of designated officials.

Sec. 408. Rule of construction.

Sec. 409. Effective date.

1 **SEC. 2. FINDINGS.**

2 *Congress makes the following findings:*

3 *(1) Since 1970, Federal Indian policy has en-*
4 *couraged Indian self-determination and economic self-*
5 *sufficiency. The exercise of Federal instrumentality*
6 *jurisdiction by the Oklahoma State courts over the In-*
7 *dian property that is subject to Federal restrictions*
8 *against alienation belonging to enrollees and descend-*
9 *ants of enrollees whose names appear on the final*
10 *1906 Indian rolls of the Muscogee (Creek), Seminole,*
11 *Cherokee, Chickasaw, and Choctaw Nations, histori-*
12 *cally referred to as the Five Civilized Tribes, but now*
13 *referred to as the Five Nations, is inconsistent with*
14 *that policy.*

15 *(2) It is a goal of Congress to recognize the In-*
16 *dian land base as an integral part of the culture and*
17 *heritage of Indian people.*

18 *(3) The exercise of Federal instrumentality juris-*
19 *isdiction by the courts of the State of Oklahoma over*
20 *conveyances and inheritance of restricted property be-*
21 *longing to Individual Indians—*

1 (A) is costly, confusing, and cumbersome,
2 and effectively prevents any meaningful Indian
3 estate planning, and unduly complicates the pro-
4 bating of Indian estates and other legal pro-
5 ceedings relating to Individual Indians and their
6 lands; and

7 (B) has impeded the self-determination and
8 economic self-sufficiency of Individual Indians
9 within the exterior boundaries of the Five Na-
10 tions.

11 **SEC. 3. PURPOSES.**

12 *The purposes of this Act are as follows:*

13 (1) *To correct the disparate Federal treatment of*
14 *individual allotted lands of Individual Indians that*
15 *resulted from prior Federal legislation by equalizing*
16 *the Federal legislative treatment of restricted and*
17 *trust lands.*

18 (2) *To eliminate unnecessary legal and bureau-*
19 *cratic obstacles that impede the highest and best use*
20 *of restricted property belonging to Individual Indi-*
21 *ans.*

22 (3) *To provide for an efficient process for the ad-*
23 *ministrative review and approval of conveyances, vol-*
24 *untary partitions, and leases, and to provide for Fed-*
25 *eral administrative proceedings in testate and intes-*

1 *tate probate and other cases that involve the restricted*
2 *property of Individual Indians, which concern the*
3 *rights of Individual Indians to hold and acquire such*
4 *property in restricted and trust status.*

5 *(4) To transfer to the Secretary the Federal in-*
6 *strumentality jurisdiction of the Oklahoma State*
7 *courts together with other authority currently exer-*
8 *cised by such courts over the conveyance, devise, in-*
9 *heritance, lease, encumbrance, and certain voluntary*
10 *partition actions involving restricted property belong-*
11 *ing to such Individual Indians.*

12 **SEC. 4. DEFINITIONS.**

13 *In this Act:*

14 *(1) FIVE NATIONS.—The term “Five Nations”*
15 *means the Cherokee Nation, the Chickasaw Nation,*
16 *the Choctaw Nation of Oklahoma, the Seminole Na-*
17 *tion of Oklahoma, and the Muscogee (Creek) Nation,*
18 *collectively, which were historically referred to as the*
19 *“Five Civilized Tribes”.*

20 *(2) INDIAN COUNTRY.—The term “Indian coun-*
21 *try” has the meaning given that term in section 1151*
22 *of title 18, United States Code, which includes re-*
23 *stricted property and trust property (as such terms*
24 *are defined in this Act).*

1 (3) *INDIAN NATION.*—*The term “Indian Nation”*
2 *means one of the individual Five Nations referred to*
3 *in paragraph (1).*

4 (4) *INDIAN TRIBE.*—*The term “Indian tribe” has*
5 *the meaning given that term in section 4(e) of the In-*
6 *Indian Self-Determination and Education Assistance*
7 *Act (25 U.S.C. 450b(e)).*

8 (5) *INDIVIDUAL INDIAN.*—*The term “Individual*
9 *Indian” means a member or citizen of one of the in-*
10 *dividual Five Nations referred to in paragraph (1),*
11 *an enrollee on the final Indian rolls of the Five Civ-*
12 *ilized Tribes closed in 1906, or an individual who is*
13 *a lineal descendant by blood of an Indian ancestor*
14 *enrolled on the final Indian rolls of the Five Civilized*
15 *Tribes closed in 1906, regardless of whether such per-*
16 *son is an enrolled member of one of the Five Nations.*

17 (6) *RESTRICTED PROPERTY.*—*(A) The term “re-*
18 *stricted property” means any right, title, or interest*
19 *in real property owned by an Individual Indian that*
20 *is subject to a restriction against alienation, convey-*
21 *ance, lease, mortgage, creation of liens, or other en-*
22 *cumbrances imposed by this Act and other laws of the*
23 *United States expressly applicable to the property of*
24 *enrollees and lineal descendants of enrollees on the*

1 *final Indian rolls of the Five Civilized Tribes in*
2 *1906.*

3 *(B) The term “restricted property” includes,*
4 *without limitation, those interests in the estate of a*
5 *decedent Individual Indian who died prior to the ef-*
6 *fective date of this Act that were, immediately prior*
7 *to the decedent’s death, subject to restrictions against*
8 *alienation imposed by the laws of the United States*
9 *but that had not, as of the effective date of this Act—*

10 *(i) been the subject of a final order deter-*
11 *mining the decedent’s heirs and distributing the*
12 *restricted property issued by a State district*
13 *court or a United States district court;*

14 *(ii) been conveyed by heirs by deed ap-*
15 *proved in State district court;*

16 *(iii) been conveyed by heirs of less than one-*
17 *half degree of Indian blood with or without State*
18 *district court approval; or*

19 *(iv) been the subject of Secretarial approval*
20 *of removal of restrictions.*

21 *(C) The term “restricted property” does not in-*
22 *clude Indian trust allotments made pursuant to the*
23 *General Allotment Act (25 U.S.C. 331 et seq.) or any*
24 *other trust property.*

1 (7) *SECRETARY.*—*The term “Secretary” means*
2 *the Secretary of the Interior or the designee of the*
3 *Secretary of the Interior.*

4 (8) *TRUST PROPERTY.*—*The term “trust prop-*
5 *erty” means Indian property, title to which is held in*
6 *trust by the United States for the benefit of an Indi-*
7 *vidual Indian or an Indian Nation, provided that*
8 *such property was acquired in trust by the United*
9 *States under the authority of the Act of June 18, 1934*
10 *(25 U.S.C. 461 et seq.) (commonly known as the “In-*
11 *Indian Reorganization Act”)* or the Act of June 26,
12 1936 (25 U.S.C. 501 et seq.) (commonly known as the
13 “Oklahoma Indian Welfare Act”), within the bound-
14 aries of the State of Oklahoma.

15 **TITLE I—RESTRICTIONS;**
16 **REMOVAL OF RESTRICTIONS**

17 **SEC. 101. RESTRICTIONS ON REAL PROPERTY.**

18 (a) *APPLICATION.*—*Beginning on the effective date of*
19 *this Act, all restricted property shall be subject to restric-*
20 *tions against alienation, conveyance, lease, mortgage, cre-*
21 *ation of liens, or other encumbrances, regardless of the de-*
22 *gree of Indian blood of the Individual Indian who owns*
23 *such property.*

24 (b) *CONTINUATION.*—

1 (1) *IN GENERAL.*—Any restricted property, in-
2 cluding any restricted property referred to in sub-
3 section (a), shall remain restricted property notwith-
4 standing the acquisition of such property by an Indi-
5 vidual Indian by inheritance, devise, gift, or ex-
6 change.

7 (2) *WITH WAIVER.*—Any restricted property, in-
8 cluding any restricted property referred to in sub-
9 section (a), shall remain restricted property upon the
10 acquisition of such property by an Individual Indian
11 by election to take at partition or by purchase, but
12 only if—

13 (A) prior to the execution of the deed trans-
14 ferring such restricted property, the Individual
15 Indian who owned such property prior to such
16 election to take or purchase executes a written
17 waiver of his or her right to acquire other prop-
18 erty in restricted status pursuant to section 102;
19 and

20 (B) such restrictions appear in the deed
21 transferring such property to the Individual In-
22 dian electing to take at partition or purchasing
23 such property, together with certification on said
24 deed by the Secretary that the requirements of
25 this paragraph have been met.

