by Pub. L. 104–110, title II, § 201(b), Feb. 13, 1996, 110 Stat. 770.

AUTHORIZATION OF APPROPRIATIONS FOR NATIVE AMERICAN VETERAN HOUSING LOANS

Pub. L. 102–547, § 8(e), Oct. 28, 1992, 106 Stat. 3640, provided that: ''New direct loan obligations for Native American veteran housing loans under subchapter V of chapter 37 of title 38, United States Code (as added by subsection (a)), may be incurred only to the extent that appropriations of budget authority to cover the anticipated cost, as defined in section 502 of the Congressional Budget Act of 1974 [2 U.S.C. 661a], for such loans are made in advance. There is authorized to be appropriated for such purpose $5,000,000 for fiscal year 1993, which amount shall remain available without fiscal year limitation.''

§ 3762. Direct housing loans to Native American veterans; program administration

(a) The Secretary may make a direct housing loan to a Native American veteran under this subchapter if—

(1)(A) the Secretary has entered into a memorandum of understanding with respect to such loans with the tribal organization that has jurisdiction over the veteran; or

(B) the tribal organization that has jurisdiction over the veteran has entered into a memorandum of understanding with any department or agency of the United States with respect to direct housing loans to Native Americans that the Secretary determines substantially complies with the requirements of subsection (b); and

(2) the memorandum is in effect when the loan is made.

(b)(1) Subject to paragraph (2), the Secretary shall ensure that each memorandum of understanding that the Secretary enters into with a tribal organization shall provide for the following:

(A) That each Native American veteran who is under the jurisdiction of the tribal organization and to whom the Secretary makes a direct loan under this subchapter—

(i) holds, possesses, or purchases using the proceeds of the loan a meaningful interest in a lot or dwelling (or both) that is located on trust land; and

(ii) will purchase, construct, or improve (as the case may be) a dwelling on the lot using the proceeds of the loan.

(B) That each such Native American veteran will convey to the Secretary by an appropriate instrument the interest referred to in subparagraph (A) as security for a direct housing loan under this subchapter.

(C) That the tribal organization and each such Native American veteran will permit the Secretary to enter upon the trust land of that organization or veteran for the purposes of carrying out such actions as the Secretary determines are necessary—

(i) to evaluate the advisability of the loan; and

(ii) to monitor any purchase, construction, or improvements carried out using the proceeds of the loan.

(D) That the tribal organization has established standards and procedures that apply to the foreclosure of the interest conveyed by a Native American veteran pursuant to subparagraph (B), including—

(i) procedures for foreclosing the interest; and

(ii) procedures for the resale of the lot or the dwelling (or both) purchased, constructed, or improved using the proceeds of the loan.

(E) That the tribal organization agrees to such other terms and conditions with respect to the making of direct loans to Native American veterans under the jurisdiction of the tribal organization as the Secretary may require in order to ensure that loans under this subchapter are made in a responsible and prudent manner.

(2) The Secretary may not enter into a memorandum of understanding with a tribal organization under this subsection unless the Secretary determines that the memorandum provides for such standards and procedures as are necessary for the reasonable protection of the financial interests of the United States.

(c)(1)(A) Except as provided in subparagraph (B), the principal amount of any direct housing loan made to a Native American veteran under this section may not exceed $80,000.

(B)(i) Subject to clause (ii), the Secretary may make loans exceeding the amount specified in subparagraph (A) in a geographic area if the Secretary determines that housing costs in the area are significantly higher than average housing costs nationwide. The amount of such increase shall be the amount that the Secretary determines is necessary in order to make direct housing loans under this subchapter to Native American veterans who are located in a variety of geographic areas and in geographic areas experiencing a variety of economic conditions.

(ii) The amount of a loan made by the Secretary under this subchapter may not exceed the maximum loan amount authorized for loans guaranteed under section 3703(a)(1)(C) of this title.

