

Calendar No. 79

118TH CONGRESS }
1st Session }

SENATE

{ REPORT
118-33

TRIBAL TRUST LAND HOMEOWNERSHIP ACT OF 2023

MAY 30, 2023.—Ordered to be printed

Mr. SCHATZ, from the Committee on Indian Affairs,
submitted the following

R E P O R T

[To accompany S. 70]

[Including cost estimate of the Congressional Budget Office]

The Committee on Indian Affairs, to which was referred the bill (S. 70) 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, having considered the same, reports favorably thereon without amendment and recommends that the bill do pass.

PURPOSE

The purpose of S. 70 is to establish deadlines for the Bureau of Indian Affairs (BIA) to process and complete all mortgage packages associated with residential and business mortgages on Indian land, and to establish a realty ombudsman within the BIA to adjudicate delays in the processing of BIA realty filings.

BACKGROUND

The BIA reviews and processes all leasehold and trust land mortgages on Indian lands. These unique mortgages for Indian lands, which often provide low down payments and flexible underwriting requirements to encourage homeownership, are typically issued by Community Development Financial Institutions (CDFIs), conventional lenders, and federal government agencies such as the Department of Housing and Urban Development (HUD), the Department of Agriculture (USDA), and the Department of Veterans Affairs (VA).

NEED FOR LEGISLATION

The BIA reportedly takes an extended period of time to process and certify mortgages, which can disincentivize lenders and reduce homeownership opportunities for Indian country. To address these concerns and improve mortgage acquisition on Indian lands, S. 70 would: (1) codify the current BIA mortgage handbook deadlines for reviewing and processing residential and business leasehold mortgages, land mortgages, and rights-of-way; (2) provide HUD, USDA, the VA, and Tribes “read-only” access to the BIA’s Trust Asset and Accounting Management System (TAAMS) to view the processing status of a loan; (3) require the BIA to submit an annual report to Congress including the number of mortgage approvals requested and processed; (4) direct the Government Accountability Office (GAO) to evaluate and report on how digitizing mortgage packages may streamline the approval process; and (5) establish a realty ombudsman within the BIA to adjudicate delays in the processing of BIA realty filings.

LEGISLATIVE HISTORY

S. 70 was introduced by Senator Thune (R–SD) on January 25, 2023 and referred to the Senate Committee on Indian Affairs on the same day. Senators Smith (D–MN), Rounds (R–SD), and Tester (D–MT) joined as original co-sponsors. Senators Lummis (R–WY) and Luján (D–NM) were later added as co-sponsors. The Committee held a business meeting to consider S. 70 on February 15, 2023 and ordered the bill reported without amendment.

117th Congress. On December 14, 2021, an identical bill, S. 3381, was introduced by Senator Thune (R–SD) and cosponsored by Senators Smith (D–MN), Rounds (R–SD), Tester (D–MT), and Lummis (R–WY). The Senate referred the bill to the Committee on Indian Affairs on the same day. On February 16, 2022, the Committee held a hearing to consider the bill. On May 18, 2022, the Committee held a business meeting and ordered the bill to be reported favorably without amendment. On December 6, 2022, the bill was reported and placed on the Senate Calendar. No further action was taken on S. 3381 before the conclusion of the 117th Congress.

SECTION-BY-SECTION ANALYSIS OF S. 70 AS ORDERED REPORTED

Section 1—Short title

This section sets forth the short title as the “Tribal Trust Land Homeownership Act of 2023.”

Section 2—Definitions

Section 2 clarifies terms used in the bill, including among others, “First Certified Title Status Report,” “Indian Land,” “Right-of-Way Document,” and “Subsequent Certified Title Status Report.”

Section 3—Mortgage review and processing

Section 3(a) establishes deadlines and requirements for notifying lenders and reviewing, approving, and certifying residential and business leasehold mortgages, land mortgages, and rights-of-way documents. This section also clarifies that such requirements do not apply to residential or business leasehold mortgages on Indian

land if the applicant is an Indian Tribe approved for leasing under section 415(h) of the Long-Term Leasing Act of 1955.

