

Showing Current Law as Amended by H.R. 2387

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I. Section 18(a) of the Alaska Native Claims Settlement Act (43 U.S.C. 1617(a))

§1617. Revocation of Indian allotment authority in Alaska

Sec. 18. [(a) No Native] (a) Revocation.—

(1) IN GENERAL.—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 [Further, the] (2) REPEAL.—The Act of May 17, 1906 (34 Stat. 197), as amended, is repealed. [Notwithstanding the foregoing provisions of this section, any]

(3) APPLICATIONS FOR ALLOTMENT.—

(A) IN GENERAL.—Notwithstanding paragraphs (1) and (2), any application for an allotment that is pending before the Department of the Interior on the date of enactment of this Act 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 14(h)(5) of this Act.

(B) CERTAIN APPLICATIONS APPROVED.—Any allotment application pending before the Department of the Interior on December 18, 1971, that was closed by the Department pursuant to the civil action styled 'Shields v. United States' (698 F.2d 987 (9th Cir. 1983), cert. denied (104 S. Ct. 73 (1983))) shall be reopened and considered to be approved pursuant to this paragraph.

(b) 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 subsection 14(h).

II. Section 41 of the Alaska Native Claims Settlement Act (43 U.S.C. 1629(g))

§1629g. Open season for certain Alaska Native veterans for allotments

(a) **[In general] ALASKA NATIVE VETERAN ALLOTMENTS**

(1) During the eighteen month period following promulgation of implementing rules pursuant to subsection (e), a person described in subsection (b) shall be eligible for an allotment of not more than two parcels of federal¹ land totaling 160 acres or less under the Act of May 17, 1906 (chapter 2469; 34 Stat. 197), as such Act was in effect before December 18, 1971.

(2) Allotments may be selected only from lands that were vacant, unappropriated, and unreserved on the date when the person eligible for the allotment first used and occupied those lands.

(3) The Secretary may not convey allotments containing any of the following-

(A) lands upon which a native or non-native campsite is located, except for a campsite used primarily by the person selecting the allotment;

(B) lands selected by, but not conveyed to, the State of Alaska pursuant to the Alaska Statehood Act or any other provision of law;

(C) lands selected by, but not conveyed to, a Village or Regional Corporation;

(D) lands designated as wilderness by statute;

(E) acquired lands;

(F) lands containing a building, permanent structure, or other development owned or controlled by the United States, another unit of government, or a person other than the person selecting the allotment;

(G) lands withdrawn or reserved for national defense purposes other than National Petroleum Reserve-Alaska;

(H) National Forest Lands; and

(I) lands selected or claimed, but not conveyed, under a public land law, including but not limited to the following:

(1) Lands within a recorded mining claim.

(2) Home sites.

(3) Trade and Manufacturing sites.

(4) Reindeer sites or headquarters sites.

(5) Cemetery sites.

(4) A person who qualifies for an allotment on lands prohibited from conveyance by a provision of subsection (a)(3) may select an alternative allotment from the following lands located within the geographic boundaries of the same Regional Corporation as the excluded allotment-

(A) lands withdrawn pursuant to section 1610(a)(1) of this title which were not selected, or were relinquished after selection;

(B) lands contiguous to the outer boundary of lands withdrawn pursuant to section 1610(a)(1)(C) of this title, except lands excluded from selection by a provision of subsection (a)(3) and lands within a National Park; or

(C) vacant, unappropriated and unreserved lands.]

(1) ALLOTMENTS.—

(A) ELIGIBLE RECIPIENTS.—Any person described in paragraph (1) or (2) of subsection (b) shall be eligible to receive an allotment under the Act of May 17, 1906 (34 Stat.

1967, chapter 2469) (a in effect before December 18, 1971), of not more than 2 parcels of Federal land, the total area of which shall not exceed 160 acres.

(B) FILING DEADLINE.—An allotment shall be filed for an eligible recipient not later than 3 years after the date on which the Secretary promulgates regulations pursuant to section 4 of the Alaska Native Veterans Land Allotment Equity Act.

(2) LAND AVAILABLE FOR ALLOTMENTS.—

(A) IN GENERAL.—Subject to subparagraph (C), and allotment under this section shall be selected from land that is—

- (i) (I) vacant; and
- (II) owned by the United States;
- (ii) selected by, or conveyed to, the State of Alaska, if the State voluntarily relinquishes or conveys to the United States the land for the allotment; or
- (iii) selected by, or conveyed to, a Native Corporation, if the Native Corporation voluntarily relinquishes or conveys to the United States that land for the allotment.

(B) RELINQUISHMENT BY NATIVE CORPORATION.—If a Native Corporation relinquishes land under subparagraph (A)(iii), the Native Corporation may select appropriate Federal land, as determined by the Secretary, the area of which is equal to the area of the and relinquished by the Native Corporation, to replace the relinquished land.

(C) EXCLUSIONS.—An allotment under this section shall not be selected from land that is located within—

- (i) a right-of-way of the TransAlaska Pipeline;
- (ii) an inner or outer corridor of such a right-of-way; or
- (iii) a unit of the National Park System, a National Preserve, or a National Monument.

(3) ALTERNATIVE ALLOTMENTS.—A person described in paragraph (1) or (2) of subsection (b) who qualifies for an allotment under this section on land described in paragraph (2)(C) may select an alternative allotment from land that is—

- (A) located within the boundaries of land described in (2)(C);
- (B)(i)(I) withdrawn under section 11(a)(1)(C); and
- (II) not selected, or relinquished after selection, under section 11(a)(3);
- (ii) contiguous to an outer boundary of land withdrawn under section 11(a)(1)(C); or
- (iii) vacant, unappropriated, and unreserved; and
- (C) not a unit of the National Park System, a National Preserve, or a National Monument.

