

12-31-1987

# Florida Indian (Seminole) Land Claims Settlement Act

United States 100th Congress

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## Preferred Citation

25 USC 19, Sec. 1772, PL 100-228, §2, 101 Stat. 1556

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Wampanoag Tribal Council is authorized to convey, under paragraph (11) of the Settlement Agreement, to the town of Gay Head.

(Pub. L. 100-95, §8, Aug. 18, 1987, 101 Stat. 708.)

#### REFERENCES IN TEXT

The Trade and Intercourse Act of 1790, Act of July 22, 1790 (ch. 33, sec. 4, 1 Stat. 137), referred to in par. (2), is not classified to the Code. See sections 177, 179, 180, 193, 194, 201, 229, 230, 251, 263, and 264 of this title.

#### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1771d of this title.

#### § 1771g. Applicability of State law

Except as otherwise expressly provided in this subchapter or in the State Implementing Act, the settlement lands and any other land that may now or hereafter be owned by or held in trust for any Indian tribe or entity in the town of Gay Head, Massachusetts, shall be subject to the civil and criminal laws, ordinances, and jurisdiction of the Commonwealth of Massachusetts and the town of Gay Head, Massachusetts (including those laws and regulations which prohibit or regulate the conduct of bingo or any other game of chance).

(Pub. L. 100-95, §9, Aug. 18, 1987, 101 Stat. 709.)

#### § 1771h. Limitations of action; jurisdiction

Notwithstanding any other provision of law, any action to contest the constitutionality or validity under law of this subchapter shall be barred unless the complaint is filed within thirty days after August 18, 1987. Exclusive original jurisdiction over any such action and any proceedings under section 1771d(e) of this title is hereby vested in the United States District Court of<sup>1</sup> the District of Massachusetts.

(Pub. L. 100-95, §10, Aug. 18, 1987, 101 Stat. 710.)

#### § 1771i. Eligibility

For the purpose of eligibility for Federal services made available to members of federally recognized Indian tribes, because of their status as Indians, members of this tribe residing on Martha's Vineyard, Massachusetts, shall be deemed to be living on or near an Indian reservation.

(Pub. L. 100-95, §12, Aug. 18, 1987, 101 Stat. 710.)

#### SUBCHAPTER VI—FLORIDA INDIAN (SEMINOLE) LAND CLAIMS SETTLEMENT

#### § 1772. Findings and policy

Congress finds and declares that—

(1) there is pending before the United States District Court for the southern district of Florida a lawsuit by the Seminole Tribe which involves certain lands within the State and there are also claims by the tribe to other areas of Florida by virtue of an 1839 Executive order of the President and by right of non-extinguishment of aboriginal possession which has been asserted but not filed in court;

(2) the pendency of this lawsuit and these claims may result in economic hardships for

residents of the State by clouding the titles to lands in the State, including lands not now involved in the lawsuit;

(3) the pendency of this lawsuit and these claims also have clouded the easement rights of the South Florida Water Management District in lands necessary for use as a water flowage and storage area, which is part of a federally authorized project for flood control and water management in central and southern Florida, and which is being used to provide and regulate a water supply for the residents of south Florida;

(4) the State, the district, and the tribe have executed agreements for the purposes of resolving tribal land claims and settling the lawsuit—

(A) which include conveyance of land and payment of consideration to the tribe; and

(B) which require implementing legislation by the Congress of the United States and the Legislature of the State of Florida;

(5) Congress shares with the parties to such agreements a desire to settle these Indian claims in the State of Florida without additional cost to the United States;

(6) there is considerable uncertainty as to the nature and extent of the water rights of the tribe, and that continued controversy over this should be settled by agreement; and

(7) the State, the district, and the tribe have entered into a compact which, if approved by Congress and the Florida Legislature, creates specifically defined water rights in lieu of the undefined water rights claimed by the tribe.

