

117TH CONGRESS
1ST SESSION

S. 3381

To require the Bureau of Indian Affairs to process and complete all mortgage packages associated with residential and business mortgages on Indian land by certain deadlines, and for other purposes.

IN THE SENATE OF THE UNITED STATES

DECEMBER 14, 2021

Mr. THUNE (for himself, Ms. SMITH, Mr. ROUNDS, and Mr. TESTER) introduced the following bill; which was read twice and referred to the Committee on Indian Affairs

A BILL

To require the Bureau of Indian Affairs to process and complete all mortgage packages associated with residential and business mortgages on Indian land by certain deadlines, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Tribal Trust Land
5 Homeownership Act of 2021”.

6 **SEC. 2. DEFINITIONS.**

7 In this Act:

1 (1) APPLICABLE BUREAU OFFICE.—The term
2 “applicable Bureau office” means—

3 (A) a Regional office of the Bureau;

4 (B) an Agency office of the Bureau; or

5 (C) a Land Titles and Records Office of
6 the Bureau.

7 (2) BUREAU.—The term “Bureau” means the
8 Bureau of Indian Affairs.

9 (3) DIRECTOR.—The term “Director” means
10 the Director of the Bureau.

11 (4) FIRST CERTIFIED TITLE STATUS REPORT.—
12 The term “first certified title status report” means
13 the title status report needed to verify title status on
14 Indian land.

15 (5) INDIAN LAND.—The term “Indian land”
16 has the meaning given the term in section 162.003
17 of title 25, Code of Federal Regulations (as in effect
18 on the date of enactment of this Act).

19 (6) LAND MORTGAGE.—The term “land mort-
20 gage” means a mortgage obtained by an individual
21 Indian who owns a tract of trust land for the pur-
22 pose of—

23 (A) home acquisition;

24 (B) home construction;

25 (C) home improvements; or

1 (D) economic development.

2 (7) LEASEHOLD MORTGAGE.—The term “lease-
3 hold mortgage” means a mortgage, deed of trust, or
4 other instrument that pledges the leasehold interest
5 of a lessee as security for a debt or other obligation
6 owed by the lessee to a lender or other mortgagee.

7 (8) MORTGAGE PACKAGE.—The term “mort-
8 gage package” means a proposed residential lease-
9 hold mortgage, business leasehold mortgage, land
10 mortgage, or right-of-way document submitted to an
11 applicable Bureau office under section 3(a)(1).

12 (9) RELEVANT FEDERAL AGENCY.—The term
13 “relevant Federal agency” means any of the fol-
14 lowing Federal agencies that guarantee or make di-
15 rect mortgage loans on Indian land:

16 (A) The Department of Agriculture.

17 (B) The Department of Housing and
18 Urban Development.

19 (C) The Department of Veterans Affairs.

20 (10) RIGHT-OF-WAY DOCUMENT.—The term
21 “right-of-way document” has the meaning given the
22 term in section 169.2 of title 25, Code of Federal
23 Regulations (as in effect on the date of enactment
24 of this Act).

1 (11) SUBSEQUENT CERTIFIED TITLE STATUS
2 REPORT.—The term “subsequent certified title sta-
3 tus report” means the title status report needed to
4 identify any liens against a residential, business, or
5 land lease on Indian land.

6 **SEC. 3. MORTGAGE REVIEW AND PROCESSING.**

7 (a) REVIEW AND PROCESSING DEADLINES.—

8 (1) IN GENERAL.—As soon as practicable after
9 receiving a proposed residential leasehold mortgage,
10 business leasehold mortgage, land mortgage, or
11 right-of-way document, the applicable Bureau office
12 shall notify the lender that the proposed residential
13 leasehold mortgage, business leasehold mortgage, or
14 right-of-way document has been received.

15 (2) PRELIMINARY REVIEW.—

16 (A) IN GENERAL.—Not later than 10 cal-
17 endar days after receipt of a proposed residen-
18 tial leasehold mortgage, business leasehold
19 mortgage, land mortgage, or right-of-way docu-
20 ment, the applicable Bureau office shall conduct
21 and complete a preliminary review of the resi-
22 dential leasehold mortgage, business leasehold
23 mortgage, land mortgage, or right-of-way docu-
24 ment to verify that all required documents are
25 included.

1 (B) INCOMPLETE DOCUMENTS.—As soon
2 as practicable, but not more than 2 calendar
3 days, after finding that any required documents
4 are missing under subparagraph (A), the appli-
5 cable Bureau office shall notify the lender of
6 the missing documents.

7 (3) APPROVAL OR DISAPPROVAL.—

8 (A) LEASEHOLD MORTGAGES.—Not later
9 than 20 calendar days after receipt of a com-
10 plete executed residential leasehold mortgage or
11 business leasehold mortgage, proof of required
12 consents, and other required documentation, the
13 applicable Bureau office shall approve or dis-
14 approve the residential leasehold mortgage or
15 business leasehold mortgage.

