**South Carolina General Assembly**

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**H. 4159**

**STATUS INFORMATION**

General Bill

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Currently residing in the House Committee on **Judiciary**

Summary: South Carolina Tribal Reservation Establishment Act

**HISTORY OF LEGISLATIVE ACTIONS**

Date Body Action Description with journal page number

3/6/2025 House Introduced and read first time ([House Journal‑page 7](h:\hj\20250306.docx))

3/6/2025 House Referred to Committee on **Judiciary** ([House Journal‑page 7](h:\hj\20250306.docx))

View the latest  [legislative information](https://www.scstatehouse.gov/billsearch.php?billnumbers=4159&session=126&summary=B)  at the website

**VERSIONS OF THIS BILL**

[03/06/2025](https://www.scstatehouse.gov/sess126_2025-2026/prever/4159_20250306.docx)

A bill

TO AMEND THE SOUTH CAROLINA CODE OF LAWS BY ADDING ARTICLE 3 TO CHAPTER 31, TITLE 1 SO AS TO PROVIDE THAT THE SOUTH CAROLINA COMMISSION FOR MINORITY AFFAIRS MAY DESIGNATE CERTAIN LAND AS NATIVE AMERICAN RESERVATIONS; AND TO DESIGNATE PREVIOUS SECTIONS OF CHAPTER 31 AS ARTICLE 1, ENTITLED “GENERAL PROVISIONS.”

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Chapter 31, Title 1 of the S.C. Code is amended by adding:

Article 3

Tribal Reservation Establishment

Section 1‑31‑200. As used in this article:

(1) “Tribe” means any Native American tribe that:

(a) is a federally acknowledged tribe, as provided in Part 83 of Title 25 of the Code of Federal Regulations, that is located within the boundaries of this State; or

(b) has been designated as a state‑recognized tribe by the board of the South Carolina Commission for Minority Affairs, as provided in the regulations promulgated pursuant to this chapter.

(2) “Reservation” refers to designated areas of land recognized as tribal lands within this State.

(3) “Land into trust” refers to the process of transferring private land into trust for a tribe, in compliance with state regulations.

(4) “Qualified conservation contribution” refers to the donation of land or an interest in land for conservation purposes as defined in Internal Revenue Code Section 170(h), which includes the preservation of historically or culturally significant land for the benefit of tribes.

Section 1‑31‑210. (A) The commission shall serve as the lead agency, working with federally and state‑recognized tribes to identify suitable private lands for designation as reservations. These lands must be evaluated based on historical, cultural, and environmental significance.

(B) Tribes may apply to the commission to initiate the process of placing identified private lands into trust for the tribe, thereby establishing state‑recognized reservations. Tribes shall provide documentation supporting their historical or cultural claim to these lands.

(C) The establishment of reservations must be subject to the approval of the respective tribes, the commission, and all state regulatory bodies. Compliance with South Carolina state laws, including environmental regulations and zoning requirements, must be ensured.

(D) The donation of land for the purpose of establishing a tribal reservation, either through direct transfer or a qualified conservation contribution, must be incentivized with state tax benefits for donors.

Section 1‑31‑220. (A) Landowners may donate land, or an interest in land, such as conservation easements, to tribes through a qualified conservation contribution for the purpose of creating or expanding tribal reservations.

(B) A qualified conservation contribution must meet the following requirements:

(1) The donation must be of a real property interest, which includes full ownership of the land or a conservation easement that restricts the use of the land for conservation purposes in perpetuity.

(2) The purpose of the donation must serve the conservation of natural resources, open space, historic lands, or areas of cultural or spiritual significance to Native American tribes.

(3) The donation must be made to a qualified tribal organization, governmental entity, or other eligible entity that must maintain and enforce the terms of the conservation easement or land donation.

