
SEC. 184. LOAN GUARANTEES FOR INDIAN HOUSING.
(a) AUTHORITY- To provide access to sources of private financing to Indian families and Indian housing authorities who otherwise could not acquire housing financing because of the unique legal status of Indian trust land, the Secretary may guarantee not to exceed 100 percent of the unpaid principal and interest due on any loan eligible under subsection (b) made to an Indian family or Indian housing authority.

(b) ELIGIBLE LOANS- Loans guaranteed pursuant to this section shall meet the following requirements:
(1) ELIGIBLE BORROWERS- The loans shall be made only to borrowers who are Indian families or Indian housing authorities.
(2) ELIGIBLE HOUSING- The loan shall be used to construct, acquire, or rehabilitate 1- to 4-family dwellings that are standard housing and are located on trust land or land located in an Indian or Alaska Native area.
(3) SECURITY- The loan may be secured by any collateral authorized under existing Federal law or applicable State or tribal law.
(4) LENDERS- The loan shall be made only by a lender approved by and meeting qualifications established by the Secretary, except that loans otherwise insured or guaranteed by an agency of the Federal Government or made by an organization of Indians from amounts borrowed from the United States shall not be eligible for guarantee under this section. The following lenders are deemed to be approved under this paragraph:
(A) Any mortgagee approved by the Secretary of Housing and Urban Development for participation in the single family mortgage insurance program under title II of the National Housing Act.
(B) Any lender whose housing loans under chapter 37 of title 38, United States Code are automatically guaranteed pursuant to section 1802(d) of such title.
(C) Any lender approved by the Secretary of Agriculture to make guaranteed
loans for single family housing under the Housing Act of 1949.
(D) Any other lender that is supervised, approved, regulated,
or insured
by any agency of the Federal Government.
(5) TERMS- The loan shall--
(A) be made for a term not exceeding 30 years;
(B) bear interest (exclusive of the guarantee fee under
section 404
and service charges, if any) at a rate agreed upon by the
borrower and
the lender and determined by the Secretary to be reasonable,
which may
not exceed the rate generally charged in the area (as
determined by the
Secretary) for home mortgage loans not guaranteed or insured
by any agency
or instrumentality of the Federal Government;
(C) involve a principal obligation not exceeding--
(i) an amount equal to the sum of (I) 97 percent of $25,000 of
the appraised
value of the property, as of the date the loan is accepted for
guarantee,
and (II) 95 percent of such value in excess of $25,000; and
(ii) the amount approved by the Secretary under this section;
and
(D) involve a payment on account of the property (i) in cash
or its
equivalent, or (ii) through the value of any improvements to
the property
made through the skilled or unskilled labor of the borrower,
as the
Secretary shall provide.
(c) CERTIFICATE OF GUARANTEE-
(1) APPROVAL PROCESS- Before the Secretary approves any loan
for guarantee
under this section, the lender shall submit the application
for the loan
to the Secretary for examination. If the Secretary approves
the loan for
guarantee, the Secretary shall issue a certificate under this paragraph as evidence of the guarantee.

(2) STANDARD FOR APPROVAL- The Secretary may approve a loan for guarantee under this section and issue a certificate under this paragraph only if the Secretary determines there is a reasonable prospect of repayment of the loan.

(3) EFFECT- A certificate of guarantee issued under this paragraph by the Secretary shall be conclusive evidence of the eligibility of the loan for guarantee under the provisions of this section and the amount of such guarantee. Such evidence shall be incontestable in the hands of the bearer and the full faith and credit of the United States is pledged to the payment of all amounts agreed to be paid by the Secretary as security for such obligations.

(4) FRAUD AND MISREPRESENTATION- This subsection may not be construed to preclude the Secretary from establishing defenses against the original lender based on fraud or material misrepresentation or to bar the Secretary from establishing by regulations in effect on the date of issuance or disbursement, whichever is earlier, partial defenses to the amount payable on the guarantee.