(Pub. L. 100-228, §2, Dec. 31, 1987, 101 Stat. 1556.)

#### EFFECTIVE DATE

Section 10 of Pub. L. 100-228 provided that: "This Act [enacting this subchapter] shall take effect upon the date of its enactment [Dec. 31, 1987]."

#### SHORT TITLE

Section 1 of Pub. L. 100-228 provided that: "This Act [enacting this subchapter] may be cited as the 'Seminole Indian Land Claims Settlement Act of 1987.'"

#### § 1772a. Definitions

For purposes of this subchapter—

(1) The term "tribe" means the Seminole Tribe of Indians of Florida or Seminole Tribe of Florida, a tribe of American Indians recognized by the United States and organized under section 476 of this title and recognized by the State of Florida pursuant to chapter 285, Florida Statutes, and its successors.

(2) The term "State" means the State of Florida and its agencies, political subdivisions, constitutional officers, officials of its agencies and subdivisions and their successors.

(3) The term "district" means the South Florida Water Management District, the agency of the State of Florida created by chapter 25270, laws of Florida (1949) to operate pursuant to chapter 373 Florida Statutes, and its successors.

(4) The term "Secretary" means the Secretary of the Interior.

(5) The term "lands or natural resources" means any real property or natural resources,

<sup>1</sup> So in original. Probably should be "for".

or any interest in or right involving any real property or natural resources, including minerals and mineral rights, timber and timber rights, water and water rights, and rights to hunt and fish.

(6) The term "Settlement Agreement" means the instrument—

(A) executed by the Seminole Tribe, the State of Florida, and the South Florida Water Management District; and

(B) which will be presented for approval by all three parties to the United States District Court for the southern district of Florida for the purpose of terminating the lawsuit entitled *Seminole Tribe of Indians of Florida, v. State of Florida, et al.*, (Docket No. 78-6116-CIV), and for the extinguishment of rights to all potential or unsettled claims which the tribe may have to lands or natural resources in the State and the purchase of certain tribal interests in real property.

(7) The term "settlement funds" means those funds which the State of Florida and the South Florida Water Management District have agreed to pay to the tribe under the Settlement Agreement.

(8) The term "compact" means the Compact incorporated in the Settlement Agreement between the tribe, the State, and the district, which specifically defines the nature and extent of Seminole water rights and the manner of their use within the confines of the area of the district.

(Pub. L. 100-228, §3, Dec. 31, 1987, 101 Stat. 1557.)

#### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1772c of this title.

### § 1772b. Findings by Secretary

(a) Section 1772c of this title shall not take effect until 180 days after December 31, 1987, or the date the last of the events described in subsection (b) of this section have occurred and the Secretary so finds, whichever date occurs later.

(b) The events referred to in subsection (a) of this section are—

(1) the State and district pay settlement funds pursuant to the terms of the Settlement Agreement for the case captioned *Seminole Tribe of Indians of Florida v. State of Florida et al.*, or equivalent consideration by land exchange to the tribe; and

(2) the State enacts appropriate legislation to carry out the commitments under the Settlement Agreement including the compact between the State, the district and the tribe, and the State and the district have given the waiver specified in paragraph 5c of such agreement.

(Pub. L. 100-228, §4, Dec. 31, 1987, 101 Stat. 1557.)

#### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1772c of this title.

<sup>1</sup> So in original. The comma probably should not appear.

### § 1772c. Approval of prior transfers and extinguishment of claims and aboriginal title involving Florida Indians

#### (a) Approval of Settlement Agreement; effect of approval

(1) Effective on December 31, 1987, the Congress does hereby approve the Settlement Agreement, including the compact, and any exhibits attached thereto.

