

Editorial Notes

REFERENCES IN TEXT

Act of June 18, 1934, referred to in text, is act June 18, 1934, ch. 576, 48 Stat. 984, popularly known as the Indian Reorganization Act, which is classified generally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 5101 of this title and Tables.

Act of June 26, 1936, referred to in text, is act June 26, 1936, ch. 831, 49 Stat. 1967, popularly known as the Oklahoma Welfare Act, which was classified generally to subchapter VIII (§501 et seq.) of chapter 14 of this title prior to editorial reclassification as chapter 45A (§5201 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 5201 of this title and Tables.

CODIFICATION

Section was formerly classified to section 483 of this title prior to editorial reclassification and renumbering as this section.

§ 5135. Mortgages and deeds of trust by individual Indian owners; removal from trust or restricted status; application to Secretary

(a) The individual Indian owners of any land which either is held by the United States in trust for them or is subject to a restriction against alienation imposed by the United States are authorized, subject to approval by the Secretary of the Interior, to execute a mortgage or deed of trust to such land. Such land shall be subject to foreclosure or sale pursuant to the terms of such mortgage or deed of trust in accordance with the laws of the tribe which has jurisdiction over such land or, in the case where no tribal foreclosure law exists, in accordance with the laws of the State or Territory in which the land is located. For the purpose of any foreclosure or sale proceeding the Indian owners shall be regarded as vested with an unrestricted fee simple title to the land, the United States shall not be a necessary party to the proceeding, and any conveyance of the land pursuant to the proceeding shall divest the United States of title to the land. All mortgages and deeds of trust to such land heretofore approved by the Secretary of the Interior are ratified and confirmed.

(b) In the event such land is acquired by an Indian or an Indian tribe, such land shall not be removed from trust or restricted status except upon application to the Secretary under existing law.

(Mar. 29, 1956, ch. 107, 70 Stat. 62; Pub. L. 98-608, §2, Oct. 30, 1984, 98 Stat. 3173; Pub. L. 101-644, title III, §301(c), Nov. 29, 1990, 104 Stat. 4667.)

Editorial Notes

CODIFICATION

Section was formerly classified to section 483a of this title prior to editorial reclassification and renumbering as this section.

AMENDMENTS

1990—Subsec. (a). Pub. L. 101-644 inserted “tribe which has jurisdiction over such land or, in the case where no tribal foreclosure law exists, in accordance with the laws of the” before “State” in second sentence.

1984—Pub. L. 98-608 designated existing provisions as subsec. (a) and added subsec. (b).

§ 5136. Loans to purchasers of highly fractionated land**(a) In general**

The Secretary of Agriculture is authorized to make direct loans in a manner consistent with direct loans pursuant to subtitle D of the Consolidated Farm and Rural Development Act (7 U.S.C. 1981 et seq.), to any Indian tribe recognized by the Secretary of the Interior or tribal corporation established pursuant to the Indian Reorganization Act (25 U.S.C. 477),¹ which does not have adequate uncommitted funds, to acquire lands or interests therein within the tribe's reservation as determined by the Secretary of the Interior, or within a community in Alaska incorporated by the Secretary pursuant to the Indian Reorganization Act [25 U.S.C. 5101 et seq.], for use of the tribe or the corporation or the members of either. Such loans shall be limited to such Indian tribes or tribal corporations as have reasonable prospects of success in their proposed operations and as are unable to obtain sufficient credit elsewhere at reasonable rates and terms to finance the purposes authorized in sections 5136 to 5143 of this title.

(b) Highly fractionated land**(1) In general**

Subject to paragraph (2), the Secretary of Agriculture may make and insure loans in accordance with section 1929 of title 7 to eligible purchasers of highly fractionated land or to intermediaries in order to establish revolving loan funds for the purchase of highly fractionated land under that section.

(2) Exclusion

Section 5140 of this title shall not apply to trust land, restricted tribal land, or tribal corporation land that is mortgaged in accordance with paragraph (1).

(Pub. L. 91-229, §1, Apr. 11, 1970, 84 Stat. 120; Pub. L. 110-234, title V, §5501, May 22, 2008, 122 Stat. 1161; Pub. L. 110-246, §4(a), title V, §5501, June 18, 2008, 122 Stat. 1664, 1922; Pub. L. 113-79, title V, §5402, Feb. 7, 2014, 128 Stat. 840.)

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REFERENCES IN TEXT

The Consolidated Farm and Rural Development Act, referred to in subsec. (a), is title III of Pub. L. 87-128, Aug. 8, 1961, 75 Stat. 307. Subtitle D of the Act is classified principally to subchapter IV (§1981 et seq.) of chapter 50 of Title 7, Agriculture. For complete classification of the Act to the Code, see Short Title note set out under section 1921 of Title 7 and Tables.

Tribal corporation established by the Indian Reorganization Act (25 U.S.C. 477), referred to in subsec. (a), means a tribal corporation established under section 17 of act June 18, 1934, ch. 576, 48 Stat. 988, which was classified to section 477 of this title prior to editorial reclassification as section 5124 of this title.

The Indian Reorganization Act, referred to in subsec. (a), is act June 18, 1934, ch. 576, 48 Stat. 984, which is classified generally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 5101 of this title and Tables.

CODIFICATION

Pub. L. 110-234 and Pub. L. 110-246 made identical amendments to this section. The amendments by Pub.

¹ See References in Text note below.