

2002—Subsec. (a). Pub. L. 107-292, §7(1), inserted “and housing related community development activity as consistent with the purposes of this chapter” after “section 4132 of this title”.

Subsecs. (b) to (d). Pub. L. 107-292, §7(2), (3), redesignated subsecs. (c) and (d) as (b) and (c), respectively, and struck out heading and text of former subsec. (b). Text read as follows: “A guarantee under this subchapter may be used to assist an Indian tribe or housing entity in obtaining financing only if the Indian tribe or housing entity has made efforts to obtain such financing without the use of such guarantee and cannot complete such financing consistent with the timely execution of the program plans without such guarantee.”

EFFECTIVE DATE

Pub. L. 104-330, title VI, §606, Oct. 26, 1996, 110 Stat. 4048, provided that: “This title [enacting this subchapter] shall take effect on the date of the enactment of this Act [Oct. 26, 1996].”

[Another section 606 of Pub. L. 104-330 is classified to section 4196 of this title.]

§ 4192. Security and repayment

(a) Requirements on issuer

To assure the repayment of notes or other obligations and charges incurred under this subchapter and as a condition for receiving such guarantees, the Secretary shall require the Indian tribe or housing entity issuing such notes or obligations to—

(1) enter into a contract, in a form acceptable to the Secretary, for repayment of notes or other obligations guaranteed under this subchapter;

(2) pledge any grant for which the issuer may become eligible under this chapter;

(3) demonstrate that the extent of such issuance and guarantee under this subchapter is within the financial capacity of the tribe and is not likely to impair the ability to use grant amounts under subchapter I, taking into consideration the requirements under section 4133(b) of this title; and

(4) furnish, at the discretion of the Secretary, such other security as may be deemed appropriate by the Secretary in making such guarantees, including increments in local tax receipts generated by the activities assisted under this chapter or disposition proceeds from the sale of land or rehabilitated property.

(b) Repayment from grant amounts

Notwithstanding any other provision of this chapter—

(1) the Secretary may apply grants pledged pursuant to subsection (a)(2) to any repayments due the United States as a result of such guarantees; and

(2) grants allocated under this chapter for an Indian tribe or housing entity (including program income derived therefrom) may be used to pay principal and interest due (including such servicing, underwriting, and other costs as may be specified in regulations issued by the Secretary) on notes or other obligations guaranteed pursuant to this subchapter.

(c) Full faith and credit

The full faith and credit of the United States is pledged to the payment of all guarantees

made under this subchapter. Any such guarantee made by the Secretary shall be conclusive evidence of the eligibility of the obligations for such guarantee with respect to principal and interest, and the validity of any such guarantee so made shall be incontestable in the hands of a holder of the guaranteed obligations.

(Pub. L. 104-330, title VI, §602, Oct. 26, 1996, 110 Stat. 4046.)

REFERENCES IN TEXT

This chapter, referred to in subsecs. (a) and (b), was in the original “this Act”, meaning Pub. L. 104-330, Oct. 26, 1996, 110 Stat. 4016, known as the Native American Housing Assistance and Self-Determination Act of 1996. For complete classification of this Act to the Code, see Short Title note set out under section 4101 of this title and Tables.

EFFECTIVE DATE

Section effective Oct. 26, 1996, see section 606 of Pub. L. 104-330, set out as a note under section 4191 of this title.

§ 4193. Payment of interest

The Secretary may make, and contract to make, grants, in such amounts as may be approved in appropriations Acts, to or on behalf of an Indian tribe or housing entity issuing notes or other obligations guaranteed under this subchapter, to cover not to exceed 30 percent of the net interest cost (including such servicing, underwriting, or other costs as may be specified in regulations of the Secretary) to the borrowing entity or agency of such obligations. The Secretary may also, to the extent approved in appropriations Acts, assist the issuer of a note or other obligation guaranteed under this subchapter in the payment of all or a portion of the principal and interest amount due under the note or other obligation, if the Secretary determines that the issuer is unable to pay the amount because of circumstances of extreme hardship beyond the control of the issuer.

(Pub. L. 104-330, title VI, §603, Oct. 26, 1996, 110 Stat. 4047.)

EFFECTIVE DATE

Section effective Oct. 26, 1996, see section 606 of Pub. L. 104-330, set out as a note under section 4191 of this title.

§ 4194. Training and information

The Secretary, in cooperation with eligible public entities, shall carry out training and information activities with respect to the guarantee program under this subchapter.

(Pub. L. 104-330, title VI, §604, Oct. 26, 1996, 110 Stat. 4047.)

EFFECTIVE DATE

Section effective Oct. 26, 1996, see section 606 of Pub. L. 104-330, set out as a note under section 4191 of this title.