(C) Donors making a qualified conservation contribution are eligible for state tax benefits. These may include:

(1) charitable deductions for the value of the conservation contribution, applicable against the donor’s income tax;

(2) carryforward provisions allowing the donor to apply unused portions of the deduction for up to fifteen years after the year of the donation;

(3) state tax incentives, including potential property tax reductions, if the land remains under tribal ownership or management.

(D) Lands donated through a qualified conservation contribution must remain under the management of the receiving tribe, ensuring that cultural preservation, environmental stewardship, and sustainable development goals are met in accordance with tribal laws and customs.

(E) The commission, in collaboration with the South Carolina Department of Natural Resources, shall oversee and guide the donation process, ensuring that lands transferred through conservation contributions meet all state and federal requirements and maintain their ecological, cultural, and historical significance.

Section 1‑31‑230. (A) Tribes receiving land through a qualified conservation contribution or direct donation have the full authority to manage the land in accordance with their traditions, customs, and governance structures, provided that any use of the land adheres to the conservation terms outlined in the donation agreement or easement.

(B) Tribes shall work in collaboration with the commission and the State to develop a land use and conservation plan that balances the needs of the community with the preservation of natural and cultural resources.

(C) If land was donated under a qualified conservation contribution, the tribe shall ensure that the terms of the conservation easement are upheld. This includes prohibitions against commercial development, deforestation, or other activities that may compromise the conservation value of the land.

(D) Failure to comply with the terms of a qualified conservation contribution agreement may result in the forfeiture of certain tax benefits and potential legal action to enforce the conservation provisions.

Section 1‑31‑240. (A) Lands designated as reservations, whether through donation or other means, are exempt from state and local taxation. Taxes may not be assessed, for any purpose, upon any Native American reservation in this State, so long as the land of such reservation remains the property of the nation, tribe, or band occupying the same.

(B) Any economic activity, commercial enterprise, or development undertaken on tribal land must comply with applicable state laws, unless federal regulations or recognized tribal sovereignty grants the tribe authority to act independently.

Section 1‑31‑250. (A) Landowners interested in donating property to a recognized tribe may initiate the process by submitting an inquiry to the commission, along with a description of the land, its historical and cultural significance, and any conservation or preservation goals.

(B) The commission, working with the Department of Natural Resources and the tribe, shall assess the suitability of the land for tribal use, focusing on its potential for historical, cultural, environmental, or community benefits.

(C) Once the land has been deemed appropriate for donation, a formal transfer agreement must be established between the landowner and the receiving tribe. This agreement must outline any restrictions on land use, including conservation easements, if applicable.

(D) Upon the successful transfer of the property, the land must be placed under the tribe’s jurisdiction, and the commission shall record the transfer with the appropriate county offices to ensure the land is properly recognized as tribal land.

(E) Donors may receive recognition from the State and tribe for their contribution, including honorary titles or acknowledgments in public ceremonies or through written commendations.

Section 1‑31‑260. (A) Tribal courts have jurisdiction over civil and criminal matters arising on tribal lands, provided that the tribe has established a legal system consistent with South Carolina’s due process standards.

(B) In cases of conflict between tribal laws and state laws, state law prevails unless otherwise stipulated by federal law governing Native American tribes.

(C) Policing on tribal lands must be conducted by a certified state police force unless the tribe has federally recognized sovereignty over law enforcement. In such cases, tribes may establish their own policing system for portions of federally established reservations.

(D) Collaborative agreements may be established between tribal and state law enforcement agencies to ensure proper handling of interjurisdictional matters and safety of tribal and nontribal residents.

Section 1‑31‑270. (A) Members of recognized tribes retain the right to hunt, fish, and gather on tribal‑owned lands in accordance with tribal laws and regulations, provided that such activities do not violate state conservation laws or jeopardize protected species.

(B) Tribal governments must establish clear guidelines and protocols that ensure sustainable resource management and conservation. All hunting and fishing practices must adhere to principles of environmental stewardship, as outlined by the Department of Natural Resources.

