

Subsection 6(b)(1) provides that the Passamaquoddy Tribe, the Penobscot Nation, their members and their lands and natural resources which are held by ~~them~~ ^{the United States in trust for them, or which are held by} ~~them~~ subject to a restriction against alien^{ation, or which are held} ~~or by the United States in trust for or held~~ in fee by the Tribe or Nation or their members shall be subject to the jurisdiction of the State to the extent and in the manner provided in the Maine Implementing Act. ~~The jurisdiction which the State~~ ^{ability of} ~~may exercise over the trust lands or natural resources of the Tribe or Nation is limited by Section 5(d)(4) of this Act.~~ ^{condemnation procedures OK} ~~The appli-~~ ^{and 5(g)(2)} ~~cation of Maine law~~ ^{CAN} ~~will not jeopardize or impair the clear title of the United States to the trust lands held on behalf of the tribes~~ ^{except as provided in sec. 6(d)} ~~or jeopardize or impair interests of the tribes in their restricted property.~~ ^{obligate the U.S. to pay taxes or fees. Nor can it} ~~Section 6208 of the Maine Implementing Act specifically exempts all real or personal property of the tribes, including re-~~ ^{within Indian Territory} ~~stricted and trust lands of the tribes, from taxation.~~ ^{free Maine}

Provision is made for payments by the tribes in lieu of taxes and Section 6(d)(2) of this Act provides a means for payment ^{of such in-lieu obligations} ~~from~~ ^{from the Settlement Fund} ~~trust income~~ in the event of default. Section 5(g)(2) of this Act specifically prohibits alienation of tribal trust or restricted lands except as provided in Section 5(g)(3). This restriction is comparable to 25 U.S.C. § 177 which it replaces. Section 5(g)(2) specifically states that any transfer of lands or natural resources outside the terms of this Act "shall be void ab initio". This effectively exempts these trust or restricted lands from any financial encumbrance which could cloud title and bring about forced sales, or alienation, including, for example, tax or commercial liens or attachments, ~~in a manner or by a means not specifically provided for in this Act.~~ ^{except as provided in this Act} Laws of the State such as

adverse possession or creditors liens are not applicable to these trust or restricted lands or natural resources.

On the other hand, state law, including but not limited to laws regulating land use or management, conservation and environmental protection are fully applicable as provided in this Section and Section 6204 of the Maine Implementing Act. [The fact] That regu-

lation of land or natural resources may diminish or restrict maximization of income or value is not considered a ^{financial} encumbrance, and is not barred from application under this Act.

Subsection 6(b)(2) provides that funds appropriated for the benefit of Indian people or for the administration of Indian affairs may be utilized by the Passamaquoddy Tribe and the Penobscot Nation to match state funds which laws of the State require to be raised by local or municipal governments as a condition to receiving State financial assistance. Utilization of these funds and restrictions on the amount of the State contribution are governed by Section 6211 of the Maine Implementation ^{ing} Act. The impact of Section 6211 on provision of Federal funding was the subject of intense scrutiny by this Committee. The exact manner in which this section of the State Act will apply is set forth in this report in the section entitled "Analysis of the Maine Implementing Act". Insofar as general Federal law is concerned, it is the intent of this ^{sub} section of this Act that Federal funds used by the Tribe or Nation as local matching funds shall be considered as local funds for purposes of any maintenance of effort requirements imposed by Federal law or regulation.

Subsection 6(b)(3) is a savings clause to make clear that the provisions of this Act shall not be construed as superseding any Federal statutes or regulations governing the provision or funding of services or benefits to any person or entity in the

once such judgements are final and the time for taking on appeal has expired.

Subsection 6(e)(1) permits the State of Maine and the Penobscot Nation and the Passamaquoddy Tribe to enter into agreements amending the Maine Implementing Act. A proviso in this subsection limits the subject matter of those agreements to three specific areas. Subsection 6(e)(2) extends the authority to enter into agreements with the State of Maine to the Houlton Band of Maliseet Indians over jurisdictional issues, including the governmental status of the Band under laws of the State. Until any such an agreement is made with the Houlton Band, it and its members are subject to all the laws of the State of Maine, except those from which they will necessarily be except under Section 5(d)(4).

Subsection 6(f) recognizes the jurisdictional authority of the Penobscot Nation and Passamaquoddy Tribe as embodied in the Maine Implementing Act.

Subsection 6(g) provides that the courts of the State of Maine and the courts of the Penobscot Nation and Passamaquoddy Tribe shall accord full faith and credit to the judgements of the courts of each other.

Subsection 6(h) provides that, unless otherwise provided in this Act or the Maine Implementing Act, the general body of federal Indian law applies to the Passamaquoddy Tribe, Penobscot Nation, and Houlton Band of Maliseets within the State of Maine, except to the extent such law preempts or affects the laws of the State of Maine.

and any other Indian tribe within the State of Maine, or tribal courts

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Subsection 6(i) also provides that the Penobscot Nation, the Passamaquoddy Tribe, and the Houlton Band of Maliseet Indians are federally recognized tribes and that, as such, they are eligible to receive all Federal benefits which the United States provides to other Federally recognized tribes to the same extent and subject to same law eligibility criteria as other Federally recognized tribes. Subsection 6(i) provides further that for purposes of federal taxation the Houlton Band of Maliseets, the Penobscot Nation, and the Passamaquoddy Tribe shall be treated as other federally recognized tribes and that their lands which are held in trust or subject to ~~x~~ restrictions against alienation shall be considered reservation ~~land~~ for federal tax purposes. However, any exemption from federal tax laws does not entitle the Tribes to exemption from state tax laws. *or, in the case of restricted or trust lands, payments in lieu of taxes.*

Section 7. Tribal Organization.