1 **SEC. 102. REINVESTMENT OF PROCEEDS FROM CONDEMNATION OR CONVEYANCE OF RESTRICTED**
2 **PROPERTY.**

3
4 (a) *REQUIREMENT.*—Upon the conveyance of the re-
5 stricted property of an Individual Indian pursuant to this
6 Act, or upon the conveyance or condemnation of such prop-
7 erty pursuant to section 3 of the Act of March 3, 1901 (25
8 U.S.C. 357) or other Federal laws generally applicable to
9 the condemnation of Indian trust or restricted property,
10 any proceeds from such conveyance or condemnation shall
11 be used to purchase from a willing seller other property des-
12 ignated by such Individual Indian, and such designated
13 property shall be restricted property if—

14 (1) such proceeds were deposited into a seg-
15 regated account in a trust fund under the supervision
16 of the Secretary at the request of the Individual In-
17 dian;

18 (2) such Individual Indian provides a written
19 request to the Secretary for payment of all or a por-
20 tion of such proceeds for purchase of property to be
21 held in restricted status;

22 (3) such Individual Indian has not executed a
23 written waiver of his or her right to acquire other
24 property in restricted status pursuant to section 101;

25 (4) such restrictions appear in the conveyance to
26 the Individual Indian with certification by the Sec-

1 *retary that the requirements of this section have been*
2 *met; and*

3 *(5) such property is located within the State of*
4 *Oklahoma.*

5 *(b) FAIR MARKET VALUE IN EXCESS OF PROCEEDS.—*

6 *If the fair market value of any property designated under*
7 *subsection (a) exceeds the amount of proceeds that are de-*
8 *rived from the conveyance or condemnation involved, a spe-*
9 *cific tract of land within the property shall be designated*
10 *by the Individual Indian for placement in restricted status.*
11 *The size of the restricted tract of land so designated shall*
12 *be in the same proportion to the whole of the property as*
13 *the proceeds derived from the conveyance or condemnation*
14 *bears to the fair market value of the whole of the property.*
15 *Such restrictions shall appear on the face of the deed with*
16 *certification by the Secretary describing that portion of the*
17 *property which is subject to restrictions.*

18 *(c) RULE OF CONSTRUCTION.—The provisions of sub-*
19 *sections (a) and (b) of this section shall apply to the rein-*
20 *vestment of proceeds derived from the conveyance or con-*
21 *demnation of restricted property of an Individual Indian*
22 *pursuant to the Act of March 2, 1931, as amended by the*
23 *Act of June 30, 1932 (25 U.S.C. 409a), where such reinvest-*
24 *ment occurs after the effective date of this Act.*

1 **SEC. 103. RESTRICTED FUNDS.**

2 (a) *IN GENERAL.*—All funds and securities held or su-
3 pervised by the Secretary derived from restricted property
4 or Individual Indian trust property on or after the effective
5 date of this Act, including proceeds from any conveyance
6 or condemnation as provided for in section 102, are deemed
7 to be restricted and shall remain subject to the jurisdiction
8 of the Secretary.

9 (b) *USE OF FUNDS.*—Funds, securities, and proceeds
10 described in subsection (a) may be released or expended by
11 the Secretary for the use and benefit of the Individual Indi-
12 ans to whom such funds, securities, and proceeds belong,
13 under such rules and regulations as the Secretary may pre-
14 scribe.

15 **SEC. 104. PERIOD OF RESTRICTIONS.**

16 Subject to the provisions of this Act that permit re-
17 strictions to be removed, the period of restriction against
18 alienation, conveyance, lease, mortgage, creation of liens, or
19 other encumbrances of restricted property and funds belong-
20 ing to Individual Indians, is hereby extended until an Act
21 of Congress determines otherwise.

22 **SEC. 105. REMOVAL OF RESTRICTIONS.**

23 (a) *PROCEDURE.*—

24 (1) *APPLICATION.*—An Individual Indian who
25 owns restricted property, or the legal guardian of a
26 minor Individual Indian or an Individual Indian

1 *who has been determined to be legally incompetent by*
2 *a court of competent jurisdiction (including a tribal*
3 *court), may apply to the Secretary for an order re-*
4 *moving restrictions on any interest in restricted prop-*
5 *erty owned by such Individual Indian.*

6 (2) *CONSIDERATION OF APPLICATION.*—*An ap-*
7 *plication under paragraph (1) shall be considered by*
8 *the Secretary only as to the tract, tracts, or severed*
9 *mineral or surface interest described in the applica-*
10 *tion. Not later than 90 days after the date on which*
11 *an application is submitted, the Secretary shall either*
12 *issue the removal order or disapprove the application.*

13 (3) *DISAPPROVAL.*—*The Secretary shall dis-*
14 *approve an application under paragraph (1) if—*

15 (A) *in the Secretary's judgment, the appli-*
16 *cant has been subjected to fraud, undue influ-*
17 *ence, or duress by a third party; or*

18 (B) *the Secretary determines it is otherwise*
19 *not in the Individual Indian owner's best inter-*
20 *est.*

21 (b) *REMOVAL OF RESTRICTIONS.*—*When an order to*
22 *remove restrictions becomes effective under subsection (a),*
23 *the Secretary shall issue a certificate describing the prop-*
24 *erty and stating that the Federal restrictions have been re-*
25 *moved.*

1 (c) *SUBMISSION OF LIST.*—Not later than April 1 of
2 each year, the Secretary shall cause to be filed with the
3 county treasurer of each county in the State of Oklahoma
4 where restricted property is situated, a list of restricted
5 property that has lost its restricted status during the pre-
6 ceding calendar year in accordance with the provisions of
7 this Act.

8 (d) *RULE OF CONSTRUCTION.*—Nothing in this section
9 shall be construed to—

10 (1) abrogate valid existing rights to property
11 that is subject to an order to remove restrictions
12 under this section; and

13 (2) remove restrictions on any other restricted
14 property owned by the applicant.

15 **SEC. 106. EXEMPTIONS FROM PRIOR CLAIMS.**

16 Sections 4 and 5 of the Act of May 27, 1908 (35 Stat.
17 312, chapter 199), shall apply to all restricted property.

18 **SEC. 107. FRACTIONAL INTERESTS.**

19 Upon application by an Individual Indian owner of
20 an undivided unrestricted interest in property of which a
21 portion of the interests in such property is restricted as of
22 the effective date of this Act, the Secretary shall forthwith
23 convert that unrestricted interest into restricted status if all
24 of the interests in the property are owned by Individual
25 Indians as tenants in common as of the date of the applica-

1 *tion under this section. The conversion into restricted status*
 2 *shall be effective upon the date of filing of a restricted form*
 3 *deed with the county clerk of the county where the property*
 4 *is situated; provided that such deed must be executed by*
 5 *the applicant and approved by the Secretary.*

6 **TITLE II—ADMINISTRATIVE AP-**
 7 **PROVAL OF CONVEYANCES,**
 8 **PARTITIONS, LEASES, AND**
 9 **MORTGAGES; MANAGEMENT**
 10 **OF MINERAL INTERESTS**

11 **SEC. 201. APPROVAL AUTHORITY FOR CONVEYANCES AND**
 12 **LEASES.**

13 *The Secretary shall have exclusive jurisdiction to ap-*
 14 *prove conveyances and leases of restricted property by an*
 15 *Individual Indian or by any guardian or conservator of*
 16 *any Individual Indian who is a ward in any guardianship*
 17 *or conservatorship proceeding pending in any court of com-*
 18 *petent jurisdiction, except that petitions for such approvals*
 19 *that are filed in Oklahoma district courts prior to the effec-*
 20 *tive date of this Act shall be heard and adjudicated by such*
 21 *courts pursuant to the procedures described in section 1 of*
 22 *the Act of August 4, 1947 (61 Stat. 731, chapter 458), as*
 23 *in effect on the day before the effective date of this Act, un-*
 24 *less the Individual Indian, guardian, or conservator dis-*

1 *misses the petition or otherwise objects to the conveyance*
2 *or lease prior to final court approval.*

