

before any reimbursement is made, all reasonable collection efforts shall have been exhausted by the lender, and the security for the loan shall have been liquidated to the extent feasible, and the proceeds applied on the debt. Upon reimbursement, in whole or in part, to the lender, the note or judgment evidencing the debt shall be assigned to the United States, and the lender shall have no further claim against the borrower or the United States. The Secretary shall then take such further collection action as may be warranted, or may cancel the uncollectable portion of any debt assigned pursuant hereto. The Secretary may establish a date upon which accrual of interest or charges shall cease.

(Pub. L. 93-262, title II, §212, Apr. 12, 1974, 88 Stat. 80.)

§ 1493. Loan refusal; conditions; prohibition against acquisition of additional loans; payment of claims on loans made in good faith

Whenever the Secretary finds that any lender or holder of a guaranty certificate fails to maintain adequate accounting records, or to demonstrate proper ability to service adequately loans guaranteed or insured, or to exercise proper credit judgment, or has willfully or negligently engaged in practices otherwise detrimental to the interests of a borrower or of the United States, he may refuse, either temporarily or permanently, to guarantee or insure any further loans made by such lender or holder, and may bar such lender or holder from acquiring additional loans guaranteed or insured hereunder: *Provided*, That the Secretary shall not refuse to pay a valid guaranty or insurance claim on loans previously made in good faith.

(Pub. L. 93-262, title II, §213, Apr. 12, 1974, 88 Stat. 81.)

§ 1494. Evidence of eligibility of loan for and amount of guaranty or insurance; defenses and partial defenses against original lender

Any evidence of guaranty or insurance issued by the Secretary shall be conclusive evidence of the eligibility of the loan for guaranty or insurance under the provisions of this chapter and the amount of such guaranty or insurance: *Provided*, That nothing in this section shall preclude the Secretary from establishing, as against the original lender, defenses based on fraud or material misrepresentation or bar him from establishing, by regulations in force at the date of such issuance or disbursement, whichever is the earlier, partial defenses to the amount payable on the guaranty or insurance.

(Pub. L. 93-262, title II, §214, Apr. 12, 1974, 88 Stat. 81.)

§ 1495. Land and personal property titles

Title to any land purchased by a tribe or by an individual Indian with loans guaranteed or insured pursuant to this subchapter may be taken in trust, unless the land is located outside the boundaries of a reservation or a tribal consolidation area approved by the Secretary. Title to any land purchased by a tribe or an individual Indian which is outside the boundaries of the reservation or approved consolidation area may

be taken in trust if the purchaser was the owner of trust or restricted interests in the land before the purchase, otherwise title shall be taken in the name of the purchaser without any restriction on alienation, control, or use. Title to any personal property purchased with loans guaranteed or insured hereunder shall be taken in the name of the purchaser.

(Pub. L. 93-262, title II, §215, Apr. 12, 1974, 88 Stat. 81.)

§ 1496. Powers of Secretary; finality of financial transactions and property acquisitions, management, and dispositions

The financial transactions of the Secretary incident to or arising out of the guarantee or insurance of loans and surety bonds, and the acquisition, management, and disposition of property, real, personal, or mixed, incident to such activities, shall be final and conclusive upon all officers of the Government. With respect to matters arising out of the guaranty or insurance program authorized by this subchapter, and notwithstanding the provisions of any other laws, the Secretary may—

(a) sue and be sued in his official capacity in any court of competent jurisdiction;

(b) subject to the specific limitations in this subchapter, consent to the modification, with respect to the rate of interest, time of payment on principal or interest or any portion thereof, security, or any other provisions of any note, contract, mortgage, or other instrument securing a loan or surety bond which has been guaranteed or insured hereunder;

(c) subject to the specific limitations in this subchapter, pay, or compromise, any claim on, or arising because of any loan or surety bond guaranty or insurance;

(d) subject to the specific limitations in this subchapter, pay, compromise, waive, or release any right, title, claim, lien, or demand, however acquired, including, but not limited to, any equity or right of redemption;

(e) purchase at any sale, public or private, upon such terms and for such prices as he determines to be reasonable, and take title to property, real, personal, or mixed; and similarly sell, at public or private sale, exchange, assign, convey, or otherwise dispose of such property; and

(f) complete, administer, operate, obtain, and pay for insurance on, and maintain, renovate, repair, modernize, lease, or otherwise deal with any property acquired or held pursuant to the guaranty or insurance program authorized by this subchapter.

(Pub. L. 93-262, title II, §216, Apr. 12, 1974, 88 Stat. 81; Pub. L. 100-442, §5(c), Sept. 22, 1988, 102 Stat. 1764.)

AMENDMENTS

1988—Pub. L. 100-442 inserted “and surety bonds” after “of loans” in introductory text, “or surety” after “a loan” in par. (b), and “or surety” after “any loan” in par. (c).