

Office of the Secretary, Interior

§ 30.165

(d) An interest included in an approved agreement may not be purchased at probate without consent of the owner of the consolidated interest.

§ 30.152 May the parties to an agreement waive valuation of trust property?

The parties to a settlement agreement or a consolidation agreement may waive valuation of trust property otherwise required by regulation or the Secretary's rules and requirements. If the parties waive valuation, the waiver must be included in the written agreement.

§ 30.153 Is an order approving an agreement considered a partition or sale transaction?

An order issued by a judge approving a consolidation or settlement agreement will not be considered a partition or sale transaction under 25 CFR part 152.

Subpart G—Purchase at Probate

§ 30.160 What may be purchased at probate?

An eligible purchaser may purchase, during the probate of a trust or restricted estate, all or part of the estate of a person who died on or after June 20, 2006.

(a) Any interest in trust or restricted property, including a life estate that is part of the estate (i.e., a life estate owned by the decedent but measured by the life of someone who survives the decedent), may be purchased at probate with the following exceptions:

(1) If an interest is included in an approved consolidation agreement, that interest may not be purchased at probate without consent of the owner of the consolidated interest; and

(2) An interest that a devisee will receive under a valid will cannot be purchased without the consent of the devisee.

(b) A purchase option must be exercised before a decision or order is entered and must be included as part of the order in the estate.

§ 30.161 Who may purchase at probate?

An eligible purchaser is any of the following:

(a) Any devisee or eligible heir who is taking an interest in the same parcel of land in the probate proceeding;

(b) Any person who owns an undivided trust or restricted interest in the same parcel of land;

(c) The Indian tribe with jurisdiction over the parcel containing the interest; or

(d) The Secretary on behalf of the tribe.

§ 30.162 Does property purchased at probate remain in trust or restricted status?

Yes. The property interests purchased at probate must remain in trust or restricted status.

§ 30.163 Is consent required for a purchase at probate?

(a) Consent is required for a purchase at probate if both of the following conditions are met:

(1) If the interest in trust or restricted property meets the criteria in § 30.160(a)(1) or (2); and

(2) If the interest an heir will receive by intestate succession in the parcel subject to the probate proceeding meets either of the following criteria:

(i) It is 5 percent or more of the entire undivided ownership interest in the parcel; or

(ii) It is less than 5 percent of the entire undivided ownership interest in the parcel and the heir was residing on the parcel on the date of the decedent's death.

(b) A devisee's consent is always required for a purchase at probate.

§ 30.164 What must I do to purchase at probate?

Any eligible purchaser must submit a written request to OHA to purchase at probate before the decision or order is issued.

§ 30.165 Who will OHA notify of a request to purchase at probate?

OHA will provide notice of a request to purchase at probate as shown in the following table:

| | |
|---|-------------------|
| OHA will provide notice to . . . | By . . . |
| (a) The heirs or devisees and the Indian tribe with jurisdiction over the interest. | First class mail. |