

# INDIAN AFFAIRS DIRECTIVES TRANSMITTAL SHEET

(modified DI-416)

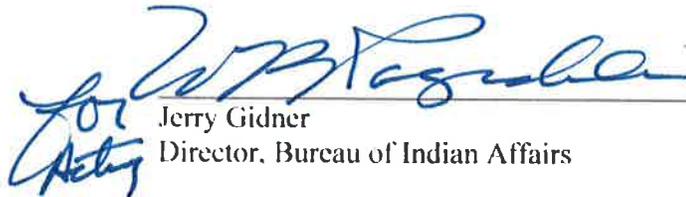
DOCUMENT IDENTIFICATION NUMBER 76 IAM 7	SUBJECT Life Estate Policy for Indian Land Consolidation Program	RELEASE NUMBER # 07-61
FOR FURTHER INFORMATION Indian Land Consolidation Center, BIA		DATE FEB 19 2008

## EXPLANATION OF MATERIAL TRANSMITTED:

Pursuant to the 130 DM 3.4, the Indian Land Consolidation Center is responsible for establishing land consolidation polices, providing technical advice and assistance to Regions with regard to the implementation of the land acquisition program. The Center is also responsible to provide oversight, direction, monitoring and program evaluation for the Indian Land Consolidation Program.

Attached is a policy concerning the land consolidation program that is effective as stated in the memorandum. The attached policy applies only to land sale transactions involving the Indian Land Consolidation Program pursuant to the 1983 authority of The Indian Land Consolidation Act, as amended in 2000 and 2004. Please assure that the appropriate Agency Superintendent, BIA and contract staff receive a copy of the policy (policies) and implement them immediately.

Please direct any questions to the Indian Land Consolidation Center at (715) 682-0310.

  
Jerry Gidner  
Director, Bureau of Indian Affairs

## FILING INSTRUCTIONS:

Remove: None

Insert: 76 IAM 7

- 1.1 Purpose.** This policy establishes the criteria for the purchase of life estates and remainders in trust or restricted-fee lands by the Indian Land Consolidation Program (ILCP).

Life tenants normally receive some or all of the income generated from the title interest for their lifetime. If the program purchased a remainder interest without the life estate, the recoupment of the purchase price of the remainder interest would be limited to the remainderman's share of the income until the life estate expired. Thus, considerable additional time might elapse before the purchase lien would be satisfied. The goal of this policy is to establish standards for the acquisition of life estates and remainder interests by the Program.

- 1.2 Scope.** This policy applies to all regions where the ILCP is acquiring fractional interests.

- 1.3 Policy.** Effective immediately, the following policy is implemented with regard to the purchase of a fractional life estate or remainder title interest in trust or restricted-fee land:

Remainder interests in trust or restricted lands will only be acquired

- A. if the life tenant is 80 years of age or older;
- B. or if the life tenant agrees to sell the life estate in the trust or restricted lands;
- C. or if the life tenant agrees to relinquish the life estate on the trust or restricted land.

If any of the above conditions are not met, the ILCP will not acquire the offered life estate/dower or remainder interest. All payments to life tenants and remaindermen will be made in accordance with 25 CFR 179.

- 1.4 Authority.**

- A. **Title 25, Code of Federal Regulations, Part 179** Life Estates and Future Interests (25 CFR 179)
- B. Section 213 of P. L. 108-374, the **American Indian Probate Reform Act** of October 27, 2004 (118 Stat. 1773)
- C. The Secretary of the Interior has the authority to acquire fractionated ownership interests in trust or restricted lands from individual owners. Acquired interest(s) shall be subject to liens on any revenues accruing to those interests until the purchase price has been repaid or the Secretary provides for the removal of the liens.

### 1.5 Responsibilities.

- A. **Director, Bureau of Indian Affairs** is responsible for the development of national policy affecting Indian Lands.
- B. **Director, Indian Land Consolidation Center** is responsible for coordinating the Bureau's nationwide program to consolidate fractional interest in Indian lands pursuant to statutory requirements
- C. **Deputy Director, Field Operations** is responsible for overseeing the Regional Directors and disseminating policy to them.
- D. **Deputy Director, Trust Services** is responsible for assisting in the dissemination of trust resource policy and information to the regional Directors.
- E. **Regional Directors** are responsible for carrying out policy as directed and for overseeing the implementation of policy either directly or via Agency Superintendents.

### 1.6 Definitions

- A. **Life Estate.** A life estate is any present interest in real estate, of definite or indefinite term, the future interest in which is held by another party. Life estates include term estates, fee tails, dowers and dower rights.
- B. **Life Tenant.** The owner of a life estate is known as the life tenant.
- C. **Remainder Interest.** A remainder interest is any future interest in real property that is subject to a life estate, including vested and contingent remainders, reversions, rights of re-entry, and executory interests. All life estates have one or more corresponding remainder interests.
- D. **Remainderman.** The owner of a remainder interest is known as the remainderman.