

## Bureau of Indian Affairs, Interior

## § 101.15

taken for the purpose of borrowing capital for the development and improvement of the leased premises when permitted in the lease or lease modification agreement. Such mortgages must be approved by the lessor and Commissioner. (70 Stat. 62, (25 U.S.C. 483a)).

(d) Individuals may give assignments of income from trust property as security for loans. Tribes may give assignments of trust income as security for loans provided that the assignment shall be specific as to the source(s) of income being assigned. All assignments of trust income require approval by the Commissioner before becoming effective.

(e) Chattels may be given as security for a loan. A mortgage on chattels, the title to which is known to be in trust, requires Commissioner approval. Non-trust chattels may be mortgaged without approval of any federal official.

(f) Crops grown on lands held in trust or restricted status for the benefit of an individual Indian may be given as security for a loan when approved by the Commissioner. Crops grown on leased, trust or restricted land may be given as security for a loan when permitted by the provisions of a lease or when the owner gives written consent. Approval of the lien document by the Commissioner is required. Crops grown on trust or restricted land held by a tribe which has been assigned to an individual for use may be given as security for a loan, provided the terms of the assignment permit the assignee to give the crops as security for a loan or the tribe's governing body specifically gives consent. The lien document requires Commissioner approval. Crops grown on non-trust or non-restricted land may be mortgaged without the approval of any federal official.

(g) Title to any personal property purchased with a loan shall be taken in the name of the purchaser and mortgaged to secure the loan unless the loan is otherwise adequately secured. Tribes must adhere to the provisions of their constitutions and bylaws, corporate charters, or other organizational documents when mortgaging tribal property and assigning trust income as security for loans.

(h) Relending organizations receiving a loan from the United States for re-

lending shall be required to assign to the United States as security for the loan all securities acquired in connection with loans made to its members, sub-organizations, or associations from such funds, unless the Commissioner determines that repayment of the loan to the United States is otherwise reasonably assured. Funds advanced to finance a tribal economic enterprise shall be secured by an assignment of net income and net assets of the economic enterprise, unless the Commissioner determines that it is not feasible to require an assignment or that repayment of the loan to the United States is otherwise reasonably assured.

(i) Securing documents or financing statements shall be filed or recorded in accordance with applicable state or federal laws except for those customarily filed in Bureau of Indian Affairs offices. Mortgages on documented vessels will be filed at the customs house designated as the home port of the vessel as shown on the marine document.

### § 101.14 Maturity.

The maturity of any United States direct loan shall not exceed thirty years. Loans made will be scheduled for repayment at the earliest possible date consistent with the purpose of the loan and the repayment capacity of the borrower.

### § 101.15 Penalties on default.

Unless otherwise provided in the loan agreement between the United States and a borrower, failure on the part of a borrower to conform to the terms of the loan agreement will be deemed grounds for the taking of any one or all of the following steps by the Commissioner:

(a) Discontinue any further advance of funds contemplated by the loan agreement.

(b) Take possession of any or all collateral given as security and in the case of individuals, corporation, partnerships or cooperative associations, the property purchased with the borrowed funds.

(c) Prosecute legal action against the borrower or against officers of corporations, tribes, bands, credit associations, cooperative associations, and other organizations.

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(d) Declare the entire amount advanced immediately due and payable.

(e) Prevent further disbursement of credit funds under the control of the borrower.

(f) Withdraw any unobligated funds from the borrower.

(g) Require relending organizations conducting a relending program to apply all collections on loans to liquidate the debt to the United States.

(h) Take possession of the assets of a relending organization conducting a relending program and exercise or arrange to exercise its powers until the Commissioner has received acceptable assurance of its repayment of the revolving loan and compliance with the provisions of the terms of the loan agreement.

(i) Liquidate, operate or arrange for the operation of economic enterprises financed with revolving loans made to individuals, tribes, corporations, partnerships and cooperative associations until the indebtedness is paid or until the Commissioner has received acceptable assurance of its repayment and compliance with the terms of the loan agreement.

(j) Report the name and account information of a delinquent borrower to a credit bureau.

(k) Assess additional interest and penalty charges for the period of time that payment is not made.

(l) Assess charges to cover additional administrative costs incurred by the Government to service the account.

(m) Offset amounts owed the borrower under other Federal programs including other programs administered by the Bureau of Indian Affairs.

(n) Refer the account to a private collection agency to collect the amount due.

(o) Refer the account to the U.S. Department of Justice for collection by litigation.

(p) If the borrower is a current or retired Federal employee, take action to offset the borrower's salary or civil service retirement benefits.

(q) Refer the debt to the Internal Revenue Service for offset against any amount owed the borrower as an income tax refund.

(r) Report any written-off debt to the Internal Revenue Service as taxable income to the borrower.

(s) Recommend suspension or debarment from conducting further business with the Federal Government.

[40 FR 3587, Jan. 23, 1975. Redesignated at 47 FR 13327, Mar. 30, 1982, as amended at 57 FR 46472, Oct. 8, 1992]

**§ 101.16 Default on loans made by relending organizations.**

Relending organizations conducting relending programs using revolving loan funds will follow prudent lending practices in making and servicing loans and take appropriate actions to protect their interests in the security given to secure repayment of loans. Declarations of policy and plans of operation shall include procedures which will be followed in acting to correct a default, such as modification of loan agreement or foreclosure and liquidation of security. Relending organizations employing a general counsel will refer legal questions on foreclosure procedures and sale of security to their counsel.

**§ 101.17 Uncollectable loans made by the United States.**

If the Secretary determines that a United States direct loan is uncollectable in whole or in part or is collectable only at an unreasonable cost, or when such action would be in the best interest of the United States, the Secretary may cancel, adjust, compromise, or reduce the amount of any loan made from the revolving loan fund. The Commissioner may adjust, compromise, subordinate, or modify the terms of any mortgage, lease, assignment, contract, agreement, or other document taken as security for loans. The cancellation of all or part of a loan shall become effective when signed by the Secretary.

[54 FR 34975, Aug. 23, 1989]

**§ 101.18 Uncollectible loans made by relending organizations.**

(a) Relending organizations conducting relending programs using revolving loan funds may, when approved by the Commissioner, chargeoff as uncollectible all or part of the balance of principal and interest owing on