

CHAPTER 285

INDIAN RESERVATIONS AND AFFAIRS

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285.01 Lands set aside; description.—The following described lands in the County of Monroe, are set aside and given to the Seminole Indians of Florida as a reservation, to wit:

(1) All of the lands now belonging to the state in township fifty-six south of range thirty-two east, being all of sections seven to fifteen, inclusive, and seventeen to thirty-six, inclusive, containing 18,560 acres, more or less.

(2) Also, all of sections one to four, inclusive; ten to fifteen, inclusive; twenty-two to twenty-four, inclusive, and sections thirty-five and thirty-six, in township fifty-seven south of range thirty-two east, containing 9,600 acres, more or less.

(3) Also, all of sections one to three, inclusive; ten to fourteen, inclusive; twenty-four, twenty-five, thirty-five and thirty-six, of township fifty-eight south of range thirty-two east, containing 7,680 acres, more or less.

(4) Also, all of sections seven to fifteen, inclusive, and seventeen to thirty-six, inclusive, of township fifty-six south of range thirty-three east, containing 18,560 acres, more or less.

(5) Also, all of sections one to fifteen, inclusive, and seventeen to thirty-six, inclusive, of township fifty-seven south of range thirty-three east, containing 22,400 acres, more or less.

(6) Also, all of sections one to fifteen, inclusive, and seventeen to thirty-six, inclusive, of township fifty-eight south of range thirty-three east, containing 22,400 acres, more or less.

History.—s. 1, ch. 7310, 1917; RGS 1313; CGL 1994; s. 7, ch. 22858, 1945.

285.011 Seminole Indian lands; trustee.—The Board of Trustees of the Internal Improvement Trust Fund shall hereafter serve as the trustee of all Seminole Indian lands, and title to all such lands shall be vested in said board to be held in trust for the perpetual use and benefit of the Seminole Indians and as a reservation for them.

History.—s. 1, ch. 71-286.

285.03 Grant of Florida lands to Seminole Indians.

(1)(a) A grant is made, for use of the Seminole Indians of Florida, of a tract of land situated in Broward County, described as follows:

(b) Beginning 330 feet west of the northeast corner of lot fourteen, of section thirty-six, township fifty south, range forty-one east; thence west 495 feet; thence south 1,320 feet, thence east 495 feet, thence north 1,320 feet to point of beginning, being 15 acres, more or less.

(2) The said described lands shall become a part of the Seminole Indian Reservation, reserved by Act of Legislature, 1931, to use of the Seminole Indians of Florida.

(3) If, at any time, said lands should be abandoned or not used for the purpose for which granted, such lands would revert to the State of Florida.

History.—ss. 1, 4, ch. 16175, 1933; CGL 1936 Supp. 1995(1).

285.04 Board of Trustees of Internal Improvement Trust Fund authorized to exchange state lands for United States lands.—To provide more adequately for the needs of the Seminole Indians in Florida, and for cooperating with the United States therein, the Board of Trustees of the Internal Improvement Trust Fund may, in its discretion, exchange state lands with the United States for lands owned by the United States.

History.—s. 1, ch. 17065, 1935; CGL 1936 Supp. 1995(2); s. 2, ch. 61-119; ss. 27, 35, ch. 69-106.

285.05 Board of Trustees of the Internal Improvement Trust Fund authorized to exchange lands with individuals.—The Board of Trustees of the Internal Improvement Trust Fund may, in its discretion, exchange state lands with private landowners, and, in turn, exchange any lands so acquired with the United States for government-owned lands, to facilitate the carrying out of the purpose described in s. 285.04.

History.—s. 2, ch. 17065, 1935; CGL 1936 Supp. 1995(3); s. 2, ch. 61-119; ss. 27, 35, ch. 69-106.

285.06 State Indian Reservation.—When, as the result of the exchanges provided for in ss. 285.04 and

285.05, there shall have been established a reservation for the Indians by the United States in Florida, the State Seminole Indian Reservation in Monroe County, created by chapter 7310, Acts of 1917, shall be withdrawn and returned to the board of trustees; and thereupon the Board of Trustees of the Internal Improvement Trust Fund shall set aside a tract of land of approximately equal size and of suitable character, adjacently located, as nearly as may be, to the reservation to be established by the United States; and said lands, when so set aside, shall constitute the State Indian Reservation and shall be held in trust by the Department of Management Services for the perpetual benefit of the Indians and as a reservation for them.

History.—s. 3, ch. 17065, 1935; CGL 1936 Supp. 1995(4); s. 2, ch. 61-119, ss. 22, 27, 35, ch. 69-106; s. 244, ch. 92-279; s. 55, ch. 92-326.

