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TITLE 25--INDIANS

CHAPTER 14--MISCELLANEOUS

SUBCHAPTER XLIV--AGUA CALIENTE (PALM SPRINGS) RESERVATION OF CALIFORNIA:  
EQUALIZATION OF ALLOTMENTS

Sec. 954. Powers and duties of guardians

- (a) Appointment and continuance in office; notice to Secretary of State  
court proceedings; appearance

No guardian or other fiduciary shall be appointed under State law for the estate of any member of the band, or continued in office, except with approval of the Secretary: Provided, That no conservator for any member of the band shall be appointed under State law or continued in office after the effective date of this Act, unless the individual Indian concerned, with the approval of the Secretary, personally petitions for the appointment or continuation of such appointment. The Secretary shall be given notice of all proceedings in the State court with respect to the estate of any member of the band which is being administered, and he may at any time appear as a party in such proceedings, and may exercise all rights accorded to a party under State law.

- (b) Management and disposition of trust property and property subject to  
restrictions against alienation by guardians, conservators, or  
fiduciaries; approved activities; approval of activities

No guardian, conservator or other fiduciary appointed under State law shall, in his official capacity, participate in the management or disposition of any property or interest therein which is held in trust by the United States for a member of the band or is subject to restrictions against alienation imposed by the laws of the United States, execute or approve any use, expenditure, investment, deposit, or disposition of such property or interest therein, or proceeds therefrom, or receive any fee or other compensation for services hereafter performed with respect to such property or interest therein. The provisions of this subsection shall not preclude any such person, in his private capacity, from participating in the management or disposition of such property or interest therein with the specific approval of the Secretary of the Interior. Actions with respect to the use, expenditure, investment, deposit, or disposition of such property or interests therein, or proceeds therefrom, shall be valid and efficacious in all respects without participation or affirmation by any guardian, conservator, or other fiduciary appointed under State law.

- (c) Reports by guardians; failure or refusal to report; fraudulent,

capricious, arbitrary or grossly erroneous reports; prosecution; appropriate relief

The Secretary, at any time, may require any guardian, conservator, or other fiduciary appointed under State law for a member of the band to submit a full and complete report concerning his handling of the estate during the preceding six years. If any person or entity required to do so by the Secretary fails or refuses to so report, or, if having reported, the Secretary concludes that any action connected therewith is fraudulent, or capricious or arbitrary or so grossly erroneous as necessarily to imply bad faith, he may request the Attorney General to cause an action to be brought in the name of the United States in the United States District Court for the Central District of California or in any such district court having jurisdiction over the person, or persons, and subject matter, for such relief as may be appropriate, and said courts are hereby granted jurisdiction to hear and determine such action.

(d) Delivery to Secretary of money or property at termination of fiduciary relationship

The Secretary may require any money or property in the possession of a fiduciary at the time the fiduciary relationship is terminated, or which is recovered pursuant to this subchapter, to be delivered to him to be held in trust for the individual Indian concerned.

(e) Use and disposition of money or property held in trust by the United States by the Secretary; consent by competent Indian; determination of competency; applicability of administrative procedure under title 5; time and place of hearing; judicial review

Under such regulations as he shall provide, and with the consent of the individual Indian concerned, unless the Secretary determines such Indian to be incompetent by reason of minority or otherwise, in which case such consent shall not be required, the Secretary may use, advance, expend, exchange, deposit, dispose of, invest and reinvest, in any manner and for any purpose, any money or other property held by the United States in trust for such Indian. The Secretary shall make no determination that an adult Indian is incompetent except after according him an opportunity to be heard upon reasonable notice, in accordance with the provisions of subchapter II of chapter 5 of title 5. Unless the Indian otherwise agrees, the hearing shall be held in the State of California within sixty days of the date of notice. A person aggrieved by a determination of incompetency made by the Secretary shall be entitled to judicial review of such determination in accordance with sections 701 to 706 of title 5.

(f) Authority of the Secretary under other provisions unaffected

Nothing herein shall be deemed to limit any authority possessed by the Secretary under any other provisions of law.

(Pub. L. 86-339, Sec. 4, Sept. 21, 1959, 73 Stat. 604; Pub. L. 90-597, Oct. 17, 1968, 82 Stat. 1164.)

References in Text

The effective date of this Act, referred to in subsec. (a), probably means the date of enactment of Pub. L. 86-339, which was approved Sept. 21, 1959.

#### Codification

In subsec. (e), ``subchapter II of chapter 5 of title 5'' substituted for ``the Administrative Procedure Act'' on authority of Pub. L. 89-554, Sec. 7(b), Sept. 6, 1966, 80 Stat. 631, the first section of which enacted Title 5, Government Organization and Employees.

#### Amendments

1968--Subsec. (a). Pub. L. 90-597 substituted provisions requiring Secretary to approve any guardian or other fiduciary appointed under State law for estate of any member of band or continued in office as guardian of estate, and provisions requiring Secretary to be given notice of State court proceedings involving estate of any member of band and power to appear in such proceedings, for provisions requiring Secretary to request appointment of a guardian of estate of minor allottees and adult allottees needing assistance.

Subsecs. (b) to (f). Pub. L. 90-597 added subsecs. (b) to (f).