

§ 5136. Loans to purchasers of highly fractioned 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.)

Editorial Notes

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.

L. 110-234 were repealed by section 4(a) of Pub. L. 110-246.

Section was formerly classified to section 488 of this title prior to editorial reclassification and renumbering as this section.

AMENDMENTS

2014—Subsec. (a). Pub. L. 113-79, § 5402(1), in first sentence, substituted “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.)” for “loans from the Farmers Home Administration Direct Loan Account created by section 1988(c) of title 7, and to make and insure loans as provided in sections 1928 and 1929 of title 7”.

Subsec. (b)(1). Pub. L. 113-79, § 5402(2), substituted “or to intermediaries in order to establish revolving loan funds for the purchase of highly fractionated land under that section” for “pursuant to section 2204(c) of this title”.

2008—Pub. L. 110-246, § 5501, inserted section catchline, designated existing provisions as subsec. (a), inserted heading, and added subsec. (b).

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2008 AMENDMENT

Amendment of this section and repeal of Pub. L. 110-234 by Pub. L. 110-246 effective May 22, 2008, the date of enactment of Pub. L. 110-234, see section 4 of Pub. L. 110-246, set out as an Effective Date note under section 8701 of Title 7, Agriculture.

§ 5137. Removal of duplicative appraisals

Notwithstanding any other law (including regulations), in making loans under section 5136 of this title, borrowers who are Indian tribes, members of Indian tribes, or tribal corporations shall only be required to obtain 1 appraisal under an appraisal standard recognized as of February 7, 2014, by the Secretary or the Secretary of the Interior.

(Pub. L. 113-79, title V, § 5403, Feb. 7, 2014, 128 Stat. 840.)

Editorial Notes

CODIFICATION

Section was formerly classified to section 488a of this title prior to editorial reclassification and renumbering as this section.

Statutory Notes and Related Subsidiaries

DEFINITION OF “SECRETARY”

“Secretary” as meaning the Secretary of Agriculture, see section 9001 of Title 7, Agriculture.

§ 5138. Title in trust to United States

Title to land acquired by a tribe or tribal corporation with a loan made or insured pursuant to sections 5136 to 5143 of this title may, with the approval of the Secretary of the Interior, be taken by the United States in trust for the tribe or tribal corporation.

(Pub. L. 91-229, § 2, Apr. 11, 1970, 84 Stat. 120.)

Editorial Notes

CODIFICATION

Section was formerly classified to section 489 of this title prior to editorial reclassification and renumbering as this section.

¹ See References in Text note below.

§ 5139. Tribal rights and privileges in connection with loans

A tribe or tribal corporation to which a loan is made or insured pursuant to sections 5136 to 5143 of this title (1) may waive in writing any immunity from suit or liability which it may possess, (2) may mortgage or otherwise hypothecate trust or restricted property if (a) authorized by its constitution or charter or by a tribal referendum, and (b) approved by the Secretary of the Interior, and (3) shall comply with rules and regulations prescribed by the Secretary of Agriculture in connection with such loans.

(Pub. L. 91-229, § 3, Apr. 11, 1970, 84 Stat. 120.)

Editorial Notes

CODIFICATION

Section was formerly classified to section 490 of this title prior to editorial reclassification and renumbering as this section.

§ 5140. Mortgaged property governed by State law

Trust or restricted tribal or tribal corporation property mortgaged pursuant to sections 5136 to 5143 of this title shall be subject to foreclosure and sale or conveyance in lieu of foreclosure, free of such trust or restrictions, in accordance with the laws of the State in which the property is located.

(Pub. L. 91-229, § 4, Apr. 11, 1970, 84 Stat. 120.)

Editorial Notes

CODIFICATION

Section was formerly classified to section 491 of this title prior to editorial reclassification and renumbering as this section.

§ 5141. Interest rates and taxes

Loans made or insured pursuant to sections 5136 to 5143 of this title will be subject to the interest rate provisions of section 307(a)(3)(B) of the Consolidated Farmers Home Administration Act of 1961, as amended [7 U.S.C. 1927(a)(3)(B)], and to the provisions of subtitle D of that Act [7 U.S.C. 1981 et seq.] except sections 340 [7 U.S.C. 1990], 341, 342 [7 U.S.C. 1013a], and 343 [7 U.S.C. 1991] thereof: *Provided*, That section 334 [7 U.S.C. 1984] thereof shall not be construed to subject to taxation any lands or interests therein while they are held by an Indian tribe or tribal corporation or by the United States in trust for such tribe or tribal corporation pursuant to sections 5136 to 5143 of this title.

(Pub. L. 91-229, § 5, Apr. 11, 1970, 84 Stat. 120; Pub. L. 101-624, title XVIII, § 1854(a), Nov. 28, 1990, 104 Stat. 3837.)

Editorial Notes

REFERENCES IN TEXT

The Consolidated Farmers Home Administration Act of 1961, referred to in text, is now the Consolidated Farm and Rural Development Act, Pub. L. 87-128, title III, Aug. 8, 1961, 75 Stat. 307. Subtitle D of the Consolidated Farm and Rural Development Act is classified principally to subchapter IV (§1981 et seq.) of chapter 50 of Title 7, Agriculture. For complete classification of

this Act to the Code, see Short Title note set out under section 1921 of Title 7 and Tables.

Section 341 of that Act is set out as a note under section 1921 of Title 7.

CODIFICATION

Section was formerly classified to section 492 of this title prior to editorial reclassification and renumbering as this section.

AMENDMENTS

1990—Pub. L. 101-624 substituted “section 307(a)(3)(B)” for “section 307(a)”.

§ 5142. Reduction of unpaid principal

(a) In general

The Secretary of Agriculture may, on the application of the borrower of a loan or loans made under sections 5136 to 5143 of this title, reduce the unpaid principal balance of such loan or loans to the current fair market value of the land purchased with the proceeds of the loan or loans if—

(1) the fair market value of the land has declined by at least 25 percent since such land was purchased by the borrower;

(2) the land has been held by the borrower for a period of at least 5 years; and

(3) the Secretary of the Interior finds that the borrower has insufficient income to both repay the loan or loans and provide normal tribal governmental services.

(b) Fair market value

(1) Appraisal

Current fair market value under subsection (a) of this section shall be determined through an appraisal by an independent qualified fee appraiser, selected by mutual agreement between the borrower and the Secretary of Agriculture.

(2) Costs

The cost of appraisals undertaken under paragraph (1) shall be paid by the borrower.

(c) Appeals

Decisions of the Secretary of Agriculture under this section shall be appealable in accordance with the provisions of section 333B¹ of the Consolidated Farm and Rural Development Act (7 U.S.C. 1983b).

(d) Future applications

A borrower that had a loan or loans reduced under this section shall not submit an application for another reduction on such loan or loans for a period of 5 years after the initial reduction.

(Pub. L. 91-229, § 6, as added Pub. L. 101-82, title III, § 303, Aug. 14, 1989, 103 Stat. 583.)

Editorial Notes

REFERENCES IN TEXT

Section 333B of the Consolidated Farm and Rural Development Act (7 U.S.C. 1983b), referred to in subsec. (c), probably means section 333B of Pub. L. 87-128, as added by Pub. L. 99-198, title XIII, §1313(a), Dec. 23, 1985, 99 Stat. 1525, and amended, which related to appeals from adverse decisions under the Act, prior to re-

¹ See References in Text note below.