Public Law 93-262

AN ACT

April 12, 1974
[S. 1341]

To provide for financing the economic development of Indians and Indian organizations, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Indian Financing Act of 1974".

Indian Financing Act of 1974.
25 USC 1451 note.

DECLARATION OF POLICY

SEC. 2. It is hereby declared to be the policy of Congress to provide capital on a reimbursable basis to help develop and utilize Indian resources, both physical and human, to a point where the Indians will fully exercise responsibility for the utilization and management of their own resources and where they will enjoy a standard of living from their own productive efforts comparable to that enjoyed by non-Indians in neighboring communities.

25 USC 1451.

DEFINITIONS

SEC. 3. For the purpose of this Act, the term—

25 USC 1452.

(a) "Secretary" means the Secretary of the Interior.

(b) "Indian" means any person who is a member of any Indian tribe, band, group, pueblo, or community which is recognized by the Federal Government as eligible for services from the Bureau of Indian Affairs and any "Native" as defined in the Alaska Native Claims Settlement Act (85 Stat. 688).

43 USC 1602.

(c) "Tribe" means any Indian tribe, band, group, pueblo, or community, including Native villages and Native groups (including corporations organized by Kenai, Juneau, Sitka, and Kodiak) as defined in the Alaska Native Claims Settlement Act, which is recognized by the Federal Government as eligible for services from the Bureau of Indian Affairs.

(d) "Reservation" includes Indian reservations, public domain Indian allotments, former Indian reservations in Oklahoma, and land held by incorporated Native groups, regional corporations, and village corporations under the provisions of the Alaska Native Claims Settlement Act.

(e) "Economic enterprise" means any Indian-owned (as defined by the Secretary of the Interior) commercial, industrial, or business activity established or organized for the purpose of profit: *Provided*, That such Indian ownership shall constitute not less than 51 per centum of the enterprise.

(f) "Organization", unless otherwise specified, shall be the governing body of any Indian tribe, as defined in subsection (c) hereof, or entity established or recognized by such governing body for the purpose of this Act.

(g) "Other organizations" means any non-Indian individual, firm, corporation, partnership, or association.

SEC. 4. No provision of this or any other Act shall be construed to terminate or otherwise curtail the assistance or activities of the Small Business Administration or any other Federal agency with respect to any Indian tribe, organization, or individual because of their eligibility for assistance under this Act.

25 USC 1453.

AUTHENTICATED
U.S. GOVERNMENT
INFORMATION
GPO

TITLE I—INDIAN REVOLVING LOAN FUND

25 USC 1461.

SEC. 101. In order to provide credit that is not available from private money markets, all funds that are now or hereafter a part of the revolving fund authorized by the Act of June 18, 1934 (48 Stat. 986), the Act of June 26, 1936 (49 Stat. 1968), and the Act of April 19, 1950 (64 Stat. 44), as amended and supplemented, including sums received in settlement of debts of livestock pursuant to the Act of May 24, 1950 (64 Stat. 190), and sums collected in repayment of loans heretofore or hereafter made, and as interest or other charges on loans, shall hereafter be administered as a single Indian Revolving Loan Fund. The fund shall be available for loans to Indians having a form of organization that is satisfactory to the Secretary and for loans to individual Indians who are not members of or eligible for membership in an organization which is making loans to its members: *Provided*, That, where the Secretary determines a rejection of a loan application from a member of an organization making loans to its membership from moneys borrowed from the fund is unwarranted, he may, in his discretion, make a direct loan to such individual from the fund. The fund shall also be available for administrative expenses incurred in connection therewith.

25 USC 470.
25 USC 506.
25 USC 634.
25 USC 442, 443.

Economic development, promotion.
25 USC 1462.

SEC. 102. Loans may be made for any purpose which will promote the economic development of (a) the individual Indian borrower, including loans for educational purposes, and (b) the Indian organization and its members including loans by such organizations to other organizations and investments in other organizations regardless of whether they are organizations of Indians: *Provided*, That not more than 50 per centum of loan made to an organization shall be used by such organization for the purpose of making loans to or investments in non-Indian organizations.

