

Public Law 103-377
103d Congress

An Act

To settle Indian land claims within the State of Connecticut, and for other purposes.

Oct. 19, 1994

[H.R. 4653]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Mohegan Nation of Connecticut Land Claims Settlement Act of 1994”.

Mohegan Nation
of Connecticut
Land Claims
Settlement Act
of 1994.
25 USC 1775
note.
25 USC 1775.

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds the following:

(1) The Mohegan Tribe of Indians of Connecticut received recognition by the United States pursuant to the administrative process under part 83 of title 25 of the Code of Federal Regulations.

(2) The Mohegan Tribe of Indians of Connecticut is the successor in interest to the aboriginal entity known as the Mohegan Indian Tribe.

(3) The Mohegan Tribe has existed in the geographic area that is currently the State of Connecticut for a long period preceding the colonial period of the history of the United States.

(4) Certain lands were sequestered as tribal lands by the Colony of Connecticut and subsequently by the State of Connecticut.

(5) The Mohegan Tribe of Indians of Connecticut v. State of Connecticut, et al. (Civil Action No. H-77-434, pending before the United States District Court for the Southern District of Connecticut) relates to the ownership of certain lands within the State of Connecticut.

(6) Such action will likely result in economic hardships for residents of the State of Connecticut, including residents of the town of Montville, Connecticut, by encumbering the title to lands in the State, including lands that are not currently the subject of the action.

(7) The State of Connecticut and the Mohegan Tribe have executed agreements for the purposes of resolving all disputes between the State of Connecticut and the Mohegan Tribe and providing a settlement for the action referred to in paragraph (5).

(8) In order to implement the agreements referred to in paragraphs (5) and (6) of section 3 that address matters of jurisdiction with respect to certain offenses committed by and against members of the Mohegan Tribe and other Indians in Indian country and matters of gaming-related development, it is necessary for the Congress to enact legislation.

(9) The town of Montville, Connecticut, will—

(A) be affected by the loss of a tax base from, and jurisdiction over, lands that will be held in trust by the United States on behalf of the Mohegan Tribe; and

(B) serve as the host community for the gaming operations of the Mohegan Tribe.

(10) The town of Montville and the Mohegan Tribe have entered into an agreement to resolve issues extant between them and to establish the basis for a cooperative government-to-government relationship.

(b) PURPOSES.—The purposes of this Act are as follows:

(1) To facilitate the settlement of claims against the State of Connecticut by the Mohegan Tribe.

(2) To facilitate the removal of any encumbrance to any title to land in the State of Connecticut that would have resulted from the action referred to in subsection (a).

25 USC 1775a.

SEC. 3. DEFINITIONS.

As used in this Act:

(1) LANDS OR NATURAL RESOURCES.—The term “lands or natural resources” means any real property or natural resources, or any interest in or right involving any real property or natural resources, including any right or interest in minerals, timber, or water, and any hunting or fishing rights.

(2) MOHEGAN TRIBE.—The term “Mohegan Tribe” means the Mohegan Tribe of Indians of Connecticut, a tribe of American Indians recognized by the United States pursuant to part 83 of title 25, Code of Federal Regulations, and the State of Connecticut pursuant to section 47-59a(b) of the Connecticut General Statutes.

(3) SECRETARY.—The term “Secretary” means the Secretary of the Interior.

(4) STATE.—The term “State” means the State of Connecticut.

(5) STATE AGREEMENT.—The term “State Agreement” means the Agreement between the Mohegan Tribe and the State of Connecticut, executed on May 17, 1994, by the Governor of the State of Connecticut and the Chief of the Mohegan Tribe, that was filed with the Secretary of State of the State of Connecticut.

(6) TOWN AGREEMENT.—The term “Town Agreement” means the agreement executed on June 16, 1994, by the Mayor of the town of Montville and the Chief of the Mohegan Tribe.

(7) TRANSFER.—The term “transfer” includes any sale, grant, lease, allotment, partition, or conveyance, any transaction the purpose of which is to effect a sale, grant, lease, allotment, partition, or conveyance, or any event that results in a change of possession or control of land or natural resources.

25 USC 1775b.

SEC. 4. ACTION BY SECRETARY.

