

ACT OF AUGUST 4, 1947

61 Stat. 731

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[CHAPTER 458]

August 4, 1947  
[H.R. 3173]

AN ACT

Relative to restrictions applicable to Indians of the Five Civilized Tribes of Oklahoma, and other purposes.

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[Public Law  
336]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That all restrictions upon all lands in Oklahoma belonging to members of the Five Civilized Tribes, whether acquired by allotment, inheritance, devise, gift, exchange, partition, or by purchase with restricted funds, or whatever degree of Indian blood, and whether enrolled or unenrolled, shall be, and hereby, removed at and upon his or her death: *Provided*, (a) That except as provided in subdivision (f) of this section, no conveyance, including an oil and gas or mineral lease, of any interest in land acquired before or after the date of this Act by an Indian heir or devisee of one-half or more Indian blood, when such interest in land was restricted in the hands of the person from whom such Indian heir or devisee acquired same, shall be valid unless approved in open court by the county court of the county in Oklahoma in which the land is situated; (b) that petition for approval of conveyance shall be set for hearing not less than ten days from date of filing, and notice of hearing thereon, signed by the county judge, reciting the consideration offered and a description of the land shall be given by publication in at least one issue of a newspaper of general circulation in the county where the land is located and written notice of such hearing shall be given to the probate attorney of the district in which the petition is filed at least ten days prior to the date on which the petition is to be heard. The grantor shall be present at said hearing and examined in open court before such conveyance shall be approved, unless the grantor and the probate attorney shall consent in writing that such hearing may be had and such conveyance approved in the absence of the grantor, and the court must be satisfied that the consideration has been paid in full. Proceedings for approval of conveyances by restricted heirs or devisees under this section shall not be removable to the Federal court; (c) the evidence taken at the hearing shall be transcribed and filed of record in the case, the expense of which, including attorney fees and court costs, must be borne by the grantee. The court in its discretion, when deemed for the best interest of the Indian, may approve the conveyance conditionally, or may withhold approval; (d) that at said hearing competitive bidding may be had and a conveyance may be confirmed in the name of the person offering the highest bid therefor or when deemed necessary the court may set the petition for further hearing; (e) that the probate attorney shall have the right to appeal from any order approving conveyances to the district court of the county in which the proceedings are conducted within the time and in the manner provided by the laws of the State of Oklahoma in cases of appeal in probate matters generally, except that no appeal bond shall be required; (f) that sales of the interests of minor and incompetent persons shall be made in conformity with the laws of the State of Oklahoma. Notice of such sale shall be given to the probate attorney of the district in which the petition is filed at least ten days prior to the date on which the petition for sale is to be heard; (g) that nothing contained in this section shall be construed to modify or repeal the Act of February 11, 1936 (49 Stat. 1135), relating to leases for farming and grazing purposes.

Five  
Civilized Tribes.  
Removal of  
restrictions on  
land in Okla.

Validity of  
conveyance.

Hearing.

Conditional  
approval by  
court, etc.

Competitive  
bidding.

Right to  
appeal.

Sales of  
Interest of  
minors, etc.,

U.S.C. S  
393a.

Quantum of  
Indian blood.

SEC. 2. In determining the quantum of Indian blood of any Indian heir or devisee, the final rolls of the Five Civilized Tribes as to such heir or devisee, if enrolled, shall be conclusive of his or her quantum of Indian blood. If unenrolled, his or her degree of Indian blood shall be computed from the nearest enrolled paternal and maternal lineal ancestors of Indian blood enrolled on the final rolls of the Five Civilized Tribes.

SEC. 3. (a) The State courts of Oklahoma shall have exclusive jurisdiction of all guardianship matters of guardianship,

Jurisdiction

affecting Indians of the Five Civilized Tribes, of all proceedings to administer estates or to probate the etc.  
wills of deceased Indians of Five Civilized Tribes, and of all actions to determine heirs arising under  
section 1 of the Act of June 14, 1918 (40 Stat. 606).

25 U.S.C. S  
375.

(b)The United States shall not be deemed to be a necessary or indispensable party to any action or  
proceeding of which the State courts of Oklahoma are given exclusive jurisdiction by the provisions of  
subsection (a) of this section, and the final judgment rendered in any such action or proceeding shall bind  
the United States and the parties thereto the same extent as though no Indian property or question were  
involved: *Provided*, That written notice of the pendency of any such action or proceeding shall be served  
on the Superintendent for the Five Civilized Tribes within ten days of the filing of the first pleading in  
said action or proceeding. Such notice shall be served by the party or parties causing the first pleading to  
be filed. Section 3 of the Act of April 12, 1926 (44 Stat. 239), shall have no application to actions or  
proceedings covered by the provisions of subsection (a) of this section.

Effect on  
final judgment  
on U.S.

Notice of  
pendency.

Nonapplicability.

(c) No action or proceeding in which notice has been served on the Superintendent for the Five  
Civilized Tribes pursuant to the provisions of section 3 of the Act of April 12, 1926 (44 Stat. 239), shall  
be removed to a United States district court except upon the recommendation of the Secretary of the  
Interior or his duly authorized representative. The United States shall have the right to appeal from any  
order of remand entered in any case removed to a United States district court pursuant to the provisions of  
the Act of April 12, 1926 (44 Stat. 239).

Removal of  
action to district  
court.

Right to  
appeal.

(d) Nothing contained in this section shall be construed to limit any right to appeal.

SEC. 4. That the attorneys provided for under the Act of May 27, 1908 (35 Stat. 312), are authorized  
to appear and represent any restricted member of the Five Civilized Tribes in Oklahoma before any of the  
courts of the State of Oklahoma in any matter in which the said restricted Indian may have an interest.

