

Committee on Natural Resources

Rob Bishop Chairman
Markup Memorandum

May 19, 2018

To: All Natural Resources Committee Members

From: Majority Committee Staff
Subcommittee on Indian, Insular and Alaska Native Affairs (x6-9725)

Mark-Up: **H.R. 2606 (Rep. Tom Cole)**, To amend the Act of August 4, 1947 (commonly known as the Stigler Act), with respect to the restrictions applicable to Indians of the Five Civilized Tribes of Oklahoma, and for other purposes.
May 23, 2018 at 10:15 a.m.; 1324 Longworth HOB

H.R. 2606 (Rep. Tom Cole), “*Stigler Act Amendments of 2017*”

Summary of the Bill

H.R. 2606 was introduced by Congressman Tom Cole on May 23, 2017. The bill would amend the Act of August 4, 1947¹ to remove the Indian blood quantum requirement for interests in certain allotments of land to be maintained in restricted fee status² for any member of the Five Civilized Tribes of Oklahoma.³ Currently, interests in such allotments may be sold, exchanged, and taxed when individuals of less than one-half degree Indian blood inherit them, even though such individuals remain members of the Five Tribes.⁴ Under H.R. 2606, restricted fee land currently owned by members of the Five Tribes would remain in restricted status regardless of the blood quantum of the owners.

Cosponsors

Rep. Frank Lucas (R-OK), Rep. Markwayne Mullin (R-OK), Rep. Steve Russell (R-OK).

Background

Oklahoma is home to 38 federally-recognized Indian tribes, a majority of which were resettled involuntarily, with some forcibly during the mid-1800s. The first tribes removed to what is now Oklahoma were the Choctaw, Chickasaw, Creek, Cherokee and Seminoles—which were collectively called the Five Civilized Tribes.

¹ Stigler Act, 61 Stat. 731.

² This is land or interest in land whose title is held in fee by an Indian, but such land may not, as a matter of federal law, be taxed or transferred (through sale, exchange, donation, or otherwise) without authorization from the federal government.

³ The Cherokee Nation, Chickasaw Nation, Choctaw Nation, Muscogee (Creek) Nation, and the Seminole Nation.

⁴ The Five Tribes do not maintain a minimum degree blood quantum requirement for membership.

The Five Tribes have stood together in different forms since 1842, when the tribes first formed the Inter-Tribal Council of the Deep Fork River.⁵ According to the Tribes, they recognized the need to stand together after being forcibly removed to Indian Territory (what is now Oklahoma). The Five Tribes formed the United Nations of Indian Territory in 1861, the Okmulgee Council in 1866, and most recently the Inter-Tribal Council of the Five Civilized Tribes in 1949.⁶ Today, the Inter-Tribal Council represents over 650,000 tribal members from all five Tribes.

Under the General Allotment Act of 1887 (Dawes Act),⁷ Congress sought to end the tribal and reservation system in which Indians had been living by making them individual property owners through allotment of the reservations in which they were living. Under the Act, the President was authorized to allot 160-acre or 80-acre parcels of land in Indian reservations to individual Indians located on them, and to open remaining surplus lands to non-Indian settlement. In 1893, the Dawes Commission⁸ was created by Congress in part to seek allotment of the lands of the Five Tribes. In 1898, Congress enacted the Curtis Act⁹ which provided for the allotment of the Five Tribes' lands and authorized townsites that were opened to non-Indian ownership.¹⁰ Most tribal lands of the Five Tribes were allotted between 1897 and 1902 with most being, as a matter of federal law, inalienable and nontaxable.

In 1947, Congress passed the Act of August 4, 1947, otherwise known as the Stigler Act. The Stigler Act sets forth certain additional restrictions on title to the allotments that had been conveyed to members of the Five Tribes. The Act provides that, upon probate, heirs and devisees of an allotment shall maintain at least one-half degree Indian blood quantum from one of the Five Tribes for the allotment to remain inalienable and nontaxable for the life of the owner. The effect of the Stigler Act has been that when a person of less than one-half degree Indian blood from one of the Five Tribes inherits an interest of an allotment, the interest in the land is subject to being alienable and taxable.

Analysis of H.R. 2606

H.R. 2606 would amend the Stigler Act, allowing for members of the Five Civilized Tribes of Oklahoma to keep their land in restricted fee, even if their blood quantum falls below the one-half Indian blood requirement set by the Stigler Act.

Cost

Unknown

⁵ <http://www.okhistory.org/publications/enc/entry.php?entry=IN033>.

⁶ <http://www.fivecivilizedtribes.org/Home/History/Chapter-One>.

⁷ 24 Stat. 387.

⁸ Act of March 3, 1893, §16, 27 Stat. 612.

⁹ Act of June 28, 1898, 30 Stat. 495.

¹⁰ In doing so, it began the process of preparing Indian Territory to become the state of Oklahoma in 1906-1907.

Administration Position

The Department of the Interior submitted a statement in support, with amendments, for the Subcommittee on Indian, Insular and Alaska Native Affairs October 4, 2017, hearing record.

Anticipated Amendment

Chairman Bishop will offer an amendment to address technical clarifications identified in the Administration's testimony. Specifically, the amendment clarifies that the restrictions are extended for decedent Indians whose estates had gone through probate and whose property has been previously inherited by heirs of more than one half degree of blood. Additionally, the amendment clarifies that the Final Indian Rolls of the Five Tribes were conclusive, and specified the manner by which blood quantum within the Five Tribes would be calculated. The amendment also clarifies that any interest in restricted land acquired by purchase or partition sale would continue to be tax exempt so long as it remained in restricted status.

[Effect on current law \(Ramseyer\)](#)