

# Insights

## How Banks Empower Native American Homeownership Through the Section 184 Indian Home Loan Guarantee Program

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The Section 184 Indian Home Loan Guarantee Program (the “Program”), administered by the U.S. Department of Housing and Urban Development (“HUD”), provides a home mortgage product specifically tailored for Native American families and federally recognized tribes. For banks and mortgage lenders, the Program represents a unique opportunity to engage with underserved communities while receiving the benefit of a federal loan guarantee. For banks, participation in the Program also provides an opportunity to receive valuable credit under the Community Reinvestment Act (the “CRA”).

### Background

Established in 1992, the Program addresses the lack of mortgage lending in tribal communities. Lending to Native American tribes for residential housing presents unique challenges that lenders must navigate carefully. These challenges stem in part from legal complexities and landownership issues.

Tribal sovereignty and the unique legal status of tribes can pose a complex environment for lenders. Tribal lands are often held in trust by the federal government, which means that traditional mortgage mechanisms, such as foreclosure, may not be applicable. This limitation presents a barrier for lenders, as the inability to secure loans with land collateral increases the perceived risk.

The Program mitigates risk concerns associated with lending to Native American borrowers by providing a 100% federal government guarantee on all covered loans and CRA credit to incentivize bank participation. This enables lenders to reach new, underserved markets with stable demand for housing. The Program has significantly increased access to home financing for Native American communities, promoting homeownership and economic development.

### Lending Requirements

Eligible borrowers include:

- Federally recognized tribes.
- Tribal housing authorities or designated housing entities.
- Native American and Alaska Native individuals who are enrolled members of federally recognized tribes.

The Program permits single-family housing loans for:

- Purchase of existing homes.
- New home construction.
- Rehabilitation of existing homes.
- Refinancing (rate-and-term or streamlined).

Loan terms and features include:

- Low down payment (as little as 1.25% for loans under \$50,000 to 2.25% for loans over \$50,000).
- Flexible underwriting guidelines.
- No household income limits.
- Competitive fixed interest rates.
- 100% guarantee by HUD in the event of default.

### **How Lenders Can Participate**

To originate a loan under the Program, a lender must be approved by HUD's Office of Native American Programs ("ONAP"). Requirements to become an approved lender include:

- Demonstrated experience in mortgage lending.
- Proper licensing and compliance with relevant state and federal laws.
- Demonstrated financial capacity and internal controls.
- Submission of an application to HUD with required documentation (e.g., audited financials, resumes of key personnel, quality control plan).

Once approved, lenders can originate, underwrite, and close loans under HUD's program guidelines. Lenders must become familiar with HUD's underwriting and servicing guidelines for the Program. These differ slightly from conventional Federal Housing Association loans but include:

- Credit guidelines tailored to tribal borrowers (e.g., allowances for non-traditional credit histories).
- Specific closing and post-closing documentation requirements.
- Leasehold mortgage procedures for trust land (described further below).

HUD provides comprehensive handbooks, and lenders are encouraged to participate in ONAP training or partner with tribal housing authorities.

## Leasehold Mortgages and Tribal Coordination

The most complex—but most impactful—aspect of the Program is how it provides a mechanism for lenders to secure a mortgage against a leasehold interest, rather than tribal land. The tribe or Bureau of Indian Affairs (the “BIA”) grants a long-term ground lease (usually 50 years, with a 25-year renewal option) to the borrower. The borrower owns the improvements (e.g., the house) and can mortgage their leasehold interest.

A tribe must consent to the lease and mortgage structure. Many tribes have enacted mortgage codes to facilitate such transactions. The ground lease and mortgage must be approved by the BIA. Once the home is built, the loan closes, and the lender submits documentation to HUD to activate the 100% guarantee. In the event of default, the lender can file a claim with HUD after following tribal court procedures. Most importantly, the Native American borrower becomes a homeowner, and the tribe gains new housing infrastructure.

## Conclusion

The Section 184 Indian Home Loan Guarantee Program offers lenders a practical, federally backed pathway to serve Native American communities, especially in areas where traditional mortgage lending is infeasible. By becoming an approved lender and understanding the legal mechanics of leasehold mortgages on trust land, lenders can meet both business objectives and community development goals while increasing housing ownership within Native American communities.

The legal challenges and complexities associated with lending to Native American tribes requires lenders to work closely with tribal housing authorities or legal counsel to ensure compliance with tribal law and federal leasing procedures. For assistance navigating the complexities associated with tribal lending, please contact, Travis D. Lovett, Brett J. Ashton, or any member of Krieg DeVault’s Financial Institutions Practice Group.

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