(2) Subject to the provisions of section 1772b of this title, the Secretary shall publish findings required by section 1772b of this title and the Settlement Agreement in the Federal Register, and upon such publication—

(A) the transfers, waivers, releases, relinquishments and other commitments made by the tribe in the Settlement Agreement with the State and the district, including the compact provided for in the Settlement Agreement, shall be in full force and effect on the terms and conditions stated in such settlement, and

(B) the transfers, waivers, releases, relinquishments and other commitments validated by subparagraph (A) and the transfers and extinguishments approved and validated by paragraphs (1) and (2) of subsection (b) of this section shall be deemed to have been made in accordance with the Constitution and all laws of the United States that are specifically applicable to transfers of lands or natural resources from, by, or on behalf of any Indian, Indian nation, or tribe of Indians including but not limited to the Trade and Intercourse Act of 1790, Act of July 22, 1790 (25 U.S.C. 177, ch. 33, sec. 4, 1 Stat. 137).

#### (b) Extinguishment of claims based on aboriginal title

(1)(A) Subject to subparagraph (B), all claims to lands within the State based upon aboriginal title by the tribe or any predecessor or successor in interest, are hereby extinguished. Any transfer of lands or natural resources located anywhere within the State, including transfers pursuant to a statute or treaty with any State or the United States, by, from, or on behalf of the tribe or any predecessor or successor in interest, shall be deemed to be in full force and effect, as provided in subsection (a)(2) of this section.

(B) Nothing in this paragraph shall be construed as extinguishing any aboriginal right, title, interest, or claim to lands or natural resources solely to the extent of the rights or interests defined as "excepted interests" in paragraph 4a of the Settlement Agreement between the tribe, State and the district.

(2)(A) By virtue of the approval of a transfer of lands or natural resources effected by this section, or an extinguishment of aboriginal title effected thereby, all claims against the United States, the State or subdivision thereof, or any other person or entity, by the tribe or any predecessor or successor in interest, arising subsequent to the transfer and based upon any interest in or right involving such lands or natural resources, including claims for trespass damages or claims for use and occupancy, shall be extinguished as of the date of the transfer.

(B) The United States shall not be liable directly or indirectly for any claim or cause of ac-

tion arising from the approval of the Settlement Agreement and compact or exhibits attached thereto.

(3) Nothing in this subchapter shall be construed as extinguishing any right, title, interest, or claim to lands or natural resources in the State based on use and occupancy or acquired under Federal or State law by any individual Indian which is not derived from or through the tribe, its predecessor or predecessors in interest, or some other American Indian tribe.

(4) Any Indian, Indian nation, or tribe of Indians, other than the Seminole Tribe as defined in section 1772a(1) of this title, or any predecessor or successor in interest, or any member thereof, whose transfer of lands or natural resources is approved or whose aboriginal title or claims is extinguished by paragraph (1) or (2) of this subsection may, within a period of one year after publication of the Secretary's finding pursuant to subsection (a) of this section, bring an action against the State and the United States in the United States District Court for the southern district of Florida. Such action shall be in lieu of a suit against any other person, agency, or political subdivision on a cause of action which may have existed in the absence of this subsection.

**(c) Construction of subsection (a) and section 1772e**

Neither subsection (a) of this section nor section 1772e of this title—

- (1) enacts present or future laws of the State as Federal law,
- (2) grants consent to any future changes in the Settlement Agreement or compact that could impose any obligation or liability on the United States, or
- (3) commits the United States to finance any project or activity not otherwise authorized by Federal law.

(Pub. L. 100-228, § 5, Dec. 31, 1987, 101 Stat. 1558.)

REFERENCES IN TEXT

The Trade and Intercourse Act of 1790, Act of July 22, 1790 (25 U.S.C. 177, ch. 33, sec. 4, 1 Stat. 137), referred to in subsec. (a)(2)(B), is not classified to the Code. See sections 177, 179, 180, 193, 194, 201, 229, 230, 251, 263, and 264 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1772b, 1772g of this title.