25 USC 1463.

SEC. 103. Loans may be made only when, in the judgment of the Secretary, there is a reasonable prospect of repayment, and only to applicants who in the opinion of the Secretary are unable to obtain financing from other sources on reasonable terms and conditions.

Interest rate.
25 USC 1464.

SEC. 104. Loans shall be for terms that do not exceed thirty years and shall bear interest at (a) a rate determined by the Secretary of the Treasury taking into consideration the market yield on municipal bonds: *Provided*, That in no event shall the rate be greater than the rate determined by the Secretary of the Treasury taking into consideration the current average yield on outstanding marketable obligations of the United States of comparable maturity, plus (b) such additional charge, if any, toward covering other costs of the program as the Secretary may determine to be consistent with its purpose: *Provided*, That educational loans may provide for interest to be deferred while the borrower is in school or in the military service.

25 USC 1465.

SEC. 105. The Secretary may cancel, adjust, compromise, or reduce the amount of any loan or any portion thereof heretofore or hereafter made from the revolving loan fund established by this title and its predecessor constituent funds which he determines to be uncollectable in whole or in part, or which is collectable only at an unreasonable cost, or when such action would, in his judgment, be in the best interests of the United States: *Provided*, That proceedings pursuant to this sentence shall be effective only after following the procedure prescribed by the Act of July 1, 1932 (47 Stat. 564, 25 U.S.C. 386a). He may also adjust, compromise, subordinate, or modify the terms of any mortgage, lease, assignment, contract, agreement, or other document taken to secure such loans.

Land title.
25 USC 1466.

SEC. 106. Title to any land purchased by a tribe or by an individual Indian with loans made from the revolving loan fund may be taken

in trust 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 the 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 purchasers without any restriction on alienation, control, or use. Title to any personal property purchased with a loan from the revolving loan fund shall be taken in the name of the purchaser.

SEC. 107. Any organization receiving a loan from the revolving loan fund shall be required to assign to the United States as security for the loan all securities acquired in connection with the loans made to its members from such funds unless the Secretary determines that the repayment of the loan to the United States is otherwise reasonably assured. 25 USC 1467.

SEC. 108. There is authorized to be appropriated, to provide capital and to restore any impairment of capital for the revolving loan fund $50,000,000 exclusive of prior authorizations and appropriations. Appropriation. 25 USC 1468.

SEC. 109. The Secretary shall promulgate rules and regulations to carry out the provisions of this title. Rules and regulations. 25 USC 1469.

TITLE II—LOAN GUARANTY AND INSURANCE

SEC. 201. In order to provide access to private money sources which otherwise would not be available, the Secretary is authorized (a) to guarantee not to exceed 90 per centum of the unpaid principal and interest due on any loan made to any organization of Indians having a form or organization satisfactory to the Secretary, and to individual Indians who are not members of or eligible for membership in an organization which is making loans to its members; and (b) in lieu of such guaranty, to insure loans under an agreement approved by the Secretary whereby the lender will be reimbursed for losses in an amount not to exceed 15 per centum of the aggregate of such loans made by it, but not to exceed 90 per centum of the loss on any one loan. 25 USC 1481.

SEC. 202. The Secretary shall fix such premium charges for the insurance and guarantee of loans as are in his judgment adequate to cover expenses and probable losses, and deposit receipts from such charges in the Indian Loan Guaranty and Insurance Fund established pursuant to section 217(a) of this title. Premium charges. 25 USC 1482.

SEC. 203. Loans guaranteed or insured pursuant to this title shall bear interest (exclusive of premium charges for insurance, and service charge, if any) at rates not to exceed such per centum per annum on the principal obligation outstanding as the Secretary determines to be reasonable taking into consideration the range of interest rates prevailing in the private market for similar loans and the risks assumed by the United States. Interest rate. 25 USC 1483.

SEC. 204. The application for a loan to be guaranteed hereunder shall be submitted to the Secretary for prior approval. Upon approval, the Secretary shall issue a certificate as evidence of the guaranty. Such certificate shall be issued only when, in the judgment of the Secretary, there is a reasonable prospect of repayment. No loan to an individual Indian may be guaranteed or insured which would cause the total unpaid principal indebtedness to exceed $100,000. No loan to an economic enterprise (as defined in section 3) in excess of $100,000, or such lower amount as the Secretary may determine to be appropriate, shall be insured unless prior approval of the loan is obtained from the Secretary. Application. 25 USC 1484.