3 **SEC. 202. APPROVAL OF CONVEYANCES.**

4 *(a) PROCEDURE.—*

5 *(1) IN GENERAL.—Except as provided in sub-*
6 *section (b), restricted property may be conveyed by an*
7 *Individual Indian pursuant to the procedures de-*
8 *scribed in this subsection.*

9 *(2) REQUIREMENTS.—An Individual Indian*
10 *may only convey restricted property—*

11 *(A) after the property is appraised by the*
12 *Secretary;*

13 *(B) for an amount that is not less than 90*
14 *percent of the appraised value of the property;*

15 *(C) to the highest bidder through the sub-*
16 *mission to the Secretary of closed, silent bids or*
17 *negotiated bids; and*

18 *(D) upon the approval of the Secretary.*

19 *(b) EXCEPTION.—*

20 *(1) IN GENERAL.—Notwithstanding subsection*
21 *(a)(2), an Individual Indian may convey his or her*
22 *restricted property, or any portion thereof, to any of*
23 *the individuals described in paragraph (2) without*
24 *soliciting bids, providing notice, or for consideration*
25 *which is less than the appraised value of the property,*

1 *if the Secretary determines that the conveyance is not*
2 *contrary to the best interests of the Individual Indian*
3 *and that the Individual Indian has been duly in-*
4 *formed of and understands the fair market appraisal,*
5 *and is not being coerced into the conveyance.*

6 (2) *INDIVIDUALS.*—*An individual described in*
7 *this paragraph is the Individual Indian spouse (if he*
8 *or she is an Individual Indian, father, mother, broth-*
9 *er or sister, son, daughter or other lineal descendant,*
10 *aunt or uncle, cousin, niece or nephew, or Individual*
11 *Indian co-owner.*

12 **SEC. 203. REIMPOSITION OF RESTRICTIONS ON CONVEY-**
13 **ANCES OF PROPERTY TO INDIAN HOUSING**
14 **AUTHORITIES.**

15 (a) *IN GENERAL.*—*In any case where the restrictions*
16 *have been removed from restricted property for the purpose*
17 *of allowing conveyances of the property to Indian housing*
18 *authorities to enable such authorities to build homes for in-*
19 *dividual owners or relatives of owners of restricted prop-*
20 *erty, the Secretary shall issue a Certificate of Restricted*
21 *Status describing the property and imposing restrictions*
22 *thereon upon written request by the Individual Indian*
23 *homebuyer or a successor Individual Indian homebuyer.*
24 *Such request shall include evidence satisfactory to the Sec-*
25 *retary that the homebuyer's contract has been paid in full*

1 *and be delivered to the Secretary not later than 3 years*
2 *after the housing authority conveys such property back to*
3 *the original Individual Indian homebuyer or an Individual*
4 *Indian assignee or successor of the original Individual In-*
5 *dian homebuyer.*

6 (b) *EXISTING LIENS.*—*Prior to issuing a certificate*
7 *under subsection (a) with respect to property, the Secretary*
8 *may require the elimination of any existing liens or other*
9 *encumbrances which would substantially interfere with the*
10 *use of the property.*

11 (c) *APPLICATION TO CERTAIN HOMEBUYERS.*—*Indi-*
12 *vidual Indian homebuyers described in subsection (a) who*
13 *acquired ownership of property prior to the effective date*
14 *of this Act shall have 3 years from such effective date to*
15 *request that the Secretary issue a certificate under such sub-*
16 *section.*

17 (d) *RULE OF CONSTRUCTION.*—*Nothing in this Act*
18 *shall be construed to limit or affect the rights of Individual*
19 *Indians described in this section under other Federal laws*
20 *and regulations relating to the acquisition and status of*
21 *trust property.*

22 **SEC. 204. ADMINISTRATIVE APPROVAL OF PARTITION IN**
23 **KIND.**

24 (a) *JURISDICTION.*—

1 (1) *IN GENERAL.*—*The Secretary shall have ex-*
2 *clusive jurisdiction to approve the partition in kind*
3 *of property, where—*

4 (A) *all of said property is held in trust or*
5 *restricted status in common ownership by more*
6 *than 1 Individual Indian owner;*

7 (B) *all owners consent to the partition in*
8 *writing; and*

9 (C) *all other requirements of subsections (b)*
10 *and (c) are met.*

11 (2) *VOLUNTARY PARTITION IN KIND.*—*The Sec-*
12 *retary shall have jurisdiction to approve the vol-*
13 *untary partition in kind of property consisting of*
14 *both restricted and unrestricted, or both trust and*
15 *nontrust, undivided interests if all owners consent to*
16 *such partition in kind in writing.*

17 (b) *APPLICATION FOR PARTITION.*—

18 (1) *IN GENERAL.*—*An owner or owners of an un-*
19 *divided interest in any property described in sub-*
20 *section (a) may make written application, on a form*
21 *approved by the Secretary, for the partition in kind*
22 *of their trust or restricted property.*

23 (2) *DETERMINATION.*—*If, based on an applica-*
24 *tion submitted under paragraph (1), the Secretary de-*
25 *termines that the property involved is susceptible to*

1 *partition in kind, the Secretary shall initiate parti-*
2 *tion of the property by—*

3 *(A) notifying the owners of such determina-*
4 *tion;*

5 *(B) providing the owners with a partition*
6 *plan; and*

7 *(C) affording the owners a reasonable time*
8 *to respond, object, or consent in accordance with*
9 *subsection (c).*

10 *(c) PARTITION PROCEDURES.—*

11 *(1) PROPOSED LAND DIVISION PLAN.—The Sec-*
12 *retary shall give applicants under subsection (b) and*
13 *all other owners of property subject to a partition ap-*
14 *plication under this section with a reasonable oppor-*
15 *tunity to negotiate a proposed land division plan for*
16 *the purpose of securing ownership of a tract on the*
17 *property equivalent to their respective interests in the*
18 *undivided estate, prior to taking any action related*
19 *to partition in kind of the property under this sec-*
20 *tion.*

21 *(2) APPROVAL.—The Secretary may attempt to*
22 *negotiate for partition in kind or for sale of all or a*
23 *portion of the property, and secure appropriate deeds*
24 *from all interest owners, subject to the Secretary's ap-*

1 proval, if a plan under paragraph (1) is approved
2 by—

3 (A) *Individual Indian owners of more than*
4 *50 percent of the property which is entirely in*
5 *trust status (as distinguished from restricted sta-*
6 *tus) and if the Secretary finds the plan to be*
7 *reasonable, fair, and equitable, the Secretary*
8 *may issue an order partitioning the trust prop-*
9 *erty in kind; or*

10 (B) *any Individual Indian who owns an*
11 *undivided interest which is held in restricted sta-*
12 *tus (as distinguished from trust status) and if*
13 *the Secretary finds the plan to be reasonable,*
14 *fair, and equitable.*

15 (3) *LIMITATION.—No partition under paragraph*
16 *(2)(B) shall be effected unless all of the owners have*
17 *consented to the plan in writing.*

18 **SEC. 205. SURFACE LEASES.**

19 *The surface of restricted property may be leased by an*
20 *Individual Indian pursuant to the Act of August 9, 1955*
21 *(25 U.S.C. 415 et seq.), except that the Secretary may ap-*
22 *prove any agricultural lease or permit with respect to re-*
23 *stricted property in accordance with the provisions of sec-*
24 *tion 105 of the American Indian Agricultural Resource*

1 *Management Act (25 U.S.C. 3715) and section 219 of the*
2 *Indian Land Consolidated Act (25 U.S.C. 2218).*

3 **SEC. 206. SECRETARIAL APPROVAL OF MINERAL LEASES OR**
4 **AGREEMENTS.**

5 (a) *APPROVAL.*—

6 (1) *GENERAL RULE.*—*No lease or agreement pur-*
7 *porting to convey or create any mineral interest in*
8 *restricted or trust property that is entered into or re-*
9 *newed after the effective date of this Act shall be valid*
10 *unless approved by the Secretary.*

11 (2) *REQUIREMENTS.*—*The Secretary may ap-*
12 *prove a lease or agreement described in paragraph (1)*
13 *only if—*

14 (A) *the Individual Indian owners of a ma-*
15 *jority of the undivided interest in the restricted*
16 *or trust mineral estate that is the subject of the*
17 *lease or agreement (including any interest cov-*
18 *ered by a lease or agreement executed by the Sec-*
19 *retary under subsection (c)) consent to the lease*
20 *or agreement;*