(a) IN GENERAL.—The Secretary is authorized to carry out the duties specified in subsection (b) at such time as the Secretary makes a determination that—

(1) in accordance with the Indian Gaming Regulatory Act (25 U.S.C. 2701 et seq.), the State of Connecticut has entered into a binding compact with the Mohegan Tribe providing for class III tribal gaming operations (as defined in section 4(8) of such Act (25 U.S.C. 2703(8)));

(2) the compact has been approved by the Secretary pursuant to section 11(d)(8) of such Act (25 U.S.C. 2710(d)(8)); and

(3) pursuant to transfers carried out pursuant to the State Agreement, the United States holds title to lands described in exhibit B of the State Agreement in trust for the Mohegan Tribe to be used as the initial Indian reservation of the Mohegan Tribe.

(b) PUBLICATION BY SECRETARY.—If the Secretary makes a determination under subsection (a) that the conditions specified in paragraphs (1) through (3) of that subsection have been met, the Secretary shall publish the determination, together with the State Agreement, in the Federal Register.

Federal
Register,
publication.

(c) EFFECT OF PUBLICATION.—

(1) IN GENERAL.—Upon the publication of the determination and the State Agreement in the Federal Register pursuant to subsection (b), a transfer, waiver, release, relinquishment, or other commitment made by the Mohegan Tribe in accordance with the terms and conditions of the State Agreement shall be in full force and effect.

(2) APPROVAL BY THE UNITED STATES.—(A) The United States hereby approves any transfer, waiver, release, relinquishment, or other commitment carried out pursuant to paragraph (1).

(B) A transfer made pursuant to paragraph (1) shall be deemed to have been made in accordance with all provisions of Federal law that specifically apply to transfers of lands or natural resources from, by, or on behalf of an Indian, Indian nation, or tribe of Indians (including the Act popularly known as the "Trade and Intercourse Act of 1790"; section 4 of the Act of July 22, 1790 (1 Stat. 137, chapter 33)). The approval of the United States made pursuant to subparagraph (A) shall apply to the transfer beginning on the date of the transfer.

(d) EXTINGUISHMENT OF CLAIMS.—

(1) IN GENERAL.—Subject to subsections (f)(2) and (g), the following claims are hereby extinguished:

(A) Any claim to land within the State of Connecticut based upon aboriginal title by the Mohegan Tribe.

(B) Any other claim that the Mohegan Tribe may have with respect to any public or private lands or natural resources in Connecticut, including any claim or right based on recognized title, including—

(i) any claim that the Mohegan Tribe may have to the tribal sequestered lands bounded out to the Tribe in 1684, consisting of some 20,480 acres lying between the Thames River, New London bounds, Norwich bounds, and Colchester bounds;

(ii) any claim that the Mohegan Tribe may have based on a survey conducted under the authority of the Connecticut General Assembly in 1736 of lands reserved and sequestered by the General Assembly for the sole use and improvement of the Mohegan Indian Tribe; and

(iii) any claim that the Mohegan Tribe may have based on any action by the State carried out in 1860 or 1861 or otherwise made by the State to allot, reallot, or confirm any lands of the Mohegan Tribe to individual Indians or other persons.

(2) **APPROVAL BY THE UNITED STATES.**—An extinguishment made pursuant to this subsection shall be deemed to have been made in accordance with all provisions of Federal law that specifically apply to transfers of lands or natural resources from, by, or on behalf of an Indian, Indian nation, or tribe of Indians (including the Act popularly known as the “Trade and Intercourse Act of 1790”; section 4 of the Act of July 22, 1790 (1 Stat. 137, chapter 33)).

(e) **TRANSFERS.**—Subject to subsection (g), any transfer of lands or natural resources located within the State of Connecticut, including any such transfer made pursuant to any applicable Federal or State law (including any applicable treaty), made by, from, or on behalf of the Mohegan Tribe or any predecessor or successor in interest of the Mohegan Tribe shall be deemed to be in full force and effect, as provided in subsection (c)(1).

