

§ 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.

peal by Pub. L. 103-354, title II, §281(c), Oct. 13, 1994, 108 Stat. 3233, and enactment of a new section 333B of Pub. L. 87-128 by Pub. L. 110-234, title V, §5301, May 22, 2008, 122 Stat. 1147, and Pub. L. 110-246, title V, §5301, June 18, 2008, 122 Stat. 1908, which established a beginning farmers' pilot program.

CODIFICATION

Another section 6 of Pub. L. 91-229 was added by Pub. L. 101-624, title XVIII, §1854(b), Nov. 28, 1990, 104 Stat. 3837, and is classified to section 5143 of this title.

Section was formerly classified to section 493 of this title prior to editorial reclassification and renumbering as this section.

§ 5143. Authorization of appropriations

There are authorized to be appropriated to carry out sections 5136 to 5143 of this title \$8,000,000 for each of the fiscal years 1991 through 1995.

(Pub. L. 91-229, §6, as added Pub. L. 101-624, title XVIII, §1854(b), Nov. 28, 1990, 104 Stat. 3837.)

Editorial Notes

CODIFICATION

Another section 6 of Pub. L. 91-229 was added by Pub. L. 101-82, title III, §303, Aug. 14, 1989, 103 Stat. 583, and is classified to section 5142 of this title.

Section was formerly classified to section 494 of this title prior to editorial reclassification and renumbering as this section.

§ 5144. Certification of rental proceeds

Notwithstanding any other provision of law, any actual rental proceeds from the lease of land acquired under section 5136 of this title certified by the Secretary of the Interior shall be deemed—

- (1) to constitute the rental value of that land; and
- (2) to satisfy the requirement for appraisal of that land.

(Pub. L. 109-221, title II, §203, May 12, 2006, 120 Stat. 341.)

Editorial Notes

CODIFICATION

Section was formerly classified to section 494a of this title prior to editorial reclassification and renumbering as this section.

CHAPTER 45A—OKLAHOMA INDIAN WELFARE

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| Sec. 5201. | Acquisition of agricultural and grazing lands for Indians; title to lands; tax exemption. |
| 5202. | Purchase of restricted Indian lands; preference to Secretary of the Interior; waiver of preference. |
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| 5210. | Payment of gross production taxes; method. |

Editorial Notes

CODIFICATION

Chapter was formerly classified to subchapter VIII (§501 et seq.) of chapter 14 of this title prior to editorial reclassification as this chapter.

§ 5201. Acquisition of agricultural and grazing lands for Indians; title to lands; tax exemption

The Secretary of the Interior is authorized, in his discretion, to acquire by purchase, relinquishment, gift, exchange, or assignment, any interest in lands, water rights, or surface rights to lands, within or without existing Indian reservations, including trust or otherwise restricted lands now in Indian ownership: *Provided*, That such lands shall be agricultural and grazing lands of good character and quality in proportion to the respective needs of the particular Indian or Indians for whom such purchases are made. Title to all lands so acquired shall be taken in the name of the United States, in trust for the tribe, band, group, or individual Indian for whose benefit such land is so acquired, and while the title thereto is held by the United States said lands shall be free from any and all taxes, save that the State of Oklahoma is authorized to levy and collect a gross-production tax, not in excess of the rate applied to production from lands in private ownership, upon all oil and gas produced from said lands, which said tax the Secretary of the Interior is authorized and directed to cause to be paid.

(June 26, 1936, ch. 831, §1, 49 Stat. 1967.)

Editorial Notes

CODIFICATION

Section was formerly classified to section 501 of this title prior to editorial reclassification and renumbering as this section.

Statutory Notes and Related Subsidiaries

SHORT TITLE

Act June 26, 1936, ch. 831, 49 Stat. 1967, which enacted this chapter, is popularly known as the "Oklahoma Welfare Act" and the "Oklahoma Indian Welfare Act".

REFERENCES TO THIS SECTION

References to this section in chapter 46 of this title deemed to include section 82a of this title, see section 5391 of this title.

§ 5202. Purchase of restricted Indian lands; preference to Secretary of the Interior; waiver of preference

Whenever any restricted Indian land or interests in land, other than sales or leases of oil, gas, or other minerals therein, are offered for sale, pursuant to the terms of this chapter or any other Act of Congress, the Secretary of the Interior shall have a preference right, in his discretion, to purchase the same for or in behalf of