Section 1‑31‑280. (A) Any nation, tribe, or band of Native Americans that owns and occupies land in this State as common property may, by act of its tribal government, divide such lands into lots and distribute or partition the same among individuals and families of the tribe. Such partition must follow state regulations and may result in fee simple ownership for tribal members.

(B) Deeds effectuating partition must be executed under the supervision of the tribal government and approved by the county judge of the jurisdiction in which the land is situated.

Section 1‑31‑290. A purchase or contract for the sale of tribal lands is not valid unless authorized by the South Carolina General Assembly. Tribes may request legislative approval to sell lands only when such action is in the tribe’s best interest and after thorough consultation with tribal members.

Section 1‑31‑300. An individual or entity may not settle, reside, or conduct business on tribal lands without written approval from the respective tribe’s governing body. Unauthorized persons or entities found operating junkyards, automobile graveyards, or other disruptive businesses on tribal lands may be subject to legal action, including removal by the sheriff upon a judge’s order.

Section 1‑31‑310. The tribal council or leadership of any recognized tribe may grant written permits to nonmember Native Americans to reside on tribal lands, with terms and conditions determined by the tribal government. These permits may specify the duration and nature of the residence, including agricultural or commercial use.

Section 1‑31‑320. Tribes may request from county or tribal judges written licenses for individuals, such as teachers, ministers, or agricultural instructors, to reside on tribal lands for educational or service purposes. Such licenses must specify the size of the land to be occupied, not to exceed fifty acres, and the nature of the services provided.

Section 1‑31‑330. The Attorney General may bring action against trespassers on tribal lands. Damages recovered, after expenses, must be distributed among the tribal members occupying the lands.

Section 1‑31‑340. Town highway commissioners have the same jurisdiction over highways on tribal lands as conferred by the highway law.

Section 1‑31‑350. (A) Tribes recognized by this State are eligible to apply for grants and funding opportunities generally reserved for cities, towns, or counties.

(B) Tribes may access funds for infrastructure, education, cultural preservation, and economic development. The State shall ensure equal consideration for tribal applications and may assist in navigating the grant process through the commission.

(C) The State shall work to promote grant programs specifically tailored to tribal needs, providing resources and technical assistance to ensure their success.

Section 1‑31‑360. (A) The Department of Parks, Recreation and Tourism (PRT), in consultation with the South Carolina Institute of Archaeology and Anthropology (SCIAA) and the respective tribal governments, has the authority to designate any Native American cemetery or burial ground as a place of historic or cultural significance.

(B) A person may not destroy, alter, convert, or impair any such cemetery or burial ground without obtaining express written permission from PRT, the affected tribes, and SCIAA.

(C) The preservation, restoration, and maintenance of these sites must be conducted under the guidance of tribal representatives or SCIAA to ensure that tribal customs, religious practices, and historical significance are respected.

(D) The State may allocate funds, in collaboration with tribes, to preserve these sites as protected cultural landmarks.

Section 1‑31‑370. The jurisdiction of the nearest school district will remain in effect, encompassing school buses, schooling, and other related services.

SECTION 2. The Code Commissioner is directed to designate Sections 1‑31‑10 through 1‑31‑60 as “Article 1 General Provisions.”

SECTION 3. If any section, subsection, paragraph, subparagraph, sentence, clause, phrase, or word of this act is for any reason held to be unconstitutional or invalid, such holding shall not affect the constitutionality or validity of the remaining portions of this act, the General Assembly hereby declaring that it would have passed this act, and each and every section, subsection, paragraph, subparagraph, sentence, clause, phrase, and word thereof, irrespective of the fact that any one or more other sections, subsections, paragraphs, subparagraphs, sentences, clauses, phrases, or words hereof may be declared to be unconstitutional, invalid, or otherwise ineffective.

SECTION 4. This act takes effect upon approval by the Governor.

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