

REFERENCES IN TEXT

Subsection (i), referred to in subsec. (g)(2), was redesignated as subsection (h) of this section by Pub. L. 109-221, title IV, § 401(b)(3), May 12, 2006, 120 Stat. 342.

AMENDMENTS

2006—Pub. L. 109-221, § 401(b)(1), inserted section catchline.

Subsecs. (a), (b). Pub. L. 109-221, § 401(b)(1), added subsecs. (a) and (b) and struck out former subsecs. (a) and (b), which authorized loan sale or assignment and set forth parameters for initial transfers.

Subsec. (c). Pub. L. 109-221, § 401(b)(2), (3), redesignated subsec. (d) as (c) and struck out former subsec. (c) which set forth requirements for secondary transfers under this subchapter.

Subsec. (c)(2). Pub. L. 109-221, § 401(b)(4), added par. (2) and struck out former par (2) which provided for the incontestability of a guarantee or insurance of a loan under this subchapter with an exception for fraud or misrepresentation.

Subsec. (d). Pub. L. 109-221, § 401(b)(3), redesignated subsec. (e) as (d). Former subsec. (d) redesignated (c).

Subsec. (e). Pub. L. 109-221, § 401(b)(5), designated existing provisions as par. (1), inserted heading, and added par. (2).

Pub. L. 109-221, § 401(b)(3), redesignated subsec. (f) as (e). Former subsec. (e) redesignated (d).

Subsec. (f). Pub. L. 109-221, § 401(b)(6), substituted “subsection (h)” for “subsection (i)” in introductory provisions and struck out “, and issuance of acknowledgments,” after “agent functions” in par. (2)(B).

Pub. L. 109-221, § 401(b)(3), redesignated subsec. (g) as (f). Former subsec. (f) redesignated (e).

Subsec. (g) to (i). Pub. L. 109-221, § 401(b)(3), redesignated subsecs. (h) and (i) as (g) and (h), respectively. Former subsec. (g) redesignated (f).

2002—Pub. L. 107-331 designated existing provisions as subsec. (a), inserted heading and substituted “Any loan guaranteed or insured” for “Any loan guaranteed”, and added subsecs. (b) to (i).

1988—Pub. L. 100-442 amended section generally. Prior to amendment, section read as follows: “Any loan guaranteed hereunder, including the security given therefor, may be sold or assigned by the lender to any financial institution subject to examination and supervision by an agency of the United States or of any State or the District of Columbia.”

FINDINGS AND PURPOSE

Pub. L. 107-331, title I, § 102, Dec. 13, 2002, 116 Stat. 2835, provided that:

“(a) FINDINGS.—Congress finds that—

“(1) the Indian Financing Act of 1974 (25 U.S.C. 1451 et seq.) was intended to provide Native American borrowers with access to commercial sources of capital that otherwise would not be available through the guarantee or insurance of loans by the Secretary of the Interior;

“(2) although the Secretary of the Interior has made loan guarantees and insurance available, use of those guarantees and that insurance by lenders to benefit Native American business borrowers has been limited;

“(3) twenty-seven years after the date of enactment of the Indian Financing Act of 1974 (25 U.S.C. 1451 et seq.) [Pub. L. 93-262, which was approved Apr. 12, 1974], the promotion and development of Native American-owned business remains an essential foundation for growth of economic and social stability of Native Americans;

“(4) use by commercial lenders of the available loan insurance and guarantees may be limited by liquidity and other capital market-driven concerns; and

“(5) it is in the best interest of the insured and guaranteed loan program of the Department of the Interior—

“(A) to encourage the orderly development and expansion of a secondary market for loans guaran-

teed or insured by the Secretary of the Interior; and

“(B) to expand the number of lenders originating loans under the Indian Financing Act of 1974 (25 U.S.C. 1451 et seq.).

“(b) PURPOSE.—The purpose of this Act [see Short Title of 2002 Amendment note set out under section 1451 of this title] is to reform and clarify the Indian Financing Act of 1974 (25 U.S.C. 1451 et seq.) in order to—

“(1) stimulate the use by lenders of secondary market investors for loans guaranteed or insured under a program administered by the Secretary of the Interior;

“(2) preserve the authority of the Secretary to administer the program and regulate lenders;

“(3) clarify that a good faith investor in loans insured or guaranteed by the Secretary will receive appropriate payments;

“(4) provide for the appointment by the Secretary of a qualified fiscal transfer agent to establish and administer a system for the orderly transfer of those loans; and

“(5)(A) authorize the Secretary to promulgate regulations to encourage and expand a secondary market program for loans guaranteed or insured by the Secretary; and

“(B) allow the pooling of those loans as the secondary market develops.”

§ 1486. Loans ineligible for guaranty or insurance

Loans made by any agency or instrumentality of the Federal Government (not including an eligible Community Development Finance Institution), or by an organization of Indians from funds borrowed from the United States, and loans the interest on which is not included in gross income for the purposes of chapter 1 of title 26 shall not be eligible for guaranty or insurance hereunder.

(Pub. L. 93-262, title II, § 206, Apr. 12, 1974, 88 Stat. 80; Pub. L. 99-514, § 2, Oct. 22, 1986, 100 Stat. 2095; Pub. L. 109-221, title IV, § 401(c), May 12, 2006, 120 Stat. 342.)

AMENDMENTS

2006—Pub. L. 109-221 inserted “(not including an eligible Community Development Finance Institution)” after “Government”.

1986—Pub. L. 99-514 substituted “Internal Revenue Code of 1986” for “Internal Revenue Code of 1954”, which for purposes of codification was translated as “title 26” thus requiring no change in text.

§ 1487. Loans eligible for insurance

Any loans insured hereunder shall be restricted to those made by a financial institution subject to examination and supervision by an agency of the United States, a State, or the District of Columbia, and to loans made by Indian organizations from their own funds to other tribes or organizations of Indians.

(Pub. L. 93-262, title II, § 207, Apr. 12, 1974, 88 Stat. 80.)

§ 1488. Lenders authorized to make loans; decrease or increase of liability under the guaranty

Loans guaranteed hereunder may be made by any lender satisfactory to the Secretary, except as provided in section 1486 of this title. The liability under the guaranty shall decrease or increase pro rata with any decrease or increase in the unpaid portion of the obligation.