

109TH CONGRESS
1ST SESSION

S. 1481

AN ACT

To amend the Indian Land Consolidation Act to provide
for probate reform.

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 Land Probate
5 Reform Technical Corrections Act of 2005”.

1 **SEC. 2. PARTITION OF HIGHLY FRACTIONATED INDIAN**
2 **LAND.**

3 Section 205 of the Indian Land Consolidation Act
4 (25 U.S.C. 2204) is amended—

5 (1) by striking subsection (a) and inserting the
6 following:

7 “(a) PURCHASE OF LAND.—

8 “(1) IN GENERAL.—Subject to subsection (b),
9 any Indian tribe may purchase, at not less than fair
10 market value and with the consent of the owners of
11 the interests, part or all of the interests in—

12 “(A) any tract of trust or restricted land
13 within the boundaries of the reservation of the
14 tribe; or

15 “(B) land that is otherwise subject to the
16 jurisdiction of the tribe.

17 “(2) REQUIRED CONSENT.—

18 “(A) IN GENERAL.—The Indian tribe may
19 purchase all interests in a tract described in
20 paragraph (1) with the consent of the owners of
21 undivided interests equal to at least 50 percent
22 of the undivided interest in the tract.

23 “(B) INTEREST OWNED BY TRIBE.—Inter-
24 ests owned by an Indian tribe in a tract may
25 be included in the computation of the percent-
26 age of ownership of the undivided interests in

1 that tract for purposes of determining whether
2 the consent requirement under subparagraph
3 (A) has been met.”;

4 (2) by redesignating subsection (d) as sub-
5 section (c); and

6 (3) in subsection (c) (as redesignated by para-
7 graph (2))—

8 (A) in paragraph (2)—

9 (i) in subparagraph (G)(ii)(I), by
10 striking “a higher valuation of the land”
11 and inserting “a value of the land that is
12 equal to or greater than that of the earlier
13 appraisal”; and

14 (ii) in subparagraph (I)(iii)—

15 (I) in subclause (III), by insert-
16 ing “(if any)” after “this section”;
17 and

18 (II) in subclause (IV)—

19 (aa) in item (aa), by striking
20 “less” and inserting “more”; and

21 (bb) in item (bb), by strik-
22 ing “to implement this section”
23 and inserting “under paragraph
24 (5)”; and

1 (B) in paragraph (5), in the second sen-
2 tence, by striking “shall” and inserting “may”.

3 **SEC. 3. TRIBAL PROBATE CODES.**

4 Section 206 of the Indian Land Consolidation Act
5 (25 U.S.C. 2205) is amended—

6 (1) in subsection (b)(3), by striking subpara-
7 graph (A) and inserting the following:

8 “(A) the date that is 1 year after the date
9 on which the Secretary makes the certification
10 required under section 8(a)(4) of the American
11 Indian Probate Reform Act of 2004 (25 U.S.C.
12 2201 note; Public Law 108–374); or”; and

13 (2) in subsection (c)—

14 (A) in paragraph (1)(A), by striking “sec-
15 tion” and all that follows through “the Indian
16 tribe” and inserting “section 207(b)(2)(A)(ii),
17 the Indian tribe”; and

18 (B) in paragraph (2)(A)(i)(II)(bb), by in-
19 serting “in writing” after “agrees”.

20 **SEC. 4. DESCENT AND DISTRIBUTION.**

21 (a) IN GENERAL.—Section 207 of the Indian Land
22 Consolidation Act (25 U.S.C. 2206) is amended—

23 (1) by redesignating subsections (h) through (p)
24 as subsections (g) through (o), respectively;

1 (2) in subsection (g) (as redesignated by para-
2 graph (1))—

3 (A) in paragraph (2)—

4 (i) by inserting “specifically” after
5 “pertains”; and

6 (ii) by striking subparagraph (B) and
7 inserting the following:

8 “(B) the allotted land (or any interest re-
9 lating to such land) of 1 or more specific Indian
10 tribes expressly identified in Federal law, in-
11 cluding any of the Federal laws governing the
12 probate or determination of heirs associated
13 with, or otherwise relating to, the land, interest
14 in land, or other interests or assets that are
15 owned by individuals in—