16 (B) RIGHT-OF-WAY DOCUMENTS.—Not
17 later than 30 calendar days after receipt of a
18 complete executed right-of-way document, proof
19 of required consents, and other required docu-
20 mentation, the applicable Bureau office shall
21 approve or disapprove the right-of-way docu-
22 ment.

23 (C) LAND MORTGAGES.—Not later than 30
24 calendar days after receipt of a complete exe-
25 cuted land mortgage, proof of required con-

1 sents, and other required documentation, the
2 applicable Bureau office shall approve or dis-
3 approve the land mortgage.

4 (D) REQUIREMENTS.—The determination
5 of whether to approve or disapprove a residen-
6 tial leasehold mortgage or business leasehold
7 mortgage under subparagraph (A), a right-of-
8 way document under subparagraph (B), or a
9 land mortgage under subparagraph (C)—

10 (i) shall be in writing; and

11 (ii) in the case of a determination to
12 disapprove a residential leasehold mort-
13 gage, business leasehold mortgage, right-
14 of-way document, or land mortgage shall,
15 state the basis for the determination.

16 (E) APPLICATION.—This paragraph shall
17 not apply to a residential leasehold mortgage or
18 business leasehold mortgage with respect to In-
19 dian land in cases in which the applicant for
20 the residential leasehold mortgage or business
21 leasehold mortgage is an Indian tribe (as de-
22 fined in subsection (d) of the first section of the
23 Act of 1955 (69 Stat. 539, chapter 615; 126
24 Stat. 1150; 25 U.S.C. 415(d))) that has been
25 approved for leasing under subsection (h) of

1 that section (69 Stat. 539, chapter 615; 126
2 Stat. 1151; 25 U.S.C. 415(h)).

3 (4) CERTIFIED TITLE STATUS REPORTS.—

4 (A) COMPLETION OF REPORTS.—

5 (i) IN GENERAL.—Not later than 10
6 calendar days after the applicable Bureau
7 office approves a residential leasehold
8 mortgage, business leasehold mortgage,
9 land mortgage, or right-of-way document
10 under paragraph (3), the applicable Bu-
11 reau office shall complete the processing
12 of, as applicable—

13 (I) a first certified title status re-
14 port, if a first certified title status re-
15 port was not completed prior to the
16 approval of the residential leasehold
17 mortgage, business leasehold mort-
18 gage, land mortgage, or right-of-way
19 document; and

20 (II) a subsequent certified title
21 status report.

22 (ii) REQUESTS FOR FIRST CERTIFIED
23 TITLE STATUS REPORTS.—Notwith-
24 standing clause (i), not later than 14 cal-
25 endar days after the applicable Bureau of-

1 fice receives a request for a first certified
2 title status report from an applicant for a
3 residential leasehold mortgage, business
4 leasehold mortgage, land mortgage, or
5 right-of-way document under paragraph
6 (1), the applicable Bureau office shall com-
7 plete the processing of the first certified
8 title status report.

9 (B) NOTICE.—

10 (i) IN GENERAL.—As soon as prac-
11 ticable after completion of the processing
12 of, as applicable, a first certified title sta-
13 tus report or a subsequent certified title
14 status report under subparagraph (A), but
15 by not later than the applicable deadline
16 described in that subparagraph, the appli-
17 cable Bureau office shall give notice of the
18 completion to the lender.

19 (ii) FORM OF NOTICE.—The applica-
20 ble Bureau office shall give notice under
21 clause (i)—

22 (I) electronically through secure,
23 encryption software; and

24 (II) through the United States
25 mail.

1 (iii) OPTION TO OPT OUT.—The lend-
2 er may opt out of receiving notice elec-
3 tronically under clause (ii)(I).

4 (b) NOTICES.—

5 (1) IN GENERAL.—If the applicable Bureau of-
6 fice does not complete the review and processing of
7 mortgage packages under subsection (a) (including
8 any corresponding first certified title status report
9 or subsequent certified title status report under
10 paragraph (4) of that subsection) by the applicable
11 deadline described in that subsection, immediately
12 after missing the deadline, the applicable Bureau of-
13 fice shall provide notice of the delay in review and
14 processing to—

15 (A) the party that submitted the mortgage
16 package or requested the first certified title sta-
17 tus report; and

18 (B) the lender for which the mortgage
19 package (including any corresponding first cer-
20 tified title status report or subsequent certified
21 title status report) is being requested.

22 (2) REQUESTS FOR UPDATES.—In addition to
23 providing the notices required under paragraph (1),
24 not later than 2 calendar days after receiving a rel-
25 evant inquiry with respect to a submitted mortgage

1 package from the party that submitted the mortgage
2 package or the lender for which the mortgage pack-
3 age (including any corresponding first certified title
4 status report or subsequent certified title status re-
5 port) is being requested or an inquiry with respect
6 to a requested first certified title status report from
7 the party that requested the first certified title sta-
8 tus report, the applicable Bureau office shall re-
9 spond to the inquiry.