25 USC 1485.

SEC. 205. Any loan guaranteed hereunder, including the security given therefor, may be sold or assigned by the lender to any financial institution subject to examination and supervision by an agency of the United States or of any State or the District of Columbia.

25 USC 1486.

SEC. 206. Loans made by any agency or instrumentality of the Federal Government, or by an organization of Indians from funds borrowed from the United States, and loans the interest on which is not included in gross income for the purposes of chapter 1 of the Internal Revenue Code of 1954, as amended, shall not be eligible for guaranty or insurance hereunder.

26 USC 1 *et seq.*

25 USC 1487.

SEC. 207. Any loans insured hereunder shall be restricted to those made by a financial institution subject to examination and supervision by an agency of the United States, a State, or the District of Columbia, and to loans made by Indian organizations from their own funds to other tribes or organizations of Indians.

25 USC 1488.

SEC. 208. Loans guaranteed hereunder may be made by any lender satisfactory to the Secretary, except as provided in section 206. The liability under the guaranty shall decrease or increase pro rata with any decrease or increase in the unpaid portion of the obligation.

25 USC 1489.

SEC. 209. Any loan made by any national bank or Federal savings and loan association, or by any bank, trust company, building and loan association, or insurance company authorized to do business in the District of Columbia, at least 20 per centum of which is guaranteed hereunder, may be made without regard to the limitations and restrictions of any other Federal statute with respect to (a) ratio of amount of loan to the value of the property; (b) maturity of loans; (c) requirement of mortgage or other security; (d) priority of lien; or (e) percentage of assets which may be invested in real estate loans.

Loans, maturity.
25 USC 1490.

SEC. 210. The maturity of any loan guaranteed or insured hereunder shall not exceed thirty years.

Defaults.
25 USC 1491.

SEC. 211. In the event of a default of a loan guaranteed hereunder, the holder of the guaranty certificate may immediately notify the Secretary in writing of such default and the Secretary shall thereupon pay to such holder the pro rata portion of the amount guaranteed and shall be subrogated to the rights of the holder of the guaranty and receive an assignment of the obligation and security. The Secretary may cancel the uncollectable portion of any obligation, to which he has an assignment or a subrogated right under this section: *Provided*, That proceedings pursuant to this sentence shall be effective only after following the procedure prescribed by the Act of July 1, 1932 (47 Stat. 564, 25 U.S.C. 386a). Nothing in this section shall be construed to preclude any forbearance for the benefit of the borrower as may be agreed upon by the parties to the loan and approved by the Secretary. The Secretary may establish the date, not later than the date of judgment and decree of foreclosure or sale, upon which accrual of interest or charges shall cease.

Losses.
25 USC 1492.

SEC. 212. When a lender suffers a loss on a loan insured hereunder, including accrued interest, a claim therefor shall be submitted to the Secretary. If the Secretary finds that the loss has been suffered, he shall reimburse the lender therefor: *Provided*, That the amount payable to the lender for a loss on any one loan shall not exceed 90 per centum of such loss: *Provided further*, That no reimbursement may be made for losses in excess of 15 per centum of the aggregate of insured loans made by the lender: *Provided further*, That before any reimbursement is made, all reasonable collection efforts shall have been exhausted by the lender, and the security for the loan shall have been liquidated to the extent feasible, and the proceeds applied on the debt. Upon reimbursement, in whole or in part, to the lender, the note or judgment evidencing the debt shall be assigned to the United States,

and the lender shall have no further claim against the borrower or the United States. The Secretary shall then take such further collection action as may be warranted, or may cancel the uncollectable portion of any debt assigned pursuant hereto. The Secretary may establish a date upon which accrual of interest or charges shall cease.

Loan refusal, conditions. 25 USC 1493.