285.061 Transfer of land to United States in trust for Seminole and Miccosukee Indian Tribes.—

(1) The Board of Trustees of the Internal Improvement Trust Fund of state Indian reservation lands is authorized in its discretion, to transfer to the United States to be held in trust for the use and benefit of the Seminole Tribe of Florida the following described lands:

Beginning in the southwest corner of Section 31, Township 48 South, Range 35 East; thence easterly along the south border of Sections 31, 32, and 33 in 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;

and the said board is further authorized to transfer to the United States to be held in trust for the use and benefit of the Miccosukee Tribe of Indians of Florida the following described lands:

Sections 5, 6, 7, 8, 17, 18, 19, 20, 29, 30, 31, 32, Township 49 South, Range 36 East, and Township 49 South, Range 35 East, Township 50 South, Range 35 East, and Township 51 South, Range 35 East, said lands situate, lying and being in Broward County, Florida.

All of the aforesaid lands having been set aside as a reservation for the Seminole Indians of Florida by Legislative Acts of 1917 and 1935, and the purpose of this section is to divide the described reservation into two reservations for the use of and benefit of the two tribes named herein.

(2) For the purpose of this subsection: "Other Florida Indians" means Indian residents of the state who are not

members of either the Seminole Tribe of Florida or the Miccosukee Tribe of Indians of Florida, who are qualified to meet the enrollment requirements of either the Seminole Tribe of Florida or the Miccosukee Tribe of Indians of Florida. Other Florida Indians shall be permitted to use, occupy and enjoy the Seminole Reservation or the Miccosukee Reservation on the same terms and conditions, and subject to the same limitations as are applicable to, or may be imposed upon, tribal members by its constitution, bylaws, or tribal regulations; provided, however, that if either of said tribes shall maintain its membership roll open to all other Florida Indians for a period of 3 years from the effective date of this act, then such Indians who, upon the expiration of said period, have not become enrolled members of either of said tribes, shall have no further right to the use, occupancy or enjoyment of either of said reservations.

(3) All the provisions of this chapter, not in conflict with this section, remain in full force and effect. The state reserves both civil and criminal jurisdiction over said reservations in accordance with ss. 285.16 and 285.165 and applicable federal law. The transfer of lands in trust for the Miccosukee Tribe of Indians of Florida made pursuant to the authority of this section remains subject to all of the rights, easements, and reservations in favor of the South Florida Water Management District provided in the transfer.

History.—ss. 1, 2, 3, 4, ch. 65-249; s. 1, ch. 65-472; ss. 22, 35, ch. 69-106; s. 4, ch. 71-286; s. 1, ch. 87-292.

285.07 Purpose of law.—The purpose of ss. 285.07-285.13 is to protect the Seminole Indians of Florida against undue and unnecessary hardships during these difficult years of transition from their ancestral culture to the culture of the white person's civilization and to aid said Indians to obtain economic independence as a tribe and as individuals.

History.—s. 1, ch. 29908, 1955; s. 11, ch. 91-221; s. 206, ch. 95-148.

285.08 Definitions.—For the purpose of ss. 285.09-285.13:

(1) "Tribe" means the Seminole Tribe in the state composed of bands of Indians known and referred to as Miccosukee and Muskogee or Cow Creek.

(2) "Indian" or "Indians" means one or more members of a tribe.

(3) "Trustee" means the Board of Trustees of the Internal Improvement Trust Fund.

(4) "Reservation" means that tract of land of approximately 104,800 acres located in Palm Beach and Broward Counties set aside for the perpetual use and benefit of Seminole Indians by Legislative Acts of 1917 and 1935, known as the Seminole Indian Reservation.

(5) "Flood control project" means the Central and South Florida Flood Control Program.

History.—s. 2, ch. 29908, 1955; ss. 22, 35, ch. 69-106; s. 5, ch. 71-286.

285.09 Rights of Miccosukee and Seminole Tribes with respect to hunting, fishing, and frogging.—

(1) It is lawful for members of the Miccosukee Tribe and members of the Seminole Tribe to take wild game and fish at any time within the boundaries of their respective reservations and in the exercise of hunting, fishing, and trapping rights within the Big Cypress Pre-

serve under Pub. L. No. 93-440 and under s. 380.055(8), provided that game may be taken only for food for the Indians themselves.

(2) In addition, members of the Miccosukee Tribe may take wild game and fish for subsistence purposes and take frogs for personal consumption as food or for commercial purposes at any time within their reservation and the area leased to the Miccosukee Tribe pursuant to the actions of the Board of Trustees of the Internal Improvement Trust Fund on April 8, 1981. The Game and Fresh Water Fish Commission may restrict, for wildlife management purposes, the exercise of these rights in the area leased. Prior to placing restrictions upon hunting, fishing, and frogging for subsistence purposes, the Game and Fresh Water Fish Commission shall totally restrict nonsubsistence uses for the particular species.

