

TITLE 25 - INDIANS**CHAPTER 10 - DESCENT AND DISTRIBUTION; HEIRS OF ALLOTTEE****§ 372. Ascertainment of heirs of deceased allottees; settlement of estates; sale of lands; deposit of Indian moneys**

When any Indian to whom an allotment of land has been made, or may hereafter be made, dies before the expiration of the trust period and before the issuance of a fee simple patent, without having made a will disposing of said allotment as hereinafter provided, the Secretary of the Interior, upon notice and hearing, under the Indian Land Consolidation Act [25 U.S.C. 2201 et seq.] or a tribal probate code approved under such Act and pursuant to such rules as he may prescribe, shall ascertain the legal heirs of such decedent, and his decisions shall be subject to judicial review to the same extent as determinations rendered under section 373 of this title. If the Secretary of the Interior decides the heir or heirs of such decedent competent to manage their own affairs, he shall issue to such heir or heirs a patent in fee for the allotment of such decedent; if he shall decide one or more of the heirs to be incompetent, he may, in his discretion, cause such lands to be sold: Provided, That if the Secretary of the Interior shall find that the lands of the decedent are capable of partition to the advantage of the heirs, he may cause the shares of such as are competent, upon their petition, to be set aside and patents in fee to be issued to them therefor. All sales of lands allotted to Indians authorized by this or any other Act shall be made under such rules and regulations and upon such terms as the Secretary of the Interior may prescribe, and he shall require a deposit of 10 per centum of the purchase price at the time of the sale. Should the purchaser fail to comply with the terms of sale prescribed by the Secretary of the Interior, the amount so paid shall be forfeited; in case the balance of the purchase price is to be paid on such deferred payments, all payments made, together with all interest paid on such deferred installments, shall be so forfeited for failure to comply with the terms of the sale. All forfeitures shall inure to the benefit of the allottee or his heirs. Upon payment of the purchase price in full, the Secretary of the Interior shall cause to be issued to the purchaser patent in fee for such land: Provided, That the proceeds of the sale of inherited lands shall be paid to such heir or heirs as may be competent and held in trust subject to use and expenditure during the trust period for such heir or heirs as may be incompetent as their respective interests shall appear: Provided further, That the Secretary of the Interior is authorized, in his discretion, to issue a certificate of competency, upon application therefor, to any Indian, or in case of his death to his heirs, to whom a patent in fee containing restrictions on alienation has been or may hereafter be issued, and such certificate shall have the effect of removing the restrictions on alienation contained in such patent: Provided further, That any United States Indian agent, superintendent, or other disbursing agent of the Indian Service may deposit Indian moneys, individual or tribal, coming into his hands as custodian, in such bank or banks as he may select: Provided, That the bank or banks so selected by him shall first execute to the said disbursing agent a bond, with approved surety, in such amount as will properly safeguard the funds to be deposited. Such bonds shall be subject to the approval of the Secretary of the Interior.

(June 25, 1910, ch. 431, § 1, 36 Stat. 855; Mar. 3, 1928, ch. 122, 45 Stat. 161; Apr. 30, 1934, ch. 169, 48 Stat. 647; Pub. L. 101–301, § 12(c), May 24, 1990, 104 Stat. 211; Pub. L. 106–462, title I, § 106(b)(1), Nov. 7, 2000, 114 Stat. 2007.)

References in Text

The Indian Land Consolidation Act, referred to in text, is title II of Pub. L. 97–459, Jan. 12, 1983, 96 Stat. 2517, as amended, which is classified generally to chapter 24 (§ 2201 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 2201 of this title and Tables.

NB: This unofficial compilation of the U.S. Code is current as of Jan. 8, 2008 (see <http://www.law.cornell.edu/uscode/uscp.html>).

This Act, referred to in text, is act June 25, 1910, ch. 431, 36 Stat. 855, as amended, which enacted sections 47, 93, 151, 202, 337, 344a, 351, 352, 353, 372, 403, 406, 407, and 408 of this title, sections 6a–1 and 16a of Title 41, Public Contracts, and section 148 of Title 43, Public Lands, and amended sections 191, 312, 331, 333, and 336 of this title and sections 104 and 107 of former Title 18, Criminal Code and Criminal Procedure. Sections 104 and 107 of former title 18 were repealed and reenacted as sections 1853 and 1856 of Title 18, Crimes and Criminal Procedure, by act June 25, 1948, ch. 645, 62 Stat. 683. For complete classification of this Act to the Code, see Tables.

Amendments

2000—Pub. L. 106–462 substituted “under the Indian Land Consolidation Act or a tribal probate code approved under such Act and pursuant to such rules” for “under such rules” in first sentence.

1990—Pub. L. 101–301 substituted “his decisions shall be subject to judicial review to the same extent as determinations rendered under section 373 of this title” for “his decision thereon shall be final and conclusive”.

1934—Act Apr. 30, 1934, substituted “, all payments made, together with all interest paid on such deferred installments, shall be so forfeited” for “a further amount, not exceeding 15 per centum of the purchase price together with all interest paid on such deferred installments may be so forfeited”, inserted “allottee or his” in sentence beginning “All forfeitures shall inure” and struck out “hereafter” from last proviso.

1928—Act Mar. 3, 1928, inserted in introductory text “or may hereafter be made,” after “has been made,” “together with all interest paid on such deferred installments” after “purchase price”, “or may hereafter be” after “restrictions on alienation has been”, and “hereafter” in last proviso, and substituted “by this or any other Act” for “by any Act”.