

118TH CONGRESS
1ST SESSION

S. 185

To amend title 38, United States Code, to improve the program for direct housing loans made to Native American veterans, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JANUARY 31, 2023

Mr. ROUNDS (for himself and Mr. TESTER) introduced the following bill; which was read twice and referred to the Committee on Veterans' Affairs

A BILL

To amend title 38, United States Code, to improve the program for direct housing loans made to Native American veterans, 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,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Native American Di-
5 rect Loan Improvement Act of 2023”.

6 **SEC. 2. IMPROVEMENTS TO PROGRAM FOR DIRECT HOUS-**
7 **ING LOANS MADE TO NATIVE AMERICAN VET-**
8 **ERANS BY THE SECRETARY OF VETERANS AF-**
9 **FAIRS.**

10 (a) GENERAL AUTHORITIES AND REQUIREMENTS.—

1 (1) DIRECT HOUSING LOANS TO NATIVE AMER-
2 ICAN VETERANS.—Section 3762(a) of title 38,
3 United States Code, is amended to read as follows:

4 “(a) The Secretary may make a direct housing loan
5 to a Native American veteran under this subchapter if the
6 Secretary ensures the following:

7 “(1) That each Native American veteran to
8 whom the Secretary makes a direct housing loan
9 under this subchapter—

10 “(A) holds, possesses, or purchases using
11 the proceeds of the loan a meaningful interest
12 in a lot or dwelling (or both) that is located on
13 trust land; and

14 “(B) will purchase, construct, or improve
15 (as the case may be) a dwelling on the lot using
16 the proceeds of the loan.

17 “(2) That each such Native American veteran
18 will convey to the Secretary by an appropriate in-
19 strument the interest referred to in paragraph
20 (1)(A) as security for a direct housing loan under
21 this subchapter.

22 “(3) That the Secretary, including the Sec-
23 retary’s employees or agents, may enter upon the
24 trust land for the purposes of carrying out such ac-

1 tions as the Secretary determines are necessary, in-
2 cluding—

3 “(A) to evaluate the advisability of the
4 loan;

5 “(B) to monitor any purchase, construc-
6 tion, or improvements carried out using the
7 proceeds of the loan; and

8 “(C) to manage any servicing or post-fore-
9 closure activities, including acquisition, property
10 inspections, and property management.

11 “(4) That there are established standards and
12 procedures that apply to the foreclosure of the inter-
13 est conveyed by a Native American veteran pursuant
14 to paragraph (2), including—

15 “(A) procedures for foreclosing the inter-
16 est; and

17 “(B) procedures for the resale of the lot or
18 dwelling (or both) purchased, constructed, or
19 improved using the proceeds of the loan.

20 “(5) That the loan is made in a responsible and
21 prudent manner, subject to standards and proce-
22 dures as are necessary for the reasonable protection
23 of the financial interests of the United States.”.

1 (2) MEMORANDUMS OF UNDERSTANDING,
2 AGREEMENTS, AND DETERMINATIONS.—Section
3 3762(b) of such title is amended to read as follows:

4 “(b)(1) To carry out the purpose of subsection (a),
5 the Secretary may—

6 “(A) enter into a memorandum of under-
7 standing with a tribal organization, other entity, or
8 individual;

9 “(B) rely on agreements or determinations of
10 other Federal agencies to guarantee, insure, or make
11 loans on trust land; and

12 “(C) enter into other agreements or take such
13 other actions as the Secretary determines necessary.

14 “(2) If the Secretary determines that the require-
15 ments under subsection (a) are not being enforced by a
16 tribal organization, other entity, or individual that is a
17 party to any memorandum of understanding, agreement,
18 or determination described in paragraph (1), the Secretary
19 may cease making new direct housing loans to Native
20 American veterans under this subchapter within the area
21 of the authority of the tribal organization, other entity,
22 or individual (as the case may be).”.

