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Proposed Rule Making

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

[25 CFR Part 131]

LEASING AND PERMITTING

Notice of Proposed Rule Making

Basis and purpose. Notice is hereby given that pursuant to the authority vested in the Secretary of the Interior by sections 161, 463, and 465 of the Revised Statutes (5 U.S.C. 22; 25 U.S.C. 2 and 9), it is proposed to amend §§ 131.8, 131.12, and 131.18 of Title 25, Code of Federal Regulations, to read as set forth below.

It is proposed to amend §§ 131.8(a) and 131.18(a) to authorize the granting of leases for certain purposes for terms of up to ninety-nine years on lands on the Dania Reservation, Fla., the Colorado River Reservation in Calif. and the Southern Ute Reservation, Colo. The Acts of October 4, 1961 (75 Stat. 804), September 5, 1962 (76 Stat. 428), and October 10, 1962 (76 Stat. 805), provide ninety-nine year leasing authority on land on the above-mentioned reservations. These acts amend and supplement the long term leasing Act of August 9, 1955 (69 Stat. 539; 25 U.S.C. 415 et seq.).

Section 131.8(b) is amended to set forth an interpretation by this Department as to when leases for farming purposes may be made for periods of not to exceed 25 years under section 1 of the Act of August 9, 1955 (69 Stat. 539; 25 U.S.C. 415).

Also, it is proposed to incorporate in § 131.12 provisions governing encumbrances of a lessee's interest for the purposes of borrowing capital for the development and improvement of the leased premises and provision for assignment of the leasehold interest without further approval by the Department when it is acquired by purchase through foreclosure or sale by the encumbrancer. If the purchaser is a person other than the encumbrancer, approval of any assignment will be required. In either event, the assignee will be bound by the terms of the lease.

It is the policy of the Department of the Interior, whenever practicable, to afford the public an opportunity to participate in the rule making process. Accordingly, interested persons may submit written comments, suggestions, or objections with respect to the proposed amendments to the Bureau of Indian Affairs, Washington 25, D.C., within thirty days of the date of publication of this notice in the FEDERAL REGISTER.

1. Section 131.8(a) is amended to read as follows:

§ 131.8 Duration of Leases.

(a) Leases for public, religious, educational, recreational, residential, or business purposes shall not exceed 25 years but may include provisions authorizing a renewal or an extension for one additional term of not to exceed twenty-five years, except such leases of land on the Dania Reservation, Fla.; the Navajo Reservation, Ariz., N. Mex., and Utah; the Palm Springs Reservation, Calif.; the Southern Ute Reservation, Colo.; and land on the Colorado River Reservation, Ariz. and Calif., as stated in § 131.18(a); which leases may be made for terms of not to exceed ninety-nine years.

2. Section 131.8(b) is amended to read as follows:

(b) Leases may be made for 25 years for those farming purposes which require the making of a substantial investment in the improvement of the land for the production of specialized crops. To determine whether a long term lease is justified, it is necessary to give consideration to the nature of the crop to be grown, including the feasibility of growing the proposed crop. The amount or substantiality of the investment, as well as the necessity of such an investment in order to grow the proposed crop, are also elements to consider in evaluating the term of the proposed lease.

3. Section 131.12 is amended to revise paragraph (a) and add a new paragraph (c):

§ 131.12 Subleases and assignments.

(a) Except as provided in paragraphs (b) and (c) of this section, a sublease,

assignment, amendment or encumbrance of any lease or permit issued under this part may be made only with the approval of the Secretary and the written consent of all parties to such lease or permit, including the surety or sureties.

(c) With the consent of the Secretary, the lease may contain provisions authorizing the lessee to encumber his leasehold interest in the premises for the purpose of borrowing capital for the development and improvement of the leased premises. The encumbrance instrument must be approved by the Secretary. If a sale or foreclosure under the approved encumbrance occurs and the encumbrancer is the purchaser, he may assign the leasehold without the approval of the Secretary or the consent of the other parties to the lease for a period not to extend beyond the term of the encumbrance, provided, however, that the assignee accepts and agrees in writing to be bound by all the terms and conditions of the lease. If the purchaser is a party other than the encumbrancer, approval by the Secretary of any assignment will be required, and such purchaser will be bound by the terms of the lease and will assume in writing all the obligations thereunder.

4. Section 131.18(a) is amended to read as follows:

§ 131.18 Colorado River Reservation.

(a) The Secretary may lease any unassigned lands on the Colorado River Reservation, Ariz. and Calif., for such uses and terms as are authorized by the regulations in this Part 131. This authority does not extend to any lands lying west of the present course of the Colorado River and south of section 25 of township 2 south, range 23 east, San Bernardino base and meridian, Calif. Lands on this reservation heretofore assigned to individual Indians may be leased by the holders of the assignments in accordance with the regulations in this part.

JOHN A. CARVER, Jr.,
Assistant Secretary of the Interior.

AUGUST 6, 1963.

[F.R. Doc. 63-8570; Filed, Aug. 9, 1963; 8:47 a.m.]