

**TITLE 43 - PUBLIC LANDS****CHAPTER 33 - ALASKA NATIVE CLAIMS SETTLEMENT****§ 1617. Revocation of Indian allotment authority in Alaska****(a) Revocation of authority**

No Native covered by the provisions of this chapter, and no descendant of his, may hereafter avail himself of an allotment under the provisions of the Act of February 8, 1887 (24 Stat. 389), as amended and supplemented, or the Act of June 25, 1910 (36 Stat. 363). Further, the Act of May 17, 1906 (34 Stat. 197), as amended, is repealed. Notwithstanding the foregoing provisions of this section, any application for an allotment that is pending before the Department of the Interior on December 18, 1971, may, at the option of the Native applicant, be approved and a patent issued in accordance with said 1887, 1910, or 1906 Act, as the case may be, in which event the Native shall not be eligible for a patent under section 1613 (h)(5) of this title.

**(b) Charging allotment against statutory grant**

Any allotments approved pursuant to this section during the four years following December 18, 1971, shall be charged against the two million acre grant provided for in section 1613 (h) of this title.

**(c) Relocation of allotment**

- (1)** **(A)** Notwithstanding any other provision of law, an allotment applicant, who had a valid application pending before the Department of the Interior on December 18, 1971, and whose application remains pending as of October 14, 1992, may amend the land description in the application of the applicant (with the advice and approval of the responsible officer of the Bureau of Indian Affairs) to describe land other than the land that the applicant originally intended to claim if—

**(i)** the application pending before the Department, either describes land selected by, tentatively approved to, or patented to the State of Alaska or otherwise conflicts with an interest in land granted to the State of Alaska by the United States prior to the filing of the allotment application;

**(ii)** the amended land description describes land selected by, tentatively approved to, or patented to the State of Alaska of approximately equal acreage in substitution for the land described in the original application; and

**(iii)** the Commissioner of the Department of Natural Resources for the State of Alaska, acting under the authority of State law, has agreed to reconvey or relinquish to the United States the land, or interest in land, described in the amended application.

**(B)** If an application pending before the Department of the Interior as described in subparagraph (A) describes land selected by, but not tentatively approved to or patented to, the State of Alaska, the concurrence of the Secretary of the Interior shall be required in order for an application to proceed under this section.

- (2)** **(A)** The Secretary shall accept reconveyance or relinquishment from the State of Alaska of the land described in an amended application pursuant to paragraph (1)(A), except where the land described in the amended application is State-owned land within the boundaries of a conservation system unit as defined in the Alaska National Interest Lands Conservation Act. Upon acceptance, the Secretary shall issue a Native Allotment certificate to the applicant for the land reconveyed or relinquished by the State of Alaska to the United States.

**(B)** The Secretary shall adjust the computation of the acreage charged against the land entitlement of the State of Alaska to ensure that this subsection will not cause the State to receive either more or less than its full land entitlement under section 6 of the Act entitled “An Act to provide for the admission of the State of Alaska into the Union”, approved July 7, 1958 (commonly referred to as the “Alaska Statehood Act”), and section 906 of the Alaska

National Interest Lands Conservation Act (43 U.S.C. 1635). If the State retains any part of the fee estate, the State shall remain charged with the acreage.

**(d) Correction of conveyance documents**

(1) If an allotment application is valid or would have been approved under section 1634 of this title had the land described in the application been in Federal ownership on December 2, 1980, the Secretary may correct a conveyance to a Native Corporation or to the State that includes land described in the allotment application to exclude the described allotment land with the written concurrence of the Native Corporation or the State.

(2) A written concurrence shall—

(A) include a finding that the land description proposed by the Secretary is acceptable; and

(B) attest that the Native Corporation or the State has not—

(i) granted any third party rights or taken any other action that would affect the ability of the United States to convey full title under the Act of May 17, 1906 (34 Stat. 197, chapter 2469); and

(ii) stored or allowed the deposit of hazardous waste on the land.

(3) On receipt of an acceptable written concurrence, the Secretary, shall—

(A) issue a corrected conveyance document to the State or Native Corporation, as appropriate; and

(B) issue a certificate of allotment to the allotment applicant.

(4) No documents of reconveyance from the State or an Alaska Native Corporation or evidence of title, other than the written concurrence and attestation described in paragraph (2), are necessary to use the procedures authorized by this subsection.

**(e) Native allotment revisions on land selected by or conveyed to a Native Corporation**

(1) An allotment applicant who had an application pending before the Department of the Interior on December 18, 1971, and whose application is still open on the records of the Department of the Interior as of December 10, 2004, may revise the land description in the application to describe land other than the land that the applicant originally intended to claim if—

(A) the application—

(i) describes land selected by or conveyed by interim conveyance or patent to a Native Corporation formed to receive benefits under this chapter; or

(ii) otherwise conflicts with an interest in land granted to a Native Corporation by the United States;

(B) the revised land description describes land selected by or conveyed by interim conveyance or patent to a Native Corporation of approximately equal acreage in substitution for the land described in the original application;

(C) the Director of the Bureau of Land Management has not adopted a final plan of survey for the final entitlement of the Native Corporation or its successor in interest; and

(D) the Native Corporation that selected the land or its successor in interest provides a corporate resolution authorizing reconveyance or relinquishment to the United States of the land, or interest in land, described in the revised application.