(f) **LIMITATION.**—

(1) **IN GENERAL.**—Except as provided in paragraph (2) and subject to subsection (g), by virtue of the approval by the United States under this section of a transfer of land or the extinguishment of aboriginal title, any claim by the Mohegan Tribe against the United States, any State or political subdivision of a State, or any other person or entity, by the Mohegan Tribe, that—

(A) arises after the transfer or extinguishment is carried out; and

(B) is based on any interest in or right involving any claim to lands or natural resources described in this section, including claims for trespass damages or claims for use and occupancy,

shall, beginning on the date of the transfer of land or the extinguishment of aboriginal title, be considered an extinguished claim.

(2) **EXCEPTION.**—The limitation under paragraph (1) shall not apply to any interest in lands or natural resources that is lawfully acquired by the Mohegan Tribe or a member of the Mohegan Tribe after the applicable date specified in paragraph (1).

(g) **STATUTORY CONSTRUCTION.**—

(1) **ABORIGINAL INTERESTS.**—Nothing in this section may be construed to extinguish any aboriginal right, title, interest, or claim to lands or natural resources, to the extent that such right, title, interest, or claim is an excepted interest, as defined under section 1(a) of the State Agreement.

(2) **PERSONAL CLAIMS.**—Nothing in this section may be construed to offset or eliminate the personal claim of any individual Indian if the individual Indian pursues such claim under any law of general applicability.

25 USC 1775c.

SEC. 5. CONVEYANCE OF LANDS TO THE UNITED STATES TO BE HELD IN TRUST FOR THE MOHEGAN TRIBE.

(a) **IN GENERAL.**—Subject to the environmental requirements that apply to land acquisitions covered under part 151 of title 25, Code of Federal Regulations (or any subsequent similar regulation), the Secretary shall take such action as may be necessary to facilitate the conveyance to the United States of title to lands described in exhibits A and B of the State Agreement. Such lands shall be held by the United States in trust for the use and benefit

of the Mohegan Tribe as the initial Indian reservation of the Mohegan Tribe.

(b) CONSULTATION.—

(1) IN GENERAL.—The Secretary shall consult with the appropriate official of the town of Montville concerning any tract of land subject to exhibit B of the State Agreement but not specifically identified in such exhibit with respect to the impact on the town resulting from—

(A) the removal of the land from taxation by the town;

(B) problems concerning the determination of jurisdiction; and

(C) potential land use conflicts.

(2) STATUTORY CONSTRUCTION.—Nothing in this Act may affect the right of the town of Montville to participate, under any applicable law, in decisionmaking processes concerning the acquisition of any lands by the Federal Government to be held in trust for the Mohegan Tribe.

SEC. 6. CONSENT OF UNITED STATES TO STATE ASSUMPTION OF CRIMINAL JURISDICTION. 25 USC 1775d.

(a) IN GENERAL.—Subject to subsection (b), the consent of the United States is hereby given to the assumption of jurisdiction by the State of Connecticut over criminal offenses committed by or against Indians on the reservation of the Mohegan Tribe. The State shall have such jurisdiction to the same extent as the State has jurisdiction over such offenses committed elsewhere within the State. The criminal laws of the State shall have the same force within such reservation and Indian country as such laws have elsewhere within the State.

(b) STATUTORY CONSTRUCTION.—

(1) EFFECT ON CONCURRENT JURISDICTION OF THE MOHEGAN TRIBE.—The assumption of criminal jurisdiction by the State pursuant to subsection (a) shall not affect the concurrent jurisdiction of the Mohegan Tribe over matters concerning such criminal offenses.

(2) STATUTORY CONSTRUCTION.—The assumption of criminal jurisdiction by the State pursuant to subsection (a) shall not be construed as a waiver of the jurisdiction of the United States under section 1153 of title 18, United States Code.

SEC. 7. RATIFICATION OF TOWN AGREEMENT. 25 USC 1775e.

(a) IN GENERAL.—Notwithstanding any other provision of law, the consent of the United States is hereby given to the Town Agreement and the Town Agreement shall be in full force and effect.

(b) APPROVAL OF TOWN AGREEMENT.—The Secretary shall approve any subsequent amendments made to the Town Agreement after the date of enactment of this Act that are—

(1) mutually agreed on by the parties to the Town Agreement; and

(2) consistent with applicable law.

