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117TH CONGRESS
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S. 3381

[Report No. 117-232]

To require the Bureau of Indian Affairs to process and complete all mortgage packages associated with residential and business mortgages on Indian land by certain deadlines, and for other purposes.

IN THE SENATE OF THE UNITED STATES

DECEMBER 14, 2021

Mr. THUNE (for himself, Ms. SMITH, Mr. ROUNDS, Mr. TESTER, and Ms. LUMMIS) introduced the following bill; which was read twice and referred to the Committee on Indian Affairs

DECEMBER 6, 2022

Reported by Mr. SCHATZ, without amendment

A BILL

To require the Bureau of Indian Affairs to process and complete all mortgage packages associated with residential and business mortgages on Indian land by certain deadlines, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Tribal Trust Land
3 Homeownership Act of 2021”.

4 **SEC. 2. DEFINITIONS.**

5 In this Act:

6 (1) **APPLICABLE BUREAU OFFICE.**—The term
7 “applicable Bureau office” means—

8 (A) a Regional office of the Bureau;

9 (B) an Agency office of the Bureau; or

10 (C) a Land Titles and Records Office of
11 the Bureau.

12 (2) **BUREAU.**—The term “Bureau” means the
13 Bureau of Indian Affairs.

14 (3) **DIRECTOR.**—The term “Director” means
15 the Director of the Bureau.

16 (4) **FIRST CERTIFIED TITLE STATUS REPORT.**—
17 The term “first certified title status report” means
18 the title status report needed to verify title status on
19 Indian land.

20 (5) **INDIAN LAND.**—The term “Indian land”
21 has the meaning given the term in section 162.003
22 of title 25, Code of Federal Regulations (as in effect
23 on the date of enactment of this Act).

24 (6) **LAND MORTGAGE.**—The term “land mort-
25 gage” means a mortgage obtained by an individual

1 Indian who owns a tract of trust land for the pur-
2 pose of—

- 3 (A) home acquisition;
- 4 (B) home construction;
- 5 (C) home improvements; or
- 6 (D) economic development.

7 (7) LEASEHOLD MORTGAGE.—The term “lease-
8 hold mortgage” means a mortgage, deed of trust, or
9 other instrument that pledges the leasehold interest
10 of a lessee as security for a debt or other obligation
11 owed by the lessee to a lender or other mortgagee.

12 (8) MORTGAGE PACKAGE.—The term “mort-
13 gage package” means a proposed residential lease-
14 hold mortgage, business leasehold mortgage, land
15 mortgage, or right-of-way document submitted to an
16 applicable Bureau office under section 3(a)(1).

17 (9) RELEVANT FEDERAL AGENCY.—The term
18 “relevant Federal agency” means any of the fol-
19 lowing Federal agencies that guarantee or make di-
20 rect mortgage loans on Indian land:

- 21 (A) The Department of Agriculture.
- 22 (B) The Department of Housing and
23 Urban Development.
- 24 (C) The Department of Veterans Affairs.

1 (10) RIGHT-OF-WAY DOCUMENT.—The term
 2 “right-of-way document” has the meaning given the
 3 term in section 169.2 of title 25, Code of Federal
 4 Regulations (as in effect on the date of enactment
 5 of this Act).

6 (11) SUBSEQUENT CERTIFIED TITLE STATUS
 7 REPORT.—The term “subsequent certified title sta-
 8 tus report” means the title status report needed to
 9 identify any liens against a residential, business, or
 10 land lease on Indian land.

11 **SEC. 3. MORTGAGE REVIEW AND PROCESSING.**

12 (a) REVIEW AND PROCESSING DEADLINES.—

13 (1) IN GENERAL.—As soon as practicable after
 14 receiving a proposed residential leasehold mortgage,
 15 business leasehold mortgage, land mortgage, or
 16 right-of-way document, the applicable Bureau office
 17 shall notify the lender that the proposed residential
 18 leasehold mortgage, business leasehold mortgage, or
 19 right-of-way document has been received.

20 (2) PRELIMINARY REVIEW.—

21 (A) IN GENERAL.—Not later than 10 cal-
 22 endar days after receipt of a proposed residen-
 23 tial leasehold mortgage, business leasehold
 24 mortgage, land mortgage, or right-of-way docu-
 25 ment, the applicable Bureau office shall conduct

1 and complete a preliminary review of the resi-
2 dential leasehold mortgage, business leasehold
3 mortgage, land mortgage, or right-of-way docu-
4 ment to verify that all required documents are
5 included.

6 (B) INCOMPLETE DOCUMENTS.—As soon
7 as practicable, but not more than 2 calendar
8 days, after finding that any required documents
9 are missing under subparagraph (A), the appli-
10 cable Bureau office shall notify the lender of
11 the missing documents.

12 (3) APPROVAL OR DISAPPROVAL.—

13 (A) LEASEHOLD MORTGAGES.—Not later
14 than 20 calendar days after receipt of a com-
15 plete executed residential leasehold mortgage or
16 business leasehold mortgage, proof of required
17 consents, and other required documentation, the
18 applicable Bureau office shall approve or dis-
19 approve the residential leasehold mortgage or
20 business leasehold mortgage.