(2) Loans made under this section shall bear interest at a rate determined by the Secretary, which rate may not exceed the appropriate rate authorized for guaranteed loans under section 3703(c)(1) or section 3712(f) of this title, and shall be subject to such requirements or limitations prescribed for loans guaranteed under this title as the Secretary may prescribe.

(3) Notwithstanding section 3704(a) of this title, the Secretary shall establish minimum requirements for planning, construction, improvement, and general acceptability relating to any direct loan made under this section.

(d)(1) The Secretary shall establish credit underwriting standards to be used in evaluating loans made under this subchapter. In establishing such standards, the Secretary shall take into account the purpose of this program to make available housing to Native American veterans living on trust lands.

(2) The Secretary shall determine the reasonable value of the interest in property that will serve as security for a loan made under this section and shall establish procedures for appraisals upon which the Secretary may base such de-

terminations. The procedures shall incorporate generally the relevant requirements of section 3731 of this title, unless the Secretary determines that such requirements are impracticable to implement in a geographic area, on particular trust lands, or under circumstances specified by the Secretary.

(e) Loans made under this section shall be repaid in monthly installments.

(f) In connection with any loan under this section, the Secretary may make advances in cash to provide for repairs, alterations, and improvements and to meet incidental expenses of the loan transaction. The Secretary shall determine the amount of any expenses incident to the origination of loans made under this section, which expenses, or a reasonable flat allowance in lieu thereof, shall be paid by the veteran in addition to the loan closing costs.

(g) Without regard to any provision of this chapter (other than a provision of this section), the Secretary may—

(1) take any action that the Secretary determines to be necessary with respect to the custody, management, protection, and realization or sale of investments under this section;

(2) determine any necessary expenses and expenditures and the manner in which such expenses and expenditures shall be incurred, allowed, and paid;

(3) make such rules, regulations, and orders as the Secretary considers necessary for carrying out the Secretary's functions under this section; and

(4) in a manner consistent with the provisions of this chapter and with the Secretary's functions under this subchapter, employ, utilize, and compensate any persons, organizations, or departments or agencies (including departments and agencies of the United States) designated by the Secretary to carry out such functions.

(h)(1) The Secretary may make direct loans to Native American veterans in order to enable such veterans to refinance existing loans made under this section.

(2)(A) The Secretary may not make a loan under this subsection unless the loan meets the requirements set forth in subparagraphs (B), (C), and (E) of paragraph (1) of section 3710(e) of this title.

(B) The Secretary may not make a loan under this subsection unless the loan will bear an interest rate at least one percentage point less than the interest rate borne by the loan being refinanced.

(C) Paragraphs (2) and (3) of such section 3710(e) shall apply to any loan made under this subsection, except that for the purposes of this subsection the reference to subsection (a)(8) of section 3710 of this title in such paragraphs (2) and (3) shall be deemed to be a reference to this subsection.

(i)(1) The Secretary shall, in consultation with tribal organizations (including the National Congress of American Indians and the National American Indian Housing Council), carry out an outreach program to inform and educate Native American veterans of the availability of direct housing loans for Native American veterans who live on trust lands.

(2) Activities under the outreach program shall include the following:

(A) Attending conferences and conventions conducted by the National Congress of American Indians in order to work with the National Congress in providing information and training to tribal organizations and Native American veterans regarding the availability of housing benefits under this subchapter and in assisting such organizations and veterans with respect to such housing benefits.

(B) Attending conferences and conventions conducted by the National American Indian Housing Council in order to work with the Housing Council in providing information and training to tribal organizations and tribal housing entities regarding the availability of such benefits.

(C) Attending conferences and conventions conducted by the Department of Hawaiian Homelands in order to work with the Department of Hawaiian Homelands in providing information and training to tribal housing entities in Hawaii regarding the availability of such benefits.

(D) Producing and disseminating information to tribal governments, tribal veterans service organizations, and tribal organizations regarding the availability of such benefits.