History.—s. 3, ch. 29908, 1955; s. 1, ch. 81-204.

285.10 No license or permit fees required; identification card required.—Indians may exercise the hunting, fishing, and frogging rights granted to them in those areas specified by s. 285.09 without payment of licensing or permitting fees. Each Indian exercising such rights shall be required to have an identification card issued without cost by the Game and Fresh Water Fish Commission through the chairs of the Miccosukee Tribe and Seminole Tribe. Each Indian is required to have the identification card on his or her person at all times when exercising such rights and shall exhibit it to officers of the Game and Fresh Water Fish Commission upon the request of such officers.

History.—s. 4, ch. 29908, 1955; ss. 25, 35, ch. 69-106; s. 2, ch. 81-204; s. 207, ch. 95-148.

285.11 Reservation; improvement leases.—The trustee shall have the right to lease any part or parts of the reservation to any person willing to enter into an improvement lease. Such lease shall not exceed 15 years, unless such a lease is entered into with a Florida Indian, in which case it may be for a term not to exceed 25 years, and may include an option on the part of the lessee to renew such lease for an additional term of 25 years or less. The lessee shall be required to make such improvements to or on the property as are agreed upon in the lease. The improvements shall become a part of the lands of the reservation thereby accruing to the benefit of the tribe upon expiration of the lease. For the purposes of this section a "Florida Indian" is defined as a member of either the Seminole Tribe of Florida or the Miccosukee Tribe of Indians of Florida or an Indian who is eligible for enrollment as a member of either of the foregoing tribes.

History.—s. 5, ch. 29908, 1955; ss. 22, 35, ch. 69-106; s. 1, ch. 70-271.

285.12 Reservation; mineral deposits.—The tribe shall benefit from the discovery and development of all mineral deposits on the lands of the reservation the same as if the title to said lands were vested in the tribe and any law relating to the use of public lands shall not apply.

History.—s. 6, ch. 29908, 1955; s. 1, ch. 69-298.

285.13 Campsites; flood control.—Indians living in camps settled prior to the passage of ss. 285.07-285.13 within the boundaries of the flood control project shall

be permitted to continue to live in such campsites. When any such campsite is threatened with floodwaters as a result of the building of the flood control project, the trustee shall cause such campsites to be relocated to a level above dangers resulting from said floodwaters or shall otherwise protect such campsites from said floodwaters.

History.—s. 7, ch. 29908, 1955.

285.14 Board of Trustees of the Internal Improvement Trust Fund as trustee to accept donations of and acquire property for Indians.—

(1) The Board of Trustees of the Internal Improvement Trust Fund, as the trustee defined in s. 285.08, may accept donations of real and personal property from any source whatsoever, and may include the same in the corpus of the trust created under this chapter.

(2) The board, as trustee, may acquire lands in the name of the state and devote the same to the exclusive use, occupancy, and benefit of said Indians for the purpose of promoting the health, general welfare, safety, and best interest of said Indians.

(3) All funds accruing to the trustee of the trust granted under this chapter, may be expended by said trustee for such purposes as in the judgment and discretion of the board will best promote the safety, health, general welfare and best interest of said Indians.

(4) The Department of Management Services, the State Board of Education, and any other state board or agency having title to lands or having lands under their jurisdiction, management, or control, may in their discretion convey and transfer to the board of trustees the title to any of said lands in trust for the use and benefit of said Indians.

History.—s. 1, ch. 59-451; s. 2, ch. 61-119; ss. 22, 27, 35, ch. 69-106; s. 6, ch. 71-286; s. 245, ch. 92-279; s. 55, ch. 92-326.

285.15 Grant of hunting, fishing, and frogging privileges by Board of Trustees of Internal Improvement Trust Fund; access to and use of land.—

(1) The Board of Trustees of the Internal Improvement Trust Fund, in its discretion, may grant hunting and fishing privileges and rights to the Miccosukee and Seminole Indian Tribes and to any other Indians who are not members of the Miccosukee Tribe or Seminole Tribe but who are eligible for membership therein, covering lands under its administration, management, control, and supervision. The rights granted under this section extend only to game taken by the said Indians for personal consumption, and no other license or permit shall be required, notwithstanding the provisions of any other law.

