

§ 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.