

**STATEMENT OF  
UNITED STATES DEPARTMENT OF THE INTERIOR  
BEFORE THE  
SENATE COMMITTEE ON INDIAN AFFAIRS  
ON  
H.R. 2606  
NOVEMBER 14, 2018**

Good afternoon Chairman Hoeven, Vice Chairman Udall, and Members of the Committee, my name is Darryl LaCounte and I am the Acting Director for the Bureau of Indian Affairs at the Department of the Interior. I transitioned into this role from acting as the Deputy Director – Trust Services. My permanent role is Regional Director for the Rocky Mountain Region. As a Regional Director, I am responsible for all programs, services, and costs provided to and upholding the trust with Tribes in the region.

Thank you for the opportunity to present an update on behalf of the Department regarding HR 2606.

**Five Tribes Allotments and Stigler Act Background**

The Tribes referred to in the Act of August 4, 1947, 61 Stat. 731 (the “Stigler Act”), as the Five Civilized Tribes (the Cherokee, Choctaw, Chickasaw, Creek, and Seminole Tribes of Oklahoma) were removed from their homelands in the southeastern part of the United States pursuant to treaties wherein the United States agreed to convey lands to these tribes west of the Mississippi River. By 1835, the Five Civilized Tribes occupied nearly all of present-day Oklahoma.

The lands of the Five Civilized Tribes could not be allotted under the General Allotment Act because of the Tribe’s fee ownership. However, the tribes were eventually forced to agree to allot their lands in severalty. Allotment of the lands of the Five Tribes was by fee patent signed by the Chiefs or Governor of the Tribes in accordance with the individual allotment agreements.

The allotments varied greatly in size from 40 to 220 acres. Separate deeds were issued for “homestead” and “surplus” allotments, and the restrictions varied by the type of allotment, the allottee’s Tribe, and the allottee’s degree of Indian blood or lack thereof.

The Allotment Agreements between the United States and the individual tribes provided for varying periods of inalienability for the allotments. However, after allotment, Congress passed laws which restricted the alienation of some allotments and allowed others to be freely alienable. This series of mostly uncodified Acts governs restricted status of the land and funds of the Five Civilized Tribes. The Stigler Act, as amended by the Act of August 11, 1955, 69 Stat. 666, now governs the restricted status of the Five Tribes’ allotted lands based on the Five Tribes blood quantum of the Indian landowner.

Section 1 of the Stigler Act provides that all restrictions are removed at the death of the Indian landowner, provided that heirs and devisees of one-half blood or more of the Five Civilized Tribes may not convey lands that were restricted in the hands of the person from whom they were acquired without the approval of the county (now district) court in the county where the land is located.

The effect of this Section of the Act is that, when a person owning restricted land passes away, only his heirs of at least one-half blood of the Five Civilized Tribes inherit their interest in a protected “restricted” status. The Department is aware of no other Tribes in the country where the trust or restricted status of their allotted lands are dependent upon the degree of blood of the owner.

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The Stigler Act is primarily responsible for the massive loss of the Five Civilized Tribes’ land base. Survey of tribal lands began in 1897 in preparation for the allotment of the Five Tribes lands. By 1916, approximately 15,794,238 acres had been allotted to members of the Five Tribes. By contrast, the Annual Acreage Report prepared by the Bureau of Indian Affairs indicates approximately 381,474 acres remained restricted to the members of the Five Tribes in 2012. Though no more current Acreage Report is available, the Eastern Oklahoma Region is confident that thousands more acres have passed out of restricted status into fee simple status since 2012. Thus, our best estimate now is that less than 2% of the lands originally allotted to members of the Five Tribes remain in restricted status.

Unlike previous Bills where the objective was to amend the Stigler Act, this Bill has a single objective: to eliminate the blood quantum requirement. This Bill would not increase the amount of restricted land in Oklahoma, nor would it change the unique Five Tribes’ system of approving conveyances, determining heirs, probating estates, partitioning lands, or quieting titles through the state district courts. In the view of the Department, this Act would be of great benefit to the Cherokee, Choctaw, Seminole, Chickasaw, and Muscogee (Creek) Nations, and of greater benefit to those few of their tribal citizens who are fortunate enough to still hold lands in restricted status.

H.R. 2606, the Stigler Act Amendments of 2017, would greatly benefit the Cherokee, Choctaw, Seminole, Chickasaw, and Muscogee (Creek) Nations. This will further benefit the Tribes by allowing their citizens to inherit restricted or “Indian Lands” without regard to their “blood quantum”. Also by slowing the amount of land falling out of restricted status and allowing them to retain their land base. The Department supports H.R. 2606.

This concludes my statement and I would be happy to answer any questions the committee may have.