SEC. 213. Whenever the Secretary finds that any lender or holder of a guaranty certificate fails to maintain adequate accounting records, or to demonstrate proper ability to service adequately loans guaranteed or insured, or to exercise proper credit judgment, or has willfully or negligently engaged in practices otherwise detrimental to the interests of a borrower or of the United States, he may refuse, either temporarily or permanently, to guarantee or insure any further loans made by such lender or holder, and may bar such lender or holder from acquiring additional loans guaranteed or insured hereunder: *Provided*, That the Secretary shall not refuse to pay a valid guaranty or insurance claim on loans previously made in good faith.

Eligibility. 25 USC 1494.

SEC. 214. Any evidence of guaranty or insurance issued by the Secretary shall be conclusive evidence of the eligibility of the loan for guaranty or insurance under the provisions of this Act and the amount of such guaranty or insurance: *Provided*, That nothing in this section shall preclude the Secretary from establishing, as against the original lender, defenses based on fraud or material misrepresentation or bar him from establishing, by regulations in force at the date of such issuance or disbursement, whichever is the earlier, partial defenses to the amount payable on the guaranty or insurance.

Land titles. 25 USC 1495.

SEC. 215. Title to any land purchased by a tribe or by an individual Indian with loans guaranteed or insured pursuant to this title may be taken in trust, 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 the 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 restriction on alienation, control, or use. Title to any personal property purchased with loans guaranteed or insured hereunder shall be taken in the name of the purchaser.

25 USC 1496.

SEC. 216. The financial transactions of the Secretary incident to or arising out of the guarantee or insurance of loans, and the acquisition, management, and disposition of property, real, personal, or mixed, incident to such activities, shall be final and conclusive upon all officers of the Government. With respect to matters arising out of the guaranty or insurance program authorized by this title, and notwithstanding the provisions of any other laws, the Secretary may—

(a) sue and be sued in his official capacity in any court of competent jurisdiction;

(b) subject to the specific limitations in this title, consent to the modification, with respect to the rate of interest, time of payment on principal or interest or any portion thereof, security, or any other provisions of any note, contract, mortgage, or other instrument securing a loan which has been guaranteed or insured hereunder;

(c) subject to the specific limitations in this title, pay, or compromise, any claim on, or arising because of any loan guaranty or insurance;

(d) subject to the specific limitations in this title, pay, compromise, waive, or release any right, title, claim, lien, or demand, however acquired, including, but not limited to, any equity or right of redemption;

(e) purchase at any sale, public or private, upon such terms and for such prices as he determines to be reasonable, and take title to property, real, personal, or mixed; and similarly sell, at public or private sale, exchange, assign, convey, or otherwise dispose of such property; and

(f) complete, administer, operate, obtain, and pay for insurance on, and maintain, renovate, repair, modernize, lease, or otherwise deal with any property acquired or held pursuant to the guaranty or insurance program authorized by this title.

Indian Loan Guaranty and Insurance Fund. 25 USC 1497.

SEC. 217. (a) There is hereby created an Indian Loan Guaranty and Insurance Fund (hereinafter referred to as the "fund") which shall be available to the Secretary as a revolving fund without fiscal year limitation for carrying out the provisions of this title.

(b) The Secretary may use the fund for the purpose of fulfilling the obligations with respect to loans guaranteed or insured under this title, but the aggregate of such loans which are insured or guaranteed by the Secretary shall be limited to $200,000,000.

(c) All funds, claims, notes, mortgages, contracts, and property acquired by the Secretary under this section, and all collections and proceeds therefrom, shall constitute assets of the fund; and all liabilities and obligations of such assets shall be liabilities and obligations of the fund. The Secretary is authorized to make agreements with respect to servicing loans held, guaranteed, or insured by him under this title and purchasing such guaranteed or insured loans on such terms and conditions as he may prescribe.

(d) The Secretary may also utilize the fund to pay taxes, insurance, prior liens, expenses necessary to make fiscal adjustments in connection with the application and transmittal of collections, and other expenses and advances to protect the Secretary for loans which are guaranteed or insured under this title or held by the Secretary, to acquire such security property at foreclosure sale or otherwise, and to pay administrative expenses.

Rules and regulations. 25 USC 1498.