16 “(i) Five Civilized Tribes restricted
17 fee status; or

18 “(ii) Osage Tribe restricted fee sta-
19 tus.”; and

20 (B) by adding at the end the following:

21 “(3) EFFECT OF SUBSECTION.—Except to the
22 extent that this Act otherwise affects the application
23 of a Federal law described in paragraph (2), nothing
24 in this subsection limits the application of this Act

1 to trust or restricted land, interests in such land, or
2 any other trust or restricted interests or assets.”;

3 (3) in subsection (h) (as redesignated by para-
4 graph (1))—

5 (A) in paragraph (6), by striking “(25
6 U.S.C. 2205)”;

7 (B) in paragraph (7), by inserting “in
8 trust or restricted status” after “testator”;

9 (4) in subsection (j) (as redesignated by para-
10 graph (1))—

11 (A) in paragraph (2)(A)—

12 (i) in clause (ii)(I), by striking “the
13 date of enactment of this subparagraph”
14 and inserting “the date that is 1 year after
15 the date on which the Secretary publishes
16 a notice of certification under section
17 8(a)(4) of the American Indian Probate
18 Reform Act of 2004 (25 U.S.C. 2201 note;
19 Public Law 108–374)”;

20 (ii) in clause (iii), by striking “the
21 provisions of section 207(a)(2)(A)” and in-
22 serting “subsection (a)(2)(A)”;

23 (B) in paragraph (8)(D), by striking “the
24 provisions of section 207(a)(2)(D) (25 U.S.C.

1 2206(a)(2)(D))” and inserting “subsection
2 (a)(2)(D)”; and

3 (C) in paragraph (9)(C)—

4 (i) by striking “section 207(e) (25
5 U.S.C. 2206(e))” and inserting “sub-
6 section (e)”; and

7 (ii) by striking “section 207(p) (25
8 U.S.C. 2206(p))” and inserting “sub-
9 section (o)”; and

10 (5) in subsection (o) (as redesignated by para-
11 graph (1))—

12 (A) in paragraph (2)—

13 (i) in the matter preceding subpara-
14 graph (A), by striking “section
15 207(a)(2)(A) or (D)” and inserting “sub-
16 paragraph (A) or (D) of subsection
17 (a)(2)”; and

18 (ii) in subparagraph (A), by striking
19 “section 207(b)(1)(A)” and inserting “sub-
20 section (b)(1)(A)”; and

21 (B) in paragraph (3)(B), by striking “sec-
22 tion 207(a)(2)(A) or (D)” and inserting “sub-
23 paragraph (A) or (D) of subsection (a)(2)”; and

24 (C) in paragraph (6)—

1 (i) in the first sentence, by striking
2 “Proceeds” and inserting the following:

3 “(A) IN GENERAL.—Proceeds”; and

4 (ii) by striking the second sentence
5 and inserting the following:

6 “(B) HOLDING IN TRUST.—Proceeds de-
7 scribed in subparagraph (A) shall be deposited
8 and held in an account as trust personalty if
9 the interest sold would otherwise pass to—

10 “(i) the heir, by intestate succession
11 under subsection (a); or

12 “(ii) the devisee in trust or restricted
13 status under subsection (b)(1).”.

14 (b) NONTESTAMENTARY DISPOSITION.—Section
15 207(a)(2)(D)(iv)(I)(aa) of the Indian Land Consolidation
16 Act (25 U.S.C. 2206(a)(2)(D)(iv)(I)(aa)) is amended—

17 (1) by striking “clause (iii)” and inserting “this
18 subparagraph”; and

19 (2) in subitem (BB), by striking “any co-
20 owner” and inserting “not more than 1 co-owner”.

21 (c) JOINT TENANCY; RIGHT OF SURVIVORSHIP.—
22 Section 207(c) of the Indian Land Consolidation Act (25
23 U.S.C. 2206(c)) is amended by striking the subsection
24 heading and inserting the following:

1 “(c) JOINT TENANCY; RIGHT OF SURVIVORSHIP.—
2 ”.