Subsection 7(a) empowers, but does not require, the Penobscot Nation, the Passamaquoddy Tribe, and the Houlton Band of Maliseets to adopt an appropriate instrument to govern affairs of the tribe.

Subsection 7(b) limits participation in the Maine Indian Claims Settlement Act by the Houlton Band of Maliseet Indians to those Maliseet Indians who are citizens of the United States or who, as of the date of this Act, are enrolled members of the Band. The limitation also applies to benefits available from the United States by virtue of federal recognition of the Band. The Band is empowered to redefine its membership rolls with the approval of the Secretary.

Participation in Indian benefits generally

Subsection 8(f) provides that, should there be an interim period ^{during} ~~within~~ ^{either} which the Passamaquoddy Tribe or the Penobscot Nation ^{does} ~~has~~ not assumed ^{over} jurisdiction Indian child custody proceedings, jurisdiction will lie with the courts of the State of Maine.

Tri 708(b)
The Committee notes that the Penobscot Nation currently operates a tribal court, that the Department of the Interior has established a Court of Indian Offenses for the Passamaquoddy Tribe and that ^{both} ~~such~~ courts are currently exercising jurisdiction over child welfare matters. ~~It is not intended that Section 8~~ ^{Section 8(b) is not intended} ~~will~~ ^{to} affect the validity of any ~~such~~ orders which are issued by ~~these~~ ^{those} such courts prior to the enactment of this bill. ^{approval of a petition of the} Nor is ~~it~~ ^{intended to} ~~intended that~~ ^{impede (affect?)} Section 8(b) ~~be an impediment to the uninterrupted~~ ^{in new general} ~~continuation of the exercise of jurisdiction over child welfare~~ ^{OK} ~~matters~~ by these courts. ^{initially} Section 8(b) was included in anticipation of the possibility that either the Passamaquoddy Tribe or the Penobscot Nation might choose ~~not to exercise jurisdiction over~~ ^{to file a petition under section 106 of the ICWA in order to clarify its jurisdiction} child welfare matters ~~initially~~. ~~If both the Tribe and the Nation are still exercising jurisdiction over child welfare matters at the time the settlement becomes effective, the Committee expects the Secretary to provide the approval required by Section 8(b) effective the date that the settlement becomes effective.~~

Section 9. Effect of Payments to Passamaquoddy Tribe, Penobscot Nation, and Houlton Band of Maliseet Indians.

Section 9 has three subsections.

Subsection 9(a) provides that the receipt of income by the Passamaquoddy Tribe, the Penobscot Nation, and the Houlton Band of Maliseet Indians shall not be considered by any agency of the federal government in determining the eligibility of the State of Maine for federal financial assistance.

Subsection 9(b) provides that, the receipt of payments from the State of Maine or the simple eligibility for payments by the State of Maine by the Passamaquoddy Tribe and the Penobscot Nation shall not be computed by the federal government in determining the eligibility of the Penobscot Nation and Passamaquoddy Tribe or any of their members for federal assistance. A proviso to this subsection permits the federal agency to consider the actual need of the applicant if the financial assistance is dependent on a showing of need.

Subsection 9(c) ^{provides that} funds which are forthcoming to the tribes and their members under the terms of this Act are not to be used to deny or reduce benefits to any Indian household or member of that household under any federally assisted housing program. Funds available to the Tribes under this Act are also not to be used to deny or reduce federal assistance or benefits to either Tribe.

Section 10. Deferral of Capital Gains.

Section 10 permits landowners who are ^{transferring} ~~selling or acquired~~ their land under this Act to treat the sales as ^{involuntary conversions} ~~events occurring~~ under Section 1033 of the Internal Revenue Code. ~~This provision~~

~~of the Code covers involuntary conversions of property.~~ ^{This section is}
~~an integral part of the overall settlement. In the absence of~~
~~this section the landowners participating in this settlement~~
Section 11. Transfer of Tribal Trust Funds Held By the State of
^{→ would withdraw from stand under the likelihood of future parcels}
Maine. ^{replace the land revenue}

Section 11 provides for the transfer of funds currently held in trust for ^{benefit of} the Penobscot Nation and Passamaquoddy Tribe ^{by the} ~~State of Maine~~ to the Secretary. The receipt of these funds by the Secretary

conflict between the provisions of this Act and the Maine Implementing Act, the provisions of this Act shall govern.

Subsection 6(b) provides that federal acts enacted subsequent to this Act that intend to modify the application of State law under the provisions of this Act or the Maine Implementing Act must contain an express provision making them applicable within the State of Maine or they shall not be applicable. This provision would not require such an express application provision in subsequently enacted statutes which make the Tribes or their members eligible to receive financial benefits or does not affect or preempt the laws of the State. Such provisions would apply under Sec. 6(h) of this Act, even if they were included in a later enacted Act.

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