(5) **4** After consultation with a person entitled to an allotment within a Conservation System Unit, the Secretary may convey alternative lands of equal acreage, including lands within a Conservation System Unit, to that person if the Secretary determines that the allotment would be incompatible with a purpose for which the Conservation System Unit was established.

(6) **5** All conveyances under this section shall-

- (A) be subject to valid existing rights, including any right of the United States to income derived, directly or indirectly, from a lease, license, permit, right-of-way or easement; and

(B) reserve to the United States deposits of oil, gas and coal, together with the right to explore, mine, and remove these minerals, on lands which the Secretary determines to be prospectively valuable for development.

(b) Eligible person

(1) A person is eligible to select an allotment under this section if that person-

(A) would have been eligible for an allotment under the Act of May 17, 1906 (chapter 2469; 34 Stat. 197), as that Act was in effect before December 18, 1971 (except that the term "nonmineral", as used in that Act, shall for the purpose of this subsection be defined as provided in section 1634(a)(3) of this title, except that such definition shall not apply to land within a conservation system unit); and

[(B) is a veteran who served during the period between January 1, 1969 and December 31, 1971 and-

(i) served at least 6 months between January 1, 1969 and December 31, 1971; or

(ii) enlisted or was drafted into military service after June 2, 1971 but before December 3, 1971.]

(B) is a veteran who served during the period beginning on August 5, 1964, and ending on May 7, 1975.

[(2)(A) The personal representative or special administrator, appointed in an Alaska State court proceeding of the estate of a decedent who was eligible under subsection (b)(1)(A) may, for the benefit of the heirs, select an allotment if the decedent was a veteran who served in South East Asia at any time during the period beginning August 5, 1964, and ending December 31, 1971, and during that period the decedent-

(i) was killed in action;

(ii) was wounded in action and subsequently died as a direct consequence of that wound, as determined by the Department of Veterans Affairs or based on other evidence acceptable to the Secretary; or

(iii) died while a prisoner of war.

(B)(i) If the Secretary requests that the Secretary of Veterans Affairs make a determination whether a veteran died as a direct consequence of a wound received in action, the Secretary of Veterans Affairs shall, within 60 days of receipt of the request-

(I) provide a determination to the Secretary if the records of the Department of Veterans Affairs contain sufficient information to support such a determination; or

(II) notify the Secretary that the records of the Department of Veterans Affairs do not contain sufficient information to support a determination and that further investigation will be necessary.

(ii) Not later than 1 year after notification to the Secretary that further investigation is necessary, the Department of Veterans Affairs shall complete the investigation and provide a determination to the Secretary.]

(2) DECEASED INDIVIDUALS.—If an individual who would otherwise have been eligible for an allotment under this section dies before applying for an allotment, an heir of the individual may apply for, and receive, an allotment under this section, on behalf of the estate of the individual.

(3) No person who received an allotment or has a pending allotment under the Act of May 17, 1906 may receive an allotment under this section, other than an heir who applies for, and receives, an allotment on behalf of the estate of a deceased individual under paragraph (2).

(c) Study and report

(1) The Secretary of the Interior shall conduct a study to identify and assess the circumstances of veterans of the Vietnam era who-

- (A) served during a period other than that specified in subsection (b)(1)(B);
- (B) were eligible for an allotment under the Act of May 17, 1906; and
- (C) did not apply for an allotment under that Act.

(2) The Secretary shall, within one year of October 21, 1998, issue a written report on the study, including findings and recommendations, to the Committee on Appropriations and the Committee on Energy and Natural Resources in the Senate and the Committee on Appropriations and the Committee on Resources in the House of Representatives.

(d) APPROVAL OF ALLOTMENTS.—

(1) IN GENERAL.—Subject to any valid right in existence on the date of enactment of the Alaska Native Veterans Land Allotment Equity Act, and except as provided in paragraph (3), not later than December 31, 2020, the Secretary shall—

(A) approve any application for an allotment filed in accordance with subsection (a); and

(B) issue a certificate of allotment under such terms, conditions, and restrictions as the Secretary determines to be appropriate.

(2) NOTIFICATION.—Not later than December 31, 2017, on receipt of an application for an allotment under this section, the Secretary shall provide to any person or entity that has an interest in land described in subsection (a)(2) that is potentially adverse to the interest of the applicant a notice of the right of the person or entity, by not later than 90 days after the date of receipt of the notice—

(A) to initiate a private contest of the allotment; or

(B) to file a protest against the allotment in accordance with procedures established by the Secretary.

(3) ACTION BY SECRETARY.—If a private contest or protest relating to an application for an allotment is initiated or filed under paragraph (2), the Secretary shall not issue a certificate for the allotment under paragraph (1)(B) until a final determination has been made with respect to the private contest or protest.

(e) RESELECTION.—A person that selected an allotment under this section may withdraw that selection and reselect land in accordance with this section after the date of enactment of the Alaska Native Veterans Land Allotment Equity Act, if the land originally selected—

(1) was selected before the date of enactment of the Alaska Native Veterans Land Allotment Equity Act; and

(2) as of the date of enactment of that Act, was not conveyed to the person.

(f) Definitions

For the purposes of this section, the terms "veteran" and "Vietnam era" have the meanings given those terms by paragraphs (2) and (29), respectively, of [section 101 of title 38](#).

(e) (g) Regulations

No later than 18 months after October 21, 1998, the Secretary of the Interior shall promulgate, after consultation with Alaska Natives groups, rules to carry out this section.