21 (B) *the Secretary determines that approv-*
22 *ing the lease or agreement is in the best interest*
23 *of the Individual Indian owners of the restricted*
24 *or trust mineral interests; and*

1 (C)(i) *the Secretary has accepted the highest*
2 *bid for such lease or agreement after a competi-*
3 *tive bidding process has been conducted by the*
4 *Secretary, or*

5 (ii) *the Secretary has determined that it is*
6 *in the best interest of the Individual Indian*
7 *owners to award a lease made by negotiation,*
8 *and the Individual Indian owners so consent in*
9 *writing.*

10 (b) *EFFECT OF APPROVAL.—Upon the approval of a*
11 *lease or agreement by the Secretary under subsection (a),*
12 *the lease or agreement shall be binding upon all owners of*
13 *the restricted or trust undivided interests subject to the lease*
14 *or agreement and all other parties to the lease or agreement,*
15 *to the same extent as if all of the owners of the restricted*
16 *or trust mineral interests involved had consented to the*
17 *lease or agreement.*

18 (c) *EXECUTION OF LEASE OR AGREEMENT BY SEC-*
19 *RETARY.—The Secretary may execute a mineral lease or*
20 *agreement that affects restricted or trust property interests*
21 *on behalf of an Individual Indian owner if that owner is*
22 *deceased and the heirs to, or devisees of, the interest of the*
23 *deceased owner have not been determined, or if the heirs*
24 *or devisees have been determined but one or more of the*
25 *heirs or devisees cannot be located.*

1 (d) *DISTRIBUTION OF PROCEEDS.*—*The proceeds de-*
2 *rived from a mineral lease or agreement approved by the*
3 *Secretary under subsection (a) shall be distributed in ac-*
4 *cordance with the interest held by each owner pursuant to*
5 *such rules and regulations as may be promulgated by the*
6 *Secretary.*

7 (e) *COMMUNITIZATION AGREEMENTS.*—*Restricted or*
8 *trust mineral interests underlying property located within*
9 *a spacing and drilling unit approved by the Oklahoma Cor-*
10 *poration Commission shall not be drained of any oil or gas*
11 *by a well within such unit without a communitization*
12 *agreement prepared and approved by the Secretary, except*
13 *that in the event of any such drainage without a*
14 *communitization agreement approved by the Secretary, 100*
15 *percent of all revenues derived from the production from*
16 *any such restricted or trust property shall be paid to the*
17 *Individual Indian owner free of all lifting and other pro-*
18 *duction costs.*

19 **SEC. 207. MANAGEMENT OF MINERAL INTERESTS.**

20 (a) *OIL AND GAS CONSERVATION LAWS.*—

21 (1) *IN GENERAL.*—*The oil and gas conservation*
22 *laws of the State of Oklahoma shall apply to re-*
23 *stricted property.*

24 (2) *ENFORCEMENT.*—*The Oklahoma Corporation*
25 *Commission shall have the authority to perform min-*

1 *isterial functions related to the enforcement of the*
2 *laws referred to in paragraph (1), including enforce-*
3 *ment actions against well operators, except that no*
4 *order of the Corporation Commission affecting re-*
5 *stricted Indian property shall be valid as to such*
6 *property until such order is submitted to and ap-*
7 *proved by the Secretary.*

8 *(3) RULE OF CONSTRUCTION.—Nothing in this*
9 *subsection shall be construed to grant to the State of*
10 *Oklahoma regulatory jurisdiction over the protection*
11 *of the environment and natural resources of restricted*
12 *property, except to the limited extent granted by this*
13 *subsection.*

14 *(b) IMPLEMENTATION OF FEDERAL OIL AND GAS ROY-*
15 *ALTY MANAGEMENT ACT.—Beginning on the effective date*
16 *of this Act, the Secretary shall exercise all the duties and*
17 *responsibilities of the Secretary under the Federal Oil and*
18 *Gas Royalty Management Act of 1982 (30 U.S.C. 1702 et*
19 *seq.) with respect to an oil and gas lease where—*

20 *(1) the Secretary has approved the oil and gas*
21 *lease pursuant to section 206(a);*

22 *(2) the Secretary has, prior to the effective date*
23 *of this Act, approved the oil and gas lease pursuant*
24 *to the Act of May 27, 1908 (35 Stat. 312, chapter*
25 *199); or*

1 (3) *the Secretary has, before the effective date of*
2 *this Act, approved an oil and gas lease of lands of*
3 *any of the Five Nations pursuant to the Act of May*
4 *11, 1938 (25 U.S.C. 396a et seq.).*

5 **SEC. 208. MORTGAGES.**

6 *An Individual Indian may mortgage restricted prop-*
7 *erty only in accordance with and under the authority of*
8 *the Act of March 29, 1956 (25 U.S.C. 483a).*

9 **TITLE III—PROBATE, HEIRSHIP**
10 **DETERMINATION, AND OTHER**
11 **PROCEEDINGS AFFECTING**
12 **TITLE TO RESTRICTED PROP-**
13 **ERTY**

14 **SEC. 301. ACTIONS AFFECTING RESTRICTED PROPERTY.**

15 *The Secretary shall have jurisdiction over actions af-*
16 *fecting title to, or use or disposition of, trust property or*
17 *restricted property. The United States District Court in the*
18 *State of Oklahoma and the courts of the State of Oklahoma*
19 *shall have jurisdiction over actions affecting title to, or use*
20 *or disposition of, trust property or restricted property only*
21 *to the extent expressly authorized by this Act or by other*
22 *Federal laws applicable to trust property or restricted prop-*
23 *erty.*

1 **SEC. 302. HEIRSHIP DETERMINATIONS AND PROBATES.**

2 (a) *JURISDICTION.*—*The Secretary shall have exclusive*
3 *jurisdiction, to probate wills or otherwise determine heirs*
4 *of deceased Individual Indians and to adjudicate all such*
5 *estate actions to the extent that they involve individual*
6 *trust property, restricted property, or restricted or trust*
7 *funds or securities held or supervised by the Secretary de-*
8 *rived from such property, subject to the following exceptions:*

9 (1) *The Secretary shall not have jurisdiction over*
10 *such estate actions that are pending in the courts of*
11 *the State of Oklahoma as provided in section 306.*

12 (2) *The Secretary shall not have jurisdiction over*
13 *any estate for which a final order of probate or deter-*
14 *mination of heirs was issued by a court of the State*
15 *of Oklahoma or a United States district court.*

16 (b) *GOVERNING LAWS.*—*Notwithstanding any other*
17 *provision of law, the Secretary shall exercise the Secretary's*
18 *jurisdiction and authority under this section in accordance*
19 *with the Indian Land Consolidation Act (25 U.S.C. 2201*
20 *et seq.) and such rules and regulations which heretofore have*
21 *been, or will be, prescribed by the Secretary for the probate*
22 *of wills, determination of heirs, and distribution of prop-*
23 *erty in estates of Indian decedents, subject to the following*
24 *requirements:*

25 (1) *LAW APPLICABLE TO ESTATES OF INDI-*
26 *VIDUAL INDIAN DECEDENTS WHO DIED PRIOR TO EF-*

1 *EFFECTIVE DATE.—The administrative law judge or*
2 *other official designated by the Secretary shall apply*
3 *the laws of descent and distribution of the State of*
4 *Oklahoma contained in title 84 of the Oklahoma Stat-*
5 *utes, chapter 4, to all restricted property, trust prop-*
6 *erty, and all restricted or trust funds or securities de-*
7 *rived from such property in the estates of deceased In-*
8 *dividual Indians who died intestate prior to the effec-*
9 *tive date of this Act.*

10 (2) *LAW APPLICABLE TO WILLS EXECUTED*
11 *PRIOR TO EFFECTIVE DATE.—The Secretary shall de-*
12 *termine the validity and effect of wills as to estates*
13 *containing trust property or restricted property when*
14 *such wills were executed by Individual Indians prior*
15 *to the effective date of this Act, in accordance with the*
16 *laws of the State of Oklahoma governing the validity*
17 *and effect of wills, provided that the will of a full-*
18 *blood Individual Indian which disinherits the parent,*
19 *spouse, or one or more children of such full-blood In-*
20 *dividual Indian shall not be valid with respect to the*
21 *disposition of restricted property unless the require-*
22 *ments of section 23 of the Act of April 26, 1906 (34*
23 *Stat. 137, chapter 1876), as in effect on the day before*
24 *the effective date of this Act, are met.*

