



Council of the Cherokee Nation

Cherokee Nation Tribal
Council
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Legislation Text

File #: CNCA-60, Version: 1

TITLE 60 - PROPERTY **Code of Federal Regulations**

Rights-of-way over Indian lands, see 25 C.F.R. § 169.1 et seq.

United States Code

Allotment of Indian lands, see 25 U.S.C. § 331 et. seq.

Bureau of Indian Affairs, employee or employees to sign approval of tribal deeds, see 25 U.S.C. § 11.

Descent and distribution of land to heirs of allottees, see 25 U.S.C. § 371 et seq.

Designation of tribes, conveyance of submarginal land, see 25 U.S.C. § 459a.

Indian land claims settlements; Cherokee, Choctaw, and Chickasaw, see 25 U.S.C. § 1779 et seq.

Indian land consolidation, see 25 U.S.C. § 2203.

Irrigation of allotted lands, see 25 U.S.C. § 381 et seq.

Lease, sale, or surrender of allotted or unallotted lands, see 25 U.S.C. § 391 et seq.

Submarginal lands of United States held in trust for specified Indian tribes, see 25 U.S.C. § 459.

CHAPTER 1

GENERAL PROVISIONS

§ 1. Prior right of possession

Any person having peaceable possession of private property obtained through lawful means, and claiming a limited or absolute right in the same, shall be held, in law, to have a prior right of possession thereto against all persons obtaining possession thereafter, until the right of such person shall expire, or be by him transferred to another for good or valuable consideration, or until his right shall be disputed and invalidated by due course of law. And any person, having a prior right of possession of any property to any other person, and the property being detained by the latter from the former without his voluntary consent, may recover such property upon suit for possession merely, without regard to, or investigation had by the court of, other or higher title, either in plaintiff or defendant of such suit. But such person as plaintiff may submit to the court the general question of right, involving the right of possession of the property, or be awarded possession of such property merely, as provided above, with the right accruing of answering as defendant in all suits involving the right, title and

interest of the parties to such property.

Library References

Indians <KEY>141(1).

Property <KEY>1, 7, 10.

Westlaw Topic Nos. 209, 315.

C.J.S. Indians § 36.

C.J.S. Property §§ 1 to 5, 17, 19, 21, 30 to 31, 37 to 57, 62 to 66.

§ 2. Suits for recovery of property

Suits for the recovery of property shall be instituted against the person having the property in legal possession and control; but in any suit by a third party against the lessee or agent of another, holding property of another in his possession, in which suit the right of the principal in such property is mainly involved, such fact being brought to the notice of the Court, at the calling of the case, by disclaimer of ownership on part of defendant, the Court shall order the name of the principal to be placed upon the record as party defendant in that suit, and judgment shall be rendered accordingly.

Library References

Replevin <KEY>1.

Westlaw Topic No. 335.

C.J.S. Replevin §§ 1 to 6.

§ 3. Legal possession

Property shall be held to be in the legal possession and control of any person when in his actual possession, or in the actual possession of any person in the service or employment of such defendant temporarily to use or take charge thereof. When property consists of stock, the possession thereof shall be determined as provided by law.

Library References

Indians <KEY>141(1).

Property <KEY>10.

Westlaw Topic Nos. 209, 315.

C.J.S. Indians § 36.

C.J.S. Property §§ 49 to 57, 62 to 64.

§ 4. Conveyance of property to minor

Any contract whereby the title to, or possession of, property is conveyed or transferred, to which contract a minor shall be a party, shall not be lawful and is hereby forbidden, except the consent of the guardian of such minor, should there be one appointed, and if not, of the parent of such minor, be obtained previous to the making of such contract. And any adult person who shall enter into any contract, forbidden in this section, shall, for such offense, forfeit, for the benefit of the minor with whom such contract is made, twice the full value of the consideration of such contract on part of the minor, upon suit hereby authorized to be instituted by the parent or guardian.

Library References

Infants <KEY>1065.

Westlaw Topic No. 211.

C.J.S. Infants §§ 209 to 213, 215 to 221, 223 to 231, 236 to 245, 253 to 259, 263 to 269, 275.