**§ 1772d. Special provisions for Seminole Tribe**

**(a) Acceptance of land by Secretary in trust for Seminole Tribe**

Notwithstanding any clouds on title, the Secretary is authorized and directed, as soon as practicable after December 31, 1987, to accept the transfer to the United States, to be held in trust and as a reservation for the use and benefit of the Seminole Tribe of Florida, the approximate 15 sections of land being described as follows:

Beginning at the southwest corner of section 31, township 48 south, Range 35 east; thence easterly along the south border of sections 31, 32 and 33, township 48 south, Range 35 east, to the westernmost boundary of the levee 28

works in section 33, township 48 south, Range 35 east; thence continuing north along the westernmost boundary of the levee 28 works to the point at which the westernmost boundary of the levee 28 works intersects the southernmost boundary of the levee 4 works in section 9, township 48 south, Range 35 east; thence continuing westerly along the southernmost boundary of the levee 4 works to the point at which the southernmost boundary of the levee 4 works intersects the dividing line between township 48 south, Range 35 east and township 48 south, Range 34 east at the Broward County and Hendry County line; and thence continuing south along said line to the point of beginning; said lands situate, lying and being in Broward County, Florida.

**(b) Survey of Seminole Federal Reservations in Florida**

Before the expiration of the 3-year period beginning on December 31, 1987, the Secretary shall—

- (1) conduct a cadastral survey of those portions of the Seminole Federal Reservations in Florida not previously surveyed by the Department of the Interior, including all lands taken into trust as reservations under the authority of this subchapter;
- (2) publish the correct legal descriptions of the Seminole Reservations in the Federal Register within 180 days after the survey is completed.

**(c) Acceptance of land in future by Secretary in trust for Seminole Tribe**

If, pursuant to paragraph 6 of the Settlement Agreement, there is a subsequent agreement between the tribe, the State, and the district providing that lands exchanged with the tribe or acquired by the tribe may be taken into Federal trust as a reservation for the tribe, the Secretary shall accept the transfer of such lands to the United States, to be held in trust for the use and benefit of the tribe pursuant to the terms and conditions of the subsequent agreement unless—

- (1) the total amount of land previously taken in trust under this subsection exceeds the amount of land transferred to the State and Water District by the tribe under the Settlement Agreement;
- (2) the Secretary determines in writing that either the size, location, or condition of the land, or the terms and conditions under which it is transferred would place an unreasonable burden on the United States as trustee;
- (3) the land is not in Florida; or
- (4) the land is not agricultural in nature.

**(d) Civil and criminal jurisdiction over lands acquired by United States in trust for Seminole Tribe**

(1) Notwithstanding the acquisition of any land under subsection (a) or (c) of this section by the United States in trust for the tribe, the assumption of jurisdiction in favor of the State contained in section 285.16, Florida Statutes, pursuant to section 7 of the Act of August 15, 1953,<sup>1</sup> (67 Stat. 588; Public Law 280), shall con-

<sup>1</sup> So in original. The comma probably should not appear.

tinue in full force and effect on such lands unless the United States accepts a retrocession by the State of such civil or criminal jurisdiction in whole or in part under section 1323 of this title. The laws of Florida relating to alcoholic beverages, gambling, sale of cigarettes, and their successor laws, shall have the same force and effect within said transferred lands as they have elsewhere within the State. The State, with respect to the transferred lands, shall also have jurisdiction over offenses committed by or against Indians under said laws to the same extent the State has jurisdiction over said offenses committed elsewhere within the State.

(2) Nothing in this subsection shall be construed as permitting the exercise of the above jurisdiction by the State regarding matters to which section 1162(b) of title 18 and section 1360(b) of title 28 apply.

(3) The scope of tribal sovereignty over transferred lands, with the specific exceptions of law relating to cigarettes, gambling and alcohol described in this subsection, shall be as required by applicable law with regard to existing tribal lands held in reservation or Federal trust status. Such transfer shall not confer upon the tribe, or upon the lands within the reservation, any additional water rights. Tribal water rights shall be deemed to be defined in the compact.