Section 3(b) requires the BIA to immediately notify the applicant and lender if the agency fails to meet its deadline under section 3(a). This section further requires the BIA to respond to a mortgage package inquiry from a lender or party that submitted the package within two (2) calendar days.

Section 3(c) establishes rules for delivery of first and subsequent certified title status reports.

Section 3(d) provides relevant federal agencies and Tribes read-only access to the Trust Asset and Accounting Management System (TAAMS).

Section 3(e) directs the Director of the BIA to submit an annual report to the Senate Committee on Indian Affairs and the House of Representatives, Committee on Natural Resources, providing data on the number of residential and business leasehold packages it received in a calendar year, among other relevant information.

Section 3(f) directs the Comptroller General of the United States to submit a report, not later than a year after enactment, evaluating the cost and need to digitize Tribal realty documents to the Senate Committee on Indian Affairs and the House of Representatives, Committee on Natural Resources.

Section 4—Establishment of Realty Ombudsman position

Section 4(a) establishes, within the Division of Real Estate Services of the Bureau of Indian Affairs, the position of “Realty Ombudsman.”

Section 4(b) describes the responsibilities of the Realty Ombudsman.

COST AND BUDGETARY CONSIDERATIONS

S. 70, Tribal Trust Land Homeownership Act of 2023			
As ordered reported by the Senate Committee on Indian Affairs on February 15, 2023			
By Fiscal Year, Millions of Dollars	2023	2023-2028	2023-2033
Direct Spending (Outlays)	0	0	0
Revenues	0	0	0
Increase or Decrease (-) in the Deficit	0	0	0
Spending Subject to Appropriation (Outlays)	0	2	not estimated
Increases <i>net direct spending</i> in any of the four consecutive 10-year periods beginning in 2034?	No	Statutory pay-as-you-go procedures apply? No	
Mandate Effects			
Increases <i>on-budget deficits</i> in any of the four consecutive 10-year periods beginning in 2034?	No	Contains intergovernmental mandate? No	
		Contains private-sector mandate? No	

S. 70 would require the Bureau of Indian Affairs (BIA) to process and review mortgage packages involving property located on tribal land held in trust by specified deadlines. The bill also would establish a position within BIA to serve as an intermediary between BIA and tribes, tribal members, and lenders. In addition, the bill would

require BIA to provide relevant federal agencies and Indian tribes with access to the Trust Asset and Accounting Management System. Finally, S. 70 would require the Government Accountability Office (GAO) to report to the Congress about Indian tribes digitizing documents related to mortgages on their land.

Using information from the Department of the Interior, CBO expects the agency would need three employees at an average annual cost of about \$125,000 in 2024. On that basis, and accounting for anticipated inflation, CBO estimates it would cost \$2 million over the 2023–2028 period to implement those requirements. Spending would be subject to the availability of appropriated funds. CBO also estimates that the cost of GAO’s report would not be significant.

The CBO staff contact for this estimate is Julia Aman. The estimate was reviewed by H. Samuel Papenfuss, Deputy Director of Budget Analysis.

PHILLIP L. SWAGEL,
Director, Congressional Budget Office.

REGULATORY AND PAPERWORK IMPACT STATEMENT

Paragraph 11(b) of rule XXVI of the Standing Rules of the Senate requires each report accompanying a bill to evaluate the regulatory and paperwork impact that would be incurred in carrying out the bill. The Committee believes that S. 70 will have minimal impact on regulatory or paperwork requirements.

EXECUTIVE COMMUNICATIONS

The Committee has received no communications from the Executive Branch regarding S. 70.

CHANGES IN EXISTING LAW

On February 9, 2023 the Committee unanimously approved a motion to waive subsection 12 of rule XXVI of the Standing Rules of the Senate. In the opinion of the Committee, it is necessary to dispense with subsection 12 of rule XXVI of the Standing Rules of the Senate to expedite the business of the Senate.