(d) GUARANTEE FEE- The Secretary shall fix and collect a guarantee fee for the guarantee of loans under this section, which may not exceed the amount equal to 1 percent of the principal obligation of the loan. The fee shall be paid by the lender at time of issuance of the guarantee and shall be adequate, in the determination of the Secretary, to cover expenses and probable losses. The Secretary shall deposit any fees collected under this subsection in the Indian Housing Loan Guarantee Fund established under
subsection (i).

(e) LIABILITY UNDER GUARANTEE— The liability under a guarantee provided under this section shall decrease or increase on a pro rata basis according to any decrease or increase in the amount of the unpaid obligation under the provisions of the loan agreement.

(f) TRANSFER AND ASSUMPTION— Notwithstanding any other provision of law, any loan guaranteed under this section, including the security given for the loan, may be sold or assigned by the lender to any financial institution subject to examination and supervision by an agency of the Federal Government or of any State or the District of Columbia.

(g) DISQUALIFICATION OF LENDERS AND CIVIL MONEY PENALTIES—

(1) IN GENERAL— If the Secretary determines that any lender or holder of a guarantee certificate under subsection (c) has failed to maintain adequate accounting records, to adequately service loans guaranteed under this section, to exercise proper credit or underwriting judgment, or has engaged in practices otherwise detrimental to the interest of a borrower or the United States, the Secretary may—

(A) refuse, either temporarily or permanently, to guarantee any further loans made by such lender or holder;

(B) bar such lender or holder from acquiring additional loans guaranteed under this section; and

(C) require that such lender or holder assume not less than 10 percent of any loss on further loans made or held by the lender or holder that are guaranteed under this section.

(2) CIVIL MONEY PENALTIES FOR INTENTIONAL VIOLATIONS— If the Secretary determines that any lender or holder of a guarantee certificate under subsection (c) has intentionally failed to maintain adequate accounting
records, to adequately service loans guaranteed under this section, or to
exercise proper credit or underwriting judgment, the Secretary may impose
a civil money penalty on such lender or holder in the manner and amount
provided under section 536 of the National Housing Act with respect to
mortgagees and lenders under such Act.
(3) PAYMENT ON LOANS MADE IN GOOD FAITH- Notwithstanding paragraphs (1)
and (2), the Secretary may not refuse to pay pursuant to a valid guarantee
on loans of a lender or holder barred under this subsection if the loans
were previously made in good faith.
(h) PAYMENT UNDER GUARANTEE-
(1) LENDER OPTIONS-
(A) IN GENERAL- In the event of default by the borrower on a loan guaranteed
under this section, the holder of the guarantee certificate shall provide
written notice of the default to the Secretary. Upon providing such notice,
the holder of the guarantee certificate shall be entitled to payment under
the guarantee (subject to the provisions of this section) and may proceed
to obtain payment in one of the following manners:
(1) FORECLOSURE- The holder of the certificate may initiate foreclosure
proceedings in a court of competent jurisdiction (after providing written
notice of such action to the Secretary) and upon a final order by the court
authorizing foreclosure and submission to the Secretary of a claim for
payment under the guarantee, the Secretary shall pay to the holder of the
certificate the pro rata portion of the amount guaranteed (as determined
pursuant to subsection (e)) plus reasonable fees and expenses as approved
by the Secretary. The Secretary shall be subrogated to the rights of the
holder of the guarantee and the lender holder shall assign the obligation
(ii) NO FORECLOSURE- Without seeking a judicial foreclosure (or in any case in which a foreclosure proceeding initiated under clause (i) continues for a period in excess of 1 year), the holder of the guarantee may submit to the Secretary a claim for payment under the guarantee and the Secretary shall only pay to such holder for a loss on any single loan an amount equal to 90 percent of the pro rata portion of the amount guaranteed (as determined under subsection (e)). The Secretary shall be subrogated to the rights of the holder of the guarantee and the holder shall assign the obligation and security to the Secretary.