(2) The Board of Trustees of the Internal Improvement Trust Fund, in its discretion, may grant to the Miccosukee and Seminole Indian Tribes and to any other Indians who are not members of the Miccosukee Tribe or Seminole Tribe but who are eligible for membership therein the right to take frogs for personal consumption and for commercial purposes, covering lands under its administration, management, control, and supervision.

(3) The Board of Trustees of the Internal Improvement Trust Fund, in its discretion, may grant to the Miccosukee and Seminole Tribes and to any other Indians who are not members of the Miccosukee Tribe or

Seminole Tribe but who are eligible for membership therein the right of access to and use of lands under its administration, management, control, and supervision.

History.—s. 1, ch. 59-451; s. 2, ch. 61-119; ss. 27, 35, ch. 69-106; s. 3, ch. 81-204.

285.16 Civil and criminal jurisdiction; Indian reservation.—

(1) The State of Florida hereby assumes jurisdiction over criminal offenses committed by or against Indians or other persons within Indian reservations and over civil causes of actions between Indians or other persons or to which Indians or other persons are parties arising within Indian reservations.

(2) The civil and criminal laws of Florida shall obtain on all Indian reservations in this state and shall be enforced in the same manner as elsewhere throughout the state.

History.—ss. 1, 2, ch. 61-252.

285.165 Water rights compact with Seminole Tribe.

(1) Notwithstanding the provisions of s. 285.16, the water rights compact among the Seminole Tribe of Florida, the State of Florida, and the South Florida Water Management District as approved by the governing board of the South Florida Water Management District at its May 15, 1987, governing board meeting is hereby ratified and approved. The compact shall not be effective until approved in appropriate federal legislation. Upon congressional approval, the compact shall become the sole source of regulation of water use and the management and storage of surface water and groundwater on reservation and Tribal Trust lands.

(2) All agencies of the state are authorized and directed to provide such technical assistance as the South Florida Water Management District may require in implementing the terms of the water rights compact to be entered with the Seminole Tribe of Indians of Florida pursuant to subsection (1).

History.—ss. 2, 3, ch. 87-292; s. 12, ch. 91-221.

285.17 Special improvement districts; Seminole and Miccosukee Tribes.—There is hereby created a special improvement district for each of the areas contained within the reservations set aside for the Seminole and Miccosukee Tribes, respectively, and also within the area leased to the Miccosukee Tribe pursuant to the actions of the Board of Trustees of the Internal Improvement Trust Fund on April 8, 1981.

History.—s. 1, ch. 74-175; s. 4, ch. 81-204.

285.18 Tribal council as governing body; powers and duties.—

(1) The respective governing bodies of the Seminole Tribe of Florida and the Miccosukee Tribe of Indians recognized by the United States and organized pursuant to the provisions of the Act of June 18, 1934, 48 Stat. 987, 25 U.S.C. s. 476 shall be the respective governing bodies of the special improvement districts created by s. 285.17.

(2) The governing bodies of the special improvement districts shall have the duty and power:

(a) To plan, contract for, and implement programs for the benefit of their members in law enforcement, education, housing, health care, and other social services,

which shall include, without limitation, delivery of health services, workforce training, child services, and other programs to improve the health, economic, and educational opportunities of its members.

(b) To contract with the district school board of any district adjoining the local school district, when deemed necessary by the tribal council, to provide public education and educational programs for their members, notwithstanding the provisions of s. 230.23 that authorize school boards to establish attendance areas for their districts or approve plans for attendance in other districts.

(c) To employ personnel to exercise law enforcement powers, including the investigation of violations of any of the criminal laws of the state occurring on reservations over which the state has assumed jurisdiction pursuant to s. 285.16.

1. All law enforcement personnel employed shall be considered peace officers for all purposes and shall have the authority to bear arms, make arrests, and apply for, serve, and execute search warrants, arrest warrants, capias, and other process of the court, and to enforce criminal and noncriminal traffic offenses, within their respective special improvement districts.

2. All law enforcement personnel shall be entitled to the privileges, protection, and benefits of ss. 112.19 and 870.05.

(d) To employ such personnel as necessary to carry out the responsibilities of the special improvement districts and to prescribe all terms and conditions for the employment of such personnel, including, but not limited to, the fixing of their compensation, benefits, the filing of performance and fidelity bonds, and such policies of insurance as they may deem advisable, and apply for coverage of their employees under the state retirement system subject to necessary action by the districts to pay employer contributions into the state retirement fund. However, any law enforcement officer employed must meet the standards required pursuant to ss. 943.085-943.25.

(e) To execute any and all instruments, and do and perform any and all acts for things necessary, convenient, or desirable for its purposes or to carry out the powers expressly given in this section.