(E) Assisting tribal organizations and Native American veterans with respect to such benefits.

(F) Outstationing loan guarantee specialists in tribal facilities on a part-time basis if requested by the tribal government.

(j) The Secretary shall include as part of the annual benefits report of the Veterans Benefits Administration information concerning the cost and number of loans provided under this subchapter for the fiscal year covered by the report.

(Added Pub. L. 102–547, § 8(a), Oct. 28, 1992, 106 Stat. 3637; amended Pub. L. 104–275, title II, § 202(a), Oct. 9, 1996, 110 Stat. 3330; Pub. L. 105–114, title II, § 201(b), (c), Nov. 21, 1997, 111 Stat. 2282, 2283; Pub. L. 107–103, title IV, § 402(b), (c), Dec. 27, 2001, 115 Stat. 993; Pub. L. 109–233, title I, § 103(b), (c)(1), (d), (e), (f)(3), June 15, 2006, 120 Stat. 400, 401.)

AMENDMENTS

2006—Pub. L. 109–233, § 103(f)(3), amended section catchline generally, substituting ''Direct housing loans to Native American veterans; program administration'' for ''Direct housing loans to Native American veterans''.

Subsec. (a). Pub. L. 109–233, § 103(c)(1)(A), inserted ''under this subchapter'' after ''to a Native American veteran'' in introductory provisions.

Subsec. (b)(1)(E). Pub. L. 109–233, § 103(c)(1)(B), substituted ''loans under this subchapter are made'' for ''the pilot program established under this subchapter is implemented''.

Subsec. (c)(1)(A). Pub. L. 109–233, § 103(e), inserted ''veteran'' after ''Native American''.

Subsec. (c)(1)(B). Pub. L. 109–233, § 103(c)(1)(C), (d), designated existing provisions as cl. (i), substituted ''Subject to clause (ii), the'' for ''The'' after cl. (i) designation, substituted ''make direct housing loans under this subchapter'' for ''carry out the pilot program under this subchapter in a manner that demonstrates the advisability of making direct housing loans'', and added cl. (ii).

Subsec. (i)(1). Pub. L. 109–233, § 103(c)(1)(D)(i), struck out ''the pilot program provided for under this sub-

chapter and'' after ''educate Native American veterans of''.

Subsec. (i)(2)(A), (E). Pub. L. 109–233, § 103(c)(1)(D)(ii), (iii), substituted ''under this subchapter and in assisting such organizations and veterans with respect to such housing benefits'' for ''under the pilot program and in assisting such organizations and veterans in participating in the pilot program'' in subpar. (A) and ''with respect to such benefits'' for ''in participating in the pilot program'' in subpar. (E).

Subsec. (j). Pub. L. 109–233, § 103(b), amended subsec. (j) generally. Prior to amendment, subsec. (j) related to the Secretary's transmittal to the Committees on Veterans' Affairs of the Senate and House of Representatives of an annual report relating to the implementation of the Native American veteran housing loan pilot program.

2001—Subsec. (a)(1). Pub. L. 107–103, § 402(b), designated existing provisions as subpar. (A), substituted ''; or'' for ''; and'', and added subpar. (B).

Subsec. (j). Pub. L. 107–103, § 402(c), substituted ''2006'' for ''2002'' in introductory provisions.

1997—Subsec. (i). Pub. L. 105–114, § 201(b), designated existing provisions as par. (1), inserted '', in consultation with tribal organizations (including the National Congress of American Indians and the National American Indian Housing Council),'' after ''the Secretary shall'', struck out ''tribal organizations and'' after ''educate'', and added par. (2).

Subsec. (j). Pub. L. 105–114, § 201(c), added subsec. (j).

1996—Subsecs. (h), (i). Pub. L. 104–275 added subsec. (h) and redesignated former subsec. (h) as (i).

§ 3763. Native American Veteran Housing Loan Program Account

(a) There is hereby established in the Treasury of the United States an account known as the ''Native American Veteran Housing Loan Program Account'' (hereinafter in this subchapter referred to as the ''Account'').