(B) REQUIREMENTS- Before any payment under a guarantee is made under subparagraph (A), the holder of the guarantee shall exhaust all reasonable possibilities of collection. Upon payment, in whole or in part, to the holder, the note or judgment evidencing the debt shall be assigned to the United States and the holder shall have no further claim against the borrower or the United States. The Secretary shall then take such action to collect as the Secretary determines appropriate.

(2) ASSIGNMENT BY SECRETARY- Notwithstanding paragraph (1), upon receiving notice of default on a loan guaranteed under this section from the holder of the guarantee, the Secretary may accept assignment of the loan if the Secretary determines that the assignment is in the best interests of the United States. Upon assignment the Secretary shall pay to the holder of the guarantee the pro rata portion of the amount guaranteed (as determined under subsection (e)). The Secretary shall be subrogated to the rights of the holder of the guarantee and the holder shall assign the obligation
and security to the Secretary.

(3) LIMITATIONS ON LIQUIDATION- In the event of a default by the borrower on a loan guaranteed under this section involving a security interest in tribal allotted or trust land, the Secretary shall only pursue liquidation after offering to transfer the account to an eligible tribal member, the tribe, or the Indian housing authority serving the tribe or tribes. If the Secretary subsequently proceeds to liquidate the account, the Secretary shall not sell, transfer, or otherwise dispose of or alienate the property except to one of the entities described in the preceding sentence.

(i) INDIAN HOUSING LOAN GUARANTEE FUND-

(1) ESTABLISHMENT- There is established in the Treasury of the United States the Indian Housing Loan Guarantee Fund for the purpose of providing loan guarantees under this section.

(2) CREDITS- The Guarantee Fund shall be credited with--
(A) any amounts, claims, notes, mortgages, contracts, and property acquired by the Secretary under this section, and any collections and proceeds therefrom;
(B) any amounts appropriated under paragraph (7);
(C) any guarantee fees collected under subsection (d); and
(D) any interest or earnings on amounts invested under paragraph (4).

(3) USE- Amounts in the Guarantee Fund shall be available, to the extent provided in appropriation Acts, for--
(A) fulfilling any obligations of the Secretary with respect to loans guaranteed under this section, including the costs (as such term is defined in section 502 of the Congressional Budget Act of 1974) of such loans;
(B) paying taxes, insurance, prior liens, expenses necessary to make fiscal adjustment in connection with the application and transmittal of
collections, and other expenses and advances to protect the
Secretary for
loans which are guaranteed under this section or held by the
Secretary;
(C) acquiring such security property at foreclosure sales or
otherwise;
(D) paying administrative expenses in connection with this
section; and
(E) reasonable and necessary costs of rehabilitation and
repair to properties
that the Secretary holds or owns pursuant to this section.
(4) INVESTMENT- Any amounts in the Guarantee Fund determined
by the
Secretary to be in excess of amounts currently required to
carry out this
section may be invested in obligations of the United States.
(5) LIMITATION ON COMMITMENTS TO GUARANTEE LOANS AND
MORTGAGES-
(A) REQUIREMENT OF APPROPRIATIONS- The authority of the
Secretary to enter
into commitments to guarantee loans under this section shall
be effective
for any fiscal year only to the extent or in such amounts as
are or have
been provided in appropriations Acts for such fiscal year.
(B) LIMITATIONS ON COSTS OF GUARANTEES- The authority of the
Secretary
to enter into commitments to guarantee loans under this
section shall
be effective for any fiscal year only to the extent that
amounts in the
Guarantee Fund are or have been made available in
appropriation Acts to
cover the costs (as such term is defined in section 502 of the
Congressional
Budget Act of 1974) of such loan guarantees for such fiscal
year.
(C) LIMITATION ON OUTSTANDING AGGREGATE PRINCIPAL AMOUNT-
Subject to the
limitations in subparagraphs (A) and (B), the Secretary may
enter into
commitments to guarantee loans under this section in each of
fiscal years
1993 and 1994 with an aggregate outstanding principal amount
not exceeding
such amount as may be provided in appropriation Acts for each
such year.
(6) LIABILITIES—All liabilities and obligations of the assets credited to the Guarantee Fund under paragraph (2)(A) shall be liabilities and obligations of the Guarantee Fund.