§ 4195. Limitations on amount of guarantees

(a) Aggregate fiscal year limitation

Notwithstanding any other provision of law and subject only to the absence of qualified applicants or proposed activities and to the au-

thority provided in this subchapter, to the extent approved or provided in appropriations Acts, the Secretary may enter into commitments to guarantee notes and obligations under this subchapter with an aggregate principal amount not to exceed \$400,000,000 for each of fiscal years 2009 through 2013.

(b) Authorization of appropriations for credit subsidy

There are authorized to be appropriated to cover the costs (as such term is defined in section 661a of title 2) of guarantees under this subchapter such sums as may be necessary for each of fiscal years 2009 through 2013.

(c) Aggregate outstanding limitation

The total amount of outstanding obligations guaranteed on a cumulative basis by the Secretary pursuant to this subchapter shall not at any time exceed \$2,000,000,000 or such higher amount as may be authorized to be appropriated for this subchapter for any fiscal year.

(d) Fiscal year limitations on tribes

The Secretary shall monitor the use of guarantees under this subchapter by Indian tribes. If the Secretary finds that 50 percent of the aggregate guarantee authority under subsection (c) has been committed, the Secretary may—

- (1) impose limitations on the amount of guarantees any one Indian tribe may receive in any fiscal year of \$50,000,000; or
- (2) request the enactment of legislation increasing the aggregate outstanding limitation on guarantees under this subchapter.

(Pub. L. 104-330, title VI, §605, Oct. 26, 1996, 110 Stat. 4047; Pub. L. 107-292, §2(b), Nov. 13, 2002, 116 Stat. 2053; Pub. L. 110-411, title VII, §701(b), Oct. 14, 2008, 122 Stat. 4334.)

AMENDMENTS

2008—Subsecs. (a), (b). Pub. L. 110-411 substituted “2009 through 2013” for “1997 through 2007”.

2002—Subsecs. (a), (b). Pub. L. 107-292 substituted “1997 through 2007” for “1997, 1998, 1999, 2000, and 2001”.

EFFECTIVE DATE

Section effective Oct. 26, 1996, see section 606 of Pub. L. 104-330, set out as a note under section 4191 of this title.

§ 4196. Demonstration program for guaranteed loans to finance tribal community and economic development activities

(a) Authority

(1) In general

Subject to paragraph (2), to the extent and in such amounts as are provided in appropriation Acts, subject to the requirements of this section, and in accordance with such terms and conditions as the Secretary may prescribe, the Secretary may guarantee and make commitments to guarantee the notes and obligations issued by Indian tribes or tribally designated housing entities with tribal approval, for the purposes of financing activities carried out on Indian reservations and in other Indian areas that, under the first sentence of section 5308(a) of title 42, are eligible for financing with notes and other obligations guaranteed pursuant to that section.

(2) Limitation

The Secretary may guarantee, or make commitments to guarantee, under paragraph (1) the notes or obligations of not more than 4 Indian tribes or tribally designated housing entities located in each Department of Housing and Urban Development Office of Native American Programs region.

(b) Low-income benefit requirement

Not less than 70 percent of the aggregate amount received by an Indian tribe or tribally designated housing entity as a result of a guarantee under this section shall be used for the support of activities that benefit low-income families on Indian reservations and other Indian areas.

(c) Financial soundness

(1) In general

The Secretary shall establish underwriting criteria for guarantees under this section, including fees for the guarantees, as the Secretary determines to be necessary to ensure that the program under this section is financially sound.

(2) Amounts of fees

Fees for guarantees established under paragraph (1) shall be established in amounts that are sufficient, but do not exceed the minimum amounts necessary, to maintain a negative credit subsidy for the program under this section, as determined based on the risk to the Federal Government under the underwriting requirements established under paragraph (1).

(d) Terms of obligations

(1) In general

Each note or other obligation guaranteed pursuant to this section shall be in such form and denomination, have such maturity, and be subject to such conditions as the Secretary may prescribe, by regulation.

(2) Limitation

The Secretary may not deny a guarantee under this section on the basis of the proposed repayment period for the note or other obligation, unless—

- (A) the period is more than 20 years; or
- (B) the Secretary determines that the period would cause the guarantee to constitute an unacceptable financial risk.

(e) Limitation on percentage

A guarantee made under this section shall guarantee repayment of 95 percent of the unpaid principal and interest due on the note or other obligation guaranteed.

(f) Security and repayment

(1) Requirements on issuer

To ensure the repayment of notes and other obligations and charges incurred under this section and as a condition for receiving the guarantees, the Secretary shall require the Indian tribe or housing entity issuing the notes or obligations—

- (A) to enter into a contract, in a form acceptable to the Secretary, for repayment of notes or other obligations guaranteed under this section;