

§ 1005.109

dispose of or alienate the property except to one of these three entities.

(4) *Priority of loan obligation.* Any tribal government whose courts have jurisdiction to hear foreclosures must enact a law providing for the satisfaction of a loan guaranteed or held by the Department before other obligations (other than tribal leasehold taxes against the property assessed after the property is mortgaged) are satisfied.

(5) *Eviction procedures.* Before HUD will guarantee a loan secured by trust land, the tribe having jurisdiction over such property must notify the Department that it has adopted and will enforce procedures for eviction of defaulted mortgagors where the guaranteed loan has been foreclosed.

(i) *Enforcement.* If the Department determines that the tribe has failed to enforce adequately its eviction procedures, HUD will cease issuing guarantees for loans for tribal members except pursuant to existing commitments. Adequate enforcement is demonstrated where prior evictions have been completed within 60 days after the date of the notice by HUD that foreclosure was completed.

(ii) *Review.* If the Department ceases issuing guarantees in accordance with paragraph (b)(5)(i) of this section, HUD will notify the tribe of the reasons for such action and that the tribe may, within 30 days after notification of HUD's action, file a written appeal with the Director, Office of Loan Guarantee (OLG), Office of Native American Programs (ONAP). Within 30 days after notification of an adverse decision by the OLG Director, the tribe may file a written request for review with the Deputy Assistant Secretary for ONAP. Upon notification of an adverse decision by the Deputy Assistant Secretary, the tribe has 30 additional days to file an appeal with the Assistant Secretary for Public and Indian Housing. The determination of the Assistant Secretary shall be final, but the tribe may resubmit the issue to the Assistant Secretary for review at any subsequent time if new evidence or changed circumstances warrant reconsideration. (Any other administrative actions determined to be necessary to debar a tribe from participating in this program will be subject to the formal

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debarment procedures contained in 24 CFR part 24.)

[61 FR 9054, Mar. 6, 1996. Redesignated and amended, respectively, at 63 FR 12349, 12373, Mar. 12, 1998; 63 FR 48991, Sept. 11, 1998; 67 FR 19493, Apr. 19, 2002]

§ 1005.109 What is a guarantee fee?

The lender shall pay to the Department, at the time of issuance of the guarantee, a fee for the guarantee of loans under Section 184, in an amount equal to 1 percent of the principal obligation of the loan. This amount is payable by the borrower at closing.

§ 1005.111 What safety and quality standards apply?

(a) Loans guaranteed under section 184 must be for dwelling units which meet the safety and quality standards set forth in section 184(j).

(b) The relevant requirements of the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. 4821-4846), the Residential Lead-Based Paint Hazard Reduction Act of 1992 (42 U.S.C. 4851-4856), and implementing regulations at part 35, subparts A, B, H, J, K, M, and R of this title apply to this part.

[63 FR 48991, Sept. 11, 1998, as amended at 64 FR 50230, Sept. 15, 1999]

§ 1005.112 How do eligible lenders and eligible borrowers demonstrate compliance with applicable tribal laws?

The lender and the borrower will each certify that they acknowledge and agree to comply with all applicable tribal laws. An Indian tribe with jurisdiction over the dwelling unit does not have to be notified of individual section 184 loans unless required by applicable tribal law.

[63 FR 12373 Mar. 12, 1998, as amended at 63 FR 48991, Sept. 11, 1998]

§ 1005.113 How does HUD enforce lender compliance with applicable tribal laws?

Failure of the lender to comply with applicable tribal law is considered to be a practice detrimental to the interest of the borrower and may be subject to enforcement action(s) under section 184(g) of the statute.

[63 FR 12373 Mar. 12, 1998]