21 (B) RIGHT-OF-WAY DOCUMENTS.—Not
22 later than 30 calendar days after receipt of a
23 complete executed right-of-way document, proof
24 of required consents, and other required docu-
25 mentation, the applicable Bureau office shall

1 approve or disapprove the right-of-way docu-
2 ment.

3 (C) LAND MORTGAGES.—Not later than 30
4 calendar days after receipt of a complete exe-
5 cuted land mortgage, proof of required con-
6 sents, and other required documentation, the
7 applicable Bureau office shall approve or dis-
8 approve the land mortgage.

9 (D) REQUIREMENTS.—The determination
10 of whether to approve or disapprove a residen-
11 tial leasehold mortgage or business leasehold
12 mortgage under subparagraph (A), a right-of-
13 way document under subparagraph (B), or a
14 land mortgage under subparagraph (C)—

15 (i) shall be in writing; and

16 (ii) in the case of a determination to
17 disapprove a residential leasehold mort-
18 gage, business leasehold mortgage, right-
19 of-way document, or land mortgage shall,
20 state the basis for the determination.

21 (E) APPLICATION.—This paragraph shall
22 not apply to a residential leasehold mortgage or
23 business leasehold mortgage with respect to In-
24 dian land in cases in which the applicant for
25 the residential leasehold mortgage or business

leasehold mortgage is an Indian tribe (as defined in subsection (d) of the first section of the Act of 1955 (69 Stat. 539, chapter 615; 126 Stat. 1150; 25 U.S.C. 415(d))) that has been approved for leasing under subsection (h) of that section (69 Stat. 539, chapter 615; 126 Stat. 1151; 25 U.S.C. 415(h)).

(4) CERTIFIED TITLE STATUS REPORTS.—

(A) COMPLETION OF REPORTS.—

(i) IN GENERAL.—Not later than 10 calendar days after the applicable Bureau office approves a residential leasehold mortgage, business leasehold mortgage, land mortgage, or right-of-way document under paragraph (3), the applicable Bureau office shall complete the processing of, as applicable—

(I) a first certified title status report, if a first certified title status report was not completed prior to the approval of the residential leasehold mortgage, business leasehold mortgage, land mortgage, or right-of-way document; and

1 (II) a subsequent certified title
 2 status report.

3 (ii) REQUESTS FOR FIRST CERTIFIED
 4 TITLE STATUS REPORTS.—Notwith-
 5 standing clause (i), not later than 14 cal-
 6 endar days after the applicable Bureau of-
 7 fice receives a request for a first certified
 8 title status report from an applicant for a
 9 residential leasehold mortgage, business
 10 leasehold mortgage, land mortgage, or
 11 right-of-way document under paragraph
 12 (1), the applicable Bureau office shall com-
 13 plete the processing of the first certified
 14 title status report.

15 (B) NOTICE.—

16 (i) IN GENERAL.—As soon as prac-
 17 ticable after completion of the processing
 18 of, as applicable, a first certified title sta-
 19 tus report or a subsequent certified title
 20 status report under subparagraph (A), but
 21 by not later than the applicable deadline
 22 described in that subparagraph, the appli-
 23 cable Bureau office shall give notice of the
 24 completion to the lender.

1 (ii) FORM OF NOTICE.—The applica-
 2 ble Bureau office shall give notice under
 3 clause (i)—

4 (I) electronically through secure,
 5 encryption software; and

6 (II) through the United States
 7 mail.

8 (iii) OPTION TO OPT OUT.—The lend-
 9 er may opt out of receiving notice elec-
 10 tronically under clause (ii)(I).

11 (b) NOTICES.—

12 (1) IN GENERAL.—If the applicable Bureau of-
 13 fice does not complete the review and processing of
 14 mortgage packages under subsection (a) (including
 15 any corresponding first certified title status report
 16 or subsequent certified title status report under
 17 paragraph (4) of that subsection) by the applicable
 18 deadline described in that subsection, immediately
 19 after missing the deadline, the applicable Bureau of-
 20 fice shall provide notice of the delay in review and
 21 processing to—

22 (A) the party that submitted the mortgage
 23 package or requested the first certified title sta-
 24 tus report; and

1 (B) the lender for which the mortgage
2 package (including any corresponding first cer-
3 tified title status report or subsequent certified
4 title status report) is being requested.

5 (2) REQUESTS FOR UPDATES.—In addition to
6 providing the notices required under paragraph (1),
7 not later than 2 calendar days after receiving a rel-
8 evant inquiry with respect to a submitted mortgage
9 package from the party that submitted the mortgage
10 package or the lender for which the mortgage pack-
11 age (including any corresponding first certified title
12 status report or subsequent certified title status re-
13 port) is being requested or an inquiry with respect
14 to a requested first certified title status report from
15 the party that requested the first certified title sta-
16 tus report, the applicable Bureau office shall re-
17 spond to the inquiry.

