



THE SECRETARY OF THE INTERIOR  
WASHINGTON

ORDER NO. 3367

Subject: Waiver of Liens from Lands Acquired Through the Indian Land Consolidation Program and Disposition of Lien Proceeds on Deposit in the Land Acquisition Fund

**Sec. 1 Purpose.** This Order 1) waives liens from lands acquired through the Indian Land Consolidation Program, 2) determines that the lien proceeds collected are lease income and therefore considered trust funds, and 3) directs that the lease income be accessible to the Tribes for the purchase of trust or restricted fractional interests within their reservation boundaries.

**Sec. 2 Background.** Congress passed the Indian Land Consolidation Act (ILCA) in 1983, in part to reduce fractionated ownership of allotted lands on Indian reservations. Following amendments to ILCA in 2000 (2000 Amendments), Congress gave the Secretary of the Interior (Secretary) the authority to acquire, at his discretion, any fractional interest in trust or restricted lands, provided certain requirements were met, to include the placement of liens on such lands in order to recoup the purchase price of those lands acquired under the acquisition program.

The ILCA provided that all revenues received from the lease, permit, or sale of resources generated by the acquired fractional interests would be deposited in an Acquisition Fund established solely for this purpose. As contemplated by the 2000 Amendments, the proceeds from such leases, permits, or sales of resources derived from acquired fractional interests would then be available to purchase additional fractional interests in trust or restricted land located on the reservation from which the income was derived. The Bureau of Indian Affairs began an ILCA Program in 1999, which ceased operation in 2014.

Between 1999 and 2014, the ILCA Program acquired more than 427,313 undivided fractional land interests nationwide. The revenue generated from the interests acquired was collected pursuant to the lien provisions contained within ILCA, and those proceeds were used to acquire more fractionated interests. Although the ILCA Program is no longer in operation, the proceeds collected and retained pursuant to the lien provisions are in depository accounts generating revenue pursuant to the statutory requirement that the Secretary hold the proceeds until the liens are removed.

**Sec. 3 Authority.** This Order is issued under the authority contained within the Indian Land Consolidation Act, 25 U.S.C. §§2001 *et. seq.*, specifically, the provisions at 25 U.S.C. §§ 2212, 2213, and the authorities that exist pursuant to 25 C.F.R. Part 115.

**Sec. 4 Consultation.** Recognizing its obligation to engage in government-to-government consultation with Tribes in connection with the waiver of the liens and the disposition of the lien proceeds, the Department held a Tribal consultation on June 9, 2016.

**Sec. 5 Waiver of the Liens.** In 2016, after internal discussions and formal consultation with the Tribes, the Secretary made a decision to waive the liens on the lands. No formal action was taken directing removal of the liens.

a. This Order authorizes the waiver of the liens imposed against each fractional interest purchased through the ILCA Program and the removal of such liens from each individual interest.

**Sec. 6 Disposition of Lien Proceeds.** Waiver of the liens creates an opportunity for the determination as to the disposition of the lien proceeds currently on deposit with the Department. Revenue collected from the leases on the lands acquired through the ILCP Program are currently on deposit with the Department. I hereby declare a) that the lien proceeds are derived directly from the trust resource and are therefore trust funds, and b) the lien proceeds for each Tribe should be transferred into an ILCA Recoup account within the Office of the Special Trustee for American Indians. The Tribes will be able to utilize the proceeds for the purchase of trust or restricted fractionated interests located within reservation boundaries, thus further reducing fractionation and meeting the goals of ILCA.

**Sec. 7 Restrictions.**

a. All funds transferred from the Acquisition Fund into ILCA Recoup accounts will be used for the sole purpose of acquisition of trust or restricted interests located within the boundaries of the individual reservations.

b. Once the account balance decreases to \$10,000.00 the remaining funds will be transferred into the Tribe's Proceeds of Labor account and the ILCA Recoup account be eliminated.

c. If the Acquisition Fund amount plus additional funds that may be held in the ILCA Recoup account for a Tribe total \$90,000 or less, that amount will be deposited into the Tribe's Proceeds of Labor account and those funds will not have any restrictions on their use.

**Sec. 8 Implementation.** The Assistant Secretary–Indian Affairs, Director for Bureau of Indian Affairs, and Special Trustee for American Indians are directed to take all actions necessary to effectuate this Order.

**Sec. 9 Expiration Date.** This Order is effective immediately. It will remain in effect until its provisions are converted to the Departmental Manual or until it is amended, superseded, revoked, whichever occurs first.

/s/ David L. Bernhardt

Secretary of the Interior

Date: June 15, 2018