

## **§ 101.8**

amended June 25, 1910, chapter 431, section 25 (36 Stat. 861).

[40 FR 3587, Jan. 23, 1975. Redesignated at 47 FR 13327, Mar. 30, 1982, as amended at 54 FR 34975, Aug. 23, 1989]

### **§ 101.8 Environmental and Flood Disaster Acts.**

Loans will not be approved until there is assurance of compliance with any applicable provisions of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234, 87 Stat. 975), the National Environmental Policy Act of 1969 (Pub. L. 91-190), (42 U.S.C. 4321) and Executive Order 11514.

### **§ 101.9 Preservation of historical and archeological data.**

(a) On United States direct loans from the revolving loan fund and modifications thereof to provide additional loan funds which will involve excavations, road or street construction, land development or disturbance of land on known or reported historical or archeological sites, the Commissioner will take or require appropriate action to assure compliance with the applicable provisions of the Act of June 27, 1960 (74 Stat. 220; (16 U.S.C. 469)), as amended by the Act of May 24, 1974 (Pub. L. 93-291, 88 Stat. 174).

(b) On loans made by relending organizations conducting a relending program using revolving loan funds, the body authorized to act on loan applications and modifications thereof will, at the time of taking action on a loan or request for modification, inform the applicant of the applicability of this Act to the loan and advise the Commissioner of compliance or the need to obtain compliance.

### **§ 101.10 Federal Reserve Regulation Z and Fair Credit Reporting Act.**

(a) United States direct loans and loans made by a relending organization are subject to the provisions of Federal Reserve Regulation Z (Truth In Lending, 12 CFR part 226; Pub. L. 91-508, 84 Stat. 1127). Economic enterprises which extend credit and require payment of finance charges on unpaid balances will determine the applicability of Regulation Z and comply with the requirements thereof. The Commissioner will issue any necessary instructions to as-

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sure compliance with Regulation Z on United States direct loans.

(b) Relending organizations, through their committee or other body authorized to act on loan matters on its behalf, will assure compliance with the applicable provisions of this Act.

(c) The Commissioner will require adherence to the provisions and requirements of title VI of the Fair Credit Reporting Act in making United States direct loans. Relending organizations, through the body authorized to act on credit matters, will require compliance with the requirements of the Fair Credit Reporting Act.

### **§ 101.11 Interest.**

(a) The interest to be charged on loans by the United States shall be at a rate determined by the Secretary of the Treasury in accordance with section 104, title I, of the Indian Financing Act of 1974 (Pub. L. 93-262, 88 Stat. 77). The interest rate shall be determined monthly and shall be effective on advances made on loans during the current calendar month. The interest rate shall be stated in the promissory note(s) executed by the borrower(s) evidencing the advance(s).

(b) Additional charges to cover loan administration costs, including credit reports, may be charged to borrowers.

(c) Education loans may provide for deferral of interest while the borrower is in school full time or in the military service.

(d) The interest rate on loans made by relending organizations which are conducting relending programs shall not be less than the rate the organization pays on its loan(s) from the United States. Relending organizations which adopt and follow the same procedure in calculating interest on educational loans as is followed on educational loans made by the United States, will not be charged interest on loans from the United States on the amount outstanding on educational loans during the period the organization is not charging its borrowers interest.

(e) Interest rates on loan advances made by the United States as shown on promissory notes dated before April 12, 1974, will remain in effect until the loan is paid in full, refinanced, or modified to extend the repayment

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terms. Unless otherwise specifically provided in a loan contract, the interest rate on advances made after April 12, 1974, will be at a rate determined pursuant to section 104 of title I of the Indian Financing Act of 1974. The interest rate on loans for expert assistance will be at a rate established in § 101.25 herein.

[40 FR 3587, Jan. 23, 1975. Redesignated at 47 FR 13327, Mar. 30, 1982, as amended at 57 FR 46472, Oct. 8, 1992]

### § 101.12 Records and reports.

Loan agreements between the United States and tribes, corporations, partnerships, cooperative associations and individual Indians for financing economic enterprises, and to relending organizations, will require that borrowers establish and maintain accounting and operating records that are satisfactory to the Commissioner and submit written reports as required by the Commissioner. The records, accounts, and loan files shall be available for examination and audit by the Commissioner at any reasonable time. Unless an exception is approved by the Commissioner, borrowers will be required to have an annual audit made of the records of relending programs and economic enterprises financed with revolving loan funds, by a certified public accountant or a firm of certified public accountants satisfactory to the Commissioner.

### § 101.13 Security.

(a) United States direct loans shall be secured by such security as the Commissioner may require. A lack of security will not preclude the making of a loan if the proposed use of the funds is sound and the information in the application and supporting papers correctly show that expected income will be adequate to pay all expenses and the loan principal and interest payments, indicating reasonable assurance that the loan will be repaid. Loans made by relending organizations conducting a relending program using revolving loan funds will require borrowers to give security for loans, if available, but the absence of security will not preclude the making of a loan if the proposed use of the funds is

sound and the information in the application and supporting papers correctly show that expected income will be adequate to pay all expenses and the loan principal and interest payments, indicating reasonable assurance that the loan will be repaid. The declaration of policy and plan of operation of relending organizations conducting relending programs will include provisions covering the type and amount of security to be taken to secure loans made.

(b) Land purchased by an individual Indian with the proceeds of a loan and land already held in trust or restricted status by the individual Indian may be mortgaged as security for a loan in accordance with 25 CFR 152.34 and the Act of March 29, 1956 (70 Stat. 62; (25 U.S.C. 483a)). Mortgages of individually held trust or restricted land will include only an acreage of the borrower's land which the Commissioner determines is necessary to protect the loan in case of default. On proposed foreclosures which involve the sale of individually held trust or restricted land given as security for a loan, the tribe of the reservation on which the land is located will be notified in writing at least thirty calendar days in advance of the anticipated date of sale. Land purchased by a tribe with the proceeds of a loan from the revolving loan fund with title taken in a trust or restricted status, and land already held in a trust or restricted status by a tribe may not be mortgaged as security for a loan.

(1) Title to any land purchased by a tribe or by an individual Indian with revolving loan funds may be taken in trust or restricted status unless the land is located outside the boundaries of a reservation or a tribal consolidation area approved by the Secretary. Title to any land purchased by a tribe or an individual Indian which is outside the boundaries of a reservation or approved consolidation area may be taken in trust if the purchaser was the owner of trust or restricted interests in the land before the purchase. Otherwise, title shall be taken in the name of the purchaser without any restrictions on alienation, control, or use.

(c) Mortgages of leasehold interests in land held in trust or restricted status by an individual Indian, may be