

§ 101.16

25 CFR Ch. I (4-1-03 Edition)

(d) Declare the entire amount advanced immediately due and payable.

(e) Prevent further disbursement of credit funds under the control of the borrower.

(f) Withdraw any unobligated funds from the borrower.

(g) Require relending organizations conducting a relending program to apply all collections on loans to liquidate the debt to the United States.

(h) Take possession of the assets of a relending organization conducting a relending program and exercise or arrange to exercise its powers until the Commissioner has received acceptable assurance of its repayment of the revolving loan and compliance with the provisions of the terms of the loan agreement.

(i) Liquidate, operate or arrange for the operation of economic enterprises financed with revolving loans made to individuals, tribes, corporations, partnerships and cooperative associations until the indebtedness is paid or until the Commissioner has received acceptable assurance of its repayment and compliance with the terms of the loan agreement.

(j) Report the name and account information of a delinquent borrower to a credit bureau.

(k) Assess additional interest and penalty charges for the period of time that payment is not made.

(l) Assess charges to cover additional administrative costs incurred by the Government to service the account.

(m) Offset amounts owed the borrower under other Federal programs including other programs administered by the Bureau of Indian Affairs.

(n) Refer the account to a private collection agency to collect the amount due.

(o) Refer the account to the U.S. Department of Justice for collection by litigation.

(p) If the borrower is a current or retired Federal employee, take action to offset the borrower's salary or civil service retirement benefits.

(q) Refer the debt to the Internal Revenue Service for offset against any amount owed the borrower as an income tax refund.

(r) Report any written-off debt to the Internal Revenue Service as taxable income to the borrower.

(s) Recommend suspension or debarment from conducting further business with the Federal Government.

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

§ 101.16 Default on loans made by relending organizations.

Relending organizations conducting relending programs using revolving loan funds will follow prudent lending practices in making and servicing loans and take appropriate actions to protect their interests in the security given to secure repayment of loans. Declarations of policy and plans of operation shall include procedures which will be followed in acting to correct a default, such as modification of loan agreement or foreclosure and liquidation of security. Relending organizations employing a general counsel will refer legal questions on foreclosure procedures and sale of security to their counsel.

§ 101.17 Uncollectable loans made by the United States.

If the Secretary determines that a United States direct loan is uncollectable in whole or in part or is collectable only at an unreasonable cost, or when such action would be in the best interest of the United States, the Secretary may cancel, adjust, compromise, or reduce the amount of any loan made from the revolving loan fund. The Commissioner may adjust, compromise, subordinate, or modify the terms of any mortgage, lease, assignment, contract, agreement, or other document taken as security for loans. The cancellation of all or part of a loan shall become effective when signed by the Secretary.

[54 FR 34975, Aug. 23, 1989]

§ 101.18 Uncollectible loans made by relending organizations.

(a) Relending organizations conducting relending programs using revolving loan funds may, when approved by the Commissioner, chargeoff as uncollectible all or part of the balance of principal and interest owing on

Bureau of Indian Affairs, Interior

§ 101.21

loans which are considered to be uncollectible. Usually a chargeoff includes both principal and interest and provides for cessation of interest accruals on the principal balance owing as of the date of the chargeoff.

(b) Action to chargeoff a loan will be in the form of a resolution enacted by the committee or body authorized and responsible for actions on loan matters for the relending organization. Before action is taken to chargeoff a loan as uncollectible, the lender will make an effort, to the extent feasible, to liquidate the security given for a loan and apply the net proceeds as a repayment on the balance of principal and interest owed. The chargeoff of a loan by a relending organization as uncollectible will not reduce the principal balance owed to the United States. A chargeoff will not release the borrower of the obligation or the responsibility to make payments when his or her financial situation will permit. Chargeoff action will not release the lender of responsibility to continue its efforts to collect the loan.

§ 101.19 Assignment of loans.

A borrower of a direct loan from the United States may not assign the loan agreement or any interest in it to a third party without the consent of the Commissioner. Relending organizations which are conducting relending programs may not assign the loan agreements of borrowers, or any interest therein, to third parties without the approval of the Commissioner and the borrower.

§ 101.20 Relending by borrower.

(a) A relending organization may reloan funds loaned to it by the United States with the approval of the Commissioner. The Commissioner may authorize such lenders to approve applications for particular types of loans up to a specified amount.

(b) Loans shall be secured by such securities as the lender and the Commissioner may require. With the Commissioner's approval, mortgages of individually held trust or restricted land, leasehold interests, chattels, crops grown on trust or restricted land, and assignments of trust income may all be taken as security for loans.

(c) Title to personal property purchased with loans received from relending organizations using revolving loan funds in its relending program shall be taken in the name of the borrower.

(d) The term of a loan made by a relending organization conducting a relending program shall not extend beyond the maturity date of its loan from the United States, unless an exception is approved by the Commissioner and the organization has funds available from which to make scheduled repayment on its loan from the United States. Loans made will be scheduled for repayment at the earliest possible date consistent with the purpose for which a loan is made and the indicated repayment capacity of the borrower.

(e) Securing documents or financing statements shall be filed or recorded in accordance with federal or state law except those customarily filed in Bureau of Indian Affairs offices. Mortgages on documented vessels will be filed at the custom house designated as the home port of the vessel as shown on the marine document.

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

§ 101.21 Repayments on United States direct loans.

Repayments on United States direct loans shall be made to the authorized collection officer of the Bureau of Indian Affairs who shall issue an official receipt for the repayment and deposit the collection into the revolving loan fund. Collections will first be applied to pay interest to date of payment and the balance applied on the principal installment due. Collections on loans made by relending organizations which have been declared in default in which the Commissioner has taken control of the assets of the program (including loans made with balances owing) will be made to an authorized collection officer of the Bureau of Indian Affairs who shall issue a receipt to the payor and deposit the collection in the United States revolving loan fund. The relending organization's loan from the United States will be credited with the amounts collected from its borrowers,