

Indian Trust Real Property

What is Indian trust real property?

Generally, it refers to land held in trust by the United States or otherwise reserved for tribes and individual Indians and managed by the Bureau of Indian Affairs (BIA) for their benefit.

Why is it "trust" property?

Because the federal government is the trustee for the land. A trustee must manage trust assets in the best interests of the beneficiaries of the trust. In this case that means the Indian landowners.

What is "restricted" Indian land?

It is like trust land. It is land held by a tribe or person subject to a restriction by the United States against selling or giving the property to anyone else. The phrase "trust or restricted land" is common in Indian law.

What is fee land?

It is reservation land no longer in trust or subject to restriction. It usually refers to reservation land owned by non-Indians. Sometimes a tribe, or individual tribal members, has land in fee.

The term refers to the "fee patent" document issued to the individual Indian landowner. This transfers the land out of trust. Then it can be deeded to anyone.

What laws apply on trust land on my reservation?

Not many, if you live or travel on trust land on your own reservation. Examples: state or local laws cannot tell you

- What you can keep in your yard.
- If you can have a business in your home.
- That you must pay property or other state or local tax.

An exception under [Public Law 280](#) gives Washington State concurrent jurisdiction over legal proceedings involving:

- school attendance
- public assistance
- domestic relations
- mental illness
- juvenile delinquency
- adoptions
- child dependencies and
- operation of motor vehicles.

The state does not have jurisdiction over civil traffic infractions, such as speeding tickets, on any roads within your reservation. Federal civil and regulatory laws may apply. Tribal civil and regulatory laws will apply. We do not discuss criminal laws or jurisdiction issues.

What laws apply on fee land within my reservation?

More state and local laws apply on fee land. Exemptions from sales tax and many state and local regulations still apply. You are still on your own reservation. Your Tribe has exclusive regulatory powers, even on fee land.

Does land have to be within a reservation to be trust land?

No. There are off-reservation trust lands. This includes off-reservation allotments.

What is allotted land?

Originally, allotted land was set aside for individual tribal members on and off reservation. The U.S. held the land in trust or restricted fee status for the benefit of individuals. Soon after the U.S. set aside or created reservations, federal law allowed the division of reservations into individual allotments for tribal members. This was the creation of "allotted land."

Who can own Indian trust property?

All previously allotted Northwestern tribal reservations allow their enrolled tribal members to own individual trust property on their reservation, through inheritance or purchase. Some tribes allow members of other tribes to inherit land on their

reservation. Unenrolled Indians and non-Indians usually can inherit only a life estate in trust land.

The [American Indian Probate Reform Act](#) applies to estates of Indians who die on or after June 20, 2006. It says the tribe may buy interests of less than 5% in jointly owned trust land unless the landowner arranges in a will to consolidate the small interest with other joint owners' interest(s), or transfers the property during the landowner's lifetime.

Some tribes' reservations have never been allotted. Then the property title remains entirely in the tribe's name.

What if I need legal help?

The Northwest Justice Project's Native American Unit (NAU) provides free civil (non-criminal) legal services for people who cannot afford a lawyer in Washington.

In King County: Call 2-1-1.

All other counties: Call the CLEAR hotline toll-free at 1-888-201-1014, between 9:15 a.m. and 12:15 p.m., Monday through Friday.

This publication provides general information concerning your rights and responsibilities. It is not intended as a substitute for specific legal advice.
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