(b) The Account shall be available to the Secretary to carry out all operations relating to the making of direct housing loans to Native American veterans under this subchapter, including any administrative expenses relating to the making of such loans. Amounts in the Account shall be available without fiscal year limitation.

(Added Pub. L. 102–547, § 8(a), Oct. 28, 1992, 106 Stat. 3639; amended Pub. L. 105–368, title VI, § 602(e)(3)(B), Nov. 11, 1998, 112 Stat. 3347; Pub. L. 107–14, § 8(a)(16), June 5, 2001, 115 Stat. 35.)

AMENDMENTS

2001—Subsec. (a). Pub. L. 107–14 substituted ''hereinafter'' for ''hereafter''.

1998—Pub. L. 105–368 substituted ''Native American Veteran Housing Loan Program Account'' for ''Housing loan program account'' in section catchline.

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–368 effective Oct. 1, 1998, see section 602(f) of Pub. L. 105–368, set out as a note under section 2106 of this title.

§ 3764. Qualified non-Native American veterans

(a) TREATMENT OF NON-NATIVE AMERICAN VETERANS.—Subject to the succeeding provisions of this section, for purposes of this subchapter—

(1) a qualified non-Native American veteran is deemed to be a Native American veteran; and

(2) for purposes of applicability to a non-Native American veteran, any reference in this subchapter to the jurisdiction of a tribal organization over a Native American veteran is deemed to be a reference to jurisdiction of a tribal organization over the Native American spouse of the qualified non-Native American veteran.

(b) USE OF LOAN.—In making direct loans under this subchapter to a qualified non-Native American veteran by reason of eligibility under subsection (a), the Secretary shall ensure that the tribal organization permits, and the qualified non-Native American veteran actually holds, possesses, or purchases, using the proceeds of the loan, jointly with the Native American spouse of the qualified non-Native American veteran, a meaningful interest in the lot, dwelling, or both, that is located on trust land.

(c) RESTRICTIONS IMPOSED BY TRIBAL ORGANIZATIONS.—Nothing in subsection (b) shall be construed as precluding a tribal organization from imposing reasonable restrictions on the right of the qualified non-Native American veteran to convey, assign, or otherwise dispose of such interest in the lot or dwelling, or both, if such restrictions are designed to ensure the continuation in trust status of the lot or dwelling, or both. Such requirements may include the termination of the interest of the qualified non-Native American veteran in the lot or dwelling, or both, upon the dissolution of the marriage of the qualified non-Native American veteran to the Native American spouse.

(Added Pub. L. 109–233, title I, § 104(a)(2), June 15, 2006, 120 Stat. 401.)

PRIOR PROVISIONS

A prior section 3764 was renumbered section 3765 of this title.

§ 3765. Definitions

For the purposes of this subchapter—

(1) The term ''trust land'' means any land that—

(A) is held in trust by the United States for Native Americans;

(B) is subject to restrictions on alienation imposed by the United States on Indian lands (including native Hawaiian homelands);

(C) is owned by a Regional Corporation or a Village Corporation, as such terms are defined in section 3(g) and 3(j) of the Alaska Native Claims Settlement Act, respectively (43 U.S.C. 1602(g), (j)); or

(D) is on any island in the Pacific Ocean if such land is, by cultural tradition, communally-owned land, as determined by the Secretary.

(2) The term ''Native American veteran'' means any veteran who is a Native American.

(3) The term ''Native American'' means—

(A) an Indian, as defined in section 4(d) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b(d));

(B) a native Hawaiian, as that term is defined in section 201(a)(7) of the Hawaiian Homes Commission Act, 1920 (Public Law 67–34; 42 Stat. 108);

(C) an Alaska Native, within the meaning provided for the term ''Native'' in section 3(b) of the Alaska Native Claims Settlement Act (43 U.S.C. 1602(b)); and