1 (3) *LAW APPLICABLE TO WILLS EXECUTED ON*
2 *OR AFTER EFFECTIVE DATE.—*

3 (A) *IN GENERAL.—Any Individual Indian*
4 *who has attained age 18 and owns restricted*
5 *property or trust property shall have the right to*
6 *dispose of such property by will, executed on or*
7 *after the effective date of this Act in accordance*
8 *with regulations which heretofore have been, or*
9 *will be, prescribed by the Secretary for the pro-*
10 *bate of wills, provided—*

11 (i) *no will so executed shall be valid or*
12 *have any force or effect unless and until*
13 *such will has been approved by the Sec-*
14 *retary; and*

15 (ii) *that the Secretary may approve or*
16 *disapprove such will either before or after*
17 *the death of the Individual Indian testator.*

18 (B) *FRAUD.—In any case where a will has*
19 *been approved by the Secretary under subpara-*
20 *graph (A) and it is subsequently discovered that*
21 *there was fraud in connection with the execution*
22 *or procurement of the will, the Secretary is au-*
23 *thorized, within 1 year after the death of the tes-*
24 *tator, to cancel approval of the will. If an ap-*
25 *proval is canceled in accordance with the pre-*

1 ceding sentence, the property purported to be dis-
2 posed of in the will shall descend or be distrib-
3 uted in accordance with the Secretary's rules
4 and regulations applicable to estates of Indian
5 decedents who die intestate.

6 (4) *FEDERAL LAW CONTROLS.*—Notwithstanding
7 any other provision of this section, Federal law gov-
8 erning personal claims against the estate of a de-
9 ceased Individual Indian or against trust property or
10 restricted property, including the restrictions imposed
11 by this Act or other applicable Federal law against
12 the alienation, conveyance, lease, mortgage, creation
13 of liens, or other encumbrances of trust property or
14 restricted property shall apply to all such property
15 contained in the estate of the deceased Individual In-
16 dian.

17 **SEC. 303. ACTIONS TO CURE TITLE DEFECTS.**

18 (a) *JURISDICTION.*—Except as provided in subsections
19 (b) and (c), the United States district courts in the State
20 of Oklahoma and the State courts of Oklahoma shall retain
21 jurisdiction over actions seeking to cure defects affecting the
22 marketability of title to restricted property, except that all
23 such actions shall be subject to the requirements of section
24 305.

1 (b) *ADVERSE POSSESSION.*—No cause of action may
2 be brought to claim title to or an interest in restricted prop-
3 erty by adverse possession or the doctrine of laches on or
4 after the effective date of this Act, except that—

5 (1) all such causes that are pending on the effec-
6 tive date of this Act in accordance with the provisions
7 of section 3 of the Act of April 12, 1926 (44 Stat. 239,
8 chapter 115), shall be subject to section 306; and

9 (2) an action to quiet title to an interest in re-
10 stricted property on the basis of adverse possession
11 may be filed in the courts of the State of Oklahoma
12 provided that all requirements of Oklahoma law for
13 acquiring title by adverse possession, including the
14 running of the full 15-year limitations period, have
15 been met prior to the effective date of this Act, the
16 claimant in any such action has shown by clear and
17 convincing evidence that the limitations period had
18 run in full prior to the effective date of this Act, and
19 the procedures set forth in section 305 are followed.

20 (c) *HEIRSHIP DETERMINATIONS AND DISPOSITIONS.*—
21 Nothing in this section shall be construed to authorize a
22 determination of heirs in a quiet title action in Federal
23 or State court in derogation of the Secretary's exclusive ju-
24 risdiction to probate wills or otherwise determine heirs of
25 the deceased Individual Indians owning restricted property

1 *and to adjudicate all such estate actions involving restricted*
2 *property pursuant to section 302, or in derogation of the*
3 *Secretary's exclusive jurisdiction over the disposition of re-*
4 *stricted property under this Act. Any grantee of an heir*
5 *who, prior to the effective date of this Act and in accordance*
6 *with applicable Federal laws, conveyed, leased, or otherwise*
7 *encumbered his or her interest in the restricted property*
8 *of an unprobated estate of an Individual Indian decedent*
9 *shall have standing to request that the Secretary determine*
10 *the heirs of the decedent in order to establish marketable*
11 *title in said grantee. For purposes of this subsection the*
12 *term grantee shall include any grantee, lessee, or mortgagee*
13 *of such heir and any successors or assigns of such grantee.*

14 **SEC. 304. INVOLUNTARY PARTITIONS.**

15 (a) *PETITION; JURISDICTION AND APPLICABLE LAW;*
16 *REQUIREMENTS.—*

17 (1) *PETITIONS.—Any person who owns any un-*
18 *divided interest in a tract of property consisting en-*
19 *tirely or partially of undivided restricted interests, re-*
20 *gardless of the size of that person's interest in the*
21 *whole tract, may file an action in the United States*
22 *district court in the district wherein the tract is lo-*
23 *cated or the Oklahoma State district court for the*
24 *county wherein the tract is located for the involun-*
25 *tary partition of such tract.*

1 (2) *JURISDICTION; APPLICABLE LAW.*—*The*
2 *United States district courts in the State of Okla-*
3 *homa and the State courts of Oklahoma shall have ju-*
4 *risdiction over actions for the involuntary partition*
5 *of property filed pursuant to this section, subject to*
6 *all requirements and limitations of this section and*
7 *the requirements in sections 305 and 306. The laws*
8 *of the State of Oklahoma governing the partition of*
9 *property shall be applicable to all actions for involun-*
10 *tary partition under this section, except to the extent*
11 *that any such laws are in conflict with any provi-*
12 *sions of this section and sections 305 and 306.*

13 (3) *AGREEMENT AFTER INITIATION OF ACTION.*—
14 *If after the initiation of any action authorized by this*
15 *section, the parties to the suit reach an agreement for*
16 *the partition of the property in kind or by sale, such*
17 *agreement shall not be valid or binding as to the re-*
18 *stricted interests until it is approved by the Sec-*
19 *retary.*

20 (4) *APPROVAL OF ELECTION OR SALE.*—*If the*
21 *tract consists of wholly or partially undivided re-*
22 *stricted interests, the court may approve an election*
23 *by any undivided interest owner to take the property*
24 *at the full appraised value pursuant to the laws of the*
25 *State of Oklahoma governing partitions or, if there is*

1 *no such election, to approve the sale of the property*
2 *at public auction for no less than two-thirds of the*
3 *appraised value pursuant to the laws of the State of*
4 *Oklahoma governing partitions.*

5 (5) *DETERMINATION OF VALUE.—The Secretary*
6 *shall determine the value of the property and submit*
7 *an appraisal to the court. If the value of the property*
8 *determined by the Secretary is greater than the valu-*
9 *ation or appraisalment of the property made pursuant*
10 *to law of the State of Oklahoma, the court shall set*
11 *a hearing at which time the Secretary and any other*
12 *party shall be afforded an opportunity to present evi-*
13 *dence regarding the value of the property, following*
14 *which the court may accept the Secretary's valuation,*
15 *or accept the valuation and appraisalment made pur-*
16 *suant to law of the State of Oklahoma, or order a new*
17 *valuation and appraisalment pursuant to law of the*
18 *State of Oklahoma.*

19 (b) *PAYMENT TO NONCONSENTING OWNERS OF RE-*
20 *STRICTED INTERESTS.—Nonconsenting owners of undi-*
21 *vided restricted interests shall receive for the sale of such*
22 *interests their proportionate share of the greater of—*

23 (1) *the proceeds paid at the partition sale; or*

24 (2) *an amount equal to 90 percent of the ap-*
25 *praised value of the tract.*

1 (c) *COSTS.*—A nonconsenting Individual Indian
2 owner of restricted interests shall not be liable for any filing
3 fees or costs of an action under this section, including the
4 cost of an appraisal, advertisement, and sale, and no such
5 costs shall be charged against such nonconsenting owner's
6 share of the proceeds of sale.

