

therefor shall be submitted to the Secretary. If the Secretary finds that the loss has been suffered, he shall reimburse the lender therefor: *Provided*, That the amount payable to the lender for a loss on any one loan shall not exceed 90 per centum of such loss: *Provided further*, That no reimbursement may be made for losses in excess of 15 per centum of the aggregate of insured loans made by the lender: *Provided further*, That 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).

§ 1497. Indian Loan Guaranty and Insurance Fund

(a) Establishment of revolving fund

There is hereby created an Indian Loan Guaranty and Insurance Fund (hereinafter referred to as the “fund”) which shall be available to the Secretary as a revolving fund without fiscal year limitation for carrying out the provisions of this subchapter.

(b) Aggregate loans or surety bonds limitation

The Secretary may use the fund for the purpose of fulfilling the obligations with respect to loans or surety bonds guaranteed or insured under this subchapter, but the aggregate of such loans or surety bonds which are insured or guaranteed by the Secretary shall be limited to \$1,500,000,000.

(c) Assets, liabilities, and obligations of fund; loan and surety bond servicing and purchasing agreements: terms and conditions

All funds, claims, notes, mortgages, contracts, and property acquired by the Secretary under this section, and all collections and proceeds therefrom, shall constitute assets of the fund; and all liabilities and obligations of such assets shall be liabilities and obligations of the fund. The Secretary is authorized to make agreements with respect to servicing loans or surety bonds held, guaranteed, or insured by him under this subchapter and purchasing such guaranteed or insured loans or surety bonds on such terms and conditions as he may prescribe.

(d) Utilization of fund for diverse payments

The Secretary may also utilize the fund to pay taxes, insurance, prior liens, expenses necessary to make fiscal adjustments in connection with the application and transmittal of collections, and other expenses and advances to protect the Secretary for loans or surety bonds which are guaranteed or insured under this subchapter or held by the Secretary, to acquire such security property at foreclosure sale or otherwise, and to pay administrative expenses.

(e) Authorization of appropriations

There are authorized to be appropriated for each fiscal year beginning in fiscal year 1985 such sums as may be necessary to fulfill obligations with respect to losses on loans or surety bonds guaranteed or insured under this subchapter. All collections and all moneys appropriated pursuant to the authority of this subsection shall remain available until expended.

(Pub. L. 93-262, title II, §217, Apr. 12, 1974, 88 Stat. 82; Pub. L. 98-449, §7, Oct. 4, 1984, 98 Stat. 1725; Pub. L. 100-442, §§3, 4(a), (b), 5(d), Sept. 22, 1988, 102 Stat. 1763, 1764; Pub. L. 105-362, title VIII, §801(b), Nov. 10, 1998, 112 Stat. 3287; Pub. L. 109-221, title IV, §401(d), May 12, 2006, 120 Stat. 343.)

AMENDMENTS

2006—Subsec. (b). Pub. L. 109-221 substituted “\$1,500,000,000” for “\$500,000,000”.

1998—Subsec. (f). Pub. L. 105-362 struck out subsec. (f) which read as follows: “If the Secretary determines that the amount in the fund is not sufficient to maintain an adequate level of reserves necessary to meet the responsibilities of the fund in connection with losses on loans or surety bonds guaranteed or insured under this subchapter, the Secretary shall promptly submit a report notifying Congress of the deficiencies in the fund.”

1988—Subsec. (b). Pub. L. 100-442, §§3, 5(d), inserted “or surety bonds” after “loans” in two places and substituted “\$500,000,000” for “\$200,000,000”.

Subsecs. (c), (d). Pub. L. 100-442, §5(d), inserted “or surety bonds” after “loans” wherever appearing.

Subsec. (e). Pub. L. 100-442, §§4(a), 5(d), inserted “or surety bonds” after “loans” and substituted “All collections and all moneys appropriated pursuant to the authority of this subsection shall remain available” for “All collections shall remain”.

Subsec. (f). Pub. L. 100-442, §4(b), added subsec. (f).

1984—Subsec. (e). Pub. L. 98-449 added subsec. (e).

LIMITATION ON NEW CREDIT AUTHORITY

Pub. L. 100-442, §4(c), Sept. 22, 1988, 102 Stat. 1763, provided that: “Any new credit authority (as defined in section 3 of the Congressional Budget and Impoundment Control Act of 1974 [2 U.S.C. 622]) which is provided by amendments made by this Act [enacting sections 1497a, 1499, and 1544 of this title and amending this section and sections 1452, 1484, 1485, 1496, and 1498 of this title] shall be effective only to such extent and in such amounts as may be approved in advance in appropriation Acts.”

§ 1497a. Supplemental surety bond guarantee

(a) Amount; eligibility

The Secretary is authorized to provide a supplemental surety bond guarantee, not to exceed 20 percent of any loss, for any Indian individual or economic enterprise eligible for a surety guarantee under section 694b of title 15, so that the aggregate of the two guarantees is 100 percent.

(b) Conditions

The Secretary may provide a supplemental guarantee under this section only if the Secretary determines that—

(1) the Indian individual or economic enterprise has secured or will likely secure a surety bond guarantee under section 694b of title 15;

(2) the supplemental guarantee is necessary for the Indian individual or economic enterprise to secure a surety bond;

(3) no more than 25 percent of the surety’s business is comprised of bonds guaranteed pursuant to this section; and

(4) the surety will provide appropriate technical assistance and advice to, and monitor the performance of, the Indian individual or economic enterprise for the prevention or mitigation of a loss.

(c) Fees and charges

The rules and regulations promulgated by the Secretary to carry out this section shall include the setting of reasonable fees to be paid by the Indian individual or economic enterprise and reasonable premium charges to be paid by sureties. In setting fees and charges, the Secretary may take into consideration the cost to the surety of providing the services required by paragraph (4) of subsection (b). The receipts from the fees and charges shall be deposited in the Fund established by section 1497(a) of this title.