

Public Law 96-274
96th Congress

An Act

Pertaining to the inheritance of trust or restricted land on the Standing Rock Sioux Reservation, North Dakota and South Dakota.

June 17, 1980

[H.R. 2102]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That to the extent that the laws of descent and distribution of the State in which trust or restricted land is located on the Standing Rock Indian Reservation in North Dakota and South Dakota (hereinafter the "reservation") are inconsistent with this Act, the provisions of this Act shall govern the right to inherit such trust or restricted land.

Standing
Rock Sioux
Reservation,
N. Dak.-S. Dak.

SEC. 2. Only the Standing Rock Sioux Tribe of North Dakota and South Dakota (hereinafter the "tribe") or persons who are (a) enrolled members of the tribe, (b) members of a federally recognized Indian tribe, or (c) otherwise recognized as Indians by the Secretary of the Interior (hereinafter the "Secretary") shall be entitled to receive by devise or descent any interest in trust or restricted land within the boundaries of the reservation as defined by the Act of March 2, 1889 (25 Stat. 888), except as provided in section 4 of this Act.

Inheritance
of trust or
restricted land.

SEC. 3. (a) Whenever any Indian dies possessed of any interest in trust or restricted land within the reservation and the trust or restricted land has not been devised by a will approved by the Secretary pursuant to section 2 of the Act of June 25, 1910 (36 Stat. 856), as amended (25 U.S.C. 373) and which is consistent with the provisions of section 2 of this Act, such interest shall descend to the following persons, subject to their being eligible heirs pursuant to section 2 of this Act:

Eligible heirs.

(1) one-half of the interest shall descend to the surviving spouse and the other one-half shall descend in equal shares to the children of the decedent and to the issue of any deceased child of the decedent by right of representation;

(2) if there is no surviving spouse, the interest shall descend in equal shares to the children of the decedent and to the issue of any deceased child of the decedent by right of representation;

(3) if there are no surviving children or issue of any child, the interest shall descend to the surviving spouse;

(4) if there is no surviving spouse and no surviving children or issue of any child, the interest shall descend to the surviving parents or parent of the decedent;

(5) if there is no surviving spouse, and no surviving children or issue of any child, and no surviving parent, the interest shall descend equally to the brothers and sisters of the decedent; and,

(6) if there is no surviving spouse, no surviving children or issue of any child, no surviving parent, and no surviving brothers or sisters, the interest shall escheat to the tribe.

(b) Any interest which descends in accordance with this section shall be subject to the right of a non-Indian surviving spouse as provided in section 4(a) of this Act.

(c) As used in this section, the words "children" and "issue" include adopted children and children of unwed parents where the Secretary

"Children"
and "issue."

determines that paternity has been acknowledged or established, except that (1) a child may not inherit by intestate succession from or through a parent whose parental rights with respect to said child have been terminated pursuant to lawful authority and (2) a parent may not inherit by intestate succession from or through a child with respect to which such parent's parental rights have been so terminated.

Non-Indian
surviving
spouse.

SEC. 4. (a) Notwithstanding the provisions of section 2 of this Act, the non-Indian surviving spouse of an Indian decedent who dies possessed of any interest in trust or restricted lands within the reservation shall be entitled to take not more than an undivided one-half interest in all such trust or restricted lands during his or her lifetime, but the remainder of such interest shall descend as provided in section 3 of this Act.

Tribal pay-
ment to
Secretary.

(b) If a decedent has devised an interest in trust or restricted land located within the reservation to a person prohibited by section 2 from acquiring an interest in such trust or restricted land and the consequence of such prohibition is that the interest in land would escheat to the tribe pursuant to section 3(a)(6) of this Act, the devise shall be prohibited only if, while the estate is pending before the Secretary, the tribe pays to the Secretary on behalf of such devisee the fair market value of such interest as determined by the Secretary as of the date of the decedent's death. The value of any life estate reserved to a surviving spouse under the provisions of subsection (a) of this section shall be reflected in the Secretary's determination. The interest for which such payment is made by the tribe shall thereafter be held by the United States in trust for the tribe.

Life estate
value reserved
to a surviving
spouse.

SEC. 5. The provisions of this Act shall apply only to estates of decedents whose deaths occur on or after the date of enactment of this Act.

Approved June 17, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 96-743 (Comm. on Interior and Insular Affairs).

SENATE REPORT No. 96-762 (Comm. on Indian Affairs).

CONGRESSIONAL RECORD, Vol. 126 (1980):

Mar. 3, considered and passed House.

May 22, considered and passed Senate, amended, in lieu of S. 2102.

June 9, House concurred in Senate amendments.