7 **SEC. 305. REQUIREMENTS FOR ACTIONS TO CURE TITLE DE-**
8 **FACTS AND INVOLUNTARY PARTITIONS.**

9 (a) *IN GENERAL.*—All actions authorized by sections
10 303 and 304 shall be conducted in accordance with the re-
11 quirements and procedures described in this section.

12 (b) *PARTIES.*—

13 (1) *UNITED STATES.*—The United States shall
14 not be a necessary and indispensable party to an ac-
15 tion authorized under section 303 or 304. The Sec-
16 retary may participate as a party in any such ac-
17 tion.

18 (2) *PARTICIPATION OF THE SECRETARY.*—If the
19 Secretary elects to participate in an action as pro-
20 vided for under paragraph (1), the responsive plead-
21 ing of the Secretary shall be made not later than 20
22 days after the Secretary receives the notice required
23 under subsection (c), or within such extended time as
24 the trial court in its discretion may permit.

1 (3) *JUDGMENT BINDING.*—After the appearance
2 of the Secretary in any action described in paragraph
3 (1), or after the expiration of the time in which the
4 Secretary is authorized to respond under paragraph
5 (2), the proceedings and judgment in such action
6 shall be binding on the United States and the parties
7 upon whom service has been made and shall affect the
8 title to the restricted property which is the subject of
9 the action, in the same manner and extent as though
10 nonrestricted property were involved.

11 (4) *RULE OF CONSTRUCTION.*—Nothing in this
12 section shall be construed to waive the requirement of
13 service of summons in accordance with applicable
14 Federal or State law upon the Individual Indian
15 landowners, who shall be necessary and indispensable
16 parties to all actions authorized by sections 303 and
17 304.

18 (c) *NOTICE.*—

19 (1) *IN GENERAL.*—The plaintiff in any action
20 authorized by sections 303 and 304 shall serve written
21 notice of the filing of such action and of a petition
22 or complaint, or any amended petition or complaint
23 which substantially changes the nature of the action
24 or includes a new cause of action, upon the Secretary
25 not later than 10 days after the filing of any such

1 *petition or complaint or any such amended petition*
2 *or complaint.*

3 (2) *FILING WITH CLERK.*—*At least one duplicate*
4 *original of any notice served under paragraph (1)*
5 *shall be filed with the clerk of the court in which the*
6 *action is pending.*

7 (3) *REQUIREMENTS.*—*The notice required under*
8 *paragraph (1) shall be—*

9 (A) *accompanied by a certified copy of all*
10 *pleadings on file in the action at the time of the*
11 *filing of the duplicate original notice with the*
12 *clerk under paragraph (2);*

13 (B) *signed by the plaintiff to the action or*
14 *his or her counsel of record; and*

15 (C) *served by certified mail, return receipt*
16 *requested, and due return of service made there-*
17 *on, showing date of receipt and service of notice.*

18 (4) *FAILURE TO SERVE.*—*If the notice required*
19 *under paragraph (1) is not served within the time re-*
20 *quired under such paragraph, or if return of service*
21 *thereof is not made within the time permitted by law*
22 *for the return of service of summons, alias notices*
23 *may be issued and filed until service and return of*
24 *notice is made, except that in the event that service*
25 *of the notice required under such paragraph is not*

1 *made within 60 days following the filing of the peti-*
2 *tion or complaint or amendments thereof, the action*
3 *shall be dismissed without prejudice.*

4 (5) *LIMITATION.*—*In no event shall the United*
5 *States or the parties named in a notice filed under*
6 *paragraph (1) be bound, or title to the restricted*
7 *property be affected, unless written notice is served*
8 *upon the Secretary as required under this subsection.*

9 (d) *REMOVAL.*—

10 (1) *IN GENERAL.*—*The United States shall have*
11 *the right to remove any action to which this section*
12 *applies that is pending in a State court to a United*
13 *States district court by filing with the State court,*
14 *not later than 20 days after the service of any notice*
15 *with respect to such action under subsection (c), or*
16 *within such extended period of time as the trial court*
17 *in its discretion may permit, a notice of the removal*
18 *of such action to a United States district court, to-*
19 *gether with the certified copy of the pleadings in such*
20 *action as served on the Secretary under subsection (c).*

21 (2) *DUTY OF STATE COURT.*—*It shall be the duty*
22 *of a State court to accept a notice filed under para-*
23 *graph (1) and proceed no further in said suit.*

24 (3) *PLEADINGS.*—*Not later than 20 days after*
25 *the filing of a notice under paragraph (1), the copy*

1 of the pleadings involved (as provided under such
2 paragraph) shall be entered in the United States dis-
3 trict court and the defendants and intervenors in such
4 action shall, not later than 20 days after the plead-
5 ings are so entered, file a responsive pleading to the
6 complaint in such action.

7 (4) *PROCEEDINGS.*—Upon the submission of the
8 filings required under paragraph (3), the action shall
9 proceed in the same manner as if it had been origi-
10 nally commenced in the United States district court,
11 and its judgment may be reviewed by certiorari, ap-
12 peal, or writ of error in like manner as if the action
13 had been originally brought in such district court.

14 **SEC. 306. PENDING STATE PROCEEDINGS.**

15 The courts of the State of Oklahoma shall continue to
16 exercise authority as a Federal instrumentality over all
17 heirship, probate, partition, and other actions involving re-
18 stricted property that are pending on the effective date of
19 this Act until the issuance of a final judgment and exhaus-
20 tion of all appeal rights in any such action, or until the
21 petitioner, personal representative, or the State court dis-
22 misses the action in accordance with State law.

1 **TITLE IV—MISCELLANEOUS**

2 **SEC. 401. REGULATIONS.**

3 *The Secretary may promulgate such regulations as*
4 *may be necessary to carry out this Act, except that failure*
5 *to promulgate such regulations shall not limit or delay the*
6 *effect of this Act.*

7 **SEC. 402. VALIDATION OF CERTAIN TRANSACTIONS; SAV-**
8 **INGS CLAUSE.**

9 *(a) VALIDATION OF CERTAIN TITLE TRANSACTIONS.—*
10 *Any person having the legal capacity to own real property*
11 *in the State of Oklahoma who claims ownership of an inter-*
12 *est in such property through an unbroken chain of title of*
13 *record, the title to which interest is or may be defective as*
14 *a result of any transaction described in paragraphs (1)*
15 *through (5) of this subsection that occurred in such chain*
16 *of title, may cure the defect in title and validate the trans-*
17 *action by following the procedures of this section. When all*
18 *conditions and requirements of this section have been met,*
19 *and if no notice of objection has been timely filed by the*
20 *Secretary under subsection (c) or by any other person under*
21 *subsection (f), the transaction shall be validated and shall*
22 *not be considered a defect in the muniments of title but only*
23 *insofar as the defect is based on or arises from Federal stat-*
24 *utes applicable to the conveyance or inheritance of restricted*

1 *property in effect at the time of the transaction. The trans-*
2 *actions referred to in this subsection are the following:*

3 (1) *Any probate order issued by a county court*
4 *of the State of Oklahoma prior to the effective date of*
5 *the Act of June 14, 1918 (40 Stat. 606) purporting*
6 *to probate the estate of an Individual Indian who*
7 *died owning property which was subject to restric-*
8 *tions against alienation pursuant to Federal statutes*
9 *in effect at the time of issuance of such probate order.*

10 (2) *Any probate order issued by a county or dis-*
11 *trict court of the State of Oklahoma more than 30*
12 *years prior to the effective date of this Act purporting*
13 *to probate the estate of a deceased Individual Indian*
14 *who died owning property which was subject to re-*
15 *strictions against alienation pursuant to Federal law*
16 *in effect at the time of issuance of such probate order,*
17 *where notice was not given as required by Federal*
18 *statutes in effect at the time.*

19 (3) *Any conveyance of record, including an oil*
20 *and gas or mineral lease, of an interest in individual*
21 *trust property or property which was subject to re-*
22 *strictions against alienation pursuant to Federal stat-*
23 *utes in effect at the time of the conveyance executed*
24 *by a person who was an heir or purported heir of the*
25 *Individual Indian decedent who owned such property*

1 *at the time of his death, if such conveyance was ap-*
2 *proved by a county or district court in Oklahoma*
3 *more than 30 years before the effective date of this Act*
4 *but where no judicial or administrative order of*
5 *record was issued before or after such approval find-*
6 *ing that such person was in fact the heir to the inter-*
7 *est conveyed.*