23 (b) DIRECT LOANS TO NATIVE AMERICAN VETERANS
24 TO REFINANCE EXISTING MORTGAGE LOANS.—Section
25 3762(h) of such title is amended to read as follows:

1 “(h) The Secretary may make direct loans to Native
2 American veterans in order to enable such veterans to refi-
3 nance existing mortgage loans for any of the following
4 purposes:

5 “(1) To refinance an existing loan made under
6 this section, if the loan—

7 “(A) meets the requirements set forth in
8 subparagraphs (B), (C), and (E) of paragraph
9 (1) of section 3710(e) of this title;

10 “(B) will bear an interest rate at least one
11 percentage point less than the interest rate
12 borne by the loan being refinanced; and

13 “(C) complies with paragraphs (2) and (3)
14 of section 3710(e) of this title, except that for
15 the purposes of this subsection the reference to
16 subsection (a)(8) of section 3710 of this title in
17 such paragraphs (2) and (3) shall be deemed to
18 be a reference to this subsection.

19 “(2) To refinance an existing mortgage loan not
20 made under this section on a dwelling owned and oc-
21 cupied by the veteran as the veteran’s home, if all
22 of the following requirements are met:

23 “(A) The loan will be secured by the same
24 dwelling as was the loan being refinanced.

1 “(B) The loan will provide the veteran with
2 a net tangible benefit.

3 “(C) The nature and condition of the prop-
4 erty is such as to be suitable for dwelling pur-
5 poses.

6 “(D) The amount of the loan does not ex-
7 ceed either of the following:

8 “(i) 100 percent of the reasonable
9 value of the dwelling, with such reasonable
10 value determined under the procedures es-
11 tablished by the Secretary under sub-
12 section (d)(2).

13 “(ii) An amount equal to the sum of
14 the balance of the loan being refinanced
15 and such closing costs (including any dis-
16 count points) as may be authorized by the
17 Secretary to be included in the loan.

18 “(E) Notwithstanding subparagraph (D),
19 if a loan is made for both the purpose of this
20 paragraph and to make energy efficiency im-
21 provements, the loan must not exceed either of
22 the following:

23 “(i) 100 percent of the reasonable
24 value of the dwelling as improved for en-
25 ergy efficiency, with such reasonable value

1 determined under the procedures estab-
2 lished by the Secretary under subsection
3 (d)(2).

4 “(ii) The amount referred to under
5 subparagraph (D)(ii), plus the applicable
6 amount specified under section 3710(d)(2)
7 of this title.

8 “(F) The loan meets all other require-
9 ments the Secretary may establish under this
10 subchapter.

11 “(G) The existing mortgage being refi-
12 nanced is a first lien on the property and se-
13 cured of record.

14 “(3) To refinance an existing mortgage loan to
15 repair, alter, or improve a dwelling owned by the
16 veteran and occupied by the veteran as the veteran’s
17 home, if all of the following requirements are met:

18 “(A) The loan will be secured by the same
19 dwelling as was the loan being refinanced.

20 “(B) The nature and condition of the
21 property is such as to be suitable for dwelling
22 purposes, and the repair, alteration, or improve-
23 ment substantially protects or improves the
24 basic livability or utility of such property.

1 “(C) The amount of the loan, including the
2 costs of repairs, alterations, and improvements,
3 does not exceed either of the following:

4 “(i) 100 percent of the reasonable
5 value of the dwelling as repaired, altered,
6 or improved, with such reasonable value
7 determined under the procedures estab-
8 lished by the Secretary under subsection
9 (d)(2).

10 “(ii) An amount equal to the sum
11 of—

12 “(I) the balance of the loan being
13 refinanced;

14 “(II) the actual cost of repairs,
15 alterations, or improvements; and

16 “(III) such closing costs (includ-
17 ing any discount points) as may be
18 authorized by the Secretary to be in-
19 cluded in the loan.

20 “(D) The loan meets all other require-
21 ments the Secretary may establish under this
22 subchapter.

23 “(E) The existing mortgage loan being re-
24 financed is a first lien on the property and se-
25 cured of record.”.