Representation  
of restricted  
members.

SEC. 5. That all funds and securities now held by, or which may hereafter come under the supervision  
of the Secretary of the Interior, belonging to and only so long as belonging to Indians of the Five Civilized  
Tribes in Oklahoma of one-half or more Indian blood, enrolled or unenrolled, are hereby declared to be  
restricted and shall remain subject to the jurisdiction of said Secretary until otherwise provided by  
Congress, subject to expenditure in the meantime for the use and benefit of the individual Indians to  
whom such funds and securities belong, under such rules and regulations as said Secretary may prescribe.

Tribal funds  
and securities.

SEC. 6. (a) Except as hereinafter provided, the tax-exempt lands of any Indian of the Five Civilized  
Tribes in Oklahoma shall not exceed one hundred and sixty acres, whether the said lands be acquired by  
allotment, descent, devise, gift, exchange, partition, or by purchase with restricted funds.

Tax exempt  
lands.

(b)All tax-exempt lands owned by an Indian of the Five Civilized Tribes on the date of this Act shall  
continue to be tax-exempt in the hands of such Indian during the restricted period: *Provided*, That any  
right to tax exemption which accrued prior to the date of this Act under the provisions of the Acts of May  
10, 1928 (45 Stat. 495), and January 27, 1933 (47 Stat. 777), shall terminate unless a certificate of tax  
exemption has been filed of record in the county where the land is located within two years from the date  
of this Act.

Continuation  
of exemption,  
etc.

25 U.S.C. S.  
355 note.

(c) Any interest in restricted and tax-exempt lands acquired by descent, devise, gift, exchange,  
partition, or purchase with restricted funds, after the date of this Act by and Indian of the Five Civilized  
Tribes of one-half or more Indian blood shall continue to be tax-exempt during the restricted period:  
*Provided*, That, the tax-exempt lands of any such heir, devisee, donee, or grantee, whether acquired by  
allotment, descent, devise, gift, exchange, partition, or purchase with restricted funds, shall not exceed  
one hundred and sixty acres in the aggregate: *Provided further*, That nothing contained in this subsection  
shall be construed to terminate or abridge any right to tax exemption to which any Indian was entitled on  
the effective date of this Act.

(d) Nothing contained in this section shall be construed to affect any tax exemption provided by  
the Act of June 26, 1936 (49 Stat. 1967).

(e) On or before the 1st day of January of each year following the date of this Act, the Superintendent  
of the Five Civilized Tribes shall file with the county treasurer of each county in the State of Oklahoma  
where restricted Indians' lands of any type of members of the Five Civilized Tribes are situated, a

25 U.S.C. SS  
501-509.  
*Post*, p. 734.  
Filing of

statement showing what lands are regarded as tax exempt, and the names of the Indians for whom the lands are claimed as tax exempt. Before a county treasurer shall proceed to sell any restricted land for delinquent taxes, it must appear from the records of the office of the county treasurer that a list of the tracts included in the proposed sales of land for delinquent taxes in said county has been sent by registered mail to the Superintendent for the Five Civilized Tribes at Muskogee, Oklahoma, at least ninety days before the date fixed by the laws of the State of Oklahoma for sales of land for delinquent taxes.

statement showing tax-exempt lands, etc.

SEC. 7. All removals of restrictions and approvals of deeds heretofore made by the Secretary of the Interior, regardless of whether applications were made therefor by the Indian owner, are hereby validated and confirmed.

Validation of prior removals of restrictions, etc.

SEC. 8. That no tract of land, nor any interest therein, which is hereafter purchased by the Secretary of the Interior with restricted funds by or for an Indian or Indians of the Five Civilized Tribes in Oklahoma of one-half or more Indian blood, enrolled and unenrolled, shall be construed to be restricted unless the deed conveying same shows upon its face that such purchase was made with restricted funds.

Restricted lands.

SEC. 9. That all conveyances, including oil and gas or mineral leases, by Indians of the Five Civilized Tribes in Oklahoma of lands acquired by inheritance or devise, made after the effective date of the Act of January 27, 1933, and prior to the effective date of this Act, that were approved either by a county court in Oklahoma or by the Secretary of the Interior are hereby validated and confirmed: *Provided*, That if any such conveyance is subject to attack upon grounds other than sufficiency of approval or lack of approval thereof, such conveyance shall not be affected by this Act.

Validation of conveyances.  
47 Stat. 777.  
25 U.S.C. S 355 note.

SEC. 10. Section 2 of the Act of June 26, 1936 (49 Stat. 1967), commonly known as the Oklahoma Welfare Act, shall be amended by the addition of a new paragraph as follows:

25 U.S.C. S 502.

"The preference right of the Secretary to purchase shall be considered as waived where notice of the pendency of sale is given in writing to the Superintendent of the Five Civilized Tribes for at least ten days prior to the date of sale and the Secretary does not within that time exercise the preferential right to purchase."

Waiver of preference right.

SEC. 11. All restricted lands of the Five Civilized Tribes are hereby made subject to all oil and gas conservation laws of Oklahoma: *Provided*, That no order of the Corporation Commission affecting restricted Indian land shall be valid as to such land until submitted to and approved by the Secretary of the Interior or his duly authorized representative.

Applicability of oil and gas conservation laws to restricted lands.

SEC. 12. Sections 1 and 8 of the Act of January 27, 1933 (47 Stat. 777), are hereby repealed.

SEC. 13. All Acts and parts of Acts in conflict herewith are hereby repealed.

Repeals

Approved August 4, 1947.