SEC. 218. The Secretary shall promulgate rules and regulations to carry out the provisions of this title.

TITLE III—INTEREST SUBSIDIES AND ADMINISTRATIVE EXPENSES

25 USC 1511.

SEC. 301. The Secretary is authorized under such rules and regulations as he may prescribe to pay as an interest subsidy on loans which are guaranteed or insured under the provisions of title II of this Act amounts which are necessary to reduce the rate payable by the borrower to the rate determined under section 104 of this Act.

Appropriation. 25 USC 1512.

SEC. 302. There are authorized to be appropriated to the Secretary (a) to carry out the provisions of sections 217 and 301 of this Act, such sums to remain available until expended, and (b) for administrative expenses under this Act not to exceed $20,000,000 in each of the fiscal years 1975, 1976, and 1977.

TITLE IV—INDIAN BUSINESS GRANTS

Indian Business Development Program. Establishment. 25 USC 1521.

SEC. 401. There is established within the Department of the Interior the Indian Business Development Program whose purpose is to stimulate and increase Indian entrepreneurship and employment by providing equity capital through nonreimbursable grants made by the Secretary of the Interior to Indians and Indian tribes to establish and expand profit-making Indian-owned economic enterprises on or near reservations.

SEC. 402. (a) No grant in excess of $50,000, or such lower amount as the Secretary may determine to be appropriate, may be made to an Indian or Indian tribe.

Conditions. 25 USC 1522.

(b) A grant may be made only to an applicant who, in the opinion of the Secretary, is unable to obtain adequate financing for its economic enterprise from other sources: *Provided*, That prior to making any grant under this title, the Secretary shall assure that, where practical, the applicant has reasonably made available for the economic enterprise funds from the applicant's own financial resources.

(c) No grant may be made to an applicant who is unable to obtain at least 60 per centum of the necessary funds for the economic enterprise from other sources.

SEC. 403. There are authorized to be appropriated not to exceed the sum of $10,000,000 for each of the fiscal years 1975, 1976, and 1977 for the purposes of this title.

Appropriation. 25 USC 1523.

SEC. 404. The Secretary of the Interior is authorized to prescribe such rules and regulations as may be necessary to carry out the purposes of this Act.

Rules and regulations. 25 USC 1524.

TITLE V

SEC. 501. Concurrent with the making or guaranteeing of any loan under titles I and II and with the making of a grant under title IV of this Act, the purpose of which is to fund the development of an economic enterprise, the Secretary shall insure that the loan or grant applicant shall be provided competent management and technical assistance consistent with the nature of the enterprise being funded.

25 USC 1541.

SEC. 502. For the purpose of providing the assistance required under section 501, the Secretary is authorized to cooperate with the Small Business Administration and ACTION and other Federal agencies in the use of existing programs of this character in those agencies. In addition, the Secretary is authorized to enter into contracts with private organizations for providing such services and assistance.

Agency cooperation. 25 USC 1542.

SEC. 503. For the purpose of entering into contracts pursuant to section 502 of this title, the Secretary is authorized to use not to exceed 5 per centum of any funds appropriated for any fiscal year pursuant to section 302 of this Act.

Funds, limitation. 25 USC 1543.

Approved April 12, 1974.

Public Law 93-263

AN ACT

April 12, 1974 [H. R. 12465]

To amend the Foreign Service Buildings Act, 1926, to authorize additional appropriations for the fiscal year 1974.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That subsection (g) of section 4 of the Foreign Service Buildings Act, 1926 (22 U.S.C. 295), is amended—

Foreign Service Buildings Act, 1926, amendments.

(1) by striking out "$590,000" in subparagraph (1)(A) and inserting in lieu thereof "$631,000";

(2) by striking out "$160,000" in subparagraph (1)(C) and inserting in lieu thereof "$204,000";

(3) by striking out "$2,218,000" in subparagraph (1)(E) and inserting in lieu thereof "$2,287,000"; and

(4) by striking out "$45,800,000" and "$21,700,000" in paragraph (2) and inserting in lieu thereof "$48,532,000" and "$23,066,000", respectively.

Approved April 12, 1974.