1 (c) EXPANSION OF OUTREACH PROGRAM ON AVAIL-
2 ABILITY OF DIRECT HOUSING LOANS FOR NATIVE AMER-
3 ICAN VETERANS.—Section 3762(i)(2) of such title is
4 amended by adding at the end the following new subpara-
5 graph:

6 “(G) Pursuant to subsection (g)(4), assisting
7 Native American veterans in qualifying for mortgage
8 financing by—

9 “(i) partnering with local service providers,
10 such as tribal organizations, tribally designated
11 housing entities, Native community development
12 financial institutions, and nonprofit organiza-
13 tions, for conducting outreach, homebuyer edu-
14 cation, housing counseling, and post-purchase
15 education; and

16 “(ii) providing other technical assistance as
17 needed.

18 “(H) Attending conferences and conventions
19 conducted by the network of Native community de-
20 velopment financial institutions and other Native
21 American homeownership organizations to provide
22 information and training to Native community devel-
23 opment financial institutions about the availability of
24 the relending program under section 3762A of this
25 title.”.

1 (d) ADEQUATE PERSONNEL.—Section 3762 of such
2 title is amended by adding at the end the following new
3 subsection:

4 “(k) The Secretary shall assign a sufficient number
5 of personnel of the Department dedicated to carrying out
6 the authority of the Secretary under this subchapter, in-
7 cluding construction and valuation specialists to assist
8 with issues unique to new construction and renovations
9 on trust land.”.

10 (e) DEFINITIONS.—Section 3765 of such title is
11 amended—

12 (1) in paragraph (1)—

13 (A) by amending subparagraph (C) to read
14 as follows:

15 “(C) is located in the State of Alaska with-
16 in a region established under section 7(a) of the
17 Alaska Native Claims Settlement Act (43
18 U.S.C. 1606(a));”;

19 (B) in subparagraph (D), by striking the
20 period at the end and inserting a semicolon;
21 and

22 (C) by adding at the end the following new
23 subparagraphs:

24 “(E) is defined by the Secretary of the In-
25 terior and recognized by the United States as

1 land over which an Indian Tribe has govern-
2 mental dominion; or

3 “(F) is on any land that the Secretary de-
4 termines is provided to Native American vet-
5 erans because of their status as Native Ameri-
6 cans.”; and

7 (2) by adding at the end the following new
8 paragraphs:

9 “(6) The term ‘community development finan-
10 cial institution’ has the meaning given that term in
11 section 103 of the Community Development Banking
12 and Financial Institutions Act of 1994 (12 U.S.C.
13 4702).

14 “(7) The term ‘Indian Tribe’ means any Indian
15 tribe, band, nation, or other organized group or com-
16 munity, including any Alaska Native village or re-
17 gional or village corporation as defined in or estab-
18 lished pursuant to the Alaska Native Claims Settle-
19 ment Act (43 U.S.C. 1601 et seq.), which is recog-
20 nized as eligible for the special programs and serv-
21 ices provided by the United States to Indians be-
22 cause of their status as Indians.

23 “(8) The term ‘Native community development
24 financial institution’ means any entity—

1 “(A) that has been certified as a commu-
2 nity development financial institution by the
3 Secretary of the Treasury;

4 “(B) that is not less than 51 percent
5 owned or controlled by Native Americans; and

6 “(C) for which not less than 51 percent of
7 the activities of the entity serve Native Ameri-
8 cans.

9 “(9) The term ‘net tangible benefit’ shall have
10 such meaning as the Secretary determines appro-
11 priate, but shall include the refinance of an interim
12 construction loan.

13 “(10) The term ‘other technical assistance’
14 means services to assist a Native American veteran
15 to navigate the steps necessary for securing a mort-
16 gage loan on trust land, including pre-development
17 activities related to utilities, identifying appropriate
18 residential construction services, and obtaining lease
19 clearances and title status reports from the applica-
20 ble tribal organization or the Bureau of Indian Af-
21 fairs.

22 “(11) The term ‘tribally designated housing en-
23 tity’ has the meaning given that term in section 4
24 of the Native American Housing Assistance and
25 Self-Determination Act of 1996 (25 U.S.C. 4103).”.

1 (f) INTEREST RATE REDUCTION FINANCING
 2 LOAN.—Section 3729(b)(4)(F) of such title is amended
 3 by striking “3762(h)” and inserting “3762(h)(1)”.

4 (g) REGULATIONS.—Section 3761 of such title is
 5 amended by adding at the end the following new sub-
 6 section:

7 “(c) The Secretary shall prescribe such regulations
 8 as may be necessary to carry out this subchapter.”.