(f) To borrow money, accept gifts, and apply for and use grants or loans of money or other property from the United States, the state, a local unit of government or any person, for any district purpose and may enter into agreements required in connection therewith, and may hold, use, and dispose of such moneys or property in accordance with the terms of the gift, grant, loan, or agreement relating thereto.

(3) The law enforcement agencies of the Seminole Tribe of Florida and the Miccosukee Tribe of Indians of Florida shall have the authority of "criminal justice agencies" as defined in s. 943.045(10)(c) and shall have the specific authority to negotiate agreements with the Florida Department of Law Enforcement, the United States Department of Justice, and other federal law enforcement agencies for access to criminal history records for the purpose of conducting ongoing criminal investigations and for the following governmental purposes:

(a) Background investigations, which are required for employment by a tribal education program, tribal Head Start program, or tribal daycare program as may be required by state or federal law.

(b) Background investigations, which are required for employment by tribal law enforcement agencies.

(c) Background investigations, which are required for employment by a tribal government.

(d) Background investigations with respect to all employees, primary management officials, and all persons having a financial interest in a class II Indian tribal gaming enterprise to ensure eligibility as provided in the Indian Gaming Regulatory Act, 25 U.S.C. ss. 2701 et al.

With regard to those investigations authorized in paragraphs (a), (c), and (d), each such individual shall file a complete set of his or her fingerprints that have been taken by an authorized law enforcement officer, which set of fingerprints shall be submitted to the Department of Law Enforcement for state processing and to the Federal Bureau of Investigation for federal processing. The cost of processing shall be borne by the applicant.

History.—s. 1, ch. 74-175; s. 10, ch. 83-167; s. 1, ch. 89-58; s. 1, ch. 89-330; s. 4, ch. 94-215; s. 866, ch. 95-148.

1285.19 Creek Indian Council.—

(1) It is the purpose of this section to create a Creek Indian Council which, as a political subdivision of the state, will enable the Creek Indians and their descendants residing within the state to enjoy the full benefits of state, local, and federal programs for the economic, cultural, and social advancement of the Creek Indian.

(2) There is created the Creek Indian Council, a political subdivision of the state.

(a) The council shall be composed of 15 members who shall be appointed by the Governor from lists of nominees provided by the council. The council shall nominate at least three persons for each council member appointment. Three members must reside in Escambia County and must be Creek Indians. One member must reside in Santa Rosa County; one member must reside in Okaloosa County; one member must reside in Walton or Calhoun County; one member must reside in Bay County; one member must reside in Gulf, Washington, or Holmes County; one member must reside in Leon or Jackson County; and one member must reside in Pasco County. These seven members must be Creek Indians. Each of the remaining five mem-

bers must have resided in this state for the preceding 5 years but need not be Creek Indians.

(b) The term of office of each council member shall be 4 years. The terms of office of eight of the members shall begin with the beginning of the Governor's term of office, and the terms of office of seven members shall begin with the beginning of the Governor's third year of office. A member who is absent from three consecutive council meetings is automatically removed from office. Within 90 days after notice from the Creek Indian Council, a successor shall be appointed by the Governor to serve the remainder of the member's unexpired term.

(3)(a) The council shall meet quarterly and shall elect annually a chair and any other officers it requires. An officer may be reelected to successive terms.

(b) Six members constitute a quorum of the council.

(c) Each council member shall hold office for 4 years and until the member's successor is appointed or until the member's earlier resignation, removal from office, or death.

(4) The Creek Indian Council shall have the power to:

(a) Employ staff for its operations and establish rules governing the employment, compensation, and discharge of personnel.

(b) Adopt a seal.

(c) Sue or be sued.

(d) Apply for and accept gifts, grants, and donations of federal, state, private, and local funds.

(e) Acquire, lease, maintain, or sell real or personal property.

(f) Issue revenue certificates which bonds may be issued in its own name; however, such bonds shall not constitute any fiscal obligation upon the state, a county, or a municipality.

(g) Engage in other activities in promotion of the purposes of the council not inconsistent with general law.

(5) A board of county commissioners or a municipality may make gifts, grants, or loans to the council.

(6) Nothing in this section shall be construed to grant the Creek Indian Council authority to engage in the tax-exempt sale of cigarettes.

History.—ss. 1, 2, 3, ch. 79-421; s. 1, ch. 93-26; s. 208, ch. 95-148.

Note.—Section 2, ch. 93-26, provides that "[i]n order to provide for the staggering of terms of the council members appointed to serve on the council, beginning July 1, 1993, eight of the members' terms shall end on January 3, 1995, and seven of the members' terms shall end on January 1, 1997. Thereafter, section 285.19(2)(b), Florida Statutes, shall apply."