

106TH CONGRESS
1ST SESSION

S. 613

AN ACT

To encourage Indian economic development, to provide for the disclosure of Indian tribal sovereign immunity in contracts involving Indian 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,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Indian Tribal Eco-
5 nomic Development and Contract Encouragement Act of
6 1999”.

1 **SEC. 2. CONTRACTS AND AGREEMENTS WITH INDIAN**
2 **TRIBES.**

3 Section 2103 of the Revised Statutes (25 U.S.C. 81)
4 is amended to read as follows:

5 “SEC. 2103. (a) In this section:

6 “(1) The term ‘Indian lands’ means lands the
7 title to which is held by the United States in trust
8 for an Indian tribe or lands the title to which is held
9 by an Indian tribe subject to a restriction by the
10 United States against alienation.

11 “(2) The term ‘Indian tribe’ has the meaning
12 given that term in section 4(e) of the Indian Self-
13 Determination and Education Assistance Act (25
14 U.S.C. 450b(e)).

15 “(3) The term ‘Secretary’ means the Secretary
16 of the Interior.

17 “(b) No agreement or contract with an Indian tribe
18 that encumbers Indian lands for a period of 7 or more
19 years shall be valid unless that agreement or contract
20 bears the approval of the Secretary of the Interior or a
21 designee of the Secretary.

22 “(c) Subsection (b) shall not apply to any agreement
23 or contract that the Secretary (or a designee of the Sec-
24 retary) determines is not covered under that subsection.

25 “(d) The Secretary (or a designee of the Secretary)
26 shall refuse to approve an agreement or contract that is

1 covered under subsection (b) if the Secretary (or a des-
2 ignee of the Secretary) determines that the agreement or
3 contract—

4 “(1) violates Federal law; or

5 “(2) does not include a provision that—

6 “(A) provides for remedies in the case of
7 a breach of the agreement or contract;

8 “(B) references a tribal code, ordinance, or
9 ruling of a court of competent jurisdiction that
10 discloses the right of the Indian tribe to assert
11 sovereign immunity as a defense in an action
12 brought against the Indian tribe; or

13 “(C) includes an express waiver of the
14 right of the Indian tribe to assert sovereign im-
15 munity as a defense in an action brought
16 against the Indian tribe (including a waiver
17 that limits the nature of relief that may be pro-
18 vided or the jurisdiction of a court with respect
19 to such an action).

20 “(e) Not later than 180 days after the date of enact-
21 ment of the Indian Tribal Economic Development and
22 Contract Encouragement Act of 1999, the Secretary shall
23 issue regulations for identifying types of agreements or
24 contracts that are not covered under subsection (b).

25 “(f) Nothing in this section shall be construed to—

1 “(1) require the Secretary to approve a contract
2 for legal services by an attorney;

3 “(2) amend or repeal the authority of the Na-
4 tional Indian Gaming Commission under the Indian
5 Gaming Regulatory Act (25 U.S.C. 2701 et seq.); or

6 “(3) alter or amend any ordinance, resolution,
7 or charter of an Indian tribe that requires approval
8 by the Secretary of any action by that Indian
9 tribe.”.

10 **SEC. 3. CHOICE OF COUNSEL.**

11 Section 16(e) of the Act of June 18, 1934 (commonly
12 referred to as the “Indian Reorganization Act”) (48 Stat.
13 987, chapter 576; 25 U.S.C. 476(e)) is amended by strik-
14 ing “, the choice of counsel and fixing of fees to be subject
15 to the approval of the Secretary”.

 Passed the Senate September 15, 1999.

 Attest:

Secretary.

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