9 **SEC. 3. NATIVE COMMUNITY DEVELOPMENT FINANCIAL IN-**
 10 **STITUTION RELENDING PROGRAM.**

11 (a) IN GENERAL.—Subchapter V of chapter 37 of
 12 title 38, United States Code, is amended by inserting after
 13 section 3762 the following new section:

14 **“§ 3762A. Native community development financial**
 15 **institution relending program**

16 “(a) PURPOSE.—The Secretary may make a loan to
 17 a Native community development financial institution for
 18 the purpose of allowing the institution to relend loan
 19 amounts to qualified Native American veterans, subject to
 20 the requirements of this section.

21 “(b) STANDARDS.—

22 “(1) IN GENERAL.—The Secretary shall estab-
 23 lish standards to be used in evaluating whether to
 24 make a loan to a Native community development fi-
 25 nancial institution under this section.

1 “(2) REQUIREMENTS.—In establishing stand-
2 ards under paragraph (1), the Secretary shall ensure
3 that a Native community development financial in-
4 stitution—

5 “(A) is able to originate and service loans
6 for single-family homes;

7 “(B) is able to operate the relending pro-
8 gram in a manner consistent with the mission
9 of the Department to serve veterans; and

10 “(C) uses loan amounts received under this
11 section only for the purpose of relending, as de-
12 scribed in subsection (c), to Native American
13 veterans.

14 “(c) RELENDING REQUIREMENTS.—

15 “(1) IN GENERAL.—A Native community devel-
16 opment financial institution that receives a loan
17 under this section shall use the loan amounts to
18 make loans to Native American veterans residing on
19 trust land.

20 “(2) REQUIREMENTS.—A loan to a Native
21 American veteran made by a Native community de-
22 velopment financial institution under paragraph (1)
23 shall—

24 “(A) be limited either to the purpose of
25 purchase, construction, or improvement of a

1 dwelling located on trust land or to the refi-
2 nance of an existing mortgage loan for a dwell-
3 ing on trust land, consistent with the require-
4 ments of section 3762(h) of this title; and

5 “(B) comply with such terms and condi-
6 tions as the Secretary determines are necessary
7 to protect against predatory lending, including
8 the interest rate charged on a loan to a Native
9 American veteran.

10 “(d) REPAYMENT.—A loan made to a Native commu-
11 nity development financial institution under this section
12 shall—

13 “(1) be payable to the Secretary upon such
14 terms and conditions as are prescribed in regulations
15 pursuant to this subchapter; and

16 “(2) bear interest at a rate of one percent.

17 “(e) OVERSIGHT.—Subject to notice and opportunity
18 for a hearing, whenever the Secretary finds with respect
19 to loans made under subsection (a) or (c) that any Native
20 community development financial institution has failed to
21 maintain adequate loan accounting records, to dem-
22 onstrate proper ability to service loans adequately, or to
23 exercise proper credit judgment, or that such Native com-
24 munity development financial institution has willfully or
25 negligently engaged in practices otherwise detrimental to

1 the interest of veterans or of the Government, the Sec-
2 retary may take such actions as the Secretary determines
3 necessary to protect veterans or the Government, such as
4 requiring immediate repayment of any loans made under
5 subsection (a) and the assignment to the Secretary of
6 loans made under subsection (c).”.

7 (b) CLERICAL AMENDMENT.—The table of sections
8 at the beginning of chapter 37 of such title is amended
9 by inserting after the item relating to section 3762 the
10 following new item:

“3762A. Native community development financial institution relending pro-
gram.”.

11 (c) NATIVE AMERICAN VETERAN HOUSING LOAN
12 PROGRAM ACCOUNT.—Section 3763 of such title is
13 amended by adding at the end the following new sub-
14 section:

15 “(c) Of amounts available in the Account, the Sec-
16 retary may use for loans made under section 3762A of
17 this title—

18 “(1) in fiscal year 2024, not more than
19 \$5,000,000; and

20 “(2) in any fiscal year after fiscal year 2024,
21 an amount as determined necessary by the Secretary
22 to meet the demand for such loans.”.

○