(Pub. L. 100-228, § 6, Dec. 31, 1987, 101 Stat. 1559.)

#### REFERENCES IN TEXT

Section 7 of the Act of August 15, 1953, referred to in subsec. (d)(1), is section 7 of act Aug. 15, 1953, ch. 505, 67 Stat. 590, which was set out as a note under section 1360 of Title 28, Judiciary and Judicial Procedure, and was repealed by Pub. L. 90-284, title IV, § 403(b), Apr. 11, 1968, 82 Stat. 79.

#### § 1772e. Water rights compact

The compact defining the scope of Seminole water rights and their utilization by the tribe shall have the force and effect of Federal law for the purposes of enforcement of the rights and obligations of the tribe.

(Pub. L. 100-228, § 7, Dec. 31, 1987, 101 Stat. 1560.)

#### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1772c of this title.

#### § 1772f. Judicial review

(a) Notwithstanding any other provision of law, any action to contest the constitutionality of this subchapter shall be barred unless the complaint is filed within 180 days after December 31, 1987. Exclusive jurisdiction over any such action is hereby vested in the United States District Court for the southern district of Florida.

(b) Notwithstanding any present immunity from suit enjoyed by any of the parties, jurisdiction regarding any controversy arising under the Settlement Agreement or compact or private agreement between the tribe and any third party entered into under authority of the compact is hereby vested in the United States District Court for the southern district of Florida. Such jurisdiction shall be exclusive except that the court shall not have jurisdiction to award money damages against the State, the district

or the tribe. Proceedings in the district court under this section shall be expedited consistent with sound judicial discretion.

(Pub. L. 100-228, § 8, Dec. 31, 1987, 101 Stat. 1561.)

#### § 1772g. Revocation of settlement

In the event the Settlement Agreement or any part thereof is ever invalidated—

(1) the transfers, waivers, releases, relinquishments and any other commitments made by the State, the tribe, or the district in the Settlement Agreement shall no longer be of any force or effect;

(2) section 1772c of this title shall be inapplicable as if such section was never enacted with respect to the lands, interests in lands, or natural resources of the tribe and its members; and

(3) the approvals of prior transfers and the extinguishment of claims and aboriginal title of the tribe otherwise effected by section 1772c of this title shall be void ab initio.

(Pub. L. 100-228, § 9, Dec. 31, 1987, 101 Stat. 1561.)

#### SUBCHAPTER VII—WASHINGTON INDIAN (PUYALLUP) LAND CLAIMS SETTLEMENT

#### § 1773. Congressional findings and purpose

##### (a) Findings

The Congress finds and declares that:

(1) It is the policy of the United States to promote tribal self-determination and economic self-sufficiency and to support the resolution of disputes over historical claims through settlements mutually agreed to by Indian and non-Indian parties.

(2) Disputes over certain land claims of the Puyallup Tribe and other matters, including—

(A) ownership of the Commencement Bay tidelands and areas of former Puyallup Riverbed, lands within the Puyallup Tribe's Treaty Reservation, or intended reservation boundaries,

(B) railroad and other rights-of-way,

(C) control of fisheries resource and habitat,

(D) jurisdiction over law enforcement, environment, navigation, and authority and control in the areas of land use,

(E) business regulation and zoning,

have resulted in difficult community relations and negative economic impacts affecting both the Tribe and non-Indian parties.

(3) Some of the significant historical events that led to the present circumstances include—

(A) the negotiation of the Treaty of Medicine Creek in December 1854, by the Puyallup Indians and others, by which the tribes ceded most of their territories but reserved certain lands and rights, including fishing rights;

(B) the Executive Order of 1857 creating the Puyallup Indian Reservation;

(C) the Executive Order of 1873, clarifying and extending the Puyallup Reservation in the Washington Territory;

(D) the March 11, 1891, Report of the Puyallup Indian Commission on allotments and