8 *(4) Any conveyance of record, including an oil*
9 *and gas or mineral lease, of individual trust property*
10 *or property which was subject to restrictions against*
11 *alienation pursuant to Federal statutes in effect at*
12 *the time of the conveyance that was approved by a*
13 *county or district court in Oklahoma or by the Sec-*
14 *retary more than 30 years before the effective date of*
15 *this Act, where—*

16 *(A) approval was not in compliance with*
17 *the notice requirements of Federal statutes gov-*
18 *erning the conveyance of said individual trust*
19 *property or said restricted property; or*

20 *(B) approval was given by a county or dis-*
21 *trict court in Oklahoma of a conveyance of the*
22 *property by a personal representative in a pro-*
23 *bate action over which said county or district*
24 *court possessed jurisdiction, without compliance*
25 *with Federal statutes governing the conveyance*

1 *of the property in effect at the time of the con-*
2 *veyance.*

3 (5) *Any conveyance of record, including an oil*
4 *and gas or mineral lease, of individual trust property*
5 *or property which was subject to restrictions against*
6 *alienation pursuant to Federal statutes in effect at*
7 *the time of the conveyance that was approved by a*
8 *county or district court in Oklahoma or by the Sec-*
9 *retary at any time before the effective date of this Act,*
10 *where—*

11 (A) *approval was given by the Secretary*
12 *where the Federal statutes governing the convey-*
13 *ance of the property required approval by a*
14 *county or district court in Oklahoma; or*

15 (B) *approval was given by a county or dis-*
16 *trict court in Oklahoma where the Federal stat-*
17 *utes governing the conveyance of the property in*
18 *effect at the time of the conveyance required ap-*
19 *proval of the Secretary.*

20 (b) *NOTICE OF CLAIM; SERVICE AND RECORDING.—*
21 *Any claimant described in subsection (a) must serve written*
22 *notice of his or her claim by certified mail, return receipt*
23 *requested, on the Secretary, and file the notice of claim, to-*
24 *gether with a copy of the return receipt showing delivery*
25 *to the Secretary and filing in the office of county clerk in*

1 *the county or counties wherein the property is located. The*
2 *notice shall not be complete for the purposes of this section*
3 *until it has been served on the Secretary and filed of record*
4 *as herein provided. The notice of claim shall set forth the*
5 *following:*

6 (1) *The claimant's name and mailing address.*

7 (2) *An accurate and full description of all prop-*
8 *erty affected by such notice, which description shall be*
9 *set forth in particular terms and not be general inclu-*
10 *sions; but if said claim is founded upon a recorded*
11 *instrument, then the description in such notice may*
12 *be the same as that contained in such recorded instru-*
13 *ment.*

14 (3) *A specific reference to or description of each*
15 *title transaction in the chain of title that the claim-*
16 *ant is attempting to validate pursuant to this section.*

17 (4) *A list of all documents of record that are*
18 *part of the claimant's unbroken chain of title, copies*
19 *of which documents shall be served with the notice.*

20 (c) *RESPONSE DEADLINE; EXTENSION.*—*The Sec-*
21 *retary shall have 60 days from date of receipt of the notice*
22 *of claim in which to notify the claimant in writing that*
23 *the Secretary exercises discretionary authority to object to*
24 *the claim for any reason. The Secretary shall be entitled*
25 *to an automatic extension of time of 60 days in which to*

1 *object to the claim upon the Secretary's service of written*
2 *notice of extension on the claimant within the initial 60-*
3 *day response period.*

4 (d) *NOTICE OF OBJECTION; REMEDIES.—The Sec-*
5 *retary shall send the notice of objection and any notice of*
6 *extension of time to the claimant by certified mail to the*
7 *address set forth in the claimant's notice to the Secretary.*
8 *The Secretary's notice of objection or notice of extension of*
9 *time shall include a description of the property and shall*
10 *be effective on the date of mailing. The Secretary shall file*
11 *the notice of objection or notice of extension of time in the*
12 *office of the county clerk for the county or counties wherein*
13 *the property is located within 30 days after the date of*
14 *mailing of the notice to the claimant. If the Secretary noti-*
15 *fies the claimant that the Secretary objects to the claim,*
16 *such decision shall be final for the Department and the*
17 *claimant's sole remedies shall be to file an action to cure*
18 *title defects pursuant to section 303 of this Act or to request*
19 *a determination of heirs in accordance with section 302 of*
20 *this Act.*

21 (e) *UNDISPUTED CLAIM.—If, in the exercise of discre-*
22 *tionary authority pursuant to subsection (c), the Secretary*
23 *does not object to the claim, then the Secretary may notify*
24 *the claimant that the matter is not in dispute. Failure of*
25 *the Secretary to notify the claimant of the Secretary's objec-*

1 *tion within the initial 60-day period, or within the 60-day*
2 *extension period if notice of an extension was given, shall*
3 *constitute acceptance of the claim. If the Secretary notifies*
4 *the claimant that the matter is not in dispute or fails to*
5 *file an objection to the claim of record within the time re-*
6 *quired by subsection (d), the title transaction described in*
7 *the claimant's notice shall be deemed validated and shall*
8 *not be considered a defect in the muniments of the claim-*
9 *ant's title based on or arising from Federal statutes gov-*
10 *erning the conveyance of restricted property in effect at the*
11 *time of the transaction, provided that no written notice of*
12 *objection is timely filed by other parties in accordance with*
13 *subsection (f) of this section.*

14 *(f) NOTICE OF OBJECTION BY OTHER PARTIES TO AP-*
15 *PLICABILITY OF THIS SECTION.—Any person claiming*
16 *ownership of an interest in property the record title to*
17 *which includes a title transaction described in subsection*
18 *(a) of this section may prevent the application of sub-*
19 *sections (a) through (e) to said interest by filing for record*
20 *in the office of the county clerk for the county or counties*
21 *wherein the property in question is located, no later than*
22 *3 years after the effective date of this Act, a written notice*
23 *of objection in the form of a declaration made under oath*
24 *setting forth the following:*

25 *(1) The declarant's name and mailing address.*

1 (2) *An accurate and full description of all of the*
2 *declarant's property interests to be affected by such*
3 *notice, which description shall be set forth in par-*
4 *ticular terms and not be general inclusions; but if*
5 *said declarant's claim to ownership is founded upon*
6 *a recorded instrument, then the description in such*
7 *notice may be the same as that contained in such re-*
8 *corded instrument.*

9 (3) *A statement that the declarant claims in*
10 *good faith to be the owner of an interest in the prop-*
11 *erty described in the notice and that the declarant ob-*
12 *jects to the operation of this section with respect to*
13 *any title transaction that would otherwise be subject*
14 *to validation under this section.*

15 (g) *INTERESTS OF HEIRS OF LESS THAN HALF-*
16 *BLOOD.—Nothing in this Act shall be construed to*
17 *invalidate—*

18 (1) *any conveyance of record, including a sur-*
19 *face, oil and gas, or mineral lease, of an interest in*
20 *property made prior to the effective date of this Act*
21 *by an heir of a deceased Individual Indian without*
22 *district court approval where such heir was of less*
23 *than one-half degree of Indian blood, even though the*
24 *property was held in restricted status immediately*
25 *prior to the decedent Individual Indian's death; or*

1 (2) *any other encumbrance that attached prior to*
2 *the effective date of this Act to an interest in property*
3 *of an heir of a deceased Individual Indian where such*
4 *heir was of less than one-half degree of Indian blood,*
5 *even though the property was held in restricted status*
6 *immediately prior to the decedent Individual Indian's*
7 *death.*

8 (h) *TERMS.—For purposes of this section:*

9 (1) *A person shall be deemed to have an unbro-*
10 *ken chain of title when the official public records, in-*
11 *cluding probate and other official public records, as*
12 *well as records in the county clerk's office, disclose a*
13 *conveyance or other title transaction of record not less*
14 *than 30 years prior to the effective date of this Act,*
15 *which said conveyance or other title transaction pur-*
16 *ports to create such interest, either in—*

17 (A) *the person claiming such interest; or*

18 (B) *some other person from whom, by 1 or*
19 *more conveyances or other title transactions of*
20 *record, such purported interest has become vested*
21 *in the person claiming such interest; with noth-*
22 *ing appearing of record, in either case, pur-*
23 *porting to divest such claimant of such pur-*
24 *ported interest.*

