

112TH CONGRESS
2^D SESSION

H. R. 2938

IN THE SENATE OF THE UNITED STATES

JUNE 20, 2012

Received; read twice and referred to the Committee on Indian Affairs

AN ACT

To prohibit certain gaming activities on certain Indian lands
in Arizona.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Gila Bend Indian Res-
3 ervation Lands Replacement Clarification Act”.

4 **SEC. 2. FINDINGS.**

5 Congress finds the following:

6 (1) In 1986, Congress passed the Gila Bend In-
7 dian Reservation Lands Replacement Act, Public
8 Law 99–503, 100 Stat. 1798, to authorize the
9 Tohono O’odham Nation to purchase up to 9,880
10 acres of replacement lands in exchange for granting
11 all right, title and interest to the Gila Bend Indian
12 Reservation to the United States.

13 (2) The intent of the Gila Bend Indian Res-
14 ervation Lands Replacement Act was to replace pri-
15 marily agriculture land that the Tohono O’odham
16 Nation was no longer able to use due to flooding by
17 Federal dam projects.

18 (3) In 1988, Congress passed the Indian Gam-
19 ing Regulatory Act, which restricted the ability of
20 Indian tribes to conduct gaming activities on lands
21 acquired after the date of enactment of the Act.

22 (4) Since 1986, the Tohono O’odham Nation
23 has purchased more than 16,000 acres of land. The
24 Tohono O’odham Nation does not currently game on
25 any lands acquired pursuant to the Gila Bend In-
26 dian Reservation Lands Replacement Act.

1 (5) Beginning in 2003, the Tohono O’odham
2 Nation began taking steps to purchase approxi-
3 mately 134.88 acres of land near 91st and Northern
4 Avenue in Maricopa County, within the City of Glendale
5 (160 miles from the Indian tribe’s headquarters
6 in Sells). The Tohono O’odham Nation is now trying
7 to have these lands taken into trust status by the
8 Secretary of the Interior pursuant to the Gila Bend
9 Indian Reservation Lands Replacement Act of 1986
10 (“Gila Bend Act”), and has asked the Secretary to
11 declare these lands eligible for gaming, thereby al-
12 lowing the Indian tribe to conduct Las Vegas style
13 gaming on the lands. The Secretary has issued an
14 opinion stating that he has the authority to take ap-
15 proximately 53.54 acres of these lands into trust
16 status, and plans to do so when legally able to do
17 so.

18 (6) The State of Arizona, City of Glendale, and
19 at least 12 Indian tribes in Arizona oppose the
20 Tohono O’odham Nation gaming on these lands. No
21 Indian tribe supports the Tohono O’odham Nation’s
22 efforts to conduct gaming on these lands.

23 (7) The Tohono O’odham Nation’s proposed ca-
24 sino violates existing Tribal-State gaming compacts
25 and State law, Proposition 202, agreed to by all Ari-

1 zona Indian tribes, which effectively limits the num-
2 ber of tribal gaming facilities in the Phoenix metro-
3 politan area to seven, which is the current number
4 of facilities operating.

5 (8) The Tohono O’odham casino proposal will
6 not generate sales taxes as the State Gaming Com-
7 pact specifically prohibits the imposition of any
8 taxes, fees, charges, or assessments.

9 (9) The proposed casino would be located close
10 to existing neighborhoods and a newly built school
11 and raises a number of concerns. Homeowners,
12 churches, schools, and businesses made a significant
13 investment in the area without knowing that a tribal
14 casino would or even could locate within the area.

15 (10) The development has the potential to im-
16 pact the future of transportation projects, including
17 the Northern Parkway, a critical transportation cor-
18 ridor to the West Valley.

19 (11) The Tohono O’odham Nation currently op-
20 erates three gaming facilities: 2 in the Tucson met-
21 ropolitan area and 1 in Why, Arizona.

22 (12) Nothing in the language or legislative his-
23 tory of the Gila Bend Indian Reservation Lands Re-
24 placement Act indicates that gaming was an antici-
25 pated use of the replacement lands.

1 (13) It is the intent of Congress to clarify that
2 lands purchased pursuant to the Gila Bend Indian
3 Reservation Lands Replacement Act are not eligible
4 for Class II and Class III gaming pursuant to the
5 Indian Gaming Regulatory Act. Such lands may be
6 used for other forms of economic development by the
7 Tohono O’odham Nation.

8 **SEC. 3. GAMING CLARIFICATION.**

9 Section 6(d) of Public Law 99–503 is amended by
10 inserting “except that no class II or class III gaming ac-
11 tivities, as defined in section 4 of the Indian Gaming Reg-
12 ulatory Act (25 U.S.C. 2703), may be conducted on such
13 land if such land is located north of latitude 33 degrees,
14 4 minutes north” after “shall be deemed to be a Federal
15 Indian Reservation for all purposes”.

16 **SEC. 4. NO EFFECT.**

17 The limitation on gaming set forth in the amendment
18 made by section 3 shall have no effect on any interpreta-
19 tion, determination, or decision to be made by any court,
20 administrative agency or department, or other body as to
21 whether any lands located south of latitude 33 degrees,
22 4 minutes north taken into trust pursuant to this Act

1 qualify as lands taken into trust as part of a settlement
2 of a land claim for purposes of title 25 U.S.C. 2719(b).

Passed the House of Representatives June 19, 2012.

Attest:

KAREN L. HAAS,

Clerk.