(2) The land description in an allotment application may not be revised under this section unless the Secretary has determined—

(A) that the allotment application is valid or would have been approved under section 1634 of this title had the land in the allotment application been in Federal ownership on December 2, 1980;

(B) in consultation with the administering agency, that the proposed revision would not create an isolated inholding within a conservation system unit (as defined in section 3102 of title 16); and

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- (C) that the proposed revision will facilitate completion of a land transfer in the State.
- (3) (A) On obtaining title evidence acceptable under Department of Justice title standards and acceptance of a reconveyance or relinquishment from a Native Corporation under paragraph (1), the Secretary shall issue a Native allotment certificate to the applicant for the land reconveyed or relinquished by the Native Corporation.
- (B) Any allotment revised under this section shall, when allotted, be made subject to any easement, trail, right-of-way, or any third-party interest (other than a fee interest) in existence on the revised allotment land on the date of revision.
- (f) **Reinstatements and reconstructions**
- (1) If an applicant for a Native allotment filed under the Act of May 17, 1906 (34 Stat. 197, chapter 2469) petitions the Secretary to reinstate a previously closed Native allotment application or to accept a reconstructed copy of an application claimed to have been timely filed with an agency of the Department of the Interior, the United States—
- (A) may seek voluntary reconveyance of any land described in the application that is reinstated or reconstructed after December 10, 2004; but
- (B) shall not file an action in any court to recover title from a current landowner.
- (2) A certificate of allotment that is issued for any allotment application for which a request for reinstatement or reconstruction is received or accepted after December 10, 2004 shall be made subject to any Federal appropriation, trail, right-of-way, easement, or existing third party interest of record, including third party interests created by the State, without regard to the date on which the Native allotment applicant initiated use and occupancy.

(Pub. L. 92–203, § 18, Dec. 18, 1971, 85 Stat. 710; Pub. L. 102–415, § 3, Oct. 14, 1992, 106 Stat. 2112; Pub. L. 108–452, title III, §§ 301, 303, 305, Dec. 10, 2004, 118 Stat. 3587, 3588, 3590.)

## References in Text

Act of February 8, 1887 (24 Stat. 389), referred to in subsec. (a), is popularly known as the Indian General Allotment Act. For complete classification of this Act to the Code, see Short Title note set out under section 331 of Title 25, Indians, and Tables.

Act of June 25, 1910 (36 Stat. 363), referred to in subsec. (a), probably means act June 25, 1910, ch. 431, 36 Stat. 855, which enacted section 148 of this title, sections 104 and 107 of former Title 18, Criminal Code and Criminal Procedure, sections 47, 93, 151, 191, 202, 312, 331, 333, 336, 337, 344a, 351, 352, 353, 372, 373, 403, 406, 407, 408 of Title 25, sections 6a–1 and 16a of Title 41, Public Contracts. Sections 104 and 107 of former Title 18 were repealed in the general revision of that title by act June 25, 1948, ch. 645, 62 Stat. 683, and were reenacted as sections 1853 and 1856 of Title 18, Crimes and Criminal Procedure. For complete classification of this Act to the Code, see Tables.

Act of May 17, 1906 (34 Stat. 197), as amended, referred to in subssecs. (a), (d)(2)(B)(i), and (f)(1), is act May 17, 1906, ch. 2469, 34 Stat. 197, which enacted sections 270–1, 270–2, and 270–3 of this title, and was repealed by Pub. L. 92–203, § 18(a), Dec. 18, 1971, 85 Stat. 710. For complete classification of this Act to the Code, see Tables.

The Alaska National Interest Lands Conservation Act, referred to in subsec. (c)(2)(A), is Pub. L. 96–487, Dec. 2, 1980, 94 Stat. 2371, as amended. For complete classification of this Act to the Code, see Short Title note set out under section 3101 of Title 16, Conservation, and Tables.

Section 6 of the Act entitled “An Act to provide for the admission of the State of Alaska into the Union”, approved July 7, 1958 (commonly referred to as the “Alaska Statehood Act”), referred to in subsec. (c)(2)(B), is section 6 of Pub. L. 85–508, July 7, 1958, 72 Stat. 339, as amended, which is set out as a note preceding section 21 of Title 48, Territories and Insular Possessions.

## Amendments

2004—Subsec. (d). Pub. L. 108–452, § 301, added subsec. (d).

Subsec. (e). Pub. L. 108–452, § 303, added subsec. (e).