10 (c) DELIVERY OF FIRST AND SUBSEQUENT CER-
11 TIFIED TITLE STATUS REPORTS.—Notwithstanding any
12 other provision of law, any first certified title status report
13 and any subsequent certified title status report, as appli-
14 cable, shall be delivered directly to—

15 (1) the lender;

16 (2) any local or regional agency office of the
17 Bureau that requests the first certified title status
18 report or subsequent certified title status report;

19 (3) in the case of a proposed residential lease-
20 hold mortgage or land mortgage, the relevant Fed-
21 eral agency that insures or guarantees the loan; and

22 (4) if requested, any individual or entity de-
23 scribed in section 150.303 of title 25, Code of Fed-
24 eral Regulations (as in effect on the date of enact-
25 ment of this Act).

1 (d) ACCESS TO TRUST ASSET AND ACCOUNTING
2 MANAGEMENT SYSTEM.—Beginning on the date of enact-
3 ment of this Act, the relevant Federal agencies and Indian
4 Tribes shall have read-only access to the Trust Asset and
5 Accounting Management System maintained by the Bu-
6 reau.

7 (e) ANNUAL REPORT.—

8 (1) IN GENERAL.—Not later than March 1 of
9 each calendar year, the Director shall submit to the
10 Committee on Indian Affairs of the Senate and the
11 Committee on Natural Resources of the House of
12 Representatives a report describing—

13 (A) for the most recent calendar year, the
14 number of requests received to complete resi-
15 dential leasehold mortgage packages, business
16 leasehold mortgage packages, land mortgage
17 packages, and right-of-way document packages
18 (including any requests for corresponding first
19 certified title status reports and subsequent cer-
20 tified title status reports), including a detailed
21 description of—

22 (i) requests that were and were not
23 successfully completed by the applicable
24 deadline described in subsection (a) by
25 each applicable Bureau office; and

1 (ii) the reasons for each applicable
2 Bureau office not meeting any applicable
3 deadlines; and

4 (B) the length of time needed by each ap-
5 plicable Bureau office during the most recent
6 calendar year to provide the notices required
7 under subsection (b)(1).

8 (2) REQUIREMENT.—In submitting the report
9 required under paragraph (1), the Director shall
10 maintain the confidentiality of personally identifiable
11 information of the parties involved in requesting the
12 completion of residential leasehold mortgage pack-
13 ages, business leasehold mortgage packages, land
14 mortgage packages, and right-of-way document
15 packages (including any corresponding first certified
16 title status reports and subsequent certified title sta-
17 tus reports).

18 (f) GAO STUDY.—Not later than 1 year after the
19 date of enactment of this Act, the Comptroller General
20 of the United States shall submit to the Committee on
21 Indian Affairs of the Senate and the Committee on Nat-
22 ural Resources of the House of Representatives a report
23 that includes—

24 (1) an evaluation of the need for residential
25 leasehold mortgage packages, business leasehold

1 mortgage packages, land mortgage packages, and
 2 right-of-way document packages of each Indian
 3 Tribe to be digitized for the purpose of streamlining
 4 and expediting the completion of mortgage packages
 5 for residential mortgages on Indian land (including
 6 the corresponding first certified title status reports
 7 and subsequent certified title status reports); and

8 (2) an estimate of the time and total cost nec-
 9 essary for Indian Tribes to digitize the records de-
 10 scribed in paragraph (1), in conjunction with assist-
 11 ance in that digitization from the Bureau.

12 **SEC. 4. ESTABLISHMENT OF REALTY OMBUDSMAN POSI-**
 13 **TION.**

14 (a) **IN GENERAL.**—The Director shall establish with-
 15 in the Division of Real Estate Services of the Bureau the
 16 position of Realty Ombudsman, who shall report directly
 17 to the Secretary of the Interior.

18 (b) **FUNCTIONS.**—The Realty Ombudsman shall—

19 (1) ensure that the applicable Bureau offices
 20 are meeting the mortgage review and processing
 21 deadlines established by section 3(a);

22 (2) ensure that the applicable Bureau offices
 23 comply with the notices required under subsections
 24 (a) and (b) of section 3;

1 (3) serve as a liaison to other Federal agencies,
2 including by—

3 (A) ensuring the Bureau is responsive to
4 all of the inquiries from the relevant Federal
5 agencies; and

6 (B) helping to facilitate communications
7 between the relevant Federal agencies and the
8 Bureau on matters relating to mortgages on In-
9 dian land;

10 (4) receive inquiries, questions, and complaints
11 directly from Indian Tribes, members of Indian
12 Tribes, and lenders in regard to executed residential
13 leasehold mortgages, business leasehold mortgages,
14 land mortgages, or right-of-way documents; and

15 (5) serve as the intermediary between the In-
16 dian Tribes, members of Indian Tribes, and lenders
17 and the Bureau in responding to inquiries and ques-
18 tions and resolving complaints.

○