3 (d) ESTATE PLANNING ASSISTANCE.—Section
4 207(f)(3) of the Indian Land Consolidation Act (25
5 U.S.C. 2206(f)(3)) is amended in the matter preceding
6 subparagraph (A) by inserting “, including noncompetitive
7 grants,” after “grants”.

8 **SEC. 5. FRACTIONAL INTEREST ACQUISITION PROGRAM.**

9 Section 213 of the Indian Land Consolidation Act
10 (25 U.S.C. 2212) is amended—

11 (1) by striking the section heading and insert-
12 ing the following:

13 **“SEC. 213. FRACTIONAL INTEREST ACQUISITION PRO-**
14 **GRAM.”;**

15 and

16 (2) in subsection (a)(1), by striking “(25
17 U.S.C. 2206(p))”.

18 **SEC. 6. ESTABLISHING FAIR MARKET VALUE.**

19 Section 215 of the Indian Land Consolidation Act
20 (25 U.S.C. 2214) is amended by striking the last sentence
21 and inserting the following: “Such a system may govern
22 the amounts offered for the purchase of interests in trust
23 or restricted land under this Act.”.

1 **SEC. 7. LAND OWNERSHIP INFORMATION.**

2 Section 217(e) of the Indian Land Consolidation Act
3 (25 U.S.C. 2216(e)) is amended by striking “be made
4 available to” and inserting “be made available to—”.

5 **SEC. 8. CONFORMING AMENDMENTS.**

6 (a) PROBATE REFORM.—The American Indian Pro-
7 bate Reform Act of 2004 (25 U.S.C. 2201 note; Public
8 Law 108–374) is amended—

9 (1) in section 4, by striking “(as amended by
10 section 6(a)(2))”; and

11 (2) in section 9, by striking “section
12 205(d)(2)(I)(i)” and inserting “section
13 205(c)(2)(I)(i) of the Indian Land Consolidation Act
14 (25 U.S.C. 2204(c)(2)(I)(i))”.

15 (b) TRANSFER AND EXCHANGE OF LAND.—Section
16 4 of the Act of June 18, 1934 (25 U.S.C. 464) is amended
17 to read as follows:

18 **“SEC. 4. TRANSFER AND EXCHANGE OF RESTRICTED IN-**
19 **DIAN LAND AND SHARES OF INDIAN TRIBES**
20 **AND CORPORATIONS.**

21 “(a) APPROVAL.—Except as provided in this section,
22 no sale, devise, gift, exchange, or other transfer of re-
23 stricted Indian land or shares in the assets of an Indian
24 tribe or corporation organized under this Act shall be
25 made or approved.

26 “(b) TRANSFER TO INDIAN TRIBE.—

1 “(1) IN GENERAL.—Land or shares described
2 in subsection (a) may be sold, devised, or otherwise
3 transferred to the Indian tribe on the reservation of
4 which the land is located, or in the corporation of
5 which the shares are held or were derived (or a suc-
6 cessor of such a corporation), with the approval of
7 the Secretary of the Interior.

8 “(2) DESCENT AND DEVISE.—Land and shares
9 transferred under paragraph (1) shall descend or be
10 devised to any member of the Indian tribe or cor-
11 poration (or an heir of such a member) in accord-
12 ance with the Indian Land Consolidation Act (25
13 U.S.C. 2201 et seq.), including a tribal probate code
14 approved under that Act (including regulations).

15 “(c) VOLUNTARY EXCHANGES.—The Secretary of the
16 Interior may authorize a voluntary exchange of land or
17 shares described in subsection (a) that the Secretary de-
18 termines to be of equal value if the Secretary determines
19 that the exchange is—

20 “(1) expedient;

21 “(2) beneficial for, or compatible with, achiev-
22 ing proper consolidation of Indian land; and

23 “(3) for the benefit of cooperative organiza-
24 tions.”.

1 **SEC. 9. EFFECTIVE DATE.**

2 The amendments made by this Act shall be effective
3 as if included in the American Indian Probate Reform Act
4 of 2004 (25 U.S.C. 2201 note; Public Law 108–374).

Passed the Senate July 26, 2005.

Attest:

Secretary.

109TH CONGRESS
1ST SESSION

S. 1481

AN ACT

To amend the Indian Land Consolidation Act to
provide for probate reform.