Subsec. (f). Pub. L. 108–452, § 305, added subsec. (f).

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1992—Subsec. (c). Pub. L. 102–415 added subsec. (c).

### **Title Recovery of Native Allotments**

Pub. L. 108–452, title III, § 302, Dec. 10, 2004, 118 Stat. 3588, provided that:

“(a) In General.—In lieu of the process for the correction of conveyance documents available under subsection (d) of section 18 of the Alaska Native Claims Settlement Act (as added by section 301) [43 U.S.C. 1617 (d)], any Native Corporation may elect to reconvey all of the land encompassed by an allotment claim or a portion of the allotment claim agreeable to the applicant in satisfaction of the entire claim by tendering a valid and appropriate deed to the United States.

“(b) Certificate of Allotment.—If the United States determines that the allotment application is valid or would have been approved under section 905 of the Alaska National Interests Lands Conservation Act (42 U.S.C. 1634) had the land described in the allotment application been in Federal ownership on December 2, 1980, and obtains title evidence acceptable under the Department of Justice title standards, the United States shall accept the deed from the Native Corporation and issue a certificate of allotment to the allotment applicant.

“(c) Probate Not Required.—If the Native Corporation reconveys the entire interest of the Native Corporation in the allotment claim of a deceased applicant, the United States may accept the deed and issue the certificate of allotment without waiting for a determination of heirs or the approval of a will.

“(d) No Liability.—The United States shall not be subject to liability under Federal or State [of Alaska] law for the presence of any hazardous substance in land or an interest in land solely as a result of any reconveyance to, and transfer by, the United States of land or interests in land under this section.”

### **Compensatory Acreage**

Pub. L. 108–452, title III, § 304, Dec. 10, 2004, 118 Stat. 3589, provided that:

“(a) In General.—The Secretary [of the Interior] shall adjust the acreage entitlement computation records for the State [of Alaska] or an affected Native Corporation to account for any difference in the amount of acreage between the corrected description and the previous description in any conveyance document as a result of actions taken under section 18(d) of the Alaska Native Claims Settlement Act (as added by section 301) [43 U.S.C. 1617 (d)] or section 18(e) of the Alaska Native Claims Settlement Act (as added by section 303), or for other voluntary reconveyances to the United States for the purpose of facilitating land transfers in the State.

“(b) Limitation.—No adjustment to the acreage conveyance computations shall be made where the State or an affected Native Corporation retains a partial estate in the described allotment land.

“(c) Availability of Additional Land.—If, as a result of implementation under section 18(d) of the Alaska Native Claims Settlement Act (as added by section 301) [43 U.S.C. 1617 (d)] or any voluntary reconveyance to facilitate a land transfer, a Village Corporation has insufficient remaining selections from which to receive its full entitlement under the Alaska Native Claims Settlement Act, the Secretary may use the authority and procedures available under paragraph (3) of section 22(j) of the Alaska Native Claims Settlement Act (43 U.S.C. 1621 (j)) (as added by section 208) to make additional land available for selection by the Village Corporation.”

### **Alaska Native Allotment Subdivision**

Pub. L. 108–337, Oct. 18, 2004, 118 Stat. 1357, provided that:

“SECTION 1. SHORT TITLE.

“This Act may be cited as the ‘Alaska Native Allotment Subdivision Act’.

“SEC. 2. DEFINITIONS.

“In this Act:

“(1) Restricted land.—The term ‘restricted land’ means land in the State that is subject to Federal restrictions against alienation and taxation.

“(2) Secretary.—The term ‘Secretary’ means the Secretary of the Interior.

“(3) State.—The term ‘State’ means the State of Alaska.

“SEC. 3. SUBDIVISION AND DEDICATION OF ALASKA NATIVE RESTRICTED LAND.

“(a) In General.—An Alaska Native owner of restricted land may, subject to the approval of the Secretary—

“(1) subdivide the restricted land in accordance with the laws of the—

“(A) State; or

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“(B) applicable local platting authority; and

“(2) execute a certificate of ownership and dedication with respect to the restricted land subdivided under paragraph (1) with the same effect under State law as if the restricted land subdivided and dedicated were held by unrestricted fee simple title.

“(b) Ratification of Prior Subdivisions and Dedications.—Any subdivision or dedication of restricted land executed before the date of enactment of this Act [Oct. 18, 2004] that has been approved by the Secretary and by the relevant State or local platting authority, as appropriate, shall be considered to be ratified and confirmed by Congress as of the date on which the Secretary approved the subdivision or dedication.

“SEC. 4. EFFECT ON STATUS OF LAND NOT DEDICATED.

“Except in a case in which a specific interest in restricted land is dedicated under section 3 (a)(2), nothing in this Act terminates, diminishes, or otherwise affects the continued existence and applicability of Federal restrictions against alienation and taxation on restricted land or interests in restricted land (including restricted land subdivided under section 3 (a)(1)).”