SEC. 8. GENERAL DISCHARGE AND RELEASE OF OBLIGATIONS OF STATE OF CONNECTICUT. 25 USC 1775f.

Except as expressly provided in this Act, the State Agreement, or the Town Agreement, this Act shall constitute a general discharge and release of all obligations of the State of Connecticut and the political subdivisions, agencies, departments, officers, or employees

of the State of Connecticut arising from any treaty or agreement with, or on behalf of, the Mohegan Tribe or the United States as trustee for the Mohegan Tribe.

25 USC 1775g.

SEC. 9. EFFECT OF REVOCATION OF STATE AGREEMENT.

(a) **IN GENERAL.**—If, during the 15-year period beginning on the date on which the Secretary publishes a determination pursuant to section 4(b), the State Agreement is invalidated by a court of competent jurisdiction, or if the gaming compact described in section 4(a)(1) or any agreement between the State of Connecticut and the Mohegan Tribe to implement the compact is invalidated by a court of competent jurisdiction—

(1) the transfers, waivers, releases, relinquishments, and other commitments made by the Mohegan Tribe under section 1(a) of the State Agreement shall cease to be of any force or effect;

(2) section 4 of this Act shall not apply to the lands or interests in lands or natural resources of the Mohegan Tribe or any of its members, and the title to the lands or interests in lands or natural resources shall be determined as if such section were never enacted; and

(3) the approval by the United States of prior transfers and the extinguishment of claims and aboriginal title of the Mohegan Tribe otherwise made under section 4 shall be void.

(b) **RIGHT OF MOHEGAN TRIBE TO REINSTATE CLAIM.**—

(1) **IN GENERAL.**—If a State Agreement or compact or agreement described in subsection (a) is invalidated by a court of competent jurisdiction, the Mohegan Tribe or its members shall have the right to reinstate a claim to lands or interests in lands or natural resources to which the Tribe or members are entitled as a result of the invalidation, within a reasonable time, but not later than the later of—

(A) 180 days after the Mohegan Tribe receives written notice of such determination of an invalidation described in subsection (a); or

(B) if the determination of the invalidation is subject to an appeal, 180 days after the court of last resort enters a judgment.

(2) **DEFENSES.**—Notwithstanding any other provision of law, if a party to an action described in paragraph (1) reinstates the action during the period described in paragraph (1)(B)—

(A) no defense, such as laches, statute of limitations, law of the case, *res judicata*, or prior disposition may be asserted based on the withdrawal of the action and reinstatement of the action; and

(B) the substance of any discussions leading to the State Agreement may not be admissible in any subsequent litigation, except that, if any such action is reinstated, any defense that would have been available to the State of Connecticut at the time the action was withdrawn—

(i) may be asserted; and

(ii) is not waived by anything in the State Agreement or by subsequent events occurring between the withdrawal action and commencement of the reinstated action.

SEC. 10. JUDICIAL REVIEW.

25 USC 1775h.

(a) JURISDICTION.—Notwithstanding any other provision of law, during the period beginning on the date of enactment of this Act and ending on the date that is 180 days after such date, the United States District Court for the Southern District of Connecticut shall have exclusive jurisdiction over any action to contest the constitutionality of this Act or the validity of any agreement entered into under the authority of this Act or approved by this Act.

(b) DEADLINE FOR FILING.—Effective with the termination of the period specified in subsection (a), no court shall have jurisdiction over any action to contest the constitutionality of this Act or the validity of any agreement entered into under the authority of this Act or approved by this Act, unless such action was filed prior to the date of termination of the period specified in subsection (a).

Approved October 19, 1994.

LEGISLATIVE HISTORY—H.R. 4653 (S. 2329):**HOUSE REPORTS:** No. 103-676 (Comm. on Natural Resources).**SENATE REPORTS:** No. 103-339 accompanying S. 2329 (Comm. on Indian Affairs).**CONGRESSIONAL RECORD**, Vol. 140 (1994):

Aug. 8, considered and passed House.

Oct. 3, considered and passed Senate, amended, in lieu of S. 2329.

Oct. 4, 5, House concurred in Senate amendment.