

(Pub. L. 93-262, title II, §203, Apr. 12, 1974, 88 Stat. 79.)

§ 1484. Application for loan; approval by Secretary; issuance of certificate; limitations on amount of loans to individual Indians or economic enterprises; review by Secretary

The application for a loan to be guaranteed hereunder shall be submitted to the Secretary for approval. The Secretary may review each loan application individually and independently from the lender. Upon approval, the Secretary shall issue a certificate as evidence of the guaranty. Such certificate shall be issued only when, in the judgment of the Secretary, there is a reasonable prospect of repayment. No loan to an individual Indian may be guaranteed or insured which would cause the total unpaid principal indebtedness to exceed \$500,000. No loan to an economic enterprise (as defined in section 1452 of this title) in excess of \$250,000, or such lower amount as the Secretary may determine to be appropriate, shall be insured unless prior approval of the loan is obtained from the Secretary.

(Pub. L. 93-262, title II, §204, Apr. 12, 1974, 88 Stat. 79; Pub. L. 98-449, §5, Oct. 4, 1984, 98 Stat. 1725; Pub. L. 100-442, §1, Sept. 22, 1988, 102 Stat. 1763; Pub. L. 101-644, title III, §303(b), Nov. 29, 1990, 104 Stat. 4668; Pub. L. 107-331, title I, §103(a), Dec. 13, 2002, 116 Stat. 2836.)

AMENDMENTS

2002—Pub. L. 107-331 substituted “\$250,000” for “\$100,000”.

1990—Pub. L. 101-644 struck out “prior” before “approval” in first sentence and substituted “may review” for “shall review” in second sentence.

1988—Pub. L. 100-442 substituted “\$500,000” for “\$350,000”.

1984—Pub. L. 98-449 substituted “\$350,000” for “\$100,000”, and inserted after first sentence “The Secretary shall review each loan application individually and independently from the lender.”

§ 1485. Sale or assignment of loans and underlying security

(a) In general

All or any portion of a loan guaranteed or insured under this subchapter, including the security given for the loan—

- (1) may be transferred by the lender by sale or assignment to any person; and
- (2) may be retransferred by the transferee.

(b) Transfers of loans

With respect to a transfer described in subsection (a)—

- (1) the transfer shall be consistent with such regulations as the Secretary shall promulgate under subsection (h); and
- (2) the transferee shall give notice of the transfer to the Secretary.

(c) Full faith and credit

(1) In general

The full faith and credit of the United States is pledged to the payment of all loan guarantees and loan insurance made under this subchapter after December 13, 2002.

(2) Validity

Except as provided in regulations in effect on the date on which a loan is made, the valid-

ity of a guarantee or insurance of a loan under this subchapter shall be incontestable.

(d) Damages

Notwithstanding section 3302 of title 31, the Secretary may recover from a lender of a loan under this subchapter any damages suffered by the Secretary as a result of a material breach of the obligations of the lender with respect to a guarantee or insurance by the Secretary of the loan.

(e) Fees

(1) In general

The Secretary may collect a fee for any loan or guaranteed or insured portion of a loan that is transferred in accordance with this section.

(2) Compensation of fiscal transfer agent

A fiscal transfer agent designated under subsection (f) may be compensated through any of the fees assessed under this section and any interest earned on any funds or fees collected by the fiscal transfer agent while the funds or fees are in the control of the fiscal transfer agent and before the time at which the fiscal transfer agent is contractually required to transfer such funds to the Secretary or to transferees or other holders.

(f) Central registration of loans

On promulgation of final regulations under subsection (h), the Secretary shall—

- (1) provide for a central registration of all guaranteed or insured loans transferred under this section; and
- (2) enter into 1 or more contracts with a fiscal transfer agent—

- (A) to act as the designee of the Secretary under this section; and
- (B) to carry out on behalf of the Secretary the central registration and fiscal transfer agent functions under this section.

(g) Pooling of loans

(1) In general

Nothing in this subchapter prohibits the pooling of whole loans or interests in loans transferred under this section.

(2) Regulations

In promulgating regulations under subsection (i),¹ the Secretary may include such regulations to effect orderly and efficient pooling procedures as the Secretary determines to be necessary.

(h) Regulations

Not later than 180 days after December 13, 2002, the Secretary shall develop such procedures and promulgate such regulations as are necessary to facilitate, administer, and promote transfers of loans and guaranteed and insured portions of loans under this section.

(Pub. L. 93-262, title II, §205, Apr. 12, 1974, 88 Stat. 80; Pub. L. 100-442, §2, Sept. 22, 1988, 102 Stat. 1763; Pub. L. 107-331, title I, §103(b), Dec. 13, 2002, 116 Stat. 2836; Pub. L. 109-221, title IV, §401(b), May 12, 2006, 120 Stat. 342.)

¹ See References in Text note below.