(7) AUTHORIZATION OF APPROPRIATIONS—There are authorized to be appropriated to the Guarantee Fund to carry out this section such sums as may be necessary for fiscal year 1993 and $50,000,000 for fiscal year 1994.

(j) REQUIREMENTS FOR STANDARD HOUSING—The Secretary shall, by regulation, establish housing safety and quality standards for use under this section. Such standards shall provide sufficient flexibility to permit the use of various designs and materials in housing acquired with loans guaranteed under this section. The standards shall require each dwelling unit in any housing so acquired to—

1. be decent, safe, sanitary, and modest in size and design;
2. conform with applicable general construction standards for the region;
3. contain a heating system that—
   A. has the capacity to maintain a minimum temperature in the dwelling of 65 degrees Fahrenheit during the coldest weather in the area;
   B. is safe to operate and maintain;
   C. delivers a uniform distribution of heat; and
   D. conforms to any applicable tribal heating code or, if there is no applicable tribal code, an appropriate county, State, or National code;
4. contain a plumbing system that—
   A. uses a properly installed system of piping;
   B. includes a kitchen sink and a partitional bathroom with lavatory, toilet, and bath or shower; and
   C. uses water supply, plumbing, and sewage disposal systems that conform to any applicable tribal code or, if there is no applicable tribal code, the minimum standards established by the applicable county or State;
(5) contain an electrical system using wiring and equipment properly
    installed to safely supply electrical energy for adequate lighting and
    for operation of appliances that conforms to any applicable tribal code
    or, if there is no applicable tribal code, an appropriate county, State,
    or National code;
(6) be not less than--
    (A)(i) 570 square feet in size, if designed for a family of not more than
        4 persons;
    (ii) 850 square feet in size, if designed for a family of not less than
        5 and not more than 7 persons; and
    (iii) 1020 square feet in size, if designed for a family of not less than
        8 persons, or
    (B) the size provided under the applicable locally adopted standards for
        size of dwelling units;
except that the Secretary, upon the request of a tribe or Indian housing
authority, may waive the size requirements under this paragraph; and
(7) conform with the energy performance requirements for new construction
    established by the Secretary under section 526(a) of the National Housing
    Act.
(k) DEFINITIONS- For purposes of this section:
    (1) The term `family' means 1 or more persons maintaining a household,
        as the Secretary shall by regulation provide.
    (2) The term `Guarantee Fund' means the Indian Housing Loan Guarantee Fund
        established under subsection (i).
    (3) The term `Indian' means person recognized as being Indian or Alaska
        Native by an Indian tribe, the Federal Government, or any State.
    (4) The term `Indian area' means the area within which an Indian housing
        authority is authorized to provide housing.
    (5) The term `Indian housing authority' means any entity that-
(A) is authorized to engage in or assist in the development or operation of low-income housing for Indians; and
(B) is established--
   (i) by exercise of the power of self-government of an Indian tribe independent of State law; or
   (ii) by operation of State law providing specifically for housing authorities for Indians, including regional housing authorities in the State of Alaska.
(6) The term `Secretary' means the Secretary of Housing and Urban Development.
(7) The term `standard housing' means a dwelling unit or housing that complies with the requirements established under subsection (j).
(8) The term `tribe' means any tribe, band, pueblo, group, community, or nation of Indians or Alaska Natives.
(9) The term `trust land' means land title to which is held by the United States for the benefit of an Indian or Indian tribe or title to which is held by an Indian tribe subject to a restriction against alienation imposed by the United States.