18 (c) DELIVERY OF FIRST AND SUBSEQUENT CER-
19 TIFIED TITLE STATUS REPORTS.—Notwithstanding any
20 other provision of law, any first certified title status report
21 and any subsequent certified title status report, as appli-
22 cable, shall be delivered directly to—

23 (1) the lender;

1 (2) any local or regional agency office of the
2 Bureau that requests the first certified title status
3 report or subsequent certified title status report;

4 (3) in the case of a proposed residential lease-
5 hold mortgage or land mortgage, the relevant Fed-
6 eral agency that insures or guarantees the loan; and

7 (4) if requested, any individual or entity de-
8 scribed in section 150.303 of title 25, Code of Fed-
9 eral Regulations (as in effect on the date of enact-
10 ment of this Act).

11 (d) ACCESS TO TRUST ASSET AND ACCOUNTING
12 MANAGEMENT SYSTEM.—Beginning on the date of enact-
13 ment of this Act, the relevant Federal agencies and Indian
14 Tribes shall have read-only access to the Trust Asset and
15 Accounting Management System maintained by the Bu-
16 reau.

17 (e) ANNUAL REPORT.—

18 (1) IN GENERAL.—Not later than March 1 of
19 each calendar year, the Director shall submit to the
20 Committee on Indian Affairs of the Senate and the
21 Committee on Natural Resources of the House of
22 Representatives a report describing—

23 (A) for the most recent calendar year, the
24 number of requests received to complete resi-
25 dential leasehold mortgage packages, business

1 leasehold mortgage packages, land mortgage
2 packages, and right-of-way document packages
3 (including any requests for corresponding first
4 certified title status reports and subsequent cer-
5 tified title status reports), including a detailed
6 description of—

7 (i) requests that were and were not
8 successfully completed by the applicable
9 deadline described in subsection (a) by
10 each applicable Bureau office; and

11 (ii) the reasons for each applicable
12 Bureau office not meeting any applicable
13 deadlines; and

14 (B) the length of time needed by each ap-
15 plicable Bureau office during the most recent
16 calendar year to provide the notices required
17 under subsection (b)(1).

18 (2) REQUIREMENT.—In submitting the report
19 required under paragraph (1), the Director shall
20 maintain the confidentiality of personally identifiable
21 information of the parties involved in requesting the
22 completion of residential leasehold mortgage pack-
23 ages, business leasehold mortgage packages, land
24 mortgage packages, and right-of-way document
25 packages (including any corresponding first certified

1 title status reports and subsequent certified title sta-
2 tus reports).

3 (f) GAO STUDY.—Not later than 1 year after the
4 date of enactment of this Act, the Comptroller General
5 of the United States shall submit to the Committee on
6 Indian Affairs of the Senate and the Committee on Nat-
7 ural Resources of the House of Representatives a report
8 that includes—

9 (1) an evaluation of the need for residential
10 leasehold mortgage packages, business leasehold
11 mortgage packages, land mortgage packages, and
12 right-of-way document packages of each Indian
13 Tribe to be digitized for the purpose of streamlining
14 and expediting the completion of mortgage packages
15 for residential mortgages on Indian land (including
16 the corresponding first certified title status reports
17 and subsequent certified title status reports); and

18 (2) an estimate of the time and total cost nec-
19 essary for Indian Tribes to digitize the records de-
20 scribed in paragraph (1), in conjunction with assist-
21 ance in that digitization from the Bureau.

22 **SEC. 4. ESTABLISHMENT OF REALTY OMBUDSMAN POSI-**
23 **TION.**

24 (a) IN GENERAL.—The Director shall establish with-
25 in the Division of Real Estate Services of the Bureau the

1 position of Realty Ombudsman, who shall report directly
2 to the Secretary of the Interior.

3 (b) FUNCTIONS.—The Realty Ombudsman shall—

4 (1) ensure that the applicable Bureau offices
5 are meeting the mortgage review and processing
6 deadlines established by section 3(a);

7 (2) ensure that the applicable Bureau offices
8 comply with the notices required under subsections
9 (a) and (b) of section 3;

10 (3) serve as a liaison to other Federal agencies,
11 including by—

12 (A) ensuring the Bureau is responsive to
13 all of the inquiries from the relevant Federal
14 agencies; and

15 (B) helping to facilitate communications
16 between the relevant Federal agencies and the
17 Bureau on matters relating to mortgages on In-
18 dian land;

19 (4) receive inquiries, questions, and complaints
20 directly from Indian Tribes, members of Indian
21 Tribes, and lenders in regard to executed residential
22 leasehold mortgages, business leasehold mortgages,
23 land mortgages, or right-of-way documents; and

24 (5) serve as the intermediary between the In-
25 dian Tribes, members of Indian Tribes, and lenders

- 1 and the Bureau in responding to inquiries and ques-
- 2 tions and resolving complaints.

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