1 (2) *The term recording, when applied to the offi-*
2 *cial public records of any officer or court, includes fil-*
3 *ing with the officer or court.*

4 **SEC. 403. REPEALS.**

5 (a) *IN GENERAL.*—*The following provisions are re-*
6 *pealed:*

7 (1) *The Act of August 11, 1955 (69 Stat. 666,*
8 *chapter 786, 25 U.S.C. 355 note).*

9 (2) *Sections 1 through 5, 7 through 9, and 11*
10 *through 13 of the Act of August 4, 1947 (61 Stat. 731,*
11 *chapter 458, 25 U.S.C. 355 note).*

12 (3) *The Act of December 24, 1942 (56 Stat. 1080,*
13 *Chapter 813).*

14 (4) *The Act of February 11, 1936 (25 U.S.C.*
15 *393a, Chapter 50).*

16 (5) *The Act of January 27, 1933 (47 Stat. 777,*
17 *chapter 23, 25 U.S.C. 355 note).*

18 (6) *Sections 1, 2, 4, and 5 of the Act of May 10,*
19 *1928 (45 Stat. 495, chapter 517).*

20 (7) *The Act of April 12, 1926 (44 Stat. 239,*
21 *chapter 115).*

22 (8) *Sections 1 and 2 of the Act of June 14, 1918*
23 *(Chapter 101, 25 U.S.C. 375 and 355, respectively).*

24 (9) *Sections 1 through 3 and 6 through 12 of the*
25 *Act of May 27, 1908 (35 Stat. 312, chapter 199).*

1 (10) Sections 6, 11, 15, 18, 20, and 23 of the Act
2 of April 26, 1906 (34 Stat. 137, chapter 1876).

3 (b) *TECHNICAL AMENDMENTS.*—

4 (1) Section 28 of the Act of April 26, 1906 (34
5 Stat. 137, chapter 1876) is amended—

6 (A) by striking the first proviso; and

7 (B) by striking “Provided further” and in-
8 sserting “Provided”.

9 (2) Section 6 of the Act of August 4, 1947 (61
10 Stat. 733, chapter 458) is amended—

11 (A) in subsection (c), by inserting before the
12 final period the following: “: Provided further,
13 That any interest in restricted and tax-exempt
14 lands acquired by descent, devise, gift, exchange,
15 partition, conveyance, or purchase with re-
16 stricted funds after the date of the enactment of
17 the Five Nations Indian Land Reform Act by an
18 Indian of the Five Civilized Tribes shall con-
19 tinue to be tax-exempt during the restricted pe-
20 riod”; and

21 (B) in subsection (e), by striking the first
22 sentence.

23 (3) The Act of May 7, 1970 (84 Stat. 203, Public
24 Law 91-240, 25 U.S.C. 375d), is amended—

1 (A) by inserting “Creek,” after “Cherokee,”;
2 and

3 (B) by striking “derived and shall” and in-
4 serting the following: “derived. Such lands, inter-
5 ests, and profits, and any restricted Indian
6 lands or interests therein allotted by any such
7 Indian nation that are reacquired by that In-
8 dian nation by conveyance authorized under sec-
9 tion 202(a) of the Five Nations Indian Land Re-
10 form Act shall”.

11 (4) Section 1 of the Act of October 22, 1970 (84
12 Stat. 1091, Public Law 91–495), is amended by strik-
13 ing the last sentence.

14 **SEC. 404. SECRETARIAL TRUST RESPONSIBILITY.**

15 Nothing in this Act shall be construed to waive, mod-
16 ify, or diminish in any way the trust responsibility of the
17 United States over restricted property.

18 **SEC. 405. REPRESENTATION BY ATTORNEYS FOR THE DE-**

19 **PARTMENT OF THE INTERIOR.**

20 Attorneys of the Department of the Interior may—

21 (1) represent the Secretary in any actions filed
22 in the State courts of Oklahoma involving restricted
23 property;

24 (2) when acting as counsel for the Secretary,
25 provide information to all Individual Indians owning

1 *restricted property (and to private counsel for such*
2 *Individual Indians if any) regarding their legal*
3 *rights with respect to the restricted property owned by*
4 *such Individual Indians;*

5 *(3) at the request of any Individual Indian own-*
6 *ing restricted property, take such action as may be*
7 *necessary to cancel or annul any deed, conveyance,*
8 *mortgage, lease, contract to sell, power of attorney, or*
9 *any other encumbrance of any kind or character,*
10 *made or attempted to be made or executed in viola-*
11 *tion of this Act or any other Federal law, and take*
12 *such action as may be necessary to assist such Indi-*
13 *vidual Indian in obtaining clear title, acquiring pos-*
14 *session, and retaining possession of restricted prop-*
15 *erty; and*

16 *(4) in carrying out paragraph (3), refer pro-*
17 *posed actions to be filed in the name of the United*
18 *States in a district court of the United States to the*
19 *United States Attorney for that district, and provide*
20 *assistance in an of-counsel capacity in those actions*
21 *that the United States Attorney elects to prosecute.*

22 **SEC. 406. FILING REQUIREMENTS; CONSTRUCTIVE NOTICE.**

23 *(a) REQUIREMENT FOR FILING.—The Secretary shall*
24 *file the following orders or other decision documents which*
25 *concern restricted property and are issued after the effective*

1 *date of this Act by the Secretary in the appropriate offices*
2 *of the Department of the Interior, as designated by the Sec-*
3 *retary, and in the office of the county clerk in the county*
4 *where such restricted property is located:*

5 (1) *Any order or other decision document remov-*
6 *ing restrictions, imposing restrictions, approving con-*
7 *veyances, approving leases, approving voluntary par-*
8 *titions, approving mortgages, probating wills, or de-*
9 *termining heirs.*

10 (2) *Any notice issued by the Secretary pursuant*
11 *to section 402.*

12 (b) *CONSTRUCTIVE NOTICE.—The filing of said docu-*
13 *ments pursuant to this section shall constitute constructive*
14 *notice to the public of the effect of said documents filed.*

15 (c) *CERTIFICATION OF AUTHENTICITY.—The Secretary*
16 *shall have authority to certify the authenticity of copies of*
17 *such documents and title examiners shall be entitled to rely*
18 *on said authenticated copies for the purpose of determining*
19 *marketability of title to the property described therein.*

20 **SEC. 407. PUBLICATION OF DESIGNATED OFFICIALS.**

21 *The Secretary shall identify each designee for purposes*
22 *of the receipt of notices or the performance of any Secre-*
23 *tarial duty or function under this Act by publication of*
24 *notice in the Federal Register.*

1 **SEC. 408. RULE OF CONSTRUCTION.**

2 *Nothing in this Act shall be construed to limit or affect*
3 *the rights of Individual Indians under other Federal laws*
4 *relating to the acquisition and status of trust property, in-*
5 *cluding without limitation, the following:*

6 (1) *The Act of June 18, 1934 (25 U.S.C. 461 et*
7 *seq.) (commonly known as the “Indian Reorganiza-*
8 *tion Act”).*

9 (2) *The Act of June 26, 1936 (25 U.S.C. 501 et*
10 *seq.) (commonly known as the “Oklahoma Indian*
11 *Welfare Act”).*

12 (3) *The Indian Land Consolidation Act (25*
13 *U.S.C. 2201 et seq.).*

14 (4) *Regulations relating to the Secretary’s au-*
15 *thority to acquire lands in trust for Indians and In-*
16 *dian tribes.*

17 **SEC. 409. EFFECTIVE DATE.**

18 *This Act shall take effect on January 1, 2003.*

Amend the title so as to read: “A bill to amend laws relating to the lands of the enrollees and lineal descendants of enrollees whose names appear on the final 1906 Indian rolls of the Muscogee (Creek), Seminole, Cherokee, Chickasaw, and Choctaw Nations, historically referred to as the Five Civilized Tribes, and for other purposes.”.

Union Calendar No. 299

107TH CONGRESS
2^D SESSION

H. R. 2880

[Report No. 107-499]

A BILL

To amend laws relating to the lands of the citizens of the Muscogee (Creek), Seminole, Cherokee, Chickasaw, and Choctaw Nations, historically referred to as the Five Civilized Tribes, and for other purposes.

JUNE 11, 2002

Reported with amendments, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed