

104TH CONGRESS
1ST SESSION

S. 1361

To provide for the repurchase of land acquired by the United States from Native American organizations, and for other purposes.

IN THE SENATE OF THE UNITED STATES

OCTOBER 25, 1995

Mr. INOUE introduced the following bill; which was read twice and referred to the Committee on Governmental Affairs

A BILL

To provide for the repurchase of land acquired by the United States from Native American organizations, 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,*

3 SECTION 1. OPPORTUNITY TO REPURCHASE SUR-
4 PLUS REAL PROPERTY.—Section 203 of the Federal and
5 Administrative Services Act of 1949 (40 U.S.C. 484) is
6 amended by adding at the end the following new sub-
7 section:

8 “(r) OPPORTUNITY OF NATIVE AMERICANS TO RE-
9 PURCHASE SURPLUS REAL PROPERTY.—

1 “(1) DEFINITIONS.—As used in this sub-
2 section—

3 “(A) ADMINISTRATOR.—The term ‘admin-
4 istrator’ means the Administrator of the Gen-
5 eral Services Administration.

6 “(B) BASE CLOSURE LAW.—The term
7 ‘base closure law’ means—

8 “(i) title II of the Defense Authoriza-
9 tion Amendments and Base Closure and
10 Realignment Act (Public Law 100–526; 10
11 U.S.C. 2687 note);

12 “(ii) the Defense Base Closure and
13 Realignment Act of 1990 (part A of title
14 XXIX of Public Law 101–510; 10 U.S.C.
15 2687 note);

16 “(iii) the Defense Base Closure and
17 Realignment Act of 1993 (title XXIX of
18 Public Law 103–160; 10 U.S.C. 2687
19 note);

20 “(iv) part B of title XXVIII of the
21 National Defense Authorization Act for
22 Fiscal Year 1995 (Public Law 103–337;
23 10 U.S.C. 2687 note);

1 “(v) the Base Closure Community Re-
2 development and Homeless Assistance Act
3 of 1994 (Public Law 103–421); and

4 “(vi) any other law providing for the
5 disposition of real property in connection
6 with military base closures or realignments
7 or the use of proceeds resulting from such
8 disposition of real property.

9 “(C) DEPRECIATED VALUE.—The term
10 ‘depreciated value’ means, with respect to a
11 building, the replacement cost of the building,
12 reduced by all forms of depreciation.

13 “(D) NATIVE AMERICAN TRUST ORGANIZA-
14 TION.—The term ‘Native American Trust Orga-
15 nization’ means an organization that has held
16 land in trust for the benefit of Native Ameri-
17 cans, as defined in section 16(10) of the Na-
18 tional Museum of the American Indian Act (20
19 U.S.C. 80q–14(10)).

20 “(E) NOTICE OF INTENT TO REPUR-
21 CHASE.—The term ‘notice of intent to repur-
22 chase’ means a written notice from a Native
23 American Trust Organization to the Adminis-
24 trator that such Native American Trust Organi-
25 zation intends to repurchase all or part of

1 qualified property at its fair market value on
2 terms provided in regulations promulgated
3 under this subsection.

4 “(F) QUALIFIED PROPERTY.—The term
5 ‘qualified property’ means all or any part of
6 surplus property—

7 “(i) that was acquired by the Federal
8 Government from a Native American Trust
9 Organization by any means; and

10 “(ii) that is real property located in
11 the State of Hawaii.

12 “(G) TRUST FUND.—The term ‘trust fund’
13 means the Shared Appreciation Trust Fund es-
14 tablished pursuant to paragraph (5).

15 “(2) NOTICE.—Notwithstanding any other pro-
16 vision of this section, the first section of the Act en-
17 titled ‘An Act to provide for the disposition, control,
18 and use of surplus real property acquired by Federal
19 agencies, and for other purposes,’ approved August
20 27, 1935 (popularly known as the ‘Surplus Real
21 Property Disposal Act’) (49 Stat. 885, chapter 744;
22 40 U.S.C. 304a) or any base closure law, no quali-
23 fied property shall be disposed of under any other
24 provision of this section or the first section of the
25 Act popularly known as the ‘Surplus Real Property

1 Disposal Act' or any base closure law if, not later
2 than 90 days after the date on which such real prop-
3 erty is determined to be surplus property—

4 “(A) a Native American Trust Organiza-
5 tion has notified the Administrator that the
6 United States acquired such property from such
7 Native American Trust Organization; and

8 “(B) such Native American Trust Organi-
9 zation has submitted to the Administrator a no-
10 tice of intent to repurchase all or part of the
11 qualified property at the fair market value of
12 such qualified property.

13 “(3) LISTED PROPERTIES.—

14 “(A) IN GENERAL.—Any Native American
15 Trust Organization may submit to the Adminis-
16 trator a list of properties which were acquired
17 from such Native American Trust Organization
18 by the United States and which become quali-
19 fied properties if such properties.

20 “(B) NOTICE.—The Administrator shall
21 provide written notice to the applicable Native
22 American Trust Organization of any determina-
23 tion by the Administrator that any qualified
24 property acquired from the Native American
25 Trust Organization is surplus property. Not

1 later than 90 days after receiving such notice,
2 the Native American Trust Organization may
3 submit to the Administrator a notice of intent
4 to repurchase with respect to such qualified
5 property.

6 “(4) DISPOSAL OF QUALIFIED PROPERTIES.—

7 “(A) SALE TO NATIVE AMERICAN TRUST
8 ORGANIZATION.—If a Native American Trust
9 Organization submits a timely notice of intent
10 to repurchase qualified property pursuant to
11 paragraph (2) or (3), the United States shall
12 offer to enter into a contract with the Native
13 American Trust Organization for the sale and
14 purchase of such qualified property in accord-
15 ance with regulations promulgated under this
16 subsection.

17 “(B) DISPOSAL OF QUALIFIED PROPERTY
18 UNDER OTHER PROVISIONS.—If, with respect to
19 any qualified property, the applicable Native
20 American Trust Organization fails to—

21 “(i) submit a timely notice of intent
22 to repurchase;

23 “(ii) enter into a contract for sale or
24 purchase as described in subparagraph
25 (A); or

1 “(iii) tender performance at closing
2 under a contract for sale or purchase, the
3 Administrator may dispose of such quali-
4 fied property in accordance with other ap-
5 plicable provisions of this section or any
6 applicable base closure law.

7 “(5) ESTABLISHMENT OF SHARED APPRECI-
8 TION TRUST FUND.—There is authorized to be es-
9 tablished in the Treasury of the United States a
10 trust fund, to be known as the ‘Shared Appreciation
11 Trust Fund’. The trust fund shall consist of such
12 amounts as are transferred to the trust fund pursu-
13 ant to paragraph (6) and any interest earned on the
14 investment of amounts in the trust fund under para-
15 graph (7).

16 “(6) DEPOSITS IN TRUST FUND.—

17 “(A) IN GENERAL.—Notwithstanding sec-
18 tion 204, any base closure law, or any other law
19 providing for the transfer, deposit or use of pro-
20 ceeds from the disposition of property, the Sec-
21 retary of the Treasury shall transfer to the
22 trust fund, from the proceeds received by the
23 United States from the sale of qualified prop-
24 erty, an amount equal to the difference be-
25 tween—

1 “(i) the proceeds received by the
2 United States from the sale of such quali-
3 fied property, and

4 “(ii) the sum of—

5 “(I) the amount paid by the
6 United States as consideration for the
7 acquisition of such qualified property;

8 “(II) the interest on the amount
9 of such consideration calculated in ac-
10 cordance with subparagraph (B); and

11 “(III) the aggregate depreciated
12 value of all buildings that were con-
13 structed on such qualified property
14 after the date such property was ac-
15 quired by the United States.

16 “(B) DETERMINATION OF INTEREST.—

17 The interest referred to in subparagraph
18 (A)(ii)(b) shall be considered to have accrued
19 on the amount paid by the United States as
20 consideration for the acquisition of qualified
21 property during each year at a rate which is
22 equal to the average annual yield of all Treas-
23 ury bonds issued during such year. Such inter-
24 est shall be compounded annually.

1 “(7) INVESTMENT OF TRUST FUND.—The Sec-
2 retary of the Treasury shall invest the trust fund
3 corpus in interest-bearing obligations of the United
4 States or in obligations guaranteed as to both prin-
5 cipal and interest by the United States.

6 “(8) WITHDRAWALS AND EXPENDITURES FROM
7 TRUST FUND.—The Secretary of the Treasury may
8 not make a withdrawal or expenditure from the trust
9 fund corpus. The Secretary of the Treasury shall
10 withdraw income of the trust fund only for the uses
11 described in paragraph (9).

12 “(9) USE OF TRUST FUND INCOME.—The Sec-
13 retary of the Treasury shall on at least an annual
14 basis, withdraw income of the trust fund to fund ac-
15 tivities which are—

16 “(A) conducted for—

17 “(i) the education of Native Hawaiian
18 pursuant to title IV of the Elementary and
19 Secondary Education Act of 1965 (20
20 U.S.C. 4901, et seq.);

21 “(ii) Native Hawaiian health scholar-
22 ships pursuant to section 338K of the
23 Public Health Service Act (42 U.S.C.
24 254s);

1 “(iii) Native Hawaiian health care
2 pursuant to the Native Hawaiian Health
3 Care Improvement Act of 1988 (42 U.S.C.
4 11601, et seq.); or

5 “(iv) any combination of subpara-
6 graphs (i), (ii) or (iii); and

7 “(B) consistent with the purposes of the
8 establishment of the Native American Trust Or-
9 ganization which owned the property to which
10 the trust funds generating the income are at-
11 tributable.”

12 “(10) EXEMPTION OF QUALIFIED PROPERTY
13 FROM CERTAIN LAWS.—No real property which
14 would become qualified property if it were declared
15 to be surplus property shall be published as available
16 for application for use to assist the homeless or oth-
17 erwise made available to assist the homeless pursu-
18 ant to the Stewart B. McKinney Homeless Assist-
19 ance Act (42 U.S.C. 11411, et seq.) or shall be dis-
20 posed of pursuant to any base closure law unless
21 such real property has become eligible to be disposed
22 of pursuant to subparagraph 4(B).”

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